137 FERC ¶ 61,093
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Texas Gas Transmission LLC — Docket No. RP11-2569-000
RP11-2569-001

ORDER CONDITIONALLY ACCEPTING TARIFF RECORDS

(Issued October 31, 2011)

1. On September 16, 2011, Texas Gas Transmission, LLC (Texas Gas) filed revised tariff records[1] and supporting workpapers to add an Enhanced Nominations Service (ENS) to its tariff that provides eleven additional nomination cycles for firm service at eligible receipt points. On September 19, 2011, Texas Gas filed an amendment in Docket No. RP11-2569-001 to correct a typographical error in its original filing. As discussed below, the Commission accepts the proposed tariff records to become effective November 1, 2011, subject to Texas Gas filing revised tariff records within 30 days of the date this order issues as discussed below.

I. Description of Texas Gas's Proposed ENS Service

2. Texas Gas' tariff includes the standard nomination timelines as reflected in the standards established by the North American Energy Standards Board (NAESB). These standards establish the following four nomination periods:

[1] *See* Appendix.

Cycle	Nomination Time (Central Clock Time)	Confirmation By Connected Parties	Scheduling Received by Shipper	Nomination Effective	Bumping IT
Timely	11:30 a.m. (DA)[2]	3:30 p.m. (DA)	4:30 p.m. (DA)	9 a.m. (DO)	N/A
Evening	6 p.m. (DA)	9 p.m. (DA)	10 p.m. (DA)	9 a.m. (DO)	Yes
Intra-Day 1	10 a.m. (DO)	1 p.m. (DO)	2 p.m. (DO)	5 p.m. (DO)	Yes
Intra-Day 2	5 p.m. (DO)	8 p.m. (DO)	9 p.m. (DO)	9 p.m. (DO)	No

3. Texas Gas states that the four NAESB nomination cycles may not be sufficient to meet its changing market needs, especially the increasing number of natural gas generators in the electric market. Texas Gas explains that natural gas already fuels power plants connected to Texas Gas, and the number of plants relying on natural gas is expected to increase due to various factors, including environmental regulations affecting coal-fired electric generation causing increased coal to gas fuel switching in the power generation sector. In addition, natural gas has become an increasingly attractive fuel source for power plants because it is reliable and domestically available in abundance through the recent development of shale plays, such as the Fayetteville shale play, to which Texas Gas is connected.[3]

4. Texas Gas states that certain power plants connected to Texas Gas have requested the ability to effectuate gas deliveries quickly to meet changing demand throughout the Gas Day while managing such things as weather changes and the variable nature of renewable fuel sources. By providing nomination cycles in addition to the existing NAESB cycles, Texas Gas states it is taking another step toward improving the integration between the natural gas and power industries. It argues that the proposed ENS service is thus consistent with Commission's policy that encourages pipelines to

[2] "DA" means the day-ahead of gas flows. "DO" means the day-of gas flows.

[3] Texas notes that the Commission's State of the Market Report recognizes that natural gas from the Haynesville, Fayetteville and Marcellus basins alone grew more than 7 Bcf/d in the four years from January 2007 to January 2011. FERC, "2010 State of the Markets" at 7 (Apr. 21, 2011) *available at* http://www.ferc.gov/market-oversight/st-mkt-ovr/som-rpt-2010.pdf .

"'offer special services or increased nomination opportunities that will better fit the profile of gas fired generation.'"[4]

5. Texas Gas proposes to offer a new ENS service to all firm and no-notice service customers. The proposed ENS service will allow eleven additional intraday nomination cycles. Texas Gas states that it anticipates the primary users of ENS will be electric generators, which experience rapid dramatic changes in gas flows.

6. Under the new ENS Rate Schedule, eleven nomination cycles will be available in addition to the four NAESB standard cycles. These additional intra-day cycles start at 8:00 a.m. Central Standard Time one hour before the start of the Gas Day and occur approximately every two hours across the Gas Day (with the exception of three hours between Cycle 8 and Cycle 9 and between Cycle 9 and Cycle 10). Texas Gas states that the confirmation deadline will be one hour after the nomination deadline and the effective flow time will be two hours after the nomination deadline. Texas Gas states that the new ENS service will be limited to a firm or no-notice customer's primary delivery points and eligible physical receipt points. Texas Gas elaborates that a receipt point will be considered eligible where (1) the point operator has personnel available 24 hours a day to provide confirmation, and (2) there is electronic measurement and flow control operated by Texas Gas. Texas Gas has provided a list of the seven receipt points that are currently eligible for ENS service, and it states that it will post these points on its website.

7. Texas Gas states that a nomination pursuant to an ENS nomination cycle deadline will be evaluated for flow during the defined confirmation period. Texas Gas states that if the interconnecting party at the receipt point does not effectuate confirmed gas flows within one hour of the scheduled flow time, Texas Gas will reduce the ENS nominations through the scheduling process to the previously scheduled levels. However, Texas Gas specifies that for ENS nominations associated with no-notice service, Texas Gas will deem any gas delivered during such period to be from the customer's Unnominated Seasonal Quantity.

8. Texas Gas states that an ENS customer will not be able to bump another firm customer's scheduled and flowing gas quantities. Texas Gas states that an ENS customer may bump an interruptible customer's scheduled and flowing gas quantities through ENS Nomination Cycle No. 5 (which has a nomination deadline of 4:00 p.m. CST), but not thereafter. Texas Gas states that this preserves the firm customer's existing right under

[4] Texas Gas, September 16, 2011 Application at 3 (quoting *Standards for Business Practices for Interstate Natural Gas Pipelines*, Order No. 587-U, FERC Stats. & Regs. ¶ 31,307, at P 27 (2010)).

the NAESB standard cycles to bump interruptible gas prior to the Intraday No. 2 Nomination Cycle. Texas Gas states that if bumping occurs, the interruptible customer will have the right to nominate the gas quantities that were bumped during the ENS additional nomination cycle at any physical receipt point eligible under Rate Schedule ENS, provided that capacity is available at that point (meaning that it is not being used by other shippers, including interruptible shippers with flowing gas). Texas Gas also clarifies that if a bumped interruptible shipper wishes to reschedule at a receipt point ineligible for ENS, the interruptible customer must wait until the next NAESB standard cycle to nominate to reschedule.

