

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell and Joseph T. Kelliher.

Paiute Pipeline Company

Docket No. RP04-51-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS, SUBJECT TO
CONDITIONS, AND ESTABLISHING TECHNICAL CONFERENCE

(Issued December 4, 2003)

1. On November 7, 2003, Paiute Pipeline Company (Paiute) filed revised tariff sheets: (1) to more accurately define Paiute's procedures with respect to the operation of its LNG storage facility and the operation of its pipeline system in emergency conditions; (2) to add provisions providing for capacity segmentation and backhaul transportation; (3) to add and remove receipt points; and (4) to clarify, improve and/or update the text in various provisions. The Commission accepts and suspends Paiute's proposed tariffs sheets,¹ effective December 7, 2003, as proposed, subject to refund, and subject to the outcome of a technical conference, as discussed below. This order benefits the public by giving all affected parties the opportunity to fully address the issues raised by Paiute's revised tariff sheets.

I. Background

2. Paiute owns and operates an interstate pipeline system which extends from a point of interconnection with the facilities of Northwest Pipeline Corporation (Northwest) at the Idaho-Nevada border to the California-Nevada state line near the north and south ends of Lake Tahoe, where Paiute delivers gas into the facilities of two local distribution companies (LDCs). Paiute also operates a jurisdictional liquefied natural gas (LNG) peak shaving storage facility located near Lovelock, Nevada. Recently, Paiute established a new interconnection at the Wadsworth Junction in Nevada with a second upstream interstate pipeline, Tuscarora Gas Transmission Company (Tuscarora). Paiute states that with the establishment of the new interconnection with Tuscarora at the Wadsworth Junction on Paiute's system, capacity segmentation and backhaul transportation now appear to be operationally feasible on Paiute's system.

¹ See Appendix.

II. Details of the Filing

3. Section 4 of Paiute's General Terms and Conditions (GT&C) sets forth operating procedures pertaining to Paiute's operation of its LNG storage facility. Paiute proposes to revise Section 4.7 of its GT&C to more specifically define the circumstances under which Paiute, on its own initiative, may withdraw shippers' gas from the storage inventory. Revised Section 4.7(c)(3) specifies that Paiute will be allowed to use LNG only when: (1) Paiute has declared a "catastrophic" capacity or supply failure under Sections 4.6(d) or (e) of Paiute's GT&C; (2) Paiute deems the withdrawal of LNG necessary to protect system integrity; or (3) an LNG customer is not complying with an operational flow order (OFO) issued by Paiute to curtail overdrafting of the system.

4. Paiute also proposes to eliminate the current tariff requirement that each LNG customer maintain a certain minimum inventory in storage. Paiute asserts that this requirement inappropriately limits the customers' rights to use their inventory, as well as Paiute's ability to use their inventory if forced to do so in an emergency. Moreover, Paiute states that the original rationale for the minimum inventory requirement, (i.e., to help ensure gas supply protection for Paiute's system integrity for the duration of the winter period) appears to have diminished with the establishment of the Tuscarora interconnection as a second upstream pipeline supply source.

5. In addition, Paiute proposes to revise Sections 4 and 5 of its GT&C to more accurately define its operating procedures at times when the integrity of Paiute's system is threatened. Section 4.6 sets forth procedures that Paiute will implement when it is experiencing an unscheduled interruption or curtailment of service, including a catastrophic supply failure and defines the procedures it follows when issuing an OFO. Section 5.2 is revised to redefine and clarify the emergency situations to which penalties will occur, as well as the OFO procedures to be applied. Paiute states that it has proposed revisions to the penalty amounts in Section 5.2 to reduce a shipper's incentive to incur a penalty when the market price of gas is elevated.

6. Paiute proposes to add a new Section 13 to its GT&C of its tariff to provide for both segmentation and backhaul transportation service. Section 13 allows a firm shipper to segment its capacity for its own use or for the purpose of releasing a capacity segment to another shipper. While Paiute is proposing that new Section 13 be incorporated into its tariff effective 30 days after the date of this filing, Paiute states it will not be able to actually implement capacity segmentation or backhaul transportation by that date. Paiute explains it must first make revisions to its gas scheduling computer program in order to accommodate segmentations and backhauls. Paiute states it will notify its shippers and post a notice on its Electronic Bulletin Board when it is able to accept capacity segmentation and backhaul nominations.

