

128 FERC ¶ 61,016
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 9, 2009

In Reply Refer To:
Viking Gas Transmission Company
Docket No. RP09-765-000

Viking Gas Transmission Company
100 West 5th Street
Tulsa, Oklahoma 74103

Attention: Joseph W. Miller
Associate General Counsel

Reference: New Tariff Sheets Listing Non-Conforming Agreements

Ladies and Gentlemen:

1. On June 12, 2009, Viking Gas Transmission Company (Viking) submitted for filing original and revised tariff sheets¹ reflecting thirty-six currently effective, potentially non-conforming firm transportation agreements for inclusion in its FERC Gas Tariff, First Revised Volume No. 1. Viking requests that the Commission accept and make these tariff sheets effective June 12, 2009. Viking also filed the thirty-six potentially non-conforming agreements for Commission review. Viking request that to the extent the Commission finds any of the transportation agreements non-conforming, the Commission accept the agreements and grant any waivers necessary to allow each of the agreements to be effective as of their respective effective dates, and permit them to remain in effect in accordance with their respective terms. The Commission will grant waiver of the 30-day notice requirement and accept the tariff sheets, to become effective June 12, 2009, as proposed, subject to further review and order of the Commission. The Commission will also accept all of the accompanying agreements, effective on their respective effective dates, subject to further review and order of the Commission.

2. Viking states that in light of changes in personnel and procedures over the last several years and the Commission's emphasis on strict compliance with the regulations relating to the filing of non-conforming agreements, Viking initiated a review of its

¹ Sixth Revised Sheet No. 87I, Original Sheets Nos. 87I.01 and 87I.02.

transportation agreements. Viking states it has completed review of its firm agreements, excluding agreements with replacement shippers, and submitted this filing after the review uncovered currently effective, potentially non-conforming firm transportation agreements that Viking had not previously filed with the Commission. Viking states that it anticipates that it will complete its review of replacement shipper agreements, IT agreements, and other jurisdictional contracts by August 2009.²

3. Viking states that its approach has been to identify a contract as potentially non-conforming whenever there is any reasonable basis for doing so. It has also sought to provide the Commission with transparency into its processes by describing its methodology in detail in Appendix B of its filing and by summarizing the contracts it identified as conforming that had non-trivial deviations. To aid the Commission in its review, Viking provided the Commission with a 3-volume set of binders containing the 36 agreements and various appendices including summaries of the significant deviations in each contract, a table setting forth the history of the tariff sheets that comprise the Viking *pro forma* agreement, a table setting forth the tariff sheets that were in effect when each contract was executed or last amended, copies of the submitted contracts showing deviations from the relevant versions of the *pro forma* agreement, and summaries of contracts with non-trivial deviations that, based on Viking's interpretation of Commission guidance, are not material deviations.

4. Viking believes the Commission's and its own resources would best be conserved if the Commission accepted all of the contracts as non-conforming agreements. Viking states that, on the whole, it regards the material deviations that exist in the agreements as of limited significance. Viking states that it believes that with improved internal procedures in place and the benefit of Commission guidance, Viking can prevent inadvertent or misguided execution of possibly non-conforming contracts in the future.

5. Viking states that to the extent the deviations in the contracts are material, they do not change the conditions under which Viking provides service and do not present a risk of undue discrimination. Viking states that many of the deviations are "grandfathered" arrangements that incorporate provisions originally contained in contracts adopted during the transition to open access service and, as such, they reflect unique circumstances not applicable to newly negotiated arrangements.

6. With regard to each contract, Viking requests that the Commission either (i) waive the requirement in sections 154.1(d), 154.112(b), and 154.207 of the Commission's regulations that non-conforming agreements be filed with the Commission no less than 30 days before they are proposed to take effect; or (ii) determine that the contract is not

² Viking states it will file any additional firm contracts that have potentially material deviations with the Commission in a timely fashion or replace such contracts with conforming contracts.

non-conforming. For those contracts accepted for filing as non-conforming agreements that have been amended, Viking requests waiver of section 154.601 of the Commission's regulations, to the extent it could be viewed as prohibiting the filing of such amended contracts.

7. Notice of Viking's filing was issued on June 15, 2009. Interventions and protests were due as provided in 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 the proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

8. Viking filed with the Commission thirty-six potentially non-conforming service agreements, as well as original and revised tariff sheets reflecting these agreements. While the service agreements submitted by Viking may contain deviations from Viking's tariff, the Commission has not completed its review of these agreements or tariff sheets. Accordingly, the Commission will accept Sixth Revised Sheet No. 87I and Original Sheet Nos. 87I.01 and 87I.02, to become effective June 12, 2009, as proposed, subject to further review and order of the Commission. Since the Commission has yet to complete its review of the service agreements, and because they have been in effect for a significant period already, the Commission will also accept all of the service agreements accompanying the instant filings, effective on their respective effective dates, subject to further review and order of the Commission.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.