

153 FERC ¶ 61,069  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

October 16, 2015

In Reply Refer To:  
Algonquin Gas Transmission, LLC  
Docket No. RP15-1274-000

Algonquin Gas Transmission, LLC  
P.O. Box 1642  
Houston, Texas 77251-1642

Attention: Janice K. Devers, General Manager  
Tariffs and Commercial Development

Dear Ms. Devers:

1. On September 16, 2015, Algonquin Gas Transmission, LLC, (Algonquin) filed a revised tariff record to modify Rate Schedule AFT-E, under which Algonquin offers a firm no-notice service.<sup>1</sup> Specifically, Algonquin proposes to add a provision to Rate Schedule AFT-E that would allow shippers under Rate Schedule AFT-1, who were no-notice, bundled sales customers at the time of Algonquin's restructuring under Order No. 636,<sup>2</sup> to convert all or part of their AFT-1 service to no-notice firm transportation service. For the reasons discussed below, the Commission rejects the referenced tariff record, without prejudice to Algonquin making a new section 4 filing that would offer the proposed conversion right to all of its AFT-1 shippers.

2. Algonquin currently offers a conventional firm transportation service under Rate Schedule AFT-1 and a firm no-notice transportation service under Rate Schedule AFT-E. Algonquin states that, as part of the unbundling of services under Order No. 636, it

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<sup>1</sup> Algonquin Gas Transmission, LLC, FERC NGA Gas Tariff, Algonquin Database 1, [2., Rate Schedule AFT-E, 5.0.0.](#)

<sup>2</sup> *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 636, FERC Stats. & Regs. ¶ 30,939, *order on reh'g*, Order No. 636-A, FERC Stats. & Regs. ¶ 30,950, *order on reh'g*, Order No. 636-B, 61 FERC ¶ 61,272 (1992), *order on reh'g*, 62 FERC ¶ 61,007 (1993), *aff'd in part and remanded in part sub nom. United Distribution Cos. v. FERC*, 88 F.3d 1105 (D.C. Cir. 1996), *order on remand*, Order No. 636-C, 78 FERC ¶ 61,186 (1997).

allowed its no-notice, bundled sales shippers to convert their sales and storage service entitlements under Rate Schedules F-1 and WS-1 to equivalent firm transportation capacity. Shippers who formerly received bundled sales service on a no-notice basis could elect during Algonquin's restructuring proceeding to convert that service to either no-notice transportation service under Rate Schedule AFT-E or conventional firm open-access transportation service under Rate Schedule AFT-1.

3. In the instant filing, Algonquin proposes to add a new section 2.8 to its no-notice transportation service under Rate Schedule AFT-E. Specifically, this provision would allow shippers who previously elected to convert their bundled sales service to conventional firm open-access transportation service under Rate Schedule AFT-1 during Algonquin's Order No. 636 restructuring proceeding to now convert all or a portion of their maximum daily quantity (MDQ) under the AFT-1 service agreement to firm no-notice service under Rate Schedule AFT-E. Algonquin states that this conversion is consistent with the intent of its restructuring pursuant to Order No. 636, specifically, to provide no-notice transportation service to all former no-notice bundled sales shippers. Algonquin adds that any conversion would be subject to the shipper satisfying the requirements for no-notice transportation service under Rate Schedule AFT-E. Further, pursuant to its proposed section 2.8, any converting shipper must provide Algonquin with at least a 30-day notice for any request to convert services (unless Algonquin and the shipper agree, on a non-discriminatory basis, to a shorter notice period); and the shipper must enter into a new AFT-E no-notice service agreement for the converted MDQ as well as an amended AFT-1 conventional firm open-access transportation service agreement.

4. Public notice of Algonquin's filing was issued on September 17, 2015. Interventions and protests were due as provided by section 154.210 of the Commission's regulations.<sup>3</sup> Pursuant to Rule 214,<sup>4</sup> 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. No party filed a protest or adverse comments.

5. The Commission finds Algonquin's proposal to be unduly discriminatory and therefore rejects the instant filing. In the instant proceeding, Algonquin proposes to offer this conversion right only to AFT-1 shippers who previously converted their bundled sales service to conventional open access firm transportation service during Algonquin's Order No. 636 restructuring. In Order No. 636, the Commission required interstate pipelines to offer a no-notice transportation service, but only to "customers that were entitled to receive a no-notice firm, city gate, sales service on May 18, 1992."<sup>5</sup> On

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<sup>3</sup> 18 C.F.R. § 154.210 (2015).

<sup>4</sup> 18 C.F.R. § 385.214 (2015).

<sup>5</sup> Order No. 636-A, FERC Stats. & Regs. ¶ 30,950 at 30,573.

appeal to the United States Court of Appeals for the District of Columbia Circuit, the court held that the Commission had not justified limiting the requirement to offer no-notice service to customers who remained sales customers on May 18, 1992, instead of also requiring pipelines to offer no-notice service to customers who had converted to transportation-only service before that date.<sup>6</sup> On remand, the Commission in Order No. 636-C,<sup>7</sup> determined that pipelines could not limit offering no-notice service to only former bundled sales shippers, but must “offer that service on a non-discriminatory basis to all customers who request it, under the nondiscriminatory access provision” in § 284.7(b)(1) of the Commission’s regulations.

6. Algonquin’s instant proposal violates the policy established in Order No. 636-C concerning the offering of no-notice transportation service. While Commission policy does not require Algonquin to offer shippers who have contracted for Rate Schedule AFT-1 service an opportunity to convert that service to no-notice service during the terms of their contracts, if Algonquin chooses to offer such a conversion right it must offer that right on a not unduly discriminatory basis. Here, Algonquin proposes to offer the conversion right only to current shippers under Rate Schedule AFT-1 who were no-notice bundled sales customers at the time of Algonquin’s restructuring pursuant to Order No. 636. That limitation is directly contrary to the Commission’s holding in Order No. 636-C that pipelines must offer no-notice transportation on a not unduly discriminatory basis to all customers who request it, and not limit the offering of that service to customers who were bundled sales customers at the time of Order No. 636. Accordingly, the Commission rejects Algonquin’s revised tariff record. This rejection, however, is without prejudice to Algonquin filing a revised tariff record setting forth provisions that would allow all AFT-1 firm transportation shippers to convert all or part of their AFT-1 service to no-notice service under Rate Schedule AFT-E, and not just former bundled sales conversion shippers, subject to the availability of capacity.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>6</sup> *United Distrib. Cos. v. FERC*, 88 F.3d 1105, 1137 (D.C. Cir. 1996).

<sup>7</sup> *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission’s Regulations, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, 78 FERC ¶ 61,186, at 61,772 (1997).