145 FERC ¶ 61,288
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

High Island Offshore System, L.L.C. Docket No. RP14-218-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS SUBJECT TO REFUND AND ESTABLISHING HEARING PROCEDURES

(Issued December 30, 2013)

1. On November 26, 2013, High Island Offshore System, L.L.C. (HIOS) filed revised tariff records comprising a Natural Gas Act (NGA) general section 4 rate case.[1] HIOS proposes an effective date of January 1, 2014 for its revised tariff records.[2] As discussed below, the Commission will accept and suspend the revised tariff records to be effective June 1, 2014, subject to conditions and the outcome of a hearing established in this proceeding.

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[1] High Island Offshore System, L.L.C., FERC NGA Gas Tariff, NGA Gas Tariff, Table of Contents, Sheet No. 2, 1.0.0; Schedule of Rates, Sheet No. 7, 1.0.0; Storm Damage Tracker, GT&C Section 18 - Sheet No. 139A, 1.0.0; and Storm Damage Tracker, GT&C Section 18 - Sheet No. 139C, 1.0.0.

[2] HIOS states that if the Commission does not suspend the effectiveness of the proposed rates for the maximum statutory period of five months, it will not seek to move the proposed rates into effect prior to June 1, 2014. HIOS states that this is consistent with the moratorium it agreed to in the March 15, 2010 settlement of its last general NGA section 4 rate case in Docket No. RP09-487-000 (Settlement). *High Island Offshore System, L.L.C.*, 135 FERC ¶ 61,105 (2011).

I. Details of the Filing

2. HIOS states that its rate change application is the first since the expiration of the rate moratorium established in the Settlement of its last rate case in Docket No. RP09-487-000. HIOS states that it filed the instant rate case due to declining throughput and increasing operating expenses. HIOS' proposed rates are based on a cost of service of $25.8 million. HIOS states that during the 12-month base period ending September 30, 2013, its transportation revenues totaled $15.8 million, which is $4.4 million less than its actual operating and maintenance (O&M) expenses for the same period. HIOS states that absent its proposed rate increase, its annual revenue deficiency would be approximately $10.0 million.

3. HIOS' proposed rates reflect a daily throughput of 74,296 Dth. HIOS states that throughput on its system has been declining since approximately 2002 and is expected to continue to decrease due to declining production in the HIOS region. Moreover, HIOS' proposed rates reflect depreciation rates and negative salvage rates of 0.88 percent and 0.61 percent, respectfully, based on a remaining life of its facilities of 12 years. HIOS proposes a debt-to-equity ratio of 54 percent to 46 percent, which is the debt-to-equity ratio of its ultimate parent, Enterprise Products Partners L.P. (Enterprise). HIOS proposes a cost of debt of 9.3 percent, which is based on Enterprise's cost of debt. HIOS proposes a return on equity of 13.5 percent, which it states is based on a range of returns from comparable entities. HIOS states that, due to the deteriorating offshore business environment, its proposed rate of return is above the median in its proxy group. With respect to rate design issues, HIOS proposes to retain its existing Long Haul and Short Haul rate design and billing methodology so that all volumes received at or upstream of High Island Area Block A-264 will pay the Long Haul rate and all volumes received downstream will pay the Short Haul rate. HIOS also proposes a new East Breaks gathering rate zone, as required by the Settlement of its last rate case. Finally, HIOS also proposes to increase the cap on its Storm Damage Surcharge from $0.02 per Dth to $0.05 per Dth.[3] HIOS asserts that this change is just and reasonable because of increased costs in the offshore environment.

II. Public Notice, Interventions, and Protests

4. Public notice of the filing was issued on November 27, 2013. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2013)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2013)), all timely motions to intervene and any unopposed motions to intervene out-of-time filed before the

[3] HIOS' tariff includes a Storm Damage Surcharge tracker. However, HIOS is not currently collecting such a surcharge nor is it proposing to do so in this proceeding.

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.

