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

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| **Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities** | **) Docket No. RM14-2-000** |

# COMMENTS OF THE GAS PROCESSORS ASSOCIATION IN RESPONSE TO NOTICE OF PROPOSED RULEMAKING

Pursuant to the Federal Energy Regulatory Commission's ("FERC" or "Commission") March 20, 2014, Notice of Proposed Rulemaking ("NOPR") and request for comments,[1] Gas Processors Association ("GPA") respectfully submits these comments. Natural gas processors are not subject to regulation by the Commission, however, changes to the operation of the gas markets will have a significant effect on GPA members. GPA appreciates the Commission's effort to better coordinate the scheduling of the natural gas and electric markets in light of increased reliance on natural gas for electric generation, as well as to provide additional flexibility to all shippers.

GPA does not support starting the Gas Day at 4:00 a.m. Central Clock Time ("CCT"). The Gas Day has worked well for many years, and the 9:00 a.m. CCT start is actually embedded in many of GPA members' contracts. The Commission should approach any changes to something that has been successful for many years with caution.

GPA supports the North American Energy Standards Board's ("NAESB")[2] proposal regarding adding an intraday nomination cycle to the Gas Day and modifying

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[1] *Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities*, 146 FERC ¶ 61,201 (2014).

[2] NAESB is a consensus standards organization representing all segments of the natural gas industry, as well as the wholesale electric power industry. NOPR at P 3.

the timing of the nomination cycles.[3] NAESB filed a report with the Commission recommending revisions to the current NAESB Wholesale Gas Quadrant ("WGQ") Business Practice Standards to allow for three intraday nomination cycles rather than the current two intraday nomination cycles.[4] Nomination cycles were modified in the following manner:

- On the day prior to gas flow, the Timely Nomination Cycle will now begin at 1:00 p.m. CCT and conclude at 5:00 p.m. CCT with scheduled quantities resulting from this cycle becoming effective at the start of the next gas day;
- The start of the Evening Nomination Cycle will remain 6:00 p.m. CCT but will now conclude at 9:00 p.m. CCT with scheduled quantities resulting from this cycle becoming effective at the start of the next gas day;
- The start of the Intraday 1 Nomination Cycle will remain 10:00 a.m. CCT but will now conclude at 1:00 p.m. CCT with scheduled quantities resulting from this cycle becoming effective at 2:00 p.m. CCT on the current gas day;
- The start of the Intraday 2 Nomination Cycle will now begin at 2:30 p.m. CCT and will conclude at 5:30 p.m. CCT with scheduled quantities resulting from this cycle becoming effective at 6:00 p.m. CCT on the current gas day;
- The new Intraday 3 Nomination Cycle will begin at 7:00 p.m. CCT and will conclude at 10:00 p.m. CCT with scheduled quantities becoming effective at 10:00 p.m. CCT on the current gas day; and
- Under the revisions to the nomination cycles, bumping will be allowed during the Intraday 2 Nomination Cycle in addition to the Evening Nomination Cycle and the Intraday 1 Nomination Cycle.[5]

No consensus was reached on the question of changing the starting time of the Gas Day.

GPA urges the Commission to consider an incremental approach to facilitate enhanced coordination. GPA recommends the Commission adopt the nomination cycle

[3] In its "Notice of Filing," the Commission ordered comments on the Desert Southwest Pipeline Stakeholder's alternate proposal. *Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities*, Docket No. RM14-2-000, Notice of Filing, at P 4 (issued Oct. 15, 2014). GPA does not support the Desert Southwest Pipeline Stakeholders' proposal or comments.

[4] Report of the North American Energy Standards Board, Docket No. RM14-2-000, at 4 (filed Sept. 29, 2014).

[5] *Id*. at 5.

changes proposed by NAESB. These changes work within the existing and well established Gas Day and will provide all shippers with additional flexibility. The Commission should allow the market to utilize the new nomination cycles for a one year period while the Commission concludes its parallel proceedings for the electric markets.[6] Then, the Commission could convene a technical conference to evaluate the effect of these changes to determine what, if any, additional changes will be in the public interest.

