123 FERC ¶ 61,215
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. RP08-360-000

ORDER ACCEPTING TARIFF SHEET SUBJECT TO CONDITIONS

(Issued May 29, 2008)

1. On May 1, 2008, Northern Natural Gas Company (Northern) filed revised tariff sheets[1] proposing to apply only once section 1 mainline fuel and unaccounted-for (UAF) charges for firm deferred delivery (FDD) account transfers between Northern's MWP/Hockley storage point[2] and the Pinnacle Lea storage point. For the reasons discussed below, the revised tariff sheets are accepted for filing, subject to conditions, effective on June 1, 2008, as requested.

I. Background

2. Section 53A of the General Terms and Conditions (GT&C) of Northern's tariff provides a mechanism for the calculation of the fuel percentages and the UAF percentage set forth on Sheet Nos. 54 and 61-64 of Northern's tariff. Northern's system has two Field Area mainline fuel recovery sections. Section 1 consists of mileage indicator districts (MIDs) 1 through 7 and section 2 consists of MIDs 8 though 16B. The mainline fuel percentages for these sections are postage stamp fuel rates (i.e., regardless of the distance or the amount of compression used, the fuel percentage for transportation between any set of receipt and delivery points within each of these sections is the same). Northern states that certain tariff provisions concerning firm and interruptible storage

[1] Fourth Revised Sheet No. 54B, 13 Revised Sheet No. 135D, Seventh Revised Sheet No. 142C and 19 Revised Sheet No. 144 of its FERC Gas Tariff, Fifth Revised Volume No. 1.

[2] Currently referred to as "Powertex", Northern proposes here, to rename this storage point as the MWP/Hockley storage point.

services permit shippers to transfer account balances without additional injection and withdrawal fees and no shipper charges if the transfers occur at the same storage point.

II. Details of Filing

3. Northern submits the revised tariff sheets in response to a Rate Schedule FDD customer request. According to Northern, the shipper requesting the exemption has electric generation facilities behind the MWP/Hockley and the Pinnacle Lea storage points and expects to experience regular daily swings between these two points. The proposed tariff revision will allow generating plants to cover their swings using storage account balances without Northern assessing additional fuel and UAF charges. Northern notes that it will still assess all other applicable transportation fees for such transfers.

4. In addition, Northern maintains that its proposal is similar to the postage stamp fuel concept currently in place in the Field Area. Northern further clarifies that its proposal limits the exemption to the MWP/Hockley and the Pinnacle Lea storage points because it established these points specifically for use by generating plants and the ultimate end-use of the stored volumes (i.e., electric generation) is known. According to Northern, because it cannot determine the ultimate end-use for stored volumes at other Field Area storage points,[3] it could not monitor or control storage account balances between those points for purposes of determining if the postage stamp fuel application was appropriate.

III. Public Notice, Intervention and Comments

5. Notice of Northern's filing issued on May 6, 2008. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210. 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 this proceeding or place additional burdens on existing parties. On May 13, 2008, Indicated Shippers[4] filed a protest and on May 20, 2008, Nexen Marketing U.S.A., Inc. (Nexen) filed a motion for leave to intervene out of time and a protest.

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[3] For example, the Permian and Mid-Continent storage points are associated with pooling points and the Cheyenne Plains and Enbridge-Pampa storage points are associated with pipeline interconnects.

[4] The Indicated Shippers are Chevron Natural Gas, A Division of Chevron U.S.A. Inc., Coral Energy Resources, LP and Occidental Energy Marketing, Inc.

6. In their protest, the Indicated Shippers argue that Northern's proposal is unduly discriminatory because it allows only one FDD customer[5] to avoid multiple fuel and UAF charges. They argue that Northern failed to explain why only one FDD customer should benefit under the proposed tariff revision. Indicated Shippers posit that one way to remedy this undue discrimination would be for Northern to charge all FDD account balance transfers fuel and UAF only once. In addition, Indicated Shippers reject Northern's argument that Northern cannot implement a similar proposal for other storage points because it would not know the ultimate end-use market for the storage volumes. Indicated Shippers aver that the ultimate end-use market for FDD account balance transfers is irrelevant to determining whether to assess fuel and/or UAF. Indicated Shippers note that, under Northern's tariff, each FDD account must have a firm or interruptible throughput contract associated with it[6] and once the FDD volumes leave storage through the associated throughput contract, Northern will know the ultimate end-use market and can assess fuel and UAF charges at that time. Finally, the Indicated Shippers argue that Northern failed to explain the impact of its proposal on the overall section 1 mainline fuel and UAF charges. They believe Northern will most likely charge other shippers higher fuel and UAF rates as a result of Northern's proposal. Indicated Shippers request that the Commission deny Northern's proposal or require Northern to offer a similar option to other FDD customers using account balance transfers.

