

131 FERC ¶ 61,283
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 29, 2010

In Reply Refer To:
Kinder Morgan Interstate Gas
Transmission LLC
Docket No. RP10-641-000

Kinder Morgan Interstate Gas Transmission LLC
370 Van Gordon Street
Lakewood, CO 80228

Attention: Robert F. Harrington, Vice President, Regulatory Affairs

Reference: Waiver Request

Ladies and Gentlemen:

1. On April 26, 2010, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) filed a petition for a limited waiver of section 29.6(d) of its General Terms and Conditions (GT&C) to allow KMIGT and AG Processing Inc. (AgPro) to resolve a billing dispute applicable to its December 9, 2009 Critical Time Operational Flow Order (Critical Time OFO) penalty charges.

2. According to KMIGT, beginning on December 7, 2009, and extending through December 11, 2009, KMIGT experienced abnormally cold weather and invoked the Operational Control provisions under section 29 of its GT&C on specific segments. KMIGT states that the issuance of an Advisory Action on December 7, 2009, and Directional Notice on December 8, 2009, failed to cure a decline in pressures and operational conditions. As a result, KMIGT issued a Critical Time OFO on December 8, 2009, to be effective for gas day December 9, 2009, which directed shippers to increase receipts to balances with daily deliveries east of the Big Springs compressor station.

3. Section 29.6(d) of KMIGT's GT&C provides, in relevant part:

All quantities tendered on a net contract basis to Transporter and/or taken by Shipper on a daily basis in violation of Transporter's [Critical Time OFOs] issued during a Critical Time shall [be subject to a penalty] charge of \$25 per Dth plus the gas index price pursuant to Section 5.2.d ... of Rate Schedule [Firm Transportation] FT, Volume 1-A for the Days the [Critical Time OFO] is in place

4. KMIGT states that AgPro, a Rate Schedule FT shipper, was billed \$31,707 in total penalty charges in December 2009 for imbalances in violation of the Critical Time OFO during the period December 9, 2009 through December 11, 2009. KMIGT asserts that AgPro disputed \$21,339 in charges for December 9, 2009, due to confusion as to the initial notices of the Critical Time OFO period and unique circumstances affecting AgPro's ability to respond to the Critical Time OFO in a timely manner.¹ KMIGT contends that AgPro's subsequent actions to avoid detrimental imbalances to the system when responding to a separate Critical Time OFO period in January 2009 have shown that the circumstances of December 9, 2009 were unique.² Accordingly, KMIGT states that AgPro and KMIGT have agreed that AgPro will pay penalty charges due for December 10, 2009 and December 11, 2009, but not for December 9, 2009, when KMIGT states AgPro was unable to communicate to clarify the intent of the initial notice. Therefore, KMIGT requests a limited waiver of section 29.6(d) of its GT&C to allow KMIGT and AgPro to resolve the billing dispute applicable to its December 9, 2009 Critical Time OFO penalty charges.

5. Public notice of the filing was issued on April 27, 2010. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2010)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2010)), all timely filed motions to intervene and any motion to intervene out-of-time filed before the issuance

¹ KMIGT states that severe weather conditions caused the AgPro offices to be inaccessible, and AgPro consequently did not receive timely notice to increase supply on December 9, 2009. Further, KMIGT contends that the notice was misunderstood by AgPro's energy services agent to be a continuation of the previously announced Directional Notice, and not an invocation of the Critical Time OFO period. KMIGT thus asserts that the closing of AgPro's offices hindered the agent's ability to get further clarification of the KMIGT notice.

² KMIGT states that AgPro responded appropriately to a similar Critical Time OFO period in effect from January 7, 2010 through January 9, 2010 due to inclement weather and load conditions in the operational segments east of Big Springs.

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. No protests or adverse comments were filed.

6. In light of the unique circumstances which impeded AgPro's ability to respond to the December 9, 2009 notice, and a lack of an adverse impact on other shippers on the KMIGT system, the Commission finds good cause has been shown to grant KMIGT's request for a limited waiver of section 29.6(d) of its GT&C, so that AgPro shall not be liable for the \$21,339 in penalty charges for December 9, 2009, for failure to comply with a Critical Time OFO.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

cc: Public File
All Parties

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