

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

Communication of Operational Information) Docket No. RM13-17-000
Between Natural Gas Pipelines and)
Electric Transmission Operators)

**COMMENTS OF THE
AMERICAN GAS ASSOCIATION**

Pursuant to the Notice of Proposed Rulemaking (“NOPR”) issued in this docket on July 18, 2013,¹ by the Federal Energy Regulatory Commission (“Commission”), the American Gas Association (“AGA”) respectfully submits these comments.² AGA supports the Commission’s proposal in this proceeding and urges the Commission to consider that local distribution companies (“LDCs”) are operators of pipeline systems, particularly to the extent natural gas-fired electric generators are located on LDC systems. AGA, therefore, recommends that the Commission clarify that non-public, operational information may be shared with LDCs for the purpose of promoting reliable service or operational planning.

However, communications should not be seen as the only way of addressing natural gas and electric system interdependencies. As AGA has previously stated,³ communications can supplement, but are no substitute for, the timely planning and construction of adequate natural gas infrastructure to meet growing power sector demands. AGA continues to look forward to working with the Commission and industry stakeholders to ensure that increased use of natural

¹ *Communication of Operational Information Between Natural Gas Pipelines and Electric Transmission Operators*, 78 Fed. Reg. 44900 (July 25, 2013), 144 FERC ¶ 61,043 (2013).

² Consumers Energy does not join these comments.

³ See *Coordination Between Natural Gas and Electricity Markets*, Comments of the American Gas Association on Communications and Information Sharing, FERC Docket No. AD12-12-000 (Jan. 7, 2013).

gas for electric generation is accompanied by an appropriate expansion of the natural gas infrastructure needed to meet the needs of all customers on the natural gas system, and that the costs of such expansion are fairly allocated.

I. COMMUNICATIONS

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II. IDENTITY AND INTERESTS

The AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 71 million residential, commercial and industrial natural gas customers in the U.S., of which 92 percent — more than 65 million customers — receive their gas from AGA members. AGA is an advocate for local natural gas utility companies and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international gas companies and industry associates. For more information, please visit www.aga.org.

AGA member companies take service from virtually every interstate natural gas pipeline regulated by the Commission under the Natural Gas Act (“NGA”). As customers of jurisdictional pipelines, AGA members are directly affected by the Commission’s regulations applicable to jurisdictional pipelines, including rules affecting the reliability of the natural gas system and coordination between the natural gas and electricity markets. In addition, some AGA members provide jurisdictional transportation and/or storage services as intrastate or Hinshaw

pipelines under Part 284 of the Commission's regulations. AGA's members, therefore, have a direct and substantial interest in the issues raised in this proceeding.

III. COMMENTS

A. Background

In the NOPR, FERC proposes to revise its regulations to expressly authorize the exchange of non-public, operational information between electric transmission operators and interstate natural gas pipelines, not just during emergencies, but also for day-to-day operations, planned outages, and scheduled maintenance.⁴ FERC also proposes to adopt a no-conduit rule prohibiting recipients of the non-public, operational information from subsequently disclosing or being a conduit for the disclosure of the information to any other entity.⁵ The NOPR states that the Commission is taking a permissive approach to the sharing of information, and that if the voluntary approach proves to be inadequate, the Commission may revisit the need to require certain communications or information sharing between operators in the future.⁶

The NOPR concludes that the sharing of non-public, operational information between electric transmission operators and natural gas pipelines for the purpose of promoting reliable service or operational planning is reasonable and not unduly discriminatory or preferential.⁷ The NOPR adds that putting in place the proposed no-conduit rule would serve as a safeguard to ensure that transmission operators comply with the prohibitions against undue discrimination with respect to their marketing function or affiliated entities.⁸ Notably, the NOPR likens the sharing of operational information between natural gas pipelines and electric transmission

⁴ NOPR at P 10.

⁵ *Id.*

⁶ *Id.* at P 11.

⁷ *Id.* at P 14.

