

129 FERC ¶ 61, 091  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Philip D. Moeller.

Maritimes & Northeast Pipeline, L.L.C.

Docket No. RP10-20-000

ORDER ACCEPTING AND REJECTING TARIFF SHEETS

(Issued October 30, 2009)

1. On October 1, 2009, pursuant to section 20 of the General Terms & Conditions (GT&C) of its tariff, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) filed primary<sup>1</sup> and alternative<sup>2</sup> revised tariff sheets to reflect changes in its Fuel Retainage Percentages (FRP), as well as to surcharge its customers for an under-collection of fuel. Maritimes proposes an effective date of November 1, 2009 for the proposed primary and alternative tariff sheets. For the reasons discussed below, the Commission accepts Maritimes proposed primary tariff sheet, to be effective November 1, 2009. The Commission rejects the proposed alternative tariff sheet.

**I. Background**

2. Maritimes recovers its system's fuel requirements and lost and unaccounted for gas (LAUF) by retaining in-kind a percentage of gas tendered by customers. Section 20 of the GT&C of Maritimes' tariff governs how Maritimes' retainage percentages are established and annually updated and how Maritimes will true-up under- or over-collections of fuel. Maritimes adjusts its Fuel Retainage Percentages annually by filing with the Commission at least 30 days prior to November 1 of each year. The Fuel Retainage Percentages are calculated by dividing the projected annual quantities of

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<sup>1</sup> First Revised Twelfth Revised Sheet No. 11 to FERC Gas Tariff, First Revised Volume No. 1.

<sup>2</sup> Alternate First Revised Twelfth Revised Sheet No. 11 to FERC Gas Tariff, First Revised Volume No. 1.

Company Use Gas<sup>3</sup> for each specified calendar period by the projected annual throughput for each specified calendar period. Section 20.5 of the GT&C of Maritimes' tariff also provides for interim (out-of-cycle) fuel proposals between annual filings subject to approval by the Commission.

3. Section 20.4 of the GT&C of Maritimes' tariff provides that, together with its annual fuel filing, Maritimes must also calculate the surcharges or refunds designed to amortize the net monetary value of the balance in the Fuel Retainage Quantity Deferred Account at the end of the previous accumulation period. The surcharge or refund is based upon the allocation of the Fuel Retainage Quantity Deferred Account balance at the end of the twelve month accumulation period (August to July) over the actual throughput during the twelve month accumulation period.

4. Maritimes' current Fuel Retainage Percentages are 0.90 percent for deliveries north of the Richmond, Maine compressor station for both the winter and non-winter periods and 1.10 percent for deliveries south of the same compressor station for both the winter and non-winter periods.<sup>4</sup>

5. On July 1, 2009, Maritimes filed revised tariff sheets to, among other things, reflect out-of-cycle changes in Maritimes' Fuel Retainage Quantity (July 2009 filing). In its July 2009 filing, Maritimes proposed to change from utilizing a bifurcated fuel rate methodology to a single, system-wide fuel rate, as well as increase its Fuel Retainage Percentages in order to recover increased fuel costs. On July 30, 2009, the Commission accepted and suspended Maritimes' proposed tariff sheet (Thirteenth Revised Sheet No. 11) revising Maritimes' fuel rate methodology and increasing its fuel charges, to be effective the earlier of January 1, 2010 or further order of the Commission, subject to refund and the outcome of a technical conference.<sup>5</sup> The July 30 Order found that the parties to the proceeding raised significant issues as to whether Maritimes satisfied its burden under section 4 of the Natural Gas Act to show that Maritimes' proposed single,

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<sup>3</sup> Company Use Gas is defined in Maritimes' tariff as the amount of gas used for fuel, including compressor and heater fuel; gas used for maintenance; line pack, gas lost as a result of *Force Majeure* events, the ownership of which cannot be reasonably identified; and unaccounted for gas.

<sup>4</sup> The bifurcated fuel rate methodology was the result of a settlement, which was accepted by the Commission on May 15, 2006. *See Maritimes & Northeast Pipeline, L.L.C.*, 115 FERC ¶ 61,176 (2006). Prior to the settlement, Maritimes charged a single, system-wide Fuel Retainage Percentage.

<sup>5</sup> *Maritimes & Northeast Pipeline, L.L.C.*, 128 FERC ¶ 61,109 (2009).

system-wide fuel rate methodology was just and reasonable.<sup>6</sup> On August 31, 2009, Maritimes requested rehearing of the Commission's finding that Maritimes had the burden of proof under section 4 of the Natural Gas Act to show that its proposed single, system-wide fuel methodology was just and reasonable.

