

138 FERC ¶ 61,089  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Discovery Gas Transmission LLC

Docket Nos. RP09-673-002  
RP11-1521-000  
and RP11-1521-  
001  
(not  
consolidated)

ORDER DENYING REHEARING AND ACCEPTING COMPLIANCE FILING  
SUBJECT TO CONDITIONS

(Issued February 3, 2012)

1. This order addresses Discovery Gas Transmission LLC's (Discovery) request for rehearing of the Commission's order denying its request for waiver of certain North American Energy Standards Board (NAESB) Wholesale Gas Quadrant (WGQ) 1.8 Standards;<sup>1</sup> November 12, 2010 compliance filing (November 12 filing) in response to the Commission's October 28, 2010 order;<sup>2</sup> and request for waiver of certain NAESB WGQ 1.9 Standards.<sup>3</sup> For the reasons discussed below, the Commission denies

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<sup>1</sup> *Discovery Gas Transmission LLC*, 128 FERC ¶ 61,107 (2009) (July 30 Order).

<sup>2</sup> *Order on Filings in Compliance with Order No. 587-U*, 133 FERC ¶ 61,096 (2010) (October 28 Order).

<sup>3</sup> Discovery requests waiver of, or in the alternative, a "reasonable" extension of time to comply with, the following NAESB WGQ Version 1.9 datasets, principles, definitions, and standards: Nominations Related Data Sets: 1.4.1 through 1.4.7; Flowing Gas Related Data Sets: 2.4.1 through 2.4.18; Invoicing Related Data Sets: 3.4.1 through 3.4.4; Capacity Release Principles: 5.1.1 and 5.1.4; Capacity Release Data Sets: 5.4.1 through 5.4.23; Capacity Release Related Standards: 5.3.10 through 5.3.12, 5.3.30 through 5.3.34, 5.3.41 through 5.3.43, and 5.3.48; EDI Related Principles: 1.1.7, 4.1.22

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Discovery's request for rehearing of the July 30 Order, and accepts the revised tariff record listed in footnote no. 6, effective November 1, 2010, as proposed, subject to the conditions discussed in the body of this order.

## **Background**

### **A. NAESB WGQ Version 1.8 Standards**

2. In Docket No. RP09-673-000, Discovery sought rehearing of the Commission's July 30 Order denying its request for permanent waiver of certain NAESB WGQ Version 1.8 Standards submitted pursuant to Order No. 587-T.<sup>4</sup> Specifically, the July 30 Order denied Discovery's request for a permanent waiver of the NAESB WGQ 1.8 Standards; however, the Commission granted Discovery an extension of time to implement such standards given the limited nature of Discovery's pipeline operations.<sup>5</sup>

3. In its rehearing request, Discovery submits that the Commission should reconsider the rejection of its request for a permanent waiver of the NAESB WGQ Interactive/Internet website related standards, title transfer tracking related standards, and capacity release datasets due to Discovery's operational, customer and market circumstances.

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through 4.1.24, 4.1.26 through 4.1.28, 4.1.31 through 4.1.39, 10.1.4, 10.1.8, and 10.1.9; EDI Related Definitions: 4.2.10 through 4.2.13, 4.2.16 through 4.2.20, and 10.2.1 through 10.2.36; EDI Related Standards: 1.3.47 through 1.3.50, 1.3.52 through 1.3.63, 1.3.79, 2.3.32 through 2.3.35, 2.3.40 through 2.3.44; 2.3.51 through 2.3.53, 2.3.65, 3.3.23, 3.3.24, 4.3.39, 4.3.42 through 4.3.62, 4.3.65 through 4.3.69, 4.3.72 through 4.3.76, 4.3.78 through 4.3.87, 10.3.2, 10.3.5, 10.3.7, 10.3.8, 10.3.12, 10.3.13, 10.3.15, 10.3.17, 10.3.18, 10.3.21, 10.3.22, and 10.3.25 through 10.3.27; Title Transfer Tracking Related Principles: 1.1.10, 1.1.11, 1.1.13, and 1.1.20; Title Transfer Tracking Related Standards: 1.3.17, 1.3.18, 1.3.64 through 1.3.74, 1.3.76, and 1.3.77.

