

(f) Consents to refuse customers resident in the U.S. the option of not segregating funds notwithstanding relevant provisions of the German regulatory system and otherwise consents to provide all customers resident in the U.S. no less stringent regulatory protection than German customers under all relevant provisions of German law; and

(g) Undertakes to comply with the applicable provisions of German laws and Eurex rules that form the basis upon which this exemption from certain provisions of the Act and rules thereunder is granted. As set forth in the Commission's September 11, 1997 Order delegating to NFA certain responsibilities, the written representations set forth in paragraph (2) shall be filed with NFA.<sup>8</sup> Each firm seeking relief hereunder has an ongoing obligation to notify NFA should there be a material change to any of the representations required in the firm's application for relief.

The Commission also confirms that Eurex members that receive confirmation of relief set forth herein may engage in limited marketing conduct with respect to certain qualified customers located in the U.S. from a non-permanent location in the U.S., subject to the terms and conditions set forth in prior Commission Orders.<sup>9</sup> The Commission notes that any firm and their employees or other representatives which engage in marketing conduct pursuant to this relief are deemed to have consented to the Commission's jurisdiction over such marketing activities by their filing of a valid and binding appointment of an agent in the U.S. for service of process.

This Order will become effective as to any designated Eurex member firm the later of the date of publication of the Order in the **Federal Register** or the filing of the consents set forth in paragraph (2). Upon filing of the notice required under paragraph (1)(b) as to any such firm, the relief granted by this Order may be suspended immediately as to that firm. That suspension will

remain in effect pending further notice by the Commission, or the Commission's designee, to the firm and Eurex.

This Order is issued pursuant to Rule 30.10 based on the comparability representations made and supporting material provided to the Commission and the recommendation of the staff, and is made effective as to any firm granted relief hereunder based upon the filings and representations of such firms required hereunder. Any material changes or omissions in the facts and circumstances pursuant to which this Order is granted might require the Commission to reconsider its finding that the standards for relief set forth in Rule 30.10 and, in particular, Appendix A, have generally been satisfied. Further, if experience demonstrates that the continued effectiveness of this Order in general, or with respect to a particular firm, would be contrary to public policy or the public interest, or that the systems in place for the exchange of information or other circumstances do not warrant continuation of the exemptive relief granted herein, the Commission may condition, modify, suspend, terminate, withhold as to a specific firm, or otherwise restrict the exemptive relief granted in this Order, as appropriate, on its own motion.

The Commission will continue to monitor the implementation of its program to exempt firms located in jurisdictions generally deemed to have a comparable regulatory program from the application of certain of the foreign futures and option rules and will make necessary adjustments if appropriate.

Issued in Washington, DC on April 29, 2002.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 02-11013 Filed 5-7-02; 8:45 am]

**BILLING CODE 6351-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 284

[Docket No. RM96-1-020; Order No. 587-O]

#### Standards for Business Practices of Interstate Natural Gas Pipelines

Issued: May 1, 2002.

**AGENCY:** Federal Energy Regulatory Commission, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is amending its open access regulations governing standards for conducting business practices and electronic communications with interstate natural gas pipelines. The Commission is adopting the most recent version, Version 1.5, of the consensus industry standards, promulgated by the Wholesale Gas Quadrant of the North American Energy Standards Board (NAESB), formerly the Gas Industry Standards Board. The Commission also is removing its regulations dealing with pipeline Electronic Bulletin Boards (EBBs), since all pipelines are required under Commission regulations to provide all electronic communications and conduct all electronic transactions using the public Internet.

**DATES:** The rule will become effective June 7, 2002. Pipelines are required to make filings to comply with the regulations adopted in this rule by August 1, 2002, with an effective date of October 1, 2002.

#### FOR FURTHER INFORMATION CONTACT:

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#### SUPPLEMENTARY INFORMATION:

**Before Commissioners: Pat Wood, III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell**

1. The Federal Energy Regulatory Commission (Commission) is amending § 284.12 of its open access regulations governing standards for conducting business practices and electronic communications with interstate natural gas pipelines. The Commission is adopting the most recent version, Version 1.5, of the consensus industry standards, promulgated by the Wholesale Gas Quadrant of the North American Energy Standards Board (NAESB), formerly the Gas Industry Standards Board. The Commission also is removing § 284.12(a) of its regulations dealing with pipeline Electronic Bulletin Boards (EBBs),<sup>1</sup> since all pipelines are required under

<sup>1</sup> Citations to § 284.12 refer to the section as redesignated after removal of § 284.12(a).

