DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96–1–009; Order No. 587–I]

Standards for Business Practices of Interstate Natural Gas Pipelines

Issued September 29, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; order on rehearing.

SUMMARY: The Federal Energy Regulatory Commission is addressing requests for rehearing and clarification of Order No. 587–G, 63 FR 20072 (Apr. 23, 1998). The rehearing and clarification requests concern the regulations relating to intraday nominations, trading of imbalances, and Internet communications. The Commission is revising § 284.10(c)(3)(i)(B) of its regulations to change the implementation date for the transition to Internet communications to June 1, 2000. The Commission also is requiring that pipelines provide a dual communication system involving file transfers and standardized Internet web sites so shippers will have the option of choosing the communication modality that best fits their business needs.

EFFECTIVE DATE: The amendment to the Commission's regulation adopted in this order will become effective November 5, 1998.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, N.E., Washington DC, 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208–2294.

Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–1283.

Kay Morice, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–0507.

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Order on Rehearing

This order addresses requests for rehearing of Order No. 587–G which revised Commission regulations to require interstate natural gas pipelines to comply with a set of standards governing business practices and communication protocols.[1] In Order No. 587–G, the Commission incorporated by reference, in § 284.10(b) of its regulations, the most recent version (Version 1.2) of standards promulgated by the Gas Industry Standards Board (GISB). The Commission also adopted regulations, in new § 284.10(c) of its regulations, governing intraday nominations, operational balancing agreements (OBAs), netting and trading of imbalances, standardization of communications over the public Internet, and notices of operational flow orders. A number of parties filed for rehearing or clarification of Commission regulations regarding intraday nominations, imbalance trading, and the Internet requirements.[2] The Commission denies the rehearing requests relating to the intraday nomination regulations and grants rehearing and clarification with respect to the requirements relating to Internet communication.

I. Background

In Order No. 587–G, the Commission continued its efforts, begun in Order Nos. 587, 587–B, and 587–C,[3] to create a more standardized interstate pipeline grid so that shippers can more easily ship gas and transact business across the grid. Towards this end, the Commission updated its regulations to incorporate by reference version 1.2 of the business practices and communication standards promulgated by GISB, a private consensus standards developer with a membership drawn from all facets of the natural gas industry. The Commission also adopted regulations governing business practices and communication protocols to resolve policy issues that had been dividing the GISB membership. The business practice regulations adopted by the Commission require pipelines to:

- Give firm intraday nominations priority over already nominated and scheduled interruptible transportation service and permit firm intraday nominations submitted on the day prior to gas flow to go into effect at the start of the gas day;
- Enter into operational balancing agreements at all interstate and intrastate pipeline to pipeline interconnects; and
- Permit shippers to offset imbalances across contracts and trade imbalances amongst themselves when such imbalances have similar operational impact on the pipeline's systems.

The electronic communication regulations require pipelines to:

[1] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587–G, 63 FR 20072 (Apr. 23, 1998), III FERC Stats. & Regs. Regulations Preambles ¶ 31,062 (Apr. 16, 1998).

[2] The parties filing for rehearing are listed on the appendix.

[3] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587, 61 FR 39053 (Jul. 26, 1996), III FERC Stats. & Regs. Regulations Preambles ¶ 31,038 (Jul. 17, 1996), Order No. 587–B, 62 FR 5521 (Feb. 6, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,046 (Jan. 30, 1997), Order No. 587–C, 62 FR 10684 (Mar. 10, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,050 (Mar. 4, 1997).

• Post all information and conduct all business transactions using the public Internet and internet protocols by June 1, 1999;

• Adhere to standards governing the provision of information on pipeline web sites and retention of electronic records of transactions;

• Notify shippers of critical events affecting the system, such as operational flow orders, by posting the information on pipeline web sites and by direct notice either through Internet E-Mail or notification to the shipper's Internet address.

In addition, in Order No. 587–G, the Commission determined not to issue regulations on other disputed issues that are still under consideration by GISB—title transfer tracking, cross-contract ranking, multi-tiered allocations, fuel reimbursement, and penalty calculations. In Order Nos. 587–F [4] and 587–G, the Commission provided guidance on aspects of these issues and established December 31, 1998, as the date for submission of further standards and comments on these issues.

Requests for rehearing of Order No. 587–G were due by May 18, 1998, and 45 parties filed requests for rehearing and clarification.

II. Discussion

The rehearing and clarification requests concern the regulations requiring pipelines to: give firm intraday nominations priority over interruptible shippers; permit shippers to trade imbalances; and transact business using the public Internet and adhere to standards for posting information on Internet web sites and retention of electronic records. In addition, clarification was sought in two areas in which the Commission chose not to issue regulations: title transfer tracking and fuel reimbursement.

The vast majority of the rehearing and clarification requests focus on the regulations requiring pipelines to conduct all business transactions over the public Internet by June 1, 1999.[5] The Commission is revising § 284.10(c)(3)(i)(B) to change the implementation date for the transition to Internet communications to June 1, 2000. The Commission also is requiring that pipelines provide a dual communication system involving file transfers and standardized Internet web sites so shippers will have the option of choosing the communication modality that best fits their business needs.

In addition, with respect to intraday nominations, the Commission denies the requests to revise § 284.10(c)(1)(i)(B) so that a firm intra-day nomination that bumps scheduled interruptible service would take effect at 5 p.m., rather than 9 a.m. It also reaffirms its policy regarding waivers of penalties for bumped interruptible shippers for one day. As to imbalance trading, the Commission reaffirms its policy of requiring pipelines to permit shippers to trade imbalances across rate schedules. The requests for rehearing and clarification are discussed in detail below.

A. Intraday Nominations

An intraday nomination is any nomination submitted after the initial nomination made at 11:30 a.m. central clock time (CCT).[6] An intraday nomination may be made either on the day prior to gas flow (after 11:30 a.m.) or on the day of gas flow.[7] GISB initially passed a standard requiring pipelines to provide one intraday nomination per day. Pipelines implemented this standard in different ways which limited the ability of shippers to coordinate intraday nominations across multiple pipelines.

To achieve better coordination, GISB then approved a revised intraday schedule establishing three synchronization times at which shippers could coordinate intraday nominations: 6 p.m. (to take effect the next gas day), 10 a.m. and 5 p.m. (to take effect on the same gas day). The Commission adopted this timeline in Order No. 587–H.[8] GISB, however, reported that it had been unable to reach agreement on whether intraday nominations should displace (bump) previously scheduled interruptible service.

In Order No. 587–G, the Commission resolved this dispute by adopting regulations, in § 284.10(c)(1)(i), establishing the scheduling priority for intraday nominations. The Commission adopted regulations requiring pipelines to accord an intraday nomination submitted by a firm shipper scheduling priority over nominated and scheduled volumes for interruptible shippers. In addition, the regulations require that an intraday nomination submitted on the day prior to gas flow will take effect at the start of the gas day at 9 a.m. CCT. The Commission, however, also agreed with the GISB consensus that the third intraday nomination opportunity should not have priority over scheduled interruptible volumes.

In effect, the regulations as adopted in Order No. 587–H require pipelines to permit intraday nominations by firm shippers at 6 p.m. (on the day prior to gas flow) and 10 a.m. (on the day of gas flow) to bump scheduled interruptible service, while a firm intraday nomination at 5 p.m. (on the day of gas flow) would not bump scheduled interruptible service. Under the regulations, a firm intraday nomination at 6 p.m. would bump scheduled interruptible service as of the 9 a.m. start of the next gas day.

The regulations further provide that pipelines must give an interruptible shipper advance notice of its reduction in scheduled volumes and inform the shipper whether penalties will apply on the day its volumes are reduced. The Commission further stated that it would consider whether pipelines should waive certain daily penalties for bumped interruptible shippers when pipelines made their filings to comply with the regulations. As a general principle, the Commission found that pipelines should follow the Commission's previous precedent and waive non-critical penalties, such as daily variance or scheduling penalties.

1. Effective Time of Intraday Nominations Submitted the Day Prior to Gas Flow

Natural Gas Clearinghouse (NGC) and Exxon Company, U.S.A. (Exxon) do not challenge the Commission's determination that firm intraday nominations should be entitled to scheduling priority over interruptible service. They contest only the determination that a firm intraday nomination submitted on the day prior to gas flow will take effect at the start of the gas day (9 a.m. central clock time). They contend that instead of becoming effective at 9 a.m., a firm intraday nomination that bumps scheduled interruptible service should not become effective until 5 p.m. NGC argues that, if the Commission does not change the effective time to 5 p.m., the Commission should, in the alternative, require pipelines to allow bumped interruptible shippers an overnight rescheduling opportunity.

NGC and Exxon maintain that the 9 a.m. effective time causes problems for interruptible shippers because they will have no opportunity to reschedule their

[4] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587–F, 62 FR 61459 (Nov. 18, 1997), IV FERC Stats. & Regs. Proposed Regulations ¶ 32,527 (Nov. 12, 1997).

[5] The Commission also received a number of letters relating to these requirements.

