136 FERC ¶ 61,154
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Algonquin Gas Transmission, LLC | Docket Nos. RP11-2308-000
RP11-2308-001

ORDER ACCEPTING REVISED TARIFF RECORDS SUBJECT TO CONDITION

(Issued August 31, 2011)

1. On July 28, 2011, as amended on August 8, 2011 in Docket No. RP11-2308-001, Algonquin Gas Transmission, LLC (Algonquin) filed proposed tariff records[1] that would revise sections 26 and 29 of its General Terms and Conditions (GT&C) concerning Operational Flow Orders (OFO). Algonquin also proposed to change commodity price indices used to cash out imbalances and for other purposes. Algonquin requests waiver of the Commission's 30-day notice requirement so that the tariff records become effective on September 1, 2011. The Commission grants waiver of the notice requirement and accepts the tariff records identified in the Appendix to be effective September 1, 2011, subject to condition.

2. Algonquin revised section 26 of its GT&C in Docket No. RP11-1605 during the 2010/2011 winter heating season to permit it to issue OFOs targeting shippers and point operators whose continued accumulation of physical imbalances threatened system reliability.[2] Algonquin states that the current filing results from subsequent informal meetings with intervenors in that docket and other customers regarding its OFO provisions.

3. Public notice of the filings in Docket No. RP11-2308-000 and RP11-2308-001 was issued, respectively, on August 1, 2011, and August 9, 2011. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.[3]

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[1] *See* Appendix.

[2] *Algonquin Gas Transmission*, LLC, 134 FERC ¶ 61,008 (2011).

[3] 18 C.F.R. § 154.210 (2011).

Pursuant to Rule 214,[4] all timely filed motions to intervene and any unopposed motion 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. The New England Local Distribution Companies filed comments supporting Algonquin's proposals.

OFO Revisions

4. Algonquin's filing reorganizes and revises the OFO provisions currently included in sections 26 (Actions Required to Protect System Operations) and 29 (Operational Flow Orders) of Algonquin's GT&C.[5] Existing section 26.3(e) permits Algonquin to issue an OFO requiring a customer, operator, or agent "to limit its daily due pipeline imbalance, as specified in the OFO." Section 26.1(a) describes such imbalance as occurring when the "actual average hourly deliveries" for a customer's account at a point over any period of time exceed receipts at relevant points, and Algonquin determines that unless it acts promptly, the further accumulation of such imbalance may impair its ability to continue to deliver scheduled quantities to other customers. In addition to authorizing Algonquin to issue an OFO for this reason, section 26.3 permits Algonquin to use nomination, scheduling and confirmation processes, and take any other action within its operational capabilities if it cannot agree with a customer within a reasonable time on what action to take to protect its system.

5. Algonquin proposes to revise section 26.1(a) in order to eliminate the requirement that Algonquin determine the existence of such "due pipeline" imbalances based on an average of actual hourly deliveries, and instead permit the imbalance to be determined based on actual hourly deliveries and receipts.[6]

6. Algonquin proposes to add a new section 26.5 granting the pipeline the following additional reasons for issuing an OFO:

> to alleviate conditions which threaten to impair reliable firm service, to maintain pipeline operations at the pressures required to provide an efficient and reliable firm service, to have adequate gas supplies in the system to deliver on

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[4] 18 C.F.R. § 385.214 (2011).

[5] Unless otherwise indicated section references are to Algonquin's GT&C.

[6] Algonquin similarly revises section 26.1(b) to remove the averaging requirement for "due customer" imbalances, which Algonquin can resolve under section 26.3 by means other than issuing an OFO.

> demand (including injection of gas into the mainline, and providing line pack), to maintain firm service to all Customers and for all firm services, and to maintain the system in balance for the foregoing purposes.

7. Algonquin also proposes to revise renumbered section 26.7, which describes the manner in which Algonquin issues an OFO. Prior to the proposed revisions, section 26.7 required Algonquin to: (a) post notification on its website of anticipated circumstances that could require the issuance of an OFO; (b) localize the scope of the OFO to the extent possible; (c) 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; (d) promptly lift the OFO upon cessation of the conditions which caused it to be issued; and (e) post on its website an explanation of the factors which caused the OFO to be issued and then lifted.

8. As revised, paragraph (b) of section 26.7 would also permit Algonquin to issue a system-wide OFO if a more localized OFO either does not, or would not resolve the system problem. Revised paragraph (c) eliminates the current mandatory 24-hour delay between an OFOs posting and its effectiveness, instead providing that the OFO will state the date and time when it becomes effective. Under new paragraph (d), if circumstances more seriously threaten the operational integrity of the system and if the notice period in paragraph (c) is not sufficient to fully address such circumstances, then Algonquin can issue an OFO to be effective immediately. Finally, paragraphs (c) and (d) add language requiring Algonquin to mail the posted OFO notice and explanation to the Commission by overnight mail.