<sup>8</sup> 62 FR 47792, 47793 (September 11, 1999). Among other duties, the Commission authorized NFA to receive requests for confirmation of Rule 30.10 relief on behalf of particular firms, to verify such firms' fitness and compliance with the conditions of the appropriate Rule 30.10 Order and to grant exemptive relief from registration to qualifying firms.

<sup>9</sup> See 57 FR 49644 (November 3, 1992) (permitted limited marketing of foreign futures and foreign options products to certain governmental and institutional customers located in the U.S.); 59 FR 42156 (August 17, 1994) (expanding the relief set forth in the 1992 release to conduct directed towards "accredited investors", as defined in the Securities and Exchange Commission's Regulation D issued pursuant to the Securities Act of 1933).

Commission regulations to provide all electronic communications and conduct all electronic transactions using the public Internet.<sup>2</sup> The rule is intended to benefit the public by adopting the most recent and up-to-date standards governing business practices and electronic communication that includes new shipper options such as title transfer tracking, as well as standards for imbalance netting and trading and uniform procedures for implementation of aspects of Order No. 637.<sup>3</sup>

## I. Background

2. Since 1996, in the Order No. 587 series,<sup>4</sup> the Commission has adopted regulations to standardize the business practices and communication methodologies of interstate pipelines in order to create a more integrated and efficient pipeline grid. In this series of orders, the Commission incorporated by reference consensus standards developed by NAESB, a private consensus standards developer composed of members from all segments of the natural gas industry. NAESB is an accredited standards organization under the auspices of the American National Standards Institute (ANSI).

3. On October 19, 2001, NAESB filed with the Commission a report informing the Commission that it had adopted a new version of its standards, Version 1.5. On December 3, 2001, NAESB filed with the Commission a report listing errata to the Version 1.5 standards.

4. NAESB reported that its newest version contains some of the following

highlights: modifications to the data set, data element, and code value tables to support Internet web page standards and the transition of EBBs to the Internet; business practice standards and data sets governing imbalance netting and trading (although standards for electronic data interchange of the imbalance netting and trading are still in process); standards for title transfer tracking (TTT), with a recommendation from the NAESB Executive Committee that these standards be implemented no earlier than eight months from publication of these standards on August 18, 2001; and standards to support the implementation of Order No. 637 (additional standards are still being considered at the subcommittee level). NAESB also reported that its electronic delivery mechanism standards include modifications related to the surety assessment performed by Sandia National Laboratories on the NAESB Electronic Delivery Mechanism (EDM) standards.

5. On December 20, 2001, the Commission issued a Notice of Proposed Rulemaking (NOPR) proposing to incorporate Version 1.5 of the NAESB standards into the Commission's regulations.<sup>5</sup> The Commission specifically requested comment on whether it should adopt NAESB standard 5.3.2 dealing with the timeline for capacity release transactions. In pertinent part, standard 5.3.2 provides that shippers consummating pre-arranged non-biddable capacity release transactions must notify the pipeline one hour prior to the time at which the replacement shipper would nominate under the release transaction. The Commission requested comment on whether it should adopt the one-hour prior notice requirement since in orders implementing Order No. 637, the Commission required pipelines to permit notice of the capacity release transaction coincident with the nomination timeline.

6. Thirteen comments were filed on the NOPR.<sup>6</sup> All the comments supported adoption of Version 1.5 of the NAESB standards, and only comment challenged any of the provisions.

## II. Discussion

7. The Commission is adopting Version 1.5<sup>7</sup> of NAESB's consensus standards by incorporating these standards into its regulations.<sup>8</sup> Pipelines are required to make filings to comply with the regulations adopted in this rule by August 1, 2002, with an effective date of October 1, 2002.<sup>9</sup>

8. Version 1.5 of the NAESB standards includes standards implementing provisions of Order No. 637, provides added flexibility to shippers, standardizes additional business practices, and updates and improves the current standards.<sup>10</sup> The principal changes occur in the areas of capacity release scheduling, title transfer tracking, imbalance netting and trading, and improvement of the standards for conducting business transactions electronically over the Internet. Version 1.5 (Standard 5.3.2) revises the capacity release bidding and scheduling standard to provide for nomination equality as required by the Commission in Order No. 637.<sup>11</sup> Version 1.5 incorporates a series of standards (Standards 1.3.64 through 1.3.78) that provides for title transfer tracking at pooling points. These standards will provide shippers with greater flexibility in structuring business transactions, and will enhance the liquidity of the natural gas market by providing for accurate accounting of gas purchase and sale transactions and integrating such transactions into the pipeline scheduling process. Version 1.5 includes new standards (standards

<sup>7</sup> The incorporation includes the errata sheets published by NAESB.

