

130 FERC ¶ 61,190
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
and John R. Norris.

Texas Eastern Transmission, LP

Docket No. RP10-30-000

ORDER ESTABLISHING HEARING

(Issued March 18, 2010)

1. On October 2, 2009, Texas Eastern Transmission, LP (Texas Eastern) filed tariff sheets pursuant to section 4 of the Natural Gas Act (NGA) to revise its tariff with respect to gas quality and interchangeability issues (Tariff Filing). On October 30, 2009, the Commission issued an order¹ accepting and suspending the proposed tariff sheets, to be effective on April 1, 2010 or an earlier date to be later established by subsequent order, and establishing a technical conference. On December 8, 2009, the Commission held a technical conference to address the issues raised by Texas Eastern's filing. At the conclusion of the technical conference, the parties agreed to develop and submit to the Commission a list of issues requiring Commission resolution. Texas Eastern submitted to the Commission a list of contested issues on December 16, 2009 (Stipulated Issues). Parties filed comments and reply comments on the Stipulated Issues on January 8 and January 10, 2010, respectively. This order sets the Stipulated Issues for hearing.

I. Background

2. As noted, Texas Eastern submitted its Tariff Filing on October 2, 2009. Texas Eastern stated that it proposed the gas quality and interchangeability provisions after a lengthy collaborative process with interested customers, including producers, local distributions companies (LCD), electric generators, other end-use customers and interconnecting pipelines. Texas Eastern stated that its tariff does not currently contain comprehensive gas quality specifications that can accommodate the new gas supplies it expects will enter its system in the near future and that it proposed the new gas quality and interchangeability specifications to accommodate anticipated future market

¹ *Texas Eastern Transmission, LP*, 129 FERC ¶ 61,088 (2009) (Suspension Order).

conditions. Texas Eastern stated specifically that it expects to receive in the near future substantial new supplies from liquefied natural gas (LNG), the Rocky Mountains, coal bed methane, and the Marcellus Shale.

3. According to Texas Eastern the proposed tariff revisions were developed consistent with the five general principles the Commission expects pipelines to follow in establishing gas quality and interchangeability standards.² First, it asserts the Tariff Filing proposes to set forth Texas Eastern's gas quality and interchangeability requirements in its tariff. Second, Texas Eastern asserts that the proposed requirements are flexible and maximize potential supply while minimizing the economic effects to downstream end-users. Third, according to Texas Eastern the proposed requirements represent input from a collaborative process. Fourth, Texas Eastern contends that the proposed requirements are consistent with the Interim Guidelines and HDP Report³ adopted by the Commission's Policy Statement on gas quality. Fifth, Texas Eastern states that the tariff proposals are supported or not opposed by nearly all of the participants in this collaborative effort.

4. The table below provides a summary of Texas Eastern's current and proposed gas quality and interchangeability limits. These proposed limits are equally applicable for both receipt and delivery points.

Summary of Texas Eastern's Current and Proposed Gas Quality and Interchangeability Limits

Specification	Texas Eastern's Current Tariff Limit	Texas Eastern's Proposed Tariff Limit
Higher Heating Value	Min: 967 British thermal units (Btu)/standard cubic feet (scf) Max: None	Min: 967 Btu/scf Max: 1110 Btu/scf

² *Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Natural Gas Pipeline Company Tariffs* (Policy Statement), 115 FERC ¶ 61,325 (2006).

³ Report on Liquid Hydrocarbon Drop Out in Natural Gas Infrastructure (HDP Report) and Report on Natural Gas Interchangeability and Non-Combustion End Use (Interchangeability Report), respectively.

Specification	Texas Eastern's Current Tariff Limit	Texas Eastern's Proposed Tariff Limit
Wobbe Number	Min: None Max: None	Min: 1314 Max: 1400
Non-Hydrocarbon Gas (Carbon Dioxide, Nitrogen, and Oxygen)	Max: 4.0%	Max: 4.0%
Combined Carbon Dioxide and Nitrogen	Max: 4.0%	Max: 4.0%
Carbon Dioxide	Max: 3.0%	Max: 2.0%
Combined Nitrogen and Oxygen	Max: None	Max: 2.75%
Oxygen	Max: 0.2%	Max: 0.1%
Sulphur	Max: 10 grains per 100 scf	Max: 5 grains per 100 scf
Ethanes and Heavier Hydrocarbons ("C2+")	Max: None	Max: 12.0%
Butanes and Heavier Hydrocarbons ("C4+")	Max: None	Max: 1.5%
Liquefiable Hydrocarbons	Max: None	Max: safe harbor of 0.032 gallons per thousand cubic feet (GPM) of hexanes and heavier hydrocarbons (C6+)

5. Texas Eastern stated that it recognizes that the proposed requirements must be flexible and maximize potential supply while minimizing the economic effects to downstream end-users. Therefore, Texas Eastern proposed to grant a set of waivers that will permit it to receive a limited amount of non-standard gas without violating the proposed delivery gas quality standards.

6. First, Texas Eastern proposed a waiver of its proposed combined nitrogen and oxygen limit in certain circumstances in order for suppliers to use nitrogen injection to

dilute regasified LNG to lower its Btu content and Wobbe Number. In order to accommodate gas from the recently expanded Dominion Cove Point LNG LP terminal and gas from LNG terminals recently completed or under construction in the Gulf of Mexico, Texas Eastern stated that it is proposing to accept gas that exceeds the combined nitrogen and oxygen requirements if it determines that the commingling opportunities are sufficient so that gas deliveries will not exceed the combined limit in the markets downstream of the Eagle, Pennsylvania Compressor Station or the New Roads, Louisiana Facilities.

