

152 FERC ¶ 61,051
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Communication of Operational Information Between Docket No. RM13-17-002
Natural Gas Pipelines and Electric Transmission
Operators

ORDER DISMISSING REQUEST FOR CLARIFICATION

(Issued July 16, 2015)

1. On August 27, 2014, National Fuel Gas Distribution Corporation (NFG Distribution) filed a motion for clarification of Order Nos. 787 and 787-A.¹ NFG requests clarification regarding the scope of communications between public utilities and Local Distribution Companies (LDCs). As discussed below, the Commission dismisses NFG Distribution's request for clarification as beyond the scope of the rulemaking.
2. Order No. 787 provides explicit authority to interstate natural gas pipelines and public utilities that own, operate, or control facilities used for the transmission of electric energy in interstate commerce to share non-public, operational information with each other for the purpose of promoting reliable service or operational planning on either the pipeline's or public utility's system.² The Commission found that the revised regulations will help maintain the reliability of pipeline and public utility transmission service by permitting transmission operators to share information with each other that they deem

¹ *Communication of Operational Information Between Natural Gas Pipelines and Transmission Operators*, Order No. 787, 78 Fed. Reg. 70,163 (Nov. 22, 2013), FERC Stats. & Regs. ¶ 31,350 (cross-referenced at 145 FERC ¶ 61,134 (2013)), *order on reh'g*, Order No. 787-A, 147 FERC ¶ 61,228 (2014).

² *See* 18 C.F.R. 38.2 and 284.12(b)(4).

necessary to promote the reliability and integrity of their systems.³ As a protection against the disclosure of non-public, operational information not covered by the Commission's Standards of Conduct,⁴ Order No. 787 also adopted a No-Conduit Rule that prohibits subsequent disclosure of information received under the rule to a third party or the transmission operator's marketing function employees. The Commission found that the nature and scope of non-public, operational information that may expressly be shared under the rule, including commercially sensitive, customer-specific information, warranted limiting the blanket authorization of the exchange of such information granted herein to interstate natural gas pipelines and public utilities that own, operate, or control facilities used for the transmission of electric energy in interstate commerce subject to the Commission's jurisdiction.⁵

3. The Commission stated that the regulations, including the No-Conduit Rule, are applicable to non-public, operational information being transmitted from interstate pipelines to public utilities and vice versa. The Commission, however, made clear that the rule does not affect the ability of an electric transmission operator to share its own information with an LDC, if otherwise permitted under its tariff.⁶ The Commission recognized that some electric transmission operators, particularly Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs), have tariff provisions that may limit the scope of information they can communicate with LDCs. The Commission also stated that electric transmission operators may make a separate FPA section 205 tariff filing if they believe it is necessary to share information received from a pipeline pursuant to Order No. 787 with LDCs.⁷ The Commission encouraged electric transmission operators that see the need for such communication given the circumstances on their systems to make a separate FPA section 205 tariff filing to establish acceptable procedures for the handling and protection from inappropriate disclosure or use of such information. The Commission has received filings from

³ In Order Nos. 787 and 787-A and in this order, the Commission refers to interstate natural gas pipelines and public utilities that own, operate, or control facilities used for the transmission of electric energy in interstate commerce collectively as "transmission operators."

⁴ 18 C.F.R. pt. 358 (2014).

⁵ Order No. 787, 145 FERC ¶ 61,134 at P 56.

⁶ *Id.* at P 56, 97.

⁷ *Id.* at P 56, 58.

New York Independent System Operator, Inc. and PJM Interconnection, L.L.C. (PJM).⁸ On June 19, 2014, in Order No. 787-A, the Commission denied requests for rehearing and clarification of Order No. 787.

4. NFG Distribution requests that the Commission provide clarification of Order No. 787 in a way that will “permit and encourage LDCs to communicate freely with public utilities and RTOs/ISOs and then use that information to work with other natural gas industry players to improve reliability.”⁹ Specifically, NFG Distribution requests that the Commission clarify that any restrictions electric transmission operators may adopt with respect to LDCs’ sharing non-public, operational information received from the electric transmission operator will not apply to the LDCs’ communications with (1) interstate pipelines eligible to receive the information directly from the electric transmission operator and (2) LDCs’ customers or other connecting suppliers (i.e., other non-jurisdictional natural gas transporters, such as gathering companies) with whom the LDC has communicated on operational matters subject to its state regulatory restrictions. NFG Distribution also requests that the Commission clarify that any restriction on the LDC communicating non-public operational information that would have a detrimental market impact will not apply to detrimental impacts on natural gas or electric markets except as to “willful” or “intentional” detrimental impacts which are not necessary results of steps taken by the LDC to improve reliability of gas deliveries as a result of the non-public operational information.

5. NFG Distribution’s request for these clarifications is beyond the scope of Order Nos. 787 and 787-A. As the Commission indicated in Order No. 787, ISOs and RTOs with tariff provisions that inhibit the sharing of information with LDCs or other parties may file under section 205 of the FPA to revise those tariffs to establish the procedures and protective conditions that will apply to the sharing of information. The specific questions raised by NFG Distribution relate to the conditions an ISO or RTO may determine are necessary to protect sensitive customer or other data. Such conditions are best addressed in the individual proceedings in which all parties can build a record with

⁸ *New York Independent System Operator, Inc.*, Docket No. ER14-2895-000 and *P.J.M. Interconnection, L.L.C.*, Docket No. ER14-1469-000.

⁹ NFG Distribution Request for Clarification at 18.

respect to the proposals by each ISO or RTO.¹⁰ Accordingly, NFG Distribution's request for clarification is dismissed.

The Commission orders:

NFG Distribution's request for clarification is dismissed.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹⁰ See, e.g., *PJM Interconnection, L.L.C.*, Docket No. ER14-1469-002. In that proceeding, NFG Distribution has filed a motion for clarification or, in the alternative, request for rehearing of an order approving PJM's proposed modifications to its confidentiality rules to allow PJM to share non-public, operational information with natural gas pipeline operators, including LDCs, consistent with the Commission's regulations adopted in Order No. 787.