

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 30, 2004

In Reply Refer To:
Texas Eastern Transmission, LP
Docket No. RP04-359-000

Texas Eastern Transmission, LP
P.O. Box 1642
Houston, TX 77251-1642

Attention: Gregg E. McBride
Vice President, Rates & Economic Analysis

Reference: Order Accepting Tariff Sheets Subject to Refund and Conditions

Dear Mr. McBride:

1. On June 30, 2004, Texas Eastern Transmission, LP (Texas Eastern) filed, pursuant to section 15 of its General Terms and Conditions, revised tariff sheets¹ to adjust the Electric Power Cost (EPC) component of its rates. The Commission accepts and suspends the tariff sheets to be effective August 1, 2004, subject to refund and conditions. This order benefits customers as it will allow a through review of the costs and cost allocations underlying the proposed revised rates to be undertaken to ensure that the proposed revisions result in rates that are just and reasonable.

I. Details of the Filing

2. Texas Eastern asserts that the proposed EPC adjustments reflect changes in its projected expenditures for electric power required to operate transmission compressor stations for the 12 months beginning August 1, 2004. Texas Eastern proposes to base its projection of electric power costs and throughput quantities on the actual 12-month period ending April 2004. Texas Eastern further states that its projections for customer demand quantities are based on actual demand billing determinants as of May 1, 2004, annualized to reflect known and measurable changes for the 12-month period commencing August 1, 2004. Texas Eastern states that the electric power

¹ See Appendix.

costs for this filing period increased by \$1,816,200 over that reflected in rates conditionally approved in the February 1, 2004 semi-annual electric power cost tracker filing.²

3. Texas Eastern asserts that, as required by the Commission orders certifying Texas Eastern's Incremental Market Expansion Project (TIME Project)³ and the Freehold Lateral Project,⁴ all costs of electric power compression required for the incremental services under the TIME Project and Freehold Lateral Project were allocated to the TIME and Freehold expansion shippers, respectively. According to Texas Eastern, such costs were assigned using the same methodology as that reflected in its previous EPC tracker filings in Docket No. RP03-542-000 and Docket No. RP04-129-000 and, thus, it asserts that there is no subsidization of the incremental projects by existing system customers.

II. Notice, Interventions and Protests

4. Notice of the instant filing was issued with comments, protest and interventions due on or before July 12, 2004. All timely filed motions to intervene are granted pursuant to Rule 214 of the Commission's Rules and Practices and Procedures, 18 C.F.R. § 315.214 (2004). Any motions to intervene out-of-time filed before the issuance of this order are granted pursuant to 18 C.F.R. § 385.214(2004).

² In its last EPC filing, in Docket No. RP04-129-000, Texas Eastern stated that it based its projection on the two-year average of actual costs and quantities for the latest 24-month period because the latest 12-month period included the significantly colder than normal 2002-2003 winter season. *See* Texas Eastern Transmission, LP, 106 FERC ¶ 61,082 (2004).

³ *See* Texas Eastern Transmission, LP, 99 FERC ¶ 61,383 (2002), *order on reh'g*, 101 FERC ¶ 61,046 (2002).

⁴ *See* Texas Eastern Transmission, LP, 99 FERC ¶ 61,308 (2002).

5. The Municipal Defense Group⁵ (MDG), ProLiance Energy, LLC, and the New England Local Distribution Companies (Commenters) filed motions to intervene and requests for condition, while Consolidated Edison Company of New York, Orange and Rockland Utilities, Inc., and Philadelphia Gas Works (jointly Protesters) filed a motion to intervene, protest and request for condition. Both Commenters and Protesters state that Texas Eastern's proposed methodology for the allocation of costs for the TIME Project was set for hearing in Docket No. RP03-542-000.⁶ According to Protesters, Texas Eastern still has not explained how it is ensuring against subsidization of TIME costs as directed by the Commission, and reiterate their protests made in that docket. Both Commenters and Protestors request that the Commission condition acceptance of the instant filing on the outcome of Docket No. RP03-542-000.

III. Discussion

6. The Commission finds that, except as noted below, Texas Eastern's instant filing of its semi-annual EPC Adjustment complies with section 15.1 of the General Terms and Conditions of its tariff. The instant filing raises the same issues as those set for hearing in Docket No. RP03-542-001. Therefore, the Commission accepts Texas Eastern's proposed tariff sheets subject to refund and subject to the outcome of the hearing in Docket No. RP03-542-000.

IV. Suspension

7. Based upon our review of the filing, the Commission finds that Texas Eastern's proposed rates may not be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will conditionally accept Texas Eastern's proposed tariff sheets for filing and suspend their effectiveness for the period set forth below, subject to the conditions set forth in this order.

⁵ MDG consists of the following distributor-customers of Texas Eastern Transmission, LP: Batesville, Indiana; Cairo Public Utility Company, an Illinois not-for-profit corporation; Chambersburg, Pennsylvania; Gloster, Mississippi; Harrisburg, Arkansas; Horton Highway Utility District, Tennessee; Huntingburg, Indiana; Lawrenceburg Utility Systems, Tennessee; Loretto, Tennessee; Middleborough, Massachusetts, Municipal Gas and Electric Department; Norwich, Connecticut, Public Utilities; Smyrna, Tennessee; and Utica, Mississippi.

⁶ In addition, the Commission has accepted Texas Eastern's EPC tracker filing in Docket No. RP04-129-000 subject to the outcome of the hearing in Docket No. RP03-542-001. Texas Eastern Transmission, LP, 106 FERC ¶ 61,082 (2004).

8. It is the Commission's policy generally to suspend rate filings for the maximum period permitted by statute if preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards.⁷ It is also recognized however, that shorter suspensions may be warranted under circumstances in which suspension for the maximum period may lead to harsh and inequitable results.⁸ Such circumstances exist here where the Commission is reviewing an EPC tracker proposal filed in accordance with section 15 of the pipeline's tariff. Therefore, the Commission will exercise its discretion to suspend the effectiveness of the proposed tariff sheets and permit them to take effect August 1, 2004, subject to refund, and subject to the outcome of the hearing in Docket No. RP03-542-001.

The Commission Orders:

The revised tariff sheets listed in the Appendix are accepted and suspended to be effective August 1, 2004, subject to refund and subject to the outcome of the hearing in Docket No. RP03-542-001.

By direction of the Commission. Commissioner Kelly not participating.

Linda Mitry,
Acting Secretary.

⁷ See Great Lakes Gas Transmission Co., 12 FERC ¶ 61,293 (1980) (five month suspension).

⁸ See Valley Gas Transmission, Inc., 12 FERC ¶61,197 (1980) (one-day suspension).

Texas Eastern Transmission, L P
FERC Gas Tariff, Seventh Revised Volume No. 1

Tariff Sheets, Proposed to be Effective August 1, 2004

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Fourteenth Revised Sheet No. 48
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Eleventh Revised Sheet No. 101

FERC Gas Tariff, First Revised Volume No. 2

Tariff Sheets, Proposed to be Effective August 1, 2004

Eighteen Revised Sheet No. 14
Eighteen Revised Sheet No. 15
Fourteenth Revised Sheet No. 17