

129 FERC ¶ 61,068
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

October 26, 2009

In Reply Refer To:
Texas Eastern Transmission, LP
Docket Nos. RP09-508-001 and
RP09-508-002

Texas Eastern Transmission, LP
P.O. Box 1642
Houston, TX 77251

Attention: Janice Devers
General Manager - Tariffs and Commercial Development

Reference: Compliance Filing

Dear Ms. Devers:

1. On July 14, 2009, Texas Eastern Transmission, LP (Texas Eastern) filed tariff revisions and revised tariff sheets¹ to comply with the Commission's May 28, 2009 order in Docket No. RP09-508-000² to be effective August 13, 2009. Texas Eastern's revisions set forth the terms and conditions under which a shipper is permitted to have Maximum Daily Delivery Obligations (MDDO) at its primary delivery points that, in aggregate, exceed its Maximum Daily Quantity (MDQ). On July 24, 2009, in Docket No. RP09-508-002, Texas Eastern filed an amended tariff sheet³ to include a specific cross reference to the point limitations

¹ See Appendix.

² *Texas Eastern Transmission, LP*, 127 FERC ¶ 61,189 (2009)(May 28, 2009 Order).

³ Sub Second Revised Sheet No. 612 to Texas Eastern's FERC Gas Tariff, Seventh Revised Volume No. 1.

and point flexibilities applicable to the conversion of firm capacity entitlements and to provide that a customer may request the conversion of certain firm capacity entitlements to the extent that the sum of the maximum receipt and delivery obligations do not exceed the MDQ of the service agreement. Accordingly, Second Revised Sheet No. 612 will be rejected as moot.

2. Texas Eastern has satisfactorily complied with the conditions set forth in the May 28, 2009 Order and the revised tariff sheets are accepted effective August 13, 2009, as proposed.
3. In the May 28, 2009 Order the Commission accepted, subject to conditions, Texas Eastern's proposal to modify its *pro forma* service agreements under Rate Schedules CDS, FT-1, SCT, and SS-1 to include a space for setting forth a shipper's aggregate maximum daily delivery obligation (AMDDO). The exhibits to those *pro forma* service agreements currently include spaces for setting forth the amount of (1) a shipper's MDQ, which are the maximum quantities of gas that Texas Eastern is obligated to deliver to the customer on any day, and (2) its MDDOs, which is the maximum quantity of gas the pipeline is obligated to deliver to its customer at each of its primary delivery points. As described in greater detail in the May 28, 2009 Order, Texas Eastern includes an AMDDO in a shipper's service agreement if the shipper's MDDOs at its primary points exceed its MDQ. The AMDDO places an aggregate limit on the shipper's right to nominate deliveries at those points on any particular day.
4. In the May 28, 2009 Order, the Commission pointed out that sections 14.5 through 14.9 of the General Terms and Conditions (GT&C) of Texas Eastern's tariff limit a shipper's MDDOs at its primary points to its MDQ. The Commission concluded that Texas Eastern's proposed inclusion in its *pro forma* service agreements of a space for setting forth a shipper's AMDDO, without any other change to its tariff, failed to adequately explain the terms and conditions under which Texas Eastern allows a shipper to have MDDOs in excess of MDQ, thus triggering the need to also include AMDDOs in the service agreement.⁴ The Commission found it acceptable for Texas Eastern to revise its *pro forma* service agreements to permit the inclusion of AMDDOs. However, the Commission required Texas Eastern to revise its tariff to set forth the not unduly discriminatory terms and conditions under which a shipper is permitted to have MDDOs at its primary delivery points in excess of its MDQ, together with an AMDDO limiting the use of those MDDOs.

⁴ May 28, 2009 Order, 127 FERC ¶ 61,189 at P 11.

5. In the instant filing, Texas Eastern proposes, in compliance with the May 28, 2009 Order, to revise sections 1 and 14 of the GT&C of its tariff and revise its forms of service agreement for Rate Schedules CDS, FT-1 and SCT to address the terms and conditions under which a shipper may have MDDOs in excess of its MDQ. Texas Eastern proposes to revise several of the subsections within the GT&C to clarify the provisions that govern receipt, as well as delivery point limitations and flexibility. These changes include incorporating explicitly into the tariff the concept of aggregate maximum daily receipt obligation (AMDRO), which refers to the aggregate amount of gas that Texas Eastern is obligated to receive on a primary firm basis from a certain customer or customers at a certain location or locations on the pipeline, reflecting a certain receipt point flexibility across certain of such customer's or customers' firm service agreements. Texas Eastern states that it will make a filing to submit contracts that do not conform to the proposed tariff in terms of receipt and delivery obligations, if necessary.

