

137 FERC ¶ 61,169  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

November 30, 2011

In Reply Refer To:  
Algonquin Gas Transmission, LLC  
Docket No. RP12-39-000

Algonquin Gas Transmission, LLC  
PO Box 1642  
Houston, TX 77251-1642

Attention: Greg E. McBride, Vice President  
Rates & Certificates

Reference: Letter Order on Annual Fuel Reimbursement Quantity Filing

1. On October 24, 2011, Algonquin Gas Transmission, LLC (Algonquin) submitted a tariff record<sup>1</sup> in accordance with section 32, Fuel Reimbursement Quantity (FRQ), of the General Terms and Conditions (GT&C) of Algonquin's FERC Gas Tariff, reflecting its proposed effective Fuel Reimbursement Percentages (FRP) for the calendar period beginning December 1, 2011, and its allocation of the surcharge amounts for the July 31, 2011 balance of the FRQ Deferred Account. In this order, the Commission accepts the tariff record effective December 1, 2011, as requested.

2. On December 21, 2006, the Commission authorized Algonquin to render service under its Ramapo Expansion Project.<sup>2</sup> In that order, the Commission required Algonquin

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<sup>1</sup> 12., Fuel Reimbursement Percentages, 2.0.0, to Algonquin Database 1, FERC NGA Gas Tariff.

<sup>2</sup> *Millennium Pipeline Co., et al.*, 117 FERC ¶ 61,319, at P 107 (2006) (December 21, 2006 Order), *reh'g, sub nom., Empire State Pipeline, et al.*, 119 FERC ¶ 61,173 (2007). The Ramapo Expansion facilities were placed into service on November 1, 2008. *Algonquin Gas Transmission, LLC*, Request for Extension of Time, Docket No. CP06-76-000, at 1 (filed Nov. 26, 2008).

to delineate actual fuel use and lost and unaccounted for gas (LAUF) associated with the Ramapo Expansion Project service in its annual fuel tracker filings under section 32 of the GT&C of its tariff to ensure that only expansion shippers be assessed fuel costs attributable to expansion service. Algonquin states that in compliance with the requirements of the December 21, 2006 Order, this filing includes in Appendix C, actual fuel use and LAUF data associated with the Ramapo Expansion Project service.

3. The revised FRPs proposed to be effective in this filing reflect: (1) for system customers a decrease of 0.02 percent (from 1.02 percent to 1.00 percent) for the Winter Period and an increase of 0.21 percent (from 0.72 percent to 0.93 percent) for the Spring, Summer and Fall periods; and (2) for incremental Ramapo customers an increase of 0.24 percent (from 1.92 percent to 2.16 percent) for the Winter Period and an increase of 0.29 percent (from 1.31 percent to 1.60 percent) for the Spring, Summer, and Fall periods. Algonquin states that it calculated these FRPs utilizing projections of both Company Use Gas and throughput quantities based on the actual data for the twelve month period ended July 31, 2011.

4. Algonquin also includes in its filing the calculation of the FRQ Deferred Account allocation pursuant to section 32.5 of the GT&C, which provides that Algonquin will calculate surcharges or refunds designed to amortize the net monetary value of the balance in the FRQ Deferred Account at the end of the previous accumulation period. Algonquin states that under section 32.5(c) of the GT&C, the surcharge or refund is based on the allocation of the FRQ Deferred Account balance as of July 31, 2011 over the actual quantities during the 12-month accumulation period ending July 31, 2011. In addition, Algonquin explains that it maintains a separate sub-account in the FRQ Deferred Account for each incremental service as required by Commission order and calculates separate surcharges and refunds for the system service and each incremental service. Algonquin states that, consistent with the Commission's order on the Ramapo Expansion Project, the actual fuel use and LAUF attributable to the Ramapo Expansion Project service is delineated and assigned directly to Ramapo Expansion Project customers for surcharge or refund.

