JOINT COMMENTS OF THE NEW ENGLAND NATURAL GAS INDUSTRY

Pursuant to the Notice of Proposed Rulemaking (“NOPR”) issued by the Federal Energy Regulatory Commission (“FERC” or “Commission”) on July 18, 2013, the New England Natural Gas Industry hereby files the following joint comments in the captioned proceeding regarding the Commission’s important rulemaking on permissible communications between Regional Transmission Operators/Independent System Operators (“RTOs/ISOs”) and natural gas pipelines. The New England Natural Gas Industry supports efforts to maintain reliable electric and natural gas service in New England and elsewhere in the country and commends the Commission for issuing its NOPR providing key clarifications on permissible communication of non-public information.


2 The members of the New England Natural Gas Industry are Algonquin Gas Transmission, LLC, Iroquois Gas Transmission System, L.P., Maritimes & Northeast Pipeline, L.L.C., Portland Natural Gas Transmission System, and Tennessee Gas Pipeline Company, L.L.C.; National Grid; Northeast Gas Association; New England Local Distribution Companies (Bay State Gas Company, d/b/a Columbia Gas of Massachusetts; The Berkshire Gas Company; EnergyNorth Natural Gas, Inc, d/b/a Liberty Utilities; Connecticut Natural Gas Corporation; Fitchburg Gas and Electric Light Company; City of Holyoke, Massachusetts Gas and Electric Department; Northern Utilities, Inc.; NSTAR Gas Company; The Southern Connecticut Gas Company; Westfield Gas & Electric Department; and Yankee Gas Services Company).
A. The New England Natural Gas Industry Commends the Commission For Providing Necessary Clarifications Regarding Undue Discrimination or Preference

The New England Natural Gas Industry through its individual members has been an active participant in the Commission’s various technical conferences regarding all gas-electric issues, including the Commission’s February 13, 2013 technical conference on information sharing and communication between the natural gas and electric industries. Various natural gas pipeline members of the New England Natural Gas Industry in late 2012 participated in extensive discussions with ISO New England Inc. (“ISO-NE”) regarding communication protocols, and the issues and concerns regarding such communications were addressed before the Commission in Docket No. ER13-356. Natural gas pipelines in that proceeding supported the sharing of certain operator-to-operator information and specifically sought clarification from the Commission that the communications contemplated to occur between the New England Pipelines and ISO-NE would constitute permissible information sharing by the pipelines under the law, that pipelines would not be subject to allegations of undue discrimination through the sharing of non-public information with RTOs/ISOs, and that such sharing does not violate the


4 Joint Comments and Request for Approval, Subject to Clarification, of the New England Pipelines and Interstate Natural Gas Association of America, Docket No. ER13-356-000 (Nov. 28, 2012) at pp. 5-7.
prohibition against undue discrimination.\textsuperscript{5} The New England Natural Gas Industry greatly appreciates the Commission’s focus and attention to these requests in the instant NOPR which better places transmission operators in a position to engage in the type of information-sharing that would be most helpful to manage electric and natural gas reliability problems and, with the suggested further clarifications requested herein, address critical and imminent reliability emergencies.

B. The No-Conduit Rule Is An Important Safeguard For Certain Non-Public Communications

The Commission’s extension of the No-Conduit Rule to communications between natural gas and electric transmission operators provides an important limitation on the disclosure of non-public, day-to-day operational information, and the Commission has provided this important additional safeguard to protect non-public information. The New England Natural Gas Industry requests here that the No-Conduit Rule proposed in the NOPR be modified in the Final Rule to be lifted in times of imminent critical system reliability emergencies (non-economic in nature) to allow unfettered communication between all industry participants in a position to help alleviate the emergency, or that the Commission clarify the NOPR does not prohibit such larger group discussions. Existing focus groups and joint industry task forces in New England can serve as the mechanisms to facilitate such open communication in times of emergency in our region.

