127 FERC ¶ 61,192
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 29, 2009

In Reply Refer To:
Texas Gas Transmission, LLC
Docket No. RP09-556-000

Texas Gas Transmission, LLC
9 Greenway Plaza
Houston, TX 77046

Attention: J. Kyle Stephens
Vice President, Regulatory Affairs and Rates

Reference: First Revised Sheet No. 1900 to FERC Gas Tariff, Third Revised Volume No. 1

Dear Mr. Stephens:

1. On April 30, 2009, Texas Gas Transmission, LLC (Texas Gas) filed the First Revised Sheet No. 1900 to grant Texas Gas authority to negotiate operationally feasible minimum and/or maximum delivery pressures. Texas Gas's revised tariff sheet is accepted and suspended, subject to the conditions set forth herein, to be effective November 1, 2009.

2. Texas Gas proposes to modify section 7.1 of its General Terms & Conditions (GT&C) to allow any customer and Texas Gas to agree to a minimum and/or maximum pressure for any Point of Receipt or Point of Delivery. Texas Gas states that a customer may be better able to optimize its operations by receiving gas according to the proposed tariff revisions.

3. Texas Gas states that the agreed upon pressure must be operationally feasible and it must not adversely affect any firm service on the Texas Gas system. Texas Gas states that the agreed upon pressure limitation(s) will apply to all Customers at the Point of Receipt or Point of Delivery. Referencing the Commission's recent decision in *Southern*

Star Central Pipeline, Inc.,[1] Texas Gas states that it currently has several agreements with customers wherein a minimum pressure is specified, but that Texas Gas's current tariff language does not specifically permit Texas Gas to negotiate minimum delivery pressures.

4. Public notice of Texas Gas's filing was issued on May 4, 2009. Interventions and protests were due May 12, 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 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. Louisville Gas and Electric Company (Louisville) filed a protest. PSEG Energy Resources and Trade, LLC (PSEG) filed comments.

5. On May 18, 2009, Texas Gas filed an answer to Louisville's protest and PSEG's comments. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,[4] prohibits an answer to protests unless otherwise ordered by the decisional authority. We will accept Texas Gas's answer because it has provided information that assisted in our decision-making process.

6. Louisville states that it supports Texas Gas's proposal to permit Texas Gas and a customer to agree to minimum and/or maximum pressures at the receipt and delivery points. However, Louisville states that the Commission should accept Texas Gas's proposal subject to two conditions. First, Louisville states that Texas Gas should be directed to propose modifications to the *pro forma* service agreements enabling parties to negotiate agreed upon maximum and/or minimum pressures. Louisville states that Texas Gas could comply with this requirement by including blanks in which minimum and maximum pressures could be specified for each receipt and delivery point. Louisville states that nothing in Texas Gas's currently proposed *pro forma* service agreements[5] accommodates the proposed specification of minimum and/or maximum receipt and delivery point changes. Louisville states that without the requested

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[1] 125 FERC ¶ 61,082 (2008).

[2] 18 C.F.R. § 154.210 (2008).

[3] 18 C.F.R. § 385.214 (2008).

[4] 18 C.F.R. § 385.213(a)(2) (2008).

[5] Texas Gas submitted on April 29, 2009, in Docket No. RP09-548-000, a tariff filing in which it proposes to replace its *pro forma* service agreements.

modification, a non-conforming service agreement would result every time Texas Gas and a customer negotiate a pressure commitment. Second, Louisville asserts that Texas Gas should be directed to include an express statement in its tariff that customers have the right to continue previously negotiated pressure commitments upon their exercise of a right to extend the term of their pre-existing service agreement.[6]

7. PSEG states that it also does not oppose Texas Gas's effort to permit Texas Gas and a customer to agree to minimum and/or maximum pressures at the receipt and delivery points that do not adversely affect any firm service on Texas Gas's system. PSEG objects to what it claims is the lack of information and procedures to be followed on how Texas Gas and its customers determine an agreement on minimum or maximum receipt and/or delivery point pressures. PSEG states that Texas Gas should be required to provide clarification regarding several matters. Among its concerns, PSEG requests (1) the criteria Texas Gas intends to use to determine whether a pressure commitment is operationally feasible, (2) how Texas Gas plans to determine whether any proposed pressure commitments will or will not adversely affect any other service, (3) whether pressure commitments by Texas Gas at one point will cause degradation of service at other points, (4) whether Texas Gas could install new facilities to meet such pressure commitments and how it proposes to allocate the cost of the facilities, (5) whether Texas Gas's proposed revisions apply at all points on Texas Gas's system, including Texas Gas's interconnections with other pipelines at Lebanon, (6) what procedures Texas Gas would impose to ensure that all customers at a given point are agreeable to a change and whether customers might have veto power, (7) examples of pressure commitments that would be acceptable and unacceptable under this proposal. PSEG states that Texas Gas should be required to clarify its filing regarding the above matters.

