

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Regulations under the Outer Continental Shelf Lands)
Act Governing the Movement of Natural Gas) Docket No. RM99-5-000
On Facilities on the Outer Continental Shelf)

**REQUEST FOR RECONSIDERATION OR CLARIFICATION, OR IN THE
ALTERNATIVE, REQUEST FOR REHEARING, OF THE NATURAL GAS
SUPPLY ASSOCIATION**

Pursuant to Rules 212 and 713 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”) and pursuant to chapters 2 and 7 of the Administrative Procedure Act, 5 U.S.C. §§ 500 *et seq.*, and Section 19(a) of the Natural Gas Act, 15 U.S.C. § 717r(a) (1998), the Natural Gas Supply Association seeks reconsideration and clarification, or in the alternative, rehearing of Order No. 639, Final Rule, *Regulations under the Outer Continental Shelf Lands Act Governing the Movement of Natural Gas on Facilities on the Outer Continental Shelf*, Docket No. RM99-5-000, slip op. (April 10, 2000)(“Order No. 639”). In support of its filing, NGSA states as follows:

I. COMMUNICATIONS AND CORRESPONDENCE.

Communications and correspondence regarding this filing should be directed to:

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II. INTRODUCTION AND EXECUTIVE SUMMARY.

At its core, Order No. 639 is a balanced, comprehensive regulatory solution that NGSAs support. In particular, NGSAs support the Commission's decisions in Order No. 639 to:

- ❖ Establish a regulatory regime for the OCS that includes greater market transparency, similar to the structure now in place for interstate pipelines regulated under the NGA;¹
- ❖ Continue to regulate interstate pipelines under the NGA in lieu of requests for "light-handed" regulation for *all* OCS facilities and services. The Commission properly found "insufficient evidence to conclude that ... [a light handed] approach [to regulation] could assure fulfillment of ... [its] statutory obligations;"²
- ❖ Agree that all offshore transmission facilities should not be deemed "gathering" facilities exempt from jurisdiction under the NGA;³ and
- ❖ Find that the legal mandates of the OCSLA cannot be met simply by a statement that an OCS gas service provider "will not engage in discriminatory conduct."⁴

The focus of this filing is three-fold. First, parties investing in OCS development already face substantial business, economic and operational risks. The regulatory risk associated with OCS development should be limited by the adoption of a rebuttable presumption that production facilities and related agreements and services qualify for the feeder line exemption. Such a presumption is essential to provide sufficient regulatory certainty to parties engaging in multimillion-dollar offshore development projects. Second, in several respects, Order No. 639 requires clarification to ensure that the objectives of the rule are not defeated by regulatory loopholes. Third, in some instances, further guidance or limited reconsideration is necessary to ensure that industry segments interested in OCS development can structure their operations in a manner consistent with the new regulatory framework adopted in Order No. 639. This filing seeks to fine-tune

¹ *Id.* at 46.

² *Id.*, slip op. at 22.

³ *Id.* at 12.

the regulatory structure of Order No. 639, not to change it fundamentally. Only if and to the extent the limited requests for reconsideration or clarification outlined in this filing are rejected does NGSa seek rehearing of Order No. 639.

III. REQUESTS FOR RECONSIDERATION OR CLARIFICATION.

NGSA's specific requests for reconsideration or clarification are:

The Feeder Line Exemption.

- A. NGSa requests limited reconsideration of the Commission's decision in Order No. 639 to not grant "requests for a blanket extension of the ... feeder line exemption."⁵ NGSa requests that the Commission establish a presumption that production facilities and related agreements and services are subject to the feeder line exemption, subject to review on complaint.⁶

The Relationship Between Order No. 639 and the Sea Robin Remand Proceedings.

- B. NGSa requests clarification that the Commission's discussion in Order No. 639 of *Sea Robin Pipeline Co.*, 87 F.E.R.C. (CCH) ¶ 61,384 (1999), *reh'g pending*, is not intended to foreshadow a decision on the merits of that pending case. The reporting requirements established in Order No. 639 are no substitute for the exercise of the Commission's statutory jurisdiction over NGA jurisdictional facilities and services.

Reporting Requirements.

