

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**Northern Border Pipeline Company**                      )         **Docket No.   RP20-859-000**

**MOTION FOR LEAVE TO INTERVENE OUT-OF-TIME  
AND PROTEST OF  
INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA**

Pursuant to Rules 212, 213, and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the “Commission”), 18 C.F.R. §§ 385.212, 213 and 214 (2012), the Independent Petroleum Association of America (“IPAA”) hereby moves for leave to intervene out-of-time and protest Northern Border Pipeline Company’s (“Northern Border”) filing submitted on May 1, 2020 in the above-captioned proceeding.

**I.         MOTION FOR LEAVE TO INTERVENE**

**A.         Communications**

Correspondence and communications regarding this filing should be addressed to the undersigned as follows:

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## **B. Executive Summary**

IPAA members produce significant volumes of oil and natural gas in North Dakota's Bakken area, relying on Northern Border to transport their gas. A restriction in the allowed Btu content would be a market disruption at any time. However, the dramatic downturn in the worldwide energy market overall and the demand for oil and natural gas produced in North Dakota specifically, has created a particularly difficult environment for America's energy producers. Higher costs will be even harder to withstand. Moreover, Northern Border has not allowed time to review with its customers the impact of recent well shut-ins on its system operations. Northern Border's proposed tariff change is ill-timed and should be rejected. Absent rejection, IPAA strongly urges the Commission to suspend the tariff change for the maximum lawful period and promptly institute a technical conference to understand how current market conditions are impacting Northern Border's system and its customers.

## **C. Background**

On May 1, 2020, Northern Border filed a revised Section 6.5, General Terms and Conditions, Quality of Gas, to be part of its FERC Gas Tariff, Second Revised Volume No. 1. In this filing, Northern Border proposed to establish a new Btu safe harbor of 1,100 Btu per cubic foot ("Btu"), and, when necessary, allow Northern Border to post an upper Btu limit if Northern Border is unable to blend gas receipts to achieve an overall heat content no higher than 1,100 Btu.

## **D. Motion To Intervene Out-of-Time**

IPAA represents thousands of American independent oil and natural gas producers and associated service companies. Independent producers develop 95 percent of American oil and

gas wells, produce 54 percent of American oil, and produce 85 percent of American natural gas. A number of IPAA members produce oil and natural gas in North Dakota and rely on Northern Border for transportation of natural gas.

IPAA is affected by Northern Border's filing. IPAA's interest, as representing the interests of customers and consumers, is stated in and protected by Rules 214(b)(2)(ii)(A) and (B).<sup>1</sup> In considering motions for late intervention under the standards of Rule 214(d),<sup>2</sup> the Commission considers "whether the movant had good cause for not filing timely; any disruption of the proceeding that might result from permitting intervention; whether the movant's interest is adequately represented by other parties; and whether any prejudice to, or additional burden on, existing parties might result from permitting the intervention."<sup>3</sup>

IPAA has good cause for intervening out-of-time, having only learned of Northern Border's filing on May 22. In light of the office disruptions resulting from the pandemic, FERC should also grant IPAA's intervention.

Additionally, no disruption would result from the grant of this motion given the early stage of this proceeding. IPAA's broad-based interests cannot be adequately represented or protected by other parties, and no prejudice or burden on existing parties will result from allowing the Associations to intervene.

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<sup>1</sup> 18 C.F.R. 385.214(b)(2)(ii)(A) and (B) (2012).

## II. PROTEST

IPAA protests Northern Border's proposed tariff change. While IPAA supports a strong, safe interstate pipeline system, Northern Border has not demonstrated the urgency of this filing. The combination of an import-induced supply glut and the drastic decline in demand caused by the pandemic has resulted in significant well shut-ins in North Dakota and created an unprecedented financial crisis for North Dakota producers who are transportation customers of Northern Border. To the extent that Northern Border may have relied on historical data to justify this filing, that data no doubt has changed with the shut-ins that have occurred in the past few months.

Not only have changes occurred on Northern Border's system, but this proposed tariff change will impose enormous costs on producers at a time when they are least able to shoulder such costs. Northern Border chose to make this filing, despite changed circumstances and ignoring requests from affected customers that it postpone its filing.<sup>4</sup>

IPAA supports the protests filed in this docket by multiple additional parties, concurring with calls for summary rejection. However, if the Commission chooses not to reject Northern Border's filing, IPAA urges that the Commission suspend the proposed tariff filing for the maximum period allowed by law, subject to the outcome of a technical conference. If necessary, such settlement efforts should be conducted as quickly as possible. While refunds may provide relief when the tariff change entails a rate increase, the cascading effects of this proposal on North Dakota producers—higher treatment costs, potential curtailments--cannot be remedied with a refund condition.

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<sup>2</sup> Letter from North Dakota Petroleum Council to Ms. Eva Neufeld, TC Energy, dated April 21, 2020.

#### IV. CONCLUSION

Wherefore, for the foregoing reasons, IPAA respectfully requests that it be permitted to intervene in, and be made a party to, the subject proceeding, with all rights attendant thereto. In addition, IPAA respectfully requests that the Commission reject Northern Border's proposed change. Alternatively, IPAA requests that the Commission suspend the tariff for the maximum period, convening prompt technical conferences to help achieve an acceptable solution prior to the effective date.

Respectfully submitted,

INDEPENDENT PETROLEUM  
ASSOCIATION OF AMERICA

/s/ Susan W. Ginsberg

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Dated: May 27, 2020

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Commission Secretary in these proceedings.

Dated at Washington, DC this 27<sup>th</sup> day of May, 2020.

/s/ Susan W. Ginsberg

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