9. Texas Gas states that ENS service is an optional add-on service and that to add ENS service, the customer will execute an ENS addendum to its firm transportation base contract. Texas Gas states that all quantities designated for service under Rate Schedule ENS must be the same as those quantities designated as contract demand under the base contract, except that for no-notice services the quantities designated must be the same as the nominatable portion of the customer's base contract.

10. In presenting its proposal, Texas Gas emphasizes that it will make ENS service available to any customer satisfying the requirements of the rate schedule. Texas Gas emphasizes that the Commission has stated that the NAESB nomination timeline "'establishes only the minimum requirement to which pipelines must adhere,'" and that the Commission has expressed the expectation that "'individual pipelines supporting gas-fired generators will be considering the addition of other intra-day nomination opportunities that would be of benefit to their shippers.'"[5] Texas Gas states that providing nomination cycles in addition to the NAESB cycles is consistent with the Commission's policy encouraging pipelines to "offer special services or increased nomination opportunities that will better fit the profile of gas fired generation."[6]

[5] Texas Gas, September 16, 2011 Application at 2 (quoting *Standards for Business Practices for Interstate Natural Gas Pipelines; Standards for Business Practices for Public Utilities*, Order No. 698, FERC Stats. & Regs. ¶ 31,251, at P 69 (2007)).

[6] Texas Gas, September 16, 2011 Application at 3 (Order No. 587-U, FERC Stats. & Regs. ¶ 31,307 at P 27).

II. Description of Texas Gas's Proposed Rates for ENS Service

11. Texas Gas proposes a two-part rate for ENS service:

Rate Schedule ENS Proposed Rates	Reservation	Usage
Maximum (per MMBtu)	$0.0219	$0.0217
Minimum (per MMBtu)	$0.0000	$0.0000

Texas Gas emphasizes that these rates are in addition to any rates charged for service under a customer's base Rate Schedules FT, STF, NNS, NNL, SGT, SGL, SNS, or WNS agreement.

12. Texas Gas explains that the reservation charge applicable to Rate Schedule ENS is derived from the direct incremental project costs incurred by Texas Gas to implement the new service. Texas Gas states that in determining the reservation charge, it utilized anticipated total annual billing determinants of 26,730,000 MMBtu per year. Texas Gas states that the usage charge of $0.0217 per MMBtu per day is derived from the approved maximum rate for Rate Schedule PAL. Texas Gas explains that due to the fewer nominations during the ENS nomination cycles, there will be more use of line pack during the lag periods to balance the system, similar to the use of line pack to perform a short-term parking and lending service. Texas Gas states that deriving the ENS usage rate from Texas Gas' existing PAL rate ensures that the usage rates charged for Rate Schedule ENS are consistent with the current rates for gas lending approved for Texas Gas. Texas Gas states that the daily lending charge under Rate Schedule PAL of $0.1196 per MMBtu is applicable for a 24-hour period, and that the average time between ENS nomination cycles is 4.36 hours. Consequently, Texas Gas proposes a usage charge for Rate Schedule ENS equal to $0.0217 per MMBtu.[7]

13. Texas Gas requests waiver of the requirement in section 154.202(a)(1)(vii) of the Commission's regulations that require Texas Gas to provide a projection of the estimated effect on revenue and costs over the twelve-month period commencing on the proposed effective date of the filing. Texas Gas states that ENS service is a new optional service and thus Texas Gas cannot precisely forecast the revenues (if any) it may receive from implementing the ENS service. Texas Gas states that any rate related issues for ENS service will be addressed in Texas Gas' next rate case.

[7] (4.36 hours / 24 hours) * $0.1196 = $0.0217 per MMBtu.

III. Notice, Interventions, Protests and Answers

14. Public notice of the filing was issued on September 19, 2011. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2011)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2011)), 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. Devon Gas Services, LP (Devon) filed a timely protest. Atmos Energy Corporation (Atmos), Kentucky Utilities Company (KU), Tennessee Valley Authority (TVA), and Nicor Gas (Nicor) filed timely comments. On September 29, 2011, Indicated Shippers[8] submitted a late protest one-day out-of-time. The Commission accepts Indicated Shippers' late protest given Indicated Shippers' interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

15. On October 4, 2011, Texas Gas filed an answer. On October 11, 2011, Indicated Shippers filed an answer and later in the day on October 11, 2011, Texas Gas filed a subsequent answer to the Indicated Shippers. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest unless otherwise ordered by the decisional authority. The Commission accepts the answers filed by Texas Gas and Indicated Shippers because they have provided information that assisted our decision-making process.[9]

---

[8] Chevron Natural Gas, a division of Chevron U.S.A., Inc. and ConocoPhillips Company (collectively, Indicated Shippers).

