

beginning at a line 1.8 miles northeast of and parallel to the Flagstaff VOR 043° radial extending clockwise to a line 1.8 miles west of and parallel to the Flagstaff VOR 198° radial. That airspace extending upward from 1,200 feet above the surface within 8.3 miles each side of the Flagstaff VOR 127° and 307° radials, extending from 7 miles northwest to 16.5 miles southeast of the Flagstaff VOR and that airspace bounded by a line beginning at lat. 35°13'32"N, long. 111°04'31"W; to lat. 35°17'17"N, long. 111°02'35"W; to lat. 35°22'00"N, long. 111°16'43"W; to lat. 35°24'00"N, long. 111°26'16"W; to lat. 35°18'00"N, long. 111°35'33"W; thence clockwise via a 10-mile radius of the Flagstaff VOR to lat. 35°16'34"N, long. 111°32'42"W; to lat. 35°19'58"N, long. 111°24'10"W, thence to the point of beginning and that airspace bounded by a line beginning at lat. 35°03'00"N, long. 111°21'00"W; to lat. 35°02'00"N, long. 111°15'00"W; to lat. 35°01'00"N, long. 111°22'00"W, thence to the point of beginning

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Issued in Los Angeles, California, on October 19, 1995.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96-1-000]

Standards For Business Practices Of Interstate Natural Gas Pipelines

Issued: October 25, 1995.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Advance Notice Of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is issuing a notice requesting comments containing detailed proposals for standardizing ten high priority business practices of interstate natural gas pipelines. In addition, comments are solicited on whether the Commission should standardize other business practices to better integrate the pipeline grid.

DATES: Comments are due by March 15, 1996. Comments should be filed with the Office of the Secretary and should refer to Docket No. RM96-1-000.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Goldenberg, Office of the General Counsel, Federal Energy

Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, (202) 208-2294.

Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 208-1283.

Brooks Carter, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 501-8145.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours at 888 First Street, N.E., Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS in ASCII and WordPerfect 5.1 format. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located at 888 First Street, N.E., Washington, D.C. 20426.

Advance Notice of Proposed Rulemaking

The Federal Energy Regulatory Commission (Commission) requests the submission of comments, by March 15, 1996, containing detailed proposals that will enable the Commission to adopt by regulation certain standards for business practices and procedures involving transactions between interstate natural gas pipelines and their customers.

Background

In Order No. 563,¹ the Commission began the process of standardizing electronic communication in the natural gas industry by developing standards for capacity release transactions. The

capacity release standards were developed by industry working groups composed of representatives from all segments of the natural gas industry. During the process of developing the capacity release standards, a Working Group was established to begin the process of standardizing other business transactions. The Working Group identified ten high priority data elements for standardization. They are, in the order of priority assigned by the Working Group: nominations, confirmations, allocated gas flows, customer and contract imbalances, gas flow at metered points, transportation invoices, pre-determined allocation methodologies, gas payment remittance statements, gas sales invoices, and uploads of capacity release prearranged deals.

Approximately one-and-a-half years ago, the Working Group recommended against the Commission promulgating standards in this area because it thought substantial progress could be made in developing and implementing standards on a voluntary basis. The Working Group, for example, anticipated significant implementation of the nomination and confirmation standards by September 1, 1995.

The Commission accepted the consensus agreement of the Working Group and did not institute a process leading to the mandated implementation of business practice standards. The Commission, however, recognized the importance of such standards in facilitating gas movement across the pipeline grid.² Depending on the progress made by the industry, the Commission committed itself to reevaluate whether it needed to become more involved in mandating the development and implementation of the standards.³

On September 21, 1995, the Commission held a conference in Docket No. RM93-4-000 to evaluate the progress being made towards standardization. Almost all the commenters at the conference conceded that the industry has not achieved the anticipated progress. For example, although the industry, through the Gas Industry Standards Board (GISB)⁴ has

² Order No. 563-A, III FERC Stats. & Regs. Preambles, at 31,050.

