

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Electronic Tariff Filings)

Docket No. RM01-5-000

**COMMENTS OF THE
INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA**

Pursuant to the Commission's Supplemental Notice of Proposed Rulemaking ("Supplemental NOPR") issued in this docket on April 17, 2008, 73 Fed. Reg. 23,137 (April 29, 2008), the Interstate Natural Gas Association of America ("INGAA") submits the following comments on the Federal Energy Regulatory Commission's ("Commission") revised electronic tariff ("eTariff") proposal.

INGAA represents the interstate and interprovincial natural gas pipeline industry operating in North America. INGAA's United States members, which account for virtually all natural gas transported and sold in domestic interstate commerce, are regulated by the Commission pursuant to the Natural Gas Act ("NGA"), 15 U.S.C. §§ 717-717w. Inasmuch as the filing of tariffs pursuant to NGA § 4(c), 15 U.S.C. § 717c(c), is an important component of that regulation, INGAA's members have a direct and substantial interest in the Commission's eTariff proposal.

INGAA appreciates the ongoing efforts of the Commission, North American Energy Standards Board and industry participants in developing the proposed eTariff standards, and encourages the Commission to continue to work with industry participants through the software development and testing phase to trouble shoot problems and to ensure successful implementation. INGAA supports the Commission's flexibility in

permitting companies to file their tariff either in sections, sheets or as an entire document, and for providing a mechanism to test the electronic tariff process before eTariff implementation.

INGAA requests that the Commission: (1) maintain its position not to impose a definite implementation date at this time in order to allow adequate time for software development and testing, and continue to provide a testing site on an on-going basis after implementation; (2) provide for alternate procedures for submission of eTariff filings or a waiver of its regulations to allow for the late electronic submission of eTariff filings in the event of an electronic system failure; and (3) clarify that interested parties may comment only on matters related to tariff revisions that are “appropriately designated and marked.”

I. The Commission Should Extend Its Initial Testing Phase in Order to Allow Adequate Time for Software Development and Should Maintain an On-going Testing Site After Implementation.

In the Supplemental NOPR, the Commission recognizes that “after the final rule, companies and third-party vendors developing tariff software will need time for development, as well as a mechanism for testing their software, to make sure that their filings will be accepted by the Commission.” P 54. The Commission provides that through their testing site, companies will be able “to determine whether their XML packages can be opened and broken into its constituent parts, and to verify whether the metadata supplied meets the requirements of the XML schema.” P 64.

INGAA agrees that adequate testing must be accomplished prior to implementation of eTariff. The testing phase should include all functions, including submission of tariff filings, Commission responses, error messages regarding content of

the filing, and perusing of the public viewer. Since the Commission's public viewer will be the means for making the Commission's tariff database information available, it must be developed and tested prior to implementation of eTariff. The public viewer is essential in determining that the eTariff filing has been loaded correctly into the FERC database, and that tariff filings' status and effective date changes are made appropriately.

While the Commission has left the final implementation date open, it "envision[s] that compliance with the electronic filing should be able to begin within six months to one year after the final rule is issued." P 66. INGAA cautions that allowing only six months to develop and test simultaneously Commission and third-party eTariff software (XML package and metadata), and the Commission's database and public viewer, is very ambitious. One software company familiar with the proposed standards estimates that it will take 12 months for software development and testing, and an additional six months for pipelines to deploy software, train employees, and prepare and test their baseline tariffs.

Based on these considerations, and given that electronic submission of tariff filings will be mandatory and there will be no paper submission once eTariff is implemented, INGAA requests that the initial software development and testing phase last at least 12 months after the Commission issues a final rule and that an additional six months be allowed for pipelines to deploy software, train employees, and prepare and test their baseline tariffs. INGAA supports the Commission's approach not to set a firm deadline at this time, but rather to focus on successful implementation. In this regard, the Commission and affected parties should define a process to determine readiness for implementation. INGAA suggests that the Commission hold a technical conference after

some period of development and testing at which the Commission and industry participants can discuss the results of testing, outstanding technical problems, and reach a consensus on readiness for implementation so that final implementation can be successful.

