

May 19, 2003

VIA E-MAIL

Ms. Rae McQuade
Executive Director
North American Energy Standards Board
Attn: WGQ Executive Committee

Re: Comments of NiSource's Distribution Companies Regarding Proposed WGQ Creditworthiness Standards

The NiSource Distribution Companies, comprised of Bay State Gas Company, Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc., Kokomo Gas & Fuel Company, Northern Indiana Fuel & Light Company, Northern Indiana Public Service Company and Northern Utilities, Inc., appreciate the opportunity to comment regarding the North American Energy Standards Board (NAESB) Wholesale Gas Quadrant (WGQ) proposed standards related to interstate pipeline creditworthiness practices that will be considered by the WGQ Executive Committee (EC) on May 20, 2003.

As detailed below, based upon their experience as active participants in the NAESB creditworthiness proceedings and various ongoing proceedings before the Federal Energy Regulatory Commission (FERC or Commission), the NiSource Distribution Companies urge the EC *not* to adopt the package of standards as proposed at this time. Rather, the EC would be exercising responsible industry leadership to forward the proposed standards to the FERC in the anticipated June 1 report along with an account of the NAESB deliberations, in order to better inform the Commission in its further regulatory decisionmaking in this area.

The consensus process has not resulted in clear, unambiguous standards because transmission providers' creditworthiness evaluations are not mechanical "one size fits all" administrative operations simply to be made uniform and more efficient. Instead, credit issues involve processes and decisions integral to a company's management of its financial risks and ongoing business relationships. These considerations are especially important in recent times with the increase in concerns about the financial viability of major parties in the industry. Thus, developing creditworthiness standards at this time involves considerable potential for policymaking -- which NAESB may not do -- in part because the Commission has addressed some, but not all, aspects of creditworthiness policy in recent individual cases.

INTEREST OF NISOURCE'S DISTRIBUTION COMPANIES

The NiSource Distribution Companies have a significant interest in NAESB's involvement in creditworthiness standards. Collectively, the companies are shippers on more than a dozen pipelines and, as national leaders in retail unbundling, the NiSource companies are very significant releasers of capacity to competitive suppliers of gas. Thus, the NiSource Distribution Companies have considerable experience with, and

interest in, creditworthiness issues as buyers of services, providers of services and as releasing shippers.

The NiSource companies have been active members of NAESB/GISB since its inception, participating in numerous committee activities, and sponsoring an executive on the GISB Board of Directors for two terms and the current vice-chair of the NAESB Retail Gas Quadrant Board. The NiSource companies are proven supporters of NAESB's efforts to develop uniform standards for operational processes that enhance efficiency and competitive market opportunities. However, the GISB/NAESB process was never intended to address core business and policy aspects of the regulated gas industry. To remain effective and credible, NAESB should carefully maintain its recognized success in addressing those non-policy topics best suited to an independent, voluntary, consensus-based standards-setting organization.

A CONSTRUCTIVE ROLE FOR NAESB TO INFORM FERC

The NAESB WGQ became involved in developing possible creditworthiness standards after the NAESB Board, in response to a request from FERC, determined that consistent with its organizational scope, NAESB could address only standards that would implement stated Commission policies or wholly non-policy aspects of creditworthiness. By the specific language of its request to NAESB, the Commission recognized that the NAESB process might not result in specific creditworthiness standards.¹ The June 1 report by NAESB is an opportunity to inform FERC about why the process could not develop a comprehensive, generic set of standards that are beneficial and appropriate for business risk issues, topics that NAESB had not addressed previously. The EC should emphasize with FERC that NAESB can only develop standards where FERC has articulated clear, comprehensive and unambiguous policies not subject to interpretation, because NAESB cannot establish policy. In an area such as creditworthiness, which constitutes a crucial financial and risk management process, meaningful consensus standards are difficult to achieve so long as parties can maintain differing interpretations of the extent and details of policy decisions.

The extensive, and not infrequently contentious, discussions among the Business Practice Subcommittee (BPS) participants illustrate the difficulty of removing policymaking considerations from developing standards on many creditworthiness issues. And the resulting package of proposed standards developed by the committee demonstrates the limitations on standards setting by consensus when critical business policies are at issue.

