151 FERC ¶ 61,272
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.

Maritimes & Northeast Pipeline, L.L.C. Docket No. RP15-1026-000

ORDER ACCEPTING FOR FILING AND SUSPENDING TARIFF RECORDS SUBJECT TO REFUND AND ESTABLISHING A HEARING

(Issued June 30, 2015)

1. On May 29, 2015, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) filed revised tariff records[1] comprising a general rate case pursuant to section 4 of the Natural Gas Act (NGA) and an out-of-cycle fuel rate filing. Maritimes proposes an effective date of July 1, 2015. For the reasons discussed below, the Commission accepts for filing and suspends Maritimes' proposed tariff records, to be effective December 1, 2015, subject to refund and the outcome of a hearing established in this proceeding.

I. Background

2. The Maritimes system consists of a 338-mile mainline with five laterals.[2] The mainline runs from two interconnections at the Canadian border, through Maine and New Hampshire, to interconnections in Massachusetts with Algonquin Gas Transmission and Tennessee Gas Pipeline Company. Maritimes states that this rate case comes at a time of transition and uncertainty regarding the supply sources available for transportation on its system. Maritimes explains that its pipeline was constructed to transport offshore Nova Scotia production. Maritimes further explains that since its last filing in 2009, the pipeline has relied on liquefied natural gas (LNG) and offshore production, but it fears that "Nova Scotia production could end sometime in the near future, and the market demand for LNG imports in North America has not been as robust as it was five years

[1] *See* Appendix.

[2] Maritimes states that its five laterals are Veazie, Bucksport, Westbrook, Newington, and Haverhill. Maritimes transmittal at Appendix A and at Statement O.

ago [, causing] … uncertainty regarding what supply will be available in the near future as well as for long-term firm contracts."[3]

3. Maritimes offers firm transportation service under Rate Schedule MN365 (year-round service), Rate Schedule MNLFT (lateral line service), Rate Schedule MN151 (service between November 1 and March 31), Rate Schedule MN90 (service between December 1 through the end of February), and Rate Schedule MNOP (off-peak service available from March 1 through November 30). Under Rate Schedules MNIT and MNPAL, Maritimes offers interruptible transportation and park and loan services, respectively. Under Rate Schedule MNTTT, Maritimes offers a title transfer tracking service. Under Rate Schedule MNTABS, Maritimes offers a transportation aggregation balancing service.

4. Maritimes filed its last general section 4 rate case on July 1, 2009, in Docket No. RP09-809-000. That case was resolved by a settlement filed on March 4, 2010, which the Commission approved on April 30, 2010 (2010 Settlement).[4] The 2010 Settlement resulted in the use of two zones for determining fuel rates on Maritimes' mainline system. The 2010 Settlement also established a revenue sharing mechanism under which Maritimes would credit 50 percent of its annual mainline interruptible revenues in excess of $9 million to firm mainline customers. The revenue sharing mechanism was set forth in section 33 of Maritimes' General Terms and Conditions (GT&C). In addition, the 2010 Settlement required Maritimes to file a new general section 4 rate case no later than the fifth anniversary of the settlement's effective date.

5. Maritimes' tariff contains its Fuel Retainage Quantity provision in Section 20 of its GT&C.[5] Under this provision, Maritimes recovers its system fuel requirements and lost and unaccounted for (LAUF) gas by retaining in-kind a percentage of gas tendered by customers. Maritimes' fuel rate is based on projected quantities and trued-up based on actual quantities. Prior to the 2010 Settlement, Maritimes charged a system-wide fuel rate. The 2010 Settlement established two fuel rates, one for deliveries on the mainline system upstream of the Richmond, Maine compressor station and one for deliveries on the mainline system downstream of the Richmond, Maine compressor station.

---

[3] Maritimes, Ex. MNE-1 (Testimony of J. Donaldson, Jr.) at 3.

[4] *Maritimes & Northeast Pipeline, L.L.C.*, 131 FERC ¶ 61,095 (2010).

[5] Section 20 provides for Maritimes Fuel Retainage Percentage or fuel rate to be established for two calendar periods, the winter period (November through March) and the non-winter period (April through October).