[9] Texas Gas objects to Indicated Shippers' Answer, claiming that it is highly prejudicial. Notwithstanding this objection, the Commission will exercise its discretion to accept Indicated Shippers' answer. The Commission has accepted two answers filed by Texas Gas. Furthermore, Texas Gas incorrectly stated in its October 11, 2011 answer that the NGA required the Commission to issue an order by October 16, 2011, 30 days after its filing. This is incorrect. Texas Gas proposed that its filing not take effect until November 1, 2011. As the Commission has made clear, when a pipeline proposes an effective date later than 30 days from the date of the filing, the Commission need not act until the requested effective date, since the filing cannot go into effect by operation of law until the date requested. *See Order Establishing Procedures Relating to Tariffs Filed Electronically*, 130 FERC ¶ 61,047, at P 6 (2010). Therefore, under e-tariff, the Commission uses the Record Proposed Effective Date code to establish the proposed effective date for any statutory filing. If that date is after the otherwise statutorily-

(continued…)

16. The objections raised in the comments and protests are discussed below. TVA supports Texas Gas' proposal, arguing that added flexibility in nominations is necessary in the natural gas marketplace to move toward harmonization between the natural gas market and electric generators. Atmos, and Kentucky Utilities generally support Texas Gas' proposal, stating that the additional service should help electric generation customers manage the uneven hourly consumption patterns of gas fired generation.

IV. Discussion

17. As Texas Gas notes, the NAESB nomination timelines establish only the minimum requirements. Pipelines may propose additional nomination standards that may better fit the needs of their systems.[10] Consistent with this policy, and as discussed below, the Commission accepts Texas Gas' proposed tariff sheets to become effective November 1, 2011, subject to the conditions required by this order.

A. Effect on Interruptible Service

1. Protests and Comments

18. Indicated Shippers and Devon assert that the proposed ENS service degrades existing interruptible transportation. Indicated Shippers and Devon object that Texas Gas's proposal permits it to bump interruptible service on one hour's notice (or less) during at least five additional intra-day nomination cycles between the 8:00 a.m. (beginning of ENS Cycle 1) and 6:00 p.m. (end of Cycle 6). In contrast, Indicated Shippers and Devon aver that under Texas Gas' currently effective tariff, an interruptible shipper with a confirmed nomination at the start of the Gas Day knows that its flowing gas will not be bumped for an 8-hour period (9:00 a.m. to 5:00 p.m.), a period which Texas Gas would reduce to one hour. Indicated Shippers and Devon state that although Texas Gas' proposal allows a bumped interruptible customer to submit a revised nomination at the next ENS nomination cycle, this nomination must be at another ENS receipt point, where the interruptible customer may not have gas support or the interruptible rate is not applicable. Moreover, Indicated Shippers and Devon add that if upstream and downstream pipelines are involved, use of the ENS cycles at different points is of no help to interruptible shippers. Devon reiterates its concern about interruptible service being bumped if gas is not flowing for operational reasons and asks

---

established effective date, then the statutory period is extended until the Tariff Record Proposed Effective Date. *Id.*

[10] Order No. 698, FERC Stats. & Regs. ¶ 31,251 at P 69.

whether the interruptible shipper will be given an opportunity to re-nominate if the ENS shipper later re-nominates, freeing up capacity.

19. Indicated Shippers allege that Texas Gas' proposal to increase potential nomination cycles available to bumped interruptible service is inconsistent with the Commission's previously stated reasons for not allowing bumping of interruptible beyond the Intra-Day No. 1 Nomination Cycle. Indicated Shippers add that the additional cycles will further reduce the time to react to a cut in interruptible service and would decrease the number of available counter-parties in the event of a cut in scheduled volumes. Indicated Shippers state that currently at the start of a flowing Gas Day, an interruptible shipper knows that its flowing gas will not be bumped at least until 5:00 p.m., and that Texas Gas' proposal reduces this time period to one hour (from 9:00 a.m. to 10:00 a.m.). Indicated Shippers also state that Texas Gas' proposal reduces the notice that a bumped interruptible shipper receives from at least three hours[11] to one hour or less. The Indicated Shippers allege that allowing the bumping of interruptible service with only one hour's notice (or less) is insufficient to give an interruptible shipper adequate time to arrange for alternative supplies and alternative transportation for that Gas Day or provide protection against penalties on other pipelines which do not have policies allowing revisions in ITS nominations to accommodate Texas Gas' policies under Rate Schedule ENS.

20. Indicated Shippers assert that the proposed ENS service will destroy the stability of interruptible service. Indicated Shippers argue that if electric generators wish to secure additional firm capacity rights, they should contract for no-notice service or greater firm MDQs. Indicated Shipper also assert that automatic re-nomination during the next nomination cycle should occur after confirmed interruptible nominations are bumped.

2. Texas Gas' Answer

21. In its answer, Texas Gas contends that its proposal is consistent with Commission policy involving the bumping of interruptible service. Texas Gas states the proposed ENS service is consistent with the No-Bump Rule, which provides that an interruptible customer cannot be bumped during or after Intraday Nomination Cycle 2. Noting that the proposed ENS service bumps interruptible service through ENS Additional Nomination Cycle No. 5 (which has a deadline of 4:00 p.m. CST), the proposed ENS service provides interruptible customers assurance by the afternoon of the Gas Day that they will receive their scheduled gas. Moreover, Texas Gas emphasizes that interruptible services are by

[11] In the Intra-Day 1 Cycle, the IT shipper is informed that it has been bumped at 2:00 p.m. to be effective at 5:00 p.m.

definition interruptible,[12] and that even under current conditions, when an interruptible customer's flows are interrupted at a receipt point, that customer may not have ready access to supply at the same rate at alternative receipt points. Texas Gas also notes that the proposed ENS service only applies at a limited number of receipt points. Texas Gas emphasizes that interruptible customers may either nominate interruptible service from the limited number of ENS receipt points during the ENS nomination cycle or re-nominate at any other point on the system during a NAESB standard nomination cycle.

