

135 FERC ¶ 61,070  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

April 25, 2011

In Reply Refer To:  
El Paso Natural Gas Company  
Docket No. RP11-1879-000

El Paso Natural Gas Company  
Post Office Box 1087  
Colorado Springs, CO 80944

Attention: Catherine E. Palazzari, Vice President

Reference: Request for Limited Waiver

Dear Ms. Palazzari:

1. On March 9, 2011, El Paso Natural Gas Company (El Paso) filed a request for a limited waiver of the requirement in section 12 of the General Terms and Conditions (GT&C) of El Paso's FERC NGA Gas Tariff (Tariff) to assess and bill interest charges on unpaid invoice amounts solely with respect to disputes of penalty charges incurred during the critical period of February 2 – 7, 2011. For good cause shown, the Commission grants El Paso's request for a limited waiver.

2. El Paso states that during the first week of February 2011, the states of Texas, New Mexico, Arizona, and California experienced substantially colder than expected temperatures which affected the operations of several gas supply sources, gas pipelines, and electric and gas utilities in the area. From February 2 - 4, 2011, El Paso experienced an emergency critical operating condition (Emergency COC) on its system as a result of shippers overpulling (taking more gas at delivery points than third-party suppliers put into the pipeline at receipt points) combined with considerable underperformance from third-party suppliers at receipt points into El Paso's system. As the cold weather moderated, the shipper overpull decreased, and El Paso lifted its Emergency COC on February 5. Although the warmer weather resulted in decreased gas demand, shipper nominations and scheduled gas quantities remained at high levels, resulting in an underpull situation (the opposite of an overpull). Because shippers were scheduling more gas than they were taking, pipeline operating pressures increased and linepack

levels escalated, causing El Paso to announce a strained operating condition (SOC) on February 6 and 7.

3. El Paso anticipates that certain shippers will incur critical condition penalties as a result of shipper activities during the critical period in February. El Paso states that it has received several notices of *force majeure* or requests for penalty waivers from shippers regarding preliminary penalty calculations and expects more inquiries after invoices are issued March 11. Payments are due March 21 (or March 22 by wire transfer).

4. Section 12.6 of the GT&C of El Paso's Tariff provides that, within 15 days after the due date of any payment, a shipper may provide El Paso with notice of a bona fide dispute of an amount on its invoice along with supporting documentation. If the resolution of the dispute results in the disputed amount being due and payable, the shipper must pay interest from the original due date in addition to the applicable invoice amount.

5. El Paso states that, due to the complexity of the critical period events in February 2011 that affected not only El Paso's system but many upstream and downstream facilities, it needs time to review the impact of actions taken by disputing shippers to avoid penalties on the day(s) the penalty is being disputed.

6. El Paso therefore requests the Commission grant limited waiver of the requirement in section 12 of the GT&C to assess and bill interest charges on unpaid invoice amounts solely with respect to disputes of penalty charges incurred during the February 2011 critical period. To the extent El Paso makes a determination that a disputed penalty is due and payable, then the shipper will have 10 days (11 days by wire transfer) to make payment after notice is provided to the shipper by El Paso. El Paso states that waiver of its tariff interest accrual requirement on the limited basis set forth above is both reasonable and in the public interest.

7. Public notice of the filing was issued on March 11, 2011. 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 unopposed motion 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. We find that good cause exists to grant El Paso's request for a limited waiver of the requirement of section 12 of its GT&C to assess and bill interest charges on unpaid

invoice amounts solely with respect to disputes of penalty charges incurred during the critical period February 2 – 7, 2011.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.