UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Assessment of Information Requirements for FERC Financial Forms	))	**Docket No. RM07-9-000**

INITIAL COMMENTS OF THE INDUSTRY COALITION

Pursuant to the Federal Energy Regulatory Commission's ("Commission" or "FERC") "Notice of Inquiry"[1] issued in the captioned dockets on February 15, 2007, the American Public Gas Association ("APGA"), the Independent Petroleum Association of America ("IPAA"), the Natural Gas Supply Association ("NGSA"), and the Process Gas Consumers Group ("PGC"), collectively the "Industry Coalition," respectfully submit these Initial Comments on the matters posed for consideration by the NOI. Specifically, the Industry Coalition provides comments on measures the Commission should take to improve the information contained in the annual Form 2 submitted by jurisdictional interstate pipelines.[2]

The Industry Coalition represents both major and independent suppliers that produce natural gas in the United States and Canada; over 675 municipal and other publicly owned local distribution systems in thirty-six states; and industrial companies employing millions of people and consuming nearly half a trillion cubic feet of gas annually.

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[1] *Assessment of Information Requirements for FERC Financial Forms*, Docket No. RM07-9-000, IV FERC Stats. & Regs. ¶ 35,554 (2007)(herein "February 15 NOI").

[2] Form 2 is submitted on an annual basis by jurisdictional interstate pipelines. In addition, the same pipelines also are required to submit Form 3-Q on a quarterly basis. To the extent the information in the two financial forms overlaps, the Industry Coalition urges the Commission to apply any changes it may make to both the Form 2 and the Form 3-Q.

I. NOTICES AND COMMUNICATIONS

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II. INITIAL COMMENTS

Over three and a half years ago, the Industry Coalition filed comments in the Commission's last rulemaking proceeding examining the adequacy of financial reporting by, *inter alia*, jurisdictional interstate pipelines.[3] In those comments, the Industry Coalition suggested detailed modifications to the annual Form 2 reports that would dramatically improve the quality of existing information in the annual reports. Although the Commission dismissed the Industry Coalition's proposals at that time as beyond the scope of that proceeding,[4] the Industry Coalition is pleased and encouraged that the Commission now has recognized the

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[3] *Quarterly Financial Reporting and Revisions to the Annual Reports*, Docket No. RM03-8-000, "Comments of the Industry Coalition on Proposed Revisions to the Annual Reports," (filed Aug. 22, 2003)(herein "2003 Comments").

[4] *Quarterly Financial Reporting and Revisions to the Annual Reports*, Order No. 646, 2001-2006 FERC Stats. & Regs., Regs. Preambles ¶ 31,158 (herein "Order No. 646"), *order on reh'g*, Order No. 646-A, , 2001-2006 FERC Stats. & Regs., Regs. Preambles ¶ 31,163 (2004). *See* 18 C.F.R. 141.400, 260.300, and 357.4 (2006).

critical importance of improving the annual pipeline Form 2 report and eliminating the deficiencies and remedying the lack of necessary detail in these reports.[5] To assist the Commission in its review of the annual and quarterly financial forms, the Industry Coalition responds to the questions contained in the February 15 NOI and offers the Commission specific suggestions that will improve the information contained in those forms.

A. Annual and Quarterly Financial Forms Currently Do Not Provide Adequate Information.

The Industry Coalition strongly believes that the annual and quarterly financial forms for interstate pipelines must be improved so as to more clearly provide sufficient data to permit an assessment of the pipelines' jurisdictional rates. As we stated over three years ago, members of the Industry Coalition continue to be "interested in ensuring that the non-competitive aspects of the natural gas industry are adequately regulated to ensure just and reasonable rates, and terms and conditions of services."[6] Since the removal of pipelines' obligation to periodically file Natural Gas Act ("NGA") Section 4 rate cases, the annual Form 2 reports are the only source for evaluating the adequacy of the pipelines' cost-based rates. The Commission itself recognized this in the February 15 NOI, noting that "the financial information filed with the Commission represents, in most cases, the only source of financial data presented in a format and detail suitable for the Commission to exercise its duties and responsibilities under the ... Natural Gas ...Act[]."[7]

Thus, for any pipeline customer to mount a successful NGA Section 5 challenge in which it bears the burden of proof, the customer must have the ability to make an adequate evidentiary showing. In order to achieve this, the customer must have confidence that the information

5 February 15 NOI, at P 14.
6 2003 Comments at 3.
7 February 15 NOI at P 3.

available to it allows an accurate assessment of the financial situation of each pipeline. In that way, customers will be able to calculate more accurately the returns actually being earned by the regulated interstate gas pipelines, ultimately ensuring the rates paid by shippers are just and reasonable as mandated by the NGA.