In short, a number of the resulting standards address administrative items such as communication processes for various notifications. While generally unobjectionable,

¹ "The Commission agrees that it could be valuable to develop a generic standard for creditworthiness since shippers would be able to provide the same documents to every pipeline to obtain capacity, and there appears to be value in establishing standards for when a pipeline must provide service to a shipper. The Commission encourages parties to initiate the standards development process at the [NAESB] to see whether a consensus standard can be developed for credit worthiness. By June 1, 2003, NAESB and other parties should file a report with the Commission indicating whether standards have been adopted, or if consensus cannot be reached, an account of its deliberations, including an outline of the standards considered, the voting records, and the reasons for the inability to reach consensus to enable the Commission to determine whether further action is necessary." *Tennessee Gas Pipeline Company*, 100 FERC ¶61,268 at ¶16.

few of these standards measurably enhance or improve existing practices. Of greater concern are those proposed standards in which the consensus language is ambiguous and open to interpretation because the existing policy lacks sufficient detail and clarity.¹ It is not uncommon for the active participants in the committee process to disagree about the intent or meaning of portions of various proposed standards. This outcome is entirely understandable given the voluntary, open, consensus process through which the standards were developed, but it should not be an acceptable outcome for standards addressing core business management processes that may have the force of regulation through adoption by FERC.

NiSource Distribution is familiar with comments being submitted to the EC concurrently by various other local distribution company and interstate pipeline interests that detail a variety of specific questions raised by individual standards, including *inter alia*, proposals to delete certain individual standards, to clarify others, to recognize inconsistencies among some of the proposed standards, and to find certain proposed standards contrary to FERC policy. The members of the EC should not be expected to, nor are they in a position to reconcile each of the many specific concerns raised with the proposed standards as they were adopted in the consensus process. The BPS developed the standards as a package and changes at the EC obviously would affect the intent of those who supported a consensus only on the basis of give-and-take across the entirety of the package of standards. Changes by the EC also would impact the delicately balanced positions of various groups of commenters on this process given that even within industry segments, it has been an extraordinarily difficult process to try to achieve consensus positions on the package of proposed standards.

Faced with such ambiguity and a broad range of concerns with the proposals from throughout the industry, it is hard to say that the proposed standards represent any consensus with the clarity required to improve the conduct of business on interstate pipelines. As demonstrated in the extensive BPS discussions, there can be no consensus implementing procedural standards without great clarity in policy determinations. Thus, at this time, NAESB would provide the greatest value from its current workproduct by forwarding the package of proposals to FERC with appropriate explanations and observations on the process in order for the Commission to pursue clarifying the creditworthiness policy issues and possible implementing regulations, if necessary. Because credit-related issues are fundamental to each entity in the gas industry, it will require that the proper regulatory administrative process address fully and clearly all the underlying implications of Commission policy decisions before those policies could be implemented through meaningful process standards supported by true industry consensus.

No participant in NAESB should consider their efforts less than successful because the EC would not have adopted any consensus creditworthiness standards by June 1. Rather, the EC should consider the June 1 report to be a valuable opportunity to provide constructive input to the FERC and demonstrate that, despite sincere and

² In addition, there are legal challenges pending at FERC regarding various recent policy determinations made in individual cases such that standards based upon the challenged policy decisions are premature at this time.

extensive efforts, creditworthiness and similar policy issues fundamental to business risk management are not topics suitable for generic consensus standards until clear policy direction has been established. FERC itself has determined repeatedly that creditworthiness policies should be developed on a case-by-case basis rather than in a generic proceeding. Until the Commission has made policy decisions that are unambiguous in all their detail, NAESB should focus its resources and efforts on operational and administrative topics for which it has all the policy guidance needed to develop uniform standards by consensus for the benefit of the industry.

Therefore, the NiSource Distribution Companies urge the EC not to adopt the proposed standards, but rather to forward the package of proposals to FERC with an account of the NAESB deliberations. This approach would be appropriate in view of the need for further policy development and guidance in this area.

Inquiries regarding these comments may be addressed to Mark Maassel (219/647-6400), Marilyn Specht Adusei-Poku (419/252-8152) or Peter Connor (614/460-5974).

Thank you for your consideration.