

TO: Jim Buccigross and Rae McQuade

FROM: Jay Costan

DATE: February 16, 2001

RE: Comments on Proposed GISB Standard 5.3.2 from FERC Staff

In accordance with directions from the Executive Committee in its February 5, 2001 teleconference meeting, I met with FERC Staff on Wednesday, February 7, 2001 to obtain guidance on proposed GISB Standard 5.3.2. My discussion with the Staff focused on two specific objectives: (i) Staff's comments on the appropriate language to be included in Section 5.3.2 to reflect Staff's interpretation of Order No. 637 and the applicable regulations, and (ii) Staff's answers to a set of questions that I developed based on the discussion at the February 5 EC meeting.

Attached hereto are three documents that reflect my discussion with the Staff and Staff's views relating to the above items. The first two documents are a "clean" and an annotated "blackline" version of proposed GISB Standard 5.3.2, which reflect the Staff's specific comments on the text of that standard. The third attachment is Staff's answers to the specific questions that I developed based on the discussion at the February 5 EC meeting. Both of these documents have been reviewed by FERC Staff and approved for distribution.

The Staff is familiar with Order No. 637 and works in that area. Staff specifically asked me to convey to the members of the EC that the interpretation of Order No. 637 and the accompanying regulations that is reflected in the attachments represents Staff's interpretation, and is viewed as a reasonable interpretation of Order No. 637, but is not binding on the Commission. If there is a different reasonable interpretation of Order No. 637 and the regulations, it has not at this time been addressed by the Commission.

Please feel free to contact me should you have any questions regarding the attached materials.

Attachments

February 16, 2001

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.;
- award posted on TSP web site by 2:00 P.M.;
- nomination possible at each nomination opportunity for the effective date of the release coincident with or subsequent to the award of capacity;
- contract tendered with contract # within one hour after award posted;
- for prearranged deals subject to bidding, match response by 2:30 P.M.;
- award determined and posted on TSP web site by 3:00 P.M.;
- nomination possible at each nomination opportunity for the effective date of the release coincident with or subsequent to the award of capacity (e.g., 5:00 P.M. for Intraday 2 or 6:00 P.M. for Evening Cycle);
- contract tendered with contract # within one hour after award posted.

(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.;
- award posted on TSP web site by 2:00 P.M.;
- nomination possible at each nomination opportunity for the effective date of the release coincident with or subsequent to the award of capacity;
- contract tendered with contract # within one hour after award posted;
- for prearranged deals subject to bidding, match response by 2:30 P.M.;
- award determined and posted on TSP web site by 3:00 P.M.;
- nomination possible at each nomination opportunity for the effective date of the release coincident with or subsequent to the award of capacity (e.g., 5:00 P.M. for Intraday 2 or 6:00 P.M. for Evening Cycle);
- contract tendered with contract # within one hour after award posted.

(Central Clock Time)

For non-biddable releases:

For Each Cycle

- nomination possible at each nomination opportunity starting at the time the TSP is notified of the capacity release transaction, including a nomination that is coincident with the notification of the capacity release transaction; (For example, if notification received by TSP at or before 11:30 A.M., replacement shipper can nominate for the Timely Cycle; similarly, if notification received at or before 6:00 P.M., replacement shipper can nominate for the Evening Cycle, etc.)
- posting of pre-arranged deals upon receipt of nomination;
- contract tendered with contract # within one hour after TSP notified of capacity release transaction.

(Central Clock Time)

February 16, 2001

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- 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.;
- = award posted on TSP web site by 2:00 P.M.;
- = nomination possible at each nomination opportunity for the effective date of the release coincident with or subsequent to the award of capacity;
- = contract tendered with contract # within one hour after award posted;
- for prearranged deals subject to bidding, match response by 2:30 P.M.;
- award posting determined and posted on TSP web site by 3:00 P.M.;
- ~~contract tendered with contract # by 4:00 P.M.; contract executed;~~ nomination possible beginning at the next available each nomination cycle opportunity for the effective date of the contract release coincident with or subsequent to the award of capacity (e.g., 5:00 P.M. for Intraday 2 or 6:00 P.M. for Evening Cycle);
- = contract tendered with contract # by 4:00 P.M.; contract executed; within one hour after award posted.

(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.;
- = **award posted on TSP web site by 2:00 P.M.;**
- = **nomination possible at each nomination opportunity for the effective date of the release coincident with or subsequent to the award of capacity;**
- = **contract tendered with contract # within one hour after award posted;**
- **for prearranged deals subject to bidding,** match response by 2:30 P.M.;
- award posting **determined and posted on TSP web site** by 3:00 P.M.;
- contract tendered with contract # by 4:00 P.M.; contract executed; nomination possible beginning at the next available **each** nomination cycle **opportunity** for the effective date of the contract **release coincident with or subsequent to the award of capacity (e.g., 5:00 P.M. for Intraday 2 or 6:00 P.M. for Evening Cycle);**
- = **contract tendered with contract #** by 4:00 P.M.; contract executed; **within one hour after award posted.**

(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 next available nomination cycle for the effective date of the contract.

Evening Cycle

For Each Cycle

- *[N.B.: Replacement shipper's ability to nominate is not dependent upon posting. Under reporting requirements in 18 C.F.R. § 284.13(b)(1), pipelines are required to post contract information on capacity releases at the time of nomination.]*
- = **nomination possible at each nomination opportunity starting at the time the TSP is notified of the capacity release transaction, including a nomination that is coincident with the notification of the capacity release transaction; (For example, if notification received by TSP at or before 11:30 A.M., replacement shipper can nominate for the Timely Cycle; similarly, if notification is received at or before 6:00 P.M., the replacement shipper can nominate for the Evening Cycle, etc.)**

- posting of ~~prearranged deals not subject to bid~~ are due by 4:00 P.M. on a Business Day **pre-arranged deals upon receipt of nomination**;
- contract tendered with contract # by 5:00 P.M.; contract executed; nomination possible beginning at next available nomination cycle for the effective date of the contract **within one hour after TSP notified of capacity release transaction**.

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 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 beginning at next available nomination cycle for the effective date of the contract.

(Central Clock Time)

Questions and Answers on Proposed GISB Standard 5.3.2

Pinpointing the problems with proposed Standard 5.3.2.

- What are the specific parts of proposed Standard 5.3.2 that are inconsistent with Order No. 637?

Answer: The inconsistencies are identified in the attached mark-up of proposed Standard 5.3.2. The inconsistencies deal principally with contract issuance and execution (neither of which is required before a replacement shipper can nominate) and posting of pre-arranged deals (which is not required before a replacement shipper can nominate).

- Please identify the specific regulatory provisions with which these parts of proposed Standard 5.3.2 are inconsistent.

Answer: New Section 284.8(c)(1)(ii) of the Regulations.

Reconciling instantaneous nomination after a release is consummated with bidding and posting.

- How do you reconcile the requirements for bidding and posting of capacity release transactions with the notion of instantaneous nomination of released capacity?

Answer: See above. A replacement shipper can nominate as soon as a capacity release deal is consummated, meaning that if a pre-arranged deal is done at or before 11:30 A.M., it can be nominated at 11:30 A.M.

- Are there different timelines for biddable and non-biddable deals? If so, what are they?

Answer: Yes. Biddable deals cannot be nominated until the award of capacity is made.

Reconciling contract issuance/contract execution/nomination of released capacity.

- What is the significance of the requirement that a contract for released capacity be issued within one hour after a deal is completed, if such requirement does not also relate to contract execution?

Answer: As the Commission explained in Order No. 637-A, issuance of the contract deals only with the pipeline's obligation to tender a contract to the replacement shipper within one hour after the capacity release is consummated; it does not involve "approval" of the replacement shipper for credit or otherwise. (Mimeo at 103-04.) The principal issue raised by contract execution concerns who is responsible for usage charges and penalties in the event the replacement shipper never executes a contract. In such circumstances, the pipeline can look to the releasing shipper, since no substitute party will have executed a contract with the pipeline for the capacity. Pipelines may cover this point explicitly in their tariffs.

- Must a contract be executed within one hour after it is issued?

Answer: No.

- Does the Commission mean for contract execution to be totally separate from a replacement shipper's ability to nominate released capacity?

Answer: Yes.

- If the two actions are not independent, in what circumstances is contract execution a condition precedent to nomination of released capacity?

Answer: Because the two actions are independent of each other, there are no such circumstances. See new Section 284.8(c)(1)(ii) of the Regulations.