³ *Id.*

⁴ GISB is a private standards development organization that has succeeded the industry Working Group as the primary vehicle for developing communication standards. On October 23, 1995, the GISB board voted to expand GISB's scope, subject to ratification by GISB's membership, to include "business practices that streamline the transactional processes of the gas industry." As many of the participants at the September 21, 1995 conference discussed, this development was

¹ Standards For Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations, Order No. 563, 59 FR 516 (Jan. 5, 1994), III FERC Stats. & Regs. Preambles ¶ 30,988 (Dec. 23, 1993), *order on reh'g*, Order No. 563-A, 59 FR 23624 (May 6, 1994), III FERC Stats. & Regs. Preambles ¶ 30,994 (May 2, 1994), *reh'g denied*, Order No. 563-B, 68 FERC ¶ 61,002 (1994).

promulgated a set of standards governing the electronic communication of nomination and confirmation information, the standards are not being widely used.

Many participants at the September 21, 1995 conference maintained the standards do not go far enough to provide for efficient means of communication. The promulgated standards deal only with the electronic means of communicating the often idiosyncratic nomination and confirmation information for each pipeline. The standards do nothing to standardize the underlying information that is to be transmitted. As one participant pointed out, the 18 largest pipelines use 14 different nomenclatures to describe a pipeline receipt point and there is not even agreement on whether to accept nominations using Mcf or MMBtu to measure volumes. Without standardization of the nomination and confirmation information itself, many participants argued the industry would not achieve the business efficiencies which lie at the heart of any standardization effort.

On October 18, 1995, the Interstate Natural Gas Association of America (INGAA) filed a letter with the Commission outlining a proposed process through which it, together with GISB and the rest of the industry, could reduce the variations in pipeline business practices to achieve an integrated pipeline grid. The INGAA proposal would standardize the data elements, nomenclature, and business procedures relating to the ten high priority data requirements identified by the Working Group. In addition, consideration would be given to other standards needed to coordinate pipeline business practices to promote gas flow across an integrated pipeline network, such as standardization of nomination deadlines, the start of the gas day, the nomination period, and capacity release procedures.⁵ INGAA proposes a schedule for development of standards that concludes with tariff filings that begin in October 1996.

Process For Standardizing Critical Business Practices

As a result of restructuring, the gas industry is becoming a national marketplace. In order to establish a more efficient and seamless pipeline

necessary for GISB to undertake the crafting of standards associated with the industry's business practices.

⁵ These issues have been considered by the INGAA/American Gas Distributors (AGD) Grid Integration Project. See Grid Integration Project, Interim Reports of Task Forces (March 1995).

grid, where buyers can easily and efficiently obtain and transport gas from all potential sources of supply, the development of standardized methods of conducting business along with standardized methods of communication is critical. Without common business practices and a common language for communication, the speed and efficiency with which shippers can transact business across multiple pipelines is now, and will continue to be, severely compromised. The industry must expeditiously complete standardization of crucial business practices to make the promise of a restructured and integrated pipeline grid a reality. Accordingly, the Commission intends to establish, by rule, standards governing pipelines' conduct of crucial business practices and the electronic means by which pipelines will exchange information with their customers and third-parties.

The Commission will begin this process by focusing on the ten high priority data requirements identified by the industry itself. The items identified by the Working Group are nominations, confirmations, allocated gas flows, customer and contract imbalances, gas flow at metered points, transportation invoices, pre-determined allocation methodologies, gas payment remittance statements, gas sales invoices, and uploads of capacity release prearranged deals.

By March 15, 1996, the Commission is soliciting comments containing detailed proposals for the standard set of information (data elements) that the Commission should require all pipelines to use in conducting these ten business transactions as well as for standard nomenclature and standards for any associated business practices and procedures. As an example, commenters should propose a simplified standard set of nomination information that will be sufficient for customers to submit a nomination on any pipeline as well as a standard set of information that would be included in the pipeline's confirmation of that request. In addition to business practice standards, comments also should address how the information is to be communicated. Comments should include communication protocols for each business practice addressing the scheduling and response times of information exchanges, performance standards for assessing whether the system is substantially meeting those goals, or other needed communication issues.

