

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 6, 2006

In Reply Refer To:
El Paso Natural Gas Company
Docket No. RP05-422-006

El Paso Natural Gas Company
P.O. Box 1087
Colorado Springs, CO 80944

Attention: Catherine E. Palazzari, Vice President

Reference: Motion Rate Compliance Filing

Dear Ms. Palazzari:

1. On December 29, 2005, El Paso Natural Gas Company (El Paso) filed revised tariff sheets¹ to comply with the Commission's July 29, 2005 Order (July 29 Order)² to place suspended tariff sheets and rates into effect on January 1, 2006. El Paso states that it is eliminating costs of facilities not placed into service by January 1, 2006.³ Protests were filed by Salt River Project Agricultural Improvement and Power District (Salt River) and the Electric Generator Coalition (Electric Generators)⁴ arguing that several proposed tariff sheets contain provisions that are inconsistent with the intent of the Partial Settlement in this

¹ See Appendix.

² 112 FERC ¶ 61,150 (2005).

³ El Paso states that the eliminations represent El Paso's best cost estimates at this time, as El Paso's accounting books for the period ending December 31, 2005, have not yet closed.

⁴ The Electric Generator Coalition consists of Arizona Electric Power Cooperative, Inc., Blythe Energy, LLC, El Paso Electric Company, Gila River Power, L.P., Golden Spread Electric Cooperative, Inc., New Harquahala Generating Company, LLC, and Sempra Global.

proceeding.⁵ The Commission accepts the revised tariff sheets listed in the Appendix, to be effective January 1, 2006, consistent with the July 29 Order, the Partial Settlement, the Commission's June 30, 2005 Order (June 30 Order)⁶ in *Southwest Gas Company* pertaining to ratable takes, and the Commission's December 20, 2004 Order (December 20 Order) in El Paso's Order No. 637 proceeding.⁷

2. The filing was noticed on January 6, 2006, with comments due on or before January 13, 2006. Electric Generators and Salt River filed protests in this proceeding, as discussed further below. El Paso filed an answer to protests. Notices of interventions 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 C.F.R. § 385.214). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214.

3. Electric Generators argue that El Paso's motion seeks to place into effect certain tariff provisions that are inappropriate in light of the Partial Settlement in this proceeding which defers, until April 1, 2006, the implementation of El Paso's proposed new hourly services and related penalties. Salt River concurs in Electric Generators' protest. The issues raised in the protest are discussed below.

Uniform Hourly Quantities

4. Electric Generators state that El Paso is proposing to place the same restrictive language in sections 19.5 and 20.8 of the General Terms and Conditions (GT&C) of its tariff as originally proposed in its June 30, 2005 rate case filing which states:

Shipper shall deliver and receive natural gas in uniform hourly quantities during any day with operating variations to be kept to the minimum feasible, except when specific hourly services are being provided.

Electric Generators argue that the hourly services are subject to deferral pursuant to the Partial Settlement and will not be effective until April 1, 2006, at the

⁵ See unpublished director letter order on Offer of Partial Settlement in Docket No. RP05-422-003, issued on December 12, 2005. The Partial Settlement, which was uncontested, deferred the implementation of all newly proposed hourly and daily services and related provisions until April 1, 2006.

⁶ 111 FERC ¶ 61,511 (2005).

⁷ *El Paso Natural Gas Company*, 109 FERC ¶ 61,292 (2004).

earliest, if at all. As a result, Electric Generators argue that the phrase *except when specific hourly services are being provided* at the end of the subject tariff sections should be deleted. In addition, Electric Generators argue that original tariff language stating shipper shall *endeavor* to deliver and receive gas should be retained unless and until the new hourly services and associated penalties are implemented. Electric Generators contend that otherwise, shippers who cannot comply with the strict ratable take requirement could be deemed to have violated El Paso's tariff and be subject to possible adverse action by El Paso. Electric Generators acknowledge that customers know that the daily and hourly penalties will not apply, if at all, until on or after April 1, 2006. Electric Generators argue that if shippers had written confirmation that they would face no other exposure associated with this tariff change, such as exposure in default, breach, termination or liability, then this point would become academic.

