

134 FERC ¶ 61,008  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

January 7, 2011

In Reply Refer To:  
Algonquin Gas Transmission, LLC  
Docket No. RP11-1605-000

Algonquin Gas Transmission, LLC  
5400 Westheimer Court  
Houston, TX 77056-5310

Attention: Janice K. Devers, General Manager  
Tariffs and Commercial Development

Reference: Tariff Record Revising General Terms and Conditions

Dear Ms. Devers:

1. On December 8, 2010, Algonquin Gas Transmission, LLC (Algonquin) filed a tariff record<sup>1</sup> proposing to revise section 26 of its General Terms and Conditions (GT&C) to allow it to issue operational flow orders (OFO) to address customer imbalances that could impair Algonquin's ability to make scheduled deliveries. Algonquin requested a shortened comment period, and any waivers necessary for an effective date of December 22, 2010, or alternatively, an effective date of January 8, 2011. We accept the proposed tariff record to be effective January 8, 2011, subject to conditions as discussed further in this order.

2. Algonquin states that during the 2010/2011 winter heating season, it has regularly scheduled volumes to flow at, or close to, its maximum capacity in the west-to-east direction. Algonquin states that this scheduling pattern represents a reversal of the

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<sup>1</sup> 26., Actions Required to Protect System Operations, 1.0.0 to Algonquin Database 1, FERC NGA Gas Tariff.

previous year's predominant direction of flow, when shippers mainly nominated receipts into the eastern portion of the system when they sourced significant quantities of supply from east end supply sources, such as gasified LNG. Algonquin states that when volumes flow at or near maximum capacity for west-to-east transportation, but only minimal volumes are entering from the eastern end of the system, it experiences constraint points limiting downstream flows.

3. Algonquin states that it drafts and packs its mainline in order to create enough system flexibility during the winter heating season to provide firm hourly swing service to certain customers while also providing hourly flexibility to the remainder of its customers on an operationally available basis. However, Algonquin indicates that during periods of high demand under a predominantly west to east flow direction, shippers that take volumes exceeding their scheduled deliveries at points downstream of mainline constraint points draw upon line pack, thereby threatening to impair Algonquin's ability to make firm scheduled deliveries to other customers.

4. Algonquin states that its tariff does not include a comprehensive OFO mechanism with penalties to address the issue of excessive shipper takes.<sup>2</sup> Algonquin states that, instead, during periods of high demand, it has historically issued postings requesting that all customers limit their daily takes to within two percent of scheduled deliveries to ensure line pack is sufficient to support system flexibility.<sup>3</sup> However, Algonquin claims that during the current heating season, a few customers have not complied with such postings and have continued to accumulate excess takes drawn from line pack. In this regard, Algonquin points out that on several days during November 2010 when Algonquin issued such notices, certain shippers took as much as 24 percent over their scheduled deliveries. Algonquin believes that such operating conditions are not sustainable through the remainder of the winter heating season.

5. To address this problem, Algonquin proposes to make changes to GT&C section 26 to enable Algonquin to target customers that are not taking gas in accordance with confirmed and scheduled nominations, and thereby protect the overall integrity of its system. First, it proposes a change to section 26.1 to give it greater flexibility to take action whenever it will be unable to deliver scheduled volumes due to the accumulation of imbalances on its system. Currently, section 26.1 triggers actions that Algonquin may take to protect its system operations when a customer's takes cause it to exceed an

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<sup>2</sup> GT&C section 29 authorizes Algonquin to issue OFOs for the limited purpose of obtaining Company Use Gas, but does not include an OFO penalty.

<sup>3</sup> Such notices are issued under GT&C section 31 to mitigate unauthorized contract daily or hourly overruns, hourly overruns being described as takes above an allowed maximum hourly scheduled quantity.

imbalance threshold defined by formulas and Algonquin determines that, if it does not take prompt action, its ability to continue to deliver scheduled quantities to other customers may be impaired by the further accumulation of such imbalances. Algonquin is proposing to change the underscored “and” to “or” in GT&C section 26.1, so that Algonquin may act either when a customer’s average hourly deliveries are out of balance or when Algonquin determines that such imbalances are impairing its ability to serve other customers, without necessarily needing both preconditions.

