

unfair credit billing and credit card practices.

(2) The Fair Credit Reporting Act, 15 U.S.C. 1681–1681i setting forth requirements to be met by consumer credit reporting agencies and persons who use consumer credit reports.

(b) Each air carrier and foreign air carrier shall comply with the requirements of Regulation B, 12 CFR part 202, and Regulation Z, 12 CFR part 226, of the Board of Governors of the Federal Reserve Board. Any violation of the requirements of those regulations will be a violation of 49 U.S.C. Subtitle VII, enforceable by the Department of Transportation.

4. Section 374.4 is revised to read as follows:

§ 374.4 Enforcement procedure.

The statutes and regulations referred to in § 374.3 may be enforced by an enforcement procedure as set forth in part 302 of this chapter or by the assessment of civil penalties under 49 U.S.C. 46301.

Issued in Washington, DC on March 24, 1997.

Rodney E. Slater,

Secretary of Transportation.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket Nos. RM96–1–005, RP97–276–000; Order No. 587–E]

Standards for Business Practices of Interstate Natural Gas Pipelines

Issued May 6, 1997.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; Order denying rehearing and request for waiver.

SUMMARY: The Federal Energy Regulatory Commission is denying requests for rehearing of Order No. 587–B (62 FR 5521, Feb. 6, 1997). Order No. 587–B incorporated by reference standards promulgated by the Gas Industry Standards Board requiring interstate pipelines to exchange data necessary to conduct certain business transactions across the Internet according to protocols established in the standards. The format for the data was adopted by the Commission in Order No. 587. 61 FR 39053 (Jul. 26, 1996). The order clarifies pipelines' obligations in implementing the standards.

DATES: Pipeline implementation of the Internet requirements runs from April 1, 1997 to June 1, 1997, according to a staggered schedule established in Order No. 587.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC, 20426.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 2A, 888 First Street, NE, Washington D.C. 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397 if dialing locally or 1–800–856–3920 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS in ASCII and WordPerfect 5.1 format. CIPS user assistance is available at 202–208–2474.

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Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy

contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is also located in the Public Reference Room at 888 First Street, NE, Washington, DC 20426.

ORDER DENYING REHEARING AND REQUEST FOR WAIVER

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

On March 3, 1997, Natural Gas Clearinghouse (NGC) and Ozark Gas Transmission System (Ozark) filed requests for rehearing of Order No. 587–B,¹ and, in the case of Ozark, an alternative request for a waiver. For the reasons discussed below, the requests for rehearing and waiver are denied.

Background

In Order No. 587,² the Commission incorporated by reference consensus standards developed by the Gas Industry Standards Board (GISB) covering certain industry business practices—Nominations, Flowing Gas, Invoicing, and Capacity Release—as well as datasets that detailed the data requirements needed to conduct business transactions in these areas. In Order No. 587–B, the Commission incorporated by reference GISB standards establishing the protocols and procedures for exchanging these files over the Internet, with implementation to follow a staggered schedule beginning April 1, 1997.

At the same time that GISB passed the standards for transacting business transactions over the Internet, it passed two standards, 4.3.5 and 4.3.6, requiring pipelines to provide additional information on an Internet World Wide Web homepage (homepage).³ GISB recommended an August 1, 1997 implementation date for the two World Wide Web standards. GISB also approved revisions and additions to its business practices standards, with a recommendation for tariff filings beginning May 1997 and implementation in November 1997.

¹ Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587–B, 62 FR 5521 (Feb. 6, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,046 (Jan. 30, 1997).

² Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587, 61 FR 39053 (Jul. 26, 1996), III FERC Stats. & Regs. Regulations Preambles ¶ 31,038 (Jul. 17, 1996), *reh'g denied*, Order No. 587–A, 61 FR 55208 (Oct. 25, 1996), 77 FERC ¶ 61,061 (Oct. 21, 1996).

