

156 FERC ¶ 61,241
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Texas Gas Transmission, LLC

Docket No. RP16-1219-000

ORDER ACCEPTING TARIFF RECORDS, SUBJECT TO CONDITIONS

(Issued September 30, 2016)

1. On September 1, 2016, Texas Gas Transmission, LLC (Texas Gas) filed a revised tariff record¹ to propose changes to Rate Schedule FSS, firm storage service, to provide an additional method for selling cost-based storage service under section 6.11 of its Tariff. As discussed more fully below, the tariff record is accepted effective October 1, 2016, subject to conditions.

I. Details of the Filing

2. Texas Gas states that it is proposing to make certain changes to section 6.11 of its Tariff to provide an additional method for selling cost-based storage under Rate Schedule FSS. Texas Gas states that most firm cost-based transportation and storage services are currently sold pursuant to section 6.11[1] of the Tariff. Texas Gas states that section 6.11[1] of the Tariff provides for a traditional auction that takes place over the course of several days. Texas Gas states that, under section 6.11[2], the Tariff has provisions for an interactive auction through which Texas Gas sells all market-based storage service. Texas Gas states that it is proposing to add the option to sell cost-based FSS storage service under the interactive auction provisions of section 6.11[2]. Texas Gas states that the addition of the option to sell cost-based FSS storage service through an interactive auction will provide Texas Gas the necessary flexibility to meet the needs of the marketplace, which at times requires the shorter timeframes offered by the interactive auction.

¹ Texas Gas Transmission, LLC, FERC NGA Gas Tariff, Tariffs, [Section 6.11, G T & C - Bidding and Auction Procedures, 3.0.0](#).

3. Texas Gas states that the interactive auction will afford to cost-based FSS storage all of the same protections already in place for market-based storage service. Texas Gas states that the traditional auction method will continue to be available for cost-based FSS storage capacity sales as well and that the traditional auction method may be initiated through a customer's request for service or by Texas Gas. Texas Gas requests that the Commission approve this change as just and reasonable effective October 1, 2016.

4. Texas Gas states that it was not required during its Order No. 636 compliance proceeding to include a process for bidding on and awarding available capacity in its Tariff.² Texas Gas states that the Commission issued an order on February 29, 2008 approving (subject to conditions) its application to expand its facilities at Midland gas storage field.³ Texas Gas states that this application included a request for market-based rate authority and tariff provisions that would allow it to sell its market-based storage capacity through interactive auctions in a manner that would prevent the withholding of capacity, price discrimination, or favoritism.⁴ Texas Gas states that the interactive auction procedures for which it requested market-base rate authority adhered to the principles for creating an auction outlined in Order No. 637, including (i) notification of auction; (ii) predictable timing; (iii) open to all bidders on a non-discriminatory basis; (iv) user-friendly with accessible rules; (v) full disclosure, prior to auction, of procedures for bidding and selecting winning bid; (vi) no favoritism in selecting winning bid, including monitoring of the application of selection criteria and methods for verifying reserve price; and (vii) disclosure of transaction information, including prices and volumes.⁵ Texas Gas states that, at the time the interactive auction was approved, it applied only to market-based storage services.

² Texas Gas Transmittal Letter at 2 (citing *Texas Gas Transmission Corp.*, 64 FERC ¶ 61,083, at 61,799 (1993)).

³ *Id.* (citing *Texas Gas Transmission, LLC*, 122 FERC ¶ 61,190 (2008)).

⁴ *Id.* (citing *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637, FERC Stats. & Regs. ¶ 31,091, at 31,294 (2000); *clarified*, Order No. 637-A, FERC Stats. & Regs. ¶ 31,099 (2000); *reh'g denied*, Order No. 637-B, 92 FERC ¶ 61,062 (2000); *aff'd in part and remanded in part sub nom. Interstate Natural Gas Association of America v. FERC*, 285 F.3d 18 (D.C. Cir. 2002); *order on remand*, 101 FERC ¶ 61,127 (2002), *order on reh'g*, 106 FERC ¶ 61,088 (2004), *aff'd sub nom. American Gas Association v. FERC*, 428 F.3d 255 (D.C. Cir. 2005)).

