

Official brucellosis vaccinate. An official adult vaccinate or an official calfhooed vaccinate as defined in § 78.1 of this chapter.

* * * * *

3. Section 91.5 would be amended as follows:

a. In paragraph (a)(1), by removing the word “or” at the end of paragraph (a)(1)(i); by removing the citation “9 CFR 77.1” in paragraph (a)(1)(ii) and adding the citation “§ 77.7 of this chapter” in its place; by removing the period at the end of paragraph (a)(1)(ii) and adding a semicolon in its place; and by adding new paragraphs (a)(1)(iii) and (a)(1)(iv) to read as set forth below.

b. In paragraph (b)(1), by removing the word “or” at the end of paragraph (b)(1)(iv), by removing the period at the end of paragraph (b)(1)(v) and adding a semicolon in its place, and by adding new paragraphs (b)(1)(vi) and (b)(1)(vii) to read as set forth below.

§ 91.5 Cattle.

* * * * *

(a) * * *

(1) * * *

(iii) Cattle exported to a country that does not require cattle from the United States to be tested for tuberculosis as described in this part; or

(iv) Cattle exported from a State designated as an Accredited-free State in § 77.7 of this chapter to a country that does not require cattle from Accredited-free States to be tested for tuberculosis as described in this part.

* * * * *

(b) * * *

(1) * * *

(vi) Cattle exported to a country that does not require cattle from the United States to be tested for brucellosis as described in this part; or

(vii) Cattle exported from a State designated as a Class Free State in § 78.41 of this chapter to a country that does not require cattle from Class Free States to be tested for brucellosis as described in this part.

* * * * *

Done in Washington, DC, this 3rd day of January 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7-111 Filed 1-9-07; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM06-21-000 and RM07-4-000]

18 CFR Part 284

Release of Capacity on Interstate Natural Gas Pipelines; Request for Comments

January 3, 2007.

AGENCY : Federal Energy Regulatory Commission, DOE.

ACTION : Request for comments.

SUMMARY: The Federal Energy Regulatory Commission has received two petitions requesting changes in, or clarifications of, the Commission's regulations relating to the release of capacity on interstate natural gas pipelines. The Commission is requesting comments on the current operation of the Commission's capacity release program and whether changes in any of its capacity release policies would improve the efficiency of the natural gas market.

DATES: Comments are due March 12, 2007.

ADDRESSES: You may submit comments, identified by Docket Nos. RM06-21-000 and RM07-4-000, by one of the following methods:

- *Agency Web Site:* <http://ferc.gov>. Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble.

- *Mail:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426. Please refer to the Comment Procedures Section of the preamble for additional information on how to file paper comments.

FOR FURTHER INFORMATION CONTACT:

Eugene Kim, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

SUPPLEMENTARY INFORMATION:

Pacific Gas and Electric Co., Southwest Gas Corp.

[Docket No. RM06-21-000]

Coral Energy Resources, L.P., Chevron U.S.A. Inc., ConocoPhillips Co., Constellation Energy Commodities Group, Inc., Merrill Lynch Commodities, Inc., Nexen Marketing U.S.A., Inc., Tenaska Marketing Ventures, UBS Energy LLC

[Docket No. RM07-4-000]

Request for Comments

1. Recently, the Commission has received two petitions, requesting changes in, or clarifications of, the Commission's regulations relating to the release of capacity on interstate natural gas pipelines.¹ As described below, this notice requests comment on the current operation of the Commission's capacity release program and whether changes in any of its capacity release policies would improve the efficiency of the natural gas market.

Background

2. In Order No. 636,² the Commission adopted the capacity release program in place of its previous “capacity brokering” program. Under capacity brokering, firm shippers could assign their capacity directly to a replacement shipper on a first-come, first-served basis, without any requirement that the brokering shipper post the availability of its capacity or allocate it to the highest bidder.³ In Order No. 636, the Commission concluded that the Commission lacked the ability to ensure that capacity brokering was operating in a not unduly discriminatory fashion. “When transactions occurred directly and privately between shippers, there was no way to verify that certain purchasers were not being favored unreasonably over others. ‘Simply put, there [were] too many potential assignors of capacity and too many

¹ These regulations are set forth at 18 CFR 284.8 (2006).

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, 57 FR 13,267 (April 16, 1992), FERC Stats. and Regs. Regulations Preambles (January 1991–June 1996) ¶ 30,939 (April 8, 1992); *order on reh'g*, Order No. 636–A, 57 FR 36,128 (August 12, 1992), FERC Stats. and Regs. Regulations Preambles (January 1991–June 1996) ¶ 30,950 (August 3, 1992); *order on reh'g*, Order No. 636–B, 57 FR 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).

