

142 FERC ¶ 61,232
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony Clark.

WBI Energy Transmission, Inc.

Docket No. RP13-645-000

ORDER ACCEPTING AND SUSPENDING TARIFF RECORD, SUBJECT TO
REFUND AND CONDITIONS

(Issued March 28, 2013)

1. On March 1, 2013, WBI Energy Transmission, Inc. (WBI) filed a tariff record¹ and a revised Schedule A of the non-conforming Rate Schedule FT-1 service agreement with Northern States Power Company (NSP). WBI requests that the Commission waive the 30-day notice requirement and permit the above-mentioned revised tariff record to become effective March 1, 2013. As more fully discussed below, we grant waiver of the Commission's 30-day notice requirement, and accept and suspend the proposed tariff record, to be effective March 1, 2013, subject to refund and conditions.

I. Details of Filing

2. In its filing, WBI submitted its 2013 biennial restatement of NSP's reservation rate for firm transportation service pursuant to Article V of Amendment No. 1 of the NSP Rate Schedule FT-1 service agreement. WBI proposed a new restated base tariff rate of \$10.91558 per Dth/month excluding applicable surcharges, based on a total cost of service underlying NSP's restated base tariff rate of \$1,053,152, a decrease of \$35,153 from the previous cost of service of \$1,088,305. WBI states that the restated rate does not meet the criteria for rolling it into the currently effective maximum Rate Schedule FT-1 rate under WBI's Tariff. WBI requested that the Commission grant waiver of the 30-day notice requirement in order to allow the rate to become effective March 1, 2013.

II. Notice, Intervention, and Protest

3. Notice of WBI's filing was issued on March 4, 2013. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R.

¹ WBI Energy Transmission, Inc., FERC NGA Gas Tariff, Third Revised Volume No. 1; [Sheet No. 450, List of Non-Conforming Service Agreements, 5.0.0.](#)

§ 154.210 (2012). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2012), 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 this proceeding or place additional burdens on existing parties. NSP filed comments and a conditional protest.

4. In its comments, NSP requests that the Commission's action in the instant proceeding be without prejudice to the outcome of the Docket No. RP13-67-000 proceeding, where NSP has argued that rate structure and the biennial rate restatement of its FT-1 agreement should not have continued when the contract was rolled over.² NSP explains that were the Commission to grant NSP's rehearing request in Docket No. RP13-67-000, there would be no need for biennial filings to adjust the subject rate.

5. In its conditional protest, NSP requests that the Commission suspend the restated rate for a nominal period and allow it to become effective March 1, 2013, subject to refund, in order to provide NSP with an opportunity to verify the cost components of WBI's filing, including a review of WBI's upcoming Form No. 2 for 2012, due to be filed April 18, 2013. NSP states that this request is consistent with the review procedures adopted by the Commission in previous biennial restatements.³ NSP states that WBI was directed to serve NSP with a copy of its FERC Form No. 2 when WBI files the form with the Commission, and that NSP was thereafter directed to advise the Commission of any continuing concerns within a month of receiving the form.

III. Discussion

6. The Commission finds that NSP should have an opportunity to verify the cost components contained in WBI's revised filing, consistent with the procedures followed in the prior biennial restatements. WBI should serve NSP a copy of its FERC Form No. 2 when it is filed and work with NSP in an attempt to resolve NSP's concerns. NSP must then advise the Commission of any continuing concerns it has within 30 days of receiving the Form No. 2 from WBI.

7. Based upon a review of the filing, and pending this further review, the Commission finds that the proposed substitute tariff record has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept the proposed tariff record and

² See *WBI Energy Transmission, Inc.*, 141 FERC ¶ 61,078 (2012), *reh'g pending*. The Commission's acceptance of the proposed tariff record here is subject to the outcome of the pending rehearing in Docket No. RP13-67-001.

³ See, e.g., *Williston Basin Interstate Pipeline Co.*, 134 FERC ¶ 61,261 (2011); *Williston Basin Interstate Pipeline Co.*, 127 FERC ¶ 61,071 (2009).

suspend its effectiveness for the period set forth below, subject to the conditions in this order. The Commission finds that good cause exists to waive the 30-day notice requirement⁴ and will allow the proposed tariff record to become effective March 1, 2013.

8. The Commission's policy regarding rate suspensions is that rate filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards. *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension). It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension). Such circumstances exist here where WBI is filing in accordance with a provision in an accepted service agreement. Therefore, the Commission will exercise its discretion and suspend the proposed tariff record for a nominal period to take effect March 1, 2013 subject to refund and conditions.

The Commission orders:

(A) Sheet No. 450, List of Non-Conforming Service Agreements, 5.0.0 is accepted and suspended, to be effective March 1, 2013, subject to refund and the conditions of this order.

(B) WBI is directed to respond to NSP's concerns as discussed in the body of this order within 30 days of the date this order issues, and provide NSP with a copy of WBI's 2012 FERC Form No. 2 when it is filed.

(C) NSP must advise the Commission of any continuing concerns it may have with WBI's proposed tariff filing within 30 days after receipt of the FERC Form No. 2.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁴ 18 C.F.R. § 154.207 (2012).