

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

Coordination of the Scheduling Processes of)
Interstate Natural Gas Pipelines and)
Public Utilities)

Docket No. RM14-2-000

**COMMENTS OF
THE INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA**

The Interstate Natural Gas Association of America (INGAA) submits these comments in response to the Federal Energy Regulatory Commission's (FERC or Commission) March 20, 2014 Notice of Proposed Rulemaking (NOPR) on coordination of scheduling processes of interstate natural gas pipelines and public utilities in the above-referenced docket.¹

INGAA is a trade organization that advocates regulatory and legislative positions of importance to the natural gas pipeline industry in North America. INGAA is comprised of 25 members, representing the vast majority of the interstate natural gas transmission pipeline companies in the United States and comparable companies in Canada. Its United States members are regulated by the Commission pursuant to the Natural Gas Act (NGA), 15 U.S.C. §§ 717-717w. INGAA's members, which operate approximately 200,000 miles of pipelines, provide an indispensable link between natural gas producers and natural gas consumers in the residential, commercial, industrial and electric power sectors. INGAA's members are committed to providing safe and reliable transportation services to their diverse customers, without undue discrimination, and to maintaining a high level of customer service.

¹ *Coordination of the Scheduling Practices of Interstate Natural Gas Pipelines and Public Utilities*, Notice of Proposed Rulemaking, 79 Fed. Reg. 18223 (2014), FERC Stats. & Regs., Proposed Regs. ¶ 32,700 (2012).

I. EXECUTIVE SUMMARY

INGAA strongly supports the proposed modifications to the gas scheduling timeline developed by the North American Energy Standards Board (NAESB), as set forth in the filing submitted by NAESB on September 29, 2014, in this proceeding. This revised scheduling timeline will provide electric generators greater opportunity to participate in the Timely Cycle as well as manage and respond to load variations during the operating day by adding an additional intraday cycle.

INGAA does not support the Commission's proposal to move the start of the Gas Day to 4:00 a.m. Central Clock Time (CCT). Instead, INGAA supports retaining the current 9:00 a.m. CCT Gas Day. The reasoning behind the Commission's proposal to move the start of the Gas Day is legally deficient under the Administrative Procedure Act (APA). Moreover, INGAA does not believe that the Commission can sustain its burden of proof under section 5 of the NGA to show that the existing 9:00 a.m. CCT Gas Day start is unjust and unreasonable. If the Commission decides that changes to the start of the Gas Day warrant further consideration, INGAA requests that the Commission defer a decision on implementing this change until one year after the scheduling timeline changes go into effect to determine whether changes to the scheduling timeline alone would address sufficiently the Commission's concerns without the need to change the start of the Gas Day. The Commission could establish procedures prior to the end of the one-year deferral to assess whether the scheduling changes are sufficient.

INGAA supports retaining a national Gas Day. A bifurcated Gas Day would create operational challenges for pipelines that flow gas from one region to another, or make deliveries in more than one region. Such a change would impose upon them responsibility for balancing their systems to bridge the time differences between the zones. This would compel pipelines in,

effect, to render an uncompensated park and loan service. Many pipelines do not have this capability.

Finally, to the extent that the Commission adopts the NAESB scheduling timeline, or any modification to the NAESB timeline, it must allow a sufficient implementation period so pipelines and all other segments of the gas value chain – producers, processors, gatherers, interstate and intrastate pipelines, local distribution companies (LDCs), and end users – can make the necessary physical and transactional changes to their operations to accommodate such modifications. Pipelines will need sufficient time to develop, test and implement the changes to automated business systems to reflect the revised scheduling changes and hire and train additional personnel. INGAA suggests that the Commission provide the natural gas industry a minimum of nine months to implement the scheduling timeline changes of any final rule. To ensure that these changes go smoothly, INGAA respectfully requests that the Commission avoid implementing any changes during the winter heating season (November through March), when traditional gas utility customers transport the greatest amounts of their gas, or the summer peak season (May through August), when generators rely most heavily on pipelines.²

As noted above, INGAA opposes moving to a 4:00 a.m. CCT Gas Day. If, however, the Commission decides to move forward with a 4:00 a.m. CCT start to the Gas Day, INGAA submits that the Commission should allow pipelines a minimum of one year to design, test and implement the additional business system and facility modifications and make staffing changes necessary to reflect both the NAESB scheduling timeline and the new Gas Day.

² INGAA respectfully requests that the Commission implement any required changes in April or October.

II. COMMENTS

The Commission identified three major differences between the gas and electric scheduling processes that could affect reliability: (1) the discontinuity between the operating days of electric utilities (often midnight local time) and the standardized Gas Day (starting at 9 a.m. CCT); (2) the mismatch in the timelines between the day ahead process for nominating natural gas service and the day ahead process for scheduling electric generators for dispatch, particularly in organized wholesale electric markets; and (3) the limited number of intraday nomination opportunities on interstate pipelines that allow gas-fired generators to revise their nominations during their operating day.³

In its NOPR, the Commission proposed to: (1) move the start of the Gas Day from 9:00 a.m. CCT to 4:00 a.m. CCT; (2) move the Timely Cycle nomination deadline from 11:30 a.m. to 1:00 p.m. CCT; and (3) provide four standard intraday nomination cycles to occur at 8:00 a.m. CCT, 10:30 a.m. CCT, 4:00 p.m. CCT and 7:00 p.m. CCT. The Commission also clarified its no-bump rules for pipelines with enhanced nomination services.

The Commission provided the gas and electric industries six months to explore whether they could reach consensus on standards, including any revisions or modifications to the Commission's proposal through NAESB. NAESB filed proposed modified Wholesale Gas Quadrant (WGQ) business practice standards on the scheduling timeline⁴ with the Commission on September 29, 2014 in this docket. NAESB's proposal remained silent on the start time of the Gas Day.

³ NOPR at PP 32-33.

⁴ NAESB also reported that it made modifications to the capacity release timeline in order for replacement shippers to have the ability to contract for capacity through capacity release, prior to the Timely Cycle nomination deadline.

A. FERC Should Adopt the Broadly-Supported Scheduling Timeline Standards Filed by NAESB

INGAA supports the broadly-supported, modified WGQ business practice standards on the scheduling timeline filed by NAESB in this docket.⁵ NAESB’s proposed scheduling timeline meets the Commission’s goals of improving gas-electric coordination, and provides the gas industry with adequate time for all parties involved in the nomination, confirmation and scheduling process to execute transactions for pipeline transportation.

1. NAESB’s proposed scheduling timeline addresses the Commission’s concerns.

First, the NAESB proposed scheduling timeline addresses the Commission’s concern that, “in most [Independent System Operator (ISO)] and [Regional Transmission Organization (RTO)] regions, the timelines for announcing the results of the day-ahead energy market process and committing generating units to run the next operating day occur after the nomination deadline for the Timely Cycle (11:30 a.m. CCT), meaning gas-fired generators are not certain they will be called upon to operate until after the period when pipeline capacity is most available and natural gas supply markets are most liquid.”⁶

NAESB’s revised scheduling timeline specifically addresses this concern by moving the Timely Cycle nomination deadline into the afternoon – from 11:30 a.m. to 1:00 p.m. CCT – consistent with the Commission’s desire to provide generators a greater opportunity to nominate for pipeline transportation after learning their dispatch obligations.

