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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM95-3-002; Order No. 582]

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

Issued July 19, 1996.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order on clarification.

SUMMARY: The Federal Energy Regulatory Commission is issuing an order clarifying Order No. 582, the final rule amending part 154 of the Commission's regulations under the Natural Gas Act. Pursuant to Order No. 582, two working groups were established to resolve electronic filing issues. The order on clarification makes clear that formulas contained in an electronic filing must be manipulable; it also clarifies that if there are no underlying software "links" used to develop a spreadsheet, links need not be created for a filing.

EFFECTIVE DATE: July 19, 1996.

FOR FURTHER INFORMATION CONTACT: Richard A. White, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208-0491.

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

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

Docket No. RM95-3-002

Order on Clarification

Issued July 19, 1996.

This order responds to requests for clarification of Order No. 582¹ filed by Associated Gas Distributors (AGD) and The Process Gas Consumer Group, the America Iron and Steel Institute, and the Georgia Industrial Group (Industrials).²

I. Background

Order No. 582 updated procedural rules governing the form and composition of interstate natural gas pipeline tariffs and the filing of rates and charges for the transportation of natural gas in interstate commerce under sections 4 and 5 of the Natural Gas Act (NGA) and section 311 of the Natural Gas Policy Act. Among other things, Order No. 582 directed Commission staff to convene informal

¹ Filing and Reporting Requirements for Interstate Natural Gas Companies Rate Schedules and Tariffs, Order No. 582, 60 FR 52960 (October 11, 1995), II FERC Stats. & Regs. ¶ 19,100-19,183 (1995) (regulatory text), III FERC Stats. & Regs. ¶ 31,025 (1995) (preamble).

² The Industrials further request that the Commission give additional directions to the Working Group, as may be required in light of these clarifications.

conferences with natural gas industry members to resolve outstanding electronic filing issues. Two working groups were established—one to complete work on Form Nos. 2, 2A and 11 and one to complete work on rate case filings. The working groups met on December 1 and 12, 1995, February 7, 1996 and February 8, 1996.

Questions have arisen in the working groups concerning the use of "password protection"³ and "links."⁴

II. Password Protection

AGD requests clarification that (1) in requiring pipelines to file native spreadsheet formats with links and formulas, the Commission intended to provide pipeline customers and other interested parties with a useful tool to fully analyze the pipeline's filing, and (2) any efforts by the pipelines to undermine this intent—such as the use of password protection to limit the usefulness of electronic data—are prohibited as inconsistent with the Commission's orders.

The Industrials request clarification that Statements H, I and J be fully accessible to the public, with spreadsheet formulas and links intact. Also, the Industrials request clarification that the issue of password protection (or any other form of security) was intended to be addressed by the Working Group on Filings, not as a means to block such public access to the data and formulas, but to ensure public participation in rate cases while accommodating the legitimate needs of pipelines to ensure the security of confidential data and the integrity of the formulas.

a. Positions of Participants

The issue presented here is whether Order No. 582 requires that the formulas contained in the electronic filing be mere readable symbols, as in a hard

³ Present technology allows formulas used in preparing a rate filing to be embedded into the electronic file such that a user may have the software perform the calculations using alternate factors. Spreadsheet software also commonly provides the option of assigning password protection to a file. Such protection allows subsequent users without the password to have "read only" access to the file; that is, the subsequent user is able to read the file and view formulas, but cannot modify or copy the file.

⁴ A link is a software feature that allows a user to insert or adjust an item once and have the new or adjusted item automatically inserted in other designated locations.

copy, or should be manipulable such that pipeline customers or other interested parties may analyze such files by inserting different factors. That is, does Order No. 582 provide for an electronic tool for analyzing the pipeline's filing that is not provided by the hard copy.

Industrials state that password protection must be discussed in terms of balancing the pipeline's need for security and the public's right to utilize the spreadsheet formulas and data. Industrials argue that only such balancing will ensure meaningful public participation in pipeline rate cases.

