

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

Revisions to Forms, Statements, and Reporting)	Docket No. RM07-9-003
Requirements for Natural Gas Pipelines)	

REQUEST FOR REHEARING AND CLARIFICATION

Pursuant to Rule 713 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713, and section 19(a) of the Natural Gas Act (NGA), 15 U.S.C. § 717r(a), the Interstate Natural Gas Association of America (INGAA) requests rehearing and clarification of Order No. 710-B, *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, issued January 20, 2011, 134 FERC ¶ 61,033 (2011) (Order 710-B).

RULE 713 STATEMENT OF ISSUE AND SPECIFICATION OF ERROR

INGAA argued in its comments that the Commission's proposal to require pipelines to separately report fuel use on pages 521a and 521b for transactions that utilize discounted or negotiated rates would require pipelines to track fuel use by individual contract. Because pipelines operate on an integrated basis, requiring them to separate out the amount of fuel that has been consumed as part of discounted or negotiated rate agreements regardless of whether the pipeline is waiving or discounting the fuel component of its rates under such agreements, would be unnecessarily burdensome and would produce data that is neither useful nor reliable. INGAA recommended that the Commission modify its proposal by requiring pipelines to report aggregate fuel use data by function, along with the volume of fuel that was "not collected" because the otherwise applicable fuel rate was waived or because a negotiated fuel rate was less than the recourse rate.

Concluding that the additional reporting was necessary for transparency and not unnecessarily burdensome, the Commission rejected INGAA's alternate proposal. The Commission based its decision, in part, on the premise that:

[T]he Commission is not imposing any additional reporting requirements that change how those pipeline track fuel. ... [T]he Commission is not requiring pipelines to track fuel by individual contracts, but merely continuing the current practice of requiring the assignment of fuel based on an allocation of throughput or stated fuel rate.

(P 74)

The Commission erred by concluding that the additional reporting of functionalized fuel use data by contract rate category – negotiated, discounted, or recourse rate – will not require pipelines to track fuel by individual contract. The Commission further erred by concluding that reporting at this level of detail would not impose any additional reporting requirements but “merely continu[e] the current practice of requiring the assignment of fuel based on an allocation of throughput or stated fuel rate.” By misunderstanding what pipelines would need to do to comply with this reporting requirement, and by assuming that pipelines could merely use existing procedures to allocate fuel use to specific contract types, the Commission not only erred but substantially underestimated the burden imposed by this new requirement.

The Commission further erred by not adopting INGAA's alternative proposal, which would have better met the Commission's goal of ensuring that the Commission and pipeline customers have the information necessary to assess the justness and reasonableness of pipeline rates and to safeguard against cross-subsidies. INGAA's alternative proposal would produce more useful data concerning transportation services that were charged less than the recourse fuel retention rates, and it would have done so at significantly less burden to pipelines.

Similarly, the Commission erred by requiring that pipelines allocate other gas used in operations and Lost and Unaccounted For (LAUF) gas among and between negotiated, discounted, and recourse transportation customers. This requirement ignores the fundamental nature of LAUF as gas that is lost and cannot be accounted for, forcing an allocation that may not produce meaningful results.

INGAA further requests rehearing on the Commission's decision not to delete a separate reporting category for discounted rates. As fuel use is a variable cost, which pipelines are prohibited from discounting, no regulatory purpose is served by reporting this category.

Should the Commission not adopt INGAA's alternative proposal on rehearing, the Commission further erred by not adopting MidAmerican's two-part clarification that: (1) columns (b) and (c) of pages 521a and 521b and columns (f) and (g) of pages 521c and 521d include only contracts with discounted or negotiated fuel rates and (2) that the column headings be revised to read "Discounted Fuel Rate" and "Negotiated Fuel Rate." (P 53) INGAA asserts that the Commission erred by rejecting this less burdensome reporting requirement, which would have addressed the Commission's purpose of enabling parties "to better understand how fuel use costs are assigned" and to guard against cross-subsidization, while greatly reducing the reporting burden on pipelines and ensuring that the data reported was accurate. The Commission also erred by assuming that MidAmerican's proposal would have excluded many contracts that otherwise would be included in the reporting requirements.

