139 FERC ¶ 61,126
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. RP12-609-000

ORDER ACCEPTING TARIFF RECORDS SUBJECT TO CONDITIONS

(Issued May 16, 2012)

1. On April 16, 2012, Texas Gas Transmission, LLC (Texas Gas), filed revised tariff records[1] which revise Texas Gas's tariff relating to the purchase and sale of gas for pipeline management purposes. Specifically, Texas Gas proposes to move the language from section 6.14[15] to section 6.24.12 of the General Terms and Conditions (GT&C) of the Tariff and modify that language to: (1) allow for the sale, as needed, of quantities of gas that Texas Gas desires to remove from its system for operational management reasons, and (2) clarify that Texas Gas may purchase, as needed, quantities of gas for the management of its pipeline system, removing the current limitation that Texas Gas may only use proceeds received through the cash-out provisions under Section 6.14[14] to facilitate such operational purchases for the management of its system. Texas Gas requests that the revised tariff records be accepted effective May 17, 2012. As explained below, Texas Gas's revised tariff records are accepted effective May 17, 2012, subject to conditions.

**Proposal**

2. Texas Gas states that the proposed tariff language is necessary for it to efficiently manage its system. Additionally, Texas Gas states that the proposed tariff language regarding the sale of excess gas is similar to a tariff provision approved by the Commission for Dominion Transmission, Inc. (Dominion), in Docket No. RP04-119-

[1] Texas Gas Transmission, LLC, FERC NGA Gas Tariff, Tariffs; Section 6.14, G T & C - Imbalance Resolution Procedures, 2.0.0; Section 6.24.12, GT& -Misc Provisions-System Mgmt Purchase & Sale Authority, 0.0.0.

002.[2] Texas Gas further states that in order to efficiently manage its system, it requires the ability to adjust the level of operational gas on its system to ensure reliable and efficient system operations. Texas Gas states that its tariff does not currently contain authorization for the sale of excess quantities of gas incidental to system operations, nor does its tariff include adequate provisions related to the periodic purchase of quantities of gas required to efficiently manage its system operations.

3. Texas Gas states that in addition to gas shortages arising due to the cashing-out of imbalances under section 6.14 of the tariff, it may also be required to purchase quantities of gas from time to time as a result of gas lost on its system, for example, due to system maintenance or in order to properly manage the operations of its system. Texas Gas states that it proposes that any such required operational gas purchases shall continue to be made pursuant to section 6.24.12 of its tariff. Texas Gas states that it will not charge the cost of operational gas purchases to a fuel-use account.

**Notice and Intervention**

4. Public notice of the filing was issued on April 17, 2012. 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 motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the order will not disrupt the order or place additional burdens on existing parties. A motion to intervene and protest was jointly filed by the Western Tennessee Municipal Group, the Jackson Energy Authority, City of Jackson, Tennessee, and the Kentucky Cities (together, Cities) on April 30, 2012. Also on that date, Tennessee Valley Authority (TVA) filed a motion for leave to intervene and protest and Atmos Energy Corporation (Atmos) filed a motion to intervene and comments. Texas Gas filed an answer on May 7, 2012. While answers to protests are not permitted, the Commission will accept the answer here since it directly addresses concerns raised by the protestors and will lead to a better understanding of the issues in the proceeding.

5. Cities have raised a number of issues with Texas Gas's filing. Cities assert that the filing fails to adequately state the reason for or the purpose of the tariff change. Cities state that they do not understand why it is necessary for Texas Gas to expand its authority to purchase and sell gas beyond the existing specific provision for resolving imbalances. Cities contend that Texas Gas has not explained the reason for the change in its

[2] The tariff records filed by Dominion were originally accepted subject to conditions in *Dominion Transmission, Inc.*, 106 FERC ¶ 61,029 (2004) (Dominion 2004 Order).

application, with Texas Gas only stating that "[s]uch changes are necessary for Texas Gas to manage its system." Cities object to Texas Gas's unexplained broadening of its authority to purchase gas independently of the cash-out program when to date Texas Gas has bought and sold gas only in the context of its balancing provisions. Cities question what changes in operations necessitate the proposed changes.

6. Cities agree with Texas Gas's assertion that the change is similar to a tariff provision approved by the Commission for Dominion Transmission but Cities state that the provision lacks the detail required by the Commission in the Dominion 2004 Order[3] approving Dominion's provision. Cities state that as a condition to any acceptance, the Commission should mandate the changes that were required of Dominion in its Dominion 2004 Order.

