

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

:

Northwest Pipeline Company

Docket No. RP04-386-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS, SUBJECT TO
CONDITIONS, AND ESTABLISHING A TECHNICAL CONFERENCE

(Issued July 30, 2004)

1. On July 1, 2004, Northwest Pipeline Company (Northwest) submitted tariff sheets to implement procedures for soliciting permanent relinquishments of firm transportation capacity in reverse open seasons. Northwest proposed an August 1, 2004 effective date. As discussed below, the Commission accepts and suspends Northwest's proposed tariff sheets,¹ to be effective January 1, 2005. Further, the Commission will establish a technical conference to address issues raised by Northwest's filing. This order is in the public interest because it will allow parties to this proceeding an opportunity to further explore the implications of Northwest's proposal.

Proposal

2. Northwest proposes to add to its General Terms and Conditions a new section 29, Reverse Open Season Capacity Relinquishment (Sheet Nos. 287-291). Northwest states that the provisions reflect its existing business practices regarding the conduct of open seasons and are consistent with the procedures used during the recently completed reverse open season for the Capacity Replacement Project.²

¹ See Appendix.

² An amended corrective action order issued by the Department of Transportation's Office of Pipeline Safety on December 13, 2003, as further amended on April 9, 2004, requires Northwest to abandon its 268-mile long, 26-inch diameter pipeline between Sumas and Washougal, Washington and to install replacement facilities as necessary to meet future capacity requirements. Northwest states that it is designing the Capacity Replacement Project consisting of new 36-inch diameter pipeline loops and additional compression to replace the capacity of its Sumas to Washougal pipeline by November 1, 2006.

3. Northwest states that it will hold reverse open seasons for expansion projects and, at Northwest's sole discretion, for pipeline replacement projects, even though Northwest has the right to replace existing capacity to serve existing customers and has no obligation to allow existing customers to terminate contracts early.
4. Section 29.2 establishes the eligibility criteria that a shipper must meet to offer capacity relinquishment. At a minimum, a capacity relinquishment offer must enable Northwest to reduce the scope of an expansion project, must not result in a more adverse estimated rate impact than a project designed without the relinquishment, and must not degrade Northwest's design day displacement capacity availability and/or the shipper's capability to respond to general realignment Operational Flow Orders (OFOs) under Northwest's tariff.
5. Northwest states that capacity relinquishment offers must be reflected in a binding precedent agreement by the close of the reverse open season. All relevant information for participation in the reverse open season will be posted on Northwest's designated internet site, including deadlines, eligibility criteria, precedent agreement terms and conditions, evaluation criteria for relinquishment offers and the capacity relinquishment implementation schedule.
6. Section 29.4 defines the procedures that will apply if Northwest elects to hold a re-marketing open season in conjunction with a reverse open season for a capacity replacement project. Northwest will post all relevant information on its designated internet site. The re-marketing bid period will be a minimum of five business days. Northwest proposes that all bids must be at the maximum applicable reservation rate for the full package of offered capacity and must be for a minimum term of five years or the primary term of the relinquishing service agreement, whichever is longer.
7. Northwest proposes, at its sole discretion, to allow a shipper to pay a capacity relinquishment fee (exit fee) in order to justify Northwest's acceptance of a relinquishment offer that otherwise would not satisfy the minimum eligibility condition concerning estimated rate impact. Northwest states that the exit fee would be designed to offset any adverse difference between the estimated rate impacts of the project with and without incorporation of the offered capacity, including recovery of any regulatory assets attributable to the offered capacity. The fee, excluding any regulatory asset recovery component, will be treated as a contribution in aid of construction (CIAC) to reduce the capitalized cost of the project. The exit fee and income tax gross-up associated with the CIAC would be due concurrently with the shipper's execution of the contract amendment or termination reflecting the capacity relinquishment.

8. Northwest further proposes, at its sole discretion, to allow shippers to agree to a contract specific OFO condition for retained capacity in order to justify Northwest's acceptance of a relinquishment offer that otherwise would degrade design day displacement capacity availability or shipper's ability to respond to general realignment OFOs. The contract-specific OFO condition would be designed to offset the potential adverse operational impacts of incorporating the relinquished capacity into the project design.

