

137 FERC ¶ 61,116
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 10, 2011

In Reply Refer To:
Williston Basin Interstate Pipeline
Company
Docket No. RP12-13-000

Williston Basin Interstate Pipeline Company
1250 West Century Avenue
Bismarck, ND 58506

Attention: Keith A. Tiggelaar, Director of Regulatory Affairs

Reference: Revised Firm and Interruptible Storage Rate Schedules

Dear Mr. Tiggelaar:

1. On October 11, 2011, Williston Basin Interstate Pipeline Company (Williston) filed tariff records revising its firm storage and interruptible storage rate schedules.¹ Williston states that these tariff changes will place reasonable limitations and clarify shippers' rights regarding their ability to inject/withdraw gas and to sell, assign, or transfer storage gas between rate schedules. Williston also asserts that its proposed tariff changes will provide firm storage shippers with additional flexibility to inject and withdraw storage gas. The Commission accepts the tariff records in the attached Appendix, effective November 10, 2011, subject to Williston's filing, within 30 days of the issuance of this order, revised tariff records as discussed below.

2. Williston explains that the need to place restrictions on the injection of gas became apparent during the past injection season when a shipper injected gas under Rate Schedule FS-1 that exceeded that shipper's maximum storage capacity quantity (MSCQ). The shipper then made a number of transfers of storage gas from its Rate Schedule FS-1 (i.e., firm) agreement to its Rate Schedule IS-1 (i.e., interruptible) agreement. The shipper then replaced the transferred gas with subsequent firm injections. By transferring

¹ See Appendix.

gas from its Rate Schedule FS-1 storage agreement to its Rate Schedule IS-1 storage agreement, the shipper was able to continue injecting gas on a firm basis beyond its firm MSCQ. The transfers thus allowed the shipper to exceed its firm MSCQ, for without the transfers from firm to interruptible storage, the shipper would have had to inject storage volumes in excess of the firm MSCQ on an interruptible basis only, under Rate Schedule IS-1.

3. As a consequence, Williston was forced to curtail portions of other shippers' nominated interruptible injection volumes during the past injection season, and the firm shipper was able to ensure a higher priority for its storage injections by making the transfers discussed above. While these transfers were permissible under Williston's tariff, the frequency of the transfers and the immediate replacement of the transferred gas with injections under Rate Schedule FS-1 demonstrated the need to place reasonable limitations on the injection and withdrawal of gas into and from storage, as well as on the sale, assignment, or transfer of storage gas.

4. In order to prevent this type of shipper activity in the future, Williston proposes to limit a Rate Schedule FS-1 shipper's injections to its MSCQ plus any withdrawals during the injection season in section 2.3.1, and to limit a Rate Schedule FS-1 shipper's withdrawals to its MSCQ plus any injections during the withdrawal season in section 2.3.2. Williston includes a provision placing limitations on out-of-season injections and withdrawals, as well as a provision allowing it to waive these limitations on a non-discriminatory basis.

5. Williston also proposes to establish limitations regarding the sale, assignment and transfer of gas held in storage under Rate Schedule FS-1 and to clarify that these rights apply to transactions between shippers with executed storage agreements and other shippers with executed storage agreements. Williston does not consider the sale, assignment, or transfer of gas held in storage to be a withdrawal until such gas has been physically withdrawn from storage, and therefore proposes to prohibit shippers from replacing transferred gas that has been injected during the current storage year with subsequent firm injections (section 2.7.4). Williston now proposes that gas purchased or transferred under a shipper's storage service agreement during the current storage year will not be considered an injection. Williston would be able to waive these limitations on a non-discriminatory basis.

6. In addition, Williston modifies Rate Schedule FS-1 to provide additional flexibility in terms of when shippers are able to inject and withdraw storage gas; adds a definition of the term "storage year" in the General Terms and Conditions as the period from April 1 through March 31 of the following year; and makes ancillary changes to Rate Schedule FS-1 and Rate Schedule IS-1 necessitated by the proposed changes above.

7. Public notice of Williston's filing was issued on October 11, 2011. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.² Pursuant to Rule 214,³ 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.