⁸ *Id.*

operators to the sharing of operational information among interconnected parties, which it considers crucial to the effective operation of both systems and is not the type of private sharing of information with select customers at which the anti-discrimination provisions of the statutes were targeted.⁹

The Commission thus proposes to revise sections 38.3(a) and 284.12(b)(4) of its regulations to expressly authorize public utilities providing transmission service and natural gas pipelines to share non-public, operational information when such information is for the purpose of promoting reliable service or operational planning. FERC states that “non-public, operational information” means information that is not publicly posted yet helps transmission operators to operate and maintain either a reliable pipeline system or a reliable electric transmission system on a day-to-day basis as well as during emergency conditions or for operational planning.¹⁰ Such information may include generator-, pipeline-, or transmission-specific information, and may also include information dealing with actual, anticipated, or potential effects on the ability to provide electric or gas service based on the respective system operator’s experience and understanding of system capabilities and customer demands.¹¹

In addition, the Commission proposes to revise sections 38.3(b) and 284.12(b)(4)(ii) to adopt a no-conduit rule that prohibits all public utilities and natural gas pipelines, as well as their employees, contractors, consultants, or agents, from disclosing, or using anyone as a conduit to disclose, non-public, operational information they receive to any third party.¹² The proposed no-

⁹ *Id.* at P 17.

¹⁰ *Id.* at P 23.

¹¹ *Id.*

¹² *Id.* at P 26.

conduit rule would also prohibit the disclosure of non-public, operational information to marketing function employees.¹³

B. FERC Should Allow The Sharing Of Information With LDCs.

AGA supports the Commission's proposal in this proceeding. AGA believes that the overall goal of gas-electric coordination efforts should be to preserve and, where appropriate, enhance reliability for all customers, both natural gas and electric. In furtherance of that goal, system operators, both gas and electric, should be able to communicate freely and coordinate their efforts to ensure that the integrity and reliability of both systems are maintained. AGA agrees that such communication and coordination are important not only during emergencies or critical situations but also when conditions, or emerging conditions, could lead to events on either system that have the potential to threaten the integrity or reliability of one or both of the systems.¹⁴

LDCs play an integral role in the reliability of both natural gas and electricity systems. Many gas-fired generators are located behind the citygate on LDC systems and are served by LDCs either as bundled retail sales customers or as transportation-only customers delivering a generator's own gas supplies to its facility. The LDC system is physically between and could be affected by the actions of both the interstate pipeline and the electric transmission operator. As a result, the Commission's rules should allow LDCs to be part of the reliability discussions taking place between pipelines and electric transmission operators as they relate to generators located on LDC systems. Accordingly, AGA urges the Commission to make clear that public utilities

¹³ *Id.*

¹⁴ AGA assumes that the kinds of communications that would take place among operators would be for the purposes of ensuring the integrity and reliability of electric and natural gas systems, and that the Commission would continue to require interstate pipelines to provide all shippers with equal access to information regarding system conditions, maintenance schedules and outages, and available capacity so as not to create competitive advantages for certain shippers.

and interstate pipelines may share non-public, operational information with LDCs for the purpose of promoting reliable service or operational planning. AGA believes that such communications are not currently prohibited under the NGA or the Commission's Standards of Conduct.

With regard to the NGA's prohibition on undue discrimination,¹⁵ the NOPR finds that the sharing of non-public, operational information between interstate pipelines and public utilities for the purposes of promoting reliable service or operational planning is reasonable and not unduly discriminatory or preferential because the difference in treatment, if any, is justified.¹⁶ The Commission's reasoning, when applied to LDCs, leads to a similar determination. Like interstate pipelines and public utilities, LDCs are not similarly situated to other customers because they require access to non-public information from a variety of sources to aid them in ensuring the reliable operation of their system. Further, LDCs are not customers of RTOs or ISOs.

Moreover, any non-public, operational information exchanged with LDCs may need to be shared with LDC employees involved in bundled retail sales and on system sales if they are involved in operating the LDC's system.¹⁷ LDC employees directly responsible for operating the local gas system need access to such non-public, operational information to assist in ensuring

¹⁵ NGA § 4(b) provides that "no natural-gas company shall, with respect to any transportation or sale of natural gas subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service." 15 U.S.C. § 717c(b). The Federal Power Act similarly prohibits undue discrimination. *See* 16 U.S.C. § 824d(b).

