

143 FERC ¶ 61,288
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 27, 2013

In Reply Refer To:
ANR Pipeline Company
Docket No. RP13-962-000

ANR Pipeline Company
717 Texas Street
Suite 2400
Houston, TX 77002-2761

Attention: John A. Roscher, Director, Rates and Tariffs

Ladies and Gentlemen:

1. On May 31, 2013, ANR Pipeline Company (ANR) filed tariff records¹ to clarify the availability of transportation and storage service to shippers that have contracted with ANR for service under Rate Schedule STS.² ANR states that the revisions are necessary because certain STS shippers are using non-STS related transportation and storage services prior to using their entire daily STS entitlements. ANR proposes that the revised tariff sheets be effective July 1, 2013. For the reasons discussed below, the Commission rejects ANR's proposed tariff records.

2. In support of the instant filing, ANR explains that Commission Order No. 636,³ in an effort to protect small shippers, required pipelines offering a one-part volumetric small

¹ ANR Pipeline Company, FERC NGA Gas Tariff, ANR Tariffs; [5.2.1 - Rate Sch STS, Availability, 1.0.0](#); [6.18.12 - GT&C, In-Field Storage Transfers, 1.0.0](#).

² On July 30, 1993, the Commission issued an order approving ANR's tariff sheets as complying with Order No. 636 which included a small customer STS Rate Schedule. *ANR Pipeline Co.*, 64 FERC ¶ 61,140 (1993).

³ *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 636, FERC Stats. & Regs. ¶ 30,939, *order on reh'g*, Order No. 636-A, FERC Stats. & Regs. ¶ 30,950, *order on reh'g*, Order No. 636-B, 61

(continued...)

customer sales or firm transportation service rate to continue to offer firm and no-notice transportation to small customers on the same basis after restructuring, but that these benefits were circumscribed by the Commission.

3. ANR points out, for example, that Order 636-A made clear that small customers would not be provided a special marketing advantage and required that customers electing to retain or receive small customer service be precluded from shipping gas under any interruptible transportation service or as a replacement shipper under a capacity release mechanism, unless the customer had exhausted the daily levels of firm service entitlement under its small customer rate schedule for that day. The specific language in Order No. 636-A reads:

Therefore, the Commission will preclude the small customer from shipping gas under available interruptible transportation service on the pipeline or shipping gas as a replacement shipper under the capacity releasing mechanism before it exhausts its firm entitlement to service under a small customer rate schedule.⁴

4. In this regard, ANR proposes to modify the language in section 5.2.1 (e) of its current tariff to include firm transportation service in the Order No. 636-A preclusion quoted above, as well as interruptible transportation service and released capacity. In addition, ANR proposes to modify the language in sections 5.2.1 (e) and 6.18.12 to preclude the use of in-field storage transfers by small customers for any of the gas requirements for which that customer has contracted under Rate Schedule STS.

5. ANR asserts that these tariff modifications are necessary to eliminate an STS loophole that permits an STS shipper to receive storage and related transportation services at no cost via in-field transfers, without first using all of its STS daily entitlement. ANR claims that it recently became aware that an STS customer could purchase part, or all, of its gas requirements via an in-field storage transfer, and subsequently withdraw and redeliver to its STS delivery point. Since customers using storage services on ANR pay applicable transportation service charges and fees when gas is injected into storage accounts, and pay nothing when withdrawn, no transportation

FERC ¶ 61,272 (1992), *order on reh'g*, 62 FERC ¶ 61,007 (1993), *aff'd in part and remanded in part sub nom. United Distribution Cos. v. FERC*, 88 F.3d 1105 (D.C. Cir. 1996), *order on remand*, Order No. 636-C, 78 FERC ¶ 61,186 (1997).

⁴ Order No. 636-A, FERC Stats. & Regs. ¶ 30,950 at 30,546 (footnote omitted); *see also* Order No. 636-A, FERC Stats. & Regs. ¶ 30,950 at 30,600.

service charge would be incurred.⁵ ANR contends that its proposed tariff revisions are consistent with the Commission's Order No. 636-A and the Commission's order on ANR's Order No. 636 compliance filing, which required small STS customers to use all their STS daily capacity before they use other unbundled services, such as interruptible transportation service or capacity release.

6. Public notice of ANR's Tariff Filing was issued on June 3, 2013. Interventions and protests were due as provided in Section 154.210 (18 C.F.R § 154.210 (2012)) of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2012)), all timely filed motions to intervene and any unopposed motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties.

