

126 FERC ¶ 61,064
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

MoGas Pipeline LLC

Docket No. RP09-185-000

ORDER ACCEPTING TARIFF SHEETS SUBJECT TO CONDITIONS

(Issued January 23, 2009)

1. On December 23, 2008, MoGas Pipeline LLC (MoGas) filed revised tariff sheets¹ (1) to comply with Order Nos. 712 and 712-A,² which modified the Commission's capacity release regulations, (2) to provide additional flexibility with regard to its treatment of new facility costs, (3) to change the provision related to the reservation of capacity for new service, (4) to change the provision related to the reservation of capacity for expansion projects, and (5) to make other minor revisions to its tariff. The Commission accepts and suspends the tariff sheets to be effective January 26, 2009, subject to MoGas' refiling of the tariff sheets within 15 days to be consistent with this order.

Details of Filing

2. MoGas states that its filing modifies section 21 of its tariff to comply with the Commission's amended capacity release regulations as modified in Order No. 712 and Order No. 712-A. MoGas states that the amended regulations (1) removed the maximum rate ceiling on short-term capacity releases, (2) exempted Asset Management arrangements from generally applicable posting and bidding requirements, and (3) provided an exemption from the prohibition against tying for releases of storage capacity

¹ See Appendix A.

² *Promotion of a More Efficient Capacity Release Market*, Order No. 712, 73 Fed. Reg. 37,058 (June 30, 2008), FERC Stats. & Regs. ¶ 31,271 (2008) (Order No. 712) *order on reh'g*, Order No. 712-A, 73 Fed. Reg. 72,692 (December 1, 2008), FERC Stats. & Regs. ¶ 31,284 (2008) (Order No. 712-A).

that include transfers of natural gas storage inventory and for releases made under state-approved retail programs.

3. MoGas also proposes changes regarding its reimbursement for the cost of new facilities. MoGas states that its tariff generally provides that a shipper requesting service requiring the construction of new facilities must pay the costs of the new facilities. MoGas states that its filing will permit MoGas to waive all or a portion of these costs when a waiver is economically justified based upon the revenues and throughput for the service. The new language also permits MoGas to amortize any payments over a mutually agreeable period not to exceed the length of the primary contract term.

4. MoGas states that its filing allows requests for new service to be made up to 180 days prior to the commencement of service. Upon mutual agreement of MoGas and the shipper, the modifications proposed by MoGas also permit requests more than 180 days prior to commencement of service. MoGas states that its current tariff provisions, which allow a request for new service no earlier than 90 days prior to the commencement of service, may cause certain potential customers who need assurance of future capacity to refrain from using MoGas' pipeline.

5. MoGas proposes a revision to section 6.4 of its GT&C permitting it to reserve capacity for a future expansion project for which an open season has been held or will be held within one year of the date MoGas posts the capacity as being reserved. MoGas states that under this revision, it may reserve capacity for a future expansion project up to one year prior to filing for a certificate application for the project. MoGas states that once capacity is reserved, MoGas will make the capacity available on an interim basis until the in-service date of the expansion project.

6. MoGas also updates its tariff to reflect the correct website link, delete a remaining reference to Missouri Pipeline, and correct a zip code reference.

Notice, Interventions, and Protests

7. Notice of MoGas' filing in Docket No. RP09-185-000 was issued on December 30, 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 (2008), all timely-filed motions to intervene and any motions to intervene out-of-time 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. Union Electric Company (Union Electric) and the Missouri Public Service Commission (MoPSC) filed protests.

8. On January 13, 2009, MoGas filed a motion for leave to answer and an answer. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept MoGas' answer because it has provided information that assisted us in our decision-making process.

