

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

<b>Revised Filing and Reporting</b>	)	<b>Docket No. RM21-18-000</b>
<b>Requirements for Interstate Natural</b>	)	
<b>Gas Company Rate Schedules and</b>	)	
<b>Tariffs</b>	)	

**MOTION FOR LEAVE TO FILE AND  
REPLY COMMENTS OF THE AMERICAN GAS ASSOCIATION, AMERICAN  
PUBLIC GAS ASSOCIATION, AMERICAN FOREST & PAPER ASSOCIATION,  
INDUSTRIAL ENERGY CONSUMERS OF AMERICA, PROCESS GAS CONSUMERS  
GROUP, AND NATURAL GAS SUPPLY ASSOCIATION**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”),<sup>1</sup> the American Gas Association (“AGA”), American Public Gas Association (“APGA”), American Forest & Paper Association (“AF&PA”), Industrial Energy Consumers of America (“IECA”), Process Gas Consumers Group (“PGC”), and Natural Gas Supply Association (“NGSA”) (collectively, the “Commenters”) seek leave to file reply comments and submit reply comments in response to certain initial comments filed in the above captioned proceeding.

**I. BACKGROUND**

On June 24, 2021, Commenters filed a Petition for Rulemaking (“Petition”) and requested that the Commission conduct a rulemaking to revise its regulations,<sup>2</sup> or in the alternative, update its filing procedures, to require the submission of all statements and schedules in native format

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<sup>1</sup> 18 C.F.R. §§ 385.212 and 385.213.  
<sup>2</sup> See 18 C.F.R. Part 154.

with all cells, links and formulas intact when a natural gas company files for a change in rates or charges. On May 19, 2022, the Commission issued a Notice of Proposed Rulemaking (“NOPR”) to revise its regulations and sought stakeholder comment.<sup>3</sup> In the NOPR, the Commission proposes to establish a rule to require natural gas pipelines to submit all statements, schedules and workpapers in native format with formulas and links intact when filing a general Natural Gas Act (“NGA”) section 4 rate case.<sup>4</sup> The NOPR was published in the Federal Register on May 25, 2022 and a comment date of June 24, 2022 was established.<sup>5</sup> Commenters submitted supportive comments in response to the NOPR, with the request that the Final Rule make clear that the required submissions are to be publicly filed.<sup>6</sup> Commenters appreciate the Commission’s decision to issue the NOPR in response to the Petition.

While the NOPR established June 24, 2022, as the comment deadline, a reply comment date was not specified by the Commission. Therefore, as discussed below, Commenters seek leave to file reply comments and provide limited reply comments.

## **II. MOTION FOR LEAVE TO FILE REPLY COMMENTS**

Commenters seek leave to file reply comments in the above referenced proceeding. While the Commission did not solicit reply comments in this proceeding, Commenters believe that this reply comment will clarify the issues, ensure a complete and accurate record, and assist the

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<sup>3</sup> *Revised Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs*, 179 FERC ¶ 61,114 (2022).

<sup>4</sup> See NOPR at P 5.

<sup>5</sup> See *Revised Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs*, 87 Fed. Reg. 31783 (May 25, 2022).

<sup>6</sup> Comments of American Gas Association, American Public Gas Association, American Forest & Paper Association, Industrial Energy Consumers of America, Process Gas Consumers Group, and Natural Gas Supply Association, Docket No. 21-18-000 ,Filed June 24, 2022 (“Commenters June 24 Comments”).

Commission in its decision-making process.<sup>7</sup> In other rulemaking proceedings, the Commission has allowed reply comments even though they were unsolicited.<sup>8</sup> Additionally, the Commission permits responsive pleadings when the response provides additional information to aid the Commission in issuing a reasoned decision.<sup>9</sup> Commenters believe that these reply comments achieve all of these objectives. Therefore, Commenters urge the Commission to grant this motion.

### III. REPLY COMMENTS

Commenters submit these reply comments to address certain arguments raised in the initial comment phase of this proceeding. Certain initial comments aver that the proposed rule is unjust and unreasonable because it requires statements, *etc.*, to be filed in native format with formulas and links intact.<sup>10</sup> Moreover, certain initial comments argue that the “proposed rule is arbitrary and capricious and does not constitute reasoned decision-making because it would unreasonably shift litigation costs and burdens to interstate natural gas pipelines.”<sup>11</sup> As discussed herein, it is not unjust and unreasonable nor arbitrary and capricious for the Commission to require pipelines to support a rate change.

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<sup>7</sup> See, e.g., *Tennessee Gas Pipeline Co.*, 162 FERC ¶ 61,258 at P 3 (2018) (accepting an answer to a comment because “it has provided information that assisted [the Commission] in [its] decision-making process”); *H.Q. Energy Services (U.S.) Inc.*, 158 FERC ¶ 61,098 at P 19 (2017) (same); *Illinois Municipal Elec. Agency*, 147 FERC ¶ 61,090 at P 13 (2014) (same).

