

130 FERC ¶ 61,158  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
and John R. Norris.

Texas Gas Transmission, LLC

Docket No. RP10-360-000

**ORDER ACCEPTING TARIFF SHEETS SUBJECT TO CONDITIONS**

(Issued March 3, 2010)

1. On February 2, 2010, Texas Gas Transmission, LLC (Texas Gas) filed tariff sheets to establish, on an experimental basis, a new Winter No-Notice Service under Rate Schedule WNS to meet the winter requirements of the electric generation market and any other party that needs winter-only no-notice service. Texas Gas requests that the tariff sheets be made effective March 4, 2010. The tariff sheets implementing Rate Schedule WNS would automatically expire on March 31, 2012, unless Texas Gas files and the Commission approves tariff sheets making the rate schedule permanent. The Commission accepts that tariff sheets listed in the Appendix to this order, to be effective March 4, 2010, subject to conditions.

**Background**

2. Texas Gas states it is proposing an experimental winter no-notice service because certain of its electric generation customers have expressed interest in a winter no-notice style of service to meet their winter peaking needs. Texas Gas states that it has experienced the “turn-back” of both firm and no-notice capacity, given the recent competitive changes on the northern end of the its system due to the eastern leg of the Rockies Express Pipeline LLC, which delivers to the terminus of the Texas Gas system. Texas Gas states that a new winter no-notice service will provide Texas Gas another tool to market any available firm capacity to electric generators and other customers that need a winter peaking service that cannot be met with Texas Gas’ existing no-notice services. Texas Gas states that the proposed service will provide Texas Gas another mechanism to market its turned-back capacity.

3. Texas Gas states that its electric generation markets are primarily characterized by peak generating units designed to respond quickly to the changing demands of their customers. Texas Gas states that since electricity cannot be easily or efficiently stored, peak generating units must react immediately to increase output when customers increase

demand and to reduce output when demand lessens. Texas Gas states that its traditional firm transportation services, which were designed to deliver gas at a uniform hourly flow, will not accommodate the varying hourly flows needed by the electric generators for their peak generating units. Moreover, Texas Gas states that its traditional no-notice services do not meet this need because they are designed primarily for local distribution companies, whose needs are different from those of electric generators.

4. Texas Gas states that the winter no-notice service will be similar to the summer no-notice service that it established in 1999 and has reliably provided since the summer of 2000 without any degradation in existing services. Texas Gas states that winter no-notice service will provide electric generators winter season firm transportation service bundled with firm storage capacity that can be used for several days at a time, rather than transportation service that is bundled with storage that requires winter withdrawals and summer injections. Texas Gas asserts that winter no-notice service is an innovative new service that will only utilize available unsubscribed firm capacity to meet electric generation market needs. Texas Gas submits that since winter no-notice service will utilize turned-back firm capacity and other available unsubscribed firm capacity, no existing firm customer will be adversely affected, nor will the quality of their services be degraded. Texas Gas states that winter no-notice service does not require the creation of additional capacity to the system, but provides Texas Gas another service through which it can market existing capacity. In order to alleviate certain customer concerns that the creation of a new service theoretically could have an adverse effect on existing operations and therefore their existing firm services, Texas Gas is proposing that winter no-notice service be approved on an experimental basis in order to provide Texas Gas with actual operational experience before permanently incorporating it into the tariff.

5. Texas Gas states that the proposed new service will allow the winter no-notice service customer to make a single nomination for bundled firm transportation and storage service utilizing available unsubscribed firm capacity on an un-nominated, no-notice basis to the customer's primary delivery point. Texas Gas states that winter no-notice service also will provide for seasonal and daily overruns in the same manner as Texas Gas' other no-notice services, allow hourly overruns in the same manner as summer no-notice service, and enable customers to meet daily and hourly swings in demand.

