UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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

COMMENTS OF THE AMERICAN GAS ASSOCIATION, AMERICAN PUBLIC GAS ASSOCIATION, PROCESS GAS CONSUMERS GROUP, AND NATURAL GAS SUPPLY ASSOCIATION

The American Gas Association ("AGA"), American Public Gas Association ("APGA"), Process Gas Consumers Group ("PGC"), and Natural Gas Supply Association ("NGSA") (collectively, the "Commenters") respectfully submit these comments (the "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 Commenters, 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") (collectively, the "Pipelines"). Also, on July 18, 2022, the following parties submitted comments in support of the Petition: BP Energy Company ("BP"), Interstate Power and Light ("IPL"), Utica, LLC, Chesapeake Energy Marketing, L.L.C., ConocoPhillips Company, Continental Resources, Inc., XTO

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

Energy Inc.,[2] and Continental Resources, Inc. ("CLR") (collectively, the "Intervenors"). 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 Commenters 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 ("NARUC") submitted comments in support of the Petition. On March 21, 2024, the Commission issued the NOI.

II. INTRODUCTION

The interstate pipeline practice of packaging high-market-value capacity with non-contiguous and operationally unrelated parcels of capacity with little or no market value is becoming increasingly more commonplace in the market and has increased in frequency dramatically since Commenters last filed comments asking the Commission to ban this practice in 2022. New evidence from 2023-2024 demonstrates that pipelines continue to use this practice in a manner that allows them to exercise market power and harm consumers. This practice has enabled the pipelines to collect millions of dollars of revenues above maximum rates for valuable pipeline capacity by pairing it with capacity with little or no market value and then awarding the capacity based on the combined value of the bids.[3]

The Commission previously anticipated that customers would be protected from harm if the pipeline's tariff did not technically require bids on non-contiguous segments. However, the updated evidence attached to these Comments shows that customers are effectively required to bid on unwanted capacity with little or no market value in order to obtain the segments of high-market-value capacity on the pipeline or else lose access to the capacity needed to serve their loads and supply their plants.

This practice continues to unduly discriminate against captive industrial customers, municipal gas systems, and local distribution companies. These customers, who have an operational need for a particular segment of capacity to serve local distribution company ("LDC") load, a power plant, or a manufacturing facility, must effectively compete on a market-based price to win the capacity they need. They cannot afford to bid on extraneous segments of pipeline

[2] Utica, LLC, Chesapeake Energy Marketing, L.L.C., ConocoPhillips Company, Continental Resources, Inc., and XTO Energy Inc. filed jointly as "Indicated Shippers."

[3] *See* Chart 1A, "2023-2024 Interstate Pipeline Examples and Excess Value".

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 plants or the LDC or municipal's retail customers. Commenters submit that shippers such as industrial shippers and retail gas systems do not benefit from this practice 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.

The economic difference in the value of natural gas at the receipt and the delivery points for the capacity is the market spread. Certain customers, such as large banks, which have large enough credit capability will eagerly bid an aggregate amount for both the valuable and less desirable capacity at a price that reflects a large percentage of the market spread on the valuable segment just so they can obtain the valuable capacity. Thus, as demonstrated in the Appendix submitted with this filing, pipelines are able to rely on this practice 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. As regulated monopolies, pipelines are prohibited from charging market-based rates without showing that they lack market power. By design, this practice of bundling valuable capacity with undesirable capacity is a novel attempt to circumvent that prohibition.

This practice also continues to harm all shippers, including marketers, because it unnecessarily raises transportation costs to their customers, who include industrials, utilities, generators, and other end users. While the Commission previously expected that shippers would receive benefits in future rate cases from the crediting of these excess revenues, our evidence demonstrates that shippers have not received any such benefits because pipelines continue to claim in rate cases that such short-term firm transportation revenues are unlikely to continue into the future. Consequently, pipelines include only a small amount of the actual short-term revenues they are receiving in calculating rates in their rate filings.[4] Additionally, in response to the question from the Commission as to why junk and jewel postings are only short-term arrangements, our evidence shows that these are often back-to-back short-term contracts but do not need to be reflected as such in the pipelines' rate cases because the pipelines post them as short-term deals.

Furthermore, as discussed in the affidavits attached as the Exhibits to these Comments, this practice highly disincentivizes the pipeline to construct additional capacity because the pipeline

[4] *See* Affidavit of Elizabeth H. Crowe, Exhibit No. 0003 at para. 7-9.

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. This practice also hurts consumers because it perpetuates capacity shortages and allows pipelines to collect increasingly higher scarcity rents. This concern is not merely theoretical, as the attached evidence 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.

To date, the Commission has only considered this issue within the narrow context of tariff filings by individual pipeline companies and not on a generic basis. Commenters request that the Commission adopt a policy, and revise its regulations as necessary, to prohibit this practice, protect consumers from unjust and unreasonable rates, and provide all shippers with the fair and unencumbered opportunity to acquire pipeline capacity as envisioned in the Commission's open-access regulatory regime. In support of this request, Commenters submit as follows:

III. COMMUNICATIONS

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IV. IDENTITY AND INTERESTS

AGA, founded in 1918, represents more than 200 local energy companies that deliver clean natural gas throughout the United States. There are more than 78 million residential, commercial, and industrial natural gas customers in the U.S., of which 95 percent — more than 74 million customers — receive their gas from AGA members. AGA is an advocate for natural gas utility companies and their customers and provides a broad range of programs and services for member natural gas pipelines, marketers, gatherers, international natural gas companies, and industry associates. Today, natural gas meets more than one-third of the United States' energy needs.

AGA's LDC members own and operate local natural gas distribution pipeline systems that typically receive natural gas supplies that have been transported on the interstate pipeline system. LDCs deliver natural gas under locally regulated rates, terms, and conditions, directly to residential, commercial, and industrial customers, including electric generators. AGA members take service from virtually every interstate natural gas pipeline regulated by the Commission under the Natural Gas Act ("NGA"). As customers of jurisdictional pipelines and providers of natural gas distribution service to all retail segments, AGA members are directly affected by the Commission's rules and policies addressing or affecting pipeline rates. AGA member companies, therefore, have a direct and substantial interest in the issues raised in this proceeding.