7. Like Indicated Shippers, Nexen rejects Northern's argument that it is appropriate to limit the proposed fuel exemption to the two identified storage points. Similarly, Nexen opines that if the proposed tariff exemption is helpful in managing swing loads, then the identity of the market creating the swing is irrelevant. Furthermore, Nexen contends that Northern offers no operational analysis to support its proposal. According to Nexen, generation swings are more likely to be more volatile and of greater magnitude than swings associated with seasonal or heating loads. Nexen argues that if Northern can operationally accommodate generation-related swings, there is no apparent reason why it cannot accommodate less volatile seasonal or heating loads. Nexen asserts that Northern should not levy multiple fuel and UAF charges on account transfers at all because the account transfers are simply an accounting matter and no physical withdrawal, transport and reinjection occurs. Additionally, Nexen argues that fuel exemptions, especially given the current market prices of natural gas, are valuable to their beneficiaries and that Northern's proposal not only confers an undue competitive advantage on one customer but also unduly discriminates against other Field Area markets. Nexen requests that the

[5] Indicated Shippers identify this customer as Southwestern Public Service Company.

[6] Indicated Shippers Protest at 3 (citing Tenth Revised Sheet No. 135 and Seventh Revised Sheet No. 141 of Northern's Tariff, Fifth Revised Volume No. 1).

Commission either require Northern to expand it proposal to encompass storage account transfers between any Field Area storage points or demonstrate why it is operationally infeasible to do so.

IV. Discussion

8. For the reasons discussed below, the Commission accepts Northern's revised tariff sheets, effective June 1, 2008, as requested subject to condition.

9. The Commission is concerned that, as currently drafted, Northern's proposal may impermissibly discriminate in favor of one FDD customer. Northern states its proposal to collect fuel and UAF charges only once on account transfers between the MWP/Hockley and the Pinnacle Lea storage is simply to allow the generating plants located behind these two storage points to cover their swings using storage account balances without being assessed additional charges. Moreover, continues Northern, its proposal to limit the exemption to the two identified storage points recognizes the fact that the ultimate end-user (i.e., electric generation) will regularly experience daily swings. Since Northern would not know the ultimate end-use of the stored volumes at other storage points and therefore could not monitor or control storage account balances between those points, it proposes to only exempt charges at the specified storage points. Nevertheless, we are not completely persuaded by Northern's rationale for its revised tariff. We find that Northern has failed to adequately explain why adoption of a tariff exemption that would benefit one customer is not unduly discriminatory.

10. As Indicated Shippers note, under Northern's tariff, each FDD account must have an associated firm or interruptible throughput contract. Once the volumes leave storage through the associated throughput contract Northern should know the ultimate end-use market to monitor and control storage account balances. Moreover, as both protestors correctly argue, the ultimate end use is irrelevant to whether one customer versus another should be allowed an exemption from fuel and UAF charges. We agree with Nexen that if the proposed tariff exemption is helpful in managing swing loads, whether such swings are caused by generation or some other market is irrelevant. Northern also fails to offer any operational analysis to support the proposed storage exemption for the specified points. Accordingly, the Commission finds that Northern's proposal, as filed, appears to be unduly discriminatory. 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 account transfers between Northern's MWP/Hockley storage point and its Pinnacle Lea storage point should be assessed section 1 mainline fuel and unaccounted-for (UAF) charges only once for firm deferred delivery (FDD) account transfers; or (2) revising its tariff sheets setting forth its proposal in a manner that is not unduly discriminatory.

<u>The Commission orders</u>:

(A) Northern's revised Sheet Nos. 54B, 135D, 142C and 144 of its FERC Gas Tariff, Fifth Revised Volume No. 1 is hereby accepted, effective June 1, 2008, 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 account transfers between Northern's MWP/Hockley storage point and its Pinnacle Lea storage point should be assessed section 1 mainline fuel and unaccounted-for (UAF) charges only once for firm deferred delivery (FDD) account transfers; or (2) revising its tariff sheets setting forth its proposal in a manner that is not unduly discriminatory.

By the Commission.

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Kimberly D. Bose,
Secretary.