

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

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

ANR Pipeline Company

Docket No. RP15-785-000

ORDER ACCEPTING ALTERNATE PROPOSAL AND REJECTING PRIMARY
PROPOSAL TARIFF RECORD

(Issued April 30, 2015)

1. On March 31, 2015, ANR Pipeline Company (ANR) filed a tariff record¹ and supporting workpapers for a Primary Proposal and in the alternative, workpapers only for an Alternative Proposal of the yearly Deferred Transportation Cost Adjustment (DTCA) 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 Proposal, as reflected in the Alternate workpapers, subject to the outcome of the consolidated proceedings in Docket No. RP13-743-002, *et al.* The Commission rejects the primary tariff record listed in Footnote No. 1, as it includes costs not yet determined to be recoverable under ANR's DTCA.

I. Background

2. The ANR settlement in Docket No. RP94-3-000 established a DTCA tracker which would allow ANR to recover a surcharge for certain costs associated with the transportation and compression of gas by others. This surcharge methodology is listed in Section 6.26 of the ANR FERC Gas Tariff. ANR is required under Section 6.26 to make a DTCA filing each year for the 12-month period ending April 30 if the level of "Qualifying Transportation Costs" varies more than 10 percent from the level included in

¹ ANR Pipeline Company, [FERC NGA Gas Tariff, ANR Tariffs, 4.17 - Statement of Rates, Deferred Transportation Cost Adjustment, 6.0.0.](#)

ANR's base rates.² Section 6.26 states that "Qualifying Transportation Costs" include the costs of any contract amendments and contract replacements. The list of contracts eligible for recovery through the DTCA tracker are listed in Schedule I-4 of ANR's compliance filing in Docket No. RP94-43-000.

3. On March 28, 2013, ANR made its annual DTCA filing seeking to recover through the DTCA surcharge, costs associated with Contract No. FT17593. Contract No. FT17593 is a Part 284 transportation service agreement between ANR and Great Lakes Gas Transmission Limited Partnership and is not one of the contracts listed in Schedule I-4. In its filing, ANR argues Contract No. FT17593 qualifies as a "replacement contract" for service previously offered under Rate Schedule X-1, a contract listed on Schedule I-4. Consequently, ANR contends the costs of Contract No. FT17593 were eligible for inclusion into the DTCA tracker mechanism. On April 29, 2013, the Commission issued an order directing ANR to remove the costs associated with Contract No. FT17593 from the DTCA tracker mechanism.³ A revised tariff was filed and accepted by the Commission. ANR subsequently sought rehearing regarding the exclusion of Contract No. FT17593 costs in Docket No. RP13-743-002. The Commission issued an order on rehearing on May 14, 2014, finding the intent of the term "contract replacement" was inconclusive and established hearing and settlement procedures to resolve the issue.⁴

4. On March 28, 2014, ANR filed its annual DTCA adjustment for the period May 1, 2014 through April 30, 2015, submitting primary and alternate versions of its tariff and supporting workpapers, reflecting costs with and without Contract No. FT17593, respectively, in Docket No. RP14-650-000. On April 30, 2014, the Commission accepted the alternate proposal subject to the outcome of the proceeding in Docket No. RP13-743-002.⁵ The primary proposal which included Contract No. FT17593 costs was rejected as moot.

² *ANR Pipeline Co.*, 82 FERC ¶ 61,145 (1998) (established a base level for Account No. 858 trackable costs of \$40,732,091).

³ *ANR Pipeline Company*, 143 FERC ¶ 61,073 (2013).

⁴ *ANR Pipeline Company*, 147 FERC ¶ 61,124 (2014).

⁵ *ANR Pipeline Company*, 147 FERC ¶ 61,077 (2014).

5. On November 3, 2014, ANR submitted a filing to remove references in its tariff to individually certificated Part 157 service agreements with Great Lakes under Great Lakes' Rate Schedules T-8, T-9, and T-10 (T Agreements) and to reflect the conversion of the T Agreements to Part 284 service under Section 157.217(a). On December 3, 2014, the Commission found the conversion filings of the T Agreements were not routine and may be unjust, unreasonable, and unduly discriminatory or unlawful.⁶ Consequently, the Commission suspended the effectiveness of the filings for the maximum statutory period, set the issues raised for hearing, and consolidated the filings in Docket Nos. RP15-138-000 and RP15-139-000 with ongoing proceedings in Docket No. RP13-743-002, *et al.* On January 2, 2015, ANR and Great Lakes sought rehearing of the order which remains pending before the Commission.

II. Description of ANR's Filing

6. In the instant filing, ANR submits two varying proposals to implement its DTCA surcharge for the period May 1, 2015 through April 30, 2016. In its Primary Proposal, which includes a tariff record, ANR proposes to include the cost recovery of Contract No. FT17593, as well as the costs associated with proposed Part 284 Agreements that will replace the T Agreements currently effective under the DTCA tracker.

7. In its Alternate Proposal, which includes workpapers but no tariff record, ANR excludes the costs associated with Contract No. FT17593 and the replacement contracts for the T Agreements. ANR explains that under the Alternate Proposal, the change in the DTCA surcharge falls below the 10 percent threshold requiring a DTCA rate change filing. ANR explains that under the Alternate Proposal the DTCA surcharge will remain the same as the currently effective DTCA.

III. Interventions, Protests and Comments

8. Public notice of the filing was issued on April 1, 2015. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2014)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2014)), all timely-filed motions to intervene and any unopposed motion 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 *Great Lakes Gas Transmission Limited Partnership and ANR Pipeline Co.*, 149 FERC ¶ 61,200, at PP 14-15 (2014).

9. DTE Gas Company (DTE), Integrys Gas Group (IGG),⁷ Wisconsin Distributor Group (WDG),⁸ Sequent Energy Management, L.P. (Sequent), Consumers Energy Group (CEG), Indicated Shippers⁹ and Northern States Power Company – Minnesota and Northern States Power Company – Wisconsin (NSP) filed timely protests and comments.

IV. Discussion

Protests and Comments

10. All protestors and commenters effectively ask the Commission to reject the Primary Proposal and accept the Alternate Proposal.

11. Indicated Shippers, IGG, CEG and WDG protest the Primary Proposal because it seeks to recover in the DTCA tracker costs they assert are ineligible for recovery under the DTCA provisions of ANR's tariff. WDG explains the DTCA mechanism only permits recovery for contract replacements or amendments and that Contract No. FT17593 cannot be a replacement for the X-1 Agreement because it is a Part 284 agreement that involves substantial new costs and bears little resemblance to the X-1 Agreement. WDG also contends Contract No. FT17593 cannot be a contract replacement for the X-1 Agreement, because the X-1 Agreement remains effective. WDG argues that rejection of the Primary Proposal is consistent with the Commission's rejection of the primary tariff records submitted in ANR's 2014 DTCA filing.

12. IGG notes that ANR's 2015 DTCA filing is different from its 2014 DTCA filing because the conversion of the T Agreements to Part 284 service was not at issue in 2014, but contends that this additional issue should not warrant a different result. WDG explains the Commission suspended the T Agreement conversion filings in its

⁷ Integrys Gas Group consists of Michigan Gas Utilities Corp., North Shore Gas Co., and The Peoples Gas Light and Coke Co.

⁸ Wisconsin Distributor Group consists of City Gas Co., Madison Gas and Electric Co., Wisconsin Electric Power Co. and Wisconsin Gas LLC, Wisconsin Power and Light Co. and Wisconsin Public Service Corp.

⁹ Indicated Shippers consists of Apache Corporation, ConocoPhillips Company, ExxonMobil Gas & Power Marketing Company, a division of Exxon Mobil Corporation, Occidental Energy Marketing, Inc., Shell Energy North America (US), L.P., and Shell Offshore Inc.

December 3, 2014 order and consequently those agreements have not been properly replaced by the Part 284 Agreements. WDG questions whether ANR can abandon the T Agreements and replace them with Part 284 Agreements under Section 157.217(a). DTE and CEG state until the Commission determines otherwise, the DTCA surcharge including costs associated with Contract No. FT17593 and Part 284 Agreements are unjust, unreasonable, unduly discriminatory, or otherwise unlawful and should be rejected.

13. The Indicated Shippers explain the Alternate Proposal properly excludes costs associated with Contract No. FT17593 and the T Agreements. The Indicated Shippers state the DTCA surcharge falls under the threshold set forth in Section 6.26(a), so no change was required to the currently effective DTCA surcharges. WDG states rejection of the Primary Proposal and acceptance of the Alternate Proposal is necessary to preserve the *status quo* and would avoid the substantial cost increases to shippers associated with the inclusion of the Contract No. FT17593 and Part 284 Agreements during the pendency of the hearing and settlement procedures. WDG urges the Commission to consolidate the proceeding with the ongoing proceedings in Docket No. RP13-743-002, *et al.*, if it adopts the Alternate Proposal. NSP states acceptance of the Alternate Proposal avoids prejudging issues already set for hearing.

V. Commission Decision

14. The Commission finds that ANR's Primary Proposal and tariff record should be rejected, since it includes costs not yet found eligible for inclusion in the DTCA adjustment. No parties oppose ANR's Alternate Proposal. The Commission has not reached an outcome for the consolidated proceedings in Docket No. RP13-743-002, *et al.* to determine whether Contract No. FT17593 is a replacement contract within the meaning of the DTCA tariff definition, as well as whether the T Agreements were properly converted to Part 284 service. The Commission finds no change is required to the currently effective DTCA surcharge because under the Alternative Proposal the cost inputs to the DTCA surcharge fell below the stated percentage threshold required for a change. Accordingly, the Primary Proposal is rejected, and the Commission will accept ANR's Alternate Proposal consistent with its action in the April 20, 2014 order on last year's DTCA adjustment filing.¹⁰ The Commission will make its acceptance here subject to the ultimate outcome of the ongoing consolidated proceedings.

¹⁰ *ANR Pipeline Co.*, 147 FERC ¶ 61,077 (2014).

The Commission orders:

(A) The workpapers supporting the Alternate Proposal are accepted, subject to the outcome of the consolidated proceedings in Docket No. RP13-743-002, *et al.*

(B) The Primary Proposal tariff record is rejected.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.