

125 FERC ¶ 61,159
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Maritimes & Northeast Pipeline, L.L.C.

Docket No. RP08-374-000

ORDER ESTABLISHING HEARING

(Issued November 10, 2008)

1. On May 12, 2008, Maritimes filed revised tariff sheets pursuant to section 4 of the Natural Gas Act (NGA) proposing new tariff provisions regarding gas quality and interchangeability (Tariff Filing). On June 11, 2008, the Commission issued an order¹ accepting and suspending the proposed tariff sheets, to be effective on November 11, 2008 or an earlier date to be later established by subsequent order, and establishing a technical conference. On July 15, 2008, the Commission held a technical conference to address the issues raised by Maritimes' filing. At the conclusion of the technical conference, the parties agreed to develop and submit to the Commission a list of issues requiring Commission resolution. Maritimes submitted to the Commission a list of contested issues on August 4, 2008 (Stipulated Issues). Parties filed comments and reply comments on the Stipulated Issues on August 29 and September 12, 2008, respectively. This order resolves most of the Stipulated Issues and sets two of the Stipulated Issues for hearing.

Background

2. As noted, Maritimes submitted its Tariff Filing on May 12, 2008. Maritimes stated that it filed the revisions to be consistent with the future operations of its expanded pipeline system, which is expected to receive substantial new regasified liquefied natural gas (LNG) supplies from the Canaport LNG terminal currently being constructed in Saint John, New Brunswick.

¹ *Maritimes & Northeast Pipeline, L.L.C.*, 123 FERC ¶ 61,256 (2008) (Suspension Order).

3. In the Tariff Filing, Maritimes stated that its starting point for its proposed specifications was the interim guidelines from the White Paper on Natural Gas Interchangeability and Non-Combustion End Use (Interim Guidelines).² Maritimes asserted that it also relied on the Commission's *Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Natural Gas Pipeline Company Tariffs* (Policy Statement) issued on June 15, 2006.³ Maritimes stated that its proposal is based on Maritimes' historical data and the Interim Guidelines, but also reflects the input of the participants in the collaborative process, as well as significant compromise among various stakeholders in an effort to reach a consensus on the filing.

4. Maritimes stated in the Tariff Filing that its tariff currently specifies a combined limit of four percent by volume for total non-hydrocarbon gas and a 0.2 percent limit on oxygen, neither of which Maritimes is proposing to change. Maritimes also noted that the Interim Guidelines suggest a four percent limit by volume on total non-hydrocarbon gas (inert gas) but that it was proposing more specific limits than the Interim Guidelines for carbon dioxide and combined nitrogen and oxygen, as an accommodation to LDCs and electric generators on its system, and to the downstream pipeline markets. A summary of the proposed gas quality and interchangeability specifications from the Tariff Filing is presented below.

Summary of Maritimes' Current and Proposed Gas Quality and Interchangeability Limits

Specification	Maritimes' Tariff Limit	Maritimes' Proposed Tariff Limit
Heating Value	Minimum: 967 Btu/scf Maximum: 1100 Btu/scf	Minimum: 967 Btu/scf Maximum: 1110 Btu/scf
Wobbe Index	No limits	Minimum: 1314 Btu/scf Maximum: 1400 Btu/scf

² Submitted to the Commission on February 28, 2005 in Docket No. PL04-3-000 by the NGC+ Interchangeability Work Group.

³ 115 FERC ¶ 61,325 (2006).

Specification	Maritimes' Tariff Limit	Maritimes' Proposed Tariff Limit
Carbon Dioxide	Maximum: 3.0 % vol	Maximum: 2.0 %* vol
Oxygen + Nitrogen	No limits	Maximum: 2.75 % vol
Carbon Dioxide + Nitrogen + Other Inerts	Maximum: 4.0 % vol	Maximum: 4.0 % vol
Oxygen	Maximum: 0.2 % vol	Maximum: 0.2 % vol
Hydrogen Sulphide	Maximum: .25 grain/100 cf	Maximum: 0.25 grain/100 cf
Sulphur	Maximum: 20 grains/100 cf	Maximum: 2 grains/100 cf
Ethanes plus (C2+)	No limits	Maximum: 12 % vol
Butanes plus (C4+)	No limits	Maximum: 1.5 % vol

* According to the Tariff Filing, Maritimes will allow 2.25 percent of carbon dioxide if it determines that it can commingle the gas so that gas delivered into a downstream pipeline contains no more than 2.0 percent by volume.

5. Maritimes also proposed in the Tariff Filing to modify section 12.5 of the General Terms and Conditions (GT&C) of its tariff. Maritimes proposed to modify section 12.5(a) to permit Maritimes to waive its gas quality receipt specifications when interruption of supply available to the system due to non-conforming gas would result in quantities available equal to or less than the directly connected LDC and end-use markets. The modified provision also obligates Maritimes to post any such waiver on its website. Maritimes also proposed to modify section 12.5(b) of its GT&C so that Maritimes may waive its gas quality specifications for receipts provided that the out-of-specification gas does not adversely affect the system or system operations and provided that, once blended, the commingled stream at any delivery point will meet the tariff quality specifications.