6. Specifically, Texas Eastern proposes to: (1) add new section 14.1(A) to state that AMDDOs, AMDROs, MDDOs and MDROs (maximum daily receipt obligations) are specified in a customer's service agreements; and (2) add new section 14.1(B) to provide that receipt and delivery point entitlements designated as section 14.9 Firm Capacity are set forth in the Texas Eastern LINK System and that the quantity in the LINK System supersedes the exhibits to the service agreement. Section 14.2 sets forth the general limitations on primary receipt and delivery points and the limitations for MDROs and MDDOs to the MDQ.

7. Section 14.3 includes revisions to the various subsections which address each of the specific circumstances in which the sum of the customer's MDROs or MDDOs may exceed the customer's MDQ under a Part 284 or section 7(c) service agreement. Specifically, section 14.3(A)(1) allows such flexibility for contracts in which the firm receipt or delivery point flexibility reflects service agreement provisions that were in place on or before June 1, 1993, prior to the Order No. 636 restructuring process. Sections 14.3(A)(2) and (A)(3) also allow a shipper to request, and Texas Eastern to agree to this flexibility at receipt or delivery points constructed or modified after June 1, 1993 for which Texas Eastern has obtained the necessary certificate authorization, or for which a customer is reimbursing Texas Eastern pursuant to GT&C section 11.1. In section 14.3(A)(4), Texas Eastern allows such flexibility for points in the customer's transportation path used for injections into Rate Schedules SS-1 and injections into and withdrawals from Rate Schedule FSS-1, its existing storage rate schedules and third party storage facilities that are directly connected to the Texas Eastern system. Section 14.3(B) clarifies that a customer may succeed to a contract where the sum of the MDROs or MDDOs exceeds the MDQ by any legal means, in whole or in part, including through merger, purchase, consolidation, capacity release, a conversion

from a section 7(c) to a part 284 Service Agreement, a name change, or an assignment.

8. Furthermore, Texas Eastern submitted modifications to section 14.7 that clarify the use of accounting meter numbers to facilitate the confirmation, allocation, and billing processes. Sections 14.9 and 14.10 were revised to clearly define the three types of capacity in the tariff that can constitute firm capacity entitlements during the open seasons defined in section 14.9 and address the requests and award of uncommitted point capacity available after the open seasons to reflect the concept of AMDDOs and address the terms and conditions under which a shipper may have MDDOs in excess of its MDQ. Finally, Texas Eastern is revising GT&C section 1 to add definitions of AMDRO and AMDDO and modifying the current definitions of MDRO and MDDO to address the applicability of AMDROs and AMDDOs.

9. Public notice of Texas Eastern's filings was issued on July 17, 2009 and July 28, 2009, with comments due as provided in section 154.210 of the Commission's regulations.⁵ No protests or adverse comments were filed.

10. The Commission finds that Texas Eastern has satisfactorily complied with the May 28, 2009 Order. We find that the proposed revisions to section 14 of Texas Eastern's GT&C are not unduly discriminatory. As approved in Texas Eastern's Order No. 636 restructuring proceeding,⁶ shippers were allowed to retain flexibility they had before restructuring under Texas Eastern's system as it was then configured and on which they relied to serve their customers. Pursuant to proposed section 14.3 new shippers have the opportunity to get similar rights, if they pay for new construction or the Commission approves these rights in a certificate proceeding. With respect to possible undue discrimination, in the process of granting certificate authorization, the Commission could consider any issues concerning undue discrimination in the context of such certificate proceeding. In this proceeding, no protest has been filed and there is no allegation of harm to shippers due to this provision. Texas Eastern has revised its tariff and its GT&C definitions to address the terms and conditions under which a shipper

⁵ 18 C.F.R. § 154.210 (2009).

⁶ See *Texas Eastern Transmission Corp.*, 76 FERC ¶ 61,249 (1996).

may have MDDOs in excess of its MDQ and provided the clarifications to the AMDDO provisions that govern receipt and delivery point limitations and flexibility.

11. Accordingly, the Commission accepts the tariff sheets in the Appendix to this order, effective August 13, 2009, as proposed and rejects the Second Revised Sheet No. 612 as moot.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Texas Eastern Transmission, LP
FERC Gas Tariff, Seventh Revised Volume No. 1

Tariff Sheets Accepted Effective August 13, 2009

Seventh Revised Sheet No. 501
Sixth Revised Sheet No. 503
Second Revised Sheet No. 607
Fourth Revised Sheet No. 608
Fourth Revised Sheet No. 610
Fourth Revised Sheet No. 611
Sub Second Revised Sheet No. 612
Third Revised Sheet No. 613
First Revised Sheet No. 614
Second Revised Sheet No. 808
Second Revised Sheet No. 822
Second Revised Sheet No. 837

Tariff Sheet Rejected As Moot

Second Revised Sheet No. 612