

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 22, 2004

In Reply Refer To:
Northern Natural Gas Company
Docket No. RP04-281-001

Northern Natural Gas Company
P. O. Box 3330
Omaha, NE 68103-0330

Attention: Mary Kay Miller
Vice President, Regulatory and Customer Service

Reference: Order Accepting Tariff Sheets Modifying Form of Service Agreements

Ladies and Gentlemen:

1. On June 14, 2004, Northern Natural Gas Company (Northern) filed revised tariff sheets¹ in compliance with the Commission's May 28, 2004 Letter Order (May 28 Order) regarding modified form of service agreements establishing streamlined activation of Rate Schedule TFX and LFT and the associated SMS service with terms of one month and less. The Commission accepts Northern's tariff sheets to become effective June 1, 2004, as proposed. Our acceptance benefits customers because it ensures that Northern's proposed enhancements to speed up service agreement activation conform to the Commission's regulations and policies.

2. The May 28 Order directed Northern to revise its proposed tariff language to require a shipper to take proactive action before Northern considers a service agreement as binding. In compliance with the May 28 Order, Northern hereby submits revised tariff language that provides that Northern and its shippers can agree in advance in writing on the terms under which the service agreement is binding. Such agreement will provide that either a nomination by the shipper on the service agreement, or if the shipper does not notify Northern in writing that it declines the service agreement within two (2) business days of the date of the agreement, the service agreement becomes binding for

¹ Substitute First Revised Sheet No. 400A and Substitute Second Revised Sheet Nos. 403A and 453 to Northern's FERC Gas Tariff, Fifth Revised Volume No. 1.

the shipper. To the extent that a shipper has not provided such agreement, the respective service agreement must be executed in the normal course of business to be binding.

3. Public notice of this filing was issued on June 17, 2004. Interventions and protests were due as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214 (2004)), all timely unopposed filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late interventions at this stage of the proceeding will not disrupt the proceeding or place additional burden on existing parties. The Northern Municipal Distributors Group (NMDG) and the Midwest Region Gas Task Force Association (MRGTF) filed, jointly, a protest on June 25, 2004, and on June 28, 2004, Virginia Power Energy Marketing, Inc. (VPEM) filed a protest.

4. Both the NMDG/MRGTF and VPEM protest that Northern's proposed agreement in advance does not constitute the proactive action by a shipper that the Commission's May 28 Order intended. The NMDG/MRGTF is further concerned as to whether an advance writing covering more than one Service Agreement could transform Service Agreements with terms less than one month into an Agreement with a term of more than one month, and questions whether the advance agreement itself should be part of the tariff. NMDG/MRGTF and VPEM both submit that the Commission should direct Northern to revise the proposed language as follows:

This Service Agreement shall be deemed to be executed and shall be binding for all purposes if Shipper nominates under this Service Agreement. If a Shipper has not notified Northern in writing that it accepts this Service Agreement within two (2) business days of the date of the Service Agreement, the Agreement will be considered void.

This language would encourage a timely response to any offer and, if the offer is then rejected, would permit Northern an opportunity to resell the capacity, while not binding any party to a contract which it has no intention to execute.

5. On July 8, 2004, Northern filed an answer to the protests filed by intervening parties. While the Commission's Rules of Practice and Procedure² generally prohibit answers to protests, the Commission will accept the answer to provide a better understanding of the issues in this proceeding.

6. In its answer, Northern states that its proposed agreement in advance constitutes the proactive action on the part of shippers the Commission intended in its May 28 Order. Northern also answers NMDG/MRGTF's concerns by citing the specific and unambiguous language contained in its revised tariff sheets pertaining to the agreements in advance and the terms of the service agreements in question.

² 18 C.F.R. § 385.213(a)(2) (2004).

7. Based on a review of the filing, the Commission concurs with Northern. We believe that acceptance of a contract requires an act of affirmation from the shipper, and that Northern's proposed agreement in advance qualifies as such an act. We further believe that Northern's revised tariff language adequately satisfies the concerns raised by the protesting parties. Accordingly, Northern's tariff sheets are accepted as filed.

By direction of the Commission.

Magalie R. Salas,
Secretary.

cc: All Parties

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