Public Notice and Protests

9. Public notice of Northwest's filing was issued on July 9, 2004, with protests due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2003)). The timely motions to intervene are granted pursuant to Rule 214 of the Commission's Rules of Practice (18 C.F.R. § 385.214 (2003)). Any motions to intervene out-of-time filed before the date of this order are granted pursuant to 18 C.F.R. § 385.214(d), since the Commission finds that granting intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. Comments were filed by Snohomish County Public Utility District (Snohomish), Northwest Natural Gas Company (Northwest Natural), and Puget Sound Energy, Inc. (Puget Sound). Duke Energy Trading and Marketing, L.L.C. and Duke Energy Marketing America, L.L.C. (Duke) filed a protest, request for investigation, and request for summary rejection, or in the alternative, for maximum suspension subject to the outcome of an expedited technical conference. On July 22, 2004, Northwest filed an answer to the pleadings of Northwest Natural, Snohomish and Duke.

10. The commenters generally do not oppose Northwest's proposal to hold reverse open seasons, but raise a number of concerns with Northwest's proposal to add the reverse open season procedures to its tariff. Puget Sound and Snohomish support Northwest's proposal. Snohomish, however, provides suggested changes it considers necessary to ensure that the procedures are fair and equitable and result in the economic and efficient rationalization of capacity for the system. Northwest Natural requests that the Commission reject the filing without prejudice, arguing that there is no reason for the Commission to approve the addition of these procedures to its tariff at this time and that approval would be contrary to Commission precedent and policy. Duke states that the filing is significantly flawed and requests that the Commission reject the filing or, at a minimum, suspend the filing for five months, subject to the outcome of a technical conference. In addition, Duke argues that because Northwest effectively implemented these tariff provisions prior to filing them, the Commission should promptly initiate an investigation into the Capacity Replacement Project reverse open season. Snohomish urges that Commission action in this proceeding should not retroactively approve or justify the procedures used by Northwest in the Capacity Replacement Project or validate the results of that reverse open season.

Discussion

11. Northwest's filing raises numerous issues, including the appropriateness of pipeline capacity reductions, the structure and eligibility criteria for open seasons contemplated by the tariff changes, and the exit fee, including how the fee is derived and why the fee must be paid as a lump sum.

12. The Commission finds that these issues cannot be resolved on the basis of the filing. Therefore, the Commission will accept and suspend Northwest's filing for five months to become effective January 1, 2005. Further, the Commission directs staff to convene a technical conference to discuss the issues raised by the filing.

13. Based upon a review of the filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission accepts the tariff sheets for filing and suspends their effectiveness for the full statutory period, or some shorter period if so specified in a subsequent Commission order, subject to the conditions set forth in this order.

14. It is the Commission's policy generally to suspend rate filings for the maximum period permitted by statute if preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards. See Great Lakes Gas Transmission Co., 12 FERC ¶ 61,293 (1980) (five-month suspension). It is also recognized, however, that shorter suspensions may be warranted under circumstances in which suspension for the maximum period may lead to harsh and inequitable results. See Valley Gas Transmission, Inc., 12 FERC ¶ 61,197 (1980) (one-day suspension). No such circumstances are present here. We shall accept Northwest's tariff filing, and suspend it, to become effective the earlier of January 1, 2005, or the date specified in a subsequent Commission order after the conclusion of the technical conference.

The Commission orders:

(A) Northwest's proposed tariff sheets listed in the Appendix are accepted and suspended, to be effective January 1, 2005, subject to the outcome of the technical conference directed below.

(B) The Commission's staff is directed to convene a technical conference for the purpose of exploring the issues raised by Northwest's proposal and report back to the Commission within 120 days of the date of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Appendix

**Docket No. RP04-386-000
Third Revised Volume No. 1**

Tariff Sheets Accepted and Suspended to be Effective January 1, 2005, Subject to
Conditions

Eleventh Revised Sheet No. 200

Third Revised Sheet No. 287

Second Revised Sheet No. 288

Second Revised Sheet No. 289

First Revised Sheet No. 290

First Revised Sheet No. 291

Third Revised Sheet No. 292