

148 FERC ¶ 61,170
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 5, 2014

In Reply Refer To:
Eastern Shore Natural Gas
Company
Docket No. RP14-1173-000

Michele Piper-Afriyie, Regulatory Analyst II
Eastern Shore Natural Gas Company
1110 Forest Avenue, Suite 201
Dover, DE 19904

Dear Ms. Piper-Afriyie:

1. On August 7, 2014, Eastern Shore Natural Gas Company (Eastern Shore) filed revised tariff records¹ to establish a new Rate Schedule, OPT \leq 90, pursuant to which it will provide firm transportation service that may be interrupted for up to 90 days during the peak winter period from November through April (Peak Months). As discussed more fully below, the revised tariff records are accepted, effective September 7, 2014, subject to conditions.

2. Eastern Shore states that its Rate Schedule OPT \leq 90 is designed to allow a customer to contract for unrestricted firm service most of the year, while providing Eastern Shore the right to decline to schedule service for up to 90 days during Peak Months.² Eastern Shore asserts that service under Rate Schedule OPT \leq 90 would be essentially identical to service under Eastern Shore's existing firm transportation Rate Schedule FT during the months May through October (Off-Peak Months). During Peak Months, however, Eastern Shore would have the right to decline to schedule an individual customer's OPT \leq 90 service for up to 90 days. Eastern Shore proposes to provide notice of the unavailability of service under Rate Schedule OPT \leq 90 on the day prior to any day on which it intends to exercise its right to decline to schedule the service.³ Eastern Shore states that, during Off-Peak Months, Rate Schedule OPT \leq 90

¹ See Appendix.

² Eastern Shore Transmittal at 3.

³ *Id.*

service would have the same scheduling priority as Rate Schedule FT and during Peak Months, Rate Schedule OPT \leq 90 service would have a scheduling priority below that of primary receipt and delivery point service under Rate Schedule FT but above the priority given all secondary firm and interruptible services.

3. Eastern Shore proposes to establish as the maximum rates for service under Rate Schedule OPT \leq 90 the corresponding maximum rates established in its Rate Schedule FT. Eastern Shore also proposes to provide reservation charge credits to Rate Schedule OPT \leq 90 customers for any days during the Peak Months when Eastern Shore actually declines to schedule OPT \leq 90 service. Thus, the rates Eastern Shore will charge for service under Rate Schedule OPT \leq 90 will reflect the lower quality of the OPT \leq 90 service during the Peak Months relative to the service under Rate Schedule FT.⁴ Eastern Shore states that the proposed OPT \leq 90 Rate Schedule is similar in concept to off-peak or limited firm transportation rate schedules that the Commission has previously accepted in other pipeline tariffs.⁵

4. Eastern Shore claims that the addition of Rate Schedule OPT \leq 90 will have no adverse effects on its existing firm customers. Eastern Shore asserts that its right to decline to schedule OPT \leq 90 service for up to 90 days during Peak Months is specifically intended to preserve its ability to serve the winter peaking needs of its existing firm customers. Eastern Shore states that its system is currently fully subscribed during the prime winter months of December through February, and thus, its ability to provide Rate Schedule OPT \leq 90 services will be limited. Eastern Shore further states that, in order to put itself in a position to satisfy prospective power generator demand for service under

⁴ Eastern Shore states, for example, if Eastern Shore declined to schedule service for an OPT \leq 90 customer on each of the 90 days in a service year as to which it would have this right, after reservation charge crediting the customer would pay approximately 75 percent ($275 \div 365$) of the FT reservation rate.

