

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 28, 2006

In Reply Refer To:
Northern Natural Gas Company
Docket No. RP07-92-000

Northern Natural Gas Company
1111 South 103rd Street
Omaha, NE 68124-1000

Attention: Mary Kay Miller
Vice President, Regulatory and Government Affairs

Reference: Order Accepting Tariff Sheet and Granting Waiver to Permit
Permanent Release of Negotiated Rate Agreement

Dear Ms. Miller:

1. On November 30, 2006, Northern Natural Gas Company (Northern) filed:
(1) a request for waiver of the Commission's regulations in order to allow Northwestern Corporation (Northwestern) to permanently release its negotiated rate agreement with Northern to Prairie Ethanol, LLC (Prairie Ethanol); and, (2) associated 45 Revised Sheet No. 66 to FERC Gas Tariff, Fifth Revised Volume No. 1, in which the negotiated rate agreement shipper name is accordingly changed to Prairie Ethanol. Northern has requested that the permanent release of the negotiated rate agreement and proposed tariff sheet become effective January 1, 2007.
2. The negotiated rate agreement between Northwestern and Northern accepted by Commission, effective November 1, 2006,¹ provided for transportation service to an ethanol plant in Northern's Operational Zone ABC, which is owned by Prairie Ethanol, at a rate above Northern's current maximum tariff rate. Northwestern and Prairie Ethanol have since reached an agreement whereby Northwestern is agreeable to permanently release the negotiated rate service agreement to Prairie Ethanol, and Prairie Ethanol is agreeable to accepting all the terms and conditions of the negotiated rate agreement, including the negotiated rate, which is above Northern's current maximum tariff rate.

¹ See unpublished Director's letter order issued on November 2, 2006, in Docket No. RP96-272-061.

3. Specifically, Northern requests a waiver of section 284.8(h)(1) of the Commission's regulations in order to permit Northwestern's permanent release of the negotiated rate agreement to Prairie Ethanol to be treated similar to prearranged maximum rate releases, which can be implemented without posting for bids from other shippers and to allow the release to occur even though it is a release above Northern's maximum tariff rate. Section 284.8(h)(1) provides that a prearranged release at the maximum rate need not be posted for bidding pursuant to section 284.8(e) and further provides that "a release under this paragraph may not exceed the maximum rate."
4. Northern asserts that the circumstances are appropriate for the Commission to grant such waiver, in that: (1) the sole purpose for the permanent release is to transfer capacity from one shipper, who purchased the capacity in order to serve a market, to another shipper who represents that same market; (2) the permanent capacity release will allow Prairie Ethanol to receive firm transportation service it needs to operate its plant; (3) the transaction between Northwestern and Prairie Ethanol leaves Northern economically indifferent; and, (4) the Commission has previously granted such a waiver under similar circumstances in its recent order in *Transcontinental Gas Pipeline Corporation (Transco)*.²
5. Public notice of Northern's filing issued on December 5, 2006 with protests, adverse comments and interventions due on or before December 12, 2006.³ No protests or adverse comments were filed.
6. In *Transco* the Commission addressed a circumstance where two releasing shippers obtained a prearranged replacement shipper, who had agreed to pay the full negotiated rate that the two releasing shippers were paying, which was above the maximum recourse rate, and the transferred capacity was used to serve the same market. The Commission found:

"...the real issue presented in the present case to be whether it should waive the maximum rate cap provisions of section 284.8(h)(1) in order to permit the instant prearranged capacity releases to be treated similarly to prearranged maximum rate releases, which can be implemented without posting for bids from other shippers. The Commission finds that in the particular circumstances of this case such a waiver is appropriate."

² See *Transcontinental Gas Pipeline Corporation*, 113 FERC ¶ 61,331 (2005).

³ Minnesota Energy Resources Corporation moved to intervene.

7. We find the circumstances in the instant filing are similar to those the Commission addressed in *Transco*. In particular, as explained in *Transco*, if another shipper obtained the released capacity, it would defeat the purpose of these prearranged capacity releases, which is to provide for the transfer of capacity that will be used to serve the same market. Moreover in the instant filing, the release will be to the same end-user, the ethanol plant owned by Prairie Ethanol. Accordingly, we find that granting waiver of section 284.8(h)(1) is appropriate in support of the associated permanent release of the negotiated rate agreement in the instant filing.

8. Therefore, we (1) grant Northern's request for waiver of section 284.8(h)(1) in order to permit Northwestern to permanently release its negotiated rate agreement with Northern to Prairie Ethanol; and (2) accept 45 Revised Sheet No. 66 to FERC Gas Tariff, Fifth Revised Volume No. 1, effective January 1, 2007, as proposed.

By direction of the Commission.

Magalie R. Salas,
Secretary.

cc: All Parties

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