Moreover, contemporaneous with the issuance of this NOPR, the Commission established proceedings pursuant to section 206 of the Federal Power Act (FPA) to ensure that each ISO’s and RTO’s scheduling practices, particularly its day-ahead scheduling practices,

⁵ INGAA recognizes this scheduling timeline works best for a Gas Day that begins at or after 4:00 a.m. CCT and at or before 9:00 a.m. CCT.

⁶ NOPR at P 32.

correlate with any revisions to the natural gas scheduling practices ultimately adopted by the Commission in Docket No. RM14-2-000.⁷ INGAA strongly encourages each ISO and RTO to revise its dispatch schedules to take advantage of the revised Timely Cycle nomination deadline. While INGAA supports adopting NAESB's proposed scheduling timeline with or without ISO/RTO revisions of their dispatch schedules, the Commission should maximize the value of the revised Timely Cycle nomination deadline by ensuring that the ISOs/RTOs change their dispatch schedules.

Second, the NAESB proposed scheduling timeline also addresses the Commission's concern that the 9:00 a.m. CCT Gas Day "occurs in the middle of the morning electric load ramp in some regions, creating a situation where electric load is increasing at the same time natural gas-fired generators may be running out of their daily nomination of natural gas, resulting in the gas-fired generator being unable to meet its obligations under the terms of their electric offers."⁸

Assuming that a generator receives dispatch orders from an ISO/RTO in sufficient time to make a Timely Cycle nomination at 1:00 p.m. CCT, a generator will be able to use the Timely Cycle to schedule gas to meet its obligations during the next electric operating day from the beginning of the current 9:00 a.m. CCT Gas Day until the end of that electric day (the period from the start of the Gas Day to 12:00 midnight). For the remainder of the Gas Day (the period from 12:00 midnight to the start of the next Gas Day), the generator will receive dispatch orders from the ISO/RTO prior to 1:00 p.m. CCT during the Gas Day, thus enabling the generator to make a schedule change during the Intraday 2 Cycle by the 2:30 p.m. CCT nomination deadline. Further, as noted earlier, a firm transportation nomination during the Intraday 2 Cycle would bump flowing interruptible service. Consequently, a generator would have a sufficient

⁷ *California Independent System Operator Corporation, et al.*, Order Initiating Investigation into ISO and RTO Scheduling Practices and Establishing Paper Hearing Procedures, 146 FERC ¶ 61,202 (2014).

⁸ NOPR at P 32.

opportunity to schedule gas service to meet all of its dispatch obligations, including during the critical electric morning ramp period.⁹

Third, the NAESB proposed scheduling timeline addresses the Commission’s concern that “the limited number of standard intraday nomination cycles for interstate natural gas pipeline transportation may not be sufficient to meet the needs of gas-fired generators to obtain capacity to deliver additional natural gas supplies during the electric operating day.”¹⁰

The NAESB scheduling timeline provides all transportation customers, including gas-fired generators, three intraday nomination opportunities, at 10:00 a.m. CCT, 2:30 p.m. CCT, and 7:00 p.m. CCT. This would provide two intraday cycles during normal business hours in which firm transportation service nominations would bump flowing interruptible service, and would provide an additional non-bumpable, evening intraday nomination cycle. In addition to the ability to make a Timely Cycle nomination and adjust nominations during the Evening Cycle, the three additional intraday nomination cycles would provide “gas-fired generators as well as other pipeline customers with greater flexibility to revise their nominations to adjust to system conditions and changes to load throughout the Gas Day.”¹¹ In regions where additional cycles or enhanced nomination services make sense, pipelines and their shippers can add, and have added, additional cycles.

⁹ Moreover, there is the additional Intraday 3 nomination opportunity at 7:00 p.m. CCT for shippers to modify their nominations. Since the proposed Intraday 3 is subject to the no-bump rule, the shipper’s point would need to be available in order to benefit from this nomination opportunity.

¹⁰ NOPR at P 33.

¹¹ NOPR at P 63.

2. NAESB's proposed scheduling timeline provides significant benefits and resolves several concerns with FERC's proposed scheduling timeline.

In addition to the benefits to the electric industry listed above, NAESB's scheduling timeline also provides the gas industry an efficient process to execute pipeline transportation transactions.¹²

First, NAESB's scheduling timeline completes the Timely Cycle during normal business hours when producers, point operators, and shippers all are staffed sufficiently to confirm pipeline shippers' nominations and associated supply to support their nominated transportation volumes and to address, more easily, problems as they arise. If this process falls outside of regular hours, it is more likely that these producers, point operator and shippers will be harder to reach to resolve nomination, confirmation and scheduling errors. Although interstate pipelines have automated much of the confirmation and scheduling process, there necessarily remains a significant amount of person-to-person communication to execute this process. A 1:00 p.m. CCT Timely Cycle nomination deadline enables gas industry participants to complete the cycle by the end of the business day, 5:00 p.m. CCT, while still providing sufficient time for the nomination, confirmation and scheduling process.

Second, industry participants have recognized that there must be sufficient time between the nomination deadline and the posting of scheduled quantities for pipelines to confirm and schedule shippers' nominations. Accurate processing and confirmation helps ensure optimal use of the gas transmission system. NAESB made a significant compromise in this regard by agreeing to reduce the processing time for each nomination cycle by one hour. Specifically,

¹² See INGAA Comments to NAESB on WGQ 2014 Annual Plan Item 11.C (Aug. 18, 2014), supporting NAESB's proposed scheduling timeline, for a more detailed discussion of the benefits of the revised NAESB scheduling timeline.

NAESB's proposed scheduling timeline provides sufficient time – four hours – for pipelines to complete the Timely Cycle nomination, confirmation and scheduling process (instead of five hours), and three hours to complete all other cycles (instead of four hours). In addition, NAESB's scheduling timeline also provides sufficient time between the scheduled quantity posting of one cycle and the nomination deadline for the next cycle, so that shippers can review their transportation needs prior to the next nomination deadline.

Third, NAESB's scheduling timeline resolves concerns with the Commission's proposal by minimizing nomination cycle overlaps.¹³ Several elements of the Commission's proposed scheduling timeline result in overlapping deadlines and obligations such that (1) a customer would need to submit a nomination by the deadline for one cycle while at the same time submitting a nomination by the deadline for another cycle, and (2) a customer would need to nominate for a subsequent nomination cycle prior to learning whether the pipeline had scheduled its nomination in the previous cycle. Such overlaps could lead to greater instances of incorrect shipper nominations and scheduling errors. NAESB's proposed scheduling timeline resolves these overlapping nomination deadlines and obligations.

3. The Commission should reject the Desert Southwest Pipeline Stakeholders' Alternate Minority Proposal.

On October 15, 2014, the Commission requested comments on the Desert Southwest Pipeline Stakeholders' (DSPA) Alternate Minority Proposal. The DSPA propose two national

¹³ Specifically, INGAA is concerned with the following schedule overlaps in the Commission's proposal: (1) the Evening Cycle nomination deadline occurs at the same time as the Intraday 3 Cycle posting of scheduled quantity. A shipper would need to analyze how much of its gas the pipeline scheduled to flow for the remainder of the current Gas Day at the same time it must nominate in the Evening Cycle for gas flow the next day; (2) the Intraday 2 Cycle nomination deadline overlaps with the Intraday 1 Cycle posting of scheduled quantities. As a result, a customer must nominate gas in the Intraday 2 Cycle before learning what quantity of gas the pipeline scheduled in the Intraday 1 Cycle; and (3) the Timely Cycle posting of scheduled quantities overlaps with the Intraday 3 Cycle nomination deadline. Pipelines must schedule gas for two different cycles at the same time.

and two regional solutions to address their “unique circumstances and limitations.”¹⁴ INGAA will respond only to the two national solutions. The Commission should reject DSPS’ proposals (1) to move the Evening Cycle nomination deadline to 7:00 p.m. CCT and (2) to modify the Commission’s secondary point capacity policy, for the entire industry, such that primary-firm nominations on any pipeline would be permitted to displace or bump secondary-firm nominations previously scheduled by a pipeline during the Timely Cycle.

