

134 FERC ¶ 61,259
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 31, 2011

In Reply Refer To:
Natural Gas Pipeline Company of
America LLC
Docket No. RP11-1824-000

Natural Gas Pipeline Company of America LLC
3250 Lacey Road, Suite 700
Downers Grove, Illinois 60515

Attention: Bruce H. Newsome, Vice President

Reference: Non-Conforming Rate Schedule IBS Agreement

Ladies and Gentlemen:

1. On February 28, 2011, Natural Gas Pipeline Company of America LLC (Natural) filed revised tariff records¹ to include a non-conforming service agreement with Brazos Electric Power Cooperative Inc. (Brazos) under Rate Schedule IBS (Interruptible Balancing Service). Natural requests an April 1, 2011, effective date for the tariff records. We accept Natural's revised tariff records setting forth its non-conforming agreement with Brazos effective April 1, 2011, subject to the conditions set forth below.

2. Brazos is an electric power generating and transmission cooperative in Texas with 17 members. Natural's proposed agreement with Brazos is for service under Rate Schedule IBS. The primary term of the agreement is from April 1, 2011, through March 31, 2016. Service under the agreement is at the maximum rate. Natural identifies two non-conforming provisions included in the agreement. First, section 10(g) of the agreement sets forth succession and assignment provisions involving the Rural Utilities Service (RUS). Natural states that these provisions were included in the agreement at Brazos' request, and that federal law requires Brazos to include these provisions in the instant agreement based on its relationship with RUS. Second, section 10(m) of the agreement stipulates that Natural will provide service to Brazos pursuant to section 311 of the Natural Gas Policy Act (NGPA), and not under the Natural Gas Act (NGA).

¹ See Appendix.

Natural states that these provisions should be permissible because they (1) do not change the character, nature, or operational considerations of service provided to Brazos; (2) do not affect the substantive rights of parties; and (3) do not result in undue discrimination.

3. Public notice of the filing was issued on March 1, 2011. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.² Pursuant to Rule 214,³ all timely filed motions to intervene and any unopposed 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. No protests or adverse comments were filed.

4. The Commission accepts Natural's revised tariff sheets subject to conditions. Natural proposes the following language in section 10(m) of the agreement: "Natural will provide the service hereunder to Shipper pursuant to Section 311 of the [NGPA] and not under the [NGA]." Natural is an open access, interstate pipeline operating under the NGA. Under section 311 of the NGPA, interstate pipelines may transport natural gas on behalf of an intrastate pipeline or any local gas distribution company.⁴ However, Natural has not explained how it is authorized to offer service to Brazos (an electric cooperative) pursuant to section 311 of the NGPA instead of the NGA. Accordingly, we direct Natural to file, within 15 days of the date this order issues, revised tariff records removing from the agreement the provision that would allow Natural to provide service to Brazos under section 311 of the NGPA. In the alternative, Natural may file a detailed explanation stating why Natural may offer service to Brazos under this agreement pursuant to section 311 of the NGPA rather than under the NGA.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

² 18 C.F.R. § 154.210 (2010).

³ 18 C.F.R. § 385.214 (2010).

⁴ 15 U.S.C. 3371. The NGPA defines an LDC as "any person, other than any interstate pipeline or any intrastate pipeline, engaged in the transportation, or local distribution, of natural gas and the sale of natural gas for ultimate consumption." 15 U.S.C. 3301(17).

Appendix

Natural Gas Pipeline Company of America LLC
FERC Gas Tariff
FERC NGA Gas Tariff
Tariff Records to Become Effective April 1, 2011, Subject to Conditions

- Part 6.50, Non-Conforming Agreements, 4.0.0
- Part 6.50.1, Non-Conforming Agreements, 0.0.0
- Part 6.50.2, Non-Conforming Agreements, 0.0.0
- Part 6.50.3, Non-Conforming Agreements, 0.0.0
- Part 6.50.4, Non-Conforming Agreements, 0.0.0
- Part 6.50.5, Non-Conforming Agreements, 0.0.0
- Part 1.0, Table of Contents, 5.0.0
- Part 3.3, Brazos Electric Power Cooperative Inc., 0.0.0