B. Minor Changes to the FERC Form 2 Will Yield Significant Benefits.

In order to properly evaluate interstate pipelines' cost-based rates and ensure those rates are just and reasonable, additional detail is required in the Form 2. The Industry Coalition submits the following suggestions for additional reporting information. The Industry Coalition has attempted to quantify the benefits and burdens associated with each proposed suggestion as the Commission instructed in the NOI.[8] The Commission should also note that the burden on pipelines to provide this additional detail is minimal compared to the benefit that regulators and consumers will obtain from the information.

1. ***Identify which components (or total amount) of deferred taxes (Accts. 190, 282 and 283) are included in rate base for cost-of-service purposes.***
   Burden: Low. This new requirement simply involves marking items already delineated by most pipelines.
   Benefit: Provides Form 2 users with greater confidence in calculating rate base, for purposes of evaluating a pipeline's rate of return as well as determining the adequacy of the pipeline's current rates.

2. ***Provide additional information on the entity whose capital structure is being reported on page 218a. If the pipeline believes another capital structure should be utilized for rate purposes, the appropriate capital structure should be included in a footnote along with an explanation of why another capital structure is appropriate.***
   Burden: Very low. There is little to no added burden for pipelines to name the entity whose capital structure is being reported and whether such entity issues and holds the long-term debt of the respondent. This information can be easily included on page 218a.
   Benefit: With frequently changing ownership, this information allows Form 2 users the ability to properly identify whether the reported capital structure should be used for purposes of cost of service and rate of return calculations.

3. ***As already required on page 218a of the Form 2, pipelines should accurately list their rate of return on equity granted in the last rate proceeding or, if not available, use the***

8 February 15 NOI at P 16(6)-(7).

average rate earned during the preceding three years. If the pipeline is using the three-year average rate, it should clearly document that it is not using the approved ROE but rather its own calculation. In addition, the pipeline should provide its calculation of how the three-year average rate was derived. FERC should closely monitor compliance with this requirement.

Burden: Moderate. Given that the Commission already requires this information to be reported, there is little added burden other than for the pipeline to identify which of the two rate of return options it opted to utilize. If the pipeline opted to use a three-year average, that calculation should be provided. However, no new calculation is needed given that the calculation was made to derive the rate of return reported.

Benefit: This change will make information already required in the Form 2 more useful. Rates of return on equity submitted on the Form 2 are useful only insofar as the methods used to derive them are identified. There can be a huge variance between the approved ROE and the actual realized ROE.

4. ***Provide detail on gas purchases (Accts. 800-813) and sales (Accts. 480-484) by type.***

   Burden: Low. This detail on gas purchases and sales may require one additional page that will allow Form 2 users to better understand and reconcile gas purchases and sales.

   Benefit: This detail will allow Form 2 users to better assess the sources of revenue recorded for sales of gas by pipelines (imbalances, fuel over-recovery, etc.).

5. ***Provide detail on miscellaneous gas revenues (Acct. 495) as already required by regulations. For example, page 308 of El Paso Natural Gas Company's 2004 Form 2 states that it has a "fuel variance" of nearly $14 million with no added detail. Similarly, Southern Natural's 2004 Form 2 on page 308 lists $35.6 million as a "Miscellaneous Item" with no further detail. Without more information, this information has little value to Form 2 users.***

   Burden: Very low. There is little to no added burden for pipelines to provide this detail because FERC regulations require sub-accounts to be maintained for this account. The sub-accounts could be listed on page 308 for ease of use by pipelines.

   Benefit: This detail will allow Form 2 users to identify revenues that should be credited to the cost of service for ratemaking purposes.

6. ***Provide a calculation of the pipeline's effective overall state income tax rate as well as the property valuation used by state taxing authorities.***

   Burden: Extremely low. This information is readily available and maintained by the pipeline.

   Benefit: This information can be found by using other sources, such as the pipeline's last rate case, but that can be difficult for Form 2 users to obtain. Therefore, it is more pragmatic to have this information provided in the Form 2 to ensure accuracy of the tax rate, particularly since interstate pipelines operate in multiple states with varying tax rates and the tax rate for each state can vary from year to year.

7. ***Provide detail for miscellaneous assets (Account No. 174), similar to that included for miscellaneous liabilities (Account No. 242).***

   Burden: Low. This information regarding imbalances is typically compiled and maintained by the pipeline but it is not separately reported in the Form 2.

Benefit: This detail will allow pipeline customers to monitor to determine if pipeline imbalance receivables, as well as payables, are in check.

8. ***Provide detail concerning the total parent company corporate overhead costs and the amount of the total that is assigned and allocated to the pipeline, by account number.*** Burden: Low. Most pipelines have this information in the detail of their A&G accounts (usually Acct. 923), so it should not require any additional work for pipelines to report these specific costs. This detail could be added to page 357 of the Form 2 to show assigned and allocated shared services or other corporate overhead costs.
Benefit: Providing this information allows Form 2 users to aggregate multiple pipelines' allocated overhead to check to see if the total amount equals the total overhead being allocated by the parent company to its affiliates. More detailed information would also enable Form 2 users to determine how much of a pipeline's A&G consists of allocated corporate overhead. This information will permit users to more adequately monitor the impact of changing ownership structures on pipeline rates.

