UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Gas Transmission Northwest Corporation Docket No. RP06-278-000

ORDER ACCEPTING TARIFF SHEETS SUBJECT TO CONDITIONS

(Issued April 21, 2006)

1. On March 24, 2006, Gas Transmission Northwest Corporation (GTN) filed revised tariff sheets[1] to implement Operational Flow Order (OFO) provisions addressing circumstances where the operational integrity of GTN's system is threatened. In addition, the revised tariff sheets make changes to GTN's existing balancing and creditworthiness provisions. The proposed revisions are generally consistent with Commission policy and Commission precedent. The tariff sheets listed in the Appendix are accepted effective April 24, 2006, subject to the conditions discussed below.

<u>Public Notice and Comments</u>

2. GTN's filing was noticed on March 30, 2006, with interventions and comments due on or before April 5, 2006. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214 (2005)). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214. Sierra Pacific Power Company (Sierra) and United States Gypsum Company (USGC) each filed a protest, discussed below.

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[1] *See* Appendix.

Discussion

A. OFO Provisions

(i) OFO Procedures

Proposal

3. GTN proposes to implement OFO provisions at this time since current market conditions have resulted in volatility in flows on its system. GTN proposes to establish in the tariff when an OFO may be issued, operational variables that determine when an OFO will begin and end, and the information regarding the factors that caused the OFO to be issued. GTN states that its proposed OFO provisions are similar to OFO provisions previously approved by the Commission.[2] GTN notes that shippers have various tools such as parking and lending as well as netting and trading of imbalances in order to manage imbalances on its pipeline.

4. GTN further explains that it has experienced situations where Operational Balancing Agreement (OBA) operators have failed to comply with requests to correct imbalances since there currently are no penalties that apply to OBAs on GTN's system. GTN states that during a cold weather event in January 2004, a direct connect OBA operator took gas in excess of confirmed quantities in order to meet downstream customer demand on its own system. GTN further states that during the same time period an OFO was called by Northwest Pipeline Corporation (Northwest), which serves the same load. GTN argues that the OBA operator was using gas from GTN's system to correct an imbalance on Northwest in order to avoid an OFO penalty on Northwest. GTN indicates that during this event numerous telephone calls from GTN's gas control staff to the OBA operator were ignored. GTN concludes that had the weather not turned for the better, the operational integrity on GTN's system would have been compromised.

Comments

5. Sierra asserts that GTN's proposed OFO provisions do not comply with the Commission's requirements set forth in Order No. 637.[3] Sierra argues that section 30 of GTN's tariff does not provide for individual pipeline-specific standards

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[2] *See North Baja Pipeline LLC*, 100 FERC ¶ 61,183 (2002).

[3] *See Order No. 637*, FERC Stats. & Regs., Regulations Preambles (July 1996-December 2000) ¶ 31,091 at 31,312 (2000).

based on objective operational considerations for when an OFO begins and ends. Sierra also argues that GTN's tariff must provide posting of information, as soon as possible, about the status of operational variables that determine when an OFO will begin or end. Sierra states that section 30.3 of GTN's proposed tariff provides that GTN will post such information but does not identify when. Sierra argues that GTN's tariff must state the steps and order of operational remedies that will be followed before an OFO is issued to assure that the OFO has the most limited application practicable and to allow shippers the opportunity to limit the consequences of the imposition of an OFO.

6. Sierra and USGC state that section 30.3 of GTN's proposed OFO tariff is too ambiguous as to notice, and is not consistent with Commission precedent requiring notice at least 24 hours in advance of an OFO taking effect, except in emergencies or exigent circumstances.[4] GTN's proposed language provides that "[w]hen practicable, GTN will provide sufficient notice to shippers to accommodate scheduling requirements on upstream pipelines." USGC suggests that the Commission require GTN to replace its proposed language with the following:

> GTN will provide sufficient notice to shippers to accommodate scheduling requirements on upstream pipelines and, unless exigent circumstances dictate otherwise, such notice shall be provided at least 24 hours in advance of any OFO taking effect.

7. Sierra argues that GTN's OFO proposal is inconsistent with Commission precedent in *Gulf South Pipeline Company*. Sierra explains that Gulf South's tariff has various customer safeguards which are absent from section 30 GTN's proposed OFO tariff provisions. Sierra states that Gulf South's OFO tariff provisions explicitly exempt a shipper from any OFO penalty as a result of a shippers' action in compliance with an issued OFO or if the shipper is prevented from complying with an OFO as a result of a force majeure.[5]

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[4] *See Central Kentucky Transmission Company*, 114 FERC ¶ 61,170 (2006); and *Crossroads Pipeline Company* 100 FERC ¶ 61,025 (2002).