7. Second, Texas Eastern proposed a waiver for the phase-in of current production entering its system that meets the existing gas quality specifications but will not meet the proposed specifications. The phase-in will allow existing production that does not meet the new specifications to continue to enter Texas Eastern's system within certain parameters and under the condition that the gas meets the new specifications by the next delivery point. However, Texas Eastern states that this waiver will only apply to receipt facilities where gas was flowing onto Texas Eastern's system on or before May 1, 2009. In addition, Texas Eastern states that it has current waivers in place that will remain in effect. Texas Eastern states that it will continue to evaluate the existing waivers on its system and modify them as new circumstances arise.

8. Third, Texas Eastern proposed to grant a waiver of its proposed Btu, Wobbe Number and C2+ limitations on certain portions of its system in order to address the development of the Marcellus Shale. Texas Eastern states that currently the quality of the gas from the Marcellus Shale is unknown but it anticipates that there will be a portion of the Marcellus Shale with a high C2+ content. Normally, Texas Eastern explains, the high C2+ content of gas from the Marcellus Shale would be removed through processing but producers have expressed a desire for flexibility in processing ethane until a market for ethane develops in the region. In order to promote development of the Marcellus Shale, Texas Eastern proposes a five year waiver of its Btu, Wobbe Number and C2+ limits upstream of its Holbrook compressor station, provided that the gas will commingle and meet the proposed limits by the next delivery point. This waiver is referred to as the Holbrook Waiver.

9. Fourth, Texas Eastern proposed a general waiver provision in its tariff to accommodate future supplies of natural gas that may enter its system. The general waiver provision would allow Texas Eastern to grant waivers if there is an opportunity for the new gas to commingle sufficiently to meet Texas Eastern's specifications.

10. As noted above, on October 30, 2009, Commission issued the Suspension Order and on December 8, 2009, the Commission Staff held a technical conference to address issues raised by Texas Eastern's filing. On December 16, 2009, Texas Eastern submitted to the Commission the following list of contested issues, stating that it and the other parties to the proceeding agree that the issues on the list require resolution by the Commission.

A. Stipulated Issues

- 1. Ethanes and Heavier Hydrocarbons (“C2+”):** Should there be a separate tariff limit on C2+ and, if so, what is the appropriate limit?
- 2. Nitrogen:** Should there be a separate tariff limit on nitrogen and, if so, what is the appropriate limit?⁴
- 3. Carbon Dioxide:** Should there be a separate limit on carbon dioxide and if so, what is the appropriate limit on carbon dioxide?
- 4. Wobbe Number Lower Limit and Maximum Heating Value:** Should there be a Wobbe Number Lower limit, and if so, what is the appropriate Wobbe Number Lower limit and how do the limits for other constituents affect, or correlate to, the Wobbe Number? What is the appropriate Wobbe Index range? What is the appropriate maximum heating value?
- 5. Hexanes and Heavier Hydrocarbons (“C6+”):** What is the appropriate limit on C6+?⁵ What is the appropriate mechanism for limiting C6+? What is the appropriate mechanism for applying any limit on C6+ to storage withdrawals?
- 6. Sulphur:** What is the appropriate limit on sulphur?
- 7. Oxygen:** What is the appropriate limit on oxygen?
- 8. Waivers/Exemptions:** Should there be any waivers and/or exemptions on the Texas Eastern system and if so what are the appropriate waivers and/or exemptions?

11. Texas Eastern stated that it circulated the Stipulation to all parties in this proceeding, and that every party agreed to support the Stipulation, agreed not to oppose the Stipulation, or did not respond to Texas Eastern’s communications regarding the Stipulation.

12. Comments on the Stipulated Issues were submitted on January 8, 2010 and reply comments on January 22, 2010. Commenting parties are: Texas Eastern, CNX Gas Company, LLC (CNX), National Grid Delivery Companies (National Grid), Statoil

⁴ The Commission notes that Texas Eastern’s Tariff Filing proposal is for a combined nitrogen and oxygen limit.

⁵ The Commission notes that Texas Eastern’s Tariff Filing proposal is for a .0032 GPM safe harbor.

Natural Gas, LLC (Statoil), Encana Marketing (USA) Inc. (EnCana), Noble Energy, Inc., (Noble), Equitrans Production and Equitrans, LP (Equitrans), Independent Oil & Gas Association of West Virginia (IOGA), Indicated Shippers,⁶ Walter Oil and Gas Corporation (Walter), Consolidated Edison Company of New York, Inc. (ConEd), the New England Local Distribution Companies (New England LDCs),⁷ the Haynesville Shippers,⁸ Devon Gas Services, LP (Devon), Gulf South Pipeline Company, LP (Gulf South), Tennessee Valley Authority (TVA), Dominion Transmission, Inc. (DTI), and Dominion Cove Point LNG, LP (Cove Point) (collectively Dominion), PSEG Energy Resources & Trade LLC (PSEG), Columbia Gas Transmission, LLC (Columbia), Chesapeake Energy Corporation (Chesapeake), and Hess LNG.

13. On February 1, 2010, Texas Eastern filed a motion for leave to answer and answer to reply to certain of the reply comments filed. On February 12, 2010, CNX moved to file a limited reply to Texas Eastern's answer and on February 16, 2010, Haynesville Shippers filed for leave to answer and an answer to Texas Eastern's answer. On February 25, 2010 Encana filed supplemental comments and on February 26, 2010, ConEd moved to reply to CNX's reply. The motions to file these submissions are granted.

B. Texas Eastern's Motion Filing and Proposed Waiver

14. On March 1, 2010, Texas Eastern filed a motion to place the suspended tariff sheets into effect April 1, 2010. Texas Eastern also notes that it intends to issue a limited waiver for receipt points for a period of six months provided that the commingled gas stream will meet the gas quality specifications at delivery points. Texas Eastern states that the limited "transitional" waiver is intended to provide customers and end-users with the benefits of the Tariff Filing while also providing flexibility to producers and other interconnecting upstream parties during the waiver period.

