

138 FERC ¶ 61,146  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
and Cheryl A. LaFleur.

PostRock KPC Pipeline, LLC

Docket No. RP12-346-000

ORDER ACCEPTING AND SUSPENDING TARIFF RECORD, SUBJECT TO  
CONDITIONS, AND ESTABLISHING TECHNICAL CONFERENCE

(Issued February 29, 2012)

1. On January 30, 2012, PostRock KPC Pipeline, LLC (KPC) filed a revised tariff record<sup>1</sup> to clarify its authority to consider blending and pairing arrangements when deciding whether to exercise discretion under its tariff to accept receipts that fail to meet applicable gas quality specifications. KPC requests an effective date of March 1, 2012, for the revised tariff record.
2. As discussed below, the Commission will accept and suspend the tariff record to become effective August 1, 2012, or earlier if the Commission so directs, and subject to the outcome of a technical conference.

**Description of the Filing**

3. KPC states that it owns and operates a 1,120-mile interstate natural gas pipeline system that transports natural gas from Oklahoma and western Kansas to the metropolitan Wichita and Kansas City markets. KPC explains that the high nitrogen content of some supplies entering its system has resulted in periodic curtailments by downstream pipelines, thereby impairing the general competitiveness of its system. According to KPC, it sought to address this problem in 2010 by updating its gas quality specifications, in particular by adopting a three-percent limit on inert substances (including nitrogen). KPC states that it hoped that new production meeting the updated gas quality specifications would connect to its pipeline and improve overall gas quality, but that has

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<sup>1</sup> 24-GT&C Section 3 (Quality of Gas), 1.0.0 to FERC Gas Tariff, Third Revised Volume No. 1, FERC NGA Gas Tariff.

not occurred. In fact, continues KPC, gas quality has worsened because new production meeting the gas quality specifications has not connected to the system to the degree required to improve gas quality, while at the same time, receipts of low-nitrogen supplies from other sources have declined. Despite that, states KPC, it has exercised discretion under its tariff and has continued to accept out-of-spec receipts whenever possible.

4. KPC maintains that it has had regular discussions with on-system gatherers in an unsuccessful effort to resolve this situation. KPC expresses hope that discussions will continue and that a longer-term solution meeting the needs of all parties will emerge. However, contends KPC, until that occurs, it believes that interim steps to improve gas quality are necessary. KPC explains that it recently has discussed with gatherers a concept under which KPC would adopt an internal policy of requiring nominations of out-of-spec receipts to be paired with nominations of in-spec receipts. KPC adds that it provided the most recent iteration of the proposed concept in a letter to gatherers dated January 18, 2012, a copy of which is provided in Attachment A to the instant filing. According to KPC, the concept would improve gas quality only moderately because the blended stream created by each paired arrangement would continue to contain nitrogen levels that are more than twice the three-percent limit in the tariff, but this effort is a reasonable, balanced first step.

5. KPC proposes to implement the pairing concept pursuant to discretion already established in its tariff. Specifically, KPC states that section 3.1 of the General Terms and Conditions (GT&C) in its tariff affords it the discretion to accept receipts that fail to meet applicable gas quality specifications, and Commission policy requires that such discretion be exercised in a fair, impartial, and not unduly discriminatory manner.<sup>2</sup> KPC asserts that its proposed pairing concept would meet these requirements because it would apply to all out-of-spec receipts.<sup>3</sup> Moreover, adds KPC, while Commission policy provides that “only natural gas quality and interchangeability specifications contained in a Commission-approved tariff can be enforced[,]”<sup>4</sup> KPC does not propose to change the

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<sup>2</sup> KPC cites 18 C.F.R. § 348.4(b) (2011). Although KPC states that it is not subject to the affiliate standards of conduct, it recognizes its broader obligation to provide service in a not unduly discriminatory manner, including in its exercise of discretion under its tariff.

<sup>3</sup> KPC states that application of its proposed pairing policy represents no change from the application of its current policy of accepting out-of-spec receipts whenever possible.