APGA is the trade association for approximately 730 communities across the U.S. that own and operate their retail natural gas distribution entities. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies, all locally accountable to the citizens they serve. Public gas systems provide energy safely, reliably, and affordably to their customers and support their communities by delivering fuel to be used for cooking, clothes drying, and space and water heating, as well as for various commercial and industrial applications.

PGC is a trade association that represents energy-intensive large industrial and manufacturing natural gas consumers who are typically longstanding, significant employers within their respective communities. PGC members own and operate hundreds of manufacturing plants and facilities in virtually every state in the nation and consume natural gas delivered through interstate natural gas pipeline systems throughout the United States. PGC members hold transportation capacity on numerous interstate pipelines.

NGSA represents integrated and independent energy companies that produce and market domestic natural gas and is the only national trade association that solely focuses on producer-

marketer issues related to the downstream natural gas industry. NGSA's members trade, transact, and invest in the United States natural gas market in a range of different manners, as well as supply and ship billions of cubic feet of natural gas per day on interstate pipelines and therefore, could be impacted greatly by the outcome of this proceeding.

V. COMMENTS

A. Frequency of the Inclusion of Aggregated Non-Contiguous Segments in Capacity Postings

A1. *In the Docket No. RM22-17-000 Petition for Rulemaking, Petitioners provided 15 examples of what they describe as "junk and jewel" postings from 2018 through 2022. If available, please provide the Commission with any more recent examples of postings pairing desirable, high-value capacity with unwanted, low-value capacity. Explain, with supporting data if possible, whether there has been a change in frequency of such postings since the filing of the Petition. Is the publicly available information on pipelines' EBBs sufficient to identify the frequency with which pipelines offer non-contiguous and/or operationally unrelated paths for aggregated bidding?*

Commenters have been able to document 59 instances of junk and jewel postings in 2023 and at least 30 such postings already in 2024, indicating that the frequency of junk and jewel postings has increased since the Petition was filed, as shown in Chart 1A below.

Chart 1A: 2023-2024 Interstate Pipeline Examples and Excess Value

	Transco	Tennessee	Southern	NNG	Northern Border	NGPL	GTN[5]	ANR	Columbia	Columbia Gulf
2023 examples	7	16	2	1	12	8	33	1	9	2
2024 examples	3	7		2	8	5	9		1	
2023 excess value	$10.407 million	$16.053 million	$16.042 million		$45.77 million	$4.845 million	$10.5 million	$561,600	$127,980	$98,987
2024 excess value	$737,602	$3.472 million			$70.55 million	$2.492 million	$4.18 million			

These postings demonstrate how often valuable capacity is being paired with capacity of low or no value in a single auction. A prime example is Transco, a long-haul pipeline extending from the Gulf of Mexico to the Northeast. Transco continues to earn excessive revenues by relying upon this practice and has increased its over-recoveries in recent awards. As shown in Appendix A,[6] in a March 16, 2023, posting, Transco paired valuable capacity with capacity that has no value. In this case, the valuable capacity runs from the producing region in Pennsylvania (MARC 1) to the Zone 6 market area in New Jersey (Transco Station 210). This valuable capacity was paired with capacity from one point in the producing region Zone 4A in Alabama and Mississippi (Citronelle) to another point in the producing region Zone 4A (Station 85, located in Butler, Alabama). There is little to no liquid supply available at the receipt point, rendering the capacity worthless. Nonetheless, the winning bidder paid approximately $4.63 million for 300,000 dekatherms ("Dth") of the valuable capacity and $4.44 million for 375,000 Dth of junk capacity, for a total for both packages of approximately $9.07 million. The maximum revenue for the valuable capacity at maximum rate was approximately $4.69 million. Thus, Transco was able to exceed its allowed revenues based on the maximum tariff price for the valuable capacity by approximately $4.38 million by tying it to the junk capacity. This example is also good evidence of the increasing capacity scarcity on the Transco system as a result of this conduct being allowed

[5] See Affidavit of Elizabeth Crowe, Exhibit No. 0003, Attachments 2 and 3.
[6] Appendix A, Transco posting March 16, 2023.

to continue - in the example from 2020 in the Petition, Transco only collected about $1.1 million in excess of maximum rates for a similar transaction.[7]

Another recent example that shows how pipelines tie valuable capacity to capacity with little to no value occurred on the Northern Border system in 2023. On July 28, 2023, Northern Border issued a posting for valuable capacity from the Port of Morgan located in Montana near the international border with Saskatchewan, Canada, which is a receipt point for Canadian gas entering the United States, to a delivery point at North Hayden, Indiana, which is used for deliveries into the market area. Northern Border paired that valuable capacity with a posting for deliveries from Ventura, Iowa to the Port of Morgan, which has little to no value because the receipt point at Ventura is within a traditional market area with no supply, and the delivery point at Port of Morgan is a traditional receipt point for receiving gas from Canada, and market forces dictate that the backhaul path is almost never used. While the maximum tariff value of the desirable capacity was approximately $10 million, the market spread value was approximately $40 million at the time of the auction.[8] By packaging this capacity with the unwanted capacity, Northern Border earned an excess $41.6 million over the maximum rate for the valuable capacity, effectively capturing the market value for the desirable capacity.[9] This example shows that Northern Border continues to expand on its ability to earn excessive revenues above the maximum rates by reliance on this practice, likely due to the increasing scarcity of capacity as this practice has been allowed

[7] The Petition discusses an earlier example of junk and jewel by Transco from 2020. *See* Petition, Appendix A, Transco posting December 9, 2020. The pipeline's posting included both a valuable capacity segment running north from Station 4 in Mississippi and Alabama to Zone 5 in the market area in the Mid-Atlantic in the winter (*i.e.*, highly desirable capacity), and a capacity segment in the Southend of the pipeline going from Mobile Bay Station Zone 4A in Alabama to Zone 4B in Alabama (*i.e.*, less desirable capacity). The pipeline indicated it would not accept any bid for any package that was less than the full contract path or less than the full time period, and that NPV of each package bid by any party would be summed to determine the best bid. As shown in the example, the maximum recourse rate for the valuable capacity segment was $557,000. However, the capacity was awarded to a bidder that bid, in aggregate, $1,669,000, effectively representing the full $557,000 max rate value for the valuable segment and an additional $1,112,000. The market value on the valueless segment was zero, and the aggregate bid of $1,669,000 compares to the market value for that quantity of capacity on the valuable path. The effective winning bid for the valuable capacity was therefore over twice the amount of a bid at the maximum recourse rate.

