

COMMENTS OF THE ASSOCIATION OF OIL PIPE LINES

NAESB e-Tariff Meeting February 1, 2007, Washington, D.C.

The Association of Oil Pipe Lines “AOPL” is an incorporated trade association representing 49 oil pipeline companies that transport approximately 85% of the crude oil and petroleum products moved in the United States by pipeline. AOPL’s member companies regularly file tariffs with the Federal Energy Regulatory Commission (“Commission”) and will be directly impacted by proposal of the Commission regarding electronic tariff filings (“ETF”).

The following comments are based upon comments filed by AOPL with the Federal Energy Regulatory Commission under Docket No. RM01-5-000. Although some of the comments apply specifically to the Commission’s ETF software that was being proposed, the comments may also apply in general to software alternatives that may be considered in the future.

On April 30, 2005 AOPL submitted comments pursuant to the notice dated March 1, 2006. AOPL submitted these comments on the proposal of the Commission regarding ETF in its July 8, 2004 Notice of Proposed Rulemaking (“NOPR”), as revised by its July 6, 2005 proposal to allow oil pipelines to file tariffs as attachments in Portable Document Format (“PDF”) using the Commission’s eTariff software (“July 6 Proposal”). On August 1, 2005 AOPL submitted comments pursuant to the notice dated April 29, 2005. AOPL submitted these comments on regulatory text changes to accommodate ETF proposed by the Commission in its July 8, 2004 NOPR.

1. AOPL Continues to Support the Commission’s Electronic Tariff Filing Initiative

- AOPL members have been strong supporters of the Commission’s tariff filing initiative throughout its proceedings.
- Commend the Commission for its commitment to the ETF initiative
- Support the goals and objectives of this initiative in general
- Urge the Commission to continue to devote the necessary resources to bring ETF to fruition and to maintain it so that remains a valuable part of the Commission’s mission of efficient and effective tariff administration
- Over the past four years, AOPL members have met with Commission Staff on many occasions to discuss the benefits of electronic filing and have been deeply involved in this proceeding from the beginning. Indeed, AOPL members have

been some of the Commission's most active testers of the ETF software that was being developed.

2. AOPL Shares the Commission's Goals for ETF as Expressed in the NOPR

- The goals of Electronic Tariff Filings are to:
 - 1) improve the efficiency and administrative convenience of the tariff filing process;
 - 2) reduce the burden and expense of filing tariffs and tariff changes;
 - 3) facilitate public access to tariff information;
 - 4) facilitate the analysis of proposed tariff changes; and
 - 5) improve access and research capabilities within and among applicants' tariffs.
- As the Commission has seen in other contexts, electronic filing allows the Commission to disseminate information in a much more efficient and timely manner than a paper-based system
- Electronic filing can also reduce the burden on regulated entities by eliminating the need to prepare and deliver paper copies
- Moreover, electronic service of filings is a much faster, simpler, and more straightforward means of notifying all parties of submissions
- The Commission's eLibrary system affords all parties and the general public greater access to filed information through the ease and convenience of electronic search capabilities
- Also, electronic filing of tariffs would enable the Commission to meet government-wide goals of substituting electronic format for paper as a means of communication and storage of information, as well as OMB's mandate for electronic documents.

3. Benefits of an ETF Solution Must Outweigh the Burdens

- In developing an ETF solution, however, the Commission must remain mindful of these stated goals and must ensure that the software developed for the electronic filing of tariffs actually accomplishes these goals.
- The Commission's ETF solution must fully utilize the expediency offered by electronic filing, but must do so in a way that does not unnecessarily burden regulated oil pipelines.

- Indeed, any ETF proposal that would increase the burden and expense of filing tariffs and tariff changes cannot be considered a success.

4. Experience with ETF Software Designed for Multiple Industries has not been Shown to Be Feasible for Use with Oil Pipelines

- Unfortunately, experience with the previously proposed software has led AOPL members to the conclusion that the Commission's ETF software designed to support the electronic tariff filing of natural gas and electric tariffs will simply not accommodate the fundamentally different structure of oil pipeline tariffs without defeating the Commission's overall objectives of reducing the cost burden of regulation and improving public access to tariffs.