[5] *See* section 10.4 of the General Terms and Conditions of Gulf South's FERC Gas Tariff, Sixth Revised Volume No. 1.

Commission Determination

8. In Order No. 637, the Commission set forth a policy that each pipeline must adopt incentives and procedures that minimize the issuance and adverse impacts of OFOs.[6] To implement this policy, the Commission required that pipelines revise their tariffs in the following respects, to the extent necessary. First, each pipeline's tariff must state clear, individual pipeline-specific standards, based on objective operational conditions, for when OFOs begin and end. Second, the tariff must require the pipeline to post, as soon as available, information about the status of operational variables that determine when an OFO will begin and end. Third, the tariff must state the steps and order of operational remedies that will be followed before an OFO is issued to assure that the OFO has the most limited application practicable and to limit the consequences of its imposition. Fourth, the tariff must set forth standards for different levels or degrees of severity of OFOs to correspond to different degrees of system emergencies the pipeline may confront. Fifth, the tariff must establish reporting requirements that provide information after OFOs are issued on the factors that caused the OFO to be issued and then lifted. Finally, the Commission stated that it is not requiring all pipelines to adopt the same generic OFO standards.[7] The Commission stated that it is requiring OFO guidelines on an individual pipeline basis to allow each pipeline to devise a set of OFO procedures that are specific to its system.

9. GTN's proposed tariff does provide operational considerations for when an OFO begins and ends. Section 30.1 of GTN's proposed tariff provides that an OFO will be issued when it is necessary to maintain or restore the operational integrity of GTN's system. The Commission finds that by requiring GTN to further define each operational condition requiring the issuance of an OFO may not capture every foreseeable condition during a critical period. Finally, GTN has demonstrated through history of OBA operator behavior on its system, that there is a need for OFO procedures in order to protect the operational integrity of its system. Lastly, if shippers believe there are unwarranted OFOs being issued, they may file to the Commission for relief.

10. Sierra argues that GTN's tariff must provide posting of information, as soon as possible, about the status of operational variables that determine when an OFO will begin or end. Sierra states that section 30.3 of GTN's proposed tariff provides that GTN will post such information but does not identify when.

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[6] *See Order No. 637*, FERC Stats. & Regs., Regulations Preambles (July 1996-December 2000) ¶ 31,091 at 31,312 (2000).

[7] *Id.* at 31,313.

Consistent with Order No. 637, the Commission will require GTN to revise section 30.3 of its tariff to post information, as soon as possible, about the status of operational variables that determine when an OFO will begin or end.[8]

11. The Commission finds that GTN's currently effective tariff does provide the order of operational remedies that will be followed before a system-wide OFO is issued in order to assure that an OFO has the most limited application practicable. GTN proposes in section 30.2 of the General Terms and Conditions (GT&C) of its tariff to minimize the adverse impacts of an OFO by limiting the applicability of the OFO to the shipper or OBA operator causing such action whenever possible. Further, the Commission finds that GTN's existing tools such as parking and lending as well as netting and trading of imbalances are helpful to shippers in order to manage imbalances and minimize the occurrence of OFOs.[9]

12. Sierra and USGC state that section 30.3 of GTN's proposed tariff is not consistent with Commission precedent requiring notice of at least 24 hours in advance of an OFO taking effect, except in emergencies or exigent circumstances.[10] The Commission stated in Order No. 637 that pipelines must provide timely information that will enable shippers to minimize the adverse impact of OFOs.[11] The Commission finds that GTN's proposal to provide, "when practicable," sufficient notice to shippers to accommodate scheduling requirements on upstream pipelines, is consistent with Order No. 637, and does not vest undue discretion on the pipeline. The Commission has accepted other pipeline proposals that provide for shorter notice than 24 hours. In *North Baja*, which is GTN's affiliate, the Commission accepted the same notice proposal as GTN's to provide when practicable sufficient notice to shippers.[12] The Commission finds that Sierra and USGC's reliance on *Central Kentucky* and *Crossroads Pipeline* as new policy is misplaced. While the Commission did

[8] *Id.* at 31,312-13.

[9] *See* Rate Schedule PS-1 pertaining to parking and lending service and section 21.8 of GTN's GT&C pertaining to imbalance trading.