[6] 18 CFR 284.10(b)(1)(i) (1998), Nominations Related Standards 1.2.4.

[7] 18 CFR 284.10(b)(1)(i) (1998), Nominations Related Standards 1.2.7 (deleted by Order No. 587–H).

[8] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587–H, 63 FR 39509 (July 23, 1998), III FERC Stats. & Regs. Regulations Preambles ¶ 31,063 (July 15, 1998).

bumped gas before the bump becomes effective at 9 a.m. CCT, and the producers and marketers serving interruptible shippers may not always have the capability of shutting down plants and remote wells during non-working hours. In contrast, if firm shippers' nominations do not become effective until 5 p.m., the interruptible shippers could reschedule their bumped supply at the 10 a.m. intraday nomination opportunity the next day. Exxon maintains the balance between firm and interruptible shippers in Order No. 587–G weighs too heavily on the side of the firm shippers.

The Commission denies the rehearing requests. The Commission's general policy is that firm service is entitled to priority over scheduled interruptible service. Firm shippers pay reservation charges for firm service and, therefore, are entitled to have their intraday nominations become effective at the earliest possible time. Interruptible shippers, by contrast, take the risk that their service will be interrupted. Thus, the Commission concludes that when balancing the rights of firm and interruptible shippers, the balance must weigh more heavily on the side of firm shippers.

Exxon maintains that prior to Order No. 587–G, firm shippers on many pipelines were not able to bump interruptible shippers and had a more limited number of intraday opportunities available to them. It, therefore, maintains that firm shippers' ability to bump interruptible shippers should be limited to protect interruptible shippers.

In fact, however, prior to Order No. 587–G, the Commission had required pipelines filing to implement intraday nominations to follow the Commission's general policy that firm intraday nominations would be given priority over scheduled interruptible service.[9] It was only on those pipelines which had pre-existing no-bump rules that interruptible shippers were protected against bumping. To achieve uniformity, the Commission, in Order No. 587–G, applied the same rule to all pipelines.

Moreover, when all the intraday nomination changes are considered together, interruptible shippers receive as great a benefit from these changes as firm shippers, and interruptible shippers are not left unprotected under the Commission's regulation. Prior to Order No. 587, many pipelines provided no opportunity for interruptible shippers to reschedule gas bumped by firm nominations. Even after implementation of Order No. 587, firm nominations submitted at 11:30 a.m. could reduce or terminate existing interruptible flow starting at 9 a.m. the next day, and the interruptible shipper would have no opportunity to reschedule that gas until after the reduction took effect.

In contrast, under the new regulations providing for multiple intraday nominations, an interruptible shipper whose existing flow is reduced by a firm nomination will have an opportunity to reschedule that gas using the 6 p.m. intraday nomination. Moreover, an interruptible shipper bumped by a 6 p.m. intraday nomination will have two additional opportunities to reschedule gas on an industry-wide basis (the 10 a.m. and 5 p.m. intraday opportunities).

Interruptible shippers are protected in other ways as well. The Commission has given interruptible shippers the tools, such as pooling, gas package identifiers, ranking, and allocation flexibility[10] that they can use to manage their gas supplies in the event of a bump. For instance, even if a producer has some remote wells, it can use pooling and ranking to ensure that the gas from its more easily accessible wells is cut before gas from remote wells.[11] The Commission has also protected interruptible shippers by requiring pipelines to waive certain daily penalties, such as daily scheduling or variance penalties, for bumped interruptible shippers.

Finally, if interruptible shippers or their suppliers have to adjust flows, the standards give them ample notice (11 hours) to do so. The gas business is increasingly becoming a 24-hour per day business. Indeed, the industry agreed that all parties need to support a seven-days-a-week, twenty-four-hours-a-day nominations process.[12] Thus, all participants must structure their businesses to accommodate to that change, and ultimately producers dealing with interruptible shippers need to be able to adjust their gas flows when necessary to accommodate nomination changes.

Establishing a delayed effective time for 6 p.m. firm intraday nominations that bump interruptible service, as NGC and Exxon suggest, also could have negative effects on interruptible shippers by creating incentives for firm shippers to overnominate at the 11:30 a.m. initial nomination. Under a delayed effective time, firm shippers would have an incentive to overnominate on their initial nominations to protect themselves. A firm shipper that overnominates at the 11:30 a.m. nomination always retains the ability to reduce that nomination by submitting an intraday nomination at 6 p.m. (that day) or 10 a.m. or 5 p.m. (the next day) to decrease its scheduled quantity. However, under NGC's and Exxon's proposed delayed effective time, the firm shipper could not increase its initial nomination until 10 a.m. (the next day) to become effective at 5 p.m. Thus, Exxon's and NGC's proposal create an incentive for firm shippers to overnominate at the initial 11:30 a.m. nomination to protect themselves, potentially resulting in less interruptible service being available.

NGC maintains unless the Commission adopts an overnight rescheduling opportunity, the current rule could result in decreased flows for interruptible shippers using multiple pipelines and cause pipelines to lose interruptible revenues. It argues that, if an interruptible shipper is bumped on the upstream pipeline, its gas will not flow on the downstream pipeline either. Without at least an overnight rescheduling opportunity, NGC argues, the downstream pipeline will lose revenue.

The Commission, however, made clear in Order No. 587–G that pipelines are permitted to institute overnight rescheduling opportunities for bumped interruptible shippers if the pipeline deems it necessary to preserve its revenue. Each pipeline needs to judge the efficacy of instituting such a policy on its own system, rather than having the Commission impose the requirement

[9] *See, e.g.*, El Paso Natural Gas Company, 77 FERC ¶ 61,176 (1996); Alabama-Tennessee Natural Gas Company, 79 FERC ¶ 61,117 (1997); Algonquin Gas Transmission Company, 78 FERC ¶ 61,281 (1997); ANR Pipeline Company, 78 FERC ¶ 61,142 (1997); Arkansas-Western Pipeline Company, 78 FERC ¶ 61,250 (1997); Canyon Creek Compression Company, 78 FERC ¶ 61,003 (1997); CNG Transmission Corporation, 78 FERC ¶ 61,131 (1997); Great Lakes Gas Transmission Limited Partnership, 79 FERC ¶ 61,194 (1997); Iroquois Gas Transmission System, L.P., 79 FERC ¶ 61,196 (1997); K N Interstate Gas Transmission Company, 79 FERC ¶ 61,208 (1997); Mojave Pipeline Company, 78 FERC ¶ 61,153 (1997); National Fuel Gas Supply Corporation, 78 FERC ¶ 61,332 (1997); NorAm Gas Transmission Company, 79 FERC ¶ 61,069 (1997); Overthrust Pipeline Company, 78 FERC ¶ 61,285 (1997); Questar Pipeline Company, 78 FERC ¶ 61,305 (1997); Southern Natural Gas Company, 78 FERC ¶ 61,125 (1997); Texas Gas Transmission Corporation, 79 FERC ¶ 61,175 (1997); Trailblazer Pipeline Company, 77 FERC ¶ 61,328 (1996); Viking Gas Transmission Company, 78 FERC ¶ 61,243 (1997); Young Gas Storage Company, Ltd., 79 FERC ¶ 61,030 (1997).

[10] 18 CFR 284.10(b)(1)(i) (1998), Nominations Related Standards 1.3.17–1.3.18 (pooling), 1.3.23 (ranking), 1.3.24–1.3.25 (package identifiers); 18 CFR 284.10(b)(1)(ii) (1998), Flowing Gas Related Standards 2.3.19 (allocations).

[11] Pooling refers to the ability of producers to aggregate gas from many wells in a single pool. Ranking refers to the ability to inform the pipeline which well will be cut first in the event of a cut.

[12] 18 CFR 284.10(b)(1)(i) (1998), Nominations Related Standards 1.3.4.

on a generic basis. As one pipeline pointed out in its comments in this proceeding, in many cases, an overnight rescheduling opportunity might be of little value since the nominations could not be confirmed.[13]

2. Penalty Waivers

In Order No. 587–G, the Commission proposed to adhere to its previous policy requiring pipelines to waive certain daily penalties for interruptible shippers whose scheduled volumes are reduced by a firm intraday nomination.[14] Under this policy, penalties would be waived only for the day on which the bump takes place. Given the variety of penalty provisions in pipeline tariffs, the Commission concluded that the determination as to which penalties should be waived would be made when pipelines fail to comply with the regulations.

The Commission set forth principles as to how it would determine which penalties should be waived. The Commission found that no penalties should be imposed if shippers have not received appropriate notice of their reduced volumes. During non-critical periods, pipelines would be expected to waive daily penalties, such as daily variance or scheduling penalties, but they would not be expected to waive daily penalties during critical periods, when operational flow orders (OFOs) are in effect. During OFO periods, the Commission did expect pipelines to comply with standard 1.1.14, which provides that, unless critical circumstances dictate otherwise, OFO penalties should not be imposed when a nomination is required to comply with the OFO and the shipper has not been given an opportunity to correct the circumstance giving rise to the OFO.[15]

Koch Gateway Pipeline Company (Koch) and ANR Pipeline Company and Colorado Interstate Gas Company (ANR/CIG) raise questions about the Commission's policy on waiver of penalties. Koch contends the Commission should not require pipelines to waive daily penalties during non-critical or critical periods because pipelines will lose control of their systems if shippers can continue to dump gas onto the pipelines with no liability. Koch contends waiver of penalties should be at the pipelines' discretion. ANR/CIG requests clarification that the Commission's guidance about penalties should not foreclose GISB from adopting standards related to, or even contrary to those proposals, and should not predetermine the scope of pipeline proposals.