6. Texas Gas states that the no-notice features will be available during the winter season, November through March. Texas Gas states that since no new facilities are being created, winter no-notice service will initially utilize available or turned-back transportation and storage capacity from existing services. Texas Gas states that winter season storage capacity under each winter no-notice service agreement will be three times the contract demand and the daily un-nominated storage component will vary between 25% and 50% of the contract demand. Texas Gas states that the winter no-notice service contract demand may vary monthly, similar to the variable contract demand rights provided under Rate Schedule STF (Short-Term Firm Transportation Service); however,

the right for the contract demand to vary monthly, as provided in the proposed rate schedule, is restricted. Texas Gas states that the monthly contract demand for any single month under a winter no-notice service agreement must be at least 50% of the highest contract demand quantity of any other month under that service agreement. By contrast, Texas Gas states that Short-Term Firm customers' right to vary contract demand contains no such limitation.

7. Texas Gas states that to help meet the short-notice dramatic swing requirements of electric generators during the peak winter season, Texas Gas proposes to allow winter no-notice service customers to utilize, on an experimental basis, two additional intraday nomination cycles.<sup>1</sup> Texas Gas states that these additional nomination cycles will allow a winter no-notice service customer to flow gas quantities on an intraday basis to supplement storage withdrawals in order to meet the electric generators' short-notice swing requirements. Texas Gas states that these proposed nomination cycles will be in addition to the Timely, Evening, Intraday 1 and Intraday 2 NAESB Standard Nomination Cycles.

8. Texas Gas is proposing to limit the availability of these experimental additional intraday nominations to winter no-notice service customers because each of these nominations will have to be processed manually. By limiting their availability, Texas Gas states that it can gain valuable experience to see if the additional cycles can be processed in a timely and efficient manner and are beneficial to the marketplace. Additionally, because of the winter no-notice service customers' need for sudden large, short-term swings and the limited daily un-nominated storage capacity, Texas Gas states that these additional nominations will assist it in managing its system to adequately meet the requirements of peak generating units. Texas Gas states that while additional nomination cycles are necessary to meet the swing requirements of electric generation customers, Texas Gas' traditional no-notice service adequately meets the load profile of its LDCs without additional nomination cycles. Accordingly, Texas Gas asserts that it is appropriate to institute these additional cycles for only winter no-notice service, and they should be approved as just and reasonable on an experimental basis.

9. Texas Gas states that its winter no-notice service proposal essentially creates a service with the characteristics of a winter version of summer no-notice service (Rate

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<sup>1</sup> The proposed Intraday 1 (ID1) Nomination Cycle will allow a WNS customer to nominate at 9:00 a.m., 10:00 a.m., or 11:00 a.m. for flow no earlier than two hours following the nomination deadline. The proposed Intraday 2 (ID2) Nomination Cycle will allow a WNS customer to nominate at 4:00 p.m., 5:00 p.m., or 6:00 p.m. for flow no earlier than two hours following the nomination deadline. Customers must specify a nomination flow time with their nominations.

Schedule SNS) combined with a no-notice version of Rate Schedule STF service. Texas Gas proposes that the new service be priced to reflect the seasonality and amount of capacity reserved to provide the service. Texas Gas states that winter no-notice service is essentially a short-term version of no-notice service (Rate Schedule NNS). Accordingly, Texas Gas states that it derived its WNS rates using the NNS rates, adjusted for seasonality in accordance with the methodology approved for designing STF rates. Texas Gas states that its STF rates are derived based upon the applicable firm transportation (Rate Schedule FT) rate, factored to reflect the seasonality of that service. Texas Gas states that the WNS rates use the same Commission-approved methodology and factors to adjust the NNS rates for seasonality during the winter season.

10. Texas Gas states that its methodology for developing the WNS rates, which are not associated with any new facilities, is consistent with Commission precedent. For example, Texas gas states that when it introduced Rate Schedule HOT (Hourly Overrun Transportation Service), the Commission approved the rates because Texas Gas had based the rates on a similar service.<sup>2</sup> As when Texas Gas implemented Rate Schedule HOT, Texas Gas states that WNS is an additional experimental service which Texas Gas is proposing as a complement to its existing services. Texas Gas states that its customers are not required to use WNS and pay WNS rates. Accordingly, Texas Gas asserts that the proposed rates are just and reasonable and should be approved by the Commission.