7. On June 12, 2013, City Gas Company (City Gas), an STS customer, which also has contracts with ANR under Rate Schedule FTS, filed a protest to ANR's proposal. City Gas argues that ANR's proposed changes would inhibit its use of firm transportation services under Rate Schedule FTS, for which City Gas has long term contracts with ANR, and thereby cause it to incur the cost of the unutilized FTS service, which requires payment of demand charges if not used. City Gas urges the Commission not to allow ANR's proposed tariff sheets to take effect, or alternatively, to suspend the effectiveness of the proposed changes for the maximum period allowed by law and convene a technical conference to address the issues raised in its protest.⁶

8. City Gas first points out that ANR cites Commission Order No. 636-A, which states that small customers should be precluded from shipping under any interruptible transportation service or as a replacement shipper under a capacity release mechanism, unless the customer has exhausted the daily levels of firm service entitlements under its small customer rate schedule. However, City Gas argues that ANR's tariff modifications would prohibit it, as an STS shipper, from effectively using any FTS firm transportation service (which is neither interruptible service nor capacity release service) without first

⁵ See ANR Tariff Filing at 5, note 13 ("Customers utilizing storage services on ANR pay applicable transportation service charges when gas is injected into storage accounts, and pay no transportation charges when the storage gas is withdrawn from a storage account for redelivery.")

⁶ The Town of Florence, which had filed a timely motion to intervene, filed supplemental comments on June 20, 2013 protesting ANR's Tariff Filing and expressly supporting City Gas's protest. Stating that it is similarly situated to City Gas, its comments echo those of City Gas, and it asks for the same relief.

exceeding its STS maximum daily quantity or MDQ. This would adversely affect City Gas, which has contracts for FTS firm transportation in addition to its Rate Schedule STS service.⁷

9. City Gas explains that ANR's proposal would effectively make its existing Rate Schedule FTS-1 contracts unusable because it would be unable to make timely firm FTS service nominations and then use its STS no-notice service to handle swings and remaining volumes as permitted by ANR's current tariff. City Gas protests that ANR's proposal would result in its having to pay reservation charges under its FTS-1 agreements despite the fact that they would be virtually impossible to use. City Gas argues that it is unjust and unreasonable to allow ANR to limit the use of its FTS-1 firm transportation service when the intended limitation imposed on STS shippers by Order No. 636-A pertains only to the use of interruptible service and released capacity.

10. The Commission finds merit in City Gas's concerns. ANR's rationale for proposing changes, or "clarifications," to its tariff is that "certain STS customers are utilizing, or otherwise receiving, non-STS related transportation and storage services prior to utilizing their entire daily STS entitlements."⁸ In ANR's view, such behavior is contrary to the Commission's policy as enunciated in Order No. 636-A. The flaw in ANR's analysis, however, is that it imputes a broader intent into the Commission's Order No. 636 orders than was actually there. In this regard, ANR contends that "it was clearly the intent of Order No. 636 and ANR's STS service, as approved in its Restructuring Filing, to limit the availability of non-STS transportation and storage services for those customers that have contracted for small customer service until such customers had exceeded their daily STS entitlements."⁹

11. However, as City Gas explains, Order No. 636-A does not include firm transportation service in its prohibition against small customers using certain services prior to exhausting their STS entitlements. Rather, the Commission only required that STS customers could not ship gas under any interruptible transportation service or as a replacement shipper using capacity release, until the STS customer had used all of its STS MDQ for that day. ANR's interpretation of the Commission's intent is therefore incorrect, and the proposed limitations on STS service based on that misinterpretation have not been shown to be just and reasonable.

⁷ City Gas and ANR have entered into three FTS firm service agreements since 1993.

⁸ ANR Tariff Filing at 4.

⁹ *Id.*

12. In addition, ANR's proposal to preclude the use of in-field storage transfers by STS shippers is also unsupported, as there appears no basis why an STS shipper, even if also an FTS shipper, should be treated any differently than other FTS shippers engaging in the same type of transactions.

13. Therefore, the Commission finds that ANR's Tariff Filing is unjust and unreasonable and rejects ANR's proposed revisions to sections 5.2.1 and 6.18.12 of its FERC Gas Tariff.

By direction of the Commission.

Kimberly D. Bose,
Secretary.