[10] *See Central Kentucky Transmission Company*, 114 FERC ¶ 61,170 (2006); and *Crossroads Pipeline Company* 100 FERC ¶ 61,025 (2002).

[11] *See Order No. 637,* FERC Stats. & Regs., Regulations Preambles (July 1996-December 2000) ¶ 31,091 at 31,312 (2000).

[12] *See North Baja Pipeline LLC*, 100 FERC ¶ 61,183 (2002); and section 18.3 of the GT&C of North Baja's FERC Gas Tariff, Original Volume No. 1.

accept the pipelines' proposed 24 hour notice provision, it did not impose such a requirement.[13] Accordingly, the Commission will accept GTN's notice provision.

(ii) OFO Penalty

Proposal

13. GTN states that it is proposing an OFO penalty in its proposed OFO provisions equal to the higher of $25 per Dth or a price per Dth equal to three times the midpoint price reported for Malin, Oregon. GTN explains that the proposed OFO penalty is needed to discourage shippers and OBA operators from violating OFOs. GTN states that its proposed OFO penalty is well within the range of imbalance penalties approved by the Commission.[14] GTN notes that the Commission found that the Malin, Oregon index was sufficiently reliable to meet the Commission's Policy Statement on Natural Gas and Electric Price Indices.[15]

Commission Determination

14. The Commission finds that GTN's proposed OFO penalty equal to the higher of $25 per Dth or a price per Dth equal to three times the midpoint price for Malin, Oregon is reasonable and within the range approved by the Commission.[16] In *Dominion*, the Commission approved an OFO penalty equal to the higher of $25 per Dth or three times the relevant spot price. Given the current increase in gas prices, the Commission finds that GTN's index-based OFO penalty may act as an effective deterrent to actions that threaten pipeline operations. Further, the Commission finds that section 21.6 of the GT&C of GTN's currently effective tariff provides for the crediting of penalty revenues. As a result, GTN is revenue neutral from its proposed OFO penalty. In addition, the Malin, Oregon index is

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[13] *See Crossroads Pipeline Company* 100 FERC ¶ 61,025 at 61,067 (2002).

[14] *See Dominion Transmission, Inc.*, 114 FERC ¶ 61,129 (2006); *Texas Gas Transmission, LLC*, 114 FERC ¶ 61,007 (2006); and *Transcontinental Pipe Line Corp.*, 113 FERC ¶ 61,224 (2005).

[15] *See Policy Statement on Natural Gas and Electric Price Indices*, 104 FERC ¶ 61,121 (2003). *See also* an unpublished director letter order issued on January 10, 2005, in Docket No. RP03-70-006.

[16] *See Dominion Transmission, Inc.*, 114 FERC ¶ 61,129 (2006); *Texas Gas Transmission, LLC*, 114 FERC ¶ 61,007 (2006); and *Transcontinental Pipe Line Corp.*, 113 FERC ¶ 61,224 (2005).

sufficiently reliable to meet the Commission's Policy Statement on Natural Gas and Electric Price Indices.[17] The Commission therefore accepts GTN's proposed OFO penalty provision.

B. Balancing Provisions

(i) Unauthorized Overrun Penalty

Proposal

15. GTN states that with respect to authorized overruns, the Commission has authorized pipelines to choose between (1) having a high penalty during critical periods and a penalty of no more than two times the interruptible rate during non-critical periods, or (2) having a high penalty that is waived during non-critical periods.[18] GTN states that since it is proposing a high OFO penalty during critical periods, GTN proposes to charge an "authorized overrun penalty" during non-critical periods equal to a maximum of two times the interruptible rate. This penalty, which is a change from GTN's currently effective authorized overrun charge of $5 per Dth, applies to quantities greater than a 10 percent tolerance of MDQ or 1000 Dth, whichever is greater.

Commission Determination

16. The Commission finds that GTN's proposed overrun penalty, equal to a maximum of two times the interruptible rate, is reasonable and consistent with Commission policy.[19] Further, the Commission finds that section 21.6 of the GT&C of GTN's currently effective tariff provides for the crediting of penalty revenues. As a result, GTN is revenue neutral from its proposed overrun penalty. However, the Commission finds that GTN has mischaracterized the overrun penalty as authorized. The Commission finds that a penalty charged for overruns applies only to unauthorized quantities not authorized. For overrun quantities that are authorized, the pipeline may only charge the applicable interruptible rate.

