

146 FERC ¶ 61,239
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Paiute Pipeline Company

Docket No. RP14-540-000

ORDER ACCEPTING AND SUSPENDING TARIFF RECORDS SUBJECT TO
REFUND, AND ESTABLISHING HEARING PROCEDURES

(Issued March 31, 2014)

1. On February 28, 2014, Paiute Pipeline Company (Paiute) filed to modify its rates through a Natural Gas Act (NGA) general section 4 rate case.¹ Paiute's primary proposal would establish term-differentiated rates and roll-in costs associated with its 2011 Highway 50 Relocation Project.² Paiute requests an effective date of April 1, 2014 for its primary tariff records. Paiute submitted an alternate tariff record with non-term differentiated rates, in the event that the Commission rejects Paiute's primary proposal for term-differentiated rates. As discussed below, the Commission accepts and suspends the primary tariff records listed in Appendix A, to be effective September 1, 2014, subject to refund and the outcome of a hearing, and rejects as moot the alternate tariff record listed in Appendix B.³

¹ On March 11, 2014 and March 18, 2014 Paiute supplemented its filing with two errata corrections to Schedule F-3, which removed redeemed bonds from outstanding debt. Paiute states the errata corrections simply adjusted Schedule F-3 to reflect the proper amount of debt. Paiute's case in chief was not altered because of the erratas and no new tariff records were filed.

² The 2011 Highway 50 Relocation Project (2011 Relocation Project), filed in Docket No. CP11-335-000, is designed to add approximately 3,000 dekatherms per day of transportation capacity.

³ Paiute's alternate tariff record listed in Appendix B was misfiled in the Commission's eTariff filing system. The Option Code data element permits a Tariff Submitter to propose alternate sets of Tariff Records (Option Sets) in a single Tariff Filing, with a request that FERC determine which Option Set to accept (i.e., place into

(continued...)

I. Details of the Filing

2. In the current proceeding, Paiute establishes a test period comprised of a twelve consecutive month base period ending November 30, 2013, as adjusted for known and measureable changes expected during the succeeding nine months ending August 31, 2014. Paiute states that its 2009 NGA general rate case settlement⁴ established its currently effective rates based on an annual revenue requirement of \$31,560,000 and a pre-tax rate of return 12.51 percent. Under its existing rates, Paiute projects an annual revenue deficiency of \$8,956,437 which it states is primarily due to (a) increases in plant and related items; (b) increased depreciation expense due to plant additions; (c) increased labor and labor-related costs; (d) increases in various operation and maintenance (O&M) expenses, (e) increased administrative and general (A&G) expenses; and (f) increases in the required rate of return and related income taxes. Paiute states that to eliminate its revenue deficiency, it proposes an annual cost of service of \$41,241,412.

3. Paiute states that its revenue deficiency calculation is based on its current non-term-differentiated rates. Paiute's revenue deficiency calculation is based on a blended rate of return (ROR) of 9.9 percent using the contract mix at the end of the test year, with a blended return on equity (ROE) of 13.65 percent. Paiute explains that the proposed overall ROR calculations are based on the capital structure of its parent company, Southwest Gas Corporation, comprised of 46.6 percent long-term debt and 53.4 percent common equity.

4. Citing the Commission's consideration of term-differentiated rates in Order No. 637,⁵ Paiute states that term-differentiated rates more accurately reflect the relative risk that pipelines face when selling transportation capacity for a shorter period than for a longer period of time, and the risks that customers face when they purchase capacity for a longer period of time.⁶ Paiute proposes that rates for contracts of less than seven years

effect). For each set of Tariff Records, the Tariff Submitter proposed options must start with "A" and increment sequentially through the alphabet. *See Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300, and 341 Tariff Filings available at <http://www.ferc.gov/docs-filing/etariff/implementation-guide.pdf>*

⁴ *See Paiute Pipeline Co.*, 126 FERC ¶ 61,310 (2009) (2009 Settlement).

⁵ *Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services*, 90 FERC ¶ 61,109 (1999) (Order No. 637); *order on rehearing*, 91 FERC ¶ 61,169 (2000) (Order No. 637-A); *order on rehearing*, 92 FERC ¶ 61,062 (2000) (Order No. 637-B).

⁶ *See Paiute Filing*, Testimony of Theodore K. Wood, TKW-1 at 25 (quoting Order No. 637).

(Category 1) be calculated using a 13.65 percent return on equity (ROE), while rates for contracts of more than seven years (Category 2) be calculated using a 12.70 percent ROE. Paiute further requests the two-category term-differentiated rates be applied to the remaining primary contract terms for existing contracts, regardless of the original contract term.

5. Additionally, Paiute proposes rolling costs associated with the 2011 Relocation Project into the costs used to derive Paiute's system-wide rates under Rate Schedule FT-1. Paiute claims that, under its proposal, existing shippers will not subsidize the project costs associated with the 2011 Relocation Project, but will rather benefit from added flexibility and reliability, and that the additional billing determinants will reduce the system-wide Rate Schedule FT-1 rate.

