

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

IN THE MATTER OF)	
)	DOCKET NO. RM83-31
EMERGENCY NATURAL GAS SALE,)	
TRANSPORTATION AND EXCHANGE)	DOCKET NO. RM09-_____
TRANSACTIONS)	

PETITION FOR CLARIFICATION OR,
ALTERNATIVELY, MODIFICATION
OF EMERGENCY NATURAL GAS TRANSACTION RULES

Pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, the Natural Gas Supply Association ("NGSA") hereby petitions the Commission to clarify or, alternatively, modify, certain of its regulations at 18 C.F.R. Part 284, Subpart I (2008), "Emergency Natural Gas Sale, Transportation and Exchange Transactions." Given that the natural gas industry has fundamentally changed the manner in which it operates since these rules were adopted, much confusion exists regarding what is required and who is required to file this report. Also, given the potential penalties associated with non-compliance, clarity involving the obligations associated with these rules is extremely important. It is critical that the Commission's rules and regulations be well known and understood within the industry so that natural gas market participants can avoid inadvertent violations that could lead to civil penalties and, potentially, other sanctions.

Therefore, NGSA asks the Commission to provide needed regulatory certainty by clarifying that (i) first sellers of natural gas, and (ii) marketers that are making a sale of natural gas that is not a "first sale" are not required to file with the Commission the

emergency natural gas transaction reports described in 18 C.F.R. § 284.270. If the Commission declines to provide this clarification, NGSAs requests that the Commission modify its emergency natural gas transaction reporting requirements to exempt first sellers of natural gas and marketers that are making a sale of natural gas that is not a first sale from the reporting requirements. In support hereof, NGSAs respectfully shows the following:

I. CORRESPONDENCE AND COMMUNICATIONS

NGSA represents integrated and independent companies that produce and market domestic natural gas. Established in 1965, NGSAs encourages the use of natural gas within a balanced national energy policy, and promotes the benefits of competitive markets to ensure reliable and efficient transportation and delivery of natural gas and to increase the supply of natural gas to U.S. consumers.

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II. BACKGROUND

A. Introduction

The Commission's regulations applicable to emergency natural gas transactions are set forth at 18 C.F.R. Part 284, Subpart I. The regulations at 18 C.F.R. § 284.270 prescribe

reporting requirements for emergency natural gas transactions that are required of “purchasing participants.” These regulations are ambiguous and outdated and present an unnecessary compliance risk for sellers of natural gas for resale in interstate commerce, particularly when the information must be submitted within 48 hours. Accordingly, the Commission should promptly clarify or modify its regulations as discussed below.

The Commission's current regulations concerning emergency natural gas transactions stem from Order No. 449.¹ Order No. 449 was issued in 1986. Since then there have been many significant changes in the natural gas industry and the Commission's regulatory programs, including the unbundling of the industry by separating the sale of gas from the transportation of gas as well as the rise of a vibrant secondary market. These changes have made the emergency natural gas transaction regulations inapplicable to today's market and have virtually rendered them obsolete, especially the reporting requirements relating to emergency natural gas transactions.

While numerous emergency natural gas transaction reports have been filed with the Commission since the regulations at 18 C.F.R. Part 284, Subpart I were promulgated, only a very small handful of these reports were recently made by marketers or first sellers of natural gas.²

¹ *Emergency Natural Gas Sale, Transportation, and Exchange Transactions*, Final Rule, 51 Fed. Reg. 9179 (March 18, 1986), 51 Fed. Reg. 11,716 (April 7, 1986), FERC Stats. & Regs. [Regs. Preambles 1986 - 1990] ¶ 30,693 (1986).

² NGSA believes that some of these reports may have been submitted out of an abundance of caution to avoid a possible violation of the Commission's regulations.