Additionally, INGAA requests that the Commission stagger the filing timeline of baseline tariffs. Several companies own more than one interstate pipeline and manage multiple tariffs simultaneously -- they may require more time to prepare and test all their pipelines' tariffs. Also, the Commission should recognize that small pipeline companies may need additional time to familiarize themselves with software, protocols and procedures. This will be particularly relevant for creating a baseline tariff.

Once eTariff is operational, the Commission's testing site should be maintained on an on-going basis to capture new software updates, provide assistance to newly created pipelines, and ensure that tariff submissions are not rejected because of software failure.

II. The Commission Should Provide for an Alternate Procedure for Submission of Tariff Filings in the Event of an Electronic System Failure.

INGAA is concerned that pipelines will not have recourse if there are technical problems with the eTariff system, the Internet, server failures, or other technical issues that prevent a timely electronic submission. Since the Commission's requirement for companies to file the tariff electronically will be mandatory, INGAA requests that the Commission provide for alternate procedures or a waiver of its regulations to allow for the late electronic submission of eTariff filings in the event of an electronic system failure, so that the filing will be considered timely.

INGAA requests that the Commission identify and post on its website the names and contact information of Commission staff and others who will be available to assist companies and third-party software providers with any technical questions, during the development and testing phase and after implementation.

III. The Commission Should Clarify That Revisions Not Marked Will Not Be Considered Part of the Tariff Filing.

The Supplemental NOPR codifies in § 154.201(a) that “[r]evisions to unmarked portions of the rate schedule or tariff [will] not [be] considered part of the filing nor will acceptance of the filing by the Commission constitute acceptance of such unmarked changes.” Since some pipelines may choose to utilize the flexibility provided for in the Supplemental NOPR to file their tariffs via sheets, sections or entire documents, the Commission should also codify that existing unmarked tariff language (language that the pipeline is not proposing to revise), will not be considered in comments or protests by interested parties. These portions of the tariff are not part of the tariff change requested in the filing. Unmarked language has already been deemed just and reasonable and is outside the scope of the immediate proceeding. INGAA, however, recognizes that comments on unmarked and undesignated language, at times, may provide useful information to the Commission for the resolution of issues directly related to the filing. Accordingly, INGAA proposes the following changes to the Commission’s proposed regulatory text:

§ 154.201 Filing requirements.

(a) A list in the transmittal letter of the tariff ~~pages~~sheets or sections being revised and a marked copy of the ~~pages~~sheets or sections to be changed or superseded showing additions and deletions. New numbers and text must be marked by either highlight, background shading, bold, or underline. Deleted text and number must be indicated by strike-through. Only those revisions appropriately designated and

marked constitute the filing. Revisions to unmarked portions of the rate schedule or tariff are not considered part of filing nor will any acceptance of the filing by the Commission constitute acceptance of such unmarked changes. Interested parties may comment only on those revisions appropriately designated and marked to constitute the filing; provided, however, comments on unmarked and undesignated language will be permitted when such comments provide useful information to the Commission for the resolution of issues directly related to the filing.

IV. Additional Concerns

To ensure consistency in the Supplemental NOPR and in the regulatory text, INGAA proposes additional regulatory text changes that are set forth in the attached Appendix.

CONCLUSION

Wherefore, INGAA respectfully requests that the Commission: (1) maintain its position not to impose a definite implementation date at this time in order to allow adequate time for software development and testing, and continue to provide a comprehensive testing site on an on-going basis after implementation; (2) provide for alternate procedures or waiver of the regulations for the late electronic submission of eTariff filings in the event of an electronic system failure; and (3) clarify that interested parties may comment only on matters related to tariff revisions that are “appropriately designated and marked.”

Respectfully submitted,

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APPENDIX

INGAA suggests the following technical and editorial revisions and comments. Below, INGAA identifies areas where the Commission should amend its regulations and proposes regulatory text revisions reflecting its comments herein.

1. Posting and service

The Commission should amend its regulations to make clear that electronic posting and service now will be permitted. Section 154.2(d) still defines “post” to include service by mail (as the default), § 154.7(b) requires certification of service pursuant to § 154.2(d) (the definition of post), and § 154.207 requires the “posting” of all tariff change filings.

