

144 FERC ¶ 61,249  
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.

Tennessee Gas Pipeline Company, L.L.C.

Docket No. RP13-545-001

ORDER ACCEPTING AND SUSPENDING TARIFF RECORDS

(Issued September 30, 2013)

1. On August 29, 2013, Tennessee Gas Pipeline Company, L.L.C. (Tennessee) filed tariff records pursuant to section 4 of the Natural Gas Act and pursuant to the Commission's previous order in this docket (March 2013 Order),<sup>1</sup> in which the Commission approved *pro forma* tariff records describing Tennessee's plan to replace its online customer activities software. Indicated Shippers<sup>2</sup> oppose the filing, arguing that Tennessee will implement the new software in a way that reduces scheduling and curtailment flexibility, in violation of other tariff provisions. For the reasons discussed below, we accept and suspend Tennessee's proposed tariff records for a nominal period, to be effective October 1, 2013, and direct Tennessee to file additional information in support of its tariff filing.

**Background**

2. Tennessee's shippers currently use an Internet-based system called PASSKEY for their day-to-day interactions with the pipeline. Tennessee states that, as part of its project to integrate with its Kinder Morgan affiliates, it intends to replace PASSKEY with the Kinder Morgan interactive customer activities system, DART. On February 6, 2013,

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<sup>1</sup> *Tennessee Gas Pipeline Co., L.L.C.*, 142 FERC ¶ 61,237 (2013) (March 2013 Order).

<sup>2</sup> For the purposes of this subdocket, Indicated Shippers refers to Anadarko Energy Services Company, BP Energy Company, Chevron U.S.A. Inc., ConocoPhillips Company, Hess Corporation, and Shell Energy North America (US) L.P. Note that in the March 2013 Order, Indicated Shippers referred only to Chevron U.S.A. Inc., Hess Corporation, and Shell Energy North America (US) L.P. March 2013 Order at n.5.

Tennessee submitted an informational filing, in the form of *pro forma* tariff records, describing the conversion. No parties protested Tennessee's filing, but Indicated Shippers raised several concerns and stated that their support was conditioned on the understanding that DART, as implemented, would not restrict existing flexibility available under PASSKEY. Tennessee filed an answer addressing Indicated Shippers' comments, and also submitted additional *pro forma* tariff records responding to some of Indicated Shippers' concerns. The March 2013 Order accepted Tennessee's informational filing, and directed Tennessee to submit actual tariff records consistent with the *pro forma* tariff records included in its initial filing, as modified in its answer, at least thirty days before the conversion to the new DART system.<sup>3</sup>

### **Compliance Filing and Responsive Pleadings**

3. On August 29, 2013, Tennessee filed actual tariff records that it states comply with the March 2013 Order. Tennessee states that the tariff records are identical to the *pro forma* that the March 2013 Order accepted, except for several proofreading revisions, and a material revision to affirm that municipal customers are obligated to follow state law.<sup>4</sup>

4. On September 10, 2013, Indicated Shippers filed comments. Indicated Shippers do not oppose any of the language in Tennessee's tariff filing, but instead raise two main concerns about the manner in which they understand Tennessee to be implementing the tariff filing. They argue that aspects of the DART software act to restrict shipper flexibility that had been offered under PASSKEY and is still guaranteed by unchanged language in Tennessee's tariff.

5. First, Indicated Shippers state, Tennessee will no longer permit firm shippers with multiple contracts to rank those contracts for scheduling and curtailment cuts. Indicated Shippers explain that, when a mainline or point constraint requires a reduction in nominated or scheduled quantity, this feature of PASSKEY gives shippers some control over which contracts are kept whole and which can be cut or supplied in another manner. Indicated Shippers state that DART, by contrast, only allows shippers to rank within individual contracts, not among multiple contracts, which would compel shippers to accept *pro rata* curtailment only.<sup>5</sup> Indicated Shippers argue that this restriction will violate Tennessee's General Terms and Conditions (GT&C), which states at Article IV, section 3, cuts made during scheduling "shall be *pro rata* or in accordance with the supply/market rankings provided pursuant to a Shipper's Nomination Information," and

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<sup>3</sup> March 2013 Order at P 25 and Ordering Paragraph.

<sup>4</sup> Tennessee August 29, 2013 transmittal at 2.

<sup>5</sup> Indicated Shippers September 10, 2013 comments at 4.

states at section 4 that curtailment of scheduled quantities shall be “on a *pro rata* basis based upon the quantities of gas scheduled by such customers and/or in accordance with the supply/market rankings provided pursuant to Shipper’s Nomination Information.”<sup>6</sup> Indicated Shippers note that Tennessee has not proposed to eliminate this existing tariff language, nor argued that eliminating this feature would be just and reasonable. Indicated Shippers request that the Commission establish a technical conference to address the operational and technical issues raised by Tennessee’s statement that it will no longer permit firm shippers to rank multiple contracts for scheduling and curtailment and that the Commission condition acceptance of Tennessee’s August 29 filing on the outcome of that technical conference.

