

126 FERC ¶ 61,310  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Paiute Pipeline Company

Docket No. RP09-406-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS SUBJECT TO  
REFUND, AND ESTABLISHING HEARING PROCEDURES

(Issued March 31, 2009)

1. On February 27, 2009, Paiute Pipeline Company (Paiute) filed to modify the rates for all of its jurisdictional transportation services pursuant to section 4 of the Natural Gas Act (NGA) and Part 154 of the Commission's regulations. Paiute also filed revised tariff sheets to remove from its tariff a table listing shipper firm transportation monthly billing determinants and all tariff references to this table. Paiute requests an effective date of April 1, 2009, for the tariff sheets in its filing. As discussed below, (a) the Commission accepts and suspends, to be effective September 1, 2009, the tariff sheet listed in Appendix A setting forth Paiute's proposed rates for transportation and storage services, subject to condition and the outcome of the hearing established in this order, and (b) accepts, to be effective April 1, 2009, the tariff sheets listed in Appendix B that remove from Paiute's tariff a table listing firm transportation monthly billing determinants and all tariff references to this table.

**Background**

2. Paiute, a wholly-owned subsidiary of Southwest Gas Corporation (Southwest Gas), operates a pipeline system that extends from an interconnection with Northwest Pipeline Corporation at the Idaho-Nevada border to termination points along the Nevada-California border located at the northern and southern ends of Lake Tahoe. Paiute also interconnects with Tuscarora Gas Transmission Company near Wadsworth, Nevada, and operates a peak-shaving liquefied natural gas (LNG) storage facility near Lovelock,

Nevada. Paiute's currently-effective tariff rates were established as the result of a general NGA section 4 rate case settlement in Docket Nos. RP05-163-000, *et al.*<sup>1</sup>

3. Paiute states that based upon the test period cost of service and the projected throughput quantities employed in this filing, Paiute projects an overall deficiency of \$3,867,213 in annual revenues under its existing rates. Paiute asserts that this projected deficiency results from (1) increases in plant and related items; (2) increases in depreciation expenses due to plant additions; (3) increases in labor and labor-related costs; (4) increases in various other operation and maintenance (O&M) expenses and in administrative and general (A&G) expenses; and (5) increases in the requested rate of return and related income taxes. Paiute states that to recover the full cost of service proposed in this filing, Paiute will need to increase its firm and interruptible transportation rates and to increase its LNG storage rates. Paiute's proposal also includes decreases to its four incremental facilities surcharges.

4. In support of its rate modification, Paiute uses a test period comprised of a base period of twelve consecutive months of actual experience ending November 30, 2008, as adjusted for known and measurable changes to occur during the succeeding nine months ending August 31, 2009. Paiute calculates a total cost of service of \$34,585,930, an increase of \$5,385,930 from the total cost of service accepted in the 2005 Rate Case Settlement. Paiute also estimates an annual throughput of 39,877,435 Dth. Paiute's proposed overall rate of return is based on a hypothetical capital structure of 45.6 percent long-term debt and 54.4 percent common equity. Paiute states that the proposed revenue requirement reflects an overall proposed rate of return of 10.89 percent with a return on common equity of 13.83 percent. Paiute states that the proposed return on common equity includes a 50 basis point upward adjustment to reflect the recent change in capital market conditions and Paiute's higher level of investment risk due to the evergreen status of many of its service agreements. Paiute states that its proposed transportation rates utilize the same straight fixed-variable (SFV) rate design, cost classification, and cost allocation that was used to derive the transportation rates established in its most recent rate proceeding in Docket Nos. RP05-163-000, *et al.*

5. Paiute also states that its proposed firm LNG storage service rates utilize the same SFV rate design established in Docket Nos. RP05-163-000, *et al.*, and that its proposed interruptible LNG storage rates are calculated based upon a 100 percent load factor of the firm LNG storage rates.

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<sup>1</sup> See *Paiute Pipeline Co.*, 113 FERC ¶ 61,222 (2005) (2005 Rate Case Settlement). Article IX of the settlement in that proceeding requires that Paiute file a general rate filing no earlier than June 29, 2007, and no later than February 27, 2009.

6. Paiute states that it currently charges four distinct incremental rates to recover certain costs related to four separate capacity expansion construction projects. Paiute states that its proposal, with one exception, uses the same SFV methodology that was approved in the certificate orders authorizing the projects and in subsequent filings. Paiute states that in the 2005 Rate Case Settlement, Paiute and the parties agreed to split the cost of service and the associated billing determinants related to the Carson Lateral Incremental Facilities Surcharge so that one-half was assigned to the incremental rate and the remainder to Paiute's system-wide firm transportation rate. Paiute proposes to continue that treatment for the Carson Lateral incremental costs and billing determinants.

7. Paiute additionally proposes to remove from its tariff the table of firm transportation monthly billing determinants set forth on Sheet No. 161 and related references on Sheet Nos. 20 and 21 of Rate Schedule FT-1. Paiute states that these billing determinants essentially reflect the Daily Reserved Capacity and Summer Daily Reserved Capacity contract entitlements set forth in the shippers' service agreements. Because this information is contained within the tariff, Paiute explains that currently it must file revisions to Sheet No. 161 each time a change occurs to a firm shipper's contract entitlements. Paiute asserts that it is unnecessary to retain this information in its tariff because all of the information contained within Sheet No. 161 is available and promptly updated on Paiute's website. Paiute states that removing the information from the tariff will eliminate an unnecessary administrative burden.