9. Currently under renumbered section 26.8, shippers that deviate from the requirements of an OFO are assessed a penalty per Dth equal to three times an indexed commodity price described in that section.[7] Revised section 26.8 would more precisely describe the index price as the one posted on the day when non-compliance occurred.

10. Algonquin also proposes to revise section 29, which is captioned "Operational Flow Orders," primarily to modify the terminology used to describe the actions that section authorizes Algonquin to take. Current section 29 permits Algonquin to issue a "flow order" notifying customers that it needs to retain volumes for Company Use Gas during a specified period in addition to the quantities it is authorized to retain in-kind under its fuel reimbursement mechanism in section 32. Algonquin may only invoke its authority to issue such "flow orders," if it has determined that the quantity of gas it needs "is not obtainable in the time frame required by utilizing off-system resources" and it has

[7] "Platts Gas Daily, 'Daily Price Survey' posting for the High Common price for 'Algonquin, city-gates' for the Day" when the non-compliance occurred.

first “taken any appropriate action” under section 26. Current section 29 also requires that any “flow orders” be issued on a system-wide basis, unlike OFOs issued under section 26 which can be individualized or localized. Under section 29.4, Algonquin credits customer invoices for the value of the additionally retained volumes based on an indexed commodity price described therein.

11. Algonquin proposes to revise section 29 to describe the action authorized by that section as a “System Use Requirements Notification (‘Notification’)” rather than a “flow order” or an “operational flow order.” Accordingly, revised section 29 would be captioned “System Use Requirements” rather than “Operational Flow Orders.” Algonquin does not propose to change the substantive provisions of section 29 concerning when it may invoke its authority under that section and what notification it must provide shippers. Algonquin does propose to more precisely describe the indexed commodity price to be used for the customer credits required by section 29.4.

12. We find that Algonquin’s proposed OFO-related tariff revisions are consistent with the requirements of Order No. 637 and the Commission’s regulations. Section 284.12 of the Commission’s regulations[8] 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. In addition, 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.[9] The tariff revisions in section 26.7 satisfactorily implement these requirements. Moreover, consistent with our action on similar tariff proposals, we will approve new section 26.5, which generally describes conditions that would justify issuing an OFO.

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[8] 18 C.F.R. § 284.12(b)(2)(iv) (2011).

[9] *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637, FERC Stats. & Regs. ¶ 31,091 at 31,312-13, *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).

13. In addition, we approve the elimination from section 26.1(a) of a requirement that Algonquin average hourly deliveries when determining that a "due pipeline imbalance" exists as referred to in section 26.3(e). Instead, the proposal to base such determination on a comparison between actual hourly receipts and deliveries simplifies and clarifies the basis for issuing an OFO under section 26.3(e). We also approve a similar revision in section 26.1(b) describing a "due shipper" imbalance that could potentially threaten system reliability.

14. Finally, we will approve Algonquin's proposal in revised section 29 permitting it to temporarily retain additional Company Use Gas by issuing a system-wide notification rather than an OFO. This is a procedural revision which does not otherwise change the current preconditions described in that section that must be satisfied before additional retention is permitted. Also, an OFO currently issued under section 29 functions as a notice, does not require action by shippers, and does not carry an associated penalty. Therefore, we find that Algonquin's proposal to issue a system-wide notification rather than an OFO under this section is just and reasonable.

Price Index Revisions

15. Algonquin also proposes to revise or change the descriptions of several commodity price indices used in its tariff, as detailed below. We will approve Algonquin's proposal subject to condition.

16. Algonquin proposes to change the index price established in section 25 (Imbalance Resolution Procedures) for cashing out monthly shipper imbalances that have not been resolved after netting and trading. Paragraph (a) of Section 25.10 sets forth a method for calculating an index price that is then applied in subsequent paragraphs to determine the monetary value of unresolved imbalances. Prior to the proposed revisions, this calculated index price was the average of imbalance cash-out prices established by upstream pipelines delivering to Algonquin's customer's account, weighted according to customer's receipts and including any related embedded charges. If no such upstream index prices exist, then Algonquin uses the cash-out index price established by Texas Eastern Transmission, LP for deliveries at Lambertville, New Jersey (TETCO price point).

