144 FERC ¶ 61,082
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.

Texas Eastern Transmission, LP — Docket No. RP13-1015-000

ORDER ACCEPTING AND SUSPENDING TARIFF RECORD AND ESTABLISHING TECHNICAL CONFERENCE PROCEEDINGS

(Issued July 31, 2013)

1. On June 28, 2013, Texas Eastern Transmission, LP (Texas Eastern) filed a tariff record[1] to establish a second control point for the Control Zone Exemption in its tariff in order to recognize that flow patterns on the Texas Eastern system have changed. Texas Eastern proposes an August 1, 2013 effective date for its proposed tariff record. As discussed below, the Commission accepts and suspends Texas Eastern's proposed tariff record for the maximum five-month statutory period to be effective January 1, 2014, subject to the outcome of a technical conference.

Background

2. Texas Eastern states that on November 1, 2010, the Commission approved a Settlement which reflected the resolution of a multi-year process to revise Texas Eastern's gas quality and interchangeability tariff provisions.[2] Texas Eastern asserts that the 2010 Settlement provides that in order to accommodate increasing natural gas production in the Appalachian basin, where gas regularly exceeds the otherwise-applicable quality limits, an exemption from the gas quality standards of Texas Eastern's tariff is permitted so that it may accept gas exceeding its tariff gas quality specifications in a certain area of the pipeline. This exemption is referred to as the Control Zone Exemption.

3. Texas Eastern states that pursuant to the Control Zone Exemption, it agrees to receive gas containing up to 17 percent ethanes and heavier hydrocarbons (C2+), 1150

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[1] Texas Eastern Transmission, LP, FERC NGA Gas Tariff, Texas Eastern Database 1, 5., Quality of Gas, 4.0.0.

[2] *Texas Eastern Transmission, LP*, 133 FERC ¶ 61,114 (2010) (2010 Settlement).

British thermal unit (Btu), and a 1430 Wobbe Index Number at points located within the Control Zone, provided that the blended gas stream meets the standard quality specifications by the time it gets to the Control Point.[3] Texas Eastern states that the Control Zone extends from the discharge of the Berne, Ohio compressor station (Berne) to the Control Point at the discharge side of the Uniontown, Pennsylvania compressor station (Uniontown).

4. Texas Eastern states that if it anticipates that gas will exceed the standard quality specifications at the Control Point, it must first prorate nominations of gas that it anticipates will exceed 14 percent C2+ within the Control Zone. Texas Eastern states that if it has reduced nominations of gas anticipated to exceed 14 percent C2+ within the Control Zone to zero and still anticipates that gas will exceed the standard quality specifications at the Control Point, Texas Eastern must then prorate nominations of gas that is anticipated to exceed 12 percent C2+ within the Control Zone.

5. Texas Eastern asserts that a key assumption underlying the 2010 Settlement and the resulting tariff provisions was that gas would continue to flow through Texas Eastern's system from the Gulf Coast to the northeast. Texas Eastern asserts that parties to the 2010 settlement were concerned with the effects of high C2+ gas on customers downstream (i.e., east) of Uniontown. Texas Eastern asserts that the production of natural gas from the Appalachian basin has been much greater than Texas Eastern anticipated during the settlement negotiations and that receipts of such gas within the Control Zone can at times exceed demand from Texas Eastern's markets east of Uniontown. Texas Eastern states that when the Appalachian gas exceeds the demands of its eastern markets, the gas flow divides and gas flows west from Berne as well as east from Uniontown.

6. Texas Eastern states that in this situation it may be required to accept gas into the Control Zone that exceeds its C2+ tariff standard because of the exemption provision of the 2010 Settlement. Texas Eastern notes, however, that the Control Zone exemption was only designed to protect customers east of Uniontown, and, did not contemplate gas flowing west and south from Berne. Accordingly, Texas Eastern states that it may be required to receive non-conforming gas into the Control Zone that could potentially flow west from Berne, and that it has no way to limit the flow of that gas. In this situation, Texas Eastern points out that while gas at the Berne point has high C2+ gas, the gas flow at the Control Point (Uniontown) will still meet the standard specifications. Texas Eastern contends that the consequences of delivering the high C2+ gas west of Berne could be serious because this area includes delivery points for a number of gas-fired

[3] Texas Eastern states that the standard quality specifications for the gas would require the gas to be with a C2+ amount of 12 percent, 1110 Btu, and 1400 Wobbe Index Number. Texas Eastern Transmittal letter at p. 1 (citing General Terms and Conditions (GT&C) Section 5.3(M)).

generators that could experience significant impacts to their operations if C2+ levels exceed 12 percent, the Btu level exceeds 1110, and the Wobbe Index Number exceeds 1400.[4]

7. Texas Eastern also states that the 2010 Settlement prohibits the settling parties from seeking termination or modification of the Control Zone Exemption in GT&C Section 5.3(M) before October 1, 2014 unless there has been (i) a material change in circumstances or (ii) a change in Texas Eastern's obligations downstream of Uniontown that falls within one of the categories set forth in Section 4.2 of the 2010 Settlement.[5] However, Texas Eastern asserts that the change in the direction of gas flow in and around Berne as described herein constitutes a material change in circumstances sufficient to permit the instant modification to the tariff.

