

121 FERC ¶ 61,111
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

October 30, 2007

In Reply Refer To:
Texas Eastern Transmission, LP
Docket Nos. RP08-14-000
RP08-14-001

Texas Eastern Transmission LP
P.O. Box 1642
Houston, Texas 77251-6137

Attention: David A. McCallum
Director, Rates and Tariffs

Reference: Non-Conforming Service Agreement and Revised Tariff Sheets

Dear Mr. McCallum:

1. On October 1, 2007, as amended October 4, 2007, Texas Eastern Transmission, LP (Texas Eastern) filed a non-conforming service agreement and revised tariff sheets¹ to convert an individually certificated Rate Schedule SS (Storage Service) under Part 157 for Public Service Electric and Gas Company (NJ) (PSEG) to Part 284 open-access firm storage service under Rate Schedule SS-1. Texas Eastern's non-conforming service agreement and proposed tariff sheets are accepted to become effective November 1, 2007, as discussed below.

2. Texas Eastern states that PSEG has requested to convert its firm storage service under Part 157 individually certificated service to Part 284 open access service under Texas Eastern's Rate Schedule SS-1. Texas Eastern states that in order to implement this conversion it is filing the proposed Rate Schedule SS-1 service agreement with the Commission. Texas Eastern states that the proposed Rate Schedule SS-1 service agreement with PSEG conforms to Texas Eastern's *pro forma* service agreement with two exceptions. Texas Eastern states that in the absence of these deviations from the

¹ The Service Agreement for Rate Schedule SS-1 service between Texas Eastern and PSEG is Contract #400240R1 and the revised tariff sheets are Fourth Revised Sheet No. 525 and Third Revised Sheet No. 543A to Texas Eastern's FERC Gas Tariff, Seventh Revised Volume No. 1.

pro forma service agreement the conversion it proposes would be automatic pursuant to 18 CFR §157.217 (2007) of the Commission's regulations. However, Texas Eastern contends that the deviations from its *pro forma* service agreement are necessary given the unique circumstances associated with the proposed conversion of PSEG to Rate Schedule SS-1 service, and that the deviations do not present a risk of undue discrimination.

3. Texas Eastern states that the first deviation is from Article I of the *pro forma* service agreement. Article I of the *pro forma* service agreement sets forth a Maximum Daily Injection Quantity (MDIQ). Texas Eastern states that the MDIQ is the maximum amount of gas that Texas Eastern must inject for a customer on any given day. In order to make the transition from Rate Schedule SS Part 157 service to Rate Schedule SS-1 service Texas Eastern and PSEG have agreed to set the MDIQ for Rate Schedule SS-1 service at 0 Dekatherms per day (Dth/d) for operational purposes. The *pro forma* service agreement provides for such a term. However, the parties also set an amount of 7,471 Dth/d of MDIQ for billing purposes in the proposed service agreement which deviates from the *pro forma* agreement. Texas Eastern contends that setting PSEG's MDIQ for operational purposes at 0 Dth/d, preserves PSEG's pre-existing injection rights it held under Rate Schedule SS-1 without an adverse impact upon any other customer. Further, it states that imputing an MDIQ of 7,471 Dth/d for billing purposes ensures that PSEG is not subjected to excess injection charges earlier in the injection process, though PSEG will incur an additional charge for injections above the MDIQ, as required by Rate Schedule SS-1 service.

4. The second exception pertains to Exhibit B to the Rate Schedule SS-1 service agreement which deviates from the *pro forma* service agreement. Texas Eastern states that the parties have agreed that PSEG's Maximum Daily Withdrawal Quantity (MDWQ) will apply for all purposes under the agreement provided that it ratchets down further when PSEG's actual storage inventory is equal to or less than 20 percent and then 10 percent of its maximum storage quantity. Texas Eastern states that the ratchets reflected in Exhibit B are consistent with the MDWQ ratchets set forth in section 6.3 of Texas Eastern's Rate Schedule SS-1 and, therefore, placing this term in the service agreement does not present a risk of undue discrimination.

5. In addition, Texas Eastern states that it has filed a tariff sheet (Fourth Revised Sheet No. 525) to remove the existing PSEG service agreement from the list of service agreements not subject to pre-granted abandonment in section 3.13 (B) (1) of the General Terms and Conditions of its tariff. Texas Eastern states that it cannot remove Rate Schedule SS entirely from its tariff because it has other customers which could be the subject of further conversions to Part 284 service.

6. Texas Eastern requests that the Commission grant any waivers necessary to authorize the abandonment and conversion of service it proposes in order to permit it to coordinate the replacement of PSEG's Part 157 service under Rate Schedule SS with Part 284 service under Rate Schedule SS-1.

7. Public notice of Texas Eastern's filings were issued October 3, 2007 and October 10, 2007, with interventions and protests due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2007)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2007)), 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. No parties filed adverse comments or protests to the filing.

8. In general, the Commission's policy is to encourage the conversion from Part 157 individually certificated transportation service to Part 284 Blanket Transportation service.² This is the action that Texas Eastern proposes with regard to the storage service it provides to PSEG. The parties to this conversion of service have agreed to terms which deviate somewhat from Texas Eastern's *pro forma* service agreement for the Rate Schedule SS-1 service under which PSEG will receive service after the instant conversion. The Commission, therefore, grants the proposed abandonment of Part 157 service requested by Texas Eastern and PSEG. The Commission finds that the deviations from Texas Eastern's *pro forma* service agreement as set forth above are necessary to implement the proposed conversion of service and do not present a substantial risk of undue discrimination. Therefore, for good cause shown, the Commission grants waiver of section 157.217(a)(3) of its regulations, to permit Texas Eastern to implement the conversion of service as it proposes herein.³

9. The Commission notes that there is an inconsistency in PSEG's MDIQ volumes reflected in the Transmittal Letter and the PSEG Service Agreement. The Transmittal Letter states that PSEG's MDIQ is 7,471 Dth/d while the Service Agreement reflects that this volume will be 7,741 Dth/d. This differential is not significant to the Commission's determination in the instant proceeding. However, the Commission points out this discrepancy so that the parties may take any corrective action necessary.

² See, *Dominion Transmission Inc.*, 111 FERC ¶ 61, 135 at P 78 (2005), citing, *Pipeline Service Obligations, and Revisions to Regulations Governing Self-Implementing Transportation under Part 284 of the Commission's Regulations*, Order No. 636-B, 61 FERC ¶ 61,272 at 61,994, 57 Fed. Reg. 57,911, 57,916 (1992), *aff'd in part and remanded in part sub nom., UDC v. FERC*, 88 F.3d 1105 (D.C. Cir. 1996).

³ Section 157.217(a)(3)(2007) of the Commission's regulations provides that the certificate holder is authorized to permit an existing customer, at the customer's request to change from part 157 individually certificated transportation or storage service to part 284 transportation or storage service, and to abandon the part 157 service if "[t]he changes are consistent with the terms of the effective tariffs on file with the Commission."

10. Accordingly, the Commission accepts Texas Eastern's Service Agreement and revised tariff sheets listed in footnote No. 1 effective November 1, 2007.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Acting Deputy Secretary.