

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

Revised Filing and Reporting Requirements)
for Interstate Natural Gas Company Rate)
Schedules and Tariffs)

Docket No. RM21-18

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

The Federal Energy Regulatory Commission (“Commission” or “FERC”) issued a Notice of Proposed Rulemaking on May 19, 2022 in the above-captioned docket (the “Proposed Rule”) that “proposes to establish a rule to require natural gas pipelines to submit all supporting statements, schedules and workpapers in native format (e.g., Microsoft Excel) with all links and formulas intact when filing a Natural Gas Act section 4 rate case.”¹ The Interstate Natural Gas Association of America (“INGAA”) respectfully submits these comments pursuant to the comment procedures set forth in the Proposed Rule.²

ARGUMENT

INGAA appreciates the Commission’s exploration of ways to “streamline the rate case process,” to “expedite settlement negotiations,” and “to update the filing requirements to reflect current information technology capabilities.”³ To that end, INGAA generally supports a

¹ Proposed Rule at p.1. The Proposed Rule refers to “native format with formulas and links intact,” including “formulas and links within individual spreadsheets and between spreadsheets.” *Id.* at P 5 & n.12. INGAA therefore interprets the Proposed Rule as requiring submission of Microsoft Excel files with formulas and links intact, where applicable. For sake of clarity, INGAA uses “native format” in these comments to mean Microsoft Excel files with formulas and links intact.

² *Id.* at P 28. INGAA is a trade association that advocates regulatory and legislative positions of importance to the interstate natural gas pipeline industry in the United States. INGAA’s 26 members represent the majority of interstate natural gas transmission pipeline companies in the U.S. INGAA’s members, which operate approximately 200,000 miles of interstate natural gas pipelines, serve as an indispensable link between natural gas producers and consumers. Its members’ interstate natural gas pipelines are regulated by the Commission pursuant to the Natural Gas Act (“NGA”). 15 U.S.C. §§ 717-717w (2018).

³ Proposed Rule at PP 6-8.

requirement to submit all supporting statements, schedules, and workpapers necessary to initiate an NGA Section 4 rate case in native format and with (1) all formulas and (2) all links within and between the statements, schedules and workpapers filed in the same rate case. This requirement would address petitioners' concerns and further the Commission's aim of enabling a more "timely and comprehensive analysis of a rate case filing" by showing "progressive calculations" included within the filing and by allowing "manipulat[ion of] the cost-of-service components."⁴

The Proposed Rule contains ambiguous language, however, that, if not clarified, will undermine the Commission's goals in this proceeding. INGAA respectfully requests that the Commission clarify the following aspects of the Proposed Rule to prevent NGA section 4 rate cases from becoming more onerous, less efficient, and more costly for all stakeholders.

I. The Commission should clarify that "formulas and links intact" means formulas and links within and between required statements, schedules and workpapers filed in the same rate case.

The Proposed Rule provides that pipelines will "submit all statements, schedules and workpapers in native format with formulas and links intact," including "formulas and links within individual spreadsheets and between spreadsheets."⁵ The Commission should clarify, consistent with its precedent, that pipelines need only include all the formulas and all links to other required statements, schedules and workpapers "*filed in the same rate case,*" not formulas contained in or links to spreadsheets not required as part of the initial filing.⁶

The Commission's regulations establishing the filing requirements for an NGA Section 4 rate case "are designed to provide the Commission and interested parties with the information

⁴ *Id.* at PP 6-7.

⁵ *Id.* at P 5 & n.12.