[8] *See* Appendix A, Northern Border posting July 28, 2023, Segment 1 transportation from Port of Morgan to North Hayden for a quantity of up to 187,981 Dth per day ("Dth/d") at a maximum rate of approximately $0.32 or a value of approximately $9,983,122, Segment 2 transportation from Ventura to Port of Morgan for a quantity of up to 1,000,000 Dth/d.

[9] *See* Appendix A, Northern Border posting July 28, 2023. The winning bidders bid a total of approximately $51,000,000.

to continue.[10] It is also noteworthy that Northern Border has made monthly postings pairing Port of Morgan-to-North Hayden capacity with Ventura-to-Port of Morgan capacity for every month from February 2023 to June 2024 except November 2023 and March 2024, which months were separately marketed in a paired seasonal capacity auction.[11]

Gas Transmission Northwest ("GTN") has also begun engaging in this practice since the Petition was filed. Specifically, on July 7, 2023, GTN posted a package with valuable capacity from a receipt point for Canadian gas at the international border at Kingsgate in Washington state to a delivery point in the market at Malin, Oregon. The package also included junk capacity for the reverse of this flow, which almost never occurs and typically only for the partial path, from a receipt point at Malin, Oregon, where there is no supply, to a delivery point in Kingsgate, where there is no market, and GTN was able to exceed the tariff maximum price by $2.81 million from the auction.[12] Additionally, similarly to Northern Border, GTN has made junk and jewel postings for capacity with a term of one month in every month since March 2024.[13] Despite these substantial earnings, as discussed in the affidavit of Elizabeth H. Crowe, when GTN filed its recent rate case, its witnesses proposed to eliminate most of the short-term volumes from the volumes to be reflected when setting its rates.[14]

In response to Question A.1, the Commenters further submit that the publicly available information is insufficient to fully identify the frequency with which pipelines offer non-contiguous and/or operationally unrelated paths for aggregated bidding given how quickly postings are removed from pipelines' EBBs after the auctions conclude. Commenters believe there are more examples – potentially many more – than they have been able to document in these Comments.

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[10] As discussed in the Petition, an open season posting by Northern Border, which commenced August 19, 2022, and ended August 24, 2022, shows that Northern Border was able to extract $31 million in excess of the maximum rate for the valuable capacity. In its comments in support of the Petition, CLR provides three examples where Northern Border was able to extract value in excess of the maximum rate for more valuable capacity segments that were tied to less valuable capacity segments of pipeline.

[11] *See* Appendix A, Northern Border postings January 20, 2023, to May 16, 2024.

[12] *See* Appendix A, GTN posting July 7, 2023, Segment 1 transportation path from Kingsgate (Receipt) to Malin (Delivery), Segment 2 from Malin MC (Receipt) to Kingsgate MC (Delivery).

[13] *See* Appendix A, GTN postings February 20, 2024, to May 17, 2024.

[14] *See* Affidavit of Elizabeth H. Crowe, Exhibit No. 0003 at para. 8. *See also* Affidavit of Tina Smith, Exhibit No. 0001 at para. 17-18.

A2. Please comment on the frequency with which shippers who were allowed to bid on multiple segments of capacity were awarded capacity in the auction despite bidding on only a portion of the posted capacity.

As discussed in the Petition and these Comments, despite the fact that a tariff does not *require* a shipper to bid on multiple segments of capacity, Commenters' experience (as demonstrated in the shipper affidavits attached to the Petition and these Comments) is that, as a practical matter, if a shipper does not bid on multiple segments, it will not have the highest net present value ("NPV") and, therefore, will lose the desired segment.[15] The only time shippers have won capacity without bidding on the worthless package of capacity has been when the market value of the high-value segment does not exceed the maximum tariff rate for that segment, so the pipeline receives no bids for the worthless package.

In the updated affidavits attached in the Exhibits to these Comments, a manufacturing representative explains that manufacturers cannot bid on capacity with no value, such as non-contiguous pipeline capacity between two points in a supply area that they cannot use, along with the capacity delivering into market area that they need to serve their plants. As companies that compete in a global market, they are subject to global competition for their products and face competitive costs constraints. Even if a manufacturer were to pay multiples of the maximum tariff rate for the pipeline transportation capacity it needed to serve its plants by bidding on capacity it cannot use, and assuming that the manufacturer could pass on the increased costs in the price for its goods, this practice would ultimately harm consumers by inflating the costs of manufactured goods worldwide, particularly the costs of crop inputs that are derived from fertilizer, the majority

[15] *See, e.g.*, Testimony of Terry Lewandowski, Exhibit No. 0002. *See also* attached to the Petition, Affidavit of Michael J. Frey, attached as Exhibit No. 0001, at para. 6-7; Testimony of Terry Lewandowski, attached as Exhibit No. 0002 at page 2, lines 4-24; Affidavit of Mollie Giem, attached as Exhibit No. 0003 at pages 4-7; Prepared Direct Testimony of George E. Briden, Ph.D., attached as Exhibit No. 0004 at pages 11-12. Intervenors' supporting comments provide several examples of instances where a shipper lost an auction because the relevant Pipeline was able to realize a higher NPV by tying the desired capacity to a less marketable segment. *See*, July 18, 2022 Comments of Interstate Power and Light Company in Support of Petition for Rulemaking ("IPL Supporting Comments"), at 3-4; July 18, 2022, Comments of CLR in Support of Petition for Rulemaking ("CLR Supporting Comments"), at 2-3; CLR Supporting Comments, Affidavit of Josh Baskett, at 1-2, P 6-11; July 18, 2022 Comments of Sabine Liquefaction, LLC in Support of Petition for Rulemaking ("Sabine Supporting Comments") at 5-6; Sabine Supporting Comments Appendix A; July 18, 2022 Comments of BP in Support of Petition for Rulemaking ("BP Supporting Comments"), at 3; July 18, 2022 Supporting Comments of Indicated Shippers ("Indicated Shippers Supporting Comments"), at 4-5.

of which costs are accounted for by the cost of the natural gas that is used as a feedstock for such fertilizer.