³ This information includes notices (critical notices, operation notices, system-wide notices); Order No. 586 affiliated marketer information (affiliate allocation log, discount postings); operationally available and unsubscribed capacity; Index of Customers; and the pipeline's tariff.

The Commission did not adopt the two World Wide Web standards (or the supplemental business practices standards) in Order No. 587-B, because the proposed implementation schedule for these standards was not as imminent as for the standards to be implemented on April 1, 1997. The Commission stated the World Wide Web and the supplemental business practices standards would be addressed in a later order. On March 4, 1997, the Commission issued Order No. 587-C⁴ addressing the World Wide Web standards and the revised and new business practices standards.

NGC maintains the Commission erred by not adopting the World Wide Web standards in Order No. 587-B (Standards 4.3.5 and 4.3.6). NGC and Ozark claim error in the Commission's requirement that pipelines maintain their Electronic Bulletin Boards (EBBs) in addition to the Internet requirements of Order No. 587-B. In the event the Commission does not grant its rehearing request, Ozark requests a waiver of its requirements to maintain an EBB.

Public Notice, Interventions, and Protests

Public notice of Ozark's request for waiver was issued on March 13, 1997, with notices and motions to intervene or protests due by March 20, 1997. No motions to intervene or protests were filed.

Discussion

A. Adoption of World Wide Web Standards

NGC's request that the Commission adopt the standards requiring pipelines to provide information on World Wide Web homepages (Standards 4.3.5 and 4.3.6) is moot. The Commission adopted Standard 4.3.6 in Order No. 587-C. The Commission did not adopt Standard 4.3.5 in Order No. 587-C, only because GISB had not completed the work needed to implement the standard. Standard 4.3.5 provides that documents maintained on a pipeline's homepage will be downloadable in a specified electronic structure, and GISB has not yet promulgated the electronic structure. The Commission, however, stated, in Order No. 587-C, that the ability to download information is critical for customers who do not want to read the information on-line or who want the information in computer-readable form, and urged GISB to adopt the required electronic structure quickly. The Commission intends to

incorporate Standard 4.3.5 when GISB develops the required download formats.

B. Requirements That Pipelines Continue to Maintain EBBs

NGC and Ozark seek rehearing of the Commission's statements in Order No. 587-B that the Commission would not eliminate its requirement for pipelines to provide certain information on EBBs, while the Internet standards are being implemented.⁵ NGC and Ozark contend that the Commission is requiring pipelines to provide three methods of communication: an EBB, a file download capability through Electronic Data Interchange (EDI) using Valued Added Networks (VANs) (citing 18 CFR 284.8(b)(5)), and the new Internet communications. They maintain that maintaining three systems is unnecessarily costly and wasteful.

If its request for rehearing is denied, Ozark requests a waiver of the requirement to maintain an EBB and the requirement to support EDI-based transmission of data through a VAN. It states that all of its current EBB functions will be available on a Web-based system.⁶

1. Downloads to VANs

With the implementation of the GISB standards for Internet communication, the Commission regulations no longer require pipelines to provide file downloads to a VAN. Thus, NGC and Ozark already have received the relief they request.

In Order No. 563,⁷ the Commission added section 284.8(b)(5) to its regulations, which required pipelines to adhere to standards providing for downloads of information about capacity release transactions, available capacity, and system-wide notices in standardized EDI file formats.⁸ At that time, the Commission standards required that the information be made

⁵ 62 FR, at 5524; III FERC Stats. & Regs. Regulations Preambles, at 30,169-70.

⁶ It states that it will still support the use of facsimile transmission for nominations and capacity release offers or bids.

⁷ Standards For Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations, Order No. 563, 59 FR 516 (Jan. 5, 1994), III FERC Stats. & Regs. Preambles ¶ 30,988 (Dec. 23, 1993), *order on reh'g*, Order No. 563-A, 59 FR 23624 (May 6, 1994), III FERC Stats. & Regs. Preambles ¶ 30,994 (May 2, 1994), *reh'g denied*, Order No. 563-B, 68 FERC ¶ 61,002 (1994).