6. Paiute maintains that all proposed firm transportation rates use the same straight fixed-variable method of rate design, cost classification, and cost allocation used to derive the transportation rates established by the 2009 Settlement proceedings. Paiute states that the billing determinants it submitted for interruptible transportation service are adjusted to reflect its estimates of customer consumption patterns. In case the Commission rejects Paiute's primary proposal for term-differentiated rates, Paiute submitted an alternate, non-term-differentiated rate proposal. Paiute states that the alternate rate proposal is based on the same overall cost of service used in its primary term-differentiated rate proposal.

II. Public Notice, Interventions, and Protests

7. Public notice of the filing was issued on February 28, 2014. 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 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. Sierra Pacific Power Company (Sierra), Northern Nevada Industrial Gas Users (NNIGU) and the Office of the Nevada Attorney General's Bureau of Consumer Protection (Nevada BCP), filed timely protests.

8. Sierra protests Paiute's filing with regard to the proposed term-differentiated rates and the overall rate increase. Sierra asserts that Paiute has not adequately supported the term-differentiated rate categories, and has not shown that its proposal comports with Commission policy, Order No. 637 or subsequent orders. Sierra also claims that Paiute's risk assessment is misleading, because 63.46 percent of annual transportation on the Paiute system is contracted by its affiliates, who are also the only entities eligible for the

lower Category 2 rates.⁷ The protest also questions the validity of some underlying cost of service elements, such as increased labor costs when Paiute has no direct employees and the allocation of such costs is from its parent company.

9. NNIGU protests Paiute's proposal to increase annual revenue collection, and estimates a 76.22 percent increase in annual revenue collection for its IT-1 interruptible shippers as an example. NNIGU questions the implementation of term-differentiated rates, the benefit to customers of the proposal to roll-in 2011 Relocation project costs, and the legitimacy of Paiute's proposal to include in its cost of service facilities that NNIGU asserts will not be in service by the end of the test period. Additionally, NNIGU protests other cost of service items including the increases in Paiute's ROE and negative salvage rate calculations.

10. As a representative of Nevada retail natural gas and electric service consumers, the Nevada BCP protests Paiute's proposal. The Nevada BCP cites Paiute's proposed 30 percent increase in its cost of service as cause for concern. The Nevada BCP requests a full investigation of the proposed ROE, term-differentiated rate design, O&M and A&G costs, and throughput and billing determinants.

11. All protestors request that the Commission suspend Paiute's rate proposal for the maximum period of five months subject to refund and a full evidentiary hearing.

III. Discussion

A. Hearing Procedures

12. The Commission finds that the protestors have raised valid concerns that Paiute's primary proposal has not been shown to be just and reasonable, and that hearing procedures are needed to resolve the issues of fact and law raised in the protests. Paiute's filing and parties' protests raise many typical rate case issues, all of which warrant further investigation, including whether the proposed term-differentiated rates satisfy the requirements expressed in Order No. 637. Accordingly, the Commission will accept the proposed primary tariff records and suspend their effectiveness for the maximum period subject to refund and the outcome of a hearing. The hearing established in this proceeding will explore all issues set forth in Paiute's filing and the protests including, but not limited to, Paiute's proposed term-differentiated rates, revenue requirement, ROE, throughput and billing determinants, the 2011 Relocation Project roll-in, and the inclusion of negative salvage rates.

⁷ Sierra Pacific Power Company Protest at 6.

B. Suspension

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

The Commission orders:

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

(B) The alternate tariff record listed in Appendix B to this order is rejected as moot.

(C) 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. RP14-540-000 concerning Paiute's filing.

(D) 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, NE, Washington, DC 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

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).

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.

Appendix A

Paiute Pipeline Company
FERC NGA Gas Tariff
Paiute Pipeline Company

Accepted and Suspended, Subject to Refund, Effective September 1, 2014

[Statement of Rates, Statement of Rates, 0.0.0](#)

[Pg 2 - Sections 2.1 - 3.1, FT-1 Transportation Svc, 0.0.0](#)

[Pg 3 - Section 3.2, FT-1 Transportation Svc, 0.0.0](#)

[Pg 4 - Sections 3 - 5, FT-1 Transportation Svc, 0.0.0](#)

[Pg 2 - Sections 2.1 - 3.1, LGS-1 Storage Svc, 0.0.0](#)

[Pg 3 - Sections 3.1 - 3.2, LGS-1 Storage Svc, 0.0.0](#)

[Pg 3 - Section 3.3, LGS-1 Storage Svc, 0.0.0](#)

Appendix B

Paiute Pipeline Company
FERC NGA Gas Tariff
Paiute Pipeline Company

Rejected as Moot

[Statement of Rates, Statement of Rates \(Alternate\), 0.0.0](#)