⁵ See, e.g., *Columbia Gas Transmission Corp.*, 54 FERC ¶ 61,226, *clarified*, 55 FERC ¶ 61,366, *on reh'g*, 56 FERC ¶ 61,182 (1991) (Rate Schedule OPT); *Panhandle Eastern Pipe Line Co.*, 72 FERC ¶ 61,185, *reh'g denied*, 73 FERC ¶ 61,284 (1995), *order after technical conference*, 74 FERC ¶ 61,102, *reh'g denied*, (Rate Schedule LFT), *reh'g denied*, 75 FERC ¶ 61,272 (1996) (*Panhandle*); *Great Lakes Gas Transmission Ltd. P'ship*, 90 FERC ¶ 61,065, *on clarification & reh'g*, 91 FERC ¶ 61,061 (2000), *on reconsideration*, 95 FERC ¶ 61,142 (2001) (Rate Schedule LFT); *Trunkline Gas Co.*, 77 FERC ¶ 61,169 (1996) (Rate Schedule LFT), *on reh'g*, 78 FERC ¶ 61,025 (1997) (*Trunkline*); *Transwestern Pipeline Co.*, 88 FERC ¶ 61,206 (1999) (Rate Schedule LFT), *on reh'g*, 90 FERC ¶ 61,044 (2000).

Rate Schedule OPT \leq 90, Eastern Shore anticipates filing an application before the end of the year seeking FERC approval to construct certain expansion facilities.

5. Public notice of the filing was issued on August 11, 2014. Interventions and protests were due as provided by section 154.210 (18 C.F.R. § 154.210 (2014)). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2014), 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.

6. On August 19, 2014, Easton Utilities Commission (Easton) filed comments. On August 25, 2014, Eastern Shore filed an answer to the issues raised by Easton. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits answers to protests or answers unless otherwise permitted by the decisional authority.⁶ We will accept Eastern Shore's answer because it provides information that will assist us in our decision-making process.

7. In its comments, Easton states that it has raised several questions informally with the representatives of Eastern Shore and intends to raise additional questions with the company. Easton comments that it has concerns regarding the criteria that Eastern Shore will apply in determining whether to allow the new service to be scheduled during the November through March period and the impact of the new service on existing firm customers like itself. Easton also questions the tariff language in section 3(b) of the OPT \leq 90 Rate Schedule, which it claims appears to allow OPT \leq 90 service to be requested (and potentially scheduled) during periods when Eastern Shore has provided notice that the service is "unavailable." According to Easton, existing firm customers' rights to utilize all their capacity may be restricted if an OPT \leq 90 service customer is allowed to increase its nomination during the second day ahead or intraday nomination cycles after Eastern Shore has scheduled the "unavailable" OPT \leq 90 service.⁷

8. Easton further comments that the language in the *pro forma* service agreement for OPT \leq 90 service should be modified to resolve an internal inconsistency. Specifically, Easton asserts Exhibits A and B of the *pro forma* service agreement state:

TSP [Transportation Service Provider] may decline to schedule service under the Service Agreement on up to 90 days annually during the months

⁶ 18 C.F.R. § 385.213(a)(2) (2014).

⁷ Easton Comments at 2, n4.

of January through April and November through December (the “Peak Months”).⁸

Easton argues that this contract language suggests that the 90-day period of reduction in OPT \leq 90 service would be determined on a calendar-year basis, rather than over a winter season. In contrast, Easton states that section 2(b) of the OPT \leq 90 Rate Schedule states that “Transportation service provided under this Rate Schedule shall be firm, subject to the limitations of TSP’s obligation to schedule service on any day between *November 1 or any year and the next succeeding April 30* (the ‘Peak Months’) set forth in Section 3 of this Rate Schedule. . . .”⁹ Easton asserts that section 3(b) of the OPT \leq 90 Rate Schedule further states “TSP may decline to schedule service under this Rate Schedule during the Peak Months up to a total of 90 days.”¹⁰

9. Easton states that the different definitions of Peak Months in Exhibits A and B of the OPT \leq 90 service agreement can be read as a different time period and a different combination of specific months. Easton argues that this inconsistency should be remedied by using the same definition of “Peak Months” in Exhibits A and B of the OPT \leq 90 service agreement that is used in section 3(b) of the OPT \leq 90 Rate Schedule.