7. In addition, Paiute states it has added a receipt point to its system and removed another. Accordingly, Paiute has revised its definition of “Receipt Point” in Section 1.56 of its GT&C to identify the three current receipt points on its system: (1) the Owyhee Receipt Point, which is the interconnection with Northwest; (2) the Wadsworth Junction Receipt Point, which is the interconnection with Tuscarora; and (3) the LNG Plant. Paiute states it has also made numerous editorial or ministerial revisions to the text of its tariff. Paiute explains that these changes are intended to clarify, improve and/or update the language of the tariff, without altering the intended meaning of the affected provisions.

III. Public Notice and Protests

8. Public notice of Paiute’s filing was issued on November 13, 2003, with protests due as provided in Section 154.210 of the Commission’s regulations.² Public Service Resources Corporation (Resources), the Northern Nevada Industrial Gas Users (NNIGU), and Sierra Pacific Power Company (Sierra) filed protests and request that the Commission convene a technical conference. Pursuant to Rule 214 all unopposed timely filed motions to intervene and any motions to intervene out-of-time before the issuance date of this order are granted.³ The Protestors raise numerous issues with regard to Paiute’s filing.

9. Resources states it is the sole beneficiary of a trust holding title to Paiute’s LNG Plant and an associated 61-mile, 20 inch high pressure pipeline running from the LNG Plant to Wadsworth Junction, Nevada (the “LNG Project”) and that the LNG Project is leased by Resources’ trustee to Paiute’s corporate parent, Southwest Gas Corporation (Southwest Gas). Resources states the current term of the lease of the LNG Project by Southwest Gas expires on July 6, 2005 and that there is a significant probability that the LNG Project will be returned by Southwest Gas to Resources’ trustee at the expiration of the current lease term.

10. Resources states that following any return of the LNG Project, Resources is concerned that Paiute’s proposed tariff changes could make it more difficult for Resources’ trustee, or its designee or transferee, to operate the LNG Project and provide services to customers utilizing the LNG Project. Resources states that it understands that Southwest Gas is the only Paiute shipper with a receipt point at Wadsworth Junction, the interconnection with Tuscarora. Resources claims that it does not appear that Paiute’s tariff revisions offer shippers any viable options for correcting imbalances, other than seeking spare capacity from Southwest Gas at the Tuscarora interconnection and finding

² 18 C.F.R. § 154.210 (2003).

³ 18 C.F.R. § 385.214 (2003).

gas supply on that upstream system. Resources states that given the affiliation of Southwest Gas and Paiute, Paiute's proposal should not be accepted as filed.

11. Both NNIGU and Sierra state that Paiute's proposed segmentation provisions appear to directly contradict the mandates of Order No. 637, which requires pipelines to permit segmentation to the extent operationally feasible. They cite, as examples, Paiute's proposal to restrict segmentation to only the primary points of a firm shipper and the imposition of a specific lateral capacity limitation. Both NNIGU and Sierra also find that other aspects of Paiute's proposal contain unexplained restrictions on segmentation. Further, Sierra takes issue with Paiute's changes to its penalty provisions in Section 5 and its Reservation Charge Adjustment provision in Section 12 of Rate Schedule FT-1.

12. NNIGU claims Paiute's proposal regarding backhaul transactions contain either unjustified or unclear restrictions on service. NNIGU is also concerned that Paiute has not included any proposed rates for its backhaul service. NNIGU states that its members are interruptible shippers on Paiute but are also interested in utilizing Paiute's backhaul service. To that end, NNIGU asserts that Paiute's proposal is unclear as to whether backhaul nominations are available to shippers with interruptible contracts or may only be used by shippers with firm transportation contracts.

13. Both NNIGU and Sierra point to Paiute's statement that Paiute will not be able to offer segmentation immediately upon the effectiveness of the tariff sheet, because it must "make revisions to its gas scheduling computer program in order to accommodate segmentations and backhauls." They are concerned that Paiute has given absolutely no indication of when such revisions could be completed or any estimated date for when backhaul and segmentation transactions could be offered. They state that Paiute should be required to explain more concretely why these services must be delayed any longer.

