STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: http://www.dps.state.ny.us

January 26, 2011

SENT VIA ELECTRONIC FILING
Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket No. RM11-1-000 - Capacity Transfers on Interstate Natural Gas Pipelines

Dear Secretary Bose:

For filing, please find the Notice of Intervention and Comments of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

David G. Drexler
Assistant Counsel

Attachment

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Capacity Transfers on Interstate Natural gas Pipelines	))	Docket No. RM1-1-000

NOTICE OF INTERVENTION AND COMMENTS
OF THE NEW YORK STATE
PUBLIC SERVICE COMMISSION

BACKGROUND

On October 21, 2010, the Federal Energy Regulatory Commission (FERC or Commission) issued a Notice of Inquiry (NOI), seeking comments on "whether and how holders of firm interstate capacity on section 311[1] and Hinshaw pipelines[2] should be permitted to allow others to make use of their firm interstate capacity, including to what extent buy/sell

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[1] Section 311 of the Natural Gas Policy Act of 1978 (NGPA) authorizes the Commission to allow intrastate pipelines to transport on behalf of interstate pipelines or local distribution companies (LDCs) served by interstate pipelines.

[2] Hinshaw pipelines are exempt from the FERC's jurisdiction under Section 1(c) of the Natural Gas Act if they receive gas at or within a state boundary, all the gas is consumed within that state, and the pipeline is regulated by a state Commission.

transactions should be permitted."[3] The NOI suggests that capacity reassignments could promote more efficient use of firm pipeline capacity, and requests input on whether provisions are needed, such as the reporting of buy/sell transactions, to ensure that reassignments by shippers are transparent and non-discriminatory.

NOTICE OF INTERVENTION

The New York State Public Service Commission (NYPSC) hereby submits its Notice of Intervention and Comments pursuant to the NOI published in the Federal Register on October 27, 2010, the Commission's Notice Extending Comment Period, issued on December 27, 2010, and Rule 214 of the Commission's Rules of Practice and Procedure.

Copies of all correspondence and pleadings should be addressed to:

David Drexler
Assistant Counsel
New York State Department
of Public Service
Three Empire State Plaza
Albany, New York 12223-1350
david_drexler@dps.state.ny.us

Cynthia McCarran
Chief of Gas Policy and Supply
New York State Department
of Public Service
Three Empire State Plaza
Albany, New York 12223-1350
cynthia_mccarran@dps.state.ny.us

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[3] NOI, ¶1 (footnotes added). The NOI indicates that buy/sell transactions traditionally refer to commercial arrangements where a shipper holding interstate pipeline capacity buys gas at the direction of, on behalf of, or directly from another entity, ships the gas utilizing its interstate pipeline capacity, and then resells an equivalent quantity of gas to the entity at the delivery point. NOI, ¶8.

DISCUSSION

The NYPSC appreciates this opportunity to provide input on whether provisions are needed to ensure that capacity reassignments are transparent and non-discriminatory on intrastate pipelines, where shippers are providing interstate transportation and storage services over those pipelines. The NYPSC maintains that no such provisions are necessary at this time.[4]

The NYPSC is unaware of any discriminatory practices that have occurred in relation to capacity reassignments on intrastate pipelines. Similarly, no instances of discrimination were identified in the NOI. This may be due to the limited extent to which intrastate pipelines are used to also provide interstate services.

Many of the LDCs providing FERC-jurisdictional interstate services over their intrastate facilities are predominantly engaged in serving retail customers. To the extent they make jurisdictional transactions, they are relatively small and limited. Thus, they have a limited impact on the wholesale interstate market.

Given this limited impact on the interstate market, imposing new requirements upon LDCs would have minimal benefit, yet could result in significant cost impacts being passed on to customers. New requirements, such as the development and implementation of an Electronic Bulletin Board, could be costly to implement, and would

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[4] We note that the quarterly reports filed by intrastate and Hinshaw pipelines pursuant to the Commission's Order No. 735 (131 FERC ¶61,150) could be utilized to provide sufficient transparency.

likely raise difficult jurisdictional questions as to how the costs would be allocated and recovered between intrastate and interstate customers.

Moreover, the NYPSC is concerned that the imposition of a capacity release program may have implications on State-jurisdictional matters. Imposing new requirements on intrastate pipelines, which also happen to facilitate ancillary interstate transactions, may affect the terms and conditions of service provided by LDCs, which are already comprehensively regulated by state utility Commissions such as the NYPSC. For example, it is unclear how such a capacity release program might impact the capacity releases that support retail access programs at LDCs in New York State.

Finally, the Commission should recognize that the imposition of additional regulatory requirements and costs on intrastate pipelines may lead LDCs to withdraw from providing interstate services, or deter LDCs from entering into the interstate market. This could frustrate the NGPA's goal of encouraging intrastate pipelines to provide interstate service.

CONCLUSION

In accordance with the foregoing discussion, the NYPSC respectfully requests that the Commission determine that additional provisions are not necessary at this time to ensure that capacity reassignments are transparent and non-discriminatory on intrastate pipelines.

Respectfully submitted,

Peter McGowan
General Counsel
Public Service Commission
of the State of New York

By: David G. Drexler
Assistant Counsel
3 Empire State Plaza
Albany, NY 12223-1305
(518) 473-8178

Dated: January 26, 2011
Albany, New York