

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

Northern Border Pipeline Company)

Docket No. RP03-563-002

**REQUEST FOR LATE INTERVENTION AND COMMENTS OF THE
NATURAL GAS SUPPLY ASSOCIATION**

The Natural Gas Supply Association (“NGSA”) requests late intervention in this proceeding and submits its comments in response to the April 15, 2004, Order Providing for Additional Comments on Options. NGSA appreciates the Commission’s desire and willingness to accept comments from parties outside of this individual proceeding on a policy that may have industry-wide implications.

Long-standing Commission policy requires that, after an unsuccessful attempt to award capacity in a right of first refusal (ROFR) bid process, Northern Border must award capacity to the shipper making the highest valued bid for whatever term that that shipper selects, even if that shipper bids for less than the full posted capacity. On August 11, 2003, Northern Border Pipeline Company (“Northern Border”) proposed a change to that policy by limiting the term a short-haul shipper can hold such capacity to no more than 31 days, even if the bid is at the maximum tariff rate. Northern Border surmised that this change in its tariff was necessary so that the pipeline and its customers would not be burdened with costs associated with unused, stranded capacity on a long-term basis.

While NGSAs understand that there may be some specific circumstances whereby limited waivers of the Commission's long-standing policies regarding capacity-allocation procedures are warranted, given the success of the Commission's open-access policies, these exceptions must be allowed in only the rarest of circumstances. In virtually all cases, allowing the market to determine the winner without imposing additional restrictions will always remain the most efficient means of allocating natural gas transportation capacity.

On a case-by-case basis, such as this particular instance on Northern Border, there may be compelling reasons to provide a narrowly crafted exception to the Commission's existing policy. However, if such an exception is made, Northern Border should only be able to repost the capacity at reasonable intervals as suggested by the Commission as its third option in the April 15 order.¹ NGSAs strongly believe that "reasonable intervals" for reposting capacity should be for no less than twice a year on a seasonal basis, and certainly not every 31 days as proposed by Northern Border in this proceeding.² Any shorter period of time would simply be counter productive and unnecessary, depriving the winning bidder of certainty of service and providing insufficient time for market dynamics to change to the extent that capacity reallocation may be warranted. Any

¹ In the April 15 Order, the Commission outlined four different options it is considering in terms of its capacity allocation policy re-posting procedures when a short-haul shipper effectively strands long-haul capacity. Those options included: (1) retaining the current policy requiring the pipeline to sell capacity to a short-haul shipper offering the maximum rate; (2) providing the pipeline with discretion to sell short-haul capacity at the maximum rate; (3) requiring the pipeline to sell the capacity to the short-haul shipper at the maximum rate, if the bid is the highest valued bid, but at reasonable intervals (one year, six months), the pipeline could repost the capacity, with the existing shipper being given a ROFR to match a long-haul bid (up to the original capacity path); and (4) requiring the pipeline to allocate the capacity to a short-haul shipper bidding the maximum rate, if the bid is the highest valued bid, but conditioning the short-haul shipper's exercise of its ROFR upon contract expiration on its having to match the highest bid for the full path of the original contract.

² As an example, NGSAs would suggest that such short-haul capacity be re-bid on April 1st and October 31st.

exemptions or waivers permitted to existing Commission policy must be clearly stated in the pipeline's tariff.

Option three, as modified herein, would provide the most reasonable balance between all interested parties. It would allow the short-haul shipper access to desired capacity on Northern Border for a period of time consistent with seasonal use, and provide a ROFR for that shipper to maintain capacity upon expiration at a price equal to the current market price, albeit with some additional exposure if the short-haul shipper must match a long-haul bid during the ROFR process. Option three would also provide protections to Northern Border and its long term shippers against unused long-haul stranded capacity, by allowing short haul capacity to be periodically re-bid.

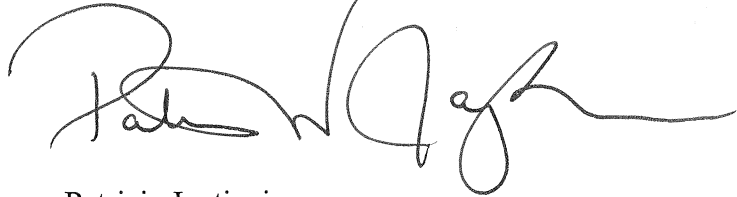
Conversely, option four would allow Northern Border's shippers to contract for short haul capacity for any period of time (e.g. multi-year), thus precluding the use of that capacity for long-haul service, and potentially creating stranded capacity. Because option four allows the short-haul shipper to retain capacity that matches the highest bid of a long-haul shipper during the ROFR process, this option could effectively require the pipeline to award capacity at less than the maximum rate for the original path.

Additionally, the Commission's suggested option two, allowing pipelines the discretion of whether to accept a bid for short-haul capacity at the maximum rate, would undermine the historical regulatory compact, and severely damage the competitive policies that the Commission and industry have successfully achieved today. Solving stranded cost recovery issues through a policy of pipeline discretion may create many more problems than the Commission is attempting to address in this proceeding. This is

a narrowly circumscribed issue, which should not dictate a wholesale change in Commission policy.

Respectfully submitted,

NATURAL GAS SUPPLY ASSOCIATION

A handwritten signature in black ink, appearing to read 'Patricia Jagtiani', with a long horizontal flourish extending to the right.

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