

108 FERC ¶ 61,323
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ANR Pipeline Company

Docket No. RP04-435-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS
SUBJECT TO CONDITIONS, AND ESTABLISHING HEARING

(Issued September 30, 2004)

1. On August 2, 2004, ANR Pipeline Company (ANR) filed revised tariff sheets proposing Hydrocarbon Dewpoint (HDP)¹ gas quality specifications pursuant to section 4 of the Natural Gas Act to be effective October 1, 2004. For reasons discussed more fully in the body of this order, the Commission accepts and suspends ANR's proposal effective October 1, 2004, subject to conditions and hearing.

Details of the Instant Filing

2. The instant proposal has its origins in earlier proceedings which are discussed in the Commission's April 30, 2004 Order in ANR's Docket No. RP04-216-000.² The April 30 Order rejected an ANR HDP proposal as lacking sufficient documentation to support it, contrary to the Commission's regulations.³ The rejection was without prejudice to ANR's filing a supported proposal.⁴

3. In the instant filing, ANR proposes several revisions to its tariff concerning the gas quality standards in general and the HDP standard in particular. First, in section 1.24A of the General Terms and Conditions of its FERC Gas Tariff (GT&C), ANR proposes to define HDP as "cricondentherm, the highest temperature at which the vapor-liquid equilibrium may be present." ANR also proposes in this section a method for calculating the HDP, the Peng-Robinson equation of state.

¹ The HDP is the temperature at which gas flow begins to change from a single gaseous phase to a dual gas and liquid phase in the gas stream.

² ANR Pipeline Company, 107 FERC ¶61,094 (2004) (April 30 Order).

³ 18 C.F.R. §§ 154.201(b) and 154.204 (2004).

⁴ 107 FERC ¶61,094 at P 29.

4. ANR proposes in section 13.2(a) that gas delivered to it be commercially free from objectionable odors, hydrocarbon liquids, and water which might interfere with merchantability or interfere with or injure the equipment through which it flows. ANR also proposes that gas received be free from any substance that might become separated from the gas in ANR's facilities.
5. With respect to the HDP, ANR proposes in section 13.2 (a) that, from time to time, as operationally necessary, ANR may establish and post on its internet site a limit on HDP for receipts. The HDP limit will be on specified segments or other specified locations on ANR's system. The purposes of the HDP limit are to prevent hydrocarbon fallout and to assure that gas will be accepted for delivery into interconnects, including with interstate or intrastate pipelines, end-users, local distribution companies, and others. The proposal states ANR will attempt to provide such notice at least ten days prior to the effective date of the limitation. The notice will include the duration of the HDP limit. ANR may make an exception, to the extent operationally feasible, for meters that flow 500 Dt or less per day and are not upstream of a processing plant.
6. In section 13.2(a)(i), ANR proposes that the HDP safe harbor for its system will be 15 degrees Fahrenheit. ANR may not refuse to accept delivery of gas with an HDP equal to or less than 15 degrees Fahrenheit, provided that the gas meets the other applicable provisions of ANR's Tariff. In this section, ANR also proposes that ANR may not make a posting under section 13.2(a) that sets an HDP limit of less than 15 degrees Fahrenheit.
7. In section 13.2(a)(ii), ANR proposes that it may accept gas with a higher HDP than that established and posted pursuant to section 13.2(a) to the extent operationally practicable through aggregation or other reasonable means.
8. In section 13.2(a)(iii), ANR proposes that if a posting pursuant to section 13.2(a) contains an HDP limitation, it will make available the HDP at such a point on its internet site. It also proposes that it will make available, within 24 hours after making the calculation, each HDP "calculated per the above."
9. In section 13.2(e), ANR proposes that gas received must be free of hydrocarbons in liquid form. ANR proposes in addition in this section that gas received shall not contain any excessive liquefiable hydrocarbons that might condense to free liquids in the pipeline under normal pipeline conditions.
10. ANR filed a motion to place its proposal into effect October 1, 2004 unless the Commission conditions acceptance of this filing in any way. If there is a condition, ANR reserves the right to withdraw or seek to place the sheets into effect at a later date.