7. Cities state that their chief concern is that Texas Gas's proposal to buy and sell gas would shift risk and cost to ratepayers. Cities note that the Commission prescribed a reporting mechanism to prevent unwarranted charging of shippers in the Dominion 2004 Order. Cities state that Texas Gas does not propose to submit any such accounting and that while its tariff currently indicates that purchases "shall be documented and accounted for in the annual filings made under section 6.14," that tariff section contains no prescription for such accounting or annual filing. Cities state that Texas Gas's tariff should require the pipeline to file an annual report of purchases and sales and that for each purchase or sale, the report must identify "the source of the operational gas purchased or sold, the date of such sale or purchase, the volume, the purchase or sale price, the costs and revenues from such purchase or sale, the disposition of the associated costs and revenues, and an explanation of the purpose of any operational transaction."[4]

8. Cities also state that the proposed tariff language should be modified to provide that all sales of gas for management or operational purposes must be posted for competitive bidding, citing several Commission orders.[5] Lastly, Cities state that the proposed tariff language is vague or too open-ended with regard to the circumstances in which gas purchases or sales would be authorized, as it employs what Cities refer to as general catchall phrases, such as "as needed, for management of its pipeline system" and "otherwise unnecessary for system operation." Cities state that in the Dominion 2004

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[3] Dominion 2004 Order, 106 FERC ¶ 61,029.

[4] *Northern Border Pipeline Co.*, 128 FERC ¶ 61,230, at P 7 (2009) (*Northern Border*).

[5] Dominion 2004 Order, 106 FERC ¶ 61,029; *Southern Natural Gas Co.*, 133 FERC ¶ 61,183 (2010); *ANR Pipeline Co.*, 110 FERC ¶ 61,069 (2005) (ANR).

Order, the Commission required the pipeline to set forth in its tariff specific sources for gas that it was seeking to sell, i.e., whether from excess fuel retainage, excess gathering and products extraction gas, or confiscated unauthorized gas.[6] Cities state that the Commission should require Texas Gas to adjust its proposal accordingly and should require certain additional clarifications for consistency with Commission policy. Cities specifically ask that the provision be revised to (i) make clear that it does not authorize the sale of any base gas included in the pipeline's rate base; (ii) require the curtailment of operational sales as necessary to mitigate a *force majeure*; and (iii) provide that purchases or sales will have a lower transportation priority than firm sales.

9. Cities state that in the event that Texas Gas attempts to use an answer to explain for the first time how its filing is consistent with the Dominion 2004 Order precedent and other precedent, the Commission should issue an order suspending the proposal and allowing the other parties 15 days to respond.

10. Atmos raises many of the same issues in its comments. Atmos notes that Texas Gas states that it is proposing to adopt similar tariff language to that approved by the Commission in Docket No. RP04-119-002 for Dominion Transmission, Inc. Atmos notes the Commission ultimately required Dominion to make revisions to its proposed tariff language allowing the pipeline to make sales of excess gas.[7] Atmos requests that the Commission require Texas Gas to be more specific in naming the possible sources of gas for sales. Atmos notes that in the Dominion 2004 Order, the Commission required Dominion to identify the specific sources of gas that it would sell. Atmos states that Texas Gas's proposed tariff language is ambiguous and it is unclear whether Texas Gas could or would make sales for which its customers should be credited. Atmos states that to the extent Texas Gas makes such sales, the Commission should require Texas Gas to revise its proposed tariff language to provide that revenues derived from the sale of such gas should be credited to its shippers in accordance with the appropriate sections of its tariff, just as the Commission required Dominion to do in its Dominion 2004 Order. Lastly, Atmos requests that the Commission require Texas Gas to file an annual report of gas sales indicating the source of excess gas, date of the sale, volumes, sales price, revenues from the sale, and the disposition of the revenues, as the Commission required Dominion to do in the Dominion 2004 Order.

11. TVA states in its protest that it understands and supports Texas Gas's desire to efficiently manage its system to ensure reliability. However, TVA states that Texas Gas's existing tariff provides the authority and ability to balance the system position

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[6] Dominion 2004 Order, 106 FERC ¶ 61,029 at PP 4, 12.

