

127 FERC ¶ 61,029
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 8, 2009

In Reply Refer To:
National Fuel Gas Supply Corporation
Docket No. RP09-452-000

National Fuel Gas Supply Corporation
6363 Main Street
Williamsville, New York 14221

Attention: David W. Reitz, Deputy General Counsel

Reference: Petition for Waiver of Tariff

Dear Mr. Reitz:

1. On March 16, 2009, National Fuel Gas Supply Corporation (National Fuel) filed a petition requesting a temporary waiver of section 13.1 of the General Terms and Conditions (GT&C) of its FERC Gas Tariff to permit a proposed transaction with Somerset Gas Gathering of Pennsylvania, LLC (Somerset) to proceed as contemplated by the parties. National Fuel requests that the Commission grant the requested waiver effective March 4, 2009. As discussed below, the Commission grants the waiver requested by National Fuel.

2. Section 13.1 of the GT&C of National Fuel's tariff states:

Nominations for the receipt of gas by Transporter shall be accepted by Transporter only if the point of receipt is either

(i) an interconnection with another interstate pipeline whose FERC Gas Tariff incorporates the NAESB standards, or

(ii) an interconnection with an Operator that is a party to a currently effective Interconnection Agreement with Transporter applicable to such interconnection.

3. National Fuel states that for many years, it has received gas from Columbia Gas Transmission (Columbia Gas) at a meter station located in Smethport, Pennsylvania. National Fuel states it then delivers this gas to National Fuel Gas Distribution Corporation (NFGDC).
4. National Fuel states that in an order issued on December 19, 2008,¹ the Commission authorized Columbia Gas to sell section 1 of its 1818/1862 system to Somerset. National Fuel states that this system includes the facilities used by Columbia Gas to deliver gas to National Fuel on behalf of NFGDC. Following the issuance of that Commission order, National Fuel states it provided Somerset its standard form of interconnection agreement, but that as of the date of the instant filing, Somerset has yet to execute an interconnection agreement with National Fuel. National Fuel claims that it learned that the sale of Columbia Gas' facilities to Somerset occurred on March 4, 2009, and received confirmation on the date of the instant filing that the sale included the meter station at Smethport.
5. National Fuel seeks a temporary waiver of GT&C section 13.1 to allow it to continue to accept nominations from NFGDC for the receipt of gas at Smethport for up to 120 days in the absence of an interconnection agreement between National Fuel and Somerset. National Fuel states it will need to have further discussions with Columbia Gas and Somerset before an interconnection agreement can be completed. In the meantime, National Fuel contends the continuation of deliveries at Smethport is necessary to maintain natural gas service to that community. National Fuel avers that disruption of that service would clearly be contrary to the Commission's intent in authorizing Somerset to provide interstate service to Columbia to preserve Columbia's service to NFGDC.
6. National Fuel requests that the Commission grant the waiver effective as of March 4, 2009, the date Somerset acquired the Columbia Gas facilities at Smethport. National Fuel contends that under the circumstances, there is good cause to make the waiver effective as of that date.
7. National Fuel also asserts that if the Commission grants the waiver requested in the instant petition, National Fuel would make a subsequent filing. If Somerset and National Fuel execute a conforming interconnection agreement, National Fuel would inform the Commission accordingly. If Somerset and National Fuel execute an interconnection agreement that does not conform to its tariff form, then National Fuel would seek Commission approval of either the non-conforming agreement, or propose a change to GT&C section 13.1 that would obviate the filing of the agreement. Finally, if

¹ National Fuel cites *Columbia Gas Transmission Corporation, et al.*, 125 FERC ¶ 61,343 (2008) (order on rehearing).

Somerset and National Fuel are unable to reach agreement on the terms of an interconnection agreement, National Fuel states it will seek further relief from the Commission.

8. Notice of National Fuel's filing was issued on March 19, 2009. Interventions and protests were due by March 23, 2009, as provided in section 154.210 of the Commission's regulations.² Pursuant to Rule 214,³ 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 intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. No adverse comments or protests were filed. Columbia Gas filed comments in support of the request for waiver.

9. The Commission grants National Fuel's instant waiver request in order to permit it to continue to accept nominations from NFGDC for the receipt of gas at the Smethport meter station. This waiver is granted effective March 4, 2009 as requested, and shall be in effect for no more than 120 days.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

cc: All Parties
Public File

² 18 C.F.R. § 154.210 (2008).

³ 18 C.F.R. § 385.214 (2008).