

128 FERC ¶ 61,195
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 27, 2009

In Reply Refer To:
Horizon Pipeline Company, L.L.C.
Docket No. RP09-856-000

Horizon Pipeline Company, L.L.C.
3250 Lacey Road, Suite 700
Downers Grove, IL 60515-7918

Attention: Bruce H. Newsome, Vice President

Reference: Tariff Filing

Ladies and Gentlemen:

1. On July 31, 2009, Horizon Pipeline Company, L.L.C. (Horizon) filed revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1 (Tariff) to implement proposed changes to its *pro forma* service agreement.¹ Horizon states that it has completed a self-audit of its currently effective transportation and storage contracts in response to *Southern Star Central Gas Pipeline, Inc.*,² and discovered minor non-substantive differences between the service agreements used with all of Horizon's shippers and the respective exhibits in the *pro forma* service agreement in Horizon's Tariff. Horizon states that it made this filing to implement proposed changes to its *pro forma* service agreement to minimize the number of non-substantive deviations in the future. We accept Horizon's revised tariff sheets to be effective September 1, 2009, subject to further revisions discussed below.

2. Notice of Horizon's filing issued on August 3, 2009, allowing for protests as provided by section 154.210 of the Commission's regulations. Pursuant to Rule 214, 18 C.F.R. § 385.214 (2009), all timely filed motions to intervene and any motions to

¹ See Appendix.

² 125 FERC ¶ 61,082 (2008).

intervene out-of-time filed before the issuance date of this order are granted. No party filed comments or protest.

3. Horizon proposes to revise the term provision (section 3) of Rate Schedules FTS and ITS to include a fill-in-the-blank provision for any contractual rollover, evergreen, or right of first refusal (ROFR) rights between Horizon and a shipper “per section 17.3” of the General Terms and Conditions (GT&C) of Horizon’s Tariff. The Commission finds that while section 17.3 of the GT&C provides Horizon the right to extend the term of service of an agreement pursuant to a rollover or evergreen provision negotiated with a shipper, section 17.3 does not provide Horizon with the authority to negotiate ROFR provisions. Therefore, we direct Horizon to file a revised tariff sheet that removes from section 3 any reference to ROFR rights. In the alternative, Horizon must include in section 3 a reference to the provisions in its Tariff that allow Horizon to negotiate contractual ROFR rights.

4. Horizon also proposes to include in the *pro forma* service agreement a new Exhibit C, which will incorporate negotiated or discount rate agreements. The Commission finds that Exhibit C of Horizon’s proposal does not sufficiently define the information to be included in the exhibit, as required by Commission policy.³ For example, in its transmittal letter, Horizon states that Exhibit C may identify the delivery and receipt points subject to the discount or negotiated rate agreements. However, Exhibit C does not reference delivery and receipt points or include language specifying the other provisions that might be inserted into the negotiated rate and discounted rate agreements referenced by the exhibit. This lack of specificity impairs the Commission’s ability to adequately review the provisions of the agreements that will be incorporated under Exhibit C to ensure that they are just and reasonable and not unduly discriminatory. Accordingly, Horizon must revise Exhibit C to conform with the Commission’s policy as stated in the *Texas Gas* case.⁴ Specifically, the revised Exhibit C must identify all terms and conditions that may be inserted into the discounted or negotiated rate agreements as conforming provisions and, where applicable, identify the tariff provisions that authorize these terms. In addition, the Commission notes that Horizon remains obligated to file with the Commission any agreement that contains material deviations from the *pro forma* service agreement.

³ See, e.g., *Texas Gas Transmission, LLC*, 127 FERC ¶ 61,313, at P 19-24 (2009) (*Texas Gas*).

⁴ *Id.*

5. The Commission accepts the tariff sheets listed in the Appendix to become effective September 1, 2009, subject to Horizon filing revised tariff sheets, within 15 days of the date this order issues, consistent with the discussion in the body of this order.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

cc: All Parties
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Appendix

**Horizon Pipeline Company, L.L.C.
FERC Gas Tariff, Original Volume No. 1**

Tariff Sheets Effective September 1, 2009, Subject to Conditions;

First Revised Sheet No. 300
Original Sheet No. 300A
Original Sheet No. 300B
First Revised Sheet No. 301
Second Revised Sheet No. 302
First Revised Sheet No. 303
Original Sheet No. 304
Sheet Nos. 305-400