5. The Commission finds that the tariff provision at issue incorporates the same tariff language that the Commission approved in its July 29 Order. El Paso is simply complying with the July 29 Order. Further, the Partial Settlement defers implementation of penalties for non-ratable takes until the hourly services are implemented. Therefore, there will be no adverse impact on shippers. Further, the Commission finds the Electric Generators' express concern about "other exposure" to be unfounded. The Commission stated in its June 30 Order that shippers do not have a firm right to hourly variations in service.⁸ In addition, El Paso has an agreement to defer implementation of new services until April 1, 2006. Therefore, the Commission will accept this provision, subject to the outcome of the technical conference and hearing in this proceeding.

Overrun Transportation

6. The tariff language proposed in section 6 of Rate Schedule FT-1 states:

On any day, upon request of Shipper and with El Paso's consent, Shipper may tender and El Paso may receive quantities at any receipt or delivery point in excess of Shipper's Transportation Contract Demand specified in the executed Transportation Service Agreement...

7. Electric Generators state that El Paso for the first time proposes certain changes to section 6 of Rate Schedule FT-1 of its tariff regarding overrun transportation. Electric Generators state that as a result of the Partial Settlement, El Paso refrains from implementing the language referencing the new penalties and reverts to the original tariff language proposed in its June 30, 2005 rate case

⁸ 111 FERC ¶ 61,511 at P. 13 (2005).

filing, but in so doing makes never-before filed changes to the original tariff language.

8. Specifically, Electric Generators claim that El Paso's newly proposed language removes the requirement of reasonableness in considering a customer's request. Electric Generators also claim that the new language applies only to gas quantities El Paso receives from its customers and not to gas quantities El Paso would deliver to such customers. Electric Generators argue that both changes reflect deteriorations in the flexibility currently provided to El Paso's customers without subjecting such changes to notice, comment, and the standards and burden of proof imposed by the Natural Gas Act. Electric Generators also claim that these changes go beyond the scope of the July 29 Order and are inconsistent with the Partial Settlement and should be rejected.

9. El Paso responds that Electric Generators are incorrect in stating that the overrun provisions are being included in El Paso's tariff for the first time. El Paso states that this provision was accepted by the Commission in El Paso's Order No. 637 proceeding.

10. El Paso is correct that the language at issue in section 6 of Rate Schedule FT-1 was accepted by the Commission in its December 20, 2004 Order⁹ accepting the Settlement in El Paso's Order No. 637 proceeding. The December 20, 2004 Order accepted El Paso's *pro forma* tariff sheet containing this provision, and on January 27, 2006,¹⁰ the Commission accepted the actual tariff sheet to become effective January 1, 2006. Therefore, this provision is not being proposed for the first time and is already contained in El Paso's tariff. The Commission will accept the tariff sheet containing this provision.¹¹

Scheduled Quantities

11. Electric Generators state that El Paso is proposing to place into effect language in sections 1.1 and 1.3 of the Form of Transportation Service Agreement under Rate Schedule IT-1 that provides that El Paso is not obligated to accept or deliver gas quantities on any day in excess of shipper's *scheduled quantity*.

⁹ 109 FERC ¶ 61,292 (2004).

¹⁰ Unpublished director letter order issued on January 27, 2006.

¹¹ El Paso states that the only reason that this already-approved provision is being included in this tariff filing is for pagination purposes. El Paso explains that the provisions around this section shifted and omitting the provision would have made this part of the tariff appear out of sequence.

Electric Generators argue that this provision pertaining to scheduled quantities is prompted by El Paso's proposed new hourly and daily restrictions and, therefore, is inconsistent with the deferral under the Partial Settlement. As a result, Electric Generators request that this new limitation be rejected since it would interfere with a customer's use of service up to its contractual Maximum Daily Quantity (MDQ). Electric Generators suggest that the pre-rate-case language be reinstated, which is based on MDQ rather than on scheduled quantities.