As a general matter, the Commission finds its principles establish a reasonable balance between the needs of pipelines to manage their systems and the difficulties imposed on shippers whose scheduled volumes are reduced. While the Commission expects shippers to adjust gas flows to accord with revisions to their scheduled volumes, the Commission recognizes that, in some circumstances, the shortened notice period (three hours under the standards) [16] may make such adjustments difficult. Thus, for non-critical periods, pipelines should waive daily penalties for the day of the bump. This rule does not immunize shippers from liability for placing extra gas on the system, as Koch asserts. Shippers would still have an incentive to minimize the amount of excess gas they put on the system, because the waiver applies only to penalties for the day of the bump; shippers would still be responsible for excess gas on the system and would be subject to penalties resulting from that gas on subsequent days. At the same time, during non-critical periods, having some extra gas on the system should not create operating difficulties for pipelines. During normal operations, pipelines should be able to absorb some extra gas on their systems for one day.

In contrast, during critical periods, pipelines should not be required to waive daily penalties, because having extra gas on the system even for one day may cause operational problems. Moreover, during critical periods, all shippers may have difficulty in adjusting to an OFO and bumped interruptible shippers should not necessarily be given different treatment, particularly when any extra latitude given to interruptible shippers may come at the expense of reduced service or increased penalties for other shippers.

These principles are intended to provide pipelines with guidance as to the Commission's view as to which penalties should be waived. As stated in Order No. 587–G, the Commission will consider specific pipeline penalties depending on the circumstances involved when pipelines make their compliance filings, and the principles do not predetermine the result of that inquiry.

3. Relative Priority of Firm Primary and Secondary Nominations

National Fuel Gas Supply Corporation (National Fuel) requests clarification that, in its filing to comply with Order No. 587–G, it can revise its tariff to establish that a firm intraday nomination to firm primary receipt or delivery points will not bump already scheduled firm volumes to secondary receipt or delivery points. National Fuel points out that in the November 12, 1997 Notice of Proposed Rulemaking (NOPR), which led to Order No. 587–G, the Commission stated that its general policy regarding relative firm priorities is that intraday nominations to primary points do not bump already scheduled firm nominations to secondary points. National Fuel asserts that its current tariff does not protect firm shippers using secondary points from being bumped by firm intraday nominations to primary points. It contends that it should be able to change this policy in its compliance filing, because much of the benefit of the intraday timetable would be lost if secondary firm nominations are not protected from bumping by primary firm nominations.

In Order No. 587–G, the Commission rejected requests to adopt a regulation or a generic policy on the priority of firm primary and firm secondary intraday nominations.[17] The Commission determined that the current priorities for firm service in effect on each pipeline should continue.

Since Order No. 587–G did not adopt a regulation regarding the relative priorities of firm primary and secondary capacity, National Fuel should not include a change to its current priority scheme for firm shippers in a compliance filing. Any such filing must be made as a separate section 4 filing. This is consistent with the manner in which the Commission previously handled filings to comply with GISB standards. In those compliance filings, the Commission permitted changes to tariff provisions only when necessary to comply with the standards. Pipelines seeking to reduce, eliminate, or change other service offerings as a result of the standards were required to submit such proposed changes in a filing under section 4 of the Natural Gas Act made coincident with the compliance filing.[18]

[13] Order No. 587–G, 63 FR at 20079, III FERC Stats. & Regs. Regulations Preambles ¶ 31,062 at 30,673.

[14] Order No. 587–G, 63 FR at 20077, III FERC Stats. ¶ Regs. Regulations Preambles ¶ 31,062 at 30,672.

[15] 18 CFR 284.10(b)(1)(i) (1998), Nominations Related Standards 1.1.14.

[16] 18 CFR 284.10(b)(1)(i), Nominations Related Standards 1.3.2 (iii) (three-hour notice of bumping at the 10 a.m. intraday nomination cycle).

[17] Order No. 587–G, 63 FR at 20079, III FERC Stats. & Regs. Regulations Preambles ¶ 31,062 at 30,673–74.

[18] *See* El Paso Natural Gas Company, 77 FERC ¶ 61,176, at 61,660, 61,662 (1996); Florida Gas Transmission Company, 77 FERC ¶ 61,177, at 61,664 (1996); National Fuel Gas Supply

B. Imbalance Trading

In Order No. 587–G, the Commission adopted a regulation (§ 284.10(c)(2)(ii)) requiring pipelines to permit shippers (and their agents) to offset imbalances on different contracts held by the shipper and to trade imbalances with other shippers so long as the imbalances have similar operational impact on the pipeline. The Commission required pipelines to permit netting and imbalance trading across contracts under different rate schedules. The Commission reiterated its current policy that if a pipeline can document that such trading will cause a loss of transportation revenue, the pipeline would be permitted to implement an appropriate mechanism to ensure that it is made whole for all appropriate transportation charges.[19]

Williston Basin requests clarification that it will be allowed to devise a mechanism to protect against loss of transportation revenue when interruptible imbalances are traded with firm imbalances. Williston Basin poses the following as an example of a situation in which imbalance trading will result in a loss of transportation revenue:

Assume a shipper has a 1,000 Dth positive imbalance (*i.e.,* delivers into Williston Basin's system 1,100 Dth of which Williston Basin delivers 100 Dth off its system at a rate of $0.41) under an interruptible contract and trades the 1,000 Dth positive imbalance with a shipper who has a 1,000 Dth negative imbalance (*i.e.,* delivers into Williston Basin's system 100 Dth of which Williston Basin delivers 1,100 Dth off its system at a rate of $0.04) under a firm contract. The imbalance on Williston Basin's system is 0 Dth. However, Williston Basin will have received transportation revenues of only $85 ($41 based on 100 Dth at the Rate Schedule IT–1 [interruptible] rate of $0.41 and $44 based on 1,100 Dth at the Rate Schedule FT–1 [firm] rate of $0.04). Under Williston Basin's currently effective FERC Gas Tariff, Second Revised Volume No. 1, which does not allow shippers to trade imbalances across rate schedules and under the same scenario just illustrated, the Rate Schedule IT–1 shipper must trade its 1,000 Dth positive imbalance with another Rate Schedule IT–1 shipper's 1,000 Dth negative imbalance. Williston Basin would have received transportation revenues of $451 based upon 1,100 Dth at the Rate Schedule IT–1 rate of $0.41 and $41 (sic) based upon 100 Dth at the Rate Schedule FT–1 rate of $0.04.

In the example above, allowing shippers to trade imbalances would cause Williston Basin to forego $407 of transportation revenues.[20]

If the Commission does not grant Williston Basin's requested clarification, Williston Basin requests rehearing of the Commission's requirement that pipelines permit imbalance trading across rate schedules.

Williston Basin's example is confusing. For example, it derives revenue of $41 from 100 Dth of firm transportation at the firm usage rate of $0.04. But the correct calculation would be $4.00. It may be that Williston Basin intended in the second example to refer to imbalance trading between two interruptible shippers rather than an interruptible and a firm shipper. In that case the revenue received would be $41 (100 Dth at an interruptible rate of $0.41).

However, if that is the case, then Williston Basin is determining differential revenues by, in one case, evaluating revenues from an interruptible and a firm shipper and, in the other case, from two interruptible shippers. But this is an apples and oranges comparison. The proper analysis to determine whether imbalance trading results in transportation revenue loss is to compare revenues received from the same two shippers (interruptible and firm) with imbalance trading and without such trading. When this comparison is made, the Commission can see no such transportation revenue loss.

Williston Basin's tariff, like those of many pipelines, states that transportation charges for interruptible service are based on the ''quantity of gas in dkt delivered * * * for Shipper's account at the point(s) of delivery.'' [21] In Williston Basin's example, there are two shippers, one interruptible and one firm. If no imbalances are traded between these shippers, the interruptible shipper would pay transportation revenues of $41 (100 Dth of delivered gas multiplied by $.41) and the firm shipper would pay $44 (1,100 Dth of delivered gas multiplied by $.04). Thus, without imbalance trading, Williston Basin would still receive the same $85 from the two shippers as it receives with imbalance trading.

Williston Basin's only potential loss of revenue would seem to be a loss of potential penalty revenue on the imbalance. Without imbalance trading, both shippers would have imbalances of 1,000 Dth, although going in opposite directions. But penalties are imposed solely to discourage shipper conduct inimical to the system; pipelines are not entitled to expect such revenue. As the Commission explained in Order No. 587–G, and Williston Basin does not contest, as long as the imbalances net out, there is no adverse operational effect on the pipeline.