6. As noted above, on June 11, 2008, the Commission issued the Suspension Order, and on July 15, 2008, the Commission held a technical conference to address the issues raised by Maritimes' filing. On August 4, 2008, Maritimes submitted to the Commission the following list of contested issues, stating that it and the other parties to the proceeding agree that only the issues on the list require resolution by the Commission:

1. **Wobbe Number Range:** What is the appropriate Wobbe Number upper limit?
 2. **Wobbe Number Rate of Change:** Should there be a Wobbe Number rate of change limit? If so, what should that be?
 3. **Waiver Provision:** What is the appropriate change, if any, to the current waiver language of Section 12.5 of Maritimes' General Terms and Conditions?
 4. **Carbon Dioxide:** What is the appropriate limit on carbon dioxide?
 5. **Hourly Chromatograph Postings:** What additional informational posting requirements, if any, should be added to the Maritimes' tariff?
 6. **Sulfur:** What is the appropriate limit on sulfur?
7. Maritimes states that it circulated the Stipulation to all parties in this proceeding, and that every party agreed to support the Stipulation, agreed not to oppose the Stipulation, or did not respond to Maritimes' communications regarding the Stipulation.
8. Comments on the Stipulated Issues were submitted on August 29, 2008, and reply comments on September 12, 2008. Commenting parties are: Maritimes, National Grid Gas Delivery Companies (National Grid),⁴ Casco Bay Energy Company, LLC (Casco Bay), EnCana Corporation (EnCana), New England Power Generators Association (NEPGA), Mobil Natural Gas Inc. (Mobil), Bucksport Energy, LLC (Bucksport), Distrigas of Massachusetts LLC (Distrigas), Repsol Energy North America Corporation (Repsol), Shell NA LNG LLC (Shell), and Calpine Energy Services, L.P. (Calpine).⁵

⁴ The Brooklyn Union Gas Company, KeySpan Gas East Corp., Boston Gas Company, Colonial Gas Company, Essex Gas Company, EnergyNorth Natural Gas Inc., Niagara Mohawk Power Corp., and The Narragansett Electric Company.

⁵ On September 25, 2008, Maritimes filed a *Leave to Answer and Answer of Maritimes & Northeast Pipeline, L.L.C.* to Calpine's Reply Comments on the Stipulated Issues. On October 3, 2008, Calpine filed a *Motion to Reject and, in the Alternative, Answer of Calpine Energy Services* to reply to Maritimes' September 25, 2008 answer. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 213(a)(2) prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We find both Maritimes' and Calpine's answers as untimely and not providing information that contributed to our decision herein, and therefore we reject them.

9. In addition, on September 2, 2008, Maritimes filed a notice with the Commission stating that Maritimes has developed and implemented the necessary enhancements to its LINK® system to allow for the posting of hourly chromatograph data, and that this data was available on line as of September 2, 2008. This was a fulfillment of a proposal by Maritimes to provide advance notice to customers of changes to the quality of the gas flowing on its system so as to allow customers to take any necessary steps to address changes in gas quality.

10. In its initial comments, Maritimes stated that post technical conference discussions between the parties yielded consensus on some of the Stipulated Issues. The Commission addresses each of the Stipulated Issues in turn below.

1. Wobbe Number Range

Comments

11. Maritimes, National Grid, Mobil, Repsol, Bucksport and Shell support Maritimes' proposed Wobbe upper limit of 1400. Casco Bay states it believes it can operate within the proposed parameters. Supporting commenters state that the proposed Wobbe Number limits of 1314 to 1400 with variability of plus or minus 3.17 percent are consistent with the NGC+ Interchangeability Whitepaper, the Interim Guidelines, the Policy Statement and the historical operations on Maritimes' system. Supporting commenters state that the proposal was reached through the collaborative process, and reasonably balances maximizing supply while minimizing economic effects on downstream end-users.

12. Calpine argues that the Wobbe upper limit should be 1390. Calpine states that Maritimes' proposed Wobbe specifications are inconsistent with NGA section 4 requirements, and Maritimes has failed to demonstrate that its proposed upper limit is based on historical considerations and technical requirements. Calpine states that Maritimes' supporting evidence is both inadequate to support its proposal and disputed. They assert that the graphs provided by Maritimes to illustrate actual ranges of a variety of gas components are too compressed to permit any third party to verify whether they support the averages set forth on the summary charts, and that Maritimes failed to remedy this failing at the technical conference. Calpine asserts that actual average hourly data for the entire historical period for each point is needed to determine whether the proposed Wobbe upper limit is consistent with Maritimes' historical operations. Calpine asserts that Maritimes has further failed to demonstrate that its proposed upper Wobbe limit is required to attract adequate LNG supplies to the Canaport facility, noting that there was not a source of LNG in the Repsol presentation of September 27, 2006 with a Wobbe Index higher than 1390 and lower than 1400. In response to the argument that supplies must be within the specifications of downstream pipelines, Calpine observes that a more restrictive requirement upstream does not render the gas incompatible downstream.

13. National Grid, in its reply to Calpine, asserts that if Maritimes' proposed Wobbe Number upper limit of 1400 is found to be just and reasonable under section 4 of the NGA the "Commission must accept it, regardless of whether other just and reasonable [tariff limits, such as an upper limit of 1390] may exist."⁶ Shell replies that Calpine's reference to Repsol's presentation is overly simplistic and the conclusions are incorrect. Repsol states that the Wobbe value of LNG from a particular source varies from cargo to cargo and over time, and cannot be predicted with the pinpoint precision presumed by Calpine, and could possibly yield Wobbe values within the 1390 to 1400 range.

