

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

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| Standards for Business Practices for Interstate Natural Gas Pipelines |) | Docket No. RM96-1-030 |
| |) | |
| Standards for Business Practices for Public Utilities |) | Docket No. RM05-5-001 |

**MOTION FOR LEAVE TO FILE COMMENTS OUT-OF-TIME AND COMMENTS
OF THE NATURAL GAS SUPPLY ASSOCIATION**

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.212 (2009), and the Commission’s Notice of Proposed Rulemaking issued on July 16, 2009 in the above-captioned docket (“NOPR”),¹ the Natural Gas Supply Association (“NGSA”) hereby submits this motion for leave to file comments out-of-time and comments.

I. IDENTITY OF NGSA

NGSA represents integrated and independent companies that produce and market domestic natural gas. Established in 1965, NGSA 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.

¹ *Standards for Business Practices for Interstate Natural Gas Pipelines*, Notice of Proposed Rulemaking, 74 Fed. Reg. 36633 (July 24, 2009), FERC Stats. and Regs., ¶ 32,645 (2009), 128 FERC ¶ 61,031 (2009) (*hereinafter*, “NOPR”).

II. COMMUNICATIONS

Notices and communications concerning these comments should be addressed as follows:

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III. BACKGROUND

In the NOPR, the Commission outlined its intent to incorporate by reference several business standards that had been developed and accepted by the Wholesale Gas Quadrant (“WGQ”) of the North American Energy Standards Board (“NAESB”), including NAESB’s notification that the NAESB Business Practices Subcommittee and the Executive Committee could not agree to any new generic changes to intra-day natural gas pipeline nomination schedules.² The filing of NAESB’s Version 1.8 business practices was preceded by the filing of a report on September 3, 2008, which informed the Commission that the WGQ Executive Committee (“EC”) approved the recommendation of the WGQ Business Practices Subcommittee (“BPS”) to take no action concerning modifications to the intra-day nomination timeline.³ Based upon NAESB’s inability to reach consensus on a modification to the current nomination

² See NOPR at P 21.

³ *Standards for Business Practices for Interstate Natural Gas Pipelines*, Report of the North American Energy Standards Board, Docket No. RM96-1-030 (captioned as Docket No. RM96-1-027) (September 3, 2008) (“NAESB Report”).

cycles, the Commission came to the logical conclusion that it would not impose a generic change to the intra-day nomination time-lines of every interstate pipeline, but rather, concluded that any such change should be considered on a pipeline-by-pipeline basis, based on the specific needs of the customers and the operating characteristics of the individual pipeline.⁴

On September 4, 2009, the Tennessee Valley Authority (“TVA”) filed comments on the NOPR requesting that the Commission schedule a technical conference on the issue of intra-day pipeline nomination schedules.⁵ On September 8, 2009, Old Dominion Electric Cooperative (“ODEC”) and the Arizona Public Service Company (“APS”) filed comments on the NOPR with similar requests.⁶

IV. MOTION FOR LEAVE TO FILE COMMENTS OUT-OF-TIME

NGSA respectfully requests that the Commission accept these comments out-of-time in the above-captioned proceeding. TVA, ODEC, and APS’ comments raised issues in this proceeding that could not have been reasonably foreseen when the NOPR was issued. Additionally, the granting of NGSA’s motion will not disrupt the proceeding. Accordingly, NGSA respectfully requests that the Commission grant its motion and accept these comments out-of-time.

⁴ See NOPR at P 22.

⁵ *Standards for Business Practices for Interstate Natural Gas Pipelines*, Comments of Tennessee Valley Authority, Docket No. RM96-1-030 at 2 (September 8, 2009) (“TVA Comments”).

⁶ *Standards for Business Practices for Interstate Natural Gas Pipelines; Standards for Business Practices for Public Utilities*, Comments of Old Dominion Electric Cooperative, Docket Nos. RM96-1-027, RM05-1-001 at 2 (September 8, 2009) (“ODEC Comments”); *Standards for Business Practices for Interstate Natural Gas Pipelines*, Comments of Arizona Public Service Company, Docket No. RM96-1-030 at 2 (September 8, 2009) (“APS Comments”).

V. COMMENTS

NGSA hereby requests that the Commission deny the requests of TVA, ODEC, and APS to schedule a technical conference on the issue of intra-day pipeline nomination schedules.

One factor that must have weighed prominently on this issue is the extensive and open NAESB process that was used to consider the various proposed modifications to the existing intra-day nomination cycles. The process utilized by the Business Practices Subcommittee and the Executive Committee to address the intra-day nomination cycle issue took over a year to conclude and included over 200 individual industry representatives from more than 26 interstate natural gas pipelines, 27 utilities or electric generators, 11 gas producers or marketers, 7 integrated electric transmission market operators, and 3 state public commissions. NAESB's September 3, 2008 Report to the Commission summarized this extensive process and provided the details of the individual meetings, proposals, comments, and votes that took place during those deliberations.

