

137 FERC ¶ 61,104
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

T.W. Phillips Pipeline Corporation

Docket Nos. RP10-1173-001
RP11-1546-000
(not
consolidated)

ORDER DENYING REHEARING AND ACCEPTING COMPLIANCE FILING

(Issued November 3, 2011)

1. This order addresses T.W. Phillips Pipeline Corporation's (T.W. Phillips) compliance filing and request for rehearing of the Commission's October 28, 2010 order regarding its request for waiver of certain North American Energy Standards Board (NAESB) Wholesale Gas Quadrant (WGQ) Version 1.9 Standards.¹ For the reasons discussed below, the Commission denies the request for rehearing filed by T.W. Phillips and accepts the revised tariff records filed by T.W. Phillips in compliance with the October 28 Order effective November 1, 2010, as requested.

I. Background

A. T.W. Phillips' Certification

2. On December 21, 2007, T.W. Phillips executed an Operating and Transportation Service Agreement with Bionol Clearfield, LLC (Bionol) whereby T.W. Phillips would construct, own and operate a new 8-mile, 6-inch diameter pipeline (2007 Bionol Contract). On October 6, 2008, T.W. Phillips filed an application with the Commission pursuant to section 7(c) of the Natural Gas Act for authority to construct, own, operate, and maintain the new pipeline to provide service from a new interconnect with

¹ *Standards for Business Practices of Interstate Natural Gas Pipelines*, 133 FERC ¶ 61,096 (2010) (October 28 Order).

Columbia Gas Transmission, LLC to a new ethanol production plant to be constructed by Bionol. T.W. Phillips stated in its application to the Commission that Bionol would be the sole shipper on the pipeline. On February 19, 2009, the Commission issued its Certificate Order, among other things, granting the requested authorization.²

B. NAESB Version 1.9 Standards

3. In Order No. 587-U, the Commission amended section 284.12 of its regulations governing standards for conducting business practices and electronic communication with interstate natural gas pipelines to incorporate by reference the most recent version of the NAESB WGQ Standards, Version 1.9.³ The Version 1.9 Standards include, among other things, new and modified standards governing Index-Based Capacity Release and Flexible Delivery and Receipt Points, as well as standards adopted in response to Order Nos. 698, 712, 717, and 682.⁴ Pipelines were required to make filings incorporating Version 1.9 of the NAESB WGQ Standards into their tariffs on September 1, 2010 with an effective date of November 1, 2010. In Order No. 587-U, the Commission also stated that, over the years, pipelines have been implementing these standards in different ways; therefore, the Commission required pipelines to provide additional information with their compliance filings which would assist the Commission in evaluating these differences and determining if any revisions might be necessary in future filings.⁵

² *T.W. Phillips Pipeline Corp.*, 126 FERC ¶ 62,132 (2009).

³ *Standards for Business Practices for Interstate Natural Gas Pipelines*, Order No. 587-U, FERC Stats. & Regs. ¶ 31,307 (2010).

⁴ *Standards for Business Practices for Interstate Natural Gas Pipelines*, Order No. 698, FERC Stats. & Regs. ¶ 31,251 (2007), *order on clarification and reh'g*, Order No. 698-A, 121 FERC ¶ 61,264 (2007), *Promotion of a More Efficient Capacity Release Market*, Order No. 712, FERC Stats. & Regs. ¶ 31,271 (2008), *order on reh'g*, Order No. 712-A, FERC Stats. & Regs. ¶ 31,284 (2008), *order on reh'g*, Order No. 712-B, 127 FERC ¶ 61,051 (2009); *Standards of Conduct for Transmission Providers*, Order No. 717, FERC Stats. & Regs. ¶ 31,280 (2008), *order on reh'g and clarification*, Order No. 717-A, FERC Stats. & Regs. ¶ 31,297 (2009), *order on reh'g*, Order No. 717-B, 129 FERC ¶ 61,123 (2009); *Revision of Regulations to Require Reporting of Damage to Natural Gas Pipelines Facilities*, Order No. 682, FERC Stats. & Regs. ¶ 31,227 (2006), *order denying reh'g*, Order No. 682-A, 118 FERC ¶ 61,188 (2007).

⁵ Order No. 587-U, FERC Stats. & Regs. ¶ 31,307 at P 38-39.

