131 FERC ¶ 61,289
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 29, 2010

In Reply Refer To:
Kinder Morgan Interstate Gas
Transmission LLC
Docket No. RP10-733-000

Kinder Morgan Interstate Gas Transmission LLC
370 Van Gordon Street
Lakewood, CO 80228

Attention: Robert F. Harrington, Vice President, Regulatory Affairs

Reference: Waiver Request

Ladies and Gentlemen:

1. On May 13, 2010, Kinder Morgan Interstate Gas Transmission LLC (KMIGT) filed a petition for a limited waiver of sections 23.4(b)(2), 23.8(a)(4), and 23.10(b) through (d) of its General Terms and Conditions (GT&C) to facilitate the permanent release of East Kansas Agri Energy, LLC's (East Kansas) unneeded firm transportation capacity on KMIGT, whereby East Kansas will make an exit fee payment to a prearranged Replacement Shipper in consideration for the Replacement Shipper agreeing to pay KMIGT the maximum tariff rate, subject to a capacity release open season process to elicit the lowest-bid exit fee payment, which the prearranged shipper will be permitted to timely match.

2. Section 23 of KMIGT's GT&C lists the procedures for capacity release by firm shippers on the KMIGT system. Specifically, section 23.4(b)(2) requires the releasing shipper's Capacity Release Request to include the fixed reservation charge and/or volumetric charge the prearranged shipper has agreed to pay for the released capacity. Section 23.8(a)(4) requires Qualified Bids to include the fixed reservation charge and/or volumetric charge that the Qualified Bidder agrees to pay for the capacity (and if a volumetric charge, any minimum amount to be billed as a reservation charge, which must

be equal to or greater than any such amount designated by the Releasing Shipper). Section 23.10(b) through (d) describes the bid evaluation procedures KMIGT uses to determine the winning bid following an open season, which is the bid with the highest sum of the Net Present Value figures for the proposed release.

3. According to KMIGT, East Kansas holds 1,500 Dth per day of firm transportation capacity on KMIGT under a long-term contract. KMIGT states that East Kansas is seeking to permanently release this capacity to a prearranged Replacement Shipper and, pursuant to section 23 of its GT&C, deliver a capacity release request to KMIGT's Interactive Web Site. However, KMIGT avers that East Kansas has been unable to find a Replacement Shipper that will agree to pay KMIGT at the maximum tariff rate. Therefore, KMIGT requests a limited waiver of its tariff to allow East Kansas to include a provision in the Special Terms section of the capacity release to facilitate the permanent release of East Kansas's 1,500 Dth per day of unneeded firm transportation capacity on KMIGT, whereby East Kansas will make an exit fee payment to a prearranged Replacement Shipper in consideration for the Replacement Shipper agreeing to pay KMIGT the maximum tariff rate, subject to a capacity release open season process to elicit the lowest-bid exit fee payment, which the prearranged shipper will be permitted to timely match.[1]

4. KMIGT states that the exit fee payment will be handled directly between East Kansas and the Replacement Shipper, with both parties agreeing that KMIGT will not be responsible for collecting or disbursing such payment. KMIGT further states that the period of time for payment of the exit fee will be designated in the release posting. KMIGT asserts that its consent to accept the release of East Kansas from its contract obligations and the permanent assignment to the Replacement Shipper will be contingent on affirmation by the Replacement Shipper that the exit fee is paid and that the Replacement Shipper meets KMIGT credit standards as defined in its tariff.

[1] KMIGT asserts that East Kansas proposes to include the following provision in the Special Terms section of the capacity release offer:

> The open season posting will state that the prearranged shipper has agreed to pay the maximum rate for the capacity for the remainder of the contract term, in exchange for an exit fee payment of an undisclosed amount. Bidders will be required to agree to pay the maximum rate for the remainder of the contract term and will engage in a straightforward bidding process to establish the amount of the exit fee payment. The winning bidder will be the bidder that agrees to receive the lowest exit fee payment from East Kansas. The prearranged shipper will be permitted to timely match the winning bid.

5. Public notice of KMIGT's filing was issued on May 17, 2010. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2010)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2010)), 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.

6. The Commission finds that: (1) East Kansas has proposed to release capacity in an open and transparent manner consistent with the Commission's capacity release regulations;[2] (2) KMIGT will administer such capacity release consistent with its existing tariff provisions in a non-discriminatory manner; and (3) granting the limited waiver will not have an adverse impact on other shippers on the KMIGT system. As a result, the Commission finds good cause has been shown to grant KMIGT's request for a limited waiver of sections 23.4(b)(2), 23.8(a)(4), and 23.10(b) through (d) of its GT&C, so that East Kansas can permanently release its unneeded firm transportation capacity on KMIGT by making an exit fee payment to a prearranged Replacement Shipper that agrees to pay KMIGT the maximum tariff rate. Further, granting KMIGT a limited waiver promotes the Commission's policy objective of allowing for the release of unneeded interstate transportation capacity, promoting pre-arranged transactions to meet market needs, and placing the interstate transportation capacity in the hands of the Replacement Shipper who puts the most value on the capacity.[3]

By direction of the Commission.

Kimberly D. Bose,
Secretary.

cc: Public File
All Parties

[2] *See* 18 C.F.R. § 284.8 (2010).

[3] *See Northwest Pipeline Corp.*, 111 FERC ¶ 61,231, at P 18 (2005).

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