<sup>4</sup> KPC cites *Policy Statement on Provisions Governing Natural Gas Quality in Interstate Natural Gas Pipeline Company Tariffs*, 115 FERC ¶ 61,325, at P 2 (2006) (*Gas Quality Policy Statement*).

natural gas quality specifications or to waive or otherwise limit its right under the tariff to reject out-of-spec receipts. Instead, continues KPC, the pairing concept would modify its internal policy with respect to when it will exercise discretion under its tariff to accept such out-of-spec receipts.

6. KPC acknowledges that nothing in the tariff specifically addresses pairing or blending arrangements. Therefore, KPC proposes to add the following provision to section 3 (Quality of Gas) of the GT&C of its tariff:

3.4 To the extent that KPC accepts Gas for Transportation that does not meet the quality specifications set forth in Section 3.1 above, KPC shall do so on a not unduly discriminatory basis taking into account such factors as the degree to which Gas does not meet the quality specifications, prevailing operating conditions, and whether and to what extent Shipper pairs nominations or the Shipper otherwise agrees to a blending or pairing arrangement.

7. KPC asserts that the proposed provision is consistent with the *Gas Quality Policy Statement*, in which the Commission encouraged pipelines to consider blending and pairing arrangements as a means to accommodate the receipt of out-of-spec gas.<sup>5</sup> KPC maintains that the proposed revision also is consistent with the principles adopted in the *Gas Quality Policy Statement*.<sup>6</sup>

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<sup>5</sup> KPC cites the following Commission guidance:

The Commission continues to believe that it is appropriate to allow pipelines to exercise their discretion to waive strict gas quality limits when operating conditions allow, and to enforce such limits when operating conditions require stricter measures, as long as it is done in a not unduly discriminatory manner. The Commission wishes to encourage pipelines to allow blending, pairing, and other strategies, to the extent these can be implemented on a non-discriminatory basis and in a manner that is consistent with safe and reliable operations.

*Id.* P 41 (citations omitted).

<sup>6</sup> KPC cites *id.* P 2. By comparison, states KPC, the NGC+ interim guidelines provide for a four-percent limit on total inerts. KPC cites n.12, NGC+ interim guidelines

(continued...)

**Notice, Interventions, Protest, and Answer**

8. Public notice of KPC's filing was issued on January 31, 2012, with interventions and protests due as provided in section 154.210 of the Commission's regulations.<sup>7</sup> Pursuant to Rule 214,<sup>8</sup> all timely-filed motions to intervene and any unopposed motions to intervene out-of-time 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.

9. Kansas Gas Service, a division of ONEOK, Inc. (Kansas Gas Service) filed a motion to intervene and comments. Kansas Gas Service is a local distribution public utility in Kansas and is a customer of KPC. Kansas Gas Service states that it does not oppose KPC's efforts to accommodate the delivery of out-of-spec gas and that it will monitor the delivery of such gas into its own distribution system. To the extent that delivery of such gas negatively impacts its distribution system and its customers, Kansas Gas Service states that it reserves the right to insist that the natural gas quality specifications contained in section 3.1 of KPC's tariffs be enforced as written.

10. Fairfax Midstream Company, LLC (Fairfax) also filed a motion to intervene and comments in support of KPC's filing. Fairfax explains that it gathers and processes gas, the majority of which is high in nitrogen and rich gas, and that such gas requires processing to meet the Btu specification. Fairfax states that it favors any reasonable proposal that supports its continued ability to ship higher-nitrogen gas on KPC.

11. Fairfax states that, if KPC were to enforce its existing nitrogen content limit, Fairfax likely would not be able to deliver gas into the KPC system because when its gas processing plant was constructed in 2006, the plant was not designed to remove nitrogen from the gas stream because there was no nitrogen content limit on the gas pipeline that is now KPC. Fairfax maintains that this would strand all existing production, thereby causing Fairfax to lose its investment in its facilities, as well as causing the producers to lose their investment in their existing drilling, infrastructure, and acreage acquisition.

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at p. 26. KPC maintains that virtually all pipelines that have adopted specifications applicable to nitrogen or inert substances have set limits of three to four percent. KPC states that the NGC+ interim guidelines were filed February 28, 2005, in Docket No. PL04-3-000. KPC cites NGC+ interim guidelines, *White Paper on Liquid Hydrocarbon Drop Out in Natural Gas Infrastructure* at p. 16-17.