The DSPS propose moving the Evening Cycle nomination deadline from 6:00 p.m. to 7:00 p.m. CCT. As demonstrated by the overlap concerns highlighted above, all of the pieces of the scheduling timeline are interconnected. It is a comprehensive timeline, where scheduling deadlines are dependent upon other, related, cycle deadlines. The DSPS’ suggested 7:00 p.m. CCT Evening Cycle nomination deadline would create a scheduling overlap, where the proposed Evening Cycle nomination deadline would occur at the same time as NAESB’s proposed Intraday 3 nomination deadline. Moving the Evening Cycle or the Intraday 3 cycle are not viable solutions.

Moreover, the DSPS previously stated that it was concerned with the ability to nominate for pipeline transportation intraday to respond to changes, primarily in renewable energy resources, between 7:00 p.m. to 9:00 p.m. CCT (6:00 p.m. to 8:00 p.m. local time) of the operating day.¹⁵ The DSPS’ proposed 7:00 p.m. CCT Evening Cycle nomination deadline would not meaningfully address their concerns with intraday demand fluctuations since the Evening Cycle is for gas flow beginning at the start of the next Gas Day rather than during the current Gas Day. By contrast, NAESB’s proposed Intraday 2 and Intraday 3 cycles would assist the DSPS and other shippers in the region by permitting shippers to make intraday nomination

¹⁴ APS, Industry Comment Period for 2014 WGQ Annual Plan Item 11c, August 18, 2014 at 4 (APS Comments to NAESB).

¹⁵ *Gas-Electric Coordination Quarterly Report to the Commission*, Docket No. AD12-12-000 (Sept. 18, 2014) at 3.

changes to respond to unexpected changes in generation for gas flow beginning later that evening.

The DSPS also propose that, in the Evening Cycle, primary-firm nominations be permitted to displace or bump secondary-firm nominations previously scheduled during the Timely Cycle. The DSPS stated that this would give “firm nominations to and from primary points” a higher priority during the Evening Cycle.¹⁶

INGAA does not support the DSPS’ proposal that for all pipelines, even those outside DSPS’ region, secondary/alternate nominations only become firm and non-bumpable in the Evening Cycle. This is not, as the DSPS describes it, a slight modification of FERC policy. Rather, this modification to the Commission’s policy would have significant operational consequences for a pipeline’s ability to “set up” its system for the next Gas Day.

Pipeline operators need sufficient time after scheduling nominations, based on priority, to set up the pipeline system for the next gas day. Operators need to know how much gas will be received and delivered and at what pressure requirements. Based on this data, pipeline operators may need to adjust the operational characteristics of the system (*e.g.*, turning on compression and/or injecting or withdrawing gas to/from storage) to respond to shippers’ increased or decreased load requirements for the next Gas Day. Adoption of the DSPS’ proposal effectively would shift this work from the period following the Timely Cycle to the period following the Evening Cycle, because firm shippers will have little or no reason to submit primary nominations prior to the Evening Cycle. Accordingly, a pipeline would not know until 10:00 p.m. CCT how it would need to set up its system for the next operating day.¹⁷ This would significantly compress the time pipelines have to make necessary changes prior to the start of the Gas Day. In

¹⁶ APS Comments to NAESB at 7.

¹⁷ The 10:00 p.m. CCT posting of scheduled quantities is based on the DSPS’ proposed 7:00 p.m. CCT Evening Cycle nomination deadline.

addition, three hours for the Evening Cycle nomination, confirmation and scheduling process, as provided in the NAESB revised scheduling timeline, no longer would be sufficient if the bulk of shipper nominations moved from the Timely to the Evening Cycle. In addition, the DSPS' proposal would move the major confirmation and scheduling period outside of normal business hours. As a result, it would be more difficult for a pipeline operator to confirm a shipper's nomination with receipt and delivery point operators, producers and shippers.

Further, delaying the posting of scheduled quantities until 10:00 p.m. CCT would cause uncertainty among firm shippers until late in the evening, after business hours (when few suppliers are staffed sufficiently to reroute or resell gas, and the commodity market is not liquid) to learn whether the shipper's gas was scheduled to flow the next Gas Day or be bumped. Under the DSPS' proposal, shippers would need to wait until 10:00 p.m. CCT to learn what primary firm transportation volumes of gas could flow at the start of the next Gas Day. The NAESB revised nomination schedule will be effective because shippers will be able to learn by the end of the business day – 5:00 p.m. CCT – whether their nominated volumes have been scheduled to flow for the next Gas Day.

Moreover, the DSPS acknowledge that their “issues largely stem from the fact that shippers in the Desert Southwest are subject to a combination of unique circumstances that collectively distinguish the region from the rest of the country.”¹⁸ As the DSPS' concerns are unique and regional, they do not, and should not, demand national solutions. While INGAA does not believe the DSPS' proposals merit a national response, rejection of these proposals should not preclude individual pipelines from offering regional solutions to meet customers' demands, through innovative service offerings or tariff provisions. For example, as the DSPS note, El Paso Natural Gas already offers a rate schedule approved by the Commission that

¹⁸ APS Comments to NAESB at 4.

confirms secondary firm beginning in the Evening Cycle.¹⁹ Nothing should impede customers and pipelines from continuing to propose such regional solutions. Yet, there is no justification for, and no demand for, such a proposal on a national basis.

4. The Commission should implement NAESB Version 3.0.

The timing for implementation of the NAESB scheduling timeline is complicated by the existence of two outstanding NAESB standards filings (Version 2.1 filed on July 23, 2013²⁰ and Version 3.0 filed on November 14, 2014²¹) that are pending Commission approval, following notice and comment procedures by the Commission. NAESB noted that while the gas and electric standards included in its September 29 filing were not final at the time of its filing, the WGQ integrated these standards with other standards (Version 3.0). As a result, and in order to avoid confusion, the Commission should proceed with implementing the gas and electric standards as part of the adoption of Version 3.0, so as not to address some of the gas and electric standards in isolation, and pursuant to the formal comment and notice requirements.

B. The Commission Should Maintain the Current 9:00 a.m. CCT Gas Day

INGAA urges the Commission not to move the start of the Gas Day from 9:00 a.m. CCT to 4:00 a.m. CCT. In the NOPR, the Commission asserts that, but does not explain how, its proposal will “alleviate some of the problems resulting from the misalignment of the gas and electric operating day,” particularly concerns that “some gas-fired generators” burn through their nominated gas before the 9 a.m. CCT Gas Day start.²² In support, the Commission proclaims that the “overall benefits” of moving the Gas Day start to 4:00 a.m. CCT “outweigh the potential

¹⁹ APS Comments to NAESB at n. 2.

²⁰ These standards include elimination of Common Location Code, changes to Operationally Available Capacity and Design Capacity.

²¹ These standards include gas/electric timelines, Notices of Offer to Purchase Capacity, new code values, new code abbreviations, and new cycle indicators.

