131 FERC ¶ 61,134
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 13, 2010

In Reply Refer To:
Enterprise TE Products Pipeline
Company LLC
Docket No. IS10-203-000

Enterprise TE Products Pipeline Company LLC
1100 Louisiana Street, Suite 1000
Houston, TX 77002

Attention: Andrew Hill, Jr., Director, Tariffs & Ratemaking

Reference: Enterprise TEPPCO FERC Tariff No. 1 (Adoption Notice), *et al*.

Dear Mr. Hill:

1. On April 13, 2010, Enterprise TE Products Pipeline Company LLC (Enterprise TEPPCO) filed tariffs pursuant to 18 CFR § 341.6(c), Complete Adoption. Enterprise TEPPCO states that effective March 25, 2010, TE Products Pipeline Company, LLC, a Texas limited liability company, changed its name to Enterprise TE Products Pipeline Company LLC. Enterprise TEPPCO states that the rates, routing and rules it is adopting are brought forward, except for changes as indicated in the tariffs, from TE Products Pipeline Company, LLC, in accordance with Enterprise TEPPCO's Adoption Notice FERC Tariff No. 1, which was effective March 25, 2010.

2. Enterprise TEPPCO filed the following Adoption Supplements to TE Products Pipeline Company, LLC Series to be effective March 25, 2010: Supplement No. 1 to TEPPCO FERC Tariff Nos. 86, 91, 95, 99, 100, 101, 106, 109, 110, 111, 112, 113, 115, 116, and 117; and Supplement No. 2 to TEPPCO FERC Tariff Nos. 108, 114, 118, and 119. Enterprise TEPPCO also filed FERC Tariff Nos. 2 thru 19 to be effective May 14, 2010.

3. Enterprise TEPPCO states that FERC Tariff No. 6, a joint tariff with Marathon Pipe Line LLC (MPL) and Centennial Pipeline LLC (Centennial) covers rates, rules and regulations for movements of petroleum products through Centennial pipeline system in connection with Enterprise TEPPCO's and MPL's pipeline systems to various destinations in Illinois, Indiana, Missouri and Ohio. Enterprise TEPPCO states that FERC Tariff No. 13 is a joint pipeline tariff with Wood River Pipe Lines LLC.

4. On April 28, 2010, AmeriGas Propane, L.P., BP Products North America, Inc., CHS Inc., ConocoPhillips Company, and Ferrellgas, L.P. (collectively referred to as the Propane Group) filed a protest to FERC Tariff Nos. 15, 16, 18, and 19. The Propane Group asserts that Enterprise TEPPCO proposes to remove its inventory policy from Commission oversight, and replace it with a non-tariffed policy which retains the minimum inventory requirement, but also adds a maximum inventory requirement and new penalties for exceeding it. The Propane Group contends that Enterprise TEPPCO is attempting to shift its manner of doing business from one that allowed shippers sufficient pipeline inventory to manage batch movements by the pipeline to one that requires daily balancing with tight, new restrictions (during the months of April through September, in particular) and related penalties associated with shipper injection and transportation on Enterprise TEPPCO's system, which are not achievable with the batch operational requirements of the pipeline.

5. The Propane Group argues that this change during the summer months will directly conflict with Enterprise TEPPCO's tariffs, and the operation of such tariffs, together with the changed inventory policy, will subject shippers to automatic or near-automatic penalties at certain locations simply for using Enterprise TEPPCO's interstate pipeline. The Propane Group submits that most important is the lack of clarity with regard to the operation of Enterprise TEPPCO's proposes inventory policy, including how it will interact with tariff requirements, how shippers can avoid penalties given the new non-tariff requirements proposed by Enterprise TEPPCO, whether it will be possible to avoid penalties at all, and whether shippers will be able to reach propane markets in the Northeastern United States during critical months of the year.

6. The Propane Group asserts that this changed inventory policy is likely to permit undue discrimination and preference by Enterprise TEPPCO against shippers originating product movements from certain storage facilities and favoring those who originate movements from facilities owned by Enterprise affiliates. Accordingly, the Propane Group requests that the Commission convene a technical conference and suspend the Enterprise TEPPCO tariffs for a long enough period to allow this conference to take place and for the Commission to consider the results of such conference and subsequent comments and reply comments.

7. On May 6, 2010, Texas Liquids Partners, LLC (Texas Liquids) filed a motion to intervene out-of-time and protest. Texas Liquids supports the protest filed by the Propane Group. For good cause, the Commission grants Texas Liquid's late intervention because no party will be prejudiced and no disruption of the proceeding will occur.

