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News Media Contact

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Docket Nos. RM11-1-000; PR10-45-001

FERC Seeks Comment on Intrastate Pipeline Capacity Transfers

The Federal Energy Regulatory Commission (FERC) is seeking public comment on whether and how holders of firm interstate capacity on some intrastate pipelines can allow others to use their capacity, including to what extent buy/sell transactions should be permitted.

FERC issued today's Notice of Inquiry (NOI) in response to the policy issues raised concerning a July 2010 order. In that order, FERC said the prohibition on what are called buy/sell transactions applies to these pipelines - known as section 311 intrastate pipelines and Hinshaw pipelines - because it helps enforce open-access requirements by ensuring that capacity is allocated among shippers in a transparent manner in accordance with the pipelines' FERC-approved tariffs. FERC recognized that the policy issues are more appropriately addressed in a rulemaking proceeding, where all affected industry participants will have an opportunity comment.

Section 311 of the Natural Gas Policy Act permits intrastate pipelines to perform interstate service without becoming subject to the Commission's Natural Gas Act (NGA) jurisdiction. Section 1(c) of the NGA exempts from FERC jurisdiction pipelines subject to state commission regulation and that receive natural gas at or within their state boundaries that is consumed within the state. These pipelines are referred to as Hinshaw pipelines. Section 311 and Hinshaw pipelines that perform interstate services must do so on an open-access basis.

Traditionally, a prohibited buy/sell transaction is a commercial arrangement whereby a shipper holding interstate pipeline capacity buys gas at the direction of, on behalf of, or directly from another entity, ships that gas through its interstate pipeline capacity, and then resells an equivalent quantity of gas to the entity at the downstream delivery point.

Today's NOI also grants a blanket waiver allowing buy/sell transactions involving section 311 and Hinshaw pipelines to continue to take place while the Commission is considering these policy issues.

Comments to the NOI are due 60 days from the date of publication in the *Federal Register*. Comments must refer to Docket No. RM11-1-000 and may be filed electronically via the eFiling link at www.ferc.gov, or by postal mail to FERC, Office of the Secretary, 888 First St., NE.; Washington, DC 20426.

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