134 FERC ¶ 61,148
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 28, 2011

In Reply Refer To:
Great Lakes Gas Transmission LP
Docket No. RP11-1723-000

Great Lakes Gas Transmission Limited Partnership
717 Texas Street, Suite 2400
Houston, Texas 77002-2761

Attention: John A. Roscher, Director
Rates & Tariffs

Reference: Revisions to Scheduling Priorities Provisions

Ladies and Gentlemen:

1. On January 26, 2011, Great Lakes Gas Transmission Limited Partnership (Great Lakes) filed revised tariff records[1] to modify the scheduling priority provisions set forth in section 6 of its General Terms and Conditions (GT&C). In general, Great Lakes proposes to change its capacity allocation mechanism for scheduling firm and interruptible transportation and to remove from its tariff the authorized overrun service. Great Lakes seeks an effective date of March 1, 2011. The Commission accepts and suspends the revised tariff records listed in this order's Appendix subject to conditions, to become effective August 1, 2011, subject to the Commission's review of the additional information required by this order. The Commission directs Great Lakes to file the additional information discussed below, within 30 days of the date this order issues.

2. Great Lakes' capacity allocation provisions for firm and interruptible transportation service are set forth in section 6.11 of its GT&C. Under its currently effective provisions, Great Lakes allocates capacity based on the following four priority categories, in descending order: (1) firm shippers nominating within their maximum daily quantities (MDQ); (2) firm shippers nominating overrun service in excess of their MDQs; (3) interruptible shippers operating under certain converted agreements authorized by the Commission, as set forth in section 11 of Great Lakes' tariff; and (4) all other interruptible shippers. Under its current methodology, Great Lakes first allocates all capacity to firm shippers nominating within their respective MDQs. Great Lakes then

[1] *See* Appendix.

allocates the remaining capacity to the other three categories based upon a formula set forth in section 6.11.1 of its GT&C.

3. Great Lakes proposes to modify its capacity allocation methodology for the scheduling of transportation service to an economic-based scheme, which accounts for the price a shipper is willing to pay for capacity. Under Great Lakes' proposal, the highest priority is given to Category A shippers, which are firm shippers nominating for service within their transportation paths.[2] The second highest priority is given to Category B shippers, which are firm shippers nominating for service outside of their transportation paths. The third highest priority is given to Category C shippers, which are interruptible shippers. To allocate between different Category B shippers, Great Lakes proposes to allocate the capacity based upon the "confirmed price"[3] the shipper has paid for the capacity, with the shipper paying a higher rate receiving a higher priority over shippers paying a lower rate for the capacity. Great Lakes states that in the event multiple shippers in Category B nominate at an equivalent price, capacity made available to those shippers will be allocated *pro rata* based upon nominations. Great Lakes proposes to apply the same methodology to allocate capacity among Category C Shippers.

4. Under section 6.11.2 of its proposal, Great Lakes proposes the following bumping provision: "A Category C Shipper may nominate quantities and the scheduling shall interrupt already scheduled Transportation Service of other Category C Shippers if the Confirmed Price for the nominated quantities is higher than for the already scheduled Transportation Service." Great Lakes also proposes to eliminate authorized overrun service from its tariff, arguing that no shipper on its system currently holds overrun authorization as part of its transportation agreement and that the Commission does not require a pipeline to offer such service.[4] Finally, Great Lakes proposes certain housekeeping changes to its tariff to remove redundant tariff language.

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[2] In its transmittal, Great Lakes defines "transportation path" as that area of the transportation service provided under a shipper's agreement that is bounded by the farthest upstream primary receipt point within a shipper's agreement and farthest downstream delivery point.

[3] Great Lakes' proposed section 6.1 defines "confirmed price" as "the Transportation rate inclusive of all applicable fees and surcharges agreed upon by Transporter and Shipper computed at one hundred percent (100%) load factor, if applicable."

[4] Great Lakes, Transmittal Letter, at 5 (citing *Young Gas Storage Co*., 66 FERC ¶ 61,280 (1994)).

5. Notice of Great Lakes' filing was issued on January 28, 2011. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.[5] Pursuant to Rule 214,[6] all timely filed motions to intervene and any unopposed motion 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. NJR Energy Services Company (NJR Energy) protests several elements of Great Lakes' proposal.

6. NJR Energy expresses concern over Great Lakes' proposal to allocate available capacity between Category B shippers (firm shippers nominating for service outside of their transportation paths) to the shipper paying a higher confirmed price for its capacity. While NJR Energy acknowledges that the Commission has approved economic-based methodologies for the allocation of interruptible capacity, it asserts that applying the same scheme to secondary firm shippers (i.e., Category B shippers in the instant proposal) is unjust, unreasonable, and unduly discriminatory. NJR Energy notes that Great Lakes' tariff includes three rate zones (Western Zone, Central Zone, and Eastern Zone) and that long-haul shippers moving gas through different zones pay more than short-haul shippers. As a result, NJR Energy asserts the proposal would discriminate against the short-haul shippers that pay a lower confirmed price for the same quality firm service. NJR Energy also contends that Great Lakes' proposal would discriminate against legacy shippers in favor of expansion shippers, since new capacity is invariably more expensive than existing capacity. It states that the proposal would significantly devalue the capacity held by single-zone and shorter haul shippers, and would have a chilling effect on customer choice programs and the capacity release market. It also adds that the proposal may violate section 284.7 of the Commission's regulations.[7]

7. Further, NJR Energy seeks clarification of certain elements of Great Lakes' proposal. It states that it is unclear what is meant by "confirmed price" as it pertains to capacity releases, expansion projects, negotiated rates above the maximum recourse rate, and index-based releases. It also asserts the proposal is silent as to whether Great Lakes would treat negotiated rate transactions the same as other firm contracts.

