

131 FERC ¶ 61,212
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
and John R. Norris.

Texas Eastern Transmission, LP

Docket No. RP10-30-002

ORDER DENYING REHEARING

(Issued June 3, 2010)

1. On March 18, 2010, the Commission issued an order in this docket, which set for hearing Texas Eastern Transmission, LP's (Texas Eastern) proposed tariff revisions to address gas quality and interchangeability.¹ On April 19, 2010, Statoil Natural Gas, LLC (Statoil), filed a request for rehearing of the Hearing Order. For the reasons discussed below, we deny rehearing.

Background

2. On October 2, 2009, Texas Eastern filed tariff sheets pursuant to section 4 of the Natural Gas Act (NGA) to revise its tariff with respect to gas quality and interchangeability issues (Tariff Filing).² Pertinent to this order, Texas Eastern proposed a combined nitrogen and oxygen limit of 2.75 percent and a limit on ethanes and heavier hydrocarbons of 12 percent. Texas Eastern's existing gas quality standards do not include any comparable limits. Texas Eastern stated that it proposed the gas quality and interchangeability provisions after a lengthy collaborative process with interested customers, including producers, local distribution companies, electric generators, other end-use customers and interconnecting pipelines. Texas Eastern stated that it proposed the new gas quality and interchangeability specifications to accommodate anticipated future market conditions, specifically anticipated receipts of substantial new supplies

¹ *Texas Eastern Transmission, LP*, 130 FERC ¶ 61,190 (2010) (Hearing Order).

² See Hearing Order at P 4 for a table of Texas Eastern's then effective tariff limits and all the limits proposed in its Tariff Filing.

from liquefied natural gas (LNG), the Rocky Mountains, coal bed methane, and the Marcellus Shale.

3. On October 30, 2009, the Commission issued an order³ accepting and suspending the proposed tariff sheets, to be effective on April 1, 2010 or an earlier date to be later established by subsequent order, and establishing a technical conference. On December 8, 2009, the Commission held a technical conference to address the issues raised by Texas Eastern's filing. At the conclusion of the technical conference, the parties agreed to develop and submit to the Commission a list of issues requiring Commission resolution. Texas Eastern submitted to the Commission a list of contested issues on December 16, 2009 (Stipulated Issues).⁴ Parties filed comments and reply comments on the Stipulated Issues on January 8 and January 10, 2010, respectively. The Hearing Order set the Stipulated Issues for hearing before an Administrative Law Judge (ALJ).

4. On March 1, 2010, Texas Eastern filed a motion to place the suspended tariff sheets into effect April 1, 2010. Texas Eastern also noted in that filing that it intended to issue a limited receipt point waiver for the gas quality standards set forth in sections 5.2 and 5.3 of the General Terms and Conditions (GT&C) of its tariff for a period of six months. The waiver is conditioned on the commingled gas stream meeting the referenced specifications at the delivery points. Texas Eastern stated that the limited "transitional" waiver is intended to provide customers and end-users with the benefits of the Tariff Filing while also providing flexibility to producers and other interconnecting upstream parties during the waiver period. Several parties, including Statoil, protested the transitional waiver, stating that it did not resolve their concerns with the proposed gas quality and interchangeability standards. In the Hearing Order, we found that the proposed six-month waiver is just and reasonable and provides shippers flexibility to make a transition to the new standards that went into effect April 1, 2010.

³ *Texas Eastern Transmission, LP*, 129 FERC ¶ 61,088 (2009) (Suspension Order).

⁴ The Stipulated Issues are listed in P 10 of the Hearing Order. Relevant to Statoil's rehearing request are Stipulated Issue No. 1 ("Should there be a separate tariff limit on C2+, and if so, what is that appropriate limit?") and Stipulated Issue No. 2 ("Should there be a separate tariff limit on nitrogen, and if so, what is the appropriate limit?").

Request for Rehearing

5. In its rehearing request, Statoil contends that the Commission should have rejected Texas Eastern's nitrogen and non-methane hydrocarbon⁵ specifications outright instead of setting them for hearing. Statoil also argues that the Commission should have required Texas Eastern to extend the transitional waiver until the conclusion of the procedural schedule for the hearing as set by the ALJ.

