

140 FERC ¶ 61,068  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

July 23, 2012

In Reply Refer To:  
Maritimes & Northeast  
Pipeline, L.L.C.  
Docket No. RP12-789-000

M&N Management Company  
890 Winter Street, Suite 300  
Waltham, MA 02451

Attention: Joseph F. McHugh, Director, Rates and Regulatory Affairs

Reference: ROFR Provisions Waiver Request

Dear Mr. McHugh:

1. On June 5, 2012, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) filed a Petition for Temporary Waiver of Right of First Refusal Tariff Provisions and Request for Expedited Action (Petition). Specifically, Maritimes is requesting temporary waiver of Section 4.2 of the General Terms and Conditions (GT&C) of its tariff, which provides the posting and bidding timeline and other related requirements for capacity that is subject to a right of first refusal (ROFR). Maritimes requests expedited action on its Petition. Maritimes further requests that the waiver remain in effect until November 30, 2012. As discussed below, the Commission grants waiver of Section 4.2 of Maritimes' GT&C to remain in effect until November 30, 2012, as requested.

2. Section 4.2 of the GT&C of Maritimes' FERC Gas Tariff details the posting and bidding timeline and other related requirements for capacity that is subject to ROFR rights on its pipeline. Maritimes states that, pursuant to its tariff, rights of first refusal under ROFR agreements are triggered when certain events occur.

3. Maritimes states that it has a firm service agreement with Emera Energy Services, Inc. (Emera). That agreement provides for Emera to pay a negotiated rate. It also provides for a 33,200 Dth/day reduction in Emera's contract demand effective

April 1, 2013. While Emera is not eligible for the regulatory ROFR provided by section 284.221(d)(2) of the Commission's regulations,<sup>1</sup> the agreement provides Emera with a contractual ROFR under Maritimes' FERC Gas Tariff. The tariff provides for a ROFR with respect to an automatic reduction in contract demand such as is included in Emera's service agreement. Section 4.2(b) of Maritimes' GT&C required it to make a posting initiating the ROFR process for the expiring capacity under Emera's service agreement on May 1, 2012. However, due to an oversight, Maritimes did not make the required posting until May 15, 2012. GT&C sections 4.2(c), (f), and (g) provide for deadlines related to the ROFR process that run from the initial posting pursuant to section 4.2(b).

4. Because of its oversight, Maritimes requests temporary waiver of Section 4.2 of its GT&C to allow for the same timing requirements that would have applied to the ROFR process had Maritimes began the process for Emera's agreement on the correct date. Maritimes states that, based on the initial posting date of May 15, 2012, it has recalculated the applicable deadlines provided under sections 4.2(c), (f), and (g) such that Maritimes will provide the same amount of time for potential bidders to bid on the capacity and for Emera to exercise its ROFR as would have been the case if the process had been initiated by the original deadline. Accordingly, Maritimes requests temporary waiver of Section 4.2(b) with respect to its initial posting of Emera's ROFR capacity under agreement, to allow for the ROFR process to commence on May 15, 2012, and Sections 4.2(c), (f), and (g) with respect to the subsequent deadlines that have been recalculated based on the May 15, 2012 posting. Maritimes asserts that the temporary waiver will only be used for the limited purpose of implementing Maritimes' ROFR process with respect to Emera's ROFR under the agreement. Finally, Maritimes asserts no market participant will be prejudiced or harmed by the Commission's granting of the requested waiver.

5. Public notice of the filing was issued on July 5, 2012. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2012)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2012)), 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. No protests or adverse comments were filed.

6. The Commission finds good cause to grant Maritimes' temporary waiver request and therefore, Maritimes' request for waiver of Sections 4.2(b), (c), (f), and (g) of its

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<sup>1</sup> 18 C.F.R. § 284.221(d)(2) (2012).

GT&C is granted. The waiver shall remain in effect until the end of the ROFR process for Emera's agreement, November 30, 2012, as requested.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.