As noted above, regulation of the natural gas industry has changed substantially since 1986. Wellhead prices of natural gas were deregulated in 1989³ and since that time, Commission regulation of first sellers of natural gas is minimal. Interstate pipelines no longer provide a general merchant function.⁴ Interstate pipelines and other parties (including marketers) currently sell natural gas for resale in interstate commerce under blanket certificates provided by the Commission's regulations.⁵

Moreover, in recent years, the Commission has adopted regulations that provide much of the information that is required in the Emergency Transaction Reporting Regulations. For instance, since 2006, pipelines must report damage to their facilities as a result of a natural disaster or terrorist activity resulting in a reduction in pipeline throughput or storage deliverability.⁶ And information about natural gas pricing and scheduled volumes at various locations is now provided by numerous publications on a daily basis. The Commission recently adopted new reporting requirements for sellers, purchasers and transporters of natural gas.⁷ Thus, much of the information subject to

³ See *Natural Gas Wellhead Decontrol Act of 1989*, Pub. L. No. 101-60; 103 Stat. 157 (1989).

⁴ See *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Wellhead Decontrol*, Order No. 636, 57 Fed. Reg. 13,267 (April 16, 1992), FERC Stats. & Regs. [Regs. Preambles January 1991-June 1996] ¶ 30,939 (1992).

⁵ See 18 C.F.R. §§ 284.402 and 284.284.

⁶ See *Revision of Regulations to Require Reporting of Damage to Natural Gas Pipeline Facilities*, Order No. 682, 71 Fed. Reg. 51,098 (Aug. 29, 2006), [2006-2007 Regs. Preambles] FERC Stats. & Regs. ¶ 31,227 (2006).

⁷ *Transparency Provisions of Section 23 of the Natural Gas Act*, Order No. 704, 74 Fed. Reg. 1014 (Jan. 4, 2008), FERC Stats. & Regs. ¶ 31,260 (2008); *order on reh'g and clarification*, Order No. 704-A, 124 FERC ¶ 61,269 (2008); *order dismissing reh'g request as deficient, denying reconsideration, and granting and* (continued...)

collection under 18 C.F.R. § 284.270 is now readily available to the Commission from other sources, and the Commission also has the authority to seek the necessary information when needed from any market participant.⁸

Further, the Commission monitors natural gas markets on a regular basis. The Commission has authority under Section 4A of the Natural Gas Act ("NGA") to prohibit manipulation of jurisdictional sales and transportation of natural gas under the NGA.⁹ Importantly, the Commission now has substantially stronger enforcement authority than it had in 1986 to address violations of the NGA and Natural Gas Policy Act of 1978 ("NGPA")¹⁰ and the Commission's rules and orders issued under the NGA and NGPA.¹¹

The foregoing demonstrates how much the natural gas industry, as well as the Commission's regulation of the industry, has changed since the emergency natural gas transaction regulations were adopted in 1986. These significant changes, together with the uncertainty surrounding the reporting obligations at 18 C.F.R. §§ 284.270, provide the impetus for the filing of this petition.

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denying clarification, Order No. 704-B, 125 ¶ 61,302 (2008); *Pipeline Posting Requirements under Section 23 of the Natural Gas Act*, Order No. 720, 73 Fed. Reg. 73,494 (Dec. 2, 2008), III FERC Stats. & Regs. [Regs. Preambles] ¶ 31,283 (2008), *reh'g pending*.

⁸ *See Energy Policy Act of 2005 § 316 (codified at 15 U.S.C. § 717t-2 (2006)). See also Enforcement of Statutes, Regulations and Orders, Revised Policy Statement On Enforcement, 123 FERC ¶ 61,156 at PP 14-30 (2008).*

⁹ *Prohibition of Energy Market Manipulation*, Order No. 670, 71 Fed. Reg. 4,244 (Jan. 26, 2006), FERC Stats. & Regs. [Regs. Preambles 2006-2007] ¶ 31,202 (2006), *reh'g denied*, 114 FERC ¶ 61,300 (2006).

¹⁰ 15 U.S.C. §§ 3301-3342 (2006).

