

146 FERC ¶ 61,203
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

Posting of Offers to Purchase Capacity

Docket No. RP14-442-000

ORDER TO SHOW CAUSE

(Issued March 20, 2014)

1. In this order and in two contemporaneous proceedings,¹ the Commission is proposing to address certain natural gas and electric industry coordination challenges that arise, in part, from increased reliance on natural gas for electricity generation. The Commission's reforms proposed in these three proceedings build upon the comments made during Commission staff technical conferences and in comments filed in Docket No. AD12-12-000.

2. In Order No. 636-A, the Commission amended its regulations to require interstate natural gas pipelines to post offers to release or to purchase released capacity.² Current section 284.8(d) of the Commission's regulations³ states that pipelines "must provide notice of offers to release or purchase capacity [and] the terms and conditions of such offers..., on an internet website, for a reasonable period." In this order, the Commission

¹ *Coordination of the Scheduling Process of Interstate Natural Gas Pipelines and Public Utilities*, 146 FERC ¶ 61,201 (2014) (NOPR); *California Independent System Operator Corp., et al.*, Order Initiating Investigation into ISO/RTO Scheduling Practices and Establishing Paper Hearing Procedures, 146 FERC ¶ 61,202 (2014) (Section 206 Order).

² *Pipeline Service Obligations and Revisions to Regulations Governing Self Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 636-A, 57 Fed. Reg. 36,128 (Aug. 12, 1992), FERC Stats. & Regs., Regulations Preambles January 1991 - June 1996 ¶ 30,950, at 30,565 (1992).

³ 18 C.F.R. § 284.8(d) (2013).

initiates a show cause proceeding pursuant to section 5 of the Natural Gas Act (NGA),⁴ and hereby requires all interstate pipelines to submit filings to the Commission, within 60 days of this order, either revising their respective tariffs to provide for the posting of offers to purchase released capacity or otherwise demonstrating that they are in full compliance with 18 C.F.R. §284.8(d).

I. Background

3. As part of Order No. 636's⁵ restructuring of the interstate natural gas pipeline industry, the Commission adopted its capacity release program in order to create a secondary market for pipeline capacity. The primary purpose of the capacity release program is to increase the availability of unbundled firm transportation capacity by permitting firm shippers to release their capacity to others when they are not using it. The Commission required that capacity offered for release at less than the maximum rate must generally be posted for bidding,⁶ and the pipeline must allocate the released capacity to the person offering the highest rate (not over the maximum rate). The Commission also permitted the releasing shipper to choose a pre-arranged replacement shipper who can retain the capacity by matching the highest bid rate. In Order No. 636-A, the Commission amended the capacity release regulations adopted in Order No. 636 in order to require pipelines to post notices of offers to purchase released capacity, finding that this would "facilitate communication between buyers and sellers of capacity."⁷ Such posting provides releasing shippers greater information as to who is interested in obtaining released capacity and what rates they are willing to pay, as well as

⁴ 15 U.S.C. § 717d (2012).

⁵ *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 636, 57 Fed. Reg. 13,267 (Apr. 16, 1992), FERC Stats. & Regs., Regulations Preambles January 1991 - June 1996 ¶ 30,939 (1992), *order on reh'g*, Order No. 636-A., 57 Fed. Reg. 36,128 (Aug. 12, 1992), FERC Stats. & Regs., Regulations Preambles January 1991 - June 1996 ¶ 30,950 (1992), *order on reh'g*, Order No. 636-B, 57 Fed. Reg. 57,911 (Dec. 8, 1992), 61 FERC ¶ 61,272 (1992), *notice of denial of reh'g*, 62 FERC ¶ 61,007 (1993); *aff'd in part, vacated and remanded in part, United Dist. Companies v. FERC*, 88 F.3d 1105 (D.C. Cir. 1996), *order on remand*, Order No. 636-C, 78 FERC ¶ 61,186 (1997).

⁶ Currently, the bidding requirement does not apply to releases of 31 days or less, releases at the maximum rate for more than one year, releases to certain asset managers, and releases to marketers participating in a retail unbundling program. 18 C.F.R. § 284.8(h) (2013).

⁷ Order No. 636-A, FERC Stats. & Regs. ¶ 30,950 at 30,565.

providing parties interested in purchasing released capacity a greater ability to communicate that interest to potential releasing shippers. Such increased communication between buyers and sellers of released capacity helps maximize the benefits of the capacity release program and helps promote the efficient use of firm pipeline capacity throughout the year by those who value it the most. Accordingly, the Commission's current regulations at section 284.8(d) require pipelines to provide notice not only of offers to release capacity but also of offers to purchase released capacity, and to post the terms and conditions of such offers on their internet websites for a reasonable period.⁸

4. During the Commission's technical conferences dealing with various aspects of gas-electric interdependence and coordination,⁹ parties commented that it would be beneficial for them to be able to post offers to purchase capacity when they need that capacity, for example to transport natural gas to a gas-fired electric generator. Such offers would inform potential releasing shippers of entities interested in taking a prearranged release of capacity and the rates and terms such entities would be willing to offer the releasing shipper.

5. These comments at the April 2013 technical conference prompted the Commission to evaluate pipelines' compliance with section 284.8(d). Accordingly, the Commission reviewed a sampling of pipelines' Informational Posting websites and tariffs to determine whether they comply with the requirement for pipelines to post offers to purchase capacity.¹⁰ None of the pipeline websites reviewed provided locations where such offers may be posted. Similarly, none of the tariffs reviewed contain provisions providing for the posting of offers to purchase released capacity or describing the information to be included in such offers.

6. Accordingly, pursuant to NGA section 5 and section 284.8(d) of our regulations, the Commission requires all interstate pipelines to submit filings, to the Commission, within 60 days of the date of this order, either revising their respective tariffs to provide for the posting of offers to purchase released capacity, or otherwise demonstrating that they are in full compliance with our regulations. The Commission also requests herein that NAESB develop business practice and communication standards specifying: (1) the

⁸ Section 284.8(d) states in relevant part: "the pipeline must provide notice of offers to release **or to purchase capacity** ... on an Internet web site, for a reasonable period."

⁹ *Coordination between Natural Gas and Electricity Markets*, Docket No. AD12-12-000 (Mar. 5, 2013) (Notice of Technical Conference).

¹⁰ The standards governing posting on the Informational Posting portions of the website are governed by the standards developed by the North American Energy Standards Board (NAESB), 18 C.F.R. §284.12 (a)(1)(v) (2013), Standard 4.3.23.

information required for requests to acquire capacity; (2) the methods by which such information is to be exchanged; and (3) the location of the information on a pipeline's website. Each pipeline shall explain in its compliance filing how it will fully comply with 18 CFR § 284.8(d) until NAESB develops, and the Commission implements, the requested standards, including how the pipeline will provide shippers the ability to post offers to purchase capacity on the Informational Posting section of its website.

7. Each pipeline must make its compliance filing as an eTariff filing using type of filing code (TOFC) 580, and the Commission will assign each pipeline's compliance filing a separate RP docket and provide interested parties an opportunity to intervene in those dockets.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Natural Gas Act, particularly section 5 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Natural Gas Act, all interstate natural gas pipelines that transport natural gas pursuant to subparts B or G of Part 284 of the Commission's regulations are directed to submit filings as discussed in the body of this order within 60 days of this order.

(B) Any interested person wishing to become a party to this proceeding (Docket No. RP14-442-000) must file a notice of intervention or motion to intervene, as appropriate, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214) within 12 days of the date of this order. The Commission encourages electronic submission of interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 3 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.