

126 FERC ¶ 61,206
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 5, 2009

In Reply Refer To:
Northern Natural Gas Company
Docket No. RP09-344-000

Northern Natural Gas Company
1111 South 103rd Street
Omaha, Nebraska 68124-1000

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

Reference: Non-Conforming Negotiated Rate Agreement

Ladies and Gentlemen:

1. On February 5, 2009, Northern Natural Gas Company (Northern) filed a non-conforming negotiated rate agreement with Chevron U.S.A. Inc. (Chevron), pursuant to section 4 of the Natural Gas Act and Part 154 of the Commission's regulations. The filing includes the tariff sheets listed in the Appendix, to reflect the requisite negotiated rate contract data and to identify the contracts as non-conforming agreements. Northern requests approval of the agreements and acceptance of the revised tariff sheets to become effective March 8, 2009. We accept the agreement for filing and accept the revised tariff sheets listed in the Appendix to become effective March 8, 2009, as proposed.
2. Northern and Chevron executed a Rate Schedule PDD storage agreement that provides service at a formula rate based on a spot gas delivered price reported in *Inside FERC Gas Market Report*. Agreement No. 110598/801594, executed January 22, 2009, permits Chevron to inject a Contract Total Quantity of 1,500,000 Dth during July of 2009 for withdrawal during January of 2010.
3. In addition to filing the actual negotiated rate agreement, Northern submitted Sheet Nos. 67 and 67A to reflect the essential elements of its agreement with Chevron under Northern's statement of negotiated rates, including the exact legal name of the shipper, the negotiated rates, other applicable charges, applicable Rate Schedules, primary receipt and delivery points, term of service and volumes. In addition, Northern states that the negotiated rate transaction will be reflected on Northern's transactional report pursuant to Order Nos. 637, 637-A, and 637-B.

4. Northern indicates in its transmittal letter that the agreements contain non-conforming provisions at sections 2 and 3. Specifically, the non-conforming provision at section 2 provides for the resolution of the total transaction cost with a single billing to Chevron reflecting both the withdrawal and the injection components when the transaction concludes. The non-conforming provision at section 3 commits Northern to file the agreement as a non-conforming negotiated rate agreement, subject to the Commission's approval.

5. Northern's tariff states that each month it will submit a statement and billing to Chevron for actual services rendered during the preceding month. To effectuate the negotiated rate, Northern and Chevron agreed to a one-time settlement of the amount due between the parties rather than a monthly billing. Northern states that the non-conforming provisions are necessary to implement the negotiated rate agreed upon by the parties. Northern asserts that these provisions do not affect the quality of service to Chevron, nor should they be of any interest to other customers. Therefore, Northern requests that the Commission accept the contract and the provisions as acceptable material deviations that do not require inclusion in its *pro forma* service agreement or tariff. Northern requests the Commission approve these contracts no later than March 8, 2009, even though the injection of gas supplies from storage will not begin until July 1, 2009. Northern states the request for prior Commission approval of this agreement provides Chevron with the certainty it needs to complete the required index pricing arrangements.

6. Notice of Northern's filing was issued on February 9, 2009. 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. On February 17, 2009, Minnesota Energy Resources Corporation (MERC) filed a motion to intervene and comments.

7. In its comments, MERC states that on February 11, 2009, it filed a motion to intervene and protest of Northern's fuel adjustment filing in Docket No. RP09-318-000. In that docket, MERC states that Northern proposed adjustments to its fuel percentages, including a more than doubling of the Market Area Percentage. In its protest, MERC expressed its concern that a factor leading to the large Market Area Fuel Percentage increase was the proliferation of negotiated rate contracts on Northern's system for which Demarc is a receipt point or delivery point or both. MERC contends that the contract filed by Northern in this instant proceeding is such a contract with both the receipt and delivery point being Demarc. MERC does not protest the contract filed in the instant proceeding, but rather requests that the Commission consider the potential relationship of such contracts to the increase in Northern's Market Area Fuel Percentage.

8. The Commission finds that a more appropriate forum has already been established in Docket No. RP09-318-000 in which the concerns raised by MERC may be addressed. Accordingly, the Commission will only consider the contract filed by Northern in this instant proceeding. Our review shows that the material deviations at issue, here, parallel deviations previously reviewed by the Commission and were found permissible. *See, Northern Natural Gas Company*, 115 FERC ¶ 61,288 at P 10 (2006). In that proceeding, the Commission concluded that Northern's single billing provision is a permissible material deviation and it does not affect the quality of service or create a risk of undue discrimination against Northern's other shippers. Accordingly, we accept the non-conforming agreement for filing and the related revised tariff sheets to become effective March 8, 2009.

By direction of the Commission. Commissioner Kelliher is not participating.

Kimberly D. Bose,
Secretary.

Appendix

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

Tariff Sheets Accepted Effective March 8, 2009

Fourth Revised Sheet No. 67

First Revised Sheet No. 67A

First Revised Sheet No. 80B