

133 FERC ¶ 61,258
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 29, 2010

In Reply Refer To:
Discovery Gas Transmission LLC
Docket No. RP11-1519-000

Discovery Gas Transmission LLC
2800 Post Oak Boulevard
Houston, TX 77056

Attention: Larry Jensen, Regulatory Affairs Manager

Reference: Hurricane Mitigation & Reliability Enhancement Surcharge Reduction and Waiver

Ladies and Gentlemen:

1. On November 12, 2010, Discovery Gas Transmission LLC (Discovery) filed a revised tariff record¹ in the instant proceeding to reduce its Hurricane Mitigation and Reliability Enhancement (HMRE) Surcharge in accordance with Section 27 of the General Terms and Conditions (GT&C) of its tariff. Discovery requests that the Commission permit the proposed tariff record to become effective January 1, 2011. Discovery also requests waiver of its tariff provisions to allow Discovery the option of suspending and reactivating collection of its HMRE Surcharge during 2011. As discussed below, the Commission accepts Discovery's revised tariff record effective January 1, 2011, as proposed, and grants Discovery's waiver request subject to conditions.

¹ Section 1, Statement of Rates and Fuel, 1.0.0 to First Revised Volume No. 1, FERC NGA Gas Tariff.

2. The Commission approved the establishment of the HMRE Surcharge as part of a settlement in a previous proceeding in Docket No. RP08-70-000.² Section 27 provides for Discovery's recovery of capital and related operation and maintenance expenditures made to mitigate the cost of damage to facilities caused by natural disasters, to maintain system reliability during and immediately after natural disasters, to remediate and repair damages caused by natural disasters, and to enhance overall system reliability. Discovery recovers these costs through the HMRE Surcharge, which is a volumetric surcharge applicable to transportation service rendered through Discovery's mainline facilities.

3. Section 27.3.2 of Discovery's tariff provides that, no later than November 15 of each year, Discovery shall file to establish a new HMRE Surcharge through a limited filing under section 4 of the NGA, effective January 1, for the next calendar year based on the balance of Qualifying HMRE Expenditures³ as of September 30 and the projected throughput for such calendar year.

4. On December 23, 2009, in Docket No. RP10-144-000, in an unpublished letter order, the Commission approved a reduction of Discovery's HMRE Surcharge to its current rate of \$0.0374 per Dt, effective January 1, 2010. In the instant filing, Discovery again requests a reduction from \$0.0374 per Dt to \$0.0008 per Dt, effective January 1, 2011. Discovery states it made relatively few HMRE expenditures in the past 12 months. Discovery asserts the HMRE Surcharge is working as intended, noting that its original HMRE Surcharge Cost Account balance of \$6,942,607.44 in September 2009 diminished to \$170, 279.53 as of September 2010.

5. Discovery states that, assuming no unanticipated incidents occur, its HMRE Deferred Cost Account may reach a zero, or a credit, balance in the near future. Discovery states it does not desire to over-collect HMRE funds from its shippers, and believes a suspension of the HMRE Surcharge better matches the timing of cost incurrence with revenue responsibility. Finally, Discovery states it has not held any discussions regarding a suspension of the HMRE Surcharge but is confident its shippers will support its request. Therefore, Discovery requests the Commission grant it the

² *Discovery Gas Transmission LLC*, 122 FERC ¶ 61,099 (2008).

³ Section 27.4.1 of Discovery's tariff requires the establishment and maintenance of an HMRE Deferred Cost Account for qualifying HMRE expenditures.

authority to suspend collection of the HMRE Surcharge during the year 2011 if its HMRE Deferred Cost Account balance reaches zero until such time as the HMRE Deferred Cost Account balance warrants reactivation of surcharge collections during 2011.

6. Notice of Discovery's filing issued on November 15, 2010. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2010). No party filed a protest or adverse comments. Pursuant to Rule 214, 18 C.F.R. § 385.214 (2010), 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 this proceeding or place additional burdens on existing parties.

7. Discovery's proposal to suspend the application of its HMRE Surcharge if its HMRE Deferred Cost Account balance reaches zero is reasonable and supported by Discovery in its Transmittal and Appendix B of the filing. Appendix B shows that, over the 12-month period from September 2009 through September 2010, Discovery's HMRE Deferred Cost Account balance was reduced monthly on average by approximately \$564,360. Because Discovery's September 2010 HMRE Deferred Cost Account balance is \$170,279.53, the Commission agrees with Discovery that there is a likelihood of this balance reaching zero in the near future, despite the reduction in the HMRE Surcharge, if there are no further incidents involving Discovery's facilities.

8. We find that Discovery calculated its proposed revised HMRE Surcharge in accordance with Section 27 of the GT&C of its tariff. Accordingly, the Commission accepts Discovery's revised tariff record, to become effective January 1, 2011, as proposed. The Commission also grants Discovery's request for a waiver of its tariff allowing it to suspend collection of its HMRE Surcharge if its HMRE Deferred Cost Account balance reaches zero, subject to Discovery filing a limited rate change application pursuant to section 4 of the NGA and Subpart E of Part 154 of its regulations to set the HMRE Surcharge to \$0.00 per Dt. We find good cause exists to grant this waiver because doing so will prevent an over-collection from Discovery's shippers. To prevent a later under-collection, we grant the request for waiver permitting Discovery to resume collecting an HMRE Surcharge, as warranted, during the 2011 calendar year, subject to Discovery filing a limited rate change application updating the HMRE Surcharge pursuant to section 4 of the NGA and Subpart E of Part 154 of the Commission's regulations. In any such filing to resume collecting an HMRE Surcharge,

the HMRE Surcharge rate should be re-calculated using the HMRE Deferred Cost Account balance and updated projected throughput volumes for calendar year 2011 as of 30 days prior to the day Discovery makes the limited section 4 filing. Finally, these waivers apply only for the 2011 calendar year.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

cc: Public Files
All Parties