⁵ *Id.* (citing Order No. 637, FERC Stats. & Regs. ¶ 31,091 at 31,296).

5. Texas Gas states that on March 2, 2010, the Commission approved its proposal to establish in section 6.11[1] of its Tariff bidding and auction procedures that would apply to cost-based firm transportation and storage services.⁶ Texas Gas states that the cost-based auction procedures under section 6.11[1] satisfy all of the criteria set forth in Order No. 637 and are consistent with the Commission's objectives of ensuring that capacity is allocated efficiently and to the parties who value it most, like the market-based storage interactive auction procedures in section 6.11[2] of its Tariff.⁷ According to Texas Gas, "timing" is one of the key differences between the cost-based auction procedures under section 6.11[1] and the market-based interactive auction procedures under section 6.11[2]. Texas Gas explains by way of an example that the time periods for bidding under the cost-based auction procedures of section 6.11[1(b)(vii)] are (i) one business day for service offering(s) of less than 1 year; and (ii) five business days for service offering(s) with a term of 1 year or more. Texas Gas states that the time period for bidding for firm storage service with market based rates (FSS-M) under the market-based auction procedures of section 6.11[2(d)], by contrast, can be set forth in the auction notice, allowing Texas Gas to set a short bidding period to meet market demands.⁸

6. Texas Gas states that the bidding period could, for example, be ten minutes long. Texas Gas states that such an abbreviated bidding period allows customers to quickly acquire needed storage capacity to meet their business needs based on fluctuating market prices. Texas Gas states that under the current tariff, Texas Gas has no method to sell cost-based FSS storage service in this shorter bidding period, even when the market requires it.⁹

7. Texas Gas states that it proposes to add the ability for it to initiate a sale of cost-based FSS storage service through the interactive auction procedures of section 6.11[2].¹⁰ Texas Gas states that this will allow it to meet the requirements of

⁶ *Id.* (citing *Texas Gas Transmission, LLC*, Letter Order, Docket No. RP10-366-000 (Mar. 2, 2010) (delegated)).

⁷ *Id.* (citing *Interstate Natural Gas Pipeline Rate Design*, 47 FERC ¶ 61,295, at 62,052 *order denying reh'g and clarifying policy statement*, 48 FERC ¶ 61,122, at 61,445 (1989)).

⁸ *Id.*

⁹ *Id.* at 3.

¹⁰ *Id.* Texas Gas states that it also proposes to incorporate clarifying language in section 6.11[1] of its Tariff to expressly include cost-based storage services. For example, Texas Gas proposed revisions to tariff section 6.11[preamble] and

(continued ...)

customers with time-sensitive storage needs. Texas Gas states that certain customers do not participate in sales of cost-based FSS storage service because the bidding periods under section 6.11[1] of Texas Gas' Tariff are too lengthy for their specific business needs. Texas Gas states that by making this addition, its cost-based FSS storage services will meet the needs of a broader range of customers. Texas Gas states that for customers that prefer the longer bidding periods for cost-based FSS storage service currently afforded by section 6.11[1] of the Texas Gas tariff, this proposal will not change their ability to request service and bid under that section. Texas Gas states that the proposal adds more flexibility in how available cost-based FSS storage capacity may be sold in an auction initiated by Texas Gas by allowing that capacity to be sold either through section 6.11[1] or 6.11[2].

8. Texas Gas states that the proposal extends to FSS service the same protections already in place for interactive auctions of Texas Gas' market-based storage service. Texas Gas states that it proposes that any acceptable minimum rate established by Texas Gas shall not be greater than the maximum applicable rate or less than the minimum applicable rate. Texas Gas states that, as with any cost-based service, it reserves the right to reject any bid for FSS service which would require it to offer service for a rate less than the maximum applicable rate or which would require the use of negotiated rate authority.