12. The Commission finds that the provision at issue pertaining to scheduled quantities was not subject to deferment in the Partial Settlement. Further, the tariff language proposed is the same language that El Paso proposed in its June 30, 2005 rate case filing, which the Commission approved and suspended, effective January 1, 2006, subject to the outcome of the technical conference and hearing in this proceeding. Therefore, the scheduled quantity provision at issue is in compliance with the July 29 Order and is accepted as proposed, subject to further order of the Commission as provided in the July 29 Order.

Hourly Quantity Estimates

13. Electric Generators state that El Paso proposes tariff language in sections 19.4 and 20.7 of its GT&C which provides that upon request of El Paso, shipper shall from time to time submit estimates of *hourly*, daily, monthly and annual quantities of gas to be transported, including peak day requirements. Electric Generators argue that unless and until new hourly services deferred by the Partial Settlement go into effect, hourly estimates would place unnecessary burdens on El Paso's customers and should not be required. As a result, Electric Generators request that the pre-rate-case proposed tariff language, which does not include hourly estimates, be reinstated.

14. The Commission finds that the provision at issue herein pertaining to hourly estimates was not subject to deferment in the Partial Settlement. Further, the tariff language proposed here is the same language that El Paso proposed in its June 30, 2005 rate case filing, which the Commission approved and suspended, effective January 1, 2006, subject to further order in this proceeding. Therefore, the hourly estimate provision at issue here is in compliance with the July 29 Order and is accepted as proposed, subject to the outcome of the technical conference and hearing in this proceeding.

Tariff References

15. Electric Generators argue that the following tariff provisions proposed by El Paso refer to or relate to issues covered by the Partial Settlement and should be corrected as indicated: (1) Electric Generators contend that section 1.4 of Rate

Schedule ISS contains references to TSAs executed under Rate Schedules FT-H, NNTD and /or NNTH. Electric Generators argue that the references to Rate Schedules FT-H, NNTD and NNTH services should be deleted; (2) Electric Generators state that section 1.30 of El Paso's GT&C contains a definition for Premium Service Delivery Point. Electric Generators argue that until the new hourly services are effective, this definition is unnecessary and should be deleted; (3) Electric Generators state that section 4.1(j) of El Paso's GT&C pertain to how El Paso will develop an hourly profile for each shipper. Electric Generators argue that this provision should not be included until the new hourly services go into effect if approved by the Commission; and (4) Electric Generators contend that section 36.7 of El Paso's GT&C incorrectly contains a reference to section 36.4, which is currently reserved.

16. El Paso responds that the provisions cited by Electric Generators were not listed in the Appendix to the Partial Settlement and, therefore, were not deferred. In addition, El Paso states that it decided not to remove certain references to the hourly services to reduce the complexity of the motion rate filing.

17. The Commission agrees with El Paso that the provisions at issue were not listed in the Appendix to the Partial Settlement and, therefore, were not deferred. In addition, the Commission finds that the above provisions are ministerial in nature, do not cause harm to shippers, and are subject to the outcome of the technical conference in this proceeding. Therefore, the Commission will accept these provisions as proposed.

By direction of the Commission.

Magalie R. Salas,
Secretary.

**Second Revised Volume No. 1-A
Tariff Sheets Accepted
Effective January 1, 2006**

Substitute First Revised Sheet No. 0
Sub Twenty-Sixth Revised Sheet No. 1
Substitute Seventh Revised Sheet No. 2
Substitute Original Sheet No. 2A
Substitute Second Revised Sheet No. 10
Substitute First Revised Sheet No. 11
2nd Substitute 31st Revised Sheet No. 20
Substitute Seventh Revised Sheet No. 21
Sub Twenty-Fifth Revised Sheet No. 22
2nd Sub Thirtieth Revised Sheet No. 23
Sub Thirty-Seventh Revised Sheet No. 24
Thirty-First Revised Sheet No. 26
Sub Thirty-First Revised Sheet No. 27
3rd Substitute Second Revised Sheet No. 27A
Sub Twenty-Fourth Revised Sheet No. 28
Substitute Original Revised Sheet No. 28C
Substitute Thirteenth Revised Sheet No. 29
Substitute Second Revised Sheet No. 100
Substitute Fifth Revised Sheet No. 101
Substitute Second Revised Sheet No. 101A
Tenth Revised Sheet No. 102
Substitute Fourth Revised Sheet No. 103
Substitute Third Revised Sheet No. 104
Substitute Third Revised Sheet No. 105
Substitute Original Sheet No. 106
Substitute Original Sheet No. 107
Substitute Original Sheet No. 107A
Substitute Original Sheet No. 107B
Substitute Original Sheet No. 107C
Substitute Original Sheet No. 107D
Substitute Original Sheet No. 107E
Sheet Nos. 108-109
Substitute Third Revised Sheet No. 110
Substitute Original Sheet No. 110A