14. The protestors request that the Commission establish a technical conference to address the issues they raise regarding the filing. They also request that the Commission suspend the proposed tariff changes and make them effective subject to refund. Sierra and NNIGU contend that the suspension period should be five months, while Resources advocates a nominal suspension period.

IV. Discussion

15. The Commission finds that the protests raise significant concerns regarding Paiute's filing that cannot be resolved on the basis of the filing. Therefore, as conditioned below, the Commission will accept and suspend Paiute's tariff sheets, to become effective December 7, 2003, subject to refund, and to the outcome of a technical conference to discuss the issues raised by the filing. The technical conference should afford the parties the opportunity to exchange information such as the time constraints on

Paiute regarding computer software changes necessary to implement backhaul and segmentation transactions.

16. Based upon a review of the filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission accepts the tariff sheets for filing and suspends their effectiveness for the period set forth below, subject to the conditions set forth in this order.

17. 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 Co., 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. Accordingly, the Commission will exercise its discretion to suspend the tariff sheets for a shorter period and permit the tariff sheets to take effect on December 7, 2003, subject to the result of the technical conference established herein.

The Commission orders:

(A) Paiute's proposed tariff sheets listed in the Appendix to this order are accepted and suspended, effective December 7, 2003, subject to refund, and subject to the outcome of the technical conference established herein.

(B) The Commission's Staff is directed to convene a technical conference for the purpose of exploring the issues raised by Paiute's proposal and report back to the Commission within 120 days of the date of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Appendix

**Docket No. RP04-51-000
FERC Gas Tariff
First Revised Volume No. 1A**

Tariff Sheets Effective December 7, 2003

Second Revised Sheet No. 1
First Revised Sheet No. 2
Third Revised Sheet No. 11
First Revised Sheet No. 19
First Revised Sheet No. 20
Third Revised Sheet No. 22
First Revised Sheet No. 23
First Revised Sheet No. 24
Second Revised Sheet No. 25
Second Revised Sheet No. 25A
First Revised Sheet No. 26
First Revised Sheet No. 27
Second Revised Sheet No. 28
Second Revised Sheet No. 52
Second Revised Sheet No. 55
First Revised Sheet No. 56A
Third Revised Sheet No. 56B
Second Revised Sheet No. 57
First Revised Sheet No. 59
First Revised Sheet No. 60
Fourth Revised Sheet No. 61
Fifth Revised Sheet No. 63
Third Revised Sheet No. 63A
First Revised Sheet No. 64
Fourth Revised Sheet No. 65
Second Revised Sheet No. 65A
Second Revised Sheet No. 66
First Revised Sheet No. 67
First Revised Sheet No. 68
First Revised Sheet No. 69
First Revised Sheet No. 70
First Revised Sheet No. 71
First Revised Sheet No. 72
First Revised Sheet No. 73
Original Sheet No. 73A

Original Sheet No. 73B
Second Revised Sheet No. 74
Second Revised Sheet No. 74A
First Revised Sheet No. 74B
Second Revised Sheet No. 75
Second Revised Sheet No. 76
Second Revised Sheet No. 77
First Revised Sheet No. 79
Second Revised Sheet No. 80
Third Revised Sheet No. 81
First Revised Sheet No. 82
First Revised Sheet No. 82A
Second Revised Sheet No. 83
Second Revised Sheet No. 84
First Revised Sheet No. 85
First Revised Sheet No. 86
Second Revised Sheet No. 87
First Revised Sheet No. 87A
Second Revised Sheet No. 88
Sixth Revised Sheet No. 89
Fourth Revised Sheet No. 89A
Second Revised Sheet No. 100
Second Revised Sheet No. 101
Second Revised Sheet No. 102
Original Sheet No. 102A
Third Revised Sheet No. 104A
Sixth Revised Sheet No. 111
First Revised Sheet No. 124
First Revised Sheet No. 135
First Revised Sheet No. 136
First Revised Sheet No. 138
First Revised Sheet No. 139
First Revised Sheet No. 142