A3. It appears that the examples of "junk and jewel" scenarios provided by the Petition only include short-term (less than one year) capacity auctions. Please provide information that might explain why these scenarios are mostly occurring with short-term capacity auctions. If available, please provide specific examples of postings for long-term (equal to or greater than one year) capacity that use bid aggregation with non-contiguous and/or operationally unrelated segments of capacity.

Commenters submit that junk and jewel scenarios mostly occur in short-term capacity auctions because this practice permits pipelines to exclude the inflated revenues that pipelines receive in these scenarios from the base period that the pipelines select for their rate cases or make known and measurable downward adjustments to revenues that assume that the short-term contracts will not be repeated, and, thus, that their revenues should be excluded. In past cases, the Commission allowed pipelines to structure an open season to use NPV to maximize the use of the pipeline and increase revenues on the theory that this practice would ensure that capacity would go to the shipper who values it most and results in the least unsubscribed capacity, thus benefiting the pipeline and all customers, including existing customers.[16]

As noted above, the Commission assumed that customers would benefit from this practice because the pipelines' revenues would increase and thus, presumably, the pipeline would pass on these benefits to customers in the next rate case. Commenters, as shippers on these pipelines, assert that any purported benefit is marginal at best when pipelines charge above maximum rates for these aggregated capacity packages. Instead, such awarded capacity is considered part of a single short-term transaction. Pipelines are often able to select the base period for their rate cases. Consequently, pipelines can temporarily halt their practice of engaging in these short-term bundling transactions during the base period of the rate case so as not to increase overall billing

[16] *See Tennessee Gas Pipeline Co.* 79 FERC ¶ 61,297 (1997) (stating "[t]o apply the NPV criteria is to allocate that capacity to the entity that values if the most, and this is consistent with Commission policy. The Commission has previously discussed the desirability of the economic efficiency achieved by allocating capacity to parties who value it most") (citing Order No. 636-A, FERC Statutes and Regulations ¶ 30,950 at 30,555).

determinants, which are generally set based on the actual experience in the 12-month base period and adjustments that are known and measurable during the test period. As shown in the expert witness testimony included in the Exhibits, to the extent that pipelines do enter these short-term transactions, pipelines often assert that such revenues should not be reflected in the overall billing determinants or used to reduce calculated rates because they do not expect to have the same level of revenues from such transactions in the future.[17]

Another reason a pipeline might not want to market this capacity for a term greater than one year is to prevent a shipper from having an automatic right to extend its capacity contract. FERC policy provides for a regulatory "right of first refusal" to extend a transportation capacity contract whenever a shipper holds capacity at maximum tariff rate for a term greater than one year.[18] By restricting these packages to a term less than one year, the pipeline retains the right to continue marketing the capacity in aggregated packages in order to maximize its revenues. Otherwise, a shipper would simply cancel the "junk" package of capacity and extend the "jewel" contract for another term.

A4. Please provide information on how and why non-contiguous and/or operationally unrelated segments are chosen to package together in the same open season. Comment as to what extent capacity that Petitioners label as "junk" is still required to serve certain markets.

Commenters submit that pipelines choose to include non-contiguous and/or operationally unrelated segments together in the same open season in order to extract higher profits because a non-valuable segment can receive bids up to the maximum tariff rate that, in combination with bids up to the maximum tariff rate on valuable segments that are included in the open season, are representative of the market value of those valuable segments. This effectively allows valuable capacity to be contracted for at above the cost-based recourse rate. As shown in Appendix A, the amounts that successful bidders have paid to pipelines for packages of non-contiguous capacity

[17] *See* Affidavit of Elizabeth H. Crowe, Exhibit No. 0003 at para. 7-9 (discussing the recent publicly filed testimony in the GTN and Southern Natural Gas rate case proceedings).

[18] 18 C.F.R. § 284.221: "To be eligible to exercise this right of first refusal, the firm shipper's contract must be for service for twelve consecutive months or more at the applicable maximum rate for that service, except that a contract for more than one year, for a service which is not available for 12 consecutive months, would be subject to the right of first refusal."

exceed the maximum rate that the pipelines could have charged for one segment of capacity alone, sometimes by millions of dollars. Recent examples attached to these Comments show that the excess revenues are often equal to a large portion of the amount of the differential between the cost-based recourse rate for the valuable segment of capacity and the market value of the same segment of capacity during a time of scarcity,[19] and does not reflect the unwanted segment(s) of capacity suddenly becoming more valuable, as shown by the fact that shippers do not bid on the junk capacity when the market value of the high-value segment is negative (*i.e.*, does not exceed the maximum tariff rate). This practice effectively enables pipelines to collect a scarcity price for a valuable segment of capacity (by assigning the excess differential to the segment(s) of capacity with little or no value), resulting in unjust and unreasonable rates for such capacity. By doing so, pipelines are effectively receiving a market-based rate without Commission approval to charge market-based rates, which reflects the pipelines' ability to exercise market power to collect monopoly rents. Commenters submit that if a shipper were to similarly attempt to release two unrelated segments of capacity on a pipeline in the same manner (awarding both segments to the highest net-present value offer received), it would likely constitute impermissible tying.

Furthermore, as a result of this practice, these pipelines are not sufficiently incentivized to build additional capacity that would be valuable to customers, contrary to Commission policy.[20] Instead, pipelines are incentivized to creatively package non-contiguous segments of capacity for the sole purpose of extracting guaranteed revenue and monopoly rents from shippers.

