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. RP07-454-000

ORDER ACCEPTING TARIFF SHEET SUBJECT TO CONDITIONS

(Issued June 15, 2007)

1. On May 18, 2007, Northern Natural Gas Company (Northern) filed First Revised Sheet No. 54B of its FERC Gas Tariff, Fifth Revised Volume No. 1 to exempt fuel charges[1] on transactions in which deliveries are nominated to physical receipt points in Northern's Market Area. For the reasons discussed below, the revised tariff sheet is accepted for filing, subject to conditions, effective on June 18, 2007, as requested.

Details of the Filing

2. Northern states that in its Market Area it has several "physical receipt points," which Northern defines as points where gas physically enters its system but does not leave its system. Northern compares these physical receipt points to its other receipt points, which can also serve as delivery points where gas can flow out of its system. Northern states that it is proposing to eliminate fuel charges on transactions in which deliveries are nominated to specified receipt points in its Market Area[2] because, in these

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[1] Shippers in Northern's Market Area currently pay fuel charges set forth on Sheet No. 54 of Northern's tariff. This fuel charge is expressed as a percentage of throughput and includes a fuel use charge and a lost and unaccounted-for fuel charge.

[2] The physical receipt points Northern proposes to exempt from fuel charges are NBPL/NNG Ventura, NBPL/NNG Aberdeen, NBPL/NNG Marshall, GRLKS/NNG Carlton, TBPL/NNG Beatrice, NBPL/NNG Welcome, NBPL/NNG Grundy Center, and Viking/NNG Polk ITE.

transactions, no physical delivery is taking place and these delivery transactions are offset by other physical receipts entering Northern's system at the physical receipt points (i.e., the gas received at the physical receipt point is being transported to a delivery point and Northern is collecting fuel on that transaction). Northern states that its proposal will avoid the potential for double-collection of fuel on deliveries to physical receipt points and increase efficient use of its system.[3]

3. In addition, Northern states that its proposal is similar to how it handles fuel charges on Market Area transactions through pooling points. Northern explains that, under Footnote 3 of Sheet No. 54 of its tariff, shippers may transport volumes to a pooling point without being charged section 3 mainline fuel, subject to Northern receiving verification that the volumes will be redelivered within the Market Area. Further, Northern estimates that fuel retained on deliveries to the proposed physical receipt points in its Market Area amounts to only 14,698 Dth annually, which represents 0.13 percent of Northern's total fuel burned of 11,190,229 Dth. Northern concludes that its proposal will not have any material impact on other Market Area shippers. Northern requests a June 18, 2007, effective date for its revised tariff sheet.

Public Notice, Intervention and Comments

4. Notice of Northern's filing was issued on May 23, 2007. Interventions and protests were due as provided by section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2006). Pursuant to Rule 214, 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 this proceeding or place additional burdens on existing parties. On May 30, 2007, Northern Border Pipeline Company (Northern Border) filed a motion to intervene and protest. Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively, the NSP Companies) filed a joint motion to intervene and protest on May 30, 2007. On June 6, 2007, Northern filed an answer to the protests and on June 11, 2007, Northern Border filed an answer to Northern's answer. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 213(a)(2)(2006), prohibits answers to protests and answers to answers unless

[3] Northern explains that, for example, if a shipper nominates gas on Northern's system from the Demarc receipt point for delivery to the interconnect between Northern and Northern Border near Ventura, Iowa (a physical receipt point), Northern would collect the section 3 mainline fuel rate on the transaction under its current tariff. Northern's proposal would eliminate this section 3 mainline fuel charge.

otherwise ordered by the decisional authority. We will accept Northern's answer because it provides information that assisted us in our decision-making process.

Discussion

5. For the reasons stated below, we accept Northern's First Revised Sheet No. 54B, effective June 18, 2007, as requested, subject to conditions. The issues raised in the protests, Northern's responses and the Commission determination are addressed below.

Consumption of Fuel

6. Northern Border and the NSP Companies assert that Northern has not justified its proposal or shown it to be just and reasonable. They contend that Northern has not demonstrated that the transactions it proposes to exempt do not consume fuel. Northern Border argues that the Commission generally has not granted pipelines the discretion to eliminate their fuel rates for transportation services because fuel rates are viewed as variable costs and pipelines are not allowed to discount below variable costs.[4] According to Northern Border, the Commission has, however, allowed the elimination of fuel charges if a pipeline demonstrates that no fuel is consumed in connection with the transportation transactions for which a fuel charge exemption will apply.[5] Northern Border asserts that Northern has not sufficiently explained and demonstrated that no fuel is consumed in connection with the Market Area transportation transactions that it proposes to exempt from fuel charges.