²² NOPR at P 40.

for increased costs that may be incurred.”²³ Yet, the NOPR does not contain the required substantive weighing of costs and benefits or demonstrate how the change in the Gas Day will solve the perceived problem. The Commission also needs to consider a host of unintended consequences the change could have, including the diminishment of pipeline reliability and an undermining of the efficient, flexible, and safe operational conditions provided by the 9:00 a.m. CCT Gas Day start. Moreover, the proposal does nothing to resolve the electric-gas integration concerns that the NOPR was intended to address. The Commission’s proposal to move the Gas Day is legally deficient and should not be adopted.

1. INGAA joins the majority of the natural gas industry in opposing the proposed Gas Day change.

The natural gas industry predominately is opposed to moving the Gas Day, which has been in place without problems for many years, to a 4:00 a.m. CCT start time.²⁴ If adopted, the proposed change will affect the entire natural gas value chain from wellhead to burner tip, impacting both FERC-jurisdictional pipelines and every non-jurisdictional industry participant, including producers, marketers, gatherers, processors, intrastate pipelines, LDCs, and end users. The Commission’s proposal could push crucial pipeline decisionmaking and operational tasks to the pre-dawn hours, and in certain parts of the country, to the middle of the night. This will reduce a pipeline’s ability to manage operations efficiently, effectively, and safely when reliance on natural gas as a fuel source only is increasing. INGAA supports the Natural Gas Council’s (NGC) comments and our members’ desire to maintain a standard nationwide 9:00 a.m. CCT Gas Day. The current 9:00 a.m. CCT Gas Day works well and interstate natural gas pipelines

²³ NOPR at P 40.

²⁴ See Report of the North America Energy Standards Board, Docket No. RM14-2-000 (June 18, 2014) at 9 (indicating that only 28 percent of the WGQ supported a 4:00 a.m. CCT Gas Day start).

have an 18-year track record of delivering gas reliably and efficiently under this system. The change to a 4:00 a.m. CCT Gas Day may undermine this ability.

The NOPR's assertion of INGAA's "willingness" to move the Gas Day start time is taken out of context.²⁵ INGAA predicated its willingness to consider a move in the Gas Day start time on several items, none of which are addressed in the NOPR. These include "consensus among all market participants, particularly firm transportation customers, on when the Gas Day should begin and end."²⁶ That consensus has not materialized. The firm transportation customers traditionally served by INGAA's members do not support a change in the Gas Day. These are the customers for whom the nation's pipeline system was built, and they are and will remain the vast majority of the end-use gas market that pipelines are required to serve. Two-thirds of interstate pipelines' firm transportation load consists of entities that are not electric generators. Because a change in the Gas Day will require a change in the operating practices of upstream and non-jurisdictional entities, the Commission will have no way to ensure that the entire industry makes the change. The change to an earlier Gas Day start will be counter-productive if the pipelines cannot be assured adequate supplies to maintain sufficient pressures to serve their customers, including gas-fired generation.

2. The proposal to move the Gas Day start time to 4:00 a.m. CCT is legally deficient under the APA and the NGA.

The proposal to change the Gas Day fails to meet the APA's "reasonable decisionmaking" standard and the NGA's burden of proof requirement under section 5. In order to satisfy the reasoned decisionmaking standard, the Commission must "examine the relevant data and articulate a satisfactory explanation for its action including a rational connection

²⁵ NOPR at P 38 (citing INGAA Comments, Docket No. AD12-12-000 (June 26, 2013) at 7).

²⁶ INGAA Comments, Docket No. AD12-12-000 (June 26, 2013) at 7.

between the facts found and the choices made.”²⁷ The Commission suggests that moving the Gas Day should make it less likely that gas-fired generators “incur imbalances on pipelines or inform electric transmission operators that they are unavailable.”²⁸ The Commission, however, has failed to investigate whether a 9:00 a.m. CCT Gas Day start has led to any of the electric reliability problems it purportedly is trying to solve. The Commission also claims that the 4:00 a.m. CCT Gas Day start is appropriate because it represents the lowest demand period for generators, and will help respond to generator de-rates.²⁹ The Commission, however, has not engaged in any investigation into how many generators, if any, have needed to de-rate because of the 9:00 a.m. CCT Gas Day start time. De-rates may have a number of causes unrelated to the Gas Day start time.

INGAA notes that even if a generator runs out of gas before the beginning of the next Gas Day, causing it to issue a de-rate, this is neither a scheduling nor a Gas Day issue. It is a case of a generator under-contracting or burning through its scheduled quantity too quickly. Should a shipper burn through its gas too quickly and run through its transportation quantity before the end of the Gas Day (by taking gas non-ratably), then the shipper likely did not contract for sufficient transportation capacity to meet its electric burn obligation. If the Commission wishes to address this de-rate issue, it is best to look at the incentives or lack thereof within the wholesale electric power market rules for generators to hold firm transportation.

The Commission is proposing to upend the entire gas industry without considering the burden, costs and consequences to the various participants. “Professing that an order ameliorates a real industry problem but then citing no evidence demonstrating that there is in fact an industry

²⁷ *Motor Vehicles Mfrs. Ass’n of U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (*State Farm*).

²⁸ NOPR at P 39.

²⁹ NOPR at P 40.

problem is not reasoned decisionmaking.”³⁰ “If FERC chooses to rely solely on a theoretical threat” to propose a regulatory change, “it will need to explain how the potential danger of” the problem the change is trying to rectify “justifies such costly prophylactic rules.”³¹ In the NOPR, the Commission has not even attempted to meet this standard.

While FERC’s “policy decisions are entitled to deference,” the Commission must reasonably explain such decisions and support them under the APA’s³² “arbitrary and capricious” standard.³³ Under the arbitrary and capricious standard, the Commission must “examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.”³⁴ Without more record evidence to support its proposed change to the Gas Day, the Commission will not meet this standard.

Adopting this proposed rule change also would violate NGA section 5. The Commission has a statutory obligation to determine that a current “rule, regulation, or practice” is unjust and unreasonable, and that the alternative is just and reasonable, before it can require a change on its own motion.³⁵ The NOPR does not meet that standard with regard to the 9:00 a.m. CCT Gas Day start, which was found just and reasonable in 1996 in Order No. 587.³⁶ The 9:00 a.m. CCT Gas Day was a consensus decision that balanced interests across time zones. Order No. 587 incorporated proposed standards issued by the Gas Industry Standards Board (GISB), the

³⁰ *National Fuel Gas Supply Corp. v. FERC*, 468 F.3d 831, 843 (2006) (citing *State Farm*, 463 U.S. at 42-43. (1983)).

³¹ *Id.* at 844.

³² *Covad Communications Co. v. FCC*, 450 F.3d 528, 537, 539 n.6 (D.C. Cir. 2006).

³³ 5 U.S.C. § 706(2)(A) (2012).

³⁴ *State Farm*, 463 U.S. at 43 (internal quotation marks and citations omitted). “Normally, an agency rule would be arbitrary and capricious if the agency has . . . offered an explanation for its decision that runs counter to the evidence before the agency.” *Id.* The APA “establishes a scheme of ‘reasoned decisionmaking.’” *Allentown Mack Sales & Serv., Inc. v. NLRB*, 522 U.S. 359, 374 (1998) (quoting *State Farm*, 463 U.S. at 52).

³⁵ 15 U.S.C. § 717d(a).

