

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 23, 2005

In Reply Refer To:
Guardian Pipeline, LLC
Docket No. RP05-581-000

Guardian Pipeline, LLC
P.O. Box 542500
Omaha, NE 68154-8500

Attention: Raymond D. Nepl, Vice President
Regulatory Affairs & Market Services

Reference: New Daily Index Price Formula to Calculate OFO Penalty

Ladies and Gentlemen:

1. On August 26, 2005, Guardian Pipeline, LLC (Guardian) filed Fifth Revised Sheet No. 103 and Third Revised Sheet No. 153 to its FERC Gas Tariff, Original Volume No. 1 to amend subsection 12.3(f) of its General Terms and Conditions (GT&C) to change its excess quantity penalty from a two-tiered penalty, with one tier fixed and the other formula based, to a single penalty tied to a formula-based daily-index price. Guardian requests that the proposed tariff sheets become effective September 26, 2005. We will accept the referenced tariff sheets to become effective September 26, 2005, subject to Guardian providing pricing point liquidity information, as discussed more fully below.

2. Notice of Guardian's filing was issued on September 2, 2005. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2005). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2005), all timely filed motions to intervene and any motions 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 this proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

3. Currently, subsection 12.3(f) of Guardian's GT&C provides for penalties, when an Operational Flow Order (OFO), curtailment order, or interruption order is in effect. Specifically, shipper is subject to a penalty of \$10.00 for each Dth of excess quantities taken or delivered equal to or less than a two percent variation. If the shipper takes in

excess of a 2 percent variation, this penalty is the higher of \$15.00 or 200 percent of the gas price index for each Dth of excess quantities taken or delivered in excess of a 2 percent variation. Section 2 of Guardian's GT&C currently defines the Gas Price Index, in part, by making reference to the midpoint range of prices reported for Chicago LDC's, large end users, as published in *Platts Gas Daily*, or, if no longer published, an equivalent index or indicator. Guardian expresses concern that its existing tiered structure may not provide sufficient incentives to shippers to preserve system integrity if natural gas prices continue to increase, citing to Commission precedent that the penalty should sufficiently deter conduct that would threaten system integrity.¹ Guardian notes that current NYMEX prices at Henry Hub are exceeding the existing \$10 Tier I rate, for the period September, 2005 through March, 2006 and states that during a price spike, the proper incentives would not be in place to ensure that shippers remained in balance during an excess penalty situation.

4. Consequently, Guardian proposes to change the OFO penalty in subsection 12.3(f) of its GT&C from its existing two tiered fixed/formula-based rate to a single formula based only on a daily index price equivalent to 200 percent of the midpoint in the range of prices for Chicago city-gates published in *Platts Gas Daily*. Specifically, Guardian's proposed subsection 12.3(f) provides:

All quantities received and/or taken in violation of Transporter's curtailment, OFO, or interruption orders (Excess Quantity) shall constitute unauthorized receipts or deliveries of Natural Gas for which a charge per Dth as determined below shall be assessed in addition to any other applicable rate, charge, or penalty. Such charge shall be applicable to all such unauthorized receipts and deliveries following notification of curtailment or interruption pursuant to Section 12.4, which may be given by telephone (and confirmed by either facsimile transmission or posted on Transporter's Web Site), or by any other reasonable means.

Charge per Dth
of Excess Quantity

200 % of the Gas Price
Index for the flow date
on which the gas
is transported.

5. Guardian also proposes to make a change to the definition of Gas Price Index in section 2 of the GT&C, to reference the daily index published in *Platts Gas Daily*. Specifically, Guardian's proposed definition of Gas Price Index provides:

¹ *Viking Gas Transmission Co.*, 112 FERC ¶ 61,098 at P 6 (2005).

“Gas Price Index” means for each reported Day, (Saturday, Sunday, holiday or any other non-published Day shall be the average of the immediately preceding and immediately following published Day’s price), the midpoint in the range of prices reported for “Chicago city-gates” as published in *Platts Gas Daily*, or, if not published, an equivalent index or indicator, which substitution shall be posted on Transporter’s Web Site, and Transporter shall revise this definition to reflect such substitute index or indicator.

6. Guardian states that it will incur no financial gains from this proposed tariff change since section 34.2 of its tariff requires Guardian to credit its penalty revenues.

7. By definition, an OFO penalty applies only during critical periods and, therefore, the penalty level should sufficiently deter conduct that would threaten system integrity. Accordingly, the Commission will accept the revised tariff sheets to become effective September 26, 2005, as proposed, subject to the following condition. In the Commission’s *Order Regarding Future Monitoring of Voluntary Price Formation, Use of Price Indices in Jurisdictional Tariffs, and Closing Certain Tariff Dockets* issued on November 19, 2004, in Docket No. PL03-3-005, *et al.*,² the Commission stated that if the pipeline uses an index provided by an index developer that meets all or substantially all of the standards of the *Policy Statement on Natural Gas and Electric Price Indices*³ and the index location meets the minimum average criteria for liquidity, the Commission will apply a presumption that the use of the index price location will result in just and reasonable charges. Guardian meets the first requirement by using price indices published by *Platts Gas Daily*, an industry publisher that the Commission found satisfied the minimum requirements. Guardian however, provides no data to support whether the specific proposed index points meet the liquidity standards as outlined in the order.

² *Price Discovery in Natural Gas and Electric Markets, et al.*, 109 FERC ¶ 61,184 (2004).

³ 104 FERC ¶ 61,121 (2003).

Accordingly, we direct Guardian to file, within 15 days of the date this order issues, data showing that the proposed Chicago city-gates index point meets the minimum liquidity standards set forth in Docket No. PL03-3-005.⁴

By direction of the Commission.

Magalie R. Salas,
Secretary.

cc: All Parties

⁴ See, e.g., *Discovery Gas Transmission LLC*, 110 FERC ¶ 61,401 (2005).