## I. BACKGROUND

GPA is a non-profit trade organization made up of about 130 corporate members, all of whom are engaged in the processing of natural gas into a merchantable pipeline gas, or in the manufacture, transportation, or further processing of liquid products from natural gas. GPA's membership accounts for approximately 92% of all natural gas liquids produced by the midstream energy sector in the United States. Today, there are approximately 493 natural gas processing plants in the United States, and GPA anticipates a continued expansion of the midstream sector to accommodate increased development of the United States' natural gas supplies. GPA's members also produce, gather, transport, and market natural gas. The gathering and processing systems operated by GPA members are critical links in the natural gas value chain. GPA's members are vitally interested in the discussions and outcome of gas/electric coordination efforts at any level.

The Commission's existing regulations regarding interstate natural gas pipelines' scheduling incorporate by reference the standards of the NAESB WGQ.[7] Since 1996 these standards have established nationwide timelines that the interstate natural gas industry and the Commission have determined most efficiently schedule natural gas

[6] *California Independent System Operator Corp.*, 146 FERC ¶ 61,202 (2014).
[7] *See* 18 C.F.R. § 284.12(a) and (b) (2014).

transactions across interconnecting pipelines.[8] The Commission recognizes that the nationwide natural gas nomination timeline has been effective over the years.

While not required to be NAESB compliant, GPA members are affected by the start of the Gas Day due to gas sales markets and gas sales contracts being structured around the NAESB Gas Day and nomination cycles.

## II. COMMENTS

The Commission needs to evaluate evidence of the risks to reliability and safety posed by an earlier start of the Gas Day. FERC is proposing a change that will affect the entire natural gas industry from wellhead to burner tip. The Commission's actions may require operational modifications by entities such as gas processors and gatherers that are not subject to Commission jurisdiction. The NAESB Gas-Electric Harmonization ("GEH") Forum highlighted a significant divide between the natural gas industry, which largely supports continuation of the long standing and successful 9:00 a.m. CCT Gas Day start, and the electric industry.[9] At the conclusion of the forums, the GEH Forum participants voted on two proposals that were identical (i.e., both included the same intraday nomination opportunities and the same nomination and scheduling deadlines), except that one provided for starting the Gas Day at 4:00 a.m. CCT and the other provided for a 9:00 a.m. CCT start.[10] The package including the 4:00 a.m. CCT start received 69 percent support from the Wholesale Electric Quadrant ("WEQ") participants and only 28 percent support from the WGQ, while the 9:00 a.m. CCT start received 38

[8] NOPR at P 3.

[9] As ordered by the Commission, NAESB convened the GEH Forum meetings to coordinate efforts to reach a consensus among gas and electric industry stakeholders in support of the NOPR or an alternative to FERC's proposal. Several hundred stakeholders from all segments of both industries participated in the GEH Forum in April, May, and June 2014.

[10] Report of the North American Energy Standards Board, Docket No. RM14-2-000, at 9 (filed June 18, 2014).

percent support from the WEQ and 82 percent support from the WGQ. While the WGQ reached a consensus level of support for the 9:00 a.m. CCT start to the Gas Day, the WEQ did not similarly reach a consensus level of support for the 4:00 a.m. CCT start to the Gas Day. In fact, a full 38 percent of the WEQ supported the 9:00 a.m. CCT start to the Gas Day which further highlights the fragmentation within the electric industry on the issue of Gas Day start. The fragmentation in the electric industry is notable when compared to the level of support for the continuation of the 9:00 a.m. gas day in the gas industry.

It appears that the pending proposal to modify and expand nomination opportunities will be widely supported. The Commission should evaluate whether these widely supported changes address the perceived problem before tinkering with the start of the Gas Day. While FERC's "policy decisions are entitled to deference," the Commission must reasonably explain such decisions and support them under the Administrative Procedure Act's[11] "arbitrary and capricious" standard.[12] The Commission must "examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made."[13] As

[11] *Covad Communications Co. v. FCC*, 450 F.3d 528, 537, 539 n.6 (D.C. Cir. 2006).
[12] 5 U.S.C. § 706(2)(A) (2012).
[13] *Motor Vehicle Mfrs. Ass'n of U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (internal quotation marks and citations omitted). "Normally, an agency rule would be arbitrary and capricious if the agency has . . . offered an explanation for its decision that runs counter to the evidence before the agency." *Id.* The Administrative Procedure Act "establishes a scheme of 'reasoned decisionmaking.'" *Allentown Mack Sales & Serv., Inc. v. NLRB*, 522 U.S. 359, 374 (1998) (quoting *State Farm*, 463 U.S. at 52).