14. Maritimes states that Calpine's argument for a Wobbe Number of 1390 is a collateral attack on the Commission's Policy Statement, which provides that the Interim Guidelines are to be used as a starting point for any collaborative process. Maritimes notes that the Interim Guidelines provide for an upper Wobbe limit of 1400. Maritimes states that to argue for another Wobbe cap requires a showing of scientific reasons. Maritimes states that Calpine's argument is related to the fact that it has GE 7FA turbines, which are very common all over the US, thus presumably requiring altering the 1400 cap from the Interim Guidelines for all pipelines that have GE 7FA turbines connected to them, essentially changing the Interim Guidelines and the Policy Statement. Maritimes asserts that the Commission should find that Calpine's argument is better addressed in a generic rulemaking or policy proceeding, not in an individual pipeline's gas quality proceeding.

15. Calpine replies that neither Maritimes, nor Repsol nor Shell provides evidentiary support for why a Wobbe upper limit of 1390 would not work just as well as 1400.

Discussion

16. Upon review of the comments and reply comments on this issue, the Commission finds they raise questions of fact that are best resolved in the context of an evidentiary hearing. Therefore, the Commission will establish a hearing in this proceeding before an Administrative Law Judge to develop a record on Stipulated Issue No. 1.

2. Wobbe Number Rate of Change

Comments

17. Calpine asserts that an upper Wobbe limit of 1390 must be combined with a Wobbe Number rate of change specification of no more than 4 percent per minute. Calpine disputes the claims that effective auto-tuning devices are now available and fully

⁶ National Grid Reply Comments at 5 (citing *Transcontinental Gas Pipeline Corp.*, 94 FERC ¶ 61,362 (2001)).

functional. Calpine states that, even assuming the technology were today fully effective and available to all generators on the pipeline, which Calpine disputes, GE has recently advised through an e-mail that this technology will only effectively operate with a 4 percent rate of change. Calpine states that the future gas supply mix could include sources from around the world, with a varying fuel mix, and standards must be in place to limit the frequency and rate of these supply changes. Calpine states that a 4 percent rate of change is critical to maintaining the operational reliability and performance of Calpine's turbines.

18. Shell, Repsol, National Grid and Maritimes oppose any Wobbe Number rate of change. These commenters state that many variables outside of Maritimes' control make rate of change limitations unworkable. Maritimes states that it cannot implement or enforce a Wobbe Number rate of change because of timing, operational and market issues, and certainly not at the level of precision requested by Calpine. Maritimes states that if a pipeline cannot implement and enforce a tariff provision, the tariff provision should not be required in the tariff. Further, Maritimes states that if it became aware that a certain gas supply caused a swing in the Wobbe Number based on a chromatograph reading, there would be no mechanism for stopping the flow of molecules causing the swing without stopping flow for the entire mainline, with obvious adverse consequences to the Maritimes system and to Maritimes' customers. Shell and Repsol state that a rate of change standard is unsupported by the facts, and would be unrealistic and impracticable for a system like Maritimes that has limited sources of supply. National Grid adds that Calpine's proposal falls under NGA section 5, and National Grid and Maritimes state that Calpine has not explained how or why either Maritimes' existing tariff or the tariffs of connected pipelines have suddenly become unjust and unreasonable simply because they do not include Wobbe Number rate of change provisions. Repsol and Shell dispute Calpine's assertion that auto-tuning equipment does not work. Shell states that Calpine has modified its turbines by installing a number of non-OEM components, and therefore GE has advised Calpine that the use of the Wide Wobbe system on its units, with a Wobbe Number variability of +/- 5% is not an available option. Shell states that it is important to note that Calpine chose to modify its equipment in such a manner such that the warranty would no longer apply.

19. Calpine states that a rate of change specification is needed because no rebuttal evidence has been presented to refute that: (1) DLN turbines locally and nationally have been operating in low variation fuel quality environments; (2) rapid fuel variability on Maritimes has caused unit shutdowns, and could destroy or damage turbine components; (3) OEM's recognize that fuel variability is a key factor in insuring reliable and safe operation of their equipment; (4) rate of change of Wobbe Index is of equal importance to absolute level of Wobbe range; and (5) there is no effective auto-tuning technology available today.

Discussion

20. The Commission does not find that there is an issue of fact whether there should be a Wobbe Number rate of change limitation as part of Maritimes' tariff; and finds that Calpine's proposed tariff change would have unreasonable results.

21. Calpine indicates that it is prepared to demonstrate that its generators are sensitive to Wobbe Number rates of change. Because of this sensitivity, it requests that Maritimes make part of its tariff and operate in such a manner that the Wobbe Number of delivered gas not vary by more than 4 percent per minute. Several parties challenge Calpine's allegations. Be that as it may, Calpine's proposed solution is for Maritimes to change its operations to ensure a limited delivered Wobbe Number rate of change.

