FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 8, 2006

In Reply Refer To:
Northern Border Pipeline Company
Docket No. RP06-434-000

Northern Border Pipeline Company
P.O. Box 542500
Omaha, NE 68154-8500

Attention: Raymond D. Neppl, Vice President
Regulatory Affairs and Market Services

Reference: "Combined Charge" Discount Provision

Ladies and Gentlemen:

1. On July 13, 2006, Northern Border Pipeline Company (Northern Border) filed tariff sheets[1] revising section 42.1 of its General Terms and Conditions (GT&C). Northern Border revises section 42.1 of its GT&C to: (1) add a "combined charge" type of discount to Rate Schedule T-1; (2) add language providing that discounts shall not change the pipeline's underlying rate design; and, (3) make minor housekeeping changes. Northern Border requests a September 11, 2006, effective date for its revised tariff sheets.

2. Section 42.1 of Northern Border's GT&C lists the types of discounts it may offer to its customers. Northern Border adds the following "combined charge" type of discount to that list:

> [Rate discount] that provides for combining two separate charges for service under Rate Schedule T-1, into a discounted combined charge.

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[1] Fourth Revised Sheet No. 302, Fourth Revised Sheet No. 303, Second Revised Sheet No. 303.01 and Sixth Revised Sheet No. 406 to its FERC Gas Tariff, First Revised Volume No. 1.

Northern Border provides firm transportation service under Rate Schedule T-1. In addition, Northern Border proposes to revise its Rate Schedule T-1 form of service agreement to add a blank for any agreed "combined charge," together with a footnote describing how the combined charge will apply to the different components of the T-1 rate. That footnote provides the following:

> On any day that quantities are scheduled under this agreement, the daily reservation charge component shall be determined by subtracting the applicable daily Compressor Usage Surcharge amount from the revenue calculated by applying the total daily rate per dekatherm to Shipper's applicable Maximum Receipt Quantity. In addition, the applicable maximum commodity rate and ACA surcharge will be invoiced to Shipper.

Northern Border also proposes to add language to section 42.1 of its GT&C consistent with *Southern Star Central Gas Pipeline, Inc. (Southern Star)*,[2] which provides that a discount shall not change the underlying rate design in Northern Border's rates. In addition, Northern Border makes minor housekeeping changes to paragraphs 6 and 7 of section 42.1 of its GT&C.

3. The Commission noticed Northern Border's filing on July 19, 2006. Interventions and protests were due July 25, 2006, as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2006)). Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), 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 parties.

4. On July 25, 2006, Indicated Shippers filed a protest. In its protest, Indicated Shippers argue that Northern Border, through its proposed "combined charge" would, in effect, be discounting the compressor usage surcharge below actual costs or would be discounting its reservation rate below what was necessary for competitive reasons – both violations of Commission policy. Further, Indicated Shippers argue that the combined nature of the proposed discount would prevent identification of the fuel component, which would undermine the accuracy of Northern Border's fuel tracker.

5. On August 1, 2006, Northern Border filed an answer. In its answer, Northern Border states that Indicated Shippers misunderstood how the "combined charge" discount would be calculated and invoiced – the Compressor Usage Surcharge would not be discounted below actual costs as alleged by Indicated Shippers. Northern Border contends that its records would clearly indicate that it was charging the full compressor

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[2] 113 FERC ¶ 61,110 (2005).

usage surcharge for all of the shippers' actual throughput, and discounting the daily reservation charge component as necessary so that the total payment by the shipper for each day's service equaled the agreed-upon combined charge per dekatherm of the shipper's Maximum Receipt Quantity. Northern Border also argues that the "combined charge" discount establishes a transportation rate with a customer for firm service that meets the competition for the term of the service agreement and recovers the appropriate amount for the Compressor Usage Surcharge.

6. On August 8, 2006, Indicated Shippers filed a withdrawal of their July 25, 2006 protest, stating that Northern Border's answer adequately addressed the concerns raised in their protest. Under Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), answers to protests or answers are generally prohibited. However, the Commission accepts Northern Border's answer because it helps explain Northern Border's proposal.

