

121 FERC ¶ 61,203
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 28, 2007

In Reply Refer To:
Kern River Gas Transmission Company
Docket No. RP08-1-000

Kern River Gas Transmission Company
P.O. Box 71400
Salt Lake City, Utah 84171-0400

Attention: Billie L. Tolman, Manager
Regulatory Affairs

Reference: Scheduling Secondary Capacity During Times of Constraint

Dear Ms. Tolman:

1. On October 1, 2007, Kern River Gas Transmission Company (Kern River) filed revised tariff sheets¹ reflecting changes to the scheduling procedures used to allocate available secondary firm capacity in constrained areas on its mainline and at receipt and delivery points. Kern River proposes to change its scheduling procedure to a pro rata allocation for shippers using secondary points based on each shipper's confirmed nominations. The Commission finds that pro rata scheduling based on confirmed nominations is non-discriminatory and reasonable for allocating secondary firm capacity. Therefore, the Commission will accept the revised tariff sheets listed in footnote No. 1 to be effective December 1, 2007, as proposed.

2. Kern River proposes to revise section 13.2(a)(1)(i)(b) of its GT&C to provide that capacity be allocated among firm shippers submitting out-of-path nominations through the constrained mainline area pro rata based on each shipper's confirmed nominations as opposed to an allocation by contract quantity which it currently uses. In addition, Kern River proposes to revise Section 13.2(a)(2)(ii) of its GT&C to provide that capacity be allocated to firm shippers

¹ Fourth Revised Sheet No. 125 and Third Revised Sheet No. 127 to FERC Gas Tariff, Second Revised Volume No. 1.

without primary entitlements at receipt and delivery points pro rata based on each shipper's confirmed nominations at the constrained point again as opposed to allocation by contract quantity.

3. Kern River states that using confirmed nominations to allocate secondary capacity is more equitable than using contract quantity because it reflects that a shipper has a confirmed supply and market to support its nomination. Kern River contends that its proposal is also in full compliance with the North American Energy Standards Board Wholesale Gas Quadrant (NAESB WGQ) nomination standards.

4. Kern River's filing was noticed on October 2, 2007, with interventions and protests due on or before October 15, 2007. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2007)), 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 will not disrupt the proceeding or place additional burdens on existing parties. Reliant Energy Services, Inc. (RES) filed a protest to Kern River's proposal as explained further below.

5. RES protested Kern River's proposed tariff changes on the basis that they could result in RES receiving additional cuts in its firm service at secondary points. RES explains that it has recently experienced significant disruptions of firm service on Kern River and any change in the methodology used to allocate secondary capacity may further harm service to RES. As a result, RES requests the Commission set the proposed tariff changes for hearing, or in the alternative establish a technical conference to ensure that RES does not experience further deterioration of service.

6. Under Kern River's proposal, shippers using primary to primary points will continue to be scheduled first and will be allocated capacity based on contract amounts. However, scheduling using secondary points will be allocated on the basis of confirmed nominations. The Commission has previously found that either method of allocating capacity through constrained points, *i.e.*, pro rata based on contract demand or based on nominations, is non-discriminatory and reasonable.²

² See section 9 of the GT&C of Questar Pipeline Company's FERC Gas Tariff, First Revised Volume No. 1. See also section 4.2 of the GT&C of Paiute Pipeline Company's FERC Gas Tariff, Second Revised Volume No. 1-A and section 5.3 of the GT&C of Canyon Creek Compression Company's FERC Gas Tariff, Third Revised Volume No. 1.

Further, in conjunction with Order No. 636, the Commission required pipelines to allow shippers to use secondary points on an as available basis.³ The Commission finds that a pipeline bears only the burden to show that its proposed tariff proposal is just and reasonable under Section 4 of the Natural Gas Act. If the pipeline satisfies that burden then its tariff proposal can be accepted even if other just and reasonable proposals might exist.

7. While RES is concerned that the proposed revision may exacerbate harm to it given the size of its contract, the Commission finds that there are three ways RES can mitigate any harm. First, RES can schedule primary point capacity to primary points under its contracts. Second, RES may nominate full contract volumes at alternate or secondary points, and then it will be no worse off. Third, RES may seek to change its primary points and avoid allocations altogether. The Commission's policy is that use of alternate points is on an as available basis and can cause constraints that were not reflections of the original contract path. The Commission finds that Kern River has adequately supported its proposed allocation of capacity using secondary points to be based on confirmed nominations rather than contract demand. As a result, the Commission will accept the tariff sheets filed by Kern River, and deny the request of RES to set the issue for hearing or in the alternative schedule a technical conference.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

³ *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 636, FERC Stats. & Regs., Regulations Preambles January 1991-June 1996 ¶ 30,939 at 30,428-29 (1992).