Discussion

Compliance with Order Nos. 712 and 712-A

9. No party protested the changes made to section 21 of MoGas' tariff in order to comply with Commission Order Nos. 712 and 712-A. However, the Commission directs MoGas to make one modification. The last sentence in MoGas' proposed revision to section 21.7 provides:

When a capacity release for thirty-one (31) days or less is exempt from posting and bidding requirements, a Releasing Shipper may not roll-over or extend the release unless it complies with the posting and bidding requirements, and may not re-release to the same Replacement Shipper using the thirty-one (31) days or less bidding exemption until twenty-eight (28) days after the first release period has ended.

10. The language in this paragraph is not consistent with 18 C.F.R. § 284.8(h)(2) as modified by Order No. 712-A. Under section 284.8(h)(2) as promulgated in Order No. 712-A, a release for less than thirty-one days that qualifies for another exemption under 284.8(h), such as a release to an asset manager or a marketer participating in a state-regulated retail access program, may be rolled-over or extended to the same replacement shipper without posting or bidding within the 28-day time period. The language proposed by MoGas, however, implies otherwise. Thus, the Commission orders MoGas to revise the last sentence in proposed section 21.7 to conform with Commission regulations.

New Facilities Cost Reimbursement

11. Union Electric and MoPSC state that MoGas' proposal does not sufficiently specify the circumstances when MoGas may waive reimbursement of new facilities costs and that the proposal creates potential for undue discrimination. MoPSC and Union Electric state that the previously approved tariffs cited by MoGas contain a detailed recitation of the factors the pipeline will consider in assessing whether a waiver is "economical." Thus, in order to improve transparency, Union Electric and MoPSC request that the Commission direct MoGas to specify in greater detail the criteria it will apply in determining whether to waive new facility reimbursement costs. In addition, MoPSC requests that the Commission direct MoGas to include in its tariff a requirement to post on its Internet website a detailed description of the circumstances of any new

facility cost waivers as MoPSC claims is required by Commission policy,³ and that the Commission should require MoGas to provide specific details concerning the basis for any waiver, including a description of the economic and/or operational analyses performed by MoGas in determining to waive the reimbursements.

12. Union Electric expresses further concern that the waiver may subsequently lead to the cost of the facilities being rolled into MoGas' system costs to be paid by other shippers. Therefore, Union Electric requests that the Commission clarify that the waiver by MoGas may not be used as a basis for rolled-in rate treatment in a future rate proceeding and that the possible inclusion of any such costs in system rates will be determined under applicable Commission criteria in the course of a section 4 rate proceeding under the Natural Gas Act.

13. Finally, MoPSC requests that the Commission require MoGas to identify how carrying charges under section 23.1 on amortized reimbursement costs will be calculated.

14. In its answer, MoGas states that it plans to modify the end of section 23.2 of the GT&C to be consistent with the Commission's order in *Empire State Pipeline and Empire Pipeline, Inc.*, 116 FERC ¶ 61,074, at P 188 (2006) (*Empire State*), by adding the following language:

For purposes of determining whether a project is economical, Transporter will evaluate projects on the basis of various economic criteria, which will include the estimated transportation throughput, cost of the facilities, operating and maintenance as well as administrative and general expenses attributable to the facilities, the revenues Transporter estimates will be generated as a result of such construction, and the availability of capital funds on terms and conditions acceptable to Transporter.

15. MoGas also agrees to add, in section 23.2 of the GT&C, a sentence specifying that MoGas will make a posting reporting that a waiver has been granted.

16. However, MoGas urges the rejection of MoPSC's request that MoGas be required to provide a "description of the economic and/or operational analysis performed by MoGas in determining to waive the reimbursements." MoGas asserts that such a requirement would place MoGas at a competitive disadvantage by requiring the pipeline to publish its internal economic analysis.

³ MoPSC January 5, 2009 Protest at 5, citing *Empire State Pipeline and Empire Pipeline, Inc.*, 116 FERC ¶ 61,074, at P 188 (2006).