15. On March 5, 2010, Dominion Transmission and Dominion Cove Point filed an answer to Texas Eastern's motion, stating that the "transitional" waiver would not resolve its previously stated issues with the Tariff Filing and reiterating its request that the

⁶ For the purposes of this proceeding the Indicated Shippers include BP America Production Company, BP Energy Company, ConocoPhillips Company, and Shell NA LNG LLC.

⁷ The New England LDCs for purposes of this proceeding are Bay State Gas Company, Connecticut Natural Gas Corporation, New England Gas Company, NSTAR Gas Company, The Southern Connecticut Gas Company and Yankee Gas Services Company.

⁸ Southwest Energy Services Company and Unit Petroleum.

Commission reject the proposal or set the issues for hearing. On March 8, 2010, Gulf South filed a protest to Texas Eastern's motion, asserting that the "transitional" waiver is discriminatory and protesting the fact that despite the proposed waiver, Texas Eastern intends to still implement its heavier hydrocarbons (C6+) safe harbor. On March 11, 2010, Equitrans filed a protest to Texas Eastern's filing reiterating its contention that the Commission should reject Texas Eastern's proposed tariff sheets and asserting that the transitional waiver is unduly discriminatory and vague. On March 15, 2010, IOGA filed a protest, stating that the proposed waiver provides IOGA with no comfort regarding Texas Eastern's proposed C2+ standard. Statoil also filed comments on March 15, 2010, questioning the necessity for Texas Eastern's proposed gas quality standards if Texas Eastern is able to waive those standards for six months. On March 16, 2010, EnCana filed an answer reiterating its position that the Commission should reject Texas Eastern's proposal and stating that the proposed waiver does not alleviate its concerns with that proposal.

16. Also on March 15, National Fuel filed comments in support of Texas Eastern's proposed waiver, stating that it achieved an appropriate balance between supply needs and safe and reliable service.

17. On March 11, 2010, Texas Eastern filed for leave to answer and an answer to Gulf South's protest. Texas Eastern states that Gulf South's motion is procedurally deficient and notes that the C6+ standard of which Gulf South complains is a safe harbor, not a limit, and thus there will be no limit on heavier hydrocarbons unless there is a risk of liquids fallout.

18. Rule 213 (a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2)(2006), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Texas Eastern's answer because it provided information that assisted us in our decision making process.

19. Pursuant to section 4 of the NGA, Texas Eastern has the right to move the suspended tariff sheets into effect at the end of suspension period and the Commission has no authority to further suspend or delay implementation of the standards. As explained below, while the Commission is not rejecting Texas Eastern's proposed tariff standards we are setting the stipulated issues for hearing.

20. Further, we find that the proposed six-month waiver proposed by Texas Eastern is just and reasonable and provides shippers time and flexibility to make a transition to the new standards that will go into effect April 1, 2010. Thus we approve the waiver and reject the protests. The waiver will apply to all receipt points on Texas Eastern's system and thus does not appear to be discriminatory. We also find it reasonable and consistent with GT&C section 5.5(B), for Texas Eastern to be able to suspend the waiver if certain receipts cause operational problems on the system or will cause gas to be delivered at specific delivery points to be non-conforming. Our approval of the waiver provision does

not in any way affect the rights of the parties to argue their positions with regard to the issues set for hearing in this order.

21. With regard to the heavy hydrocarbon safe harbor, Gulf South provides no specific information regarding its opposition to the implementation of that standard. As noted by Texas Eastern in its answer and explained below, the safe harbor does not set a heavy hydrocarbon limit but allows Texas Eastern to post a limit at or above the safe harbor number if and when heavy hydrocarbon fallout becomes a concern on the system.

II. Summary of Comments

A. General Comments

22. Several parties filed general comments on Texas Eastern's proposal. National Grid supports Texas Eastern's filing and states that Texas Eastern's tariff proposals strike a reasonable balance among competing interests, are technically supported, and are consistent with, and meet the requirements of, the Commission's Policy Statement and the Interim Guidelines. Further, National Grid notes that it has made significant changes to its liquefaction facilities based on the historical composition of gas received from Texas Eastern and other pipelines. TVA also supports Texas Eastern's proposal to adjust gas quality and interchangeability standards under its tariff.

23. Chesapeake, Devon, EnCana, Equitrans, Gulf South, Noble, Statoil, and Haynesville Shippers generally oppose Texas Eastern's filing. Chesapeake states that it and other producers will be penalized for making significant investments in reliance on express provisions of Texas Eastern's existing tariff. Devon and Gulf South state that Texas Eastern's proposed standards are not consistent with the Commission's Policy Statement. EnCana and Noble state that Texas Eastern did not include all stakeholders in its collaborative process and therefore, the end result of those discussions was not a fair, balanced, or reasonable set of gas quality parameters. Further, EnCana, Gulf South, Noble and Equitrans state that Texas Eastern has failed to support its proposal with adequate technical, engineering, and scientific data. Gulf South also contends that the Commission should reject Texas Eastern's proposal because the proposed stricter specifications will disrupt the seamless interstate grid and reduce the amount of competitive supply available to the market.

24. Statoil states that Texas Eastern's proposed gas quality standards will potentially limit gas supplies. Noble comments that Texas Eastern failed to consider upstream producers and has not demonstrated that the proposed standards should be applied to traditional areas of supply. Haynesville Shippers contend that Texas Eastern has not shown that the proposed changes are essential to its safe operation and that Texas Eastern has not shown that new sources of production, in and of themselves, would result in the gas stream being incompatible with downstream pipelines or pose a danger to Texas Eastern's operations.

