UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Northern Natural Gas Company Docket No. RP06-456-000

ORDER CONDITIONALLY ACCEPTING AND SUSPENDING TARIFF SHEET SUBJECT TO REFUND AND CONDITIONS AND FURTHER REVIEW

(Issued August 31, 2006)

1. On August 1, 2006, Northern Natural Gas Company (Northern) filed a Seventh Revised Sheet No. 292 to its FERC Gas Tariff, Fifth Revised Volume No. 1, to change the calculation of its Daily Delivery Variance Charges (DDVC) when it has called a system overrun limitation (SOL) or a Critical Day. Under its proposal, Northern would compare the sum of the actual deliveries of all of shipper's delivery points on a branchline to the sum of the Maximum Daily Quantity (MDQ) at those points rather than comparing actual deliveries for a shipper at each point on the branchline to the MDQ for that point. Northern requests the revised tariff sheet become effective September 1, 2006. As discussed below, the Commission will accept and suspend the proposed tariff sheet for filing, subject to refund and conditions and further review, to become effective on the earlier of February 1, 2007, or a date specified in a further order of the Commission.

Background and Northern's Filing

2. Section 48 of Northern's the General Terms and Conditions (GT&C) contains provisions for the application of DDVCs, charges for variances between actual daily volumes and scheduled volumes. Under section 48.G, when Northern has called an SOL or Critical Day at a point level or at the branchline level and the affected shipper has nominated and scheduled volumes at a zone level, the DDVC is calculated on the difference between the individual point MDQ, as set forth on Appendix B of the shipper's service agreement, and the actual deliveries for each point in the affected area.

3. Northern is proposing to change the calculation of DDVCs when it has called an SOL or a Critical Day for a branchline. Rather than comparing actual

deliveries for a shipper at each point on the branchline to the point MDQ, Northern is proposing to compare the sum of the actual deliveries of all of the shipper's delivery points on the branchline to the sum of the MDQ of those same delivery points. Northern provides an example of Shipper A which has three delivery points on Branchline Z (Point 1, Point 2, and Point 3) and an MDQ of 10 at each point. Northern states that if it has called an SOL for the branchline and the shipper schedules its volumes at the zone level and actually takes 5 at Point 1, 10 at point 2 and 15 at Point 3, the shipper would not be subject to DDVCs because the sum of the actual deliveries (30) did not exceed the sum of the MDQs (30). Northern asserts that this change is a benefit to shippers from the current method because it allows variances at individual points on the branchline to balance across the entire affected branchline for the shipper. Northern further asserts that the proposed revision does not diminish Northern's operational control on branchlines. Northern contends that it continues to have the ability to call an SOL or Critical Day at individual points on a branchline and that may include every point on the branchline. Northern further contends that DDVCs then would apply based on the MDQ at the point compared to the actual volume.

Notice of Filing, Interventions, Comments, Protest, and Answer

4. Notice of Northern's filing was issued on August 3, 2006. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18. C.F.R. § 154.210 (2006)). Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214 (2006)), 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 the proceeding or place additional burdens on existing parties. Aquila, Inc. d/b/a Aquila Networks, and Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) filed comments in support of the filing. The Northern Municipal Distributors Group and the Midwest Region Gas Task Force Association (NMDG/MRGTF) filed comments or, in the alternative, a protest. NMDG/MRGTF requests that the Commission require Northern to fully address the issues raised in its pleading prior to ruling on the proposal, and to afford the parties an opportunity to respond or, in the alternative, the comments should be considered a protest. On August 23, 2006, Northern filed an answer to NMDG/MRGTF.[1]

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[1] The Commission's Rules of Practice and Procedure do not permit answers to protests (18 C.F.R. § 385.213(a)(2)(2006)). However, the Commission finds good cause to admit Northern's answer since it will not delay the proceeding, assist the Commission in understanding the issues raised, and insure a complete record on which the Commission may act.

5. NMDG/MRGTF argues that Northern's filing raises operational issues. NMDG/MRGTF uses a variation of the hypothetical facts presented by Northern. NMDG/MRGTF assumes there is a Shipper B at the end of Branchline Z with a single delivery point and that Shipper A's three points (Points 1, 2, and 3), with MDQs of 10 at each point, are at the beginning, middle, and end of the branchline, with its beginning point, Point 1, very close to the mainline. NMDG/MRGTF further assumes that Shipper A takes all 30 of its MDQ at the delivery point nearest the mainline, Point 1. NMDG/MRGTF contends that the issue is whether Shipper B would have any operational problems (such as a loss of pressure) resulting from Shipper A's behavior. NMDG/MRGTF further contends that, under Northern's proposal, if such a result occurred, not only would that result be detrimental to Shipper B, but also Shipper A would not be penalized for causing the problem since its deliveries did not exceed its total MDQ of 30.