- C. NGSa seeks clarification of the decision to require OCS gas service providers to report their operations only as of the first day of each calendar quarter. NGSa seeks clarification that Section 330.3(c) of the regulations adopted by Order No. 639 requires gas service providers to report intra-quarter changes.⁷ In the alternative, rehearing is requested.
- D. NGSa seeks clarification of the Commission's decision to exempt NGA regulated OCS gas service providers from reporting requirements under Order No. 639. NGSa supports the proposed exemption only to the extent the reporting

⁴ *Id.* at 55.

⁵ *Id.* at 31.

⁶ NGSa's request for a rebuttable presumption is not intended to undermine the argument on rehearing of the OCS Producers that the Commission has no jurisdiction over production facilities and related agreements and services under Section 5 of the OCSLA. Rather, NGSa's request for a rebuttable presumption should be considered on an *arguendo* basis, if the Commission rejects the argument of the OCS Producers.

⁷ For intra-quarter changes that occur late in the quarter, NGSa suggests that such changes be reported by the first day of the second subsequent quarter.

- requirements of Order No. 637 are not modified. NGSA seeks clarification that the Commission will either terminate this exemption or reconsider its validity if the reporting requirements of Order No. 637 are materially changed on rehearing or on judicial review. Subject to this clarification, NGSA supports the exemption from reporting requirements requested by INGAA for NGA jurisdictional OCS gas service providers.
- E. NGSA requests clarification or reconsideration regarding the format of reporting requirements under Order No. 639. NGSA requests that reports filed under Order No. 639 be: (i) filed by contiguous system rather than by line segment; (ii) accessible through the Internet; (iii) standardized in format; and (iv) filed electronically.
 - F. NGSA seeks clarification on the nature of the “rate derivation” that must be supplied by OCS gas service providers.

Reservation of Capacity for Future Use.

- G. NGSA requests clarification that OCS gas service providers, like NGA regulated pipelines operating in the OCS, may reserve capacity for future use.

IV. ALTERNATIVE REQUEST FOR REHEARING AND SPECIFICATIONS OF ERROR.

If (and only to the extent) the requests for reconsideration or clarification reviewed in Section III above are denied, NGSA requests rehearing, and submits that the Commission’s denial of reconsideration or clarification is not supported by substantial evidence, not the product of reasoned decisionmaking and is otherwise inconsistent with the Commission’s statutory responsibilities under the APA, OCSLA, NGA and the Commission’s rules, regulations and orders issued pursuant to those statutes, for the reasons more fully discussed below.

V. ARGUMENT.

A. Production Facilities and Related Agreements and Services Should Be Presumed to Qualify as “Feeder Lines” Subject to Review on Complaint.

1. Commission Decision.

In Order No. 639, the Commission denied requests to expand the so-called “feeder line” exemption in the OCSLA reporting requirements (now contained in 18 C.F.R. § 330.3(a)(3)⁸) to production facilities and related agreements and services:

OCS Producers and the Producer Coalition request we broaden the § 330.3(a)(2)⁹ “feeder line” exemption to include platforms and production-related facilities and services. The statutory language of the OCSLA indicates feeder lines are upstream of a point where gas is first collected, separated, dehydrated, or processed. This point, as a general proposition, will be on a production platform. But this will not always be the case; consequently, rather than adopt a bright line, but over-broad, definition, we believe that identifying a point where gas is first collected, separated, dehydrated, or processed and partitioning upstream from downstream facilities, is best done after examining the facts and circumstances of each specific case. While we expect exempt upstream feeder line facilities will generally be found within production fields, we cannot make a generic determination that all platforms and production-related facilities are, in accordance with OCSLA section 1334(f)(2), situated upstream of a point where gas is first collected, separated, dehydrated, or processed. Therefore, we will deny the requests for a blanket extension of the § 330.3(a)(2) feeder line exemption.

Order No. 639, slip op. at 31.

2. NGSAs’ Position.

⁸ “The § 330.2(a) and (b) reporting requirements do not apply with respect to ... (3) Services rendered over facilities that feed into a facility where natural gas is first collected, separated, dehydrated, or otherwise processed....” 18 C.F.R. § 330.3(a)(3) is intended to reflect the so-called “feeder line” exemption set forth in Section 1334(f)(2) of the OCSLA. As stated in more detail below, the referenced regulation does not in fact reflect the language of the statute. Section 1334(f)(2) of OCSLA states that the Commission is empowered to exempt by order or regulation “any pipeline or class of pipelines which feeds into a facility where oil and gas are first collected **or** a facility where oil and gas are first separated, dehydrated or otherwise processed.” (emphasis added).

