

132 FERC ¶ 61,275
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 30, 2010

In Reply Refer To:
Fayetteville Express Pipeline LLC
Docket Nos. RP10-1008-000
and RP10-1061-000

Fayetteville Express Pipeline LLC
711 Louisiana Street, Suite 900
Houston, TX 77002

Attention: Shelley A. Corman, Vice President

Reference: Tariff Compliance Filing

Dear Ms. Corman:

1. On July 28, 2010, Fayetteville Express Pipeline LLC (FEP) filed proposed tariff sheets in Docket No. RP10-1008-000 that, if accepted, will comprise FEP's FERC Gas Tariff, Original Volume No. 1 (Tariff). On August 11, 2010, FEP also filed a revised tariff¹ in Docket No. RP10-1061-000 in the format required by Order No. 714² and Part 154 of the Commission's regulations. FEP has filed the two versions of its tariff, in paper and electronic form, in order to commence interim period service effective October 1, 2010. As discussed below, FEP's Tariff Database is accepted to be effective the later of October 1, 2010 or the in-service date of the pipeline, and FEP's FERC Gas Tariff, Original Volume No. 1 is rejected as moot.

¹ FEP's Tariff Title is "FEP Tariff Database." "Tariff Title" is the meta data element used to name the tariff data base. See *Implementation Guide for Electronic Filing of Parts 35, 154, 284, 300, and 341 Tariff Filings* (Jan. 2010) (*Implementation Guide*), available at <http://www.ferc.gov/docs-filing/etariff/implementation-guide.pdf>.

² *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

Background

2. On December 17, 2009, the Commission issued an order³ accepting FEP's application for a certificate of public convenience and necessity to construct a 185-mile, 42-inch natural gas pipeline system that would extend through Arkansas and Mississippi. In the order, the Commission accepted FEP's *pro forma* tariff subject to certain changes and subject to FEP filing actual tariff sheets no less than 60 days and not more than 90 days prior to the commencement of interstate service.
3. In the December 17, 2009 Order, the Commission directed FEP to reverse the Allowance for Funds Used During Construction (AFUDC) accrued between April 2009 and June 15, 2009 and adjust all cost of service items dependent on the reversal of the AFUDC accrued prior to the date of the Certificate Application filing, and to file revised rates and work papers with the Commission. In addition to the AFUDC adjustments, the Commission directed FEP to revise language from Section 2.1(c)(3) of the General Terms and Conditions (GT&C) to clarify that Foundation Shippers are not provided with any priority in acquiring available capacity. Lastly, the Commission directed FEP to remove provisions from Sections 12.1(b)(1)(i), 12.1(b)(1)(ii), 12.1(b)(1)(iii) and 12.1(b)(1)(iv) that had addressed different collateral requirements that applied to Foundation Shippers. In addition to the changes required by the December 17, 2009 Order, FEP also made limited minor changes to the Tariff which updated personnel titles, clarified the terms "Contract MDQ" and "MDQ", and corrected fax numbers and FEP's FERC internet website address.
4. On January 16, 2010, FEP filed a limited request for rehearing of the Commission's determination on FEP's AFUDC accrual. The Commission granted FEP's rehearing request on July 28, 2010.⁴ FEP states that, consistent with the Commission's revised AFUDC policy and the July 28, 2010 Order, it is not proposing to change the AFUDC accrual and related cost of service items reflected in its Certificate Application, nor is it revising its Tariff recourse rates to reflect any changes.

Notice/Intervention

5. Public notice of the filing in Docket No. RP10-1008-000 was issued on July 29, 2010 with comments due by August 9, 2010. Southwestern Energy Services Company (Southwestern) filed a motion to intervene and request for clarification on August 4, 2010

³ *Fayetteville Express Pipeline LLC*, 129 FERC ¶ 61,235 (2009) (December 17, 2009 Order).

⁴ *Fayetteville Express Pipeline LLC*, 132 FERC ¶ 61,077 (2010) (July 28, 2010 Order).

(Clarification Request). Public notice of the filing in Docket No. RP10-1061-000 was issued on August 16, 2010 with comments due by August 23, 2010. No protests or other comments were filed.

Discussion

6. Southwestern requests that FEP clarify Section 9.1 of FEP's GT&C concerning the charges for Authorized Overrun Service. Southwestern states in the Clarification Request, that FEP has agreed to revise the language in Section 9.1 by adding language which states "that in no event shall an Authorized Overrun Charge apply for any quantities in excess of Shipper's Point MDQ at a specific point which were properly nominated and confirmed (i) on a secondary basis, or (ii) on a primary basis consistent with Shipper's Primary Delivery Point rights under Section 2.3(b) of Rate Schedule FTS."

7. The Commission finds that the new language proposed by Southwestern in the Clarification Request and agreed to by FEP will help to ensure a better understanding of how the Authorized Overrun Charge will be applied while also protecting potential shippers from being incorrectly assessed the Authorized Overrun Charge. As such, the new proposed language filed the Clarification Request is accepted. FEP is directed to file a new tariff record within fifteen (15) days of issuance of this order.

8. FEP's filing is consistent with the Commission's revised AFUDC policy⁵ and the July 28, 2010 Order addressing FEP's accrual of AFUDC. Therefore, FEP is not required to file any changes to the AFUDC accrual and related cost of service items or revise its Tariff recourse rates. FEP has complied with the other changes required by the Commission's December 17, 2009 Order. Additionally, FEP's other edits are minor in nature and merely serve to correct contact information and clarify terms within the tariff and are accepted.

9. FEP has filed two tariffs, FERC Gas Tariff, Original Volume No. 1 in Docket No. RP10-1008-000 and FEP Tariff Database in Docket No. RP10-1061-000, both with an effective date of October 1, 2010. FEP's Original Volume No. 1 was filed 60 days prior to the proposed in-service date; however, it is unnecessary for FEP to have two tariffs effective on the same date. FEP Tariff Database was filed pursuant to Commission regulations and is identical to Original Volume No. 1. Since FEP Tariff Database is intended to replace Original Volume No. 1 and it will have the same effective date as Original Volume No. 1, the Commission rejects Original Volume No. 1 as moot. FEP's

⁵ See, *Southern Natural Gas Co.*, 130 FERC ¶ 61,193 P 24-40 (2010); *Florida Gas Transmission LLC*, 130 FERC ¶ 61,194 (2010).

Tariff Database is accepted effective the later of October 1, 2010 or the in-service date of the pipeline.

By direction of the Commission

Kimberly D. Bose,
Secretary.