B. Comments on Stipulated Issues**1. Ethanes and Heavier Hydrocarbons (C2+)**

25. Texas Eastern proposes a limit on ethanes and heavier hydrocarbons of 12 percent, which it claims is nearly four times the historical average for deliveries at the end of its system. Texas Eastern states that the proposed C2+ limit reflects the appropriate balance between protecting end-users and maximizing supply. Texas Eastern further claims that the limit is necessary to protect the interests of end-users, particularly the operations of LNG peak shaving facilities, and is more flexible than setting a limit at the historical levels. Further, Texas Eastern states that it has accommodated exceptions to the C2+ limit, through waivers, in order to maximize supply.⁹

26. ConEd and National Grid support Texas Eastern's proposed limit on C2+. ConEd states that, although the proposed limit is more than twice the manufacturer's specification for its peak shaving facility, it supports the proposal because it reflects a substantial effort toward achieving the balance between competing interests. National Grid states that Texas Eastern's proposed limits on ethanes and heavier hydrocarbons are needed to protect the operations of LDCs and other end-users. More specifically, National Grid states that excessive levels of non-methane hydrocarbons directly affect the operation, safety and efficiency of LNG liquefaction facilities, such as National Grid's Greenpoint LNG liquefaction facility located in Brooklyn, New York. CNX states that it supports maximum flexibility on ethanes and heavier hydrocarbons for receipts into the Texas Eastern system in order to maximize supply, but is not taking a position on the appropriate limit.

27. Columbia, Dominion, Equitrans, Statoil, and IOGA, assert that Texas Eastern's proposed 12 percent C2+ limit is too restrictive. Columbia states that the anticipated volume of new production with higher ethane levels entering Columbia's system will exceed Columbia's blending ability and Texas Eastern's overly strict 12 percent C2+ limit will affect Columbia's ability to deliver gas to Texas Eastern. Dominion and Equitrans state that Texas Eastern has failed to support its proposed C2+ limit because it has not shown any potential problems due to new supplies and Texas Eastern's blending studies show that gas delivered to end-users will be well below the proposed specifications. Additionally, Dominion states that the proposed limit will adversely affect supply and interfere with the operation of the northeast grid. Statoil states that Texas Eastern's ethanes limit may significantly affect supplies from Marcellus and Appalachian producers and that interconnecting pipelines may be forced to shut in gas on their systems as a result. IOGA states that ethane has no marketable value once extracted and that Texas Eastern's proposed C2+ limit may reduce Appalachian supplies. Further,

⁹ Texas Eastern initial comments at pp. 6-12.

IOGA contends that Texas Eastern has not demonstrated that a separate C2+/ethane limit is necessary to physically protect its pipeline and facilities or those of its customers. Equitrans states that Texas Eastern's limit on C2+ is not supported by the Interchangeability White Paper, will impose a disproportionate amount of compliance costs on certain producers, and is not consistent with the Policy Statement.

28. PSEG, on the other hand, contends that the proposed C2+ limit is too high, asserting that its ability to blend and absorb C2+ levels at 12 percent is already limited by the local presence of two major refineries and two propane/air peaking plants, which already inject elevated levels of C2+ into discrete portions of PSEG's service territory. PSEG contends that additional elevated levels of C2+ from Texas Eastern would result in a heightened tendency to negatively impact gas flame characteristics, resulting in flame flashback, yellow tipping, and/or incomplete combustion.

29. In reply comments, Dominion and Equitrans both restate their objection to the C2+ limits as too restrictive. Dominion argues that the proposed C2+ limit is unnecessary and would shut out significant amounts of supply from the Texas Eastern System and that the proposed waivers do not appropriately address these issues. Equitrans restates its position that the C2+ limit lacks technical support and has not been shown to be operationally necessary.

30. In response to Dominion's and IOGA's comments that a separate C2+ limit is not needed, ConEd states that its Astoria Peak Shaver is not designed for C2+ levels greater than 5.08 percent, and while it could potentially be modified at a considerable cost to handle gas with up to a 12 percent C2+ content, it would not be able to handle a C2+ content higher than 12 percent. National Grid also responded to DTI's comments stating that the assertion that the Greenpoint facility can accommodate gas compositions with ethane in excess of 12 percent is incorrect.

31. PSEG restates in reply its concern that the proposed C2+ limit is too high and asserts that its concerns regarding the proposed C2+ limit are not just localized concerns only affecting only PSEG, but are also concerns that would cause operational difficulties for many pipeline customers.

2. Nitrogen

32. In the Tariff Filing, Texas Eastern proposed a combined Nitrogen and Oxygen limit of 2.75 percent. Texas Eastern states that the proposed limit on combined nitrogen and oxygen represents an appropriate balance between protecting end-users and maximizing supply. Texas Eastern asserts that although the limit is higher than historical data would indicate, the 2.75 percent limit is the highest value that LDCs with LNG peak shavers can accommodate with their facilities. Texas Eastern notes that it has provided waivers where feasible to maximize supply.

33. CNX, Columbia, Dominion, and Statoil assert that Texas Eastern's proposed 2.75 percent limit on combined nitrogen and oxygen is unnecessary. CNX states that there is nothing in Texas Eastern's gas quality studies to indicate that the nitrogen levels in the gas Texas Eastern delivers east of Lambertville will be at all close to the 1.5 to 2.75 percent tolerance levels for National Grid's Greenpoint LNG peak shaving facility. CNX also argues that the specialized needs of individual end users should not dictate the specifications for an entire region. Further, CNX states that Texas Eastern's proposed combined nitrogen plus oxygen specification would unnecessarily add to the cost of processing coal mine methane and that Texas Eastern's current tariff limit of 4 percent for total inerts is consistent with the Commission's Policy Statement and the Interchangeability Report's Interim Guidelines. Columbia states that a nitrogen restriction of 2.75 percent will severely hamper Columbia's ability to blend differing gas supplies down to a more acceptable Btu level because nitrogen injection is one option for blending purposes with high ethane gas supplies.