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[5] 18 C.F.R. § 154.210 (2010).

[6] 18 C.F.R. § 385.214 (2010).

[7] Section 284.7 of the Commission's regulations provides that: "An interstate pipeline or intrastate pipeline that offers transportation service on an firm basis…must provide such service without undue discrimination, or preference, including undue discrimination or preference in the quality of service provided, the duration of service, the categories, prices, or volumes of natural gas to be transported, customer classification, or undue discrimination or preference of any kind."

8. Finally, NJR Energy protests Great Lakes' bumping provisions as proposed in section 6.11.2 of its GT&C, asserting that economic dispatch of interruptible service should not be a basis for allowing an interruptible shipper to bump another interruptible shipper whose service has already been scheduled. It adds that any perceived benefits of scheduling interruptible capacity based on price would be outweighed by the uncertainty and disruptive effect this proposal would have on scheduled capacity.

9. In order to have sufficient information to make a reasoned disposition of Great Lakes' filing, the Commission directs Great Lakes to file the information discussed below, within 30 days of the date this order issues.

10. Great Lakes has not provided sufficient information regarding the operation of its allocation proposal, particularly regarding out-of-path secondary firm capacity. Great Lakes proposes to use "confirmed price" to allocate capacity. Great Lakes defines "confirmed price" as "the Transportation rate inclusive of all applicable fees and surcharges agreed upon by Transporter and Shipper computed at one hundred percent (100%) load factor, if applicable."[8] However, as NJR's protest alleges, it is not always clear how "confirmed price" will be determined and applied. In the context of capacity release, it is not clear whether the determination of the confirmed price of a released transaction will be based upon the terms of the contract between Great Lakes and the releasing shipper or the rate and other charges paid by the replacement shipper to the releasing shipper. The Commission directs Great Lakes to clarify how it plans to determine "confirmed price" when the capacity at issue is for released capacity.

11. The Commission also seeks clarification from Great Lakes regarding the rate used to determine "confirmed price" when a firm shipper seeks to use an out-of-path secondary point. Great Lakes' tariff provides that a shipper using an out-of-path secondary point shall pay the maximum reservation fee or volume rate applicable to its primary point as well as the 100 percent load factor rate for the service outside the zones already covered by the customer's payment applicable to the primary point.[9] In comparing the "confirmed price" for out-of-path firm shippers, the Commission seeks clarification from Great Lakes whether Great Lakes plans to use the price that would be

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[8] Proposed section 6.1.

[9] Great Lake's Tariff GT&C section 6.5.4.2 provides:

> Shipper shall continue to pay the Reservation Fee or Volumetric Rate applicable to its Primary Receipt Point, unless that rate is less than the maximum applicable rate in which case the Shipper shall pay the maximum applicable rate at the Primary Receipt Point. In addition, Shipper shall pay the 100% load factor rate for the service outside the zones for which a Reservation Fee or Volumetric Rate is paid.

paid by a shipper for service to its primary point or whether Great Lakes plans to use the rate that a shipper would pay to access the out-of-path secondary point.

12. Moreover, the Commission asks Great Lakes to explain whether long-haul firm shippers will generally have a higher “confirmed price” than short-haul firm shippers. The Commission asks Great Lakes to provide an example explaining how Great Lakes would compare the “confirmed price” for two maximum rate firm shippers who are both scheduling service from out-of-path receipt points in the Western Zone, but one shipper, shipper A, has a firm service agreement only for service within the Western Zone and the second shipper, shipper B, has a firm service agreement for service from the Western Zone, through the Central Zone, and onto the Eastern Zone. The Commission also requests Great Lakes to explain how it would compare the “confirmed price” in the above example, if shipper A was paying the maximum rate under its Western Zone service agreement, but shipper B was paying a discounted rate under its Western Zone to Eastern Zone service agreement which nevertheless produced more revenue for Great Lakes than shipper A’s service agreement.

13. The Commission also finds that it is unclear how Great Lakes would evaluate an index-based transaction for the purpose of determining the “confirmed price.” Thus, the Commission seeks clarification from Great Lakes how index-based transactions will be used for determining “confirmed price,” how “confirmed price” would be determined with respect to negotiated rates above the maximum recourse rate and with respect to expansion projects, and whether the use of confirmed price would discriminate against existing and legacy shippers in favor of an expansion shipper because the maximum expansion rate is higher than the legacy shipper’s lower rate.