<sup>8</sup> Pursuant to the regulations regarding incorporation by reference, copies of Version 1.5 of the standards are available from NAESB, and the standards can be viewed, but not copied, at the Office of the Federal Register and at the Commission's Public Reference Room. 5 U.S.C. 552 (a)(1); 1 CFR 51 (2001).

<sup>9</sup> NAESB standard 1.3.78 provides that implementation of TTT not take place until eight months after publication of the TTT standards in the NAESB standards manual (which took place on August 18, 2001). Since the Commission's implementation date of October 1, 2002, falls after April 18, 2002, pipelines will be required to implement the TTT standards at the same time as the other standards.

<sup>10</sup> In Version 1.5, NAESB made the following changes to its standards. It added Principles 1.1.20, 1.1.21 and 2.1.5; Definitions 1.2.13 through 1.2.19, 2.2.2, 2.2.3, and 4.2.20; Standards 1.3.64 through 1.3.78, 2.3.36 through 2.3.50, 3.3.26, 4.3.86, 4.3.87, and 5.3.43; and Data Sets 2.4.7 through 2.4.16. It revised Standards 1.3.2, 1.3.54, 1.3.61, 1.3.63, 2.3.30, 2.3.32, 2.3.34, 4.3.16, 4.3.23, 4.3.35, 5.3.2, 5.3.22, 5.3.24, 5.3.31, 5.3.32, and 5.3.33, and Data Sets 1.4.1 through 1.4.7, 2.4.1, 2.4.3 through 2.4.6, 3.4.1, 3.4.2, 3.4.4, 5.4.1 through 5.4.10, 5.4.12, 5.4.13, and 5.4.16 through 5.4.19. It deleted Principles 4.1.5 and 4.1.8, and Standard 4.3.77.

<sup>11</sup> New 18 CFR 284.12 (b)(1)(ii) (2001); Order No. 637, 65 FR at 10191, FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,091, at 31,297.

<sup>2</sup> New 18 CFR 284.12(b)(3)(i)(A).

<sup>3</sup> Regulation of Short-Term Natural Gas Transportation Services, Order No. 637, 65 FR 10156 (Feb. 25, 2000), FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,091 (Feb. 9, 2000).

<sup>4</sup> Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587, 61 FR 39053 (Jul. 26, 1996), FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,038 (Jul. 17, 1996), Order No. 587–B, 62 FR 5521 (Feb. 6, 1997), FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,046 (Jan. 30, 1997), Order No. 587–C, 62 FR 10684 (Mar. 10, 1997), FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,050 (Mar. 4, 1997), Order No. 587–G, 63 FR 20072 (Apr. 23, 1998), FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,062 (Apr. 16, 1998), Order No. 587–H, 63 FR 39509 (July 23, 1998), FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,063 (July 15, 1998), Order No. 587–I, 63 FR 53565 (Oct. 6, 1998), FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,067 (Sept. 29, 1998), Order No. 587–K, 64 FR 17276 (Apr. 9, 1999), FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,072 (Apr. 2, 1999), Order No. 587–M, 65 FR 77285 (Dec. 11, 2000), FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,114 (Nov. 30, 2000), Order No. 587–N, 67 FR 11906 (Mar. 18, 2002), III FERC Stats. & Regs. Regulations Preambles, ¶ 31,125 (Mar. 11, 2002).

<sup>5</sup> Standards For Business Practices Of Interstate Natural Gas Pipelines, Notice of Proposed Rulemaking, 67 FR 44 (Jan. 2, 2002), IV FERC Stats. & Regs. Proposed Regulations, ¶ 32,557 (Dec. 20, 2001).

<sup>6</sup> The commenters and the abbreviations used in this order are listed on the appendix.

2.3.36 through 2.3.50) for transmitting statements of allocation and implementing imbalance netting and trading as required by the Commission's regulations.<sup>12</sup> Version 1.5 also updates and improves the standards by modifying the electronic communication standards to better support Internet web page standards and the transition of EBBs to the Internet and by effectuating changes related to the assessment provided by Sandia National Laboratories. Commission adoption of these standards will keep the Commission regulations current.<sup>13</sup>

9. NAESB approved the standards under its consensus procedures.<sup>14</sup> As the Commission found in Order No. 587, adoption of consensus standards is appropriate because the consensus process helps ensure the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of all segments of the industry. Moreover, since the industry itself has to conduct business under these standards, the Commission's regulations should reflect those standards that have the widest possible support. In § 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTT&AA), Congress affirmatively requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB, as means to carry out policy objectives or activities.<sup>15</sup>

10. The Commission will address the comments on the NOPR below.

#### A. Capacity Release Timeline

11. In the NOPR, the Commission requested comment on whether to adopt in full Standard 5.3.2 of the NAESB standards which provides a timeline for pipelines to process capacity release

transactions (biddable and non-biddable pre-arranged deals), and the resulting nominations submitted by replacement shippers. The NAESB standards provide for four nomination cycles.<sup>16</sup>