Protests and Comments

11. Public notice of the filing was issued on August 4, 2004. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2004)). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2004), all timely motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties.

Numerous parties filed protests and comments.

12. Peoples Gas Light and Coke Company, North Shore Gas Company, Wisconsin Distributor Group, Consumers Energy Company and Aquila, Inc. d/b/a Aquila Networks, and BP America Production Company and BP Energy Company (BP) filed comments in support of ANR's proposal.

13. The Process Gas Consumers Group (PGC)⁵ protests ANR's filing. PGC asks the Commission to continue the on-going Commission and stakeholder discussions on gas quality regardless of a resolution in this or other individual pipeline proceedings and to make this proceeding subject to the outcome of Docket No. PL04-3-000, the Commission's general proceeding on policies related to gas quality. PGC opposes proposals that would permit a rapid change in the HDP level since industrial operations and environmental compliance need certainty. Accordingly, it asserts that ten days' notice of changes in HDP is too little, that 30 days notice should be required, and also that there should be a maximum HDP level of 25 degrees Fahrenheit.

14. Dominion East Ohio⁶ and Michigan Consolidated Gas Company (MichCon) ask the Commission to consider HDP together with other gas quality issues. They assert the HDP and Btu standards operate in tandem and should be considered together. Dominion East Ohio asserts processing gas to the 15 degrees Fahrenheit HDP may increase the Btu content from historic levels which could cause safety problems and decreased revenue since it bills gas based on volumes not heat content. Dominion East Ohio further asserts that ANR's request equates to an abandonment of service which requires section 7 of the NGA abandonment permission under section 7 of the Natural Gas Act (NGA). Both also raise commodity cost and processing cost responsibility issues.

⁵ PGC is an association of industrial consumers of natural gas. The members are not listed in its motion to intervene.

⁶ East Ohio Gas Company, d/b/a Dominion East Ohio (Dominion East Ohio).

15. Indicated Shippers⁷, Producer Coalition⁸, Dominion East Ohio and MichCon assert ANR has not provided sufficient information to determine whether 15 degrees Fahrenheit is the correct safe harbor HDP. The Indicated Shippers and the Producer Coalition ask the Commission either to establish a technical conference or to establish an evidentiary hearing to develop a record regarding the correct HDP limits needed to protect ANR's system.

16. The Indicated Shippers, Producer Coalition and BP⁹ also seek many clarifications and modifications of other aspects of ANR's proposal, or, in the alternative, rejection. Among these are: (1) including the reason for an HDP limit when one is posted; (2) explaining the criteria for determining which points will be subject to a given HDP posting; (3) clearly defining the mechanisms or methodology to be used for aggregation; (4) eliminating references to substances that might become separated from the gas and excessive liquefiable hydrocarbons that might condense from sections 13.2(a) and 13.2(d) as they are no longer needed if an HDP limit is adopted; (5) establishing monitoring points at significant operational locations on ANR's system and posting the HDP levels on a daily basis so that shippers will know when HDP levels are high; (6) using current data for HDP calculations; (7) using C₉₊ or C₁₀₊ data rather than C₆₊ data for its HDP calculations; (8) clarifying that ANR will not use its Operational Flow Order (OFO) procedures to impose an HDP limit that is lower than its safe harbor level; and (9) clarifying that ANR will only use its OFO procedures to impose an HDP limit lower than the safe harbor level in true emergencies.

⁷ Indicated Shippers consist of Chevron Texaco Natural Gas, a division of Chevron U.S.A. Inc., ConocoPhillips Company, Exxon Mobil Corporation, and Shell Offshore, Inc.

⁸ The Producer Coalition consists of Devon Energy Corporation, Dominion Exploration & Production, Inc., Forest Oil Corporation, The Houston Exploration Company, Kerr-McGee Oil & Gas Corporation, Newfield Exploration Company, Spinnaker Exploration Company, and TOTAL E&P U.S.A., INC.

⁹ BP states that it does not protest ANR's HDP safe harbor or posting proposals.

