

125 FERC ¶ 61,346
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 22, 2008

In Reply Refer To:
Northern Natural Gas Company
Docket No. RP09-110-000

Northern Natural Gas Company
P.O. Box 3330
Omaha, NE 68103

Attention: Mary Kay Miller, Vice President
Regulatory and Government Affairs

Reference: Revised Tariffs to Comply with FERC Order No. 712

Ladies and Gentlemen:

1. On November 25, 2008, Northern Natural Gas Company (Northern) filed revised tariff sheets¹ to reflect changes in compliance with *Promotion of a More Efficient Capacity Release Market*, Order No. 712, 73 Fed. Reg. 37,058 (June 30, 2008), FERC Stats & Regs. ¶ 31,271 (2008) (Order No. 712) and *Promotion of a More Efficient Capacity Release Market*, Order No. 712-A, 73 Fed. Reg. 72,692 (December 1, 2008), FERC Stats & Regs. ¶ 31,284 (2008) (Order No. 712-A). The Commission accepts the tariff sheets contained within Appendix A to be effective December 26, 2008. The Commission accepts and suspends the tariff sheets listed in Appendix B to be effective December 26, 2008, subject to Northern refiling the tariff sheets consistent with this order.

2. Northern proposes modifications to section 47 of its FERC Gas Tariff in order to comply with the Commission's capacity release regulations as amended in Order Nos. 712 and 712-A. Northern states that, among other things, the amended regulations (1) removed the maximum rate ceiling on short-term capacity releases, (2) exempted Asset Management Arrangements from generally applicable bidding requirements, and (3) provided an exemption from the prohibition against tying for releases of storage capacity that include transfers of natural gas storage inventory and for releases made under state-

¹ See Appendices A and B.

approved retail programs. Northern states that it has incorporated each of the three aforementioned changes into its tariff provisions. Northern also explains that it removed language that was no longer applicable or necessary due to the proposed changes in Order Nos. 712 and 712-A.

3. Northern included other changes. Northern moved language relating to contracting from Paragraph E to Paragraph F of section 47 because contracting was more closely related to the provisioning of capacity release than the evaluation of bids. Northern also removed the current Paragraph N from section 47 because it was outdated and Northern no longer is involved in any buy-sell arrangements.

4. Notice of Northern's filing issued on December 1, 2008. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2008). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2008), all timely-filed motions to intervene and any motions to intervene out-of-time 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. Minnesota Energy Resources Corporation (MERC) filed comments. The Northern Municipal Distributors Group (NMDG) and each of its individual members,² and the Midwest Region Gas Task Force Association (MRGTF) and each of its members,³ (collectively NMDG/MRGTF) jointly and severally filed comments requesting modification of Northern's filing, or, in the alternative, a protest.

5. MERC generally agrees the filing is consistent with the requirements established in Order Nos. 712 and 712-A. However, both MERC and NMDG/MRGTF state that Northern should modify the filing in certain respects to conform with Commission regulations.

6. MERC and NMDG/MRGTF point out that in Paragraph A(iv)(a) of section 47,

² NMDG is composed of the following Iowa municipal-distributor customers of Northern Natural Gas Company: Cascade, Cedar Falls; Coon Rapids; Emmetsburg; Gilmore City; Graettinger; Guthrie Center, Harlan; Hartley; Hawarden; Lake Park; Manilla; Manning; Osage; Preston; Remsen; Rock Rapids; Rolfe; Sabula; Sac City; Sanborn; Sioux Center; Tipton; Waukee; West Bend; Whittemore; and Woodbine.

³ MRGTF is composed of the following municipal-distributor and local distribution customers of Northern Natural Gas Company: Austin; Centennial Utilities; Community Utility Company; City of Duluth, Minnesota - Duluth Public Utilities; Great Plains Natural Gas Company; Hibbing; Hutchinson; New Ulm; Northwest Natural Gas Company; Owatonna; Round Lake; Sheehan's Gas Company, Inc.; Two Harbors; Virginia; and Westbrook, Minnesota; Midwest Natural Gas, Inc.; Superior Water Light & Power; St. Croix Valley Natural Gas, Wisconsin; and Watertown, South Dakota.