5. Indicated Shippers[4] filed a protest, requesting that the rates be suspended for five months and that a hearing be established. The Producer Coalition,[5] Walter Oil & Gas Corporation, and Arena Energy, LP (collectively, Producers) filed individual protests also requesting a five-month suspension and hearing.

6. Indicated Shippers and Producers argue that HIOS has not justified its proposed rates, which are nearly triple HIOS' currently-effective rates. They also raise concerns about the level of the return on equity and the increase in the cap for the Storm Damage Surcharge. In addition, Indicated Shippers raise concerns about HIOS' proposed O&M costs, cost of debt and HIOS' proposed capital structure.

7. Producers take issue with HIOS' projected throughput. They are concerned with the assumptions underlying HIOS' throughput study as they relate to the pace of the decline in production and the 12-year reserve life of HIOS' system. Producers are also concerned with HIOS' proposed discounting adjustment, which they claim causes inflated rates for interruptible transportation service. Producers further argue that since HIOS' proposed rates are based on actual throughput rather than system capacity, HIOS does not absorb any of the risk and cost associated with the unsubscribed capacity.

III. Discussion

A. Hearing Procedures

8. Protestors argue that HIOS has not shown its rates to be just and reasonable, and request that the Commission resolve these factual disputes through hearing procedures. The Commission finds that HIOS' filing and parties' protests raise many typical rate case issues warranting further investigation. Accordingly, the Commission will accept the proposed tariff sheets and suspend their effectiveness for the maximum period subject to refund and conditions and the outcome of a hearing. The hearing established in this proceeding will explore the issues set forth in HIOS' filing and the protests including, but not limited to, HIOS' proposed cost of service, rate of return, depreciation and negative

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[4] Indicated Shippers consist of Chevron U.S.A. Inc., ExxonMobil Gas & Power Marketing Company, a division of Exxon Mobil Corporation, and Fieldwood Energy, LLC.

[5] Producer Coalition consists of Bandon Oil & Gas LP, Castex Energy Inc., Century Exploration New Orleans, LLC, Dynamic Offshore Resources, LLC, M21K LLC, McMoRan Oil & Gas LLC, and W&T Offshore, Inc.

salvage rates, rate design, and throughput. Furthermore, HIOS' proposed maximum level for a future Storm Damage Surcharge will be fully examined at hearing. If any public record or record subject to a request for privileged treatment[6] is certified to the Commission, these items must be in the Commission's official document repository, eLibrary. Records may include spreadsheets in native file format.[7]

B. Suspension

9. Based on a review of the filing, the Commission finds that the proposed rates set forth in the revised tariff records have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept and suspend HIOS' revised tariff records for five months, to be effective June 1, 2014, subject to refund and the outcome of the hearing ordered herein.

10. The Commission's policy regarding suspensions is that tariff 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 inconsistent with other statutory standards.[8] 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.[9] Such circumstances do not exist here. Therefore, the Commission will accept and suspend the proposed tariff records to be effective June 1, 2014, subject to refund and the outcome of a hearing in this proceeding.

The Commission orders:

(A) The proposed tariff records are accepted and suspended to be effective June 1, 2014, subject to refund and the outcome of the hearing established in this order.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, 9 and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held in Docket No. RP14-218-000 concerning HIOS' filing.

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[6] 18 C.F.R. § 388.112(a) (2013).

[7] *Filing Via the Internet*, Order No. 703, FERC Stats. & Regs. ¶ 31,259, at P 25 (2007).

[8] *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

[9] *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

(C) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to 18 C.F.R. § 375.304 (2013), shall convene a prehearing conference in this proceeding in a hearing or conference room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. The prehearing conference shall be held for the purpose of clarification of the positions of the participants and consideration by the presiding judge of any procedural issues and discovery dates necessary for the ensuing hearing. The Presiding Administrative Law Judge is authorized to conduct further proceedings in accordance with this order and the Rules of Practice and Procedure.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.