

128 FERC ¶ 61,232
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 10, 2009

In Reply Refer To:
Natural Gas Pipeline Company of
America LLC
Docket Nos. RP09-855-000
RP09-855-001

Natural Gas Pipeline Company of America LLC
3250 Lacey Road, Suite 700
Downers Grove, IL 60515-7918

Attention: Bruce H. Newsome, Vice President

Reference: Tariff Filing

Ladies and Gentlemen:

1. On July 31, 2009, Natural Gas Pipeline Company of America LLC (Natural) filed revised tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1 (Tariff) to implement changes to its *pro forma* service agreements.¹ On August 11, 2009, Natural filed a substitute tariff sheet to correct an inadvertent error in its July 31, 2009 filing² and withdrew First Revised Sheet No. 605. In its July 31, 2009 filing, Natural states that it has completed a self-audit of its currently effective transportation and storage contracts in response to *Southern Star Central Gas Pipeline, Inc.*,³ and discovered minor non-substantive differences between the service agreements used with all of Natural's shippers and the respective exhibits in the *pro forma* service agreements in Natural's

¹ See Appendix.

² Substitute First Revised Sheet No. 605. The substitute sheet corrects the initial filing by replacing the word "RECEIPT" with the word "DELIVERY" in the headings to be labeled "PRIMARY DELIVERY POINT(S)" and "SECONDARY DELIVERY POINT(S)."

³ 125 FERC ¶ 61,082 (2008).

Tariff. Natural states that it made this filing to implement proposed changes to its *pro forma* service agreements to minimize the number of non-substantive deviations in the future. We accept Natural's revised tariff sheets to be effective September 1, 2009, subject to further revisions discussed below.

2. Notice of Natural's filing in RP09-855-000 issued on August 3, 2009, allowing for protests as provided by section 154.210 of the Commission's regulations. Notice of Natural's filing of a substitute tariff sheet in RP09-855-001 issued on August 12, 2009, also allowing for protests as provided by section 154.210 of the Commission's regulations. Pursuant to Rule 214, 18 C.F.R. § 385.214 (2009), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. No party filed a protest or comments.

3. Natural proposes to revise the term provision (section 3) of Rate Schedules FTS, FFTS, FTS-G, ITS, DSS, NSS, FRSS, and BESS to include a fill-in-the-blank provision for any contractual rollover, evergreen, or right of first refusal (ROFR) rights between Natural and a shipper "per section 22.4" of the General Terms and Conditions (GT&C) of Natural's Tariff. The Commission finds that while section 22.4 of the GT&C provides Natural the right to extend the term of service of an agreement pursuant to a rollover or evergreen provision negotiated with a shipper, section 22.4 does not provide Natural with the authority to negotiate ROFR provisions. Therefore, Natural is directed to file a revised tariff sheet that removes from section 3 any reference to ROFR rights. In the alternative, Natural must include in section 3 a reference to the provisions in its Tariff that allow Natural to negotiate contractual ROFR rights.

4. Natural also proposes to include a new Exhibit D to the transportation service agreement, Exhibit B to the Rate Schedule IBS service agreement and Exhibit B to the storage service agreement (collectively, Exhibits B/D), which will incorporate negotiated or discount rate agreements. The Commission finds that the proposed Exhibits B/D do not sufficiently define the information to be included in the exhibits, as required by Commission policy.⁴ For example, in its transmittal letter, Natural states that the proposed Exhibits B/D may identify the delivery and receipt points subject to the discount or negotiated rate agreements. However, the proposed Exhibits B/D do not reference delivery and receipt points or include language specifying the other provisions that might be inserted into the negotiated rate and discounted rate agreements referenced by the exhibits. This lack of specificity impairs the Commission's ability to review the provisions of the agreements that will be incorporated under Exhibits B/D to ensure that they are just and reasonable and not unduly discriminatory. Accordingly, Natural must revise Exhibits B/D to conform with the Commission's policy as stated in *Texas Gas*.⁵

⁴ See, e.g., *Texas Gas Transmission, LLC*, 127 FERC ¶ 61,313, at P 19-24 (2009) (*Texas Gas*).

⁵ *Id.*

Specifically, the revised Exhibits B/D must identify all terms and conditions that may be inserted into the discounted or negotiated rate agreements as conforming provisions and, where applicable, identify the tariff provisions that authorize these terms. In addition, the Commission notes that Natural remains obligated to file with the Commission any agreement that contains material deviations from the *pro forma* service agreement.

5. The Commission accepts the tariff sheets listed in the Appendix to become effective September 1, 2009,⁶ subject to Natural's filing revised tariff sheets, within 15 days of the date this order issues, consistent with the discussion in the body of this order.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

cc: All Parties
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⁶ The August 11, 2009 filing in RP09-855-001 requested a September 1, 2009 effective date for the filed tariff sheets, which provided the Commission less than the 30-day notice required by section 4(d) of the Natural Gas Act and the Commission regulations. 18 C.F.R. § 154.207 (2009). The Commission grants waiver of the 30-day notice requirement to allow the sheets to become effective as proposed.

Appendix

**Natural Gas Pipeline Company of America LLC
FERC Gas Tariff, Seventh Revised Volume No. 1**

Tariff Sheets Effective September 1, 2009, Subject to Conditions

First Revised Sheet Nos. 600 through 604
Substitute First Revised Sheet No. 605
First Revised Sheet Nos. 606 and 607
Original Sheet No. 607A
First Revised Sheet Nos. 608 through 611
Original Sheet No. 611A
First Revised Sheet Nos. 612 through 616
Original Sheet No. 616A
First Revised Sheet Nos. 618 and 619
First Revised Sheet Nos. 622 and 623