The Commission expects the proposals to be sufficiently detailed that they could be included in a Notice of

Proposed Rulemaking (NOPR). The comments submitted on March 15, 1996, also should propose an implementation schedule or plan, including development of the needed electronic communication standards and time for full and effective testing, so that the standards can be fully implemented by January 1, 1997.

In addition to the ten high priority data requirements, comments should address whether the Commission should adopt standards for pipeline business practices to help facilitate gas flow across the pipeline grid, such as the standards considered by the INGAA/AGD Grid Integration Project. For example, INGAA, in its letter, identified standards for nomination deadlines, gas day, the effective nomination period, and capacity release as ones appropriate for immediate consideration. Comments also should consider whether any revisions to current industry electronic communication protocols or practices are needed to facilitate the movement of gas across the pipeline grid, including alternatives to pipeline Electronic Bulletin Boards. Comments should include detailed proposals of standards that the Commission could adopt for implementation by January 1, 1997. The Commission recognizes that standardization is an ongoing and evolving process, and the Commission intends to be involved in further efforts to develop standards that will promote a national pipeline grid.⁶

The Commission urges representatives of the various segments of the industry to work together to achieve a consensus on these standards. The Commission's earlier efforts in this area benefitted greatly from the Working Groups' input. The Commission continues to believe that the industry should take the lead in developing and implementing standards that will be both practical and workable for the variety of business transactions which are presently taking place, as well as for those which may occur in the future. With the expansion of the scope of GISB's charter and the broad-based participation in GISB by all industry segments,⁷ the Commission expects that GISB may become a forum through which these industry efforts can be coordinated. If GISB is able to provide substantive and timely proposals for

⁶ For example, besides the ten high priority data elements, the Working Group identified 23 additional business issues that require standardization.

⁷ The Commission is aware that not all industry participants are members of GISB, but the Commission's understanding is that the GISB process permits nonmembers to participate in developing standards.

standards relating to the high priority data elements described above, as well as others such as those identified in the Grid Integration Project, the Commission will give those proposals considerable weight. However, even in the absence of a consensus proposal from GISB, the Commission intends to move ahead with this proceeding.

As noted above, comments must be filed no later than March 15, 1996, along with an implementation plan which ensures that implementation occurs by January 1, 1997. The Commission recognizes, however, that with respect to discrete elements of the ten high priority items, or other business practices, the industry may reach a consensus on specific standards before that date.⁸ To the extent the industry reaches consensus, the Commission encourages voluntary implementation of those consensus standards.

An original and 14 copies of comments in response to this notice must be filed with the Commission no later than March 15, 1996. Comments should be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426 and should refer to Docket No. RM96-1-000.

By the Commission.
Lois D. Cashell,
Secretary.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 161

RIN 1076-AC81

Navajo Partitioned Land Grazing Regulations

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs proposes to add Part 161 to 25 CFR to govern the grazing of livestock on the Navajo Partitioned Land (NPL) of the Navajo-Hopi Former Joint Use Area (FJUA) of the 1882 Executive Order reservation. The purpose of these regulations is to conserve the rangelands of the NPL in order to maximize future use of the land for grazing and other purposes.

⁸For example, in its October 18, 1995 letter, INGAA represents that it intends to submit to GISB a pipeline consensus draft addressing the minimum data elements and nomenclature for nominations and confirmations by December 1995.

DATES: Comments on these proposed rules must be submitted by January 2, 1996.

ADDRESSES: Send comments to Bureau of Indian Affairs, Division of Water and Land Resources, Room 4559, 1849 C Street N.W., Washington, DC 20240, or telephone number (202) 208-4004.

FOR FURTHER INFORMATION CONTACT: Robert Curley, (602) 871-5151, Ext. 5105, at the Navajo Area Office in Window Rock, Arizona.

