

120 FERC ¶ 61,198
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.

Pine Prairie Energy Center

Docket No. RP07-563-000

ORDER CONDITIONALLY ACCEPTING TARIFF SHEETS
AND REQUIRING TARIFF REVISIONS

(Issued August 30, 2007)

1. On August 1, 2007, Pine Prairie Energy Center, LLC (PPEC) filed its proposed FERC Gas Tariff, Original Volume No. 1 to comply with the Commission's November 23, 2004 order granting PPEC a certificate of public convenience and necessity to construct a new natural gas storage facility in Evangeline Parish, Louisiana, and to provide firm and interruptible open-access storage and hub services.¹ In addition, PPEC's August 1 filing includes changes designed to bring its tariff up to date with Commission orders since it was originally filed in 2004, and other changes it is proposing to reflect current commercial conditions. As discussed below, we accept PPEC's FERC Gas Tariff, Original Volume No. 1, to be effective on September 1, 2007, subject to further revisions discussed below.

Background

2. On July 16, 2004, PPEC filed an application to construct, own and operate, and to render open-access natural gas storage and related hub services in interstate commerce at market-based rates by means of a salt cavern natural gas storage facility to be developed in Evangeline Parish, Louisiana.² On November 23, 2004, the Commission issued the *Certificate Order*, which required PPEC to make tariff filings to comply with the requirements of the order, thirty to sixty days prior to commencement of service.

¹ *Pine Prairie Energy Center, LLC*, 109 FERC ¶ 61,215 (2004) (*Certificate Order*).

² PPEC also requested a blanket certificate pursuant to section 7(c) of the Natural Gas Act and Part 284, Subpart G of the Commission's regulations to provide open transportation services in Docket No. CP04-381-000 and a blanket construction certificate per Part 157, Subpart F, in Docket No. CP04-380-000.

Notice, Interventions and Protests

3. Public notice of PPEC's filing in the instant docket was issued on August 15, 2007. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2007). Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), all timely motions to intervene and any motions to intervene out-of-time filed before the issuance 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.

Discussion

Modification to Comply with the *Certificate Order*

4. The *Certificate Order* required PPEC to revise its methodology for curtailing firm services to reflect the Commission's policy that when a constraint develops after gas is scheduled, service to alternative firm delivery points should be considered as firm as service to primary firm delivery points, *i.e.*, once primary and secondary points have been scheduled, curtailment should treat such points on a *pro rata* basis.³ PPEC's changes to General Terms and Conditions (GT&C) section 5.3(a) reflect the Commission's curtailment policy and we find that the revised provision is in compliance with the *Certificate Order*.

Modifications to Comply with Commission Orders of General Applicability to Natural Gas Companies

5. PPEC proposes changes to its tariff to reflect the requirements of Order No. 587-S⁴, which adopted Version 1.7 of the standards of North American Energy Standards Board (NAESB), as well as certain standards adopted by NAESB to implement Order No. 2004 and Order No. 2004-A, and the NAESB standards implementing gas quality reporting requirements. The Commission has reviewed these changes and finds that PPEC has complied with the requirements of Order No. 587-S.

6. PPEC also requests a limited waiver in the form of an extension of time to comply with the NAESB standards related to EDI/EDM and FF/EDM requirements so as to allow PPEC to postpone implementation until 90 days following receipt by PPEC of a request to send information via EDI/EDM. PPEC states it has not received any requests to send information via EDI/EDM and FF/EDM, and does not expect any such requests in the

³ 61 FERC ¶ 61,272 at p. 62,013 (1992).

⁴ *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587-S, 70 Fed. Reg. 28,204 (May 17, 2005), FERC Stats. & Regs. ¶ 31,179 (2005).

foreseeable future. PPEC also states that its Internet web site will include postings of capacity release information that the Commission requires to be available to the public. Consistent with Commission precedent, we will grant PPEC's request for an extension of time to comply with the EDI/EDM and FF/EDM standards, based on its statements that it does not expect requests to send information via those mechanisms. However, we will require PPEC to implement those standards within 90 days following the receipt of such a request.⁵

Modifications to Conform Pine Prairie's Tariff with Bluewater's Tariff

7. PPEC proposes a variety of changes to its tariff to reflect provisions that have been approved for its affiliated storage provider Bluewater Gas Storage. It maintains that Bluewater's tariff reflects commercial developments since PPEC's certificate application was filed in 2004, and that the standardization of tariffs should allow PPEC and Bluewater to benefit from the synergies and administrative efficiency that will result from operating under common tariff provisions. The Commission finds that most of the changes are acceptable and will address two of the changes below.

