

126 FERC ¶ 61,157
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 20, 2009

In Reply Refer To:
Kinder Morgan Illinois Pipeline LLC
Docket No. RP09-243-000

Kinder Morgan Illinois Pipeline LLC
3250 Lacey Road, Suite 700
Downers Grove, IL 60515

Attention: Maria K. Pavlou
Attorney

Reference: Revised Tariff Sheets to Comply with Order No. 712 and 712-A

Dear Ms. Pavlou:

1. On January 22, 2009, Kinder Morgan Illinois Pipeline LLC (KMIP) filed revised tariff sheets proposing modifications to its tariff to comply with the capacity release requirements promulgated by Order Nos. 712 and 712-A.¹ In addition, KMIP proposed tariff sheets containing minor tariff revisions consistent with Order No. 698² and Order

¹ *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 on reh'g*, Order No. 712-A, 73 Fed. Reg. 72,692 (December 1, 2008), FERC Stats. & Regs. ¶ 31,284 (2008) (Order No. 712).

² *Standards for Business Practices for Interstate Natural Gas Pipelines; Standards for Business Practices for Public Utilities*, Order No. 698, 72 Fed. Reg. 38,757 (July 16, 2007), FERC Stats. & Regs. ¶ 31,251 (2007), *order on clarification and reh'g*, Order No. 698-A, 121 FERC ¶ 61,264 (2007) (Order No. 698).

No. 717.³ The tariff sheets listed in the Appendix are accepted effective February 22, 2009, subject to further modifications as discussed below.

2. Order No. 712 permits market-based pricing for short-term capacity releases and facilitates asset management arrangements (AMAs) by relaxing the Commission's prohibition on tying and its bidding requirements for certain capacity releases. KMIP proposes several changes to its General Terms and Conditions to provide that capacity releases of one-year or less are not subject to the maximum rate cap. KMIP also proposes additional modifications to clarify and revise the bidding requirements for capacity release transactions associated with an AMA or a state-approved retail open access program. KMIP proposes several other modifications that are not directly attributable to Order No. 712, but rather serve to clarify its tariff's capacity release provisions.

3. KMIP proposed minor tariff revisions consistent with Order No. 698 and Order No. 717 to incorporate language clarifying the use of price indices by releasing shippers and to remove references to the posting of organizational charts.

4. Public notice of KMIP's filing was issued on January 27, 2009. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁴ Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁵ all notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. A motions to intervene and comments were filed by The Peoples Gas Light and Coke Company (Peoples Gas).

5. On February 12, 2009, KMIP filed an answer to the comments filed by Peoples Gas. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure⁶ prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept KMIP's answer because it has provided information that assisted us in our decision-making process.

³ *Standards of Conduct for Transmission Providers*, Order No. 717, 73 Fed. Reg. 63,796 (October 27, 2008), FERC Stats. & Regs. ¶ 31,280 (2008) (Order No. 717).

⁴ 18 C.F.R. § 154.210 (2008).

⁵ 18 C.F.R. § 385.214 (2008).

⁶ 18 C.F.R. § 385.213(a)(2) (2008).

6. As explained above, Order No. 712 facilitates AMAs by relaxing the Commission's prohibition on tying and its bidding requirements for certain capacity releases. Peoples Gas state that they generally support KMIP's proposed changes. However, Peoples Gas recommends modifying sections 14.5(a) and 14.7(a) of KMIP's tariff, two provisions that KMIP has not proposed to change.

7. Peoples Gas explains that section 14.5(a) of KMIP's existing tariff states, in part:

All terms and conditions relating to a release which is the subject of a Capacity Release Request:...(3) must relate solely to the details of acquiring or maintaining the transportation capacity rights on KMIP, which are the subject of the release...⁷

8. Peoples Gas state that this subsection closely resembles the language from Order No. 636-A that prohibited tying, and which the Commission in Order No. 712 and 712-A stated "may interfere with the ability of shippers to negotiate and implement [asset management arrangements] AMAs."⁸ Peoples Gas argues that KMIP's retention of this language is inconsistent with exemptions from the tying prohibition that the Commission created in Order No. 712. Peoples Gas recommend modifying subsection (3) of 14.5(a) by deleting "solely" and adding wording to reference the policy changes, such that subsection (3) would state: "must relate to the details of acquiring or maintaining the transportation capacity rights on KMIP consistent with this Tariff and Order No. 712, which are the subject of the release."

9. Section 14.7(a) of KMIP's existing tariff states, in part, that "The posting shall also include the maximum reservation charge" Peoples Gas states that Order Nos. 712 and 712-A removed the rate cap for capacity releases of one year or less, provided the release is to take effect no more than one year from the date the pipeline is notified of the release. 18 C.F.R. § 284.8(b)(2). Peoples Gas proposes to add ", if applicable," after "maximum reservation charges" to conform to the Commission's new policy on capacity release rate caps.

10. In its answer, KMIP agrees to make the tariff revision suggested by Peoples Gas related to 14.5(a) of its tariff. The Commission directs KMIP to revise section 14.5(a) of its tariff accordingly. KMIP did not answer Peoples Gas' comment related to 14.7(a) of its tariff. However, the Commission agrees with Peoples Gas and directs KMIP to revise section 14.7(a) of its tariff to add ", if applicable," after "maximum reservation charges"

⁷ KMIP Gas FERC Gas Tariff § 14.5(a).

⁸ Order No. 712 at P 113.

in order to recognize that short-term capacity release transactions may now exceed the maximum reservation rate.⁹

11. The Commission finds that KMIP's proposed tariff revisions are generally consistent with the Commission's capacity release policies and Order Nos. 712, 712-A, 698, and 717. Accordingly, the Commission accepts KMIP's tariff sheets listed in the Appendix, subject to KMIP filing, within 15 days of the date of this order, the revisions to sections 14.5(a) and 14.7(a) of its tariff discussed above.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁹ Order No. 712 at P 213.

APPENDIX

Kinder Morgan Illinois Pipeline LLC
Original Volume No. 1

Docket: RP09-243-000
Accepted Effective February 22, 2009

First Revised Sheet No. 167
First Revised Sheet No. 176
Original Sheet No. 176A
First Revised Sheet No. 177
First Revised Sheet No. 178
First Revised Sheet No. 179
First Revised Sheet No. 180
Original Sheet No. 180A
First Revised Sheet No. 182
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First Revised Sheet No. 186
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First Revised Sheet No. 194
Original Sheet No. 194A
First Revised Sheet No. 200