Nomination cycle	Time nomination due (CCT) <sup>17</sup>	Time nomination takes effect (CCT)
Timely Nomination.	11:30 a.m. ....	9 a.m. next gas day
Evening Nomination.	6 p.m. ....	9 a.m. next gas day
Intra-Day 1	10 a.m. ....	5 p.m. same gas day
Intra-Day 2	5 p.m. ....	9 p.m. same gas day

<sup>17</sup> CCT refers to Central Clock Time, which includes an adjustment for day light savings time. See New 18 CFR 284.12(a)(1)(i), Nominations Related Standards 1.3.1 (2001). Under the NAESB standards, a gas day runs from 9 a.m. central clock time (CCT) on Day 1 to 9 a.m. CCT the next day (Day 2). New 18 CFR 284.12(a)(1)(i), Nominations Related Standards 1.3.1 (2001).

The pertinent section of Standard 5.3.2 provides that for pre-arranged non-biddable capacity release transactions the pipeline must be informed of the transaction one hour prior to each of the nomination opportunities in order for the replacement shipper to nominate at that opportunity.<sup>18</sup>

12. In Order No. 637, the Commission adopted new § 284.12(b)(1)(ii) of its regulations in order to provide scheduling equality between capacity release transactions and pipeline transportation services.<sup>19</sup> In implementing this provision of Order No. 637, the Commission had required pipelines to provide that notice of the capacity release transaction could be provided coincident with nomination by the replacement shipper.<sup>20</sup> In the NOPR, the Commission requested comment on whether it should adopt the NAESB one-hour notification period or continue to require pipelines to

permit notification coincident with nomination.

13. The comments (except for Atmos) support adoption of the NAESB one-hour notification standard. Those supporting the standard maintain that the one-hour standard was a product of NAESB's consensus process, and that the Commission should defer to the consensus of the industry. The pipelines contend that the one-hour notification requirement is necessary for them to complete internal verification of contract data, such as updating their contract data base to reflect the assignment of capacity rights, so that nominations can be validated and the nomination process can proceed seamlessly. Without accurate data bases, the pipelines assert that nominations may be incorrectly rejected, because the contract data base does not reflect the assignment of capacity rights. While supporting the NAESB standard, AGA states that NAESB standards are minimums and that pipelines should be encouraged to exceed the minimum standard. In this regard, AGA contends the Commission should not disturb individual Order No. 637 compliance proceedings in which pipelines have already implemented scheduling systems with less than the one-hour notice.

14. Atmos maintains the Commission should reject the one-hour notice requirement as contrary to Commission policy. It argues that NAESB has failed to provide any justification for the departure from the Order No. 637 scheduling policy, and maintains pipelines that cannot meet the requirement for coincident notification and nomination should seek waivers.

15. The Commission is incorporating Standard 5.3.2 into its regulation and finds that compliance with this standard satisfies the scheduling equality requirements of new § 284.12(b)(1)(ii) of its regulations.<sup>21</sup> Standard 5.3.2 reflects the consensus of all facets of the natural gas industry. The Commission's general policy has been to accept such standards when they reflect the broad consensus of the industry.<sup>22</sup> The industry has determined that the one-hour notification requirement reflects a balance between the need for speed in consummating capacity release transactions and the need to update and verify contract data bases to ensure that

<sup>12</sup> New 18 CFR 284.12(b)(2)(ii) (2001).

<sup>13</sup> The Commission also is continuing its previous practice of excluding standards 2.3.29 dealing with operational balancing agreements (OBAs), 2.3.30 dealing with netting and trading of imbalances, and 4.3.4 dealing with retention of electronic data. The Commission has issued its own regulations in these areas (New 18 CFR 284.12(b)(2)(i) (OBAs), (c)(2)(ii) (netting and trading of imbalances), and (c)(3)(v) (record retention)), so that incorporation of the NAESB standards is unnecessary and may cause confusion as to the applicable Commission requirements.

<sup>14</sup> This process first requires a super-majority vote of 17 out of 25 members of NAESB's Executive Committee with support from at least two members from each of the five industry segments—interstate pipelines, local distribution companies, gas producers, end-users, and services (including marketers and computer service providers). For final approval, 67% of NAESB's general membership must ratify the standards.

<sup>15</sup> Pub L. No. 104-113, § 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

<sup>16</sup> New 18 CFR 284.12(a)(1)(i) (2001), Nominations Related Standard 1.3.2.

