



GAS INDUSTRY STANDARDS BOARD BPS MATERIALS

- GISB Proposed Standard No. 5.3.2:

For biddable releases (less than 1 year):

- offers should be tendered by 12:00 P.M. on a Business Day;
- open season ends no later than 1:00 P.M. on a Business Day (evaluation period begins at 1:00 P.M. during which contingency is eliminated, determination of best bid is made, and ties are broken);
- evaluation period ends at 2:00 P.M.;
- match or award is communicated by 2:00 P.M.;
- match response by 2:30 P.M.;
- award posting by 3:00 P.M.;
- contract tendered with contract # by 4:00 P.M.; contract executed; nomination possible beginning at the next available nomination cycle for the effective date of the contract.
(Central Clock Time)

For biddable releases (1 year or more):

- offers should be tendered by 12:00 P.M. four Business Days before award;
- open season ends no later than 1:00 P.M. on the Business Day before timely nominations are due (open season is three Business Days);
- evaluation period begins at 1:00 P.M. during which contingency is eliminated, determination of best bid is made, and ties are broken;
- evaluation period ends at 2:00 P.M.;
- match or award is communicated by 2:00 P.M.;
- match response by 2:30 P.M.;
- award posting by 3:00 P.M.;
- contract tendered with contract # by 4:00 P.M.; contract executed; nomination possible beginning at the next available nomination cycle for the effective date of the contract.
(Central Clock Time)

For non-biddable releases:

Timely Cycle

- posting of prearranged deals not subject to bid are due by 9:30 A.M. on a Business Day;
- contract tendered with contract # by 10:30 A.M.; contract executed; nomination possible beginning at the next available nomination cycle for the effective date of the contract.

Evening Cycle

- posting of prearranged deals not subject to bid are due by 4:00 P.M. on a Business Day;
- contract tendered with contract # by 5:00 P.M.; contract executed; nomination possible beginning at the next available nomination cycle for the effective date of the contract.

Intraday 1 Cycle

- posting of prearranged deals not subject to bid are due by 8:00 A.M. on a Business Day;
- contract tendered with contract # by 9:00 A.M.; contract executed; nomination possible beginning at the next available nomination cycle for the effective date of the contract.

Intraday 2 Cycle

- posting of prearranged deals not subject to bid are due by 3:00 P.M. on a Business Day;
- contract tendered with contract # by 4:00 P.M.; contract executed; nomination possible for beginning at the next available nomination cycle for the effective date of the contract.
(Central Clock Time)

transmitted to the pipeline for posting on pipeline Internet sites and bidding (when necessary) is allowed, no further oversight is needed.¹⁰²

Some third parties indicated in their comments that compliance with some of the Commission's existing regulations can impede the development of third-party auctions. For instance, the requirement that certain transactions must be posted on pipeline Internet sites was identified as a barrier to third-party auctions because it would require a double posting of capacity (once in the auction and once on the pipeline's Internet site) and would render the results of the auction less certain. In those cases in which a shipper or third-party finds that a current Commission regulatory requirement impedes the development of an efficient auction, the Commission encourages shippers or third-parties to propose an alternate method for satisfying the goal of the requirement. For example, to satisfy the requirement that prices be disclosed on a pipeline's Internet web site, the pipeline could be required to maintain a link on its web site to the web site of the third-party auctioneer. The Commission cannot proscribe, in the abstract, criteria for such proposals. Third-parties should have the freedom to develop and propose innovative solutions to such problems.

II. IMPROVEMENTS TO COMPETITION ACROSS THE PIPELINE GRID

A. Scheduling Equality

¹⁰²For example, third-party auctions for short-term released capacity (31 days or less) can be conducted without complying with the requirements for posting and bidding on pipeline Internet sites, because short-term releases are exempt from the Commission's posting and bidding requirements.

In Order No. 637, the Commission adopted the proposal set forth in the NOPR to amend the Commission's regulations to include a new section 284.12(c)(1)(ii) to require pipelines to provide purchasers of released capacity the same ability to submit a nomination at the first available opportunity after consummation of the deal as shippers purchasing capacity from the pipeline. This will enable shippers to acquire released capacity at any of the nomination or intra-day nomination times, and nominate gas coincident with their acquisition of capacity. By enabling released capacity to compete on a comparable basis with pipeline capacity, the new section of the regulations will foster a more competitive short-term market. Also, in Order No. 637, the Commission explained the basis for its policy that the shipper must have title to the gas being transported, and concluded that no changes in this policy are appropriate at this time. Niagara Mohawk, NGSA, Scana Energy Marketing, Tejas, TWC, and Williston seek clarification or rehearing of this portion of Order No. 637.