Given the confusion in Williston Basin's example, it may be that Williston Basin has other circumstances in mind. If there are other circumstances that should be considered, Williston Basin can propose in an NGA section 4 filing an appropriate mechanism to ensure that imbalance trading does not result in a reduction in transportation revenue to which it is legitimately entitled.

C. Internet Communications

In Order No. 587–G, the Commission promulgated regulations, in § 284.10(c)(3), requiring pipelines to post all information and conduct all business using the public Internet by June 1, 1999, and to adhere to other standards relating to electronic communication. As discussed below, the vast majority of the clarification and rehearing requests concern the principles the Commission established for the transition to Internet communications. Other requests relate to the regulations establishing standards for presentation of information on pipeline web sites, requiring pipelines to provide tables cross-referencing numeric designations with common names, and requiring pipelines to adhere to standards for retention of electronic data.

1. Transition to Internet Communications

Prior to Order No. 587–G, the pipelines communicated with their shippers using dial-up Electronic Bulletin Boards (EBBs) on which shippers would view pipeline information and enter their own information on the screen through keystrokes. The EBBs, however, created difficulties for shippers dealing with multiple pipelines because each EBB required unique software, logon, and other procedures. In Order No. 587–G, the Commission required pipelines to conduct all business transactions using Internet communications to solve the difficulties created by the proprietary EBBs and to provide shippers with a standardized method of doing business across multiple pipelines.

In Order No. 587–G, the Commission also provided guidance on how the transition to standardized Internet

Corporation, 77 FERC ¶ 61,178, at 61,673 (1996); Northern Border Pipeline Company, 77 FERC ¶ 61,179, at 61,680, 61,682 (1996); Transwestern Pipeline Company, 77 FERC ¶ 61,180, at 61,684 (1996).

[19] *See* Panhandle Eastern Pipeline Company, 64 FERC ¶ 61,009, at 61,066 (1993).

[20] Williston Basin's Request for Clarification And/Or Rehearing, Docket No. RM96–1–009, at 4 (May 15, 1998).

[21] Williston Basin Interstate Pipeline Company, FERC Gas Tariff, Second Revised Volume No. 1, Substitute Second Revised Sheet No. 91.

communication should be implemented. The Commission set forth the following four principles.

- Pipelines had to conduct all business transactions (which they currently conduct using their EBBs) through downloading and uploading files in ASC X12 electronic data interchange (EDI) format.[22]
- Pipelines could, but were not required to, provide interactive web sites.[23] Pipelines would be permitted cost-of-service recovery in subsequent section 4 rate cases for the costs of the interactive web sites only if the pipelines created standards governing the access to, presentation, and format (''look and feel'') of the sites.
- Pipelines must assure a level playing field for shippers using EDI and the interactive web site. Regardless of which system is used, the shipper must obtain the same service and same information handling and response priority from the pipeline.
- By the June 1, 1999, conversion to Internet communications, communications using EBBs should cease, although pipelines could maintain EBBs solely as a back-up system for a period of one year after the June 1, 1999 date for implementing Internet communication. Pipelines would be required to remove EBB costs from cost-of-service in any general section 4 rate case effective after June 1, 2000.

The rehearing requests do not challenge the Commission's decision to require pipelines to conduct communications via the Internet. They focus on the principles articulated by the Commission for implementing the requirement. The rehearing requests focus on four issues: the relationship between EDI file transfers and interactive web sites, the requirement that pipelines assure a level playing field for EDI and interactive web sites, the June 1, 1999 implementation date, and cost recovery for pipeline EBBs and interactive web sites.

a. File Transfers and Interactive Web Sites. (1) *Rehearing Requests.* In Order No. 587–G, the Commission required pipelines to conduct all business transactions using EDI. At the same time, it permitted pipelines to establish interactive web sites. These interactive web sites would operate much the same way as EBBs with shippers able to view information on-line and transmit information to the pipelines by filling in on-line forms. The Commission permitted the pipelines to recover the costs for establishing interactive web sites in their cost-of-service as long as the sites conformed to standards governing access to the web sites as well as the presentation and format (''look and feel'') of the sites.

While shippers and pipelines do not object to the requirement that pipelines support the use of EDI, they contend that EDI should not be the exclusive means of communication and that some form of interactive approach is also necessary.[24] They maintain that EDI is cost-effective only for those doing a high volume of transactions. While the cost to shippers of using EDI is the paramount concern, some shippers are also concerned about the potential for losing some of the interactive functionality provided by EBBs [25] To avoid having to use EDI, some shippers suggest pipeline EBBs should be continued,[26] while many others support a mandatory requirement for pipelines to provide interactive web sites.[27] PSCo/Cheyenne and National Fuel Distribution contend that in addition to EDI file transfers, pipelines should continue to transact business using flat files (not in EDI format).

On July 15, 1998, GISB filed with the Commission a report that included the steps it was taking to achieve the transition to the Internet required by Order No. 587–G. GISB requested that pipelines provide a list of current EBB applications for which no EDI standards had been developed. Four hundred eighty-five items were identified. GISB is having these items independently reviewed by Ernst & Young to determine which of the 485 items are susceptible to EDI usage. In addition, GISB is considering several models for Internet transition, including a model developed by a consortium of pipeline and shipper interests providing for both pipeline interactive web sites and EDI file transfers.

(2) Commission Resolution. In Order No. 587–G, the Commission required pipelines to establish a standardized communication system using the Internet because, despite shipper complaints about the difficulties of using non-standardized EBBs, GISB and the pipelines had not developed a plan for moving to a standardized communication system.[28] The Commission is pleased that given the impetus of Order No. 587–G, GISB and the industry are now developing standards for both EDI and interactive web sites.

The Commission continues to favor an approach to communication in which shippers can either transact business using computer-to-computer file transfers or conduct business on-line in an interactive fashion, whichever approach best fits their needs. For instance, currently, pipelines' EBBs provide the interactive access and EDI is used for standardized file transfers. Both EBBs and EDI are included in the pipelines' cost-of-service. The rehearing requests raise issues related to both interactive web sites and file transfers.

(a) Interactive Web Sites. While the Commission did not mandate the use of an interactive web site in Order No. 587–G, it permitted pipelines to respond to customer demand to provide an interactive web site and to recover the costs of establishing the web site in the pipelines' cost-of-service as long as the site complied with applicable standards developed by GISB. This approach was a carry-over from the prior cost treatment of EBBs; the Commission had required pipelines to conduct only certain transactions on their EBBs, but, if pipelines chose to offer more services, they could include those costs in their cost-of-service.

Many customers request that the Commission mandate that pipelines provide interactive Internet web sites in order to ensure that the sites are developed on the same schedule as the EDI file transfers. The pipelines themselves generally support the development of such an approach. The Commission, therefore, will require pipelines to develop interactive web sites that comply with the standards being developed by GISB. If there are pipelines where parties prefer only to use EDI file transfers to avoid the added costs of having the pipeline establish an interactive web site, the pipelines may seek a waiver of the requirement to develop an interactive web site.

(b) File Transfer Standards. The Commission chose to require pipelines

[22] EDI was chosen by the industry and GISB as the standardized format for file transfers. Standards for EDI are promulgated by the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12.

[23] Interactive web sites permit shippers to view information on-line and transmit information to the pipelines by filling in on-line forms.

[24] *See, e.g.,* AGDF, Atlanta/Chattanooga, CNG, Consumers, El Paso/Tennessee, Engage, East-of-California Shippers, Florida Municipalities, Florida Power, INGAA, IPAA, Koch, MCV, MGE, National Fuel Distribution, NGT/MRT, Pacific Northwest Shippers, PG&E GT–NW, PSCo/Cheyenne, Reedy Creek, RPC, Southern, TCGS.

[25] *See* Pacific Northwest Shippers, East-of-California Shippers.

[26] *See* Piedmont, PSCo/Cheyenne, IPAA, RPC, Western.

[27] *See* AGA, *et al.,* East-of-California Shippers, Brooklyn Union/Long Island, MCV, Florida Power, TCGS, Florida Municipals, NGC, NGSA, Pacific Northwest Shippers.

[28] GISB standard 4.3.6 states that all transactions should be achieved through one mode of communications, but GISB apparently had reached an impasse on achieving this goal.

to use EDI as the standardized format for file transfers, because that was the method chosen by the industry. In the industry working groups and later through GISB, the industry chose EDI, because it found that non-EDI flat files,[29] would be less flexible and lacked the validation programs available for EDI.[30] Rehearing requests raise questions relating to pipeline obligations to provide for EDI and non-EDI file transfers.

In its rehearing request, Koch suggests it has a choice as to whether to provide EDI file transfers. But providing standardized EDI communication is not optional. The current regulations require Koch to provide for EDI communication. Indeed, in the rehearing requests in this proceeding, shippers and pipelines support the continuation of the EDI requirement because they find that file transfers may be more efficient for some shippers, particularly where large volumes of transactions are involved. Thus, to the extent Koch was seeking rehearing of the requirement to provide for EDI file transfers, the Commission denies the request.