⁹ The reference to the feeder line exemption in this portion of Order No. 639 refers to the regulations contained in the Proposed Rule.

NGSA does not seek rehearing of the Commission's decision not to adopt a bright line per se rule exempting all production facilities and related agreements and services from reporting requirements under the OCSLA; however, in its present form, Order No. 639 provides no guidance to the industry regarding the standards that will be used to determine whether production facilities and related agreements and services qualify for the feeder line exemption. As a result, Order No. 639 invites the same type of fact-intensive litigation associated with the Commission's current modified "Farmland" Primary Function Test.

Order No. 639 recognizes that production facilities and related agreements and services generally will qualify for the feeder line exemption. NGSA requests that the Commission grant reconsideration and establish a presumption that production facilities and related agreements and services qualify for the feeder line exemption. This presumption would be rebuttable and could be challenged on complaint. The adoption of a rebuttable presumption would strike a fair balance between the Commission's reluctance to adopt a per se rule permitting exemption and the industry's need for certainty. The availability of a complaint mechanism would ensure that, at all times, OCSLA shippers would maintain their rights to nondiscriminatory service.

NGSA also is concerned that the regulatory text defining the so-called "feeder line" exemption in § 330.3(a)(3) does not appear to reflect the statutory mandate of the OCSLA. Section 330.3(a)(3) exempts from reporting all "services rendered over facilities that feed into a facility where gas is first collected, separated, dehydrated or otherwise processed." Section 1334(f)(2) of the OCSLA states that the Commission is empowered to exempt by order or regulation, "any pipeline, or class of pipelines which

feeds into a facility where oil and gas are first collected **or** a facility where oil and gas are first separated, dehydrated or otherwise processed.” The plain language of Section 1334(f)(2) does not mandate that the Commission must limit the availability of the Section 1334(f)(2) exemption to the point of first interconnection. The Commission is free to exempt facilities beyond the point of first interconnection that “feed into a facility where oil and gas are first separated, dehydrated or otherwise processed.”

B. Order No. 639 Does Not Eliminate The Need to Rule on the Sea Robin Remand, on a Basis Consistent with the Record in That Proceeding and with the Commission’s Statutory Obligations under the NGA.

1. Commission Decision.

Order No. 639 disclaims any intent to modify the Commission’s primary function test used to determine whether facilities constitute gathering or transmission.¹⁰

Notwithstanding this finding, Order No. 639 discusses at length the pending *Sea Robin* remand proceeding and cites the potential for refunctionalization of offshore transmission facilities as NGA exempt gathering as one basis for the adoption of Order No. 639:

Informed by the court’s discussion, in our order on remand we found that a significant portion of Sea Robin’s system was engaged in NGA-exempt gathering. Given that Sea Robin’s entire system had been regulated under the NGA since its inception 30 years ago, and that some of the facilities found to be gathering include large lines, it is conceivable that this decision may result in additional existing offshore NGA transmission facilities being refunctionalized as gathering. Although reclassified facilities will no longer be subject to NGA reporting requirements, and shippers using such facilities will no longer enjoy the formal protections against the exercise of market power afforded by the NGA, such facilities can be expected to be subject to the OCSLA reporting requirements introduced with this rule, and as a result, shippers formerly dependent on the transparency of the NGA will have an alternative and newfound

¹⁰ Order No. 639, slip op. at 12-13 (“We do not reach the merits of such arguments in this rulemaking. Those comments contemplate revisions to the primary function test used to determine NGA jurisdiction over offshore facilities. Here, our concern is limited to the question of how best to harmonize our separate statutory responsibilities.”).

assurance that they will receive service on a transparent open access and nondiscriminatory basis.

In view of this potential for facilities' reclassification, and the importance of the OCS as a source of domestic gas, we find it prudent to prepare to provide protections for shippers under the OCSLA....

Order No. 639, slip op. at 17.

2. NGSAs Position.

NGSA requests clarification that the Commission's discussion in Order No. 639 of *Sea Robin Pipeline Co.*, 87 F.E.R.C. (CCH) ¶ 61,384 (1999), *reh'g pending*, was not intended to foreshadow a decision on the merits that pending requests for rehearing of the Commission's order finding portions of Sea Robin's longstanding interstate gas transmission network to be nonjurisdictional "gathering" will be denied. Adoption of Order No. 639 does not serve as a complete substitute for the exercise of the Commission's statutory jurisdiction under the NGA.