¹¹ *See Energy Policy Act of 2005*, Pub. L. No. 109-58, § 314, 119 Stat. 685 (2005) (amending the NGA and NGPA to provide the Commission with authority to impose civil penalties for statutory violations and violations of rules, regulations, restrictions, conditions or orders issued under the NGA and NGPA).

B. Order No. 449 - The Development of the Current Emergency Natural Gas Transaction Regulations

In Order No. 449, the Commission eliminated certain outdated and unnecessary regulations, and revised and consolidated its existing regulations concerning emergency natural gas transactions in a new Subpart I of Part 284 of its regulations. Among other things, the new Subpart I regulations provided self-implementing authority for interstate pipelines, intrastate pipelines and local distribution companies to sell, transport or exchange natural gas in emergency situations.¹² The Subpart I regulations generally retained rate conditions that previously were applicable to suppliers providing emergency transportation services.¹³ Additionally, the Subpart I regulations clarified the relationship between the emergency transaction regulations and the Commission's regulations implementing its (then new) Order No. 436.¹⁴ New Subpart I also imposed reporting requirements on certain parties involved in emergency transactions.¹⁵

C. The Emergency Natural Gas Transaction Reporting Requirements

The reporting requirements associated with emergency natural gas transactions are set forth at 18 C.F.R. § 284.270. As discussed below, these reporting requirements are redundant and, in light of the structure and characteristics of the current natural gas marketplace, are confusing.

¹² See 18 C.F.R. § 284.263.

¹³ See 18 C.F.R. §§ 284.265-284.269.

¹⁴ *Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 436, 50 Fed. Reg. 42,408 (Oct. 18, 1985), FERC Stats. & Regs. [Regs. Preambles 1982-1987] ¶ 30,665 (1985).

Section 284.270(a) of the regulations requires the "purchasing participant" in an emergency natural gas sales transaction to submit a report containing certain specified information to the Commission.¹⁶ Section 284.270(a) requires such "purchasing participant" to submit the following information, in the following sequence, by telegraph or other written report, to the Commission **within 48 hours** after deliveries of emergency natural gas commence:

- (1) that the report is submitted pursuant to § 284.270 for an emergency natural gas transaction;
- (2) the date deliveries commenced;
- (3) the specific nature of the situation, explained in sufficient detail, to demonstrate how the situation qualifies as an emergency under § 284.262 and under the conditions of § 284.264, and anticipated duration of the emergency;
- (4) the estimated total amount and average daily amount of emergency natural gas to be purchased during the term of the transaction;
- (5) the purchase price of the emergency natural gas;
- (6) the transportation rate; and
- (7) the identity of all participants involved in the transaction, including any customers to whom the emergency natural gas is to be assigned.

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¹⁵ See 18 C.F.R. § 284.270.

¹⁶ Section 284.262 of the regulations defines an "emergency natural gas transaction" to mean "the sale, transportation, or exchange of natural gas (including the construction and operation of necessary facilities) conducted pursuant to this subpart, that is: (1) [n]ecessary to alleviate an emergency; and (2) [n]ot anticipated to extend for more than 60 days in duration." Section 284.262 of the regulations defines "participant" to mean "any first seller, interstate pipeline, intrastate pipeline, local distribution company or Hinshaw pipeline that participates in an emergency natural gas transaction under this subpart."

Section 284.270(b) of the regulations requires "the recipient of emergency natural gas"¹⁷ to submit the following information, in the following sequence, by telegraph or other written report, to the Commission **within 48 hours** after deliveries commence in an emergency natural gas transaction which does not involve the sale of emergency natural gas:

- (1) that the report is submitted pursuant to § 284.270 for an emergency transaction;
- (2) the date deliveries commenced;
- (3) the specific nature of the situation, explained in sufficient detail to demonstrate how the situation qualifies as an emergency under § 284.262 and under the conditions of § 284.264, and anticipated duration of the emergency;
- (4) the estimated total amount and average daily amount of emergency natural gas to be transported during the term of the transaction;
- (5) the transportation rate; and
- (6) the identity of all the participants involved in the transaction.