17. ANR filed an answer to several of the various comments and protests.¹⁰ ANR contends that it has provided adequate support for approving its proposed HDP safe harbor proposal without a hearing. ANR contends that there is no perfect approach to the problem. Notwithstanding, it has performed a reasonable analysis for the purpose of ensuring safe and reliable pipeline operations, and has satisfies the various and diverse interests of parties delivering gas to, and receiving gas from, ANR's system. ANR contends that its proposal strikes a proper balance between definitive standards and pipeline flexibility. ANR further notes that the hearing concerning the appropriate level of the HDP safe harbor provision proposed by Natural Gas Pipeline Company of America (Natural)¹¹ has been ongoing for months without resolution. ANR contends that pipeline-by-pipeline hearings may not be advantageous for the Commission or the industry. Thus, ANR concludes, the Commission should accept its proposal.

Discussion

18. For the reasons discussed below, the Commission conditionally accepts and suspends ANR's proposal, effective October 1, 2004. In addition, as discussed below, the Commission establishes a hearing concerning ANR's proposed HDP tariff provisions.

19. ANR submitted documentation in support of the proposed 15 degree HDP safe harbor. ANR contends that its analysis and proposal are focused largely on pipeline operations. Parties at both the receipt and delivery points question the adequacy and relevance of the data ANR submitted in support of its proposal. Further, parties raise issues as to the appropriate method of sampling the gas stream and ANR's sampling capability. The Commission believes the issues raised concerning the appropriate level of ANR's proposed HDP safe harbor are issues of fact that are best resolved before an Administrative Law Judge.

20. PGC notes that the industry and the Commission are currently engaged in a process to reach some consensus on the interrelated issues of gas quality and merchantability in Docket No. PL04-3-000. PGC requests that the Commission not

¹⁰ While the Commission's regulations do not ordinarily permit answers to protests, the Commission will accept ANR's answer since it helps clarify the issues.

¹¹ The Commission established that hearing in an order on rehearing in Natural's Docket No. RP01-503-000. Natural Gas Pipeline Company of America, 104 FERC ¶ 61,322 (2003) (*Natural II*).

institute any process in the instant proceeding that would prejudice the outcome of Docket No. PL04-3-000. MichCon and Dominion East Ohio, on the other hand, request that the Commission explicitly direct ANR to adopt certain merchantability requirements.

21. ANR's proposal does not directly address the issue of gas merchantability. When and if the Commission adopts generally applicable gas merchantability standards, their applicability to ANR will be determined in another proceeding. The Commission will not set any issues concerning gas merchantability for hearing in the instant proceeding. Notwithstanding, this procedural finding does not foreclose parties from achieving an agreement or settlement on gas merchantability issues. Moreover, in the context of developments in Docket No. PL04-3, the Commission may deem it appropriate to reconsider the HDP provisions in ANR's tariff.

22. The Indicated Shippers and BP request that the Commission require ANR to modify its tariff to explain the criteria for determining which points will be subject to a given HDP posting and to clearly define the mechanisms or methodology to be used for aggregation. In the absence of this information, they believe ANR will have undue discretion.

23. ANR has not stated what criteria it will use for determining which points will be subject to an HDP posting; nor has it defined the mechanisms or methodology to be used for aggregation. However, ANR states that it is willing to provide the data as required in *Natural I*.¹² ANR's criteria, mechanisms or methodologies should be determined and

¹² *Natural Gas Pipeline Company of America*, 102 FERC ¶61,234 at P 48 (2003) (*Natural I*):

[W]e shall require Natural to file revised tariff provisions that provide that it shall post, on its Internet website: (1) every receipt point dewpoint value Natural calculates, within 24 hours of such calculation, along with the method by which the dewpoint was calculated; and (2) every blended dewpoint and blended Btu value Natural calculates for a line segment of its system, within 24 hours of such calculation. This, coupled with the GT&C section 26.1(h) procedures, and the shipper's ability to question Natural about the flow path of the shipper's volumes, should enable Natural's shippers to assess whether Natural's basis for imposing a more stringent quality restriction on a given shipper is reasonable, whether the reason is operational in nature or to maintain Natural's ability to deliver gas into interconnecting downstream pipelines, and whether there is any basis for asserting, in a complaint filed with the Commission, that Natural has

(continued)

examined in the hearing. During the interim, the Commission requires ANR to modify its tariff to provide for the data posting requirements required in *Natural I*.

