

154 FERC ¶ 61,159  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Alliance Pipeline L.P.

Docket Nos. RP16-292-000  
RP15-1022-002

ORDER ON MOTION FILING AND COMPLIANCE FILING

(Issued March 3, 2016)

1. On October 30, 2015, in Docket No. RP16-292-000, Alliance Pipeline L.P. (Alliance) moved to place into effect the suspended tariff sheets filed by Alliance on May 29, 2015 as modified by the Commission's June 30, 2015 Order Accepting and Suspending Tariff Records, Subject to Refund, and Establishing a Hearing (June 30 Order). Also, on December 9, 2015, in Docket No. RP15-1022-001, Alliance filed revised tariff records to comply with the Commission's November 19, 2015 Order on Rehearing (November 19 Order).<sup>1</sup> The Commission accepts all the filed tariff records in both the motion filing and the compliance filing, as discussed below.

**Background**

2. On May 29, 2015 in Docket No. RP15-1022-000, Alliance filed to remove Authorized Overrun Service (AOS) from its tariff and instead provide any service to firm shippers above their contractual entitlements pursuant to its Interruptible Transportation (IT) rate schedule. Alliance also proposed to remove the requirement that it credit IT revenues to its shippers.

3. On June 30, 2015, the Commission issued an order accepting and suspending the Docket No. RP15-1022-000 tariff records, subject to refund, and establishing a hearing. The Commission stated that although Alliance characterized its NGA section 4 filing as seeking to eliminate certain tariff provisions due to the expiration of the legacy contracts, the filing was for all intents and purposes akin to a general section 4 rate case. The

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<sup>1</sup> *Alliance Pipeline L.P.*, 153 FERC ¶ 61,195 (2015).

Commission set for hearing all issues raised by the filing, including those related to the proposed elimination of AOS, IT revenue crediting, and the maintenance of its existing recourse rates. The Commission also directed Alliance to submit cost and revenue information for the most recent 12-month period available, including all the schedules required for submission of a general section 4 rate proceeding as set forth in section 154.312 of the Commission's regulations (18 C.F.R. § 154.312 (2015)).

4. Several parties sought rehearing, and urged the Commission to decide before the end of the suspension period the propriety of Alliance's attempt to eliminate AOS. The November 19 Order decided the issue and rejected Alliance's proposal to remove AOS under Rate Schedule FT-1. The Commission thus directed Alliance to revise its tariff to maintain the availability of and provisions for AOS service in its tariff, and to accord AOS the same scheduling and curtailment priorities as interruptible transportation service.<sup>2</sup>

#### **Alliance's December 9, 2015 Compliance Filing**

5. Alliance's December 9, 2015 filing in RP16-292-000 is intended to comply with the Commission's directives in the November 19 Order, effective December 1, 2015. Alliance explains that Revised Tariff Sheet No. 10 reflects the reinstatement of the maximum AOS Charge recourse rate and the maximum Tioga Lateral Incremental AOS charge recourse rate; that amendments to tariff sheets Nos. 80, 81, 82, 200, 234, 241, 243, 250, 256, and 258 reflect the reinstatement of AOS under Rate Schedule FT-1; and that amendments to tariff sheets Nos. 90, 219, 226, 227, 230, 231, and 232 reflect modifications required so that AOS will have the same scheduling and curtailment priorities as interruptible transportation service under Rate Schedule IT-1. The compliance filing effectively amends the related tariff records in the motion filing that had removed AOS service from the tariff.

#### **Alliance's October 30, 2015 Motion Filing**

6. Alliance's October 30, 2015 motion filing in RP15-1022-002 moved into effect, pursuant to section 154.206 of the Commission's regulations (18 C.F.R. § 154.206 (2015)), the suspended tariff sheets filed by Alliance on May 29, 2015, as modified by the Commission's order issued June 30, 2015 in Docket No. RP15-1022-000, to be

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<sup>2</sup> *Id.* PP 44 & 55-56.

effective December 1, 2015.<sup>3</sup> However, Alliance also states that Attachment B to its filing contains certain revised tariff sheets reflecting not only the originally filed tariff records and changes directed by the Commission, but also changes Alliance agreed to make in response to a request by Badlands NGL's LLC.<sup>4</sup>

### **Public Notice, Interventions, and Protests**

7. Public notice of Alliance's October 30, 2015 motion filing (October 30 filing) in RP15-1022-002 was issued on November 2, 2015. Public notice of Alliance's December 9 compliance filing in RP16-292-000 was issued on December 10, 2015. Interventions and protests were due as provided by section 154.210 (18 C.F.R. § 385.214 (2015)) of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2015)), 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.

