

143 FERC ¶ 61,264
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.

Gas Transmission Northwest LLC

Docket No. RP12-15-004

ORDER ON COMPLIANCE FILING

(Issued June 24, 2013)

1. On December 6, 2012, Gas Transmission Northwest LLC (GTN) filed a revised tariff record¹ to comply with the Commission's November 6, 2012 Order.² The November 2012 Order, among other things, directed GTN to revise its pressure commitment provisions in section 6.42 of its tariff to include a requirement that, before executing a service agreement with such a pressure commitment, GTN must give notice that it is considering selling the affected capacity with a pressure commitment that will reduce unsubscribed capacity by an amount in excess of the contract demand. In this order, the Commission accepts GTN's compliance filing effective November 11, 2011, subject to conditions, as further discussed below.

I. Background

A. Initial Filing

2. In its initial filing in this proceeding, GTN proposed tariff records outlining the procedure for entering into mutually agreed upon pressure commitments. GTN proposed to offer minimum or maximum receipt or delivery pressure commitments to firm shippers on a non-discriminatory basis. GTN also proposed language stating that GTN "will not be required to enter into pressure commitments that will alter its

¹ Gas Transmission Northwest LLC, FERC NGA Gas Tariff, GTN Tariffs, 6.42 - GT&C, Pressure Commitments, 0.2.0.

² *Gas Transmission Northwest LLC*, 141 FERC ¶ 61,101 (2012) (November 2012 Order).

available capacity.”³ GTN argued that such changes would enable it to maximize the utilization of its system.

3. The Indicated Shippers protested GTN’s initial filing, arguing that GTN’s proposed language was not sufficiently transparent to allow shippers to determine whether GTN has agreed to pressure commitments in a not unduly discriminatory manner. In a November 10, 2011 Order,⁴ the Commission found that the Indicated Shippers raised a reasonable concern about GTN’s proposed pressure commitment provisions. The Commission accordingly accepted GTN’s pressure commitment provisions, subject to GTN’s clarifying those provisions to specify that it will not enter into pressure commitments that alter its available capacity. GTN submitted a request for clarification, or in the alternative, rehearing of the Commission’s November 2011 Order. GTN explained that it was not proposing to alter its Commission-certificated capacity but only intended to post unsubscribed available firm capacity for sale.

B. November 2012 Order

4. In the November 2012 Order, the Commission granted GTN’s request for rehearing, and found that GTN should have some flexibility to enter into service agreements with pressure commitments in order to reduce unsubscribed capacity on its system, subject to certain conditions to ensure no adverse impact on other shippers.⁵ The Commission therefore required GTN to offer such pressure commitments only in situations where the capacity at issue is truly unsubscribed, i.e., there is currently no other shipper who would take the affected capacity without such a pressure commitment, and to give other shippers an opportunity to obtain the capacity without a pressure commitment.

5. To this end, the November 2012 Order directed GTN to revise its proposed tariff language to include a requirement that, before executing a service agreement

³ Gas Transmission Northwest LLC, FERC NGA Gas Tariff, GTN Tariffs, 6.42 - GT&C, Pressure Commitments, 0.0.0.

⁴ *Gas Transmission Northwest LLC*, 137 FERC ¶ 61,115 (2011) (November 2011 Order).

⁵ The November 2012 Order also noted that if such a pressure commitment enables GTN to obtain a firm shipper it could not otherwise obtain, all of GTN’s customers will be benefited because GTN will be able to spread its fixed costs over more units of service. November 2012 Order, 141 FERC ¶ 61,101 at P 15.

with such a pressure commitment, GTN must give notice that it is considering selling the affected capacity with a pressure commitment that will reduce unsubscribed capacity by an amount in excess of the contract demand, thereby giving other shippers an opportunity to obtain the capacity without such a pressure commitment. The Commission reasoned that by making GTN offer the subject to any potentially interested shippers, this would ensure that this excess capacity “is not currently desired on a long-term basis other than in conjunction with [the pressure commitment].”⁶

C. GTN’s Compliance Filing

6. In its compliance filing, GTN added language to its pressure commitment provisions in section 6.42 of its tariff. The revised tariff provisions now provide that prior to executing a transportation service agreement with a pressure commitment that would require the dedication of capacity in excess of a potential shipper’s contractual MDQ, GTN will post a notice of the potential agreement on its internet website for five business days. Other shippers will then have the opportunity to obtain “the same capacity under the same terms but without a pressure commitment.” Such requests will be awarded on a first-come, first-served basis.⁷

II. Notice of Filing and Responsive Pleading

7. Public notice of GTN’s compliance filing was issued on December 19, 2012. Protests were due as provided in section 154.210 of the Commission’s regulations, 18 C.F.R. § 154.210 (2012). On December 18, 2012, the Indicated Shippers⁸ filed a protest to GTN’s compliance filing.

8. In their protest, the Indicated Shippers note that GTN’s tariff language would require GTN to award capacity to a potential shipper that submits a request for the same capacity under the same terms but without a pressure commitment. However, the revised tariff language in GTN’s compliance filing would not require GTN to award the capacity to a potential shipper that offers better terms than the terms of the proposed agreement, but without the pressure commitment. Indicated Shippers point

⁶ *Id.* at P 16.

⁷ GTN’s proposed General Terms and Conditions, section 6.42 1.

⁸ Indicated Shippers are Apache Corporation, Chevron U.S.A., Inc., ConocoPhillips Company, and Shell Energy North America (US), L.P.

out that the bid evaluation criteria generally applicable under GTN's tariff should apply to a potential shipper that offers better terms.⁹

9. Indicated Shippers therefore ask that GTN's proposed pressure commitment language be applied in a manner consistent with the provisions of GTN's tariff related to the posting and awarding of available capacity,¹⁰ and with tariff provisions for the reservation of capacity for an expansion project.¹¹ Since the goal of the November 2012 Order was to ensure that the capacity GTN may use for its pressure commitment agreements "is not currently desired on a long-term basis other than in conjunction with [the pressure commitment]," the Indicated Shippers request that the Commission direct GTN to use the bid evaluation criteria already set forth in its tariff to require GTN to award the capacity to a potential shipper that submits a request with the same, or better terms, absent the pressure commitment.¹²

III. Discussion

10. The Commission finds that the use of the phrase "under the same terms" in the proposed tariff language might be interpreted in a manner inconsistent with the other provisions of GTN's tariff related to the posting, awarding, and reservation of available capacity. The Commission therefore accepts GTN's proposed pressure commitment language, subject to GTN's revising the language within 15 days of this order, to make clear that the generally applicable bid evaluation provisions of its tariff will govern to award the subject capacity to the shipper who values it most, which is not necessarily the first shipper that offers the same terms, but the shipper that offers the better or best terms within the posting period.

⁹ Indicated Shippers Protest at 2-3.

¹⁰ *See, e.g.*, GTN FERC Gas Tariff, General Terms and Conditions, section 6.18.2(c)-(e).

¹¹ *Id.* at section 6.32.

¹² Indicated Shippers Protest at 3.

The Commission orders:

GTN's tariff record listed in footnote 1 is accepted, effective November 11, 2011, subject to GTN submitting a compliance filing within 15 days of the date of this order to revise tariff section 6.42.1, as discussed in the body of the order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.