⁸ In contrast to an EBB, where the user at a keyboard interacts with the pipeline's computer, a file download provides for the transfer in computerized format of a file from the pipeline's computer to the user's computer. The user can use its own internal computer programs to manipulate the data.

available to any party, including a VAN.⁹

In Order No. 587, the Commission removed section 284.8(b)(5) from its regulations. In its place, the Commission substituted the Capacity Release Standards promulgated by GISB, which revised and updated the formats previously required by the section 284.8(b)(5) standards. The standards adopted in Order No. 587-B also require pipelines to provide these files through Internet communications. Thus, once pipelines implement the GISB Internet standards, they will no longer be required to support other methods of transmitting these files, such as to a VAN.

2. Continuation of the EBB Requirement

NGC and Ozark also contend that the Commission should not be continuing to require pipelines to maintain EBBs. They argue that maintenance of two systems—EBBs and Internet communications—is wasteful and unnecessary and at odds with GISB's goal of moving away from proprietary EBBs to standardized Internet communications.

NGC's and Ozark's rehearing requests evidence confusion about the Commission's EBB requirements that require clarification. The rehearing requests raise two issues that need to be considered separately. The first is whether a waiver is necessary for pipelines to replace their current dial-up EBBs with Internet communications. The second is whether the Commission should remove its requirement for pipelines to maintain EBBs and substitute the standardized communication methods developed by GISB. A subsidiary issue is whether, and under what circumstances, pipelines are permitted to eliminate their EBBs and replace them with standardized communication methods.

On the first question, pipelines can now replace their dial-up EBBs with Internet communications, without the need for a waiver. The term EBB, as used in the Commission's regulations, does not refer to any specific technological method of communication.¹⁰ An EBB refers to a continuous computer connection between a pipeline's computer and a user's computer in which the information from the pipeline's computer is displayed visually on the user's computer and the user can enter

⁹ A VAN is a communications or information system providing an aggregation, routing, and delivery service. In effect, a VAN provides a user with an electronic mailbox for receiving information.

¹⁰ See Section 284.10(a).

⁴ Order No. 587-C, 62 FR 10684 (Mar. 10, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,050 (Mar. 4, 1997).

data to the pipeline's computer.¹¹ When the EBB requirement was first imposed in Order No. 636, the technology was to use direct telephone modem connections to dial-up a pipeline EBB. The dial-up system was non-standardized, with each pipeline requiring the use of different software packages and log-on procedures to access the pipelines' computers. As technology has changed, however, pipelines can now provide the same interactive service using more current and standardized technological methods that are consistent with the GISB standards, such as an Internet or Web-based system. Using an Internet-based system removes many of the idiosyncracies in log-on procedures that plagued the dial-up systems, since each user can access each pipeline's World Wide Web site using the same Internet connection and Web browser. Thus, pipelines are not prohibited by Commission regulations from using a Web-based EBB in place of a dial-up EBB.

However, even moving pipeline EBBs to the Internet may not necessarily create the open and standardized communication system that is required. For instance, standards may need to delineate the minimum Web browser and encryption levels that are needed to access pipeline Web sites, the basic organization of the Web site, and the format in which data will be presented. Moreover, as happened with the standardization of business transactions, communication efficiency may require that standards be developed to specify specific file formats for the exchange of business information.

GISB too has recognized that there is further need to standardize all EBB functions and information within a reasonable amount of time.¹² But, at the present time, the standardization effort is not complete. Standards still have not been developed to cover all the information the Commission requires to be posted on EBBs.¹³ Although GISB has

standardized much of these data, a few still remain. For instance, the GISB standards do not provide standards for submitting offers to release capacity and bids via the Internet, nor do they provide standards for downloading the Index of Customers in the specified format. Nor have standards been developed to cover the myriad other information and business transactions (not covered by the Commission regulations) that many pipelines provide using EBBs.¹⁴ As GISB has recognized, until the standardization effort is complete, pipelines should not be forced to discontinue their proprietary EBB systems.¹⁵

Maintenance of existing systems during the transition to standardized communications should not result in significant added costs or burden. Pipelines, however, should not expend significant resources to expand or enhance the functionality of proprietary systems. These resources and efforts would be better spent on completing the process of developing standardized systems as quickly as possible.

