

171 FERC ¶ 61,180
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Northern Border Pipeline Company

Docket No. RP20-859-000

ORDER ACCEPTING AND SUSPENDING TARIFF RECORD SUBJECT TO
REFUND AND
ESTABLISHING A TECHNICAL CONFERENCE

(Issued May 29, 2020)

1. On May 1, 2020, Northern Border Pipeline Company (Northern Border) filed a revised tariff record¹ to modify section 6.5 of the General Terms and Conditions (GT&C) of its tariff to establish a gas quality safe harbor limit of 1100 Btu per cubic foot for gas on Northern Border's pipeline system. Northern Border further proposes to revise GT&C section 6.5 to establish: (1) a process by which Northern Border will post on its website upper heat content limits in excess of 1100 Btu for gas receipts at specified points, on specified segments, or other specified locations on its system, when conditions allow; and (2) a process by which tendering parties can pair and blend natural gas receipts to meet upper Btu limits, which Northern Border asserts will align its standards with the heating value standards of the majority of downstream systems that interconnect with Northern Border's system. As discussed below, we accept and suspend the filed tariff record to be effective November 1, 2020, subject to refund and the outcome of a technical conference established in this order.

Description of Filing

2. Northern Border states it is proposing changes to GT&C section 6.5 due to the increasing heat content of natural gas on its system resulting from increasing amounts of high heat content natural gas from the Bakken Shale Formation (Bakken) displacing lower heat content natural gas primarily from the Western Canadian Sedimentary Basin (WCSB) over approximately the last five years. Northern Border states that its ability to ensure that deliveries of natural gas conform with downstream gas quality specifications has become increasingly challenging due to the increased receipts of Bakken natural gas

¹ Northern Border Pipeline Company, FERC NGA Gas Tariff, Northern Border Tariffs, [6.5 - GT&C, Quality of Gas, 2.0.0](#).

production which has reduced its ability to blend high and low Btu natural gas. Northern Border states if production in the Bakken continues to grow as anticipated, Northern Border's ability to meet downstream gas quality specifications through blending will be reduced further. Further, Northern Border asserts that the higher heat content gas could harm the performance and mechanical condition of Northern Border's facilities.

3. Northern Border states that its proposed changes are consistent with the Commission's *Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Natural Gas Pipeline Tariffs*.² Northern Border states its proposed revisions to GT&C section 6.5, paragraph 1(i) include establishing a safe harbor upper limit of 1100 Btu per cubic foot³ on gas receipts from tendering parties, which provides such tendering parties the assurance that Northern Border will not refuse to accept gas if the heating value is between 967 and 1100 Btu. Northern Border clarifies that this safe harbor upper Btu limit, as opposed to a maximum Btu limit, enables Northern Border to continue receiving gas in excess of 1100 Btu as long as it is able to blend all natural gas receipts such that the natural gas stream at Northern Border's compressor station near Glen Ullin, North Dakota, is at a level of no higher than 1100 Btu. Northern Border states it also proposes a provision to allow it to post on its website an upper Btu limit above the safe harbor limit of 1100 Btu at a specific point, segment, or location on its system to ensure that the blended natural gas stream at Northern Border's Glen Ullin compressor station is at a Btu level no greater than 1100 Btu, so that Northern Border has the ability to work with receipt point operators to address natural gas quality concerns.

4. Northern Border is proposing new GT&C section 6.5, paragraph 4, which would provide for the pairing of gas between parties for the purpose of blending overall receipts of gas into the Northern Border system to a level that satisfies either the safe harbor limit or any applicable posted upper Btu limit (pairing proposal). Northern Border states that it will require pairing proposals between the tendering parties for evaluation and acceptance and that once a pairing proposal is received, it will evaluate the proposal and, in its sole discretion, will determine whether the proposal is operationally feasible and will provide notice to the tendering parties of the acceptance or denial of the pairing proposal.

5. According to Northern Border, its tariff currently provides that if gas delivered to Northern Border does not comply with the natural gas quality specifications set forth in

² Northern Border Filing at 2, 7, 9 (citing *Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Pipeline Company Tariffs*, 115 FERC ¶ 61,325, at P 32 (2006) (Gas Quality Policy Statement)).

³ Northern Border states that its currently effective tariff includes a lower heat content limit of not less than 967 Btu per cubic foot for gas received but does not contain an upper Btu limit.

its tariff, Northern Border shall have the right to refuse to accept any such natural gas through the issuance of an operational flow order (OFO). Northern Border states that its proposed revisions are intended to provide further definition of the natural gas quality standards in order to allow the pipeline to manage the heat content of its gas stream through the application of the gas quality provisions of its tariff rather than through the issuance of OFOs. Specifically, Northern Border contends that the proposed revisions would allow Northern Border to refuse to accept all or any portion of natural gas received until it is brought into conformity with the gas quality specifications set out in its tariff.