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Substitute Eighth Revised Sheet No. 111
Substitute Eighth Revised Sheet No. 112
Substitute First Revised Sheet No. 112A
Substitute Eighth Revised Sheet No. 113
Substitute Fifth Revised Sheet No. 113A
Seventh Revised Sheet No. 113B
Substitute First Revised Sheet No. 113C
Substitute Sixth Revised Sheet No. 113D
Substitute Third Revised Sheet No. 113E
Eighth Revised Sheet No. 114
Sub Third Revised Original Sheet No. 115
Substitute Second Revised Sheet No. 116
Substitute Tenth Revised Sheet No. 117
Substitute Eleventh Revised Sheet No. 118
Substitute Fourth Revised Sheet No. 118A
Seventh Revised Sheet No. 119
Substitute Second Revised Sheet No. 121
Substitute Third Revised Sheet No. 125
Substitute Second Revised Sheet No. 126
Substitute Fifth Revised Sheet No. 127
Substitute Fourth Revised Sheet No. 128
Substitute Third Revised Sheet No. 129
Sheet No. 130
Substitute Second Revised Sheet No. 133
Substitute Second Revised Sheet No. 134
Substitute Second Revised Sheet No. 135
Substitute Second Revised Sheet No. 137
Eighth Revised Sheet No. 200
2nd Substitute Original Sheet No. 200A
Fifth Revised Sheet No. 201
Ninth Revised Sheet No. 202
Eleventh Revised Sheet No. 202A
First Revised Sheet No. 202A.01
Fifteenth Revised Sheet No. 202B

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First Revised Sheet No. 202B.01
First Revised Sheet No. 202B.02
First Revised Sheet No. 202B.03
Substitute Original Sheet No. 202C
Substitute Original Sheet No. 202D
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Substitute Original Sheet No. 202F
Substitute Original Sheet No. 202G
Substitute Original Sheet No. 202H
Substitute First Revised Sheet No. 203
Substitute First Revised Sheet No. 204
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Substitute Third Revised Sheet No. 206
Substitute First Revised Sheet No. 207
Substitute First Revised Sheet No. 208
Substitute First Revised Sheet No. 209
Eighth Revised Sheet No. 211
Seventh Revised Sheet No. 211A
Substitute Fourth Revised Sheet No. 212
Substitute Third Revised Sheet No. 213
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Substitute Second Revised Sheet No. 215C
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Substitute Fifth Revised Sheet No. 218
Substitute Fifth Revised Sheet No. 219
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Substitute Original Sheet No. 286B
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Substitute Original Sheet No. 287C
Eighth Revised Sheet No. 288
Substitute Third Revised Sheet No. 288A
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Substitute Fifth Revised Sheet No. 290A
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Substitute Second Revised Sheet No. 295
Substitute Third Revised Sheet No. 296
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Substitute Third Revised Sheet No. 334
Substitute Second Revised Sheet No. 335
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Substitute Third Revised Sheet No. 344
Substitute Fourth Revised Sheet No. 345
Substitute Second Revised Sheet No. 347
Fourth Revised Sheet No. 348A
Substitute Fourth Revised Sheet No. 349
Eleventh Revised Sheet No. 350
Substitute Sixth Revised Sheet No. 350A
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Substitute First Revised Sheet No. 355
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Substitute First Revised Sheet No. 358
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Substitute Second Revised Sheet No. 438

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