7. The Commission accepts Northern Border's revised tariff sheets[3] to: (1) add language to section 42.1 consistent with *Southern Star*;[4] and, (2) make minor housekeeping changes to paragraphs 6 and 7 of section 42.1 of its GT&C, to become effective September 11, 2006, as proposed. However, the Commission finds that the "combined charge" discount Northern Border proposes is inconsistent with Commission policy concerning permissible discounts as discussed below. Therefore, we reject proposed Second Revised Sheet No. 303.01 and Sixth Revised Sheet No. 406.

8. In *Northern Natural Gas Co.*, 105 FERC ¶ 61,299 (2003) (*Northern Natural*), the Commission modified its policy to permit pipelines to enter into discounted rate agreements that use formulas which produce fluctuating transportation rates during the term of the agreement. However, the Commission required that the rates must reflect the same rate design as the pipeline's tariff rates and must remain within the range established by the pipeline's maximum and minimum rates. The Commission stated that, if the pipeline wished to negotiate individualized rates with particular shippers using a different rate design, it would have to do that under the Commission's negotiated rate program.

9. The Commission finds that Northern Border's proposed "combined charge" discount would alter its underlying rate design, contrary to the policy established in *Northern Natural*. Northern Border's Rate Schedule T-1 includes a daily reservation charge, which is a charge per dekatherm of a T-1 shipper's Maximum Receipt Quantity

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[3] Fourth Revised Sheet No. 302 and Fourth Revised Sheet No. 303 to its FERC Gas Tariff, First Revised Volume No. 1.

[4] 113 FERC ¶ 61,110 (2005).

(*i.e*. the shipper's contract demand). Rate Schedule T-1 also includes a daily compressor usage charge, which is a charge per dekatherm of a T-1 shipper's daily throughput. Under this rate design, a T-1 shipper's total payment to Northern Border for each day's service would vary to some extent with its usage of the system. Since a shipper's contract demand is fixed by its contract and does not vary day to day, the shipper's overall reservation charge payment for each day's service would remain constant through the term of its contract. However, since the compressor usage charge is a charge per dekatherm of throughput, the overall compressor usage charge would be higher on days when it made greater use of its reserved capacity and lower on days when it made less use of its capacity.[5] As a result, a shipper's total payment to Northern Border, including both the reservation charge and the usage charge, would increase somewhat as throughput increased to reflect the increased usage charge payment.

10. As explained by Northern Border, its proposed "combined charge" discount would combine the Rate Schedule T-1 reservation charge and compressor usage charge into a single negotiated rate per dekatherm of the shipper's contract demand. Thus, a T-1 shipper receiving a "combined charge" discount would make the same total payment to Northern Border for each day's service, without regard to its actual usage of the system. However, this is contrary to Northern Border's tariff rate design of having separate usage and reservation charges, with the shipper's overall usage charge payment varying based on throughput and overall reservation charge payment varying based on contract demand. Since the shipper's total payment to Northern Border would be based solely on its contract demand, the practical effect of the combined charge is to eliminate the usage charge required by Northern's tariff rate design, with the result that the shipper would only pay a reservation charge.

11. We recognize that Northern Border has stated that it would attribute a portion of the shipper's total payment under the "combined charge" discount to the compressor usage charge based on the shipper's actual throughput each day. It would treat the shipper as paying the full compressor usage charge on each dekatherm of throughput and then discount the daily reservation charge as necessary to achieve the agreed-upon constant "combined charge" per dekatherm for the day's service. Thus, on days when the shipper's throughput was relatively high, Northern Border would provide a greater discount of the reservation charge; on days when the shipper's throughput was relatively low, Northern Border would provide a lesser discount of the reservation charge.

12. Under this attribution method, the shipper's overall reservation charge payment would not be a function of its contract demand for firm service, but would vary in inverse proportion to the amount the shipper transports. This is contrary to Northern Border's

[5] *See LSP-Cottage Grove, L.P v. Northern Natural Gas Co*., 111 FERC ¶ 61,108 at P 26 (2005).

rate design, under which the overall reservation charge payment should vary based on the shipper's level of contract demand, rather than its usage of the system.[6]

13. For these reasons, the Commission concludes that Northern Border's proposed "combined charge" discount is essentially a change in its underlying rate design, which is inconsistent with Commission policy.

14. Accordingly, the Commission rejects Northern Border's request to add a "combined charge" type of discount to its tariff.

By direction of the Commission.

Magalie R. Salas,
Secretary.

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[6] *See id.*