22. Maritimes' response is that it, the operator of the pipeline, cannot control the Wobbe Number rate of change once the gas has entered its system.⁷ Maritimes' system is approximately 300 miles in length extending from the Canadian border with the United States near Woodland, Maine (Baileyville meter station) to Dracut and Beverly meter stations in northeastern Massachusetts. There are only two points of receipt into the system: the Baileyville meter station and, approximately 200 miles downstream, the Westbrook interconnection with Portland Natural Gas Transmission System (PNGTS).⁸ Baileyville currently receives gas from the Canadian pipeline, Maritimes & Northeast Pipeline Limited Partnership. This gas is largely sourced from the Sable Offshore Energy Project, though there is some gas from fields in New Brunswick. Upon the in-service date of Maritimes Phase IV project, Baileyville will also receive revaporized LNG from the Canaport LNG facility through an interconnect with the Canadian pipeline, Emera Brunswick Pipeline Company Ltd. Reposol is the sole firm shipper on Maritimes' system for volumes received from the Brunswick Pipeline.⁹ Gas flow is only from north to south. There are no null points on the system.¹⁰ There are no storage fields or gas processors attached to the Maritimes system that could be used to blend or modify the gas

⁷ Maritimes' Initial Comments at p. 8.

⁸ Maritimes Application at September 27, 2006 Presentation, page titled "System Map."

⁹ Maritimes' Application, Babcock Affidavit at P 4-5, and September 27, 2006 Presentation, page titled "Phase IV Expansion." *See also Maritimes & Northeast Pipeline, L.L.C.*, 118 FERC ¶ 61,137 (2007) wherein the Commission certificated Maritimes' Phase IV expansion.

¹⁰ Maritimes' Application, MacPherson Affidavit at P 6.

composition of the gas stream.¹¹ Once gas has entered the Maritimes' system at either Baileyville or Westbrook, Maritimes states, the delivered gas composition will not vary significantly.¹²

23. Maritimes states that there are three reasons why it cannot operationally implement a Wobbe Number rate of change on its system. First, Maritimes states that it lacks the real-time data and capabilities to control pipeline flow in such a manner. Once measurements have been made and processed, and an evaluation made that there was a rapid change in Wobbe Number, the gas will already be in the system. Once in the system, Maritimes has only one option to rectify the problem: shut in the pipeline system.¹³ Second, there are operational limitations. Maritimes states that the composition of its gas is a function of the gas it receives from its two, soon to be three, pipeline sources. What it receives from these pipelines is a function of what its shippers deliver to Maritimes. As nominations change, the proportion of gas from each source will change. Maritimes states that even if it had information as to what the Wobbe Number rate of change would be arriving, its only option would be to cut receipts. This action could have unpredictable results on the Wobbe Number rate of change as shippers react to the cuts with new nominations. If non-conforming gas makes it into the system, Maritimes states that it is not possible to predict with the level of precision proposed by Calpine when the non-conforming gas will arrive at any given point on Maritimes' system.¹⁴ Third, Maritimes argues that the rate of change criteria would be unenforceable in practice. The only tool available to Maritimes is to shut in supply. That would have serious ramifications on natural gas supply in northeast United States for all customer classes.¹⁵

24. The Commission finds no issue of fact as to Maritimes operational inability to control a Wobbe Number rate of change. Maritimes has only two receipt points. It does not control the source of supply upstream of these two points. Maritimes lacks access to

¹¹ *Id.* at September 27, 2006 Presentation, pages titled "System Map" and "Phase IV Expansion."

¹² See Maritimes' "corridor" gas quality analyses, Maritimes' Application, April 11, and 24, 2008 Presentations at pp. 3-13, wherein the gas quality calculations for each of the Baileyville to Westbrook and Westbrook to Dracut segments are for the whole segment, not delivery point by delivery point.

¹³ Maritimes' Initial Comments at p. 10; MacPherson Supplemental Affidavit at P 4-7.

¹⁴ MacPherson Supplemental Affidavit at P 8-9.

¹⁵ *Id.* P 10-11.

alternative sources of gas, gas processing, and gas blending that could be used to manage rates of change. Maritimes lacks the real-time data and controls necessary to identify and react to Wobbe Number rate of change. The only tools available to Maritimes to enforce such a gas quality standard would be to shut in the pipeline or shut off receipts.

25. Calpine argues that the Commission should require Maritimes to propose a Wobbe Number rate of change consistent with the precedent established in *AES*.¹⁶ Calpine fails to cite where in *AES* the Commission established such a policy. In fact, in *AES*, it was Florida Gas that proposed a receipt point Wobbe Number rate of change tariff condition.¹⁷ Further, the standard that was accepted by the Commission did not address Wobbe Number rate of change at delivery points.¹⁸

26. Calpine argues that in the absence of such a rate of change standard, Calpine's generators might be damaged or have to shut down if the Wobbe Number rate of change were to exceed its proposed limit. Calpine's proposal, however, will not solve Calpine's alleged problem. Whether or not the Wobbe Number rate of change was adopted, the end result would be the same for Calpine: it would not receive gas from Maritimes. Under the existing tariff, Calpine would presumably refuse receipt of out of specification gas to protect its facilities. If the tariff provision were in place, Maritimes would cut all supply and/or deliveries, and no one, including Calpine, could receive gas.

27. Calpine's proposal would also adversely affect the reliability of gas supply into the New England market area. Maritimes has only one tool to enforce a Wobbe Number rate of change provision: to stop the transportation of gas. It cannot distinguish between customers, as the gas comes from up-stream pipelines in a commingled stream. Cutting all firm and interruptible customers across three states from their purchased and available gas supply because one end user *might* experience difficulties is not reasonable.

28. In conclusion, the Commission finds that Calpine has failed to demonstrate why Maritimes' existing tariff, which lacks a Wobbe Number rate of change, is no longer just and reasonable and why its proposal is just and reasonable.

