

136 FERC ¶ 61,064
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 29, 2011

In Reply Refer To:
Midwestern Gas Transmission Company
Docket No. RP11-2254-000

ONEOK Partners GP, L.L.C.
100 West 5th Street
Tulsa, Oklahoma 74103

Attention: Ron M. Mucci, Vice President
Rates and Regulatory Affairs

Reference: Tariff Modifications

Ladies and Gentlemen:

1. On July 1, 2011, Midwestern Gas Transmission Company (Midwestern) submitted for filing revised tariff records¹ reflecting housekeeping changes and substantive changes for inclusion in its FERC Gas Tariff, Third Revised Volume No. 1. Midwestern requests the Commission accept and make these tariff records effective August 1, 2011. For the reasons discussed below, the Commission accepts and suspends the revised tariff records to become effective January 1, 2012 (or some earlier date set forth in a subsequent order), subject to refund and conditions as set forth below.

2. Midwestern has proposed various non-substantive typographical, capitalization, and grammatical corrections throughout the tariff. Midwestern is also updating the Table of Contents and making several clarifying changes. In addition, Midwestern has also proposed numerous substantive changes, including: (1) new General Terms and Conditions (GT&C) section 37, Demand Charge Credits; (2) GT&C section 3.6.9, Removal of Consolidated Nominations provision; (3) new GT&C section 12, Damage Limitations; (4) GT&C section 16 revised Rights of First Refusal language; (5) GT&C sections 16.2 and 17.5, new evergreen provisions; (6) new GT&C section 17, extension

¹ See Appendix.

of existing service agreements; (7) GT&C section 21.9, new section 14.2 and 14.3, limitations on capacity release and assignments; (8) GT&C section 21.13, crediting of revenue from released capacity; (9) GT&C section 22 and 29, sales and purchases of gas for operational reasons; (10) GT&C section 25.1(b), requests for service – bidding period timelines; (11) GT&C section 25.6(b) aggregation of bids; and (12) GT&C section 35 reservation of capacity for future projects

3. Public notice of Midwestern’s Filing was issued July 5, 2011, with interventions and protests due as provided in section 154.210 of the Commission’s regulations. (18 C.F.R. § 154.210 (2011)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2011)), all timely filed motions to intervene and any unopposed 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 the proceeding or place additional burdens on existing parties. Piedmont Natural Gas Company, Inc. (Piedmont), Northern Indiana Public Service Company (NIPSCO), and Northern Illinois Gas Company (Nicor) all filed comments.

4. Piedmont states that Midwestern’s Filing contains a multitude of substantive tariff proposals and that it has not had sufficient time to review the filing in its entirety. Piedmont anticipates filing comments and/or a protest once it is able to complete its review of the filing.

5. NIPSCO states that Midwestern’s Filing consists of more than 600 pages and it is proposing a number changes in its FERC Gas Tariff. NIPSCO notes that Midwestern indicates that most of the proposed changes are “housekeeping in nature,” but concedes that some of the changes are substantive. NIPSCO contends that although Midwestern discussed the proposed changes with its customers prior to making the filing, NIPSCO did not have adequate time to fully analyze those changes and determine their impact on its operations. NIPSCO requests that the Commission thoroughly investigate the proposed changes, and ensure that those changes are just and reasonable before they are permitted to take effect.

6. Nicor filed comments and requested clarifications of several of Midwestern proposed tariff modifications. Specifically, Nicor requests clarification of Midwestern’s proposed amendment of section 16, “Election of Right-Of-First Refusal, and Extension of Long Term Firm Service Agreements.” Nicor states that in section 16.3, “Notice to Company,” Midwestern added the following language:

Customer shall notify Company in writing of its intention to exercise a right of first refusal for all or a portion of the Transportation Quantity stated in its service agreement at least six (6) months prior to the expiration of the service agreement. Except as this FERC Gas Tariff or a service agreement expressly provide otherwise, unless Customer elects upon at least six (6) months prior written notice to Company to terminate the agreement in

whole or to request a lesser extension of the term, the agreement will automatically extend upon the expiration of the primary term for a term of one year at the applicable Maximum Rate. Thereafter the agreement shall repeatedly extend for successive one-year terms unless Customer provides a least six (6) months notice as described herein in advance of the expiration of a succeeding term.

