

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

OFFICE OF ENERGY PROJECTS

August 21, 2008

Nancy M. Morris, Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-0609

Re: File Number S7-15-08. Proposed Rule on Modernization of the Oil and Gas Reporting Requirements

Comments of the staff of the Federal Energy Regulatory Commission

Dear Ms. Morris:

On July 9, 2008, taking into account comments received in response to its Concept Release, the Securities and Exchange Commission (SEC) published a Proposed Rule, soliciting comments to questions related to proposed regulatory revisions.<sup>1</sup> These are the comments of the Federal Energy Regulatory Commission (FERC) to that Proposed Rule, submitted in accord with 42 USC 6383(b). As discussed below, FERC responds affirmatively to the question of whether extracting hydrocarbons from non-traditional or unconventional sources should be considered producing activities. As to the question of what constitutes “reasonable certainty” that proved gas reserves will be recovered, FERC stresses that transportation facilities need not be in place prior to extraction to be certain that the gas will reach a ready market. These comments amplify our previous comments made in response to the Concept Release.<sup>2</sup>

FERC endorses the proposed regulatory revisions to sections 210-4-10(a)(16)(D) and 229.1202(b)(2), as they provide the industry and investors with a more accurate reflection of the reserves of natural gas that are contained in, and are being extracted from, non-traditional or unconventional sources, in particular, shale deposits.

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<sup>1</sup> *Modernization of the Oil and Gas Reporting Requirements*, 73 Fed. Reg. 39526 (2008).

<sup>2</sup> *Concept Release on Possible Revisions to the Disclosure Requirements Relating to Oil and Gas Reserves*, 72 Fed. Reg. 71610 (2007).

While these revisions take into account technological advances that now allow reliable recovery of such sources of natural gas, FERC reiterates its concern that the existing Rule 4-10(a)(2) definition of “proved oil and gas reserves”<sup>3</sup> may not reflect regulatory and industry practices that enable the timely construction of facilities necessary to gather, process, and transport natural gas.

The Proposed Rule considers defining “reasonable certainty” as “much more likely to be achieved than not.” FERC has no objection to this standard, but notes that with respect to the Rule 4-10(a)(2) definition of proved gas reserves, the SEC requires a company to demonstrate with “reasonable certainty” that gas reserves will “be recoverable in future years from known reservoirs under existing economic and operating conditions.” As the SEC observed in the Concept Release, it assumes that the “recoverable in future years from known reservoirs under existing economic and operating conditions” cannot be met unless there is a means in place to transport gas from the wellhead to the market.<sup>4</sup> FERC believes that existing gas reserves should not be precluded from being viewed as proved, and classified as stranded, solely on the grounds that the infrastructure to move gas to market is not currently in place.

As FERC noted in its prior comments, the development of transportation infrastructure and long-term service commitments by shippers employing this infrastructure provide a “reasonable certainty” that “a means to transport resources” to a ready market can be put into place relatively quickly. Between 2000 and 2008, FERC has approved over 13,000 miles of natural gas pipeline, and nearly 11,000 miles of new pipeline has gone into service. For example, REX-West and REX-East, two major large-diameter pipeline projects totaling over 1,300 miles in length, specifically designed to bring formerly shut-in Rockies gas to market, were authorized in 11 months and 13 months, respectively. REX-West recently went into service, while REX-East is currently under construction. In the shale area between Oklahoma and Alabama, FERC took just nine and one-half months to authorize the 506-mile Midcontinent Express Project. Based on this timely record of responsiveness to dynamic supply and market realities, it is FERC’s view that inclusion of all “proved reserves,” whether connected or unconnected to a transporting pipeline, meets the stated threshold as provided in Rule 4-10.

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<sup>3</sup> 17 CFR § 210.4-10(a)(2) (2008).

<sup>4</sup> *See* 72 Fed. Reg. 71610, 71611, *citing* Division of Corporation Finance, Current Issues and Rulemaking Projects (November 14, 2000), available at <http://www.sec.gov/divisions/corpfm/guidance/cfoilgasinterps.htm>.

Accordingly, FERC requests that the SEC no longer assume that a ready market for gas does not exist until a physical means to move the gas to market is in place. Instead, FERC proposes that the SEC presume, subject to rebuttal, that infrastructure can be authorized, constructed, and placed into service within a period of time, and at a cost, that will allow for the transportation of gas reserves to market and the sale of such reserves at a competitive price.

Best regards,



Berne L. Mosley, Director  
Division of Pipeline Certificates  
Office of Energy Projects  
Federal Energy Regulatory Commission

Cc: Joseph T. Kelliher, Chairman  
Suedeen G. Kelly, Commissioner  
Phillip D. Moeller, Commissioner  
Marc L. Spitzer, Commissioner  
Jon Wellinghoff, Commissioner