137 FERC ¶ 61,115
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 10, 2011

In Reply Refer To:
Gas Transmission Northwest LLC
Docket No. RP12-15-000

Gas Transmission Northwest LLC
717 Texas Street, Suite 2400
Houston, TX 77002

Attention: John A. Roscher, Director, Rates and Tariffs

Reference: Tariff Modifications Related to Pressure Commitments

Dear Mr. Roscher:

1. On October 11, 2011, Gas Transmission Northwest (GTN) submitted for filing revised tariff records[1] to add minimum or maximum receipt or delivery pressure commitments and associated provisions to its FERC NGA Gas Tariff. For the reasons set forth below, the Commission accepts the revised tariff records, effective November 11, 2011, subject to conditions discussed herein. GTN must also file revisions in its tariff to provide reservation charge credits consistent with Commission policy when firm service is curtailed or show cause why it should not be required to do so.

2. GTN proposes adding a new section 6.42 (Pressure Commitments) to its tariff that outlines the procedure for entering into mutually agreed upon pressure commitments. GTN states that making these changes to its tariff will enable it to maximize the utilization of its system. GTN proposes offering minimum or maximum receipt or delivery pressure commitments to firm shippers on a non-discriminatory basis. Further, GTN proposes tariff language stating that GTN "will not be required to enter into

[1] PART 1, TABLE OF CONTENTS, 4.0.0, 6.42 - GT&C, Pressure Commitments, 0.0.0, 7.1 - Service Agmts, Rate Schedule FTS-1, 4.0.0, 7.1.1 - Service Agmts, Rate Schedule FTS-1 - Exhibit A, 3.0.0, GTN Tariffs, to FERC NGA Gas Tariff.

pressure commitments that will alter its available capacity." Finally, GTN proposes giving shippers a reservation charge credit when the pipeline is unable to meet its pressure obligations due to non-*force majeure* events. Thus, it proposes a liquidated damages provision at section 6.42 of its tariff.[2]

3. Public notice of the filing was issued on October 13, 2011. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2011)). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2011), all timely filed motions to intervene and any unopposed 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. On October 24, 2011, the Indicated Shippers, comprising Apache Corporation, Chevron U.S.A., Inc., ConocoPhillips Company and Shell Energy North America (US), L.P. filed a collective protest.

4. In their protest to the instant filing, the Indicated Shippers assert that GTN's proposed tariff changes lack transparency. The Indicated Shippers state that GTN's proposed pressure commitment language will not allow shippers to determine whether the pipeline agrees to pressure commitments in a not-unduly discriminatory manner. Indicated Shippers suggest that this lack of transparency may be remedied if GTN posts all pressure commitments it agrees to on its website. Furthermore, the Indicated Shippers propose that GTN add language to its tariff indicating that it will only negotiate maximum and minimum pressures within reasonable limits. Additionally, the Indicated Shippers request that GTN clearly indicate in its tariff that it will not enter into agreements or commitments that will alter its available capacity. Indicated Shippers assert that alterations in available capacity could very seriously impact shippers, and that a reservation charge credit would be inadequate compensation.

5. Additionally, the Indicated Shippers filed a request for Commission action concerning the reservation charge crediting provisions of GTN's tariff. The Indicated Shippers state that the Commission stated in *NGSA* that "any shippers who believe a pipeline's tariff is not in compliance could file a complaint under section 5 or raise the issue in any section 4 filing made by the pipeline."[3] The Indicated Shippers state that

[2] On any day that GTN does not meet its pressure obligations, absent a *force majeure* event, GTN proposes, as the sole remedy for its failing to meet a pressure commitment, a reservation charge credit based on a daily calculation wherein a shipper's applicable daily reservation rate components are applied to any volume of gas that GTN fails to deliver.

[3] *Natural Gas Supply Association, et al.*, 135 FERC ¶ 61,055 (2011) (*NGSA*).

GTN's current tariff does not comply with the Commission's reservation charge crediting policy.

6. Specifically, Indicated Shippers state that GTN's current tariff provides for reservation charge credits for non-*force majeure* events only when the pipeline fails to deliver 95 percent or more of the aggregate confirmed daily nominations. Moreover, the tariff also limits the reservation charge credit to the lesser of the shipper's maximum contract quantity, the amount GTN can deliver on its own system, or the amount GTN is able to confirm with an interconnected downstream or upstream service provider. The Indicated Shippers argue that these reservation charge credit tariff provisions violate Commission policies in a number of ways. First, the Indicated Shippers assert that the "aggregate of all deliveries" standard GTN uses in its tariff contravenes the Commission policy of issuing reservation charge credits when a pipeline is unable to provide the service requested to an individual firm shipper, regardless of whether the pipeline provides service to other shippers. Second, the Indicated Shippers state that GTN's tariff violates Commission policy because it limits reservation charge credits to the amount GTN is able to confirm, rather than the amount nominated by the shipper. Third, GTN's 95 percent reservation charge credit threshold violates the Commission policy mandating reservation charge credits for 100 percent of the firm service a shipper nominates. Fourth, the Indicated Shippers state that GTN's current system of limiting the reservation charge credit to the lesser of the shipper's maximum contract quantity, the amount GTN can deliver on its own system, or the amount GTN is able to confirm with an interconnected downstream or upstream service provider, further violates the Commission's policy of issuing reservation charge credits for 100 percent of the firm service a shipper nominates.