17. MoGas further states that the Commission should reject Union Electric's request for the Commission to clarify that the waiver may not be used as a basis for rolled-in rate treatment in a future rate proceeding and that the system rates will be determined under applicable Commission criteria in the course of a section 4 rate proceeding. MoGas also states it should not be required to identify in its tariff the methodology for calculating carrying charges. MoGas states that the carrying charges will impact the economic criteria used by MoGas to waive the reimbursement requirement.

Commission Findings

18. The Commission accepts MoGas' proposal to specify the criteria used to grant waiver of new facility reimbursement in section 23.2 as consistent with Commission precedent and the tariffs previously accepted by the Commission.⁴ The inclusion of the criteria will make the waiver process more transparent and ensure that MoGas will act in a non-discriminatory manner. MoGas is directed to modify its tariff accordingly.

19. The Commission also accepts MoGas' proposal to add a sentence in section 23.2 of the GT&C specifying that it will make a posting reporting that a waiver has been granted. Furthermore, the Commission has required the pipeline to post for each waiver the general "circumstances under which the waiver" is being granted. *Empire State*, 116 FERC ¶ 61,074 at P 188. MoGas is directed to modify its tariff accordingly. If either Union Electric or MoPSC do not believe that the tariff is being applied on a non-discriminatory basis, they can file a complaint with the Commission.

20. The Commission agrees with Union Electric that approval of this filing does not create any presumption that MoGas, if it waives reimbursement from the affected customer, may roll-in the cost of the facilities for recovery in its system rates. The inclusion of the cost of the facilities in MoGas' rate base will not be automatic, but will be subject to scrutiny in a section 4 rate proceeding.⁵

21. Finally, section 23.1 provides for the shipper to reimburse MoGas for the costs of the facilities installed and for filing fees within ten days of MoGas' bill. Section 23.1 also provides MoGas the option to agree to amortize the reimbursement, plus carrying charges, over a mutually agreeable period. Since this is an option provided by MoGas

⁴ *Empire State*, 116 FERC ¶ 61,074 at P 188. *See also* Texas Eastern Transmission, LP, Seventh Revised Volume No.1, First Revised Sheet No. 605, Section 11.2; East Tennessee Natural Gas, LLC, Third Revised Volume No. 1, First Revised Sheet No. 386, Section 36.3.

⁵ *East Tennessee Natural Gas Company*, 93 FERC ¶ 61,028, at 61,051 (2000).

and is negotiable between the parties the Commission does not see any reason to require MoGas to identify how the carrying charges will be calculated, as requested by MoPSC.

Reservation of Capacity for New Service

22. No party objected to MoGas' proposal to allow requests for new service to be made up to 180 days, or more if mutually agreed upon by the shipper and MoGas, prior to the commencement of service.

23. However, the parties raised specific concerns with the provisions in MoGas' tariff related to the reservation of capacity for new service. Union Electric and MoPSC state that it is unclear whether MoGas intends that section 6.4(a) will be governed by the posting and bidding provisions in existing sections 6.7 through 6.9 of its tariff. The protestors assert that without further clarification MoGas could sell capacity on a long-term basis without first posting it and making it available for bidding as required by Commission policy, allowing MoGas to give undue preference to certain shippers, with no assurance that capacity will be awarded to the shipper that values it most. MoPSC requests that the Commission direct MoGas to specify in its tariff that the capacity reservation provisions in section 6.4(a) are subject to the existing capacity posting requirements of MoGas' tariff. Union Electric requests that the Commission require MoGas to revise section 6.4 to clarify that if MoGas desires to enter into any long-term prearranged deal, the capacity will be posted for bidding before such an agreement is reached and that the pipeline identify on its Internet website all capacity that is anticipated to become available within the next thirty-six months.

