

133 FERC ¶ 61,174  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

November 23, 2010

In Reply Refer To:  
Texas Eastern Transmission, LP  
Docket No. RP11-1430-000

Texas Eastern Transmission, LP  
P.O. Box 1642  
Houston, TX 77251-1642

Attention: Janice K. Devers  
General Manager, Tariffs and Commercial Development

Reference: Tariff Filing on Capacity Reservation

Dear Mr. Stephens:

1. On October 25, 2010, Texas Eastern Transmission, LP (Texas Eastern) filed revised tariff records<sup>1</sup> to modify existing Section 3.11(A)(10) and add new Section 3.11(F) to the General Terms and Conditions (GT&C) of its FERC Gas Tariff, clarifying the conditions under which Texas Eastern may reserve capacity for future pipeline expansion/extension projects. For the reasons set forth below, the Commission accepts the referenced tariff records effective November 24, 2010, as requested.

2. Proposed Sections 3.11(A)(10) clarifies that Texas Eastern may reserve not only unsubscribed capacity, but also capacity under expiring service agreements where such agreements do not have a right of first refusal (ROFR), or the customer does not exercise its ROFR, for a future expansion project. Proposed Section 3.11(A)(10) limits the time that Texas Eastern may reserve capacity for a future expansion project to up to 12 months prior to filing an application for a certificate of public convenience and necessity under section 7 of the Natural Gas Act. The proposed section requires that any capacity that Texas Eastern seeks to reserve in this manner “must first be posted as available capacity on Pipeline’s Web Site for at least five (5) Business Days,” for an open season that is no

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<sup>1</sup> 3.11, *Allocation of Available Firm Capacity, 1.0.0* to Texas Eastern Database 1, FERC NGA Gas Tariff.

more restrictive than the expansion project's open season. Capacity reserved for any project that does not go forward for any reason shall be made generally available in accordance with Texas Eastern's tariff within 30 days of the date upon which the capacity becomes available. Proposed Section 3.11(F) states that once such capacity is reserved, Texas Eastern may make the capacity available on an interim basis.

3. Public notice of Texas Eastern's filing was issued on October 26, 2010, with interventions, comments and protests due November 8, 2010, as provided under section 154.210 of the Commission's regulations.<sup>2</sup> Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>3</sup> all timely motions to intervene and any motions to intervene out of time filed before the issuance date of this order are granted. On November 8, 2010, Dominion Transmission, Inc. (DTI) filed a motion to intervene and request for clarification. On November 9, 2010, Texas Eastern timely filed an answer to DTI's request for clarification.<sup>4</sup>

4. DTI seeks clarification that the proposed tariff language does not change the method and terms of posting capacity under an expiring or terminating service agreement that is not subject to a ROFR. In particular, DTI seeks clarification that capacity affected by the proposed language "may be reserved for an expansion project if, *but only if*, it is first made available to the market and not contracted."<sup>5</sup> DTI argues that this result is required by Commission policy.

5. In its answer, Texas Eastern states it "believes that the proposed tariff language to which DTI refers ... states precisely the proposition that DTI now wants clarified," and further "hereby clarifies that" the proposed tariff modifications do not modify the existing requirements "that no capacity will be reserved ... until it is first posted and made available to the market and not subscribed as a result of the posting."<sup>6</sup> Texas Eastern further states that no modifications to the language in Section 3.11(A)(10) is intended to alter or condition that posting requirement. Texas Eastern asserts that with the

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<sup>2</sup> 18 C.F.R. § 154.210 (2010).

<sup>3</sup> 18 C.F.R. § 385.214 (2010).

<sup>4</sup> Rules 213(a)(3) and 213(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 213(a)(3), (d), permit all timely answers to requests for clarification.

<sup>5</sup> DTI Request for Clarification at 4.

<sup>6</sup> Texas Eastern Answer at 2.

clarification it provided in the answer, the tariff filing is unopposed and is consistent with Commission policy and therefore requests that the Commission accept the tariff filing as filed without condition.

6. Texas Eastern's proposal is consistent with Commission policy allowing pipelines to reserve capacity as part of a realistic expansion plan.<sup>7</sup> We find that Texas Eastern has provided the precise clarification that DTI requested, and accordingly, its proposed tariff language is unopposed. Texas Eastern's proposed tariff language does not modify or alter the existing methodology in which the pipeline must first make expiring contracts without a ROFR available via an open season before reserving the capacity for an expansion project. Therefore, the Commission accepts Texas Eastern's clarification and revised tariff sections, to be effective November 24, 2010 as requested.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

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<sup>7</sup> *Northern Natural Gas Co.*, 105 FERC ¶ 61,057, at P 18 (2003), *quoted in Transcontinental Gas Pipe Line Corp.*, 118 FERC ¶ 61,234, at P 10 (2007).