⁶ *Filing and Reporting Requirements for Interstate Nat. Gas Co. Rate Schedules & Tariffs*, Order No. 582, 60 Fed. Reg. 52,960, 52,994 (Oct. 11, 1995) (emphasis added).

generally required to access and process a rate filing” and to “permit parties to address the important issues more quickly.”⁷ The Proposed Rule reflects the Commission’s determination that “statements and schedules linking progressive calculations” “enable . . . manipul[at]ion of] the cost-of-service components” and a more “timely and comprehensive analysis of a rate case filing.”⁸ While “the formulas in the workpaper or statement are important to the understanding of the pipeline’s filing” and “necessary to understand the pipeline’s position with respect to cost allocation and rate design,” the same is not true for formulas located in or links to separate spreadsheets not submitted as part of the pipeline’s filing.⁹ The Commission recognized this distinction in Order No. 582 and rejected a suggestion that, upon request from an interested party, pipelines must produce the “underlying spreadsheets, models, and databases relied upon to prepare the filing in an electronic format.”¹⁰

The Commission should continue to distinguish between the formulas and links within the spreadsheets submitted as part of a rate filing and those located within separate spreadsheets not required as part of the submission. To avoid the undue burden that arises from an unnecessary expansion of its filing requirements, the Commission should clarify that the Proposed Rule only requires pipelines to file formulas and links within individual spreadsheets and between spreadsheets that the pipeline must submit as part of its rate case filing.

⁷ Order No. 582 at 52,962-63.

⁸ Proposed Rule at PP 6-7.

⁹ Order No. 582 at 52,994.

¹⁰ *Id.* The Commission stated that this information “may be discoverable at hearing if found necessary in a particular case.” *Id.*

II. The Commission should continue to permit pipelines to file Statements O and P in any manner consistent with the current Implementation Guide for Electronic Filing.

The Proposed Rule requires pipelines to “submit *all* statements . . . in native format with formulas and links intact.”¹¹ Because filing Statements O and P in native format does not advance the aims of the Proposed Rule, the Commission should maintain its current practice of permitting pipelines to file Statements O and P in “any electronic format that renders text, graphics, spreadsheets or data bases that the Commission accepts.”¹²

The Proposed Rule requires submission of statements, schedules, and workpapers with formulas and links within individual spreadsheets and between spreadsheets to “enable rate case participants to manipulate the cost-of-service components (including billing determinants)” and to “provide for a timely and comprehensive analysis of a rate case filing.”¹³ Statements O and P, however, provide narrative text describing the company’s operations and “indicating the line of proof which the company would offer for its case-in-chief in the event that the rates are suspended and the matter set for hearing.”¹⁴ These statements do not contain links within the statement or to other statements, and the submission of Statements O and P in native format will not enable participants in the rate proceeding to more easily manipulate information or to analyze the Statements in a more timely or comprehensive manner. Simply put, the text of Statements O and P is the text, regardless of format. The Commission should continue to permit pipelines to file

¹¹ Proposed Rule at P 5 (emphasis added).

¹² *Id.* at P 4 (quoting *FERC Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300 and 341 Tariff Filings* (2016)); *see also* Order 703 at P 24 (“Submission of text documents will be permissible in native or in searchable format.”).

¹³ *Id.* at PP 5-7.

¹⁴ 18 C.F.R. §§ 154.312(u)-(v).

Statements O and P in “any electronic format that renders text, graphics, spreadsheets or data bases that the Commission accepts.”¹⁵

III. The Commission should clarify that the Proposed Rule does not modify the composition of the filing that initiates an NGA Section 4 rate case.

Petitioners initiated this proceeding because they believed that “the Commission’s current policy does not ensure that Commission staff and stakeholders have access to all the information needed to perform routine rate analyses.”¹⁶ The Commission should clarify that the Proposed Rule does not *expand* the information that pipelines must submit when initiating an NGA Section 4 rate case by issuing the Proposed Rule. Rather, the Proposed Rule only modifies the *format* of the statements, schedules, and workpapers currently required by the Commission’s regulations.

The Proposed Rule would require that pipelines “submit all statements, schedules and workpapers” required by the Commission’s existing regulations “in native format with formulas and links intact.”¹⁷ The Commission has treated an obligation to submit specific Statements as “spreadsheets” with “all the formulas and all links to other spreadsheets” as a requirement related to the “format[ting of] . . . numeric data.”¹⁸ Prior orders mandating the submission of native format with formulas to “facilitate an understanding of the applicant’s positions and reduce the requirement for subsequent data requests” “simply provid[ed] a different means by which data requirements may be submitted” and did “not chang[e] the requirements themselves.”¹⁹ The

¹⁵ *Id.* at P 4 (quoting *FERC Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300 and 341 Tariff Filings* (2016)).

