



Federal Energy Regulatory Commission
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Open Commission Meeting
Discussion Item G-4

"Good morning Chairman Kelliher and Commissioners.

This proceeding began in late 2006 with the filing of two separate petitions, one asking for clarification of the Commission's capacity release rules and one requesting a rulemaking regarding the price cap on capacity releases. Following comments on those petitions, the Commission issued a Notice of Proposed Rulemaking in November, 2007. The Commission received a significant level of industry wide support for the NOPR, particularly the proposals to remove the price ceiling on short-term capacity release transactions and to modify its policies and regulations to facilitate asset management agreements. The draft final rule before the Commission today will implement these enhancements 30 days after the final rule is published in the Federal Register."

The purpose of the draft final rule is to revise the Commission's capacity release policies and regulations in a manner intended to promote a more efficient capacity release market. To that end, the draft final rule makes four major modifications to the Commission's policies and regulations.

First, the draft final rule adopts the Commission's proposal in the November 15, 2008 NOPR to permanently lift the maximum rate ceiling on secondary capacity releases of one year or less. As in the NOPR, the draft final rule does not eliminate the maximum rate ceiling for long term capacity releases of more than one year, nor does it lift the price ceiling on primary sales of capacity by interstate pipelines.

Second, the draft final rule adopts the NOPR proposal to modify the Commission's policies and regulations to facilitate the use of asset management arrangements. The draft final rule accomplishes this goal by exempting capacity releases that implement asset management arrangements from the Commission's prohibition on tying capacity releases to any extraneous conditions, and from the Commission's bidding requirements for capacity releases. The draft final rule also revises the definition of asset management arrangements proposed in the NOPR to obligate the replacement shipper to stand ready to deliver gas to, or purchase gas from, the releasing shipper for at least 5 months out of each 12 month period of the release. The draft final rule also revises the AMA definition to allow for supply side AMAs.

Third, the draft final rule revises the Commission's prohibition against tying to allow a releasing shipper to include conditions in a release of storage capacity regarding the sale and/or repurchase of gas in storage inventory, even outside the AMA context. Specifically, this exemption from tying is meant to allow a shipper that releases storage capacity to require a replacement shipper to take title to any gas in the released capacity at the time the release takes effect and/or to return the storage capacity to the releasing shipper at the end of the release with a specified amount of gas in storage.

Fourth, the draft final rule modifies the Commission's regulations to facilitate state retail open access programs by exempting capacity releases made under state approved programs from the Commission's capacity release bidding requirements.

In order to monitor the progress of the capacity release market under the new provisions,

the final rule directs Commission staff to monitor the capacity release program and to issue a report on the general performance of that program within six months after two years of experience under the new rule.

This concludes my presentation. We would be happy to answer any questions you may have."