

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

111 FERC ¶61,060

April 18, 2005

In Reply Refer To:  
Texas Eastern Transmission, LP  
Docket No. RP05-240-000

Texas Eastern Transmission, LP  
5400 Westheimer Court  
Houston, Texas 77056-5310

Attention: David A. McCallum  
Director, Rates and Tariffs

Reference: Fourth Revised Sheet No. 644 and First Revised Sheet No. 644A to  
FERC Gas Tariff, Seventh Revised Volume No. 1

Dear Mr. McCallum:

1. On March 21, 2005, Texas Eastern Transmission, LP (Texas Eastern) filed the above-referenced tariff sheets to delete a tariff provision that set forth a rebuttable presumption policy and a two-hour processing requirement for discounts. A protest was filed, the details of which are discussed below. Texas Eastern's proposed deletion of the subject tariff provision and the referenced tariff sheets are accepted effective April 21, 2005 as requested.

2. Texas Eastern states that the purpose of the instant filing is to delete section 28.3 of the General Terms and Conditions (GT&C) of its tariff. Section 28.3 of the GT&C of Texas Eastern's tariff sets forth the procedures whereby a customer receiving a discount at a specific point may request that this discount apply at a different point. Section 28.3 states that there is a rebuttable presumption that such discount shall apply at the requested point if at the time of the request, Texas Eastern is granting discounts to similarly situated customers at the same point. Section 28.3 also provides that Texas Eastern shall respond to the customer's request within two hours. This rebuttable presumption policy and two-hour processing requirement were articulated by the Commission in *Colorado Interstate Gas Co.*, 95 ¶ 61,321 (2001) and modified in *Granite State Gas Transmission, Inc.*, 96 ¶ 61,273 (2001).

3. In *Williston Basin Interstate Pipeline Company*,<sup>1</sup> the Commission determined that it could not show pursuant to section 5 of the Natural Gas Act (NGA) that the benefits of the *CIG/Granite State* policy in increasing competition outweigh the disadvantages of potentially discouraging pipelines from using selective discounting to increase throughput. The Commission further found that the Commission's discount policy as set forth in *El Paso Natural Gas Co.*<sup>2</sup> more appropriately balances the goals of the selective discount policy with the Commission's goals in adopting its segmentation and flexible point rights policies of enhancing competition. The Commission concluded that pipelines who implemented the *CIG/Granite State* policy may file pursuant to NGA section 4 to remove their tariff provisions implementing that policy.

4. Public notice of the instant filing was issued on March 25, 2005. Interventions and protests were due as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2004)), 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 the proceeding or place additional burdens on existing parties. ProLiance Energy, LLC (ProLiance) filed a protest.

5. ProLiance states that Texas Eastern's proposal to delete the tariff provisions related to the *CIG/Granite State* policy from section 28.3 of its General Terms and Conditions is completely unsupported. Moreover, ProLiance asserts that the instant filing is ill-timed, as Texas Eastern has made this filing prior to the time allowed for requests for rehearing to be filed in *Williston Basin*, which ProLiance cites as the order Texas Eastern relies on as authority to remove provisions in its tariff that articulate the *CIG/Granite State* policy.

6. The Commission finds that Texas Eastern is merely acting upon the Commission's findings in *Williston Basin* that pipelines who implemented the *CIG/Granite State* policy may file to remove such provisions that implement that policy from their tariff. The Commission further finds that Texas Eastern's reference to *Williston Basin*, and its reliance on the Commission's determinations in that order constitute sufficient support for its proposal in the instant filing.

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<sup>1</sup> 110 FERC ¶ 61,210 (2005).

<sup>2</sup> 62 FERC ¶ 61,311 at 62,990-91 (1993).

7. While ProLiance has filed for rehearing of *Williston Basin* in Docket No. RP00-463, the filing of a request for rehearing does not operate as a stay of a Commission order, unless specifically ordered by the Commission, which the Commission has not done.<sup>3</sup> Accordingly, Texas Eastern's proposal is consistent with current Commission policy, and the protest by ProLiance is denied. Texas Eastern's proposed deletion of GT&C section 28.3 from its tariff is accepted effective April 21, 2005.

By direction of the Commission.

Magalie R. Salas,  
Secretary.

cc: All Parties

Steven E. Hellman, Assistant General Counsel  
Texas Eastern Transmission, LP  
5400 Westheimer Court  
Houston, Texas 77056-5310

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<sup>3</sup> NGA section 19(c).