7. The NSP Companies state that the Commission should not allow Northern to implement a tariff change that would force Market Area customers to pay, through higher fuel charges, for what amounts to an impermissible fuel discount designed to attract volumes to Northern's Field Area. The NSP Companies contend that the volume of gas qualifying for the fuel exemption would be well above the 14,698 Dth level predicted by Northern and they question Northern's comparison of its proposal to fuel charge exemptions associated with transactions utilizing pooling.

8. In response to Northern Border's statement that the Commission generally has not granted pipelines the discretion to eliminate their fuel rates for transportation services,

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[4] *See* Northern Border protest at 3 (*citing Reliant Energy Gas Transmission Co.*, 100 FERC ¶ 61,290 (2002); *Mississippi River Transmission Corp.*, 98 FERC ¶ 61,119 (2002); *ANR Pipeline Co.*, 83 FERC ¶ 61,088 (1998)).

[5] *See id.* (*citing Gulf South Pipeline*, 109 FERC ¶ 61,283 (2004); *Noram Gas Transmission Co.*, 70 FERC ¶ 61,269 (1995)).

Northern asserts that the Commission's policy regarding fuel is irrelevant to its proposal. Northern states that is proposal is not about exempting, from fuel charges, transactions that do not use fuel but about collecting fuel only once in a postage stamp fuel zone.

9. With regard to the NSP Companies' arguments, Northern states that the NSP Companies exaggerated the numbers in their calculation of a hypothetical fuel use increase and they appear to rely on one specific example (*i.e.*, Demarc to Ventura) to conclude that Northern's proposal is an impermissible fuel discount designed to attract volumes to Northern's Field Area. Northern maintains that its proposal is not limited to any particular Market Area receipt point. Northern also refutes the NSP Companies' claim that the fuel exemption for pooling transactions is dissimilar to Northern's proposed exemption for physical receipt points. Northern states that, like its current tariff provision exempting fuel charges for pooling transactions, its proposal is not premised on there being no consumption of fuel as part of these transactions, but on the premise that fuel should be collected only once in areas, like Northern's Market Area, where postage stamp fuel rates exist.

10. Northern also offers clarification about the nature of transactions nominated to physical receipt points. Northern explains that physical receipt points are points where gas can only flow into, not out of its system. According to Northern, if gas cannot leave Northern's system at these physical receipt points, the gas must move to a Northern end-use market and Northern will assess the fuel charge on that second transaction. In addition, Northern states that its proposed requirement that the selected receipt points must be physical receipt points is the means by which Northern is able to verify that the volumes will be redelivered in its Market Area, similar to the verification used for pooling.

11. The Commission is concerned that, as currently drafted, Northern's proposal may impermissibly discriminate in favor of shippers who nominate to physical receipt points. For example, under the current tariff, if Shipper 1 nominates gas to Point A for delivery to Point B (a physical receipt point in the Market area) and Shipper 2 nominates gas from Point B for delivery to Point C elsewhere in Northern's Market Area, Northern would assess a fuel charge on both Shipper 1 and Shipper 2.[6] Under Northern's proposal, although both shippers are responsible for Northern's obligation to transport gas from Point A to Point C, only Shipper 2 would be assessed a fuel charge. In addition, Northern acknowledges that fuel is consumed under the transactions it seeks to exempt; however,

[6] Under its tariff, Northern assesses a flat fuel percentage for all contractual deliveries in its Market Area.

Northern has not adequately explained why, when both transactions involve the consumption of fuel, one shipper would be exempt from paying fuel charges.

12. Further, Northern states that its proposal is similar to how it handles fuel charges on Market Area transactions through pooling points. However, Northern's tariff provision governing the fuel exemption for pooling transactions does not place the obligation to pay for fuel on any one party.[7] Instead, this provision is designed to ensure that the total fuel charge collected for transactions that go through pooling points (or processing plants) will not exceed the fuel charge that Northern would have assessed from the original receipt to the final delivery point had the fuel not passed through the pooling point (or processing plant). On the other hand, what Northern is proposing to do in the instant filing is exempt certain shippers (*i.e*., those nominating to physical receipt points) from paying fuel charges. Accordingly, the Commission finds that the proposal, as filed, appears to discriminate in favor of shippers who nominate gas to physical receipt points. We direct Northern to file, within 15 days of the date this order issues, either: (1) additional information explaining why its proposal does not discriminate against certain shippers and why certain shippers should be exempt from paying fuel charges even though their transactions with Northern result in fuel being consumed; or (2) revised tariff sheets setting forth its proposal in a manner that is not unduly discriminatory.