22. Texas Gas also requests that the Commission not require Texas Gas to offer automatic re-nominations, which Texas Gas states that it does not have the operational capability to provide.

3. Indicated Shippers' Answer

23. In their answer, Indicated Shippers ask how an interruptible customer bumped in ENS Nomination Cycle No. 5 will be able to nominate in the Intraday 2 Nomination cycle. Indicated Shippers note that shipments aren't even confirmed in Cycle No. 5 until 5:00 p.m., the same time that nominations are due in the Intraday 2 Nomination Cycle. Indicated Shippers also raise concerns about the operational effect of the new ENS service on interruptible service, asking about the current level of non-ENS firm and interruptible service at the proposed ENS receipt points. Indicated Shippers also question whether interruptible service will not be affected because Texas Gas is not proposing to add additional storage.

4. Commission Decision

24. We find Texas Gas' proposal generally reasonable as it applies to interruptible service, except that Texas Gas has not provided sufficient advance bumping notice. We therefore will accept the filing subject to the condition that Texas Gas revise its tariff to provide advance notice of bumping to interruptible shippers. Firm shippers pay reservation charges and are therefore entitled to higher scheduling priority than interruptible shippers. Section 284.12 of the Commission regulations provides that firm shippers are entitled to a higher scheduling priority than interruptible shippers:

> A pipeline must give scheduling priority to an intra-day nomination submitted by a firm shipper over nominated and scheduled volumes for interruptible shippers. When an

[12] Texas Gas, October 4, 2011 Answer at 9 (citing *CenterPoint Energy Gas Transmission Company*, 125 FERC ¶ 61,334, at P 15 n.7 (2008); *Gulf South Pipeline Company, LP*, 136 FERC ¶ 61,086, at P 24 n.20 (2011)).

> interruptible shipper's scheduled volumes are to be reduced as a result of an intra-day nomination by a firm shipper, the interruptible shipper must be provided with advance notice of such reduction and must be notified whether penalties will apply on the day its volumes are reduced.[13]

25. We, however, find that Texas Gas' proposal is unclear as it relates to the advance notice provided to interruptible shippers whose quantities have been reduced, so that the interruptible shippers have the opportunity to make adjustments to their gas flow in response to the notice. Under section 5.10 of the proposal, Texas Gas provides under the ENS schedules that (1) customer's nomination will be received by a specific time, e.g., 2 p.m. in ENS Cycle 4, (2) confirmation from upstream and downstream parties will be received one hour later, e.g., 3 p.m., and (3) the effective flow time will be one hour later, e.g., 4 p.m. Texas Gas, however, also proposes that "the Effective Flow Time shall be when Scheduled Quantities are made available by Texas Gas to affected shippers and point operators, including notice to bumped parties."[14] Under this provision, interruptible shippers seemingly will not be provided with notice of bumping prior to the time at which the rescheduled flows will be effective. In its transmittal letter, however, Texas Gas suggests that interruptible shippers will have sufficient notice of the bump prior to the effective time of the gas flow that they can reschedule during the same ENS cycle.[15] We will therefore accept Texas Gas' filing conditioned on Texas Gas re-filing its tariff records such that it provides reasonable advance notice of bumping prior to the effectiveness of gas flow.

26. To the extent that the protests address other aspects of the proposal, we find that it is reasonable. It is true, as the protests point out, that in Order No. 587-G,[16] the Commission accepted a consensus of the gas industry, including both firm and interruptible shippers, and accepted standards[17] that provide that the last intra-day nomination opportunity would not permit bumping of interruptible service. However, as

---

[13] 18 C.F.R. § 284.12(b)(1)(i) (2011).

[14] Section 5.10, Rate Schedules - ENS, 2.0.0. http://etariff.ferc.gov/TariffSectionDetails.aspx?tid=1682&sid=107997.

[15] Texas Gas Transmittal Letter at 4-5.

[16] *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587-G, FERC Stats. & Regs. ¶ 31,062, at 30,672 (1998).

[17] NAESB Standards 1.3.2 and 1.3.39.

has become clear from numerous filings with the Commission, the industry consensus in favor of the no-bump exception has been eroding. For example, the Commission encouraged NAESB to consider changes to its nomination procedures to provide better coordination between gas and electric scheduling.[18] Following NAESB meetings in 2007 and 2008 discussing this issue, the industry was unable to reach consensus on revised standards, with several parties, including electric generators with firm service, arguing that retention of the No Bump Rule interferes with generators' ability to reschedule natural gas deliveries to coincide with the need to ramp up or down electric generators.[19] In Order No. 587-U, the Commission acknowledged that NAESB lacked consensus to implement any such changes and did not find a nationwide scheduling solution to this problem.[20] Although eschewing nationwide changes, Order No. 587-U emphasized that "individual pipelines may be able to offer special services or increased nomination opportunities that better fit the profile of gas-fired generation."[21]

27. We find Texas Gas has proposed an individualized approach that is just and reasonable for its system. As the comments from TVA indicate, Texas Gas' proposal meets the needs of electric generators using its pipeline capacity. Given the condition described above, the proposal will provide advance notice to interruptible shippers that their scheduled volumes will be reduced. In addition, Texas Gas is providing interruptible shippers with an opportunity to re-nominate those volumes either at the standard nomination times or at any of the subsequent nomination times provided under ENS service.

28. For ENS Cycles 1 through 4, the last of which concludes with an effective flow-time of 4:00 p.m., Texas Gas' proposal is consistent with the No-Bump Rule's prohibition. Shippers bumped during Cycles 1-4 will have the opportunity, just as they do at present, to re-nominate for all the points on Texas Gas' system during the Intra-Day

---

[18] *See* Order No. 698, FERC Stats. & Regs ¶ 31,251 at P 69.

