

127 FERC ¶ 61,058
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Wyckoff Gas Storage Company, LLC

Docket No. RP09-444-000

ORDER ACCEPTING REVISED TARIFF SHEETS, SUBJECT TO CONDITIONS

(Issued April 20, 2009)

1. On February 20, 2009, Wyckoff Gas Storage Company, LLC (Wyckoff) filed revised tariff sheets¹ to comply with the Commission's October 6, 2003 order² which: (1) authorized the construction and operation of natural gas storage facilities charging market-based rates; and (2) accepted Wyckoff's *pro forma* tariff subject to the requirement that it be revised and refiled at least 60 days prior to the commencement of service. The tariff sheets listed in the Appendix are accepted for filing effective the later of April 21, 2009, as requested, or the date on which the facilities are placed into service, subject to the conditions detailed below.

I. Summary of the Proposal

2. Wyckoff states that it is submitting proposed revisions to its tariff that: (1) incorporate current North American Energy Standards Board (NAESB) standards; (2) comply with Order Nos. 637, 637-A, and 637-B; (3) comply with Order Nos. 587-G and 587-I; (4) comply with any subsequent orders with regards to scheduling equality and discounting issues; and (5) incorporate tariff sheets that define single-cycle and multi-cycle storage service. In addition, Wyckoff asserts the revised tariff sheets incorporate new requirements applicable to natural gas storage facilities that the Commission has adopted since the issuance of the October 2003 Order. Wyckoff contends that the additional requirements include those set forth in: (1) the *Policy Statement on Creditworthiness for Interstate Natural Gas Pipelines and Order Withdrawing*

¹ See Appendix A for complete listing of revised tariff sheets.

² *Wyckoff Gas Storage Company, LLC*, 105 FERC ¶ 61,027 (2003) (October 2003 Order).

Rulemaking Proceeding;³ (2) Order No. 712;⁴ (3) standard of care applicable to Wyckoff under Rate Schedule FSS; and (4) the right of first refusal available to shippers under Rate Schedule FSS.

3. Wyckoff also requests temporary waiver of section 284.12(a)(1)(iv) of the Commission's regulations as it relates to the NAESB standards on Electronic Data Interchange/Electronic Delivery Mechanism and Flat File/Electronic Delivery Mechanism to allow Wyckoff to postpone implementation of these NAESB standards until ninety days after it receives a request to send information via EDI/EDM.⁵

II. Notice of Filing and Responsive Pleadings

4. Notice of Wyckoff's filing was issued on March 12, 2009. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁶ Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁷ 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. No adverse comments or protests were filed.

III. Discussion

5. For the reasons discussed below, the Commission finds that Wyckoff's proposed tariff revisions generally comply with the Commission's October 2003 Order and subsequent orders applicable to natural gas storage facilities. Accordingly, the Commission accepts Wyckoff's tariff sheets, subject to conditions, as discussed below.

³ FERC Stats. & Regs. ¶ 31,191 (2005).

⁴ *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 Nos. 712 and 712-A).

⁵ 18 C.F.R. § 284.12 (a)(1)(iv) (2008).

⁶ 18 C.F.R. § 154.210 (2008).

⁷ 18 C.F.R. § 385.214 (2008).

A. NAESB Standards

6. The October 2003 Order requires Wyckoff to revise its tariff to incorporate the current NAESB standards either by reference or verbatim. Wyckoff states that section 11 of the General Terms and Conditions (GT&C) of its tariff incorporates: Additional Standards, Nominations Related Standards, Flowing Gas Related Standards, Invoicing Related Standards, Electronic Delivery Mechanism Related Standards, and Capacity Release Standards. Further, NAESB Standards 1.3.2 and 5.3.2 which detail the nomination, confirmation and scheduling timelines for transportation service providers (TSP) and the timelines for capacity releases respectively are incorporated into the tariff verbatim. Wyckoff requests temporary waiver of section 284.12(a)(1)(iv) of the Commission's regulations as it relates to the NAESB standards on Electronic Data Interchange/Electronic Delivery Mechanism (EDI/EDM) and Flat File/Electronic Delivery Mechanism (FF/EDM). Wyckoff argues that the Commission has granted waivers of the EDI/EDM and FF/EDM standards to other interstate pipelines and storage facilities that have not received requests to send information via EDI/EDM and FF/EDM.⁸ Wyckoff asserts that the requested waiver would allow Wyckoff to postpone implementation of those NAESB standards until ninety days after it receives a request to send information via EDI/EDM.