17. In its transmittal letter, Algonquin states that section 25.10(a) was implemented in its Order No. 636 restructuring proceeding when there were no published index prices representative of activity on its system. Algonquin further states that since then, Platts Gas Daily has begun publishing an index price for "Algonquin, city-gates." Accordingly, Algonquin proposes to base its determination of the imbalance cash-out index price under section 25.10(a) on "Platts Gas Daily, 'Daily Price Survey' postings for the High Common, Low Common and Midpoint prices for 'Algonquin, city-gates,'" by calculating the average daily price of each of the three posted prices for the relevant month and the

first seven days of the next month. Each of the index prices thus calculated will be selectively applied in subsequent paragraphs depending on whether the imbalance is less than, equal to, or greater than 5 percent, and whether the imbalance is due Algonquin or due the shipper.

18. Algonquin asserts that the proposed "Algonquin, city-gates" price point meets the Commission's required minimum average liquidity criteria,[10] and is published by an index developer, Platts, that the Commission has recognized as adopting substantially all of the standards required in the Commission's *Policy Statement* for the creation and publication of an energy price index.[11] Algonquin has provided 90 days of data in Appendix B of the filing on daily volumes transacted and number of trades at the proposed daily index price point to demonstrate that it meets the minimum average conditions for liquidity required by the Commission. Finally, Algonquin asserts that its proposal to include the first seven days of the month following the month of gas flow in the determination of the index price safeguards against cash-out parties engaging in arbitrage during the last week of a gas flow month. Algonquin cites to other proceedings in which the Commission has approved similar proposals.[12] Based on our review of Algonquin's supporting data,[13] we will approve the proposed revision of section 25.10(a) as consistent with Commission policy and precedent.

19. Algonquin also proposes to revise sections 7.5 and 7.6 of Rate Schedule PAL in order to more precisely describe the "Algonquin, city-gate" index prices used in the formulas for determining the value of gas retained or sold under that rate schedule. These revisions provide clarity to the descriptions of the index prices and are therefore approved.[14]

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[10] Algonquin cites *Price Discovery in Natural Gas and Electric Markets; Order Regarding Future Monitoring of Voluntary Price Formation, Use of Price Indices in Jurisdictional Tariffs, and Closing Certain Tariff Dockets*, 109 FERC ¶ 61,184, at P 40 (2004).

[11] Citing *id.* P 28, also *Price Discovery in Natural Gas and Electric Markets; Policy Statement on Natural Gas and Electric Price Indices*, 104 FERC ¶ 61,121 (2003) (*Policy Statement*).

[12] Citing, *e.g.*, *Colorado Interstate Gas Co.*, 114 FERC ¶ 61,333 (2006).

[13] Appendix B demonstrates that daily average flows and number of trades at the proposed index price point far exceed the Commission's minimum requirements.

[14] For a similar reason, we also approve the revised description of the price index in section 31.2 used for penalizing unauthorized contract overruns.

20. Finally, Algonquin proposes to change an index price used in section 32.5(a). Section 32.5(a) describes Algonquin's FRQ (Fuel Reimbursement Quantity) Deferred Account, wherein, in part, it records monthly over and under recoveries of fuel, as well as net proceeds from resolution of imbalances under section 25. To parallel its proposed elimination of the TETCO price point index in section 25.10(a), described above, Algonquin proposes to replace the TETCO price point index as used in section 32.5(a) for determining the value of volumes credited to the FRQ Deferred Account, with a reference to the "base index price, as determined pursuant to section 25.10(a)". Since we are approving Algonquin's revision of section 25.10(a), we will also approve this parallel revision of section 32.5(a), subject to the following condition.

21. Revised section 25.10(a) establishes three separate Algonquin city-gate prices (High Common, Midpoint, and Low Common) each of which is averaged over a five-week period and used for different purposes, as set forth in paragraphs (b) and (c) of section 25.10, depending on the size and direction of the imbalance. Therefore, it appears that the proposed reference in section 32.5(a) to "the base index price" in section 25.10(a) may need further clarification to establish a single index price for valuing gas credited to the FRQ Deferred Account. Accordingly, we direct Algonquin to file either an explanation or further revision of this proposal within 15 days of the date of this order.

The Commission orders:

The Commission accepts the tariff records identified in the Appendix to be effective September 1, 2011, subject to the condition regarding section 25.10(a) discussed above.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

Algonquin Gas Transmission, LLC
Algonquin Database 1
FERC NGA Gas Tariff
Tariff Records Accepted Effective September 1, 2011
Subject to Condition

Part 1, Table of Contents, 1.0.0
10., Rate Schedule PAL, 1.0.0
Part 6, General Terms and Conditions, 1.0.0
25., Imbalance Resolution Procedures, 1.0.0
26., Protection of System Operations and Operational Flow Orders, 2.0.0
29., System Use Requirements, 1.1.0 *
31., Unauthorized Contract Overrun Gas, 1.0.0
32., Fuel Reimbursement Quantity, 2.0.0

* Filed in Docket No. RP11-2308-001