

132 FERC ¶ 61,010  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

July 2, 2010

In Reply Refer To:  
Alliance Pipeline L.P.  
Docket No. RP10-822-000

Alliance Pipeline L.P.  
6385 Old Shady Oak Road  
Suite 150  
Eden Prairie, MN 55344

Attention: Brian Troicuk  
Manager, Regulatory Affairs

Reference: Amended Tariff Sheets

Ladies and Gentlemen:

1. On June 3, 2010, Alliance Pipeline L.P. (Alliance US) filed Second Revised Sheet No. 11 to its FERC Gas Tariff, Original Volume No. 1 to reflect the addition of a negotiated rate contract with Sable NGL Services LP (Sable) and to delete an expired negotiate rate agreement with BP Canada Energy Marketing Corp. (BP). Alliance US requests a wavier of the Commission's 30-day notice requirement to allow the tariff sheets to go into effect on June 1, 2010.

2. The negotiated rate agreement between Alliance US and Sable (Contract No. US5013PA-07) is for 20,000 Mcf/day of Rate Schedule FT-1 firm transportation service for the period of June 1, 2010 through June 30, 2010. In the notice of capacity availability, Alliance US listed the receipt point as the interconnection with Alliance US's Canadian affiliate, Alliance Pipeline Limited Partnership (Alliance Canada). The notice also indicated that acceptable arrangements for upstream and downstream transportation services had to be made by the shipper, and that shippers should contact Alliance Canada to make such arrangements.

3. Alliance US states that it is submitting the revised tariff sheet to reflect the essential terms of this negotiated rate agreement. Alliance US states that the negotiated rate agreement with Sable does not deviate in any material respect from the form of firm transportation agreement in Alliance US's tariff. In support of its request for waiver of

the 30-day notice requirement, Alliance US states that the contract was entered into less than 30 days prior to the requested June 1, 2010 effective date, to meet Alliance US's duty to mitigate with respect to the repudiation of a contract with another shipper.

4. Public notice of the filing issued on June 3, 2010. Interventions and protests were due as provided in section 154.210 of the Commission's regulation (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 motion to intervene out of time filed before the date this order issues are granted.<sup>1</sup> Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. On June 15, 2010, BP filed a motion for leave to intervene and protest.

5. In its protest, BP states that it does not oppose the specific terms of the negotiated rate agreement. However, BP claims that the agreement may be the result of an unduly discriminatory and preferential auction for capacity. Specifically, BP speculates that there may have been a preference given to Alliance US's affiliate, Sable, by disclosing non-public information regarding the availability of newly discovered upstream capacity on Alliance Canada, which was never posted as available. BP also argues that Alliance US should have included the availability of newly discovered capacity on the neighboring Alliance Canada in its notice of capacity availability. BP contends that it requested upstream capacity with Alliance Canada, but that Alliance Canada delayed processing its request. For this reason, BP concludes that Alliance US and/or Alliance Canada must have informed Sable of the upstream capacity and how it would be handled in conjunction with the capacity posted for auction on Alliance US. Accordingly, BP requests that the Commission reject the negotiated rate agreement and the submitted tariff sheet.

6. On June 28, Alliance US filed an answer to BP's protest and a motion to lodge an application of BP before the National Energy Board in Canada. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2010), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Alliance US's answer because it has provided information that assisted us in our decision-making process.

7. In its answer, Alliance US argues that BP's intervention and protest should be denied. Alliance US states that BP has not demonstrated that its interest may be directly

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<sup>1</sup> We disagree with Alliance's argument that BP should be prohibited from intervening in this proceeding (described below), and note that BP, as a customer of Alliance and as a competitor of Sable, has an interest which may be directly affected by the outcome of this proceeding sufficient to grant it intervenor status under 18 C.F.R. § 385.214(b)(ii)(B) and (C) (2010).

affected by the outcome of the proceeding sufficient to justify being granted intervenor status in this proceeding. To the extent BP is permitted to intervene, Alliance US asserts BP's protest should be denied because the instant filing is consistent with Alliance US's obligations after entering into a new negotiated rate agreement, and because an Alliance US negotiated rate filing does not provide an appropriate forum for any review of the rate filed. With regard to BP's allegations of improper behavior, Alliance US contends that the instant proceeding is the wrong forum to address the allocation of receipt point capacity on Alliance Canada and that it is not a matter for consideration or resolution at the Commission.

8. Alliance US supplemented its answer by filing a motion to lodge the "Application for Allocation of Capacity in Accordance with the Alliance Pipeline Queue for Receipt Capacity" (Application) filed by BP on June 28, 2010, at the National Energy Board in Canada.<sup>2</sup> Alliance US argues that the Application confirms that this proceeding is the wrong forum to address any issues related to the allocation of receipt point capacity on the facilities of Alliance Canada, as those issues are squarely before the National Energy Board.

9. Upon review of the filing and responsive pleadings, we find that Alliance US complied with section 39 of the General Terms and Conditions (GT&C) of its tariff, which sets forth Alliance US's authority to enter into negotiated rate agreements. For negotiated rate agreements that do not deviate from the form of service agreement in a material respect, section 39.2 requires Alliance US to file with the Commission a tariff sheet stating the exact legal name of the shipper and the negotiated rate. That section also requires Alliance US to include a provision in its filing that the agreement does not materially deviate from the form of service agreement. We find that Alliance US has met the filing obligations set forth in its tariff and that the agreement between Alliance US and Sable does not deviate in any material respect from Alliance US's form of service agreement. Accordingly, we accept it here.<sup>3</sup>

10. In its protest, BP makes a number of allegations as to the manner in which Alliance US conducted its capacity auction that led to the agreement at issue here. These arguments, however, do not go to whether Alliance US has complied with the negotiated rate provisions of its tariff, which is our focus here. Because we find Alliance US has complied with the negotiated rate tariff provisions, we waive the 30-day notice requirement, and accept the above mentioned tariff sheet, effective June 1, 2010, as proposed.

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<sup>2</sup> BP attached the Application to its motion.

<sup>3</sup> See *Northern Natural Gas Co.*, 125 FERC ¶ 61,351 (2008).

11. However, BP's core allegations relate to the manner in which capacity has been allocated on both Alliance US and Alliance Canada. With respect to BP's arguments regarding the allocation of receipt point capacity on Alliance Canada, they are pending before the National Energy Board in Canada. With respect the allegations regarding capacity allocation by Alliance US, we have referred the matter to the Commission's Office of Enforcement for further examination and inquiry as may be appropriate.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

cc: Public File  
All Parties