5. For the current FRQ accumulation period (August 1, 2010 through July 31, 2011), Algonquin states the FRQ Deferred Account resulted in a net debit balance of \$2,899,708. Algonquin explains that the allocation of the balance between system customers and Ramapo Expansion Project customers yields a debit sub-balance of \$1,575,488 to be surcharged to Algonquin's system customers and a debit sub-balance of \$1,324,220 to be surcharged to Ramapo Expansion Project customers. Algonquin states that the work papers contained in Appendix B to the filing show the monthly accrual of the FRQ Deferred Account balance. Pursuant to section 32.5(c) of Algonquin's GT&C, the FRQ surcharges are due within 60 days of the Commission's acceptance of this filing. Algonquin states that additional carrying charges will be included for the period from

November 1, 2011, to the payment date. Algonquin requests that the proposed tariff sheet be accepted effective December 1, 2011.

6. Public notice of Algonquin's Filing was issued on October 25, 2011. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.<sup>3</sup> Pursuant to Rule 214,<sup>4</sup> all timely 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 this proceeding or place additional burdens on existing parties. On November 8, 2011, Repsol Energy North America (Repsol) filed a protest concerning Algonquin's treatment of east-to-west transactions in this filing. On November 16, 2011, Algonquin filed an answer to Repsol's protest. Rule 213(a)(2)<sup>5</sup> of the Commission's rules of practice and procedure prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Algonquin's answer because it has provided information that will assist us in our decision-making process.

7. Section 32.1 of Algonquin's GT&C exempts backhaul transactions from charges for the fuel Algonquin uses in its operations. Until Algonquin's East to West Project (E2W Project) went into service on November 1, 2010, gas flows on Algonquin's mainline were always from west to east, and Algonquin accordingly treated all east-to-west mainline transactions as exempt backhaul transactions. However, the E2W Project included piping modifications at the Hanover Compressor Station in Morris County, New Jersey to permit reverse flow of gas along Algonquin's entire mainline.<sup>6</sup> Therefore, in the instant filing, Algonquin proposes to treat east-to-west mainline transactions as forward hauls subject to its fuel charges. In its protest, Repsol argues that the Commission should reject Algonquin's fuel rates for east-to-west mainline transactions on its system and direct Algonquin to reinstitute the fuel charge exemption for east-to-west mainline transactions. Repsol further argues that this exemption should remain in effect until Algonquin demonstrates that the anticipated changes in mainline gas flow due to the E2W Project actually occurred.

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<sup>3</sup> 18 C.F.R. § 154.210 (2011).

<sup>4</sup> 18 C.F.R. § 385.214 (2011).

<sup>5</sup> 18 C.F.R. § 385.213(a)(2) (2011).

<sup>6</sup> See *Algonquin Gas Transmission, LLC*, 130 FERC ¶ 61,011, at P 3 and 39-40 (2010) (E2W Order), authorizing the E2W Project.

8. Repsol explains that, while it was expected that the E2W Project would change the flows on the mainline so that east-to-west mainline transactions would not always be backhauls, based on the review of publicly available information regarding the actual operating conditions on Algonquin's system, it appears as though east-to-west transactions on the mainline have not required the utilization of Algonquin's compression. Therefore, Repsol argues, east-to-west mainline transactions have not caused the consumption of any fuel by Algonquin above and beyond that used to transport gas in the traditional west-to-east direction.

9. Algonquin responds that Repsol's protest is a collateral attack on issues that were already raised and rejected by the Commission in the E2W certificate proceedings. Algonquin states that in the E2W Order the Commission held that, after completion of the E2W Project, transactions under contracts for service on the Algonquin mainline that were previously defined as backhauls would be subject to fuel charges.<sup>7</sup> Algonquin further states that the Commission determined in the E2W Order that "actual flow of gas on certain parts of Algonquin's mainline will at times be west to east and at other times east to west after completion of the ... E2W Project."<sup>8</sup> Algonquin then summarizes that those contracts for service on its mainline that previously were defined as having backhaul paths no longer meet the definition of a backhaul under Algonquin's tariff and are now subject to fuel charges pursuant to the fuel reimbursement provisions.

