

October 20, 2009

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

Texican N. La. Transport, LLC)	
)	
Complainant,)	
v.)	Docket No. RP09-1086-000
)	
Southern Natural Gas Company,)	
)	
Respondent.)	

**MOTION FOR LEAVE TO INTERVENE AND COMMENTS IN SUPPORT OF
INDUSTRIAL ENERGY CONSUMERS OF AMERICA**

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the Industrial Energy Consumers of America (IECA) hereby moves to intervene in the referenced proceeding, which involves a complaint brought by Texican N. La. Transport, LLC (Texican) against Southern Natural Gas Company (Southern). IECA is concerned that the procedure Southern used in awarding capacity in the open season discussed in the complaint will undermine the open season process in a fundamental way and could set a national precedence of discrimination by natural gas pipelines to the detriment of all natural gas consumers. A process that was intended to be highly transparent based on the Net Present Value (NPV) of the bids submitted by prospective shippers would be turned into an obscure guessing game with bidders unable to develop effective strategies for obtaining capacity. The Commission should not permit a result that is so contrary to the non-discriminatory open access regime that has been central to the Commission's regulation of natural gas pipeline for more than two decades.

In further support of its position, IECA respectfully states that the price of natural gas is major cost to the manufacturing sector and for some, can account for as much as 65 percent of the cost of producing some products. The price of natural gas can determine whether manufacturers can be competitive in U.S. and global markets which impacts the US economy and jobs. Relatively small increases in the price of natural gas can have large impacts on the viability of our businesses.

I. INTERVENTION

1. All pleadings, correspondence and other communications submitted in this proceeding should be addressed to:

Paul N. Cicio
President
Industrial Energy Consumers of America
1155 Fifteenth St., N.W.
Suite 500
Washington, DC 20005

2. The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with \$900 billion in annual sales and with more than 850,000 employees nationwide. It is an organization created to promote the interests of manufacturing companies for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: plastics, cement, paper, food processing, brick, chemicals, fertilizer, insulation, steel, glass, industrial gases, pharmaceutical, aluminum and brewing.

3. IECA's membership includes companies that are served directly or indirectly by Southern Natural Gas Company (Southern).

4. On September 30, 2009, Texican N. La. Transport, LLC (Texican) filed a formal complaint against Southern alleging that Southern violated the Natural Gas Act, Commission

precedent, and Southern's FERC Gas Tariff by awarding capacity in an open season pursuant to a new methodology that was both flawed and not timely revealed to bidders, thereby precluding bidders from taking a new approach into account when formulating their bid. Texican requests that the Commission declare Southern's capacity awards to be void and order Southern to award the capacity accordingly.

5. By its October 2, 2009, Notice of Complaint, the Commission established October 20, 2009 as the comment date.

6. Texican's complaint raises significant policy issues. The manner in which those issues are resolved will affect open season procedures on Southern and may represent a significant precedent for the conduct of open seasons on a national basis. Therefore, IECA and its members have a direct and substantial interest in this proceeding which cannot adequately be represented by other parties. IECA's intervention is appropriate to the administration of the Natural Gas Act. IECA submits that its participation in this proceeding is in the public interest.

II. COMMENTS IN SUPPORT OF COMPLAINT

IECA and its members have understood the Commission's open season policy as not allowing pipelines to aggregate capacity in the manner apparently used by Southern for the first time for the West of Bienville open season. Therefore, IECA generally supports the arguments advanced by Texican.

Of particular concern to IECA is that under Southern's new approach to aggregation, the ability of end users, such as IECA's members, to use the open season process to obtain the limited amounts of capacity they need to support their operations would be severely compromised. Presently, pipelines are required, in calculating the NPV of the bids received during an open season, to aggregate the bids of several shippers when such aggregation results in an NPV that is higher

than those of larger bidders. This allows industrial end use shippers to use the bidding process to combine their individual needs to achieve the highest NPV which would then be used to award capacity.

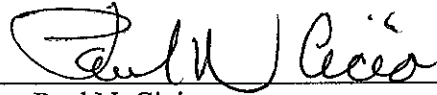
Southern would stand the aggregation process on its head. Rather than using aggregation to enhance the ability of a group of shippers to obtain capacity by collectively achieving the highest NPV among all bidders, Southern apparently believes that it can, in the name of aggregation, award capacity on a piecemeal basis that simply ignores the NPV of the shippers' bids. Southern would instead focus solely on the economic advantage Southern can achieve by breaking the bids it received into small pieces, i.e., by *disaggregating* them, in order to determine whether it can achieve a higher value by gluing bits and pieces of any number of those bids back together into a conglomeration that bears no resemblance to any of the individual bids.

Southern's approach would not only defeat the ability of industrial end users to use aggregation as a means of obtaining capacity, it would undermine the competitive bidding process itself. When the pipeline is free to break every bid into smaller pieces, a bidder gains nothing from pursuing a strategy designed to produce the best bid. Under these circumstances, the bidding process is little more than a sham and the Commission's requirement that the pipeline clearly state the criteria to be used to determine the NPV of individual bids is reduced to irrelevance because the NPV of the individual bids is irrelevant to the pipeline's decision to whom capacity will be awarded.

WHEREFORE, the Industrial Energy Consumers of America respectfully requests that the Commission permit IECA to intervene in this proceeding with full rights as a party. IECA urges the Commission to reject Southern's theory of aggregation as inconsistent with the goal of transparent open seasons that are governed by rules that are both known to all bidders in advance and that do

not prevent bidders from developing effective strategies for obtaining capacity based on the value of their bids.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul N. Cicio", written over a horizontal line.

Paul N. Cicio
President
Industrial Energy Consumers of America
1155 Fifteenth St., N.W.
Suite 500
Washington, DC 20005

ON BEHALF OF
INDUSTRIAL ENERGY CONSUMERS OF AMERICA

October 20, 2009

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served by electronic mail, the foregoing document upon all parties designated by the Office of the Secretary.

Dated at Washington, D.C., this 20th day of October, 2009.

A handwritten signature in black ink, appearing to read "Paul N. Cicio". The signature is written in a cursive style with a large initial "P" and "C".

Paul N. Cicio
President
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1155 Fifteenth St., N.W.
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