Should the Commission continue to require pipelines to allocate separately fuel used and LAUF to all discounted and negotiated rate contracts, regardless of whether the pipeline waived fuel or negotiated a fuel rate other than the applicable recourse fuel rate, the Commission erred by rejecting INGAA's request that pipelines begin collecting this information in calendar year

2012. In setting this compliance schedule, the Commission erred by minimizing the extent of analysis and accounting/business system modifications that will be needed to identify these fuel volumes.

Concerning what must be reported with regard to backhaul throughput, INGAA asks the Commission to clarify that “backhaul service offered under the tariff” means a service provided under a backhaul rate schedule.

ARGUMENT

I. IN DECIDING THAT IT WILL NOT BE UNNECESSARILY BURDENSOME FOR PIPELINES TO FURTHER DISAGGREGATE FUNCTIONALIZED FUEL VOLUMES BY CONTRACT RATE CATEGORY — DISCOUNTED, NEGOTIATED AND RECOURSE RATES — THE COMMISSION ERRONEOUSLY ASSUMED THAT PIPELINES ALREADY ARE TRACKING AND COLLECTING THIS INFORMATION.

The Commission amended pages 521a and 521b of Form 2 to require pipelines to report the amount of fuel retained and used by function into three subcategories: discounted rate contracts, negotiated rate contracts and recourse rate contracts (hereafter “contract rate categories”). INGAA supported the Commission’s proposal to functionalize fuel data but urged the Commission to pare back its proposal so as not to require reporting by contract type. INGAA argued that pipeline compressors, and the fuel they burn, are not dedicated to specific contract types, but are operated on an integrated basis, providing service to multiple customers regardless of contract rate category. INGAA recommended an alternative under which pipelines would report aggregate fuel use data by function along with the volume of fuel “not collected” because the otherwise applicable fuel rate was waived or because a negotiated fuel rate was less than the recourse rate. Specifically, INGAA proposed the following revisions to page 521a and 521b:

- (1) Lines 1-7: Total volume and the dollar value of shipper-supplied fuel gas, by function, with volumes “not collected” because the otherwise applicable fuel rate was waived (column (d)) or because a negotiated fuel rate was less than the recourse rate (column (e)), along with the pertinent account(s) under the Uniform System of Accounts.
- (2) Lines 8-14: Total volume and dollar value of gas used in compressor stations, by function.
- (3) Lines 15-22: Same data for miscellaneous “other deliveries” and “other operations.”
- (4) Lines 23-30: Same data for LAUF.
- (5) Lines 31-37: A calculation of the excess or deficiency by function.
- (6) Lines 38-51 and 52-65: Disposition of the excess or source of gas acquired to meet a deficiency.

In INGAA’s view, such enhanced reporting would provide more useful and reliable information to Form 2 users, particularly those concerned with policing against cross-subsidization.

The Commission did not address INGAA’s proposal in its entirety. Nonetheless, the Commission rejected INGAA’s alternative proposal finding that separating out fuel use by category was necessary for transparency and would not be unnecessarily burdensome. The Commission reasoned that:

Currently, pipelines that file annual fuel use trackers assign fuel to their individual shippers. In this Final Rule, the Commission is not imposing any additional reporting requirements that change how those pipelines track fuel. Pipeline billings are provided on an integrated basis, accounting for sales based on whether the volumes are negotiated, recourse, or discounted. Moreover, contrary to INGAA’s assertions, the Commission is not requiring pipelines to track fuel by individual contracts, but merely continuing the current practice of requiring the assignment of fuel based on an allocation of throughput or stated fuel rate.

(P 74) The Commission erred by concluding that pipelines with fuel trackers already apportion fuel volumes consumed, LAUF and fuel used in operations (collectively “fuel”) to individual customers and that they must already track fuel use data by contract rate category to render their

bills. Based on these errors, the Commission incorrectly concluded that its proposed revisions to Form 2 would not be unnecessarily burdensome.