Capacity that the Commenters label as "junk" is, in some cases, characterized by its *undesirability relative* to the more valuable capacity with which it is packaged. For example, pipelines (1) package capacity with delivery points into Chicago in the winter (highly desirable and valuable) with a much larger volume of capacity originating in Chicago with delivery points into markets in Michigan, against the normal supply flow direction in the winter (less desirable),[21]

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[19] *See, e.g.*, Appendix A, Transco 2023, column "Spread Value", which shows the market value of the capacity based on the difference in the price of gas at the receipt point into the capacity and the price of gas at the delivery point of the capacity, i.e., the basis or spread. Comparing column "Spread Value $"to column "Winning Bid" (the bid price for the winning bid(s)), the amount bid for both packages usually roughly equate to that market spread.

[20] *See, e.g.*, Petition, Exhibit No. 0004, page 11, lines 8-18.

[21] *See, e.g.*, Appendix A, ANR pipeline posting March 1, 2021, Segment 1 transportation from ML-7 receipt points and ANRPL storage to Chicago area deliveries and ANR Joliet Hub from 11/1/21-3/1/22 and quantity is up to 35,000

and (2) package capacity from a producing area to constrained markets in the Northeast (highly desirable and valuable) with a larger volume of capacity between two points in the Mobile Bay, Alabama region (less desirable)[22] or with tiny segments of capacity from one point to the adjacent point.[23] Commenters, however, have also observed packaging of capacity in ways that make one portion of the capacity physically unusable, for example, (3) packaging of capacity that flows in opposite directions at the same time on the same pipeline (forward haul highly valuable and backhaul unusable)[24] and (4) packaging of capacity with different terms and different quantities.[25] In these latter cases, it is inherently obvious that the packages are tied solely to increase the price that the pipeline can obtain for the valuable capacity, not to provide any benefit to the customer or indirectly to other shippers.

Dth/d. Segment 2 is from ANR Joliet Hub to ANRPL storage during the period from 1/1/22 to 3/31/22 and quantity is up to 100,000 Dth/d.

[22] *See, e.g.*, Appendix A, Transco posting February 20, 2023, Segment 1 transportation from Pooling station 65 (Zone 3) in Mississippi/Louisiana to Station 165 (Zone 5) in Virginia for a quantity of 35,000 Dth/ per day. Segment 2 is from Zone 4B in Alabama to Zone 4A in Alabama for a quantity of up to 25,000 Dth/d. See also example in Appendix A, Transco posting January 30, 2023, Segment 1 transportation from Marc I Interconnect on Leidy Line to Pooling Station 210 (from producing area/storage area in PA to market zone in NJ) for 60,000 Dth/d, Segment 2 is from Zone 4A in Alabama to Zone 4A in Alabama for 221,500 Dth/d; Transco posting March 7, 2023, Segment 1 transportation from Marc I Interconnect on Leidy Line to Pooling Station 210 (from producing area/storage area in PA to market zone in NJ) for up to 150,000 Dth/d, Segment 2 is from Zone 4A in Alabama to Zone 4A in Alabama for up to 50,000 Dth/d; Transco posting March 16, 2023, Segment 1 transportation from Marc I Interconnect on Leidy Line to Pooling Station 210 (from producing area/storage area in PA to market zone in NJ) for up to 300,000 Dth/d, Segment 2 is from Zone 4A in Alabama to Zone 4A in Alabama for up to 600,000 Dth/d.

[23] See examples in Appendix A, where Tennessee regularly pairs capacity in zones 4, 5 or 6 with a very small segment of capacity that goes from one point to a near adjacent point.

[24] *See, e.g.*, Appendix A, Northern Border posting May 17, 2024, Segment 1 transportation path from Port of Morgan (Receipt) to North Hayden (Delivery), Segment 2 from Ventura (Receipt) to Port of Morgan (Delivery) and map showing the back and forward haul capacity overlapping; GTN posting April 19, 2024, Segment 1 transportation path from Kingsgate (Receipt) to Malin (Delivery), Segment 2 from Malin MC (Receipt) to Kingsgate MC (Delivery) and map showing the back and forward haul capacity overlapping.

[25] *See, e.g.*, Appendix A, Northern Border posting January 19, 2024, Segment 1 transportation path from Port of Morgan (Receipt) to North Hayden (Delivery) with a term of 2/01/24 to 2/29/24 and a volume of 38,309 Dth/d, Segment 2 from Ventura (Receipt) to Port of Morgan (Delivery) with a term of 2/01/24 to 4/30/24 and a volume of 385,493 Dth/d; Tennessee posting August 9, 2023, Segment 1 transportation path from Pooling Pt. Marcellus (Zone 4) (Receipt) to Mahwah (Zone 5) (Delivery) with a term of 11/01/24 to 3/31/25 and a volume of up to 10,000 Dth/d, Segment 2 from Acadian/TGP Cheneyville Rapides (Zone L) (Receipt) to Pooling Pt. – 800 LEG (Zone L) (Delivery) with a term of 1/01/24 to 3/31/24 and a volume of up to 250,000 Dth/d; Tennessee posting September 6, 2023, Segment 1 transportation path from Pooling Pt. Marcellus (Zone 4) (Receipt) to AGT/TGP Mendon Mass Tie (Zone 6) (Delivery) with a term of 11/01/24 to 3/31/25 and a volume of up to 5,000 Dth/d, Segment 2 from Pooling Pt. Broad Run Spur (Zone 3) (Receipt) to EGTS/TGP Broad Run Cornwell Kanawha (Zone 3) (Delivery) with a term of 1/01/24 to 10/31/24 and a volume of up to 336,500 Dth/d.

A5. Please explain if there are any seasonal trends for available capacity postings, particularly for any non-contiguous paths that appear together in postings. What are the times of year at which these situations occur for short-term, seasonal, and long-term capacity? What, if any, market conditions (time of year, pipeline-specific business practices, market scenarios, etc.) elevate the potential for pipelines to post capacity with bid aggregation for non-contiguous and/or operationally unrelated capacity postings?