8. The October 30 filing is unopposed, even though it moves into effect tariff records different from those filed or ordered by the Commission. The December 9 compliance filing, however, was protested by BP Canada Energy Marketing Corp. (BP) on December 21, 2015. Alliance filed an answer on December 23, 2015, and BP then answered Alliance's answer on December 29, 2015.

9. BP's December 21 protest asserted that Alliance's December 9 filing did not comply with the November 19 Order and wrongly seeks to put mechanisms in place by which Alliance could eliminate AOS in all but name. BP argues that proposed GT&C section 2.6 of Rate Schedule FT-1 could restrict the volume of available AOS, in the aggregate, to a "percentage of Contracted Capacity" that Alliance could periodically establish. BP states that there is no requirement for such a percentage, or the resulting available AOS capacity, to correspond in any way to the capacity actually available on the system, and that Alliance could post a percentage of Contracted Capacity equal to zero. BP states that, as a result, no AOS would be available, even in cases where a large volume of capacity might be unused. BP states that Alliance's revision would limit the amount of AOS available to an individual shipper to the same specified percentage,

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<sup>3</sup> Alliance identified this filing as a compliance filing when filing electronically, but we treat it as a motion filing, pursuant to section 154.206 of the Commission's regulations (18 C.F.R. § 154.206 (2015)), consistent with the cover letter.

<sup>4</sup> Essentially, Alliance added language stating that its acceptance of a shipper's gas processing arrangements "shall not be unreasonably withheld."

determined solely by Alliance, of the shipper's Contracted Capacity. BP states that Alliance acknowledges that the actual available capacity on the system, all of which would currently be available for AOS, can be different from the volume it chooses to make available for AOS upon application of its formula. BP emphasizes that this fundamentally changes the nature of AOS and imposes a limitation on BP's negotiated AOS rate that has not previously existed. BP also states that Alliance's revisions could effectively eliminate AOS nominations by giving Alliance the discretion to post a nominal percentage, thus granting IT a greater priority than AOS.

10. Alliance's December 23, 2015 answer counters that BP's concerns are not based on reasonable or likely assumptions and ignore pertinent facts, and accordingly, should be dismissed. Alliance states that it posts available AOS capacity by subtracting projected firm capacity flows from operationally available capacity, and attached its posting of AOS capacity for January 2016 as an example. Alliance states that, under Rate Schedule FT-1, AOS is currently available to all firm transportation shippers on a pro rata basis and that BP is the only legacy shipper remaining on the system with an alleged negotiated AOS entitlement associated with a 79 Mcf/d firm transportation contract. Alliance states that it will make available to BP its pro rata share of January AOS capacity, the same entitlement which BP had during the first 15 years of Alliance operations.

11. On December 29, 2015, BP's answer to Alliance's answer states that Alliance inaccurately portrayed BP's rights to AOS volumes under Alliance's previously effective tariff. Citing GT&C section 12.3, BP maintains it is entitled to more than its "pro rata share" of AOS capacity if additional AOS capacity is available. BP explains that being allocated only its "pro rata share" of the 129 Mcf/d of January 2016 AOS/IT capacity set forth in Attachment A to Alliance's answer, or being allocated any subsequent monthly AOS/IT volume calculated by Alliance, degrades the AOS volumes that the Commission, in the November 19 Order, held Alliance is contractually obligated to provide BP.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.213(a)(2) (2015)), prohibits answers to protests or an answer to an answer unless otherwise ordered by the decisional authority. We will accept Alliance and BP's answers because they have provided information that assisted us in our decision-making process.