However, the Commission recognizes that some smaller pipelines already have been granted waivers or extensions of time to implement EDI file transfers. If smaller pipelines demonstrate that there is no demand to use EDI, they may file for waivers of the EDI requirement.

National Fuel Distribution and PSCo/Cheyenne argue that those pipelines that currently provide non-EDI, flat file transfers should continue this practice, because non-EDI file transfers may be less expensive than EDI for some shippers. National Fuel Distribution contends that GISB should develop standardized flat file transfers.

GISB is considering whether and how to standardize non-EDI flat file transfers,[31] and the Commission encourages the industry to continue this inquiry. Even if standardizing non-EDI file transfers is not deemed worthwhile, pipelines that already provide this service must continue to provide it on a non-discriminatory basis, and other pipelines will be free to offer the service on a non-discriminatory basis.

The Commission recognizes that in the rapidly changing frontiers of electronic communication, technology does not remain stagnant. The movement from EBB technology to the Internet is one example, as is the movement from value-added-networks to the Internet for file transfers. The Commission's goal is to provide shippers with the ability to transact business interactively or through file transfers. If, however, changing commercial circumstances or evolving technology render any current technology, such as EDI, sub-optimal for purposes of bulk data transfer before the June 1, 2000 deadline, the Commission expects that GISB and the industry will begin to explore how to adopt the best solutions for the market. GISB and the industry should continue their efforts to explore new technological solutions and to adopt those technologies that prove to be more cost-effective and user-friendly.

b. Level Playing Field. In Order No. 587–G, the Commission required pipelines to assure a level playing field for those using EDI and interactive web sites by ensuring that regardless of the format used, shippers receive the same service and the same response priority from the pipelines. The pipelines, as well as some shippers, maintain that shippers should not necessarily receive identical service from interactive web based systems and EDI. They contend interactive systems, by their very nature, are more responsive than EDI and a requirement for maintaining a level playing field will only serve to limit the services offered to shippers using interactive systems.[32] The rehearing requests concern two issues: whether all transactions should be made available in EDI format; and how to ensure equality of treatment regardless of the communication modality a shipper adopts.

(1) Transactions To Be Made Available in EDI File Transfer Format. Pipelines and shippers identify a number of transactions which are currently provided on EBBs, but are not provided through file transfers. These include on-line contracting, storage and other special reports.[33] They want pipelines to continue to be able to provide these services even if they are not also provided using EDI. GISB requested pipelines to submit all their business transactions that are not currently provided using EDI and is having these items reviewed independently by Ernst & Young to determine whether these business transactions can be reasonably conducted using EDI file transfers.

While not every transaction may be suited to file transfer, pipelines must provide for EDI file transfer in every case where it is feasible. For instance, the ability to nominate by using file transfers may be of little value if the shipper has to go online to amend the receipt points in its contract. The Commission is encouraged by GISB's efforts to obtain an independent, impartial review of whether transactions should be provided through file transfers and looks forward to receiving that report.

The Commission also recognizes that pipelines need to be able to develop and offer their customers new services on their interactive web sites. At the same time, to maintain equality between interactive web sites and EDI file transfers, services provided on the interactive web site must, whenever feasible, be provided using EDI or other standardized file transfers (if the industry determines to standardize non-EDI file transfers).

Thus, when pipelines are developing new services for their interactive web sites, they must also consider the method for implementing the business practice using EDI and, in compliance with standard 1.2.2,[34] provide advance notice of their proposed EDI solution to GISB for review. Before initiating the new service, pipelines should file under section 4 of the NGA at least 30 days prior to the proposed implementation date detailing the efforts they have made to develop a standardized file transfer. If the pipeline has complied with the requirement to provide GISB with advance notice of their proposed EDI solution, it would be permitted to implement its new service on schedule. This approach should not inhibit development of new interactive solutions while at the same time helping to ensure that those using file transfers are not denied a reasonable opportunity to obtain the same service.

(2) Ensuring Shippers are not Disadvantaged by their Choice of Communication Modality. The pipelines contend that the requirement to provide a level playing field will eviscerate the value of interactive web sites because it will prevent the pipelines from providing the immediate error checking and responsiveness that is the principal benefit of interactivity.[35] They claim that interactive error checking is ill-suited to the EDI process

[29] Flat files contain the same information as the EDI files, but without the special formatting included in EDI files.

[30] *See* Standards for Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations, Order No. 563–A, 59 FR 23624 (May 9, 1994), FERC Stats. & Regs. Regulations Preambles [Jan. 1991–June 1996] ¶ 30,994 at 31,042 (May 2, 1994).

[31] *See* July 28, 1998 Minutes of GISB EBB-Internet Implementation Task Force, http://www.gisb.org/eii.htm (Aug. 10, 1998).

[32] *See* INGAA, El Paso/Tennessee, PG&E GT–NW, Western.

[33] *See* El Paso/Tennessee, East-of-California Shippers, Pacific Northwest Shippers.

[34] 18 CFR 284.10(b)(1)(i) (1998), Nominations Related Standards 1.2.2.

[35] *See* INGAA, CNG, El Paso/Tennessee.

which relies on batch processing of requests. El Paso/Tennessee suggest that the requirement for a level playing field should be interpreted to mean that pipelines must ensure that EDI shippers are not disadvantaged by the use of EDI, not that pipelines must reduce all service to the EDI level.

The Commission continues to hold that pipelines should treat those using file transfers and interactive web communications similarly to ensure that users of EDI are not disadvantaged. This is important not only to ensure non-discrimination, but to prevent pipelines from attempting to limit competition by favoring their own interactive web system over the standardized file transfer system. At the same time, the Commission does not want to limit the ability of the pipelines to provide as efficient and responsive an interactive web site as is possible.

The Commission agrees with El Paso/Tennessee that, in order to achieve both these goals, the proper formulation of the requirement is that pipelines must ensure that no business disadvantage accrues to shippers using EDI compared with those using interactive approaches. Pipelines can ensure equal treatment without compromising the value of interactive service. For instance, EDI is not necessarily restricted to batch communication and pipelines could assure equal treatment by processing EDI file transfers in real time so shippers using EDI will receive an error report in the same time frame as shippers using interactive modalities. If developing real-time EDI is too expensive, pipelines could provide those shippers using EDI with added time so that they can receive and respond to error messages. This would be similar to the 15-minutes of extra time given to third-parties processing nominations on behalf of shippers.[36] GISB and the industry should work on developing whatever standards are necessary to ensure that those using file transfers are not placed at a business disadvantage to those using the pipelines' interactive web site.

c. Implementation Date. Both shippers and pipelines[37] contend that the June 1, 1999 implementation date does not allow sufficient time for development of standards and implementation of both EDI and interactive web sites, particularly given the industry's need during the same time period to devote information technology personnel to dealing with the Year 2000 computer problem.[38] Some recommend that the Commission delay implementation until GISB develops the standards,[39] while others recognize the need for a deadline to ensure compliance, but recommend that the deadline should be changed to June 1, 2000.[40] NGSA and NGC argue that the Commission should adopt a staggered implementation schedule. They maintain pipelines reasonably should be able to implement standardized interactive web sites for nomination-related transactions by June 1, 1999, with the remainder of functions made available on interactive web sites by June 1, 2000. GISB's EBB-Internet Transition Task Force also is working on a staged approach to implementation—with nominations and confirmations by June 1, 1999, allocation, imbalance, and measurement reporting by November 1999, invoice and payment information by April 2000, and capacity release information by June 2000—although these are not firm dates. INGAA recommends that the pipelines be responsible for providing access to their current EBBs over the Internet by June 1, 1999, with June 1, 2000 as the start for a phased-in compliance for interactive web sites and completion of EDI.

Given the effort GISB is making to effectuate the transition to Internet communications, the Commission finds that providing additional time will help ensure a smooth transition. The Commission, therefore, will amend § 284.10(c)(3)(i)(B) to require pipelines to complete the move to Internet communications by June 1, 2000.

Even though the Commission has provided an extra year to achieve full compliance, the Commission expects the pipelines to be working throughout that period to develop their Internet sites. GISB's phased implementation to Internet transition makes sense because it not only provides shippers with the ability to conduct the crucial nomination and confirmation and flow gas transactions at an earlier date, but also enables the industry to begin testing initial transactions to see how the standards work. The Commission finds that the timetable for phased implementation laid out by GISB is reasonable and has every confidence that the industry can meet those targets. The Commission fully expects pipelines to implement the Internet transition according to this schedule. In setting out its implementation schedule, GISB has expressed concern about the potential need for regulatory approval.[41] The Commission emphasizes that pipelines need not and should not wait for Commission adoption of the standards to begin implementation.