³⁶ *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587, FERC Stats. & Regs. Regulations Preambles July 1996 – Dec. 2000 ¶ 31,038, at 30,060 (1996).

predecessor to NAESB. Pipelines have since incorporated the 9:00 a.m. CCT Gas Day start time into their tariffs, and have entered into contracts with jurisdictional and non-jurisdictional entities alike that incorporate these tariff provisions.

The NOPR's general discussion describing concerns over gas-electric coordination is insufficient evidence that the current Gas Day start time is unjust and unreasonable. Moreover, the NOPR focuses on existing and theoretical gas-fired electric generation customers, many of which are not firm transportation shippers. As the Commission is aware, a major issue in serving gas-fired electric generators is the quality of the pipeline transportation service they choose to take. While in some areas fuel assurance may be demonstrated with dual fuel capability, storage or interruptible transportation, in other areas (such as New England) there is no substitute for firm transportation, especially if a generator relies solely on natural gas for its fuel. The point is that changing the Gas Day does nothing to address this fundamental issue in connection with improving gas-electric coordination and demonstrating fuel assurance. Further, the NOPR does not demonstrate how adoption of a 4:00 a.m. CCT Gas Day start time to accommodate this one type of shipper is just and reasonable, and not unduly discriminatory or preferential, given that it does not solve the underlying problem and the potential burden it places on the rest of a pipeline's firm customers. The Commission's proposal fails to satisfy the requirements of NGA section 5 on its face.

3. The NOPR fails to consider how a 4:00 a.m. CCT Gas Day will affect the ability of the entire natural gas value chain to coordinate activities.

The 9:00 a.m. CCT Gas Day, in place since 1996, works well for the entire natural gas value chain, by allowing all participants in the value chain to coordinate during daylight hours to ensure the safe and reliable delivery of natural gas. Moving the start of the Gas Day to 4:00 a.m. CCT will make it more difficult for gas industry participants to coordinate necessary activities.

Since the natural gas industry is not vertically integrated, there necessarily is significant and routine coordination among the various natural gas industry segments to ensure the safe and reliable delivery of natural gas.

Even with advanced technologies and automation, coordination among gas industry participants is needed to address issues that may arise near the beginning of the Gas Day. For example, (1) there may be mismatches between nominations and actual gas receipts or deliveries, (2) gas may not come on-line as planned or expected, (3) equipment may malfunction, especially in cold weather, (4) not all equipment is automated, (5) gas flows may need to be redirected manually from one pipeline to another, and (6) maintenance projects may affect gas flows. Given the number of transactions and operational assets involved, daily coordination is required to ensure the uninterrupted delivery of gas to those who need it. And, given the unbundled nature of the industry, these coordination issues must be resolved via extensive communication among industry participants.

In addition, the 9:00 a.m. CCT Gas Day provides several hours of daylight to conduct maintenance and make system adjustments prior to the start of the Gas Day. It helps minimize safety and reliability risks that might be created by needing to send field personnel to facilities at night or in the early morning hours, prior to the start of the Gas Day, particularly in inclement weather. By 9:00 a.m. CCT, even in the West, there is daylight and crews likely will have plowed snow-covered roads, making remote facilities more accessible, when emergency weather conditions require facility access. The 9:00 a.m. CCT start time also facilitates a fully staffed operational team in emergency and non-emergency situations by enabling the proper number of technicians to get to facilities and perform any necessary work. For the pipeline, this operational team includes gas controllers, operators, schedulers, marketers, and field maintenance crews

coordinating together. These crews work collaboratively with personnel from the other segments of the industry to identify and address critical events that may impede gas deliverability.

In stark contrast, a 4:00 a.m. CCT Gas Day start is 3:00 a.m. in the Rocky Mountains and 2:00 a.m. on the West Coast. If emergency weather conditions require tasks associated with or prior to the start of the Gas Day, the rule change would push those tasks well before dawn, and in some parts of the country, to the middle of the night. These problems would be exacerbated during emergency situations or on hot and cold peak demand days when dependable natural gas flow is most crucial.

4. The Commission fails to consider the operational challenges interstate natural gas pipelines will face in order to implement a 4:00 a.m. CCT Gas Day.

The proposed 4:00 a.m. CCT Gas Day change could have the unintended consequence of negatively impacting operational reliability during peak hot and cold days when reliable gas transportation service is most needed. Seasonal and daily variation in weather has the greatest impact on gas demand. Reliable pipeline operations depend upon reliable supply to maintain deliverability pressures. Natural gas must be delivered into the pipeline at the start of the Gas Day to support nominations to and receipts from delivery points accordingly. Shippers, however, may fail to deliver gas or take more gas off or leave more gas on a pipeline system under many circumstances, particularly when weather conditions result in large usage swings. The greater ability to resolve these issues prior to the start of the 9:00 a.m. CCT Gas Day facilitates maintaining the operational reliability of the pipeline system.

Importantly, the 9:00 a.m. CCT Gas Day start time coincides with the time of greatest market liquidity. Customers can secure any necessary supply when the market is liquid – between 7:00 a.m. and 9:00 a.m. CCT – and resolve any balance issues on the pipeline prior to

the beginning of the next Gas Day.³⁷ Furthermore, as discussed above, the availability of personnel in all areas of the value chain at the start of the 9:00 a.m. CCT Gas Day facilitates industry coordination needed for optimal pipeline operational flexibility.

Currently, many shippers correct or “clean up” their nominations just prior to the start of the new Gas Day at 9:00 a.m. CCT. Shippers often utilize the time from 6:00 a.m. through 9:00 a.m. CCT to piece together markets and supply by making minor scheduling adjustments. Many pipelines offer retroactive or clean-up cycles during this period to accommodate these market needs. If the Gas Day started at 4:00 a.m. CCT, these scheduling changes either would need to be made overnight, which INGAA thinks is unlikely, or would come hours after the start of a new Gas Day. Gas pipelines, however, may not be able to offer the same level of flexibility for these clean-up adjustments once flows have started and the pipelines are several hours into the new Gas Day. As a result, unless all market participants are willing and able to perform their obligations in conjunction with a revised Gas Day schedule, the current reliability and flexibility of gas service could suffer and there would be greater likelihood of disruptions to the market.

The lack of either a proper nomination or physical execution of required gas flows at 4:00 a.m. CCT creates the risk that a shipper’s supply does not show up at the pipeline at the beginning of the Gas Day. And even if the shipper makes adjustments to correct the supply issue, it most likely will not occur until several hours thereafter, when the commodity market is most liquid, with fewer hours in the remaining Gas Day for the shipper to get back into balance.

Moving the Gas Day from 9:00 a.m. to 4:00 a.m. CCT may put more pressure on pipeline line pack if shippers’ gas does not come onto the system at or near the start of the Gas Day. This could result in a pipeline: (1) not scheduling and delivering a shipper’s nominated volumes until

³⁷ This is not to say that gas is not available at all times. Sophisticated marketers are available who can facilitate deliveries at all times.

associated supply comes online, or (2) having less flexibility to allow a shipper to draft line pack until the associated supply comes online. Either of these actions would have implications on downstream gas deliverability.

Many pipelines have tools, including line pack and storage capacity dedicated to pipeline operational balancing, that may provide some flexibility to maintain gas deliverability when flow on and off the system are not in equilibrium.³⁸ The amount of flexibility provided by each pipeline can vary substantially. If the additional supply is not available, a pipeline will need to take all necessary steps to protect and preserve its operational integrity and its ability to honor obligations to its firm shippers. There are limits to the operational flexibility available to pipelines. To the extent that more of this flexibility is used to make up shortfalls in scheduled receipts, less will be available to allow shippers, such as electric generators, to take gas on a non-ratable interruptible, best-efforts basis when operations permit.