4. On September 1, 2010, T.W. Phillips filed tariff sheets to comply with Order No. 587-U. Specifically, T.W. Phillips revised section 7.26 of the General Terms and Conditions of its tariff to incorporate Version 1.9 of the NAESB standards. In that filing, T.W. Phillips also requested waiver of the index-based capacity release requirements. The Commission issued its October 28 Order that simultaneously addressed the numerous filings in compliance with Order No. 587-U, including the above-referenced T.W. Phillips' filing. Regarding T.W. Phillips, the October 28 Order: (1) granted a limited waiver of the electronic requirements of the NAESB WGQ index-based capacity release standards; (2) denied waiver of NAESB WGQ's business practice standards for index-based capacity release; and (3) directed T.W. Phillips to make a compliance filing to modify its tariff database to: (i) identify the procedures for the manual index-based capacity releases on its system; (ii) reference the NAESB WGQ Version 1.9 business practice standards and definitions for index-based capacity release; and (iii) make other specified corrections.⁶

5. In Docket No. RP10-1173-001, T.W. Phillips requests rehearing of the October 28 Order and further waiver of specific NAESB WGQ Version 1.9 Standards due to T.W. Phillips' operational, customer and market circumstances.⁷ In Docket No. RP11-1546-000, T.W. Phillips submitted revised tariff records⁸ to comply with the October 28 Order.

⁶ October 28 Order at P 42. T.W Phillips was directed to file revised tariff records addressing the following: (1) NAESB WGQ Version 1.9 Standards 1.2.4, 1.2.14, 1.2.15, 1.2.16, 1.2.17, 1.2.18, 1.2.19, 1.3.3, 1.3.5, 1.3.6, 1.3.9, 1.3.11, 1.3.13, 1.3.20, 1.3.21, 1.3.23, 2.3.5, 2.3.6, 2.3.7, 2.3.11, 2.3.12, 2.3.13, 2.3.14, 2.3.15, 3.3.15, 3.3.17, 3.3.18, 3.3.19, and 4.2.10 should either be incorporated by reference or stated verbatim in its tariff; (2) NAESB WGQ Version 1.9 Standards 1.3.78 and 10.3.13 should not be incorporated by reference in *Section 7.26, NAESB Standards, 1.0.0* since these standards are deleted and no longer required to be incorporated by reference or stated verbatim; and (3) typographical errors in NAESB WGQ Version 1.9 Standards 4.3.46 and 4.2.5 should be corrected to reflect the incorporation by reference of NAESB WGQ Version 1.9 Standards 4.3.36 and 5.2.5, respectively.

⁷ T.W. Phillips requests waiver of the following NAESB WGQ Version 1.9 Standards: Nominations Related Standards: 1.3.3, 1.3.5, 1.3.6, 1.3.9, 1.3.11, 1.3.13, 1.3.20, 1.3.21, and 1.3.23; Flowing Gas Related Standards: 2.3.5, 2.3.6, 2.3.7, 2.3.11, 2.3.12, 2.3.13, 2.3.14, and 2.3.15; and Invoicing Related Standards: 3.3.15, 3.3.17, 3.3.18, and 3.3.19.

⁸ Section 7.22, GTC Capacity Release, 1.0.0, and Section 7.26, GTC - NAESB, 1.1.0 to Baseline Tariff, FERC NGA Gas Tariff.

II. Notice

6. Public notice of T.W. Phillips' compliance filing was issued on November 30, 2010, allowing for protests to be filed as provided in section 154.210 of the Commission's regulations. No protests or adverse comments were filed.

III. Request for Rehearing

7. T.W. Phillips submits that the Commission should grant rehearing of its October 28 Order. T.W. Phillips requests that the Commission reconsider its request and grant limited waiver of certain NAESB WGQ Version 1.9 nominations related standards, flowing gas related standards and invoicing related standards due to T.W. Phillips' operational, customer and market circumstances. T.W. Phillips explains that its jurisdictional facilities consist of an 8-mile, 6-inch diameter gas pipeline, and its use is limited to T.W. Phillips' sole anchor shipper Bionol. T.W. Phillips states that, since commencing operations early in 2010, it has not received any requests for transportation by any other prospective shipper. T.W. Phillips suggests that granting rehearing and granting a limited waiver of the specified standards will not adversely impact any shipper other than Bionol, its sole shipper.

8. T.W. Phillips contends that the standards for which a waiver is being sought have not been incorporated in its tariff, and the Certificate Order did not require inclusion of these standards. Further, T.W. Phillips contends that the Certificate Order addressed the scope of T.W. Phillips' obligations under the then-applicable NAESB standards. T.W. Phillips notes that, with respect to NAESB standards regarding Electronic Delivery Mechanism (EDM) set forth in NAESB Version 1.7, the Commission granted T.W. Phillips' request for an extension of time to implement the standards until 150 days following receipt of a request to send information via EDM and implement NAESB WGQ's pooling requirements. T.W. Phillips also notes that the Commission granted T.W. Phillips' request for a waiver of NAESB WGQ Standards 0.3.12 through 0.3.15, pending its receipt of a connection with a power plant operator, or electric transmission operators, such as a regional transmission organization.