Lost and Unaccounted-for Fuel Charges

13. Northern Border states that Commission policy requires all shippers to reimburse pipelines for lost and unaccounted-for fuel[8] and that, even if Northern can support its

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[7] Footnote 3 of 24th Revised Sheet No. 54 of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1 provides:

> Fuel charged in the Field and Market Areas for pooling transactions or for processing plant transactions will not exceed the fuel charged on a unified Field-to-Market transaction having the same initial Field receipt point and ultimate Market delivery point, *i.e*., the total fuel collected for transactions that go into and out of pooling points or processing plants in either the Field Area or the Market Area will be no greater than the fuel collected on the total path between the original receipt point and the ultimate delivery point, subject to the shipper(s) providing Northern the requisite information.

[8] Northern uses the term "unaccounted for" while Northern Border uses the term "lost and unaccounted fuel." For the purposes of this order, we use the term "lost and unaccounted-for fuel."

proposal to exempt fuel charges for certain transactions, the Commission must direct Northern to revise its proposed tariff to state that Northern will continue to assess lost and unaccounted-for fuel charges for those transactions. In its answer, Northern clarifies that it is not proposing to exempt the transactions that will be exempt from fuel charges from charges for lost and unaccounted-for fuel. Northern states that its proposed tariff sheet only exempts section 3 mainline fuel use charges.

14. We find that Northern's proposal does not exempt the subject transactions from lost and unaccounted-for fuel charges; therefore, we find that, under the proposal, Northern will continue to assess charges for lost and unaccounted-for fuel on transactions that would be subject to the proposed mainline fuel exemption. Accordingly, we will not direct Northern to revise its proposed tariff, as Northern Border requests, to address lost and unaccounted-for fuel.

Undue Preference to Marketers

15. The NSP Companies assert that Northern's proposal grants undue preference to marketers who are the shippers in the best position to take advantage of the exemption. They argue that the proposal disadvantages Market Area local distribution companies (LDCs), like the NSP Companies, whose primary tasks are to take deliveries in the Market Area for ultimate delivery to their customers. The NSP Companies state that Northern has offered no justification for preferring marketers over LDCs with respect to exempted fuel.

16. In its answer, Northern argues that there are no undue shipper preferences built into its proposal. It asserts that it has placed no restrictions in its tariff, limiting to marketers only, the right to make deliveries to the fuel-exempt physical receipt points.

17. As discussed above, Northern's proposal may favor shippers who choose to nominate gas to physical receipt points in Northern's Market Area over shippers who do not nominate to those physical receipt points. However, we find that Northern's tariff does not limit availability of the exemption to marketers or any other any class of customers.

List of Physical Receipt Points

18. The NSP Companies assert that Northern's proposal unduly discriminates against shippers that may want to make deliveries at physical receipt points that Northern did not include in its proposal. By way of illustration, the NSP Companies note that Northern's interconnection with Viking Gas Transmission Company, near Pierz, is a physical receipt point that is not included on Northern's list of fuel-exempt receipt points. The NSP Companies add that omission of the Pierz physical receipt point undermines Northern's

argument that its proposal will avoid double-collection. They argue that if Northern believes its proposal is necessary to avoid double-collection it should have showed why double-collection is not a concern for other operationally similar physical receipt points.

19. In its answer, Northern states that the Pierz receipt point is not a physical receipt point, but rather is a bi-directional interconnect where gas at times physically leaves Northern's system. Northern reaffirms that it has included in its proposal only the receipt points in its Market Area where gas physically enters its system but does not leave its system.

20. Northern has affirmed that the list it provided in its filing includes all of the physical receipt points in its Market Area (*i.e.*, receipt points where gas physically enters Northern's system but does not leave its system). We find Northern's answer to be acceptable.

21. For the reasons stated above, the Commission accepts the revised tariff sheet, subject to conditions, effective on June 18, 2007, as requested.

<u>The Commission orders</u>:

(A) Northern's revised Sheet No. 54B of its FERC Gas Tariff, Fifth Revised Volume No. 1 is hereby accepted, effective June 18, 2007, as requested as discussed in the body of this order.

(B) Northern is directed to make a compliance filing within 15 days of the date this order issues providing either: (1) additional information explaining why its proposal does not discriminate against certain shippers and why certain shippers should be exempt from having to pay fuel charges even though their transactions with Northern result in fuel being consumed; or (2) revised tariff sheets setting forth its proposal in a manner that is not unduly discriminatory.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.