

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

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

**INITIAL COMMENTS OF
THE NATURAL GAS SUPPLY ASSOCIATION**

Pursuant to the Notice of Proposed Rulemaking issued in the above-captioned docket on December 21, 2007 (“NOPR”), the Natural Gas Supply Association (“NGSA”) submits its initial comments regarding the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) proposal to revise its regulations, pursuant to section 23 of the Natural Gas Act, to require both interstate and certain major non-interstate pipelines to post capacity, daily scheduled flow information and daily actual flow information. The Commission states that the purpose of the revision is to facilitate price transparency in markets for the sale or transportation of physical natural gas in interstate commerce. Communications and correspondence regarding this filing should be directed to:

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NGSA represents integrated and independent companies that produce and market natural gas in the United States. NGSA supports safeguarding the integrity of natural

gas markets. NGSAs mission is to ensure a competitive natural gas market that is supported by appropriate regulations. As part of this mission, NGSAs supports regulatory and legislative actions that foster competitive markets and downstream efficiencies while fostering increased natural gas supply.

I. Executive Summary

NGSAs members are major participants in the U.S. natural gas market, entering into thousands of physical market transactions daily and investing billions of dollars in the long-term development of natural gas supply for sale in the U.S. natural gas market. As large producers and marketers of natural gas, NGSAs members believe that the markets exhibit transparency, integrity and efficiency.

The physical U.S. natural gas commodity market is robust and functioning well, and is considered to be among the most transparent of all commodity markets in the world.¹ Regulators should continue to assure a stable, predictable regulatory environment that encourages market participation and maintains market efficiency. While pipeline flow data may help shed light on underlying supply and demand fundamentals, such information can be added to the market to facilitate the Commission's market monitoring objective in a more efficient way than the manner proposed in the NOPR.²

¹ "Natural Gas Price Transparency and Liquidity" White Paper by Pete Locke, Prepared for the Natural Gas Supply Association, October 2006, filed in Docket No. AD06-11, Transparency Provisions of the Energy Policy Act of 2005 on October 13, 2006.

² Assuming and without conceding at this time, that the pipeline posting requirement can be

The following modifications to the Commission's proposed flow data posting rules offer a framework for adding information to the market which is thorough, practical and most cost effective for the industry. These modifications are essential to ensure that the Commission's flow posting requirement effectively adds information to the market regarding underlying supply and demand fundamentals without unnecessarily creating barriers to entry and harming competition and market efficiency. The following key points regarding modifications to the NOPR are discussed more fully in the body of these comments:

- Flow posting requirement should be applied to non-interstate pipelines serving the thirteen major hubs identified in the NOPR.
- Alternatively, flow posting requirement should be applied to non-interstate pipelines which flow 50 Bcf per year or more.
- For all reportable non-interstate pipelines, the posting requirement should be applied to all mainline "check meters," and at receipt and delivery points where telemetering exists, and all receipt and delivery meters that have a flowing volume of more than 15 MMcf per day.
- The flow posting requirement for interstate pipelines should be applied at all mainline "check meters," all points where telemetering exists, and all receipt and delivery meters that have a flowing volume of more than 15 MMcf per day.
- In addition, under the volumetric threshold alternatives, a non-interstate pipeline which meets the volume threshold, but which delivers solely into a single non-interstate pipeline which flows 50 Bcf per year, should be exempted from the flow posting requirement, since its volumes will be reported by the receiving pipeline.
- Flow posting requirement should include an exemption process for FERC to consider the protection of proprietary information disclosure if deemed necessary by the pipeline, impacted shipper(s), or customer(s).
- Pipelines which must post flow information should be able to include a disclaimer indicating that the flow data may not be billing quality.
- Flow posting requirement should not apply to interstate and non-interstate

extended to non-interstate pipelines, NGSAs chooses to address the substantive issues raised by RM08-2-000.

pipelines in Alaska until the Alaskan natural gas market is physically interconnected with the Lower-48 states.

II. The Reporting of Actual Flowing Data is Relevant to the Monitoring and Functioning of the Wholesale Natural Gas Markets

a. The flow posting requirement should be applied to non-interstate pipelines serving the thirteen major hubs identified in the NOPR.

