

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Discovery Gas Transmission, L.L.C.

Docket No. RP06-78-000

ORDER GRANTING WAIVERS

(Issued November 14, 2005)

1. On November 3, 2005, Discovery Gas Transmission, L.L.C., (Discovery) filed a request for certain waivers of its FERC Gas Tariff for a limited term in order to continue to provide and expand certain transportation service commenced under emergency authorization pursuant to Part 284 Subpart I of the Commission's regulations.¹ Discovery states that its requested waivers are necessary to transition this service from Part 284 Subpart I emergency authorization service, to Part 284 Subpart G open-access firm transportation service under its FERC Rate Schedule FT-2. As discussed below, the Commission grants the requested waivers.

Background

2. Discovery operates a natural gas pipeline system extending from the onshore area south of New Orleans approximately 105 miles into the Gulf of Mexico. It transports natural gas produced offshore to a Larose, Louisiana processing plant which is owned and operated by its unregulated affiliate, Discovery Producer Services.

¹ Discovery Transmittal letter at 1, *citing*, 18 CFR § 284.1 (2005). Subpart 1 of the Commission's regulations governs emergency natural gas sales, transportation, and exchange transactions and provides for the exemption of a person who engages in an emergency natural gas transaction from the certificate requirements of section 7 of the Natural Gas Act (NGA) and from the conditions of section 284.10 of the Commission's regulations which establishes requirements regarding rates for transportation services. 18 C.F.R. § 284.10 (2005).

3. Discovery states that on October 1, 2005, it commenced emergency interruptible service pursuant to the Commission's emergency regulations on behalf of certain shippers that were shut in because of Hurricane Katrina. Discovery states that it provides this service by reversing the flow of gas at its meter station at its delivery point with Line 500 of Tennessee Gas Pipeline Company (Tennessee) so that Discovery can receive gas at that meter station. Discover states that it can then deliver the gas to the Larose Plant, process the gas, and then transport the gas to one of Discovery's other delivery points.

4. Discovery asserts that two issues limit the amount and the duration of this emergency service. First, Discovery asserts that it can only transport approximately 100,000 Dt per day under this interruptible service because of certain liquid handling issues with the gas that it receives from Tennessee. Second, Discovery points out that pursuant to the Commission's regulations, the duration of any emergency service is limited to two consecutive 60-day periods, subject to certain conditions.²

5. Discovery states that it is willing to provide additional service, but states that such service will require the installation of additional facilities. Discovery proposes that it implement two different options that it states are serial in implementation and that would each provide 75,000 Dt per day of additional capacity for a total of 150,000 Dt per day of additional service. Discovery states that it expects that these new facilities will provide the additional service until certain third party processing facilities are returned to service.

6. Discovery also states that it will require that all shippers subscribing to, and benefiting from, the emergency service pay for the cost of these new facilities through a one-time facility reimbursement fee. Discovery states that it has commenced an expedited open season for its proposed emergency service covering the unsubscribed firm capacity currently used to provide the emergency interruptible service and the capacity that will become available through the new facilities.

7. Discovery asserts that this service must be offered on a firm basis in order to provide shippers with an additional incentive to pay for the necessary facilities. Therefore, Discovery states that it will offer to transport the shipper's gas from the Tennessee system to the Larose plant, and then to Discovery's existing delivery points under Discovery's Rate Schedule FT-2, a firm transportation service with a one-part volumetric rate. However, Discovery asserts that two features of Rate Schedule FT-2 are inapplicable to the temporary service it proposes. Discovery points out that Rate

² Discovery Transmittal letter at 2, *citing*, 18 CFR § 284. 264(b) (2005).

Schedule F-2 service is available only to shippers that are willing to dedicate their reserves for the life of the underlying lease and that firm daily entitlements are calculated based upon the level of reserves under contract.

8. Therefore, Discovery requests waiver for the earlier of one year or until certain third-party processing facilities return to service, of sections 1(f) (reserve dedication/life-of-lease) and 2(a), (d), (e) and (f) (entitlement determination) of its Rate Schedule FT-2 so that it may provide its proposed service on a firm basis. Discovery also requests that the Commission grant any other waivers necessary to permit Discovery to commence the instant service offering under Rate Schedule F-2 at the earliest possible time.

9. In addition, Discovery, at the request of a prospective shipper, proposes a five-year “emergency priority” status for shippers providing the funding for the new facilities (Funding Shippers). Under this proposal, Discovery asserts that if any emergency arises over the next five years, a Funding Shipper would have a higher priority for available capacity provided by the incremental facilities, for the duration of any future emergency so long as the Funding Shippers offered the same rate and term as a non-funding shipper. Discovery asserts that no tariff changes are necessary to provide for this priority feature.³

Public Notice

10. Public notice of the instant filing was issued on November 4, 2005, with interventions and protests due on November 7, 2005. Pursuant to Rule 214 (18 C.F.R.

³ Discovery states that it will add the following language to the applicable Rate Schedule F-2 Transportation Service Agreement:

Subject to the Commission’s approval, Transporter agrees that, if within five years from the date of this Agreement, Transporter decides (in its sole discretion) to use the same facilities that are the basis for the Facility Reimbursement Fee herein to provide emergency transportation similar to that being provided herein (“Future Emergency Service”), then Shipper shall have a higher priority in the awarding of bids for such Future Emergency Service, but only to the extent that all other aspects of Shipper’s bid are equal to the competing bids as measured pursuant to the Transporter’s FERC Gas Tariff.

§ 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. No adverse comments or protests were filed.⁴

Discussion

11. The Commission finds good cause exists for granting the requested waivers for a period of one year or until the processing facilities referred to by Discovery are returned to service. Discovery has proposed a reasonable method of permitting additional transportation of natural gas supplies that would otherwise remain shut-in due to recent hurricanes in the Gulf Coast region. Accordingly, the requested waiver of sections 1(f) (reserve dedication/life-of-lease) and 2(a), (d), (e) and (f) (entitlement determination) of Discovery's Rate Schedule FT-2 are granted to permit Discovery to offer its proposed service on a firm basis.

12. In addition, the Commission finds that Discovery's proposal to provide Funding Shippers with a limited service priority over the next five year period to be reasonable and may provide an incentive for the expansion of its system. Because a Funding Shipper must match the bid of any other potential shipper on the incremental facilities, this priority would only be used to break ties between a Funding Shipper and a non-funding shipper bidding the same rate and terms, where Discovery has insufficient capacity on the subject facilities to serve both. The Commission finds that this limited priority reasonably recognizes the fact that the Funding Shipper paid the cost of the facilities, and the non-funding shipper did not. However, because this priority affects how the capacity may be awarded on Discovery's system, the Commission will require that in addition to the inclusion of Discovery's proposed language to its Rate Schedule F-2 service agreements, Discovery must also place this service priority in its tariff.

13. The Commission intends to do everything it can to help alleviate the problems caused by Hurricane Katrina and the subsequent Hurricane Rita, and believes that its actions here are consistent with that goal. At the same time, it does not wish to act precipitously. Therefore, if any entities believe themselves to be adversely affected by our action here we urge them to make prompt filings with us, so that we can address their concerns.

⁴ Because of the need to respond quickly to the emergency situation in the Gulf Coast, we are issuing this order after a shortened notice period, but this order will be subject to rehearing and the Commission urges all interested persons to act promptly in notifying it of any concerns.

The Commission orders:

(A) The waivers requested by Discover are granted as discussed in the body of this order.

(B) Discovery is directed to file, with 10 days, revised tariff sheets reflecting the inclusion of the service priority for Funding Shippers, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.