9. Texas Gas states that the changes proposed in its filing for cost-based FSS storage services are just and reasonable because they provide the necessary flexibility to meet the time-sensitive needs of the marketplace, while simultaneously affording all of the same protections already in place for market-based storage service, which were previously found to be just and reasonable by the Commission. Texas Gas states that the proposal will affect only the bidding for unsubscribed storage capacity and will not impact the rights of existing firm or interruptible shippers. Texas Gas requests that the Commission approve the tariff record modifications to be effective October 1, 2016.

II. Notice of Filing, Interventions and Protests

10. Public notice of Texas Gas' filing was issued on September 1, 2016. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.¹¹ Pursuant to Rule 214,¹² all timely-filed motions to intervene and any unopposed motions

section 6.11[1(b)] to expressly include cost-based storage as a service to which the tariff sections apply).

¹¹ 18 C.F.R. § 154.210 (2016).

¹² 18 C.F.R. § 385.214 (2016).

to intervene filed out-of-time 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.

11. The Western Tennessee Municipal Group,¹³ the Jackson Energy Authority in Jackson, Tennessee, and the Kentucky Cities¹⁴ (together, Cities) filed comments requesting that the Commission condition acceptance of Texas Gas' filing.

III. Positions of the Parties

12. Cities state that they receive firm transportation (FT) and no-notice transportation service (NNS) from Texas Gas under Rate Schedules FT, NNS, STF, short term firm, and SGT, small customer service. Cities identify bidding periods as one of the primary differences between cost- and market-based auction procedures. Cities cite the Tariff as requiring at least a one business day bidding period for cost-based auctions for service of less than a year and five business days for service offerings of a year or more.¹⁵ Cities claim that, for market-based auctions, Texas Gas sets whatever bidding period it wants and that the bidding period could be as short as a few minutes.¹⁶

13. Cities state that there is a good reason for the difference in the procedures. Cities state that market-based capacity sales affect only the parties to the transaction, if the procedures are functioning properly. Cities state that it is necessary to ensure that cost-

¹³ Cities state that the Western Tennessee Municipal Group consists of the following municipal distributor-customers of Texas Gas: City of Bells, Gas & Water, Bells, Tennessee; Brownsville Utility Department, Brownsville Tennessee; City of Covington Natural Gas Department, Covington, Tennessee; Crockett Public Utility District, Alamo, Tennessee; City of Dyersburg, Tennessee; First Utility District of Tipton County, Covington, Tennessee; City of Friendship, Tennessee; Gibson County Utility District, Trenton, Tennessee; Town of Halls Gas System, Halls, Tennessee; Humboldt Gas Utility, Humboldt, Tennessee; Town of Maury City, Tennessee; City Munford, Tennessee; City of Ripley Natural Gas Department, Ripley Tennessee.

¹⁴ Cities state that the Kentucky Cities are the Cities of Carrollton and Henderson, Kentucky.

¹⁵ Cities Comments at 2 (citing Texas Gas Tariff section 6.11[1](b)).

¹⁶ *Id.* at 3 (citing 10-minute minimum for ISS-M (Interruptible Storage Service With Market Based Rates) capacity and no minimum for FSS-M (Firm Storage Service With Market Based Rates) capacity in the Texas Gas Tariff section 6.11[2](d)).

based capacity is awarded to customers that place the highest value on it, because Texas Gas can seek to pass any cost shortfalls to its captive customers through a discount adjustment. Cities indicate that to obtain the highest value potential bidders must be given sufficient time to identify, evaluate, and bid on the available capacity.