11. Texas Gas states that WNS customers will provide the gas that will support the no-notice aspects of this service. Texas Gas states that WNS customers, beginning on November 1, will have a zero storage balance in their account. Texas Gas states that storage injections will be made using the transportation component of the service. Texas Gas states that the maximum amount of WNS firm seasonal storage capacity will be three times the WNS daily contract demand, which is similar to SNS service. Texas Gas states that WNS customers will also be required to clear their storage balances by the end of the winter season, or March 31, similar to SNS customers who must clear their storage accounts by the end of the summer season, or October 31. Texas Gas states that this aspect of the service ensures that WNS will not interfere with existing NNS, SGT, and FSS customers' summer season storage injection rights.

12. Texas Gas asserts that winter no-notice service will benefit the entire system by allowing available capacity to be more efficiently utilized and attracting winter electric generation markets. Texas Gas states that the service will be provided solely from available unsubscribed firm transportation and storage capacity and turned-back no-notice capacity and therefore will not have any adverse impact on existing firm services. Texas Gas states that it will evaluate requests for winter no-notice service in the same

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<sup>2</sup> *Texas Gas Transmission Corporation*, 100 FERC ¶ 61,218, at P 76 (2002).

manner as other requests for firm services, including granting such requests for service only when there is available firm capacity and Texas Gas' system is physically capable of providing the requested service. With respect to the nominated portion of WNS, nomination and scheduling priorities are the same as the priorities for Texas Gas' other firm services. Texas Gas states that capacity will be allocated and curtailed for firm WNS in the same manner as it is for Texas Gas' other firm services.

13. Texas Gas states that like traditional no-notice services, WNS customers will have flexible receipt and delivery point rights, but un-nominated deliveries will be limited to the primary delivery point. Also, Texas Gas states that the variable hourly flow rights under WNS are limited to the primary delivery point. Texas Gas states that the limitation of the no-notice un-nominated deliveries and variable hourly flow rights at the primary delivery point is necessary to (1) ensure that operational flexibility exists to provide these enhanced service rights, and (2) to maintain the operational integrity of Texas Gas' system while continuing to meet its service obligations for all customers. Accordingly, Texas Gas asserts that there will be no adverse impact on existing customers and this proposal should be approved by the Commission.

14. Texas Gas requests that the Commission approve this proposal on an experimental basis, effective March 4, 2010 through March 31, 2012. While Texas Gas anticipates that WNS, as proposed, can be accomplished operationally, it is a service which may be most valuable on the coldest days of the year, when the system is at peak capacity. Therefore, Texas Gas prefers to gain actual operating experience with the service in place before making it a permanent part of the tariff. Texas Gas states that should it determine that WNS can be accomplished on a permanent basis, it will file a new proposal with such request.

### **Public Notice, Interventions, and Protests**

15. Public notice of Texas Gas' filing was issued on February 4, 2010. 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 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.

16. Comments in support of the filing were filed by Tennessee Valley Authority (TVA). Protests or adverse comments were filed by Sequent Energy Management, L.P. (Sequent)<sup>3</sup> and the Western Tennessee Municipal Group; Jackson Energy Authority, Jackson, Tennessee; and the Kentucky Cities (Cities).

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<sup>3</sup> On February 23, 2010, Sequent withdrew its motion to intervene and comments.

17. TVA fully supports Texas Gas' implementation of winter no-notice service. TVA asserts that the proposed WNS service offers an excellent option to best utilize "turn-back" of both firm and no-notice capacity while eliminating the need to piece-meal a series of existing firm and interruptible services under various rate schedules to try to achieve a facsimile of winter no-notice service.

18. The Cities do not object to the implementation of WNS on an experimental basis as long as the proposal is revised to further protect the rights of existing customers. The Cities state that Sections 7.2, 8.2, and 9.1 of the proposed WNS rate schedule establish penalties for unauthorized contract demand overruns, seasonal quantity entitlement overruns, and un-nominated daily quantity overruns, respectively. The Cities state that these penalties are crucial to helping to ensure that WNS does not, in fact, impact existing customers. However, the Cities state that each of these sections also gives Texas Gas the right to waive a penalty for an overrun, "if as a result of such overrun, deliveries to Texas Gas' other customers were not adversely affected or if Texas Gas' pipeline operations, including gas storage operations, were not impaired thereby." The Cities submit that the problem with this language is that, literally construed, its disjunctive nature would allow Texas Gas to waive penalties for overruns that do adversely affect other customers as long as the overruns do not also impair pipeline operations. The Cities do not believe that is the intent of these provisions, but to ensure that they are not construed in this manner, the language should be revised to provide that an overrun penalty may only be waived "if as a result of such overrun, deliveries to Texas Gas' other customers were not adversely affected and Texas Gas' pipeline operations, including gas storage operations, were not impaired thereby."

