Definition of Design Capacity --work paper by Pete Connor

We believe the terms Available Operating Capacity and Total Scheduled Quantity are subsets of the term Operating Capacity and that Operating Capacity is a subset of or is contained within the concept of Design Capacity. This characterization is consistent with 18 C.F.R. § 284.13(d).

We also believe that Design Capacity is generally meant to mean Certificated Capacity. A pipeline cannot sell capacity beyond its Certificated Capacity level, so it should be a known quantity. Even to the extent there has been granted blanket authority to affect a point, zone or segment over time, FERC must be advised as to how Certificated Capacity would be affected by construction of facilities under blanket authority. So, Certificated Capacity can be subject to change from time to time given FERC authorization or acceptance.

It may be that at times Operating Capacity is equal to or the same as Certificated Capacity. It may also be the case that Operating Capacity is less than Certificated Capacity, and the pipeline would know why that is the case. However, Operating Capacity could not exceed Certificated Capacity because, by definition, the pipeline would be selling capacity in excess of its Certificated Capacity, and that is a violation of the Natural Gas Act and FERC regulations.

Another reason that Certificated Capacity is a good definition for Design Capacity is that it is determined using the same criteria for all pipelines, i.e., FERC authorization and the limit as to what capacity a pipeline can sell.

The posting of Available Operating Capacity and Total Scheduled Quantities is clearly important to those who schedule gas and to market participants. Equally, Operating Capacity should be reported because that information—while not directly germane to scheduling gas on a particular day—is required to be reported according to 18 C.F.R. § 284.13(d).

For example, a pipeline could not report Available Operating Capacity in excess of Operating Capacity. The same holds true in terms of Operating Capacity which cannot be reported in excess of Certificated Capacity. We are not convinced that a determination of Operating Capacity by a pipeline is objective and could be subjective, meaning it is a value that is less transparent or not well understood by market participants .

So, Certificated Capacity is a good definition for Design Capacity, and incorporating the same into NAESB Standard 0.4.2 and related standards would serve to put Operating Capacity into context, would reflect a standardized value for all pipelines, and would serve as useful information for the marketplace.

Some might argue that Certificated Capacity is not a good definition of Design Capacity because there are valid reasons whereby Certificated Capacity is not sustainable. See El Paso Natural Gas Co. 138 FERC ¶ 61,215 (2012). If Certificated Capacity is not sustainable, then market participants should be aware, through the posting of Operating Capacity. Obviously, the pipeline must be in a position to explain the difference between Certificated Capacity and Operating Capacity. Finally, FERC made it clear that to the extent that a pipeline is uncertain as to how to calculate design capacity, it is free to contact the Commission’s compliance help desk for informal guidance. See Order No. 720-B, 132 FERC ¶ 61,057 at P 20 (2010).

In summary, we believe that Design Capacity should be equivalent to Certificated Capacity, with Operating Capacity posted separately as a subset of Design Capacity whenever the pipeline is unable to sustain the Design Capacity at a particular point, segment, or zone. Moreover, some measure of capacity must be reported—consistent with the § 284.13(d) requirement to report design capacity—to place Operational Capacity into context—to test its validity. For the reasons stated above we believe Certificated Capacity should be that measure.