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[17] *See Policy Statement on Natural Gas and Electric Price Indices*, 104 FERC ¶ 61,121 (2003). *See also* an unpublished director letter order issued on January 10, 2005, in Docket No. RP03-70-006.

[18] *See PG&E Gas Transmission, Northwest Corporation*, 103 FERC ¶ 61,020 (2003).

[19] *See PG&E Gas Transmission, Northwest Corporation*, 98 FERC ¶ 61,365 (2002).

Here, the Commission accepts GTN's proposed unauthorized overrun penalty provision subject to GTN filing to revise section 21.1(a) of the GT&C of its tariff to properly identify the overrun penalty as unauthorized.

(ii) Cash-Out Charge

Proposal

17. GTN proposes to revise its tariff to provide for the treatment of negative imbalances when a shipper's service agreement is terminated. GTN proposes to revise its currently effective cash-out charge from $5 per Dth to an amount equal to 110 percent of the average daily midpoint price for Malin, Oregon for the month in which the imbalance is cashed out. GTN explains that its proposed index-based cash-out charge will reflect current market prices of natural gas and is consistent with Commission precedent.[20]

Commission Determination

18. The Commission finds that GTN's proposal for the cash-out of negative imbalances with regard to termination of service is consistent with Commission precedent.[21] In *National Fuel*, the Commission accepted a proposal similar to GTN's, whereby negative imbalances upon termination of service are cashed out at 110 percent of an established index price.[22] Further, given the current increase in gas prices, the Commission finds that GTN's index-based cash-out charge is a reasonable method of tracking gas price fluctuations. In addition, the Commission finds that section 21.6 of the GT&C of GTN's currently effective tariff provides for the crediting of penalty revenues. As a result, GTN is revenue neutral from its proposed cash-out charge. Finally, the Commission has found that the Malin, Oregon index was sufficiently reliable to meet the Commission's Policy Statement on Natural Gas and Electric Price Indices.[23] For the reasons discussed above, the Commission accepts GTN's proposed cash-out charge for negative imbalances.

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[20] *See National Fuel Gas Supply Corporation*, 96 FERC ¶ 61,182 (2001). *See also Gas Transport, Inc.*, Director letter order issued on April 29, 1998, in Docket Nos. RP98-174-000 *et. al.*

[21] *See National Fuel Gas Supply Corporation*, 96 FERC ¶ 61,182 (2001).

[22] *Id*. at 61,813 (2001).

[23] *See Policy Statement on Natural Gas and Electric Price Indices,* 104 FERC ¶ 61,121 (2003). *See also* an unpublished director letter order issued on January 10, 2005, in Docket No. RP03-70-006.

(iii) Removal of Operational Integrity Language

Proposal

19. GTN states that since its proposed OFO provisions and penalties will apply when the pipeline's operational integrity is threatened, GTN is proposing to remove references to operational integrity from its section 21 of its balancing provisions. Specifically, GTN proposes to delete the following phrase which states "in the event the operational integrity of GTN's system is threatened," GTN may, without notice, adjust shipper requests for confirmation from receipt or delivery markets on GTN's system.

Comments

20. Sierra argues that the removal of this existing pre-condition, that the operational integrity of the system must be threatened, makes no sense. Sierra explains that Order No. 637 makes clear that a pipeline must take all reasonable actions to limit the issuance of an OFO and the impacts of an OFO so that a shipper may fully avail itself of the benefits of its transportation entitlements.[24] Sierra argues that the removal of the pre-condition would allow the pipeline to limit a shipper's right to use its entitlements even when operationally required. Sierra concludes that if the proposed deletion of the operational integrity language is not summarily rejected, then GTN should fully explain its justification for the removal of this pre-condition.

Commission Determination

21. The Commission finds that GTN has not fully justified removing the pre-condition of operational integrity from sections 21.1(b) and (c) of its GT&C. It appears that the proposed tariff language would permit GTN to adjust requests for confirmation from receipt or delivery markets without justifying an operational reason for doing so. As a result, the Commission will reject GTN's proposed provision pertaining to the operational integrity pre-condition for confirmation adjustments included in sections 21.1(b) and (c) of its GT&C. GTN must remove this provision in the compliance filing directed by this order.

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[24] *See Order No. 637*, FERC Stats. & Regs., Regulations Preambles (July 1996-December 2000) ¶ 31,091 at 31,312 (February 9, 2000).

