

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426  
110 FERC ¶ 61, 238  
March 4, 2005

Wyoming Interstate Company Ltd.  
Docket No. RP05-177-000

Wyoming Interstate Company, Ltd.  
Two North Nevada  
Colorado Springs, Colorado 80903

Attention: Mr. Robert T. Tomlinson, Director  
Regulatory Affairs

Reference: Fourth Revised Sheet No. 42, Original Sheet No. 42A,  
to FERC Gas Tariff, Second Revised Volume No. 2

Dear Mr. Tomlinson:

1. On February 4, 2005, Wyoming Interstate Company, Ltd. (WIC) filed tariff sheets specifying: (1) a timeline for the prospective sale of available firm capacity, and (2) an open season exception to the proposed timeline. The tariff sheets are accepted effective March 6, 2005, subject to conditions.
2. WIC's revised tariff establishes a timeline applicable to the prospective sale of firm transportation capacity. The revised tariff specifies limits on how far in advance of the time the service is to commence that the transportation service may be requested. Limits are divided into three time periods based on the length of requested transportation service. Exceptions to these timelines can be considered, on a not unduly discriminatory basis, for capacity: (1) associated with an open season, (2) that attaches new/incremental supply or new/incremental markets to WIC's system, (3) that is available due to contract termination or contract volume reduction under an existing contract, or (4) that involves the modification or construction of facilities or the issuance of any necessary certificate authorization. WIC states that the exceptions will provide shippers and WIC with the flexibility to address the needs of a dynamic marketplace, while the capacity sales timeline establishes a generally applicable schedule for the timing of requests for firm service.
3. The filing was noticed on February 15, 2005 comments, protests or interventions due February 16, 2005. No protests or adverse comments were filed. Duke Energy

Trading and Marketing, LLC's notice of intervention and unopposed motion to intervene is granted pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004).

4. The proposed timelines are consistent with Commission policy<sup>1</sup> and will alleviate concern about capacity being tied-up without payment. Accordingly, the Commission will accept the proposed timelines portion of WIC's tariff, to be administered on a not unduly discriminatory basis. However, the proposed provisions creating exceptions to the timelines are overly vague as currently drafted, as discussed below.<sup>2</sup>

5. The exceptions regarding capacity associated with either an open season or with new markets are vague, and do not deal with the creation of potentially conflicting Rights of First Refusal (ROFR) between shippers when capacity is sold for more than a year in advance. The exceptions to the timeline do not establish any limits on how far into the future capacity may be sold, and therefore, would permit WIC to sell capacity more than a year in advance of service commencement. WIC is required to offer any such capacity for sale to others during the interim period. To the extent an interim shipper purchases the capacity at the maximum rate for a year or more, the interim shipper is entitled to a ROFR under section 284.221(d) of the Commission's regulations and WIC's tariff, absent an exemption from the ROFR in WIC's tariff. The Commission finds that WIC's tariff must be clarified, and directs WIC to file a tariff revision consistent with the Commission's findings in the *Gas Transmission Northwest Corp. (GTN)*<sup>3</sup> and *Northern Natural Gas Co. (Northern Natural)*.<sup>4</sup>

6. Additionally, the exception regarding capacity that attaches new/incremental supply or new/incremental markets to the WIC system, is vague as to what is contemplated or how it would be determined. The Commission directs WIC to file a tariff revision which either provides more specificity as to what is contemplated under this exception or remove this exception entirely.

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<sup>1</sup> The Commission accepted similar timelines for other pipelines in *Texas Eastern Transmission, LP*, 106 FERC ¶ 61,018 (2004), and *Tennessee Gas Pipeline Co.* 105 FERC ¶ 61,167 (2003).

<sup>2</sup> Although similar tariff provisions have been accepted for filing, *see Colorado Interstate Gas Co.*, Delegated Letter Order, January 19, 2005, concerns that the exceptions to such timelines are too vague have been raised in *El Paso Natural Gas Co.* 110 FERC ¶ 61,182 (2005), and need to be addressed.

<sup>3</sup> 109 FERC ¶ 61,141 (2004).

<sup>4</sup> 109 FERC ¶ 61,388 (2004).

Docket No. RP05-177-000

3

7. Therefore, the Commission will accept the proposed tariff sheet subject to WIC refiling within 15 days to either remove or further clarify its exceptions as discussed above. Further, WIC is required to file tariff sheets reflecting the Commission policy as described in the *GTN* and *Northern Natural* orders.

By direction of the Commission .

Linda Mitry,  
Deputy Secretary.