Williston seeks rehearing of the Commission's regulation requiring nominations for capacity release transactions to be on an equal footing with shippers purchasing capacity directly from the pipeline. Williston argues that there must be differences in the nomination and scheduling of capacity release and the nomination and scheduling of pipeline capacity because additional time is required to evaluate capacity release transactions due to possible conditions the releasing shipper may impose on the acquiring shipper. Williston states that the time required by the pipeline to evaluate such conditions

and the potential operational impact requires that the existing timing difference in the nomination and scheduling process.

Williston does not explain what conditions and operational considerations could need to be evaluated. The replacement shipper will take the service under the same contract, subject to the same conditions as the releasing shipper and, therefore, will have the same operational impact on the system. There should be no change in conditions or impact for the pipeline to evaluate.

In addition, Williston asserts that the provision of such a service will not be cost effective on its system because Williston would be required to expend significant money and manhours on new electronic contracting software. Williston states that it has had 13 capacity releases in the last three years, and this number of releases does not justify the Commission's imposition of this requirement on Williston. Williston argues that the offering of nomination opportunities for capacity release equal to nomination opportunities for shippers purchasing capacity should be on a best efforts or optional basis on pipelines with significant capacity release.

As explained in Order No. 637, the Commission adopted the new regulation requiring equality in scheduling in order to enable released capacity to compete on a comparable basis with pipeline capacity. This furthers the Commission's goal of enhancing competition and improving efficiency across the grid. In order for the

requirement to have this effect it must apply to all pipelines and all capacity release transactions.

Scana seeks clarification, or in the alternative, rehearing, that the pipelines must provide replacement shippers with the same no-notice scheduling rights as held by releasing shippers. Scana asserts that some pipelines have placed restrictions in their tariffs on the release of no-notice transportation, such that a shipper may release no-notice transportation, but the replacement shipper receives FT capacity without no-notice scheduling rights. Scana further asserts that other pipelines do not restrict release of no-notice service, but instead impose artificial restrictions on the scheduling flexibility after release. Scana argues that, consistent with the Commission's purpose of achieving scheduling equality between releasing and replacement shippers, the Commission must clarify that Order No. 637's mandate for scheduling equality among releasing and replacement shippers is intended to cover no-notice scheduling rights and contingency ranking.

The Commission has held that the pipeline must permit shippers to release their no-notice service as no-notice service.¹⁰³ Further, if the pipeline permits shippers to receive no-notice service at flexible delivery points, it must permit the no-notice shipper to release that capacity with similar flexible delivery points.¹⁰⁴ However, if the pipeline does not

¹⁰³Order No. 636-B, 61 FERC ¶ 61,272 at 62,009-10 (1992); Questar Pipeline Co., 62 FERC ¶ 61,192 at 62,298 (1993).

¹⁰⁴

permit its no-notice shippers flexible delivery point rights, it is not required to provide flexible delivery points to the replacement shipper. There should be no operational reason why the pipeline should limit the release of no-notice service or place restrictions on the released service that do not apply to the releasing shipper. Since the shipper releasing the no-notice capacity is not able to use it, the pipeline will not be providing any more no-notice service than it contracted to provide.

TWC and Tejas ask the Commission to clarify the relationship between new section 284.12(c)(1)(ii) and the approved GISB Standards, including the GISB Standard timelines for capacity release as set forth in GISB Standard 5.3.2. The Commission clarifies that new section 284.12(c)(1)(ii) supplants GISB Standard 5.3.2, to the extent that they are inconsistent. Thus, the capacity release nomination requirements are contained in the new regulation, and GISB Standard 5.3.2 now applies only to the bidding process. It is not necessary for the Commission to delay implementation of its new nomination requirements until GISB acts to amend section 5.3.2.

Tejas quotes the discussion in Order No. 637 as providing that under new regulation § 284.12(c)(1)(ii), the pipeline must “approve” a contract within an hour. Tejas asks the Commission to clarify whether the Commission means "issuance" or "approval," and whether issuance or approval of the contract means that it has been executed by both parties.

The text of the regulation states that the pipeline must "issue" the contract within an hour and the Commission clarifies that the requirement is to issue the contract, rather than

approve the contract. Issuance of the contract does not mean that it has been executed by both parties.

Tejas also observes that GISB Standard 5.3.2 defines short-term releases as those with a duration of less than 5 months, and in Order No. 637, the Commission defines short-term releases as those extending for less than one year. Tejas asks the Commission to clarify which of the two definitions will apply to short-term releases.