24. Union Electric and MoPSC also request that the Commission require MoGas to adopt tariff language clarifying the operation of the right of first refusal (ROFR) regarding reserved capacity utilized by an interim shipper for a year or more. Under section 22.2 of MoGas' tariff and the Commission's regulations,⁶ a shipper purchasing capacity for a year or more at the maximum tariff rate is entitled to a ROFR. Union Electric and MoPSC state that to the extent MoGas allows a shipper to request service a year or more into the future and makes that capacity available on an interim basis until the service commencement date, the interim shipper would be entitled to a ROFR. Union Electric states that the tariff is silent regarding how MoGas would address the conflicting rights to the capacity of the interim shipper and shipper requesting service in the long term. Union Electric states that the Commission has found that proposed tariff sheets which were similarly silent on the conflicting rights of shippers must be revised to

⁶18 C.F.R. § 284.221(d)(2) (2008).

address the ROFR.⁷ Union Electric and MoPSC request the Commission require MoGas to adopt tariff language that clarifies the operation of the ROFR to interim agreements.

25. Union Electric states that section 6.4(a) contains a typographical error and that the word “addition” in the second complete sentence should be “additional.”

26. In its answer, MoGas states that it will follow the posting requirements contained in sections 6.7 through 6.9 of its GT&C for the posting of capacity for new service as contemplated in section 6.4(a). MoGas states that its existing posting provisions provide the elements required by the Commission and address the posting concerns raised by MoPSC and Union Electric.

27. MoGas also states that to be clear that all potential customers have an opportunity to obtain available capacity prior to any such capacity being reserved pursuant to section 6.4(a), MoGas proposes to add to section 6.4(a) language stating: “Prior to any capacity being reserved under this Section 6.4(a), availability of the capacity shall be posted and subject to the allocation provisions of Section 6.7.”

28. MoGas states that it will include a waiver of the right of first refusal for interim shippers and that it will limit shipper extensions, including ROFR rights, within the service agreement and indicate these limitations in any open season posting of capacity. Specifically, MoGas proposes to add the following language at the end of both section 6.4(a) and 6.4(b): “Service available on such limited-term basis shall not be eligible for a right of first refusal or contract extension for purposes of sections 22.1 and 22.2.”

Commission Findings

29. The Commission accepts MoGas’ proposal to allow requests for new service to be made up to 180 days prior to the commencement of service. However, MoGas and a shipper should not be able to avoid the provisions of section 6.4(a) by mutually agreeing on a longer term prior to the proposed commencement date. Therefore, MoGas is directed to remove the language in proposed section 6.4(a) stating, “Unless mutually agreed to by Transporter and Shipper on a not unduly discriminatory basis”

30. The Commission also accepts MoGas’ proposal in its Answer to address the concerns of MoPSC and Union Electric regarding shipper ROFR rights. This

⁷ Union Electric January 5, 2009 Protest at 6, citing *El Paso Natural Gas Co.*, 110 FERC ¶ 61,182, at P 11 (2005).

modification is consistent with prior Commission findings applying a waiver of ROFR rights for such interim shippers.⁸ MoGas is directed to modify its tariff accordingly.

31. The Commission notes that MoGas' answer states the pipeline's intent to follow the posting requirements in section 6.7 through 6.9 of its GT&C for any capacity being reserved pursuant to section 6.4(a). The Commission further notes that MoGas proposes to add tariff language to 6.4(a) stating that "Prior to any capacity being reserved under this Section 6.4(a), availability of the capacity shall be posted and subject to the allocation provisions of Section 6.7." However, it is not clear why the language MoGas intends to include within its tariff only refers to the "allocation provisions of Section 6.7" rather than the provisions of section 6.7 through 6.9 which encompasses the bidding and awarding provisions of its tariff. MoGas is directed to make the capacity postings subject to the provisions of sections 6.7 through 6.9 of its tariff.