8. On May 3, 2010, Enterprise TEPPCO filed an answer to the Propane Group's protest. Enterprise TEPPCO states that its Propane Inventory Policy is appropriately referenced in the tariff and available to shippers. Enterprise TEPPCO submits that the

Commission does not require every detail of a pipeline's operating procedures to be included in its tariff.[1] Enterprise TEPPCO asserts that the Commission permits pipelines to maintain policies in supplemental documents separate from their tariffs, provided that such policies are identified in the tariff and are available to shippers upon request.[2] Enterprise TEPPCO argues that the Propane Group's challenge to the substance of the Propane Inventory Policy is without merit. Enterprise TEPPCO asserts that since the minimum inventory requirements are unchanged, they are not the proper subject of a protest. Enterprise TEPPCO states that the Propane Inventory Policy does not prohibit shippers from loading (i.e., obtaining product from the destinations). Enterprise TEPPCO states that the policy imposes "transit time" on shippers that fail to maintain the minimum inventory. In other words, a shipper without sufficient inventory must wait for the time it takes a shipment to travel from the origin to the destination. Enterprise TEPPCO states the only way the pipeline can operate a batched system and also provide "open stock" service[3] for propane shippers is if propane shippers maintain sufficient inventory. If shippers fail to maintain sufficient inventory, the "penalty" is for them to wait until a batch moves from the origin to the destination - in other words, the normal operations shippers would encounter on a traditional batched line.

9. Enterprise TEPPCO asserts that the maximum inventory requirements are necessary to keep shippers from storing more product on the system than the pipeline can efficiently handle and to ensure that the pipeline is not saddled with an open-ended obligation to provide free storage. Enterprise TEPPCO states that it continues to provide all facilities necessary for transportation, including the storage required for the existing "open stock" service and to permit shippers to maintain ample inventories on the line. Enterprise TEPPCO asserts there is nothing improper in imposing a penalty on shippers that maintain excess inventories on the pipeline. Enterprise TEPPCO contends that the penalties are necessary to enforce the pipeline's reasonable operational requirements, limit the pipeline's obligation to provide free storage and ensure that shippers do not store more product on the line than the system can efficiently handle.

10. Enterprise TEPPCO asserts that, with respect to the Propane Group's argument concerning potential discrimination, nothing about the propane inventory policy treats shippers that originate product at the divested Mont Belvieu storage facilities differently

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[1] *Citing Amoco Pipeline Company*, 82 FERC ¶ 61,108, at 61,386 (1998).

[2] *Citing Total Petroleum v. Citgo Products Pipeline*, 76 FERC ¶ 61,164, at 61,948 (1996); *SFPP, L.P.*, 86 FERC ¶ 61,022, at 61,115 (1999).

[3] Enterprise TEPPCO states that "open stock" service permits shippers to withdraw propane at any destination on the system without waiting for their tender to move physically from the origin point to the destination point.

than those that originate product at the Enterprise-owned Mont Belvieu storage facilities. Finally, Enterprise TEPPCO contends that the affidavits attached to the Propane Group's protest indicate that the individual Propane Group members ship product on Tariff Nos. 118 and 119, which Enterprise TEPPCO proposes to replace with Tariff Nos. 18 and 19. However, Enterprise TEPPCO submits that none of the protesters claims to ship product on Tariff Nos. 15 and 16. Enterprise TEPPCO concludes that the Propane Group's protest of Tariff Nos. 15 and 16 should be dismissed for lack of standing.

11. The Commission accepts the tariffs filed by Enterprise TEPPCO to be effective May 14, 2010, subject to conditions. Enterprise TEPPCO is correct in stating that the Commission has held that an oil pipeline is not required to include all of its policies verbatim in the tariff as long as each policy is described in the tariff and its details are contained in a document that is available to shippers or prospective shippers upon request. However, the cases cited by Enterprise TEPPCO make it clear that the Commission also requires that those policies and any subsequent revisions to those policies be filed with the Commission so that the Commission and shippers can review them before the policies and any changes to them are placed in effect. In this proceeding, Enterprise TEPPCO filed tariff provisions referencing its prorationing and inventory policies but did not file the policies themselves. The Commission cannot approve as just and reasonable tariff language referencing policies it has not actually seen. Accordingly, Enterprise TEPPCO's tariff is accepted to be effective May 14, 2010, subject to Enterprise TEPPCO filing its prorationing and inventory policies within 15 days of the date of this order, and subject to further Commission review and order. All changes to policies not contained in the tariff must be filed with the Commission in both clean and redline/strikeout versions.

12. While Enterprise TEPPCO did not file its inventory policy in this proceeding, the Propane Group filed a copy of the policy with its protest. Based upon its review, and assuming the policy to be filed by Enterprise TEPPCO is the same as that provided by the Propane Group, the Commission finds that the minimum inventory requirement has not been changed and that the proposed maximum inventory requirement appears to be necessary for the efficient and reliable operation of the pipeline. Accordingly, as discussed above, the inventory policy is accepted, subject to Enterprise TEPPCO officially filing it with the Commission in this docket within 15 days of the date of the order.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.