Further, moving the Gas Day from 9:00 a.m. to 4:00 a.m. CCT also may limit a pipeline's ability to respond efficiently to emergency conditions on peak operating days, and could increase the duration of pipeline outages. This could have a particular impact on facilities in remote locations that are difficult or impossible to access in inclement weather conditions. Several of INGAA's members operate pipeline facilities in remote locations, such as storage fields and compressor stations, particularly secondary compressor stations, which are accessible only via unpaved roads. Operations at these facilities are more difficult during winter months when extreme weather may make it impossible to access remote locations before daylight. These secondary units are especially likely to be needed to support gas delivery on the days when extreme weather leads to increased system usage.

³⁸ Line pack provides flexibility to manage receipts and deliveries by providing a temporary "buffer" for unscheduled flows or supply loss. This flexibility, however, is limited and line pack must be kept reasonably stable across the system.

In emergency conditions, outages may last longer because field or work site conditions often will force a delay until daylight hours when the work can be completed safely. Under normal operating conditions, a pipeline technician typically performs manual operations during daylight hours across all time zones. In order to ensure the safety of employees, the time to dispatch a technician could be extended if the technician must wait until daylight hours to access a facility, analyze the situation and make any necessary repairs. Moreover, maintenance tasks are not only performed by field technicians. Several types of personnel may be needed to remedy a maintenance outage. Correcting these types of problems prior to a 9:00 a.m. CCT Gas Day start is much easier than it would be prior to a 4:00 a.m. CCT Gas Day start, because personnel needed to make the corrections at all points are normally on duty by 9:00 a.m. CCT.

A FERC order mandating a 4:00 a.m. CCT Gas Day start may not be enough incentive for there to be market liquidity at that early hour. All parties in the natural gas value chain must make necessary changes to their operations and business practices to support operations for gas flow at the start of the Gas Day. There is no guarantee that non-jurisdictional entities will modify their business practices to support a 4:00 a.m. CCT Gas Day and FERC has no ability to ensure that result. Further, a change to the Gas Day also may require shippers to renegotiate contracts specifying a 9:00 a.m. CCT Gas Day with entities that are not subject to FERC jurisdiction. Contractual counter-parties that are not subject to FERC jurisdiction would be under no legal requirement to modify their practices to accommodate a 4:00 a.m. CCT Gas Day start. Before the Commission moves the Gas Day, it must be confident that all impacted upstream and downstream entities, including those outside the scope of its jurisdiction, will modify their business practices.

5. Automation will not solve the problems with a 4:00 a.m. CCT Gas Day.

It would be unrealistic to believe that the impact on the natural gas industry related to changing the start of the Gas Day can be solved through automation. While many pipeline facilities can be operated remotely through automation, numerous pipeline facilities throughout the country require manual intervention at the start of every Gas Day. At times, a pipeline that is equipped to remotely perform an operation at an unmanned station will decide that it is prudent to send a field worker to the station to verify that the operation is executed correctly or to perform it manually if necessary. Furthermore, no automated system is foolproof. Manual intervention, at times, is necessary to troubleshoot mechanical or signal malfunctions.

Moreover, pipeline operators must decide how they will “set up” and operate their systems to receive and deliver gas to customers under normal operating conditions, beginning with the Timely and Evening Cycle nomination, confirmation and scheduling process. These operational decisions cannot be made by computers; they require human decisionmaking. These decisions must be responsive to shipper nominations and can be impacted by:

- Flow rates that do not match nominations
- Gas not coming on line or shutting in as expected
- Equipment that malfunctions or is off line
- Inability to communicate with other parties in the value chain
- Lack of automation or automation problems
- Manual redirection of gas flows from one pipeline to another
- Manual redirection of gas flows from pipeline to storage or storage to pipeline
- Manual redirection of gas to or from compressor units
- Completion of prior day maintenance projects

As a result, prior to the start of the next Gas Day, a pipeline operator often needs to perform operational changes manually to ensure delivery for the next Gas Day. These changes may include: (1) manual adjustment of compressor stations in response to nominations and gas

flow; (2) manual operation of valves to redirect flow to support changing conditions, particularly on reticulated and bidirectional pipelines, and to respond to pipeline safety processes prior to conducting pipeline maintenance; (3) manual operation of storage facilities to change a facility from injection to withdrawal, often through compressor unit changes, starting/stopping gas conditioning equipment, and opening or closing manual valves in the field or at wells; and (4) manual operation of other types of facilities, such as processing and odorization equipment, gas quality conditioning plants, LNG peaking facilities, and dehydrating units and line heaters. The amount of and frequency of manual operations varies by pipeline and condition. The changes described above cannot necessarily be made the evening before the next Gas Day, because many hours of the current Gas Day remain.

The Commission acknowledges that a 4:00 a.m. CCT Gas Day start may impact “employees conducting manual operations in the dark.”³⁹ This statement underestimates the impact the rule change would have on a full spectrum of pipeline employees. Automation does not solve this problem. A pipeline still needs to employ on-site field technicians to staff certain types of equipment, such as major compressor units, to ensure safe and efficient facility operations and to make any necessary adjustments. A pipeline also would need to be able to dispatch a field technician to perform any manual operations necessary to remediate a mechanical or telecommunications failure. These types of call-outs, when a pipeline must dispatch field personnel, are more likely to occur during winter months, particularly during emergency conditions, when demand for natural gas service is at its highest and efficient and reliable gas flow is most important. Hence, these types of call-outs are more likely to occur when a pre-dawn 4:00 a.m. CCT response time is most difficult.

³⁹ NOPR at P 40.

The simple response, that any issues can be addressed through automation, is not a solution. There are too many operations that are manual and require human judgment in setting up for a new Gas Day, to make automation the sole answer.

6. The Commission fails to consider safety-related impacts of a 4:00 a.m. CCT Gas Day start time.

The NOPR makes a passing reference to safety, recognizing “that moving the start of the Gas Day to 4:00 a.m. CCT may result in increased costs to mitigate potential safety issues associated with employees conducting manual operations in the dark.”⁴⁰ The safety concerns, however, are not limited to conducting manual operations in the dark. The U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA) as well as the National Transportation Safety Board (NTSB) have recognized the effects of human fatigue and working against natural circadian rhythms during pipeline operations.⁴¹

The NTSB recommendation P-98-30 urged PHMSA to establish industry guidelines for pipeline controller work schedules to reduce the likelihood of accidents attributed to worker fatigue. A PHMSA Control Room Management report stated that “fatigue mitigation tactics should be implemented during shifts/times of increased fatigue risk,” including “any and all hours worked between 2:00 a.m. and 6:00 a.m.” local time.⁴² Worker fatigue may result in an increase in control room worker error, impaired judgment and decision making. For example, it could result in errors in performing manual input of data or accurate evaluation of measurement

⁴⁰ NOPR at P 40.

⁴¹ A study posted on the PHMSA website shows that worker alertness is lowest during this period. See American College of Occupational and Environmental Medicine, *Fatigue Risk Management in the Workplace*, (2012) (ACOEM Fatigue Study) located on the PHMSA website at <http://primis.phmsa.dot.gov/crm/docs/FatigueRiskManagementIntheWorkplace.pdf>.

