

**Business Practices Subcommittee
Creditworthiness
Proposed Standards
Draft Minutes Attachment
April 21, 2003**

The Peoples Gas Light and Coke Company and North Shore Gas Company (collectively, "Peoples") submit the following comments on the proposed creditworthiness standards developed by NAESB's business practice subcommittee. The Peoples Gas Light and Coke Company is a member of NAESB's wholesale gas quadrant. Peoples appreciates the opportunity to comment on the proposed standards.

To a large extent, Peoples believes the proposed standards have been overtaken by Federal Energy Regulatory Commission ("Commission") orders issued subsequent to the Commission's request that NAESB undertake to develop credit standards. See, e.g., Natural Gas Pipeline Company of America (Natural), 102 FERC ¶61,355 (2003); Northern Natural Gas Company (Northern Natural), 102 FERC ¶61,076 (2003); Tennessee Gas Pipeline Company, 102 FERC ¶61,075 (2003). In these and other decisions, the Commission has not only made significant policy decisions, which are beyond NAESB's purview, but it has ruled on specific proposals of the sort included in the NAESB proposal. Some of those decisions are pending rehearing or compliance filings are pending. Under these circumstances, it may be premature for NAESB to adopt credit standards, and, indeed, it is not evident that standards are needed in light of the growing body of Commission precedent on these issues.

Peoples understands that NAESB has been directed to file a report with the Commission by June 1, 2003, "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." Natural at Par. 5. However, at this time, Peoples does not believe adopting standards would be beneficial. The standards, alone, do not constitute the necessary tariff language to articulate complete credit requirements because those requirements necessarily involves answers to policy questions. Peoples believes that the Commission's answers to those questions, and the likelihood that those answers will be refined through the rehearing process, compliance filings and orders in new cases, provide sufficient standards and guidance for pipelines filing tariff provisions to address credit requirements. At best, the proposed NAESB standards would address some basic process issues that, in Peoples' opinion, have generally been addressed by Commission orders. Submitting the account of deliberations and other information to the Commission, and not proposed standards adopted by NAESB, would provide adequate information for the Commission to determine if it needs to take additional steps and to guide any such additional steps.

While Peoples does not support adoption of the proposed standards, it recognizes that the standards have considerable support from all segments who participated in their development. Accordingly, Peoples offers some proposed language changes for a few of the standards that it believes would clarify their intent and conform

the standards to Commission policy. Where Peoples has proposed language, it has included a comment explaining the reason for the proposal.

Proposed Standard 0.3.zA (formerly z1)

For credit evaluation purposes, the Service Requester (SR) should supply any of the following information as specified by the Transportation Service Provider (TSP):

- Audited Financial Statements;
- Annual Report;
- Most recent filed statements with the Securities and Exchange Commission (or an equivalent authority) or such other publicly available information;
- For public entities, the most recent publicly available interim financial statements, with an attestation by its Chief Financial Officer, Controller, or equivalent (CFO) that such statements constitute a true, correct, and fair representation of financial condition prepared in accordance with Generally Accepted Accounting Principles (GAAP) or equivalent;
- For non-public entities, including those that are state-regulated utilities, the most recent available interim financial statements, with an attestation by its CFO that such statements constitute a true, correct, and fair representation of financial condition prepared in accordance with GAAP or equivalent;
- For non-public entities, including those that are state-regulated utilities, an existing sworn filing, including the most recent available interim financial statements and annual financial reports filed with the respective regulatory authority, showing the SR's current financial condition;
- For state-regulated utility local distribution companies, documentation from their respective state regulatory commission (or an equivalent authority) of an authorized gas supply cost recovery mechanism which fully recovers both gas commodity and transportation capacity costs and is afforded regulatory asset accounting treatment in accordance with GAAP or equivalent;
- List of Affiliates, Parent Companies, and Subsidiaries;
- Publicly Available Credit Reports from Credit and Bond Rating Agencies;
- Private Credit Ratings, if obtained by the SR;
- Bank References;
- Trade References;
- Statement of Legal Composition;
- Statement of Length of Time Business has been in Operation;
- Such other information as may be mutually agreed to by the parties; and
- Such other information as the TSP may receive approval to include in its tariff or general terms and conditions.