INGAA acknowledges that tariffs are posted on a company’s website and contracts are provided in a paperless environment via an electronic contract system. In addition, INGAA recognizes that NGA § 4(c) requires that every natural gas company “shall keep in a convenient form and place for public inspection, schedules showing all rates and charges for any transportation or sale subject to the jurisdiction of the Commission...” Consistent with the NGA § 4(c) requirements, INGAA requests that the Commission revise the language of § 154.2 to reflect the new electronic service to be permitted under § 154.208(f). INGAA proposes the following changes to the existing regulatory text in § 154.2(d):

(d) *Post means:* to make a copy of a natural gas company's tariff and contracts available during regular business hours for public inspection in a convenient form and place at the natural gas company's offices where business is conducted with affected customers; and, to ~~mail~~provide to each affected customer and interested state commission a copy of the tariff filing, or part thereof, in accordance with § 154.208. ~~Mailing must be accomplished by U.S. Mail, unless some other method is agreed to by the parties.~~

Correspondingly, INGAA requests that the Commission modify §154.7, General requirements for the submission of a tariff filing or executed service agreement, to state:

(b) A certification of service pursuant to §154.2(d) to all customers ~~on the service list~~ entitled to service under § 154.208, and interested state commissions.

2. Title page and arrangement (§ 154.102)

The Commission deleted language concerning a requirement to include a Title Page at the beginning of a Tariff and a Tariff Volume Number. INGAA requests that the Commission retain the general concept of Volume Numbers in the regulations. In Part B—Form and Composition of Tariff, the Commission describes the form and composition of the tariff in §§ 154.102 through 154.111 and the exception to the form and composition of the tariff in § 154.112.

INGAA requests that the tariff volume number, and name, title, address, telephone number, email address and facsimile number of a person to whom communications concerning the tariff should be addressed, be retained at the beginning of the tariff. Therefore, INGAA requests that the Commission insert language under the new proposed requirements for filing rate schedules and tariffs at §154.102(a) and (b), to read as follows:

(a) The first section or sheet of the tariff must show the following information:

FERC Gas Tariff Volume No. [n] of [Name of Natural Gas Company]

(b) The first section or sheet must carry the information in paragraph (a) of this section and, in addition, the name, title, address, telephone number, email address and facsimile number of a person to whom communications concerning the tariff should be sent.

3. Requirements for filing rate schedules and tariffs (§ 154.102)

In addition to the changes to “Requirements for filing rate schedules and tariffs” listed above, INGAA requests that the Commission clarify its use of the term “Open Access Transmission Tariff” in paragraphs 12, 27 and 28 of the Supplemental NOPR. INGAA requests that the Commission clarify in each of the paragraphs when it is referring to an electric utility’s open access transmission tariff (“OATT”), and when it is referring to an interstate natural gas pipeline’s open access tariff. Referencing § 154.102 when addressing an OATT, appears to be misplaced. Gas pipelines do not have OATTs. INGAA recommends that the Commission use lower case “open access *transportation* tariffs” when discussing natural gas pipelines, and initial capitals, “Open Access *Transmission* Tariff” or OATT when referring to an electric utility’s tariff (emphasis added). These edits are reflected in § 154.102(c), (d) and (e) below.

INGAA requests that the Commission revise its proposed regulations to § 154.102, Requirements for filing rate schedules and tariffs, to read as follows:

(a) The first section or sheet of the tariff must show the following information:

FERC Gas Tariff Volume No. [n] of [Name of Natural Gas Company]

(b) The first section or sheet must carry the information in paragraph (a) of this section and, in addition, the name, title, address, telephone number, email address and facsimile number of a person to whom communications concerning the tariff should be sent.

~~(c)(a)~~ All rate schedules, tariffs, and service agreements must be filed either by dividing the rate schedule, tariff, or agreement into individual tariff sheets, or tariff sections, or as an entire document except as provided in paragraph ~~(b)~~(e) of this section.

~~(d)(b)~~ ~~Open Access Transmission Tariffs~~ access transportation tariffs must be filed either as individual sheets or sections. If filed in sections, each section must include only material or related subject matter and must be of reasonable length. ~~Individual negotiated rate agreements, non conforming service~~

~~agreements, or other agreements that are included in the tariff may be filed as entire documents.~~

(e) Individual negotiated rate agreements, non-conforming service agreements, or other agreements may be filed as entire documents.

