



National Energy Marketers Association

Comments of
The National Energy Marketers Association
on Proposed Forms EIA-911 A-C (Supplement),
Bi-Weekly Surveys to Assess Effects of Interruptions of
Natural Gas Supplies in the Northeast United States

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Mr. William Trapmann
(EI-44)
ATTN: Form EIA-911
Forrestal Building
U.S. Department of Energy
Washington, DC 20585

The National Energy Marketers Association ("NEM") hereby submits Comments on the proposed "Forms-911 A-C (Supplement), Bi-Weekly Surveys to Assess Effects of Interruptions of Natural Gas Supplies in the Northeast United States" ("Proposed Surveys") of the Energy Information Administration ("EIA") as published in the February 6, 2001, Federal Register.

The National Energy Marketers Association (NEM) is a national, non-profit trade association representing both wholesale and retail marketers of energy and energy-related products, services, information and technologies throughout the United States. NEM's membership includes: small regional marketers, large international wholesale and retail energy suppliers, billing and metering firms, Internet energy providers, energy-related software developers, risk managers, energy brokerage firms, information technology providers and both manufacturers and suppliers of

advanced distributed generation. Our membership has both affiliated and unaffiliated companies.

This regionally diverse, broad-based coalition of energy and technology firms have come together under the NEM auspices to forge consensus and to help eliminate as many issues as possible that would delay competition. NEM is committed to working with representatives of state and federal governments, large and small consumer groups and utilities to devise fair and effective ways to implement the competitive restructuring of natural gas markets.

NEM asserts that the Proposed Surveys are another attempt by EIA to impose reporting requirements on unregulated natural gas suppliers without proper statutory authority.¹ NEM filed comments with respect to the original Forms EIA-911 A-C for which EIA sought emergency clearance.² As argued in those comments, NEM maintains that EIA has exceeded its statutory authority set forth in the Energy Administration Act³ and the Department of Energy Organization Act⁴ by imposing these regulatory burdens on unregulated natural gas suppliers. EIA's compliance with the Paperwork Reduction Act does not provide the requisite statutory authority to impose new recordkeeping and reporting

¹ See also Proposed Form EIA-905, Monthly Natural Gas Biller Survey (notice published in the July 18, 2000, Federal Register); Proposed Form EIA-910, Monthly Natural Gas Marketer Survey (notice published in the October 30, 2000, Federal Register); Proposed Form EIA-910, Monthly Natural Gas Marketer Survey (notice published in the March 8, 2001, Federal Register); and Proposed Form EIA-911 A-C, Bi-Weekly Surveys to Assess effects of Interruptions of Natural Gas Supplies in the Northeast United States (notice published in the December 26, 2000, Federal Register).

² The full text of NEM's Comments on Forms EIA-911 A-C are available on the NEM Website at: http://www.energymarketers.com/Documents/NEM_Comments.doc.

³ 15 U.S.C.S. § 761 et. seq.

⁴ 42 U.S.C.S. § 7101 et. seq.

requirements on natural gas suppliers. Additionally, NEM asserts that EIA's Proposed Surveys are a proposed rulemaking with potentially major microeconomic and macroeconomic impacts that should have been promulgated in compliance with the Administrative Procedures Act,⁵ Executive Order 12291⁶ and the Regulatory Flexibility Act.⁷

NEM also maintains that the costs associated with compliance have been understated. EIA estimates that it will require two hours for forty entities to complete Form EIA-911A (Supplement), one hour for two hundred and seventy entities to complete Form EIA--911B (Supplement), and two hours for three hundred entities to complete Form EIA-911C (Supplement). NEM asserts that all of the preparation time estimates are significantly understated. For instance, the format of the proposed Form EIA-911A presupposes that natural gas suppliers records are kept in a manner that allows for completion of the Survey. Additionally, natural gas suppliers are required to complete a separate Survey for each Northeastern state in which they operate. The resources that intended respondents would have devoted to the development of innovative energy products and services will instead have to be devoted to completion of the Proposed Surveys. Additionally, a firm that is selected to complete the Proposed Survey is placed at a competitive disadvantage at a time when it could materially effect that firm's competitive viability.

⁵ 5 U.S.C.S. § 551 et. seq.

⁶ Executive Order 12291 of February 17, 1981.

As stated in our previously filed comments with respect to Proposed Form EIA-905, Monthly Gas Biller Survey, and Proposed Form EIA-910, Monthly Natural Gas Marketer Survey,⁸ NEM asserts that the best, most statistically reliable and valid sources of the data EIA is seeking are the local distribution companies over whom EIA has proper statutory authority to require recordkeeping and reporting. NEM urges that all of the Proposed Surveys should be rescinded and recast to require reporting solely from those entities.

For the foregoing reasons, NEM urges that the reporting requirements of the Proposed Survey should not be imposed.

Sincerely,

Craig G. Goodman, Esq.
President,
National Energy Marketers Association
3333 K Street, NW
Suite 425
Washington, DC 20007
Tel: (202) 333-3288
Fax: (202) 333-3266
Email: cgoodman@energymarketers.com
Website-www.energymarketers.com

Cc: Andrew Lundquist
OMB Desk Officer for DOE

⁷ 5 U.S.C.S. § 601 et. seq.

⁸ Copies of NEM's previously filed comments are available on the NEM Website as follows: Form EIA-905 notice published in the July 18, 2000, Federal Register http://www.energymarketers.com/Documents/Final_EIA_Comments_.doc; Form EIA-910 notice published in the October 30, 2000, Federal Register [http://www.energymarketers.com/Documents/NEM_comments_revised_survey\(final\).doc](http://www.energymarketers.com/Documents/NEM_comments_revised_survey(final).doc); and Form EIA-910 notice published in the March 8, 2001, Federal Register **XXX**.