\textsuperscript{5} See Comments of the Interstate Natural Gas Association of America, Docket No. AD12-12-000 (Jan. 8, 2013) at 13-15 (“INGAA January 8 Comments”); see also Comments of the Interstate Natural Gas Association of America, Docket No. AD12-12-000 (Jun. 26, 2013) at 2, 10.
1. Circumstances Involving A Reliability Emergency Are Best Alleviated By An All-Hands-On-Deck Approach Which Requires Unfettered Communication

The Commission’s Standards of Conduct currently provide for less stringent requirements in the event of emergencies in order to facilitate communications that may be needed to restore service.\(^6\) The instant NOPR proposes “to revise Sections 38.3(b) and 284.12(b)(4)(ii) to adopt a No-Conduit Rule that prohibits all public utilities and natural gas pipelines . . . from disclosing or using anyone as a conduit for the disclosure of, non-public operational information they received under this proposed rule to a third party.”\(^7\)

The New England Natural Gas Industry respectfully submits that the scope of the No-Conduit Rule as proposed is too broad in those limited emergency situations of imminent critical reliability concerns when the relevant parties to alleviate the emergency also necessarily should be involved in the communications critical to restore electric reliability.

In emergencies involving imminent critical reliability situations, all relevant entities in the energy value chain should be participants in discussions serving to solve the emergency that threatens reliable electric or natural gas service without fear of reprisal. Therefore, the New England Natural Gas Industry respectfully requests that the Commission modify the proposed No-Conduit Rule to include an exception that permits the sharing of non-public, operational information with all such relevant entities without violating the No-Conduit Rule. Similarly, to avoid any concerns regarding undue discrimination, the Commission, in addition to including this exception to the No-Conduit Rule, should clarify in its Final Rule that pipelines and public utilities are

\(^6\) 18 C.F.R. § 358.7(g)-(h) (2013).
\(^7\) NOPR at P 26 (emphasis added).
permitted to share non-public, operational information with all relevant entities as necessary mitigate or solve an emergency that threatens the reliability of electric or natural gas service.

In an imminent reliability emergency circumstance, having only a partial understanding of the current energy situation – by being able to assess only the natural gas pipeline operating circumstances, or just the conditions on the electric grid - may prove insufficient to restore or maintain energy system reliability. Communications in such emergencies contemplated by the New England Natural Gas Industry here would include not only RTOs/ISOs and natural gas pipelines, but also generators (of all fuel types), local distribution companies, liquefied natural gas suppliers, producers, marketers, asset managers, and other relevant participants in the energy industry. For example, in an electric reliability emergency, an LDC with natural gas-fired generators behind its citygate may need to confirm the potential availability of gas supply and transportation capacity, the natural gas pipeline should be able to communicate whether operational restrictions exist on the pipeline, marketers and producers should be on-hand to make any needed supply arrangements, other generators should be available to confirm ability to run to supplement or replace a generator that cannot, and the RTOs/ISOs should opine on whether any of the solutions proposed will alleviate the electric reliability emergency it is facing.

These types of firsthand, group communications are the most efficient means to resolve an emergency situation that is posing an imminent and critical threat to reliability. Much of the information that would be needed in an emergency is non-public, however, and exchanges of such information should not subject a pipeline or public utility to any
concerns regarding undue discrimination. Moreover, exchanges of such information could not occur with a No-Conduit rule that prohibits such exchanges. The New England Natural Gas Industry requests that the Commission in its Final Rule specifically endorse such all-hands-on-deck communications in times of emergency, remove restrictions in order to allow communications between the greater natural gas and electric industries in an emergency, or clarify that the regulations as proposed do not prohibit such broader industry-wide discussions.

