

service.¹⁴ The standards already adopted by the WGQ constitute an integrated, consistent, and reasonably complete set of standards governing partial day recalls. Like other standards, these standards too may be improved over time, but the potential for such improvement need not delay implementation and deprive shippers of the immediate benefits of using these standards. Waiting to approve these standards until the Commission incorporates Version 1.7 of the standards could result in unnecessarily deferring the benefits of these standards for upwards of a year. Moreover, if the WGQ's membership does approve the examples of elapsed prorated capacity, pipelines can rely on these examples in administering the standards.

15. The Commission also finds no procedural reason to delay adoption of the standards. The set of adopted standards are readily identified by their Recommendation numbers (R02002 and R02002-2), are available from NAESB, and are posted on the Final Actions portion of NAESB's Web site.¹⁵ Each of the new standards is also identified by a discrete number using a "z" as a placeholder, such as 3.3.z2. Pipelines can therefore incorporate these standards by reference by identifying the number of the standard and indicating that it was adopted by Recommendation R02002 or R02002-2, as appropriate.

C. Capacity Release Timeline (Standard 5.3.2)

16. Standard 5.3.2 establishes the timeline applicable to capacity release transactions. In Version 1.6 of the standards, Standard 5.3.2 would provide that all capacity release transactions take place on a "Business Day." However, in the partial day recall standards (R02002), the WGQ revised this standard so that pre-arranged capacity release transactions could take place on any day; only biddable transactions would be limited to Business Days.

17. Dominion (supported by KeySpan) contends that, despite this change, Standard 5.3.2 is overly restrictive because biddable releases (those of more than 31 days or at discounts) still cannot be conducted on weekends or holidays. It argues that shippers that need capacity on those days will be forced to buy from the pipeline. It further argues that pipelines have the resources to process capacity release transactions on weekends and holidays.

18. The industry segments have reached consensus agreement on the timeline for conducting capacity release transactions, and the Commission will not modify this agreement based on the comments of two parties. What the Commission said in Order No. 587 regarding the need for unanimity on standards is equally applicable here:

While these standards represent a broad consensus of the industry, the Commission recognizes that not every standard commands universal support. In a democratic society, unanimity on matters of common concern is neither expected nor necessary. Standardization, by definition, requires accommodation of varying interests and needs, and rarely can there be a perfect standard satisfactory to all.¹⁶

Moreover, there is a reasonable basis for the industry to conclude that bidding should take place on Business Days, and not on weekends and holidays. This requirement limits the need for additional pipeline personnel to process released transactions on a weekend. But, more importantly, the WGQ could reasonably find that requiring bidding during the business week would better ensure that all members of the industry have a reasonable opportunity to bid on capacity release postings. Posting long-term pre-arranged releases for bidding on a weekend, for instance, could limit the scrutiny of such releases and the ability of other shippers to offer competitive bids.

19. While Dominion recognizes that shippers are able to enter into short-term pre-arranged releases (not subject to bidding) on weekends and holidays, it maintains that shippers seeking longer-term releases subject to bidding (more than 31 days, but less than one year, at less than maximum rates) will not be able to obtain released capacity on weekends and holidays, but will be forced to rely on capacity from the pipeline for those days.

20. The standards do not preclude shippers from acquiring released capacity on weekends or holidays. Under the standards, shippers needing capacity on weekends or holidays can acquire released capacity by entering into pre-arranged, short-term capacity release transactions on a weekend.¹⁷ If

the releasing shipper and replacement shipper seek a longer term transaction that is subject to bidding (as Dominion posits), they can enter into a pre-arranged releases to cover the weekend or holiday and then post the longer-term release on the next business day, so other shippers have an opportunity to bid for that capacity. The standards therefore do not make shippers dependent on obtaining pipeline capacity for weekends and holidays, while at the same time they ensure that long-term biddable transactions will be posted on business days when all shippers will have an opportunity to bid for the capacity.

D. Mechanisms for Allocating Partial Day Release Quantities

21. Standard 5.3.z13 (R02002) states:

In the event of an intra-day capacity recall, the Transportation Service Provider (TSP) should determine the allocation of capacity between the Releasing Shipper and the Replacement Shipper(s) based upon the Elapsed Prorata Capacity (EPC). Variations to the use of EPC may be necessary to reflect the nature of the TSP's tariff, services, and/or operational characteristics.

In the NOPR, the Commission also proposed that the determination of reservation charges and credits and the potential liability for contract overruns should follow the allocation of capacity. The Commission stated that "it sees no reason in this instance for pipelines to propose individual allocation methodologies."¹⁸

22. Duke seeks clarification that the Commission's statement that it saw is no reason for pipelines to propose individual allocation methodologies will not preclude pipelines from following standard 5.3.z13 and proposing variations to the use of Elapsed Prorata Capacity when necessary to reflect the nature of the pipeline's tariff, services, and/or operational characteristics. Duke claims that the Elapsed Prorata Capacity does not fully address the needs of its pipelines.

23. As permitted by Standard 5.3.z13, pipelines may propose variations to the use of Elapsed Prorata Capacity to allocate capacity among releasing and replacement shippers after a recall if they can provide justification that such deviations are necessary to reflect specific services or operational characteristics on their systems and do not unduly limit the rights of

¹⁴ Order No. 587-N, at P 21.

¹⁵ <http://www.naesb.org/Final.htm>.

¹⁶ Order No. 587, 61 FR, at 39057, FERC Stats. & Regs. Regulations Preambles (July 1996–December 2000) ¶ 31,038, at 30,059.

¹⁷ Data the Commission has downloaded from pipeline Web sites show that 90% of all capacity releases are pre-arranged deals. See e.g., <http://www.ferc.gov/gas/pl02-4/RawDataAboveCaps.xls> (93% of above cap deals March 25, 2000 are pre-arranged); Secondary Market Transactions on Interstate Natural Gas Pipelines, Notice of Proposed Rulemaking, 61 FR 41046 (Aug. 7, 1996), FERC Stats. & Regs. Proposed Regulations (1988–1998)

¶ 32,520, at 33,252–53) (July 31, 1996) (92% of transactions from 5/1/95–5/31/96 are pre-arranged).

¹⁸ NOPR, at P 12.