Section 284.270(c) of the regulations requires "the initial recipient of exchange volumes" to submit the following information, in the following sequence, by telegraph or other written report, to the Commission **within 48 hours** after an exchange transaction for emergency natural gas commences:

- (1) that the report is for and submitted pursuant to § 284.270 for an emergency transaction;

¹⁷ Section 284.262 of the regulations defines "recipient" to mean (1) "[i]n the case of a sale of emergency natural gas, the purchaser of such gas; or (2) [i]n the case of a transportation or exchange of natural gas when there is no sale of emergency natural gas under [Subpart I of the regulations], the participant who receives the gas."

- (2) the date the exchange commenced;
- (3) the specific nature of the situation, explained in sufficient detail to clearly demonstrate how the situation qualifies as an emergency under § 284.262 and under the conditions of § 284.264, and anticipated duration of the emergency;
- (4) the estimated total amount and average daily amount of emergency natural gas to be exchanged during the term of the transaction;
- (5) the identity of all participants involved in the transaction;
- (6) whether the exchange is simultaneous or deferred, or any imbalances in the volumes;
- (7) whether the exchange is on a thermal or volumetric basis; and
- (8) the rates or charges, if any, for the exchange service.

Section 284.270(d) of the regulations requires "the participant that received the emergency natural gas" to submit a **sworn** termination report to the Commission within 30 days after the emergency natural gas transaction ends.¹⁸ This report must include the following information in the following sequence:

- (1) a description of the emergency natural gas transaction, including sufficient information to clearly demonstrate how the situation qualifies as an emergency under §284.262 and under the conditions of §284.264; the commencement and termination dates; the date of the 48-hour report, and the method of resolving the emergency;
- (2) any corrections to the 48-hour report information supplied to the Commission under paragraphs (a) through (c) of this section or a statement that the information was correct;
- (3) the volumes of the emergency natural gas delivered during the transaction;
- (4) the total compensation received by the seller for the emergency sale;

¹⁸ Section 284.262 of the regulations defines "emergency natural gas" to mean "natural gas sold, transported, or exchanged in an emergency natural gas transaction."

- (5) the total compensation paid for the emergency natural gas transportation or exchange service, if any;
- (6) the methods by which such compensation was derived;
- (7) the total volumes of natural gas whose cost was assigned to specific customers, and the total volumes whose cost was included in system supply;
- (8) the information supplied to any other participant pursuant to §284.264(a)(2); and
- (9) a statement that the emergency natural gas transaction was carried out in accordance with this subpart, and that identifies the circumstances demonstrating an emergency existed or was imminent so as to require an emergency natural gas transaction.

D. The Docket No. RM05-12 Rulemaking - Review of Certain Commission Reporting Requirements to Determine Whether They are Outdated or Burdensome

In 2005, the Commission issued a notice of rulemaking proposing modifications to certain natural gas reporting requirements in Docket No. RM05-12.¹⁹ The Commission stated that it was reviewing its natural gas regulations in order to determine whether they contained any outdated requirements or imposed any unnecessary burdens on persons subject to the Commission's jurisdiction. Among the regulations reviewed were the regulations pertaining to emergency natural gas transactions. The Commission proposed to amend its regulations to standardize the filing format for reporting associated with emergency natural gas sales, transportation and exchange transactions. The Commission stated that its intent was to reduce the burden of filing certain information with the

¹⁹ *Modification of Natural Gas Reporting Requirements*, Notice of Proposed Rulemaking, 70 Fed. Reg. 33,873 (June 10, 2005), FERC Stats. & Regs. [Regs. Preambles 2001 - 2005] ¶ 32,583 (2005).