Greater insight into regional, real-time supply and demand fundamentals does not require the sweeping approach that the Commission proposed. To ensure that the industrial and regulatory benefits of the flow posting requirement are commensurate with the cost of implementation, the flow posting requirement should be limited to non-interstate pipelines serving the thirteen major hubs that are identified in the NOPR.³

This approach would allow the natural gas flows of non-interstate pipelines which can physically enter the interstate wholesale natural gas market to be viewed by the market and regulators on a near, real-time basis. Together with the posting of interstate pipeline flows, this approach ensures that the Commission's new requirement captures only the relevant "information about the availability and prices of natural gas at wholesale and in interstate commerce."⁴ Consequently, the posting requirement would provide the market and regulators with sufficient information regarding underlying supply and demand fundamentals without the reporting of information that is arguably

³ This approach is in addition to the exemptions proposed in the NOPR which include pipelines upstream of processing facilities and gathering lines.

⁴ Section 23(a)(2) of the Natural Gas Act, 15 U.S.C. 717t-2(a)(2)(2000 & Suppl. V 2005).

not impacting the interstate wholesale natural gas market. Under this framework, flows on non-interstate pipelines which do not serve the hubs (which could include natural gas gathering facilities or upstream pipeline segments) will be captured if they are ultimately delivered to one of the thirteen major hubs; the first point at which the natural gas could enter the interstate pipeline grid and the interstate wholesale natural gas market.

b. Alternatively, Flow Posting Requirement Should Be Applied To Non-Interstate Pipelines Which Flow 50 Bcf Per Year Or More.

Alternatively, if the “market hub” framework does not provide sufficient information, an intermediate step exists. By increasing the volume necessary to qualify as a “major non-interstate pipeline” the Commission can enhance the information without creating unnecessary burdens.⁵ The Commission’s flow posting requirement should be applied based on an annual throughput threshold of 50 Bcf per year which is consistent with the 50 million Dth threshold used to define a “Major Natural Gas Company” under the Commission’s regulations.⁶ The Commission’s proposed 10 million Btu threshold is unnecessarily low and the benefits derived from it are not commensurate with implementation cost.

Based on 2006 EIA Form 176 data, the Commission’s proposed threshold of 10 Bcf

⁵ This alternative approach is in addition to the exemptions proposed in the NOPR for pipelines upstream of processing facilities and gathering lines.

⁶ 18 CFR § 260.1 (b).

per year subjects 100 intrastate⁷ pipelines to the flow posting requirement and captures approximately 99 percent of intrastate pipeline flows. Increasing the throughput threshold to 50 Bcf per year captures approximately 90 percent of the intrastate pipeline volumes and applies to only 57 intrastate pipelines.

Thus, the largest 57 intrastate pipelines account for approximately 90 percent of the intrastate pipeline volumes. In contrast, almost doubling the applicability of the requirement to 100 intrastate pipelines, which conceivably doubles the cost of compliance, increases the data collected by only nine percent. Further, to the extent that only 10 percent of the total intrastate volume is not subject to the non-interstate pipeline posting requirement but is delivered into interstate commerce or a non-interstate pipeline that meets the threshold, the volume will be reflected on the posting of the interconnected interstate or non-interstate pipeline. Thus, even without the added cost, the market and regulators will have the benefit of that flow information if the flows enter the wholesale natural gas market.

Similarly, some “major non-interstate pipelines” included under the 50 Bcf threshold can be exempted from the pipeline posting requirement without degradation of the data and at a cost savings. To the extent a “major non-interstate pipeline” is upstream of another “major non-interstate pipeline,” and delivers solely into a single non-interstate pipeline, it can be exempted because its volume will be reported by the downstream pipeline. Without the added cost, the market will have the same information it would

⁷ The term “intrastate” is used for consistency with the terminology used by EIA in the publication of the Form 176 data.

have had without the exemption. While pipeline flow data can help shed light on underlying natural gas market supply and demand fundamentals, the Commission must be careful to not to create new barriers to entry while assuring a stable, predictable regulatory environment that encourages, not hinders, market participation and maintains market efficiency. The implementation of regulations that accomplish the Commission's objectives with the least burden on the market is a challenge that can be met easily through the careful application of the Commission's flow data posting requirement. Capturing 90 percent of the intrastate pipeline flow information through a 50 Bcf annual throughput threshold would avoid a regulatory compliance cost associated with collecting the remaining 10 percent of intrastate pipeline flows, which account for only approximately six percent of the total natural gas consumed annually. If the compliance cost were conservatively estimated at \$500,000 per pipeline, the avoided cost would be \$21.5 million for the additional 43 intrastate pipelines that would have to post pipeline flow data. These costs highlight that even this higher threshold will place a posting requirement on companies which are not traditional pipeline companies and which do not have the staff and infrastructure in place to easily convert this operational data into reportable volumes.