3. Waiver Provision

29. In the Tariff Filing, Maritimes proposed to modify its existing waiver provision. Specifically, Maritimes proposed modified language for section 12.5(a) of its GT&C that

¹⁶ *AES Ocean Express LLC v. Florida Gas Transmission Company*, 119 FERC ¶ 61,075 (2007).

¹⁷ *Id.* P 140.

¹⁸ *Id.* P 144.

would enable it to grant a waiver of its gas quality specifications “to the extent that the interruption of supply available to Pipeline’s system results in volumes available for flow on the system that, in Pipeline’s reasonable determination, are equal to or less than the aggregate quantity of local distribution company and end-use markets connected directly to the system...”¹⁹ Under the proposed language, Maritimes would be able to accept non-conforming gas on its system in the situation described above, where supplies would not otherwise be available to meet its customers’ needs. Maritimes also proposed to post any such waivers, and eliminated what it considered to be unnecessary language regarding processing.²⁰

30. Maritimes also proposed an additional waiver right in new section 12.5(b) that provides that Maritimes may waive the quality specifications of gas entering the system “provided that the acceptance of such gas shall not adversely affect Pipeline’s facilities or operations, and further provided that once such gas has been blended, to the extent blending occurs, the commingled gas stream at any delivery point on Pipeline’s system shall be compliant with the gas quality specifications set forth in section 12...” Again Maritimes proposed to post any such waivers and to apply the proposed provision in a non-discriminatory manner.

Comments

31. Calpine states in its initial comments that the new waiver language of section 12.5(a) appears to allow waiver of gas quality specifications where there is insufficient supply available to meet the demands of downstream pipeline markets. Calpine asserts that the waiver discretion should be limited to meeting the market demand of Maritimes’ customers only. Calpine states that Maritimes offered no evidentiary basis for the requested changes to section 12.5(a), and these changes should be rejected. Calpine also complains that under revised section 12.5(a), customers tendering non-conforming gas will no longer have any obligation to process the gas or to bear the cost of processing.

32. In its initial comments, Calpine also reiterated its protest claim that Maritimes’ proposed section 12.5(b) waiver language must be narrowed in order to avoid placing excessive risk on end users. Calpine asserts in particular that the language “once such gas has been blended, to the extent blending occurs,”²¹ appears to allow a waiver for all gas injected into the pipeline, even if the gas cannot meet the quality specifications at downstream points, so long as any effort whatsoever is made to blend the gas. Calpine requests that the Commission reject this language. Calpine does acknowledge, however,

¹⁹ Second Revised Sheet No. 272, section 12.5(a).

²⁰ *Id.*

²¹ First Revised Sheet No. 273.

that Maritimes explained in a June 5, 2008 answer that Maritimes' intent was that the language only allowed for a waiver to receive non-conforming gas when there is as sufficient volume of conforming gas on the system such that commingling of the gas would result in non-conforming gas becoming conforming gas at the first downstream point of delivery to end-users.²² Calpine also asserts that section 12.5 provides Maritimes a blank check to flow off-specification gas whenever it chooses, by merely posting notice on its website.

33. In its initial comments, Maritimes states that discussions with generators and major potential suppliers after the technical conference resulted in agreement upon changes to the waiver language proposed in the Tariff Filing to place further limitations on its proposed waiver capabilities. Specifically, Maritimes proposes to clarify the section 12.5(a) language quoted above as follows:

to the extent that [the] any interruption of supply physically available for delivery to Pipeline's system [results] would result in volumes physically available for flow on the system that, in Pipeline's reasonable determination, are [equal to or]-less than the aggregate quantity of local distribution company and end-use markets connected directly to the system....²³

34. Maritimes also proposed in its initial comments changes to 12.5(a) to place absolute limits with respect to the waiver on four tariff specifications: a Wobbe Number range of 1300 to 1410, a total heating value limit of 1120 British Thermal Units (Btu) per cubic foot, a carbon dioxide limit of 2.9 percent and a sulphur content limit of five grains per one-hundred cubic feet.²⁴ Pursuant to the new limits, Maritimes is not able to waive its gas quality specifications to allow gas on its system that exceeds these limits.

35. Maritimes also proposed per *pro forma* tariff sheets attached to its initial filing to modify the section 12.5(b) language proposed in the Tariff Filing as follows:

²² Calpine Initial Comments at 15 and n.22 (*quoting Motion for Leave to Answer and Answer of Maritimes & Northeast Pipeline, L.L.C.*, dated June 5, 2008).

²³ *Pro forma* Second Revised Sheet No. 272. Deleted language is indicated by brackets and added language is underlined.

²⁴ *Id.* Deleted language is indicated by brackets and added language is underlined.

provided that the acceptance of such gas shall not adversely affect Pipeline's facilities or operations, and further provided that [once such gas has been blended, to the extent blending occurs,] the commingled gas stream at any [delivery] point on Pipeline's system where Maritimes can deliver gas, including any local distribution company or end-use market connected directly to the system, as well as any lateral or downstream pipeline, shall be compliant with the gas quality specifications set forth in section 12.²⁵

36. In its reply comments, Maritimes states that these proposed *pro forma* changes to its waiver provisions address Calpine's concerns with Maritimes' original proposal. Maritimes explains that the proposed changes to GT&C section 12.5(a) make clear that it can only grant a waiver under section 12.5(a) when markets tied directly to Maritimes, not on downstream pipelines, would not otherwise have enough gas to serve their load. It further states that the proposed changes to GT&C section 12.5 (b) make clear that a waiver can only be granted to the extent Maritimes would continue to be able to deliver conforming gas at its delivery points.