14. Cities acknowledge Texas Gas' assertions that its proposal will allow it to meet the requirements of customers with time-sensitive storage needs and that certain customers do not participate in sales of cost-based FSS storage service due to the length of the bidding periods. Cities state, "there must be an appropriate balance between expediency, on the one hand, and efficient allocation, on the other."¹⁷ Cities concede that a bidding period of five full business days might not be necessary to achieve this balance but also assert that a reasonable standard must be in place. By way of example, Cities cite a *Natural Gas Pipeline Co. of America* rehearing order, which states "four business days strikes an acceptable balance between the needs of the pipeline and the needs of the shippers."¹⁸

15. Cities object to Texas Gas' proposal to employ extremely short bidding periods, such as ten minutes.¹⁹ Cities claim that the Commission has imposed "far higher" standards for long-term capacity auctions. Cities claim that in numerous other orders the Commission has mandated bidding periods of five business days.²⁰

16. Cities note "on the positive side" that Texas Gas' Tariff requires that notice be posted 48 hours in advance for a market-based firm storage auction, and accordingly the cost-based storage auction will under the proposal have the same notice requirement. Cities state that they generally believe this provides sufficient time for market participants to act, if the notices are issued at reasonably predictable times during the ordinary course of the pipeline's business day. Cities state that it is "predictability and

¹⁷ *Id.*

¹⁸ 94 FERC ¶ 61,310, at 62,141, 62,135 (2001) (rejecting requests to extend bidding period established by settlement for initial open seasons from four business days to five; settlement also provided that capacity not awarded in open season may be sold in prearranged transactions).

¹⁹ Cities Comments at 3 (citing Texas Gas Transmittal Letter at 3).

²⁰ *Id.* at 4. Cities cite *Columbia Gulf Transmission Co.*, 80 FERC ¶ 61,020 (1997) which rejected a three-day notice period for long-term transactions and cases involving unsubscribed expansion capacity.

routine” that drive participation by interested market participants and that such participation is particularly important in the context of cost-based capacity.

17. Cities request the Commission to condition acceptance of Texas Gas’ tariff records and require Texas Gas to amend section 6.11[2](a) to require that notices of auctions be posted only at reasonable times, while also noting their concern that the bidding period be reasonable as well.

IV. Discussion

18. The Commission finds Texas Gas’ proposal for cost-based FSS storage services to be just and reasonable if appropriately conditioned. We agree with Cities’ concern that the notices of the auctions should be issued at reasonably predictable times to ensure that cost-based capacity is allocated efficiently. Therefore, Texas Gas is directed to file a revised tariff record, within 15 days of the issuance of this order, to amend section 6.11[2(a)] of its tariff to require that notices of upcoming auctions be posted at reasonable times during business days. The Commission has imposed similar conditions in similar contexts.²¹ The Commission agrees that the bidding periods should not be so long or short as to unreasonably narrow the broadest spectrum of bidders. We find that Texas Gas’ proposal is just and reasonable, because it strikes an appropriate balance between expediency, on the one hand, and efficient allocation, on the other. The proposal allows some flexibility in the bidding period to accommodate the needs of the pipeline and the needs of the shippers. This flexibility is balanced by the condition that Texas Gas revise its tariff to provide adequate notice on regular business days of the bidding event, which offers assurance that even a short bidding period will give potential bidders adequate opportunity to participate. As Cities acknowledge, the Texas Gas tariff requires that a notice of a market-based auction for firm storage be posted at least 48 hours in advance of the start of the auction, which provides sufficient time for market participants to act, so long as the notices are issued at reasonably predictable times during business days.²² Further, we note that after some experience with the new tariff provisions, shippers may bring to the Commission any concerns that the time for bidding has been set too short or too long for maximum benefit to all stakeholders.

²¹ See *Northwest Pipeline Corp.*, 108 FERC ¶ 61,324, at P 9 (2004) (“Northwest is required to re-file within fifteen days setting forth specific times of day that Northwest will file prearranged deals subject to one hour bidding.”); *Texas Gas Transmission Corp.*, 101 FERC ¶ 61,408, at P 19 (2002) (“We direct Texas Gas to revise its proposal so that its auction structure reflects a mechanism by which shippers will know with certainty when auctions will occur.”).

²² See Cities Comments at 4. Texas Gas tariff section 6.11[2(c)].

The Commission orders:

The proposed tariff record is accepted to be effective October 1, 2016, subject to Texas Gas making a revised tariff filing within 15 days of the issuance of this order, as discussed in the body of this order.

By the Commission. Commissioner Clark is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.