<sup>18</sup> For example, for the Timely Nomination cycle, the pipeline must be informed of the capacity release transaction by 10:30 a.m. CCT, one hour prior to the nomination deadline at 11:30 a.m.

<sup>19</sup> New 18 CFR 284.12(b)(1)(ii). This regulation provides that pipelines "must permit shippers acquiring released capacity to submit a nomination at the earliest available nomination opportunity after the acquisition of capacity. If the pipeline requires the replacement shipper to enter into a contract, the contract must be issued within one hour after the pipeline has been notified of the release, but the requirement for contracting must not inhibit the ability of the replacement shipper to submit a nomination at the earliest available nomination opportunity."

<sup>20</sup> See Colorado Interstate Gas Company, 95 FERC ¶ 61,321, at 62,111-12 (2001), 97 FERC ¶ 61,011 (2001).

<sup>21</sup> Some pipelines will be required to implement Standard 5.3.2 (Version 1.5) as part of their Order No. 637 compliance proceedings. But, in any event, a pipeline must file to comply with this standard by no later than August 1, 2002.

<sup>22</sup> Order No. 587, 61 FR at 39056-57, FERC Stats. & Regs. Regulations Preambles [July 1996-December 2000] ¶ 31,038, at 30,059-60.

nominations are accurate and can be processed efficiently, and the Commission finds the standard has struck a reasonable balance between the interests of all parties.

16. As AGA points out, the NAESB standards are generally considered minimum requirements that do not preclude pipelines from offering enhanced services, so long as the enhancement provides increased flexibility, does not compromise the uniformity sought to be achieved through standardization, does not affect shippers' ability to utilize the standard procedure, and does not adversely affect the rights of other parties.<sup>23</sup> In this case, the Commission agrees with AGA that pipelines can provide for shorter prior notice periods for prearranged, non-biddable deals without having adverse effects on shippers or limiting the benefits sought to be achieved by standardization. In order to provide shippers with the utmost flexibility in scheduling, the Commission encourages pipelines to reduce or eliminate prior notice provisions for pre-arranged non-biddable deals, as their scheduling systems currently permit or as these systems are improved in the future.

17. With respect to Atmos's comment that NAESB failed to justify the one-hour prior notice requirement, the comments in this proceeding have shown that this time period is a reasonable period for pipelines to update their contract data bases and provide for accurate verification of nominations. Atmos's suggestion to adopt a more stringent notification requirement and require pipelines to seek individual waivers would

unnecessarily involve the Commission in attempting to evaluate the capabilities of individual pipeline computer operations. Given the industry consensus supporting the NAESB standard, the Commission finds little to be gained from entering into such an inquiry on an individual pipeline basis.

#### *B. Title Transfer Tracking Standards*

18. EPPG seeks clarification that the Version 1.5 NAESB standards do not require pipelines to provide title transfer tracking (TTT), and that pipelines need not provide TTT services beyond those contemplated by the Version 1.5 NAESB standards.

19. To ensure consistent implementation, the Commission will provide its interpretation of the pipelines' responsibilities with respect to TTT. Title transfer, under the standards, is defined as "the change of title to gas between parties at a location."<sup>24</sup> Title Transfer Tracking (TTT) is defined as "the process of accounting for the progression of title changes from party to party that does not effect a physical transfer of the gas."<sup>25</sup> The two standards defining the pipelines' responsibility are Standards 1.3.64 and 1.3.65. In pertinent part, Standard 1.3.64 provides: "At a minimum, the Transportation Service Providers (TSP) should be responsible for accommodating Title Transfer Tracking (TTT) services at all points identified by the TSP as pooling points, where TTT services are requested." Standard 1.3.65 provides that "the Title Transfer Tracking services should be supported by means of the nominations, quick responses and scheduled quantities processes."

20. The Commission interprets these standards as requiring pipelines to permit and process, on a non-discriminatory basis, transportation nominations (along with required responsive scheduling information) effecting transfers of title at pooling points by any party including shippers, poolers, or third party account administrators.<sup>26</sup> As a simple example, Producer A aggregates 1000 Dth of gas from three receipt points at its pool at Pool 1, sells 1000 Dth to Marketer B at Marketer B's pool at Pool 1, and Marketer B sells 1000 Dth to Shipper C at the pooling point for transportation to Shipper C's delivery point under Shipper C's firm transportation contract.

Under the NAESB standards, the pipeline would have to process a transportation nomination from Producer A, including provision of the required scheduling responses, to reflect the transfer of gas from Producer A's pool to Marketer B's pool. Other than processing the transportation nomination to reflect the in-place transfer of gas, the pipeline would be required to provide no other "accounting services"<sup>27</sup> respecting the transfer of title. If EPPG requires more specific clarification as to its specific responsibilities for processing such nominations, it should request such a clarification from NAESB pursuant to NAESB's procedures for seeking interpretations of standards.<sup>28</sup>

<sup>26</sup> A Third Party Account Administrator is defined as a Title Transfer Tracking Service Provider other than the Transportation Service Provider. Standard 1.2.17 (Version 1.5).

