

147 FERC ¶ 61,077
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ANR Pipeline Company

Docket No. RP14-650-000

ORDER ACCEPTING ALTERNATE TARIFF RECORDS SUBJECT TO CONDITION
AND REJECTING PRIMARY TARIFF RECORDS

(Issued April 30, 2014)

1. On March 28, 2014, ANR Pipeline Company (ANR) filed primary¹ and alternate² versions of tariff records and supporting workpapers pursuant to the Deferred Transportation Cost Adjustment (DTCA) provisions set forth in section 6.26 of the General Terms and Conditions (GT&C) of its FERC Gas Tariff. For the reasons discussed below, the Commission accepts the alternate tariff records listed in footnote No. 2, subject to the outcome of the proceeding in Docket No. RP13-743-002; and rejects the primary tariff records listed in footnote No. 1, as moot.

I. Background

2. The DTCA provisions of ANR's tariff requires ANR to make an annual filing to adjust its base transportation and storage rates by means of a surcharge if the actual Qualifying Transportation Costs incurred by ANR during a 12-month period ending on each April 30th vary by more than 10 percent from the Qualifying Transportation Costs included in its base rates.³

¹ ANR Pipeline Company; FERC NGA Gas Tariff; ANR Tariffs: [4.17 - Statement of Rates, Deferred Transportation Cost Adjustment, 4.0.0 A](#).

² ANR Pipeline Company; FERC NGA Gas Tariff; ANR Tariffs: [4.17 - Statement of Rates, Deferred Transportation Cost Adjustment, 4.0.0 B](#).

³ Qualifying Transportation Costs are defined in section 6.26(a)(1) of ANR's Tariff. Article VII of the October 17, 1997 Stipulation and Agreement established a \$40,732,091 base level of Account No. 858 trackable costs. *See ANR Pipeline Co.*, 82 FERC ¶ 61,145 (1998).

3. On April 29, 2013, the Commission issued an order on last year's DTCA filing, which found that the costs associated with the Contract No. FT 17593 transportation agreement with its affiliate, Great Lakes Transmission Limited Partnership (Great Lakes), did not qualify for recovery under the DTCA. The Commission therefore directed ANR to submit a revised tariff section to remove these costs.⁴ On June 24, 2013, the Commission accepted ANR's compliance filing in an unpublished letter order. On May 29, 2013, ANR filed a request for rehearing, which is pending.

4. ANR states that since this cost recoverability issue has not been finally resolved, and to provide its shippers with notice of the filed rates that would result from the inclusion of these costs, it is proposing both primary tariff records that include the costs associated with Contract No. FT17593 in the calculation of the DTCA surcharge, and alternate tariff records that exclude these costs from such calculation.

II. Interventions, Protests and Comments

5. Public notice of the filing was issued on March 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 filed 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.

6. Integrys Gas Group (IGG),⁵ Wisconsin Distributor Group (WDG),⁶ Northern States Power Company – Minnesota and Northern States Power Company – Wisconsin (NSP), Indicated Shippers, DTE Gas Company (DTE), and Sequent Energy Management, L.P. (Sequent) filed timely protests and comments. On April 14, 2014, ANR filed an answer to the protests and comments. While the Commission's regulations prohibit answers to protests "unless ordered by the decisional authority" (18 C.F.R. § 385.213(a)(2) (2013)), the Commission will accept ANR's answer because it has aided us in our decision-making.

⁴ *ANR Pipeline Co.*, 143 FERC ¶ 61,073 (2013).

⁵ Integrys Gas Group consists of Michigan Gas Utilities Corp., North Shore Gas Co., and The Peoples Gas & Light and Coke Co.

⁶ Wisconsin Distributor Group consists of City Gas Co., Madison Gas & Electric Co., Wisconsin Electric Power Co. and Wisconsin Gas LLC, Wisconsin Power & Light Co. and Wisconsin Public Service Corp.

III. Discussion

7. Based on the Commission's order of April 29, 2013, as well as the Commission's regulations (18 C.F.R. § 385.713(e)) stating that the filing of a request for rehearing does not stay an order issued by the Commission, all of the parties argued that ANR's primary tariff records should be rejected.

8. No parties opposed ANR's alternate tariff records. Indeed, two parties, Indicated Shippers and DTE, recommended that the Commission accept ANR's alternate tariff records. NSP, however, contended that ANR did not provide sufficient justification for including the costs of two other contracts in the alternate tariff records. Therefore, it argued that the Commission should suspend the alternate tariff records, subject to refund, and establish further proceedings to determine whether such costs are just, reasonable, and not unduly discriminatory.⁷

9. In its answer to NSP's comments, ANR pointed out that the alternate tariff records result in a credit to shipper's rates. Therefore, NSP's recommendation would serve to eliminate or delay a reduction in shippers' rates. Moreover, ANR explained that the basis for the increased cost of the two contracts is the result of: (1) an increase in Great Lakes' reservation rate, which was approved effective November 1, 2013, as part of a Stipulation and Agreement filed in Docket Nos. RP13-1367-000 and RP10-149-000;⁸ and (2) the elimination of a negative surcharge included in these contracts effective as of the end of 2013.⁹

IV. Commission Decision

10. While ANR explained that it filed the primary tariff records "to preserve its rights,"¹⁰ the Commission nonetheless agrees with the opposing parties' argument that ANR's request for rehearing of the Commission's April 29, 2013 order does not stay that order. The finding in that order was that the costs ANR included in the primary tariff sheets in this proceeding do not qualify for recovery under the provisions of the DTCA. Therefore, the Commission rejects ANR's primary tariff records.

⁷ NSP Protest at 7-8.

⁸ *Great Lakes Transmission Limited Partnership*, 145 FERC ¶ 61,126 (2013).

⁹ ANR Answer at 3-4.

¹⁰ *Id.* at 2-3.

11. The Commission will accept ANR's alternate tariff records as consistent with the April 29, 2013 order. The Commission finds that ANR's answer to NSP's concerns provides sufficient information to support the reasonableness of the increased costs in the alternate tariff records. However, given that ANR's request for rehearing of the April 29, 2013 order on last year's DTCA proceeding in Docket No. RP13-743-002 remains pending, the Commission will make its acceptance here subject to the ultimate outcome of that proceeding.

The Commission orders:

(A) The alternate tariff records, listed in footnote No. 2 above, are accepted, to be effective May 1, 2014, subject to the outcome of the proceeding in Docket No. RP13-743-002.

(B) The primary tariff records, listed in footnote No. 1 above, are rejected as moot.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.