24. The Indicated Shippers and BP request that the Commission clarify that ANR will not use its OFO procedures to impose an HDP limit that is lower than its safe harbor level, that ANR will only use its OFO procedures to impose an HDP limit lower than the safe harbor level for 30 days, and that ANR will not impose such lower levels by issuing short-term OFOs one after another.

25. ANR, in its transmittal letter, indicates that one of the reasons for its filing is the Commission's finding in Docket No. RP04-65-000.¹³ In that order, the Commission directed ANR to cease and desist from issuing OFOs that effectively implemented permanent restrictions on its gas quality tariff standards. A properly selected HDP should result in a tariff and service that customers can rely upon and that ANR can operationally provide with a high degree of confidence without the use of OFOs. Whether ANR's proposal will achieve this objective is among the issues to be examined in the hearing.

26. Based on 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 will accept the tariff sheets for filing, and suspend their effectiveness for the period set forth below, subject to the conditions in this order and to a hearing.

27. The Commission's policy regarding rate suspensions is that rate filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards.¹⁴ It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the

imposed a quality restriction to the shippers at certain receipt points who are tendering rich, non-conforming gas to Natural, while the same quality restriction is not being applied to shippers at other receipt points along the same line segment who are also tendering rich, non-conforming gas to Natural.

¹³ Indicated Shippers v. ANR Pipeline Company, 105 FERC ¶61,394 (2004).

¹⁴ See Great Lakes Gas Transmission Co., 12 FERC ¶ 61,293 (1980) (five-month suspension).

maximum period may lead to harsh and inequitable results.¹⁵ Such circumstances exist here. While ANR has not shown that its proposal is just and reasonable in all respects, the proposal appears to be an improvement over ANR's existing gas quality provisions since, for example, it includes a safe harbor HDP level. Therefore, the Commission accepts and suspends the proposed tariff sheets to become effective October 1, 2004, subject to conditions and a hearing.

28. The Commission notes that acceptance and suspension of ANR's proposal is conditioned. Pursuant to the reservations of ANR's motion to place the tariff sheets into effect, ANR, if it decides to place the sheets into effect, must file a motion pursuant to section 154.206(b) of the Commission's regulations.

The Commission orders:

(A) ANR's proposed tariff sheets as shown on the appendix are accepted and suspended, effective October 1, 2004, subject to the conditions in the body of this order and in the ordering paragraphs below and to a hearing.

(B) Pursuant to the authority of the NGA, particularly sections 4, 5, 8 and 15 thereof, a public hearing will be held in Docket No. RP04-435-000 concerning the lawfulness of ANR's proposal.

(C) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to 18 C.F.R. § 375.304, must convene a prehearing conference in this proceeding to be held in a hearing or conference room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426. The prehearing conference shall be held for the purpose of establishment of a procedural schedule. The Presiding Administrative Law Judge is authorized to conduct further proceedings in accordance with this order and the Commission's rules of practice and procedure.

¹⁵ See Valley Gas Transmission, Inc., 12 FERC ¶ 61,197 (1980) (minimum suspension).

(D) ANR is required to file within 15 days of the date of this order revised tariff language that provides ANR will post the data required in *Natural I* as discussed in the body of this order.

By the Commission. Commissioner Kelly not participating.

(S E A L)

Linda Mitry,
Acting Secretary.

APPENDIX

**ANR Pipeline Company
FERC Gas Tariff, Second Revised Volume No. 1**

Docket No. RP04-435-000

**Accepted Subject to Conditions,
Effective October 1, 2004:**

Sixth Revised Sheet No. 86
Third Revised Sheet No. 129
Second Revised Sheet No. 130
First Revised Sheet No. 130.01
First Revised Sheet No. 130.02
Second Revised Sheet No. 131