37. EnCana replies that Calpine never responded to the fact that a waiver would only be permitted when adequate supplies are not available to Maritimes' customers. EnCana states that if adequate supplies are not available, and the flexibility offered by the proposed waiver is not available, then all end-users face the risk of having to shut down their facilities even if they are able to burn gas with a slightly higher carbon dioxide content. EnCana states that Calpine's position is that if gas available does not suit Calpine's needs, then all of Maritimes' customers should be denied the gas.

Discussion

38. The Commission finds that there is no issue of fact regarding the changes to the waiver language of section 12.5 of the GT&C of Maritimes' tariff and finds that Maritimes' proposed changes to section 12.5, as revised in its initial comments, are just and reasonable.

39. Calpine contends that proposed section 12.5(a) is objectionable because it would provide a "blank check" to flow off-specification gas and would allow Maritimes to waive gas quality specifications where there is insufficient supply to meet the demands of downstream pipeline markets, not just when there is insufficient supply to meet the market demands of Maritimes' customers only. Maritimes states in its reply comments that the proposed *pro forma* tariff sheets attached to its initial comments contain limitations as to the scope of Maritimes' ability to exercise the waiver and clarify that the waiver will be limited to Maritimes' customers only, and will not be used to meet the

²⁵ *Pro forma* First Revised Sheet No. 273 to FERC Gas Tariff, First Revised Volume No. 1.

demands of downstream pipeline markets. The Commission finds that Maritimes' unchallenged reply and its proposed modifications and clarifications adequately address Calpine's contentions.

40. Calpine also complains that section 12.5(b) places an excessive risk on end-users because the language "once such gas has been blended, to the extent blending occurs, the commingled gas stream at any delivery point on Pipeline's system shall be compliant with the gas quality specifications set forth in Section 12" would allow for gas that does not meet Maritimes' tariff specifications to be delivered to end users. Maritimes, in its initial comments, made further proposed changes to section 12.5(b) that make clear that in order for Maritimes to accept non-conforming gas that would later be commingled, the commingled gas would have to conform to the gas quality specifications at all delivery points.²⁶ Moreover, Maritimes proposed to strike the language about which Calpine complained. Calpine makes no further argument on this point in its reply comments.

41. As noted above, Maritimes also states in its initial comments that based on discussions with generators and major suppliers to its system, it is proposing language to place absolute limits on the Wobbe Number, the Total Heating Value, carbon dioxide content and sulphur, such that Maritimes cannot accept non-conforming gas that would exceed the agreed-upon limits. No party opposed those modifications.²⁷ Accordingly, the Commission finds Maritimes' proposed modifications to section 12.5 of its GT&C to be just and reasonable, subject to the condition that Maritimes revise its proposal as set forth in *pro forma* tariff sheet numbers 272 and 273. Maritimes may include such language on revised actual tariff sheets submitted with its motion to place its suspended tariff sheets into effect.

4. Carbon Dioxide

Comments

42. Mobil initially protested Maritimes' proposal to lower its carbon dioxide specification from 3 percent to 2 percent but stated in its initial comments that the parties had made significant progress toward resolving Mobil's concerns. In its reply comments, Mobil states that it has reached a resolution of its concerns with Maritimes on this issue and thus withdraws its protests to Maritimes' proposed carbon dioxide specification. Casco Bay also initially expressed concerns with the proposed carbon dioxide specification. Casco Bay states in its initial comments, however, that after discussions with Maritimes, it is willing to accept the proposed specification, based on Maritimes' proposal to implement a provision in section 12.5(a) of its GT&C (the waiver section of

²⁶ See *pro forma* First Revised Sheet No. 273.

²⁷ Maritimes' Initial Comments at p. 4.

Maritimes' tariff) whereby Maritimes could not waive its gas quality specifications to allow gas to enter the system that has a carbon dioxide content by volume of greater than 2.9 percent. As noted above, the Commission finds Maritimes' changes to section 12.5 to be just and reasonable. No other party contested Maritimes' proposal to reduce the carbon dioxide limit from 3 percent to 2 percent.

Discussion

43. Upon review of the comments and reply comments filed on this issue, it appears that no party currently opposes the proposed specification for carbon dioxide of 2 percent. Accordingly, the Commission finds that Maritimes' proposed carbon dioxide specification of 2 percent is just and reasonable.

5. Hourly Chromatograph Postings

Comments

44. In its tariff filing, Maritimes stated that as a result of discussions with electric generators, it was proposing to change its informational postings website by providing hourly average chromatograph postings for mainline chromatographs on the Maritimes system at Baileyville near the US-Canada border, at the interconnection between Maritimes and PNGTS at Westbrook and at the interconnection between Maritimes and Algonquin at Beverly. Maritimes explained that the proposed postings for any hour would be the average readings taken each hour during the immediately preceding hour. On September 2, 2008, Maritimes filed notice with the Commission that it had completed all the enhancements to its website to provide the hourly data as proposed in its Tariff Filing and that the data was available on its website as of September 2, 2008.