4. Exception to form and composition of tariff (§ 154.112)

To maintain the exceptions to the form and composition of the tariff, INGAA requests that the Commission revise this section to state that the special rate schedules must be referenced, instead of included, in the table of contents required by § 154.104 because such table of contents will be created from the metadata associated with each tariff record. INGAA requests the Commission's regulatory text in § 154.112 be amended to state:

§ 154.112 Exceptions to form and composition of tariff.

(a) The Commission may permit a special rate schedule to be filed in the form of an agreement in the case of a special operating arrangement, previously certified pursuant to part 157 of this chapter, such as for the exchange of natural gas. The special rate schedule must contain a title page or section showing the parties to the agreement, the date of the agreement, a brief description of services to be rendered, and the designation: "Rate Schedule X-[number]." Special rate schedules may not contain any supplements. Modifications must be by revised ~~or insert~~ sheets, sections, or entire document, as appropriate. Special rate schedules must be included in ~~Volume No. 2a~~ separate volume of the tariff. ~~Volume No. 2~~ This volume must contain a table of contents which is incorporated with the table of contents of Volume No. 1 as a sheet or section in the open access transportation tariff.

(b) Contracts for service pursuant to part 284 of this chapter that deviate in any material aspect from the form of service agreement must be filed. Such non-conforming agreements must be referenced in ~~FERC Volume No. 1~~ the open access transportation tariff.

5. Amendments or modifications to tariff provisions (§ 154.205)

In paragraph 55 of the Supplemental NOPR, the Commission states that "Electric utilities and interstate pipelines file amendments or modifications to tariff provisions to make substantive changes to their filing as well as to correct minor errors. Such

modification to a tariff provision will toll the period for action on the prior filing and establish a new period for action. FN 30.” Footnote 30 states:

As we stated in the 2004 NOPR, we recognize that in the past, we have sought to process minor changes filed in NGA cases within the 30-day statutory period, and we will continue to try to do so for those amendments that are not significant or do not create a major substantive difference in the tariff proposal. P 55 FN 30.

INGAA requests that the Commission incorporate the language in footnote 30 into the new regulatory text.

The proposed language “31 days from” should be restated to “30 days after” to be consistent with §§ 154.207 and 154.402(b)(3) and other references to 30 days in the NGA § 4(d) (“after 30 days’ notice”) and of the Commission’s regulations. Similarly, language should be revised to reflect that companies may file their tariffs in sheets, sections or entire document format. Therefore, INGAA proposes that the Commission modify its regulations to read as follows:

§154.205 Withdrawals and amendments to tariff filings and executed service agreements.

(a) *Withdrawals of tariff filings or service agreements prior to Commission action.* (1) ... Upon the filing of such motion, the proposed tariff sheets, sections or service agreements will not become effective under section 4(d) of the Natural Gas Act in the absence of Commission action making the rate schedule or tariff filing effective.

(2) ...

(b) *Amendments or modifications to tariff sheets, sections or service agreements prior to Commission action on a tariff filing.* A natural gas company may file to amend or modify a tariff or service agreement contained in a tariff filing upon which no Commission or delegated order has yet been issued.

(1) For tariff filings containing major substantive changes in the tariff proposal, such filing will toll the notice period in section 4(d) of the Natural Gas Act for the original filing, and establish a new date on which the entire filing will become effective, in the absence of Commission action, no earlier than ~~31 days from~~ 30 days after the date of the filing of the amendment or modification.

(2) For tariff filings containing minor changes in the tariff proposal, the Commission will seek to process minor changes filed in NGA cases, within the 30-day statutory notice period for the original filing.

6. Service on customers and other parties (§ 154.208)

The Commission states in paragraph 52 of the Supplemental NOPR that:

In the 2005 Notice, the Commission stated that it would permit electronic service for initial filings. [112 FERC ¶ 61,043 at P 7.] The proposed changes to our regulations will permit electronic service according to the same procedures and protocols used for other forms of service under the Commission’s regulations. [18 CFR § 385.2010] Customers and state agencies wishing to receive service will be required to provide the company with an applicable email address (since a service list will not exist at the time of an initial filing). Any customer believing it is unable to receive electronic service will need to request a waiver of electronic service as provided in the regulations. [18 CFR § 390.3.]