The bidding requirements of GISB Standard 5.3.2 apply to capacity releases of more than five months. In Order No. 637, the Commission waived, for a two year period, the rate ceiling for capacity releases of less than one year. Neither of these provisions defines a short-term release for other purposes, and they are not inconsistent.

NGSA states that although the Commission established scheduling equality between capacity release shippers and others holding firm capacity, and recognized the efficacy of master agreements in achieving scheduling equality, it did not require use of a master agreement. NGSA asserts that master agreements are the only means to achieve scheduling equality, and therefore the Commission should require them.

The Commission recognizes that master agreements are a good way to achieve scheduling equality, but as explained in Order No. 637, there are other methods as well. The Commission will not mandate any one method, but will leave this to be resolved by the pipelines and shippers.

Finally, Niagara Mohawk requests that the Commission clarify that it will be receptive to requests for waiver of the shipper must have title policy where the applicant demonstrates that the waiver will not result in undue discrimination or the inefficient allocation of capacity. Parties may apply for a waiver of the policy and, as in the past, the Commission will consider the waiver based on the specific circumstances of the request.¹⁰⁵

B. Segmentation and Flexible Point Rights

In Order No. 636, the Commission established two related policies -- flexible point rights and segmentation -- that were designed to provide firm shippers with the flexibility to use their capacity and to enhance competition between shippers and between shippers and the pipeline.¹⁰⁶ Flexible point rights refer to the rights of firm shippers to change receipt or delivery points so they can receive and deliver gas to any point within the firm capacity rights for which they pay. Segmentation refers to the ability of firm capacity holders to subdivide their capacity into segments and to use the segments for different capacity transactions.

¹⁰⁵See, e.g., Baltimore Gas and Electric Co., 88 FERC ¶ 61,133, reh'g denied, 89 FERC ¶ 61,150 (1999).

¹⁰⁶Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations, Order No. 636, 57 FR 13267 (Apr. 16, 1992), FERC Stats. & Regs. Regulations Preambles [Jan. 1991-June 1996] ¶ 30,939, at 30,428, 30,420-21 (Apr. 8, 1992), Order No. 636-A, 57 FR 36128 (Aug. 12, 1992), FERC Stats. & Regs. Regulations Preambles [Jan. 1991-June 1996] ¶ 30,950, at 30,559 n.151 (Aug. 3, 1992), Order No. 636-B, 61 FERC ¶ 61,272, at 61,997 (1992).

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CHAPTER I--FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

PART 284--CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES--Table of Contents

Subpart A--General Provisions and Conditions

Sec. 284.12 Standards for pipeline business operations and communications.

(a) Electronic Bulletin Boards. An interstate pipeline that is required by this chapter or by its tariff to display information on an Electronic Bulletin Board must provide for the following features on its board:

- (1) Downloading by users;
 - (2) Daily back-up of information displayed on the board, which must be available for user review for at least three years;
 - (3) Purging of information on completed transactions from current files;
 - (4) Display of most recent entries ahead of information posted earlier; and
 - (5) On-line help, a search function that permits users to locate all information concerning a specific transaction, and a menu that permits users to separately access the notices of available capacity, the marketing affiliate discount information, the marketing affiliate capacity allocation log, and the standards of conduct information.
- (6) A pipeline's obligation to provide information pursuant to this paragraph will terminate when all relevant information is provided pursuant to paragraph (c)(3)(i) of this section.

(b) Incorporation by reference of GISB standards.

(1) An interstate pipeline that transports gas under subparts B or G of this part must comply with the following business practice and electronic communication standards promulgated by the Gas Industry Standards Board, which are incorporated herein by reference:

- (i) Nominations Related Standards (Version 1.3, July 31, 1998);
- (ii) Flowing Gas Related Standards (Version 1.3, July 31, 1998) with the exception of Standards 2.3.29 and 2.3.30;
- (iii) Invoicing Related Standards (Version 1.3, July 31, 1998);
- (iv) Electronic Delivery Mechanism Related Standards (Version 1.3, July 31, 1998) with the exception of Standard 4.3.4; and
- (v) Capacity Release Related Standards (Version 1.3, July 31, 1998).

(2) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these standards may be obtained from the Gas Industry Standards Board, 1100 Louisiana, Suite 4925, Houston, TX 77002. Copies may be inspected at the Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426 and at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC.

(c) Business practices and electronic communication requirements. An interstate pipeline that transports gas under subparts B or G of this part must comply with the following requirements. The regulations in this paragraph adopt the abbreviations and definitions contained in the Gas Industry Standards Board standards incorporated by reference in paragraph (b)(1) of this section.

