

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

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

**COMMENTS OF EDISON ELECTRIC INSTITUTE**

**I. INTRODUCTION**

Edison Electric Institute (“EEI”), on behalf of its member companies, hereby respectfully submits these comments in response to the Notice of Proposed Rulemaking (“NOPR”) issued by the Federal Energy Regulatory Commission (“Commission” or “FERC”) on July 18, 2013<sup>1</sup> in the above-referenced docket.

EEI appreciates the Commission’s ongoing interest in the ability of the electric and natural gas systems to work together to provide safe, reliable, cost-effective gas and electric service to customers. As discussed below, EEI supports the Commission’s willingness to respond to concerns expressed by some stakeholders and to provide clarification on the sharing of non-public information. EEI is especially supportive of the permissive nature of the NOPR and the implicit recognition that this is an additional avenue for communication that does not preclude any other permissible communication between stakeholders that occurs today.

EEI is the association that represents all U.S. investor-owned electric companies. Our members provide electricity for 220 million Americans, operate in all 50 states and the District of Columbia, and directly employ more than 500,000 workers. EEI’s diverse membership

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<sup>1</sup> Communication of Operational Information Between Natural Gas Pipelines and Electric Transmission Operators, 144 FERC ¶ 61, 043 (2013) (“NOPR”).

includes electric utilities operating in all regions of the country as well as combined gas-electric utilities. As a result, EEI and its members provide a broad-based perspective on the issues raised in the NOPR and offer the following comments and request for clarification.

## II. COMMENTS

In the NOPR, the Commission proposes to revise its rules and regulations to expressly permit “interstate natural gas pipelines and public utilities that own, operate or control facilities used for the transmission of electric energy in interstate commerce to share non-public, operational information with each other for purposes of promoting reliable service or operational planning on either the public utility’s or pipeline’s system.”<sup>2</sup> Specifically, the NOPR proposes to amend part 38.2(a) of its rules and regulations to allow any public utility that owns, operates or controls facilities used for the transmission of electric energy in interstate commerce to share non-public operational information with a pipeline and to amend part 284.12(b)(4) to allow a pipeline to share non-public, operational information with a public utility. Thus for purposes of these comments EEI will refer to these parties as public utility and pipelines as defined in the NOPR.

EEI believes that the proposal addresses concerns expressed by pipeline operators and Regional Transmission Organizations and Independent System Operators about the types of non-public operational information that they can share without violating any regulations or tariffs regarding providing undue preference or discrimination.<sup>3</sup> In recognition of the fact that this may not be an issues for all stakeholders, EEI appreciates that “the Commission is

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<sup>2</sup> NOPR at P 1. In the NOPR these parties are collectively referred to as transmission operators.

<sup>3</sup> See NOPR at P 4.

proposing a permissive approach to the sharing of non-public information”<sup>4</sup> and that the “communications permitted under the proposed rule are not mandatory.”<sup>5</sup> For example, the Commission correctly observed that “some vertically integrated transmission owners may have marketing function employees or affiliates, such as generators or local distribution companies who handle gas transactions.”<sup>6</sup> This permissive approach aligns with the Commission’s recognition that many of these electric-gas coordination issues are regional in nature.

As such, EEI is generally supportive of the proposal in the NOPR which provides clarification that some stakeholders requested without mandating that communication between pipelines and public utilities must take place as described in the NOPR. In order to provide additional clarity and to ensure that the NOPR broadens, and not narrows, the range of permissible communications, EEI seeks the following clarifications in the final rule.

**A. The Final Rule Should Clarify that the Proposal in the NOPR Does Not Preclude Otherwise Permissible Communication**

In order to help ensure that there is a common understanding about the scope of the proposal and that it is not intended to replace or preclude permissible communication that may currently be occurring between market participants, EEI requests that the final rule include regulatory text that expressly states that its scope does not and is not intended to prohibit otherwise permissible communication between market participants. This would include, for example, communication between public utilities and their customers; between pipelines and their customers; between pipelines and local distribution companies (“LDCs”) and between

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<sup>4</sup> NOPR at P 11.

<sup>5</sup> NOPR at P 29.

<sup>6</sup> NOPR at P 14.

LDCs and generators as there are many generation units that are served by LDCs behind the city gate.

This acknowledgment is important because the utilization of these communication practices in many regions of the country contributes to the reliable operation of the electric and natural gas systems during normal operation as well as during times of significant stress such as tornadoes and hurricanes. Thus, an explicit statement as requested above will help ensure that the final rule does not inadvertently impede currently allowed communication between pipelines and public utilities, as well as with third parties such as LDCs, where it is already occurring. A statement to this effect will also clarify the permissive and non-mandatory nature of the proposal as it will make clear that the proposal in the NOPR is another avenue for communication of non-public operational information where and if needed and that it is not intended to supplant current permissible communication or to circumvent existing tariffs or other regulations.