SUPPLEMENTARY INFORMATION: As a result of the long-standing dispute between the Hopi Tribe and the Navajo Nation over beneficial ownership of the reservation created by the Executive Order of December 16, 1882, Congress passed the Act of July 22, 1958, 72 Stat. 403, which permitted the Navajo Nation and the Hopi Tribe to sue each other in federal court to resolve the issue. The Hopi Tribe initiated such a suit on August 1, 1958, in United States District Court for the District of Arizona in *Healing v. Jones*, 174 F. Supp. 211 (D. Ariz. 1959), (*Healing I*). The merits of the case were heard by a three judge panel of the United States District Court for the District of Arizona in *Healing v. Jones*, 210 F. Supp. 125 (D. Ariz. 1962) *aff'd* 373 U.S. 758 (1963), (*Healing II*) after the initial procedural challenges to the suit were dismissed in *Healing I*. The district court determined that while the Hopi Tribe had a right to the exclusive use and occupancy of a portion of the 1882 reservation known as District 6, it shared the remaining lands of the 1882 reservation in common with the Navajo Nation. Disputes between the two tribes continued over the right to use and occupy the 1882 reservation in spite of the district court's decision in *Healing II*, which was affirmed by the Supreme Court. In an attempt to resolve these ongoing problems, Congress enacted the Navajo-Hopi Settlement Act, 25 U.S.C. 640d-640d-31, which provided for the partition of the Joint Use Area of the 1882 reservation, excluding District 6, between the two tribes. The Act was amended by the Navajo-Hopi Indian Relocation Amendments Acts of 1980, 94 Stat. 929, due to the dissatisfaction expressed by both tribes with the relocation process.

The Relocation Act Amendments added subsection (c) to 25 U.S.C. 640d-18. It required the Secretary of the Interior to complete the livestock reduction program contained in 25 U.S.C. 640d-18(a) within 18 months of its enactment. The new subsection also required that all grazing control and range restoration activities be coordinated and executed with the

concurrence of the tribe to which the land had been partitioned. In 1982, the U.S. District Court for the District of Arizona determined in *Hopi Tribe v. Watt*, 530 F. Supp. 1217 (D. Ariz. 1982), that the grazing regulations contained in Part 153 of 25 CFR were invalid with respect to the 1882 reservation partitioned to both the Navajo Nation and the Hopi Tribe. The court reached that conclusion because the regulations did not provide for the concurrence of the Navajo Nation or the Hopi Tribe as required by the Relocation Act Amendments. The district court's ruling was upheld by the Ninth Circuit Court of Appeals in *Hopi Tribe v. Watt*, 719 F.2d 314 (9th Cir. 1983).

As a result of the decision in *Hopi Tribe v. Watt, Id.*, the Bureau of Indian Affairs sought the written concurrence of the Navajo Nation for the regulations which are herein published. The concurrence of the Navajo Nation to these regulations was provided by the Resources Committee of the Navajo Nation Council pursuant to resolution No. RCAP-079-92 of April 29, 1992. Non-substantive, editorial changes have been made to the proposed regulations which were approved by the Navajo Nation.

These regulations are being issued to implement the Secretary of the Interior's responsibilities mandated by the Navajo-Hopi Settlement Act, as amended by the Relocation Act Amendments, and the previously cited federal court decisions. In 1982 Part 152 of 25 CFR was redesignated as Part 167 and Part 153 of 25 CFR was redesignated as Part 168. All grazing permits issued for the Joint Use Area under the old 25 CFR Part 152, some of which dated from 1940, were canceled within one year pursuant to the Order of Compliance issued on October 14, 1972, by the U.S. District Court of the District of Arizona in *Hamilton v. MacDonald*, Civ. 579-PCT. From 1973 through 1978 the Bureau of Indian Affairs did not issue grazing permits for the Joint Use Area because it was necessary to complete a census of the human and animal populations of the Joint Use Area (JUA) in conjunction with a calculation of the range's carrying capacity and stocking rates. However, in late 1977 the Joint Use Area Administrative Office of the Bureau of Indian Affairs at Flagstaff, Arizona, completed its inventory and began issuing annual grazing permits to the residents of the JUA. These interim permits were limited to one year by order of the federal district court. Since the 1982 ruling in *Hopi v. Watt*, 530 F.2d 1217 (1983), declaring that the pre-1982 regulations were invalid, the