Non-public information supplied by the SR should be treated by the TSP as confidential.

Proposed Standard 0.3.zB (formerly z2)

If the Transportation Service Provider (TSP) requests additional information to be used for credit evaluation after the initiation of service, the TSP [contemporaneous with the request](#), should provide its reason(s) for requesting the additional information to the Service Requester (SR) [and designate the person to whom the response should be sent](#). The TSP and the SR may mutually agree to waive the requirements of this standard.

Comment: First, it may be implicit in this proposed standard that the TSP will provide its request and its reasons for the request simultaneously. However, Peoples believes it should be unambiguously stated in the standard that the two occur at the same time. Second, the pipeline representative who should receive credit information may not be the contact with whom the SR usually deals. The request for information should specify to whom the response should be sent.

Proposed Standard 0.3.zC (formerly z3)

Upon receipt of a request from the Transportation Service Provider (TSP) for information to be used for credit evaluation, the Service Requester's (SR) authorized representative(s) should acknowledge receipt of the TSP's request. The TSP and the SR may mutually agree to waive the requirements of this standard.

Proposed Standard 0.3.zD (formerly z6)

The Service Requester's (SR) authorized representative(s) should respond to the Transportation Service Provider's (TSP) request for credit information, as allowed by the TSP's tariff, on or before the due date specified in the request [and to the TSP representative designated by the TSP to receive such response](#). The SR should provide all the credit information requested by the TSP or provide the reason(s) why any of the requested information was not provided.

Comment: The pipeline representative who should receive credit information may not be the contact with whom the SR usually deals. The request for information should specify to whom the response should be sent and submitting a response to that person fulfills the SR's obligation to provide information.

Proposed Standard 0.3.zE (formerly z4)

Upon receipt from the Service Requester (SR) of all credit information provided pursuant to NAESB WGQ Standard [0.3.zD], the Transportation Service Provider (TSP) should notify the SR's authorized representative(s) that it has received such information. The TSP and the SR may mutually agree to waive the requirements of this standard. [The TSP should designate, on its Internet website or in written notices to its shippers, the Internet e-mail addresses of up to two representatives who are authorized to receive notices regarding SRs' creditworthiness. The SR's obligation to provide confirmation of receipt is met by sending such confirmation to any one of such representatives, and the TSP should manage internal distribution of any such confirmations.](#)

Comment: The TSP should designate contact information for credit-related notices and communications. This is similar to proposed standard 0.3.zF (formerly z5) as it relates to SRs. The pipeline representative who should receive credit information may not be the contact with whom the SR usually deals.

Proposed Standard 0.3.zF (formerly z5)

The Service Requester (SR) should designate up to two representatives who are authorized to receive notices regarding the SR's creditworthiness, [including requests for additional information](#), pursuant to [the applicable](#) NAESB WGQ Standards ~~{0.3.zE}~~ and should provide to the Transportation Service Provider (TSP) the Internet e-mail

addresses of such representatives prior to the initiation of service. The obligation of the TSP to provide creditworthiness notifications is waived until the above requirement has been met. The SR should manage internal distribution of any creditworthiness notices that are received.

Comment: Peoples suggests that SRs should provide contact information for all credit-related purposes and not just Standard 0.3.zE. For example, if the TSP requests additional information pursuant to Standard 0.3.zB, the request should be directed to the representatives designated by the SR.

Proposed Standard 0.3.zG (formerly z7)

Upon the Transportation Service Provider's (TSP) determination that a Service Requester (SR) is non-creditworthy, the TSP should provide the SR with written notification that clearly states the reason(s) for the TSP's decision.

Proposed Standard 0.3.zH (formerly z9)

At the time of its request for service and upon the Transportation Service provider's (TSP) request at any time thereafter, the Service Requester (SR) should confirm to the TSP whether any of the following conditions exist:

- (1) that the SR has filed for bankruptcy protection and/or is operating under any chapter of the bankruptcy laws;
- (2) that the SR is subject to liquidation or debt reduction procedures under governing laws, such as an assignment for the benefit of creditors or any creditors' committee agreement; and/or
- (3) that the SR's credit rating has been downgraded by a credit rating agency within the last six months.

