

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Texas Gas Transmission, LLC

Docket No. RP07-339-000

ORDER AFTER TECHNICAL CONFERENCE

(Issued July 3, 2007)

1. On March 1, 2007, Texas Gas Transmission, LLC (Texas Gas) filed revised tariff sheets¹ to amend its tariff to change the capacity allocation method for its supply laterals, with an April 1, 2007, effective date. On March 29, 2007, the Commission issued an order² (March 29 Order) accepting and suspending the tariff sheets, to become effective the earlier of a date set by subsequent Commission order or September 1, 2007, and established a technical conference to address the issues raised. The technical conference was held on April 17, 2007. On May 4, 2007, Texas Gas submitted, as part of its *Preliminary Report Following Technical Conference* (Preliminary Report), draft *pro forma* tariff sheets³ containing revisions discussed at the technical conference and during a May 1, 2007, conference call among the parties. The Commission accepts, effective on the date this order issues, the tariff sheets listed on Appendix A, subject to Texas Gas' filing, within ten days of the date of the issuance of this order, actual tariff sheets which conform to the revised *pro forma* tariff sheets listed on Appendix B.

I. Background

2. In its March 1, 2007 filing, Texas Gas proposed to revise the capacity allocation method for its supply laterals which currently allocates supply lateral capacity on a *pro rata* basis among firm customers on a preferential basis. The preferential basis provides Texas Gas' customers with the right to change primary receipt point capacity reserved on supply laterals and to release unused preferential capacity rights on each supply lateral pursuant to Texas Gas' capacity release program. Texas Gas proposed to allocate its

¹ See Appendix A.

² *Texas Gas Transmission, LLC*, 118 FERC ¶ 61,259 (2007).

³ See Appendix B.

supply lateral capacity on a market need basis subject to the posting and bidding provisions of its tariff.

3. Texas Gas explained that the gas flow on its system has changed since the existing supply lateral capacity allocation method was implemented in 1993 when gas predominantly moved from south to north on its system, but now bi-directional flows are common. Texas Gas asserted that under its proposal, shippers transporting gas under new transportation agreements will have the flexibility to select supply laterals based on their supply arrangements and market needs and that such flexibility will enhance customers' supply alternatives, increase their transportation options, and encourage their use of Texas Gas' system. Thus, Texas Gas maintained that its proposal was consistent with and accommodates changing flow patterns on the pipeline and will encourage increased throughput. Texas Gas asserted that these benefits will be realized without degrading existing services or adversely affecting the rights of any existing customer.

4. Protests to the March 1 filing were filed by a number of parties.⁴ The protestors main concerns were that: (1) they would not retain their existing supply lateral capacity rights, especially during rollover periods, evergreen periods or during exercise of a customers' right-of-first-refusal, (2) they would not maintain their supply lateral capacity to mainline capacity ratios, (3) they would lose their right-of-first-refusal, and (4) they would be unable to trade or release capacity under their current contract terms.

5. At the technical conference the issues raised by the commenters and protesters were discussed. At the conference, Texas Gas explained that its proposal will only change the allocation method for new firm transportation contracts. Texas Gas further explained that existing shippers' supply lateral capacity rights under currently effective contracts would be grandfathered for the entire term of those contracts, including any automatic roll-over or evergreen terms in those contracts. Texas Gas also explained that because the total amount of supply lateral capacity on the Texas Gas system exceeds the amount of capacity on the mainline, each shipper receives a total allocation of supply lateral capacity that is greater than its mainline maximum daily quantity (MDQ). Currently, each firm transportation shipper can receive an allocation of supply lateral capacity up to 119 percent of that shipper's mainline contract demand. Texas Gas'

⁴ Louisville Gas and Electric Company (Louisville), Atmos Energy Corporation (Atmos) and jointly by the Western Tennessee Municipal Group the Jackson Energy Authority and the Kentucky Cities (together Cities) filed protests. Comments on the March 1 filing were filed by Memphis Light, Gas and Water Division, City of Memphis, Tennessee (MLGW) and jointly by Duke Energy Ohio, Inc. (DEO) and Duke Energy Kentucky, Inc. (DEK).

revised proposal provides that new customers will also receive up to 119 percent of their mainline capacity entitlements. Texas Gas asserted that shippers have the ability to trade with other shippers for additional supply lateral capacity rights, but a shipper cannot nominate more than its mainline MDQ on a single lateral on a primary basis. Texas Gas further stated that, in addition to having the right to trade supply lateral capacity, shippers may change primary receipt points on supply laterals, and release unused supply lateral capacity.

6. Texas Gas proposed to circulate revised tariff sheets clarifying its proposal as discussed at the technical conference, and following the input it received from customers, Texas Gas submitted *pro forma* revised tariff sheets reflecting the clarifications.

II. The May 4, 2007 Filing

7. The revised *pro forma* tariff sheets submitted with the Preliminary Report, listed on Appendix B, contain revisions and clarifications to the tariff sheets tendered with Texas Gas' March 1 filing. A number of tariff sheets were revised to make clear that existing firm customers rights will not in any way be affected by the proposed change. Among other changes, language was added to section 34.3 of the General Terms and Conditions of Texas Gas' FERC Gas Tariff (GT&C) on revised *Pro Forma* Sheet No. 291, which provides that grandfathered supply lateral capacity allocations will remain in full force and effect for the life of the customer's contract, including any automatic rollover, or evergreen terms, and will be subject to a customer's ROFR, if applicable. In addition, language permitting customers to change their primary receipt points on supply laterals and to release capacity on their supply laterals was restored in section 34.1 of the GT&C on revised *Pro Forma* Sheet No. 291.