34. Dominion and Statoil state that Texas Eastern has failed to support its proposed nitrogen limit because it has not shown any potential problems due to new supplies and Texas Eastern's blending studies show that gas delivered to end users will be well below the proposed specifications. Further, Dominion and Statoil assert that the proposed limit will adversely affect supply of regasified LNG. Lastly, Statoil states that Texas Eastern has failed to provide any evidence of nitrogen issues on its system despite the fact that LNG with a nitrogen content above the proposed limit has been delivered at Leidy since 2003.

35. ConEd and National Grid support the combined nitrogen and oxygen limit. ConEd states that the proposed limit was a concession to LNG importers and to shale gas producers and that any higher nitrogen delivery point standard would not strike the appropriate balance between encouraging supply diversity and preventing a degradation of Texas Eastern supplies so severely as to potentially hamper the operations of ConEd's peak shaving facility. National Grid notes that the limit is required because higher levels of nitrogen and oxygen inhibit the ability of LNG peak shavers to liquefy natural gas during the injection season.

36. In its reply comments CNX restates its objection to Texas Eastern's proposed nitrogen specifications. In reply to ConEd's comments about its Astoria plant, which state that the plant calls for no more than .87 percent nitrogen, but that up to 2 percent nitrogen could be accommodated, CNX states that because there is nothing in the record that establishes what mix of gas currently serves the Astoria plant, it is not possible to calculate the impact of Texas Eastern's gas deliveries on the plant, and thus a limit cannot be justified. CNX also argues that because ConEd is in the process of replacing its peak shaver, it is possible for ConEd to design the facility to accommodate higher levels of nitrogen. Finally, CNX states that ConEd has not shown how the new gas supplies with generally lower nitrogen content would create future nitrogen incidents. In reply to

National Grid's initial comments that the nitrogen content of its feedstock must be around 2.75 percent to prevent stratification, CNX argues that according to Texas Eastern's own blending studies the nitrogen content will be decreasing as a result of new supply sources, not increasing, and therefore the new limits are unnecessary.

37. In reply comments, ConEd restates its support of Texas Eastern's proposed nitrogen limits and reiterates that its Astoria Peak Shaver can only handle nitrogen up to 2 percent. In response to CNX and Statoil's comments, ConEd states that the blending waiver should accommodate any gas supplies with higher nitrogen levels.

38. Dominion restates in its reply comments that the proposed nitrogen limit would shut out significant amounts of supply from the Texas Eastern system and that the proposed waivers do not appropriately address these issues.

3. Carbon Dioxide (CO₂)

39. Texas Eastern proposed to reduce its maximum CO₂ limit from 3 percent to 2 percent. Texas Eastern states that the proposed carbon dioxide limit is necessary to protect both end-users and the Texas Eastern system. Texas Eastern states that carbon dioxide has a detrimental effect on LNG peak shavers and thus the CO₂ limit was established in part to protect LNG peak shaving facility operations. Texas Eastern also claims that CO₂ is corrosive in the presence of water and thus the limitation is necessary to minimize corrosion on the Texas Eastern system. Further, Texas Eastern states that the proposed limit is supported by historical data. Lastly, Texas Eastern notes that in order to accommodate the historical expectations of existing suppliers, it has proposed a phase in for the levels of gas being delivered as of May 1, 2009, which Texas Eastern asserts will protect existing suppliers based on their historical levels. Texas Eastern comments that it cannot, however, accommodate new production with higher CO₂ levels.

40. National Grid and ConEd support Texas Eastern's proposed CO₂ limit. National Grid states that Texas Eastern's proposed limit is required to prevent corrosion and that excess CO₂ can cause operational issues at its liquefaction facilities. ConEd supports Texas Eastern's proposed CO₂ limit despite it being greater than the maximum design capability of its peak shaving facility. ConEd states that it is willing to bear substantial costs and/or operational risks in order to strike the appropriate balance between supply diversity and service reliability.

41. Chesapeake, Devon, Haynesville Shippers, Noble, and CNX contend that the proposed 2 percent limit on CO₂ is unnecessary. The parties state that Texas Eastern has failed to provide any evidence as to corrosion or any other CO₂ related issue. Chesapeake and CNX state that Texas Eastern relied on generalized statements and that the CO₂ standards of downstream pipelines, in and of themselves, do not address what the maximum limit should be. Further, CNX states that Texas Eastern's blending studies show a general decline in CO₂ concentration in the market area. Haynesville Shippers

state that the blending studies show that a more stringent limit is not required and blending is adequate to ensure that gas delivered to end users will not adversely affect their systems. Devon states that Texas Eastern's CO₂ limit should not be based on the downstream needs of special customers. CNX asserts that National Grid should have designed its liquefaction facilities based on Texas Eastern's current gas quality standards and not the historical averages.

42. In response to Texas Eastern and National Grid's statement that the limit on CO₂ is needed to prevent corrosion and is supported by the Pipeline Research Council International (PRCI) report, CNX contends that it would take 156 years of continuous moisture to corrode the pipe with a CO₂ content of 3 percent.¹⁰ In addition, it states that any water would be removed by regular pigging operations and that National Grid should have built its equipment to the gas quality specifications currently in Texas Eastern's Tariff. In response to ConEd's claim that a new molecular sieve plant may not be capable of processing gas with a CO₂ content of over 2 percent, CNX cites a Molecular Gate Absorption Technology specification sheet, which it argues shows that the equipment is capable of processing gas with a CO₂ content greater than 2 percent. Haynesville Shippers and Gulf South also restate their objections to Texas Eastern's proposed CO₂ limit in reply comments, stating that Texas Eastern has submitted no new evidence and that its filing is unsupported.