8. Texas Eastern asserts that the reversal of gas flow at Berne constitutes an operational emergency on Texas Eastern's system because it threatens to impair Texas Eastern's ability to make deliveries outside of the Control Zone that meet the gas quality specifications in the tariff. Accordingly, Texas Eastern states that it has taken a number of steps to address this situation including the issuance of a critical notice on June 11, 2013 warning customers of the potential for high C2+ gas west of Berne, and the issuance of an Action Alert pursuant to GT&C Section 4.3(A) of its tariff on June 13, 2013.[6]

9. Texas Eastern states that since issuing the Action Alert, it has received gas from Rockies Express that has been sufficient to mitigate the high C2+ gas entering in the Control Zone. However it asserts that if such current mitigation efforts cease to be effective, Texas Eastern may be forced to issue an Operational Flow Order (OFO) pursuant to GT&C Section 4.3(M) of its tariff to ensure that firm deliveries outside of the Control Zone meet the applicable gas quality specifications.

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[4] Moreover, Texas Eastern contends that its tariff still requires that the deliveries at points west of Berne (or any other points outside of the Control Zone) must meet these quality standards. Texas Eastern states that it intends to schedule receipts in the Control Zone, and otherwise manage its system, in order to meet those specifications at points outside the Control Zone.

[5] Texas Eastern Transmittal Letter at p. 3 (citing 2010 Settlement at 4.1(a)).

[6] Texas Eastern stated that in this Action Alert it specifically requested asking customers to deliver gas with less than 12 percent C2+ in the Control Zone, specifically from the Clarington, Ohio interconnect with Rockies Express Pipeline (Rockies Express), and informing customers that no non-primary deliveries to Clarington would be scheduled.

Details of the Filing

10. Texas Eastern states that to deliver gas to customers west of Berne that meets the applicable quality specifications without having to issue OFOs, it must modify its tariff. Texas Eastern proposes to revise GT&C Section 5.3(M)(i)(a) to add a second Control Point at the west side of Berne.

11. Texas Eastern asserts that under its proposed modification, when gas flows on its traditional west to east path, the only Control Point will be at Uniontown. However, when gas changes flow direction in a portion of the Control Zone such that gas moves west from Berne, a Control Point will exist at Berne in addition to the Control Point at Uniontown. Texas Eastern explains that the addition of a new Control Point will enable it to use the existing scheduling provisions in GT&C Section 5.3(M)(ii) to limit scheduled quantities of gas in the Control Zone that exceeds 12 percent C2+, just as Texas Eastern is empowered to do for gas flows east from Uniontown. In addition, Texas Eastern contends that its tariff modification represents the application of the solution negotiated by parties to the 2010 Settlement to the circumstances on its system as they exist today in that it will be able to control how nominations are scheduled in the Control Zone to manage gas quality.

12. Texas Eastern argues that its proposal is the least disruptive alternative in that it incorporates a mechanism already contemplated by the tariff and it mitigates the potential need to issue OFOs, which Texas Eastern states provide for less certainty in the natural gas market.

Notice and Interventions

13. Public notice of the filing was issued on July 2, 2013. Interventions and protests were due as provided by section 154.210 (18 C.F.R. § 154.210 (2012)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2012)), all timely motions to intervene and any unopposed motions to intervene out-of-time filed before the 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. Comments and/or protests were filed by National Fuel Gas Supply Corporation (National Fuel), National Fuel Gas Distribution Corporation (National Fuel Distribution), Independent Oil &Gas Association of West Virginia, Inc. (IOGA), Blue Racer Midstream, LLC (Blue Racer), Columbia Gas Transmission, LLC and Nisource Midstream Services, LLC (jointly, CPG), CNX Gas Company LLC (CNX), Chesapeake Energy Marketing (CEMI), National Grid Gas Delivery Companies (National Grid) and PSEG Energy Resources & Trade LLC (PSEG ER&T).

14. National Grid contends that Texas Eastern's proposal will permit the pipeline to continue to maximize receipts of Appalachian supplies without affecting its ability to deliver gas that meets the quality specifications of its tariff. PSEG ER&T requests that

Texas Eastern be required to meet with its customers as needed to keep them apprised of developments regarding gas quality matters on the Texas Eastern pipeline. Other parties do not oppose Texas Eastern's proposal as long as certain conditions are met. For example, CEMI states that it does not oppose this proposal as an interim measure until the issues can be examined upon the expiration of the 2010 Settlement and CNX states that it does not oppose the proposal as long as Texas Eastern is required to use Action Alerts as a first course of action before exercising any Control Zone tariff restriction.