8. On October 24, 2011, Tenaska Gas Storage (Tenaska) filed a protest. Tenaska states that it does not oppose Williston's request to place reasonable limitations on the ability of shippers to inject and withdraw gas under certain circumstances. However, Tenaska contends that it has concerns with the following two proposed tariff changes:

Section 2.7.4 – In no event shall Shipper be allowed to replace the transfer of gas injected pursuant to Subsection 2.3.1, during the current storage year, with subsequent firm injections.

Section 2.7.7 - Transporter may, in the exercise of its reasonable discretion, and on a nondiscriminatory basis, waive the requirements of Subsections 2.7.4 and 2.7.5 of this Rate Schedule. Transporter shall maintain a record of all such waivers granted to an affiliate. Such record shall include the basis for Transporter's waiver and shall be posted on Transporter's website.

9. First, Tenaska argues that under proposed section 2.7.4, a shipper would not be able to replace gas injected during the current storage year that was subsequently transferred, even if the shipper would still be within its MSCQ. Tenaska maintains that firm-to-firm transfers should always be allowed without restriction. Tenaska contends that placing restrictions on such injections and withdrawals should only be imposed during times of constraint.

10. Second, Tenaska argues that under proposed section 2.7.7, Williston offers no guidance on the process for requesting a waiver or the issuance of such a waiver. Tenaska seeks additional information on the method and timeframe of the waiver request, when a waiver would be granted, how transferred capacity is treated if the waiver is denied, and whether a shipper must request a waiver every time a transfer occurs.

² 18 C.F.R. § 154.210 (2011).

³ 18 C.F.R. § 385.214 (2011).

Tenaska states that, at a minimum, the Commission should require Williston to modify proposed section 2.7.7 to provide a clearly defined waiver process for shippers to follow.

11. On November 1, 2011, Williston filed an answer to Tenaska's protest. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,⁴ prohibits an answer to a protest unless otherwise ordered by the decisional authority. We shall accept Williston's answer because it has provided information that assisted us in our decision-making process.

12. Williston responds that the purpose of its filing is to prevent firm storage shippers from exploiting loopholes in Williston's existing tariff to the detriment of other storage shippers. Responding to Tenaska's criticism that firm-to-firm transfers should be allowed without restriction, Williston states that nothing in its filing prevents shippers from making firm-to-firm transfers (or any other type of storage gas transfer), provided there will be no adverse impact on Williston's storage service. Rather, Williston states it is proposing to set reasonable limits on the injections and withdrawals associated with gas that is transferred. Williston asserts it is not possible to allow firm-to-firm transfers on a blanket basis because, for example, there is limited transfer capability between the east and west ends of its system.

13. Responding to Tenaska's argument that Williston should not be allowed to place restrictions on storage injections/withdrawals unless Williston's system is constrained, Williston states that the purpose of its filing was to help ensure a more level playing field for all of its storage customers. Williston recognizes that there may be times when it is appropriate to allow shippers to inject gas on a firm basis to replace transferred volumes. Williston explains that this is why it proposed the waiver provision—to allow it the discretion to waive injection restrictions, if appropriate, on a non-discriminatory basis.

14. Responding to Tenaska's concern about the process for requesting and receiving a waiver, Williston explains that the process is similar to other waiver provisions in its tariff.⁵ Williston notes that Tenaska sought and received a waiver under a nearly identical waiver provision in 2007, and Williston contends that articulating too specific a process for requesting and issuing a waiver may eliminate flexibility and degrade its ability to provide effective customer service.

15. The Commission finds that while a number of the revisions included in Williston's proposal are reasonable efforts to level the playing field among shippers, and would

⁴ 18 C.F.R. § 385.213(a)(2) (2011).