<sup>4</sup> *Standards for Business Practices for Interstate Natural Gas Pipelines*, Order No. 587-T, FERC Stats. & Regs. ¶ 31,289 (2009).

<sup>5</sup> See July 30 Order, 128 FERC ¶ 61,107 at P 7.

**B. NAESB WGQ Version 1.9 Standards**

4. On September 1, 2010, in Docket No. RP10-1234-000, Discovery filed a tariff record<sup>6</sup> to comply with Order No. 587-U.<sup>7</sup> In Order No. 587-U, the Commission incorporated by reference into its regulations Version 1.9 of the NAESB WGQ Standards. In its October 28 Order, the Commission accepted Discovery's tariff record to become effective as proposed, subject to conditions. Specifically, the October 28 Order directed Discovery to: (1) identify the procedures for the manual index-based capacity releases on its system; and (2) reference the NAESB WGQ Version 1.9 business practice standards and definitions for index-based capacity release.<sup>8</sup>

5. On November 12, 2010, Discovery submitted a compliance filing (November 12 filing),<sup>9</sup> in accordance with the October 28 Order in Docket No. RP11-1521-000. In its November 12 filing, Discovery submitted that the Commission should again reconsider the rejection of Discovery's request for a permanent waiver of the NAESB WGQ Interactive/Internet website related standards, title transfer tracking related standards, and capacity release datasets due to Discovery's operational, customer and market circumstances as it pertains the NAESB WGQ Version 1.9 Standards.<sup>10</sup> Subsequently,

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<sup>6</sup> Section 25, NAESB Standards, 1.0.0 to First Revised Volume No. 1, FERC NGA Gas Tariff.

<sup>7</sup> *Standards for Business Practices for Interstate Natural Gas Pipelines*, Order No. 587-U, FERC Stats. & Regs. ¶ 31,307 (2010).

<sup>8</sup> October 28 Order, 133 FERC ¶ 61,096 at P 23.

<sup>9</sup> Section 25, NAESB Standards, 1.1.0 to First Revised Volume No. 1, FERC NGA Gas Tariff.

<sup>10</sup> Discovery requests waiver, or in the alternative, a "reasonable" extension of time of the following NAESB WGQ Version 1.9 data sets, principles, definitions, and standards: Nominations Related Data Sets: 1.4.1 through 1.4.7; Flowing Gas Related Data Sets: 2.4.1 through 2.4.18; Invoicing Related Data Sets: 3.4.1 through 3.4.4; Capacity Release Principles: 5.1.1 and 5.1.4; Capacity Release Data Sets: 5.4.1 through 5.4.23; Capacity Release Related Standards: 5.3.10 through 5.3.12, 5.3.30 through 5.3.34, 5.3.41 through 5.3.43, and 5.3.48; EDI Related Principles: 1.1.7, 4.1.22 through 4.1.24, 4.1.26 through 4.1.28, 4.1.31 through 4.1.39, 10.1.4, 10.1.8, and 10.1.9; EDI Related Definitions: 4.2.10 through 4.2.13, 4.2.16 through 4.2.20, and 10.2.1 through 10.2.36; EDI Related Standards: 1.3.47 through 1.3.50, 1.3.52 through 1.3.63, 1.3.79, 2.3.32 through 2.3.35, 2.3.40 through 2.3.44; 2.3.51 through 2.3.53, 2.3.65, 3.3.23, 3.3.24, 4.3.39, 4.3.42 through 4.3.62, 4.3.65 through 4.3.69, 4.3.72 through 4.3.76, 4.3.78

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on February 11, 2011, in Docket No. RP11-1521-001, Discovery submitted a revised tariff record (February 11 filing)<sup>11</sup> amending its November 12 filing and identifying the NAESB WGQ Version 1.9 Standards for which it seeks a waiver.

6. Discovery explains that it is a small production-area pipeline located primarily offshore in the Gulf of Mexico with only six delivery points. Discovery asserts that it does not have a large number of customers and those customers do not conduct multiple transactions or multiple trades on the Discovery system. Discovery notes that a majority of the Discovery's firm transportation service is provided to offshore producers at usage-based rates under Rate Schedule FT-2, provided that the production is committed to Discovery for the life of the lease. Discovery explains that the FT-2 shippers pay a usage-based rate, and as such, capacity release is not available to them. Discovery states that it provides limited service under the FT-1 Rate Schedule, but after ten years of operation, no FT-1 shipper has requested capacity release. Discovery further states that it does not expect any capacity release to occur in the future.