Firm Parking Service and Firm Loan Service

8. PPEC proposes both a firm parking service (FP) and a firm loan service (FL) similar to the services approved for Bluewater.⁶ When contracting for these services, shippers will have the ability to inject or withdraw a fixed quantity of gas for a defined time period. Park and loan services have historically been interruptible and provided shippers with imbalance management and short-term storage services in order to help shippers manage their transportation needs. However, unlike many of the interruptible park and loan programs that interstate pipelines currently offer, PPEC will reserve firm injection and withdrawal capacity and firm storage capacity in order to provide FP and FL service and the services will have firm rights associated with them. However, there will be defined times during the term of the agreement that the shipper will not have the right to inject and/or withdraw gas from storage.

9. The Commission's regulations define service on a firm basis as a service that is not subject to a prior claim by another customer or another class of service customer and that receives the same priority as any other class of firm service.⁷ The Priority and

⁵ See, e.g., *Windy Hill Gas Storage, LLC*, 115 FERC ¶ 61,218 at P 48 (2006).

⁶ *BGS Kimball Gas Storage, LLC and Bluewater Gas Storage, LLC*, 117 FERC ¶ 61,122 at PP 36-37 (2006).

⁷ 18 C.F.R. § 284.7(a)(3) (2007).

Interruption of Service provisions and the Capacity Release provisions of PPEC's tariff treat FP and FL service with the same priority as its other firm storage service. The proposed rate schedules are consistent with those provided by other storage service providers and the Commission will approve the services as filed.

Rate Schedule IW

10. The proposed modifications to PPEC's interruptible wheeling service, Rate Schedule IW, will allow PPEC to provide for separate receipt and delivery charges. PPEC's transmittal letter states that this will allow a customer to deliver gas to PPEC for wheeling and to transfer title in that gas to another customer on PPEC's system at a virtual hub point. However, it is not clear why PPEC needs to be able to charge an interruptible wheeling receipt charge and an interruptible wheeling delivery charge to provide this service. Rate Schedule IW is designed as a transportation service and PPEC will be charging for the ability to move gas from one point to another on its system. In addition, the proposed two-charge fee structure is inconsistent with the single charge under which Bluewater currently provides IW service. Therefore, the Commission will require PPEC to modify Rate Schedule IW so that shippers are only charged one rate for the transportation service.

Modifications to Reflect Commercial Conditions

Insurance Coverage

11. In response to concerns raised by some of PPEC's prospective customers about the allocation of the risk of loss of gas held in storage, PPEC proposes to modify its Tariff to provide firm service customers the option of requesting PPEC to obtain insurance for the value of customers' gas held in storage.⁸ The option would be negotiated as part of each customer's service agreement, and PPEC would obtain insurance coverage for the customer provided it is available to PPEC on commercially-reasonable terms. PPEC states that its undertaking to obtain such insurance coverage is not deemed to shift the risk of loss of customers' gas in storage to PPEC. In order to implement the option, PPEC proposes to modify its *pro forma* service agreements for use under Rate Schedules FSS and FP to include blanks to be filled in designating whether or not PPEC shall be responsible for obtaining insurance coverage. In the event PPEC obtains insurance coverage for a customer's benefit, the reservation charges the customer agrees to pay shall be deemed to cover PPEC's costs of obtaining insurance.

12. The tariffs of many storage providers assign to customers liability for storage gas

⁸ See GT&C, Section 16 – Insurance and related changes in Section 12 – Title and Risk of Loss.

losses other than in circumstances involving the service provider's negligence.⁹ These storage providers, like PPEC, provide storage services under market-based rate authority. In these circumstances, a customer can factor PPEC's lack of liability, coupled with its proposal to offer insurance, into their rate negotiations. PPEC's proposal is an additional service to its customers and can be a factor in rate negotiations along with the lack of liability for storage gas losses.