Commission. Among other things, the Commission proposed filing in electronic format the information required to be reported under Section 284.270 of its emergency natural gas transaction regulations. Although the Commission received several comments in Docket No. RM05-12, the Commission has taken no action in that docket.

E. **Order No. 682 - The Adoption of Regulations Requiring Pipelines to Report Certain Facilities Damage from Disasters and Terrorist Activity**

In 2005, the Commission issued its Order No. 682.²⁰ This order amended the Commission's regulations to require that jurisdictional natural gas companies report damage to facilities that results from a natural disaster or terrorist activity and that results in a reduction in pipeline throughput or storage deliverability. The Commission issued Order No. 682 in order to facilitate its ability to monitor effectively the domestic natural gas infrastructure in crisis situations. In Order No. 682 the Commission did not modify its emergency natural gas transaction regulations at 18 C.F.R. Part 284, Subpart I.

REQUEST FOR CLARIFICATION

NGSA requests clarification that (i) first sellers of natural gas, and (ii) marketers that are making a sale of natural gas that is not a first sale²¹ are not required to file with the

²⁰ See fn. 6, *supra*.

²¹ "First sales" of natural gas include sales: (i) to any interstate pipeline or intrastate pipeline; (ii) to any local distribution company; (iii) to any person for use by such person; (iv) which precedes any sale described in clauses (i), (ii), or (iii); and (v) which precedes or follows any sale described in clauses (i), (ii), (iii), or (iv) and is defined by FERC as a first sale in order to prevent circumvention of any maximum lawful price established under the NGPA. Clauses (i), (ii), (iii), or (iv) above will not include the sale of any volume of natural gas by any interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof, unless such sale is attributable to volumes of natural gas produced by such interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof. 15 USCA § 3301 (2006). "First sales" of natural gas have been
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Commission the emergency natural gas transaction reports described in 18 C.F.R. § 284.270.

As discussed above, these regulations require the filing of certain information by "the purchasing participant" (in the case of Section 284.270(a)), by "the recipient of emergency natural gas" (in the case of Section 284.270(b)), by "the initial recipient of the exchange volumes" (in the case of Section 284.270(c)), and by "the participant that received the emergency natural gas" (in the case of Section 284.270(d)).

The clarification requested by NGSAs is appropriate for several reasons. First, although marketers generally purchase and resell natural gas, Order No. 449 provides no indication that the Commission expected a natural gas marketer to report concerning an emergency natural gas transaction as "the purchasing participant," "the recipient of emergency natural gas," "the initial recipient of the exchange volumes," or "the participant that received the emergency natural gas" within the meaning of 18 C.F.R. §§ 284.270(a)-(d), respectively. Additionally, Section 284.264(a)(4) of the Commission's regulations provides that a participant may not sell emergency natural gas if, during the term of the sale, it is also purchasing emergency natural gas (except where natural gas is being sold to relieve an emergency on another segment of the participant's system).²² As natural gas marketers sell all of the natural gas that they purchase, and do not have "systems," this requirement supports the proposition that marketers were not intended to be covered by the emergency natural gas sales transaction reporting requirements.

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deregulated and thus are not subject to regulation by the Commission.

²² See 18 C.F.R. § 284.264(a)(4).

Second, first sellers of natural gas do not generally purchase natural gas, and there is no indication in Order No. 449 that the Commission contemplated that a first seller would be "the purchasing participant," "the recipient of emergency natural gas," "the initial recipient of the exchange volumes," or "the participant that received the emergency natural gas." Third, neither first sellers nor marketers generally possess first-hand knowledge concerning much of the information to be reported under 18 C.F.R. §§ 284.270(a)-(d), thus, making it virtually impossible to obtain this information from the involved parties and to report that information in a 48-hour timeframe.²³ Thus, it is very unlikely that the Commission contemplated in 1986 that a first seller of natural gas or a marketer engaged in a natural gas sale that is not a first sale would be responsible for reporting with respect to an emergency natural gas transaction. Nonetheless, the information required by 18 C.F.R. §§ 284.270(a)-(d) is currently available from public sources and/or from the pipelines and LDCs who have historically been the affected parties in these types of emergency situations.