7. The Commission finds that the Indicated Shippers have raised a reasonable concern regarding the proposed pressure commitment tariff language that merits revision to the language that gives GTN discretion to enter into a pressure commitment that might alter its capacity. Accordingly, as a condition to acceptance, the Commission directs GTN to clarify the pressure commitment language in its tariff to specify that it will not enter into pressure commitments that alter its available capacity.[4]

8. As for the posting of non-conforming pressure commitments, GTN is already obligated to post all pressure commitments the pipeline agrees to on its website, pursuant to 18 C.F.R. § 284.13(b)(viii).[5] There appears to be no need to require a stated range of

[4] This could be achieved by deleting the words "be required to" from GTN's proposed section 6.4.2(1) and changing the phrase to, "will not enter into pressure commitments that will alter its available capacity."

[5] *See also Columbia Gas Transmission Corporation*, 97 FERC ¶ 61,221 n.26 (2001) specifying "[w]here a form of service agreement does have blanks to fill in such

(continued…)

reasonable pressure commitments as Indicated Shippers request, since the revision directed by this order will ensure that no commitment can be entered into that alters available capacity to other shippers and the pressure commitment provision will be consistent with those of other pipelines.[6] Moreover, website posting of the pressure commitments will ensure that all shippers are aware of the range of pressure commitments GTN and shippers are contracting for.

9. We agree with Indicated Shippers that GTN's existing reservation charge credit tariff provisions are not in compliance with well-established Commission policy. Under the Commission's authority in section 5 of the Natural Gas Act (NGA), we direct GTN to revise its tariff to conform with the Commission's reservation charge crediting policy. Under that policy, pipelines are required to provide firm shippers with reservation charge credits for failure to deliver 100 percent of the firm service nominated. As the Commission has stated, when a "shipper or shippers believe that a pipeline's tariff does not comply with Commission policy and the pipeline is not taking appropriate action to bring its tariff into compliance, they can file a complaint alleging non-compliance and seek section 5 relief or raise the issue in any section 4 filing by that pipeline."[7]

10. In several recent orders, the Commission described and affirmed its reservation charge crediting policy.[8] That policy differentiates between the credits required in *force-majeure* curtailments and non-*force majeure*[9] curtailments. With respect to non-

---

matters as minimum pressure obligations so that such obligations can be negotiated as part of the service agreement, the agreed-upon minimum pressure obligation or other such term would constitute 'special details pertaining to a transportation contract' within the meaning of § 284.13(b)(viii) (2001) and thus must be posted in the pipeline's internet web site consistent with that regulation."

[6] *See*, ANR Pipeline Company, GT&C section 6.11(3), Cheyenne Plains Pipeline Company, GT&C section 5.7(c), Colorado Interstate Gas Company, GT&C 5.4(c), Columbia Gas Transmission, LLC, GT&C section 13(c).

[7] *Natural Gas Supply Assoc*., 135 FERC ¶ 61,055, at P 28 (2011) (*NGSA*).

[8] *See, e.g., NGSA*, 135 FERC ¶ 61,055 (2011); *Southern Natural Gas Co*., 135 FERC ¶ 61,056, *order on reh'g*, 137 FERC ¶ 61,050 (2011); *Orbit Gas Storage, Inc.*, 126 FERC ¶ 61,095 (2009); *SG Resources Mississippi, L.L.C.*, 122 FERC ¶ 61,180 (2008); *Rockies Express Pipeline LLC,* 116 FERC ¶ 61,272 (2006).

[9] *Force majeure* events are "events that are not only uncontrollable, but also unexpected." *Tennessee Gas Pipeline Co.*, Opinion No. 406, 76 FERC ¶ 61,022, at 61,088 (1996).

force majeure outages, where the curtailment occurred due to circumstances within a pipeline's control, including scheduled maintenance, the Commission requires the pipeline to provide shippers a full reservation charge credit for the amount of primary firm service they nominated for scheduling which the pipeline failed to deliver.[10] Commission policy also requires that the pipeline provide partial reservation charge credits during periods when it cannot provide service because of a *force majeure* event in order to share the risk of an event for which neither party is responsible. In that event the Commission allows two different methods for the credit, either full reservation credits after ten days or partial crediting starting at day one of a *force majeure* event, and the pipeline may choose either method.

11. GTN's tariff fails to make the distinction between *force majeure* and non-*force majeure* events. Moreover, GTN's provisions are in conflict with Commission policy as Indicated Shippers have asserted. Commission policy requires crediting when the pipeline fails to deliver the entire amount nominated by that shipper, not any lesser amount.[11] Thus, GTN's 95 percent provision is in violation of the policy, and its reference to the amount other shippers receive has no application to the required credit to the curtailed shipper. Accordingly, GTN must revise its reservation charge crediting provisions consistent with Commission policy.

12. For the foregoing reasons, the Commission accepts GTN's proposed tariff records referenced in footnote 1, effective November 11, 2011, subject to GTN revising the proposed tariff as discussed above, within thirty days of the date of this order.

13. Further, the Commission finds that GTN's existing tariff is inconsistent with the Commission's reservation charge crediting policy, and under NGA Section 5 directs GTN, within thirty days of the date of this order, either to modify its tariff language

---

[10] *See, e.g.*, *Tennessee Gas Pipeline Co.*, 76 FERC ¶ 61,022 (1996) (Opinion No. 406), *order on reh'g*, Opinion No. 406-A, 80 FERC ¶ 61,070 (1997), *as clarified by*, *Rockies Express Pipeline LLC*, 116 FERC ¶ 61,272, at P 63 (2006).

[11] *Southern Natural Gas Co.*, 137 FERC ¶ 61,050 at P 33.

governing reservation charge crediting to conform to the Commission's reservation charge crediting policy, or explain why it should not be required to do so.

By direction of the Commission. Commissioner Spitzer is not participating.

Kimberly D. Bose,
Secretary.