32. In addition, consistent with *Transcontinental Gas Pipe Line Corporation*,⁹ the Commission will require that MoGas separately identify on its Internet website all capacity that is expected to become available within the next 180 days. This will ensure that all parties have access to the same information with regard to potential prearranged capacity and will allow shippers to monitor MoGas' capacity to make sure that preferential treatment is not provided to a customer that wishes to enter a prearranged deal. Therefore, MoGas is directed to file revised tariff sheets stating that it will separately identify on its Internet website all capacity that is anticipated to become available within the next 180 days and stating that it will not enter into any prearranged deals for capacity that has not previously been posted on its Internet website.¹⁰

⁸ See, e.g., *Northern Natural Gas Co.*, 109 FERC ¶ 61,388 (2004).

⁹ 118 FERC ¶ 61,234, at P 12 (2007) (*Transco*). See also, *Transcontinental Gas Pipe Line Company, LLC*, FERC Gas Tariff, Fourth Revised Volume No.1, Original Sheet No. 479; *Gas Transmission Northwest Corp.*, FERC Gas Tariff, Third Revised Volume No. 1-A, Original Sheet No. 127A.

¹⁰ As Union Electric indicates, *Transco* held that the pipeline must post all capacity that is expected to become available within the next 36 months. 118 FERC ¶ 61,234 at P 12. This is because the pipeline planned to enter into prearranged deals that were three years in advance. *Id.* at P 1. In contrast, MoGas proposes to enter into prearranged deals that are 180 days prior to the commencement of service. Thus, in this instance, 180 days is the appropriate time frame.

33. Finally, Union Electric apparently has identified a typographical error in section 6.4(a) of the GT&C in MoGas' tariff. MoGas is directed to either replace the term "addition" with "additional" in the second complete sentence of section 6.4(a) or to explain why such a change is inappropriate.

Reservation of Capacity for Expansion Projects

34. MoPSC states that MoGas should be required to include a provision in section 6.4(b) explicitly stating that it may only reserve capacity for expansion projects that has first been made available to shippers through the open season procedures of its tariff. Specifically, if MoGas proposes to reserve capacity for a future expansion project, prior to reserving any capacity MoGas should post (and award) any available capacity on its Internet website to ensure that all potential customers have a reasonable opportunity to acquire such capacity. Although MoPSC believes MoGas' proposed tariff states that capacity could only be reserved for a future expansion project for which an open season has been held, it states that the tariff is not clear regarding whether there must be an open season for the capacity itself prior to any reservation by MoGas. MoPSC also states that the posting for such capacity should be no shorter than five business days.¹¹

35. Union Electric and MoPSC state that MoGas should be directed to require the solicitation of any turn-back capacity before reserving capacity for a future expansion project in order to help determine the correct size for the project.¹² In addition, Union Electric and MoPSC state that section 6.4(b) should be modified to make clear that, if a capacity reservation under this section expires, the capacity must be reposted before it can be reserved for another one-year period.¹³ Union Electric and MoPSC also believe that MoGas should be required to expand section 6.4(b) to provide more information concerning proposed capacity reservations, consistent with Commission precedent. Union Electric and MoPSC request that MoGas be directed to notify shippers of its intent as part of a reservation posting on its Internet website and provide at least the following information: (a) a description of the expansion project for which the capacity will be reserved; (b) the total quantity of capacity to be reserved; (c) the location of the proposed reserved capacity on the MoGas system; (d) whether, and if so, when MoGas anticipates that an open season for the capacity will be held or it will otherwise be posted for bids

¹¹ MoPSC January 5, 2009 Protest at 9 citing *Ozark Gas Transmission, LLC*, 125 FERC ¶ 61,113, at P 30 (2008).

¹² MoPSC January 5, 2009 Protest at 10 citing *Algonquin Gas Transmission, LLC*, 120 FERC ¶ 61,072, at P 66 (2007); *Iroquois Gas Transmission System, L.P.*, 100 FERC ¶ 61,279, at P 5 (2002) (*Iroquois*).

