

133 FERC ¶ 61,176
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November, 24 2010

In Reply Refer To:
El Paso Natural Gas Company
Docket No. RP11-1451-000

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

Attention: Susan C. Stires, Director, Regulatory Affairs

Reference: Point Re-designation Update Filing

Dear Ms. Stires:

1. On October 29, 2010, El Paso Natural Gas Company (El Paso) filed a revised Section 8 “Operating Provision” to its tariff.¹ El Paso states that the revised tariff section is submitted to update the primary point re-designation provisions to limit certain re-designation requests that involve the facilities El Paso is requesting to temporarily deactivate in Docket No. CP11-17-000. El Paso requests a November 29, 2010 effective date for the revised tariff section. For the reasons discussed below, the Commission rejects revised Section 8.

2. El Paso states that Section 8.1(f)(iii) “Re-designation of Existing Primary Points” of the General Terms and Conditions (GT&C) of its tariff describes El Paso’s point re-designation process that permits firm shippers to change primary points under a transportation service agreement, subject to available capacity. El Paso states that this process allows shippers the opportunity to submit a request to re-designate primary receipt and delivery point rights to any rate zone subject to certain conditions and procedures. El Paso states that it evaluates re-designation requests on a first-come,

¹ Located at El Paso Natural Gas Company’s EPNG Tariffs, FERC NGA Gas Tariff, *Gen. Terms and Conditions, Operating Provisions, 3.0.0.*

first-served basis to determine whether firm capacity is available to and at the requested point, that the change will not harm other firm shippers and is operationally feasible.

3. El Paso states that on October 29, 2010, it submitted a Petition for Exemption (Petition) pursuant to section 7(c)(1)(B) of the Natural Gas Act in Docket No. CP11-17-000. El Paso states that this petition was submitted to request permission to temporarily deactivate nine existing compression facilities, along with related appurtenances. El Paso states that the facilities proposed for temporary deactivation are located on the South Mainline System, the North Mainline System, and within the San Juan Triangle. El Paso states that, with the deactivation of these facilities, the design capacity of its system will be authorized to be reduced for a limited term of no more than four years from the date of authorization. El Paso asserts that this temporary deactivation will serve to reduce capital costs and operating and maintenance costs for the underutilized facilities, and decrease its cost-of-service and system-wide rates.

4. El Paso contends that since the deactivation will result in a future reduction to certificated capacity, it is essential that El Paso evaluate any current request for a permanent point re-designation using a pipeline model that includes that reduction in capacity. El Paso states that it has a large quantity of capacity unsubscribed that is available for contracting. El Paso states that it expects to be able to grant any future permanent point re-designation request subject to a capacity evaluation. El Paso states that should it experience an increase in long-term firm capacity sales such that the only capacity available to meet a permanent point re-designation request is capacity requiring the operation of the proposed deactivated facilities and such request does not provide incremental revenue sufficient to justify the operation of a proposed deactivated facility, El Paso will deny the re-designation request. Accordingly, El Paso is proposing to include a provision in its tariff to alert shippers to the pending temporary deactivation of certain compression facilities and related reduction in system capacity.

5. El Paso proposes the following addition to Section 8.1(f)(iii) of its tariff:

During the pendency of Transporter's Docket No. CP11-17-000 temporary deactivation proceeding, Transporter will evaluate all permanent re-designation requests to determine if such requests require the operation of facilities designated for temporary deactivation in that proceeding. If a permanent re-designation request requires the operation of any such facility, Transporter will grant such request, if economically-justified in Transporter's sole discretion based on an analysis that includes without limitation, the costs, resulting rate, and remaining contract term and quantity.

6. Public notice of El Paso's filing was issued on November 1, 2010. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2010)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2010)), 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.

7. The filing is protested by the Indicated Shippers.² They assert that the filing would limit shippers' flexible receipt and delivery point rights. The Indicated Shippers argue that the proposed tariff language grants El Paso too much discretion to determine whether to grant a point re-designation request that would require the operation of one or more of the facilities El Paso is seeking to temporarily deactivate in the Petition filed in Docket No. CP11-17-000. The Indicated Shippers submit that the instant filing seeks a tariff revision that might only be necessary if the Commission grants El Paso's Petition, and it is thus premature. The Indicated Shippers also request that the Commission consolidate this tariff filing with the proceedings in Docket Nos. CP11-17-000 (El Paso's temporary deactivation petition), RP10-1398-000 (El Paso's rate case filing), and CP10-510-000 (El Paso's request to permanently abandon certain other compressors), and consider all issues related to this tariff filing with the other related proceedings at the same time on the basis of a complete evidentiary record.

8. Section 8.1(f)(iii) of El Paso's tariff states the following with respect to the re-designation of existing primary points:

Unless conditioned by the applicable rate schedule, firm Shippers, including Acquiring Shippers with express permission from the Releasing Shipper to do so, may request to re-designate primary point rights to any rate zone pursuant to the following procedures. Transporter will grant such requests on a first come/first served basis if firm capacity is available to and at the requested points, the change will not harm other firm Shippers, and the change is operationally feasible. Requests for sales of capacity involving incremental service will have priority over re-designation requests.

9. El Paso's proposed addition to Section 8.1(f)(iii) requires that a shipper who seeks to re-designate primary points to zones with decreased capacity due to facilities that are proposed to be deactivated by El Paso meet additional conditions that are not required of a shipper who seeks to re-designate primary points elsewhere on El Paso's system. The proposed provision requires that the re-designation request also be economically justified in El Paso's sole discretion. Other re-designation requests are evaluated based on operational feasibility and lack of harm to other shippers. The Commission finds that El Paso's proposed tariff section is unduly discriminatory because it requires shippers

² The Indicated Shippers are BP America Production Company, BP Energy Company, ConocoPhillips Company, and Shell Energy North America (US), L.P.

who seek to re-designate primary points to certain zones to meet additional conditions simply because El Paso has filed a petition to temporarily deactivate certain facilities. All requests to re-designate primary points should be evaluated according to the same criteria. The Commission finds that it is not appropriate for El Paso to determine in its sole discretion if the primary point re-designations are economically justified. Such language gives El Paso too much discretion, particularly when that standard is not defined in the tariff provision. In addition, it is premature for El Paso to propose tariff language that limits shippers' re-designation rights since the Commission has not granted El Paso's petition for temporary deactivation. The issues raised by the petition should not be prematurely decided as part of this tariff filing. They must be part of the pending analysis of whether the facilities continue to be in the public convenience and necessity. Accordingly, El Paso's proposed revision to Section 8.1(f)(iii) of its tariff is rejected. Finally, since the Commission is rejecting El Paso's proposed tariff changes, the Indicated Shippers' request to consolidate this filing is moot.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

cc: Mr. Craig V. Richardson
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All Parties