Commission Determination

7. Consistent with the Commission's previous rulings regarding EDI/EDM requests in *Tennessee Gas Pipeline Company* and *Saltville Gas Storage Company*,⁹ the Commission will grant Wyckoff an extension of time to comply with the EDI/EDM standards adopted by NAESB until 90 days following a request to implement EDI/EDM, subject to the following conditions. First, in connection with its request for a temporary waiver of section 284.12(a)(iv), Wyckoff expressly proposes to exclude from its tariff approximately 119 NAESB standards, which it asserts are related to EDI/EDM or FF/EDM.¹⁰ However, those standards are not limited to implementation of EDI/EDM, and include numerous business practices which may be implemented without the use of

⁸ Citing, *Tarpon Whitetail Gas Storage, LLC*, 123 FERC ¶ 61,274, at P 46 (2008); *Windy Hill Gas Storage, LLC*, 119 FERC ¶ 61,291, at P 103 (2007); *Saltville Gas Storage Co.*, 109 FERC ¶ 61,200, at PP 36-37 (2004).

⁹ See *Tennessee Gas Pipeline Co.*, 100 FERC ¶ 61,340 (2002); See also, *Saltville Gas Storage Co.*, 109 FERC ¶ 61,200 (2004)

¹⁰ See Attachment A to Wyckoff's February 20, 2009 filing.

EDI/EDM. Therefore, Wyckoff must incorporate those standards by reference or verbatim into its tariff, and comply with them except to the extent they are related to EDI/EDM or FF/EDM.

8. Second, Wyckoff did not propose to incorporate into its tariff any of the NAESB data sets. The Commission notes that NAESB data sets are to be used by more persons than just a pipeline's customers. Agents, third party service providers, other pipelines and the Commission can require the use of the NAESB data sets for their communication with and access to information from Wyckoff. Further, we require that certain capacity release information be available to the public. Therefore, we will require Wyckoff also to implement the capacity release data sets for publicly available information and incorporate those NAESB data sets into its tariff by reference. As for the remaining EDI/EDM related data sets, the Commission will grant Wyckoff an extension of time to comply with these NAESB data sets for up to 90 days from the date any person first requests use of a NAESB data set that Wyckoff does not currently support.

9. Wyckoff is further directed to remove from incorporation by reference NAESB Standard 1.3.2, which is included verbatim in section 4 of the GT&C of its tariff.

10. In *Standards of Business Practices for Interstate Natural Gas Pipelines*¹¹, the Commission incorporated by reference into its regulations revisions to the NAESB standards (Version 1.8). Under the implementation established in this final rule, Wyckoff is required to implement the standards on August 1, 2009, and file tariff sheets to reflect the changed standards on June 1, 2009.

B. Order No. 712

11. As a storage provider authorized to charge market-based rates, Wyckoff is not affected by Order No. 712's elimination of the maximum rate ceiling for releases of one year or less. Wyckoff however, proposes to revise section 8.1(b)(13) of its GT&C to require the releasing shipper to state in its release notice whether the releasing shipper is an asset manager and, if so, the asset manager's obligation to deliver gas to, or purchase gas from, the releasing shipper. Wyckoff also proposes to include in section 8.1(b)(13) a proviso that in order for a release to an asset manager to be exempt from bidding it must contain a delivery/purchase obligation applicable "on any day during a minimum period of five months out of each twelve month period of the release." Wyckoff proposes to revise section 8.2 of its GT&C to exempt from bidding capacity releases to asset managers where the release is identified as exempt pursuant to section 284.8(h)(3) of the

¹¹ *Standards of Business Practices for Interstate Natural Gas Pipelines*, Order No. 587-T, 74 FR 9162, (March 3, 2009), FERC Stats. & Regs. ¶ 31,289 (2009).

