UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Pipeline Posting Requirements Under Section 23 of the Natural Gas Act	**)**	**Docket No. RM08-2-000**

SUPPLEMENTAL COMMENTS OF THE NATURAL GAS SUPPLY ASSOCIATION

Pursuant to the Order Requesting Supplemental Comments issued in the above-captioned docket on July 16, 2009, the Natural Gas Supply Association ("NGSA") respectfully submits the following supplemental comments regarding the posting requirements adopted in Federal Energy Regulatory Commission ("FERC" or "Commission") Order No. 720. NGSA represents the major independent and integrated producers and marketers of natural gas in the United States. NGSA supports safeguarding the integrity of natural gas markets. NGSA's mission is to ensure a competitive natural gas market that is supported by appropriate regulations. As part of this mission, NGSA supports regulatory and legislative actions that foster competitive markets and downstream efficiencies while fostering increased natural gas supply.

NGSA supports the Commission's decision to cost-effectively require the posting of scheduled flow information for major interstate and non-interstate pipelines.[1] When implemented, the posting of flow information will provide the market with information

[1] NGSA does not take a position on the Commission's jurisdictional authority to impose a flow posting requirement on major non-interstate pipelines.

regarding underlying supply and demand fundamentals furthering transparency in the physical natural gas market.

Over the last several years, the Commission has taken a number of actions to facilitate transparency and underpin the integrity of the physical natural gas market. For example, the Commission's market oversight Web site now provides market participants with a wealth of information regarding market fundamentals, including world-landed LNG prices, prices for competing fuels, storage information, and NYMEX data. The Commission also implemented a number of policies in recent years to bolster confidence and ensure physical natural gas market integrity. Most notably, the Commission established the 2003 Policy Statement for good faith price reporting and publishing (Docket No. PL03-3), followed by the 2006 Rule Prohibiting Market Manipulation (Order No. 670). Since that time, voluntary reporting of physical market transactions to competitive index publishers has doubled to about half of daily natural gas consumption, demonstrating that the market and competitive forces continually act to spur improvements in market transparency. By providing market participants with information regarding underlying supply and demand fundamentals through the implementation of the flow posting requirements, the Commission will achieve the final step in facilitating transparency in the physical natural gas market.

In response to the Commission's request for supplemental comments, NGSA offers the following suggestions for consideration:

1. **Adopt a standard conversion factor of 1000 Btu per Standard Cubic Foot (scf) for the threshold determination of whether a point must post.**
2. **Expand application of the *de minimis* exception to delivery points and increase the *de minimis* flow threshold on meters to 12,000 MMBtu/day (from the 5,000 MMBtu/day).**
3. **Confirm that the posting obligation is for aggregated flow information, not individual market participant flows, and adopt an exemption procedure to address confidentiality concerns if the flow posting requirement is applicable to locations with a single market participant.**

1. Adopt a standard conversion factor of 1000 BTU per scf for the threshold determination of whether a point must post.

Although since initially proposed, the flow posting requirement has been discussed as a million British thermal unit (MMBtu) measurement, NGSA recommends the Commission provide additional guidance on the conversion of meter design capacity from thousand cubic feet (Mcf), to million British thermal units (MMBtu). Physically metered design capacity is always expressed in Mcf because the *volume* is metered, not the heat content. In order to determine whether a point has met the threshold to post, the pipeline should be allowed to use 1000 Btu per scf as the conversion factor.

While the Commission has stated that the design capacity for the most common operating conditions during peak periods should be posted, at issue here is the initial determination of whether a receipt or delivery point's meter capacity has met the reporting threshold. For purposes of this determination, a conversion factor of 1000 Btu per scf should be deemed the most common operating conditions. This will provide a consistent basis for the threshold determination across pipelines and will streamline the decision making process because pipelines will not have to determine the actual heating

content at a point, which may fluctuate over time or in the case of points at the tailgate of a plant, due to plant operational conditions, or make a determination of the "most common" operating conditions at each particular point.

2. Expand application of the *de minimis* exception to delivery points and increase the *de minimis* flow threshold on meters with a design capacity of 15,000 MMBtu per day to 12,000 MMBtu/day[2] (from the 5,000 MMBtu/day).

With the maximum flow threshold (§ 284.14 (a)(2)), the Commission appropriately recognized that receipt meters sometimes flow below their design capacity, particularly where production declines over time. The draft regulations exempt receipt points with a design capacity of at least 15,000 MMBtu per day if the actual flow on every day within the prior three years is less than 5,000 MMBtu per day. This recognition of the disparity between actual and design flow capacity helps ensure a more cost-effective, efficient flow posting requirement and recognizes the declining flow characteristics of receipt meters. However, NGSA asks that the Commission exempt from flow posting requirement all receipt and delivery points with a design capacity of at least 15,000 MMBtu per day where actual flow did not exceed 12,000 MMBtu per day within the last three years.

