

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

Communication of Operational :
Information Between Natural Gas : Docket No. RM13-17-000
Pipelines and Electric Transmission :
Operators. :

**COMMENTS
SUBMITTED ON BEHALF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

August 23, 2013

TABLE OF CONTENTS

	Page
INTRODUCTION AND BACKGROUND	1
DISCUSSION.....	2
A. General Remarks	2
B. Legal Authority to Make Modifications at Issue	3
C. The Specific Relief at Issue.....	4
D. The Types of Non-Public Information Shared.....	6
E. Generation-Specific Information.....	7
CONCLUSION	7
CERTIFICATE OF SERVICE.....	8

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INTRODUCTION AND BACKGROUND

On July 18, 2013, the Federal Energy Regulatory Commission (FERC) issued a Notice of Proposed Rulemaking (NPRM or Notice) in the instant proceeding inviting comments regarding how better FERC can promote electric reliability and operational planning on both the electric and natural gas pipeline systems by authorizing electric and gas transmission systems to share non-public information.

Among other things, the Notice points out the importance of ensuring that outages and reliability problems are not the result of a lack of coordination between the electricity and gas industries. FERC, therefore, proposes to revise Parts 38 and 284 of its regulations to provide explicit authority to interstate gas pipelines and interstate electric transmission providers to share non-public, operational information with each other for the purpose of promoting operational planning or reliability.

Comments in response to FERC's July 18, 2013 Notice are due on August 26, 2013. The Public Utilities Commission of Ohio (Ohio Commission or PUCO) hereby respectfully submits the following comments regarding coordination of communication between natural gas pipelines and electric transmission operators.

DISCUSSION

A. General Remarks

Coordinating the nation's natural gas pipelines with the electric transmission system is a critical issue, posing challenges on the state and federal levels. The Ohio Commission supports FERC's efforts to ensure that the "dash to gas" comes with a thoughtful approach to communications between systems whose market alignments and scheduling don't mesh seamlessly.

The challenge involves a large range of parties -- gas and electric utilities, regional RTOs/ISOs in organized markets, transmission and distribution utilities in unregulated markets, single state RTO/ISOs, gas and electric suppliers, state commissions, federal agencies and others -- whose shared goals are system stability and grid reliability. All parties would gain from a greater degree of clarity and authority to share critical information, on a day-to-day basis as well as during emergency operations. Gas deliverability, pipeline capacity, scheduling and firm supply contracts are among the crucial elements to successful coordination. Yet opening lines of communications on these and related issues inadvertently could open a Pandora's Box. As we move forward to better information-sharing, the Ohio PUC urges the Commission to enhance protections against the

improper use of the material communicated and establish sanctions against those who would use the information for improper market advantage.

B. Legal Authority to Make Modifications at Issue

FERC has exclusive jurisdiction over the “transmission of electric energy in interstate commerce,” and over the “sale of electric energy at wholesale in interstate commerce” and over “all facilities of such transmission or sale of electric energy.” In this NPRM, FERC is proposing to revise its regulations in order to provide explicit authority to interstate gas pipelines and interstate electric transmission providers to share non-public, operational information with each other for the purpose of promoting operational planning or reliability. FERC maintains that under both section 205(b) of the Federal Power Act (FPA) and section 4(b) of the Natural Gas Act (NGA), the sharing of non-public operational information between public utilities and natural gas pipelines for the purpose of promoting reliable service or operational planning is reasonable and not unduly discriminatory or preferential. The Ohio Commission agrees with FERC that the proposed revisions to its regulations regarding the sharing of non-public information between public utilities and natural gas pipelines are reasonable and not unduly discriminatory or preferential under the FPA and NGA. The Ohio Commission also agrees with FERC that there are sufficient safeguards, both current and proposed, that will help address some of the specific issues previous commenters have raised. Therefore, the Ohio Commission contends that FERC does have the requisite authority to propose revisions to its regulations and more specifically that the exchange of non-public, operational

information between transmission operators does not violate current statutory prohibitions.