II. Details of the Filing

A. General Section 4 Rate Case

6. Maritimes states that it filed the instant rate case in accordance with the 2010 Settlement. Maritimes proposes to increase its mainline rates for Rate Schedules MN365 and MNIT. For example, Maritimes proposes to increase its Rate Schedule MN365 reservation charge from $16.7292 per dekatherm (Dth) to $16.8593 per Dth and its usage charge from $0.0050 per Dth to $0.0251 per Dth. It also proposes to increase its Rate Schedule MNIT rate from $0.5550 to $0.5794 per Dth. Maritimes states that its proposed rates are based on a cost of service of $155,713,253 and billing determinants of 741,350 Dth/d for firm transportation service and 10,000 Dth/d for interruptible transportation service. Maritimes proposes an overall rate of return of 11.02 percent, which reflects a rate of return on equity of 13.5 percent, a capital structure of 63.23 percent equity to 36.77 percent debt, and a cost of long term debt of 6.74 percent. In addition, Maritimes proposes to increase its mainline depreciation rate from 2.2 percent to 2.4 percent. Maritimes states that its base period reflects twelve months of actual experience ending February 28, 2015, and is adjusted for known and measurable changes through the end of the test period, November 30, 2015. Maritimes also proposes rate changes for Rate Schedule MNLFT, which vary depending on the characteristics of each lateral.

B. Fuel Retainage Quantity

7. Maritimes includes in its filing an out-of-cycle fuel rate filing proposing a postage-stamp fuel rate. As part of 2010 Settlement, Maritimes' currently-effective fuel rate reflects two zones. In this proceeding, Maritimes is proposing to return to a single, system-wide mainline fuel rate. Maritimes further states that a single fuel rate is consistent with its postage-stamp transportation rate design.

8. Maritimes states that for its out-of-cycle filing it used the projected throughput and fuel requirements from its last fuel rate filing in Docket No. RP13-1350-000.[6] Maritimes states that it will file its next annual fuel filing on or prior to October 1, 2015.

C. Removal of Unused Rate Schedules

9. Maritime proposes to remove from its tariff Rate Schedules MN151, MN90 and MNOP, and all references to such rate schedules. Maritimes states that it has not provided service under these rate schedules since its system was placed into service, and hence no customers will be adversely affected by removal of these rate schedules.

---

[6] Maritimes transmittal at 2. The filing was accepted by unpublished letter order dated October 30, 2013.

Maritimes further states that removal of unnecessary and unused language and tariff records from its tariff will streamline the administration of its tariff to the benefit of both Maritimes and its customers.[7]

D. Removal of Interruptible Revenue Sharing

10. Maritimes proposes to remove the interruptible revenue sharing mechanism set forth in section 33 of its GT&C established by the 2010 Settlement. Maritimes states that, according to Commission policy,[8] a pipeline should either allocate costs to a service it is providing or have a revenue-sharing mechanism related to such service. In the instant filing, Maritimes states that it has allocated costs to interruptible transportation service. Accordingly, Maritimes proposes to remove the interruptible revenue sharing mechanism from its GT&C.

III. Notice of Filing, Interventions and Protests

11. Public notice of Maritimes' filing was issued on June 3, 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 motions to intervene and any 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 this proceeding or place additional burdens on existing parties.

12. Bangor Gas Company, LLC (Bangor), Calpine Energy Services, L.P. (Calpine), and the Canadian Association of Petroleum Producers (CAPP) filed comments. Bangor and Calpine also requested the rate case be set for hearing. Mobil Natural Gas Inc. (Mobil) requested that the Commission accept and suspend, subject to refund, Maritimes' proposed rate increases for the maximum five-month period suspension as well as requesting the rate case be set for hearing. Shell Energy North America (US), L.P. and Shell Offshore Inc. (Shell) and Repsol Energy North America Corporation (Repsol) filed protests. Shell and Repsol also requested that the Commission accept and suspend, subject to refund, Maritimes' proposed rate increases for the maximum five-month period suspension as well as requesting the rate case be set for hearing.

---

[7] Maritimes does not propose any changes to Rate Schedules MNTTT or MNTABS, and its only proposed change to Rate Schedule MNPAL is to the overrun rate. Maritimes transmittal, Appendix A at 2.

[8] Maritimes transmittal at 3 (citing *Wyoming Interstate Co., Ltd.*, 121 FERC ¶ 61,135, at P 9 (2007); *Cheyenne Plains Gas Pipeline Co., L.L.C.*, 108 ¶ FERC 61,052, at P 4 (2004)).

13. Repsol and CAPP state that Maritimes' proposed rates may be unjust and unreasonable. Mobil raises concerns with Maritimes' proposed increases in the depreciation rate, as well as the amortization rate applicable to certain regulatory assets included in rate base. Mobil also takes issue with Maritimes' adjustments to operation and maintenance (O&M) expenses attributed to, among other things, increased administrative and general (A&G) services expenses.