INGAA requests that the Commission distinguish between initial tariff filings (for which there is no Official Service List) and subsequent tariff filings (for which there is an Official Service List, subject to § 385.2010). For initial tariff filings, customers must bear the burden of providing accurate email information to the pipeline. INGAA proposes the following regulatory text revisions:

§ 154.208 Service of tariff filings on customers and other parties.

(e) ~~The company may choose to effect service either electronically or by paper. Such s~~Service must be made in accordance with the requirements in § 385.2010(f) part 385 of this chapter, provided that, for initial tariff filings, where no official service list exists at the time of filing, § 154.208(f) applies.

(f) Unless it seeks a waiver of electronic service, each customer or party entitled to service of initial tariff filings under this section must notify the company of the email address to which service should be directed. A customer or party may seek a waiver of electronic service by filing a waiver under part 390 of this chapter, providing good cause for its inability to accept electronic service.

7. Clean copies

The Commission states “standards provide that companies will also include as an attachment to their filing a clean copy of the relevant tariff sheets, sections, or entire document formatted as the filer prefers.” P 36. While INGAA does not disagree with the requirement, as demonstrated below, INGAA was not aware of where the standards

address the clean copy of the proposed tariff revisions. INGAA requests that the Commission remove the word “standards” and replace it with “eTariff Filing Rules Listing.” In addition, INGAA proposes that the Commission update the eTariff Filing Rules Listing to include the “clean copy of the relevant tariff sheets, sections, or entire document” language and add an attachment code.

8. The Commission has underestimated the burden for implementation

While INGAA is supportive of this eTariff initiative, INGAA would like to note that the Commission significantly underestimated the hours and cost of converting paper tariffs to electronic tariffs, and the cost of purchasing and installing eTariff software. The Commission estimates the burden for large pipelines to be 18 hours per tariff and \$1,690 cost per tariff. P 68. Further, the Commission states that “[t]he standards provide companies with the ability to obtain software, or *modify* existing tariff maintenance software, that better integrates with their individual tariff maintenance and business needs” (emphasis added). P 68.

INGAA believes that companies will not be able to modify existing tariff software to accommodate the integration necessary with the Commission’s eTariff software and filing requirements. Accordingly, a more accurate estimate for a Large Pipeline’s Baseline Tariff is between 120 - 240 man hours per tariff. The estimated cost of newly developed and more complicated software to accommodate eTariff is expected to be in the range of \$20,000 per tariff and not the \$1,690 per tariff estimate provided by the Commission in the Baseline Tariff – Costs Table.

9. Sheets, sections or entire document and additional regulatory changes

Paragraph 9 of the Supplemental NOPR states that the Commission’s “database will provide easier access to tariffs and allow the viewing of proposed tariff *sections* in context.” (Emphasis added.) INGAA requests that the Commission replace the word “sections” with the word “language” to avoid confusion since the Commission proposes to allow tariffs to be filed via sheet, section, or entire document format.

In paragraph 37 of the proposed regulations in the Supplemental NOPR, the Commission removes reference to “sheet” or “sheets” in certain sections of the regulations and adds the words “sheet or section” or “sheets or sections” in their place, respectively, INGAA recommends the following changes:

1. § 154.107(d) and (e): Remove reference to “rate sheet” and add “rate sheet or section” in its place; The Commission may want to remove the words “or Gas Research Institute,” since this surcharge expired in 2004.
2. § 154.201(a): Remove reference to “pages” and add “sheets” in its place.
3. § 154.205(a)(1): Add the word “sheets” after “Upon the filing of such motion, the proposed tariff.”
4. § 154.205(b): Add the word “sheets” after “Amendments or modifications to tariff.”

Additionally, as a matter of general housekeeping, the Commission should consider amending § 154.403(d)(1)(v) by removing references to “EBB” and adding “Internet website” in their place, as companies no longer use the term EBB.