¹³ Citing *Iroquois*, 100 FERC ¶ 61,279 at P 6.

under the expansion; (e) the projected in-service date of the expansion project; and (f) on a rolling basis, how much of the reserved capacity has been sold on a limited basis.¹⁴ Union Electric also states that Commission policy requires a provision describing what actions the pipeline will take if the future expansion project will not go forward.¹⁵

36. Finally, Union Electric also believes that MoGas should be required to provide greater detail with regard to its proposal to make the reserved capacity available on an interim basis (until the expansion project is in-service), including providing a statement of how the interim capacity will be awarded and whether MoGas will have the right to limit the interim capacity shippers' extension/renewal rights.

37. In its answer, MoGas states that its existing tariff provisions conform to Commission precedent with regards to capacity reserved for future expansions. MoGas states that section 6.7(b) already includes a provision regarding turn-back capacity for any new construction and sets forth the data that will accompany the posting of available capacity. MoGas also notes that although the Commission did accept the elements specified by Union Electric and MoPSC in an earlier proceeding, the Commission did not, as Union Electric and MoPSC suggest, rule that each of those elements were required as a matter of Commission policy.¹⁶

Commission Findings

38. MoGas' proposal to reserve capacity for future expansion projects is generally consistent with Commission policy. However, we find that MoGas' tariff proposal requires revisions to ensure that reserved capacity is offered on a not unduly discriminatory manner.

39. In order to ensure that all shippers have an opportunity to obtain capacity, the Commission will require MoGas to include tariff language that, before reserving any capacity for an expansion, MoGas will post the capacity for competitive bidding pursuant

¹⁴ Union Electric January 5, 2009 Protest at 8 citing *Transco*, 118 FERC ¶ 61,234; *Petal Gas Storage, LLC*, 120 FERC ¶ 61,109 (2007) (*Petal*); *ANR Pipeline Co.*, 107 FERC ¶ 61,187 (2004) (*ANR*); *Northern Natural Gas Co.*, 105 FERC ¶ 61,057 (2003) (*Northern Natural*); *Natural Gas Pipeline Co. of America*, 88 FERC ¶ 61,205 (1999) (*Natural Gas Pipeline*); *Tennessee Gas Pipeline Co.*, 84 FERC ¶ 61,304 (1998).

¹⁵ Union Electric January 5, 2009 Protest at 9 citing *Petal*, 120 FERC ¶ 61,109 at P 6; *ANR*, 107 FERC ¶ 61,187 at P 4; *Northern Natural*, 105 FERC ¶ 61,057 at P 4, 19-26; *Natural Gas Pipeline*, 88 FERC at 61,695-98.

¹⁶ MoGas January 13, 2009 Answer at 11 citing *Petal*, 120 FERC ¶ 61,109 at P 5.

to the provisions set forth in sections 6.7 through 6.9 of its existing tariff, consistent with Commission policy.¹⁷ In addition, the Commission has required that before a pipeline can reserve capacity, the pipeline must post the capacity for competitive bidding for at least five business days.¹⁸ Therefore, MoGas must file revised tariff language expressly stating that before reserving any capacity for an expansion, it will post the capacity for competitive bidding and expressly stating that the capacity will be posted for at least five business days before it can be reserved.

40. Union Electric and MoPSC state that section 6.4(b) should be modified to make clear that, if a capacity reservation under this section expires, the capacity must be reposted before it can be reserved for another one-year period. MoGas' proposed section 6.4(b) states that capacity may be reserved for up to one year prior to MoGas filing for certificate approval for the expansion project, and thereafter until such expansion is placed into service. However, MoGas' tariff does not clearly address what happens after the one-year period expires. The Commission has required that any capacity reserved for a future expansion project that does not go forward shall be reposted within thirty days of the date that the capacity becomes available.¹⁹ Therefore, MoGas is required to revise its tariff to provide that for any capacity associated with an expansion project that does not go forward within this one-year period, the unreserved capacity will be posted for bidding within thirty days of the date the capacity becomes available.