14. CAPP, Calpine, Mobil, and Shell state that they have concerns regarding Maritimes' proposed return on equity. CAPP states that Maritimes' proposed return on equity may be unreasonable and excessive in light of all relevant considerations. Calpine and Shell state that the pipeline's proposed return on equity is higher than the last, fully-litigated equity return approved by the Commission.[9] Mobil also states that the proposed return on equity appears excessive and contrary to Commission policy and precedent. In addition, Mobil takes issue with the projected cost of debt. Calpine and Shell raise concerns about the composition of Maritimes' proposed proxy group. They state that the proxy group has only four members instead of the Commission's preferred five-member proxy group. Moreover, Shell protests Maritimes' proposed debt-equity structure.

15. Bangor is concerned about the cost allocation and rate design for Maritimes' laterals, particularly the Bucksport and Veazie laterals. Mobil is concerned with Maritimes' projected throughput for interruptible transportation. Shell protests Maritimes' proposed five-fold increase in the commodity rate. In addition, Shell protests the proposal to shift from a more distance-based, two-zone fuel rate to a postage-stamp fuel rate, as well as the out-of-cycle change in the fuel rate.

IV. Discussion

A. Hearing Procedures

16. Parties argue that Maritimes has not shown its rates to be just and reasonable, and request that the Commission resolve these factual disputes through hearing procedures. The Commission finds that Maritimes' filing and the parties' protests raise typical rate case issues that warrant further investigation. Accordingly, the Commission will establish a hearing to explore the issues set forth in the protests, including, but not limited to, cost of service including O&M and A&G expenses, the depreciation rate, the rate of return, cost allocation and rate design issues, throughput, and the fuel rate. The Commission finds that it is appropriate to examine these issues in the context of a hearing where a factual record can be developed by the parties.

---

[9] Calpine comments at 3; Shell protest at 2 (citing *El Paso Natural Gas Co.*, 145 FERC ¶ 61,040 (2013)).

B. Suspension

17. Based upon a review of the filing, the Commission finds that Maritimes' proposed tariff records set forth in the Appendix have not been shown to be just and reasonable, and may be unjust, unreasonable and unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept for filing and suspend Maritimes' revised tariff records for five months, to be effective December 1, 2015, subject to refund and the outcome of the hearing ordered herein.

18. The Commission's policy regarding rate suspensions is that rate 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 that it may be inconsistent with other statutory standards.[10] 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.[11] Such circumstances do not exist here. Therefore, the Commission will suspend the proposed tariff records, to be effective December 1, 2015, subject to refund and the outcome of a hearing established herein.

<u>The Commission orders</u>:

(A) The tariff records listed in the Appendix are accepted for filing and suspended, to be effective December 1, 2015, subject to refund and the outcome of the hearing established herein.

(B) Pursuant to the Commission's authority under the Natural Gas Act, particularly sections 4, 5, 8, and 15, and the Commission's rules and regulations, a public hearing is to be held in Docket No. RP15-1026-000 concerning Maritimes' proposed tariff records in the Appendix.

(C) 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, shall convene a prehearing conference regarding the tariff records in the Appendix 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

---

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

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

consideration by the presiding judge of any procedural issues and discovery dates necessary for the ensuing hearing. The Presiding 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

Maritimes & Northeast Pipeline, L.L.C.
FERC NGA Gas Tariff
Maritimes Database 1

Tariff Records Accepted and Suspended, to be Effective December 1, 2015
Subject to Refund and the Outcome of a Hearing

Part 1, Table of Contents, 4.0.0
1., Forward Haul Rates, 4.0.0
2., Backhaul Rates, 3.0.0
3., Firm Lateral Service Rates, 3.0.0
6., Fuel Retainage Percentages, 4.0.0
Part 5, Rate Schedules, 1.0.0
2., Reserved for Future Use, 1.0.0
3., Reserved for Future Use, 1.0.0
4., Reserved for Future Use, 1.0.0
Part 6, General Terms and Conditions, 3.0.0
6., Service Scheduling, 1.0.0
20., Fuel Retainage Quantity, 1.0.0
33., Reserved for Future Use, 1.0.0
Part 7, Forms of Service Agreement, 1.0.0
2., Reserved for Future Use, 3.0.0
2.1, Reserved for Future Use, 2.0.0
2.2, Reserved for Future Use, 2.0.0
2.3, Reserved for Future Use, 2.0.0
3., Reserved for Future Use, 3.0.0
3.1, Reserved for Future Use, 2.0.0
3.2, Reserved for Future Use, 2.0.0
3.3, Reserved for Future Use, 2.0.0
4., Reserved for Future Use, 3.0.0
4.1, Reserved for Future Use, 2.0.0
4.2, Reserved for Future Use, 2.0.0
4.3, Reserved for Future Use, 2.0.0
10., Capacity Release Umbrella Agreement, 2.0.0
10.1, Addendum to the Capacity Release Umbrella Agreement, 1.0.0