### **Commission Determination**

13. First, concerning the October 30 motion filing in Docket No. RP15-1022-002, the Commission accepts all of the proposed tariff sheets in Exhibit A and Exhibit B. These accepted tariff records will become effective December 1, 2015, consistent with section 154.206 of the Commission's Regulations (18 C.F.R. § 154.206 (2015)). Strictly speaking, Substitute Third Revised Sheet No. 80 and Substitute Revised Sheet No. 90 are not identical to the Sheet No. 80 and Sheet No. 90 tariff records suspended in the June 30 Order. Rather, the motion filing sheets reflect minor changes, as Alliance explains in its

cover letter to the October 30 motion filing, that Alliance committed to make in an August 14, 2015 answer to Badlands NGL's LLC July 30, 2015 Request for Clarification in Docket No. RP15-1022-000. These changes<sup>5</sup> were thus not part of the suspended tariff records nor offered in compliance with a Commission directive, and therefore are not ordinarily to be included in a motion filing, but would be filed separately under NGA section 4. Here, however, the changes do reflect the Commission's statement in the November 19 Order that the hearing should examine Badlands NGL's LLC's objections that new tariff language appeared to give Alliance overly broad discretion over a shipper's gas processing choices.<sup>6</sup> Moreover, no party has objected to insertion of the additional language in the motion filing. The Commission thus finds it unnecessary to require that these minor changes be filed separately. Accordingly, the Commission will accept these changes as part of the motion filing.

14. With respect to the December 9 filing in Docket No. RP16-292-000, the changes Alliance proposes comply with the directive of the November 19 Order. The Commission required Alliance to modify its GT&C to return the AOS provisions to its tariff, and to ensure that AOS and Rate Schedule IT-1 service will have the same scheduling and curtailment priorities.<sup>7</sup> Alliance's filing appropriately reinstates the AOS provisions to the GT&C and also accords AOS the same scheduling and curtailment priorities as interruptible transportation service. While BP protests proposed GT&C section 2.6 as potentially providing Alliance with discretion to restrict or effectively terminate access to AOS, the protested language does not differ substantively from that which existed in Alliance's tariff prior to its May 29, 2015 filing, during which time Alliance provided AOS to multiple shippers. In assessing this or any other compliance filing, the Commission narrowly focuses on whether the filing party has complied with the Commission's order; the Commission finds Alliance has adequately complied with the November 19 Order. Consequently, the Commission finds that BP's objections to the re-instatement of the pre-existing AOS tariff language are misplaced in a protest to the compliance filing, as this proposed change conforms with the directives of the November 19 Order. Accordingly, the Commission accepts all the proposed tariff records submitted in the December 9 compliance filing, effective December 1, 2015.

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<sup>5</sup> The changes add language stating that Alliance's acceptance of a shipper's gas processing arrangements "shall not be unreasonably withheld."

<sup>6</sup> November 19 Order, 153 FERC ¶ 61,195 at P 67 ("The presiding judge should also consider the propriety of this proposed change in Alliance's Schedules FT-1 and IT-1, as it arguably seems to vest in the transporter broad discretion over a shipper's gas processing choices.").

<sup>7</sup> *Id.* P 44.

The Commission orders:

As set forth in the Appendix to this order, the Commission accepts the December 9 compliance filing tariff records effective December 1, 2015, and accepts the October 30 motion filing tariff records, consistent with the discussion in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**Appendix**

Tariff Records Accepted, Effective Dec. 1, 2015

Docket No. RP16-292-000

Sheet No. 10, Statement of Rates 1/ 2/ 3/, 7.0.0

Sheet No. 80, Firm Transportation Service, 4.0.0

Sheet No. 81, , 4.0.0

Sheet No. 82, , 4.0.0

Sheet No. 90, Rate Schedule IT-1, 4.0.0

Sheet No. 200, General Terms & Conditions, 3.0.0

Sheet No. 209, , 4.0.0

Sheet No. 219, , 4.0.0

Sheet No. 226, , 4.0.0

Sheet No. 227, , 3.0.0

Sheet No. 230, , 2.0.0

Sheet No. 231, , 3.0.0

Sheet No. 232, , 3.0.0

Sheet No. 234, , 3.0.0

Sheet No. 241, , 2.0.0

Sheet No. 243, , 3.0.0

Sheet No. 250, , 3.0.0

Sheet No. 256, , 2.0.0

Sheet No. 258, , 2.0.0

Docket No. RP15-1022-002

Sheet No. 211, , 2.1.0

Sheet No. 223, , 1.1.0