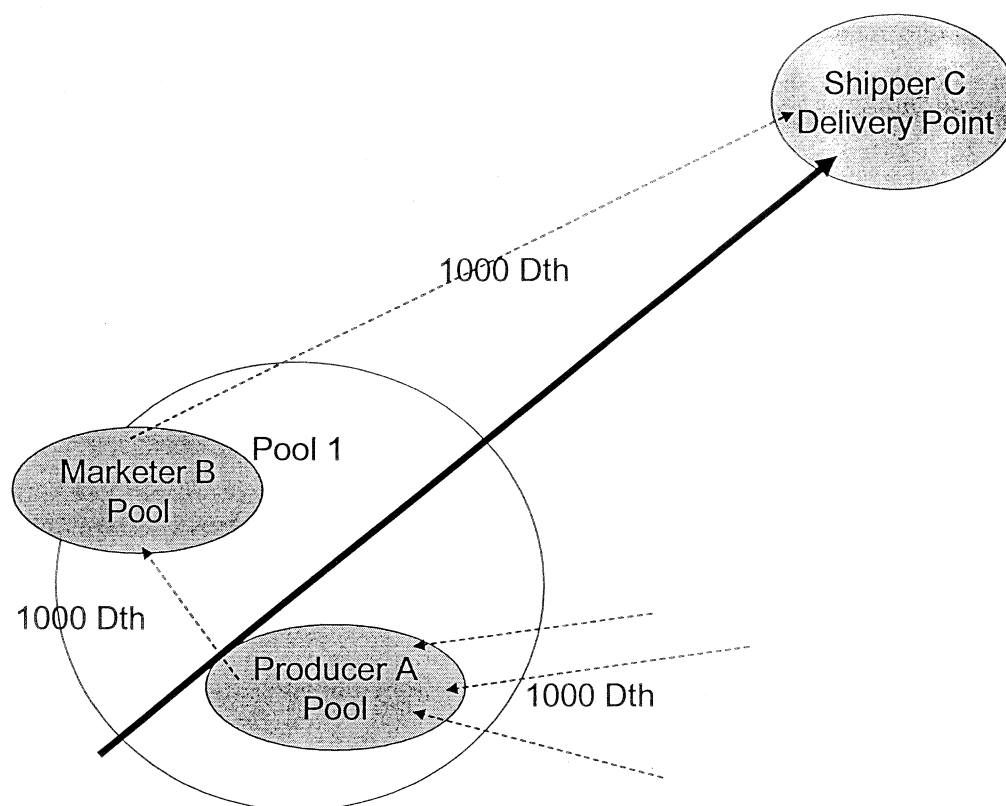
<sup>27</sup> Standard 1.2.15 defines title transfer tracking as the "process of accounting for the progression of title changes from party to party."

<sup>28</sup> NAESB PROCEDURES FOR ADOPTING STANDARDS, § 5.1 (<http://www.naesb.org/gov.htm>).

<sup>23</sup> Order No. 587, 61 FR at 39062, FERC Stats. & Regs. Regulations Preambles [July 1996–December 2000] ¶ 31,038, at 30,069–70.

<sup>24</sup> Standard 1.2.14 (Version 1.5).

<sup>25</sup> Standard 1.2.15 (Version 1.5).



21. Williston maintains that it does not anticipate receiving requests for title transfer services and that it would take three months for it to implement a request for such services. It requests an extension of time to implement the TTT standards until three months after receiving a request to accommodate such services.

22. Such a specific request will not be granted in a rulemaking proceeding where potentially affected parties do not have the opportunity to protest the request. Further, since the NAESB standards envision that the pipelines are to accommodate title transfers using their existing nomination and scheduling processes, it is not clear why additional time is needed to permit title transfers.<sup>29</sup> Williston is free to file for an individual waiver of compliance with the regulation if it can show good cause.

### C. Implementation

23. A number of comments request that the Commission implement the standards on the first day of the month falling 90 days after the issuance of the final rule, because first-of-the-month implementation facilitates

administration. They further request that the TTT standards be implemented at the same time.<sup>30</sup> The Commission is granting these requests by providing for implementation on October 1, 2002, which is more than three months from adoption of the regulations, and is requiring implementation of the TTT standards at the same time.