Fatigue management has been a critical safety improvement recommended by NTSB since the NTSB issued safety recommendation P-98-30 to PHMSA’s predecessor agency in a report titled, “Pipeline Accident Report: Pipeline Rupture and Release of Fuel Oil Into the Reedy River at Fork Shoals, South Carolina” at 35 (NTSB/PAR-98-01, issued June 26, 1996); available at <https://www.nts.gov/doclib/reports/1998/PAR9801/pdf>.

⁴² PHMSA Control Room Management FAQs, <http://primis.phmsa.dot.gov/crm/faqs.htm>.

data and resulting communication. Worker fatigue at the end of a shift also could impair reaction time and situational awareness. This fatigue issue is not limited to the control room. Requiring field personnel to work during these hours presents risks at least as significant as those identified for the control room.⁴³

Creating rules that require more routine and difficult operational tasks to be performed between 2:00 a.m. and 6:00 a.m. raises concerns among INGAA's membership. Protecting pipeline safety and the safety of all personnel is essential.

7. The Commission fails to consider costs to the pipeline industry related to a 4:00 a.m. CCT Gas Day start time.

The NOPR recognized “that moving the start of the Gas Day to 4:00 a.m. CCT may result in increased costs to mitigate potential safety issues associated with employees conducting manual operations in the dark.”⁴⁴ The NOPR failed to recognize that accommodating “safety issues” is only one small slice of the cost increase that the rule change would have on the natural gas industry. FERC regulated pipelines are not the only industry participants that will need to invest in new resources to meet the Gas Day change. Moreover, field personnel conducting manual operations are not the only staff that pipelines may need to add. Additional staff may include gas controllers, operators, schedulers, and customer service representatives. Furthermore, firm shippers may object to the recovery of costs incurred to serve only a small segment of the market.

Automation, in those instances in which it will help, also may be cost prohibitive.

Additional costs will include, but are not limited to, information technology (IT) system changes,

⁴³ The comments of the Coalition for Enhanced Electric and Gas Reliability note the numerous fatigue and alertness studies demonstrating that incidents are more related to time of day than to time on task, with an increased risk of fatigue-related incidents in the early morning hours, coinciding with the circadian period of peak sleepiness. The performance of critical tasks while fatigued results in a higher risk of adverse outcome. *See* ACOEM Fatigue Study.

⁴⁴ NOPR at P 40.

Supervisory Control and Data Acquisition (SCADA) data-feed adjustments, meter changes (to the degree that the current Gas Day is hard coded into devices), and staffing changes to add field personnel to perform activities that would occur far outside normal business hours. In addition manual facilities cannot be automated overnight; large scale automation requires both significant capital investment and lead time. The Commission needs to make a realistic estimate of what these costs will be and then determine whether the benefits of the proposed change outweigh the costs.

8. The Commission's proposal to move the Gas Day start time to 4:00 a.m. CCT will not resolve the fundamental concerns with electric reliability.

The Commission maintains that moving to a 4:00 a.m. CCT Gas Day start will mitigate the current reality that a gas-fired electric generator committed for one electric operating day must manage fuel and transportation arrangements across two Gas Days. The Commission's proposal for a 4:00 a.m. CCT Gas Day will not resolve this concern. There will continue to be a mismatch between the gas and electric operating days and schedules will still have to be managed across two Gas Days. In addition, a 4:00 a.m. CCT Gas Day will not result in a compensation mechanism in the organized wholesale electric markets for gas-fired generators to contract for firm transportation service. Generators will still de-rate, but at a different hour of the day if the compensation mechanism is not addressed. A 4:00 a.m. CCT Gas Day will not create capacity on a capacity constrained pipeline or induce the construction of new infrastructure or investment in the gas pipeline system.

The most beneficial thing the Commission can do for gas-electric coordination is to continue to authorize needed infrastructure and to encourage the organized wholesale electric markets to compensate generators appropriately for firm transportation. The proposal to change the Gas Day does nothing to address the fundamental issues. Indeed, it takes an electric industry

problem and transfers it to the gas industry without any benefit to the natural gas consumers who are entitled to protection under the NGA. The Commission should not adopt its proposed change to the start time of the Gas Day.

9. The Commission must reject any calls for a bifurcated Gas Day.

The NOPR recognizes the “nationwide scheduling efficiencies for natural gas,”⁴⁵ and proposes to maintain a national Gas Day, albeit one that starts at 4:00 a.m. CCT. FERC did not propose to bifurcate the Gas Day and INGAA strongly opposes any comments that may support bifurcation. A bifurcated Gas Day is not a solution to alleviate or rationalize early morning Gas Day start times on the East and West coasts. The United States has a national natural gas market. Many of INGAA’s members’ pipelines straddle several time zones and regions. Pipelines may serve more than one organized market or a combination of organized markets and traditional utilities.

A bifurcated Gas Day would create operational challenges for pipelines that flow gas from one region to another, or that make deliveries in more than one region, by imposing upon them the responsibility for balancing their systems to bridge the time differences between the zones. In effect, they will be compelled to render an uncompensated park and loan service. Many pipelines do not have this capability. One of the cornerstones of the original GISB process in the 1990s was to establish a national Gas Day beginning at 9:00 a.m. CCT to create uniformity across the grid for the benefit of all industry participants and develop standards consistent with that goal. INGAA urges the Commission to maintain the long established benefits achieved by the industry.

⁴⁵ NOPR P 40.

10. If the Commission nonetheless believes that a 4:00 a.m. CCT Gas Day warrants further consideration, it should defer a decision until it can assess the effects of implementing the scheduling timeline changes.

As demonstrated above, the Commission should not adopt its proposal to move the start of the Gas Day to 4:00 a.m. CCT. If the Commission believes, however, that this change warrants further consideration, it would be prudent to go forward with the NAESB scheduling changes and assess their impact before reaching a decision on changing the start of the Gas Day. This approach would give the Commission the opportunity to assess the benefits of the scheduling changes alone – which, for the reasons stated above, should accomplish all or nearly all of the Commission’s goals in this proceeding – without causing the disruption association with the Gas Day change. Therefore, if the Commission is not prepared at this point to discard its proposed change to the start of the Gas Day, it should defer reaching a decision on this issue until one year after the scheduling timeline changes go into effect. The Commission could establish procedures prior to the one-year deferral to assess whether the scheduling changes are sufficient.

C. INGAA Supports the Concept of Pipelines Offering Multi-Party Agreements for Firm Transportation Service, Subject to Reasonable Terms and Conditions, but Opposes the Need to Make It a Regulatory Requirement

The Commission is proposing to require all interstate pipelines that offer firm transportation service under subpart B or G of Part 284 of its regulations to offer multi-party service agreements for firm services, under which multiple shippers can share interstate natural gas pipeline capacity under a single service agreement. The Commission notes that some pipelines already provide these services. In recent years, the Commission has accepted several pipeline proposals to offer multiple shippers the option of entering into a single contract for

transportation service, with a single agent or asset manager managing the capacity under the contract.⁴⁶ In its NOPR, the Commission identifies certain key components of tariff provisions pipelines have proposed, and the Commission has accepted, to date.