¹⁶ *See* NOPR at PP 12-19.

¹⁷ AGA notes that the Commission's regulations specifically exclude from the definition of "marketing function" bundled retail sales and on system sales by intrastate pipelines, Hinshaw pipelines, LDCs, or LDCs whose systems cross state lines. *See* 18 CFR § 358.3(c)(2).

the integrity of their system. Accordingly, for the purposes of promoting reliable service and operational planning, such communications cannot be considered undue preference.

AGA is concerned that the proposed no-conduit rule may be interpreted too broadly as to prohibit the very kinds of communications that are currently permitted under the Standards of Conduct contrary to the Commission's intent in this proceeding. The NOPR proposes to adopt a no-conduit rule that prohibits all public utilities and natural gas pipelines from disclosing, or using anyone as a conduit to disclose, non-public, operational information they receive to any third party.¹⁸ This rule should not be interpreted to prevent a public utility or interstate pipeline from disclosing non-public, operational information to a third-party LDC, especially where such information would promote reliable service or operational planning with regard to gas-fired generators located on the LDC's system.

Further, AGA notes that the Commission's proposed revisions are unclear with respect to LDCs. Revised sections 38.2 and 284.12 refer to pipelines covered by section 284.12(b)(4) as entities authorized to receive non-public, operational information for the purposes of promoting reliable service or operational planning. It is unclear whether the term "pipelines" in that context is limited to interstate natural gas companies subject to the Commission's jurisdiction under section 1(b) of the NGA or includes any pipeline providing service under the Commission's Part 284 regulations implementing the Natural Gas Policy Act of 1978. If the former, LDCs would not be considered pipelines authorized to receive non-public, operational information. Even if the latter, an LDC would only be considered a pipeline authorized to receive non-public, operational information to the extent the LDC provides interstate transportation or storage service under Part 284, Subpart C or G. LDCs in their traditional role as bundled retail sales or

¹⁸ NOPR at P 26.

gas service providers would not be considered “pipelines” under the Commission’s proposal. AGA, therefore, recommends that the Commission clarify that public utilities and natural gas pipelines may share non-public, operational information with LDCs for the purpose of promoting reliable service or operational planning.

AGA is also concerned that the interpretation that “pipelines” under proposed sections 38.2 and 284.12(b)(4) would include an intrastate or Hinshaw pipeline providing interstate transportation or storage service under Part 284, Subpart C or G, may impose new obligations on LDCs contrary to the Commission’s permissive approach in this proceeding. At present, the Commission’s Standards of Conduct apply to interstate pipelines and impose no regulatory obligations directly on LDCs.¹⁹ If an intrastate or Hinshaw pipeline were to be considered a “pipeline” subject to revised section 284.12(b)(4), questions arise regarding whether and how it must comply with the proposed no-conduit rules. In particular, issues such as who is a third party, whether an affiliated interstate pipeline is a third party, what procedures would need to be put in place to ensure compliance with the no-conduit rule, and whether the pipeline’s Statement of Operating Conditions would need to codify such procedures, are all issues that would need to be addressed. In light of the potential ambiguity, AGA urges the Commission to reiterate its intent not to impose new regulatory obligations in this proceeding and clarify that an intrastate or Hinshaw pipeline providing interstate service under Part 284 of the Commission’s regulations is not a “pipeline” for purposes of proposed section 284.12(b)(4).

¹⁹ See 18 C.F.R. § 358.1(a) (“This part applies to any interstate natural gas pipeline that transports gas for others pursuant to subparts B or G of part 284 of this chapter and conducts transmission transactions with an affiliate that engages in marketing functions.”).

IV. CONCLUSION

Wherefore, for the reasons stated above, the American Gas Association respectfully requests that the Commission consider these comments in this proceeding and adopt the recommendations set forth herein. In particular, AGA urges the Commission to clarify that public utilities and natural gas pipelines may share non-public, operational information with LDCs for the purposes of promoting reliable service or operational planning, and that LDCs are not “pipelines” for purposes of proposed section 284.12(b)(4).

Respectfully submitted,

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