

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 23, 2006

In Reply Refer To:
Gas Transmission Northwest
Corporation
Docket No. RP06-175-000

Gas Transmission Northwest Corporation
1400 SW 5th Avenue, Suite 900
Portland, Oregon 97201

Attention: Carl M. Fink, Associate General Counsel

Reference: Petition for Waiver

Dear Mr. Fink:

1. On January 17, 2006, Gas Transmission Northwest Corporation (GTN) filed a Petition for Expedited Grant of Limited Waiver to waive GTN's right of first refusal (ROFR) tariff provisions to permit Duke Energy Marketing America (DEMA) to restate four firm long-term contracts as eight firm long-term contracts. GTN states that the petition is made by GTN at DEMA's request and will facilitate DEMA's negotiation of prearranged permanent releases of its capacity. The Commission will grant the request for waiver, as discussed below.

2. GTN states that it has been informed by DEMA that DEMA's parent, Duke Energy Corporation (Duke) and Cinergy Corporation (Cinergy), have agreed to merge and then restructure various business units within the merged company. Therefore, DEMA is in the process of divesting various natural gas transportation, storage, supply and delivery obligations associated with merchant generation plants that will not remain in the asset base of the merged Duke/Cinergy entity.

3. GTN also states that DEMA has informed it that DEMA has conducted certain processes to allow interested buyers to examine and bid on portions of DEMA's business assets, including the four interstate transportation contracts at issue here. GTN contends that DEMA intends to execute two purchase and sale agreements (PSAs) that include binding commitments to acquire, through permanent capacity release, DEMA's transportation contracts with GTN, with qualified creditworthy third party buyers (buyers). DEMA and the buyers are currently targeting April 1, 2006, as the date to

effectuate the sale and assignment of the assets. To facilitate the completion of the PSAs, DEMA has requested that each of DEMA's four firm long-term contracts be restated as eight firm long-term contracts.¹

4. GTN states that it is willing to assist DEMA with restating its contracts in the manner requested, given DEMA's intent to wind down its operations. However, GTN is concerned that separating the contracts may artificially create a ROFR obligation on DEMA's shorter-term contracts (which terminate first); potentially doubling the amount of capacity GTN may be required to offer. Therefore, GTN requests that the Commission allow it to waive the ROFR provisions within Paragraph 33 of its tariff to allow GTN to create these shorter-term contracts with DEMA, without ROFR rights.²

5. GTN states that it is amenable to the contract restructuring proposal because it facilitates the business objectives of one of its firm customers without affecting the rates, terms and conditions, or overall term of DEMA's contracts, and without affecting GTN's other customers.

6. Public notice of GTN's filing was issued January 20, 2006, with interventions and protests due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2005)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2005)), all timely filed 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

¹ Currently, all four contracts terminate on 10/31/2023. Under GTN's proposal each of the four firm long-term contracts would be restated as two firm long-term contracts (for a total of eight). One of the current contracts (contract no. 00159) would be restated with the first contract term ending 10/31/2007, and the second contract term beginning 11/1/2007 and terminating 10/31/2023. Three of the current contracts (contract nos. 00161, 00162, and 05266) would be restated with the first contract terms ending 2/28/2009 and the second contract terms beginning 3/1/2009 and ending 10/31/2023.

² Paragraph 33 of GTN's tariff states that "Firm Shippers (original capacity holders) under GTN's firm transportation rate schedules of Third Revised Volume No. 1-A who hold capacity for terms greater than or equal to one year at the maximum authorized reservation charge or rate shall have the right of first refusal at the expiration of their service agreements, subject to the following procedures. Original capacity holders must notify GTN one year prior to the primary expiration date of their service agreements whether they elect to terminate or not to terminate the service agreements. One year prior to the expiration of their service agreement, GTN will post a notice on its Internet website that the original capacity holder's service agreement will expire and whether the original capacity holder has either elected or not elected to terminate pursuant to this paragraph."

will not disrupt the proceeding or place additional burdens on existing parties. No parties filed adverse comments or protests to the filing.

7. Granting waiver of GTN's tariff and the Commission's regulations³ will facilitate DEMA's winding down of its operations, disposition of its transportation contracts, and will not affect any other customers on GTN's system. In addition, no party has protested the filing, filed adverse comments, or argued otherwise. Accordingly, we will grant GTN's request for waiver of paragraph 33 of its tariff, for the limited purpose of GTN's restatement of the four contracts with DEMA in order to assist DEMA in winding down its operations.⁴ However, any release by DEMA of its capacity under the restated contracts must comply with the Commission's capacity release regulations and GTN's capacity release tariff provisions, absent a waiver request by DEMA.

By direction of the Commission.

Magalie R. Salas,
Secretary.

³ 18 C.F.R. § 284.221(d) (2005).

⁴ See *Northwest Pipeline Corp. and Duke Energy Trading and Marketing*, 109 FERC ¶ 61,044 (2004), granting other waivers to assist Duke Energy Trading and Marketing in exiting its gas merchant business.