

170 FERC ¶ 61,003
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

Trailblazer Pipeline Company LLC

Docket No. RP20-320-000

ORDER ACCEPTING AND SUSPENDING TARIFF RECORDS
SUBJECT TO CONDITIONS

(Issued January 6, 2020)

1. On December 9, 2019, Trailblazer Pipeline Company LLC (Trailblazer) filed tariff records (TSA Filing) reflecting eight amended and fifteen new negotiated rate transportation service agreements (TSAs) with its shippers, along with other associated tariff records.¹ Trailblazer requests waiver of the Commission's 30-day notice requirement to permit the tariff records in the TSA Filing to become effective October 1, November 1, or December 1, 2019, consistent with the terms of a settlement to be filed in its rate proceeding in Docket No. RP18-922-000 (Rate Case Settlement). Trailblazer states that the Rate Case Settlement will resolve issues in Trailblazer's general rate case filed under section 4 of the Natural Gas Act (NGA) on June 29, 2018 in Docket No. RP18-922-000 (June 2018 Rate Case). On December 20, 2019, in Docket No. RP18-922-004, Trailblazer filed the Rate Case Settlement for Commission approval. As discussed below, we accept and suspend the referenced tariff records, to be effective October 1, 2019, November 1, 2019, or December 1, 2019 as specified in the Appendix, subject to the outcome of the Rate Case Settlement and the outcome of Trailblazer's December 27, 2019 filing in Docket No. RP20-371-000, which includes preceding versions of certain TSAs.²

¹ See Appendix.

² In the December 27 filing, Trailblazer refiled certain TSAs to implement the Rate Case Settlement that had been rejected as premature in an earlier order because the settlement had not been filed. *Trailblazer Pipeline Company LLC*, 169 FERC ¶ 61,211 (2019) (December 19 Order).

Background

2. On July 31, 2018, the Commission issued an order addressing the June 2018 Rate Case, accepting and suspending the tariff records reflecting rate increases, effective January 1, 2019, with the tariff records reflecting rate decreases to become effective August 1, 2018, subject to refund and the outcome of hearing and settlement procedures.³ Subsequently on February 21, 2019, the Commission issued a separate order addressing a paper hearing on tax issues.⁴ Thereafter, on October 16, 2019, Trailblazer filed a motion to place interim settlement rates into effect, effective October 1, 2019, anticipating that the Rate Case Settlement would soon be filed and, if approved, would resolve all of the issues set for hearing in the Docket No. RP18-922-000 proceeding. On October 21, 2019, the Chief Administrative Law Judge granted the motion.⁵

Proposal

3. In its TSA Filing, Trailblazer states that executing and filing the TSAs with effective dates of October 1, November 1, and December 1, 2019 are an integral part of the Rate Case Settlement, pending the filing and Commission approval of the Rate Case Settlement. Trailblazer states that the TSAs will result in the implementation of lower rates for the shippers.

4. Trailblazer states that it is filing new TSAs with the following customers and respective contract numbers:

Effective October 1, 2019:

Fortigen Geneva, LLC (Fortigen), 949151;

Effective November 1, 2019:

Anadarko Energy Services Co. (Anadarko), 934288; CIMA Energy, LP, 930966, 949746; City of Hastings (Neb.), Hastings Utilities (City of Hastings), 907621; Concord Energy LLC (Concord), 947590, 947595; ConocoPhillips Co. (ConocoPhillips), 930470; Devlar Energy Marketing, L.L.C. (Devlar), 931914; East Cheyenne Gas Storage, LLC (ECGS), 947649; KochEnergy Services, LLC (Koch), 949144; Mid America Agri Products/Wheatland, LLC,

³ See *Trailblazer Pipeline Co.*, 164 FERC ¶ 61,074 (2018) (Suspension Order).

⁴ *Trailblazer Pipeline Co.*, 166 FERC ¶ 61,141 (2019).

⁵ See *Trailblazer Pipeline Co.*, 169 FERC ¶ 63,008 (2019) (order of Chief Administrative Law Judge approving interim settlement rates).

