



# Fact Sheet | Capacity Release

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The North American Energy Standards Boards (NAESB) reconvened its Gas Electric Harmonization (GEH) forum in 2023 to attempt to identify how to improve the reliability of the natural gas system to support the electric grid, especially during critical weather conditions. The forum prepared a [report](#) containing recommendations to address the inability of natural gas-fired electric generators to purchase natural gas during winter storms in 2021 and 2022.

One recommendation addressed advance agreements that could allow natural gas-fired electric generators that have not contracted for pipeline capacity to purchase natural gas and pipeline capacity during extreme weather events from other pipeline shippers that may not need the natural gas or capacity that they have on pipelines.

There are existing mechanisms that provide natural gas-fired electric generators with the ability to obtain advance pipeline capacity; however, forum participants suggested that parties seeking to enter these advance agreements may need to seek waivers of certain Commission capacity release rules and policies. To enable market participants to evaluate and consider available alternatives, the following explains how shippers buy pipeline capacity and outlines the Commission's capacity release program.

## HOW DO SHIPPERS BUY PIPELINE CAPACITY?

There are both primary and secondary markets for pipeline capacity. In the primary market, shippers can purchase capacity from an interstate pipeline and choose to contract for two main types of service: firm or interruptible.

- **Firm Service:** Shippers pay a two-part rate consisting of a reservation charge and a usage charge to ensure high priority service by reserving a specified amount of capacity on the pipeline. The reservation charge is based on the amount of pipeline capacity reserved by the shipper, regardless of how much of that capacity the shipper uses. A firm shipper also pays a usage charge based on the amount of natural gas that it ships under its firm contract. Firm service is the highest quality transportation service offered to customers and anticipates no planned interruption.
- **Interruptible Service:** Shippers pay a one-part usage charge to transport natural gas on a pipeline, but service is subject to interruption by higher priority customers at times when capacity is not available. Thus, while interruptible service is less expensive because transportation customers pay only a usage charge based on transported volumes, interruptible shippers are lower in priority than firm transportation customers.

A shipper with no firm service that requires natural gas during a period of high demand when interruptible service is unavailable can turn to the secondary market by participating in the capacity release program or by acquiring gas through a bundled sale. In the secondary market, firm shippers may sell their unneeded pipeline capacity to another shipper through the capacity release program. Natural gas can also be purchased at a negotiated rate from a party such as a producer or marketer that will transport its natural gas from a production area or gas trading location, using its pipeline capacity, to the location on the pipeline where the gas is needed. This is known as a bundled sale, as it combines the sale and transportation of the natural gas to the customer.

## WHAT IS CAPACITY RELEASE?

The Commission adopted the capacity release program as part of the Order No. 636 restructuring of natural gas pipelines to create a transparent program for the reallocation of interstate pipeline capacity. The program was designed to increase the availability and maximize the use of firm capacity by permitting firm shippers to release their unused pipeline capacity to others.

Under a capacity release, a firm shipper on an interstate pipeline can resell some or all of its firm transportation and/or storage capacity to a replacement shipper. This is an important tool for natural gas-fired electric generators that do not have firm rights to capacity on interstate pipelines and need to purchase natural gas supply or pipeline capacity during periods of high demand such as winter storms.

## HOW DOES CAPACITY RELEASE WORK?

Some capacity releases are subject to posting and bidding requirements. Releases subject to bidding must be completed during business hours, while those not subject to bidding can take place at any time, including weekends and holidays. There is also no maximum price cap for capacity releases of one year or less.

- **Bidding:** A shipper wanting to release its firm capacity notifies the pipeline of the terms and conditions under which it will release its capacity subject to certain Commission requirements. The pipeline then posts the capacity for bidding on its website.
- **No Bidding:** Bidding on available capacity is not required for the following:
  - Prearranged releases that the releasing shipper has arranged with a replacement shipper for a period of 31 days or less;
  - Prearranged releases for more than one year where the replacement shipper agrees to pay the maximum recourse rate; and
  - Capacity releases to either an asset manager or marketer participating in a state-regulated retail access program;

## CAPACITY RELEASE PROHIBITIONS

The Commission prohibited certain practices to ensure shippers comply with its capacity release program.

- **Buy-Sell:** A shipper holding interstate pipeline capacity buys natural gas at the direction of, on behalf of, or directly from, another entity; ships that natural gas using its interstate pipeline capacity; and then resells an equivalent quantity of natural gas to the downstream entity at the delivery point. This type of transaction is prohibited because it amounts to an end run of the requirement that capacity releases be conducted through the pipeline and comply with the capacity release rules.
- **Shipper Must Have Title:** Shippers must hold title to the natural gas that they ship on the pipeline. Otherwise, capacity holders could simply transport gas over the pipeline for other entities and avoid the capacity release requirements.
- **Tying:** The releasing shipper cannot tie the release of pipeline capacity to any extraneous conditions, such as terms unrelated to the capacity, the purchases of other unwanted capacity, or gas contracts.
- **Flipping:** A releasing shipper is prohibited from making repeated discounted releases of 31 days or less to two or more affiliated replacement shippers, without bidding, on an alternating monthly basis.

## ASSET MANAGER ARRANGEMENTS (AMAS)

In Order No. 712, the Commission recognized the benefits of AMAs and that those benefits can be frustrated by the existing capacity release rules.<sup>1</sup> As a result, the Commission exempts capacity releases made as part of AMAs from the requirement of competitive bidding, from the restrictions of tying arrangements, and partially from the buy-sell prohibition.

## WAIVERS

The Commission has granted case-specific waivers of the Commission's capacity release regulations, pipeline capacity release tariff provisions, and policies supporting the capacity release program in situations such as the transfer of assets between companies, facilitation of state-approved retail access programs, and facilitation of LNG imports and exports. Upon request, the Commission would consider specific waivers to allow natural gas-fired electric generators to obtain natural gas and capacity during extreme weather.

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1 In general, AMAs are contractual relationships where a party agrees to manage gas supply and delivery arrangements, including transportation and storage capacity, for another party. Typically, a shipper holding firm transportation and/or storage capacity on a pipeline or multiple pipelines temporarily releases all or a portion of that capacity along with associated gas production and gas purchase agreements to an asset manager. The asset manager uses that capacity to serve the gas supply requirements of the releasing shipper, and, when the capacity is not needed for that purpose, uses the capacity to make releases or bundled sales to third parties. *Promotion of a More Efficient Capacity Release Market.*, Order No. 712, 123 FERC ¶ 61,286 at P 110, order on reh'g, Order No. 712-A, 125 FERC ¶ 61,216 (2008), *order on reh'g*, Order No. 712-B, 127 FERC ¶ 61,051 (2009).



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