In its *Interpretive Order Modifying No-Action Letter Process and Reviewing Other Mechanisms for Obtaining Guidance*,²⁴ the Commission encouraged parties to seek guidance from the Commission, for example, through the filing of a request for clarification, where uncertainty exists with respect to a matter within the Commission's jurisdiction. NGSA believes that the circumstances here are appropriate for a clarification of the Commission's

²³ To the extent first sellers or marketers not engaged in a first sale have some or all of this information, much of it will most likely have been obtained from third parties.

²⁴ 123 FERC ¶ 61,157 (2008).

regulations.²⁵ Accordingly, NGSa seeks regulatory certainty by requesting clarification that 18 C.F.R. § 284.270 does not require first sellers of natural gas and marketers that are not making a sale of natural gas that is a first sale to submit the reports called for by these regulations.

III. ALTERNATIVE REQUEST FOR MODIFICATION OF THE REPORTING REQUIREMENTS ASSOCIATED WITH EMERGENCY NATURAL GAS TRANSACTIONS, 18 C.F.R. §§ 284.270(a)-(d)

The existing emergency natural gas transaction regulations reflect a natural gas industry where pipelines were still purchasing and selling gas and recovering their merchant costs through rates. These regulations do not contemplate the current circumstances in the natural gas industry, which include active trading hubs, blanket transportation authority, capacity release, and numerous intermediaries that aggregate diverse gas supplies rather than move gas from specific sources to specific customers, and in which the concept of "emergency gas" is no longer meaningful in an operational or regulatory sense. Moreover, a marketer's customers and suppliers can change on a day-to-day basis, and the inability of a marketer to ship natural gas on a pipeline due to an emergency on one day would not necessarily affect how the marketer operated the next day. Today, marketers have various options and significant flexibility available to them in connection with gas supplies and in routing gas to customers. Given that marketers generally do not match gas from specific sources to specific customers, often buy from and sell to each other at hubs, and may not be able to distinguish the amount paid for

²⁵ Where appropriate, the Commission stated that it may initiate further proceedings (*e.g.*, a rulemaking) if a need to reform, rather than merely clarify, a particular rule or regulation is shown. *Id.* at fn 24. If the
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"emergency gas" from the amount(s) paid for other "pooled" gas, the concepts underlying the Commission's emergency gas transaction rules cannot readily be applied in the context of natural gas sales or marketing.

Even if a marketer or first seller of natural gas were the purchaser in an emergency natural gas transaction, in light of the definition of "emergency" in Section 284.262 of the regulations,²⁶ it is highly questionable whether a first seller or marketer of natural gas would have the ability to determine, first-hand, whether an emergency exists under the Commission's regulations. For example, marketers and first sellers of natural gas will not likely have first-hand knowledge about the information called for by Sections 284.270(a)-(c) of the regulations, *e.g.*, the specific nature of an emergency, the estimated and total amount of gas that will be needed to address the emergency, and the identity of all participants involved in an emergency natural gas sales transaction. Nor would a marketer or first seller have access on a first-hand basis to most of the information called for by Section 284.270(d) of the regulations. Absent first-hand knowledge of the facts and circumstances surrounding an emergency, NGSAs submit it would be nearly impossible for a marketer or first seller to gather and submit to the Commission the information called for by Sections 284.270(a)-(c) of the regulations within 48 hours or to provide the information called for by Section 284.270(d) **on a sworn basis**. In these circumstances, marketers and first sellers of

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Commission believes the circumstances here warrant a rulemaking proceeding, NGSAs would not object.

²⁶ This definition encompasses situations involving gas supply and capacity shortages, curtailments, the protection of life or health or maintenance of physical property, etc.

natural gas should not be exposed to the risk of non-compliance with these Commission regulations.