[7] *Id*. PP 12-17.

through rate schedule definitions, which include uniform or non-uniform gas flow depending on service, contracted quantity limitations, and overrun provisions including penalty authority. TVA states that all of this comes at a price to the customer. TVA states that in addition to the balancing mechanism, Texas Gas's tariff also addresses imbalances through month-end cash-out provisions by contract under GT&C section 6.14, as well as through revisions to the Lost and Unaccounted For component of Fuel retention. Given the many avenues by which Texas Gas can address imbalances, TVA questions the appropriateness of Texas Gas providing itself with such wide and general trading authority. TVA suggests that Texas Gas should not need a buy-sell authority to maintain general system management, nor does it need to eliminate current tariff restrictions as proposed here, but can instead rely on service offerings with corresponding FERC-approved rate schedules.

12. Lastly, TVA states that Texas Gas does not address whether or not base gas would be sold, how shippers would be protected from losses incurred under a purchase and sale authority, or as in the Dominion 2004 Order, provide for the restriction of sources from which gas may be sold. TVA states that there simply is not enough explanation of the comparable circumstances between the present filing and the Dominion 2004 Order. TVA states that considering the number of options to achieve system management, including enforcing scheduling integrity through the use of existing tools, perhaps the topic of system management should be reviewed in the larger context of a rate case, or at a minimum through a technical conference.

13. Texas Gas filed a *pro forma* tariff record in Appendix A of its answer which reflects proposed edits Texas Gas agrees to make. In its answer, Texas Gas states that there was a misunderstanding of the original intent of the proposed tariff language, which was merely to provide clarification of Texas Gas's existing tariff authority to buy and sell gas for the purpose of system management. Texas Gas asserts that in the interest of resolving any misunderstandings and related concerns, it is offering to incorporate many of the 2004 Dominion Order tariff provisions cited by Cities, TVA and Atmos.

14. Texas Gas states that it will list the sources of gas from which it may sell excess gas, as requested by Cities, TVA, and Atmos. Texas Gas also states that it offers to add language to proposed section 6.24.12[2(b)] of its GT&C explicitly stating that the proposed section does not authorize Texas Gas to sell base gas that is part of Texas Gas's rate base. Texas Gas additionally states that it agrees to add language to section 6.24.12[(b)] of its GT&C, stating that it will credit revenues solely from certain sales of gas associated with the cash-out provisions of section 6.14. Texas Gas states that it has also agreed to add that Texas Gas will post the excess gas available for sale through competitive bidding. Last, Texas Gas states that its existing tariff already contains a requirement to make an annual filing with respect to purchases, but that it agrees to add excess gas sales to this provision.

15. Texas Gas states, in regard to Cities' request that Texas Gas be required to curtail sales similar to what the Commission required in the Dominion 2004 Order, that Texas Gas has proposed to sell gas at a single point of sale at its storage field. Texas Gas asserts that, therefore, such sales will not require physical movement of gas by Texas Gas, but will generally be transferred to the purchasing customer's storage account. Texas Gas states that to the extent that the purchasing customer chooses to immediately utilize transportation service, the priority of that transportation service would be scheduled in accordance with the existing scheduling provisions of Texas Gas's tariff, and as such, no curtailment provision is necessary.

16. Lastly, Texas Gas states since it will be selling the excess gas at its storage fields and will not be physically moving gas through its system as part of the sale, parties purchasing the gas have the ability to inject into their storage accounts, if desired, or transport to another location. Texas Gas also claims that the Commission does not, as a policy, require pipelines to provide lower priority for operational gas purchases. Texas Gas cites the tariff of Gulf South Pipeline Company, LP,[8] which states "purchases for operational purchases will be scheduled before any other service." Texas Gas states that therefore, parties purchasing gas do not have any scheduling priority, and since purchases are necessary to protect system integrity, they must have a higher scheduling priority than all other services. Therefore, Texas Gas asserts that Cities' request that Texas Gas be required to provide that operational purchases and sales will have lower priority than firm sales, should be rejected.

## Discussion

17. Consistent with the Commission's finding in the Dominion 2004 Order,[9] we find that Texas Gas's proposed changes to its tariff concerning the purchases of gas for system management and the sales of excess gas would be just and reasonable, with several modifications to the proposed tariff language. The interveners in this case (Cities, Atmos and TVA) raise valid concerns about the proposed tariff language filed by Texas Gas. While the Commission generally approved similar language in the Dominion 2004 Order, the Commission also required the pipeline to make several additional changes as well, which Texas Gas has included many of in its new proposed tariff language filed in its May 7, 2012, answer.