³ *See Algonquin Gas Transmission Corp.*, 59 FERC ¶ 61,032 (1992).

different programs for the Commission to oversee capacity brokering.”⁴

3. Order No. 636 accordingly adopted regulations designed to assure the transparency of capacity release transactions and a non-discriminatory allocation of any released capacity. Those regulations generally require that all shipper offers to release be posted on the pipeline's internet Web site and that contracting be done directly with the pipeline. Sections 284.8(c) through (e) require that capacity offered for release at less than the maximum rate must be posted for bidding, and the pipeline must allocate the capacity “to the person offering the highest rate (not over the maximum rate).”⁵ Section 284.8(h) exempts releases of 31 days or less and all releases at the maximum rate from these bidding requirements, but notice of such releases must be posted. In addition, Order No. 636-A prohibited tying the release of capacity to any extraneous conditions. Finally, as Order No. 637 explained, all “the capacity release rules were designed with [the shipper-must-have-title] policy as their foundation,” since without this requirement “capacity holders could simply transport gas over the pipeline for another entity.”⁶

4. In Order No. 637, the Commission lifted the maximum rate cap on capacity releases of less than one year for a 22-month experimental period. However, the Commission did not act at the end of that period, and thus all capacity releases are currently subject to the rate cap.

5. In August 2006, Pacific Gas and Electric Co. (PG&E) and Southwest Gas Corp. (Southwest) filed a petition requesting the Commission to amend §§ 284.8(e) and (h)(1) to remove the maximum rate cap on capacity release transactions. They contend that removing the price cap would improve the efficiency of the capacity market by

giving releasing shippers a greater incentive to release their capacity during periods of constraint. This would allow shippers who value the capacity the most to obtain it, provide more accurate price signals concerning the value of capacity, and provide greater potential cost mitigation to holders of long-term firm capacity.

6. In October 2006, a group of large natural gas marketers (marketer petitioners⁷) requested clarification of the operation of the Commission's capacity release rules in the context of portfolio management services.⁸ The marketer petitioners are concerned that the current capacity release rules may interfere with marketers' providing efficient portfolio management services to local distribution companies (LDCs) and others. These services generally entail the LDC entering into a prearranged, maximum rate release to the marketer of its portfolio of firm transportation service agreements with interstate pipelines, along with an assignment of its gas purchase contracts. The marketer then manages these various contracts, as well as other gas supply contracts it may enter into itself, both to supply gas to the LDC and to make off-system sales to others during periods when the LDC does not need the gas.

7. The marketer petitioners state that some portfolio management agreements may require the marketer/replacement shipper to pay fees to the LDC/releasing shipper. These fees could include a lump sum payment, a sharing of the marketer's net proceeds from its gas sales to others, or an agreement to provide gas to the LDC at below-market prices. The petitioners request clarification that none of these payments would cause the capacity release to exceed the maximum rate cap. Alternatively, the marketer petitioners state, a portfolio management agreement may require the LDC/releasing shipper to rebate some or all of the pipeline's reservation charge to the marketer/replacement shipper. The petitioners request clarification that such a rebate would not cause the release to be considered as less than the maximum rate, subject to the bidding requirement of §§ 284.8(c) through (e).

8. The marketer petitioners also state that an LDC may require marketers

seeking to participate in a portfolio management arrangement to take a release of all its transportation agreements and/or all its gas supply contracts, as a package. Further, they argue that Order No. 636-A held that the tying of a capacity release to any extraneous conditions is prohibited (tying prohibition). Accordingly, the marketer petitioners request that the Commission clarify that packaging gas supply and pipeline capacity, or multiple segments of capacity, as part of a portfolio management arrangement would not violate the Commission's policy against tying.

Request for Comments

9. In light of the above two petitions, comments are requested to assist in evaluating (1) the current operation of the capacity release rules and policies and (2) whether any changes in those rules and policies should be considered. Commenters should address the following questions:

1. Should the Commission consider lifting the maximum rate cap on a permanent basis either for short-term, or all, capacity releases? Would the factors relied upon in Order No. 637 for lifting the maximum rate cap for short-term releases on an experimental basis support lifting the maximum rate cap today? Do subsequent developments in the natural gas market either lend further support to lifting the maximum rate cap or militate against lifting the cap?

2. Are there methods of providing additional price flexibility for capacity releases short of removing the maximum rate cap, for example through the use of basis differentials to value the capacity or the establishment of seasonally varying maximum capacity release rates?

3. Order No. 636 required that prearranged capacity releases of more than 30 days, which are at less than the maximum rate, be posted for bidding in order to assure that capacity is released to those who value it the most. Should the Commission consider removing this requirement? Does the bidding requirement hinder the negotiation of beneficial release arrangements, and thereby do more harm than good? Would a requirement that the terms of prearranged capacity releases be posted, without requiring bidding, provide sufficient market transparency to discourage undue discrimination in the release of capacity?

4. Does the Order No. 636 prohibition on tying arrangements interfere with beneficial capacity release arrangements, including portfolio management services? Should the

⁴ *UDC v. FERC*, 88 F.3d 1105, 1149–50 (D.C. Cir. 1996), quoting Order No. 636 at 30,416.

⁵ Section 284.8(h)(i) also provides that prearranged releases of capacity may not exceed the maximum rate. A petition for rulemaking to remove the rate cap for capacity release transactions is currently pending in Docket No. RM06–21–000. However, the Petitioners here state that they are seeking to remove the capacity release rate cap, although if that were done it would eliminate some of their problems.