[19] NAESB's voting rules require a significant consensus to adopt a standard (an affirmative vote of at least 67% from the Wholesale Gas Executive Committee, including an affirmative vote of at least 40% from representatives of each segment of that committee, plus approval of 67% of the general membership of the wholesale gas quadrant). The same voting requirements also apply to efforts to remove or modify a standard which means that standards once adopted may remain even if a consensus would no longer support the adoption of the standard if it were proposed anew.

[20] Order No. 587-U, FERC Stats. & Regs. ¶ 31,307 at P 27.

[21] *Id.*

2 Nomination Cycle. In addition, interruptible shippers will have the right to reschedule at any of the earlier ENS nomination cycles, which provides them an extra opportunity to reschedule gas and maintain their volumes. Cycle 5 of the ENS schedule is the last opportunity to bump scheduled interruptible service. Under this cycle, nominations are due at 4:00 p.m., confirmation is complete at 5:00 p.m., and the effective flow time is 6:00 p.m. Under this cycle, interruptible shippers will still have the opportunity to re-nominate flows on Texas Gas' system during any of the remaining ENS cycles.

29. Some of the protests contend that the proposal should be rejected because they can re-nominate at only the seven receipt points which currently qualify for the ENS Rate Schedule. However, the rate schedule makes clear that Texas Gas will accept any point that is willing to confirm its volumes. If interruptible shippers want to re-nominate from alternative points, they need to ensure that the point operators from which they purchase gas support such re-nominations.[22] Texas Gas is providing interruptible shippers with an opportunity to re-nominate. Given the inherently contingent nature of interruptible service, we find it reasonable that interruptible shippers must take the risks associated with using that service.

30. Aside from the particular details associated with the No Bump Rule, the protests make broader arguments that the service makes interruptible service less certain. However, given the character of interruptible service, the possibility that interruptible shippers may need to make business adjustments for bumped volumes is not a reason to reject Texas Gas' proposal. As noted previously, interruptible service is by definition lower priority to firm service. Interruptible shippers, unlike firm shippers, do not pay a reservation fee and thus take the risk that they may be unable to access capacity. Shippers that opt for interruptible service should be prepared to make adjustments throughout the Gas Day.

B. Effect on Firm Service

1. Protests and Comments

31. Indicated Shippers, Devon, and Nicor claim that the proposal degrades Texas Gas' other firm services. They assert that Texas Gas' proposal allows Texas Gas' capacity to be filled by ENS shippers before other shippers have an opportunity to make nominations under the standard NAESB nomination cycles. They state that this will enable the ENS customer to pre-empt the non-ENS customers. They add that this is discriminatory because not all shippers may be eligible or able to use ENS service. Indicated Shippers

[22] The industry recognizes that it needs to support a seven day a week, twenty-four hours a day nomination process. NAESB Standard 1.3.4.

further allege that this is inconsistent with Commission policy that prohibits giving one class of shipper a special right that would give the shipper an unfair preference.

32. The protests also raised concerns about the treatment of non-ENS firm shippers once volumes have been nominated. Indicated Shippers state that Texas Gas' proposed change to GTC § 6.12 states that an ENS customer cannot bump another firm customer's scheduled and flowing gas quantities. According to Indicated Shippers, this appears to allow an ENS customer to bump a non-ENS customer's "submitted" nominations that are not yet scheduled or flowing within the rapid scheduling cycle offered to ENS customers. Similarly, Devon argues that the requirement that FT service be scheduled and flowing to avoid bumping also creates potential problems, suggesting that if adverse circumstances have caused scheduled gas to cease flowing, then FT service can be bumped at any time in the cycle. Devon states that Texas Gas' proposal does not address whether an FT shipper will be given an opportunity to re-nominate when bumped and whether FT can re-nominate if the ENS Shipper later re-nominates to free capacity. Indicated Shippers state that if the Commission does not reject Texas Gas' proposal, it should require modifications so that ENS nominations are only confirmed and allowed to flow on a conditional basis, providing non-ENS customers' nominations are confirmed as if no ENS is confirmed or flowing that Gas Day.

33. Indicated Shippers state that allowing ENS shippers to bump interruptible shipments may reduce the pipeline's operational flexibility, potentially increasing curtailment of firm services.

34. Indicated Shippers further argue that, unlike other out-of-cycle nominations approved by the Commission in the past, Texas Gas' proposal is available only to ENS service shippers and does not include a provision ensuring that other shipper entitlements are not affected.

35. Similarly, although Atmos applauds the effort to increase flexibility, Atmos requests that the Commission ensure that the status quo is maintained for shippers who do not wish to contract for ENS service and that the Commission prohibit Texas Gas from subjecting ordinary firm shippers to any hourly restrictions.

2. Texas Gas' Answer

36. In its answer, Texas Gas contends that nothing in its proposal permits an ENS customer to bump another firm customer and notes that proposed section 6.12 of its tariff prohibits bumping by an ENS customer of a firm customer. Texas Gas further argues that the additional nomination cycles under the proposed ENS service will not adversely affect non-ENS firm transportation customers. Texas Gas emphasizes that a firm customer is only guaranteed primary point capacity if the customer nominates these primary points during the NAESB Timely Nomination Cycle. After the Timely Nomination Cycle, the customer is not guaranteed that capacity will be available. Texas

Gas further stresses that all customers will have two opportunities to nominate before the ENS Nomination Cycles begin: the NAESB Timely Nomination Cycle and the NAESB Evening Nomination Cycle, both of which occur on the day prior to gas flow. Texas Gas adds that the potential impact on non-ENS customers is further limited by the small number of receipt points eligible for ENS service.