7. Discovery contends that title transfer tracking is infeasible on its system, since its system does not have any inlets or outlets to facilitate multiple trades, and price formation does not occur on its system as it lies upstream of any market centers.

8. Discovery also states that its internally developed interactive web site software (*i.e.*, GASKIT) is not fully NAESB compliant but would be costly to upgrade. Discovery asserts that GASKIT is robust enough and user-friendly so that customers are able to transact their transportation business as needed. Discovery states that it conducted a comprehensive review of what it would cost to upgrade its Interactive website. Discovery asserts that the estimated cost of upgrading the system to be fully NAESB compliant is approximately \$2 million - \$3 million, approximately 10 percent to 15 percent of the cost of service underlying Discovery's current transportation rates.

9. Discovery contends its other customers should not have to pay for NAESB implementation should it be desired by one customer, asserting that the Commission's

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through 4.3.87, 10.3.2, 10.3.5, 10.3.7, 10.3.8, 10.3.12, 10.3.13, 10.3.15, 10.3.17, 10.3.18, 10.3.21, 10.3.22, and 10.3.25 through 10.3.27; Title Transfer Tracking Related Principles: 1.1.10, 1.1.11, 1.1.13, and 1.1.20; Title Transfer Tracking Related Standards: 1.3.17, 1.3.18, 1.3.64 through 1.3.74, 1.3.76, and 1.3.77.

<sup>11</sup> Section 25, NAESB Standards, 1.2.0 to First Revised Volume No. 1, FERC NGA Gas Tariff.

policies were developed to prevent cross-subsidization among shipper groups.<sup>12</sup> Discovery further asserts that from a funding standpoint, there is no difference between a NAESB project to implement functionality that will not benefit the whole and an incremental facility project that will be serving a limited market. Discovery states that no shipper has ever requested implementation of the NAESB WGQ Standards associated with title transfer tracking, Electronic Data Interchange (EDI), datasets, or capacity release in over ten years of operations.

10. Discovery notes that, within all of Discovery's NAESB compliance filings, Discovery has sought extensions of time, and now a permanent waiver, of the NAESB standards associated with Interactive/Internet web site, title transfer tracking, and capacity release standards. Discovery maintains that the extensions of time are granted until a "person" requests implementation, leaving no recourse for Discovery once the request is received other than to implement the requested NAESB standard. Thus, Discovery requests the Commission either grant Discovery a waiver or a revised extension of time so that Discovery is not required to implement these standards until a sufficient number of shippers representing over fifty-percent of all firm transportation volumes request implementation. In the alternative, Discovery requests that it be permitted to implement a cost tracker in its tariff that will be assessed to only those shippers, or other person, who requests implementation.

### **Notice**

11. Public notices of Discovery's November 12 filing and February 11 filing were issued on November 15, 2010 and February 17, 2011, respectively, allowing for protests to be filed as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2011)). No protests or adverse comments were filed.

### **Discussion**

12. Although Discovery requested rehearing of the July 30 Order, since that time, the Commission has incorporated in its regulations Version 1.9 of the NAESB WGQ Standards in Order No. 587-U,<sup>13</sup> and Discovery has filed a subsequent request for waiver of, among other things, the same standards it had sought permanent waiver of in relation to Order No. 587-T. As the Commission no longer incorporates by reference Version 1.8

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<sup>12</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227, at 61,746 (1999) ("Existing customers of the expanding pipeline should not have to subsidize a project that does not service them.").

<sup>13</sup> 18 C.F.R. § 284.12 (2011).

of the NAESB WGQ Standards into its regulations, Discovery's request rehearing of the July 30 Order is moot. Accordingly, the Commission hereby denies Discovery's request for rehearing of the July 30 Order and will instead consider its request as it pertains to the NAESB WGQ Version 1.9 Standards.

13. Discovery's revised tariff record listed in footnote no. 11 complies with the October 28 Order and is accepted effective November 1, 2010, subject to Discovery filing revised tariff records, within 15 days from the date of this order, as discussed below.

