

May 22, 2003

Ms. Rae McQuade
NAESB Executive Director **Re: Natural Gas Industry Creditworthiness Guidelines**
1301 Fannin, Suite 2350
Houston, TX 77002

Dear Ms. McQuade:

Stand Energy Corporation objects to the mis-use of creditworthiness as an anti-competitive weapon to eliminate marketers from the industry. The overwhelming majority of Transportation Service Provider (TSP) tariffs do NOT contain creditworthiness criteria or formulae to protect against abuse or mis-use against Service Requestors (SR's). TSP's have unfettered authority over the application and enforcement of stringent credit requirements.

Today's abnormal credit practices, specifically the mis-use of 60-day security requirements (via letters of credit or cash prepayment), cannot continue if the gas industry is to remain viable and competitive. Current credit practices are applied to keep competitors out of business. Many TSP's refuse to accept the fact that doing business involves taking some risk. If asked, most TSP's will admit they have "zero risk tolerance". Currently, only publicly traded companies with long-term bond ratings qualify with TSP's for unsecured credit in any amount. This creates a competitive advantage, and implied bias, against small or privately owned SR's – all without any factual relationship to the payment history or actual risk of loss involved. Creditworthiness standards must be applied in a normal, businesslike manner – with no special privileges or advantages dolled out to publicly traded companies, or any other market participants. Creditworthiness should be a "shield" from some amount of risk, not a "sword" for TSP's to eliminate unwelcome competition. Stand Energy Corporation suggests the following items for inclusion in the NAESB creditworthiness guidelines:

- **Normal credit standards should apply until default occurs.** Normal 30-day payment terms provide reasonable protection to TSP's from the risk of default. If a default in payment occurs, then demands for security or other guarantee of performance would be reasonable and appropriate.
- **Dun & Bradstreet and other credit reporting agencies should be approved.** A favorable credit rating from any credit reporting company should be satisfactory in the absence of a negative rating.
- **Letters of Credit Should Only Be Seasonal and Not Duplicative.** If letters of credit/other security are required, the requirement should be seasonal in nature because the risk is seasonal. Multiple letters of credit in the chain of delivery (e.g., interstate pipelines AND local distribution companies) should not be allowed because they require SR's to post double (or more) security for every unit of gas delivered to a single end-user.

- **Gas In Banks/Storage Considered An Asset.** If extraordinary credit requirements are deemed necessary, and if offered by the SR, the value of gas in banks/storage on a TSP's system should be considered as an asset when determining credit.
- **“Credit Risk” Definitions Must Be Included.** Definitions of “anticipatory repudiation” or “reasonable grounds for insecurity of payment” must be included to define unacceptable risks. For example, official comment 1, to UCC 2-610 – describes an overt act that clearly demonstrates the inability to perform or the intention to fail to completely perform.

Extreme and outrageous creditworthiness policies are bad for growth and prevent competitors from joining the market or remaining in. Existing creditworthy competitors will be forced out of the market if reasonable, uniform creditworthiness policies are not drafted and applied fairly and without bias. FERC has indicated it will be considering the NAESB guidelines for possible future use in creditworthiness issues. **You must address these issues and protect the future of competition in the NAESB creditworthiness guidelines by modifying credit practices to reflect normal business practices.**

Sincerely,



Matth. Toebben
Chairman of the Board

cc: Hon. Jim Bunning, U.S. Senate
Members of Energy Committee of U.S. Senate
Mr. William Boswell, NAESB Chairman
Hon. Patrick H. Wood, III, FERC Chairman
Hon. Nora Mead Brownell, FERC Commissioner
Hon. William L. Massey, FERC Commissioner
Mr. Craig Goodman, NEMA President