6. Algonquin’s current remedies may include initially issuing a notice to the offending customer, and thereafter attempting to reach mutual agreement on an appropriate action for Algonquin to take. If no agreement is reached with the customer, section 26.3 currently allows Algonquin to adjust the customer’s nominations for the remainder of the month, revoke its confirmation of customer’s upstream receipts and adjust its scheduled quantities accordingly, and to take any action within its operational capabilities to reduce the customer’s excess receipts or deliveries. Algonquin proposes to add a new subsection 26.3(e) to permit it to issue an OFO requiring the customer to limit its daily “due pipeline” imbalance,<sup>4</sup> as specified in the OFO.

7. Algonquin states that proposed section 26.6 includes the mechanics of posting and lifting OFOs in compliance with the Commission’s regulations and Order No. 637.<sup>5</sup> In summary, the proposed mechanism requires Algonquin to: (1) post notification on its website of anticipated circumstances that could require the issuance of an OFO; (2) localize the scope of the OFO to the extent possible; (3) post notification on its website by 9 a.m. Central Clock Time (CT) that the OFO will become effective at 9 a.m. CT on the next day, along with an explanation of the need for and timing of the OFO; (4) promptly lift the OFO upon cessation of the conditions which caused it to be issued; and (5) post on its website an explanation of the factors which caused the OFO to be issued and then lifted.

8. Proposed section 26.7 authorizes Algonquin to assess “an OFO Penalty equal to three times the daily Platt’s Gas Daily, Daily Price Survey posting for the High Common

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<sup>4</sup> As used in GT&C section 25, which is Algonquin’s imbalance cashout mechanism, a “due pipeline” imbalance refers to over deliveries.

<sup>5</sup> *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637, FERC Stats. & Regs. ¶ 31,091, *clarified*, Order No. 637-A, FERC Stats. & Regs. ¶ 31,099, *reh’g denied*, Order No. 637-B, 92 FERC ¶ 61,062 (2000), *aff’d in part and remanded in part sub nom. Interstate Natural Gas Ass’n of America v. FERC*, 285 F.3d 18 (D.C. Cir. 2002), *order on remand*, 101 FERC ¶ 61,127 (2002), *order on reh’g*, 106 FERC ¶ 61,088 (2004), *aff’d sub nom. American Gas Ass’n v. FERC*, 428 F.3d 255 (D.C. Cir. 2005).

price for ‘Algonquin, city-gates’ per Dth multiplied by the quantity by which it deviated from the requirements of the OFO.” Proposed section 26.8 requires Algonquin to credit any OFO penalty revenues, including interest, to non-offending parties and to subsequently file a penalty revenue disbursement report for approval by the Commission.

9. Public notice of the filing was issued on December 9, 2010. Interventions and protests were due December 15, 2010, as requested, pursuant to section 154.210 of the Commission’s regulations.<sup>6</sup> Pursuant to Rule 214,<sup>7</sup> all timely 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.

10. On December 15, 2010, the National Grid Gas Delivery Companies (National Grid)<sup>8</sup> and the New England Local Distribution Companies (New England LDCs)<sup>9</sup> each submitted comments. National Grid and the New England LDCs each state that they do not oppose the Commission accepting Algonquin’s tariff provisions. Both, however, express concern over how the new imbalance management tools will operate in practice. National Grid argues that the tools used by pipelines to maintain system integrity should be carefully tailored so as to be no more restrictive than necessary, and recommends that such tools be subject to periodic review by pipelines and their customers. National Grid thus requests that the Commission require Algonquin to submit a report to the Commission at the end of the current winter heating season, in which it describes the conditions under which Algonquin issued OFOs. It further requests that it be given the opportunity to comment or suggest modifications to the OFO program. The New England LDCs report that they have broached their concerns with Algonquin, and that Algonquin has agreed to informal discussions after the winter season in order to review the OFO program and discuss possible further changes or adjustments.

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<sup>6</sup> 18 C.F.R. § 154.210 (2010).

<sup>7</sup> 18 C.F.R. § 385.214 (2010).