discussed below, there are costs and significant reliability, operating, and safety risks related to adopting a pre-dawn start of the Gas Day.[14]

Changing the Gas Day to 4:00 a.m. CCT will decrease reliability. Many of GPA's members' facilities require manual operations. Having crews set up a new Gas Day at such an early hour is unwise and increases risk. The importance of processing plant operations to the national gas market was explained in the "Report on Outages and Curtailments During the Southwest Cold Weather Event of February 1-5, 2011."[15] In response to a survey sent to GPA members requesting information on the impact of changing the start of the Gas Day, GPA members stated that during times of peak demand, operating reliability may decline if required manual operations do not occur at the start of a Gas Day. The risk that the needed changes will not occur will be greater with a 4:00 a.m. Gas Day compared to the current 9:00 a.m. Gas Day.

The gathering and processing activities of GPA members are not subject to regulation by the Commission. Thus, unlike interstate pipelines who must comply with Commission rules and orders, GPA members are not bound by the Commission's rules. While GPA members have a strong interest in supporting a reliable and robust national gas market, they will have to evaluate whether a change in the Gas Day warrants a change in their operations. GPA members will have to evaluate the risks to reliability posed by the 4:00 a.m. Gas Day, not only to the natural gas market, but to the other markets served by their processing plants. A decrease in reliability to accommodate a

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[14] *See, e.g.*, NOPR at P 40 ("The Commission recognizes that moving the start of the Gas Day to 4:00 a.m. CCT may result in increased costs to mitigate potential safety issues associated with employees conducting manual operations in the dark.").

[15] Federal Energy Regulatory Commission and North American Electric Reliability Corp., *Report on Outages and Curtailments During the Southwest Cold Weather Event of February 1-5, 2011* at 159-167 (2011), *available at* http://www.ferc.gov/legal/staff-reports/08-16-11-report.pdf.

change in the Gas Day will have to be evaluated along with the need to serve natural gas liquids markets and ensure reliable plant operations for entities reliant on the other products that are delivered by processing plants.

In response to GPA's survey, members stated that they anticipated greater operating risk from a 4:00 a.m. CCT Gas Day start. The issue of reliability cannot be separated from the safety issue. Any safety issue can easily cause a reliability problem. Numerous studies have shown that the risk of workplace accidents is greatest when workers are compelled to work unusual hours. The safety problem has been recognized by the Department of Transportation[16] and the Centers for Disease Control.[17] Members also stated that necessary maintenance is currently done during daylight hours, thereby allowing normal sleep cycles and better situational awareness while on the job.[18] With a 4:00 a.m. CCT Gas Day, there would be an increased need for workers to operate on

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[16] A study posted on the Pipeline and Hazardous Materials Safety Administration ("PHMSA") website shows that worker alertness is lowest during this period. *See* American College of Occupational and Environmental Medicine, *Fatigue Risk Management in the Workplace*, (2012) located on the PHMSA website at http://primis.phmsa.dot.gov/crm/docs/FatigueRiskManagementIntheWorkplace.pdf. Fatigue management has been a critical safety improvement recommended by the National Transportation Safety Board ("NTSB") since the NTSB issued safety recommendation P-98-30 to PHMSA's predecessor agency in a report titled , "Pipeline Accident Report: Pipeline Rupture and Release of Fuel Oil Into the Reedy River at Fork Shoals, South Carolina" at 35 (NTSB/PAR-98-01, issued June 26, 1996); available at https://www.ntsb.gov/doclib/reports/1998/PAR9801/pdf.

[17] Claire Caruso & Roger R. Rosa, Centers for Disease Control and Prevention, *Work and Sleep*, available at http://blogs.cdc.gov/niosh-science-blog/2012/03/08/sleep-and-work/ (March 8, 2012); Claire Caruso & Roger R. Rosa, Centers for Disease Control and Prevention, *NIOSH Research on Work Schedules and Work-related Sleep Loss*, available at http://blogs.cdc.gov/niosh-science-blog/2012/03/09/sleep/ (March 9, 2012); Cameron A. Mustard, et al., Occupational & Envtl. Med., *Work Injury Risk by Time of Day in Two Population-based Data Sources*, available at http://oem.bmj.com/content/early/2012/09/25/oemed-2012-100920.full (Sept. 26, 2012).