Desirable capacity is generally at peak value during the winter. Consequently, it is particularly lucrative for pipelines to pair relatively small amounts of desirable winter capacity with volumes of undesirable capacity that are an order of magnitude greater. It is also highly lucrative for pipelines to package desirable capacity for a term covering the entire winter with undesirable capacity for a term that is longer, but still short enough to qualify as short-term. In an example that combines both of these practices, each month from February to July 2023, Northern Border issued junk and jewel postings for a term covering the following month on the paths described in the response to question A.1 above. The excess revenue that Northern Border received over the maximum tariff price in these transactions ranged from $5 to $13,825.[26] By contrast, on July 28, 2023, Northern Border issued a posting on the same paths, with volume of 187,891 Dth/d and a term of November 2023 to March 2024 on the desirable segment and a volume of 1 million Dth/d and November 2023 to September 2024 on the undesirable segment.[27] As noted in the response to question A.1 above, Northern Border earned excess revenue of nearly $42 million on this single short-term transaction.[28] Additional examples include a Tennessee posting on September 6, 2023, pairing a valuable winter path from a producing area in the Marcellus Shale to a market area in northern New Jersey for a volume of up to 5,000 Dth/d, with a very small segment from one point in Zone 3 to the adjacent point in Zone 3, for a term covering almost an entire year except for most of the winter and a volume of up to 336,500 Dth/d.[29] Tennessee earned an excess ~$5.4 million over the revenues at the maximum tariff rate for the valuable capacity on this

[26] *See* Appendix A, Northern Border postings February 21, 2023 to July 10, 2023.

[27] *See* Appendix A, Northern Border posting July 28, 2023.

[28] *Ibid.*

[29] *See* Appendix A, Tennessee posting September 6, 2023.

transaction.[30] Similarly, a Tennessee posting on December 4, 2023, pairing valuable capacity for a volume of up to 3,129 Dth/d with a very small segment of worthless capacity from one point in Zone 3 to the adjacent point in Zone 3, for the same term, for a volume of up to 300,000 Dth/d.[31] Tennessee earned an excess ~$2.92 million over the maximum tariff rate revenues for the valuable capacity on this transaction.[32]

B. Impacts of Bid Aggregation on Pipeline Rates

B1. Please explain whether and how shippers do or do not receive the benefit of a rate reduction related to capacity awards of short-term capacity in rate cases (i.e., including billing determinants and revenues in the test period, along with selection of the test period itself). Provide examples from specific rate cases if possible. Include information about distance-based allocation and zoned billing determinants.

As noted in the affidavit of Elizabeth H. Crowe, there are three primary reasons it is highly unlikely that shippers will ever benefit by means of a rate reduction that reflects more than a fraction of the premiums pipelines are receiving from junk and jewel transactions. First, junk and jewel transactions are by nature short-term and dependent on favorable price spreads and availability of valuable capacity that a pipeline can pair with unwanted capacity. Pipelines generally have at least some flexibility as to when to file rate cases under NGA Section 4 and, thus, they can often choose a base period when junk and jewel capacity packaging has been less active and/or less profitable than at other times. Second, it is customary to make known and measurable adjustments for contracts that expire during the test year, which enables pipelines to obscure the revenues from short-term junk and jewel transactions. This combination of factors significantly decreases the likelihood that a Section 4 rate case will include a test period that has high levels of recognizable junk and jewel revenue. Third, the vast majority of pipeline rate cases are resolved by settlement rather than litigation. In settlement, pipelines often have significant

[30] *Ibid*.

[31] *See* Appendix A, Tennessee posting December 4, 2023.

[32] *Ibid*.

leverage over shippers and usually obtain significantly higher rates than would result in litigation. In the past 12 years, only two of hundreds of NGA Section 4 rate cases were fully litigated: *Panhandle Eastern Pipeline Company, LP*[33] and *El Paso Natural Gas Co*.[34] Only through litigation can shippers have any real chance of showing that junk and jewel transactions are recurring in nature and should be reflected in rates. Litigation is an expensive, lengthy process that significantly delays the realization of any rate reduction benefit, particularly if the litigated rate is lower than the rate previously in effect, in which case the benefit below the refund floor is prospective only. These facts alone give pipelines a strong position in any settlement process, and significantly reduce the possibility of shippers receiving any benefit from the pipeline's ability to successfully aggregate and sell packages of valuable and unwanted capacity, even when that occurs during the test period of a Section 4 rate case.[35]

In their comments opposing the Petition, the pipelines cited to Commission orders that speculated that maximizing pipeline revenues through the current practice would benefit all customers by increasing billing determinants and lowering fixed costs.[36] However, the Commission has not changed its cost-of-service ratemaking policies to require the pipelines to include, or to adjust for, any of these revenues occurring outside of the test year, nor do the pipelines provide any specific evidence of dollars that flowed back to customers in individual cases to refute the testimony presented by the Commenters and supporting comments that customers are not receiving any benefit in pipelines' rate cases. To the contrary, as evidenced in recent rate filings, pipelines continue to deny benefits to customers based upon their adjustments to base period volumes that eliminate short-term revenues on the grounds that they do not expect the parties to re-contract.[37] Moreover, as Commenters' witnesses pointed out in the Petition and in the

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[33] *See Panhandle Eastern Pipe Line Co., LP*, 181 FERC ¶ 61,211 (2022) (Opinion No. 885).

[34] *See El Paso Natural Gas Co*., 145 FERC ¶ 61,140 (2013) (Opinion No. 528).

[35] *See* Affidavit of Elizabeth H. Crowe, Exhibit No. 0003 at para. 7-9.

[36] *See* ANR & Northern Border Comments at 6-7, citing *Northern Border Pipeline Co.,* 164 FERC ¶ 61,150 at P 2-3 (2018) ("*Northern Border");* July 18 Comments of Transcontinental Gas Pipeline Company, LLC Comments ("Transco Comments"), at 5, citing *Northern Border,* at P 23-24.

[37] *See, e.g., Northern Natural Gas Pipeline,* Docket No. RP22-1033 Section 4 Rate increase, Exhibit No. NNG-0002 at p. 41 of 109 (proposing adjustments to based period volumes to eliminate short-term contracts). *See also* Affidavit of Tina Smith, Exhibit No. 0001 at para. 17-18.

affidavits attached thereto, and Commenters' witnesses point out in the Exhibits to these Comments, the alleged benefit of a slight reduction in unit rates does not overcome the harm to the shipper who lost out on the capacity because it was not in a position to bid on capacity that it could not use or to the shipper that had to pay vastly in excess of the maximum tariff rate in order to access needed capacity.[38]

B2. Petitioners claim that current Commission policy allows for pipelines to collect revenue from shippers above the Commission-approved maximum tariff rates by packaging high-value segments with non-contiguous and/or operationally unrelated low-value segments. Please explain in more detail. If this practice is effectively allowing pipelines to collect over the maximum tariff rate, then please provide other methods for awarding capacity desired by multiple customers.