<sup>8</sup> See, e.g., *Revisions to Elec. Reliability Org. Definition of Bulk Elec. Sys. and Rules of Procedure*, Order No. 773, 141 FERC ¶ 61,236, at P 30 n.27 (2012) (“Although the [notice of proposed rulemaking] did not allow for reply comments, we will accept these pleadings because they have assisted our understanding . . .”).

<sup>9</sup> See n.6, *supra*.

<sup>10</sup> Comments of Energy Transfer LP, Docket No. RM21-18-000 (Dated June 24, 2022) at 2 (“Energy Transfer Comments”).

<sup>11</sup> Energy Transfer Comments at 5.

Under the Natural Gas Act section 4(e), a pipeline bears the burden of proving that its proposed rates are reasonable.<sup>12</sup> Moreover, stakeholders' ability to analyze and access ratemaking materials is essential to the Commission's goal of transparent ratemaking.<sup>13</sup> The Commission recognizes that the NOPR, if made final, could increase the burden on natural gas pipelines; however, it also explains that it does not anticipate the requirement to be excessively burdensome.<sup>14</sup> The Commission states that it does "not anticipate that this requirement will be excessively burdensome on natural gas pipelines, as any entity that wants to calculate rates, including the pipeline, needs a linked rate model, and must create one if it is not provided in the original rate case filing."<sup>15</sup>

First, any additional burden would be limited.<sup>16</sup> This is because the Commission has previously issued several rules that required spreadsheets to be filed in native format and Commission guidelines already stated a preference for filing in native format. Hence the NOPR is a continuation of prior issuances and a formalization of prior guidance, which pipelines would have already complied with.

As explained in the Petition,<sup>17</sup> after the implementation of Order No. 636, the Commission updated the filing and reporting requirements in Order No. 582 by requiring pipelines filing rate

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<sup>12</sup> 15 U.S.C. § 717c(e); *Algonquin Gas Transmission Co. v. FERC*, 948 F.2d 1305, 1311 (D.C. Cir. 1991) ("Under section 4(e), the gas company bears the burden of proving that its proposed rates are reasonable.").

<sup>13</sup> See generally *Midwest Indep. Transmission Sys. Operator, Inc., et. al.*, 143 FERC ¶ 61,149, P 83 (2013); *Entergy Gulf States Louisiana, LLC*, 165 FERC ¶ 63,010, P 74 (2018).

<sup>14</sup> NOPR at P 8.

<sup>15</sup> *Id.*

<sup>16</sup> Commenters note that the NOPR contains a burden and cost analysis. NOPR at P 22. Those challenging the proposal have not provided evidence of any quantifiable actual excessive burden that would result from the new requirement to file material in native form. In many cases, and in order to prepare the PDF files that would be provided in a pipeline's rate case filing, the pipeline would first prepare the same fully enabled Excel spreadsheets that Commenters seek to see made a part of the rate case filing. In those cases, there would be no burden at all.

<sup>17</sup> Petition at 9.

cases pursuant to Part 154 of the Commission’s regulations to file data and allocation and rate design formulas in electronic formats.<sup>18</sup> The Commission discussed the appropriate format for numeric data, stating that formulas in workpapers or statements are important to the understanding of the pipeline’s filing.<sup>19</sup> Further, the Commission stated that data for certain statements must be received with the formulas included.<sup>20</sup> The Commission explained that “[t]he requirement that the initial filing be in spreadsheet format avoids the burden of having the same data submitted once as a tab delimited file and again, in response to a data request, in spreadsheet form, in order to capture the formulas.”<sup>21</sup> While at the time the Commission did not require the entire rate case to be filed in spreadsheet form, it stated that for the spreadsheets that were filed, those spreadsheets must include all the formulas and all links to other spreadsheets filed in the same rate case.<sup>22</sup> In Order No. 582, the Commission was underscoring the importance of the format and the formulas and links, while at the same time it was taking into account the various burdens and benefits as a result of these requirements.

The next iteration of the requirement occurred in Order No. 703<sup>23</sup> when the Commission amended its regulations to allow the electronic filing of all documents through the eFiling

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<sup>18</sup> *Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs*, Order No. 582, FERC Stats. and Regs., ¶ 31,025 (1995), 60 Fed. Reg. 52960 (October 11, 1995); *see also Filing Via the Internet*, Order No. 703, 121 FERC ¶ 61,171, P 26 (2007).

<sup>19</sup> Order No. 582, 60 Fed. Reg. 52960, 52994 (“The Commission agrees with the parties arguing for a spreadsheet format where the formulas in the workpaper or statement are important to the understanding of the pipeline's filing.”).