10. Algonquin states that in the certificate proceedings shippers argued that Algonquin should not be able to assess fuel charges unless Algonquin could demonstrate that the specific transportation service no longer qualified as backhaul and requested that the Commission condition its approval on such a demonstration.<sup>9</sup> Algonquin states the Commission determined that as a result of the E2W Project "the contractual direction of movement will not be opposite to the actual flow of gas at all points along the contractual path"<sup>10</sup> and that all contracts previously defined as backhauls would be assessed fuel.

11. Algonquin states that the Commission did not place any conditions or obligations on Algonquin to provide comprehensive system flow information in its FRQ Filing. Algonquin further states that the fact that there are currently greater flows from west to east because of current market conditions does not change the fact that after the completion of the E2W Project there are no more backhaul contracts on the mainline.

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<sup>7</sup> *Id.* at P 40.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at P 36.

<sup>10</sup> *Id.* at P 40.

Finally, Algonquin states that the volume of gas entering the Algonquin system at the east end of its system increased during 2010 and 2011 once service commenced on the E2W Project.

12. The Commission agrees with Algonquin that the issues raised by Repsol have been discussed and ruled on in the E2W certificate order. In that order the Commission stated that Algonquin's gas tariff defines backhaul as "the movement of gas from a Point of Receipt to a Point of Delivery such that the contractual direction of movement on the mainline is at all times and at all points along the path in a direction opposite to the actual flow of gas in the pipeline."<sup>11</sup> (Emphasis added). The Commission then held that, because the actual flow of gas on certain parts of Algonquin's mainline will at times be west to east and at other times east to west after completion of the E2W Project, "the contractual direction of movement will not be opposite to the actual flow of gas at all times and at all points along the contractual path."<sup>12</sup>

13. Repsol asserts that there is reason to believe that gas flows on Algonquin's mainline have not been reversing direction as anticipated in the E2W certificate proceeding, because a flood of gas from the Marcellus Shale coming into the west end of Algonquin's system has filled Algonquin to capacity in its traditional west-to-east direction. In support of this contention, Repsol cites operational notices issued by Algonquin for selected days during the months of August through November 2011. However, Algonquin states that this information is not representative of receipts on its system every day throughout 2010 and 2011 and that it has experienced actual east to west flows on the mainline during this period. Algonquin's answer includes data showing that, during all of 2010 and 2011, volumes of gas entering its system at the east end and at central points on its system increased more than volumes entering its system at the west end. Thus, on a percentage basis, receipts on the west end of Algonquin's system have decreased. Moreover, Algonquin states that it receives requests for service at the east end of its system and at different points along the mainline, such as at other pipeline interconnects including Mendon and Mahwah in Massachusetts, and these requests create the potential for increased volumes flowing from east to west.

14. We find that Algonquin's answer demonstrates that gas flows from both east to west and from west to east. Again as stated in the E2W Order, because the actual flow of gas will not be opposite to the actual flow of gas at all times and at all points along the contractual path, those transactions that previously would have been defined as backhaul

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<sup>11</sup> See tariff record 1., Definitions, 3.0.0, Algonquin Database 1, FERC NGA Gas Tariff.

<sup>12</sup> E2W Order, 130 FERC ¶ 61,011 at P 40.

pursuant to Algonquin's tariff no longer meet the definition for backhaul and are appropriately subject to fuel charges.

15. Therefore, we reject Repsol's protest and accept Algonquin's tariff record listed in footnote 1 to be effective December 1, 2011, as proposed.

By direction of the Commission. Commissioner Spitzer is not participating

Kimberly D. Bose,  
Secretary.