Nicor is unsure whether, where a customer notifies Midwestern a minimum of six (6) months prior to the expiration of their service agreement that the customer is electing the right of first refusal, the customer still has an obligation under section 17.5, "Termination of Agreements," to provide notice to Midwestern in order to prevent the agreement from automatically extending upon the expiration of the primary term for a term of one year at the applicable Maximum Rate.

7. Nicor states that it has concerns with Midwestern's new language in section 25, Requests for Service. Specifically, section 25.1 (b) (iii) provides that "For service with a primary contract term of one (1) year or longer, the request for service shall be made no earlier than eleven months prior to the proposed commencement date of service." Nicor states that it historically has held firm pipeline transportation capacity upstream of Midwestern that delivers Nicor's gas supply requirements into Midwestern for redelivery to Nicor. Nicor states that when securing firm pipeline transportation, Nicor must have Midwestern capacity under contract prior to contracting for upstream capacity. Nicor contends that by restricting a customer's ability to start the process of acquiring Midwestern capacity to 11 months prior to the proposed commencement date of service, Midwestern would be reducing the amount of time such customer has to negotiate its required upstream capacity and significantly reducing the amount of time available to secure the gas supply for this transportation capacity. Nicor contends that as an LDC who has the obligation to serve its customers, Nicor believes that this provision may be unnecessarily restrictive and requests that this provision be further explored.

8. Nicor also takes exception with Midwestern's proposed addition of curtailment credit language in section 37 of its GT&C. Nicor states that Midwestern's proposed curtailment crediting mechanism would not accurately or fairly credit a customer when it does not receive the firm capacity it has contracted for. For example, the proposed mechanism compares the nominated volume during a curtailment event to the average nominated volume of the prior seven days which most likely have independent and separate factors that influenced the level nominated for each day including each day's weather based or process based gas demand and storage availability. Therefore, Nicor requests that Midwestern develop a reasonable curtailment credit mechanism that accurately reimburses the customer the amount of demand charges paid for the level of contracted firm capacity that was not available for utilization, instead of basing the credit on nominated levels. Nicor points to the curtailment credit mechanism in Natural Gas Pipeline Company of America's tariff as a reasonable methodology.

9. The Commission finds that the comments raise substantive issues that require more analysis before a determination on the justness and reasonableness of the filing can be made. Given the numerous tariff changes Midwestern is proposing, into which are interwoven many issues that are substantive in nature, and which have given rise to the comments filed by parties, the Commission directs Midwestern to respond in detail to these comments, within twenty days of the date of this order. Midwestern's response should provide complete support and explanations to fully address the issues raised by the commenters. The Commission will permit parties ten days from the date Midwestern's response is filed to file reply comments.

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

11. It is the Commission's policy generally to suspend rate filings for the maximum period permitted by statute if preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards.² It is also recognized however, that shorter suspensions may be warranted under circumstances in which suspension for the maximum period may lead to harsh and inequitable results.³ Such circumstances do not exist here. Accordingly, the Commission will exercise its discretion to suspend the tariff records for the maximum period and permit the tariff records to be effective January 1, 2012, or some earlier date established by a subsequent order, subject to refund and further review.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

² See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

³ See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

Appendix

Midwestern Gas Transmission Company Midwestern - FERC NGA Gas Tariff

*Accepted and Suspended Subject to Refund and Conditions, Effective January 1, 2012, or
a Date Established by a Subsequent Order*