Northern exempts from advance posting and bidding requirements releases for “one calendar month or less.” MERC and NMDG/MRGTF further state that Paragraph A(iv)(c) uses the phrase “one calendar month or less” to describe a type of release that is not eligible for extension or rollover unless it complies with advance posting and bidding requirements or for re-release without posting to the same shipper until 28 days after the first release period has concluded. The comments note, however, that as revised by Order Nos. 712 and 712-A, the applicable Commission regulations at 18 C.F.R. §§ 284.8(h)(1)(iv) and 284.8(h)(2) refer to periods of “31 days or less” rather than “one calendar month or less.” Thus, they state that Northern’s language is inconsistent with Commission regulations and Northern should modify it.

7. Also referring to Paragraph A(iv)(a), NMDG/MRGTF state that Northern’s proposed tariff language exempts from posting and bidding requirements “pre-arranged” releases of capacity for more than one year at the maximum rate. NMDG/MRGTF note, however, that the term “pre-arranged” is not included in the amended regulations, which simply exempt any “release for more than one year at the maximum tariff rate.” Thus, NMDG/MRGTF state the term “pre-arranged” may suggest greater limitations than those intended by the regulations. NMDG/MRGTF state that the confusion is increased by Northern’s deletion of longstanding language in the tariff pertaining to “pre-arranged” releases. Thus, NMDG/MRGTF request the removal of the term “pre-arranged” from Paragraph A(iv)(a). NMDG/MRGTF further urge that to the extent Northern wishes to retain the term “pre-arranged” in Paragraph A(iv)(a), the tariff sheet should be revised to reflect that the releases of capacity include, but are not limited to, pre-arranged releases of capacity.

8. MERC also contends that the phrase “at less than maximum rates” as applied to leases of one year or less in Paragraph D of section 47 is no longer necessary given the Commission’s removal of the rate cap for short-term releases. MERC notes that other changes to Northern’s tariff correctly reflect this regulatory change. Thus, MERC states that it would be less confusing and more consistent with the remainder of the tariff and the Commission rules if Northern removed the phrase “at less than maximum rates” from Paragraph D.

9. The Commission approves Northern’s filing subject to certain modifications. The Commission finds that Northern’s proposed changes are generally consistent with the changes in the Commission’s capacity release provisions as contained within Order Nos. 712 and 712-A. Thus, the Commission accepts the tariff sheets in Appendix A to become effective December 26, 2008.

10. The parties correctly noted that portions of the tariff sheets in Appendix B are inconsistent with the revised rules as contained in Order Nos. 712 and 712-A. In addition to the issues noted by the parties, the Commission observes that Paragraph A(iv)(c) refers to restrictions upon short term releases for “less than maximum rates” despite the

removal of rate limitations for short term releases in Order Nos. 712 and 712-A. In addition to remedying the defects identified by the parties, Northern should correct this portion of its filing to reflect current Commission regulations.

11. Thus, the Commission accepts and suspends the sheets in Appendix B, effective December 26, 2008, subject to the filing of corrected tariff sheets within 45 days of the date this order issues, which (1) replace the term “one calendar month or less” with “31 days or less” in Paragraph A(iv)(a); (2) replace the term “one calendar month or less” with “31 days or less” in Paragraph A(iv)(c); (3) remove the term “pre-arranged” from Paragraph A(iv)(a); (4) remove the phrase “at less than maximum rates” in Paragraph D; and, (5) remove the phrase “less than maximum rates” in Paragraph A(iv)(c).

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

cc: All Parties

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Appendix A

Northern Natural Gas Company
FERC Gas Tariff, Fifth Revised Volume No. 1

Tariff Sheets Accepted Effective December 26, 2008:

Fifth Revised Sheet No. 287A

10 Revised Sheet No. 289

Appendix B

Northern Natural Gas Company
FERC Gas Tariff, Fifth Revised Volume No. 1

Tariff Sheets Accepted Effective December 26, 2008, Subject to Conditions:

11 Revised Sheet No. 286

12 Revised Sheet No. 287