37. Texas Gas also resists Indicated Shippers' proposal that to avoid interfering with non-ENS customers, Texas Gas should only be allowed to confirm an ENS nomination on a conditional basis subject to the outcome of the NAESB standard cycles in either Intra-Day Nomination Cycle No. 1, or the Intra-Day Nomination Cycle No. 2. Texas Gas avers that Indicated Shippers are proposing an alternative tariff provision which Texas Gas is not required to implement given that its proposal is just and reasonable. Moreover, Texas Gas avers that such a proposal undermines the reliability of ENS service.

38. Texas Gas argues that its proposed service does not provide unduly preferential treatment because ENS service is an optional service available to all firm transportation and no-notice customers. Texas Gas notes that under its Enhanced Firm Transportation (EFT) service, shippers pay a relatively higher rate for the service which reflects the greater rights that they receive and the greater cost to provide the service. Texas Gas differentiates its proposal from other tariff provisions cited by Indicated Shippers, noting that these provisions do not provide firm service rights. Texas Gas further emphasizes that under ENS service, Texas Gas will only agree to provide service under Rate Schedule ENS if the provision will not adversely affect any other existing firm service.

3. Indicated Shippers' Answer

39. Indicated Shippers assert that unanswered questions remain regarding the proposal's impact on existing firm services. Indicated Shippers also object that nominations by ENS shippers may supersede nominations by non-ENS shippers, even though the nominations by non-ENS shippers were made earlier in the Gas Day. They also assert that the proposed ENS service is discriminatory and preferential because it is only available at certain points and that the criteria used by Texas Gas relate to the characteristics of the point operator and the point, not the shipper.

4. Commission Decision

40. We find that the proposed ENS service is reasonable as it relates to other firm service customers. The proposed ENS service does not affect the tariff rights of other firm shippers. A firm shipper is guaranteed capacity only if the firm shipper's nomination is accepted by the pipeline. No firm shipper's scheduled quantities will be affected by any nomination under the ENS schedule.

41. The protests appear to suggest that every firm shipper should have equal rights to submit intra-day nominations for available firm service. However, a firm shipper's nominations during the intraday cycles (Evening, Intraday 1 and Intraday 2) are accepted only on an "as available basis." A firm shipper is entitled to obtain capacity during the intra-day nomination cycles to the extent this capacity was not filled during prior nominating periods with scheduled gas flows. Thus, Texas Gas' decision to add additional nominating cycles for ENS shippers after the Timely Nomination Cycle is not undermining any rights of existing firm shippers. To the extent that shippers paying higher rates for ENS service have an earlier opportunity to use available capacity, that is the right provided by their selection of a higher valued firm service. Rather, the additional nominating cycles for ENS shippers are consistent with the Commission's policy that pipelines may add additional nominating cycles beyond the four cycles provided by the NAESB standards.[23]

42. Furthermore, Texas Gas' proposal is not discriminatory. ENS service customers pay a premium to obtain access to the additional nomination cycles. Texas Gas states that it will offer the service where (1) the point operator has personnel available twenty-four hours a day to provide confirmations, and (2) there is electronic measurement and flow control operated by Texas Gas. To the extent that a shipper believes the additional certainty of ENS service is necessary, that shipper can pay the premium for ENS service and seek to ensure that it has the appropriate point operator personnel available. Moreover, although the usefulness of ENS service for some customers may be circumscribed in some cases by the policies of connecting pipelines that do not have the additional nomination cycles, this does not serve as a basis for rejecting ENS service where it is operationally feasible for Texas Gas to provide it.

C. Issues Related to the ENS Rate

1. Protests and Comments

43. Indicated Shippers argue that Texas Gas' comparison between PAL service and the proposed ENS service for rate design purposes is operationally deficient. First, Indicated Shippers assert that to the extent interruptible service is bumped to provide ENS service, it is the interruptible service (not PAL) that is providing the operational flexibility enabling ENS. Second, Indicated Shippers aver that the underlying assumptions about the average lapse time between the scheduled time for beginning increased ENS gas flows and Texas Gas' actual receipt of increased ENS gas flows do not appear to have anything to do with determining a time frame for the ENS customer's

[23] Order No. 698, FERC Stats. & Regs. ¶ 31,251 at P 69.

use of line pack. Third, Indicated Shippers claim that none of the Eligible Receipt Points for ENS service are listed as Park/Loan Delivery or Receipt Points on Texas Gas' EBB. Fourth, Indicated Shippers argue that Texas Gas' PAL rate is a settled rate which is unrelated to the cost of using line pack or the lag time between the actual receipt of gas into Texas Gas' system. Fifth, Indicated Shippers claim that the division of the PAL rate by 4.36 hours as shown in Appendix C to Texas Gas' filing is meaningless since the PAL rate has nothing to do with the hourly cost of borrowing gas from Texas Gas. Sixth, Indicated Shippers state that most pipelines base their PAL rate on their interruptible rate and if an ENS nomination bumped interruptible then the cost of ENS would more appropriately match the interruptible rate—which for Zone 1 to Zone 4 and iterations between would be 20.78¢/Dth to 47.60¢/Dth depending on the zone of receipt and zone of delivery. Seventh, Indicated Shippers state that PAL service on Texas Gas is an interruptible service that is confirmed only after all other services are scheduled and confirmed (PAL §5.15 [§2.4]) versus ENS which is an "enhanced" firm service standing at the top of the queue. Finally, Indicated Shippers argue that if ENS will use more line pack than other services, this implies increased fuel costs to maintain higher pressures. Indicated Shippers claim that these increased costs must be passed through to Texas Gas' ENS customers to avoid cross-subsidization.