III. Technical Conference Comments

8. Comments on the technical conference were to be filed on May 15, 2007, and reply comments on May 25, 2007. Initial comments were filed by Louisville, Atmos, Cities, MLGW, The Peoples Natural Gas Company, d/b/a Dominion Peoples, and Hope Gas, Inc., d/b/a Dominion Hope (collectively Dominion LDCs) and Texas Gas. All of the commenters either support or do not oppose Texas Gas' proposal as revised by the *pro forma* tariff sheets filed with the Preliminary Report on May 4, 2007. They stated that the revisions satisfactorily addressed their concerns and that the tariff sheets, as revised, would not adversely affect customer rights under existing agreements.

9. After the initial comments were filed, Texas Gas filed a motion to omit the filing of reply comments. The notice of Texas Gas' motion, which was issued on May 18, 2007, stated that Texas Gas had contacted each of the parties who filed initial comments, as well as the other parties who either commented on Texas Gas's initial

proposal or who participated in the technical conference and that Texas Gas was authorized to state that none of these parties oppose omitting the reply comments stage of this proceeding, or the Commission approving Texas Gas's proposed tariff sheets, as they were amended and clarified in the revised *pro forma* tariff sheets.

10. No comments were filed in response to the notice and, on May 23, 2007, the Commission issued a second notice that reply comments therefore need not be filed to the initial comments, and none were filed.

IV. Discussion

11. Following the technical conference and a subsequent telephone conference call Texas Gas submitted revised *pro forma* tariff sheets to address protesters' concerns. Comments filed and our review of Texas Gas' revised proposal establish that the proposal preserves the grandfathered supply lateral capacity rights of its existing customers for the life of the customer's contract, as may be extended by rollover, evergreen or exercise of a customer's right-of-first-refusal. The *pro forma* tariff sheets clarify that customers holding grandfathered supply lateral capacity will continue to be able to make changes to their supply lateral primary point rights. Moreover, revised section 34.2 of the GT&C, which provides that new customers will receive supply lateral capacity allocations of 119 percent of the effective daily contract demand, but not more than 100 percent of the effective daily contract demand on any individual supply lateral, clarifies that a new customer can obtain supply lateral rights that are similar to the rights held by existing shippers. This will afford new customers the same flexible access to supply sources as is afforded to existing shippers. Further revised section 34.1 of the GT&C clarifies that customers retain their right to release capacity and revised section 34.4 of the GT&C preserves the supply lateral capacity trading mechanism of grandfathered customers.

12. Since Texas Gas' revised proposal preserves all of its current customers' existing rights for the current contract term as well as any extensions by rollover, evergreen or exercise of a customers' right-of first-refusal, it does not unilaterally change existing contract agreements and is consistent with Commission policy. Furthermore, the revised proposal gives new customers the same mainline capacity to supply lateral capacity ratio which existing customers will continue to receive. Since none of the parties oppose Texas Gas' revised proposal, and the proposal is consistent with Commission policy, the Commission will approve Texas Gas' proposal, as amended. Texas Gas is directed to file, within ten days of the date this order issues, actual tariff sheets, to be effective the date of this order, with the revisions contained on the *pro forma* tariff sheets listed on Appendix B, which were submitted with Texas Gas' May 4 Preliminary Report.

The Commission orders:

The tariff sheets listed on Appendix A, which were tendered with Texas Gas' March 1, 2007 filing, are accepted effective the date of this order, subject to Texas Gas' filing, within ten days of issuance of this order, actual tariff sheets, to be effective the date of this order, to implement the superseding revisions in the *pro forma* tariff sheets listed on Appendix B, which were tendered with the May 4, 2007 filing.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Docket No. RP07-339-000

APPENDIX A

Texas Gas Transmission, LLC
FERC Gas Tariff, Second Revised Volume No. 1
Docket No. RP07-339-000
Tariff Sheets Tendered With the March 1, 2007 Filing

Second Revised Sheet No. 2
First Revised Sheet No. 74
First Revised Sheet No. 86
First Revised Sheet No. 97
First Revised Sheet No. 102
First Revised Sheet No. 103
First Revised Sheet No. 118
First Revised Sheet No. 119
Fifth Revised Sheet No. 201
First Revised Sheet No. 291
Second Revised Sheet No. 292
First Revised Sheet No. 404
First Revised Sheet No. 416
First Revised Sheet No. 420
First Revised Sheet No. 431
First Revised Sheet No. 435
First Revised Sheet No. 445
First Revised Sheet No. 454
First Revised Sheet No. 456
First Revised Sheet No. 465
First Revised Sheet No. 538

Docket No. RP07-339-000

APPENDIX B

Texas Gas Transmission, LLC
FERC Gas Tariff, Second Revised Volume No. 1
Docket No. RP07-339-000

Pro Forma Tariff Sheets Tendered With the May 4, 2007 Preliminary Report

Pro Forma Sheet No. 281
Pro Forma Sheet No. 291
Pro Forma Sheet No. 404
Pro Forma Sheet No. 416
Pro Forma Sheet No. 420
Pro Forma Sheet No. 431
Pro Forma Sheet No. 435
Pro Forma Sheet No. 443
Pro Forma Sheet No. 445
Pro Forma Sheet No. 454
Pro Forma Sheet No. 456
Pro Forma Sheet No. 465