FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

October 31, 2005

In Reply Refer To:
Southern Star Central Gas Pipeline, Inc.
Docket No. RP05-668-000

Southern Star Central Gas Pipeline, Inc.
4700 Highway 56
Owensboro, KY 42301

Attention: David N. Roberts
Manager, Regulatory Affairs

Reference: Revisions to Shipper Discounting Provisions

Ladies and Gentlemen:

1. On September 14, 2005, Southern Star Central Gas Pipeline, Inc. (Southern Star) filed revised tariff sheets[1] to remove tariff provisions that implement the *CIG/Granite State* discounting policy. Southern Star proposes to delete the provisions in response to the Commission's Second Order on Remand issued March 3, 2005, in *Williston Basin Interstate Pipeline Co.* (March 3 Order).[2] In addition, Southern Star proposes to revise its list of permissible discounts listed in section 30.1 of its General Terms and Conditions (GT&C). Southern Star requests that the proposed tariff sheets become effective November 1, 2005. We will accept the referenced tariff sheets to become effective November 1, 2005, subject to the conditions discussed below.

2. Notice of Southern Star's filing issued on September 16, 2005, with interventions and protests due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2005). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2005), all timely filed motions to intervene and any 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 this proceeding or place additional burdens on existing

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[1] First Revised Sheet No. 300, First Revised Sheet No. 301, and First Revised Sheet No. 302 to its FERC Gas Tariff, Original Volume No. 1.

[2] *Williston Basin Interstate Pipeline Co.*, 110 FERC ¶ 61,210 (2005).

parties. On October 20, 2005, BP America Production Company and BP Energy Company (collectively referred to as BP) filed an out-of-time protest.

3. Southern Star proposes to remove the portability of discount provisions from section 30.2 of its GT&C. The portability of discount provisions generally provide that, if a firm shipper holding a discount at a specific point chooses to use an alternate point, it may retain its discounted rate if Southern Star previously granted a discount to a similarly situated shipper at that point. The March 3 Order vacated the Commission's existing policy governing the portability of shipper rate discounts. Specifically, the Commission concluded that it cannot, at this time, satisfy its burden under section 5 of the Natural Gas Act (NGA) to require pipelines to modify their tariffs to incorporate the *CIG/Granite State* policy. The March 3 Order also provided that other pipelines whose tariffs implemented the *CIG/Granite State* policy could file, pursuant to NGA section 4, to remove the tariff provisions implementing the *CIG/Granite State* policy.

4. Southern Star also seeks to revise section 30.1 to list permissible types of discounts it may offer shippers without those discounts being considered material deviations from Southern Star's pro forma service agreements. Southern Star's new section 30.1(vii) allows discounts based on a formula including, but not limited to, published index prices for specific receipt or delivery points or other agreed-upon pricing reference points for price determination. Southern Star also proposes a new section 30.1(viii) to its list of permissible discounts, establishing a form of discount that provides for increasing (or decreasing) a rate for service under one rate schedule to make up for a decrease (or increase) in the maximum rate for a separate service provided under another rate schedule. Finally, section 30.1(ix) offers rate discounts to production reserves, supplies or markets committed by shipper. Southern Star asserts that its permissible discounts are consistent with current Commission policy.[3]

5. BP contends that Southern Star's proposed section 30.1(viii) rate discount which permits the adjustment of the rate for service under one rate schedule to make up for a decrease or increase in the maximum rate for a separate rate schedule constitutes a negotiated rate, not a discount. BP requests the Commission to reject this tariff language. BP asserts such "shifting" of discounts is inconsistent with Commission policy and may change the underlying rate design.

6. We deny BP's request. BP relies on cases such as *East Tennessee* [4] which held, in essence, that discount provisions such as the one Southern Star proposes here using formulas were too complicated to use in discount agreements and must instead be limited

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[3] *Citing, Northern Natural Gas Co.,* 105 FERC ¶ 61,299 (2003) and *Northern Natural Gas Co.,* 111 FERC ¶ 61,223 (2005).

[4] *East Tennessee Natural Gas Co.,* 84 FERC ¶ 61,095 at 61,494 (1998).

to negotiated rates. However, those cases were decided prior to the Commission's change in policy. In a December 18, 2003, order on remand and a subsequent Northern Natural Gas Company order, the Commission found that pipelines may enter into discounted rate agreements that use formulas which produce fluctuating transportation rates during the term of the agreement, so long as the rates remain within the range established by the maximum and minimum rates set forth in the pipeline's tariff and do not change the underlying rate design.[5] In a subsequent Northern Natural Gas Company order, the Commission accepted a discount provision similar to the discount in Southern Star's proposed section 30.1(viii). Southern Star meets the requirement that the rate remain within the minimum and maximum rate by stating that all rates offered must lie at or between the minimum and maximum approved tariff rates for the service being discounted.

7. Southern Star, however, provides no evidence that ensures all discount agreements use the same rate design as the pipeline's tariff rates. Accordingly, we direct Southern Star to file, within 15 days of the date this order issues, revisions to ensure that all such discount agreements use the same rate design as the pipeline's tariff rates. Specifically, Southern Star must provide that any service agreement containing such a discount identify what rate component (*i.e.* reservation charge or usage charge or both) is discounted. Also, Southern Star must provide that, to the extent it discounts the firm reservation charge, the basis differential rate formula will produce a rate per unit of contract demand. Southern Star's section 30.1(ix) rate discount is similar to provisions previously accepted by the Commission in *Questar Pipeline Co.,* 103 FERC ¶ 61,244 (2003) and *Kinder Morgan Interstate Gas Transmission,* 93 FERC ¶ 61,316 (2000).

By direction of the Commission.

Magalie R. Salas,
Secretary.

cc: All Parties

[5] *Northern Natural Gas Co.*, 105 FERC ¶ 61,299 (2003) and *Northern Natural Gas Co.*, 111 FERC ¶ 61,223 (2005).