

127 FERC ¶ 61,129
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 8, 2009

In Reply Refer To:
El Paso Natural Gas Company
Docket No. RP09-458-000

El Paso Natural Gas Company
Post Office Box 1087
Colorado Springs, CO 80944

Attention: Catherine E. Palazzari
Vice President

Reference: Request for Waiver

Dear Ms. Palazzari:

1. On March 17, 2009, El Paso Natural Gas Company (El Paso) filed a request for a limited prospective waiver of non-critical penalties at certain delivery locations in light of the March 1, 2009 in-service date of the Transwestern Pipeline Company (Transwestern) Phoenix Expansion Project. El Paso requests that the Commission grant this waiver for the period beginning April 1, 2009 through August 31, 2009. For good cause shown, we grant El Paso's request.
2. El Paso states that in 2006, El Paso entered into a purchase and sale agreement with Transwestern and Salt River Project Agricultural Improvement and Power District (Salt River) for Salt River's East Valley Lateral pipeline (Lateral). As part of the agreement, El Paso obtained ownership of the Lateral while Salt River retained two options to re-purchase an undivided interest in the Lateral. Subsequently, Transwestern acquired Salt River's interest in the Lateral to supplement Transwestern's Phoenix Expansion Project, and El Paso received authority to abandon, by sale, an undivided

interest in a portion of the Lateral to Transwestern.¹ El Paso states that Transwestern was authorized to place the Phoenix Expansion Project facilities in service on March 1, 2009.

3. El Paso states that, beginning March 1, 2009, Transwestern and El Paso share ownership and operational utilization of the Lateral, and both will provide transportation services through their portions of the Lateral pursuant to the terms and conditions of their respective FERC Gas Tariffs. El Paso and Transwestern will use a pre-determined allocation process to apportion gas flows on the Lateral based on quantities nominated and scheduled on Transwestern, quantities nominated and scheduled on El Paso, and measured quantities at Lateral delivery locations. El Paso asserts that the allocation process is complex due to the many variables involved and that, as a result, El Paso believes that a six-month trial period is appropriate to allow all parties the opportunity to learn the nuances of the allocation process. Therefore, El Paso proposes to waive non-critical penalties for Lateral-related service during the trial period as long as the actions causing the penalties are a direct result of the complexity and operational learning curve of the control system for the Lateral. El Paso states that the waiver will not apply to situations where Transwestern's capacity rights are fully exhausted and imbalances roll back to El Paso.

4. El Paso explains that it has tariff authority, in Sections 12 and 32.5 of its General Terms and Conditions (GT&C), to grant a specific penalty waiver for past occurrences or in advance on a case-by-case basis to address specific, short-term operational problems. El Paso states that it will use its waiver authority during the month of March to grant waiver of non-critical penalties at the Lateral delivery points, if necessary, but that it is appropriate to request that the Commission grant the extended waiver for the remaining five-month period between April and August 2009.

5. El Paso states that Salt River and Southwest Gas Corporation (Southwest) are the only parties jointly served on the Lateral and are thus the only El Paso shippers affected by this waiver. El Paso requests waiver of the applicable non-critical hourly scheduling penalties² and non-critical daily unauthorized overrun penalties³ at the following Salt River and Southwest delivery locations for the period of April 1, 2009 through

¹ *El Paso Natural Gas Co.*, 115 FERC ¶ 61,074 (2006).

² See Section 43.2 of the GT&C of El Paso's tariff.

³ El Paso states that this waiver pertains to the penalty component of the daily unauthorized overrun penalty; El Paso would invoice the fee for transportation service rendered in overrun status to each shipper. The daily unauthorized overrun provisions are found in the applicable firm rate schedules in El Paso's tariff.

August 31, 2009: DSWG GER (DRN 773193), DSWG NFL (DRN 775772) and DSRP PHX (DRN 216820).

6. El Paso further states that if it declares a Strained Operating Condition (SOC) or Critical Operating Condition (COC) and a shipper incurs an SOC/COC daily imbalance charge related to service on the Lateral during the SOC/COC, the SOC/COC charge will not be assessed if the charge results from El Paso's error, pursuant to Section 33.11 of the GT&C. In addition, if the parties complied with all directives from El Paso during the SOC/COC and the penalty was unavoidable based on the allocation process, El Paso states that it will exercise its tariff authority to waive the applicable SOC/COC penalties.

7. Notice of El Paso's filing was issued on March 19, 2009, with comments, protests or interventions due as provided by 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 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 protests or adverse comments were filed. Salt River filed comments in support of the filing, stating that the limited waiver will allow the parties to adjust operations under the joint service structure and gain a better understanding of the system changes and the effect on scheduling processes. Southwest filed comments in support of the filing, stating that the waiver will help hold Southwest harmless while El Paso and Transwestern work out problems related to an untested, complex allocation process and its implementation.

8. For good cause shown, we grant El Paso's request for a limited waiver of non-critical penalties on the Lateral for the period of April 1, 2009 through August 31, 2009. As El Paso has stated, the waiver will afford the parties additional time to adjust to operations under the joint service structure and the complex allocation process. No other parties should be harmed by this waiver.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.