2. Texas Gas' Answer

44. Texas Gas responds that it only used the PAL rate to derive the ENS usage rate, and the usage rate reflects system usage, not the reservation rate. Texas Gas states that PAL service is the only service on Texas Gas' system that establishes a rate for the use of line pack, recognizing that line pack must be used to smooth any uneven flows occurring during the additional nomination cycles. Texas Gas adds that the PAL rate is a daily rate that is easily divided in order to calculate the equivalent ENS usage rate for several hours' use of line pack service. Texas Gas states that the Commission has consistently held that such derived rates are appropriate for new services.[24]

45. Texas Gas adds that the use of line pack will not, as Indicated Shippers suggest, result in increased fuel costs. Texas Gas states that while the rate of fuel usage related to ENS service might increase at certain times, the rate of fuel use will also decrease at other times.

[24] Texas Gas, October 4, 2011 Answer (citing *Millennium Pipeline Company, LLC*, 127 FERC ¶ 61,309, at P 26 (2009); *Mojave Pipeline Company*, 79 FERC ¶ 61,347, at p. 62,482 (1997)).

3. Commission Decision

46. We conditionally accept Texas Gas' proposed initial rates for its ENS service. We find Texas Gas' initial maximum reservation charge of $0.0219 MMBtu reasonable since Texas Gas derives the charge using actual annual projected costs to implement the service ($586,700) and anticipated annual billing determinants under the service (26,730,000 MMBtu per year). Further, Texas Gas proposes a maximum usage charge of $0.0217 per MMBtu for the ENS service, which, Texas Gas states will be applicable only when a shipper uses the ENS service. As explained above, Texas Gas calculates its maximum usage charge using a derivative of its PAL service. We find this method of calculating the initial maximum usage charge to be reasonable since the ENS service will require use of line-pack gas, similar to how Texas Gas operates its PAL service. Texas Gas has demonstrated that if an interconnecting party fails to deliver a quantity nominated during an ENS cycle, Texas Gas will use its line pack for an average of 4.36 hours.[25] Thus it is justifiable for Texas gas to use an incremental usage rate for ENS service of (4.36/24) of the PAL rate. Further, deriving the initial ENS usage rate from its existing PAL service rate ensures that the usage rates charged for ENS service are consistent with the current rates for gas lending approved by the Commission. The Commission and shippers can revisit Texas Gas' rates for ENS service during Texas Gas' next rate proceeding.

47. However, we will conditionally accept Texas Gas' proposed usage charge for ENS service subject to Texas Gas providing the information directed below. It is unclear based upon the tariff when Texas Gas will assess its usage charge: will it be for all gas the shipper flows on a day regardless of whether it nominates on one of the ENS cycles, all changes in shipper nominations that occur in each ENS cycle during the day whether the nomination is an increase or a decrease in gas flow, or only the increased amounts nominated in each ENS cycle? We accept the filing subject to the condition that Texas Gas file revised tariff records clarifying when it will assess its proposed usage charge.

---

[25] For example, as Texas Gas explained in Appendix C, if a customer nominates under ENS Cycle No. 1 at 8:00 a.m., flow begins at 10:00 a.m. If Texas Gas does not observe increased receipts as nominated within 60 minutes of the 10:00 a.m. flow time, Texas Gas will reduce the customer's ENS nomination at the next available ENS nomination period. Thus, at 12:00 p.m., the beginning of ENS Cycle No. 3, Texas Gas will revise the customer's nominated flows to be reduced at the effective flow time for Cycle No. 3 at 2:00 p.m. For four hours, from 10:00 a.m. to 2:00 p.m., Texas Gas is using its line pack. As outlined in Appendix C, depending upon the timing of the ENS Cycles, Texas Gas may need to use its line pack for four, five, or six hours, but the average is 4.36 hours.

48. Further, Texas Gas requests waiver of section 154.202(a)(1)(vii) of the Commission's regulations requiring Texas Gas to provide a projection of the service's estimated effect on revenue and costs over a 12-month period commencing on the proposed effective date of the instant filing. Texas Gas contends that since its proposed ENS service is a new service option, it cannot precisely forecast the revenues (if any) it may receive from implementing the service. Texas Gas adds that any rate-related issues that arise for its proposed ENS service will be addressed in Texas Gas' next rate case, after a reasonable amount of operating experience has been accumulated. As we have done in other cases involving new services,[26] we grant Texas Gas waiver of section 154.202(a)(1)(vii) of the Commission's regulations.

49. Finally, since Texas Gas' ENS service is a new and unique service proposed to enhance the flexibility of electric generators, we will require Texas Gas to file an activity report so the Commission and interested parties can gage how the service is functioning.[27] The activity report should be filed within 45 days after the end of the first year of operation of Rate Schedule ENS and include (1) the date service was rendered for each transaction; (2) the volume shipped under each transaction; (3) monthly volumes; (4) the name of the shipper for each transaction; (5) the rate charged for each transaction; (6) the revenues received for each transaction; and (7) the monthly revenues for this service. Such information will provide the Commission and interested parties actual information that can be used to monitor Texas Gas' activity and revenues for the new ENS service.

D. Other Issues Regarding the Operation of Texas Gas' Proposal

1. Protests and Comments

50. Atmos requests that the Commission prohibit Texas Gas from subjecting ordinary firm shippers to any new hourly restrictions as a result of the implementation of ENS service, noting that similar conditions were placed upon Texas Eastern Transmission L.P. (Texas Eastern) when it sought to offer additional hourly flexibility to its firm shippers at specified points of delivery.[28]

---

[26] *E.g.*, *Millennium Pipeline Co.*, 127 FERC ¶ 61,309, at P 26 (2009).

[27] *Id.*

[28] Atmos, September 28, 2011 Comments at 2 (citing *Texas Eastern Transmission*, L.P., 134 FERC ¶ 61,068 (2011)).