As noted in their response to question A.4 above, since 2019, Commenters have been gathering information on the impact of the tariff practice used by pipelines of packaging non-contiguous capacity segments in open seasons, and allocating such capacity based on aggregated bids. As shown in Appendix A to the Comments, the amounts that successful bidders have paid to the pipeline for packages of non-contiguous capacity continue to exceed the maximum rate that the pipeline could have charged for one segment of capacity alone. For example, as cited in the affidavit of Elizabeth H. Crowe, Gas Transmission Northwest LLC ("GTN") earned more than 60% of its total revenue from short-term firm contracts in 2023 from valueless backhaul contracts, an amount totaling $11.8 million and representing a premium over GTN's maximum tariff rate on the segment in question of 149.2%.[39]

While customers recognize that with the requested prohibition on packaging of non-contiguous segments of capacity in open seasons, there may be situations where all bidders bid the maximum rate and the pipeline will be required to pro-rate the capacity, Commenters submit that, as customers with obligations to run industrial plants and serve load, it would be preferable to receive a pro rata allocation of capacity than none at all. In the event that capacity is being pro-rated, particularly across a large number of shippers, market forces would also have the

[38] *See* Testimony of Terry Lewandowski, Exhibit No.0002 at 2; Affidavit of Tina Smith, Exhibit No. 0001 at 12-13.

[39] *See* Affidavit of Elizabeth H. Crowe, Exhibit No. 0003 at para. 6.

opportunity to work properly to incentivize investment in capacity expansion, rather than incentivizing pipelines to avoid expansion in order to capture monopoly rents from captive customers.

C. Customers and Operational Need

C1. Petitioners argue that LDCs, municipal gas systems, and industrial customers have an operational need for segments of capacity to serve LDC load or a power plant or manufacturing facility but, due to various constraints, cannot justify bidding on other segments of the "effectively tied" capacity that they do not need for their customers. Given the short-term nature of the example contracts cited by Petitioners, please describe how these short-term contracts would help meet long-term load growth and please explain alternative solutions employed by these entities to meet their load growth and/or long-term supply needs.

As noted in the affidavit of Tina Smith, an example of how short-term contracts would help meet long-term load growth is the provided by the short-term capacity auctions conducted by Southern Natural Gas Company ("SNG") in the winter seasons between 2018 and 2021. Each of the four auctions described covered the entire five months of the winter season. The capacity provided by these auctions could have helped to meet the peak requirements of LDCs in need of capacity, which occur primarily in the winter.[40] The affidavit of Tina Smith also cites numerous other examples of SNG auctions of capacity that could have substituted for long-term SNG expansion capacity to meet the growing requirements of LDCs but was subject to SNG's junk and jewel practice.[41]

As explained in the affidavit of Tina Smith, short-term capacity is the *only* available access to price-regulated capacity for entities confronting load growth. The only alternatives are unregulated sources, such as peaking services that provide delivered gas, which are wholly dependent on market conditions. These services are generally short-term, are not guaranteed to be

[40] *See* Affidavit of Tina Smith, Exhibit No. 0001 at para. 6.

[41] *See* Affidavit of Tina Smith, Exhibit No. 0001 at para. 8-9.

available, and are often subject to skyrocketing prices during periods of winter peak demand.[42] In numerous instances, the structuring of these alternate services has resulted in high costs that are, in some cases, many multiples of the delivered cost of gas that would have been incurred had LDCs been able to procure auctioned capacity. In many such instances, the price was so high that retail commercial and industrial customers chose to self-curtail, with negative consequences for both the customer and the LDC. Such negative consequences include curtailment events, which incentivize commercial customers to relocate elsewhere and disincentivize existing customers to expand or new customers to locate in the LDC service area.[43] An additional deleterious effect of including junk in capacity auctions is that it acts as a disincentive for the pipeline to build expansion capacity. Expansion capacity is an obvious source of additional revenue to pipelines; however, that incentive is reduced when the pipeline has another source of revenue by adding junk capacity to capacity auctions, thereby guaranteeing that LDCs will be forced to rely on short-term, unregulated sources indefinitely to meet their load growth.[44]

C2. Please explain or provide specific examples of how certain shippers such as LDCs and municipal gas systems might not have the creditworthiness to bid on multiple unrelated paths to increase their chance of winning valuable capacity or how they might be subject to a prudence review from state regulators for bidding on non-contiguous and/or operationally unrelated capacity packages.

LDCs are subject to oversight from state regulators. LDCs rely on a mix of long-term and short-term transportation contracts, among other resources, to maintain reliable and cost-effective service to customers. Entering into agreements with the pipelines for new and expanded capacity to meet demand and reliability needs is a tried-and-true approach to acquiring transportation capacity. LDC acquisition of pipeline capacity is typically undertaken in the context of ongoing state agency and utility board oversight designed to assess in some manner whether the LDC's gas

[42] *See* Affidavit of Tina Smith, Exhibit No. 0001 at para. 10.

[43] *See* Affidavit of Tina Smith, Exhibit No. 0001 at para. 12-13.

[44] *See* Affidavit of Tina Smith, Exhibit No. 0001 at para. 14.

supply decisions meet state statutory and regulatory standards.[45] State commissions generally require LDCs to procure and utilize their transportation arrangements efficiently. LDC actions are generally reviewed in the context of whether an investment was prudently made and if an asset is used to provide service to customers. Others in the market, such as producers, marketers, or end-use customers do not have the same level of regulatory review. Regulatory agencies retain the authority to evaluate costs to ensure those recovered from customers are reasonably necessary for providing utility service.

The problem caused by the junk and jewel practice is that one avenue to acquire short-term capacity has become fraught with regulatory risk because the practice of junk and jewel requires shippers to bid on capacity that may be superfluous to a shipper and may not be used to provide service to customers. Due to this concern, LDCs may decide to bid only on the jewel capacity with the hope of obtaining some capacity, or because bidding may be a fruitless exercise, LDCs may choose not to participate in the process at all.

