

Fair Return and Value Subcommittee
Tuesday, February 27, 2018
3:30-5:00 PM CT
Meeting Summary

Welcome and Roll Call

Meeting Introduction

- The Subcommittee is seeking clarity and consistency
- More Tribal input if recommendations affect tribal energy or leasing

Marketable Condition Presentation

- Marketable Condition, as defined by the Office of Natural Resources Revenue (ONRR), is product free of impurities. Boosting is the compression of natural gas to a pressure level sufficient enough to allow the residue gas to flow into pipelines to downstream markets.
- ONRR and industry have had differences of interpretation on boosting and the compression required for marketable condition. This group identified three questions at the core of this issue:
 - Is boosting residue gas part of the marketable condition requirement or a separate requirement?
 - Achieve marketable condition or sum to marketable condition?
 - Compression needed to put natural gas liquids (NGLs) into marketable condition?
- Working group recommendation:
 - The Department of the Interior (DOI) publish a proposed rule to amend the regulation at 30 C.F.R. 1201.151(b) to remove language specific to the boosting of residue gas.
- Following discussion about the proposed recommendation concerning boosting, the Marketable Condition working group provided an overview on unbundling cost allocations (UCAs) and recommended that the working group further discuss and evaluate a standardized table to calculate allowances and disallowances.

Comments on the Marketable Condition Presentation

- It is not clear if the recommendation is to reduce ambiguity or to increase revenue for companies.
- Tribes are concerned that Federal regulatory changes will not exist independently and could ultimately impact Indian regulations. Suggestion: Federal regulatory changes should be written differently from Indian regulations.
- States are concerned about potential reduction in royalties if boosting leads to deductions.
- Suggestion: Revise recommendation to read “reexamine” instead of “remove” and take out sample language of the statute that immediately follows at the end of the recommendation.

Coal Presentation

- Benchmarks are trying to create consistency, understanding, timing efficiencies, and elimination of court cases.
- Logistics companies are used for risk mitigation. If something goes wrong in transportation, for example, the logistics company absorbs the risk so the liability doesn't go back to the mining project itself.
- Working group recommendations:
 1. DOI reinforce its consistent principle that arm's length transactions are the best indication of market value by amending the regulation at 30 C.F.R. 1206.257(c)(2)(ii) as stated in the materials provided to the full RPC.
 2. DOI issue a Secretarial Order, Dear Payor Letter and/or a Policy Memorandum indicating that a lessee's own arm's length sales are preferential under benchmark 4 while the rulemaking process has run.
 3. DOI update the Solids Minerals Reporting Handbook in accordance with items 1 and 2 above.
- Comment on recommendations: Change language to read that DOI "would consider a Secretarial order" and take out all language for that recommendation after the words "benchmark 4."

Index Pricing

- The Index Pricing working group explored the potential to make recommendations for an index prices that addresses issues related to the index pricing provision in the repealed 2017 Valuation Rule.
- Working group Recommendation: Pursue rulemaking to define simplified index price rules for Federal gas. Key factors to be addressed by this rule would be:
 - A standardized average single (per defined geographic area) price acceptable to both industry and DOI/ONRR
 - Calculated (by ONRR) from generally accepted index price publications or other acceptable market-sensitive source
 - Apply price to wellhead (or royalty measurement point) MMBTUs
 - Incorporate reasonable geographically sensitive transportation deductions
 - Apply price to all Federal gas sales types

Next Steps

- Seek additional members from Tribal sector.
- Suggest topics for the Fair Return and Value subcommittee to discuss.
- Revise Marketable Condition recommendation to read "reexamine" instead of "remove" and take out sample language of statute that immediately follows at the end of the recommendation.
- During the full committee meeting, the Marketable Condition working group should address concerns about potential impact of changes to Federal language (re: boosting) on Indian regulation.
- In the unbundling recommendation, replace "between" ONRR with "within."

Attendees:

Matthew Adams, Cloud Peak Energy
Councilman Adam Red, Southern Ute

Mike Foster, Conoco Phillips
Stella Alvarado, Anadarko Petroleum
John Sweeney, VWR Corporation
Greg Morby, Chevron North America
Gabrielle Gerholt, Concho
Rep. Daniel Saddler, State of Alaska
Emily Hague, API
Colin McKee, State of Wyoming
Greg Gould, ONRR
John Barder, ONRR
John Melhoff, ONRR
Bonnie R, ONRR
Chairman Everett Waller, Osage
James Schindler, RPC Executive Director, DOI/BOEM
Adam Stern, DOI
Benjamin Simon, DOI
Jim Steward, ONRR
Bidtah Becker, Navajo
Monte Mills, University of Montana School of Law
Tom Shipps, Southern Ute
Rob Joe, Navajo
John Fredericks, MHA Nation
Daniel Russ, Wood Mackensie
Rod Eggert, Colorado School of Mines
Van Romero, New Mexico Institute of Mining and Technology
Lynn Helms, North Dakota Industrial Commission
Pat Noah, ConocoPhillips Company
Amy Lunt, ONRR
Karl Wunderlich, ONRR
Peter Christnach, ONRR