2. Existing Processes and Groups Can Serve As the Vehicles for Emergency Communications in New England

Three task forces currently exist in New England that could form the bases for an emergency response team of the nature described above. The Northeast Gas Association’s ("NGA") Gas Supply Task Force has been in existence since the early 1980s and is widely recognized in the region by state regulators and others in addressing regional natural gas supply situations in times of critical need. The New England Electric-Gas Focus Group ("Focus Group") was convened in late summer of 2012 to discuss important gas-electric issues and potential solutions on a regional basis, including communication between the natural gas and electric industries in both times of critical reliability emergencies and day-to-day communications. The Focus Group might serve as another ready-formed committee of natural gas and electric industry participants from which to organize a specialized committee to address electric and/or natural gas reliability emergencies. Additionally, there is the Electric-Gas Operations Committee ("EGOC") which was jointly established in 2004 by ISO-NE and NGA on the heels of a wintertime regional electric reliability situation. The purpose of the EGOC, which now also includes the New York Independent System Operator, Inc., PJM Interconnection,
L.L.C. and other stakeholders, is to enhance communication on publicly-available informational items relating to system operations on both the electric and natural gas systems. However, the EGOC has been restricted in its effectiveness due to, among other things, communication limitations between participants, exactly at the times when such communications would be the most beneficial to maintaining or restoring reliable service.\textsuperscript{8} Lifting the No-Conduit Rule prohibitions in emergency circumstances and using these existing vehicles as a way to communicate without any restrictions or reprisals would be a positive outgrowth of the NOPR.

C. The Scope of Non-Public, Operational Information In the NOPR Is Appropriately Permissive and Flexible

The Commission seeks comment on the scope of non-public, operational information that natural gas and electric transmission operators may share under the proposed regulations, including the specific examples of information identified in the NOPR.\textsuperscript{9} The New England Natural Gas Industry appreciates the Commission’s enumerated examples of non-public information categories, as well as the permissive approach undertaken by the NOPR to allow natural gas and electric transmission operators the flexibility they need “to determine what non-public operational information, if any, would promote reliable service . . . .”\textsuperscript{10} This flexibility will be key as both the electric and gas industries navigate the day-to-day communications and information categories that prove to be most beneficial to the goal of promoting reliability. To this

\textsuperscript{8} The New England Natural Gas Industry has observed through the last nine years of working in the EGOC that ISO-NE communications of electric grid operating conditions and needs have been constrained by its existing information policy within the EGOC. We hope that this NOPR will encourage ISO-NE to be empowered to become more expansive in its communications with the natural gas industry as well.

\textsuperscript{9} NOPR at P 23.

\textsuperscript{10} Id. at P 11.
end, the New England Natural Gas Industry has no specific comments on the examples provided and again commends the Commission for its guidance that the examples of information listed can be shared “without fear of violating the Commission’s prohibitions on undue discrimination and undue preference or such an exchange being considered unjust and unreasonable practice.”

The New England Natural Gas Industry notes that the examples provided may not be the precise list of non-public information that the transmission operators can or should exchange in their entirety at all times. Most such communications are critical in emergency situations of imminent reliability concerns when the communications can have the most immediate and positive impact, but should not be relied upon by the RTOs/ISOs on a day-to-day basis in ensuring the reliability of the natural gas-fired generators in their service territories. The New England Natural Gas Industry believes the Commission intended to and did allow for the ease of critical information flow in those times such information is needed. The addition of detailed information exchange is an important crisis management tool to address specific problems. We welcome the interest of the RTOs/ISOs in increasing their understanding of natural gas pipeline operations, but they do not need to become experts on the breadth of natural gas pipeline operations to ensure the reliability of electric service.¹² To this end, the sharing of operational information on a day-to-day basis may well not need to be so extensive and detailed that RTOs/ISOs are left to second-guess natural gas pipeline operational or commercial decisions or the needs of its non-electric customers or have such information

¹¹ Id.

¹² The New England Natural Gas Industry does not believe the Commission intended the list of examples of information that could be exchanged to create a blank check for RTOs/ISOs to demand any and all non-public information.
exchanges create a false expectation that interruptible transportation service can become firm transportation service merely through the addition of such information exchange, especially at the expense of a natural gas pipeline’s firm transportation customers.

The New England Natural Gas Industry believes communications will help promote reliable electric and natural gas service, appreciates the Commission’s permissive tone in the NOPR to resolve in practice what the specific day-to-day operational communications should be, and looks forward to working through the specific scope of communication with ISO-NE.