45. All commenters, except Calpine, either support, or have no comment on Maritimes' proposal. While Calpine supports the hourly postings, it urges the Commission to require Maritimes to include this new hourly posting undertaking in its tariff. Calpine also states that Maritimes' proposed locations do not cover the flow of gas in the pipeline to benefit the greatest number of end users, and requests that the Commission require Maritimes to commit to modify this tariff provision to include additional posting locations.

46. Maritimes opposes adding an hourly chromatograph posting section to its tariff, stating that these postings are not required by any regulation or industry practice, and that codifying the proposal in this manner will limit Maritimes' ability to voluntarily implement enhancements. Maritimes states that it proposed these postings in an effort to mitigate any rate of change concerns on its system, and it has already committed to implement them. Maritimes states that it expects to implement changes based upon experience gained in the initial implementation, and as new technology becomes available. Maritimes asserts that not codifying all of the specific requirements in the

tariff will ensure that it has the flexibility to voluntarily implement enhancements expeditiously without the advance time and potential uncertainty involved in having to obtain formal Commission approval for tariff modifications.

47. Calpine replies that it disagrees with Maritimes on how detailed the data should be, how many data points along the pipeline should be provided, and whether Maritimes should memorialize its obligation to provide such data in its tariff.

48. Maritimes states that its tariff is not unjust and unreasonable without a requirement for such postings, and asserts that Calpine has the burden under NGA section 5 to prove otherwise. Maritimes notes that no other pipeline in the country has such posting requirements in its tariff.

Discussion

49. Upon review of the comments and reply comments on this issue, the Commission finds they raise questions of fact that are best resolved in the context of an evidentiary hearing. For example, Maritimes and Calpine raise issues of fact as to the number of points on its system for which Maritimes' should provide data, the location of those points and the level of detail that Maritimes should provide. Therefore, the Commission will establish a hearing in this proceeding before an Administrative Law Judge to develop a record on Stipulated Issue No. 5.

6. Sulphur

Comments

50. In its Tariff Filing, Maritimes proposed to lower the sulphur limit on its system from 20 grains per 100 cubic feet to 2 grains per 100 cubic feet. Maritimes asserted that the lower limit is consistent with historical data and accommodates downstream markets and concerns expressed during the collaborative process.

51. In its initial comments, Casco Bay reiterated its original concern that Maritimes' proposal to reduce the sulphur limit on its system not be subject to the waiver provisions of section 12.5 of Maritimes GT&C. Casco Bay commented that subsequent to the technical conference it had discussions with Maritimes. Casco Bay noted that a sulphur level of four to five grains per 100 cubic feet would require it to take a generating unit off line. According to Casco Bay, further discussions between the parties led to an agreement by Maritimes that it would include an absolute cap of five grains per 100 units in section 12.5 of the GT&C of Maritimes' tariff and a representation from Maritimes that it did not envision the sulphur content exceeding two grains except in very rare

instances.²⁸ Based on those representations, Casco Bay states that it does not oppose the sulphur limit proposed by Maritimes.

Discussion

52. It appears that no party currently opposes Maritimes' proposed specification for sulphur of two (2) grains per one-hundred (100) cubic feet. Accordingly, the Commission finds that Maritimes' proposed sulphur specification of two (2) grains per one-hundred cubic feet is just and reasonable.

7. Transition Period

Comments

53. Although not included as one of the Stipulated Issues, NEPGA requested in its initial comments that the Commission require Maritimes to implement its gas quality specifications on a phased-in basis, similar to that adopted in Article II of the Settlement in Docket No. RP07-443 involving Iroquois Gas Transmission System, L.P. NEPGA asserts that adopting the same approach here would give end use customers and delivery point operators time to prepare for the receipt of gas with a wider range of specifications, and would provide for a clear transition period for entities to make adjustments in anticipation of the new specifications.

54. Maritimes states that NEPGA's proposal is unclear as to which gas quality specifications should be phased-in, and what the phased limits would be or how long they would be in place. Maritimes states that the introduction of such an extreme measure would surely disrupt what it considers to be the existing compromise between the parties. Maritimes also argues that NEPGA has not demonstrated that Maritimes' proposal is not just and reasonable, or that NEPGA's proposal is just and reasonable. EnCana argues likewise that neither of these findings would be justified based on the record in this proceeding.

55. Repsol and National Grid reply that the phased implementation approach adopted in the Iroquois proceeding was part of a settlement, and thus does not establish precedent or create a settled practice and has no binding affect on any issue in any other proceeding. National Grid also points out that the phased-in approach adopted in Iroquois was linked to the expected introduction of new supplies of LNG in January of 2012. In addition, National Grid disputes the claim that the three years is needed to investigate necessary changes to Maritimes' system, noting that the active parties to this proceeding have

²⁸ As noted above, Maritimes did propose to modify the waiver provision in section 12.5 of its GT&C to establish an absolute cap on sulphur in the *pro forma* tariff sheets submitted with its initial comments.

already thoroughly investigated these issues and engaged in extensive discussions and negotiations over a 2 year period, resulting in compromises reflected in Maritimes' proposal.

56. Repsol reminds the Commission that it has invested about \$1 billion to construct its Canaport LNG facilities, which are scheduled to commence November 1, 2008, and claims that a 3 year delay would be wholly incompatible with the imminent start-up of the Canaport project. Repsol urges the Commission to reject NEPGA's proposal.