Pipelines, in fact, do not assign fuel volumes to individual shippers based on each shipper's usage of the pipeline system or how much gas each shipper, or category of shippers, consumes. Rather, pipelines in fuel tracker proceedings determine the total amount of fuel volumes consumed and apply an allocation methodology (typically established in a general section 4 rate case) to apportion the total volumes consumed to zones, services or both, to establish the applicable fuel retention percentages. Neither the determination of fuel retention percentages nor any other existing process requires a system-wide allocation of fuel use by contract rate category. In assuming that Form 2 as revised merely would require a continuation of pipelines' current business practices, the Commission was simply in error.

Order No. 710-B suggests that fuel consumed, LAUF and fuel used in operations, all drawn from a commingled and fungible gas stream, can be traced back to individual shipper contracts. Except for some limited and unique circumstances,¹ such tracing is impractical, if not impossible. The Commission's statement that it is not requiring pipelines to track fuel by individual contracts but "merely continuing the current practice of requiring the assignment of fuel based on an allocation of throughput or stated fuel rate," and therefore is not overly difficult to do, fundamentally mischaracterizes how pipelines account for fuel. In doing so, the Commission arrived at the wrong conclusion regarding the balance between the benefit of the

¹ Pipelines do track or allocate fuel consumed separately for incremental rate services in which the Commission in its orders has required the pipeline to keep the incremental rate customers' fuel costs and revenues separate. Other than for such very limited incremental rate purposes, however, pipelines are not required to allocate or track fuel used by individual contract even in general section 4 rate proceedings. In its orders approving pipelines' negotiated rate contracts, the Commission requires pipelines to separately account for the negotiated rate transaction's volumes, revenues, billing determinants, rate components and surcharges. But, the Commission does not require that fuel used, or any other cost for that matter, associated with negotiated rate transactions be separately accounted for.

information requested versus the burden of providing it, and, as a consequence, the Commission incorrectly rejected an alternative that better met this balance. Accordingly, INGAA seeks rehearing.

INGAA strenuously disputes the Commission's assertion that the estimated burden hours are small and reasonable. (PP 75 and 84) The Commission's estimate of six additional hours of collection derives from its premise that the form revisions merely require pipelines to perform allocations or report information already performed or reported for other purposes.

This is not the case at all. The additional burden is difficult for pipelines to predict because the rule, premised on the assumption that it only requires pipelines to report information it can easily gather, does not clarify the level of additional data gathering and analysis expected of pipelines. Still, even if the rule requires nothing more than broadly allocating fuel across contract rate categories according to throughput, as the above-quoted language from paragraph 74 can be read to suggest, this will entail business system modifications that would far exceed the estimated six hours per respondent per year.

More detailed approaches would entail increasingly higher costs. Even putting aside real world complexities like capacity release and bi-directional flows, it would require a monumental effort to develop and administer a process by which the fuel used in each compressor, as it is burned, is assigned in some manner among individual shipper contracts.² But regardless of the level of sophistication it expects in allocation methods, the Commission must reevaluate the burden associated with the revised form.

² At this level of detail, there would be no way to allocate fuel among contract rate categories without looking at each contract individually and then aggregating the results by category.

II. BREAKING OUT FUNCTIONALIZED FUEL COSTS BY CONTRACT RATE CATEGORY WILL NOT LEAD TO USEFUL INFORMATION.

INGAA supports transparency in reporting, but only if the transparency leads to more useful and effective information. The reporting of disposition of excess gas or the reporting of gas acquired to meet deficiencies on pages 521b and 521c (lines 38-65) by contract rate category would provide little benefit. A pipeline does not track disposition or acquisition of gas by categories of transportation contracts. Assignment to contract rate categories could be accomplished by utilizing an arbitrary allocation methodology. However, the allocation of a pipeline's system gas dispositions or acquisitions would not yield any meaningful information. Only the reporting of total dispositions or total acquisitions of system gas would produce a cogent result. Accordingly, INGAA requests rehearing and asks the Commission to allow pipelines to report total disposition or total acquisitions of system gas on pages 521b and 521c.