C. Creditworthiness Provisions

Proposal

22. GTN proposes to revise its creditworthiness provisions to include security requirements that will apply to negative imbalances held by shippers that are not creditworthy. GTN explains that it is proposing to apply the creditworthiness standards for interruptible service to negative imbalances, and base security requirements for imbalance gas on an evaluation of shippers' imbalance history. GTN proposes that for new shippers that do not meet GTN's creditworthiness standards, security requirements for imbalance gas will be up to the product of ten percent of a shipper's estimated monthly usage and the average of NYMEX future prices for the available twelve month period. This method shall be used for the first seven months of service while a historical record is established. Thereafter, security for a new shipper will be determined as specified for an existing shipper that does not meet GTN's creditworthiness standards.

23. GTN proposes that for existing shippers that do not meet GTN's creditworthiness standards, the security requirements for imbalance gas will be up to the product of a shipper's largest monthly negative imbalance over the most recent twelve-month period and the highest daily price for Malin, Oregon over the most recent twelve-month period. GTN states that its proposed creditworthiness provisions are consistent with Commission precedent.[25]

Comments

24. USGC argues that the proposed security requirements for existing shippers that do not meet GTN's creditworthiness standards are excessive and inconsistent with Commission precedent. Specifically, USGC opposes using the highest daily price over the most recent twelve months. USGC states that the Commission has found reasonable the use of an average of the NYMEX future prices for the available twelve-month period to mitigate a pipeline's risk related to imbalances created by non-creditworthy shippers.[26] USGC notes that GTN has provided no justification as to why it is proposing to apply a different methodology in its calculation of appropriate collateral for imbalances created by non-creditworthy new shippers compared to non-creditworthy existing shippers.

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[25] *See Gulf South Pipeline Company, LP,* 111 FERC ¶ 61,110 (2005).

[26] *See Gulf South Pipeline Company, LP*, 103 FERC ¶ 61,129 (2003).

25. USGC also requests clarification regarding GTN's security requirements for new, non-creditworthy shippers. USGC explains that the security requirement for a new non-creditworthy shipper is based on estimated monthly usage for seven months while a historical record is established. After seven months the security requirement for a new non-creditworthy shipper will be based on the standard created for existing shippers, which is based on twelve months of historical data. USGC states that the result of these provisions is that at the end of the seven months, the new shipper will be required to pay a security deposit based on a twelve-month formula that potentially is not applicable to the shipper. As a result, USGC requests that the Commission require GTN to clarify how these two potentially inconsistent provisions will operate in practice.

Commission Determination

26. The Commission finds that GTN's proposed creditworthiness provisions are reasonable and consistent with Commission precedent,[27] with one exception. In *Gulf South*, the Commission recognized that a pipeline is entitled to reasonable security for the value of gas it loans to customers.[28] The Commission accepted Gulf South's proposal to value security requirements for existing non-creditworthy shippers based on an estimated imbalance rate, which is defined as the average of the NYMEX future prices.[29] However, GTN proposes to base security requirements for existing non-creditworthy shippers on the highest daily price for Malin, Oregon. As a result, GTN's claim that its proposal is consistent with *Gulf South* is misplaced with respect to index-based future prices for existing non-creditworthy shippers. Further, GTN has not supported its proposal for using the highest daily price for Malin, Oregon. Therefore, GTN is required to file revised tariff sheets consistent with *Gulf South* as discussed above. Finally, the Commission will require GTN to clarify its proposed security requirements for new and existing shippers as requested by USGC above.

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[27] *See Gulf South Pipeline Company, LP*, 111 FERC ¶ 61,110 (2005).

[28] *See Gulf South Pipeline Company, LP*, 103 FERC ¶ 61,129 (2003).

[29] *Id.* at P 41 (2003).

The Commission orders:

(A) The tariff sheets listed in the Appendix are accepted effective April 24, 2006, subject to the conditions imposed herein.

(B) GTN is directed to file revised tariff sheets consistent with the conditions imposed herein, within 20 days of the date of issuance of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Appendix

Third Revised Volume No. 1-A
Tariff Sheets Accepted Subject to Conditions
Effective April 24, 2006

Fifth Revised Sheet No. 100
First Revised Sheet No. 141
Original Sheet No. 141A
Second Revised Sheet No. 160
Second Revised Sheet No. 161
Second Revised Sheet No. 162
First Revised Sheet No. 164
Original Sheet No. 204
Original Sheet No. 205
Original Sheet No. 206
Sheet No. 207