10. Finally, Easton states that the text of section 6(d) of the OPT \leq 90 Rate Schedule repeats verbatim the language already set out in section 5(d) of the OPT \leq 90 Rate Schedule, and thus, one of the two paragraphs should be deleted.

11. In its answer, Eastern Shore states that it shares Easton’s concern that the implementation of OPT \leq 90 service must not negatively impact historic firm services. Eastern Shore states that its proposed Rate Schedule OPT \leq 90 provides that, for each gas day during the Peak Months of November through April, it will post a notice forecasting the availability of OPT \leq 90 service on its Interactive Web Site not later than 9:00 a.m. CCT on the day prior to the relevant gas day. Eastern Shore also states that it will prepare this daily forecast on the basis of anticipated system operations, forecasted weather conditions and the historic nomination patterns of its firm transportation customers. Further, Eastern Shore asserts that the primary goal of this daily forecast is to ensure that historic firm services, as reflected in current service agreements, are not impacted by the addition of Rate Schedule OPT \leq 90 services.

⁸ Easton Comments at 3.

⁹ *Id.*

¹⁰ *Id.*

12. Eastern Shore contends that the ability to declare OPT \leq 90 service unavailable on days of anticipated peak demand allows it to schedule all other firm services in the manner it always has (i.e., as if Rate Schedule OPT \leq 90 services did not exist). Eastern Shore further states that it has proposed to modify the scheduling priorities under its tariff to provide that Rate Schedule OPT \leq 90 services have a lower priority than all other firm services during the peak months. Thus, should it incorrectly forecast firm demand, historic firm customer services would still be protected because Eastern Shore must confirm all historic firm service customers' nominations before it can confirm any Rate Schedule OPT \leq 90 nominations.

13. Eastern Shore further states that Easton's concern regarding language in section 3(b) of the proposed Rate Schedule is unfounded. Eastern Shore states that language is not intended to allow Eastern Shore to provide OPT \leq 90 on days it has declared the service unavailable but rather language is intended to permit the OPT \leq 90 customer to qualify for reservation charge credits (under Rate Schedule OPT \leq 90 section 3(d)). Eastern Shore states that OPT \leq 90 service nominations will be governed by the proposed modified scheduling priorities, which specifically provide that Rate Schedule OPT \leq 90 services have a lower priority than all other firm services during the Peak Months. Further, Eastern Shores states that during Peak Months it cannot confirm OPT \leq 90 service nominations unless it has confirmed all other firm service nominations, notwithstanding any notice regarding OPT \leq 90 service unavailability.

14. Finally, Eastern Shore agrees to accept Easton's suggested changes to its tariff language to clarify the definition of "Peak Months" in Exhibits A and B. Further, Eastern Shore agrees that sections 5(d) and 6(d) of the proposed rate schedule are identical and in its compliance filing, Eastern Shore will delete the duplicative language in section 6(d).

15. Based on our review of Eastern Shore's tariff filing and answer, we find that Eastern Shore has demonstrated that its proposal is just and reasonable, and thus accept the tariff sheets subject to conditions. The OPT \leq 90 service will provide a cost effective and flexible option to existing firm transportation service to shippers who can tolerate a certain amount of interruption without the insecurity of interruptible transportation. The Commission has accepted similar types of limited firm transportation services in other proceedings,¹¹ and the Commission encourages pipelines to offer various kinds of services designed to meet the markets on its systems, to the extent that these services are not offered in an unduly discriminatory manner. Further, Eastern Shore has addressed

¹¹ See, e.g., *Panhandle*, 74 FERC ¶ 61,102; see also, *Trunkline*, 77 FERC ¶ 61,169.

the concerns raised by Easton regarding the rights of historic firm customers. As Easton explains, its proposed changes provide that all firm nominations must be scheduled and confirmed before any OPT \leq 90 service during the Peak Months.