9. ***Provide aggregate information on volumes and revenues associated with a) discounted services and b) negotiated rate services. Delineate between services provided on a firm or interruptible basis.***
Burden: Moderate. This information is maintained by pipelines and it could be reported as separate line items on Form 2, pages 302-307.
Benefit: This information is invaluable to shippers because it allows for the proper assessment and analysis of adequacy of rates. Also, this type of information would enable shippers to calculate rates based on information contained in the Form 2. Discount information on pipeline websites is not readily or consistently available in many instances.

10. ***Identification of costs and revenues associated with at-risk facilities, given that the Commission requires that these costs be kept separate from all other jurisdictional facility costs.***
Burden: Moderate. Pipelines with at-risk facilities are required by the Commission to keep those costs separate from other facility costs. Therefore, the information should be readily available for reporting in the Form 2. At a minimum, a listing of the certificate proceedings (and the related docket numbers) where facilities were put at-risk could be provided with little or no burden on the pipeline.
Benefit: Allows proper assessment of rates, given that at-risk facilities must be considered separately in any rate analysis. Absent this information, customers may not be aware that certain facilities on a pipeline's system were put at risk by the Commission.

11. ***FERC should enforce compliance with its financial reporting requirements.*** Some accounts are left blank even though the Commission requires that information to be reported. For instance, on page 520 of Form 2, the Commission requires that pipelines specify "Gas Received from Shippers as Compressor Station Fuel." This account is extremely important to shippers given that it is the primary source of information on how much fuel is retained by the pipeline. However, there are pipelines that leave this account blank year after year.

C. Minor Changes to the FERC Form 3-Q Will Yield Significant Benefits.

Similarly, the Commission should consider certain changes to the Form 3-Q, which jurisdictional interstate pipelines are required to file on a quarterly basis as a result of Order No. 646. To the extent types of information contained in the Form 2 can and should be replicated in the quarterly Form 3-Q, the Industry Coalition urges the Commission to so require. In addition, the Industry Coalition suggests the following changes:

1. ***Separately report fuel used for O&M (Acct. Nos. 819 and 845) on page 309, in a similar manner as transmission fuel (Acct. 854) is already reported.***
   Burden: Very low. This information is already maintained for annual Form 2 reporting as well as other purposes.
   Benefit: This information would allow Form 2 users to better assess fuel volumes and prices throughout the year.

2. ***Provide information in the Form 3-Q that is consistent with page 520 of Form 2 related to fuel use.***
   Burden: Very low. This information is already maintained for annual Form 2.
   Benefit: Allows a comparison of fuel used & lost and unaccounted for ("LAUF") to fuel retained throughout the year. Also, this information will permit Form 2 users to calculate unit fuel cost in conjunction with separate identification of fuel cost in O&M Account Nos. 819 and 845, as requested above.

D. The Commission Should Avoid Any Further Delays in Modifying Forms 2 and 3-Q.

The Industry Coalition is very appreciative of the Commission's Office of Enforcement outreach meetings held in September and October 2006 with industry participants "to reexamine the breadth of data collected by the forms and to determine the need for clarifications, corrections, deletions or additional information."[9] Those meetings were intended to address concerns of participants in the natural gas and power sectors. In the February 15 NOI, the Commission expanded its inquiry to include a review of the information provided by oil pipeline companies pursuant to the Forms 6 and 6-Q.

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9 February 15 NOI, at P 4.

While the Industry Coalition understands the Commission's desire to examine all financial reporting forms for all the sectors it regulates, we are concerned that keeping all three sectors on the same track may possibly delay much-needed Commission action on the Forms 2 and 3-Q. It has been more than three years since the Industry Coalition made its initial proposal to modify the information provided in the Form 2. Furthermore, during that time, the Office of Enforcement gathered a significant amount of relevant, empirical information regarding the Form 2 and Form 3-Q reports. In fact, we strongly believe that FERC has all the information it needs to go immediately to a proposed rulemaking on the Forms 2 and 3-Q. While not advocating any delay whatsoever in the Commission's review of the other sectors' financial forms, we believe it would be unfortunate now for the Commission to delay making a determination on the Form 2 and Form 3-Q while it begins its process of collecting comparable information with respect to other sectors that may be at a different stage in this process. Therefore, the Industry Coalition respectfully requests that the Commission institute a formal rulemaking to address these needed improvements and not unnecessarily delay implementation for the natural gas sector in order to keep all sectors together.

III. CONCLUSION

The Industry Coalition appreciates the Commission's consideration of the issues raised in the February 15 Notice of Inquiry regarding the adequacy of the information in the FERC financial reporting forms. The Industry Coalition respectfully requests that the Commission revise its Form 2 requirements consistent with the views expressed in the Initial Comments above.

Respectfully submitted,

American Public Gas Association
Independent Petroleum Association of America
Natural Gas Supply Association
Process Gas Consumers Group

March 28, 2007