43. National Grid responds to CNX's comments that National Grid did not ignore Texas Eastern's existing tariff limits when it redesigned its Greenpoint facility to accommodate reasonably expected gas supplies for the northeast market area based on "bookend" gas compositional data. National Grid claims that CNX misstates the ease in which a LNG liquefaction plant can readily accept higher concentrations of CO₂.

4. Wobbe Number Lower Limit and Maximum Heating Value

44. In the Tariff Filing, Texas Eastern proposed a Wobbe Number range of 1314 to 1400. Texas Eastern states that it initially proposed to the collaborative group a Wobbe Number range of 1295 -1400 based on calculations suggested in the Interim Guidelines. Texas Eastern states it revised that range based on Wobbe Number ranges adopted by other pipelines in the region and concerns expressed by electric generators as to the breadth of the range. Texas Eastern further states that that the minimum Wobbe limit is appropriate and is tied to the CO₂ limit and any increase in CO₂ above 2 percent may result in a Wobbe number less than the proposed 1,314. In addition, Texas Eastern states that electric generators are sensitive to wider Wobbe Number ranges and the proposed limits are supported by historical data.

¹⁰ CNX initial comments at 12.

45. National Grid states that Texas Eastern's proposed Wobbe Index range is supported by historical data and takes into account and is consistent with the Wobbe Index ranges adopted by other major pipelines serving the Northeast. National Grid also contends that the proposed Wobbe Number provides additional safeguards for LDCs and end-users while still accommodating the flow of available supplies into the Texas Eastern system. Additionally, National Grid states that the lower Wobbe Number of 1,314 results in a potential overall maximum variation that can be accommodated by most dry, low-emission gas turbine installations.

46. Chesapeake, Haynesville Shippers and CNX contend that the proposed Wobbe Number minimum of 1,314 is too high. CNX and Chesapeake state that the proposed limit is not consistent with NGC+ recommendations and the proposed standard would result in the exclusion of gas that was historically treated as usable and merchantable by Texas Eastern and its customers. Further, CNX and Haynesville Shippers state that Texas Eastern has not shown any current or potential operational problems due to low Wobbe Number gas. CNX states that Texas Eastern is already protected from low Wobbe Number gas because of its standards on heating value and inerts and that the proposed 1,314 lower Wobbe Number limit would act to impose even stricter limits on CO₂ and other inerts than Texas Eastern has proposed. Haynesville Shippers notes that potential problems on Texas Eastern's system due to the Wobbe Number can be solved through blending.

47. In response to Texas Eastern and National Grid's statement that certain electric generators are sensitive to wider ranges of Wobbe Numbers and that historical supplies support the proposed limit, CNX states that those entities have failed to show where these "swing problems" exist. CNX also contends that while historic deliveries may have been within the proposed limits, historic receipts have not been, and thus historical evidence does not support the proposed limit on receipt points.

48. ConEd continues to support the proposed Wobbe Number Lower limit in reply comments, explaining that if the Wobbe Range was widened by lowering the Wobbe Number Lower limit, then ConEd would need to retune its East River dry low-NO_x natural gas-fired electric generation (DLN) facilities, and that auto tuning is not available for these facilities. ConEd states that increasing the Wobbe Range for the generators without auto tuning would have a negative impact on the reliability of both the steam and electric systems of that facility. ConEd responds to CNX's comments about two similar general electric turbines with low Wobbe Number gas by noting that those turbines are a different model than the turbines in question and thus are not comparable.

5. Hexanes and Heavier Hydrocarbons ("C6+")

49. In the Tariff filing, Texas Eastern proposed a liquefiable hydrocarbon or C6+ GPM safe harbor mechanism that would allow it to post a hydrocarbon limit under certain circumstances provided the posted limit will not be below 0.032 C6+ GPM.

Texas Eastern states that under the proposed mechanism there would be no default C6+ GPM limit but that it would be able to post a limit when it identifies an actual or potential liquefiable hydrocarbon problem on its system. Texas Eastern states that the Commission's policy is that pipelines should use either a cricondentherm hydrocarbon dew point (CHDP) or C6+ GPM methodology to set limits to prevent hydrocarbon fallout and that it choose the GPM method, which establishes a limit on the GPM of C6+ that can be present in the gas. Texas Eastern states that its proposed .032 C6+ GPM safe harbor corresponds to approximately to a CHDP limit of approximately 15 degrees Fahrenheit.

50. In its initial comments, Texas Eastern states that by utilizing a safe harbor, the default rule under its proposal is that there is no limit on C6+ GPM absent any concerns related to liquid dropout. Additionally, Texas Eastern notes that the Commission has recognized that a safe harbor must be low enough to protect the pipeline and end-users during the peak season.

51. National Grid supports Texas Eastern's C6+ GPM safe harbor to prevent liquid dropout because it strikes the correct overall balance and will provide Texas Eastern with the tools it needs to manage its facilities in a manner that will minimize liquid hydrocarbon fallout, while also maximizing supplies that can enter the system. CNX states that it supports maximum flexibility on C6+ GPM safe harbor in order to maximize supply, but is not taking a position on the appropriate safe harbor value.

52. Gulf South opposes Texas Eastern's proposal for a C6+ GPM safe harbor. Gulf South states that it has delivered gas to Texas Eastern without any limitation on C6+ GPM for decades and Texas Eastern has failed to support its proposal.

53. PSEG commented that during those occasions when the presence of liquids is an operational challenge to the Texas Eastern system, firm storage withdrawals must hold a scheduling priority over other system inputs. PSEG states that the Commission should require Texas Eastern to include a tariff provision essentially stating that as long as it does not create an undue risk of liquids fallout, Texas Eastern will not apply any approved C6+ GPM limit to storage withdrawals, akin to that approved for Tennessee Gas Pipeline Company.¹¹ ConEd and National Grid filed similar comments.

