

the Commission is proposing to require pipelines to post OFOs and critical notices on their Internet web sites and to provide individual notice to shippers, at the shipper's option, either through Internet E-mail or by a direct notice to a shipper's Internet address. 65/

At the conference, there also was discussion about the difference between requiring telephone or fax notice for system-wide or large-scale OFO situations and attempting to reach a small number of shippers by whatever means is necessary in localized and critical situations. 66/ The Commission continues to expect that for extremely critical OFOs limited to only a few shippers, the pipelines will continue to make every effort to ensure that the affected shippers are informed.

E. Policies Regarding Title Transfer Tracking

1. Background

Title transfer tracking refers to the accounting for transfers of title to gas at a nomination point when no transportation is involved. Under the Commission's policy, shippers must have title to gas in order to transport the gas on a pipeline. Pipelines, therefore, have always had to perform some title transfer tracking to ensure that shippers have title to gas. For example, if shipper A on an upstream pipeline transports gas to an interconnect with a downstream pipeline and transfers the gas to shipper B on the downstream pipeline, the pipelines would have to match those transactions as part of the process of confirming the nominations.

However, with unbundling and the development of a more fluid gas market, transactions at nomination points are increasing to a much greater extent.

65/ Proposed regulation 284.10(b)(2)(iii)(E).

66/ Transcript of December 13, 1996 technical conference, at 17, 34-36.

Thus, at an interconnect point, there may be multiple transfers of title before the gas is nominated on the downstream pipeline.^{67/} In order for pipelines to confirm the gas nominated on the upstream and downstream pipelines, there is a need to convey information about which shipper(s) are delivering the gas to the shipper on the downstream pipeline.

GISB established a title transfer tracking task force to evaluate these issues and attempt to develop standards for how title transfer tracking would be conducted, with a report due by September of 1997. In its September 2, 1997 filing, GISB included an interim report by its title transfer tracking task force summarizing its progress. According to the report, the task force has distilled 13 initially proposed methods for handling title transfers to five, which it is still considering. It also has identified 13 remaining issues relating to title transfer tracking, such as how title transfers are related to invoicing, pre-determined allocations (PDAs), and multi-tiered allocations, whether title transfers can have imbalances, and how title transfers fit in with intra-day scheduling.

NGC in its September 2, 1997 comments states that while the title transfer tracking task force is evaluating and defining the process, the task force is not addressing the underlying issue of whether the pipelines should be required to perform the service. NGC claims the extent of the pipelines' responsibility to perform title transfer tracking is an intractable policy dispute that only the Commission can resolve.

In reviewing the comments filed on this issue, it is evident that there is a split between the segments on whether the pipelines should be responsible

^{67/} Enron Interstate Pipelines refers to these transactions as "title transfer only" transactions to differentiate them from transactions involving title exchange and transportation.

for performing title transfer tracking service. The pipelines contend that tracking title exchanges, when no physical transportation is occurring, is unrelated to transportation service. 68/ They maintain that they should not be responsible for performing an accounting service for marketers and others that are seeking to arbitrage in the volatile gas market. If the Commission were to require them to perform title transfer tracking, the pipelines maintain that they should be able to collect a separate charge for the service, rather than having it included in their general transportation rates. LDCs similarly contend that shippers using title transfer services should be required to pay a separate charge. 69/ Charging a separate fee, they maintain, is consistent with the GISB principle that the users of title transfer services should bear the cost of the service. 70/

Marketers and others 71/ contend that title transfer tracking is related to the confirmation process and that pipelines are in the best position to perform this service because they already process nominations and confirmations electronically. The marketers further contend that if the pipelines do not perform title transfer tracking, the pipelines may seek to require shippers to disclose the string ("daisy chain") of title transfers, so that interconnecting pipelines can confirm the nomination. Disclosure of the daisy chain, marketers assert, is anticompetitive because marketers would have to disclose to the ultimate purchaser the marketer's *raison d'etre* -- the

68/ See Comments of NorAm Gas Transmission Company and Mississippi River Transmission Company, at 4 (February 21, 1997).

69/ Comments of American Gas Association, at 16 (February 21, 1997).

70/ 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.1.11.

71/ Comments of Natural Gas Clearinghouse, at 14 (February 24, 1997); Energy Managers Association, at 9 (February 21, 1997).

source of the marketer's reasonably priced gas. 72/ They allege that the purchaser could appropriate this information for its own benefit in succeeding months by eliminating the marketer and buying gas directly from the source.