16. As discussed, Eastern Shore agrees to make a compliance filing to adopt the tariff language changes suggested by Easton. Thus, the Commission accepts Eastern Shore's proposal to implement Rate Schedule OPT \leq 90 service as reflected on the referenced tariff records, accepted effective September 7, 2014, subject to Eastern Shore filing, within 15 days of the issuance of this order, to clarify the definition of Peak Months in Exhibits A and B and to eliminate the duplicative language in section 6(d), consistent with its answer in the instant proceeding.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix
Eastern Shore Natural Gas Company
FERC NGA Gas Tariff
Third Revised Volume No. 1

Tariff Records Accepted Effective September 7, 2014

[Sheet No. 1, Table of Contents, 0.0.4](#)
[Sheet No. 4B, Part 284 Currently Effective Rates- Off Peak Transportation, 0.0.0](#)
[Sheet No. 6, Part 284 Currently Effective Rates-Matrix, 0.0.9](#)
[Sheet No. 27, Rate Schedule Off Peak Transportation, 0.0.0](#)
[Sheet No. 27A, Rate Schedule Off Peak Transportation, Continued, 0.0.0](#)
[Sheet No. 27B, Rate Schedule Off Peak Transportation, Continued, 0.0.0](#)
[Sheet No. 27C, Rate Schedule Off Peak Transportation, Continued, 0.0.0](#)
[Sheet No. 27D, Rate Schedule Off Peak Transportation, Continued, 0.0.0](#)
[Sheet No. 27E, Rate Schedule Off Peak Transportation, Continued, 0.0.0](#)
[Sheet No. 27F, Rate Schedule Off Peak Transportation, Continued, 0.0.0](#)
[Sheet No. 27G, Rate Schedule Off Peak Transportation, Continued, 0.0.0](#)
[Sheet No. 103, GTC Section 5: Pressure, 0.0.3](#)
[Sheet No. 158, GTC Section 21: Nominations & Scheduling of Trans Svc. Cont, 0.0.3](#)
[Sheet No. 159, GTC Section 21: Nominations & Scheduling of Trans Svc. Cont, 0.0.2](#)
[Sheet No. 160, GTC Section 21: Nominations & Scheduling of Trans Svc. Cont, 0.0.2](#)
[Sheet No. 193G, GTC Section 29: Capacity Release, Continued, 0.0.2](#)
[Sheet No. 254, Service Request Form, Continued, 0.0.2](#)
[Sheet No. 255, Service Request Form, Continued, 0.0.2](#)
[Sheet No. 300, Form of Service Agreement - Off Peak Transportation, 0.0.0](#)
[Sheet No. 300A, Form of Service Agreement - Off Peak Transportation, Cont., 0.0.0](#)
[Sheet No. 300B, Form of Service Agreement - Off Peak Transportation, Cont., 0.0.0](#)
[Sheet No. 300C, Form of Service Agreement - Off Peak Transportation, Cont., 0.0.0](#)
[Sheet No. 300D, Form of Service Agreement - Off Peak Transportation, Cont., 0.0.0](#)
[Sheet No. 300E, Form of Service Agreement - Off Peak Transportation, Cont., 0.0.0](#)
[Sheet No. 300F, Form of Service Agreement - Off Peak Transportation, Cont., 0.0.0](#)
[Sheet No. 300G, Form of Service Agreement - Off Peak Transportation, Cont., 0.0.0](#)
[Sheet No. 300H, Form of Service Agreement - Off Peak Transportation, Cont., 0.0.0](#)
[Sheet No. 300I, Form of Service Agreement - Off Peak Transportation, Cont., 0.0.0](#)
[Sheet No. 300J, Form of Service Agreement - Off Peak Transportation, Cont., 0.0.0](#)
[Sheet No. 300K, Form of Service Agreement - Off Peak Transportation, Cont., 0.0.0](#)
[Sheet No. 300L, Form of Service Agreement - Off Peak Transportation, Cont., 0.0.0](#)
[Sheet No. 301, Reserved for Future Use, 0.0.0](#)