19. The Cities state that Section 12 of the proposed WNS rate schedule provides that a customer's contract demand may vary for each month of the five-month winter season. The Cities state that none of Texas Gas' other no-notice rate schedules provides this right, and Texas Gas has not provided any justification in its filing for this disparate treatment of similarly situated customers. The Cities are wary that the right to vary contract demand during the winter months would be unduly discriminatory unless Texas Gas expanded the right to cover its other no-notice services. Accordingly, while Cities do not object to the inclusion of this provision in the experimental version of WNS, Cities would object if Texas Gas were to seek to include such a provision in a permanent version of the rate schedule.

20. The Cities state that to the extent that the Commission accepts Texas Gas' filing, it should clarify in its order that the implementation of the WNS experiment will not constitute the establishment of a "settled practice" for the purpose of any future proceeding in which Texas Gas seeks to establish WNS on a permanent basis.

21. On February 23, 2010, Texas Gas filed an answer in response to the protest of the Cities. Texas Gas' answer will be discussed below.

## Discussion

22. In its February 2, 2010 filing, Texas Gas has proposed a two-year experimental winter no-notice service to meet the needs of the electric generation market on its system and to utilize capacity that has been turned back due to competitive changes on the northern end of its system. The service was developed at the request of electric generation customers on its system who desire a winter peaking service that cannot be adequately met by any of Texas Gas' existing services. The service should not adversely impact existing shippers. Texas Gas derived the rate based on a similar service consistent with the Commission's order approving its Hourly Overrun Transportation (HOT) service.<sup>4</sup> The Commission finds that Texas Gas' proposed winter no-notice service is just and reasonable on an experimental basis. Accordingly, the Commission will accept the tariff sheets to be effective March 4, 2010, subject to conditions.

23. The Cities assert that, as currently written, the penalty waiver provisions of the WNS rate schedule appear to allow a waiver if there are adverse impacts on existing customers. Accordingly, the Cities request that Texas Gas revise its tariff to indicate that an overrun penalty may be waived "if as a result of such overrun, deliveries to Texas Gas' other customers were not adversely affected **and** Texas Gas' pipeline operations, including gas storage operations, were not impaired thereby." Thus, the word "and" would replace the word "or" which is in the proposed tariff sheets. In its answer, Texas Gas asserts that the Commission should reject Cities' request, as the proposed language has been approved previously by the Commission as just and reasonable in all of Texas Gas' other firm transportation rate schedules. Texas Gas submits that holding WNS customers to a different standard for the application of penalties than all other firm transportation customers would be unduly discriminatory. Texas Gas contends that the long-standing tariff language has provided Texas Gas the flexibility necessary to appropriately manage its system while protecting the interests of all of its customers. The Commission finds that Texas Gas has adequately responded to the Cities' concern and there is no reason to require the proposed language to be revised. Since Texas Gas has been using the same or similar tariff language in its other rates schedules, there is no reason to differentiate the WNS rate schedule. The Cities have not provided any specific instances in which the penalty waiver language has been abused by Texas Gas or was used to the detriment of its customers. Accordingly, there is no reason to deviate from the existing tariff language that has been incorporated into the WNS rate schedule or to require, as requested by the Cities, changes in the tariff language in the existing rate schedules.

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<sup>4</sup> *Texas Gas Transmission Corporation*, 100 FERC ¶ 61,218, at P 76 (2002).