13. The Commission has approved proposals by other market-based rate storage providers to provide shippers with the option of obtaining insurance¹⁰ as well as a storage provider's *pro forma* Tariff that includes the same type of "check the box" insurance option as proposed by PPEC.¹¹ Therefore, the Commission finds that PPEC's proposal is reasonable and consistent with other market-based rate storage service provider tariffs and will accept it as filed.

Off-System Capacity

14. PPEC anticipates that it may purchase off-system capacity at the request of its firm customers to combine with storage services it will provide under specific customer agreements, and the market-based rates those customers agree to pay will cover the reservation and commodity charges PPEC incurs in obtaining such off-system capacity. PPEC states that the Commission has recently held that a natural gas company's other shippers must be permitted the opportunity to use off-system points, on a secondary basis, when the off-system capacity is not being used by customers holding primary point rights.¹² It also observes that the Commission has approved tariff provisions for Tennessee Gas Pipeline that allow it to impose additional charges on customers using off-system capacity for secondary movements to cover the incremental costs incurred by Tennessee in using off-system capacity for such secondary receipts and/or deliveries.¹³ As a result, PPEC proposes to modify section 30 of its GT&C to offer any off-system capacity acquired by PPEC for the benefit of a customer which is not used by that

⁹ See e.g., Egan Hub Storage, LLC, FERC Gas Tariff, First Revised Volume No. 1, GT&C section 12.1, First Revised Sheet No. 142; Liberty Gas Storage, LLC, FERC Gas Tariff, Original Volume No. 1, GT&C section 12.2, Original Sheet No. 135.

¹⁰ See e.g., *Windy Hill Gas Storage, LLC*, 119 FERC ¶ 61,291 at PP 67-68 (2007).

¹¹ See *MoBay Storage Hub, Inc.*, FERC Gas Tariff, Original Volume No. 1, Form of Service Agreement (Applicable to FSS Rate Schedule), Original Sheet No. 92.

¹² *Tennessee Gas Pipeline Co.*, 118 FERC ¶ 61,159 (2007).

¹³ *Tennessee Gas Pipeline Co.*, Docket No. RP07-151-001 (unpublished delegated letter order issued May 22, 2007).

customer, to PPEC's other customers pursuant to PPEC's tariff, and subject to the rates set forth in each customer's storage service agreement, plus any applicable third party charges.

15. The Commission finds that the term "any applicable third party charges" is too broad with regard to what PPEC may recover from shippers electing to use the capacity on a secondary basis. It is appropriate for PPEC to recover certain types of charges from shippers using the capacity on a secondary basis (e.g. commodity or fuel charges). However, the reservation charges relating to the costs of the off-system capacity will be recovered under the market-rate provisions of PPEC's tariff from shippers that requested PPEC to contract for the off-system capacity, and not from other shippers offered unused off-system capacity acquired for the benefit of a specific customer. The Commission will require PPEC to clarify its tariff accordingly.

Warehouseman's Lien

16. PPEC has added a Warehouseman's Lien provision to each of the Rate Schedule FSS, FP, ISS, IP and Hub Services (IW and IB) *pro forma* service agreements in its tariff. This provision permits PPEC to establish a lien or interest on all gas received from the shipper in order to satisfy charges for storage or transportation. The lien is to be in conformance with the Texas Uniform Commercial Code. PPEC states that these provisions are substantially identical to those recently approved in *Windy Hill Gas Storage, LLC*¹⁴ and *MoBay Storage Hub, LLC*.¹⁵ The Commission will accept these provisions, consistent with our prior orders.

The Commission orders:

PPEC's Original Sheet Nos. 1 through 259 of its FERC Tariff, Original Volume No. 1 are accepted to be effective September 1, 2007, subject to PPEC filing revised tariff sheets, within 15 days of the date of this order, consistent with the discussion in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary

¹⁴ *Windy Hill Gas Storage, LLC*, 119 FERC ¶ 61,291 at P 57 (2007).

¹⁵ *MoBay Storage Hub, LLC*, 117 FERC ¶ 61,298 at P 56 (2006).