### **Public Notice, Interventions, and Protests**

8. Notice of Paiute's filing was issued on March 3, 2009. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210. Pursuant to Rule 214, 18 C.F.R. § 385.214 (2008), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late interventions at this stage of the proceeding will not disrupt this proceeding or place additional burden on existing parties.

9. Sierra Pacific Power Company (Sierra Pacific); the Nevada Attorney General, Bureau of Consumer Protection (Nevada AG); and the Northern Nevada Industrial Gas Users (Nevada Industrials) filed protests (collectively, the Protestors). The Protestors argue that Paiute has not shown that the proposed significant rate increases are just and reasonable, and the Protestors contend that the proposed rates should be suspended for the maximum period, subject to refund, and to the outcome of a hearing. The Protestors assert that a hearing is necessary to address the appropriate calculation of return on equity, the appropriate cost of debt, Paiute's hypothetical capital structure, and the proposed assignment and/or allocation to Paiute of A&G and O&M costs from Paiute's parent, Southwest Gas. In addition, Sierra Pacific protests Paiute's proposal to continue splitting recovery of the Carson Lateral costs between an incremental rate and the system-wide firm transportation rate because Sierra Pacific asserts that this division was negotiated only for purposes of settling the last rate case. The Nevada AG contends that

the filing raises additional issues including depreciation, throughput and billing determinants, and the recovery and/or amortization of studies performed for Paiute's LNG facility. The Nevada Industrials further assert that additional issues should be explored, including the 70 percent increase in transmission maintenance expense compared to Paiute's 2008 Form 2-A, the changes to gross plant and the appropriate allocation between incremental and non-incremental shippers, and the appropriate treatment of future IT revenue subsequent to the elimination of the \$.15/MMBtu IT discount established in the 2005 Rate Case Settlement.

### **Discussion**

10. Paiute's instant filing proposes a significant rate increase to Paiute's transportation and storage rates.<sup>2</sup> Protestors to the filing have raised numerous issues related to the rate proposal. Based on a review of the filing, the Commission finds that the proposed rate changes, which are largely due to changes in rate of return and projected plant additions, have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. The filing raises general NGA section 4 rate case issues that must be examined at hearing.

11. The Commission's policy regarding suspensions is that tariff filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or inconsistent with other statutory standards.<sup>3</sup> It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.<sup>4</sup> Those circumstances do not exist here. Accordingly, the Commission will accept and suspend the proposed tariff sheet in Appendix A for five months to be effective September 1, 2009, subject to refund and to the outcome of a hearing.

12. The Commission accepts, to be effective April 1, 2009, the tariff sheets in Appendix B which remove the table listing shipper firm transportation monthly billing determinants from Paiute's tariff and other references to this listing. No party has

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<sup>2</sup> In this filing, Paiute proposes to increase its firm and interruptible transportation rates by over 12 percent and its firm and interruptible LNG service rates by 22.9 percent. Paiute's four incremental facility surcharges would decrease by 1.5 to 4.4 percent.

<sup>3</sup> See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

<sup>4</sup> See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

expressed opposition to this proposal, and the Commission finds that Paiute's proposal to remove this information from its tariff will reduce the need for unnecessary tariff filings that duplicate information that is maintained on Paiute's website.

13. Paiute requests that, to the extent the proposed rates are suspended, the Commission affirm that Paiute's rates effective during the suspension period shall reflect any rate adjustments or surcharges (e.g., Annual Charge Adjustment Surcharges) which become effective pursuant to Paiute's FERC Gas Tariff or any other Commission authorization. The Commission notes that during the period of the suspension, Paiute's current tariff remains effective, and Paiute may submit filings pursuant to its current tariff provisions for Commission consideration during the suspension period.

The Commission orders:

(A) The tariff sheet listed in Appendix A is accepted and suspended to be effective September 1, 2009, subject to refund and to the outcome of the hearing, as discussed in the body of this order.

(B) The tariff sheets in Appendix B are accepted, effective April 1, 2009.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15, and the Commission's rules and regulations, a public hearing is to be held in Docket No. RP09-406-000 concerning the lawfulness of Paiute's proposed rates. A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to 18 C.F.R. § 375.304, shall 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, N.E., Washington, D.C. 20426. The prehearing conference is for the purpose of clarification of the positions of the participants and consideration by the presiding judge of any procedural issues and discovery dates necessary for the ensuing hearing. The presiding judge is authorized to conduct further proceedings in accordance with this order and the Commission's Rules of Practice and Procedure.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

Appendix A

Paiute Pipeline Company  
Second Revised Volume No. 1-A  
Accepted and Suspended, Effective September 1, 2009

Nineteenth Revised Sheet No. 10

Appendix B

Paiute Pipeline Company  
Second Revised Volume No. 1-A  
Accepted Effective April 1, 2009

Second Revised Sheet No. 20  
Sixth Revised Sheet No. 21  
Sixteenth Revised Sheet No. 161