¹⁶ Proposed Rule at P 1.

¹⁷ *Id.* at P 5.

¹⁸ Order No. 582 at 52,993-94 (describing “appropriate format for numeric data” submitted as part of Statements H, I, and J); *see also Filing Via the Internet*, Order No. 703, 121 FERC ¶ 61,171 at PP 26-27 (2007) (discussing submission of spreadsheets with formulas as part of “File Formats” section).

¹⁹ Order No. 703 at P 26; *see also* Order No. 582 at 52,994 (“The underlying spreadsheets, models, and databases relied upon to prepare the filing in an electronic format may be discoverable at hearing *if found necessary* in a particular case.”) (emphasis added).

Proposed Rule does not change the Commission’s regulations establishing the composition of an NGA Section 4 rate case filing,²⁰ and so appears consistent with this Commission precedent. INGAA remains concerned that stakeholders could nonetheless misinterpret the Proposed Rule as requiring the submission of information not currently required by the Commission.²¹ The Commission should clarify that, consistent with its precedent, the Proposed Rule does not require the submission of new information in an NGA Section 4 rate case.

The Commission will not undermine the goals of the Proposed Rule by clarifying that the Rule does not require the submission of new information. The Proposed Rule seeks, among other things, to “streamline the rate case process, including settlement discussions,” and to “avoid parties exchanging multiple rounds of discovery and testimony merely to understand the rate model’s underlying calculations.”²² Stakeholders who filed comments in this proceeding similarly focused on promoting efficiency, not on requiring additional information to be filed when initiating a rate case.²³ The Commission repeatedly has determined that it may promote efficiency by changing the format of an NGA Section 4 rate filing and without requiring the submission of new information.²⁴ There is no need to depart from the Commission’s precedent in this proceeding and to require the submission of additional information as part of an NGA Section 4 rate case filing.

²⁰ See 18 C.F.R. §§ 154.312-154.314.

²¹ See, e.g., Proposed Rule at P 6 (suggesting that Proposed Rule would obviate participants’ “need to create their own models” and “need to hire experts or rely on other parties to recreate a pipeline’s rate model”).

²² *Id.* at P 7.

²³ See *id.* at P 2 (CenterPoint stated that changes “may expedite proceedings,” “reduc[e] time and expense for all stakeholders”); *id.* (National Grid stated that submission of non-native format files “[is] not only inefficient but cost parties time waiting on workpapers that allow for a complete and thorough assessment of the rate filing”; *id.* (Exelon argues “that it is difficult to conduct a thorough analysis of a rate case if supporting statements, schedules and workpapers are submitted in Adobe PDF format”).

²⁴ See, e.g., Order 703 at P 26 (“The Commission found that formulas facilitate an understanding of the applicant’s positions and reduce the requirement for subsequent data requests. . . . The same will be true here.”); Order 582 at 52,994 (“The requirement that the initial filing be in spreadsheet format avoids the burden of having the same data submitted once as a tab delimited file and again, in response to a data request, in spreadsheet form, in order to capture the formulas.”).

The plain language of the Commission’s proposal, the Commission’s goals in promulgating the Proposed Rule, and the Commission’s precedent all support clarification that nothing in the Proposed Rule modifies the content of the statements, schedules, and workpapers that pipelines must submit as part of an NGA Section 4 rate case filing. The Commission should clarify that the statements, schedules, and workpapers set forth in its regulations²⁵ remain sufficient to initiate an NGA Section 4 rate case filing so long as the applicant submits them “in native format with formulas and links intact.”

CONCLUSION

The Commission can and should identify ways to reduce the duration and burden of NGA Section 4 rate cases. The Proposed Rule, however, threatens to make NGA Section 4 proceedings *less* efficient by significantly expanding the scope of the Commission’s filing requirements and potentially infringing on well-established limits on discovery. The Commission should avoid

²⁵ See 18 C.F.R. §§ 154.312-154.314.

subjecting parties to wasteful litigation costs by clarifying the scope of the Proposed Rule as discussed herein.

Respectfully submitted,

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