(1) Nominations.

- (i) Intra-day nominations.

(A) A pipeline must give scheduling priority to an intra-day nomination submitted by a firm shipper over nominated and scheduled volumes for interruptible shippers. When an interruptible shipper's scheduled volumes are to be reduced as a result of an intra-day nomination by a firm shipper, the interruptible shipper must be provided with advance notice of such reduction and must be notified whether penalties will apply on the day its volumes are reduced.

(B) An intra-day nomination submitted on the day prior to gas flow will

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take effect at the start of the gas day at 9 a.m. CCT.

(ii) Capacity release nominations. Pipelines must permit shippers acquiring released capacity to submit a nomination at the earliest available nomination opportunity after the acquisition of capacity. If the pipeline requires the replacement shipper to enter into a contract, the contract must be issued within one hour after the pipeline has been notified of the release, but the requirement for contracting must not inhibit the ability of the replacement shipper to submit a nomination at the earliest available nomination opportunity.

(2) Flowing gas.

(i) Operational balancing agreements. A pipeline must enter into Operational Balancing Agreements at all points of interconnection between its system and the system of another interstate or intrastate pipeline.

(ii) Netting and trading of imbalances. A pipeline must establish provisions permitting shippers and their agents to offset imbalances accruing on different contracts held by the shipper with the pipeline and to trade imbalances with other shippers where such imbalances have similar operational impact on the pipeline's system.

(iii) Imbalance management. A pipeline must provide, to the extent operationally practicable, parking and lending or other services that facilitate the ability of its shippers to manage transportation imbalances. A pipeline also must provide its shippers the opportunity to obtain similar imbalance management services from other providers and shall provide those shippers using other providers access to transportation and other pipeline services without undue discrimination or preference.

(iv) Operational flow orders. A pipeline must take all reasonable actions to minimize the issuance and adverse impacts of operational flow orders (OFOs) or other measures taken to respond to adverse operational events on its system. A pipeline must set forth in its tariff clear standards for when such measures will begin and end and must provide timely information that will enable shippers to minimize the adverse impacts of these measures.

(v) Penalties. A pipeline may include in its tariff transportation penalties only to the extent necessary to prevent the impairment of reliable service. Pipelines may not retain net penalty revenues, but must credit them to shippers in a manner to be prescribed in the pipeline's tariff. A pipeline must provide to shippers, on a timely basis, as much information as possible about the imbalance and overrun status of each shipper and the imbalance of the pipeline's system.

(3) Communication protocols.

(i)(A) All electronic information provided and electronic transactions conducted by a pipeline must be provided on the public Internet. A pipeline must provide, upon request, private network connections using internet tools, internet directory services, and internet communication protocols and must provide these networks with non-discriminatory access to all electronic information. A pipeline may charge a reasonable fee to recover the costs of providing such an interconnection.

(B) A pipeline must implement this requirement no later than June 1, 2000.

(ii) A pipeline must comply with the following requirements for documents constituting public information posted on the pipeline web site:

(A) The documents must be accessible to the public over the public Internet using commercially available web browsers, without imposition of a password or other access requirement;

(B) Users must be able to search an entire document online for selected words, and must be able to copy selected portions of the documents; and

(C) Documents on the web site should be directly downloadable without the need for users to first view the documents on the web site.

(iii) If a pipeline uses a numeric or other designation to represent information, an electronic cross-reference table between the numeric or other designation and the information represented must be available to users, at a cost not to exceed reasonable shipping and handling.

(iv) A pipeline must provide the same content for all information regardless of the electronic format in which it is provided.

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(v) A pipeline must maintain, for a period of three years, all information displayed and transactions conducted electronically under this section and be able to recover and regenerate all such electronic information and documents. The pipeline must make this archived information available in electronic form for a reasonable fee.

(vi) A pipeline must post notices of operational flow orders, critical periods, and other critical notices on its Internet web site and must notify affected parties of such notices in either of the following ways to be chosen by the affected party: Internet E-Mail or direct notification to the party's Internet URL address.

[Order 587, 61 FR 39068, July 26, 1996, as amended by Order 587-B, 62 FR 5525, Feb. 6, 1997; Order 587-C, 62 FR 10690, Mar. 10, 1997; Order 587-G, 63 FR 20095, Apr. 23, 1998; Order 587-H, 63 FR 39514, July 23, 1998; Order 587-I, 63 FR 53576, Oct. 6, 1998; Order 587-K, 64 FR 17278, Apr. 9, 1999. Redesignated and amended by Order 637, 65 FR 10220, Feb. 25, 2000]