#### **B. EEI Supports Providing Flexibility to Transmission Operators**

EEI generally supports the Commission's proposal to not provide an exhaustive list of non-public operational information that can be shared between public utilities and pipelines so that public utilities and pipelines retain the flexibility to determine what information needs to be shared to promote reliability and operational planning. The Commission's general definition of non-public operational information in conjunction with the illustrative list of types of information that can be shared<sup>7</sup> should provide sufficient guidance to public utilities and pipelines as to the types of information that the Commission contemplates could be conveyed

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<sup>7</sup> NOPR at P 23.

under the proposal. Additional specificity is not needed because, as noted by the Commission, the public utilities and pipelines are in the best position to determine what information is needed and when it is needed. In addition, this flexibility is consistent with the permissive nature of the proposal which allows public utilities and pipelines to determine the frequency of the communication, the nature of communication and whether this avenue for communication is needed.

EEI would also like to respond to a couple of questions that have been raised by the Commission regarding the communication of non-public operational information. First, the Commission seeks comment on whether additional regulations are needed that require a generator to share information with a public utility to inform it of the possibility that the generator's natural gas service may be disrupted.<sup>8</sup> Additional Commission regulations are not needed to require generators to share information with the public utility that the generator's natural gas service may be disrupted. NERC and NAESB are working with stakeholders and public utilities already have the ability to work with their stakeholders, including generators, to require that this information be provided. Some public utilities already have requirements and standards that explicitly or implicitly require the provision of this type information (if requested by the public utility). For example, PJM Interconnection L.L.C. ("PJM") requires capacity resources to report fuel data to enable PJM to assist the market in providing solutions in emergency situations.<sup>9</sup> Thus, Commission action is not needed as public utilities already have

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<sup>8</sup> NOPR at P 25.

<sup>9</sup> PJM Manual 13, Emergency Operations, Section 6.4 Fuel Limitation Reporting. Effective Date June 1, 2013.

the ability to work with their stakeholders and/or to file any tariff changes that may be necessary to require generators to provide this information.

Second, the Commission requests comment on whether the proposal should require public utilities and pipelines to involve affected customers, such as generators, if customer-specific, non-public information is shared.<sup>10</sup> Customers whose non-public information is shared by the public utility or pipeline may have information that is not known to the public utility or pipeline. For example, the pipeline may indicate to the public utility that the generator no longer is receiving fuel or has a reduced fuel nomination with the pipeline. Without contacting the generator, the public utility would not know if the generator has back-up supply or made other fuel arrangements. This additional information would be important for the public utility to have when making decisions affecting the reliability or operation of the system. Thus, having the affected customer involved in a timely manner will help ensure that the information being communicated between the pipeline and public utility provides a complete picture so that decisions affecting system reliability and operation are based on the most accurate information possible. As such, public utilities and pipelines that choose to communicate non-public, customer-specific information under the proposal in the NOPR should consider including affected customers in the communication and should discuss with their stakeholders the best way to effectuate this participation in the various regions.

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<sup>10</sup> NOPR at P 25.

### **C. Commission Should Clarify the No-Conduit Rule as It Relates to Tabletop Exercises**

The Commission indicates that the Standards of Conduct contained in Part 358 of the Commission's rules and regulations applies to communications within the same organization and that under the Standards of Conduct, marketing function employees may participate in tabletop exercises that include a wide range of industry participants who will have equal access to non-public information.<sup>11</sup> The communication of non-public operational information between a public utility and a pipeline that choose to communicate under the proposal in the NOPR is subject to a No-Conduit rule that prohibits disclosing or using anyone as a conduit for the disclosure of non-public, operational information that they receive under the proposal in the NOPR to third parties or to marketing function employees.<sup>12</sup> In order to ensure that all stakeholders have a common understanding of the Commission's intent with regard to tabletop exercises, under the No-Conduit rule in the NOPR, EEI requests that the Commission clarify in the final rule what it means by a tabletop exercise and to clarify that marketing function employees can continue to participate in these exercises without violating the No-Conduit rule. It can be inferred from the proposal that tabletop exercises conducted for training purposes, including for emergency management or storm restoration exercises that are attended by a wide range of industry participants alleviates undue preference concerns and that marketing function employees can participate in these types of exercises. A statement to this effect would help clarify that marketing function employees can continue to participate in these tabletop exercises, and that the No-Conduit rule always governs these situations.

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<sup>11</sup> NOPR at P 20-21.

<sup>12</sup> NOPR at P 26.

### III. CONCLUSION

EEI appreciates the opportunity to submit comments on this important NOPR and appreciates the Commission's willingness to recognize regional issues by not mandating a solution. EEI supports the permissive nature of the proposal and requests that the Commission address the clarifications requested herein.

Respectfully Submitted,



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