INGAA submits that the Commission has not clearly explained how the allocation of fuel among contracts based on contract rate category will be useful. With respect to discount rates, no justification was provided for the required allocation between recourse rate (which presumably refers to the maximum applicable recourse rate) and discount rate contracts. Nor did any of the comments relied on by the Commission.³

³ In their comments, the "Associations" supported the reporting of fuel and revenues by "rate type", but their explanations pertain only to fuel discounts, not monetary discounts (Associations, pages 5-6). In its Reply Comments, AGA claimed that "[t]he proposal in the NOPR to require the reporting of fuel costs and revenues by rate structure broken down by function would indeed increase the ability of the Commission and interested parties to assess whether a pipeline's existing shippers are subsidizing the pipeline's negotiated rate program." (AGA Reply Comments, page 2). This comment does not explain how the proposal would accomplish this purpose in the case of negotiated rates, and does not mention discount rates at all. In its comments, APGA supported "the Commission's proposal to require pipelines to report the amount of fuel by function that has been waived, discounted or reduced in negotiated rate agreements," (APGA, page 3), a point that INGAA does not dispute, but APGA did not explain how the separate reporting of fuel and loss by contract rate category will help identify cross-subsidization.

To the contrary, separating out fuel between recourse and discount rate contracts will not provide useful information. If pipelines perform a simple allocation based on throughput, as paragraph 74 of the Order can be read to suggest, the rate category columns will repeat simply the same overall relationships between fuel use and LAUF retainage and usage that already will appear on the form. But even if pipelines analyze the fuel and LAUF associated with each contract, at great cost, the allocations shown on the form will not be useful. The discount category will include contracts under different services, and will include primary contracts and capacity releases. Furthermore, even if the recourse and discount columns would show a somewhat different relationships between fuel and LAUF retainage and usage, this would most likely result from how the pipeline's individual shippers used their contracts on particular days, as well as imperfections in the allocation methods used by the pipeline. A shipper's use of its contract (whether it uses its full contractual demand, whether it releases all or part of its capacity to a replacement shipper that uses the contract differently, whether the original shipper segments its capacity or utilizes secondary receipt and delivery points, or whether the shipper transports gas in one zone or the entire length of the pipeline system) will all impact fuel usage and invariably change many times during each month. The results would not reveal anything about how costs should be allocated among pipeline services or zones, the appropriate fuel and LAUF factors, or appropriate discount adjustments.

Order No. 710-B found that reporting functionalized fuel by contract rate categories "will increase the ability of the Commission and interested parties to assess whether a pipeline's existing shippers are subsidizing the pipeline's negotiated rate program." (P 37) This justification could apply only to the required separation of recourse and negotiated rate contracts (not discount contracts). But, as INGAA argued in its earlier comments, a pipeline cannot

discount fuel under recourse service; therefore, separately requiring a discount fuel category is not necessary and would not lead to helpful data since the pipeline will consistently report zero volumes under the category. The Commission does not appear to address INGAA's argument that discounting fuel under recourse service is contrary to Commission policy, yet it continues to require a separate category for "Discounted Rate" on page 521a. At a minimum, the Commission erred in not deleting the "discounted fuel" category.

Moreover, as INGAA noted, so long as negotiated rate contracts do not provide for a fuel rate lower or higher than the recourse fuel percentage, the relative amount of fuel consumed by these customers vis-à-vis recourse rate customers is irrelevant. A shipper under recourse service, moving gas from point A to point C and paying the tariff fuel retention percentage, will use the same amount of gas as, for example, a negotiated rate shipper, moving gas from point A to point C and paying under a Modified Fixed Variable rate design. The pipeline does not differentiate out the fuel used, and the pipeline does not have computer accounting systems in place, to differentiate out its fuel used and fuel consumed by specific shippers. There is no risk of cross-subsidization if a negotiated rate customer is paying the same fuel rate as recourse customers.