14. Great Lakes’ proposal provides that “[f]or the purpose of section 6.11, any shipper paying a confirmed price above the maximum rate shall be deemed to be paying the maximum applicable rate.” The Commission seeks confirmation that for the purposes of the provisions of 6.11.1 that determine priority for a Category B shipper, any shipper paying the maximum rate would have the same “confirmed price” as a shipper paying a negotiated rate above the maximum rate. Great Lakes should also explain how it would distinguish for the purposes of allocation pursuant to proposed section 6.11.1 between one shipper paying the maximum rate and one shipper with a discount slightly below the maximum rate but in which the second shipper’s discounted rate plus the ACA charge exceeds the maximum rate. Great Lakes also references confirmed price in the context of its allocation procedures in proposed section 5.5.2.1 related to park and loan service. The Commission asks Great Lakes to confirm whether the language capping “confirmed price” at the maximum rate applies to the usage of “confirmed price” for purposes of allocating capacity for park and loan service.

15. Great Lakes’ proposal in section 6.11.2 for “bumping” scheduled interruptible shippers also requires explanation. In Order No. 587-G, the Commission determined that firm nominations cannot bump scheduled interruptible nominations during the intraday 2

nomination cycle, which is the fourth and final nomination cycle during a gas day.[10] This "no-bump" rule creates stability in the nomination system, and gives all shippers the confidence by mid-afternoon of a gas day, when alternative options may not be available, that they will receive their scheduled quantities. The Commission asks Great Lakes to explain why a similar policy rationale should not apply to its section 6.11.2 proposal, so as to limit the bumping during the intraday 2 nomination cycle of one interruptible service customer's scheduled nominations by another interruptible customer, even if the latter customer offered a higher rate.

16. In sum, the Commission asks Great Lakes to respond in detail to all the questions posed in this order, and also to respond fully to all concerns raised by NJR Energy's protest, to the extent any of NJR Energy's concerns are not responded to by the information required by this order.

17. Based upon a review of the filing, the Commission finds that the proposed tariff records in the Appendix have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept such tariff records for filing and suspend their effectiveness for the period set forth below, subject to the conditions set forth in this order.

18. The Commission's policy regarding rate suspensions is that rate filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards. *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension). It is recognized, however, that shorter suspensions may be warranted in circumstances where suspensions for the maximum period may lead to harsh and inequitable results. *See Valley Gas*

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[10] *See Standards For Business Practices of Interstate Natural Gas Pipelines*, FERC Stats. & Regs., Regulations & Preambles July 1996-December 2000 ¶ 31,062 (1998). Generally, a shipper has four opportunities under a pipeline's tariff to nominate quantities for a particular gas day. Under the two timely nomination cycles, a shipper can nominate quantities at 11:30 a.m. for gas flowing beginning at 9:00 a.m. the following gas day and a shipper can nominate during the evening nomination cycle at 6:00 p.m. for gas flowing at 9:00 a.m. the following gas day. Once gas is flowing on the gas day, the shipper has two more opportunities to amend its nominations for that day. One is during the intraday one nomination cycle at 10:00 a.m. (with gas flowing at 5:00 p.m.), and the other is for the intraday 2 nomination cycle at 5:00 p.m. (with gas flowing at 9:00 p.m.).

Transmission, Inc., 12 FERC ¶ 61,197 (1980) (one-day suspension). Such circumstances do not exist here. Therefore, the Commission shall exercise its discretion to suspend the rates to take effect on August 1, 2011, subject to the conditions set forth in this order and further review by the Commission.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

cc: All Parties

Appendix

Great Lakes Gas Transmission Limited Partnership
GLGT Tariffs
FERC NGA Gas Tariff
Tariff Records Accepted and Suspended, Subject Conditions, to be effective
August 1, 2011

4.1 - Statement of Rates, Rate Schedules FT, LFT & EFT, 2.0.0
4.9 - Statement of Rates, Rate Schedules FT, LFT & EFT - Contesting Parties, 2.0.0
5.1.2 - Rate Schedule FT, Applicability and Character of Service, 2.0.0
5.5.2.1- Rate Schedule MC, Park and Loan Service, 2.0.0
6.1 - GT&C, Definitions, 2.0.0
6.3.1 - GT&C, General Nomination Guidelines, 2.0.0
6.3.3 - GT&C, Imbalances and Penalties, 2.0.0
6.3.4 - GT&C, Scheduling of Transportation and Allocation of Capacity, 2.0.0
6.11.1 - GT&C, Priorities, 2.0.0
6.11.2 - GT&C, Bumping Provisions, 2.0.0
6.11.3 - GT&C, Reserved for Future Use, 2.0.0
6.11.4 - GT&C, Curtailment, 2.0.0
6.15.1 - GT&C, Definitions, 2.0.0
6.24.1 - GT&C, Internet Customer Activities Web Site (Web Site), 2.0.0
6.24.2 - GT&C, GLConnect Agreement, 2.0.0