The potential regulatory risk is not illusory because NARUC and its member state commissioners are aware of the junk and jewel practice and the potential impact on state ratepayers. As noted above, NARUC filed a letter with the Commission on August 21, 2023, in this proceeding, discussing the potentially harmful impact of the junk and jewel practice. While the letter is an expression of concern from NARUC to this Commission, it also is a notice to regulated entities that state commissioners across this country are aware of the issue and are concerned about the potential impact to ratepayers.

C3. Please explain to what extent industrial customers are prohibited from bidding on non-contiguous and/or operationally unrelated capacity packages.

Small customers do not have the capability to bid on two large-volume packages of capacity in order to be awarded a pro rata share of the capacity package they value. They simply do not have sufficient capital available and cannot risk being awarded a large volume of worthless capacity. As a result, they lose out to larger shippers who can absorb the cost of the worthless

[45] State regulatory agencies employ a widely varying approach to exercising this oversight, sometimes doing so via annual gas cost proceedings, sometimes by regular audits, and sometimes by other methods. Although the means of implementation are diverse, state agencies pursue their respective consumer-protection goals.

capacity in order to obtain a pro rata share of the valuable capacity. While the practice of tying packages of capacity together in a single open season does maximize the revenues to the pipeline, it does not benefit the shipper who effectively had no real opportunity to acquire only the valuable capacity needed to serve its plant. Furthermore, as discussed in the affidavit of Terry Lewandowski, manufacturers who compete in global markets cannot afford to include in the costs of their products costs for bidding on segments of pipeline capacity that cannot be used to serve their plants.[46]

D. Potential Policy Changes

D1. Please comment on whether the Commission should change its current policy, which allows bid aggregation on non-contiguous segments so long as shippers are not required to bid on undesired segments of capacity. Explain any issues that the Commission should consider when determining whether to make this policy change. What policy and/or regulation changes should the Commission implement if it determines that it should no longer allow interstate natural gas pipelines to package non-contiguous and/or operationally unrelated segments of capacity in an open season? Explain any additional issues that the Commission should consider if it were to make this policy change (e.g., how should the Commission determine whether segments of capacity are non-contiguous and/or operationally unrelated, etc.). Additionally, please provide any potential alternative policy change and explain how it would be implemented.

Commenters submit that the practice of allowing pipelines to package valuable and unwanted, operationally unrelated, non-contiguous capacity segments and to allocate the valuable capacity based on aggregated bids should be prohibited in the future for the reasons discussed in these Comments and in prior submissions in this proceeding by Commenters. In most, if not all, examples of inappropriate tying that the Commenters have become aware of, the valuable capacity segment was not publicly posted as available on the pipeline's electronic bulletin board prior to being included in an open season notice. Rather, the first notice the market received of the potential

[46] *See* Testimony of Terry Lewandowski, Exhibit No. 0002 at 2; Affidavit of Tina Smith, Exhibit No. 0001 at para. 3.

availability of the valuable capacity was when the pipeline issued an open season notice inviting bids on the valuable capacity combined with other, unwanted, non-valuable capacity.

As noted in their response to question B.2 above, Commenters submit that, as customers with obligations to run industrial plants and serve load, it would be preferable to receive a pro rata allocation of capacity than none at all. In the event that capacity is being pro-rated, particularly across a large number of shippers, market forces would also have the opportunity to work properly to incentivize investment in capacity expansion, rather than incentivizing pipelines to avoid expansion in order to capture monopoly rents from captive customers.

D2. Explain how a policy change might affect short-term capacity auctions and how it would affect shippers (e.g., LDCs, marketers, producers, etc.) and interstate natural gas pipelines. Explain any interactions between this policy and the Commission's negotiated rate policy.

As explained in Order No. 712, pipelines already have the ability to enter into negotiated rate agreements above the maximum tariff rate so long as the customer has the alternative of the recourse tariff rate to protect against monopoly pricing, and that rate is submitted to the Commission for review and approval prior to becoming effective.[47] Negotiated rate agreements are typically entered by shippers to provide rate certainty over the longer-term for a single piece of capacity versus these often-shorter-term tied transactions that involve multiple packages of capacity. Pipelines can even enter into negotiated rate agreements that utilize basis differentials as a transportation pricing mechanism, providing they comply with the required transparency obligations so FERC can ensure that the pipeline is not withholding capacity in order to increase the basis differential.[48] The pipeline may also seek market-based rates by making a filing with the Commission establishing that they lack market power in the markets that they serve. In addition, pipelines have the ability to propose seasonal rates for their systems, and thereby recover more of their annual revenue requirement in peak seasons. All of these methods would also allow for longer term contractual arrangements that would allow for the proper reflection of pipeline revenues in

[47] *See Promotion of a More Efficient Capacity Release Market,* Order No. 712, 123 FERC ¶ 61,286 at P 86 (2008).

[48] *Natural Gas Pipeline Negotiated Rate Policies and Practices*, 114 FERC ¶61,042 (2006) (wherein FERC stated, "the Commission has access to information regarding available pipeline capacity and daily gas basis differentials. This allows it to monitor the transactions to determine if the pipeline is withholding capacity in order to increase the gas commodity basis differential.").

rate proceedings. Thus, pipelines have other opportunities, besides the tying practice at issue in this proceeding, for maximizing revenues that still protect consumers.

VI. DOCUMENTS SUBMITTED WITH THESE COMMENTS

As mentioned above, Commenters have included the following supporting documents with these Comments:

A. Appendix A: Illustrative Open Season and Capacity Auction Postings
B. Exhibit No. 0001: Affidavit of Tina Smith
C. Exhibit No. 0002: Testimony of Terry Lewandowski
D. Exhibit No. 0003: Affidavit of Elizabeth H. Crowe

VII. CONCLUSION

For the reasons stated above, the Commenters respectfully ask 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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June 27, 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 New York, NY, this 27th day of June 2024.

/s/ Daniel P. Barron
Daniel P. Barron