5. AOPL Continues to Support Filing Tariffs Electronically as PDF Attachments

- For these reasons, AOPL believes that an alternative approach must be adopted for oil pipelines
- AOPL strongly recommends that the Commission allow oil pipelines to submit tariff filings electronically in Portable Document Format ("PDF") using the Commission's existing eFiling gateway
- Under this format, the filings can be prepared using existing desktop software without additional expense and burden, and the Commission's eFiling gateway can already accommodate tariff filings using PDF
- Any desired metadata for database management purposes can be collected during the filing without having to otherwise change the tariff itself. This solution can be rapidly deployed with minimal costs and substantial savings to the Commission and the oil pipeline industry

6. Oil Pipelines have been Providing Tariffs to Customers in an Electronic Format

- In response to requests from shippers and other interested parties, most oil pipelines have for several years made their tariff information available on company websites.
- Oil pipelines have also found that most of their customers and other tariff subscribers prefer to receive tariffs and related information in electronic format, and they desire electronic notification of oil pipeline tariff changes and revisions.

7. The Oil Pipeline Industry is Substantially Different from the Gas and Electric Industries

- Oil pipelines operate under different regulatory scheme.
- Oil pipeline tariffs are fundamentally different, in terms of both structure and substance, from natural gas and electric tariffs. The ETF software’s “cut and paste” approach cannot accommodate oil pipeline tariff requirements.
- At the outset, the Commission’s concept of a “tariff” as used in the NOPR is at odds with how the term “tariff” is used in the oil pipeline industry. In the NOPR, the Commission uses the term “tariff” to mean a compilation of all rates, rate schedules, contracts, and rules. Under this view, each regulated utility would have one tariff, compiling in book form all of the rate schedules of that utility.
- In the oil pipeline context, however, the term “tariff” refers to an individual rate schedule or rules document, and a single oil pipeline company often has many “tariffs.” The unique nature of oil pipeline tariffs has its roots in the Interstate Commerce Act (“ICA”), which governs the transportation of oil by pipeline. The ICA uses the term “tariffs” in the plural, and at times uses the terms “tariff” and “schedule” interchangeably.
- Furthermore, the rates and services of oil pipelines substantially differ from those of natural gas companies and electric utilities. Oil pipelines provide common carriage services under the ICA, as opposed to contract carriage service under the Natural Gas Act or Federal Power Act.
- In addition, oil pipelines transport a wide variety of commodities (from multiple types of crude oil and natural gas liquids to the complete spectrum of refined products), as opposed to transporting a single fungible product (such as natural gas or electricity). With regard to rates, following the Energy Policy Act of 1992 and the Commission’s implementation of light-handed regulation of the oil pipeline industry in response to that legislation, oil pipeline rates are largely index-based and updated annually. The stated rates of natural gas and electric tariffs, on the other hand, may remain in place for many years until the utility makes a rate change filing under NGA section 4 or FPA section 205 using cost-of-service ratemaking principles.
- Consequently, any software developed for electronic tariff filings must be able to accommodate the unique features of oil pipeline tariffs. While oil pipeline tariffs tend to be shorter and in many ways substantively less complex than natural gas or electric tariffs, each oil pipeline has multiple tariffs. In general, an oil pipeline company may have one tariff that specifies terms and conditions that apply to all or a logically related group of its services together with several tariffs governing shipments of particular commodities or types of commodities over particular

systems with complex tables showing the rates for services from each origin to each destination.

- The Commission’s proposed ETF software cannot accommodate these unique features of oil pipeline tariffs without the costly disruption of business practices and the imposition of expensive and continuing administrative burdens on oil pipelines.
- Moreover, the ETF software cannot accommodate rate tables or spreadsheets. AOPL members use standard commercial spreadsheet software to generate the complex rate tables used in many tariffs because of the ease with which one can make edits, add or delete rows and columns, create formula relationships where appropriate, and update entire rate tables to reflect index-based rate changes. The Commission’s ETF software envisions “cutting and pasting” tariff changes in discreet tariff sections. This “cut and paste” method may work reasonably well for text, but it does not properly handle the number-based tables prevalent in oil pipeline tariffs. Tables from spreadsheets lose all of their formula relationships, and the formatting is often either lost or garbled in the conversion. Nor can the ETF software readily accommodate the inclusion of new information, such as the insertion of a new column or row to reflect the addition of an origin or destination point.
- The ETF software is simply incompatible with spreadsheets and cannot support the rate tables commonly found in oil pipeline tariffs. Because of these incompatibilities, oil pipeline tariff review and preparation using the Commission’s ETF software would become costly and inefficient. Companies that continue to use spreadsheet software for tariff preparation would be forced to incur costly and disruptive formatting repair during each filing. Alternatively, companies that use the ETF software to develop their tariffs would lose the ease and efficiency of the spreadsheet computational functions to develop their rates.
- Moreover, the ETF software has limited functionality. In particular, the software cannot produce revision comparisons; the current workaround to this deficiency relies on desktop word-processor text comparison functions, which tests have shown in many instances to do an inadequate job with text and cannot reliably compare revised tables at all.
- In addition, oil pipelines have serious concerns about security issues created by the use of the ETF software. Requiring jurisdictional companies to alter or create exceptions to their security protocols in order to download and install specialized software on their computer networks and systems increases the risk to AOPL members of having their computer systems attacked by computer viruses, spyware, and intentional and malicious hackers. As the Commission is aware, companies have implemented comprehensive security measures which severely restrict foreign computer software use and network data access in response to the threat of cyber assaults. AOPL members have serious concerns about installing

