

134 FERC ¶ 61,236
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

March 28, 2011

In Reply Refer To:
Hattiesburg Industrial Gas Sales, L.L.C.
Docket Nos. PR10-96-000
PR10-102-000

Enterprise Products Partners, L.P.
1100 Louisiana Street
Houston, TX 77002-5227

Attention: Jeffrey M. Molinaro
Lead Analyst, Rates and Regulatory Affairs

Reference: Revised Statement of Operating Conditions and Baseline Filing

Ladies and Gentlemen:

1. On September 1, 2010, in Docket No. PR10-96-000, Hattiesburg Industrial Gas Sales, L.L.C. (Hattiesburg) filed a revised statement of operating conditions (revised SOC) containing what it described as administrative and housekeeping changes in anticipation of its need to file a baseline electronic version of its SOC¹ pursuant to Order No. 714.² On September 3, 2010, in Docket No. PR10-102-000, Hattiesburg filed its electronic baseline SOC (baseline SOC) containing the same revisions as the revised SOC filing. Hattiesburg's revised SOC and baseline SOC are accepted to be effective September 1, 2010, and September 3, 2010, respectively, subject to the conditions discussed below.

¹ Hattiesburg's Tariff title is "NGPA Gas." "Tariff Title" is the Meta data element used to name the tariff data base in eTariff.

² *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

2. As stated above, Hattiesburg described its revisions contained in its revised SOC and baseline SOC as administrative and housekeeping changes. Hattiesburg's proposed changes include: (1) updating the company name to Hattiesburg Industrial Gas Sales, L.L.C., adding the description as a limited liability company and owner of the Storage Facilities, and updating the company contact information; (2) inserting a Title and Statement of Currently Effective Rates page; (3) renaming the "Statement of General Terms and Conditions" to "Statement of Operating Conditions"; (4) making the Statement of Operating Conditions, Contracts, and Appendices generic by deleting contract specific information; (5) updating FERC interest rate reference and page numbers; (6) replacing the words "Exhibit" with "Appendix" and "Section" with "Paragraph"; (7) inserting "Article" and the corresponding numeral for reference clarification; (8) making "Point" plural by adding "(s)"; (9) Adding a provision to provide that payment may also be made by Automated Clearing House (ACH) and check or wire transfer; (10) inserting paragraph numbers; (11) correcting miscellaneous grammatical errors; (12) changing "7:00 a.m. Jackson, Mississippi time" to "9:00 a.m. central clock time" when defining "day" and "month"; (13) changing the Prime Rate of NCNB Texas National Bank Dallas, Texas to the Prime Rate of JP Morgan Chase when accruing interest; (14) stating that on or before the tenth business day of each month, Company will send invoices; and (15) making grammatical corrections and deletions to references that no longer apply.

3. Hattiesburg also made more substantive revisions to its form of service agreements concerning its Firm Gas Storage Contract (Firm Storage Contract) and Interruptible Gas Storage Contract which are included as Exhibits to its SOC. These include: (1) removing a provision requiring Hattiesburg to reimburse shippers for imbalance penalties they incur on interconnecting pipelines as a result of Hattiesburg's failure to tender or take delivery of gas scheduled for injection or withdrawal from its storage field; (2) changing existing evergreen provisions from a defined year-to-year term and twelve-month termination notice period to fill-in-the-blank periods for the term of the agreement and the notice of termination period; (3) deleting an existing paragraph apprising customers of their option to continue service in the future; (4) deleting a sentence providing that shippers will not pay any injection, withdrawal, or storage fee as to any volumes retained by Hattiesburg; (5) removing a statement that Hattiesburg will not increase its usage charges by an amount in excess of an index-based "Gross National Product Implicit Price Deflator"; (6) deleting sentences stating that Hattiesburg will provide shippers not less than 30 days prior notice of its intent to file to change its maximum rates and that shippers will have a right to participate in such proceedings and contest the proposed rate change; and (7) adding a new provision requiring shippers to deliver gas to Hattiesburg at a pressure that is sufficient to allow it to free flow into Hattiesburg's facilities.

4. Public notice of Hattiesburg's filing was issued on September 8, 2010. Interventions and protests were due as provided in section 154.210 of the Commission's

regulations.³ Pursuant to Rule 214,⁴ all timely filed motions to intervene and any 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. On September 15, 2010, Consolidated Edison Company of New York, Inc. (ConEd) filed a protest in Docket No. PR10-96-000 and PSEG Energy Resources & Trade L.L.C. (PSEG) filed comments in both Docket Nos. PR10-96-000 and PR10-102-000. On October 21, 2010, Hattiesburg filed a motion for leave to answer and answer to the protest and comments.⁵ Subsequently, on October 28, 2010, ConEd filed to withdraw its protest subject to conditions and, on November 4, 2010, PSEG filed comments in support of Hattiesburg's October 21, 2010 answer.

5. In their September 15, 2010 filings, PSEG and ConEd protests the proposed changes to Hattiesburg's *pro forma* Firm Storage Contract. In addition, ConEd states that the *pro forma* Firm Storage Contract provides that Hattiesburg will allocate available overrun capacity on a pro rata basis and requested that Hattiesburg clarify its pro rata allocation method.