6. Second, Indicated Shippers argue that DART alters the treatment of imbalances at pooling areas without justification. Indicated Shippers state that section 3.3 of Rate Schedule SA provides that if such imbalances occur, Tennessee “shall allow quantities to be scheduled out of balance up to pipeline operating conditions and limitations.”<sup>7</sup> In addition, Indicated Shippers state that section 3.3 permits pooling parties to elect to treat the pool imbalance as park and loan service under Rate Schedule PAL. Indicated Shippers point out that, according to Tennessee’s public notices, DART will eliminate the option to schedule Supply Aggregation quantities out-of-balance, even if the out-of-balance quantities are within pipeline operating conditions and limitations.<sup>8</sup> Indicated Shippers argue that this restriction violates section 3.3 of Rate Schedule SA. Indicated Shippers also state that Tennessee’s public notices suggest that DART will not permit shippers to use park and loan service as a means to address pool imbalances,<sup>9</sup> despite the tariff provision permitting allocation of such imbalances to Rate Schedule PAL service.

7. Indicated Shippers state that after discussing their concerns with Tennessee, Tennessee posted a notice on September 4, 2013, promising that it would provide an interim solution to pool balancing concerns, pending Commission action on a proposed tariff amendment to be filed in the near future.<sup>10</sup> The interim solution is to allow shippers to nominate 100 Dths of payback on the SA Agreements at any pool location. Indicated Shippers state that this interim solution appears to replicate the current quantity of scheduled imbalances Tennessee permits at SA pools. Indicated Shippers states that it understands that the proposed tariff filing would be an amendment to Rate Schedule PAL

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<sup>6</sup> *Id.* at 5.

<sup>7</sup> *Id.* at 6.

<sup>8</sup> *Id.* at 6 (citing *id.* at Attachment 1, Q 9-10).

<sup>9</sup> *Id.* at 7. *See also id.* at Attachment 2.

<sup>10</sup> *Id.* at 8 (citing *id.* at Attachment 3).

to add an “auto PAL” service similar to those offered by other interstate pipelines. Therefore, Indicated Shippers request that the Commission make its acceptance of Tennessee’s proposed revisions governing balancing of Supply Aggregation pools subject to the outcome of the tariff filing Tennessee has announced it will submit in the very near future to clarify the operation of Rate Schedule PAL service relative to pool imbalances.

### **Discussion**

8. Based on our review of the record in this proceeding, including Indicated Shippers’ comments and Tennessee’s statements to its shippers, it appears that Tennessee may be implementing its new online customer activities software in a manner that is inconsistent with its tariff and/or its past practice concerning the ranking of multiple contracts for scheduling and curtailment purposes. Commission policy requires that pipelines must operate in a manner consistent with their tariffs,<sup>11</sup> so that all shippers receive service in a not unduly discriminatory manner under terms and conditions that the Commission has reviewed and found just and reasonable.

9. Accordingly, we require Tennessee to file an answer in this docket, within the next 15 days, responding to the concerns raised by Indicated Shippers with respect to how the DART system affects the shippers’ ability to rank multiple contracts. In particular, Tennessee should explain whether the DART system would eliminate existing rights the tariff currently provides to shippers to rank multiple contracts. If the DART system would restrict existing shipper rights concerning the ranking of contracts, Tennessee must either provide the shippers a method to continue to rank multiple contracts or file revised tariff records to modify its tariff provisions concerning the ranking of contracts along with an explanation of why any proposed change would be just and reasonable. The Commission’s acceptance of Tennessee’s filing is also subject to the outcome of the NGA section 4 tariff filing Tennessee has announced it will submit in the very near future to clarify the operation of Rate Schedule PAL service relative to pool imbalances.

10. Based upon review of the filing, the Commission finds that the proposed tariff records set forth in the Appendix have not been shown to be just and reasonable, and may be unjust, unreasonable, and unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept and suspend the effectiveness of such tariff records for the period set forth below, subject to the conditions set forth in this order.

11. The Commission’s policy regarding suspensions is that tariff filings generally should be suspended for the maximum period permitted by statute where preliminary

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<sup>11</sup> See NGA § 4(c), 15 U.S.C. § 717c(c) (“every natural-gas company shall file with the Commission ... schedules showing all rates and charges ... and the classifications, practices, and regulations affecting such rates and charges.”).

study leads the Commission to believe that the filing may be unjust, unreasonable, or inconsistent with other statutory standards.<sup>12</sup> 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.<sup>13</sup> Given the advance notice that Tennessee provided with its *pro forma* filing in this docket, we find that such circumstances exist here. Therefore, the Commission will exercise its discretion to suspend Tennessee's proposed tariff records set forth in the Appendix for a nominal period, to be effective October 1, 2013, subject to refund and further review.<sup>14</sup>

The Commission orders:

(A) The tariff records as listed in the attached Appendix are accepted and suspended, to be effective October 1, 2013, subject to refund and the conditions discussed above.

(B) Tennessee is directed to file further support for its filing or revised tariff records concerning the ranking of multiple contracts within 15 days of the date that this order issues, as discussed above.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>12</sup> See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

<sup>13</sup> See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

<sup>14</sup> Tennessee did not file a motion to place these tariff records into effect in the event of minimal suspension as it is permitted to do pursuant to 18 C.F.R. 154.7(a)(9) (2013). If Tennessee wishes to move these tariff records into effect, it must file a motion pursuant to 18 C.F.R. 154.206 (2013).

## Appendix

Tennessee Gas Pipeline Company, L.L.C.

FERC NGA Gas Tariff

TGP Tariffs

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