any untested, third-party, proprietary software, even software supplied and endorsed by the U.S. government. As a result, some AOPL members have found it necessary to purchase, install, and maintain separate, stand-alone systems to run the Commission's EFT software in order to create and maintain their tariffs. This creates major work flow disruptions as tariffs and tariff revisions created on the stand-alone machines cannot be circulated for edit, review, and approval through existing corporate network systems. Maintaining parallel files on two separate systems would cause substantial synchronization problems with a great potential for errors.

- The experience of AOPL members has shown that, unless the pdf filing option for oil pipelines is maintained in the ETF software, they would not be able to employ the proposed filing software without very substantial cost and significant additional administrative burden. AOPL members would also have to increase staff resources to use the Commission's ETF software to prepare tariff documents and tariff revisions so as to ensure the lack of filing errors. Consequently, the Commission's ETF software cannot be applied to oil pipeline tariffs in a manner that reduces the burden and expense of filing tariffs and tariff changes.
- Because the web-based reader access to the tariff database has not been completed, the impact of the proposed software on tariff users is unknown. However, the switch to the ETF software may also be disruptive to shippers, tariff subscribers, and other tariff users if access to the ETF database is not properly developed.

8. Additional Reasons that the Commission Should Allow Oil Pipelines to File Tariffs Electronically in Portable Document Format using the Commission's Existing eFiling Gateway

- For the reasons just listed, AOPL strongly supports the use of an alternative approach to allow oil pipelines to accomplish the filing of tariffs and tariff changes by electronic means. AOPL recommends that the Commission permit oil pipeline companies to file tariffs in Portable Document Format ("PDF") using the eFiling gateway. The use of PDF documents is already the standard for the oil pipeline industry, and, therefore, would require little to no conversion or preparation burden.
- PDF reader software, which (as the Commission's July 6 notice recognizes) is available for all operating systems and is free to all computer users, is now an almost universal standard for current office desktop software. Access to the software, therefore, should not be an issue. Also, the use of PDF documents would not disrupt the current company document preparation and review process, while its use would provide the Commission and shippers easily searchable documents – easing the regulatory burden for all.

- The Commission's current eFiling gateway already accommodates filings using PDF, and AOPL sees no technical reason for not extending the gateway to include tariffs. The eFiling gateway is proven, stable, and secure. In addition, the gateway supports any operating system environment that has a browser. Importantly, there would be no ongoing or additional support costs or burdens for the Commission if electronic tariff filings were accepted in PDF.
- The only potential development requirement on the Commission's part would be a custom screen for tariff uploading. The necessary or desired metadata for building the database of tariffs could be collected during filing, including any or all of the metadata proposed for the current system. In this way, the Commission could easily maintain oil pipeline tariffs and achieve its goals of facilitating the analysis of proposed tariff changes and improving access and research capabilities within and among tariffs.
- Thus, deployment of a PDF tariff filing program for the oil pipeline industry could happen rapidly and at a very low cost. In fact, implementation for all new and future filings could be almost immediate upon issuance of a final rule. In addition, a particular advantage to permitting rapid deployment is that no baselining would be necessary before new filings are made.
- Further, AOPL anticipates that historical or recent filings could be backfilled into the system as necessary or desired. Not only are the costs minimal for the industry, but there are also no large current or future cost burdens for other stakeholders. As noted, the Commission would have no future incremental support costs and any party interested in a tariff only needs access to PDF software which is standard desktop software and available without charge. As demonstrated, there would be no adverse impact on shippers or subscribers. Accordingly, AOPL urges the Commission to allow oil pipeline companies to file tariffs and tariff changes electronically in PDF using the Commission's eFiling gateway.
- As an alternative to paper tariff filings, AOPL conditionally supports the Commission's July 6 Proposal to allow the filing of oil pipeline tariffs in PDF as attachments using the Commission's ETF software.