9. T.W. Phillips contends that there are no practical or operational advantages to either shippers or connecting pipelines for requiring T.W. Phillips to support the NAESB WGQ's Version 1.9 nominations and flowing gas related standards. T.W. Phillips asserts that its sole shipper, Bionol, utilizes a marketer who nominates deliveries to the T.W. Phillips interconnection for delivery to Bionol. T.W. Phillips explains that the volumes entering the system are based on the nominations upstream and gas flows to the plant after being metered. T.W. Phillips avers that it would be willing to implement the NAESB WGQ Version 1.9 nominations and flowing gas related standards should circumstances change (i.e., the addition of another shipper).

10. T.W. Phillips also explains that the 2007 Bionol Contract terms are reflected in a negotiated rate agreement, filed in Docket No. RP10-192-000, which includes billing payment provisions that are not compatible with the NAESB WGQ Version 1.9 invoicing related standards.⁹ T.W. Phillips states that its payment procedures included in the negotiated rate agreement represent a non-conforming element of compensation that differs from the generally-applicable terms of the tariff but does not unduly discriminate in favor of the anchor shipper, Bionol. Accordingly, T.W. Phillips submits that waiver of the NAESB WGQ Version 1.9 Standards related to prior period adjustments and invoicing is appropriate under these circumstances.

IV. Discussion

11. The Commission denies T.W. Phillips request for rehearing of the Commission's determination not to grant waivers of the requirements in certain NAESB WGQ Version 1.9 nominations, flowing gas, and invoicing related standards.¹⁰ Granting T.W. Phillips a waiver of the NAESB WGQ Version 1.9 Standards would preclude T.W. Phillips' current customer and potential customers from requesting T.W. Phillips to provide the NAESB functionality and the accompanying relevant services discussed above. Circumstances may change in the future so that existing or future customers may find the business practices and associated compliance with these standards necessary. Therefore, we find that granting a waiver of these standards is not appropriate.

12. T.W. Phillips' customer is currently not interested in utilizing the nominations, flowing gas, and invoicing requirements specified in the NAESB WGQ Version 1.9 Standards. Further, T.W. Phillips' agrees to implement the NAESB WGQ Version 1.9 nominations, flowing gas, and invoicing related standards within 30 days of receiving a request for service from a shipper other than Bionol. However, pipelines may not limit the implementation of NAESB business practice standards when receiving requests from any Part 284 customer. Because T.W. Phillips' customer is not interested in utilizing the above services at this time, the Commission find good cause exists to grant an extension of time to comply with the NAESB WGQ Version 1.9 nomination related standards, flowing gas related standards, and invoicing related standards until 30 days after receiving such a request from any Part 284 customer, including Bionol.

13. As discussed in the October 28 Order,¹¹ all extensions of time are limited to the NAESB WGQ Version 1.9 Standards promulgated by Order No. 587-U and a renewal

⁹ See T.W. Phillips Request for Rehearing at 8.

¹⁰ Standards: 1.3.3, 1.3.5, 1.3.6, 1.3.9, 1.3.11, 1.3.13, 1.3.20, 1.3.21, 1.3.23, 2.3.5, 2.3.6, 2.3.7, 2.3.11, 2.3.12, 2.3.13, 2.3.14, 2.3.15, 3.3.15, 3.3.17, 3.3.18, and 3.3.19.

¹¹ *Id.* P 36.

request must be filed with respect to compliance with subsequent editions of the standards.¹²

14. We find that based on the determination to grant an extension of time to comply with the additional NAESB WGQ Version 1.9 nomination related standards, flowing gas related standards, and invoicing related standards, T.W. Phillips' revised tariff records comply with the October 28 Order and are accepted as filed, effective November 1, 2010.

The Commission orders:

(A) T.W. Phillips revised tariff records are accepted, effective November 1, 2010.

(B) T.W. Phillips' request for rehearing is denied.

By the Commission. Commissioner Spitzer is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.

¹² See *B-R Pipeline Co.*, 128 FERC ¶ 61,126 (2009) (“Each time the Commission adopts new versions of [the] Standards ... pipelines must request waiver of the new Standards.”).