C. The Specific Relief at Issue

FERC proposes to amend its regulations to authorize expressly the exchange of non-public, operational information between electric transmission operators and interstate natural gas pipelines. FERC observes that the term “non-public, operational information” is information that is not publicly posted, but assists transmission operators to operate and maintain either a reliable pipeline system or a reliable electric transmission system on a day-to-day basis, as well as during emergency conditions or for operational planning. The shared information would include that which involves emergencies, planned outages, scheduled maintenance, and day-to-day operations. Because the FPA and the NGA prohibit undue discrimination or preference, FERC proposes to adopt a “No-Conduit Rule,” which prohibits recipients of non-public, operational information from disclosing the information to any other entity. In addition, FERC proposes to leave wide discretion to the transmission owners to determine what non-public operational information would promote reliable service on their systems. FERC reserves the option to revisit the need to require specific information-sharing.

Because the generation fuel mix is becoming increasingly reliant on the provision and deliverability of natural gas, the Ohio Commission agrees with FERC that it is timely to amend Parts 38 and 284 of FERC’s regulations to allow for the sharing of non-public operational information between electric transmission providers (and regional transmis-

sion providers [RTOs]) and natural gas pipeline providers. The Ohio Commission agrees that the proposed rule changes will assist to ensure the provision of more safe and reliable gas and electric services.

The Ohio Commission also supports FERC's institution of a "No-Conduit Rule" to limit the sharing of such proprietary information. The Ohio Commission maintains, however, that proposed § 38.2 should be modified and strengthened to include additional language to require that no non-public information be shared with any person or company affiliate except to ensure the reliable and efficient operations of the pipeline, transmission grid, and the delivery of generation service. In addition, to address the potential situation when non-public, operational information is shared on a bilateral basis between or among a generation facility, the pipeline provider, and/or the transmission provider (or RTO), the § 38.2 language should extend such communication restrictions to all involved entities.

On a related matter, the Ohio Commission maintains that FERC should, via an expansion of the instant proceeding, arrive at the appropriate requisite sanctions for the inappropriate sharing of potentially commercially sensitive, non-public information in violation of the No-Conduit Rule. These sanctions must be set at a sufficiently punitive level to ensure that any competitive advantage realized by the unauthorized sharing of such non-public information be substantially outstripped by the penalty or sanction imposed.

D. The Types of Non-Public Information Shared

FERC proposes to afford the individual transmission operators with significant flexibility as to what non-public information is deemed necessary to ensure reliability and efficient operation of their systems without fear of violating FERC prohibitions concerning undue preference or undue discrimination. FERC observes that it reserves the option to require certain communications or information-sharing between transmission operators in the future.

The Ohio Commission agrees with FERC that it is not necessary at this time to arrive at an exhaustive list of information that may or may not be shared. To do so would be implausible at this time. The Ohio Commission further agrees with FERC that, at this juncture, it is best left to those who have the most insight and knowledge of their respective systems to determine what non-public information should be shared to promote inter-system reliability. The Ohio Commission, however, does believe that it would be appropriate to review this issue periodically to determine which non-public information is shared and whether that exchange of information is adequate to maintain reliability. In addition, because different regions will have diverse practices concerning the level and type of non-public information shared, FERC should use the collection of such data to arrive at a proposed best practices solution that is most effective to ensure efficient operations and to promote reliability.

E. Generation-Specific Information

The Ohio Commission maintains that, to the extent needed by the RTO, individual generation providers should be required to provide to their electric transmission provider or RTO unit-specific, non-public operational information necessary to ensure reliability. To ensure against inadvertently providing pipeline providers with confidential or proprietary information that could result in a competitive advantage concerning the pricing of gas to that facility, the RTO or transmission provider should be required, to the extent possible, to furnish the gas pipeline with aggregated non-unit specific generation data. If generation information is shared, the individual generation owners should be informed by the RTO or transmission provider of that specific non-public information that was provided to the natural gas pipeline owners.

CONCLUSION

The Ohio Commission appreciates the opportunity to comment on these important issues regarding the coordination between the electric transmission providers and natural gas pipelines and respectfully requests that FERC consider its recommendations.

Respectfully submitted,

/s/ Thomas W. McNamee

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On behalf of
The Public Utilities Commission of Ohio

CERTIFICATE OF SERVICE

I hereby certify that the foregoing have been served in accordance with 18 C.F.R. Sec. 385.2010 upon each person designated on the official service list compiled by the Secretary in this proceeding.

/s/ Thomas W. McNamee

Thomas W. McNamee

Dated at Columbus, Ohio this August 23, 2013

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Summary: Comments submitted by Assistant Attorney General Thomas McNamee on behalf of the Public Utilities Commission of Ohio, to be filed on August 23, 2013 with the Federal Energy Regulatory Commission in Docket No. RM13-17-000. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio