

151 FERC ¶ 61,086
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 1, 2015

In Reply Refer To:
Discovery Gas Transmission LLC
Docket Nos. RP15-618-000
RP15-618-001

Discovery Gas Transmission LLC
2800 Post Oak Boulevard
Houston, TX 77056

Attention: Larry Jensen

Dear Mr. Jensen:

1. On March 6, 2015, Discovery Gas Transmission LLC (Discovery) filed revised tariff records to revise its definition of “Gathering” and “Mainline Facilities” and add a new gas quality specification provision, “Deleterious Substances,” and also to make several housekeeping revisions.¹ The Commission accepts the revised tariff records listed in Appendix A, to be effective April 5, 2015, as requested. As discussed further below, the Commission also suspends the tariff record listed in Appendix B, to be effective the earlier of September 5, 2015, or further order of the Commission, subject to compliance filing and conditions discussed in the body of the order.
2. Public notice of the filing was issued on March 9, 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 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. Walter Oil & Gas Corporation (Walter) filed a protest, objecting to the revised definition of “Gathering” and the proposed “Deleterious Substances” provision.

¹ The tariff records are listed in Appendices A and B.

3. In response to Walter's protest, on April 1, 2015, Discovery clarified its definition of "Gathering" and "Mainline Facilities" and revised its "Deleterious Substances" provision. As originally proposed, "Gathering Facilities" would have been broadly defined as, "The pipes owned and operated by Transporter that are classified as gathering." As Walter noted, this broad definition makes it difficult for shippers to discern which facilities are subject to the system's gathering fee. Discovery proposes to solve this problem by "updating its system map around April 30, 2015" to include "color-coding" for the relevant gathering facilities.²

4. Discovery also filed a replacement tariff record, revising its new "Deleterious Substances" provision in response to Walter's objections. Discovery's original proposed language would have included references to "the environment" and to "toxic and harmful" substances, which Walter objected were overbroad. The new proposed language states:

13.1.12 Deleterious Substances: The Gas shall be free of any substance which may be hazardous to health, injurious to Transporter's or others' facilities, or, which might interfere with the merchantability of Gas or other transported hydrocarbons.

5. On April 8, 2015, Walter withdrew its protest, without further comment.

6. Based upon review of the filing, we find that the proposed tariff record listed in Appendix B, relating to Discovery's proposed "Deleterious Substances" gas quality provision, has not been shown to be just and reasonable, and may be unjust, unreasonable, and unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept and suspend the effectiveness of the proposed tariff record in Appendix B for five months subject to the conditions set forth below. The Commission accepts the tariff records listed in Appendix A effective April 5, 2015, as requested.

7. In its April 1, 2015 filing, Discovery promised to improve its system map in order to ensure that potential shippers can unambiguously discern which system facilities are "gathering" facilities. Pursuant to Order No. 801, *Natural Gas Pipeline Maps*, 149 FERC ¶ 61,133 (2014), Discovery has an ongoing obligation under 18 C.F.R. § 154.106 to keep an up-to-date system map available to the public on its website. Accordingly, Discovery does not need to file a new tariff record in order to update its system map. Rather, we accept its proposed definition of "gathering" with the understanding that Discovery shall continue to honor its map-posting obligation under 18 C.F.R. § 154.106.

² Discovery April 1, 2015 filing at 2 & n.2.

8. We find that Discovery's reference to "others' facilities" in its proposed "Deleterious Substances" provision is overbroad and contrary to Commission policy, and thus must be removed. Discovery's proposed language attempts to take into account the gas quality requirements of downstream pipelines or third party facilities.³ As we have held previously, however, an interstate pipeline is responsible only for the operational integrity of its own system, not for the operational integrity of downstream systems.⁴ Commission policy is that pipelines are not responsible for the integrity of downstream systems once the pipeline has delivered gas in accordance with its tariff specifications. That is the responsibility of the downstream systems' operator. Correspondingly, a shipper cannot be held to meet more stringent standards of a downstream pipeline if the gas it delivers meets the receiving pipeline's gas quality standards. Discovery's proposed provision appears at odds with this policy.

