

107 FERC ¶ 61,247
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Northern Natural Gas Company

Docket Nos. RP04-155-002
RP03-398-007

ORDER ON REHEARING

(Issued June 2, 2004)

1. In a February 27, 2004 Order the Commission conditionally accepted and suspended a general section 4 rate case filed by Northern Natural Gas Company (Northern Natural) in Docket No. RP04-155-000, and consolidated that docket with an earlier ongoing section 4 rate case in Docket No. RP03-398-000.¹ The filing in Docket No. RP04-155-000 included not only an increase in rates but also proposed changes to Northern Natural's terms and conditions of service. Of these latter changes, some had also been filed in the earlier rate case, Docket No. RP03-398-000. The issue on rehearing does not go to the merits of these common proposals. Rather, it goes to the procedural framework in which they are to be litigated.

2. On rehearing, Duke Energy Field Services, L.P. (DEFS) asserts that Northern Natural's filing in Docket No. RP04-155-000 incorporates, without change or explanation, numerous tariff proposals that are actively being litigated in the earlier rate proceeding in Docket No. RP03-398-000. It further asserts that as the record on those proposals has already been developed (with the exception of discovery on Northern's rebuttal testimony), all those issues should have been stricken from the Docket No. RP04-155-000 case. DEFS states that it would be burdensome to have to prepare new testimony, and in essence, retry in the latter docket issues that had already been addressed in the earlier docket. It further argues that Northern Natural would be unfairly provided with an opportunity of a further nine months since the date its rebuttal testimony was due

¹ Northern Natural Gas Company, 106 FERC ¶ 61,195 (2004).

to refine its positions. DEFS, therefore, requests that the Commission either strike the provisions filed in Docket No. RP04-155-000 that duplicate those filed in the earlier docket, or limit the record in this consolidated proceeding to the testimony already submitted.²

3. The Commission will deny rehearing. The issue of whether the two dockets at issue should be consolidated was considered and decided in P 49 through 52 of the February 27 Order. DEFS's point of whether the Commission should reject the common proposals and any associated testimony, or resolve those matters only on the existing record, is specifically noted in P 50. In P 52 the Commission concluded that the presiding Administrative Law Judge (ALJ) should determine the most efficient method for proceeding with the hearing in the consolidated proceeding. Consistent with that direction, the presiding ALJ held a prehearing conference on March 10, 2004, and issued a procedural schedule on March 12 based on the agreement of the parties. Having vested that authority in the ALJ, the Commission will not second guess her judgment. Rehearing is denied.

The Commission orders:

DEFS's request for rehearing is denied.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

² On April 20, 2004, the Northern Municipal Distributors Group and the Midwest Region Gas Task Force Association filed a motion for leave to answer DEFS's request for rehearing. Such answers are not permitted under the Commission's rules and are rarely permitted. The motion is denied for lack of good cause shown to grant it.