

111 FERC ¶ 61,276
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 27, 2005

In Reply Refer To:
El Paso Natural Gas Company
Docket Nos. RP04-248-003
RP04-248-004
RP04-251-004
RP04-251-005

El Paso Natural Gas Company
Post Office Box 1087
Colorado Springs, CO 80944

Attention: Catherine E. Palazzari
Vice President

Reference: Rate Schedule PAL Compliance Filing

Dear Ms. Palazzari:

1. On March 24, 2005, El Paso Natural Gas Company (El Paso) filed revised tariff sheets in Docket Nos. RP04-248-003 and RP04-251-004, as modified May 4, 2005,¹ to implement the pro forma settlement provisions establishing Rate Schedule PAL, an interruptible parking and lending service approved by the Commission by order issued December 20, 2004 (December 20 Order).² The revised tariff sheets in Appendix A satisfactorily comply with the December 20 Order and are accepted, effective May 1, 2005, as proposed. The revised tariff sheets in Appendix B are deemed withdrawn.

¹ In the May 4 Filing, El Paso resubmitted Sheet Nos. 27A, 131-138, and 215C as Substitute Original, stating that it had incorrectly designated those sheets as First Revised in the March 24 Filing. El Paso requests that the sheets replaced by the Substitute Original sheets in the May filing be withdrawn.

² 109 FERC ¶ 61,292 (2004).

2. The December 20 Order accepted the uncontested settlement, filed September 13, 2004, to resolve issues arising in El Paso's Order No. 637³ compliance and Imbalance Management Services filings in this proceeding. The settlement permitted El Paso to implement individual components of the tariff sheets as the related business systems became available. El Paso states that it anticipates implementing the PAL tariff provisions on May 1, 2005. The PAL tariff provisions submitted herein are identical to the PAL tariff provisions contained in the pro forma sheets previously submitted and approved by the Commission, with a few exceptions.⁴

3. The filing was noticed on March 30, 2005, with comments, protests or interventions due on or before April 5, 2005. All timely motions to intervene and all motions to intervene out of time filed before the issuance of this order are granted pursuant to Rule 214 of the Commission's Rules of Practice and Procedure. Granting late intervention at this early stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. On May 16, 2005, the Indicated Shippers⁵ filed late comments requesting clarification or revisions to El Paso's filing.

4. The Indicated Shippers generally support the implementation of the PAL service, but seek clarification from El Paso that a PAL shipper should not be subject to the penalty provisions of Rate Schedule PAL in the event that the PAL shipper submits a valid nomination to remove parked gas or repay loaned gas at the termination of its PAL service agreement, and El Paso is unable to schedule or confirm such nomination. The Indicated Shippers note that Rate Schedule PAL already provides that the penalty

³ *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, FERC Stats. & Regs., Regulations Preambles (July 1996 – December 2000) ¶ 31,091 (Feb. 9, 2000); *order on rehearing*, Order No. 637-A, FERC Stats. & Regs., Regulations Preambles (July 1996 – December 2000) ¶ 31,099 (May 19, 2000); *order on rehearing*, Order No. 637-B, 92 FERC ¶ 61,062 (July 26, 2000); *aff'd in part and remanded in part*, *Interstate Natural Gas Association of America v. FERC*, 285 F.3d 18 (D.C. Cir. 2002).

⁴ Several sheets incorporate revisions approved by the Commission in unrelated proceedings. Sheet No. 1 lists an additional non-conforming agreement, and Sheet No. 27A updates the PAL rates consistent with El Paso's inflation adjustment filing. Sheet No. 136 reflects the existing System Weighted Index Price used for cash out purposes because the System Cash Out Index Price approved as part of the settlement has not yet been implemented.

⁵ Aera Energy LLC; Burlington Resources Trading Inc.; Coral Energy Resources, L.P.; Occidental Energy Marketing, Inc.; BP America Production Company and BP Energy Company; ConocoPhillips Company; and ChevronTexaco Natural Gas, a division of Chevron U.S.A. Inc.

provisions will be suspended if a PAL shipper submits a valid nomination in response to a notice of interruption of service and El Paso is unable to schedule the nomination. The Indicated Shippers argue that it would be unfair for a PAL shipper, who is attempting to comply with its PAL agreement, to face penalties because El Paso is unable to schedule and confirm a valid nomination due to other operational constraints. The Indicated Shippers request that El Paso clarify its tariff or request that the Commission require El Paso to clarify its tariff, consistent with *Tennessee*, where the Commission approved similar language.⁶

5. A review of El Paso's revised tariff sheets indicates that the circumstance described in the Indicated Shippers' motion is not explicitly addressed. In the event that El Paso is unable to confirm and schedule a valid nomination due to operational constraints, the Rate Schedule PAL provisions do not affirmatively impose penalties on a PAL shipper who submits a valid nomination at the termination of PAL service. However, those PAL provisions also do not explicitly suspend such penalty provisions. Therefore, consistent with our action in *Tennessee*, we direct El Paso to clarify its tariff as discussed herein.

By direction of the Commission. Commissioner Kelly not participating.

Linda Mitry,
Deputy Secretary.

⁶ *Tennessee Gas Pipeline Company*, 99 FERC ¶ 61,017 (2002) at P 205, *order on reh'g*, 104 FERC ¶ 61,063 (2003).

Appendix A

El Paso Natural Gas Company
Docket No. RP04-248-003, *et al.*

Tariff Sheets Accepted Effective May 1, 2005

Second Revised Volume No. 1A

Twenty-Fifth Revised Sheet No. 1
Substitute Original Sheet No. 27A
Substitute Original Sheet No. 131
Substitute Original Sheet No. 132
Substitute Original Sheet No. 133
Substitute Original Sheet No. 134
Substitute Original Sheet No. 135
Substitute Original Sheet No. 136
Substitute Original Sheet No. 137
Substitute Original Sheet No. 138
Substitute Original Sheet No. 215C
Third Revised Sheet No. 297
Third Revised Sheet No. 298
First Revised Sheet No. 373
Third Revised Sheet No. 445
Second Revised Sheet No. 446
Second Revised Sheet No. 447
Second Revised Sheet No. 448
Second Revised Sheet No. 449

Appendix B

El Paso Natural Gas Company
Docket No. RP04-248-003, *et al.*

Tariff Sheets to be Withdrawn

Second Revised Volume No. 1A

First Revised Sheet No. 27A
First Revised Sheet No. 131
First Revised Sheet No. 132
First Revised Sheet No. 133
First Revised Sheet No. 134
First Revised Sheet No. 135
First Revised Sheet No. 136
First Revised Sheet No. 137
First Revised Sheet No. 138
First Revised Sheet No. 215C