The inconsistency created by the proposed *de minimis* exception in §284.14(a)(2) is most easily seen in a chart comparing the results of the proposed regulatory language:

[2] Mcf/day incorporates NGSA's unit change recommendation highlighted in point #1.

Design Capacity	Type of Point	Maximum Flow	Posting Required
≥ 15,000 MMBtu	Receipt	4999	No
≥ 15,000 MMBtu	Delivery	4999	Yes
Unknown	Receipt	14,999	No
Unknown	Delivery	14,999	No

In selecting the 15,000 MMBtu point posting threshold, the Commission found that 15,000 MMBtu per day represents a major receipt point and a significant load at a delivery point. The threshold for posting points with unknown physically metered design capacity recognizes and is consistent with this original finding by the Commission. For these sites to post, they must have physically flows that are at or above the point that the Commission considered significant.

However, the proposed *de minimis* exception for receipt points with a known design capacity exposes a problem inherent in using design capacity as a threshold—it may capture points that are not truly significant. The answer is not to abandon the design capacity concept, but to craft a *de minimis* exception that protects both goals of the Commission—provide transparency at major points and be responsive to comments on the regulatory burden of posting at sites that have a minimal affect on downstream natural gas availability.

For meters with a known physically-metered design capacity, the *de minimis* flow threshold should be increased to include all points where the actual flow in the last three years did not exceed 12,000 MMBtu per day. This will still capture more points

than the proposed language for points with unknown physically metered capacity, as well as capturing those physically metered points with a design capacity of 15,000 MMBtu that are operating at near capacity and have the potential to reach levels which may affect downstream natural gas availability. [3]

This change to the proposed rule eases the compliance burden while still providing transparency at the points that the Commission has identified as major or significant.

3. Confirm that the posting obligation is for aggregated flow information, not individual market participant flows, and adopt an exemption procedure to address confidentiality concerns if the flow posting requirement is applicable to locations with a single market participant.

Although it is true that a considerable amount of nomination and scheduled data is already made available by entities such as Bentek Energy, LLC, the Commission should be very cautious about requiring the posting of commercially sensitive information. To address any lingering concerns regarding the posting of commercially sensitive flow information, the Commission should confirm and clarify that the flow posting requirements to virtual pooling and delivery accounts, as well as for physical receipt and delivery points, are on an aggregated basis, not on an individual shipper account basis. This will ensure that individual shipper business cannot be ascertained by potential competitors at either the receipt or delivery end of the transaction. NGSA

[3] Interestingly, under the language proposed by the Commission, if a new point is added that meets the physically metered design capacity threshold, but experiences low flow, it must post for three years before it can take advantage of the *de minimis* exception. This is because the test in §284.14(a)(2) assumes an existing point with declining flows. A new point with low flows which will not affect downstream availability will still have to post.

believes that the Commission's adoption of the higher throughput and meter thresholds went a long way toward mitigating concerns regarding individual shipper business and proprietary data. Nevertheless, the Commission should confirm and clarify that all individual shipper accounts at a real or virtual pooling point, as well as at all physical receipt and delivery points, be aggregated into one posted number, thus providing assurance that no individual business transactions can be discovered. After all, the intent of the Commission's order is to ensure price transparency and in the case of SoCalGas and PG&E, there is no additional pricing beyond citygate.

Additionally, the Commission should consider an added process for market participants to seek an exemption for certain points subject to the requirement if the flow posting can be used to discern individual market participant's flows, in order to further protect commercially sensitive information. NGSA is supportive of a process that allows the posting of flow information at a particular point to be exempted from the requirement if it can be shown that the disclosure of proprietary information is at risk. Such an exemption procedure is consistent with Natural Gas Act transparency provisions that direct the Commission to have due regard for the integrity of the market.

Conclusion

NGSA supports the Commission's decision to require the posting of flow data for major interstate and non-interstate pipeline and believes that only a few minor

clarifications and modifications are needed for cost-effective industry implementation. In addition to providing the market with important information regarding underlying supply and demand fundamentals, the availability of pipeline flow information will have the added benefit of spurring new innovative services resulting in more efficient pipeline grid utilization and infrastructure development decisions completing the Commission's vision for Order 636.[4]

Respectfully,

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Signed August 31, 2009

[4] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol. Order No. 636, 57 FR 13267 (April 16, 1992), III FERC Stats & Regs. 30,939 (1992).