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December 29, 2005

Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket No. RM06-5-000 - Amendments to Codes of Conduct

Dear Secretary Salas:

For filing, please find the Notice of Intervention and Comments of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 486-2652.

Very truly yours,

/S/

Saul A. Rigberg
Assistant Counsel

Attachment

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Notice Requesting Comments On) Docket No. RM06-5-000
Amendments To Codes Of Conduct)
For Unbundled Sales Service And)
For Persons Holding Blanket)
Marketing Certificates)

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

The New York State Public Service Commission (NYPSC) submits its Notice of Intervention and Comments pursuant to the Notice issued on November 21, 2005 and in compliance with Rule 214 of the Federal Energy Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure. FERC explained in the Notice that it is proposing to repeal certain sections of its regulations regarding blanket certificates for unbundled gas sales services and blanket marketing certificates once the Commission has issued final regulations implementing the anti-manipulation provisions of the Energy Policy Act of 2005.

I. COMMUNICATIONS

Copies of all correspondences and pleadings should be addressed to:

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II. SUMMARY

The NYPSC does not think that the proposal goes far enough. We are concerned that a lack of transparency regarding natural gas production system conditions (for example, the amount of gas that is shut-in due to natural disasters like Hurricanes Katrina and Rita and the prognosis for recovery) in one of the nation's major supply basins causes uncertainty in the market. This uncertainty, in turn, can result in higher prices and also have a negative effect on reliability, electric generation, and the national economy. This situation may also create an environment in which market manipulation can thrive. Without adequate information available in a timely fashion the market cannot function efficiently; moreover, in the absence of adequate market data, it is impossible to determine whether manipulation is a factor affecting prices. We recommend that FERC work, with other appropriate federal agencies, toward resolution of this problem by developing a consistent, comprehensive, and timely reporting procedure.

III. STATEMENT OF ISSUE

The Commission should develop and implement a comprehensive, timely and uniform publicly available reporting mechanism regarding system conditions of the nation's natural gas infrastructure.

IV. ARGUMENT

The lack of adequate and timely market data creating a problem of lack of transparency in the gas market has been demonstrated following the devastation wrought by Hurricanes Katrina and Rita. As part of its annual assessment of the preparedness of the New York local distribution companies for this winter's heating season, NYPSC Staff sought to address the significant damage done to the gas supply infrastructure in the Gulf Coast as a result of the hurricanes.

As a result of our Staff's efforts to obtain up-to-date damage and supply information, it became obvious that there is an absence of transparency regarding available data. For example, although the Minerals Management Service (MMS) prepares reports on natural gas production that has been shut-in as a result of the hurricanes in the outer continental shelf of the Gulf, those reports only address the production that is in federal waters of the Gulf of Mexico.¹ The production in federal waters appears to account for only half of the gas produced in the Gulf Coast region. The remainder falls within the on-shore and off-shore jurisdiction of various states.

The production within state jurisdiction is tracked and reported by the individual states. Each state has its own process, but our Staff discovered that production data is generally provided only on a monthly basis and that information is often two months old when it is publicly reported. Following the hurricanes, Louisiana did provide more real time data on production that was shut-in, but a significant number of producers (controlling an unknown amount of production) had not reported information, so the data was incomplete. The remaining states affected by the hurricanes did not collect or provide data other than the regular production reports, which at that point only contained data from prior to the hurricane. Further, even the data reported from MMS, while it does include information on the current status of production, does not contain any information on the extent of damage or estimates regarding how long the production would be shut-in.

In addition to the incomplete data on the production facilities, there is very little information publicly available regarding the status of the processing plants, which are a critical component of the supply chain. While we understand that some of the states require the processing plants to submit

¹ Hurricane Katrina/Hurricane Rita Evacuation and Production Shut-In Statistics Report, currently issued bi-weekly.

reports on their production, the information is not readily available. Furthermore, the information is not reported in real time so it is not reflective of the current status and it is not available electronically. In sum, overall information on post-hurricane restoration efforts by the processing plants appears to be ad hoc and, therefore incomplete.

V. CONCLUSION

There is a lack of transparency in the gas industry; system conditions are difficult to discern and state data is difficult to collect and is neither timely nor complete. The fact that production and supply availability data are not timely, or readily available, creates uncertainty in the market place, which most certainly has an adverse impact on prices, and may encourage market manipulation. Reliability and electric markets in some regions of the country may also be negatively affected. The NYPSC respectfully urges FERC to work with other relevant federal agencies toward resolution of this problem by developing a consistent, comprehensive, and timely reporting procedure in order to remedy this inadequacy and remove this potentially adverse impact on prices.

Respectfully submitted,
/S/
Dawn Jablonski Ryman
General Counsel

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Dated: December 29, 2005
Albany, New York