2. Pipeline Obligations With Respect To Title Transfer Tracking

To assist GISB, the Commission will resolve this policy dispute regarding the pipelines' responsibilities to perform title transfer tracking. Pipelines must continue to ensure that shippers on their systems have title to the gas they intend to ship. To perform this function, the Commission sees no reason to require pipelines to establish a computerized title transfer tracking service to account for the purchase and sale of gas between shippers independent of transportation. It is the shipper's responsibility to furnish the transporter with the information needed to establish title to gas and its right to nominate that gas on the pipeline. GISB should continue its efforts to develop standards defining the minimum information needed for nominations and confirmations.

While the Commission is not proposing that the pipelines be required to perform title transfer tracking, the Commission recognizes that some shippers have a need for this service. Pipelines, therefore, may perform title transfer tracking service and may assess a reasonable, independent fee for the service. 73/ Charging a separate fee for such service will help to ensure that shippers will use the service only to the point at which the shippers value the service more than the price charged.

72/ Transcript of December 12, 1997 technical conference, at 104.

73/ See Trunkline Gas Company, 75 FERC ¶ 61,003 (1996) (approving a separate flat charge for tracking service) But cf., Williams Natural Gas Company, 79 FERC ¶ 61096 (1997)(rejecting a volumetric, per Dth, fee for title transfer service).

Further, shippers should have the opportunity to develop their own competitive systems for tracking title and have the pipeline recognize those title transfers in determining whether a shipper has title to the gas it seeks to transport. Title transfer services already are beginning to be offered both by pipelines and by storage and hub operators and, if the demand exists, such services should increase. 74/ Enron Interstate Pipelines contend that third-parties in the competitive market can provide title transfer tracking services, although Enron recognizes that pipelines may need to perform a coordinating role by accepting confirmations from these third-parties. 75/

The Commission agrees with Enron that pipelines must accept title transfer confirmations from point operators and third-party service providers, acting as agents for shippers, on a non-discriminatory basis. 76/ Requiring pipelines to accept such confirmations from third-parties is consistent with the Commission's policy in Order No. 636 that pipelines need not create market centers, but must not take actions which will inhibit the development of such centers. 77/ The development of third-party title transfer tracking services also will place competitive pressure on pipelines that choose to offer a title transfer tracking service and thus help to ensure the pipelines' rates are reasonable.

74/ See Moss Bluff Hub Partners, L.P., 80 FERC ¶ 61,181, at 61,475 (1997); Trunkline Gas Company, 75 FERC ¶ 61,003 (1996).

75/ Comments of Enron Interstate Pipelines, at 18 (February 21, 1997).

76/ Title transfer tracking is part of the confirmation process, because it involves the confirmation that gas nominated by a shipper will be injected into the pipeline's system. It is no different than a confirmation provided by a producer or point operator, who, in fact, may be offering a title transfer tracking service of its own.

77/ 18 CFR 284.8(b)(4), 284.9(b)(4) (1997).

With the clarification of the pipelines' role in title transfer tracking, the Commission expects that GISB should be able to develop the business practices and electronic communication standards relating to the confirmation process for title transfers. The Commission will provide GISB until March 31, 1998 to submit such standards. Other members of the industry also may propose standards at that time as well.

F. Commission Policies Regarding The Disputed Issues Remaining From The December 12-13, 1996 Technical Conference

During the standardization process, disputes developed in a number of areas in which the GISB membership was unable to reach consensus. A number of standards were supported by four segments of the industry, but were not passed by GISB due principally to the opposition of the pipeline segment.^{78/} The pipelines contended that these standards are not warranted or that they represented an attempt by the other members of the industry to shift costs onto the pipelines, as the only regulated entities.^{79/} In the November 13, 1996 NOPR,^{80/} the Commission announced that in order to exercise its oversight role, Commission staff would hold a technical conference on December 12-13, 1996 to consider these issues. The technical conference was to provide further information on those disputed standards so that the Commission could determine whether these standards were of sufficient importance to the maintenance of an integrated pipeline grid that the pipelines should be

78/ See Appendix B.

79/ See comments of Interstate Natural Gas Association of America, at 13-18 (February 21, 1997).

80/ See Standards For Business Practices Of Interstate Natural Gas Pipelines, Notice of Proposed Rulemaking, 61 FR 58790 (Nov. 19, 1996), IV FERC Stats. & Regs. Proposed Regulations ¶ 32,521 (Nov. 13, 1996).