Proposed Standard 0.3.zI (formerly z23)

Upon request of the Transportation Service Provider (TSP), the Service Requester should furnish the applicable information requested in NAESB WGQ Standards [0.3.zA], [\[0.3.zB\]](#) and [0.3.zH], including an explanation for any unavailable information, within three (3) business days or such later date acceptable to the TSP.

Comment: Proposed Standard 0.3.zB provides for a request for "additional information." It is unclear to Peoples if this information request is covered by 0.3.zA and 0.3.zH. Peoples believes it should be referenced in this Standard.

Proposed Standard 0.3.zJ (formerly z17)

In complying with information requirements specified by the Transportation Service Provider (TSP) pursuant to NAESB WGQ Standards [0.3.zA], [\[0.3.zB\]](#) and [0.3.zH] [that require the production of publicly available documents](#), the Service Requester (SR) should provide to the TSP ~~the public documents that contain the required information. The public documents may be~~ either the SR's public documents or, if the SR does not have the required documents, the public documents of the SR's parent company, to the extent that such documents contain the required information pertaining to the SR. If the SR provides its parent company's public documents to confirm the existence of an event specified in Standard [0.3.zH], the SR should specify where, in said public document, such information appears.

Comment: This proposed standard appears to apply only to publicly available information (e.g., SEC filings) although certain types of information that a TSP can request are not publicly available documents (e.g., private credit ratings or bank references). Peoples' proposed language is intended to clarify this provision. Also, proposed Standard 0.3.zB provides for a request for "additional information." It is unclear to Peoples if this information request is covered by 0.3.zA and 0.3.zH. Peoples believes it should be referenced in this Standard.

Proposed Standard 0.3.zK (formerly z14)

At any time after the Service Requester (SR) is determined to be non-creditworthy by the Transportation Service Provider (TSP), the SR may initiate a credit status re-evaluation by the TSP. As part of the SR's re-evaluation request, the SR should either update or confirm in writing the prior information provided to the TSP related to the SR's credit status. Such update should include any substantial event(s) that the SR believes could lead to a change in the SR's credit status.

Proposed Standard 0.3.zL (formerly z15)

After a Transportation Service Provider's (TSP) receipt of a Service Requester's (SR) request for re-evaluation, including all required information pursuant to NAESB WGQ Standard [0.3.zK] ("SR's Request"), within [x] Business Days, the TSP should provide a written response to the SR's Request. Such written response should include either a determination of creditworthiness status, clearly stating the reason(s) for the TSP's decision, or an explanation supporting a future date by which a re-evaluation determination will be made. In no event should such re-evaluation determination exceed [y] Business Days from the date of the receipt of the SR's Request unless the parties mutually agree to some later date. If, upon such re-evaluation, the TSP determines that the SR is creditworthy, any credit alternative(s) previously provided by the SR should be returned to the SR within [z] business days. Any credit alternative in the form of a cash pre-payment should be returned with interest if, pursuant to NAESB WGQ Standard [0.3.zP], the TSP is responsible for paying interest. The values for [x], ~~and~~ [y] and [z] should be specified in the TSP's tariff.

Comment: The proposed standard addresses the process for re-evaluation but does not specify what happens if the re-evaluation results in a determination that a shipper is now creditworthy. There should be a defined process for returning, promptly, credit support provided by an SR whose status has changed from non-creditworthy to creditworthy.

Proposed Standard 0.3.zM (formerly z10)

For the Service Requester (SR) to receive initial service or to continue to receive service from a Transportation Service Provider (TSP), the SR should be

- (1) creditworthy in accordance with the TSP's tariff or provide credit alternative(s) in accordance with NAESB WGQ Standard [0.3.zN],
- (2) current on all undisputed payments to the TSP for service, and
- (3) otherwise ~~in compliance with~~ meet the requirements in the TSP's tariff or service agreement applicable to eligibility to receive service.