54. In reply comments, PSEG, ConEd and the New England LDCs assert that storage withdrawal gas should be given priority in the event of a hydrocarbon liquid dropout problem. ConEd argues that storage gas and flowing gas should not be treated identically but that storage withdrawals should be given priority.

¹¹ PSEG initial comments at p. 3-6.

55. The New England LDCs state that they support the Texas Eastern proposal but believe that Texas Eastern should provide additional protections for storage withdrawals. PSEG states that the dispute between Texas Eastern and DTI over storage withdrawals from co-owned facilities may potentially harm third parties through the interruptions of their firm storage withdrawals. Therefore, PSEG states, a storage priority is necessary.

6. Sulphur

56. In the Tariff Filing, Texas Eastern proposed to lower its limit on sulphur from 10 grains per 100 cubic feet to 5 grains per 100 cubic feet. Texas Eastern states that the 5 grain limit is just and reasonable because sulphur is corrosive and can trigger emissions issues for end-users. Further, Texas Eastern notes that the proposed limit of 5 grains is significantly higher than the historical data, which would support a lower limit.

57. National Grid states that the proposed sulphur limit is supported by Texas Eastern's historical data, should not limit incoming supplies, and will enable deliveries to continue to be made to downstream pipelines. CNX argues that Texas Eastern has not supported its proposed sulphur limit and that such limit is not necessary to meet interconnecting pipeline specifications and may create an interchangeability issue.

7. Oxygen

58. Texas Eastern proposed to lower its oxygen limit from 0.2 percent to 0.1 percent. Texas Eastern's contends that its historical data supports a lower total oxygen limit than that proposed. Texas Eastern states that it must limit oxygen to protect the integrity of its system because oxygen is corrosive in the presence of water. Texas Eastern also states that it believes it can continue to operate its facilities reliably under the proposed level of oxygen. National Grid supports Texas Eastern's proposal.

59. CNX and Hess LNG oppose Texas Eastern's proposed oxygen limit. CNX states that Texas Eastern has not provided any scientific, technical, or engineering support for the proposed oxygen limit. Hess LNG requests that the Commission reject Texas Eastern's proposed oxygen limit for at least the eastern portion of the M3 zone because the specification is unsupported by evidence and would unnecessarily reduce the range of natural gas supplies that could be delivered into Texas Eastern.

8. Waivers/Exemptions

60. As noted above, Texas Eastern proposed certain waivers to accommodate existing and potential new gas supplies under development that will fall outside the proposed tariff specifications. Specifically, Texas Eastern proposes (1) to waive its proposed combined nitrogen and oxygen limit in certain circumstances in order for suppliers to use nitrogen injection to dilute regasified LNG to lower its Btu content and Wobbe Number provided the out of specification gas can be sufficiently commingled to meet the

combined specification in certain downstream markets; (2) a waiver for the phase-in of current production at receipt points where gas was flowing onto Texas Eastern's system on or before May 1, 2009, that meets the existing gas quality specifications but will not meet the newly proposed specifications; (3) a five-year waiver of its Btu, Wobbe Number and C2+ limits upstream of the Holbrook compressor station, provided that the gas will commingle and meet the proposed limits by the next delivery point (Holbrook Waiver); and (4) a general waiver provision for future supplies that would allow Texas Eastern to grant waivers if there is an opportunity for new gas to commingle sufficiently to meet Texas Eastern's specifications.

61. National Grid supports the proposed waivers as reasonable.

62. Chesapeake states that the waivers proposed by Texas Eastern need to be strengthened and expanded. Chesapeake comments that Texas Eastern should be required to grant a waiver when circumstances allow it to change the grandfathered exemptions to match the actual historic gas composition. Chesapeake also states that Texas Eastern has provided no sound reason for using May 1, 2009 as a cut-off date for the waiver granted by proposed Section 5.5(C).

63. Devon states that the proposed "phase-in" waiver is discriminatory because of the varying requirements between the different waivers. Devon further states that Texas Eastern's proposed waivers are unacceptable because they do not provide flow assurance for Devon's significant investment to bring production from the Stockman area in East Texas to Texas Eastern's system.

64. Equitrans states that the proposed Holbrook Waiver is arbitrary, discriminatory, and anti-competitive because it would permit only a few producers who happen to interconnect with Texas Eastern in the short segment upstream of the Holbrook Compressor station to deliver a large amount of ethane-rich gas into Texas Eastern, while excluding significant amounts of Marcellus production containing lower ethane amounts from entering the Texas Eastern system downstream of Holbrook.

65. Walter comments that if a producer's gas currently being delivered into Texas Eastern's system is not causing problems under Texas Eastern's current gas quality specifications, then that producer's gas should be grandfathered under Texas Eastern's proposal. Further, Walter states that read together, Sections 5.5(A) and (B) virtually guarantee that a producer's gas will have to be processed regardless of whether such gas, once blended with the existing gas stream, results in a blended gas stream immediately downstream of such point of receipt that is within Texas Eastern's gas quality specifications. Lastly, Walter states that Article 5 of Texas Eastern's tariff should set forth an affirmative statement that gas that meets Texas Eastern's gas quality specifications need not be processed as a pre-condition to being transported on Texas Eastern's system.

66. Noble states that Texas Eastern's failure to exempt the Harris Yates receipt point from the proposed CO₂ standard is discriminatory because other similarly situated receipt points are exempted. Further, Noble states that Texas Eastern should be required to grant a waiver to all shippers who will not operationally affect the system.

67. Gulf South comments that the proposed waivers are discriminatory on their face because they attempt to protect certain on-system gas suppliers from competition from other suppliers, including interstate pipelines, and should thus be rejected.