- c. **For all reportable non-interstate pipelines, the posting requirement should be applied to all mainline "check meters," and at receipt and delivery points where telemetering exists, unless the receipt and delivery meters have a flowing volume of more than 15 MMcf per day.**

NGSA believes that pipeline flow information can be provided in a more efficient

and practical way than that proposed by the NOPR. A pragmatic means to achieve the goal is for all non-interstate pipelines that meet the threshold to post information for all points that have telemetering capability. To the extent that this equipment is already installed on the pipeline, there is no economic or operational reason why that information cannot and should not be reported. Reporting actual flow data at these points would provide valuable information at little or no additional expense. However, actual flowing data should be reported for all receipt and delivery meters on a reportable non-interstate pipeline which has an average daily flow volume of more than 15 MMcf per day. Conversely, receipt and delivery meters which have an average daily flow of less than 15 MMcf per day should not have to be reported, regardless of whether the meter currently has telemetering equipment.

Limiting the posting of flowing data to points with more than 15 MMcf per day would not materially restrict the amount or quality of the intrastate flowing gas information which would realistically be required to adequately monitor and reflect the relevant natural gas markets. Such a limitation on meter size would also serve to reduce the telemetering expenses that the pipelines would have to incur in order to adhere to the more expansive reporting regulations proposed in the NOPR. Furthermore, such a limitation would assist certain smaller producers and plant owners who are concerned about the proprietary nature of any public disclosure of their specific flowing production. Finally, any volumes of flowing gas which are unreported at the individual receipt meters will inherently be aggregated in the pipeline's mainline

system and reported at the downstream mainline check meter(s). NGSAs support the reporting of flowing volumes at appropriate mainline segments and feel that the pipelines' existing composite check meters are natural points for flowing gas information to be collected and reported.

- d. **The flow posting requirement for interstate pipelines should be applied at all mainline check meters, and all points where telemetering exists, and at all receipt and delivery meters that have a flowing volume of more than 15 MMcf per day.**

A number of commenters suggest that the reporting of actual flowing data on the interstate pipelines is unnecessary, redundant and burdensome. A common theme among all the comments received by the Commission is that the proposed regulations should be structured in a way that accomplishes the Commission's objectives with the least burden on all market participants. In that regard, NGSAs propose that the objectives of the proposed rulemaking can be met by a careful, pragmatic, and realistic application of the Commission's flow data posting requirement.

NGSAs believe that a practical means to achieve this goal is to require that interstate pipelines to post flow data for all points that have telemetering capability. To the extent that this equipment is already installed on the pipeline, there is no economic or operational reason why that information cannot and should not be reported. Reporting actual flow data at these points would provide valuable information about the wholesale natural gas markets at little or no additional expense to the pipeline.

Additionally, because Sec. 284.13 (d) of the proposed regulations states that interstate pipelines must provide access to information on actual flowing volumes “on the mainline,” NGSAs support the reporting of flowing volumes at the pipelines’ mainline segments and feels that the pipelines’ existing composite check meters are natural points for mainline flowing gas information to be collected and reported.

Finally, NGSAs believe that there should be some practical limits on the amounts of information that the pipelines should be required to post. In that regard, NGSAs believe that unless telemetering equipment currently exists at a given receipt or delivery point, interstate pipelines should not be required to install new telemetering equipment on receipt and delivery meters that have an average daily flowing volume of 15 MMcf per day or less. However, to the extent that such a point exceeded an average daily volume of 15 MMcf per day for a period of three consecutive months, then telemetering should be installed at that point and daily flow information should be reported. Such a policy would provide economic rationalization and data consistency, while at the same time supply the Commission and the natural gas market participants with sufficient flowing natural gas information to adequately monitor and reflect the interstate wholesale markets.

III. Flow posting requirement should include an exemption process to protect proprietary information disclosure if deemed necessary by the pipeline, impacted shipper(s), producers, or customer(s).

A number of commenters expressed concern regarding the disclosure of proprietary

information. Although it is true that a considerable amount of nomination and scheduled data is already made available by entities such as Bentek Energy, LLC, this information is not actual flowing volumetric data. And, recognizing that there are existing concerns about the proprietary nature of this data, the Commission should be very cautious about mandating that additional commercially sensitive information be made public. Thus, the Commission should provide the interstate and non-interstate pipelines, impacted shipper(s), producers, and customer(s) with a mechanism for seeking an exemption from the requirement to post actual flowing data at a particular point that is otherwise subjected to the requirement.

NGSA believes that limiting the flow posting threshold to current reporting points on interstate pipelines, to the non-interstates serving the 13 major hubs, or alternatively to non-interstates with throughput of 50 Bcf or more annually with individual meter thresholds will go a long way to mitigate concerns regarding proprietary data. Nevertheless, 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 NGA transparency provisions that direct the Commission to have due regard for the integrity of the market.⁸

⁸Section 23(a)(1) of the Natural Gas Act, 15 U.S.C. 717t-2(a)(1).