Adoption of an "OCSLA-only" regulatory regime for the offshore would be inconsistent with the plain language of the OCSLA itself. Section 1334(f)(4) of the OCSLA (as amended) states that "[n]othing in this subsection shall be deemed to limit, abridge or modify any authority of the United States under any other provision of law with respect to pipelines on or across the outer Continental Shelf." The language of the OCSLA and the legislative history of the 1978 OCSLA Amendments plainly establish that the policy of Congress, embodied in the statute, was to grant FERC authority over interstate pipelines operating on the OCS under *both* the OCSLA *and* the NGA.¹¹

¹¹ *See, e.g.*, H.R. Rep. No. 590, at 1710, 1757.

The fundamental policy objectives of the OCSLA and the NGA are different and complementary, rather than mutually exclusive. The NGA is “designed to curb pipelines’ potential monopoly power over gas transportation. The enormous economies of scale involved in the construction of NGA jurisdictional natural gas pipelines tend to make the transportation of natural gas a monopoly.”¹² The NGA affirmatively requires the establishment of rates, terms and conditions of service that are just and reasonable, as well as not unduly discriminatory. The NGA mandates that any termination or change in a service rendered pursuant to a certificate issued under Section 7 serve the public convenience and necessity. The OCSLA is designed to facilitate the orderly development of OCS reserves, and to prevent discrimination. In Order Nos. 509 and 509-A, the Commission correctly found that its powers under the OCSLA and the NGA must be exercised in tandem.¹³

Adoption of an “OCSLA only” system of OCS regulation also will result in rate stacking that will inhibit the orderly development of OCS reserves. Rate “stacking” will materially increase the cost of transporting offshore supplies. Instead of paying a single regulated just and reasonable transportation rate to a certain market center via the same currently NGA jurisdictional facilities, OCS producers now will face paying an unregulated “gathering” rate limited only by the scope of the gatherer’s monopoly power PLUS a regulated transmission rate to reach the same markets historically served by regulated interstate pipelines.

¹² *United Distribution Companies v. FERC*, 88 F.3d 1105, 1122 (D.C. Cir. 1996), *cert. denied*, 520 U.S. 1224 (1997).

Adoption of the reporting requirements in Order No. 639 is no substitute for the exercise of the Commission's jurisdiction under the NGA over jurisdictional facilities and services. Interstate pipeline facilities in the OCS were, for the most part, constructed pursuant to certificates of public convenience and necessity issued under Section 7 of the Natural Gas Act. Abandonment of those certificates requires an affirmative determination that the termination of service will be in the public convenience and necessity.¹⁴ To date, in the Sea Robin remand proceeding, no such determination has been made and substantial evidence has been presented that abandonment will undermine, rather than serve, the public convenience and necessity.¹⁵

C. The Requirement That OCS Gas Service Providers Report The Status of Operations Only on the First Day of Each Quarter May Create a Loophole for Potential Abuse.

1. Commission Decision.

Order No. 639 altered the timing of OCS gas service provider's reporting obligations:

We will also alter proposed § 330.3(c), which stated service providers are to file a description of certain changes in service within 15 days. We are persuaded that existing and prospective shippers will not be significantly disadvantaged by relaxing the 15-day schedule to have service providers update changes quarterly. Rather than try to keep a running record of OCS service providers' operations, we believe a periodic snapshot of OCS transactions will be adequate to expose potentially discriminatory practices to public view. Accordingly, OCS gas service providers will be required to submit a description of their operations as they stand on the first day of each calendar quarter....

¹³ See, e.g., Order No. 509, *Interpretation of, and Regulations under, Section 5 of the Outer Continental Shelf Lands Act Governing Transportation of Natural Gas by Interstate Natural Gas Pipelines on or Across Outer Continental Shelf*, 54 Fed. Reg. 50,925 (December 19, 1988); *order on reh'g*, 54 Fed. Reg. 8301 (February 28, 1989); *aff'd in part, reversed in part and remanded, Tennessee Gas Pipeline Co. v. FERC*, 972 F.2d 376 (D.C. Cir. 1992).

