

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 4, 2003

In Reply Refer To:
Natural Gas Pipeline Company of America
Docket No. RP99-176-094

Natural Gas Pipeline Company of America
747 East 22nd Street
Lombard, IL 60148-5072

Attention: Bruce H. Newsome, Vice President

Reference: Amended Negotiated Rate Agreement

Dear Mr. Newsome:

1. On November 5, 2003, Natural Gas Pipeline Company of America (Natural) filed revised tariff sheets¹ and an amended agreement to amend an existing negotiated rate transaction with Northern Indiana Public Service Company (NIPSCO) under Rate Schedule FTS.² Specifically, Natural proposes to implement alternative price indices to be used in any month in which the original price indices are not published. Natural contends that the original price indices under the subject agreement were not published in December 2002, January 2003, and July 2003. Natural adds that both contractual parties agreed to the proposed alternative price indices. Natural requests waiver of the notice period to effectuate its tariff sheets on December 1, 2002.

2. Based on our review of the filing, the Commission finds that Natural's proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, waiver of the notice period is granted and the Commission accepts the tariff sheets for filing and suspends their effectiveness for the period set forth below, subject to the conditions discussed below. Accepting and suspending the tariff sheets is consistent with

¹ Original Sheet Nos. 26W.19a and 26W19.b to its FERC Gas Tariff, Sixth Revised Volume No. 1.

² The Commission accepted Natural's underlying negotiate rate service agreement with NIPSCO by letter order issued on November 22, 2002, in Docket No. RP99-176-068. The agreement became effective December 1, 2002.

Commission action in Natural.³ The Commission also accepts Natural's amended agreement for filing. This acceptance benefits the public by ensuring that Natural's index prices are accurate, reliable, and trustworthy.

3. With regard to Natural's proposed alternative price indices, the Commission issued a policy statement in *Price Discovery in Natural Gas and Electric Markets*, in Docket No. PL03-3-000, on July 24, 2003.⁴ The Commission requires that any prospective use of any index price in jurisdictional tariffs meet the criteria set forth in the policy statement for index price developers and reflect adequate liquidity at the referenced location to be reliable. The Commission instructed staff to monitor both the level of reporting to index developers and the amount of adherence to the mandated standards. Specifically, staff is tasked to: identify the level of market participants currently reporting; identify increases (or lack thereof) in reporting by market participants currently not reporting; determine the quality of reporting (i.e., adherence to the mandated standards by data providers); review the quality of reported indices (i.e., adherence to the standards mandated by index developers); and communicate with index developers to insure appropriate Commission data access when needed. As the Commission stated in the policy statement, all pipelines, including Natural, must, in new tariff filings, use indices that meet the criteria in the policy statement and reflect adequate liquidity at the referenced locations to be reliable.

4. The Commission also issued a policy statement in *Modification to Negotiated Rate Policy*, issued in Docket No. PL02-6-000, on July 25, 2003.⁵ The policy statement states that the Commission will no longer permit the use of price differentials to develop the price for negotiated rate transactions. However, the policy statement did state that existing negotiated rates based upon such indices, such as those at issue here, may continue until the end of the contract period for which such rates were negotiated. Accordingly, we will allow the negotiated rate contract at issue here to continue for the remainder of its term, but the alternative price indices proposed to be used in the underlying contract for price differential formula in the event the indices currently used are not published will be subject to the further proceedings required here.

5. The Commission directs staff to file a report no later than 180 days from the date of this order regarding whether the alternative indices Natural proposes to use in its tariff meet the mandated standards and reflect adequate liquidity at the referenced locations to be reliable. Natural and other parties may file comments on staff's report, including additional evidence, no later than 15 days after staff issues its report. Thereafter, the Commission will issue an order determining whether the alternative indices proposed by

³ Natural Gas Pipeline Company of America, 104 FERC ¶61,190 (2003).

⁴ 104 FERC ¶61,121 (2003).

⁵ 104 FERC ¶61,134 (2003).

Natural meet the criteria set forth in the policy statement and, if not, requiring Natural to make prospective changes to its proposed alternative indices necessary to conform to the policy statement. Accordingly, we accept Natural's filing subject to Natural refiling any changes ordered by the Commission.

6. It is the Commission's policy generally to suspend rate filings for the maximum period permitted by statute if preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards. *See Great Lakes Gas Transmission Company*, 12 FERC ¶61,293 (1980) (five-month suspension). It is also recognized, however, that shorter suspensions may be warranted under circumstances in which suspension for the maximum period may lead to harsh and inequitable results. *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension). Such circumstances exist here where the pipeline proposes to amend an existing negotiated rate agreement and add alternate indices to its tariff. Accordingly, the Commission will exercise its discretion to suspend the rates for a shorter period and permit the rates to take effect on December 1, 2002, subject to the conditions discussed herein. The Commission will not require Natural to make any refunds with respect to its use of the index price proposed in the subject NGA Section 4 filing. Any changes the Commission requires will be prospective only. However, the ultimate burden remains on Natural to show that use of its proposed alternative indices is just and reasonable.

7. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR § 385.214). Pursuant to Rule 214, all timely motions to intervene are granted and any motions filed to intervene out-of-time are granted as of the date of this order. Granting late intervention at this state of the proceedings will not disrupt the proceeding or place undue additional burden on existing parties. No party filed a protest or adverse comments.

By direction of the Commission.

Magalie R. Salas,
Secretary.

cc: All Parties

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