14. The Commission denies Discovery's request for a waiver of the NAESB WGQ Version 1.9 title transfer tracking related standards, capacity release related datasets, and Interactive/Internet website related standards<sup>14</sup>. Granting Discovery waiver of the aforementioned NAESB WGQ Standards would preclude Discovery's customer and potential customers from requesting Discovery to provide the NAESB functionality and the accompanying relevant services discussed above. Further, there is no evidence that Discovery's circumstances have changed since the July 30 Order, where the Commission did not grant Discovery a permanent waiver of the Interactive/Internet website related standards, title transfer tracking related standards, and capacity release datasets.

15. However, given Discovery's operational, customer and market circumstances and the information presented, the Commission finds that granting an extension of time to comply with the NAESB WGQ Version 1.9 transfer tracking related standards, capacity release related datasets, and Interactive/Internet website related standards is appropriate. The Commission will grant Discovery an extension of time to implement such standards until 90 days following a request from a Part 284 customer to implement the NAESB WGQ Version 1.9 Standards listed in footnote no. 14.

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<sup>14</sup> NAESB WGQ Version 1.9 Standards:; EDI Related Standards: 2.3.40 through 2.3.44; Title Transfer Tracking Related Standards: 1.3.17, 1.3.18, 1.3.64 through 1.3.74, 1.3.76, and 1.3.77; EDI Related Definitions: 4.2.10 through 4.2.13, 4.2.16 through 4.2.20, and 10.2.1 through 10.2.36; Nominations Related Data Sets: 1.4.1 through 1.4.7; Flowing Gas Related Data Sets: 2.4.1 through 2.4.18; Invoicing Related Data Sets: 3.4.1 through 3.4.4; Capacity Release Data Sets: 5.4.1 through 5.4.23; EDI Related Standards: 1.3.47 through 1.3.50, 1.3.52 through 1.3.63, 1.3.79, 2.3.32 through 2.3.35, 2.3.51 through 2.3.53, 2.3.65, 3.3.23, 3.3.24, 4.3.39, 4.3.42 through 4.3.62, 4.3.65 through 4.3.69, 4.3.72 through 4.3.76, 4.3.78 through 4.3.87, 10.3.5, 10.3.7, 10.3.8, 10.3.12, 10.3.15, 10.3.17, 10.3.18, 10.3.21, 10.3.22, and 10.3.25 through 10.3.27.

16. While Discovery has justified its request for an extension of time to comply with the requirements to conduct transactions electronically, Discovery has not justified its request for an extension of time to comply with the NAESB WGQ Version 1.9 Business Practice Standards, specifically the Imbalance Trading and Capacity Release Related Business Practice Standards.<sup>15</sup> Complying with the requirements of these business practice standards does not require electronic processing. Thus, Discovery is directed to file revised tariff records incorporating the NAESB WGQ Version 1.9 Standards listed in footnote no. 15, within 15 days from the date of this order.

17. Discovery further requests the Commission either grant Discovery a waiver or a revised extension of time so that Discovery is not required to implement these standards until a sufficient number of shippers representing over fifty-percent of all firm transportation volumes request implementation.<sup>16</sup> While an extension of time ensures that pipelines do not needlessly have to spend money implementing a NAESB Standard that a Part 284 customer does not need, circumstance may change such that an existing or future Part 284 customer may find that requesting a pipeline to support a NAESB standard and the accompanying relevant services is necessary to meet its operational and market needs. The Commission under its open access programs does not allow pipelines to deny a Part 284 customer access to basic terms and conditions of service standardized by the NAESB WGQ Standards, unless the pipeline has demonstrated good cause for the Commission to waive compliance with such NAESB standard. While Discovery raises concerns about the potential cost recovery of such NAESB compliance, we find these arguments to be premature. Thus, the Commission denies Discovery's request to delay implementing the requested NAESB standards until a sufficient number of shippers representing over fifty-percent of all firm transportation volumes request implementation. Discovery will be required to implement the requested NAESB standards, within the timeframes set forth in this order.