Given the importance of developing standardized communications, the Commission expects GISB and the industry to move forward rapidly to complete the standardization process so that the Commission can substitute standardized communication modalities for the requirement for pipelines to maintain EBBs. The Commission requests a report by GISB, and by others who may wish to comment, by September 1, 1997 on the extent of their progress and the contemplated completion date.

In the meantime, as discussed above, the Commission regulations do not require pipelines to use EBBs to conduct the business transactions standardized in Order No. 587. Thus, pipelines can file tariff revisions under section 4 of the Natural Gas Act when they are ready to discontinue using EBBs to provide these services and, instead, rely upon the standardized methodologies.

In its waiver request, Ozark did not make clear whether it is intending to substitute GISB's Internet server model for its EBB to conduct the relevant business transactions or whether every one of the business transactions and communication now provided using its EBB will be provided using the Internet communications. As discussed above, the Commission's regulations do not require such transactions to be provided on an EBB, so no waiver of the regulations is needed. However, if Ozark previously provided such services on an EBB, it cannot dispense with those services through a filing to comply with Order No. 587, but will need to make a section 4 filing.

The Commission orders:

(A) The requests for rehearing are denied.

(B) Ozark's request for waiver is denied.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 97-12398 Filed 5-9-97; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 417, 473

[BPD-453-FC]

RIN 0938-AG18

Medicare Program; Medicare Appeals of Individual Claims

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

SUMMARY: Under section 1869 of the Social Security Act, Medicare beneficiaries and, under certain circumstances, providers or suppliers of health care services may appeal adverse determinations regarding claims for benefits under Medicare Part A or Part B. This rule expands our regulations to recognize the right of Part B appellants to a hearing before an administrative law judge (ALJ) for claims if at least \$500 remains in dispute and the right to judicial review of an adverse ALJ decision if at least \$1,000 remains in controversy. Also, this rule codifies in regulations: Limitations on the review by ALJs and the courts of certain national coverage determinations, and the statutory authority for an expedited appeals process under Part A and Part B.

¹¹ See Standards For Electronic Bulletin Boards Required Under Part 284 Of The Commission's Regulations, Order No. 563, 59 FR 516 (Jan. 5, 1994) FERC Stats. & Regs. Regulation Preambles (Jan. 1991-June 1996), ¶ 30,988, at 31,001 n.10 (Dec. 23, 1993).

¹² Electronic Delivery Mechanism Standard 4.3.6.

¹³ Commission regulations require the use of EBBs only for limited purposes: to provide equal and timely access to information relevant to the availability of transportation service, including the provision of a capacity release system involving a posting and bidding mechanism to facilitate capacity reallocations (Sections 284.8(b)(3) and 284.9(b)(3)); Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, [Regs. Preambles Jan. 1991-June 1996]

FERC Stats. & Regs. ¶ 30,939, at 30,415 (1992)); information about pipeline affiliate transactions (sections 161.3(h) and 250.16(c)); and an index of customers (section 284.106). Section 284.10 of the Commission's regulations establishes certain features that pipeline EBBs, whether required by the regulations or the pipeline's tariff, must support.

¹⁴ This process was begun in Order Nos. 587, 587-B, and 587-C, in which the Commission approved GISB standards requiring pipelines to transact some of these business transactions (nominations, flowing gas, invoicing, and capacity release) using standardized file formats that would be exchanged according to the Internet protocols established by GISB. However, these standards do not cover all of the information and transactions currently performed on pipeline EBBs.

¹⁵ Electronic Delivery Mechanism Standard 4.3.6.