So that the Commission is kept abreast of the industry's progress in meeting its staggered implementation schedule, GISB and others in the industry should submit quarterly reports starting December 1998 and running through December 1999 detailing the progress being made in the standardization process.[42] While all pipelines are required to complete the transition to the Internet by June 1, 2000, the Commission recognizes that some pipelines may have more difficulty in meeting the interim implementation timetable than others. To keep the Commission apprised of the industry's progress, those pipelines that find themselves unable to meet the interim implementation dates must file with the Commission an explanation of the reasons for the delay and when implementation of the interim transactions will take place.

INGAA has suggested that, as an interim step, pipelines might simply provide access to their current EBBs over the Internet by June 1, 1999. This, however, would not be the equivalent of a standardized Internet web site, since once logged on, shippers would still be using the pipelines' current EBB. The Commission is reluctant to require pipelines to provide such an interim option because it would take time and resources that would be more productively spent on meeting GISB's plan for staggered implementation of interactive web sites. While pipelines are free to make this option available as an interim measure, the Commission will not require them to do so.

d. Cost Recovery. (1) Continuation of EBBs. In Order No. 587–G, the Commission found that pipelines

[36] 18 CFR 284.10(b)(1)(i) (1998), Nominations Related Standards 1.3.2. Parties nominating directly to the pipeline using EBBs must send nominations by 11:30. Parties using third-parties also must send their information to the third-party by 11:30, but the third-party is accorded 15 minutes of processing time before it has to transmit the information to the pipeline.

[37] AGA, *et al.*, AGDF, Atlanta/Chattanooga, CNG, ECT, El Paso/Tennessee, Engage, Florida Municipals, Great Lakes, INGAA, KN, Brooklyn Union/Long, MCV, National Fuel, NGSA, Pacific Northwest Shippers, Peoples, Peoples/NorthShore, Piedmont, PSCo/Cheyenne, Southern, TCGS, WGP.

[38] The Year 2000 problem refers to the use of two digits to represent the year in computer programs and embedded computer chips. If not corrected, the digits 00 may be interpreted as referring to the year 1900, rather than 2000.

[39] Atlanta/Chattanooga, CNG, ECT, MCV, TCGS.

[40] AGA, *et al.*, NGSA, Pacific Northwest Shippers. *See also* KN (recognizing the need for a firm implementation date), INGAA (proposing an implementation schedule).

[41] *See* June 1, 1998 Report to the Board of Directors re EBB-Internet Transition Plan at 30 (included in GISB's July 15, 1998 filing in Docket No. RM96–1).

[42] The reports would be due at the end of December 1998, March 1999, June 1999, September 1999, and December 1999.

should be able to continue their EBB systems until they have converted to a standardized system (including an interactive web site) and could maintain their EBBs as a back-up system for one year thereafter. Upon conversion to the standardized system, however, the Commission concluded that pipelines should no longer be able to recover the costs for their EBBs in their cost-of-service.

A number of shippers request clarification that pipelines can continue to use their EBBs until the implementation of a standardized interactive web site.[43] Other shippers and pipelines maintain that pipelines should be permitted to continue to provide EBBs as an additional option.[44]

Once an interactive Internet-based system is implemented, there appears no reason for pipelines to continue to support a third, non-standardized communication modality. Interactive web sites will provide users with the same interactive functionality they now receive from EBBs. Pipelines, therefore, should not receive recovery for the operation and continued maintenance or enhancements of EBBs in rate cases filed one year after implementation of the interactive web site and standardized file transfer systems. Pipelines, however, will be free to continue to provide EBB services as an additional option as long as they recover the costs for such services through a separate charge.

(2) Recovery of Costs for Interactive Web Sites.

In Order No. 587–G, the Commission concluded that pipelines could recover the costs for both EDI file transfers and standardized interactive web sites through their cost-of-service. The Commission concluded that including such costs did not provide an undue preference to the users of interactive web sites, because the costs for both EDI and interactive web sites would be recovered through cost-of-service and because attempting to separate the costs of implementing EDI and interactive web sites would be difficult due to the integrated nature of communication systems.

The pipelines are concerned about the Commission's limitation of cost recovery to standardized Internet web sites. INGAA and KN maintain that the Commission should permit recovery of all costs in developing interactive web systems as long as the pipelines ultimately adhere to the standards developed by GISB. Enron and Columbia Gas/Columbia Gulf maintain that cost recovery should be determined in individual rate cases.

As stated above, pipelines should be permitted to recover the costs for developing standardized interactive web sites. As long as the pipelines' web sites adhere to the standards being developed by GISB, pipelines generally should be permitted to recover those costs. Specific issues relating to cost recovery must be addressed in specific pipeline rate cases.

TransCapacity seeks rehearing of the determination to include interactive web sites in cost-of-service, claiming the decision will limit competition between the pipelines' presentation systems and those sold by third-parties. Including the cost of presentation in cost-of-service, which is recovered through transportation rates, TransCapacity asserts, will make the use of the pipelines' interactive web site essentially free to all customers, while customers will have to pay an added charge to obtain a presentation system from third parties.[45] Providing the pipelines' presentation systems for free, TransCapacity argues, distorts customers' choices about which systems have greater value. Rather than having pipelines bear the entire cost of processing information, TransCapacity contends a fairer and more competitive approach would be to have the pipelines bear their costs of sending and receiving information and pipeline customers bear their costs of organizing and processing the data sent to the pipeline. TransCapacity urges the Commission either to remove pipeline interactive systems from cost-of-service or institute a form of crediting under which firm shippers using EDI or third-parties would receive a credit for not using the pipelines' interactive web site.

The Commission's determination to permit cost-of-service recovery for pipeline interactive web sites continues current policy. The Commission permitted pipelines to recover the costs of both EBB and EDI in their cost-of-service so that shippers could select the option that best fit their business needs.

TransCapacity's argument is that EDI file transfers compete directly with pipeline provision of interactive web sites, because both approaches can be used to achieve the same result—the provision to the customer of an interactive presentation that enables them to enter information directly from their computer screen. If that were the primary benefit of EDI, however, there would be little need to require EDI file transfers in the first place; a standardized interactive web site, without file transfers, would be sufficient. Interactive webs sites and EDI file transfers are not simply two ways of achieving the same result; they provide two different options from which shippers can choose the approach that best fits their business needs.

Interactive web sites permit human beings to conduct business from their computer desktops, but such web sites do not permit direct computer-to-computer communications, without human intervention. File transfers, on the other hand, permit customers to store and process information on their own computer systems. For instance, using a pipeline's interactive web site, a human being would have to access a pipeline's web site to view capacity release offerings on a screen, but would have to take notes on what offerings were available. In contrast, using EDI file transfers, the information could be automatically downloaded to the customer's computer system which would process the information to the customer's specification. Thus, providing cost-of-service recovery for pipeline interactive web sites does not foreclose competition from third parties. Given the added advantages of file transfers in terms of processing and recordkeeping, third-parties still have a valuable service to provide to shippers even if interactive web site costs are included in cost-of-service.

TransCapacity, in essence, is arguing that communications can be separated into two components: the transmission of information and the graphical interface or presentation of that information on the customer's computer. TransCapacity would include the costs of transmitting information in the pipelines' cost-of-service, but not the cost of the graphical interface, which would have to be recovered through a separate fee.

But this model incorrectly views an interactive web site as two products. An interactive web site is an integrated product in which the transmission of information and the graphical interface are combined in a single product. While a pipeline conceivably could design a system that would transmit information in EDI format, and then use that information to create the graphical interface, most interactive web sites are not designed in this manner and TransCapacity has not shown that such

[43] *See* NGSA, Louisville.

[44] *See* CNG, El Paso/Tennessee, IPAA, Piedmont, PSCo/Cheyenne, RPC, Southern, Western.

[45] TransCapacity maintains that for those shippers paying transportation rates, the pipelines' interactive system is effectively ''free,'' because the shippers have to pay the same transportation rate whether they decide to use the pipelines' or third parties' systems. Those who use the pipelines' communication systems but do not pay transportation rates, TransCapacity maintains, pay nothing to use the service.

a dual approach would be as technologically, or cost, effective as an integrated product.[46] Because interactive web sites combine information transmission and presentation, the costs of these two items cannot be separated, as TransCapacity suggests.

As AGA, *et al.*, correctly points out, TransCapacity's proposal would have the effect of subsidizing those shippers using EDI file transfers. Under TransCapacity's proposal, the costs of EDI file transfers would be included in the cost-of-service, while the total costs for interactive web sites would be excluded. TransCapacity itself does not propose attempting to segregate the transmission related costs from the presentation-related costs. Thus, shippers paying transportation rates would have to pay for EDI services in transportation rates even if they preferred to use interactive web sites.

TransCapacity next argues that cost-of-service treatment for EDI is justifiable because it is far less expensive for pipelines to provide EDI file transfers than an interactive web site. According to TransCapacity, EDI costs only a few hundred thousand dollars while interactive web sites would cost $5–20 million per pipeline. TransCapacity analogizes to Order No. 636 in which the Commission required the pipelines to unbundle (separate) the costs of transmission and merchant service and recommends the Commission establish proceedings under section 5 of the NGA to require pipelines to disclose such costs.

