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Submitted Via Email (naesb@naesb.org)

October 16, 2023

North American Energy Standards Board
1415 Louisiana Street, Suite 3460
Houston, Texas 77002

RE: Comments on Standards Request No. R23001

North American Energy Standards Board:

UGI Utilities, Inc. – Gas Division (“UGI Gas” or “the Company”) appreciates the opportunity to provide these comments in response to the Standards Request No. R23001, concerning revisions to the North American Energy Standards Board (“NAESB”) Base Contract for Sale and Purchase of Natural Gas (“Base Contract”), and specifically the force majeure provisions in the Base Contract. UGI Gas provides these comments in response to the September 14, 2023 no action recommendation of NAESB’s WGQ Contracts Subcommittee meeting. As explained below, UGI Gas supports continued discussions on Standards Request No. R23001.

I. Introduction

UGI Gas is a natural gas distribution company providing service to approximately 680,000 residential, commercial and industrial customers located in Pennsylvania and Maryland. UGI Gas utilizes the Base Contract daily for its gas purchasing activities. Of relevance to this discussion, UGI Gas experienced supply challenges during Winter Storm Elliott, including declarations of force majeure. As a result, UGI Gas strongly supports the initiation of an industry-wide discussion at NAESB regarding the force majeure provisions in the Base Contract.

II. Comments

A. Background

On May 3, 2023, UGI Gas joined Southwest Power Pool, PJM Interconnection, MISO Energy, Texas Competitive Power Association, and CenterPoint Energy in submitting a standards request, “Enhancement to the NAESB Base Contract for Sale and Purchase of Natural Gas Force Majeure Terms.” The request was assigned No. R23001. NAESB’s WGQ Contracts Subcommittee held a meeting on Tuesday, July 25, 2023 to discuss the Standards Request No. R23001. Also on that day, Sabine Pass Liquefaction, LLC (Wholesale Gas Quadrant, End User Segment) submitted comments to request R23001 on behalf of itself and its affiliated NAESB members Corpus Christi Liquefaction, LLC (Wholesale Electric Quadrant, End User Segment), and Cheniere Creole Trail

Pipeline, L.P. (Wholesale Gas Quadrant, Pipeline Segment) (collectively, “Cheniere”) prior to the meeting and moving for a no-action recommendation vote on Standards Request No. R23001. Following the July 25 meeting, NAESB issued a request from the Chair of the NAESB WGQ Contracts Subcommittee for an informal comment period on the Standards Request No. R23001 and the comments submitted by Cheniere. UGI Gas submitted informal comments on September 5, 2023. On September 14, 2023, the WGQ subcommittee held a meeting to review the comments submitted in response to Standards Request No. R23001 and held a vote on the no action motion by Cheniere. The no action motion passed over unanimous opposition by the LDC segment. Following the September 14 meeting, NAESB issued a notice to submit formal comments in response to the no action recommendation by October 16, 2023.

B. UGI Gas Supports Stakeholder Discussion of Standards Request No. R23001

UGI Gas supports continued discussion of Standards Request No. R23001 among the WGQ Contracts Subcommittee participants and believes that the no-action motion is premature, contrary to NAESB’s purpose, and harmful to industry developments that will ensure the safe and reliable provision of utility service to the public. Specifically, NAESB has recently focused on the importance of reliable and readily available natural gas during critical winter weather events, including Winter Storm Uri and Winter Storm Elliott. Force majeure provisions are an important tool for ensuring natural gas supply during critical periods.

Questions surrounding the use and effectiveness of force majeure provisions have been raised recently in a number of forums, including the Gas-Electric Harmonization Forum, as well as in recent federal and state regulatory proceedings. The Federal Energy Regulatory Commission’s recent investigation into the supply shortfalls experienced during Winter Storm Elliott called for industry-led solutions to reduce the risk of a similar event in the future. The Commissioners’ comments on the investigation focused squarely on the role of NAESB in facilitating industry discussion on the critical issue of supply reliability. NAESB should respond to FERC’s comments and observations by bringing industry stakeholders to the table to address areas where the industry has experienced shortfalls that threaten the safety of the public.

UGI Gas, like many LDCs, relies on the Base Contract to develop its long-term supply relationships. In addition, UGI Gas negotiates modifications to the Base Contract for its gas supply contracts. However, UGI Gas believes there is value in engaging the broader industry in a discussion about the provisions in the Base Contract to evaluate whether there is room for improvement and potentially even agreement. Rejection at this early stage would effectively silence industry discussion on a critical topic at a time where more coordination and collaboration has been called for, not just by industry participants, but by federal and state regulators. The point of the NAESB process is to create the opportunity to have a fulsome discussion on critical industry issues to see whether a consensus can be reached. Even where parties are critical or in opposition to the totality of Standards Request No. R23001, that request included a wide range of possible contract modifications, which have varying levels of costs and burdens associated with their adoption. Further discussion will help explore pathways toward improving the force majeure provisions for all industry participants.

UGI Gas would like to call NAESB’s attention to just one of the proposed modifications included in Standards Request No. R23001, to highlight its potential impact based on UGI Gas’s experience.

One proposal that has little cost to participants but would have provided significant operating benefits to UGI Gas during Winter Storm Elliott is the proposal for additional reporting requirements surrounding force majeure declarations. UGI Gas received scant correspondence from suppliers who ultimately did not deliver their nominated volumes during the weekend of the event, and post-event communications frequently appeared to be form communications with no details. Such communications provide no value. All contracting parties would be benefitted by more clear provisions on the type of information that should be communicated and the timing of that communication.

Standards Request No. R23001 raises important issues related to the NAESB Base Contract and the force majeure provisions in the contract. NAESB can and should facilitate industry discussions on the construction and operation of force majeure provisions. These issues should be discussed by the WGQ Contracts Subcommittee to see if improvements to the Base Contract should be made and whether a consensus can be reached as to those changes.

III. Conclusion

For the forgoing reasons, UGI Utilities, Inc. – Gas Division supports continued stakeholder discussion regarding Standards Request No. R23001. UGI Gas respectfully requests that NAESB consider these comments.

Respectfully submitted,

Jessica R. Rogers
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