

125 FERC ¶ 61,381
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 30, 2008

In Reply Refer To:
Texas Gas Transmission, LLC
Docket No. RP09-130-000

Texas Gas Transmission, LLC
3800 Frederica Street
P.O. Box 20008
Owensboro, Kentucky 42304-0008

Attention: J. Kyle Stephens
Vice President, Regulatory Affairs and Rates

Reference: Modification of FT, NNS, and NNL Rate Schedules to Permit a Customer to Increase Firm Contract Demand by a Specific Amount on a Specific Date in the Future

Dear Mr. Stephens:

1. On December 1, 2008, Texas Gas Transmission, LLC (Texas Gas) filed tariff sheets under which customers using FT, NNS, and NNL Rate Schedules could enter into agreements to increase firm contract demand by prearranged amounts at a future time.¹ The Western Tennessee Municipal Group, the Jackson Energy Authority, City of Jackson, Tennessee, and the Kentucky Cities (Cities Group) filed comments. The Commission accepts Texas Gas' proposal effective January 1, 2009, as requested.

2. Texas Gas states that during the development of its Fayetteville/Greenville Expansion Project in Docket No. CP07-417, *et al.*, and in conversations with producers interested in connecting new gas supplies to Texas Gas, it became clear that Texas Gas needs to provide its customers utilizing long term firm transportation services with the flexibility to increase firm contract demand by prearranged amounts at specific points in time. Texas Gas further states that its FT, NNS, and NNL Rate Schedules currently do not provide customers with this flexibility, and that if a customer wants its contract

¹ See Appendix.

demand to increase at a particular time in the future, the customer must submit a new request for service, bid on such capacity, and if it is the successful bidder, execute a new contract.

3. In order to meet its customers' needs, Texas Gas is proposing to modify its FT, NNS, and NNL Rate Schedules and *pro forma* service agreements, and the General Terms and Conditions (GT&C) of its tariff to give a customer the ability to enter into agreements under which its firm transportation contract demand would increase by specified amounts on specific dates in the future. Texas Gas states that such contracts would specify an initial daily contract demand, the total increased daily contract demand applicable in the future and the dates when any such increase would be effective. By way of an example, Texas Gas states that in 2009, a customer could execute a five-year FT contract with an initial daily contract demand of 10,000 MMBtu and a provision specifying that the daily contract demand would increase to 13,000 MMBtu on January 1, 2011, and to 16,000 MMBtu on January 1, 2013. Texas Gas states it would evaluate the request, including the specific increases in contract demand, when the service request is received and post the capacity, including the contract demand increases, for bid. Texas Gas asserts that because the contract will be posted for bid, the market will have notice that the capacity will be unavailable in the future and will have the opportunity to bid for this capacity.

4. Texas Gas states that the requirement that capacity increases are identified up front and included in the bid posting will ensure that all parties have equal access to the capacity. Texas Gas concludes that granting it the authority to offer its customers this type of contracting flexibility with respect to its FT, NNS, and NNL Rate Schedules will provide customers with the desired flexibility on a non-discriminatory basis, and eliminate the need for a customer to submit a new service request or to execute a new contract in the future.

5. Public notice of the filing was issued on December 3, 2008. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2008)). Pursuant to Rule 214, 18 C.F.R. § 385.214, all timely 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. The comments filed by Cities Group are discussed below.

6. The Cities Group states that it applauds the efforts of Texas Gas to bring new sources of production to the system, as all consumers benefit from increased access to gas supplies, and that fostering this development is in the public interest. The Cities Group acknowledges that it is also likely that Texas Gas' proposal would be attractive to new electric generators with plans to phase in additional units over time.

7. However, the Cities Group is concerned that the proposal may favor new customers over existing customers. The Cities Group contends that this proposed tariff change would make it easier for a new customer to reserve by contract capacity in the future than an existing customer with the same need. Specifically, the Cities Group argues that if a current customer taking service under an existing contract wants to increase its contract demand by a certain increment in the future, it may be forced to bid against a new shipper that is exercising its rights under this proposed tariff provision. The Cities Group states that the new customer would win in most cases under a net present value analysis of bids in such a scenario because the new customer that is purchasing current and future capacity would have the value of that capacity counted in its column, while the existing customer would only be considered to be purchasing the future increment.

8. The Cities Group notes that Texas Gas plans to submit a future proposal to include bidding and auction provisions in its tariff, and urges Texas Gas and the Commission to ensure that needs of traditional existing distributor customers to obtain capacity to support their public service obligations will be adequately protected in the procedures that are implemented.

9. The Commission approves Texas Gas' filed tariff sheets as just and reasonable. The Commission finds that the subject filing will enhance customers' flexibility to increase contract demand to meet future needs and relieve customers of the burden of reserving and paying for excess capacity in the near term. The Commission also finds that the proposal will promote longer term contracts, promote market stability and utilize available capacity more efficiently.

10. No party, including the Cities Group, has requested the rejection of Texas Gas' proposal, and no party has proposed any specific action by the Commission to modify Texas Gas' proposal in this docket. Notwithstanding the Cities Group's comment that a net present value analysis may favor new customers over others, the Commission finds that a properly conducted net present value analysis should award capacity on an equitable basis. Texas Gas' proposal provides that at the time capacity is requested – including future increases in capacity – Texas Gas will post the capacity, including the contract demand increases, for competitive bid. The bids will be evaluated according to the Commission's approved net present value methodology.² If an existing customer contemplates that it may have future needs for capacity, it may bid on the future capacity when Texas Gas posts it as available. To the extent that the amount of capacity requested by each bid may influence particular bidding outcomes, this is consistent with encouraging full utilization of the pipeline's capacity.

² See, e.g., *Northern Natural Gas Company*, 109 FERC ¶ 61,388 (2004).

11. Accordingly, the Commission accepts the tariff sheets in the Appendix, effective January 1, 2009.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

cc: All Parties
Public File

APPENDIX

**Texas Gas Transmission, LLC
Docket No. RP09-130-000
FERC Gas Tariff, Third Revised Volume No. 1**

Accepted Effective January 1, 2009:

First Revised Sheet No. 100
Second Revised Sheet No. 101
Second Revised Sheet No. 401
Second Revised Sheet No. 451
Second Revised Sheet No. 1801
First Revised Sheet No. 2200
First Revised Sheet No. 2201
Second Revised Sheet No. 3800
First Revised Sheet No. 4000
Second Revised Sheet No. 4200
First Revised Sheet No. 4250