For an SR receiving service, the TSP may suspend service only after providing [x] days prior written notice specifying the reason(s) for suspension of service, unless within such [x] days, the SR cures the deficiency that is the basis for the notice of suspension. For an SR receiving service, the TSP may terminate service only after providing thirty (30) days prior written notice, unless within such thirty (30) days the SR cures the deficiency that is the basis for the notice of termination. The value for [x] should be specified in the TSP's tariff. Notice of suspension and termination may be given simultaneously.

Comment: First, Peoples believes that (3) is somewhat ambiguous. Pipeline tariffs include scores of requirements with which shippers must comply. Whether non-compliance with any one of these provisions is a basis for suspension or termination of service is beyond the scope of standards addressing credit requirements. Non-compliance with a tariff provision may merit suspension or termination of service, but the tariff would need to address the circumstances under which this occurs and the process that leads up to termination. Second, the process for suspending and terminating service should be clear. The tariff should specify the requisite prior notice and cure period. The standard leaves this open and suggests, perhaps inadvertently, that suspension or termination could happen immediately or with nominal notice. Peoples notes that the Commission found thirty days prior notice essential before service is terminated. Natural at Par. 38; also see Northern Natural, Par. 49.

Proposed Standard 0.3.zN (formerly z11)

In the event that the Service Requester (SR) is determined to be non-creditworthy by the Transportation Service Provider (TSP) at the time it requests service or any time thereafter, at the SR's option, the SR should provide one or more of the following forms of credit alternatives to receive initial service or continue to receive service:

- (1) guarantee;
- (2) an irrevocable letter of credit; or
- (3) prepayment of service.

Such credit alternative(s) should be acceptable to the TSP, provided that the TSP's acceptance should not be unreasonably withheld, and in accordance with standard industry practices. The TSP and SR may mutually agree that the SR will provide other forms of credit alternatives. In order for a guarantee or an irrevocable letter of credit to be accepted by the TSP, the entity that provides such guarantee or letter of credit must be creditworthy in accordance with the TSP's tariff.

Comment: Many of the standards apply to both entities seeking service, as the term "service requester" implies, as well as entities already receiving service. This standard is apparently intended to apply to both categories, as the standard refers to receiving and continuing to receive service. Peoples suggests that it be clear that both categories are covered.

Proposed Standard 0.3.zO (formerly z28b)

Except as to a Service Requester (SR) that subscribes to service in connection with construction, expansion, acquisition or lease of new facilities, the Transportation Service Provider's tariff should specify the amount of alternative credit assurance that will be

required of a SR that is not creditworthy, [and such amount may not exceed the charges associated with three \(3\) months of service.](#)

Comment: Peoples notes that the Commission has characterized three months' prepayment as "the standard used throughout the natural gas industry." Natural at Par. 30.

Proposed Standard 0.3.zP (formerly z13)

If the Service Requester (SR) provides cash as a credit alternative required by the Transportation Service Provider (TSP) pursuant to NAESB WGQ Standard [0.3.zN], the TSP should pay interest to the SR on the cash principal amount held by the TSP on the total amount of the cash received by the TSP. This cash principal amount should exclude the SR's one-month advance payment to the TSP to continue service after the TSP determines the SR to be non-creditworthy pursuant to the TSP's tariff. At the TSP's sole option and in lieu of the TSP paying interest, the TSP may allow the SR to choose to deposit a cash form of credit alternative in an escrow account where the SR will receive the interest on such cash and the TSP will have access to the cash principal for the assurance of payments to the TSP for its services provided to the SR in the event the SR fails to make such payments.

Proposed Standard 5.3.zA (formerly z18)

A Transportation Service Provider (TSP) can terminate any release if the original Service Requester's (SR) underlying service agreement is terminated due to default or failure to maintain creditworthiness, provided, however, that the release shall not terminate if the replacement shipper agrees to pay, for the remaining term of the replacement shipper's contract, one of the following:

- (1) the original SR's contract rate,
- (2) the maximum tariff rate applicable to the original SR's capacity, or
- (3) some other rate that is acceptable to the TSP.