6. Commission staff convened a technical conference on September 11, 2009 to gather additional information and discuss the issues raised by the protests to Maritimes' proposal.<sup>7</sup>

## **II. Details of the Filing**

7. In its filing, Maritimes submitted a primary tariff sheet reflecting a bifurcated fuel rate methodology and an alternative tariff sheet reflecting a single, system-wide fuel rate methodology. Maritimes states that its proposed primary tariff sheet utilizes the bifurcated fuel rate methodology because Maritimes interprets the July 31 Order as requiring Maritimes to maintain a bifurcated fuel methodology until the suspension no longer applies to Thirteenth Revised Sheet No. 11, the tariff sheet Maritimes proposed with its July 2009 filing. Maritimes states that, if its interpretation is incorrect, it requests that the Commission treat and approve the alternative sheet as the primary tariff sheet. Maritimes also requests that, if the Commission issues an order on rehearing or other order in Docket No. RP09-809 that lifts the suspension on Thirteenth Revised Sheet No. 11 prior to November 1, 2009, the Commission accept the alternative sheet filed in this proceeding, rather than the primary tariff.<sup>8</sup>

### **A. Primary Tariff Sheet**

8. In this filing, Maritimes states that the Fuel Retainage Percentages proposed in the primary tariff sheet were calculated pursuant to section 20.3 of the GT&C of its tariff by dividing the projected annual quantities of Company Use Gas by the projected annual throughput for each specified calendar period.<sup>9</sup> As stated above, Maritimes' proposed

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<sup>6</sup> *Id.* P 36.

<sup>7</sup> Commission staff is required to report to the Commission the results of the technical conference by November 30, 2009.

<sup>8</sup> Maritimes states that if the Commission does not issue such an order prior to November 1, 2009, Maritimes reserves the right to seek Commission approval to place this alternative tariff sheet into effect when the suspension no longer applies to Thirteenth Revised Sheet No. 11.

<sup>9</sup> Winter period is November 1, 2009 through March 31, 2010 and Non-Winter Period is April 1, 2010 through October 31, 2010.

primary tariff sheet utilizes a bifurcated fuel rate methodology and sets forth the Fuel Retainage Percentages for deliveries north of the Richmond, Maine compressor station and for deliveries south of the Richmond, Maine compressor station for each period. For deliveries north of the Richmond, Maine compressor station, Maritimes proposes a Fuel Retainage Percentage of 0.62 percent during the winter and non-winter periods, which Maritimes states reflects a decrease of 0.28 percent from the current Fuel Retainage Percentage of 0.90 percent for the winter and non-winter periods. For deliveries south of the Richmond, Maine compressor station, Maritimes is proposing a Fuel Retainage Percentage of 0.92 percent during the winter and non-winter periods, which Maritimes states reflects a decrease of 0.18 percent from the current Fuel Retainage Percentage of 1.10 percent for the winter and non-winter periods.

### **B. Alternative Tariff Sheet**

9. Maritimes states that the Fuel Retainage Percentages proposed in the alternative tariff sheet were derived from the same throughput and system fuel use projections underlying the bifurcated Fuel Retainage Percentages reflected on the primary tariff sheet. Maritimes' alternative tariff sheet provides for a single, system-wide Fuel Retainage Percentage of 0.86 percent for the winter and non-winter periods.

### **C. Fuel Reimbursement Quantity Deferral**

10. Pursuant to section 20.4 of the GT&C, Maritimes states that, for the current Fuel Retainage Quantity Deferred Account accumulation period, which is August 1, 2008 through July 31, 2009, the Fuel Retainage Quantity Deferred Account resulted in a net surcharge balance of \$3,769,796.36, inclusive of carrying charges.<sup>10</sup> Maritimes states that it will surcharge the July 31, 2009 Fuel Retainage Quantity Deferred Account balance, plus carrying charges, to the customers within 60 days of the acceptance of this filing by the Commission, and that additional carrying charges will be included for the period from October 31, 2009 to the payment date.

## **III. Notice of Filing, Interventions and Protests**

11. Public notice of Maritimes' filing was issued on October 5, 2009. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2009). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2009), all timely 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

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<sup>10</sup> In accordance with section 20.4(b) of the GT&C, Maritimes states that the carrying charges were calculated pursuant to section 154.501(d) of the Commission's regulations.

proceeding will not disrupt this proceeding or place additional burdens on existing parties. No adverse comments or protests were filed.

#### **IV. Discussion**

12. The Commission accepts Maritimes' proposed primary tariff sheet to become effective November 1, 2009. No party opposes Maritimes' proposed revised Fuel Retention Percentages in the primary tariff sheet, which are lower than then Maritimes' current Fuel Retention Percentages, or Maritimes' fuel reimbursement quantity deferral calculation. Therefore, the Commission approves Maritimes' proposed primary tariff sheet and customer surcharge calculation.

13. Maritimes is correct that the July 30 Order requires Maritimes to maintain a bifurcated fuel rate methodology until the suspension no longer applies to Thirteenth Revised Sheet No. 11. The July 30 Order suspended Maritimes' proposal to charge a single, system fuel rate for five months until January 1, 2010 or until the Commission issues an order lifting the suspension. Because the suspension is currently still in effect and the Commission has not yet issued an order on rehearing in Docket No. RP09-809, Maritimes' alternative tariff sheet is premature and therefore, the Commission rejects it, without prejudice to Maritimes' filing a substitute tariff sheet in Docket No. RP09-809 when the suspension no longer applies to Thirteenth Revised Sheet No. 11.

#### **The Commission orders:**

(A) Maritimes proposed primary tariff sheet is accepted, to be effective November 1, 2009.

(B) Maritimes proposed alternative tariff sheet is rejected as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.