

129 FERC ¶ 61,190  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

November 30, 2009

In Reply Refer To:  
El Paso Natural Gas Company  
Docket No. RP10-92-000

El Paso Natural Gas Company  
Post Office Box 1087  
Colorado Springs, CO 80944

Attention: Catherine E. Palazzari  
Vice President

Reference: Request for Waiver

Dear Ms. Palazzari:

1. On October 29, 2009, El Paso Natural Gas Company (El Paso) filed a request for a limited prospective waiver of non-critical penalties at certain delivery locations in light of the upcoming in-service date of two new taps on the East Valley Lateral pipeline. El Paso requests that the Commission grant this waiver for the period beginning December 1, 2009 and extending through March 31, 2010. For good cause shown, we grant El Paso's request.

2. El Paso states that as a result of a number of transactions, El Paso and Transwestern Pipeline Company (Transwestern) became joint owners of the Salt River Project Agricultural Improvement and Power District's (Salt River) East Valley Lateral pipeline (Lateral). Transwestern acquired its interest in the Lateral to supplement its Phoenix Expansion Project. El Paso states that, on January 26, 2009, Transwestern notified El Paso of its intent to place the Phoenix Expansion Project facilities in service on March 1, 2009.

3. El Paso states that, on March 1, 2009, Transwestern and El Paso began providing transportation services through their portions of the Lateral pursuant to the terms and conditions of their respective FERC Gas Tariffs. El Paso and Transwestern have agreed upon and utilized a pre-determined allocation process to apportion gas flows on the Lateral based on quantities nominated and scheduled on Transwestern, quantities nominated and scheduled on El Paso, and measured quantities at Lateral delivery locations. El Paso states that, due to the necessary complexity of the allocation process and the associated learning curve for customers served by both pipelines, El Paso requested and the Commission granted it authority for a limited waiver of certain penalties at points on the Lateral for the period of April 1, 2009 through August 31, 2009.<sup>1</sup> El Paso states that, over the past few months, it has been working with Salt River to implement the new processes. El Paso further states that Southwest Gas Corporation (Southwest Gas) holds transport capacity on the Lateral, but that Southwest Gas's experience with operations on the Lateral has been limited, because Southwest Gas's new meters and its firm service on Transwestern have yet to be placed in service.

4. El Paso states that Southwest Gas will place its New Florence and Germann taps into service within the next few weeks. These two points are directly connected to the Lateral and thus will result in a change to both physical operations and service requirements that will necessitate a transition period as Transwestern, El Paso, and the customers adapt to the new flow dynamics required by the new taps. Consequently, El Paso believes that a five-month limited waiver period over the course of the winter heating season is appropriate to allow the Lateral customers the opportunity to adjust to the new flow dynamics and to allow time for Transwestern and El Paso to agree to make any necessary fine tuning of the allocation process.

5. El Paso states that Salt River and Southwest Gas are the only parties jointly served from the Lateral and are thus the only El Paso shippers affected by this waiver. El Paso requests waiver of the applicable non-critical hourly scheduling penalties<sup>2</sup> and non-critical daily unauthorized overrun penalties<sup>3</sup> at the following Salt River and Southwest Gas delivery locations for the period of December 1, 2009 through March 31, 2010: DSWG PHX (DRN 216808) and DSRP PHX (DRN 216820).

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<sup>1</sup> *El Paso Natural Gas Co.*, 127 FERC ¶ 61,129 (2009).

<sup>2</sup> See Section 43.2 of the General Terms and Conditions (GT&C) of El Paso's tariff.

<sup>3</sup> El Paso states that the waiver pertains to the penalty component of the daily unauthorized overrun penalty; El Paso would invoice the fee for transportation service rendered in overrun status to each shipper. The daily unauthorized overrun provisions are found in the applicable firm rate schedules in El Paso's tariff.

6. El Paso states that it will waive non-critical penalties for Lateral-related service as long as the actions causing the penalties are a direct result of the complexity and operational learning curve of the control system for the Lateral. El Paso states that the waiver will not apply to situations where Transwestern's capacity rights are fully exhausted and imbalances roll back to El Paso.

7. El Paso further states that if it declares a Strained Operating Condition (SOC) or Critical Operating Condition (COC) and a shipper incurs an SOC/COC daily imbalance charge related to service on the Lateral during the SOC/COC, the SOC/COC charge will not be assessed if the charge results from El Paso's error, pursuant to Section 33.11 of the GT&C. In addition, if it is determined that the parties complied with all directives from El Paso during the SOC/COC and the penalty was unavoidable based on the allocation process, El Paso states that it will exercise its tariff authority to waive the applicable SOC/COC penalties.

8. Notice of El Paso's filing was issued on November 2, 2009, with comments, protests or interventions due as provided by section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210. Pursuant to Rule 214, 18 C.F.R. § 385.214, 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. No protests or adverse comments were filed. Salt River filed comments in support of the filing, stating that the limited waiver will allow the parties to adjust operations under the joint service structure and gain a better understanding of the system changes and the effect on scheduling processes. Southwest Gas filed comments in support of the filing, stating that the waiver will help hold Southwest Gas harmless from penalties while El Paso and Transwestern adapt to the changed operations and allocations and make any necessary adjustments to the complex allocation process caused by the changed flow dynamics on the Lateral.

9. We will grant El Paso's request for a limited waiver of non-critical penalties on the East Valley Lateral for the period of December 1, 2009 through March 31, 2010. As El Paso has stated, the waiver will afford the parties additional time to adjust to operations under the joint service structure and the related flow allocations resulting from the new delivery locations. It is reasonable for El Paso to waive non-critical penalties while the customers adjust to the new flow dynamics and El Paso and Transwestern fine tune the allocation process. For these reasons, we will grant the requested limited waiver.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.