

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Entrega Gas Pipeline LLC

Docket No. RP06-200-000

ORDER ACCEPTING FILING SUBJECT TO CONDITION

(Issued March 1, 2006)

1. On January 31, 2006, Entrega Gas Pipeline LLC (Entrega) filed an application in Docket No. RP06-200-000 for approval of its negotiated rate transportation service agreement between Entrega and EnCana Marketing (USA) Inc. (EnCana) and the related tariff sheets to its FERC Gas Tariff, Original Volume No. 1. For the reasons set forth below, we accept the filing effective February 1, 2006, as proposed, on the condition that Entrega refile a portion of the negotiated rate agreement to remove a provision allowing EnCana to acquire additional available capacity without Entrega's making that capacity available to other shippers on a nondiscriminatory basis.

Background

2. Entrega is a newly constructed pipeline in Colorado and Wyoming that filed an application with the Commission for a certificate of public convenience and necessity pursuant to section 7(c) of the NGA on September 17, 2004. On August 9, 2005, the Commission issued Entrega's certificate authorizing the construction of the Entrega Pipeline Project.¹ On November 16, 2005, Entrega filed actual tariff sheets in Docket No. CP04-414-002. The Commission's December 29, 2005 rehearing order required Entrega to revise its tariff with respect to interruptible revenue sharing with negotiated rate shippers with firm services contracts.² Pursuant to the rehearing order, Entrega filed revised tariff sheets on January 19, 2006 in Docket No. CP04-413-002.

3. In the certificate order, the Commission addressed Entrega's precedent agreement with EnCana providing for a negotiated rate and stated that Entrega was required to file its negotiated rate agreement with the Commission 30 days prior to commencement of

¹ *Entrega Gas Pipeline LLC*, 112 FERC ¶ 61,177 (2005).

² *Entrega Gas Pipeline LLC*, 113 FERC ¶ 61,327 (2005).

service consistent with the Commission policy on negotiated rates.³ Entrega requests an effective date of February 1, 2006.

Instant Filing

4. The subject negotiated rate transportation service agreement (Interim Service TSA) and the referenced tariff sheets reflect a negotiated rate agreement between Entrega and EnCana that provides for Entrega to transport gas from two receipt points in Colorado to a delivery point in Wamsutter, Wyoming.⁴ Entrega's Interim Service to EnCana provides service on the Segment 1 pipeline from Meeker Hub, Colorado to delivery point at Wamsutter, Wyoming and is projected to be in operation until the segment to Cheyenne Hub is completed, which is expected to be in April 2007, at which time the Interim Service TSA will terminate and service will be performed under a revised contract.

5. Entrega states that its filing includes a non-conforming provision which would allow EnCana the right, after service commences under the interim transportation agreement, to contract for all of the available increase in capacity of the Segment 1 facilities above the stated contract of 500,000 Dth per day.⁵ Entrega asserts that this provision, while non-conforming to its tariff, should be permitted because it will be in effect for only the short period that Segment 1 is in sole operation and no party other than EnCana has proposed to acquire capacity during Entrega's open season period. Therefore, Entrega asserts this does not present a risk of undue discrimination.

6. Entrega request waiver of the 30-day notice requirement in section 154.207 of the regulations to permit the contract to be effective February 1, 2006 based on the Commission's statement in its *Negotiated Rate Policy Statement*,⁶ that it did not intend to

³ *Entrega Gas Pipeline LLC*, 112 FERC ¶ 61,177 at P 32 citing *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines*, 74 FERC ¶ 61,076 (1996); *NorAm Gas Transmission Company*, 74 FERC ¶ 61,076 (1996) and *Modification of Negotiated Rate Policy*, 104 FERC ¶ 61,134 (2003).

⁴ Original Sheet Nos. 22-23 and Sheet Nos. 24-29 to FERC Gas Tariff, Original Volume No. 1.

⁵ Exhibit A to Amendment No. 1 to the Transportation Service Agreement between Entrega and EnCana, Note No. 4.

⁶ 74 FERC ¶ 61,076 at 61,241-42.

suspend the effectiveness of negotiated rate filings or impose a refund obligation collected under such agreements.

Public Notice and Interventions

7. This filing was noticed on February 3, 2006, with comments, protests, or motions to intervene due on or before February 13, 2006. No protests or comments were filed. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214(2005)). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214.

Discussion

8. Entrega requests that we accept its non-conforming contract provision with EnCana which would allow EnCana to acquire any additional capacity on Entrega's Segment 1 facilities above the contracted-for-capacity of 500,000 Dth per day. We find that provision to be unduly discriminatory. Contractual provisions that allow a shipper to adjust or redistribute its MDQs during the term of a contract are a valuable right which must be granted in a not unduly discriminatory manner. Accordingly, the Commission has not allowed pipelines to negotiate such provisions with individual customers, unless they are offered in the pipeline's tariff pursuant to generally applicable conditions.⁷ Therefore, the Commission will reject Entrega's proposal to include in its negotiated contract the provision allowing EnCana to acquire additional capacity as it would be discriminatory unless contained within the pipeline's tariff pursuant to generally applicable conditions and available to all shippers.

9. Entrega's request for waiver of the 30-day notice requirement in section 154.207 of the regulations to permit the contract and the related tariff sheets to be effective February 1, 2006 is granted.

The Commission orders:

10. Pursuant to the Commission's Regulations under the Natural Gas Act, the Interim Service TSA filed in Docket No. RP06-200-000 and the related tariff sheets identified above are accepted for filing, subject to the condition that within 20 days of the date this

⁷ See, e.g., *ANR Pipeline Company*, 105 FERC ¶ 61,112 at P 15 (2003).

order issues Entrega makes a compliance filing of Exhibit A to Amendment No. 1 to the Transportation Service Agreement between Entrega and EnCana removing Note No. 4.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.