41. The Commission also directs MoGas to modify its tariff such that the solicitation of turned-back capacity is within 90 days or less of the expansion open season and rejects MoPSC's assertion that the turned-back capacity must occur prior to the reservation of capacity. Since the size of an expansion project is generally being assessed at the time of the expansion open season, the Commission has determined that the solicitation of turned-back capacity should be tied to the expansion open season rather than linked to the timing of the reservation of capacity.²⁰

¹⁷ *Midwestern Gas Transmission Company*, 106 FERC ¶ 61,229, at P 10 (2004) (*Midwestern*).

¹⁸ *Northern Natural*, 105 FERC ¶ 61,057 at P 13 (requiring the pipeline to expressly state that the capacity will be posted for bidding for at least five business days before it can be reserved).

¹⁹ *Iroquois*, 100 FERC ¶ 61,279 at P 6. *See also Petal Gas Storage, L.L.C.*, 120 FERC ¶ 61,109, at P 6 (2007); *Midwestern*, 106 FERC ¶ 61,229 at P 11.

²⁰ *Algonquin Gas Transmission, LLC*, 120 FERC ¶ 61,072, at P 66 (2007).

42. Although MoGas states that the Commission in *Petal* did not explicitly require that each of the elements requested by Union Electric and MoPSC be included in the capacity reservation posting, the Commission has consistently required these elements to be included as part of the pipeline's tariff provisions implementing a capacity reservation process for new expansion projects. Including the postings in its tariff will ensure that prospective shippers have sufficient information when determining whether to bid on prospective capacity. Therefore, consistent with Commission policy on reserved capacity for expansion projects, MoGas is directed to provide more information for the posting of reserved capacity, including the following: (a) a description of the expansion project for which the capacity will be reserved; (b) the total quantity of capacity to be reserved; (c) the location of the proposed reserved capacity on the pipeline system; (d) whether, and if so, when MoGas anticipates that an open season for the capacity will be held or it will otherwise be posted for bids under the expansion; (e) the projected in-service date of the expansion project; and (f) on a rolling basis, how much of the reserved capacity has been sold on a limited term basis.²¹

43. Finally, the Commission does not find that further additional detail is needed to allow MoGas to make available any capacity reserved under section 6.4(b) on a limited basis; however, we will require MoGas to add language to proposed section 6.4(b) to explicitly state that it reserves the right to limit any extension rights in such interim service agreements in order to avoid any potential capacity conflicts with regard to rollovers or rights of first refusal.

Minor Corrections

44. No protests were filed regarding MoGas' revisions to update the tariff to reflect the correct website link, delete a remaining reference to Missouri Pipeline and correct a zip code reference. The Commission accepts these modifications.

45. Union Electric asserts that the section in the continuation title on First Revised Sheet No. 61 is meant to be designated as "6" rather than "6.8." Union Electric is correct. All of the tariff sheets in section 6 contain the continuation title "6. Procedure for requesting service (continued)." MoGas' designation as 6.8 is incorrect. MoGas is directed to change the tariff sheet accordingly.

²¹ *Kern River Gas Transmission Company*, 104 FERC ¶ 61,155, at P 18 (2003); *Iroquois*, 100 FERC ¶ 61,279 at P 7.

The Commission orders:

The tariff sheets listed in Appendix A are accepted and suspended to be effective January 26, 2009, subject to MoGas filing revised tariff sheets, within 15 days of this order, to be consistent with the discussion contained in the body of this order.

By the Commission. Commissioner Kelliher not participating.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix A

**MoGas Pipeline LLC
FERC Gas Tariff
First Revised Volume No. 1**

Tariff Sheets Accepted Effective January 26, 2009 Subject to Conditions

First Revised Sheet No. 11
First Revised Sheet No. 58
First Revised Sheet No. 61
First Revised Sheet No. 77
First Revised Sheet No. 80
First Revised Sheet No. 82
First Revised Sheet No. 105
First Revised Sheet No. 108