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[8] Gulf South Pipeline Company, LP, FERC NGA Gas Tariff, Seventh Revised Volume No. 1, Section 6.12[4(b)] (Scheduling), Version 2.0.0.

[9] Dominion 2004 Order, 106 FERC ¶ 61,029.

18. First, consistent with Dominion, Northern Border and ANR, Texas Gas must revise its tariff to incorporate a reporting mechanism for the sale, as well as, the purchase of each category of gas, by filing an annual report.[10] As Texas Gas states in its answer, it will revise its annual filing requirements to add sales of excess gas. Specifically, the annual report must be sure to identify the following: (1) the source of the operational gas purchased or sold; (2) the date of such sale or purchase; (3) the volume; (4) the purchase or sale price; (5) the costs and revenues from such purchase or sale; (6) the disposition of the associated costs and revenues; and (7) an explanation of the purpose of any operational transaction.[11] The annual report will help ensure that Texas Gas is not charging its customers for the underrecovery of gas on the one hand while realizing revenue generated from the sale of gas for overrecovery on the other. The annual filing will also provide interested parties with the opportunity to examine Texas Gas's sales of excess gas and question the revenues realized from such sales.

19. To ensure that all parties have an opportunity to bid on the sale of any excess gas incidental to its operations, Texas Gas must also revise its proposed tariff language to incorporate the new tariff language from its answer, which provides that it will post the excess sales volumes for competitive bidding. Posting the gas for sale will provide all of Texas Gas's shippers with an opportunity to compete for those volumes. Atmos requests, that to the extent Texas Gas makes sales for which its customers should be credited, the Commission should require Texas Gas to revise its proposed tariff language to provide that revenues derived from the sale of such gas should be credited to its shippers in accordance with the appropriate sections of its tariff. Texas Gas states in its answer that it agrees to add language, stating that it will credit revenues solely from certain sales of gas associated with the cash-out provisions of section 6.14. The Commission agrees and directs Texas Gas to clarify in its proposed tariff language that any sales of excess gas which should be credited to shippers shall be done so in accordance with the appropriate sections of its tariff.

20. Texas Gas must revise its tariff, as it has in the *pro forma* tariff record filed in its answer, to include the possible sources and circumstances in which Texas Gas will be required to sell excess volumes of gas. Additionally, Texas Gas is directed to revise its tariff language, as it has in the *pro forma* tariff record filed in its answer, to clarify that it does not authorize the sale of any base gas included in the pipeline's rate base. This

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[10] *Id*. P 14. The annual report should indicate the source of the excess gas, date of the sale, volumes, sales price, revenues from the sale, and the disposition of the revenues.

[11] *Northern Border*, 128 FERC ¶ 61,230 at P 7.

requirement is consistent with the Commission's determination in the Dominion 2004 Order.[12]

21. Texas Gas is not required to revise the proposed tariff language in order to provide for the curtailment of sales of excess gas since, as Texas Gas states in its answer, the gas will be sold at a single point of sale at its storage field and will not require physical movement of the gas. As such, the authorization to purchase and sell gas for operational purchases will not require curtailment and so a curtailment provision is not necessary. Furthermore, Texas Gas is not required to revise its tariff to provide that operational purchases or sales should have a lower transportation priority than firm sales. As Texas Gas explains in their answer, parties purchasing gas do not have a scheduling priority, since the sales will be occurring at the storage fields, and the purchases of gas to maintain system operations should have a higher scheduling priority.

22. TVA requests that the topic of system management should be reviewed in the context of a rate case or in a technical conference. The Commission finds that Texas Gas's proposal, as modified consistent with the Dominion 2004 Order and the language proposed in Texas Gas's answer, along with the obligation to file an annual report, make a technical conference or a rate case review unnecessary.

The Commission orders:

(A) The tariff records listed in Footnote No. 1 are accepted effective May 17, 2012, subject to the conditions of this order.

(B) Texas Gas is directed to file revised tariff records within fifteen days of the date of this order, modifying its tariff language as proposed in its answer filed on May 7, 2012, and as discussed above.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[12] Dominion 2004 Order, 106 FERC ¶ 61,029 at P 15.