D. Three-Way Communication on Day-To-Day Information is Not Necessary

The Commission seeks comment on whether the proposed rule should require that, to the extent non-public, operational information exchanged between transmission operators involves customer-specific information, the transmission operators must seek to include the customer as part of a three-way communication. The administrative burden of requiring each conversation that may occur to be documented to and/or include the affected generator would serve to limit conversations of day-to-day information and have a chilling effect on the communications the Commission intends to foster through the NOPR. Generators should be included in broader industry communications in the event of an emergency as discussed above, but it is not necessary, and may well be counterproductive, to include a requirement for three-way communication of day-to-day information in the Final Rule.

E. The Commission Should Promulgate Regulations Regarding Communication Requirements Between Generators and RTOs/ISOs

The Commission in its NOPR seeks comment on whether additional regulations are needed to require a generator to share information with its electric transmission
operator to inform it of the possibility that the generator’s natural gas service may be disrupted. Certain members of the New England Natural Gas Industry\textsuperscript{13} and the Interstate Natural Gas Association of America\textsuperscript{14} have noted that the best sources of information regarding the ability of natural gas-fired generators to reliably run when called upon are the generators themselves and that the RTOs/ISOs should therefore seek to obtain information directly from those generators. For example, particular generators may need to provide information regarding the status or availability of gas supply available to the delivery points serving those generators. Understanding that communication with natural gas pipelines is an important source of information to the RTOs/ISOs, the New England Natural Gas Industry accepts this role and will endeavor to foster cross-industry, two-way communications to assist with electric reliability. The New England Natural Gas Industry, however, continues to believe that the generators play a vital link in the information chain, for emergencies and perhaps even more so for day-to-day operations. To the extent such communication between generators and their RTOs/ISOs is not occurring on a voluntary basis, the Commission should act to encourage such communications through a rulemaking proceeding.

\textsuperscript{13} See Comments of Spectra Energy Transmission, LLC and Spectra Energy Partners, LP, Docket No. AD12-12-000 (Jan. 7, 2013) at 9 (“Action that can be taken for reliability purposes may be more effective when that action results from information shared between the generators and independent system operators.”).

\textsuperscript{14} See INGAA January 8 Comments at 8 (“generators are often in the best position to be able to assess whether or not they will be able to run in a given situation.”); at 6 (stating that “it is not clear what additional information is needed to ensure electric reliability, beyond what is publicly available (or, for that matter, what dispatching entities can get \textit{directly from the generators within their boundaries})…”) (emphasis added); and at n 8 (“The Commission also should examine enhancements to information exchanges between dispatching entities and their generators.”).
CONCLUSION

The New England Natural Gas Industry believes communications will help promote reliable electric service, appreciates the Commission’s permissive tone in the NOPR to resolve in practice what the specific day-to-day operational communications should be, and looks forward to working through the specific scope of communication with ISO-NE. Specifically, the New England Natural Gas Industry:

(1) appreciates and commends the Commission’s clarification that pipelines would not be subject to allegations of undue discrimination through the sharing of non-public information with RTOs/ISOs, and that such sharing does not violate the prohibition against undue discrimination;

(2) requests that the No-Conduit Rule proposed in the NOPR be lifted in times of imminent critical system reliability emergencies (non-economic in nature) to allow unfettered communication between all industry participants in a position to help alleviate the emergency and, to avoid any concerns regarding undue discrimination, that the Commission clarify that such communications are authorized and otherwise specifically endorse all-hands-on-deck communications in times of emergency;

(3) cautions that the exchange of detailed information is an important crisis management tool to address specific problems, but that RTOs/ISOs need not become experts on the breadth of natural gas pipeline operations to ensure the reliability of electric service;

(4) suggests that while generators should be included in broader industry communications in the event of an emergency, it is not necessary, and may be
counterproductive, to include a requirement for three-way communication of day-to-day information in the Final Rule; and

(5) urges the Commission to consider a rulemaking proceeding to require communication between electric generators and RTOs/ISOs on a generator’s ability to run to the extent such communication between generators and their RTOs/ISOs is not occurring on a voluntary basis today.

WHEREFORE, for the foregoing reasons, the New England Natural Gas Industry respectfully requests the Commission consider these comments in its Final Rule in this docket.
Respectfully submitted,

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