"The NAESB WGQ BPS Order 698 meetings and EC meetings where these standards were drafted, discussed and adopted took place from June 2007 to July 2008. There were thirteen subcommittee meetings, many of them multiday in duration, focused solely on FERC Order No. 698 issues. There were three EC meetings where the FERC Order No. 698 standards development effort was discussed as a key agenda topic. All meetings were open to all interested parties and were publicly noticed, and were available by phone and web cast for those unable to travel. The meetings were held in various locations, diverse geographically. Any interested party was encouraged to submit comments if their schedules would not permit them to participate either in person or over the phone/web cast. The minutes of these meetings are provided as links in appendices B and C, which include the voting records of the EC, and include all comments filed as part of the formal

comment period for the FERC Order No. 698 standards. The ratification ballots and member ratification voting record results are also included as links in appendix D.”⁷

Yet, despite this extensively documented NAESB effort, parties have now asked the Commission to schedule a technical conference for industry participants to “identify the flexibility that various pipelines could or have implemented in order to allow electric generation facilities to operate more efficiently.”⁸ ODEC, APS, and TVA assert that a technical conference will allow natural gas industry participants, including electric generators, to work toward a consensus on uniform changes to the intra-day pipeline nomination schedule.

NGSA believes that such a technical conference is unnecessary and redundant. The Commission should adhere to its proposal, as stated in the NOPR, which allows individual pipelines to increase flexibility for shippers by implementing custom changes to their nomination schedules that “accommodate specific conditions of their systems and the needs of gas-fired generation within their regions.”⁹ NGSA agrees with the Commission’s conclusion stated in the NOPR that “with respect to the question of intra-day nominations on which consensus was not reached, we do not find a sufficient basis in the NAESB record for us to propose any changes to our current regulations and policies.”¹⁰ For the reasons discussed below, NGSA requests that the Commission deny the request for a technical conference.

⁷ NAESB Report at 1.

⁸ *See, e.g.*, ODEC Comments at 2.

⁹ NOPR at P 22.

¹⁰ NOPR at P 7.

ODEC, APS and TVA's requests for a technical conference on intra-day nomination schedules raise the issue of making generic changes to intra-day nomination scheduling after extensive industry discussion concluded without reaching consensus. In their requests, ODEC, APS and TVA have not presented a compelling reason why the Commission should not accept the comprehensive NAESB process, comprising 12 meetings with over 200 participants that led to the recommendation that intra-day nomination schedules should not be changed on a generic basis. There were valid reasons, provided to the Commission by NAESB why the industry participants were unable to agree to a generic modification of the existing intra-day nominations, and there is insufficient evidence that anything would be gained by, in effect, overturning the exhaustive NAESB business practices development process by holding a technical conference to reconsider proposals that have already been extensively debated and rejected by the industry.

Given the time and energy already exerted among all industry segments on this issue, we do not believe that devoting additional industry and Commission time and resources to this issue is warranted. Nor do we believe that the Commission should now adopt any specific proposal that may be promoted as a universal panacea, but which failed to be adopted by a requisite number of industry segments within the NAESB review process.

There could certainly be specific instances when the Commission might refuse to accept a NAESB recommendation. However, we believe the Commission should require a high standard for determining when to overrule a NAESB business practice

outcome. If the Commission overturns NAESB's outcome in this instance – simply because one segment does not accept that outcome – then parties may be discouraged from participating in the NAESB process in the future. The purpose and credibility of the entire NAESB processes would be called into question. Therefore, the Commission should resist requests such as ODEC, APS and TVA's when there is no strong evidence of harm to the industry as a whole.

NGSA does not oppose allowing pipelines to offer greater flexibility to shippers, including electric generators. Certainly, we encourage ODEC, APS, and TVA to seek resolution of their concerns with their connecting pipeline. However, it would not be appropriate to involve the entire industry in a technical conference, expending considerable resources, to rehash a myriad of competing and contradictory generic proposals that were thoroughly reviewed and rejected by the vast majority of the industry through NAESB.

VI. CONCLUSION

For the reasons above, the Commission should refrain from holding a technical conference on intra-day nominations. NGSA does not oppose individual pipelines making changes to their systems or nomination schedules, which might afford shippers on individual systems greater flexibility. However, ODEC, APS, and TVA have not provided sufficient rationale to justify the Commission rejecting NAESB's outcome, reached after years of discussion. Moreover, there is no compelling evidence that more progress could be made if pipelines, their shippers, and the Commission devote more of their limited resources to revisit this intra-day nomination issue. NGSA, therefore,

requests that the Commission deny ODEC, APS and TVA's request for a technical conference and adopt the pipeline-by-pipeline solution, as proposed in the NOPR.

Respectfully Submitted,

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