9. Additionally, Discovery's support for its claim that the provision is necessary "to conform to provisions of downstream pipelines..."⁵ is lacking. While Discovery provides an Attachment listing gas quality provisions of other pipelines that are purportedly similar to that Discovery is proposing, it does not identify specifically the relevant gas quality specifications of the particular downstream pipelines with which it claims its proposed provision was designed to conform. Further, Discovery makes no claims regarding instances when a downstream pipeline refused acceptance of Discovery's gas due to gas quality or deleterious substances concerns.

10. Thus, the Commission finds that Discovery has not shown that proposed section 13.1.12 of the General Terms and Conditions of its tariff is just and reasonable. Accordingly, Discovery must file within 30 days of this order a supported justification for its proposed "Deleterious Substances" tariff provision that explains how it is consistent with the Commission's policy or submit a revised proposal that is consistent with our policy, or remove the proposed provision from its tariff. In its explanation, Discovery should address concerns that the proposed provision is overbroad in terms of its attempt to prohibit "any substance which may be hazardous to health," without any specifications as to what actual substances or even types of substances are barred. In addition, Discovery should explain why this provision is necessary in light of the fact that section 13.1.8 of the General Terms and Conditions of Discovery's tariff already provides

³ Discovery itself states that its proposed specification is designed to prevent receipt of any substance that is hazardous to "a third party's facilities." Discovery filing at 2.

⁴ *Norstar Operating LLC v. Columbia Gas Transmission Corp.*, 125 FERC ¶ 61,289, at PP 18-22 (2008).

⁵ Discovery March 6, 2015 filing at 2.

that “The gas should be free from dust, gums, gum-forming constituents, and other solid matter.” Discovery should also explain whether its proposed section 13.1.12 is meant to address substances other than those specified in section 13.1.8, and if so, provide some examples and whether there are instances when Discovery has found such substances in its gas stream.

11. The Commission’s policy regarding tariff filings is that they 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.⁶ 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.⁷ Such circumstances do not exist here with respect to the tariff records listed in Appendix B. Accordingly, the Commission shall exercise its discretion to suspend the proposed tariff records listed in Appendix B to be effective the earlier of September 5, 2015, or further order of the Commission, subject to the compliance filing and conditions discussed in the body of this order.

12. Therefore, as discussed above, the Commission accepts the tariff records in Appendix A and accepts and suspends the replacement tariff record in Appendix B,⁸ to be effective as listed in the appendices, and subject to further explanation. Discovery is directed to comply with these conditions within thirty days of this order’s issuance.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁶ See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

⁷ See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

⁸ The tariff record in the April 1 filing (Section 13, Gas Quality, 2.1.0) completely replaces the Gas Quality record in the March 6 filing (Section 13, Gas Quality, 2.0.0). Accordingly, we reject the replaced record as moot.

APPENDIX A

**Discovery Gas Transmission LLC
FERC NGA Gas Tariff
First Revised Volume No. 1**

Tariff Records Accepted, Effective April 5, 2015

[Section 1.2, Definitions: G - M, 2.0.0](#)

[Section 1, FT-1 Rate Schedule, 2.0.0](#)

[Section 2, FT-2 Rate Schedule, 2.0.0](#)

[Section 3, IT Rate Schedule, 2.0.0](#)

[Section 4, Form of Service Agreement: Capacity Release Transactions, 2.0.0](#)

APPENDIX B

**Discovery Gas Transmission LLC
FERC NGA Gas Tariff
First Revised Volume No. 1**

Tariff Record Accepted and Suspended, Effective September 5, 2015

[Section 13, Gas Quality, 2.1.0](#)

Tariff Record Rejected as Moot by the Actions Above

[Section 13, Gas Quality, 2.0.0](#)