Should the Commission not grant rehearing and adopt INGAA's alternative proposal, INGAA requests that the Commission reconsider the MidAmerican proposal, in which it suggested that the Commission require the pipeline to report aggregate fuel use data in columns (b) or (c) only if the applicable recourse fuel rate was waived or because a negotiated fuel rate was less than or greater than the recourse fuel rate. INGAA believes that the Commission may have misunderstood MidAmerican's position; if a negotiated rate contract had a fuel rate equal to

the recourse fuel rate, the pipeline would report the contract under the recourse service column, which reflects that the two services are being treated the same.

III. IF THE COMMISSION DOES NOT RECONSIDER REQUIRING PIPELINES TO ALLOCATE FUEL CONSUMED AND LAUF CONSUMED BY CATEGORY — DISCOUNTED, NEGOTIATED AND RECOURSE RATES — THE COMMISSION SHOULD RECONSIDER THE IMPLEMENTATION DATE OF THIS RULE.

If the Commission does not adopt INGAA's proposal, which we assert will meet the Commission's goal of allowing parties to determine whether pipeline rates are just and reasonable and guard against cross subsidies, INGAA requests that the Commission delay implementation of this rule until year 2012, i.e., pipelines would report revised fuel data for calendar year 2012 in April 2013 and begin quarterly 3-Qs in 2012.

As INGAA pointed out in its initial comments (page 12), pipelines do not have the accounting systems to make the required allocations of functionalized fuel by contract rate type; they will have to develop systems for making them. Regardless of the level of detail expected by the Commission, this will take more time than its implementation schedule permits.

As INGAA noted above, the Commission can meet its transparency goal only if pipelines separately report fuel consumed for negotiated rate and discounted rate contracts in which the fuel rate is different than the recourse fuel percentage rate. If not, the fuel consumed volumes would be added to the column "recourse rate." If the Commission expeditiously accepted this modification on rehearing, the number of contracts that would have to be analyzed would be significantly reduced, as would the pipelines' burden. Even though pipelines would still need to make allocations to these contracts, in light of the reduced burden, they likely would be able to meet the Order No. 710-B's implementation date.

IV. INGAA REQUESTS CLARIFICATION THAT BACKHAULS UNDER THE TARIFF MEANS A TARIFFED BACKHAUL RATE SCHEDULE.

The Commission held that it would be informative and useful for pipelines to separately report their forwardhaul and backhaul volumes separately. (P 51) In response to INGAA's argument that some pipelines do not offer backhaul service, the Commission clarified that

for these pipelines it is reasonable to expect that backhaul volumes may not be able to be tracked. Therefore, the Commission will require reporting on this matter depending on the service identified in the tariff. If backhaul service *is not offered under the tariff*, the reporting pipeline may report as if the service it offers is entirely forwardhaul. *The reporting pipeline must separately identify backhaul volumes only if it offers backhaul service in its tariff* and provides this service to customers. (P 52)(emphasis added)

INGAA requests clarification that "offered under the tariff" means a tariffed rate schedule. Therefore, a pipeline would only separate out backhaul volumes if it offers a backhaul service under a rate schedule and it provides this service to its customers.

V. INGAA BELIEVES THE COMMISSION MISTAKENLY DELETED SEPARATE PAGE 521d.

In footnote 7 to Order No. 710-B, the Commission states that "[a]s proposed pages 521c and 521d are identical, we no longer see a need for a separate page 521d." INGAA believes the Commission may have made an inadvertent error. As page 521c (lines 1-30) are a continuation of page 521a, page 521d (lines 31-65) are a continuation of page 521b. Therefore, the Commission should continue to have a separate page 521d.

CONCLUSION

WHEREFORE, for the above-mentioned reasons, INGAA respectfully requests that the Commission grant rehearing and clarification as specified in this pleading. To the extent that the Commission does not grant INGAA's request for rehearing, the Commission has acted arbitrarily and capriciously.

Respectfully submitted,

Joan Dreskin
General Counsel
Dan Regan
Attorney
Interstate Natural Gas Ass'n of America
20 F Street, N.W., Suite 450
Washington, D.C. 20001
(202) 216-5928
Jdreskin@ingaa.org

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