Furthermore, the language of Section 284.270 of the regulations is ambiguous. These regulations may be read to require only one purchasing participant or to require each purchasing participant of emergency natural gas to submit a report. Many sellers are not clear whether or in what circumstances these regulations may apply to them, particularly if another party submits a report to the Commission respecting the same transaction. In the current natural gas marketplace, natural gas is frequently purchased and sold by many parties before it is consumed. Therefore, the reporting requirement in these regulations arguably could encompass numerous parties that are purchasing natural gas in an overall chain of purchase and sale transactions. A requirement for multiple reports under Section 284.270 is redundant and may provide the Commission with conflicting information.

Moreover, the reporting requirements in Sections 284.270(b) and (c) appear to be associated with transactions that do not involve a sale of emergency natural gas, *i.e.*, transportation and exchange transactions. Nonetheless, Section 284.270(b) requires a report from "the recipient of natural gas" and Section 284.270(c) requires a report from "the initial recipient of the exchange volumes." Notwithstanding the definition of the terms "recipient" and "participant" in Section 284.262 of the regulations, it is not entirely clear whether a first seller or marketer of natural gas may be responsible for an emergency natural gas transaction report under the regulations.

Finally, several provisions of the emergency natural gas transaction regulations are obviously outdated. Section 284.265 of the regulations addresses cost recovery by

interstate pipelines, and the regulation discusses cost recovery in the context of a pipeline's "system supply." The reporting requirements in Section 284.270 require parties to notify the Commission about emergency transactions "by telegraph or other written report." As these provisions appear outdated, NGSAs submit that the Commission may wish to consider broader modifications to its emergency natural gas transaction regulations at 18 C.F.R. Part 284, Subpart I.

IV. CONCLUSION

Revising the reporting requirements associated with emergency natural gas sales transactions will be in the public interest and will provide needed regulatory certainty to the industry. The clarification or modification proposed herein will facilitate a better understanding of the Commission's regulatory requirements. They will also reduce the risk that sellers of natural gas will be exposed to potential penalties for violations of regulations that are ambiguous and obscure. It is critical that the Commission's rules and regulations be well known and understood within the industry so that natural gas market participants can avoid inadvertent violations that could lead to civil penalties and, potentially, other sanctions.²⁷

NGSA appreciates the Commission's desire to stay abreast of the facts and circumstances associated with emergency transactions in the natural gas marketplace.

²⁷ See Commission Proposes Rules on Market Manipulation, Outlines Policy on Civil Penalties and Enforcement, News Release, issued in Docket Nos. PL06-1-000, *et al.* (Oct. 20, 2005) (quoting Chairman Joseph T. Kelliher as stating: "Our purpose is firm but fair enforcement of our rules and regulations. The Commission's goal is compliance. These orders will provide the industry with clarity and regulatory certainty.").

NGSA believes that the clarification or modification it is proposing for the Commission's emergency natural gas transaction reporting regulations will not interfere with the Commission's ability to do so, without exposing natural gas market participants to unwarranted compliance risks.

Accordingly, if the Commission declines to clarify its regulations as requested above, NGSA requests that the Commission modify 18 C.F.R. §§ 284.270(a)-(d) to provide that first sellers of natural gas and marketers of natural gas that are not making a first sale are not required to submit a report under 18 C.F.R. §§ 284.270(a)-(d).²⁸

WHEREFORE, in accordance with the foregoing, NGSA respectfully requests the Commission promptly to clarify or modify Sections 284.270(a)-(d) of its regulations for the reasons described above.

Respectfully submitted,



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²⁸ NGSA is not here proposing language for new regulatory text to revise the emergency natural gas transaction regulations. Rather, the purpose of this petition is to alert the Commission to the fact that the reporting requirements under its emergency natural gas transaction regulations require updating and to request prompt Commission action to effect clarification or appropriate modifications of the regulations.