

129 FERC ¶ 61,074
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

Enbridge Pipelines (North Texas) L.P.

Docket No. PR09-26-000

ORDER EXTENDING TIME FOR ACTION

(Issued October 28, 2009)

1. This order addresses a filing by Enbridge Pipelines (North Texas) L.P. (EPNT), proposing changes to its rates and its Statement of Operating Conditions (SOC), pursuant to section 311 of the Natural Gas Policy Act (NGPA) and section 284.123 of the Commission's regulations.¹
2. On June 1, 2009, EPNT filed with the Commission to propose a new demand charge for firm transportation service, using rates contained in a currently effective rate schedule for intrastate service on file with the Texas Railroad Commission. EPNT also proposes several changes to its SOC. In particular, EPNT seeks to change the minimum quantity for delivery, alter the definition of *force majeure*, and purport to render confidential the precise contractual terms of any of the Transportation Agreements under which it provides its section 311 services.² EPNT requests an effective date of May 1, 2009.
3. Public notice of the filing was issued on June 9, 2009, with interventions and protests due on or before June 15, 2009, as provided in section 154.210 of the Commission's regulations.³ Pursuant to Rule 214,⁴ all timely filed motions to intervene

¹ 18 C.F.R. § 284.123 (2009).

² Other revisions include modifications to its cash out procedure; new sections on fuel retention, creditworthiness, taxes, and governmental fees; and numerous housekeeping adjustments.

³ 18 C.F.R. § 154.210 (2009).

⁴ 18 C.F.R. § 385.214 (2009).

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.

4. The Commission's regulations for pipelines operating pursuant to section 311 of the NGPA provide:

the rate proposed in the application will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for providing similar transportation service, unless within the 150 day period the Commission either extends the time for action, or institutes a proceeding in which all interested parties will be afforded an opportunity for written comments and for the oral presentation of views, data, and arguments.⁵

5. To the extent section 284.123(b)(2) applies, the 150-day period for review of EPNT's rates will expire on October 29, 2009. Because the Commission has been unable to make a determination that EPNT's proposed changes are fair and equitable, and because settlement discussions remain ongoing, the Commission must extend the time for action or institute rate proceedings.

6. We will extend the time for action until the Commission can make a determination whether EPNT's rates and SOC revisions are fair and equitable. This should serve to encourage settlement of the issues among the parties. Within 120 days of the date this order issues, Commission Staff will report to the Commission on the status of settlement negotiations.

The Commission orders:

Pursuant to the Commission's authority under section 311 of the NGPA and section 284.123(b)(2)(ii) of the Commission's regulations, time for action on EPNT's

⁵ 18 C.F.R. § 284.123(b)(2)(ii) (2009).

petition for is extended until the Commission can make a determination whether EPNT's rates are fair and equitable or until it determines that formal proceedings are necessary.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.