<sup>7</sup> 18 C.F.R. § 154.210 (2011).

<sup>8</sup> 18 C.F.R. § 385.214 (2011).

Moreover, continues Fairfax, the Osage Native American Tribe would lose its royalty on both the oil and gas production. Fairfax argues that this is contrary to the public interest in that it would limit natural gas supply.

12. Fairfax supports KPC's approach of allowing high nitrogen content gas to be "paired" with, and thus treated as blended with, low nitrogen content gas so that when combined, both streams effectively will meet the KPC nitrogen content standard. Fairfax also points out that this allows KPC to exercise its discretion to find that the high nitrogen content gas is meeting the nitrogen specification.

13. Additionally, states Fairfax, KPC has proposed a table containing specific "Required Pairing Ratios" to convert high nitrogen content gas from "Out-of-Spec Receipts to In-Spec Receipts." Fairfax asserts that having such a table with specific ratios of varying combined levels of high and low nitrogen content gas allows a producer to know what pairing it must achieve in order to meet the nitrogen content level necessary to ship on KPC with a large degree of reliance that its gas will not be rejected.

14. ScissorTail Energy, LLC (ScissorTail) filed a motion to intervene and a protest. ScissorTail explains that it gathers rich gas in its Osage gathering system in Northeast Oklahoma, and that the gas is high in nitrogen. ScissorTail asserts that it constructed its Burbank gas processing plant in early 2009 at a cost in excess of \$5 million to bring this shut-in gas to market and that it connected the plant to KPC to ensure a market for the gas. ScissorTail emphasizes that the plant was designed to remove natural gas liquids from the rich Osage gas stream and, thereby, lower the Btu content of the gas to a level acceptable to KPC. However, continues ScissorTail, the processing at the Burbank plant does not reduce the level of inerts in the gas stream and was not designed to do so because, at that time, KPC's gas quality specifications focused on heat content and contained no maximum percentage for inerts.

15. ScissorTail also maintains that KPC has not attempted to enforce the total inerts limit, causing a shut-in of the Osage gas supplies that would have been processed at the Burbank plant. In fact, continues ScissorTail, KPC has indicated that it will continue to accept residue gas as long as the total inerts do not exceed 10 percent, and ScissorTail claims to have met that limit so that it could receive gas from the previously shut-in wells. ScissorTail argues that this and other factors have created uncertainty among gas gatherers, causing them to defer capital expenditures needed to bring the Osage gas to market.

16. ScissorTail contends that the instant filing would allow KPC to discriminate in favor of shippers that bring new gas onto its system by giving priority to waivers of its gas quality specifications where the shipper's gas that is out-of-spec is paired in advance with nominations of other gas meeting the quality specifications. According to ScissorTail, the gas quality has worsened since KPC imposed the three-percent inerts limit, but ScissorTail submits that this is attributable to a reduction in receipts of low-

nitrogen gas, caused by the turnback of contracted capacity and the resulting reduction in system throughput.

17. ScissorTail asserts that proposed section 3.4 is unjust and unreasonable because it is overbroad in scope and incomplete in that it does not explain how the new internal pairing policy would work. Further, states ScissorTail, the proposed section is unduly vague in that it would give KPC unfettered discretion to implement pairing in an unduly discriminatory fashion. ScissorTail contends that KPC failed to comply with the *Gas Quality Policy Statement* guidelines in that it engaged in only nominal consultation before submitting the tariff record and declined to enter into any collaborative discussions with ScissorTail. Additionally, ScissorTail maintains that KPC has failed to demonstrate that pairing is workable on its system or why pairing must occur under a single transportation service agreement. Accordingly, ScissorTail asks the Commission to suspend the tariff record for the maximum five-month period, which ScissorTail believes may facilitate settlement discussions.

18. KPC filed a motion for leave to answer and answer to ScissorTail's protest. Although the Commission's regulations prohibit answers to protests unless otherwise ordered by the decisional authority,<sup>9</sup> the Commission will accept KPC's answer because it provides additional information for the Commission's consideration in this proceeding.

