



TEXAS OIL & GAS ASSOCIATION

June 9, 2004

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Mr. George Triebsch,
Associate Director, Policy & Management Improvement
Minerals Management Service
1849C Street, NW
Mail Stop 4230
Washington, DC 20240-0001

Re: 30 CFR Part 200, Open and Non-Discriminatory Movement of Oil and Gas as
Required by the OCS Lands Act

Dear Mr. Triebsch:

Texas Oil & Gas Association ("TxOGA") is a trade association representing all segments of the oil and gas industry operating in Texas. The members of TxOGA, approximately 2,000 strong, produce in excess of 92-percent of Texas' crude oil and natural gas, and a significant percentage of the offshore Gulf of Mexico crude oil and natural gas production. Additionally, TxOGA members operate a vast majority of the pipeline mileage in Texas and in the Gulf of Mexico.

TxOGA appreciates the opportunity to provide comments on the Advance Notice of Proposed Rulemaking. Having reviewed the MMS' initial notice and the summaries of verbal comments offered at the MMS public meetings, we offer the following comments on items of interest in the initial notice.

Many TxOGA members are directly involved in developing, producing, and/or transporting oil and gas from the OCS. Generally speaking, OCS development, production, and pipeline projects involve significant risk, cost, and complex negotiations. There is significant competition in the Gulf of Mexico on proposed pipeline projects, and producers always can build gathering lines to connect new production to existing infrastructure themselves if the third party offers to gather their oil and/or gas are unacceptable. The relative magnitude of capital for a pipeline is usually a small fraction of the capital at risk for an exploration and development project.

Proposals to build new oil and gas pipelines in a new production area typically include a request for a life of reserve dedication and a fee for transportation services performed without "Demand Charges" as seen with most interstate pipelines. There normally is no guarantee required from the producer as

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to the ultimate volume to be produced into the pipeline, which is how pipelines share in the reserve and production risk. If production fails to develop, the pipeline will be unable to recover its capital invested in the project.

Pipelines generally will go "at risk" by sizing their projects larger than initially required by the anchor producers in a developing area so that more reserves must be produced from the area to receive an acceptable return. The pipeline competition along with a producers ability to construct its own connection provides the assurances that the anchor producers only pay for the cost of the capacity it reserves. The pipeline is then challenged to competitively connect developing production in the area to reach economic hurdles. In these cases, the anticipated hydrocarbon discoveries may not develop timely, or possibly ever, leaving the pipeline with substantial economic risk.

The current method of sharing development risk and cost has been effective in creating the needed network of offshore Gulf of Mexico oil and gas pipelines. There appears to be no justification for making any significant changes to the current regulatory scheme which allowed this network to efficiently develop. Doing otherwise could have a negative effect on the investment of capital needed for future infrastructure development in the OCS.

For these reasons and those set out in our enclosed responses to the MMS questions, TxOGA supports statements made at the public meetings: the existing structure of regulatory oversight has been positive as evidenced by the significant infrastructure development in the Gulf of Mexico. Currently there are incentives for pipeline companies to over-build their initial pipeline systems and take the risks on future reserve development. This balance of risks allows producers to focus more of their capital on drilling and production.

Advance NOPR Questions and TxOGA Comments:

Attached for your consideration are the questions contained in the MMS NOPR and TxOGA's comments.

Thank you for your consideration of these comments and recommendations. Please contact me (512) 478-6631, or Mr. Delbert Fore, (832) 676-5316, if you have any questions or require any additional information.

Sincerely,



Ben Sebree

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TxOGA Response to MMS NOPR Questions

Question 1

What are the scope, magnitude and seriousness of any instances where access or discrimination problems were encountered by service providers or shippers of natural gas, both for lines that do not operate under the jurisdiction of the NGA and those that do?

Answer

Many of TxOGA's members are directly involved in extensive development of oil and gas in the Gulf of Mexico. OCS development projects require extensive planning and negotiations. Access to pipelines is an integral part of successful development planning and transportation arrangements are considered early in the project planning. For that reason, we believe there have been few if any concerns about access or discrimination problems. Access and services are determined in advance of significant development by most prudent producers.

TxOGA does not believe that OCS pipelines have been acting in an unfair or unreasonable manner in their dealings with shippers. As noted in our more general comments, it is reasonable that customers would negotiate different rates based on their reserves, water depth, future development potential, the cost and difficulty to connect reserves, and other business in other locations.

Question 2

Has the lack of any regulatory oversight had, or might it have, potential positive or negative impacts?

Answer

TxOGA does not agree with the statement that there has been a "lack of any regulatory oversight". The current level of regulatory oversight has had a positive effect on drilling, development, and production activities. Producers and pipelines have been able to negotiate fees in a competitive environment. This promotes risk taking and development of the infrastructure with capacity for future production growth. This in turn may provide incentive for additional drilling and development.

Question 3

Under what circumstances would a service provider deny service to a shipper?

Answer

If a pipeline is fully subscribed on a firm basis it would not have capacity available. A pipeline would always offer interruptible capacity and/or work with existing producers who see declines in their need for contracted capacity, to provide new shippers an opportunity to subscribe to such capacity. As stated in our comments above, prudent producers contemplating development in an area generally do a survey of the pipelines in proximity to the project for available capacity, as part of their development review. If capacity is not currently available, their development plans may need to be adjusted until capacity is available.

Question 4

What types of complaints might the MMS receive if it established a hotline?

Answer

The MMS might receive complaints about gathering fees in an attempt to influence negotiations, when gathering fees affect commerciality of a well, or when a producer views a fee as higher than they believe is being paid by another similarly situated producer on the gathering system.

Questions 5

What are the advantages and disadvantages of resolving the complaints through an informal negotiation or a more rigorous dispute resolution process? What should be the structure of the informal or formal complaint resolution process?

Answer

TxOGA does not believe that new processes are necessary. If one is developed it should not extend beyond establishment of an informal complaint procedure. Setting up an informal complaint procedure will facilitate the negotiated resolution of the few problems that arise, and allow the MMS to gauge for itself if additional investigation and safe guards are justified. We believe that the informal complaint process in such states as Texas work, and are cost effective.

Questions 6

If the complaint escalated into a more formal dispute what should the resolution process look like and how would it differ from the informal process?

Answer

TxOGA believes the MMS should consider limiting it's initial approach on this subject to a form of informal complaint process. We believe that experience at FERC and elsewhere has demonstrated that most complaints are resolved through this type of process.

Question 7

Would the parties be more likely to participate in one type of process over another and what would affect their decision?

Answer

TxOGA believes that most parties would participate in an informal process due to the lower cost and faster resolution of a dispute.

Question 8

What factual data or information is necessary to determine that open access has been denied or that discrimination has occurred? What mechanism could be used to gather such information and to what extent should it be made public?

Answer

TxOGA suggests that it is premature to judge the need for data collection at this point. If an informal complaint process were introduced, it would provide the MMS with a tool to determine if some form a data collection is helpful and cost justified in resolving identified issues.

Question 9

Can this mandate be accomplished in the absence of information collection and the dissemination of all or part of the information?

Answer

TxOGA believes that an informal complaint process will allow the MMS to ascertain whether allegations of problems with access or discrimination are legitimate or merely negotiation tools. Additionally, the MMS can gauge the scope and magnitude of any legitimate problems and craft a narrowly targeted regulatory response that appropriately addresses the problems.