18. We note that Order No. 587-R made it optional for pipelines to adopt NAESB Principles;<sup>17</sup> thus, Discovery's request for a waiver of the following NAESB Principles is

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<sup>15</sup> NAESB WGQ Version 1.9 Standards: Imbalance Trading Related Standards 2.3.40 through 2.3.44; Capacity Release Related Standards: 5.3.10 through 5.3.12, 5.3.30 through 5.3.34, 5.3.41 through 5.3.43, and 5.3.48.

<sup>16</sup> See Discovery's November 12 Filing, Attachment A at 3.

<sup>17</sup> *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587-R, FERC Stats. & Regs. ¶ 31,141 (2003).

rendered moot.<sup>18</sup> Further, Discovery's request for a waiver of NAESB WGQ Version 1.9 Standards 10.3.2 and 10.3.13 is rendered moot, since these standards are deleted and no longer required to be incorporated by reference or stated verbatim.

19. Further, as discussed in the October 28 Order,<sup>19</sup> all waivers and extensions of time are limited to the NAESB WGQ Version 1.9 Standards promulgated by Order No. 587-U and a renewal request must be filed with respect to compliance with subsequent editions of the standards.<sup>20</sup>

20. Lastly, the October 28 Order directed Discovery to, among other things, reference the NAESB WGQ Version 1.9 business practice standards and definitions for index-based capacity release. Discovery complies with the October 28 Order, except for NAESB WGQ Version 1.9 Standard 5.3.62a. Discovery states that NAESB standard 5.3.62a is incorporated by reference in its tariff.<sup>21</sup> However, Discovery has not incorporated by reference NAESB standard 5.3.62a. Order No. 587-U requires pipelines to file tariff records to reflect this standard, unless pipelines file to renew requests for waivers or extension of time with respect to particular standards. In the instant filing, Discovery has not proposed to renew a request for waiver or an extension of time concerning NAESB standard 5.3.62a. Further, in the October 28 Order, the Commission denied Discovery's request for waiver of NAESB WGQ index-based capacity release related standards, which include NAESB standard 5.3.62a.<sup>22</sup> Therefore, Discovery is directed to file revised tariff records either incorporating by reference or including the text of NAESB WGQ Version 1.9 Standard 5.3.62a in its tariff within 15 days from the date of this order.

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<sup>18</sup> Capacity Release Principles: 5.1.1 and 5.1.4; EDI Related Principles: 1.1.7, 4.1.22 through 4.1.24, 4.1.26 through 4.1.28, 4.1.31 through 4.1.39, 10.1.4, 10.1.8, and 10.1.9; and Title Transfer Tracking Related Principles: 1.1.10, 1.1.11, 1.1.13, and 1.1.20.

<sup>19</sup> October 28 Order, 133 FERC ¶ 61,096 at P 36.

<sup>20</sup> See *B-R Pipeline Co.*, 128 FERC ¶ 61,126 (2009) ("Each time the Commission adopts new versions of [the] Standards ... pipelines must request waiver [or extension of time] of the new Standards.").

<sup>21</sup> Section 25, NAESB Standards, 1.2.0 to First Revised Volume No. 1, FERC NGA Gas Tariff.

<sup>22</sup> October 28 Order at P 23, n.43 (denying waiver of NAESB WGQ's business practices, including NAESB WGQ Version 1.9 Standard 5.[3].62a).

The Commission orders:

(A) Discovery's request for rehearing of the July 30 Order is denied as discussed in the body of this order.

(B) Discovery's revised tariff record listed in footnote no. 11 is accepted, effective November 1, 2010, subject to the conditions discussed in the body of this order.

(C) Discovery's request for an extension of time of the NAESB WGQ Version 1.9 Title Transfer Tracking related standards, Capacity Release Related datasets, and Interactive/Internet website related standards listed in footnote no. 14 is granted.

(D) Discovery's request for an extension of time of the NAESB WGQ Version 1.9 Imbalance Trading Related and Capacity Release Related Business Practice Standards listed in footnote no. 15 is denied, as discussed in the body of this order.

(E) Discovery's request for a waiver or an extension of time to implement the requested NAESB standards until a sufficient number of shippers representing over fifty-percent of all firm transportation volumes request implementation is denied, as discussed in the body of this order.

(F) Discovery must file revised tariff records within 15 days from the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.