68. Texas Eastern comments that the proposed waivers are just and reasonable and that additional exemptions or waivers are not feasible because Texas Eastern cannot accommodate additional flexibility through commingling on its system. In addition, Texas Eastern re-emphasizes that its Tariff Filing contains additional flexibility in the form of proposed Section 5.5(B) of the GT&C, which would allow Texas Eastern to waive any of the gas quality and interchangeability limits if the gas will commingle by the next delivery point. Texas Eastern states that it proposed the waivers in a manner that will enable it to take advantage of portions of its system where commingling is reasonably assured.

C. Texas Eastern/ Dominion Disputes

69. Texas Eastern and DTI filed comments relating to two issues not listed in the Stipulated Issues: (1) the requirement of DTI to make deliveries to Texas Eastern in accordance with Texas Eastern's gas quality standards (the interconnect issue); and (2) a contract interpretation issue regarding operations at the Leidy storage field (the joint ownership issue).

70. With regard to the interconnect issue, Texas Eastern contends that as an interconnecting pipeline, DTI has no right to deliver gas to Texas Eastern at the pipelines' Leidy, Pennsylvania interconnect that do not meet Texas Eastern's gas quality specifications. DTI answers that even if the Commission approves Texas Eastern's proposed standards, DTI, as an interconnecting pipeline, is under no obligation to deliver gas to Texas Eastern that conforms to Texas Eastern's gas quality standards. DTI asserts that to the extent it tenders gas to Texas Eastern that does not meet Texas Eastern's standards, Texas Eastern has the right to refuse to accept the gas. DTI notes that such action would result in customers depending on Texas Eastern for transportation services from Leidy not receiving their gas.¹² In reply comments, Texas Eastern states that it will treat gas from DTI like gas coming from any other interconnect, which means that gas coming from DTI must meet Texas Eastern's gas quality tariff specifications.

¹² See DTI's initial comments at pp. 14-15.

71. As to the joint ownership issue, Texas Eastern asserts that as a part owner in the Leidy storage complex it has the right to direct DTI to deliver gas physically withdrawn from the field whenever it requests deliveries from its storage. DTI answers that Texas Eastern's contention involves a certain operational agreement between the two parties and that while it disagrees with Texas Eastern's interpretation of that contract, this proceeding is not the proper forum to resolve this contract dispute.

III. Discussion

72. The Commission finds that the comments and reply comments to the list of Stipulated Issues raise questions of fact with respect to Stipulated Issues Nos. 1 through 8 that are best resolved in the context of an evidentiary hearing. Therefore, the Commission will establish a hearing in this proceeding before an Administrative Law Judge to develop a record on the Stipulated Issue Nos. 1 through 8. The Commission clarifies that the issues to be addressed at the hearing are limited to the gas quality and interchangeability issues so noted in this paragraph. The comments and reply comments filed by the parties in accordance with the procedure established at the technical conference, as well as the post technical conference submissions for which we granted motions to file in this order, will be part of the hearing record.

73. The Commission further clarifies that the hearing is to address the eight Stipulated Issues in the context of the Commission's Policy Statement. The Policy Statement established five principles for pipelines and parties to follow to create gas quality and interchangeability standards. First, the Policy Statement states that only gas standards that are in the tariff can be enforced. Second, the Policy Statement states that gas standards need to be flexible to allow pipelines to balance safety and reliability concerns with the importance of maximizing supply, as well as recognizing the evolving nature of the science underlying gas quality and interchangeability specifications. Third, the Policy Statement states that pipelines and customers should develop gas quality and interchangeability specifications based on technical requirements. Fourth, the Policy Statement states that pipelines and customers are encouraged to use the Interim Guidelines as a common scientific reference point for resolving gas quality and interchangeability issues. And lastly, the Policy Statement states that to the extent that pipelines and their customers cannot resolve disputes over gas standards, then those issues should be brought before the Commission.

74. The Policy Statement specifically recognizes the importance of providing pipelines and their customers with the flexibility needed to maximize the introduction of new supply into the grid and of encouraging rather than impeding the movement of gas to the grid and the ultimate consumers. The Policy Statement recognizes that imports of

LNG are expected to increase and seeks to lower potential barriers to these imports while at the same time ensuring the safety and reliability of the grid.¹³

75. We understand that, consistent with the Policy Statement, Texas Eastern has engaged in numerous discussions with its customers concerning the proposed gas quality and interchangeability tariff provisions, and has brought to the Commission the issues that the parties were unable to resolve. While we therefore find it appropriate to set these issues for hearing, we encourage the parties to continue to attempt to reach a consensus on these Stipulated Issues.

76. Finally, with respect to the Texas Eastern and DTI non-stipulated issues, according to Commission policy, to the extent that gas entering a pipeline does not satisfy that pipeline's tariff gas quality or interchangeability standards, the pipeline has the right to refuse to accept such gas. As the parties correctly recognize, however, such a result is not in the best interest of either parties' customers. Thus, we strongly encourage Texas Eastern and DTI to work diligently to reach an accommodation on the interconnection issue that will prevent a disruption in service for their shippers.

77. As to the joint ownership issue, we agree this proceeding is not the proper forum to resolve this contract dispute and again encourage the parties to make every attempt to resolve this issue on their own.

The Commission orders:

(A) Pursuant to the Commission's authority under the NGA, particularly sections 4, 5, and 15, and the Commission's rules and regulations, a public hearing is to be held in this proceeding concerning the lawfulness of Texas Eastern's filing with regard to the stipulated issues set for hearing consistent with the discussion above.

(B) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to 18 C.F.R. § 375.304 (2009), must convene a prehearing conference in this proceeding to be held within 20 days after issuance of this order, in a hearing or conference room of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. The prehearing conference shall be held for the purpose of clarification of the positions of the participants and

¹³ Policy Statement at P 24 - 25.

establishment by the presiding judge of any procedural dates necessary for the hearing. The presiding administrative law judge is authorized to conduct further proceedings in accordance with this order and the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.