¹⁴ See, e.g., *City of Pittsburgh v. FPC*, 237 F.2d 741 (D.C. Cir. 1956); *Michigan Consolidated Gas Co. v. FPC*, 283 F.2d 204 (D.C. Cir. 1960).

¹⁵ See, e.g., Request for Rehearing of the Indicated Parties, Docket No. CP95-168-000 (July 30, 1999), which is incorporated by reference.

Order No. 639, slip op. at 48-49.

Changes within any calendar quarter are to be reported on the first day of the subsequent quarter. “When a Gas Service Provider subject to these reporting requirements alters its affiliates, customers, rates, conditions of service, or facilities, within any calendar quarter, it must then file with the Commission on the first business day of the subsequent quarter, a revised § 330.2 report describing the status of its services and facilities as of the first day of the previous quarter.”¹⁶

2. NGSAs Position.

The Commission’s intent in adopting a reporting requirement based solely on a “snapshot” of operations on the first day of any calendar quarter could be evaded, if gas service providers are not required to report intra-quarter changes. It appears that Section 330.3(c) of the regulations under Order No. 639 may be designed to close this potential loophole, but the language of the regulation in its current form is somewhat ambiguous. NGSAs request clarification that Section 330.3(c) requires gas service providers to report intra-quarter changes in a quarterly report following any such change.¹⁷ In the alternative, rehearing is requested.

¹⁶ 18 C.F.R. § 330.3(c).

¹⁷ In order to allow for adequate time to prepare a report for intra-quarter changes that occur late in the quarter, NGSAs suggest that intra-quarter changes be reported by the first day of the second subsequent quarter.

D. NGA Regulated OCS Gas Service Providers Should Be Subject to An Exemption from the Reporting Requirements of Order No. 639 Only If The Reporting Requirements of Order No. 637 Are Not Materially Changed. If the Commission Materially Modifies the Reporting Requirements of Order No. 637, The Exemption Should Terminate or Be Re-evaluated by the Commission.

1. Commission Decision.

Section 330.3(c)(4) provides that “the Section 330.2(a) and (b) reporting requirements do not apply with respect to ... Gas Service Providers’ facilities and services regulated by the Commission under the Natural Gas Act.” Order No. 639 explains the rationale for this exemption in the following terms: “... in light of revisions to our NGA reporting requirements, enacted subsequent to the OCSLA NOPR, we believe that the information that NGA-regulated companies are required to provide will prove sufficient to monitor conformity with the OCSLA’s open access and nondiscrimination mandates.”¹⁸

2. NGSAs’ Position.

The Commission’s decision to exempt NGA regulated OCS gas service providers from separate reporting obligations under the OCSLA was based expressly on the applicability of the reporting requirements adopted in Order No. 637. NGSAs agree that, if the reporting requirements of Order No. 637 apply in their current form, the exemption granted in Order No. 639 is appropriate. However, if the reporting requirements of Order No. 637 should be modified materially on rehearing or in response to judicial review, NGSAs seek clarification that the exemption granted to NGA regulated OCS gas service providers will either terminate or be re-evaluated by the Commission.

¹⁸ Order No. 639, slip op. at 13-14, citing Final Rule, Regulation of Short-Term Natural Gas Transportation Services, Order No. 637, 65 Fed. Reg. 10,156 (Feb. 25, 2000), *reh’g pending*.

E. Reports Filed by OCS Gas Service Providers Under Order No. 639 Should Be Filed by System Rather than by Line Segment; Accessible through the Internet; Standardized in Format; and Filed Electronically.

1. Commission Decision.

Order No. 639 does not “fix the filing format of an OCSLA report at this time.”¹⁹ In addition, Order No. 639 leaves “to the OCS gas service providers’ discretion whether to submit a single system-wide report or file separate facility-by-facility reports.”²⁰

2. NGSAs’ Position.

To be effective, the data generated by the OCS reporting requirements must be readily *accessible*. The present reporting requirements permit OCS gas service providers to file data in inconsistent formats, by line segment or by system, using only paper copies. This type of reporting system will make market transparency more theoretical than real. If the objective of the rule is to enhance market monitoring and to ensure transparency, the reporting process should be standardized at the outset.

NGSA requests reconsideration. Reports filed by OCS gas service providers under Order No. 639 should be filed consistently by contiguous system, rather than by line segment.