Part 2.0, Table of Contents, 1.0.0
Part 5.0, Summary of Rates and Charges, 1.0.0
Part 6.0, Statement of Negotiated Rates, 1.0.0
Part 7.10, Rate Schedule FT-A, 2.0.0
Part 7.11, Rate Schedule FT-B, 2.0.0
Part 7.12, Rate Schedule FT-C, 2.0.0
Part 7.13, Rate Schedule FT-D, 2.0.0
Part 7.14, Rate Schedule FT-GS, 2.0.0
Part 7.20, Rate Schedule IT, 2.0.0
Part 7.30, Rate Schedule PAL, 1.0.0
Part 7.31, Rate Schedule LMS-MA, 1.0.0
Part 7.32, Rate Schedule LMS-PA, 1.0.0
Part 7.33, Rate Schedule SA, 1.0.0
Part 7.34, Rate Schedule TPB, 1.0.0
Part 8.0, General Terms and Conditions, 1.0.0
Part 8, Section 1, Definitions, 2.0.0
Part 8, Section 2, Gas Quality and Pressure, 2.0.0
Part 8, Section 3, Measurement Reporting and Scheduling, 2.0.0
Part 8, Section 4, Measuring Equipment, 2.0.0
Part 8, Section 5, Invoicing, 2.0.0
Part 8, Section 6, Payments, 2.0.0
Part 8, Section 7, Possession of Gas, 1.0.0
Part 8, Section 8, Operational Flow Orders (OFO), 1.0.0
Part 8, Section 9, Title to Gas, 2.0.0
Part 8, Section 10, Excuse of Performance, 1.0.0
Part 8, Section 11, Notices, 2.0.0
Part 8, Section 12, Limitation of Liability, 1.0.0
Part 8, Section 13, Nonwaiver and Future Default, 1.0.0
Part 8, Section 14, Schedules and Agreements Subject to Regulation and Change, 1.0.0
Part 8, Section 15, Flexible Point Rights and Segmentation, 1.0.0
Part 8, Section 16, ROFR and Long Term Firm Service Agreements, 1.0.0
Part 8, Section 17, Mutual Extension of Service Agreements, 1.0.0
Part 8, Section 18, FERC Annual Charge Adjustment, 1.0.0

Part 8, Section 19, Information and Communications for Transportation Services, 2.0.0
Part 8, Section 20, Incorporation in Rate Schedules and Gas Service Agreements, 1.0.0
Part 8, Section 21, Capacity Release, 2.0.0
Part 8, Section 22, Sales and Purchases of Gas, 1.0.0
Part 8, Section 23, Allocation and Crediting of Penalties, 1.0.0
Part 8, Section 24, Agency, 1.0.0
Part 8, Section 25, Requests for Service, 2.0.0
Part 8, Section 26, Conditions For a Contract Demand Reduction, 1.0.0
Part 8, Section 27, Discounted Rates and Negotiated Rates, 1.0.0
Part 8, Section 28, Construction and Financing of Laterals, 1.0.0
Part 8, Section 29, Periodic Reports, 1.0.0
Part 8, Section 30, NAESB Working Gas Quadrant (NAESB WGQ) Standards, 2.0.0
Part 8, Section 31, Pooling of Gas Supplies, 1.0.0
Part 8, Section 32, Non-Conforming Agreements, 4.0.0
Part 8, Section 33, Off-System and Third-Party Services, 1.0.0
Part 8, Section 34, Electronic Contract Execution, 1.0.0
Part 8, Section 35, Reservation of Capacity for Expansion/Extension Projects, 1.0.0
Part 8, Section 36, Operational Balancing Agreement Policy, 2.0.0
Part 8, Section 37, Demand Charge Credits, 0.0.0
Part 9.10, Firm Transportation Agreement (FT-A/FT-GS), 1.0.0
Part 9.11, Firm Transportation Agreement (FT-B), 1.0.0
Part 9.12, Firm Transportation Agreement (FT-C), 1.0.0
Part 9.13, Firm Transportation Agreement (FT-D), 1.0.0
Part 9.20, Interruptible Transportation Agreement (IT), 1.0.0
Part 9.30, Park and Loan Agreement (PAL), 1.0.0
Part 9.31, Supply Aggregation Service Agreement (SA), 1.0.0
Part 9.32, Third Party Balancing Agreement (TPB), 1.0.0
Part 9.33, Form of Released Firm Transportation Agreement, 1.0.0