

126 FERC ¶ 61,210  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinohoff, Acting Chairman;  
Suedeem G. Kelly, Marc Spitzer,  
and Philip D. Moeller.

Natural Gas Interchangeability

Docket No. PL04-3-001

ORDER DISMISSING REHEARING REQUESTS AND DENYING REQUESTS  
FOR CLARIFICATION

(Issued March 6, 2009)

1. On June 15, 2006, the Commission issued a Policy Statement On Provisions Governing Natural Gas Quality And Interchangeability In Interstate Natural Gas Pipeline Company Tariffs.<sup>1</sup> In the Policy Statement, the Commission addressed natural gas quality and interchangeability issues and the impact of those issues on the natural gas companies subject to the Commission's jurisdiction, as well as on natural gas producers, shippers and end-users. Based upon the information developed during this proceeding, the Commission announced its policy on natural gas quality and interchangeability issues in the Policy Statement. Four parties<sup>2</sup> filed requests for clarification and/or rehearing of the Policy Statement.

2. The Commission dismisses the requests for clarification, finding that they are in fact requests for rehearing of the Policy Statement. Section 19 (a) of the

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<sup>1</sup> *Natural Gas Interchangeability*, 115 FERC ¶ 61,325 (2006) (June 15 Order).

<sup>2</sup> KeySpan Delivery Companies requests clarification of the Commission's order, as does the American Gas Association. Hearth, Patio & Barbecue Association and GAMA jointly, with the Association of Home Appliance Manufacturers, filed petitions for rehearing out of time.

Natural Gas Act (NGA) provides for parties to request rehearing only when they are aggrieved by a Commission order. As the U.S. Court of Appeals for the District of Columbia Circuit has held, a statement of policy “is not finally determinative of the issues or rights to which it is addressed;” rather it only “announces the agency’s tentative intentions for the future.”<sup>3</sup> Therefore, the parties are not aggrieved by the Policy Statement, and rehearing does not lie.<sup>4</sup> Moreover, the Commission has applied the Policy Statement on a case-by-case basis in a number of proceedings since issuing the Policy Statement, and interested parties have had ample opportunity in those proceedings to address concerns with application of the Policy Statement in those individual proceedings.<sup>5</sup> The Commission accordingly denies the requests for clarification/rehearing.<sup>6</sup>

The Commission orders:

(A) The requests for rehearing of the Commission’s June 15 Order in the captioned docket are denied.

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<sup>3</sup> *Pacific Gas & Electric Co. v. FPC*, 506 F. 2d 33, 38 (D.C. Cir. 1974).

<sup>4</sup> Rule 713 (a) of the Commission’s regulations regarding the applicability of a request for rehearing to a Commission determination provides that:

This section applies to any request for rehearing of a *final Commission decision or other final order*, if rehearing is provided for by statute, rule, or order. 18 CFR §385.713 (2008). (emphasis added).

<sup>5</sup> See, e.g., *AES Ocean Express LLC v. Florida Gas Transmission Co., et al.*, 119 FERC ¶ 61,075 (Op. 495), *order on reh’g*, 121 FERC ¶ 61,267 (2007); *Tennessee Gas Pipeline Co.*, 121 FERC ¶ 61,151 (2007); *Norstar Operating LLC v. Columbia Gas Transmission Corp. and Columbia Gas Transmission Corp.*, 118 FERC ¶ 61,221 (2007); *ANR Pipeline Company*, 116 FERC ¶ 61,002 (2006); *Columbia Gulf Transmission Company*, 116 FERC ¶ 61,112 (2006).

<sup>6</sup> See *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines*, 75 FERC ¶ 61,024 at 61,076 (1996), citing *American Gas Association v. FERC*, 888 F.2d 136 (1989); *Interstate Natural Gas Pipeline Rate Design*, 47 FERC ¶ 61,295 (1989), *order on reh’g*, 48 FERC ¶ 61,122 at 61,442 (1989).

(B) The requests for clarification of the Commission's June 15 Order in the captioned docket are denied.

By the Commission. Commissioner Kelliher is not participating.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.