Industrials argue that the password protection issue was delegated to the Working Groups to determine how the pipeline's legitimate desire to prevent the release of confidential data and to protect the integrity of formulas could be accommodated in the Commission's rule allowing full accessibility to the data and formulas. Industrials point out that the Commission explained that the electronic filing could always be checked against the paper copy filed by the pipeline for security purposes to ensure that the filing's data and formulas have not been tampered with.⁵

Industrials state that the ready electronic availability of spreadsheet data and formulas will greatly ease the burden on intervenors to analyze a pipeline's rate filing. Because intervenors and protestors face a short period within which to file interventions and protests, Industrials state that such facilitation is necessary to allow the interventions and protests to be meaningful.⁶ Unless the filed spreadsheet data is served in a manipulable version, intervenors will still have to re-input the data and formulas themselves. Industrials state that this task is extremely time-consuming and would lead to continued delays in analysis and development of positions. Industrials state that intervenors would be deprived of the opportunity to bring matters to the attention of the Commission in their interventions, which matters might be capable of summary disposition in the suspension order or other fast track decision making. Further, Industrials state, re-inputting data almost inevitably will lead to the introduction of errors. This is expensive and redundant. Industrials state that, unless a non-password protected version of all

spreadsheet data is served on all parties as part of the original filing, most of the time savings and efficiency gains achieved by the Commission's orders will be undermined.

The Industrials state that, though the pipelines need to file a fixed version of spreadsheet data that conforms to the paper copy to ensure the accuracy of the data and integrity of the formulas, a blanket denial of access to the data and formulas is not the solution. Industrials state that one solution is to require the filing of two sets of electronic spreadsheet data and formulas: One set password-protected for security purposes, and the other, without such password protection, available to the public for use in evaluating the filing. Industrials state that its proposed solution balances the interests of all parties involved.

AGD argues that if a pipeline imposes password protection on its electronic rate filings, such files will be of value only in understanding the logic underlying the pipeline's proposed rate design. AGD states that such files will not allow the pipeline's customers or other interested parties to fully analyze such files or even to copy data.

b. Discussion

The aspect of "protecting" data was discussed in two sections of Order No. 582. In the section titled "Dissemination of Data by the Commission," the Commission stated:

Password protection or other forms of security should be discussed at the conference. However, as long as a paper copy is available, there is a reliable way to check the accuracy of the electronic data. Both the electronic data and the paper version of the filing are part of the official filing and should contain the same information.⁷

In the section titled "Appropriate Format for Numeric Data," the Commission stated:

One of the stated goals of the conference was to ensure that all spreadsheets contain the underlying formulas and links. Delimited formats are not capable of transmitting formulas and equations. The Commission agrees with the parties arguing for a spreadsheet format where the formulas in the workpaper or statement are important to the understanding of the pipeline's filing. To be useful, the data, required in subpart D, by Statements I and J and the state tax formulations in Statement H, must be received with the formulas included. These formulas are necessary to understand the pipeline's position with respect to cost allocation and rate design. In section 4 rate cases, the Commission has routinely obtained the formulas through data requests asking that the information be in spreadsheet form.

The requirement that the initial filing be in spreadsheet format avoids the burden of having the same data submitted once as a tab delimited file and again, in response to a data request, in spreadsheet form, in order to capture the formulas. Accordingly, Statements I and J and a portion of H, containing state tax formulations submitted pursuant to subpart D, must be filed in the same format generated by the spreadsheet software used to create the statement or workpaper. These spreadsheets must include all the formulas and all links to other spreadsheets filed in the same rate case.⁸

The first passage above clearly directs staff to develop ways to assure the accuracy of data filed electronically: to protect against the accidental or intentional alteration of a filing. However, when the Commission grants confidential treatment of data, the data must not be made public and must not be in the public electronic data bases. Methods for maintaining the confidentiality of information filed electronically for which confidential treatment has been sought and granted must be addressed at future meetings.

The Industrials' discussion of the need for non-password protected files to achieve time-saving and efficiency is consistent with the purposes of Order No. 582. The formulas are critical for Staff and intervenors to understand the pipeline's position on cost allocation and rate design.⁹ The Commission intended that spreadsheet data, and underlying formulas and links to other spreadsheets, be accessible to the public. In Order No. 582, the Commission agreed with parties that having PC-compatible spreadsheet files with formulas and linkages intact available to customers and intervenors will speed the processing of rate cases and allow many issues to be resolved in the suspension order.¹⁰ Requiring parties, including staff, to input all the figures from the rate case and spend weeks and rounds of discovery to recreate the pipeline's computations is grossly inefficient and unduly burdensome. Receiving the rate case in a manipulable format is critical given the 12-day period for comment and protest.

The Commission clarifies its intent to utilize the electronic format to facilitate more efficient and speedy analyses of rate filings by requiring that all formulas be manipulable as described herein.

III. Links

As noted above, Order No. 582 requires pipelines to submit their filings in native spreadsheet format with links

⁵ III FERC Stats. & Regs. at 31,437.

⁶ In light of the short time period in which the Commission and interested parties have to review the filing, several items have been added to speed processing of the filing and minimize additional requests for information. III FERC Stats. & Regs. at 31,388.