Commission's regulations and releases to a marketer participating in a state regulated retail access program in accordance with section 284.8(h)(4) of the Commission's new rules.

Commission Determination

12. In Order Nos. 712 and 712-A, the Commission removed the maximum rate ceiling on capacity releases of one year or less, which take effect within one year after the pipeline is notified of the release. The Commission also modified its regulations in order to facilitate asset management arrangements by relaxing the Commission's prohibition on tying and on its bidding requirements for certain capacity releases. The Commission further clarified that its prohibition on tying does not apply to conditions associated with gas inventory held in storage for releases of firm storage capacity. Finally, the Commission waived its prohibition on tying and bidding requirements for capacity release made as part of state-approved retail access program.

13. Wyckoff's tariff revisions are generally consistent with Order Nos. 712 and 712-A and the Commission's capacity release policies. However, the Commission finds that Wyckoff must make two revisions to its proposed tariff language. First, the proviso in section 8.1(b)(13) of the GT&C describing the delivery/purchase obligation necessary for a release to an asset manager to be exempt from bidding is not fully consistent with section 284.8(h)(3) of the Commission's regulations. For example, it does not include the provision in section 284.8(h)(3)(ii) that the delivery/purchase obligation must apply on five twelfths of the days of any additional period of the release not equal to twelve months. Accordingly, Wyckoff must revise section 8.1(b)(13) either to more closely track the language of section 284.8(h)(3) or simply to provide that the delivery/purchase obligation must comply with the requirements of section 284.8(h)(3) without actually setting forth those requirements in Wyckoff's tariff.

14. Second, Wyckoff's proposed section 8.2 concerning releases exempt from bidding fails to include any provision for releases of 31 days or less to be exempt from bidding, as required by section 284.8(h)(1)(iv) of the Commission's regulations. Accordingly, Wyckoff must revise its tariff to implement the provisions of section 284.8(h) concerning the exemption from bidding for releases of 31 days or less, including the limits on rolling over such releases contained in section 284.8(h)(2).

C. Miscellaneous Proposed Tariff Revisions Language

15. Wyckoff's *pro forma* tariff includes a place holder for a system map at Original Sheet No. 3. Wyckoff states that it has not provided a system map in this tariff filing, but will post a map on its electronic website accessible to all customers and prospective customers.

Commission Determination

16. Wyckoff's system map tariff revisions are partially in compliance with the Commission's directive. Section 154.103(a) of the Commission's regulation states that the composition of a tariff must include a map of the system. In accordance with sections 154.103(a) and 154.106 of the Commission's regulations, Wyckoff is directed to file a map of its system at Original Sheet No. 3.

17. Additionally, the Commission notes that this tariff filing does not include a list of the tariff sheets enclosed in this filing. Consequently, in accordance with section 154.7(a)(5) of the Commission's regulations, Wyckoff is directed to file a list of the tariff sheets enclosed in all future tariff filings.

The Commission orders:

(A) The Commission accepts the tariff sheets listed in the Appendix to this order to be effective the later of April 21, 2009, as requested, or the date on which the facilities are placed into service, subject to conditions, as discussed above in the body of this order.

(B) Wyckoff is directed to notify the Commission of the date the facilities are placed into service.

(C) Wyckoff is directed to file revised tariff sheets, within 15 days of the date of this order, consistent with the discussion above.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A

Wyckoff Gas Storage Company, LLC
Docket No. RP09-444-000
FERC Gas Tariff
Original Volume No. 1

Tariff Sheets Accepted Effective: April 21, 2009, subject to conditions

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