

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

**Williston Basin Interstate)
Pipeline Company)**

Docket No. RP00-463-006

**MOTION TO INTERVENE OUT OF TIME
AND PETITION FOR REHEARING
OF THE NATIONAL ENERGY MARKETERS ASSOCIATION**

This Motion to Intervene Out of Time and Petition for Rehearing is filed by the National Energy Marketers Association (NEM) pursuant to Rules 214 and 713 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.713), in the above-referenced proceeding. NEM requests that this Motion be granted for the reasons set forth below.

I.

Communications and correspondence concerning this Motion should be directed to the following:

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II.

NEM is a national, non-profit trade association representing wholesale and retail marketers of natural gas, electricity, as well as energy and financial related products, services, information and advanced technologies throughout the United States, Canada, and the European Union (“*Emerging Energy Services and Technology Industry*”). Founded in 1997, NEM’s membership has grown to include independent power producers, suppliers of distributed generation, energy brokers, power traders, electronic trading exchanges and price reporting services, advanced metering, demand side management and load management firms, billing, back office, customer service and related information technology providers. NEM members are and have been global leaders in the development of enterprise solution software for energy, advanced metering, telecom, information services, finance, risk management and the trading of commodities and financial instruments. NEM members are and have also included inventors, patent holders, systems integrators, and developers of advanced Power Line technologies as well as new and innovative applications for *Smart Electricity*TM

III.

NEM, as a representative of a diverse group of providers of energy and energy-related services, has an interest to advocate the implementation of rates, tariffs, operating procedures, standards of conduct, rules, and policies that will ensure the development, maintenance and efficiency of reliable, transparent and competitive natural gas markets. As natural gas marketers, various NEM members are providing or intend to provide service to customers in the markets served on the Williston system. The ability of NEM

members to compete fairly on this system and on other pipeline systems will be specifically affected by the outcome of this proceeding.

Even if other trade associations or individual marketers intervene in this matter, NEM's interests and position are significant and unique given (1) its industry diversity, (2) its interest in serving customers who take service from or through the Williston system, (3) its current and past participation in restructuring proceedings in FERC and state jurisdictions on similar and related issues, and (4) the substantial business interests of its members in the development of viable natural gas markets on the Williston system.

As such, the interests of NEM and its members in this proceeding cannot be adequately represented by any other party hereto. Under all of these circumstances, NEM submits that good cause exists to grant its late motion to intervene given the nature of its interest.

IV.

Under the Commission's CIG/Granite State discount policy, "if a pipeline provides a discount at any point, a shipper that segments to that point or uses that point on a secondary basis is entitled to the same discount if it is similarly situated to the shipper receiving the discount from the pipeline." (Order at para. 7). This discount policy is an enhancement to flexibility and competition in the secondary market from the policy previously adopted in El Paso. The El Paso policy provides that if a shipper's discount is limited to its primary point by contract with the pipeline, the pipeline can require the shipper to pay the maximum rate whenever it or its replacement shipper uses a different point (Order at para. 5). In its Second Order on Remand issued March 3, 2005, in the instant case, the Commission vacated the requirement that Williston Basin implement the

CIG/Granite State policy and also permitted other pipelines that had implemented the policy to submit filings to remove tariff provisions implementing the policy. (Order at paras. 24 and 25). The Commission concluded that, “CIG/Granite State policy does not provide the anticipated benefits to shippers and may in fact harm captive customers by discouraging pipelines from offering selective discounts. Accordingly, the Commission will not require pipelines to depart for [sic] the El Paso policy at this time.” (Order at para. 24). For the reasons set forth below, NEM requests rehearing of the Commission’s Second Order on Remand. NEM also supports the Request for Rehearing submitted by NEM member, Proliance Energy, in this proceeding.

NEM submits that in permitting a return to the El Paso policy, the Commission will be restricting the flexibility of shippers by making it more difficult to use discounted points. This regression in policy with respect to the Williston system individually as well as other pipeline systems is not justified by the record in this proceeding. The Commission’s Order, while mentioning the submission of marketer comments, failed to consider the need for competitive neutrality in the markets for natural gas. The El Paso Policy allows pipelines to engage in price discrimination among shippers and thereby increases their market power. By requiring maximum rates for all other points of receipt and delivery, the policy maximizes the market power of the incumbent whereas the CIG policy would enhance both flexibility and competitive pricing. Rather than restrict shippers ability to use discounted points, the Commission should consider permitting shippers to use their discounts at any points within their capacity thereby enhancing price competition.

NEM notes that the Commission is undertaking a generic review of its discount policy in Docket RM05-2. At a minimum, NEM suggests that the Commission defer implementation of the Second Order on Remand in the instant case until its review in Docket RM05-2 is completed. This will afford more potentially affected parties to contribute to development of the record and will permit more uniform understanding and informed implementation of Commission policy.

V.

WHEREFORE, NEM respectfully requests that the Commission permit it to intervene in the above-referenced proceeding and be made a party for all purposes. For the foregoing reasons, NEM requests that the Commission grant rehearing of its Second Order on Remand in the above-captioned proceeding.

Sincerely,

S/Craig G. Goodman
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President
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Counsel for The National Energy Marketers Association

Dated: April 4, 2005.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated: April 4, 2005
Washington, D.C.

S/Stacey L. Rantala

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