⁷ III FERC Stats. & Regs. at 31,437.

⁸ III FERC Stats. & Regs. at 31,435.

⁹ III FERC Stats. & Regs. at 31,435.

¹⁰ III FERC Stats. & Regs. at 31,434-5.

and formulas. The issue has been raised as to whether a pipeline that prepares two separate files for a Statement, without links between such files (perhaps because the two files were prepared by different individuals) must, nonetheless, create such links for the filing.

AGD states that by separating a filing (e.g., Statements J and K) into multiple files, pipelines would minimize the usefulness of such information and deprive interested parties of the ability to engage in meaningful analysis. AGD requests clarification that pipelines cannot avoid the requirements of Order No. 582—in particular, the requirement that pipelines must submit rate filings in native spreadsheet format with links and formulas—by submitting the relevant information in separate files without links.

The Commission does not agree with AGD that the absence of such links will deprive interested parties of the ability to engage in meaningful analysis. Upon examination, a reviewer will be able to locate links between two or more spreadsheets whether or not the link is electronic. If there is no direct link between two spreadsheets showing progressive calculations, an explanation of the relationship between the two spreadsheets is required.¹¹ The reviewer's analysis will not be significantly compromised because two spreadsheets showing progressive calculations are not linked electronically.

A pipeline must support its rate adjustments with step-by-step mathematical calculations accompanied by narrative explanations sufficient to permit the Commission and interested parties to duplicate the company's calculations.¹² This may be done, in part, by placing links in the spreadsheets or it may be done other ways. AGD has provided insufficient reasons for limiting the pipelines' options when complying with the regulations.

If a pipeline creates a link in the preparation of its rate filing, that link may not be severed prior to submitting the rate filing to the Commission. The Commission strongly encourages the use of electronic links. However, the Commission clarifies that if there are no underlying links used to develop the spreadsheet, as in the example above, links need not be created for the filing.

The Commission orders:

¹¹ Section 154.201(b)(5) requires that "[w]here workpapers show progressive calculations, any discontinuity between one working paper and another must be explained."

¹² 18 CFR 154.201(b)(2).

The requests for clarification of Order No. 582, the final rule issued in this docket on September 28, 1995, are granted and denied as discussed in the text of this order.

By the Commission.
Lois D. Cashell,
Secretary.
[FR Doc. 96-18899 Filed 7-24-96; 8:45 am]
BILLING CODE 6717-01-P

Federal Energy Regulatory Commission

18 CFR Part 346

[Docket No. RM96-10-000; Order No. 588]

Oil Pipeline Cost-of-Service Filing Requirements

Issued July 19, 1996.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending Part 346 of its regulations to make the cost-of-service filing requirements of that Part applicable to the Trans-Alaska Pipeline System (TAPS) carriers and carriers delivering oil directly or indirectly to TAPS. These carriers were inadvertently excluded from the streamlined procedural rules in Part 346 required by the Energy Policy Act of 1992.

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: Jacob Silverman, Office of the General Counsel Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 208-2078.

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1/2 Telnet to : Fedworld. gov
1/2 Select the option: [1] FedWorld

The Federal Energy Regulatory Commission (Commission) is revising Part 346 of its regulations to make the cost-of-service filing requirements of that Part applicable to the Trans-Alaska Pipeline System (TAPS) and carriers delivering oil directly or indirectly to TAPS. The revision is necessary to correct the inadvertent exclusion of these carriers from the procedural requirements of Part 346.

I. Background

The Commission issued Order No. 561¹ to comply with the Energy Policy Act of 1992 (Act of 1992),² which required the Commission to establish a simplified and generally applicable methodology for oil pipelines and to streamline its procedures relating to oil pipeline rates. The Act of 1992 excluded TAPS from its provisions for ratemaking purposes. Thus, Order No. 561 stated that TAPS and the other excluded pipelines would continue to be governed by their existing rate methodologies, but also would be subject to the Commission's new procedural rules. Thereafter, as a companion to Order No. 561, the Commission issued Order No. 571, establishing in Part 346 of its regulations cost-of-service filing requirements for oil pipelines.³ These procedural requirements include all the information that is necessary to support a rate filing under the Opinion No. 154-

¹ Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992, Order No. 561, FERC Statutes & Regulations ¶ 30,985 (1993); Order on Rehearing, Order No. 561-A, FERC Statutes & Regulations ¶ 31,000 (1994).

² 42 U.S.C. 7172 note (West Supp. 1993).

³ Cost-of-Service Reporting and Filing Requirements for Oil Pipelines, FERC Statutes & Regulations ¶ 31,006 (1994).