

133 FERC ¶ 61,133
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 12, 2010

In Reply Refer To:
Northwest Pipeline GP
Docket No. RP11-59-000

Northwest Pipeline GP
P.O. Box 58900
Salt Lake City, Utah 84158-0900

Attention: Pam Barnes
Manager, Certificates and Tariffs

Reference: Non-Conforming Agreement

Ladies and Gentlemen:

1. On October 13, 2010 Northwest Pipeline GP (Northwest) submitted for filing tariff records¹ updating the list of non-conforming agreements in its tariff and a non-conforming service agreement with Northwest Natural Gas Company (NW Natural). The Commission accepts and suspends the tariff records, effective November 13, 2010, subject to a compliance filing, and further review and order of the Commission.
2. Northwest states that, consistent with the terms of its tariff, it posted for competitive bid available capacity for a minimum undisclosed reserve rate. Northwest notes the posting allowed for a primary term up to ten years for discounted rate bids, and where the party requested a discounted rate, allowed for parties to offer contract extensions to increase the incremental economic value of their bids. Further, Northwest states that the posting provided that if a discounted rate or contract extensions were offered, particular non-conforming provisions would be included in the service agreement. However, Northwest does not describe what those non-conforming provisions were.

¹ Sheet No. 397, Non-conforming Service Agreements, 2.0.0; Tariff Record 10, Non-Conforming Service Agreements Index, 1.0.0; Tariff Record 10.N, N, 0.0.0; Tariff Record 10.N.1, Northwest Natural Gas Company, 0.0.0; Tariff Record 10.N.1.1, Contract No. 138587, 0.0.0 to Fifth Revised Volume No. 1, FERC NGA Gas Tariff.

3. Northwest states that NW Natural offered a discounted rate and contract extensions and was awarded the capacity with a primary term begin date of November 11, 2011. On September 29, 2010, Northwest and NW Natural entered into Contract No. 138587 for firm transportation resulting from the posting and award (Service Agreement). Northwest and NW Natural also agreed, consistent with the terms of NW Natural's bid, to amend the Service Agreement to increase the contract demand, effective November 1, 2013, from 15,000 Dth/d to 23,347 Dth/d.

4. Northwest states the Service Agreement contains various non-conforming provisions. Northwest states that the Service Agreement provides that NW Natural has agreed to file in support of the discounted rate, and to not oppose similar third party discounts, in subsequent Natural Gas Act section 4 or 5 rate cases. The Service Agreement also provides that NW Natural has agreed to extend the primary term end dates on four existing service agreements upon Commission approval of the Service Agreement.

5. The Service Agreement also provides that if NW Natural reduces the contract demand under any of its current Rate Schedule TF-1 service agreements during the term of the Service Agreement Northwest will have the right to terminate the Service Agreement by providing one year prior notice. Northwest will not have the right to terminate the Service Agreement if NW Natural's reduction in contract demand is attributable to a temporary capacity release from another shipper, the expiration of a temporary release of capacity to NW Natural, or the turning back of capacity by NW Natural in a reverse open season for capacity expansions.

6. Further, Northwest states the Service Agreement provides that in the event the Commission does not approve the non-conforming provisions, the Service Agreement will be null and void.

7. Notice of Northwest's filing was issued on October 14, 2010. Interventions and protests were due October 25, 2010, as provided in section 154.210 of the Commission's regulations.² Pursuant to Rule 214,³ 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.

8. The non-conforming service agreement submitted by Northwest contains several material deviations from Northwest's tariff. The Commission has not completed its

² 18 C.F.R. § 154.210 (2010).

³ 18 C.F.R. § 385.214 (2010).

review of the agreement, and requires additional information regarding these provisions. Accordingly, the Commission will accept and suspend the tariff records, effective November 13, 2010 as proposed, subject to a compliance filing, as discussed below, and further review and order of the Commission.

9. Northwest states that it included in the posting of capacity available for competitive bids, a provision that provided that if a discounted rate or contract extensions were offered, particular non-conforming provisions would be included in the service agreement. However, Northwest does not specify what those non-conforming provisions were. It is also unclear whether the non-conforming provisions in the NW Natural service agreement all result from the open season or whether Northwest and NW Natural agreed to other non-conforming provisions. Northwest also asserts that the non-conforming provisions do not present a risk of substantial discrimination, but it provides no explanation of why this is so.

10. Section 25.2(e) of Northwest's tariff⁴ details what postings for available capacity must include. Section 25.2(e) does not include a provision granting Northwest authority to offer non-conforming provisions in a posting for available capacity. We direct Northwest to submit a compliance filing, within 30 days of this order, explaining (1) its authority to offer non-conforming provisions in a posting of available capacity, (2) what non-conforming provisions were offered in the instant open season, (3) the reason for each non-conforming provision offered in the open season, (4) whether the non-conforming provisions in the NW Natural service agreement are limited to those offered in the open season, and (5) why the non-conforming provisions in the NW Natural service agreement do not present a substantial risk of undue discrimination.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁴ Sheet No. 275-A, GT&C – Available Capacity, 0.1.0 to Fifth Revised Volume No. 1, FERC NGA Gas Tariff.