24. KM Pipelines and Williston request that for those pipelines that have not yet implemented Order No. 637, implementation of the standards should be delayed until 90 days after the pipeline's implementation of Order No. 637. They maintain that such a delay is needed because of the extensive changes required by Order No. 637 and because implementation of the standards before implementation of Order No. 637 might result in conflicting tariff language.

25. The Commission denies the requests to delay implementation. The pipelines have not demonstrated that the changes in the NAESB standards relating to Order No. 637 create any conflict with requirements of Order No. 637 or will significantly delay the ability of a pipeline to comply with Order No. 637.

26. Nisource Pipelines requests a waiver of the requirement to implement

the Electronic Data Interchange (EDI) requirements in the standards if a pipeline has no electronic trading partners or, in the alternative, requests a longer amount of time in which to implement such standards. Nisource Pipelines maintains that three months is not sufficient time to implement the EDI requirements. The Commission will not grant a generic waiver of EDI requirements in this rulemaking. Requests for waiver or extension of time to implement the EDI requirements must be handled on an individual basis depending on the circumstances facing the pipeline.

### D. Sandia National Laboratories Recommendations

27. In its transmittal letter, NAESB reported that its electronic delivery mechanism standards include modifications related to the surety assessment performed by Sandia National Laboratories on the NAESB Electronic Delivery Mechanism (EDM) standards. Dominion and INGAA request clarification that the Commission is not adopting or endorsing the Sandia National Laboratories recommendations. INGAA maintains the Executive Committee sent the Sandia recommendations to a NAESB subcommittee for further review. The Commission clarifies that it is adopting here only the standards

<sup>29</sup> Standard 1.3.65 (title transfer tracking services should be supported by means of the nominations, quick responses and scheduled quantities processes); Standard 1.3.70 (title transfer tracking should be conducted using existing applicable data sets).

<sup>30</sup> Comments by INGAA, Dominion, EIP, Gulf South, Northern Natural, Williston.

adopted by NAESB (to the extent these standards reflect the Sandia recommendations), and is not independently adopting or endorsing the Sandia report.

### III. Notice of Use of Voluntary Consensus Standards

28. Office of Management and Budget Circular A-119 (§ 11) (February 10, 1998) provides that when a federal agency issues or revises a regulation containing a standard, the agency should publish a statement in the final rule identifying whether a voluntary consensus standard or a government-unique standard is being adopted. In this rulemaking, the Commission is incorporating by reference standards

issued by the North American Energy Standards Board.

### IV. Information Collection Statement

29. The Office of Management and Budget's (OMB) regulations in 5 CFR 1320.11 require that it approve certain reporting and recordkeeping requirements (collections of information) imposed by an agency. Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this Rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

30. The final rule will affect the following existing data collections:

FERC-545 "Gas Pipeline Rates: Rate Change (Non-Formal)" (OMB Control No. 1902-0154) and FERC-549C "Standards for Business Practices of Interstate Natural Gas Pipelines" (OMB Control No. 1902-0174). The following burden estimates are related only to this rule and include the costs of complying with NAESB's version 1.5 standards. The burden estimates for the FERC-545 data collection are related to the tariff filings required to implement NAESB's version 1.5 standards. The burden estimates for the FERC-549C data collection are related to implementing the latest version of the business practice standards and related data sets. The costs for both of these data collections are primarily related to start-up and will not be on-going costs.

Data collection	Number of respondents	Number of responses per respondent	Hours per response	Total annual hours
FERC-545 .....	93	1	38	3,534
FERC-549C .....	93	1	4,526	420,918

The total annual hours for collection is 424,452 hours.

	FERC-545	FERC-549C
Annualized capital/startup costs .....	\$198,857	\$23,684,934
Annualized costs (operations & maintenance) .....	0	0
Total annualized costs .....	198,857	23,684,934

The cost per respondent is \$256,815 (rounded off).

31. The Commission sought comments to comply with these requirements. Comments were received from thirteen entities. No comments addressed the reporting burden imposed by these requirements. The substantive issues raised by the commenters are addressed in this preamble.

32. The Commission's regulations adopted in this rule are necessary to further the process begun in Order No. 587 of creating a more efficient and integrated pipeline grid by standardizing the business practices and electronic communication of interstate pipelines. Adoption of these regulations will update the Commission's regulations relating to business practices and communication protocols to conform to the latest version, Version 1.5, approved by NAESB.

33. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with

the information requirements. The information required in this Final Rule will help the Commission carry out its responsibilities under the Natural Gas Act and conforms to the Commission's plan for efficient information collection, communication, and management within the natural gas industry.

34. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Michael Miller, Office of the Chief Information Officer, CI-1, (202) 208-1415, or [mike.miller@ferc.gov](mailto:mike.miller@ferc.gov)] or the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Federal Energy Regulatory Commission, 725 17th Street, NW, Washington, DC 20503. The Desk Officer can also be reached at (202) 395-7318, or fax: (202) 395-7285.