6. With regard to the nitrogen and C2+ standards, Statoil essentially repeats the arguments it made in its protest and post technical conference comments. It contends that the proposed 2.75 percent limitation represents a major reduction that Texas Eastern has not justified and that it will limit Texas Eastern's ability to transport supplies of LNG. Statoil asserts that there is little or no support for the change and that the shippers supporting the nitrogen limitation fail to take into account the differences between Texas Eastern and its downstream affiliate Algonquin Gas Transmission (Algonquin), which Statoil contends Texas Eastern relies on as support for the nitrogen specification proposed here. According to Statoil, the shippers that own peak shaving facilities have submitted evidence in this proceeding similar to that filed in Algonquin's gas quality proceeding. Statoil contends that by setting this issue for hearing "the Commission seemingly has rejected the *Algonquin* evidence submitted by the peak-shaving facilities in this proceeding," and has concluded that Texas Eastern can handle the nitrogen concerns raised by the peak shavers.⁶ Statoil also argues that by granting a six-month waiver, Texas Eastern demonstrates that its proposed specifications are too restrictive or unnecessary. Statoil also claims that the nitrogen and C2+ restrictions are anticipatory and without justification, and are supported by only a few end-users. Thus, according to Statoil, the specifications fail to strike a balance between safety and reliability, and the maximization of supply.

7. As to the waiver, Statoil notes that according to the procedural schedule adopted for the hearing on the Stipulated Issues, the ALJ's initial decision will not issue until June 6, 2011, eight months after the transitional waiver expires. Statoil argues that as the waiver requires the delivery point specifications to be met there is no reason to believe that any harm would come from extending the waiver until the end of the hearing

⁵ For the purposes of this Order the Commission will presume that Statoil is referring to Stipulated Issue No. 1, regarding whether there should be a limit on C2+ (ethanes and heavier hydrocarbons) when it refers to Texas Eastern's "non-methane hydrocarbon" specification as there is no Stipulated Issue titled as such. Texas Eastern's proposed limit on C2+ is 12 percent.

⁶ Rehearing Request at 7.

schedule. Statoil also claims that an extension would provide consistency through the hearing process and prevent shippers from having to comply with the tariff provisions midway through that process with the possibility of returning to previous activities after the hearing.

Discussion

8. For the reasons discussed below we deny rehearing.

9. As noted above, Statoil makes essentially the same arguments that it made in its previous submissions in this proceeding, which arguments were addressed in the Suspension and Hearing Orders. Contrary to Statoil's contentions, in setting the nitrogen and C2+ specifications for hearing, the Commission did not make any substantive findings with regard to the evidence submitted on those issues. We did find that the comments and evidentiary support filed by both sides on those and the other Stipulated Issues raised material questions of fact that would best be resolved in the context of an evidentiary hearing. We found that, because the comments and reply comments raised material issues of fact, it was not appropriate to reject Texas Eastern's proposed nitrogen and C2+ standards. Nothing in Statoil's rehearing request compels us to find differently here. We note that Statoil will have an opportunity to fully air its concerns at the hearing.

10. Further, we will not require Texas Eastern to extend its voluntary transitional waiver until the end of the procedural schedule. Our authority under the NGA is limited to suspending proposed tariff sheets for a maximum of five months, which we have done here. Granting Statoil's request would be tantamount to suspending the tariff sheets beyond that five month period. Contrary to Statoil's claims, the Commission does not find that Texas Eastern's transitional waiver demonstrates that its proposed standards are too restrictive or unnecessary. We found in the Hearing Order that the waiver was a reasonable means for Texas Eastern to provide its shippers extra time and flexibility to transition to the new standards. Texas Eastern may extend that waiver if it so decides but we will not require it to do so.

11. We note that several settlement conferences have been scheduled for this proceeding and we continue to encourage the parties to work diligently toward a settlement of the Stipulated Issues.

The Commission orders:

Statoil's request for rehearing is denied.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.