AGA, *et al.*, sought leave to file an Answer to TransCapacity's rehearing request. AGA, *et al.*, maintain that TransCapacity's $5–20 million estimate for interactive web sites is misleading because the majority of costs would be back-office programming costs and personnel which would be a required cost of doing business regardless of whether an interactive web site is built. In other rehearing requests, pipelines and shippers contend that the costs for pipelines (and shippers) to obtain and install EDI translation software is itself expensive.[47]

As the Commission found in Order No. 587–G, attempting to allocate pipeline costs of implementing EDI and interactive web sites could be difficult. AGA, *et al.*, point out that separating EDI from the costs of interactive web sites is particularly difficult given the integrated nature of pipeline computer systems. TransCapacity's analogy to the unbundling in Order No. 636 is inapt since there is no showing that potential competition in communications has nearly the competitive impact of bundled sales and transportation services. Indeed, before attempting to unbundle products, there should be some showing that customers favor unbundled services.[48] Based on the large number of rehearing requests, most customers in the gas industry do not favor a policy where shippers must acquire their presentation interface independently from the transmission of the information.

Moreover, even if costs of both systems could be segregated, establishing a rate would require pipelines to project estimated usage for each system without any actual experience. For instance, pipelines may initially project that few parties will use EDI which could raise the rate for using EDI even if its implementation costs were less. That higher unit cost might then discourage users from trying EDI. Since the gas industry has not had long experience with either EDI or interactive web-based technologies, the rate structure should not bias shippers' determination as to which approach they might prefer. At this stage, the Commission prefers to give shippers the option to choose which system they prefer.

AGA, *et al.*, agree with TransCapacity on one point: they both contend that all users, including non-shippers, should be required to pay the costs of using the pipelines' communication system. They argue that the current system of including all communication costs in cost-of-service results in non-shippers paying none of the costs of the communication system.

No other party to this proceeding has raised this issue, and the Commission is not convinced that non-shippers, such as producers, marketers, or point operators, should pay a special fee for using a pipelines' communication system. These non-shippers are acting on behalf of shippers and unless they can communicate easily with the pipeline, the efficiency of the industry may suffer. A producer or point operator, for example, needs to confirm a nomination for a shipper's gas to flow. While the producer or point operator is not a shipper, it is acting to benefit the shipper when it uses the pipelines' electronic communication system to confirm the nomination. Since the shipper is paying transportation rates, charging a separate fee to the producer or point operator is not necessarily justifiable. Moreover, neither AGA, *et al.*, nor TransCapacity has shown that the costs of pipeline communication systems are so large that they significantly effect shippers' rates.

If the concern is that providing communication service without a separate fee will encourage overuse of the system, the Commission has already given pipelines the ability to charge separate fees to deter overuse. In Order No. 636, the Commission found that pipelines could charge a usage fee to recover the variable costs for operating their communication systems.[49] The majority of pipelines, however, have not seen a need to impose such usage charges.

If the Commission cannot resolve these cost issues on the pleadings in this proceeding, TransCapacity recommends that the Commission establish a generic proceeding in this docket to deal with the cost issues. A generic conference to explore recovery of pipeline communication cost issues does not appear warranted. There has been no showing that these costs are so substantial that they seriously affect the level of rates. Issues about the provision of free service also require inquiry into the actual costs of constructing and operating systems. To the extent parties want to raise such issues, they can be considered in individual pipeline proceedings where actual costs and impacts can be evaluated.[50]

2. Standards for Internet Web Sites

In Order No. 587–G, the Commission adopted a regulation establishing certain minimum standards governing pipeline display of information on their Internet web sites to be implemented August 1, 1998.[51] The regulation requires that: documents must be accessible to the public over the public Internet using commercially available web browsers, without imposition of a password or other access requirement; users must be able to search an entire document

[46] *See* X Areeda, Antitrust Law § 1746b at 227–229 (1996) (integrated products involve some physical or technological linkage that makes the single product superior to a product that the customer can produce by installing the components separately).

[47] *See* INGAA, East-of-California Shippers, Pacific Northwest Shippers.

[48] *See* X Areeda, Antitrust Law, ¶ 1743(a) at 192 (1996) (if buyers do not desire unbundled products, nothing useful could be accomplished by condemning the bundle).

[49] *See* Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation under Part 284 of the Commission's Regulations, Order No. 636–A, 57 FR 36128 (Aug. 12, 1992), FERC Stats. & Regs. Regulations Preambles [Jan. 1991–June 1996] ¶ 30,950 at 30,564 n.171.

[50] As AGA, *et al.*, point out, issues concerning recovery of communication costs have been raised in rate cases. *See* Transcontinental Gas Pipe Line Corporation, 82 FERC ¶ 63,019 (1998) (initial decision).

[51] 18 CFR 284.10(c)(3)(ii).

online for selected words and users must be able to copy selected portions of the documents; and documents on the Web site should be directly downloadable without the need for users to first view the documents on the web site.

KN contends that the Commission should delay implementation of these standards until GISB completes its review of ''look and feel'' standards for Internet web sites. KN maintains that implementation of two sets of standards may cause pipelines to incur duplicative development costs.

The Commission denies the rehearing request. The regulation adopted by the Commission in Order No. 587–G provides a basic foundation to ensure that currently available web browser software will permit users access to all pipeline web sites and that, once at a site, users will, at a minimum, be able to search a document efficiently and copy, paste, and download material. As an example, the regulation ensures that when a pipeline posts its tariff on its web site,[52] users will have the ability to search the entire tariff for the information they are seeking. The standards established in the regulation would be necessary regardless of whatever additional standards GISB devises.

3. Cross-Reference Table

In Order No. 587–G, the Commission required pipelines to provide a table cross-referencing any numeric designation with the applicable name or other information being represented.[53] This requirement was needed to ensure that the Commission and shippers can identify parties to transactions which Commission regulations require to be made public. The GISB standards currently rely on numbers published by Dun & Bradstreet (D&B) to identify shippers. If D&B, however, is unwilling to permit the development of a cross-reference table, the Commission required the pipelines either to cease using numeric designations or develop their numeric identifiers and post the cross-reference table.

Koch contends the Commission should rescind this requirement, because the D&B numbers are proprietary information and development of a substitute cross-reference table would take a considerable amount of time and could require substantial changes in pipeline computer systems that are setup to use the D&B numbers.

The Commission denies Koch's rehearing request. Pipelines are required by Commission regulations to publicly identify the names of shippers, such as those involved in capacity release transactions. Without a cross-reference table, no one receiving the numeric identifier will be able to identify the shipper. Koch suggests that this may not be information anyone wants. For one, the Commission itself needs a cross-reference table to be able to monitor capacity release transactions for possible discrimination. As other industry participants begin to use EDI and other file transfers to obtain information, they too are likely to need a cross-reference table to monitor capacity release transactions.

Koch argues that the D&B information is proprietary, and D&B may not permit disclosure. As the Commission made clear in Order No. 587–G, if D&B is unwilling to permit development of a cross-reference table, the industry can agree to use actual shipper names or develop its own numeric identifier. If the industry took the latter course, no modification of computer systems would be necessary, since the identifier could use the same number of digits as the current D&B numbers. Having to modify computer systems to accept names also should not be unduly burdensome.

As an alterative to pipelines providing the D&B information, Koch suggests the Commission should purchase the cross-reference table from D&B. The Commission does not find this to be an acceptable solution. It is the pipelines' responsibility to comply with Commission regulations and disclose public information and the pipelines must, therefore, choose a method that provides that information. After all, it was the pipelines together with other segments of the industry, not the Commission, who chose D&B numeric designations in the first place.[54] Moreover, the pipelines are the best source for obtaining a complete database listing both the D&B numbers and shippers on each of their systems, and they are responsible for devising a means of providing publicly available information in an intelligible format.

4. Electronic Record Retention

In Order No. 587–G, the Commission required pipelines to maintain for a period of three years all information displayed and all transactions conducted electronically and to be able to recover and regenerate all such electronic information when necessary.[55] The pipelines must make this archived information available to users in electronic form for a reasonable fee. This regulation essentially continued the three-year recordkeeping requirement that applies to pipeline EBBs.[56]

National Fuel requests clarification that the record retention requirement applies to the substance of the information and does not require the pipelines to maintain an exact visual image of the information on the pipelines' web site. The Commission agrees. The regulation does not require pipelines to maintain visual images of web site information. It requires only that pipelines maintain the substance of the information and provide that information, upon request, in an easy to use electronic format including an explanation describing the way in which the information is presented or formatted.