<sup>8</sup> The National Grid Gas Delivery Companies, for the purpose of this proceeding, are The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Boston Gas Company and Colonial Gas Company, collectively d/b/a National Grid; EnergyNorth Natural Gas Inc., d/b/a National Grid NH; Niagara Mohawk Power Corporation d/b/a National Grid; and The Narragansett Electric Company d/b/a National Grid, all subsidiaries of National Grid USA, Inc.

<sup>9</sup> The New England Local Distribution Companies, for the purpose of this proceeding, are Bay State Gas Company, Connecticut Natural Gas Corporation, New England Gas Company, Northern Utilities, Inc., City of Norwich Department of Public Utilities, NSTAR Gas Company, The Southern Connecticut Gas Company, and Yankee Gas Services Company.

11. On December 17, 2010, Algonquin filed an answer to both parties' comments.<sup>10</sup> Algonquin argues that the formal report requested by National Grid is unnecessary for two reasons. First, Algonquin notes, proposed section 26.6 would already require Algonquin to keep all customers apprised of upcoming events that may necessitate issuance of an OFO and to provide prompt notices detailing the conditions of and reasons for any OFOs issued. Algonquin argues that it devised this section so as to be in compliance with the Commission's communications standards for OFOs, and that the provision will keep shippers informed on a more timely basis than an end-of-season report would. Second, Algonquin confirms that it has agreed to informal discussions regarding the OFO program after the winter season.

12. Section 284.12 of the Commission's regulations<sup>11</sup> requires a pipeline to take all reasonable actions to minimize the issuance and adverse impacts of OFOs, provide clear standards when an OFO will begin and end, and provide timely information to shippers. Order No. 637 requires each pipeline's tariff to: (1) state clear, individualized standards, based on objective operational conditions, for when OFOs begin and end; (2) require the pipeline to post information about the status of operational variables that determine when an OFO will begin and end; (3) state the steps and order of operational remedies that will be followed before an OFO is issued; (4) set forth standards for different levels or degrees of severity of OFOs to correspond to different degrees of system emergencies the pipeline may confront; and (5) establish reporting requirements that provide information after OFOs are issued on the factors that caused the OFO to be issued and then lifted.<sup>12</sup>

13. With one exception noted below, Algonquin's proposed OFO tariff provisions are generally consistent with the requirements of Order No. 637 and the Commission's regulations regarding clarity of standards for issuing an OFO, timing of communications, and remedial measures that are graduated in severity in order to minimize issuance of OFOs. The proposed OFO provisions also appropriately provide for crediting of penalty revenues. We also find it unnecessary to require Algonquin to submit a formal report at the end of the winter season, describing the conditions that led it to issue OFOs, since section 26.6 requires Algonquin to provide prompt notices detailing the reasons for any OFOs it issues.

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<sup>10</sup> Rules 213(a)(3) and 213(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 213(a)(3), (d) (2010), permit all timely answers to comments if not otherwise prohibited by Rule 213(a)(2), 18 C.F.R. § 213(a)(2) (2010). As the comments do not protest acceptance of the filing, the answer is permitted.

<sup>11</sup> 18 C.F.R. § 284.12(b)(2)(iv) (2010).

<sup>12</sup> Order No. 637, FERC Stats. & Regs. ¶ 31,091 at 31,312-13.

14. However, we find that Algonquin's proposed change to section 26.1 is unreasonable and will, therefore, reject it. Currently, 26.1 authorizes Algonquin to take action to protect its system integrity if excessive customer imbalances occur and Algonquin determines that continued accumulation of such imbalances will impair its ability to make deliveries to other customers. In other words, Algonquin must determine that such imbalances will threaten system reliability in order to take any remedial action. By changing the word "and" to "or," Algonquin could issue an OFO any time a "Customer's actual average hourly deliveries over any period of time under all contracts ... at a given Point" exceed or are less than its receipts, even if there were no adverse impact on Algonquin's system operations. This would go beyond the stated aim of protecting system integrity, and would be unreasonable given the severity of the remedial actions permitted by section 26.

15. Therefore, we will accept Algonquin's proposed tariff record to be effective January 8, 2010, subject to the following condition. Within 15 days of the issuance of this order, Algonquin must refile to restore, in section 26.1(b), the word "and," which Algonquin proposed to change to "or."

By direction of the Commission.

Kimberly D. Bose,  
Secretary.