### V. Environmental Analysis

35. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.<sup>31</sup> The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.<sup>32</sup> The regulations adopted in this rule fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.<sup>33</sup> Therefore, an environmental assessment

<sup>31</sup> Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986-1990 ¶ 30,783 (1987).

<sup>32</sup> 18 CFR 380.4.

<sup>33</sup> See 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

is unnecessary and has not been prepared.

## VI. Regulatory Flexibility Act Certification

36. The Regulatory Flexibility Act of 1980 (RFA) <sup>34</sup> generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The regulations adopted here impose requirements only on interstate pipelines, which are not small businesses, and, these requirements are, in fact, designed to benefit all customers, including small businesses. Accordingly, pursuant to § 605(b) of the RFA, the Commission hereby certifies that the regulations adopted herein will not have a significant adverse impact on a substantial number of small entities.

## VII. Document Availability

37. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (<http://www.ferc.gov>) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington, DC 20426.

38. From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be accessed using the CIPS link or the Documents & Filing link. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Documents & Filing link. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

39. User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208-2222 (E-Mail to [WebMaster@ferc.gov](mailto:WebMaster@ferc.gov)) or the Public Reference at (202) 208-1371 (E-Mail to [public.referenceroom@ferc.gov](mailto:public.referenceroom@ferc.gov)).

40. During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

## VIII. Implementation Dates

Pipelines are required to make filings to comply with the regulations adopted in this rule by August 1, 2002, with an effective date of October 1, 2002. Pipelines must file revised tariff sheets to incorporate Version 1.5 of the standards into their tariffs since their tariffs incorporate by reference an older version number. <sup>35</sup> To the extent pipelines have individual tariff provisions based on these standards, pipelines also will have to conform their tariffs to the new standards. <sup>36</sup>

## IX. Effective Date

41. These regulations are effective June 7, 2002. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a "major rule" as defined in Section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

## List of Subjects in 18 CFR Part 284

Continental shelf, Incorporation by reference, Natural gas, Reporting and recordkeeping requirements.

By the Commission.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

In consideration of the foregoing, the Commission amends part 284, chapter I, Title 18, *Code of Federal Regulations*, as follows:

<sup>35</sup> See Texas Eastern Transmission Corporation, 77 FERC ¶ 61,175, at 61,646 (1996) (pipelines incorporating standards by reference in their tariffs must include number and version).

<sup>36</sup> In filing to implement Version 1.5 of the NAESB standards, pipelines need to change all references to the standards in their tariffs to Version 1.5. The version number applies to all standards contained in NAESB's Version 1.5 Standards Manuals, including standards that have not changed from prior versions.

## PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

1. The authority citation for part 284 continues to read as follows:

**Authority:** 15 U.S.C. 717-717w, 3301-3432; 42 U.S.C. 7101-7352; 43 U.S.C. 1331-1356.

### § 284.12 [Amended]

2. Section 284.12 is amended as follows:

a. Paragraph 284.12(a) is removed and paragraphs 284.12(b) and (c) are redesignated 284.12(a) and (b) respectively.

b. In newly redesignated paragraphs (a)(1)(i), (ii), (iii), and (v), revise all references to "Version 1.4, August 31, 1999" to read "Version 1.5, August 18, 2001, including errata dated October 1, 2001, and November 30, 2001."

c. In newly redesignated paragraph (a)(1)(iv), revise all references to "Version 1.4, November 15, 1999" to read "Version 1.5, August 18, 2001, including errata dated October 1, 2001, and November 30, 2001."

**Note:** The following appendix will not appear in the Code of Federal Regulations.

## Appendix

### Comments Filed

*Docket No. RM96-1-020*

Commenter	Abbreviation
American Gas Association ..	AGA.
Atmos Energy Corporation ..	Atmos.
Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company, Crossroads Pipeline Company, and Granite State Gas Transmission, Inc.	Nisource Pipelines.
Dominion Transmission, Inc	Dominion.
El Paso Pipeline Group .....	EPPG.
Enron Interstate Pipelines ...	EIP.
Great Lakes Gas Transmission Limited Partnership.	Great Lakes.
Gulf South Pipeline Company, LP.	Gulf South.
Interstate Natural Gas Association of America.	INGAA.
Natural Gas Pipeline Company of America, Kinder Morgan Interstate Gas Transmission LLC.	KM Pipelines.
Northern Natural Gas Company.	Northern Natural.
Williams Gas Pipeline Company.	Williams.
Williston Basin Interstate Pipeline Company.	Williston.

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<sup>34</sup> 5 U.S.C. 601-612.