

158 FERC ¶ 61,069
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

January 27, 2017

In Reply Refer To:
Trailblazer Pipeline Company LLC
Docket No. RP17-300-000

Trailblazer Pipeline Company LLC
370 Van Gordon St.
Lakewood, CO 80228

Attention: David Haag
Vice President, Regulatory Affairs

Dear Mr. Haag:

1. On December 29, 2016, Trailblazer Pipeline Company LLC (Trailblazer) filed revised tariff records¹ reflecting two new negotiated rate transportation service agreements (TSAs) under Rate Schedule FTS between Trailblazer and Tenaska Marketing Ventures (Tenaska) (Contract Nos. 935680 and 948563) and a revised Statement of Negotiated Rate Transactions that lists the subject agreements and the essential elements of the negotiated rate agreements. Trailblazer has the authority to negotiate rates pursuant to section 35 of the General Terms and Conditions (GT&C) of its FERC Gas Tariff. Trailblazer's revised tariff records also reflect a minor housekeeping change. Trailblazer requests waiver of the Commission's 30-day notice requirement in order to permit the revised tariff records to become effective January 1, 2017. We grant waiver and accept the tariff records listed in Footnote No. 1, effective January 1, 2017, subject to the clarification discussed below.

2. Trailblazer states that, as required by section 35 of the GT&C of its FERC Gas Tariff, it submits the two new TSAs with Tenaska, together with the proposed tariff records listing the subject agreements, the shipper's name, contract number, contract term, as well as a reference to the instant filing.

¹ Trailblazer Pipeline Company LLC, FERC NGA Gas Tariff, Tariffs, [Rates, Negotiated Rates, 18.0.0](#); [TOC, Table of Contents - Volume No. 2, 14.0.0](#); [NRA, Section 2.3 - NRA Tenaska K# 948563, 5.0.0](#) and [NRA, Section 2.5 NRA Tenaska K # 935680, 4.0.0](#).

3. Specifically, Contract No. 948563 provides for the transportation of 1,839 dekatherms (Dth) per day at a negotiated monthly/daily base reservation rate of \$2.04100 per month/\$0.06710 per day per Dth. The term of the agreement is January 1, 2017 through December 31, 2020. In addition, Tenaska shall pay Trailblazer a negotiated fixed monthly Facility Charge of \$783.05, pursuant to Section 5.3(b) of Trailblazer's Rate Schedule FTS, for each month during the Negotiated Rate Term, in order to reimburse Trailblazer for Tenaska's share of the costs reflected in Docket No. CP16-477. Contract No. 935680 provides for the transportation of 11,030 Dth per day at a negotiated monthly/daily base reservation rate of \$2.04100 per month/\$0.06710 per day per Dth. The term of the agreement is January 1, 2017 through December 31, 2020. In addition, Tenaska shall pay Trailblazer a negotiated fixed monthly Facility Charge of \$4,696.57, pursuant to Section 5.3(b) of Trailblazer's Rate Schedule FTS, for each month during the Negotiated Rate Term, in order to reimburse Trailblazer for Tenaska's share of the costs reflected in Docket No. CP16-477. Trailblazer affirms that the negotiated rate agreements do not deviate in any material respect from the form of service agreement set forth in its tariff. Trailblazer asks that the proposed tariff revisions become effective January 1, 2017, consistent with the effective date of the TSAs.

4. Lastly, Trailblazer proposes a minor housekeeping change as part of the tariff revisions proposed here and requests the same effective date of January 1, 2017.

5. Public notice of the filing was issued on December 29, 2016. Interventions and protests were due on or before January 10, 2017, as provided in section 154.210 of the Commission's regulations.² Pursuant to Rule 214,³ all motions to intervene are granted 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. On January 10, 2017, Anadarko Energy Services Company, ConocoPhillips Company and Cross Timbers Energy Services, Inc. (collectively, Indicated Shippers), filed a motion requesting clarification.

6. Indicated Shippers seek clarification regarding language in Exhibit C, Article 1, section 1.9 of both TSAs, which states in relevant part that the Facility Charge collected pursuant to section 5.3(b) of the Transporter's Rate schedule FTS is intended to "reimburse Transporter for Shipper's share of the costs reflected in Docket No. CP16-477." According to Indicated Shippers, this language in section 1.9 could be interpreted to imply that there are costs in the Docket No. CP16-477 proceeding that Trailblazer is

² 18 C.F.R. § 154.210 (2016).

³ *Id.* § 385.214.

entitled to collect from its shippers.⁴ Indicated Shippers point out that there is an active dispute as to whether any of the costs reflected in Docket No. CP16-477 can be properly allocated to any shipper. Therefore, Indicated Shippers request that the Commission confirm that the agreements at issue in this proceeding will have no effect on the rights of other shippers to contest whether the costs in Docket No. CP16-477 were properly incurred, or whether any such costs could properly be allocated to other shippers on the Trailblazer system.

7. Additionally, Indicated Shippers argue that the same language presupposes that Trailblazer is entitled to collect costs reflected in Docket No. CP16-477-000, however, no such cost-recovery mechanism currently exists. They contend that if Trailblazer were to file such a cost-recovery mechanism, and if the Commission were to approve it, it is possible that the resulting surcharge could be different from the Facility Charge that Tenaska has agreed to pay. Indicated Shippers state that in the event that such a surcharge resulted in an under-recovery of the costs that would otherwise be attributable to Tenaska, Indicated Shippers argue that other shippers could be required to absorb costs related to a discount in the surcharge/rate paid by Tenaska. Accordingly, Indicated Shippers request that the Commission clarify that Trailblazer will remain at risk for the difference between the amounts collected from Tenaska under the Facility Charge and any possible surcharge for the recovery of costs related to Docket No. CP16-477-000 or any subsequent related docket.

8. We note Indicated Shippers' concerns and clarify that the Commission's acceptance of the TSAs between Trailblazer and Tenaska here makes no determination regarding the issues actively disputed in the Docket No. CP16-477 proceeding. Specifically, the Commission's acceptance in this proceeding will not limit the rights of other shippers to contest whether the costs in the Docket No. CP16-477 proceeding were properly incurred or whether those costs could be allocated to other shippers on the Trailblazer system. In addition, the Commission agrees with Indicated Shippers' argument that other shippers should not be required to absorb costs related to a discount in the surcharge/rate paid by Tenaska. Under Commission policy, a pipeline cannot recover costs associated with service to a shipper under a negotiated rate agreement from the pipeline's other shippers.⁵ Accordingly, the Commission clarifies that Trailblazer remains at risk for the difference between the amounts collected from Tenaska through the Facility Charge and any possible surcharge/rate for the recovery of costs related to the Docket No. CP16-744 proceeding.

⁴ The costs in dispute relate to a \$20 million indemnity from a corporate relative of Trailblazer for certain external pipeline corrosion costs due to disbonding of the pipeline's coating.

⁵ See e.g., *Dominion Cove Point LNG, LP*, 129 FERC ¶ 61,073, at P 15 (2009).

9. With this understanding, the Commission accepts the two new negotiated rate TSAs under Rate Schedule FTS between Trailblazer and Tenaska, the proposed tariff sections implementing the aforementioned agreements and the minor housekeeping change. The Commission grants waiver of the prior notice requirement to allow the proposed tariff revision and housekeeping change to become effective January 1, 2017, consistent with the effective date of the TSAs, as requested by Trailblazer.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.