24. While the Cities are concerned that Rate Schedule WNS gives shippers the right to vary monthly contract demand unlike other no-notice rate schedules, it does not object to this being part of the experimental service but would object to it as a permanent feature. In its answer, Texas Gas explains that simply because this element of the service is different from elements of service offered under other no-notice rate schedules does not make it unduly discriminatory. Texas Gas states that the Commission has already approved a summer no-notice service that has attributes different from the traditional no-notice service and those differences did not mean that summer no-notice service was unduly discriminatory. Texas Gas further states that the fact that FT requires uniform contract demand and STF permits contract demand to vary from month to month and season to season was approved by the Commission as just and reasonable. Similarly, Texas Gas argues that the fact that no-notice service requires consistent contract demand and WNS permits contract demand to vary from month to month to accommodate customer requirements is no less just and reasonable and should, accordingly, be approved by the Commission. The Commission finds that Texas Gas has adequately addressed the Cities' concerns and since the Cities do not object to the variable contract demand on an experimental basis, the Commission will accept the proposed tariff provision. The Cities are free to raise their objections to this provision should Texas Gas implement the WNS service on a permanent basis and the Commission will consider such arguments at that time.

25. The Cities request that the Commission clarify that the implementation of the WNS experiment will not constitute the establishment of a "settled practice" for the purpose of any future proceeding in which Texas Gas seeks to establish WNS on a permanent basis. Texas Gas states that it has proposed an experimental service and understands that if it files to make this a permanent part of its tariff, it will need to make a Section 4 filing and establish that the filing is just and reasonable. There is simply no reason for the Commission to restate the law regarding the treatment of experimental services as part of this order. The Commission finds that no further clarification is necessary because, as Texas Gas itself recognizes, in any future proceeding, Texas Gas will be required to justify the winter no-notice service based upon the operational experience it gained during the two-year experiment.

26. Section 2.1 on Original Sheet No. 650 states that Rate Schedule WNS service is being offered pursuant to section 284.8(a)(4) of the Commission's regulations. This citation is incorrect and should be revised. The regulation that governs no-notice service is section 284.7(a)(4).

27. Finally, the Commission will waive the thirty-day notice requirement of section 4 of the Natural Gas Act (NGA) to permit the proposed tariff sheets to take effect on March 4, 2010. Texas Gas filed its tariff sheets on February 2, 2010, and requested a March 4, 2010 effective date which provides only twenty-nine days notice prior to the requested effective date.

The Commission orders:

(A) The tariff sheets listed in the Appendix to this order are accepted, to be effective March 4, 2010, subject to Texas Gas filing revised tariff sheets as discussed above within 15 days of the date of this order.

(B) The Commission waives the thirty-day notice requirement of section 4 of the NGA to permit the tariff sheets to take effect on March 4, 2010.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**APPENDIX**

**Texas Gas Transmission, LLC  
Third Revised Volume No. 1**

Accepted, effective March 4, 2010, subject to conditions:

Second Revised Sheet No. 1  
Third Revised Sheet No. 2  
Fourth Revised Sheet No. 3  
Original Sheet No. 29A  
Original Sheet No. 298  
Sixth Revised Sheet No. 35A  
Third Revised Sheet No. 36  
Fifth Revised Sheet No. 37  
Fourth Revised Sheet No. 38  
Sheet No. 609  
Original Sheet No. 650  
Original Sheet No. 651  
Original Sheet No. 652  
Original Sheet No. 653  
Original Sheet No. 654  
Original Sheet No. 655  
Original Sheet No. 656  
Original Sheet No. 657  
Original Sheet No. 658  
Sheet No. 659  
Third Revised Sheet No. 1000  
First Revised Sheet No. 1001  
First Revised Sheet No. 1200  
First Revised Sheet No. 1400

First Revised Sheet No. 1401  
Second Revised Sheet No. 1402  
First Revised Sheet No. 1403  
Third Revised Sheet No. 1404  
Second Revised Sheet No. 1405  
Second Revised Sheet No. 1406  
First Revised Sheet No. 1804  
First Revised Sheet No. 1805  
Second Revised Sheet No. 2100  
Second Revised Sheet No. 2101  
First Revised Sheet No. 2101A  
Third Revised Sheet No. 2103  
First Revised Sheet No. 2400  
First Revised Sheet No. 2401  
First Revised Sheet No. 2404  
Second Revised Sheet No. 2603  
Third Revised Sheet No. 2800  
First Revised Sheet No. 2900  
First Revised Sheet No. 3005  
Second Revised Sheet No. 3704  
Fourth Revised Sheet No. 3800  
First Revised Sheet No. 530 I  
First Revised Sheet No. 5401