6. NMDG/MRGTF recognizes that Northern states that it continues to have the ability to call an SOL or Critical Day at individual points and DDVCs then would apply based on the MDQ at the point compared to the actual volume. However, NMDG/MRGTF argues that this conclusion does not fully address the issue. NMDG/MRGTF asserts that an SOL must be called by 3 p.m. CST of the Gas Day for which the SOL has been called and therefore, the ability to call an SOL at individual points on the branchline has limitations and cannot be called throughout the entire gas day.[2] NMDG/MRGTF further asserts that the ability to call a Critical Day at individual points on the branchline is also subject to limitations, and cannot be called throughout the gas day. NMDG/MRGTF states that First Revised Sheet No. 291A requires that Northern post the Critical Day notice on its website no later than two and one-half hours prior to the NAESB Grid Cycle nomination deadlines for the Critical Day Gas Day. NMDG/MRGTF also contends that since curtailment under Northern's tariff requires that interruptible volumes be curtailed first and firm volumes to be curtailed last,[3] Shipper A could claim that its firm volumes should be curtailed last after all other interruptible volumes have been curtailed. NMDG/MRGTF asserts that curtailment is a last resort remedy and proposals that increase the probability of curtailment should be considered carefully.

7. In its answer, Northern argues that NMDG/MRGTF's operational concerns are misplaced. Northern asserts that it has not proposed to change the manner in which it calls SOL or Critical Days and it still maintains the ability to call an SOL

[2] *Citing* Seventh Revised Sheet No. 291.

[3] *Citing* First Revised Sheet No. 262 and Ninth Revised Sheet No. 263.

or Critical Day on a branchline(s) or at individual points on a branchline, including every point on a branchline. Northern further asserts that if it determines that a branchline may have problems because of one or more points, it will call the SOL or Critical Day on the individual points and, under those circumstances, Northern would not call a branchline SOL or Critical Day. Northern contends that its proposal for the calculation of DDVCs when it calls a branchline SOL or Critical Day does not diminish Northern's operational control of its system. Northern further contends that its filing affects only the billing of DDVCs depending on whether a branchline SOL or Critical Day has been called. Northern argues that NMDG/MRGTF's statement that Critical Days cannot be called throughout the Gas Day is overly broad, since two of the four NAESB Grid Cycle nomination deadlines occur during the Gas Day.

8. In addition, NMDG/MRGTF argues that Northern has not explained whether and, if so, how, this proposal is consistent with the moratorium on rate design proposals agreed to by Northern and the parties in Northern's last base rate settlement. NMDG/MRGTF contends that, in that settlement, Northern agreed "not to implement rate design changes prior to November 1, 2007," and that "any such rate design changes shall be proposed in its next general Section 4 rate case for prospective implementation only, pursuant to a Commission order on the merits or approving a settlement."[4] NMDG/MRGTF further contends that, if a change in the penalty structure is a rate design change, it cannot be made except in the next base rate case under that provision.

9. Northern responds that there will be no change to any of Northern's transportation or storage rates. Northern asserts that DDVCs are not transportation or storage rates that are affected by Northern's rate design, and the DDVCs themselves are not being changed. Northern further asserts that the revised tariff sheet changes only the application of the DDVCs when Northern calls a branchline SOL or Critical Day.

Discussion

10. The Commission accepts and suspends Northern's filing to be effective on the earlier of February 1, 2007 or a date specified in a further order of the Commission. As Northern explains in its answer, its subject proposal is a revision of the application of DDVCs which are penalties and thus, is not a rate design

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[4] *Citing* Stipulation and Agreement of Settlement, Docket Nos. RP03-398-000 and RP04-155-000, Article II, Section C, at 13. *Northern Natural Gas Company*, 111 FERC ¶ 61,444 (2005).

change prohibited by Northern's last base rate settlement. However, Northern's answer does not satisfactorily respond to NMDG/MRGTF's operational concerns. For instance, Northern has not fully or adequately responded to NMDG/MRGTF's concerns related to potential operational problems and the limitations on calling an SOL or Critical Day during the Gas Day. Therefore, the Commission believes that Northern should provide further information and explanation with adequate support to fully address the issues raised by NMDG/MRGTF related to operational concerns. More information regarding these matters is necessary and will allow NMDG/MRGTF and other parties to more fully understand and thoroughly analyze Northern's filing. Therefore, the Commission directs Northern to file information and explanations fully addressing the operational issues raised by NMDG/MRGTF with adequate support within twenty days of the date this order issues. We will permit parties ten days from the filing date of Northern's filing to file reply comments.

Suspension

11. Based upon a review of the filing, the Commission finds that the proposed tariff sheet has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission accepts Seventh Revised Sheet No. 292 for filing, subject to refund, and suspends its effectiveness for the period set forth below, subject to the conditions set forth in this order.

12. The Commission's policy regarding rate suspensions is that rate filings should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards.[5] 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.[6] Such circumstances do not exist here. Accordingly, the Commission will exercise its discretion to suspend the tariff sheet for the maximum period and permit the rates to take effect on the earlier of February 1, 2007, or a date specified in a further order of the Commission, subject to refund

[5] *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

[6] *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

and the conditions set forth in the body of this order and in the ordering paragraphs below.

The Commission orders:

(A) Northern's Seventh Revised Sheet No. 292 is accepted and suspended, subject to refund and conditions and further review, to become effective on the earlier of February 1, 2007, or a date specified in a further order of the Commission, as discussed in the body of this order and the ordering paragraphs below.

(B) Within twenty (20) days of the date this order issues, Northern is directed to file information and explanations fully addressing the operational issues raised by NMDG/MRGTF with adequate support, as discussed in the body of this order.

(C) Parties may file comments on Northern's filing required by Ordering Paragraph (B) above within ten (10) days from the date Northern files its additional information and explanation.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.