6. In its October 21, 2010 answer, Hattiesburg states that its proposed changes to its *pro forma* Firm Storage Contract will not affect the existing rights of its shippers under their existing contracts. Hattiesburg states that it proposes to remove the imbalance penalty reimbursement provision because it has operational balancing agreements (OBA) at all of its third party interconnections. As a result, according to Hattiesburg, shippers should not incur any imbalance penalties on interconnecting pipelines. Hattiesburg states that, to the best of its knowledge, it never has reimbursed shippers for such penalties pursuant to the removed provision. However, Hattiesburg asserts that it is willing to continue to include the reimbursement provision in its currently existing firm storage contracts.

7. Hattiesburg states that its proposal to change the existing *pro forma* contract evergreen provisions from a defined year-to-year term and twelve-month termination notice period to fill-in-the-blank periods for the term of the agreement and the notice of

³ 18 C.F.R. § 154.210 (2010).

⁴ 18 C.F.R. § 385.214 (2010).

⁵ Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2010), prohibits the filing of answers to a protest unless permitted by the decisional authority. We find that good cause exists to allow Hattiesburg's answer because it provides a better understanding of the issues and a more complete record in this proceeding.

termination period was intended to allow Hattiesburg and its shippers to negotiate these provisions. Hattiesburg states that this proposal was not intended to modify the term and contract renewal rights contained in existing contracts.

8. Hattiesburg states that it removed from the *pro forma* Firm Storage Contract the cap on its right to file proposed increases in its maximum usage charges because Commission policy does not require pipelines to maintain a pre-set limit on the level of future proposed rate increases. However, Hattiesburg clarifies that the rates contained in ConEd's and PSEG's current contracts are fixed discounted rates which would not be increased if Hattiesburg proposed an increase in its maximum rates during the terms of those contracts.

9. Hattiesburg agrees to make various changes to its proposed *pro forma* Firm Storage Contract to address concerns raised by ConEd and PSEG. First, it agrees to reinsert the statement that it will provide not less than thirty days written notice to its customers regarding its intent to file for new maximum recourse rates. Second, it agrees to reinsert the provision that shippers will not pay any injection, withdrawal or storage fee as to any volumes retained by Hattiesburg. Hattiesburg also agrees to clarify that the new provision concerning pressure obligations applies only to shippers that are interconnected pipelines or their affiliates. Finally, Hattiesburg states that it would be willing to add language to clarify that the pro rata allocation of available overrun injection and withdrawal capacity is based on the contract maximum injection or withdrawal quantities of the relevant shippers.

10. ConEd filed to withdraw its protest subject to the Commission accepting the explanations and revisions proposed in Hattiesburg's answer without modification. In its November 4, 2010 comments, PSEG states that it supports Hattiesburg's proposal, subject to the Commission accepting, without modification, the explanations and proposed revisions detailed in Hattiesburg's answer.

11. The Commission accepts Hattiesburg's filings in Docket Nos. PR10-96-000 and PR10-102-000, effective September 1, 2010 and September 3, 2010, respectively, subject to the condition that, within 30 days of the date of this order, Hattiesburg must file a revised SOC (including storage agreement exhibits) containing all of the revisions discussed in its October 21, 2010 answer, including an explanation of its methodology for determining the pro rata allocation of available overrun injection and withdrawal capacity. The Commission finds that Hattiesburg has reasonably addressed the concerns of ConEd and PSEG about the effects of the proposed changes to the *pro forma* Firm Storage Contract on existing firm storage customers.

12. Using eTariff, Hattiesburg must make the required filings resulting from the outcome of any existing compliance proceedings.⁶ Hattiesburg is reminded that it must make all subsequent SOC and SOC-related filings electronically using eTariff.⁷

13. Hattiesburg is a Hinshaw Pipeline operating under a section 284.224 blanket certificate that the Commission granted in Docket No. CP90-237-000 and in which the Commission accepted a rate election of state-approved rates.⁸ At that time, no rate review requirement was established and therefore Hattiesburg is currently under no obligation to make such a filing. Consequently, Hattiesburg has not filed rates for a periodic rate review. Consistent with the policy established in Order No. 735 requiring a periodic rate review on a five year basis, the Commission will now establish a periodic rate review requirement and direct Hattiesburg to make such a filing five years from the date of this order.⁹ At that time, and every five years thereafter, Hattiesburg is directed to file with the Commission an informational filing with cost, throughput, revenue and other data, in the form specified in section 154.313 of the Commission's regulations.¹⁰ This will allow the Commission to determine whether any change in Hattiesburg's interstate transportation or storage rates should be ordered pursuant to section 5 of the Natural Gas Act. Hattiesburg may file a petition for rate approval under section 284.123(b) of the Commission's regulations to establish new maximum rates at any time.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁶ Order No. 714, FERC Stats. & Regs. ¶ 31,296 at P 96.

⁷ *Order Establishing Baseline Filing Schedule Starting April 1, 2010*, 130 FERC ¶ 61,228, at P 7 (2010).

⁸ *Endevco Industrial Sales Company*, 49 FERC ¶ 62,301 (1989).

⁹ *Contract Reporting Requirements of Intrastate Natural Gas Companies*, Order No. 735, FERC Stats. & Regs. ¶ 31,310, *order on reh'g*, Order No. 735-A, FERC Stats. & Regs. ¶ 31,318 (2010).

¹⁰ 18 C.F.R. § 154.313 (2010).