[18] Were the Gas Day to be shifted five hours earlier, such maintenance would need to be scheduled a corresponding five hours earlier due to the nature of the system needs, increasing the risk that maintenance will be performed when workers are particularly at risk of fatigue.

unusual schedules and in the dark increasing the risk that fatigue could result in errors while traveling to a remote location or performing manual tasks.[19] Before the start of the Gas Day, GPA members often conduct a validation by schedulers with field employees and gas control regarding expected flow rates. During the early morning hours before 4:00 a.m. CCT, marketing and scheduling employees may not be available to validate and adjust volumes based on current conditions. This increases the possibility of imbalances because of the difficulty in matching flow rates to confirmed quantities. Accurate and current validation and associated volume adjustment is particularly important during winter weather conditions, often worse at night than in the morning, increasing the difficulty of adjusting flow rates for the start of a Gas Day. When flow adjustments do not occur (for whatever reason) when required at the start of the Gas Day, deliveries to pipelines may be less than anticipated, creating operating difficulties for pipelines. To avoid potential outages, pipelines could impose restrictions in order to protect pressures and flows to maintain system reliability and integrity. This would have an effect on both upstream parties, including GPA member companies, and, ultimately, downstream parties, including electric generators, which could diminish reliability rather than improve it.

GPA also has concerns regarding the impacts of the proposed change in Gas Day on emergency operations. For example, in a significant winter weather event, when the need for reliable delivery of natural gas is at its highest, access to facilities may be more difficult at 4:00 a.m. CCT compared with later in the day. In particular, there are gathering facilities that are in remote locations that are not automated and/or are unmanned. Workers will have to drive to these locations in the middle of the night. To

[19] For example, reaction time, memory, communication, situational awareness, judgment, attention, or mood is adversely affected by fatigue.

reach many locations, personnel will have to drive between midnight and 3:00 a.m., the most dangerous hours according to the Department of Transportation.[20] The need for manual intervention in emergency situations may generally be higher because of interruption to automated functions, yet it is these very manual functions that are most likely to be affected by worker fatigue. These emergency operations are generally intended to address reliability issues, and if they cannot be carried out, reliable service may be jeopardized.

The Commission's proposal would also require the modification of numerous non-jurisdictional contracts. Many contracts relating to gathering, processing, and intrastate transmission specify a 9:00 a.m. start of the Gas Day in the contract. Since these contracts are not subject to the FERC's jurisdiction, they cannot be modified by a change in the Commission's regulations. They would each have to be renegotiated. Absent contract modifications, the gas flow between the proposed 4:00 a.m. start of the Gas Day and 9:00 a.m. could be lower than required to meet shipper nominations and no notice service requirements. This will contribute to the reliability risk created by moving the start of the Gas Day.

Given the inability of the NAESB GEH Forum participants to reach a consensus on an appropriate start of the Gas Day, NAESB failing to opine on the issue in its report, the lack of evidence provided by the Commission to support its proposal, and the evidence provided herein on why a 4:00 a.m. CCT Gas Day start is not in the public interest, GPA encourages the Commission to gather more data before implementing a change to the start of the Gas Day. Any changes to the Gas Day should provide for

[20] Nat'l Highway Traffic Safety Admin., Time of Day and Demographic Prospective of Fatal Alcohol- Impaired- Driving Crashed 1-3 (DOT HS 81152.3, Aug. 2011), *available at* http://www-nrd.nhtsa.dot.gov/Pubs/811523.pdf.

sufficient time to identify newly created risks and the development of mitigation measures to maintain public and employee safety.

## III. CONCLUSION

In sum, these comments support the Commission's efforts to increase coordination between the natural gas and electric industries, support adoption of the revised nomination cycles proposed by NAESB, and oppose any change to the start of the Gas Day at this time.

Respectfully submitted,

*/s/ Paul Korman*
Paul Korman
Michael L. Platner
Ahuva Z. Battams
Van Ness Feldman, LLP
1050 Thomas Jefferson Street, NW
Seventh Floor
Washington, DC 20007
Phone: (202) 298-1800
Fax: (202) 298-2361
pik@vnf.com
mlp@vnf.com
azb@vnf.com

Attorneys for the Gas Processors Association

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