OCSLA reports should be accessible through the Internet, and should be filed electronically in a standardized format. NGSAs suggest that OCSLA gas service providers file both in the standard “native” computer applications used to generate the report (e.g., Microsoft Excel and Microsoft Word) and in a general portable format (such as Adobe .pdf files).

¹⁹ Order No. 639, slip op. at 55.

²⁰ *Id.* at 57.

OCSLA reports should be accessible through a separate central web portal under the Commission's web site, rather than combined with the current RIMS system.

F. The Nature of the "Rate Derivation" That Must be Furnished by OCS Gas Service Providers Requires More Explanation in the Case of Longstanding Negotiated Rates.

1. Commission Decision.

The alternative reporting requirements of § 330.2(b)(9) appear to require "a detailed description of how such rate is derived."

2. NGSAs Position.

NGSA seeks clarification. If a rate subject to the alternative reporting requirements of Section 330.2(b)(9) that has been historically charged is not a cost of service based rate, but reflects the results of negotiation between the parties, will it be sufficient to so state?

G. All OCS Gas Service Providers, Like NGA Regulated OCS Gas Service Providers, Should Be Permitted to Reserve Capacity for Future Use.

1. Commission Decision.

In Order No. 639, the Commission declined to provide additional guidance on the criteria that would be used to determine whether an OCS gas service provider was justified in refusing a request for service:

Until faced with specific facts and circumstances, we are not prepared to speculate what, if any, additional reasons for denial we might find acceptable. Pro-rationing, provided it can be implemented without adversely impacting ongoing development and production, remains an option. Mandatory expansion of throughput capacity, as described in section 1334(f)(B) of the OCSLA, also remains an option. However, given that the statute states that our authority to compel expansions does not apply to facilities in the Gulf of Mexico or Santa Barbara Channel, we do not foresee this issue arising with any frequency.

Order No. 639, slip op. at 40.

Order No. 639 also states that “as a practical matter, compliance with NGA regulations will satisfy the OCSLA standard.” *Id.* at 61.

2. NGSAs Position.

Offshore development projects can require the investment of hundreds of millions of dollars in an environment of high financial and operational risk. NGSAs believe it is appropriate to minimize the regulatory risks such parties face by providing additional guidance regarding the circumstances under which OCS gas providers will be justified in refusing or conditioning transportation access.

An OCS gas service provider which is developing its own reserves generally will bring those reserves on line pursuant to a development plan. The success of that plan will depend on the availability of the pipeline capacity the OCS gas service provider has constructed to transport reserves as they become available. If, during the course of implementing the development plan, third parties seek access to the OCS gas service provider’s facilities, providing third party access may interfere with the ability of the OCS gas service provider to implement its development plan, thereby interfering with the orderly development of OCS reserves.

NGA jurisdictional OCS gas service providers have the option to reserve capacity for future use, subject to conditions.²¹ In general, capacity reserved for future use may be sold until necessary for future expansion projects that will be subject to an open season. Both conditions ensure maximum utilization of the pipeline on terms and conditions sufficient to ensure nondiscriminatory access. Order No. 639’s statement that

²¹ See, e.g., *Tennessee Gas Pipeline Co.*, 86 F.E.R.C. (CCH) ¶ 61,066 (1999); *Natural Gas Pipeline Co. of America*, 88 F.E.R.C. (CCH) ¶ 61,205 (1999).

compliance with the NGA also will meet the requirements of the OCSLA implies that such tariff provisions remain permissible.

Comparable rights should be granted to non-NGA jurisdictional OCS gas service providers on comparable terms and conditions. For example, if a non-NGA jurisdictional OCS gas service provider wishes to reserve capacity for future use, capacity so reserved must be made available to third parties until it is needed. While an open-season requirement would defeat the purpose of the reservation, similar protections against discrimination can be created by requiring a non-NGA jurisdictional OCS gas service provider wishing to reserve capacity for future use to expand its throughput capacity on reasonable request, if the party seeking the expansion will bear the costs of the expansion. This requirement would be a condition of permitting the capacity reservation. The requirement that the party seeking the expansion pay the costs of the expansion is consistent with the Commission's authority under Section 1334(f)(B) of the OCSLA.

VI. CONCLUSION.

WHEREFORE, for the foregoing reasons, NGSA seeks clarification or reconsideration of Order No. 639. If (and only to the extent) the requests for clarification or reconsideration discussed herein are denied, NGSA seeks rehearing of Order No. 639.

Respectfully submitted,

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