The TSP should give the replacement shipper notice before terminating service, as specified in the TSP's tariff. This standard does not address re-releases, which should be governed by the TSP's tariff.

Proposed Standard 5.3.zB (formerly z30)

With respect to non-permanent releases, the Transportation Service Provider (TSP) should evaluate the creditworthiness status of the replacement shipper(s) as if that replacement shipper(s) was applying for comparable capacity with the TSP outside of the capacity release process.

Proposed Standard 5.3.zC (formerly z31)

As a pre-condition to bid on posted capacity release offers, the Service Requester (SR) should seek to pre-qualify its status with the Transportation Service Provider (TSP) as a potential replacement shipper. Upon request by the SR, the TSP should determine whether a potential replacement shipper is pre-qualified up to a requested level taking into account all obligations from services that it receives and requests from the TSP, including any service represented by the capacity release. Pre-qualifications are subject to periodic re-evaluation by the TSP.

Proposed Standard 5.3.zD (formerly z26)

The Transportation Service Provider (TSP) should not award capacity release offers to the Service Requester (SR) until and unless the SR meets the TSP's creditworthiness requirements applicable to all services that it receives from the TSP, including the service represented by the capacity release.

Proposed Standard 5.3.zE (formerly z16)

The Transportation Service Provider (TSP) should allow an existing Service Requester (SR) to permanently release capacity to a replacement shipper, under the same terms and conditions of the ~~releasing shipper's~~ existing SR's contract, or other mutually agreeable terms and conditions, provided the replacement shipper meets the TSP's creditworthiness and other tariff provisions applicable to the TSP's qualification of a SR to receive service. Such permanent release should be pursuant to the rules, regulations, and policies of the Federal Energy Regulatory Commission (or an equivalent authority) regarding capacity release transactions.

Comments: The use of "Service Requester" and "releasing shipper" may be confusing. Peoples believes it would be helpful to use one or the other term, but not both. Peoples' proposed revision retains the use of the term "Service Requester" for consistency with other standards, but it would generally favor using "releasing shipper" in standards applicable to capacity release, as this is more consistent with existing Commission regulations and standard industry terminology.

Proposed Standard 5.3.zF (formerly z19)

The Transportation Service Provider (TSP) should provide the original releasing shipper with Internet E-mail notification reasonably proximate in time with the formal notice given to its replacement shipper(s), of the following:

- (1) Past due, deficiency, or default notice pursuant to the TSP's tariff;
- (2) Suspension of service notice;
- (3) Contract termination notice due to default or credit-related issues;
- (4) Notice that a request for information has been initiated by the TSP for the purpose of credit evaluation, excluding routine communication related to credit maintenance or new service; and
- (5) Notice that a replacement shipper(s) is no longer creditworthy and has not provided credit alternative(s) pursuant to the TSP's tariff.

Comment: Peoples believes that the original releasing shipper, i.e., the primary holder of the capacity, is the entity that needs to be notified in this instance. In cases where a re-release has occurred, this distinction is important.

Proposed Standard 5.3.zG (formerly z21)

The original releasing shipper should provide the Transportation Service Provider (TSP) with the Internet E-mail address of up to two authorized representatives who are designated to receive notification pursuant to NAESB WGQ Standard [5.3.zF]. The obligation of the TSP to provide notifications related to Standard [5.3.zF] is waived until the above requirement has been met. The releasing shipper should manage internal distribution of such notices that are received.

The Peoples Gas Light and Coke Company
North Shore Gas Company
Comments on Proposed Credit Standards

Comment: Peoples believes that the original releasing shipper, *i.e.*, the primary holder of the capacity is the entity that needs to be notified in this instance. In cases where a re-release has occurred, this distinction is important.

Proposed Standard 5.3.zH (formerly z22)

In complying with the notifications pursuant to NAESB WGQ Standard [5.3.zF], the releasing shipper and the Transportation Service Provider may mutually agree to other forms of communication in lieu of Internet E-mail notification.

Respectfully submitted,
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