(Mid America), 949143; Mico, Inc. (Mico), 946747, 948416, 949289, 949747; Summit Energy LLC (Summit), 937518; Twin Eagle Resource Management LLC (Twin Eagle), 948646; United Energy Trading, LLC (UET), 928389, 948164, 948679; United Gypsum Co. (Gypsum), 911097; WoodRiver Energy LLC (WoodRiver), 950411;

Effective November 1, 2019:

Mico, 946747; Tenaska Marketing Ventures (Tenaska), 935680.⁶

5. Trailblazer states that, pursuant to the Rate Case Settlement, the TSAs include a provision that they will be effective only if the Rate Case Settlement becomes effective. According to Trailblazer, if the Rate Case Settlement does not become effective for any reason, then the TSAs shall be null and void, and both Trailblazer and the shippers shall be relieved of any rights or obligations specified in the TSAs.⁷

6. Trailblazer affirms in its TSA Filing that the agreements do not deviate in any material respect from the form of service agreement in its tariff and asserts that it has authority to enter into negotiated rates under the Commission's Policy Statement.⁸

7. Trailblazer requests waiver of the 30-day notice requirement in 18 C.F.R. § 154.207, to permit the tariff records to become effective October 1, November 1, or December 1, 2019, as appropriate.

⁶ TSA Filing, Transmittal Letter at 4-5. Trailblazer states that the Mico and Tenaska TSAs to be effective December 1, 2019 are consolidations of various existing contracts into a single contract for administrative purposes. *Id.* at 5.

⁷ *Id.* at 3.

⁸ *Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines*, 74 FERC ¶ 61,076 (Policy Statement), *clarified*, 74 FERC ¶ 61,194, *order on reh'g*, 75 FERC ¶ 61,024 (1996), *modified*, 104 FERC ¶ 61,134 (2003); *order on reh'g and clarification*, 114 FERC ¶ 61,042 (2006).

Notice

8. Public notice of the TSA Filing was issued on December 11, 2019. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁹ Pursuant to Rule 214,¹⁰ all timely filed unopposed motions to intervene and any unopposed motions 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 this proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

Discussion

9. We accept and suspend the proposed tariff records to become effective October 1, 2019, November 1, 2019, or December 1, 2019, as outlined in the Appendix, subject to the outcome of the Rate Case Settlement. Trailblazer represents that executing new negotiated rate agreements with the effective dates of October 1, 2019, November 1, 2019, or December 1, 2019 is integral to the Rate Case Settlement and that, if the Rate Case Settlement is not approved, the tariff records associated with the TSAs shall be "null and void."¹¹ The Commission has not yet acted on the recently filed Rate Case Settlement, and, in the event the Settlement is not approved, it will be necessary for Trailblazer to file to remove those tariff records from its tariff. Because the TSAs implement terms of the Rate Case Settlement, we also grant the unopposed request for waiver of the 30-day notice requirement to permit the TSAs to take effect on October 1, 2019, November 1, 2019, or December 1, 2019, as outlined in the Appendix.

10. We note that in the December 19 Order the Commission rejected an earlier filing of negotiated rate agreements that were dependent on the Rate Case Settlement because the Settlement had not been filed.¹² However, in the instant TSA Filing, Trailblazer's proposed tariff records containing its Table of Contents and Statement of Negotiated Rate Transactions account for a negotiated rate agreement that was rejected in the December 19 Order. Trailblazer's Statement of Negotiated Rate Transactions also reflects amendments to agreements that were rejected in the December 19 Order. On December 27, 2019, in Docket No. RP20-371-000, Trailblazer refiled the TSAs that were the subject of the December 19 Order. Therefore, the acceptance and suspension of the tariff records in the instant filing is subject to the outcome of the filing in

⁹ 18 C.F.R. § 154.210 (2019).

¹⁰ 18 C.F.R. § 385.214 (2019).

¹¹ *See, e.g.*, UET TSA, Art. 1.1 (submitted with filing).

¹² December 19 Order, 169 FERC ¶ 61,211.

Docket No. RP20-371-000, which consists of tariff records reflecting preceding versions of Trailblazer's agreements.