IV. Pipelines which must post flow information should be able to include a disclaimer indicating that the flow data may not be billing quality.

Commenters have also expressed a reluctance to post volumetric data because of the concern that it may be misinterpreted as billing quality information. NGSAs members understand that the information sought by FERC is intended to provide market participants and regulators with a snapshot of underlying natural gas supply and demand fundamentals on a near, real-time basis. Billing quality information is not as easily produced and involves a parsing of the actual flow (or non-flow) information to derive billing quality data. The development of billing quality information can also involve prior period adjustments that occur months later that simply cannot be reflected on a near, real-time basis.

Fortunately, understanding underlying supply and demand fundamentals, the prevalence of no-notice service in a particular region or the impact of a *force majeure* event does not require billing quality data. For that reason, the Commission should allow the reporting entity the ability to include a flow data posting acknowledgment or disclaimer that the flow information posted is a best estimate of actual flow information used for operational purposes and that it is not billing quality data.

NGSA believes that the ability to make such a disclaimer will help address certain market participants' hesitancy with posting market information that may, at times, be less than perfect or that cannot go through the internal due diligence procedures due to time constraints. These market participants need confidence that there is no

expectation among regulators or others that the posted flow data is anything more than a best estimate of operational information and not billing quality data. The ability to designate reported flowing data as best-available estimates will avoid the potential for unintended misunderstandings and disputes, as well as possible disparity with other data that is prospectively subsequently reported to the Commission for other purposes.

V. Flow posting requirement should not apply to interstate and non-interstate pipelines in Alaska until the Alaskan natural gas market is physically interconnected with the Lower-48 states.

Consistent with NGSAs initial comments⁹, because the Alaska natural gas market is not physically interconnected with the Lower-48 states, the Commission should clarify that the interstate and non-interstate pipeline flow data posting requirement applies to on-shore, interstate and non-interstate pipelines within the Continental U.S. NGSAs is committed to fostering increased natural gas supplies in the U.S. through a variety of supply development, import and infrastructure projects. Currently, the Alaskan wholesale natural gas market sales and purchase transactions are not physically linked to the Lower-48 wholesale natural gas market making them extraneous to price transparency in wholesale natural gas markets in the Lower-48.

NGSA requests that interstate and non-interstate pipelines in Alaska be excluded from the flow posting requirement at least until such time the Alaskan transactions are a part of the Lower-48 wholesale natural gas market. Doing so will fundamentally and

⁹ NGSAs Initial Comments, Docket No. RM07-10, on July 11, 2007, page 9.

beneficially lessen the burden on entities doing business in Alaska.

VI. Conclusion

NGSA adheres to a number of bedrock principles for natural gas markets. Key among them are integrity, transparency and efficiency. The U.S. natural gas market is among the most transparent of all commodity markets in the world and the relative ease of participation in the market helps foster investment in the U.S. energy market. The market response to the regulatory framework established by the Commission over the last several years has restored the integrity of the natural gas price indices and resulted in a market that is transparent and efficient. Combined with interstate and non-interstate pipeline flow data, which will shed additional light on underlying supply and demand fundamentals, the government has already taken the steps necessary to facilitate price transparency and ensure the integrity of the markets.

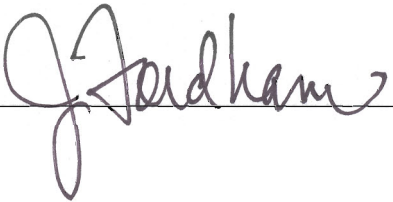
The Commission's proposed flow data posting requirement has the potential to provide market participants and regulators with additional information regarding underlying natural gas supply and demand fundamentals. However, accomplishing this goal with costs commensurate with benefit, particularly in light of the market information already available, is essential to ensure that the regulatory changes benefit consumers.

For this reason, the flow data posting requirement should be applied to the non-interstate pipelines serving the 13 major hubs noted in the NOPR or alternatively non-

interstate pipelines with throughput of 50 Bcf annually or more, in addition to interstate pipelines, with an additional exemption for those non-interstate pipelines with a throughput of 50 Bcf which deliver solely into a non-interstate pipeline with a 50 Bcf throughput.

It is essential that regulatory policies reduce barriers to entry, especially as world competition for energy resources continues to grow. Continued ease of participation in the U.S. natural gas market, coupled with access to more domestic natural gas resources will allow the U.S. energy market to grow with the U.S. economy and play a vital role in meeting U.S. and world environmental goals.

Respectfully submitted,



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