ORDER ACCEPTING AND SUSPENDING TARIFF RECORD, ESTABLISHING HEARING AND CONSOLIDATING PROCEEDINGS

(Issued December 15, 2017)


2. On June 30, 2015, the Commission issued an order in Docket No. RP15-1022-000, accepting and suspending certain tariff records, subject to refund, and establishing a hearing.2

3. On July 30, 2015, Badlands NGLs, LLC (Badlands) filed a request for clarification or, in the alternative, rehearing of the June 2015 Order’s treatment of the proposed change to Alliance’s tariff at GT&C section 20.1 concerning a shipper’s warranty related to gas processing. Badlands argued that Alliance’s proposed change would require shippers to exclusively utilize Aux Sable Liquid Products LP, an affiliate of Alliance, for natural gas processing.

1 Alliance Pipeline L.P., FERC NGA Gas Tariff, Alliance L.P. Database, Sheet No. 237, 4.0.0.

4. On November 19, 2015, the Commission issued an order in Docket No. RP15-1022-001, clarifying the issues to be reviewed in the hearing established by the June 2015 Order. The Commission stated in the November 2015 Order that “Badlands’ request for clarification or rehearing is correct in asserting that the Commission in the June 2015 Order intended to set all issues raised by the filing for hearing. In the June 2015 Order, the mention of certain issues for examination at hearing was not intended to foreclose examination of other aspects of the filing at hearing.”

5. On February 2, 2016, in Docket No. RP16-581-000, Alliance filed proposed tariff revisions to GT&C section 20.1 and related provisions. On March 3, 2016, the Commission issued an order finding that “the issues concerning whether Alliance’s proposed gas processing provisions are just and reasonable are present here and in the ongoing hearing in Docket No. RP15-1022-000, and accordingly it is appropriate to consolidate the two proceedings.”

6. On July 7, 2016, Alliance filed a stipulation and agreement. The Commission issued an order on December 15, 2016, in which the Commission severed the gas processing issues contained in Article VII (including GT&C section 20.1) and remanded them to the Administrative Law Judge (ALJ) for hearing.

7. In the instant filing, Alliance proposes to return GT&C section 20.1 to the version contained in Substitute First Revised Sheet No. 237, which it states existed immediately prior to Alliance’s May 29, 2015 tariff filing to the Commission in Docket No. RP15-1022-000, with the one exception that the May 29, 2015 removal of the phrase “or good right to deliver” in the first sentence of GT&C section 20.1 would not be reversed by this filing.

Public Notice, Interventions and Protests

8. Public notice of Alliance’s filing was issued on November 20, 2017. Interventions and protests were due as provided by section 154.210 (18 C.F.R. § 154.210 (2017)) of the

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4 Id. P 66.


6 The stipulation and agreement was filed in Docket Nos. RP15-1022-000 and RP16-581-000 (Consolidated) and Docket Nos. RP16-292-000, RP16-240-000, RP16-986-000 and RP16-1045-000 (Not Consolidated).

Commission’s regulations. Pursuant to Rule 214, 18 C.F.R. § 385.214 (2017), 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. Alliance Canada Marketing L.P. (Alliance Canada) filed comments in support of Alliance’s proposal. Badlands filed a protest, and a motion to consolidate.

9. Alliance Canada states that, with only one exception, the proposed GT&C section 20.1 has already been approved by the Commission. Alliance Canada asserts that the minor exception allows Alliance to ensure that shippers must at the time of delivery have title to all gas delivered by it, not just “good right to deliver” such gas, and is therefore just and reasonable, including being consistent with the Commission’s “shipper-must-have-title” policy.

10. Badlands protests Alliance’s instant filing alleging it is procedurally deficient. Badlands states that Alliance has failed to comply with section 154.204 of the Commission’s regulations, 18 C.F.R. § 154.204 (2017), providing no explanation why the tariff revision is necessary or appropriate.

11. Badlands requests, to the extent the Commission does not reject the tariff record, that it be suspended, and consolidated with and made subject to the outcome of the hearing proceeding established in Docket Nos. RP15-1022-000 and RP16-581-003. Badlands states that the gas processing issues from Article VII of the stipulation and agreement which the Commission severed and set for hearing have not been successfully resolved. Badlands states that the Presiding ALJ, on September 22, 2017, issued an “Order Establishing [a new] Procedural Schedule.” Badlands states that the parties are at present in discovery. Badlands questions Alliance’s filing at this time, without support or explanation, to change GT&C section 20.1. Badlands requests that the Commission consolidate the instant proceeding with the ongoing proceedings in Docket Nos. RP15-1022-008 and RP16-581-003. Badlands asserts that there are common issues of fact and law at issue in both proceedings (including changes to the same tariff provision, GT&C section 20.1) and the issues in all three proceedings are closely intertwined. Badlands states that Docket Nos. RP15-1022-008 and RP16-581-003 are still in the procedural stage, with the parties still engaged in discovery. Badlands asserts that consolidation would not delay the hearing.

Discussion

12. Based upon review of the filing, the Commission finds that the proposed tariff record has not been shown to be just and reasonable, and may be unjust, unreasonable and unduly discriminatory or otherwise unlawful. Accordingly, the Commission accepts

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and suspends the effectiveness of the proposed tariff record for the period set forth below, and establishes a hearing.

13. The Commission finds that the issues concerning whether Alliance’s proposed gas processing provisions are just and reasonable are present here and in the ongoing hearing in Docket Nos. RP15-1022-008 and RP16-581-003, and accordingly, it is appropriate to consolidate the two proceedings. The Docket Nos. RP15-1022-008 and RP16-581-003 proceeding is in the discovery stage; therefore, there should be no disruption to the ongoing proceeding, especially since the processing issues raised by the subject filing are already being examined at the ongoing hearing.

Suspension

14. The Commission’s policy regarding suspension is that tariff 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 inconsistent with other statutory standards. 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. Here, the revisions will be fully examined at hearing. Accordingly, the Commission imposes a nominal suspension period, so that the subject tariff record shall be effective December 18, 2017, and establishes a hearing and consolidates this proceeding with the hearing proceeding established in Docket Nos. RP15-1022-008 and RP16-581-003.

The Commission orders:

(A) The tariff record in footnote 1 of this order is accepted and suspended to become effective December 18, 2017, subject to the outcome of the hearing established in this proceeding.

(B) Pursuant to the Commission’s authority under the Natural Gas Act, particularly sections 4, 5, 8, 9 and 15, and the Commission’s rules and regulations, a public hearing is to be held in Docket No. RP18-175-000 concerning Alliance’s proposed tariff record.


(C) The Commission consolidates the instant Docket No. RP18-175-000 proceeding with the ongoing proceedings in Docket Nos. RP15-1022-008 and RP16-581-003.

By the Commission. Chairman McIntyre is not participating.

( S E A L )

Nathaniel J. Davis, Sr.,
Deputy Secretary.