

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

Petition for Rulemaking to Update)
Commission Regulations Regarding) Docket No. RM22-17-000
Allocation of Interstate Pipeline Capacity)

**REPLY COMMENTS OF THE INDUSTRIAL ENERGY CONSUMERS OF
AMERICA**

The Industrial Energy Consumers of America (“IECA”) respectfully submits these reply comments (the “Reply Comments”) pursuant to the Notice of Inquiry issued by the Federal Energy Regulatory Commission (“FERC” or “Commission”) on March 21, 2024, in the above-captioned docket (the “NOI”).¹

I. BACKGROUND

On June 2, 2022, the American Gas Association, American Public Gas Association (“APGA”), Process Gas Consumers Group, and Natural Gas Supply Association (collectively, the “Petitioners”) pursuant to Rule 207(a)(4) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.207(a)(4), submitted a Petition for Rulemaking (the “Petition”) respectfully requesting that the Commission conduct a rulemaking to adopt a rule to preclude natural gas pipelines from the practice of aggregating bids on non-contiguous segments of capacity in determining the highest-value bid for the purpose of allocating capacity (“junk and jewel”). On July 18, 2022, the following companies submitted comments in opposition to the Petition: ANR Pipeline Company (“ANR”); Northern Border Pipeline company (“Northern Border”); Kinder Morgan, Inc. (“Kinder Morgan”); Northern Natural Gas Company (“Northern”); Transcontinental Gas Pipeline Company, LLC (“Transco”); Interstate Natural Gas Association of America (“INGAA”). Also, on July 18, 2022, the following parties submitted comments in support of the Petition: BP Energy Company (“BP”), Interstate Power and Light, Utica, LLC, Chesapeake Energy Marketing, L.L.C. (“Chesapeake”), ConocoPhillips Company (“Conoco”), Continental Resources, Inc. (“CLR”), and XTO Energy Inc.

¹ *Petition for Rulemaking to Update Commission Regulations Regarding Allocation of Interstate Pipeline Capacity*, 186 FERC ¶ 61,197 (March 21, 2024).

(collectively, the “Intervenors”).² On August 3, 2022, Sabine Pass Liquefaction, LLC filed comments in support of the Petition and a Motion to Intervene Out-of-Time. On September 6, 2022, the Petitioners submitted reply comments in response to the comments of the Pipelines in opposition to the Petition (the “Reply”). On August 21, 2023, the National Association of Regulatory Utility Commissioners submitted comments in support of the Petition.

On March 21, 2024, the Commission issued the NOI. On June 27, 2024, the Petitioners submitted a response to the NOI in support of a rule prohibiting junk and jewel (the “Petitioner Comments”). Additionally, on June 26, 2024, the Canadian Association of Petroleum Producers, and on June 27, 2024, the following parties, each submitted responses to the NOI in support of a rule precluding junk and jewel: Basin Electric Power Cooperative, BP, Ascent Resources – Utica, LLC (“Ascent”), Chesapeake, Conoco, CLR, and ExxonMobil Oil Corporation (“Exxon”),³ the Electric Power Supply Association, EQT Energy, LLC, and Xcel Energy Services Inc.. Also on June 27, 2024, Kinder Morgan, Transco, Northern, INGAA, and TC Energy Corporation (“TC Energy”; together with Kinder Morgan, Transco, Northern, and INGAA, the “Pipelines”) submitted responses to the NOI opposing a rule precluding junk and jewel. In response to the Pipelines’ opposition comments, IECA submits the following reply comments (the “Reply Comments”).

II. IDENTITY AND INTERESTS

IECA is a nonpartisan association of leading manufacturing companies with \$1.3 trillion in annual sales, over 12,000 facilities nationwide, and with more than 1.9 million employees. It is an organization created to promote the interests of manufacturing companies through advocacy and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries, including chemicals, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, consumer goods, building products, automotive, independent oil refining, and cement.

² Utica, LLC, Chesapeake, Conoco, CLR and XTO Energy Inc. filed jointly as “Indicated Shippers”.

³ BP, Ascent, Chesapeake, Conoco, CLR, and Exxon filed jointly as “Indicated Shippers”.

III. COMMUNICATIONS

All pleadings, correspondence and other communications filed in this proceeding should be addressed to:

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IV. REPLY COMMENTS

IECA supports the position of the Petitioners in this proceeding. IECA agrees that the practice of junk and jewel unduly discriminates against captive industrial and manufacturing customers, including IECA's members. These customers, who have an operational need for a particular segment of capacity to serve industrial or manufacturing facilities, must effectively compete on a market-based price to win the capacity they need. They cannot afford to bid on extraneous segments of pipeline capacity that have no operational value ("junk capacity") because the capacity is not in the location, or in a direction of flow, or available in a season where it can be used to serve their industrial or manufacturing plants. IECA submits that industrial and manufacturing shippers do not benefit from junk and jewel because they are not in a position to speculate on junk capacity that they do not need, and cannot use, in order to receive the valuable capacity ("jewel capacity") that they do need.

IECA concurs fully with the Petitioner Comments submitted concurrently with these Reply Comments. As demonstrated in the Appendix submitted with the Petitioner Comments, pipelines are able to rely on junk and jewel to earn revenues that reflect the market spread for the valuable capacity and far exceed the revenues they would otherwise earn by charging the maximum authorized tariff rate for that valuable capacity. IECA agrees that as regulated monopolies, pipelines are prohibited from charging market-based rates without showing that they lack market power and that, junk and jewel circumvents that prohibition. Also, while the Commission previously expected that shippers would receive benefits in future rate cases from the crediting of

these excess revenues, as shippers on interstate pipelines nationwide, IECA members agree that shippers do not benefit as shown by the evidence because pipelines continue to claim in rate cases that such short-term firm transportation revenues are unlikely to continue into the future. Furthermore, as discussed in the affidavits attached as the Exhibits to the Petitioner Comments, junk and jewel highly disincentivizes the pipeline to construct additional capacity because the pipeline can sell the desired capacity at prices that capture the increasing market value of the additional capacity without investing any capital to build such additional capacity. IECA members suffer the consequences of the lack of investment in additional pipeline infrastructure and believe this practice should be prohibited for that reason. Junk and jewel also harms IECA members as consumers because it perpetuates capacity shortages and allows pipelines to collect increasingly higher scarcity rents. The evidence submitted by the Petitioners illustrates that pipelines are indeed maximizing the revenues that they extract from customers using this unjust, unreasonable, and unduly discriminatory practice, particularly during periods of capacity scarcity.

V. CONCLUSION

For the reasons stated above, IECA respectfully asks the Commission to prohibit the practice of allowing pipelines to package valuable and unwanted, operationally unrelated, non-contiguous capacity segments and the allocation of packaged capacity based on aggregated bids.

Respectfully submitted,

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July 29, 2024

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused a copy of the foregoing document to be served upon each person designated on the Service List for this docket compiled by the Secretary in accordance with the Commission's Rules of Practice and Procedure.

Dated at Washington, DC, this 29th day of July 2024.

/s/ Marnie Satterfield
Marnie Satterfield