15. Other parties oppose Texas Eastern's implementation of its proposal at this time. National Fuel argues that gas quality specifications must be as flexible as possible and that Texas Eastern's assertions concerning issues with gas quality simply do not support its proposal to institute new limits which upset tariff provisions that resulted from years of discussions with its shippers. National Fuel suggests that until further discussions are held and Texas Eastern sharply defines the emergency being addressed, the types of customers that are having problems on its system, and the nature and extent of such problems, that it may be more appropriate for Texas Eastern to continue to use critical notices to address the needs of its system. National Fuel joins CPG in suggesting that new tariff limits should be permitted on Texas Eastern's system only after Texas Eastern has explored other potential remedies with the participation of its customers. CPG further requests that Texas Eastern clarify that if Texas Eastern increases its ability to limit scheduled quantities of gas flowing through a new Control Point, parties to the Settlement maintain their rights to revisit C2+ standards, regardless of whether the "reopener event" relates to restrictions at Berne or at Uniontown.[7] National Fuel Distribution and Blue Racer also argue that Texas Eastern has not presented sufficient information to support its proposal.[8]

16. IOGA argues that the reversal of flow on the Texas Eastern system does not constitute an operational emergency as suggested by Texas Eastern because the reversal was quickly remedied by critical alerts and voluntary producer actions consistent with Texas Eastern's existing tariff. IOGA also asserts that contrary to Texas Eastern's assertions there is no evidence that Ohio generators south of the Berne compressor will

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[7] CPG states that section 4.2(g) of the Settlement provides for "reopener events," following which certain parties may revisit the issue of C2+ levels outside the Control Zone. CPG explains that these include certain events in which Texas Eastern's gas quality standards prevent firm shippers from tendering gas on the Texas Eastern system, or prevent pipelines from tendering gas on facilities the pipeline owns jointly with, or leases from, Texas Eastern.

[8] National Fuel Distribution states that Texas Eastern's filing does not specify the names, numbers, and/or locations of the generators that would benefit from the proposed changes. Blue Racer requests further information regarding which of Texas Eastern's several lines in and near the Control Zone is or are encountering gas quality issues.

be harmed in the absence of approval of Texas Eastern's proposal. IOGA states that it would consider Texas Eastern's proposal as an interim solution while discussions were held to determine whether tariff changes are needed on a permanent basis.

17. IOGA states that this temporary reversal in gas flow does not constitute a material change in circumstances under the 2010 Settlement so as to permit Texas Eastern to modify its tariff as proposed. IOGA states that settlements with material change provisions often specify what constitutes a material change and the 2010 Settlement does not specify the change referred to by Texas Eastern as a material change. IOGA also asserts that Texas Eastern has approved interconnects with processing plants that led to the claimed flow reversal and has delayed approval to construct interconnections with producers of dry, low C2+ gas. In sum, IOGA argues that Texas Eastern has not demonstrated that its proposal is just and reasonable or that the proposal is even permitted under the 2010 Settlement. Accordingly, IOGA requests that the Commission reject the proposed tariff record or suspend the proposed tariff record for the maximum period and set the matter for technical conference and/or settlement proceedings.

Discussion

18. The Commission's review of Texas Eastern's tariff filing and the comments to the proceedings finds that Texas Eastern's proposal raises numerous technical, engineering and operational issues which are best addressed at a technical conference. At the technical conference, the Commission staff and the parties to the proceedings will have the opportunity to further discuss Texas Eastern's justification and support for its proposal.

19. Texas Eastern should be prepared to address the concerns raised by the parties in this proceeding and, if necessary, to provide additional technical, engineering and operational support for its proposal, including support for its assertion that its proposal is not barred by the 2010 Settlement. Consistent with the Commission's Natural Gas Interchangeability Policy Statement, Texas Eastern should be prepared to explain how its proposal differs from the Natural Gas Council Plus interim guidelines.[9] In addition, any party proposing alternatives to Texas Eastern's proposal should be prepared to support its position with adequate technical, engineering and operational information.

20. Finally, based upon its analysis of the information provided in this proceeding, the Commission Staff may issue data requests prior to the technical conference or a notice of the technical conference containing questions that need to be addressed by Texas Eastern or other parties at the conference.

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[9] *Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Natural Gas Pipeline Company Tariffs*, 115 FERC ¶ 61,325, at PP 34, 37 (2006).

Suspension

21. Based on a review of the filing, the Commission finds that the proposed 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 tariff record for filing, and suspend its effectiveness for the period set forth below, subject to the conditions in this order.

22. The Commission's policy regarding tariff filing suspensions is that 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) (minimum suspension). Such circumstances do not exist here. Therefore, the Commission will accept and suspend the proposed tariff record for the maximum five-month period to be effective January 1, 2014, subject to the outcome of the technical conference established herein.

The Commission orders:

(A) The tariff record listed in footnote no. 1 is accepted and suspended to be effective January 1, 2014, subject to the outcome of the technical conference established in this proceeding.

(B) The Commission's Staff is directed to convene a technical conference to address the issues raised by Texas Eastern's filing and report the results of the conference to the Commission within 120 days of the date this order issues.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.