Suspension

11. Based upon a review of the filing, we find that the proposed tariff records have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, we shall accept such tariff records for filing and suspend their effectiveness for the period set forth below, subject to the conditions set forth in this order.

12. The Commission's policy regarding suspension is that tariff filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or inconsistent with other statutory standards.¹³ It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.¹⁴ Such circumstances exist here where the filing is an uncontested basket of negotiated rate agreements submitted to implement a rate case settlement. Therefore, we exercise our discretion to suspend the tariff records referenced above to take effect on October 1, 2019, November 1, 2019, or December 1, 2019, as outlined in the Appendix, subject to the conditions set forth in the body of this order and in the ordering paragraph below.

¹³ See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

¹⁴ See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

The Commission orders:

The tariff records identified in the Appendix to this order are accepted and suspended to become effective October 1, 2019, November 1, 2019, or December 1, 2019, subject to the outcome of the Rate Case Settlement and the outcome of Trailblazer's filing in Docket No. RP20-371-000, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

Trailblazer Pipeline Company LLC FERC NGA Gas Tariff Tariffs

Tariff records accepted and suspended effective October 1, 2019, subject to conditions:

[NRA, Section 2.9 NRA Fortigen K# 949151, 3.0.0](#)

Tariff records accepted and suspended effective November 1, 2019, subject to conditions:

[Rates, Negotiated Rates, 50.0.0](#)

[TOC, Table of Contents - Volume No. 2, 38.0.0](#)

[NRA, Section 2.4 NRA UET K# 948679, 5.0.0](#)

[NRA, Section 2.6 NRA Concord K# 947595, 3.0.0](#)

[NRA, Section 2.7 NRA UET K# 928389, 4.0.0](#)

[NRA, Section 2.8 NRA UET K# 948164, 4.0.0](#)

[NRA, Section 2.11 NRA - Twin Eagle K# 948646, 1.0.0](#)

[NRA, Section 2.13 NRA - Anadarko K# 934288, 1.0.0](#)

[NRA, Section 2.21 NRA CIMA K# 949746, 1.0.0](#)

[NRA, Section 2.49 NRA City of Hastings K# 907621, 0.0.0](#)

[NRA, Section 2.50 NRA Gypsum K# 911097, 0.0.0](#)

[NRA, Section 2.51 NRA ConocoPhillips K# 930470, 0.0.0](#)

[NRA, Section 2.52 NRA CIMA K# 930966, 0.0.0](#)

[NRA, Section 2.53 NRA Devlar K# 931914, 0.0.0](#)

[NRA, Section 2.54 NRA Summit K# 937518, 0.0.0](#)

[NRA, Section 2.55 NRA Mieco K# 946747, 0.0.0](#)

[NRA, Section 2.56 NRA Concord K# 947590, 0.0.0](#)

[NRA, Section 2.57 NRA ECGS K# 947649, 0.0.0](#)

[NRA, Section 2.58 NRA Mieco K# 948416, 0.0.0](#)

[NRA, Section 2.59 NRA Mid America K# 949143, 0.0.0](#)

[NRA, Section 2.60 NRA Koch K# 949144, 0.0.0](#)

[NRA, Section 2.61 NRA Mieco K# 949289, 0.0.0](#)

[NRA, Section 2.62 NRA Mieco K# 949747, 0.0.0](#)

[NRA, Section 2.63 NRA WoodRiver K# 950411, 0.0.0](#)

Tariff records accepted and suspended effective December 1, 2019, subject to conditions:

[Rates, Negotiated Rates, 51.0.0](#)

[TOC, Table of Contents - Volume No. 2, 39.0.0](#)

[NRA, Section 2.3 - NRA Reserved, 8.0.0](#)

[NRA, Section 2.5 NRA Tenaska K# 935680, 7.0.0](#)

[NRA, Section 2.55 NRA Mico K# 946747, 1.0.0](#)

[NRA, Section 2.58 NRA Reserved, 1.0.0](#)

[NRA, Section 2.61 NRA Reserved, 1.0.0](#)

[NRA, Section 2.62 NRA Reserved, 1.0.0](#)