<sup>20</sup> Order No. 582 at 52994 (“To be useful, the data, required in subpart D, by Statements I and J and the state tax formulations in Statement H, must be received with the formulas included. These formulas are necessary to understand the pipeline’s position with respect to cost allocation and rate design.”).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Filing Via the Internet*, Order No. 703, FERC Stats. & Regs., ¶ 31,259 (2007) (cross-reference at 121 FERC ¶ 61,171).

interface.<sup>24</sup> As part of Order No. 703, the Commission required that spreadsheets be filed in native format.<sup>25</sup> The Commission reiterated its reasoning from Order No. 703 that formulas facilitate an understanding of the applicant’s positions and reduce the requirements for subsequent data requests.<sup>26</sup>

More recently in *East Tennessee Natural Gas LLC*, the Commission explained that Order No. 582 and Order No. 703 require that certain statements must already be submitted in native spreadsheet format with formulas and links included, as this data is essential to understanding the pipeline’s position with regard to cost allocation and rate design.<sup>27</sup> The Commission noted that it routinely must obtain the formulas used in rate case filings through data requests asking that the information be presented in spreadsheet format, and therefore, having a native spreadsheet format initial requirement avoids the burden of having the same data submitted in response to a data request.<sup>28</sup>

The NOPR is the next iteration of the Commission modernizing its rules and process, with limited burdens on pipeline and benefits to stakeholder and Commissions staff. A new rule is needed because, as illustrated in the Petition, pipelines have chosen to not submit information in native form, which has led to the issue being contested in rate cases.<sup>29</sup> Moreover, an expansion of

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<sup>24</sup> Order No. 703 at P 2.

<sup>25</sup> *Id.* at P 25. See also, *FERC Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300 and 341 Tariff Filings* (“Implementation Guide for Electronic Tariff Filings”) at 5 (2016). Instruction Manual for Electronic Filing of Part 154 Rate Filings (Appendix), Implementation Guide for Electronic Tariff Filings at 2 (“Submission of spreadsheets in native file format is preferred for Statements A through M, including related schedules. Statements O and P may use any electronic format that renders text, graphics, spreadsheets or data bases that the Commission accepts (the list of FERC Acceptable File Formats is available on [www.ferc.gov](http://www.ferc.gov))”).

<sup>26</sup> *Id.* at P 26.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> Petition at 7-8.

the current requirements to ensure that natural gas pipelines submit all statements, schedules and workpapers in native format with formulas and links intact when filing a general NGA section 4 rate case will benefit all stakeholders. As explained in the Petition and the Commenters' initial comments, the filing of information in native form at the start of this initial review period would permit stakeholder analysis to be more in-depth and substantive because of the ability to review spreadsheets with the pertinent formulas and links.<sup>30</sup>

Second, the argument that the NOPR would unreasonably shift litigation costs and burdens to interstate natural gas pipelines is without merit.<sup>31</sup> As noted above, pipelines bear the burden of supporting a rate filing. Moreover, to the extent that pipelines incur additional costs related to complying with any new rule that the Commission issues, pipelines can seek to recover the costs in a rate proceeding. Pipelines can seek to fully recover their costs of complying with this proposed rule intended to increase transparency and ensure full disclosure as a rate case regulatory expense, which is then paid by the shippers. Therefore, any arguments related to shifting burdens or costs are unfounded.

Shippers already compensate, *via* rates, the costs incurred by a pipeline, and this includes costs related to rate proceedings. Despite the fact that rate filing costs are recovered in rates, some pipelines deny shippers and Commission staff access to native form versions of information filed in section 4 rate proceedings. This denial of access results in an inefficient process of shippers hiring rate consultants to attempt to re-create the rate spreadsheets that the pipeline filed to support its rate increase. This process, which is time consuming and costly, is not always successful,

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<sup>30</sup> Comments of the American Gas Association, et. al., Docket No. RM21-18-000, Filed June 24, 2022 at P 9 and Petition at P 12.

<sup>31</sup> Energy Transfer Comments at 5.

because, in some cases, the information is not in native form or it contains broken links, hard-coded data, or information is missing from the statements and worksheets. This is not just a shipper issue. Commission staff has technical experts trained to examine rates, but if the native formats are not submitted, the spreadsheet links do not work, or they contain hard-coded data, the rate filing cannot be properly analyzed. Much of this inefficiency could be avoided if pipelines simply submitted all relevant tariff and rate information in native file format, with all cells, links, and formulas intact and with no data hard-coded.

As the Commission stated in the NOPR, “the current regulations are outdated.”<sup>32</sup> The Commission should update its regulations and procedures to require the submission of all statements, schedules and workpapers, *etc.*, in native electronic format, such as Excel, with all cells, links, and formulas intact. The Commission’s proposal will ensure expeditious examination of filed materials by stakeholders, and provide transparency and other benefits to the rate case process. The Commission’s proposal is reasonable, as it is consistent with its past issuances, and it does not unreasonably shift any burdens on to the pipelines.

The Commission’s regulations need to be updated. The current rules too easily create the potential for an artificial barrier (whether intentional or not) between the information that the pipeline is submitting and the fullest understanding of that information by Commission staff and stakeholders. No public good is accomplished through the creation of such a needless barrier, and there is no benefit gained by forcing participants to attempt to find out through discovery what could just as easily have been made available to them from the outset.

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<sup>32</sup> NOPR at P 8.



#### IV. CONCLUSION

As discussed herein, Commenters request that the Commission grant leave to file these reply comments and consider these reply comments in this rulemaking proceeding.

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Respectfully submitted,

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Dated: July 21, 2022

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC this 21st day of July 2022.

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