⁵ Williston, Answer at 5 (citing Williston, FERC Gas Tariff, General Terms and Conditions, §§ 9.6, 10.2.3, 14.20, and 17.3.4).

increase shipper flexibility,⁶ other elements may unduly restrict the ability of a Rate Schedule FS-1 shipper to fully utilize its firm storage agreement's MSCQ. Under Williston's proposal, a Rate Schedule FS-1 shipper would be limited to injecting its MSCQ (plus any withdrawals during the injection season) into storage. If that firm shipper transfers gas, it would not be permitted to replace the transferred gas with additional firm storage injections, regardless of whether the transferred gas went to another Rate Schedule FS-1 account or to a Rate Schedule IS-1 account.⁷ This proposal goes beyond solving the problem identified by Williston in its filing—the tariff loophole that allows firm storage shippers to inject gas on a firm basis, transfer it to interruptible storage agreements, and then continue to inject gas on a firm basis even where, in the aggregate, a shipper's total injections exceed its MSCQ—inasmuch as it also limits a firm storage shipper's ability to inject or withdraw gas on a firm basis, where that shipper has transferred gas to another *firm* storage agreement and still has capacity available under its MSCQ.

16. The Commission therefore finds that a transfer of storage gas between *firm* rate schedules should not serve to reduce a firm shipper's ability to utilize its full contract quantity (MSCQ). Generally speaking, gas transferred from one firm account to another firm account does not present the same problem described by Williston in its filing, because any increase in one firm account due to a transfer is offset by a corresponding reduction in the other firm account. To the extent that there are physical constraints on Williston's ability to transfer gas from one firm storage agreement to another (such as the east-to-west constraint described in Williston's answer), Williston may impose reasonable limitations on firm-to-firm transfers. However, the Commission will not permit Williston to impose restrictions on a firm shipper's use of its storage agreement in order to manage the problem it has identified.

17. At the same time, we decline to support Tenaska's broad contention that restrictions on injections and withdrawals should be imposed only during times of constraint on Williston's system. Williston has identified operational problems on its system that it has attempted to remedy by the instant proposal. The Commission allows

⁶ For example, Williston proposes to increase the time period during which shippers can inject and withdraw gas.

⁷ For example, presume that Rate Schedule FS-1 Shipper A has an MSCQ of 10 Bcf and that it has injected the full 10 Bcf. If such a shipper then elects to transfer 2 Bcf to Rate Schedule FS-1 Shipper B, Shipper A would be unable to inject the additional 2 Bcf it now has available under its MSCQ. Accordingly, under Williston's proposal, Shipper A would continue to pay a reservation charge for the right to store 10 Bcf throughout the year, even though it is now only able to store 8 Bcf under its firm storage agreement.

pipelines reasonable discretion to manage their own systems. The Commission finds that with the exception of the restrictions imposed by Williston on a firm shipper's ability to utilize its storage agreement to replace gas that has been transferred as proposed in sections 2.3.1, 2.3.2 and 2.7.4, Williston's additional modifications to provide additional storage flexibility and clarify its storage transfer provisions are just and reasonable.

18. Further, the Commission declines to require revision to section 2.7.7 to require a particular format for waiver of the revised storage rate schedules if circumstances warrant such waiver; so long as there is no undue discrimination between shippers, the provision is acceptable. The proposed waiver provision is similar to other waiver provisions already in Williston's tariff, and the Commission finds it reasonable to accept section 2.7.7, which mandates that Williston issue such waivers on a non-discriminatory basis.

19. Consistent with the discussion above, the Commission accepts the tariff records listed in the attached Appendix, effective November 10, 2011, subject to the condition that Williston file revised tariff records within 30 days of this order, to remove the restrictions on a firm shipper's use of its firm storage that the Commission has identified above as unreasonable.⁸

By direction of the Commission. Commissioner Spitzer is not participating.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁸ Williston filed the proposed tariff records on October 11, 2011, but requests a November 10, 2011 effective date, only 29 days after filing. Waiver of section 154.207 of the Commission's regulations is granted so that the tariff records may be accepted, subject to condition, on less than 30-days notice.

APPENDIX

Williston Basin Interstate Pipeline Company
Third Revised Volume No. 1
FERC NGA Gas Tariff

Tariff Records Effective November 10, 2011, Subject to Conditions:

Sheet No. 41, , 1.0.0 A

Sheet No. 42, , 1.0.0 A

Sheet No. 42A, , 0.0.0

Sheet No. 42B, , 0.0.0

Sheet No. 48, , 1.0.0 A

Sheet No. 48A, , 0.0.0

Sheet No. 77, , 1.0.0 A