D. Issues on Which The Commission Did Not Promulgate Regulations

In Order No. 587–G, the Commission did not implement regulations as requested by industry members in certain areas: title transfer tracking, cross-contract ranking, multi-tiered allocations, fuel reimbursement, and penalty determinations. The Commission did provide guidance to the industry as to its policies in these areas to assist the industry in developing standards and set a December 31, 1998 date for submission by GISB and others of standards in these areas. Requests for clarification were filed with respect to title transfer tracking and fuel reimbursement

1. Title Transfer Tracking

Title transfer tracking refers to keeping records of transfers of title at nomination points when no transportation is involved. In Order No. 587–G, the Commission found insufficient justification to require pipelines to perform title transfer tracking services. The Commission concluded that shippers have responsibility for furnishing sufficient information to establish their title to gas. The Commission further recognized that shippers might want to use third-parties to track title transfers and required pipelines to accept title transfer information from third-parties. GISB

[52] 18 CFR 284.10(b)(1)(iv) (1998), Electronic Delivery Mechanism Related Standards 4.3.6 (requiring pipelines to post tariff terms and conditions on the Internet).

[53] 18 CFR 284.10(c)(3)(iii).

[54] *See* Standards for Electronic Bulletin Boards Required Under Part 284 of the Commission's Regulations, Order No. 563–A, 59 FR 23624 (May 9, 1994), FERC Stats. & Regs. Regulations Preambles [Jan. 1991-June 1996] ¶ 30,994 at 31,043–44 (May 2, 1994).

[55] 18 CFR 284.10(c)(3)(v).

[56] 18 CFR 284.10(a)(3).

already is working on standards for dealing with title transfer tracking and the Commission set December 31, 1998 for the submission of proposed standards by GISB and others.

NGSA requests clarification that the Commission's guidance on title transfer tracking should not foreclose the consideration by GISB of the option of having pipelines provide title transfer tracking. It also requests clarification that the Commission's statement does not represent a final decision by the Commission on the propriety of requiring pipelines to perform title transfer tracking. NGSA points to a number of outstanding issues at GISB that it claims makes any final Commission pronouncement on this issue premature.

As the Commission found in Order No. 587–G, it does not see a basis for requiring pipelines to perform title transfer tracking service. The Commission provided guidance to the industry on its policies regarding title transfer tracking to ensure that continued debate over whether pipelines should provide this service did not stymy GISB's deliberations. GISB, and other industry participants, therefore, should develop a set of business practice and electronic communication standards dealing with the information a shipper needs to provide to pipelines to establish the shipper's title to gas, as well as standards establishing procedures for pipelines to receive title transfer tracking information from third parties.

As the Commission stated in Order No. 587–G, its determination should not foreclose discussion at GISB regarding options for dealing with title transfer tracking. If GISB reaches a consensus that pipelines should be required to provide this service, the Commission will give such agreement great weight in future considerations of this issue. Once GISB files the standards with the Commission, parties will have an opportunity to file comments on the feasibility of particular standards.

2. Reimbursement for Compressor Fuel

Fuel reimbursement refers to pipeline requirements that shippers provide gas greater than their nominated quantity to compensate the pipeline for the gas it uses to operate its compressors.[57] The applicable fuel percentages are included in pipeline tariffs. The process of calculating fuel reimbursement for shipment across multiple pipelines, and pipeline zones, can be complex and the Commission has adopted GISB standards to simplify this process. To further reduce the difficulty of calculating fuel reimbursement, the Commission, in Order No. 587–G, found that pipelines should accept fuel nominations from third parties, such as marketers. The Commission, however, determined not to impose this requirement until GISB had been given the opportunity to consider standards for how this process would work.

Koch contends the cost and confusion of requiring pipelines to accept fuel nominations from third-parties would exceed any benefit and urges the Commission not to go forward with this requirement. Koch asserts, for example, that such a requirement has the potential to double the number of nominations pipelines have to process. KN also believes that establishing separate procedures for third-party fuel reimbursement is unnecessary, but urges the Commission to reserve judgment until after GISB seeks to develop standards.

The Commission has set December 31, 1998 as the date for submission of standards and comments on fuel reimbursement by GISB and others. The Commission will evaluate its policy regarding third-party fuel reimbursement upon receipt of these filings.

III. Effective Date

The amendments to the Commission's regulations adopted in this order on rehearing will become effective November 5, 1998.

List of Subjects in 18 CFR Part 284

Continental shelf, Natural gas, Reporting and recordkeeping requirements.

By the Commission.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission amends Part 284, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

1. The authority citation for Part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7532; 43 U.S.C. 1331–1356.

2. In § 284.10, paragraph (c)(3)(i)(B) is revised to read as follows:

§ 284.10 Standards for Pipeline Business Operations and Communications.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(B) A pipeline must implement this requirement no later than June 1, 2000.

* * * * *

Note—The following appendix will not appear in the **Code of Federal Regulations.**

PARTIES FILING FOR REHEARING DOCKET NO. RM96–1–009

Party filing rehearing request	Abbreviation
Altra Energy Technologies, Inc	Altra.
American Gas Association, American Public Gas Association, Process Gas Consumers (Arizona Public Service Company, Boeing Company, Northwest Industrial Gas Users, Salt River Project and Phelps Dodge Corporation).	AGA, *et al.*
ANR Pipeline Company and Colorado Interstate Gas Company	ANR/CIG.
Associated Gas Distributors of Florida, Inc	AGDF.
Atlanta Gas Light Company and Chattanooga Gas Company	Atlanta/Chattanooga.
The Brooklyn Union Gas Company and Long Island Lighting Company	Brooklyn Union/Long Island.
CNG Transmission Corporation	CNG.
Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company	Columbia Gas/Columbia Gulf.
Consumers Energy Company	Consumers.

[57] For instance, if a shipper needs 100 MMBtus at its city-gate, it may have to nominate an additional 10 MMBtus to compensate the pipeline for its compressor fuel requirements.

PARTIES FILING FOR REHEARING DOCKET NO. RM96–1–009

Party filing rehearing request	Abbreviation
Salt River Project Agricultural Improvement and Power District, Arizona Public Service Company, El Paso Electric Company, PEMEX Gas y Petroquimica Basica, Phelps Dodge Corporation, ASARCO, Inc., BHP Copper, Inc., Cyprus Miami Mining Corp., PNM Gas Services, El Paso Municipal Customer Group (Cities of: Mesa, AZ, Safford, AZ, Benson, AZ, Wilcox, AZ, Las Cruces, NM, Socorro, NM, Deming, NM; Town of Ignacio, CO, Navajo Tribal Utility Authority; Graham County Utilities, Inc.; Duncan Rural Service Corp.; and Black Mountain Gas Company).	East-of-California Shippers.
Eberly & Meade, Inc	Eberly & Meade.
El Paso Energy Corporation Interstate Pipelines	El Paso/Tennessee.
Engage Energy US, L.P	Engage.
Enron Capital & Trade Resources Corporation	ECT.
Enron Interstate Pipelines	Enron.
Exxon Company, U.S.A	Exxon.
Florida Cities, Southern Cities, and Louisiana Municipal Gas Association	Florida Municipals.
Florida Power Corporation	Florida Power.
Great Lakes Gas Transmission Limited Partnership	Great Lakes.
Independent Petroleum Association of America	IPAA.
Intermountain Gas Company, IGI Resources, Inc., Cascade Natural Gas Corporation, Northwest Natural Gas Company, and Washington Water Power Company.	Pacific Northwest Shippers.
Interstate Natural Gas Association of America	INGAA.
KN Interstate Pipelines	KN.
Koch Gateway Pipeline Company	Koch.
Louisville Gas & Electric Company	Louisville.
Midland Cogeneration Venture Limited Partnership	MCV.
NorAm Gas Transmission Company and Mississippi River Transmission Corporation	NGT/MRT.
Missouri Gas Energy, a Division of Southern Union Company	MGE.
National Fuel Gas Distribution Corporation	National Fuel Distribution.
National Fuel Gas Supply Corporation	National Fuel.
Natural Gas Clearinghouse	NGC.
Natural Gas Supply Association	NGSA.
Peoples Gas System	Peoples.
The Peoples Gas Light and Coke Company and North Shore Gas Company	Peoples/NorthShore.
PG&E Gas Transmission, Northwest Corporation	PG&E GT–NW.
Piedmont Natural Gas Company, Inc	Piedmont.
Public Service Company of Colorado and Cheyenne Light, Fuel and Power Company	PSCo/Cheyenne.
Reedy Creek Improvement District	Reedy Creek.
Richardson Products Company	RPC.
Southern Natural Gas Company	Southern.
TransCanada Gas Services, a Division of TransCanada Energy Limited	TCGS.
TransCapacity Limited Partnership	TransCapacity.
Western Gas Resources, Inc	Western.
Williams Gas Pipelines	WGP.
Williston Basin Interstate Pipeline Company	Williston Basin.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Iron Dextran Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The ANADA provides for use of iron dextran injection in baby pigs for prevention or treatment of iron deficiency anemia.

EFFECTIVE DATE: October 6, 1998.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center For Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, filed ANADA 200–256 that provides for use of iron dextran injection-200 in baby pigs for prevention or treatment of iron deficiency anemia.

Approval of Phoenix Scientific, Inc.'s ANADA 200–256 for iron dextran injection is as a generic copy of Boehringer Ingelheim Vetmedica, Inc.'s NADA 134–708 iron dextran complex injection. The ANADA is approved as of August 17, 1998, and the regulations are amended in 21 CFR 522.1182(b)(2) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore,