

Gas Industry Standards Board

C97010

Request for Clarification or Interpretation

Date of Request: May 13, 1997

1. Submitting Entity & Address:

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3. GISB Standard Number: 2.3.14, 2.3.26, 3.3.15 and 4.3.4

4. Clarification or Interpretation Request:

The above-mentioned standards reference a common topic surrounding a 6 month time limit for addressing accounting corrections or revisions to measurement data, allocations and any prior period adjustments as well as the retention period for such data. In practice, some parties are further interpreting that the time limitation refers to audit rights as well and that no statement adjustments will be allowed after the 6 month period.

It must be made clear that audit rights were preserved (either in existing contracts or mutually agreed to in subsequent contracts) by these standards. Because these standards are being included in the term and conditions of either filed tariffs or pro forma contract provisions, parties are mistakenly replacing the audit rights or overriding existing contractual provisions in the name of compliance with GISB standards.

5. Possible Interpretations or Clarifications, if known:

It needs to be clarified that notwithstanding the lack of direct reference to audits in these standards that the statement "This standard shall not apply in the case of deliberate omission or misrepresentation or mutual mistake of fact." could not have meaning without referring to audit rights and likewise could not be performed within the same 6 month time period that allows for ongoing corrections. In addition, the sentence

“Parties’ other statutory or contractual rights shall not otherwise be diminished by this standard.” was included in each standard to point out that other rights should not be replaced. The discussion which led to the crafting of these two sentences are found in the transcript of the EC meeting of March 8, 1996 at pages 132-140 and 156-162. Standard 4.3.4 is further evidence that audit rights were expected to last at least for the 24 month data retention period. Also, the GISB Base Contract for Sale and Purchase of Natural Gas specifies a 2 year audit right in Section 7.4.

Though there was a clear intent in the standards to get accurate and timely final statements prevalent in the industry in order to stop the practice of corrected estimates that appear for seemingly years, we need an affirmative statement herein that protects audit rights for their intended purpose.