Discussion

57. The Commission denies NEPGA's request. The Commission has determined on the merits that there are no issues of fact with respect to several of the Stipulated Issues, and has found several of Maritimes' proposed standards to be just and reasonable. The Commission will not require Maritimes to delay implementation of specifications that we have determined are just and reasonable. With regard to the issues set for hearing, the Commission lacks statutory authority to disallow Maritimes from putting its tariff sheets into effect at the end of the maximum suspension period.

8. Future Re-Examination

Comments

58. Distrigas states that while it supports Maritimes proposal, it requests that the Commission require Maritimes to re-examine the gas quality and interchangeability standards at some point in the future, for example in two years, to determine the effectiveness of the standards. Distrigas asserts that this step is necessary to ensure the continued safe and efficient operation of Maritimes' system. Distrigas also claims that re-examining the standards would provide a forum for customers and stakeholders to bring to the attention of the Commission or Maritimes minor gas quality and interchangeability issues that they might not otherwise raise.

59. National Grid replies that a two year re-examination is unreasonable and unnecessary, and would create uncertainty for supply decisions. National Grid states that actual experience on Maritimes' system will indicate what, if any, changes are truly needed, and Maritimes can propose tariff revisions under NGA section 4, or any other party can propose changes under NGA section 5.

Discussion

60. The Commission denies Distrigas' request. The Commission finds no reason at this point to require Maritimes to re-examine the standards approved herein. As noted by National Grid, such an approach would create uncertainty with regard to Maritimes' gas quality and interchangeability. The Commission anticipates that tariff gas quality and

interchangeability standards may change in the future in recognition of changing requirements and technology.²⁹ Maritimes may decide at that point to file to revise its standards. To the extent any customer experiences operational or other problems related to Maritimes' gas quality or interchangeability standards, it may file to propose changes to those specifications pursuant to section 5 of the NGA.³⁰

Hearing

61. As discussed above, the Commission finds that the comments and reply comments to the list of Stipulated Issues raise questions of fact with respect to Stipulated Issue No. 1 – the Wobbe Number Range, and Stipulated Issue No. 5 - Hourly Chromatograph Postings, that are best resolved in the context of an evidentiary hearing. Therefore, the Commission will establish a hearing in this proceeding before an Administrative Law Judge to develop a record on the Stipulated Issues Nos. 1 and 5. The Commission clarifies that the issues to be addressed at the hearing are limited to the gas quality and interchangeability issues so noted in this paragraph. The comments and reply comments filed by the parties in accordance with the procedure established at the technical conference will be part of the hearing record.

62. The Commission further clarifies that the hearing is to address the two Stipulated Issues in the context of the Commission's Policy Statement.³¹ The Policy Statement established five principles for pipelines and parties to follow to create gas quality and interchangeability standards. First, the Policy Statement states that only gas standards that are in the tariff can be enforced. Second, the Policy Statement states that gas standards need to be flexible to allow pipelines to balance safety and reliability concerns with the importance of maximizing supply, as well as recognizing the evolving nature of the science underlying gas quality and interchangeability specifications. Third, the Policy Statement states that pipelines and customers should develop gas quality and interchangeability specifications based on technical requirements. Fourth, the Policy Statement states that pipelines and customers are encouraged to use the Interim Guidelines as a common scientific reference point for resolving gas quality and interchangeability issues. And lastly, the Policy Statement states that to the extent that pipelines and their customers cannot resolve disputes over gas standards, then those issues should be brought before the Commission.

63. The Policy Statement specifically recognizes the importance of providing pipelines and their customers with the flexibility needed to maximize the introduction of

²⁹ Policy Statement at P 27.

³⁰ 15 U.S.C. § 717d (1982).

³¹ 115 FERC ¶ 61,325 (2006).

new supply into the grid and of encouraging rather than impeding the movement of gas to the grid and the ultimate consumers. The Policy Statement recognizes that imports of LNG are expected to increase and seeks to lower potential barriers to these imports while at the same time ensuring the safety and reliability of the grid.³²

64. We understand that, consistent with the Policy Statement, Maritimes has engaged in numerous discussions with its customers concerning the proposed gas quality and interchangeability tariff provisions, and has brought to the Commission the issues that the parties were unable to resolve. While we therefore find it appropriate to set these issues for hearing, we encourage the parties to continue to attempt to reach a consensus on the remaining issues.

The Commission orders:

(A) Pursuant to the Commission's authority under the NGA, particularly sections 4, 5, and 15, and the Commission's rules and regulations, a public hearing is to be held in this proceeding concerning the lawfulness of Maritimes' filing with regard to the stipulated issues set for hearing consistent with the discussion above.

(B) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to 18 CFR § 375.304 (2008), must convene a prehearing conference in this proceeding to be held within 20 days after issuance of this order, in a hearing or conference room of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. The prehearing conference shall be held for the purpose of clarification of the positions of the participants and establishment by the presiding judge of any procedural dates necessary for the hearing. The presiding administrative law judge is authorized to conduct further proceedings in accordance with this order and the Commission's Rules of Practice and Procedure.

(C) Tariff sheet numbers 272 and 273 are accepted subject to Maritimes filing revised sheets reflecting the agreed upon modifications as set forth in the *pro forma* tariff sheets submitted with its initial comments.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

³² *Id.* P 24 - 25.