8. In its Answer, responding to Louisville, Texas Gas contends that this docket is not the appropriate forum to address the adequacy of Texas Gas's proposed *pro forma* service agreements. Rather, Texas Gas contends that it has filed revised *pro forma* service agreements in Docket No. RP09-548-000, and Louisville's concerns are more appropriately considered in that proceeding. Moreover, Texas Gas contends that its proposed *pro forma* service agreements provide the ability to include customer-specific minimum and maximum pressure commitments.

9. Texas Gas states that it is unnecessary to include in the pro-forma tariff language a statement that minimum and maximum pressure commitments can be carried forward as agreements are rolled over or extended. Texas Gas states that as long as such a commitment does not adversely affect any firm service on Texas Gas's system, such minimum and maximum pressure commitments are consistent with the proposal. Texas Gas avers that to the extent that such commitments are no longer operationally feasible or

[6] *Citing Texas Gas Transmission, LLC*, 127 FERC ¶ 61,132, at P 20 (2009).

adversely affect firm service to other customers, the pressure commitment would be revised for operational, not contractual, reasons.

10. Texas Gas responds to PSEG that all service requests will be evaluated on a case-by-case basis to ensure that service can be provided without imposing operational constraints on currently contracted firm services as required by Texas Gas's tariff. The evaluation includes (1) consideration of existing contractual obligations, (2) hydraulic flow simulation studies, (3) actual historic conditions experienced on the pipeline system, and (4) known facility limitations. With regard to its existing pressure commitments, Texas Gas states that such commitments will be protected and maintained provided that they do not have a disparate impact on existing customers or negatively affect the future operations of the system. Similarly, Texas Gas states that the installation of new facilities at points of interconnection and the allocation of those costs will be determined on a case-by-case basis consistent with Texas Gas's tariff and Commission regulations.

11. The Commission accepts and suspends subject to conditions Texas Gas's proposal for tariff authority to negotiate operationally feasible minimum and/or maximum pressures with its customers for any Point of Receipt or Point of Delivery. The Commission has previously approved similar provisions permitting the negotiation of pressures.[7] Texas Gas's proposal provides that, based upon the Transporter's reasonable determination, the agreed upon pressure must be operationally feasible and not adversely affect any firm service on Transporter's system. In response to PSEG's request for additional information regarding the implementation of these provisions, Texas Gas has explained that it will consider existing contractual obligations, hydraulic flow simulation studies, actual historic conditions, and known facility limitations. Any construction of new facilities will be bound by Commission regulations and the provisions of Texas Gas's tariff. As to Louisville's concern involving existing customers, the Commission affirms that nothing in our acceptance of this filing diminishes Texas Gas's obligation to honor rollover rights.

12. However, the Commission seeks further explanation from Texas Gas with regard to its proposed language that "any agreed-to pressure shall apply to all Customers at the Point of Receipt/Delivery." The Commission is concerned that Texas Gas, by agreeing to a pressure level with one customer, is seeking to impose the same pressure level on other customers who may not wish to accept such a pressure level. Texas Gas has not fully addressed how this proposal will affect customers who do not wish to be bound by the new pressure level or how Texas Gas's proposal is consistent with its assurances that it will honor its current contractual commitments with existing customers. Texas Gas is ordered to file within 15 days of the issuance of this order an explanation regarding the concerns outlined in this paragraph.

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[7] *See, e.g., Colorado Interstate Gas Company*, 99 FERC ¶ 61,035 (2002).

13. The Commission also notes that because Texas Gas has modified its tariff to permit negotiation of minimum and maximum pressures, Texas Gas must also revise its *pro forma* service agreements to reflect this tariff modification. Texas Gas has not presented such revisions to its *pro forma* service agreements in this proceeding. However, Texas Gas has filed revised *pro forma* service agreements in Docket No. RP09-548-000. Thus, as a part of that proceeding, the Commission will consider whether the revised *pro forma* agreements adequately reflect Texas Gas's provision permitting the negotiation of minimum and maximum pressures.

14. Additionally, the Commission notes that to the extent Texas Gas negotiates maximum and/or minimum pressures for any Point of Receipt or Point of Delivery with any customer, the agreed upon pressure is considered a special detail pertaining to transportation under Section 284.13(b)(1)(viii) of the Commission regulations and must be posted on Texas Gas's website consistent with that provision.[8]

15. Based upon a review of the filing, the Commission finds that the proposed tariff sheet has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept the tariff sheet for filing and suspend its effectiveness for the period set forth below, subject to the conditions set forth in this order.

16. 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 that it may be inconsistent with other statutory standards.[9] It is recognized, however, that shorter suspensions may be warranted in circumstances where suspensions for the maximum period may lead to harsh and inequitable results.[10] Such circumstances do not exist here. Accordingly, the Commission will exercise its discretion to accept and

[8] *Colorado Interstate Gas Company*, 99 FERC ¶ 61,035, at 61,132-33(2002); *Columbia Gas Transmission Corporation*, 97 FERC ¶ 61,221, at 62,003 n.26 (2001).

[9] *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

[10] *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

suspend these tariff sheets to become effective November 1, 2009, or some earlier date specified in a subsequent Commission order, subject to the conditions identified in this order and further Commission review.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.