51. Similarly, Devon inquires as to what delivery restrictions based on a 24-hour day mean when deliveries can be compressed into a one or two hour period as nominations swing with demand over the course of the day. Devon also asks whether shippers with ENS service can nominate during the Timely Nomination Cycle or whether they must wait until ENS Cycle No. 1. Devon also states that Texas Gas should accommodate electric generators by using line pack and storage rather than ENS service.

52. Devon also expresses concerns that tying fluctuating demand to receipt points will domino upstream to other pipelines and ultimately to receipt points in the field level. It states that producing fields cannot be ramped up and down quickly like storage fields, and cannot be turned off completely without damaging wells. It adds that turning production on and off to respond to lack of transportation capacity can cause permanent reservoir damage.

53. Kentucky Utilities request that Texas Gas consider allowing the proposed ENS service at alternative secondary delivery points. Kentucky Utilities state that some of their transportation agreements provide for one of the generation facilities to be a primary delivery point and the other generation facility to be an alternate secondary delivery point. Kentucky Utilities state that it would be more beneficial to electric generators if all alternative delivery points were covered.

54. Kentucky Utilities also asserts Texas Gas should allow a customer to contract for ENS service only for a portion of the term of the long term contract. Kentucky Utilities state that this would allow a customer to try the service and evaluate the benefits of greater nomination flexibility before committing to pay the demand charges for the remainder of the full term of the base agreement.

2. Texas Gas' Answer

55. In response to Atmos, Texas Gas states that Texas Gas' tariff already requires uniform hourly flows under Rate Schedules FT, STF, IT, and TAPS, and offers enhanced hourly flexibility under Rate Schedules EFT, NNS, NNL, SGT, SGL, SNS, and WNS.

56. Texas Gas responds to Devon that deliveries cannot be compressed into a one or two hour period because the proposed ENS service does not offer enhanced hourly flexibility. Texas Gas also explains that an ENS shipper, just like a firm shipper, can nominate during the Timely Nomination Cycle. Texas Gas further adds that Devon's argument that it is entitled to recover its cost is not applicable because the price that Devon charges for its gas is unregulated.

57. Texas Gas also objects to Devon's proposal that Texas Gas provide ENS service without using line pack and storage. Texas Gas states that these tools themselves are inadequate and that Texas Gas has already incorporated line pack usage into the proposed ENS service. Texas Gas adds that while the storage component of no-notice services

may be sufficient to meet the needs of some customers, other customers need the flexibility provided by additional nomination cycles.

58. Regarding Kentucky Utilities' suggestions, Texas Gas states that before expanding the services to alternate secondary delivery points or allowing different contract terms, it must first ensure that the proposed ENS service can be provided reliably and does not adversely affect other firm customers. Texas Gas also notes that customers have the ability to distribute their firm contract demand among several primary delivery points.

59. Texas Gas also states that it is not willing to allow an ENS contract term that is shorter than the remaining term of the base contract because it is meant to be an enhancement of the base contract. Texas Gas states that customers could always sign firm service agreements with a short duration to try the ENS service on a short term basis. Texas Gas also claims that short-term additions of ENS service to a long-term base contract could occur on a day-to-day basis.

3. Commission Decision

60. Texas Gas' answer addresses the concerns regarding hourly flows raised by Devon and Atmos. Regarding Kentucky Utilities' concerns, Texas Gas explains that its proposal is consistent with its system's current technical capabilities and would ensure reliable service. In response to Devon, Texas Gas also explains how the additional ENS Service requires the use of line pack and storage. Regarding Devon's operational concerns, under the NAESB standards it appears as though Devon may currently face situations in which its scheduled and flowing capacity differ from the output it needs to deliver. Devon has thus not articulated a rationale for rejecting Texas Gas' proposal.

E. Indicated Shippers' Request for a Technical Conference

61. In their answer, Indicated Shippers state that several unanswered questions remain regarding Texas Gas' proposal. Indicated Shippers raise several issues that they did not raise in their initial protest. They ask questions regarding the operational effects of the new service and how many volumes are currently flowing to the points to be served by ENS service. They inquire about the effect of the new service because Texas Gas is not building storage. They question the relationship between the new ENS service and Texas Gas' no-notice service and Enhanced Firm Transportation Service. They ask about Texas Gas' policy regarding curtailment as it pertains to ENS service. Indicated Shippers also raise questions regarding existing firm and interruptible service discussed previously.

62. Indicated Shippers have not identified additional information that is necessary to determine whether Texas Gas' proposal is just and reasonable. The Commission finds that the existing record provides a sufficient basis upon which to review the proposal in light of the Commission regulations and policy, and that no party has raised a material issue of disputed fact which requires additional procedures.

The Commission orders:

The tariff records listed in the Appendix of this order are accepted effective November 1, 2011, subject to Texas Gas filing revised tariff records within 30 days of the date of this order, issues.

By the Commission. Commissioner Spitzer is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Texas Gas Transmission, LLC
Tariffs
FERC NGA Gas Tariff

Tariff Records Conditionally Accepted Effective November 1, 2011

Section 1, Table of Contents, 5.0.0
Section 4.10, Currently Effective Rates - ENS, 2.1.0
Section 5.10, Rate Schedules - ENS, 2.0.0
Section 6.12, G T & C - Nominations, Confirmations, and Scheduling, 3.0.0
Section 7.10, Form(s) of Serv Agmts - Addendum - ENS, 3.0.0
Section 7.15, Form(s) of Serv Agmts - Discounted Rate - ENS, 2.0.0
Section 7.15.1, Form(s) of Serv Agmts - Discounted Rate - ENS - Exhibit A, 0.0.0