19. KPC points out that ScissorTail has not denied that KPC has continued to accept receipts with nitrogen levels of up to 12 percent or higher. KPC asserts that it has continued to accept high-nitrogen level supplies when possible while working to find a long-term solution to the issue of out-of-spec natural gas.

20. KPC also contends that its proposal is not overly broad because the Commission has encouraged pipelines to accommodate pairing and blending arrangements whenever possible to address gas quality issues in general, not simply nitrogen levels. Similarly, KPC asserts that the proposed tariff provision is not incomplete. It argues that ScissorTail improperly compares the instant proposal to pairing mechanisms adopted by other pipelines. KPC explains that its proposal establishes a different approach, which is an internal policy that does not depend on negotiating individual pairing arrangements proposed by shippers. Further, states KPC, its internal pairing policy is not more limited or restrictive than the policies of other pipelines.

21. Additionally, KPC argues that the proposed tariff provision is not unduly vague. KPC acknowledges that the provision allows it to modify its internal pairing policy from time to time, but it states that retention of that authority does not violate Commission

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<sup>9</sup> 18 C.F.R. § 385.213(a)(2) (2011).

policy and in fact helps to ensure that discretionary tariff provisions are exercised in a fair, impartial, and not unduly discriminatory manner. KPC also contends that ScissorTail erroneously claims that KPC has not consulted with it in advance of the instant filing. KPC asserts that discussions of the nitrogen problem have been ongoing for some time and that it sent the gatherers a letter on January 18, 2012, asking for responses by January 25, 2012. KPC states that the January 18 letter contained a revised version of its original proposal in response to feedback from gatherers.

22. Next, KPC argues that pairing is clearly workable on its system. It explains that the high-nitrogen supplies connected to its system are located near a bidirectional interconnection with Enogex LLC (Enogex), which is the primary upstream supply source for KPC's system. KPC states that supplies delivered by Enogex typically have a low nitrogen content, making it easy for those supplies to be delivered to the KPC system and paired with high-nitrogen supplies. Further, states KPC, it is possible for such pairing to facilitate deliveries into Enogex through displacement. KPC also rejects ScissorTail's allegation that it has tacitly agreed not to enforce the quality specifications in its tariff.

23. Finally, KPC asserts that its filing should not be suspended for five months. KPC contends that doing so could be more burdensome to ScissorTail than acceptance of the proposed tariff provision. KPC states that it requested the March 1, 2012 effective date so that it could implement the internal pairing policy in time for the upcoming summer season, when deliveries out of the system are lower. According to KPC, absent the availability of pairing, it may be forced to reject high-nitrogen supplies that do not meet applicable gas quality specifications.

### **Commission Analysis**

24. The parties have raised serious issues concerning the interpretation and application of KPC's proposed revision to its tariff. The Commission has reviewed KPC's filing, as well as the comments, protest, and KPC's answer, and finds that the proposed tariff record raises a number of issues that are best addressed at a technical conference.

25. A technical conference is an opportunity for the parties and the Commission's Staff to explore the issues raised by the filing, gain an understanding of the facts, and obtain additional information regarding the positions of the parties to facilitate a more prompt resolution of the issues raised. Following the technical conference, the parties will have an opportunity to file comments that will be included in the formal record of the proceeding and will form the basis of the Commission's final decision on the filing. Accordingly, the Commission directs the Staff to convene a technical conference to address the issues raised by the parties and to report the results of the conference to the Commission within 120 days of the date this order is issued.

26. Based on a review of the filing, the Commission finds that KPC's revised tariff record has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. The Commission's policy regarding suspensions is that such filings 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.<sup>10</sup> 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.<sup>11</sup> Such circumstances do not exist here. Therefore, the Commission shall exercise its discretion to suspend the instant filing to take effect on August 1, 2012, or on such earlier date as the Commission may direct, subject to the outcome of the technical conference and further Commission order.

The Commission orders:

(A) KPC's tariff record is accepted for filing and suspended for five months to become effective August 1, 2012, or on an earlier date as directed by the Commission, subject to the outcome of the technical conference and further order of the Commission.

(B) The Commission Staff is directed to convene a technical conference to address the issues raised by KPC's filing and to report the results of the conference to the Commission within 120 days of the date this order is issued.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>10</sup> See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five month suspension).

<sup>11</sup> See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).