INGAA supports, as a policy matter, the concept of pipelines offering multi-party service agreements for firm transportation service, subject to reasonable terms and conditions. As the Commission correctly notes, some pipelines have offered such service offerings at the request of customers. Even on these pipelines, customer response has been limited. There are other pipelines where there has been no shipper interest in multi-party service agreements. There is nothing today that impedes pipelines from amending their tariffs to offer multi-party service agreements for firm transportation in response to customer requests nor is there evidence that pipelines have refused to file for tariff authority when customers have requested it. The Commission, therefore, should not impose a blanket requirement that all interstate pipelines offer these services. INGAA requests that the Commission reconsider the addition of section 284.12(b)(1)(v) to the Commission's regulations since it is unnecessary and would require all pipelines to make tariff changes to incorporate this multi-party service agreement even when there is no customer interest.

If, however, the Commission decides to revise section 284.12(b)(1)(v) of its regulations, INGAA requests that the Commission modify the regulatory text to provide that:

Within 60 days upon a shipper request, a pipeline will file to make appropriate tariff changes at the Commission to allow multiple shippers associated with a designated agent or asset manager to be jointly and severally liable under a single firm transportation service agreement, subject to reasonable terms and conditions.

⁴⁶ NOPR at n. 107.

INGAA's proposed change to the regulatory text will ensure that pipelines are responsive to shipper requests yet only when, and if, a shipper is interested in pursuing a multi-party service agreement.

Moreover, regardless of whether the Commission requires all interstate pipelines to offer multi-party service agreements for firm transportation service or the Commission continues to allow pipelines to pursue multi-party service agreements voluntarily in response to customer requests, all multi-party service agreements should be subject to the provisions outlined below.

First, parties to the multi-party service agreement must designate a single agent or asset manager to manage the capacity under the contract.⁴⁷ The Commission has accepted several pipeline proposals with such a provision.⁴⁸ The Commission stated that "this option permits several shippers to share the subject capacity without the need to use the capacity release program to transfer the capacity among themselves."⁴⁹ INGAA argues that the obligation to designate a single agent or asset manager to manage the capacity under the contract also is essential since it allows the pipeline to know which entity to interface with regarding the shared service agreement, rather than being compelled to broker disputes, such as competing nominations, among multi-party service agreement shippers.

Second, parties to the multi-party service agreement must agree to be jointly and severally liable for all obligations of all shippers and the agent under the single service agreement. As the Commission notes, this provision is essential to satisfy its shipper-must-have-title policy.⁵⁰

Without joint and several liability, shippers under the multi-party agreement that are not liable for the total charges under the agreement

⁴⁷ NOPR at P 77.

⁴⁸ NOPR at n. 107.

⁴⁹ NOPR at P 77.

⁵⁰ *Id.*

would be in violation of the Commission's shipper-must-have-title policy to the extent they used capacity in excess of that for which they were liable to pay.⁵¹

Importantly, this provision also protects the pipeline from having to accept the role of mediator of contract disputes among multi-party service agreement shippers should one party default under the contract. A pipeline does not want to be involved in litigation between parties over who is responsible to pay.

Third, multi-party service agreements must be subject to reasonable terms and conditions.

The Commission notes that:

...consistent with the multi-party contract tariff provisions [it] previously has approved, such reasonable terms and conditions may include requirements that (1) the shippers and agents demonstrate their agency relationship in writing and (2) the shippers are willing to be treated collectively as one shipper for nomination, allocation, and billing purposes under the contract.⁵²

INGAA asserts that these provisions are reasonable and should be the predicate for all multi-party service agreements.

As noted above, while pipelines are willing to work with all customers, including electric generators, to offer firm multi-party service party agreements, a pipeline must not be put in the position of bearing more financial risk than it would have had it required each shipper to hold its own transportation contract.

Finally, all shippers to the multi-party service agreement shall meet all pipeline tariff provisions, including the tariff's creditworthiness provisions.

The Commission also requests comments on whether it also should require pipelines to offer multi-party service agreements for interruptible transportation service. INGAA does not support extending the requirement to interruptible transportation agreements. Because pipelines

⁵¹ NOPR at n. 108.

⁵² NOPR at P 80.

offer interruptible transportation service only when it is available on a daily basis, INGAA does not understand how such a service could be shared among parties or how they could benefit from holding such a multi-party agreement. Since interruptible shippers do not have any obligation to pay a monthly reservation charge, as do firm shippers, and only pay transportation charges when and if they receive service, there is no existing financial impediment to generators, or others, from entering into interruptible transportation agreements. An interruptible transportation multi-party service agreement would not provide generators with any additional ability to offset the costs of holding an interruptible transportation contract, since there are none. It further would not provide any additional incentives for generators to enter into an interruptible transportation agreement, since that incentive is there already. Accordingly, INGAA does not support the proposal to require pipelines to offer multi-party service agreements for interruptible transportation service.

D. Implementation

To the extent that the Commission adopts NAESB's proposed scheduling timeline, as recommended by INGAA, or any modification to the NAESB timeline, it must allow a sufficient implementation period so that pipelines and all other segments of the gas value chain can make the necessary physical and commercial changes to their operations to accommodate such changes. Pipelines will need sufficient time to develop, test and implement the changes to automated business systems to reflect the revised scheduling changes in addition to hiring and training additional personnel. Implementation of the proposed business practice standards will require far more work-hours than the 240 hours per pipeline estimated by the Commission in the table following paragraph 84 of the NOPR. Many pipelines will need to fit this work into the schedules of programmers and others who already are assigned to other system upgrades

associated with new or revised services or other proposed system enhancements. INGAA believes that other segments of the gas industry will face similar challenges. INGAA urges the Commission to provide the natural gas industry a minimum of nine months to implement the scheduling changes of any final rule.

In order to ensure that these changes go smoothly, INGAA respectfully requests that the Commission avoid implementing any changes during the winter heating season (November – March), when the traditional gas utility customers transport the greatest amounts of their gas, or the summer peak season (May-August), when generators rely most heavily on pipelines. INGAA respectfully requests that the Commission implement any required changes in April or October.

For the reasons set forth above, INGAA urges the Commission not to adopt its proposal to move the start of the Gas Day from 9:00 a.m. CCT to 4:00 a.m. CCT, and alternatively requests the Commission defer a decision on this proposal until it can assess the impact of the NAESB scheduling changes. If, however, the Commission requires simultaneous implementation of its proposed scheduling and Gas Day changes, the industry will need substantially more time (i.e., a minimum of one year) to make the necessary system changes. For a change to the Gas Day, pipelines will need to develop, test and implement additional programming and physical automation changes, including updating SCADA systems and will need to change and/or install remote control valves and remote terminal units. In addition, pipelines will need time to modify and/or increase staffing and work crew schedules. While it will not be possible to anticipate all the changes that will be necessary in advance of actual experience with a 4:00 a.m. CCT Gas Day, a twelve-month implementation schedule would give pipelines an opportunity to limit the disruption caused by a Gas Day change.

III. CONCLUSION

WHEREFORE, for the reasons stated above, INGAA respectfully requests that the Commission adopt NAESB's proposed scheduling timeline modifications submitted in its September 29, 2014 report, and retain a national 9:00 a.m. CCT Gas Day start time. If the Commission decides that changes to the start of the Gas Day warrant further consideration, INGAA requests that the Commission defer a decision on implementing this change until one year after the scheduling timeline changes go into effect to determine whether changes to the scheduling timeline alone would address sufficiently the Commission's concerns without the need to change the start of the Gas Day. The Commission could establish procedures prior to the end of the one-year deferral to assess whether the scheduling changes are sufficient.

Respectfully submitted,

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