⁶ *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637, 65 FR 10,156 (2000), III FERC Stats. & Regs. Regulations Preambles (July 1996–December 2000) ¶ 31,091, at 31,300 (Feb. 9, 2000); *order on reh'g*, Order No. 637–A, 65 FR 35,706 (2000), III FERC Stats. & Regs. Regulations Preambles (July 1996–December 2000) ¶ 31,099 (May 19, 2000); *order on reh'g*, Order No. 637–B, 65 FR 47,284 (2000), *affirmed in relevant part*, *INGAA v. FERC*, 285 F.3d 18 (D.C. Cir. 2002).

⁷ Coral Energy Resources, LP; ConocoPhillips Co.; Chevron USA, Inc.; Constellation Energy Commodities Group, Inc.; Tenaska Marketing Ventures; Merrill Lynch Commodities, Inc.; Nexen Marketing USA, Inc.; and UBS Energy LLC.

⁸ The marketer petitioners originally filed their petition in Docket Nos. RM91–11–009 and RM98–10–013. However, the Commission has redocketed the petition in Docket no. RM07–4–000.

Commission clarify or modify its capacity release rules to permit releasing shippers to require replacement shippers to take assignment of the releasing shippers' gas purchase contracts or to take a release of a package of transportation agreements? Should such tying arrangements be permitted only in particular circumstances, such as when a local distribution company is seeking a marketer to manage its gas acquisition activities? Would the risk of undue discrimination be mitigated if the releasing shipper was required to use a formalized request for proposal (RFP) structure with notice of the RFP requirements posted on the pipeline's Web site?

5. Should the Commission consider removal of the shipper-must-have-title requirement? While Order No. 637 stated that the capacity release rules were designed with this policy as their foundation, Order No. 637 also recognized that the shipper-must-have-title requirement imposes some transaction costs and that the capacity release program might be revised so that it could operate without that requirement. How could the shipper-must-have-title requirement be removed while still achieving the objective of nondiscriminatory, efficient allocation of released capacity with transparency?

6. The Commission's current capacity release regulations, including the maximum rate cap and the posting and bidding requirements, were adopted in order to minimize undue discrimination and control the exercise of market power in the capacity release market. Would any proposed changes to those rules provide sufficient efficiency gains in the natural gas market to justify relaxing the existing capacity rules concerning posting and bidding and the maximum rate cap?

Procedure for Comments

10. The Commission invites interested persons to submit comments on the matters, issues, and specific questions identified in this notice. Comments are due 60 days from the date of publication in the **Federal Register**. Comments must refer to Docket Nos. RM06-21-000 and RM07-4-000, and must include the commenter's name, the organization they represent, if applicable, and their address.

11. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at <http://www.ferc.gov>. The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in

native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

12. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street, NE., Washington, DC 20426.

13. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters are not required to serve copies of their comments on other commenters.

Document Availability

14. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

15. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits in the docket number field.

16. User assistance is available for eLibrary and the Commission's Web site during normal business hours from our Help line at (202) 502-6652 or the Public Reference Room at (202) 502-8371 Press 0, TTY (202) 502-8659. E-mail the Public Reference Room at public.referenceroom@ferc.gov.

By direction of the Commission.

Nora E. Donovan,

Acting Secretary.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R05-OAR-2006-0560; FRL-8267-4]

Approval and Promulgation of Air Implementation Plans; Ohio; Rules to Control Emissions From Hospital, Medical, and Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve, with exceptions noted below, a State plan submitted by Ohio concerning criteria pollutant and toxic emissions from Hospital, Medical and Infectious Waste Incinerators (HMIWI) in the State. EPA is proposing to approve all other items requested in Ohio's letter of October 18, 2005, including limits for a variety of emissions from HMIWI units including mercury, cadmium, lead, hydrogen chloride, and dioxin and criteria pollutants. Ohio prepared a plan based on CAA sections 111(d) and 129 for existing hospital, medical and infectious waste incinerators and asked that it be reviewed and approved as a revision to the State plan. The State's HMIWI plan sets out requirements for affected units at least as stringent as the EPA requirements entitled "Emission Guidelines (EG) and Compliance Times for Hospital/Medical/ Infectious Waste Incinerators" published in the **Federal Register** dated September 15, 1997. For approval, the State plan must include requirements for emission limits at least as protective as those requirements stated in the emission guideline. The rules in the plan apply to existing sources only for which construction commenced on or before June 20, 1996. New sources constructed after this date are covered by a Federal new source performance standard. The Ohio rules, contained in the plan, were proposed on March 22, 2002, and a public hearing was held on April 29, 2002. The rules became effective in Ohio on March 23, 2004. Plans affecting this source category were due from States with HMIWI subject to the emission guidelines on September 15, 1998. Ohio missed the submittal deadline and became subject to the Federal Plan on August 15, 2000, (65 FR 49868). We are proposing to approve the Ohio plan because we believe it meets the requirements of the EPA emission guideline affecting hospital incinerators.