6. Northern Border's filing provides information regarding its outreach efforts with stakeholders to advance its proposal. In addition, Northern Border states the instant filing includes extensive information and data in further support of its proposal.⁴

Notice and Responsive Pleadings

7. Public notice of the filing was issued on May 4, 2020. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁵ Pursuant to Rule 214,⁶ all timely filed motions to intervene and any unopposed motion to intervene filed out of time 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. Eleven parties filed comments in support of the filing, and 11 parties filed protests or comments opposing the filing (Protestors).⁷ In addition, U.S. Sen. John Hoeven submitted a letter recommending that the Commission provide a full and fair review of the filing through a technical conference.

8. On May 21, 2020, Northern Border filed an answer to protests, comments, requests for technical conference, requests for hearing and requests for rejection filed by Protestors. On May 22, 2020, Continental filed an answer to Northern Border's answer. On May 26, 2020, Oasis Intervenors and WBI each filed an answer to Northern Border's answer. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. The Commission will accept these answers because they provide information that will assist us in our decision-making process.

⁴ See Northern Border Filing, Appendix A.

⁵ 18 C.F.R. § 154.210 (2019).

⁶ 18 C.F.R. § 385.214 (2019).

⁷ See Appendix for lists of protestors and commenters and the abbreviations that this order uses to reference intervenors.

9. The parties in support state that Northern Border has correctly identified a trend towards higher-Btu gas in recent years, and argue that higher-Btu gas poses a chronic risk of damaging downstream facilities. They argue that Northern Border's proposed upper limit on heat content is necessary to protect those downstream facilities, and also to meet the preexisting gas quality requirements downstream.⁸ They also argue that Northern Border's related revisions, which allow the pipeline to post on its website when conditions allow for higher heat content gas to be accepted and encourage customers to pair with each other to blend gas, provide for additional flexibility.⁹

10. Protestors state that Northern Border's proposed gas quality filing fails to demonstrate that the proposed changes are necessary. These parties argue that Northern Border has not provided adequate operational and technical support for its changes, most notably the establishment of an upper limit of 1100 Btu per cubic foot for natural gas receipts. The parties also argue that the proposed gas quality revisions are not consistent with the Gas Quality Policy Statement.

11. Protestors state that they have concerns with the procedures of Northern Border's pairing proposal. They argue that Northern Border should be required to provide more detailed pairing information in support of its proposal. Furthermore, Oasis Intervenors state the pairing provision would be ineffective to reduce system-wide Btu levels in the absence of large-scale uneconomic ethane recovery.¹⁰ WBI argues that the phrase "sole discretion" in the pairing proposal is not just and reasonable.¹¹

12. Protestors state that there is a substantial risk that shippers and producers, such as Bakken Supply Basin producers, would incur additional costs if the proposed gas quality revisions are accepted. Several shippers state that the costs and time it would take to modify or purchase equipment to remove additional ethane from the gas stream would be significant. Specifically, Steel Reef states that it would take at least two years to implement the necessary infrastructure at the Lignite Gas Plant to meet Northern Border's proposed gas quality specifications.¹² Targa-Andeavor asserts a similar timeline and a combined cost of approximately \$127.5 million.¹³ Whiting states that shippers

⁸ *E.g.*, Basin Comments at 3.

⁹ *E.g.*, Tenaska Comments at 3.

¹⁰ Oasis Intervenors Comments at 18-19.

¹¹ WBI Comments at 11.

¹² Steel Reef Comments at 4.

¹³ Targa-Andeavor Comments at 7.

would also be faced with additional costs either from having to install and operate new processing facilities or by having to arrange a “pairing” agreement with a different shipper.¹⁴

13. Protestors state that Northern Border’s proposed gas quality revisions raise substantial affiliate abuse and market power concerns. Protestors further note that Northern Border is an affiliate of ONEOK, Inc., and state that ONEOK, Inc. is the owner of multiple processing plants in the Bakken region, and the Bakken NGL pipeline. Targa-Andeavor states that ONEOK Rockies Midstream, L.L.C., a subsidiary of ONEOK, Inc., is the only gas processing facility that can meet the proposed safe harbor or proposed Btu upper limits without modifying its facilities in a costly manner.¹⁵

14. Protestors state that Northern Border did not comply with the Commission’s Gas Quality Policy Statement’s requirement that pipelines collaborate with their customers to resolve gas quality issues outside of formal Commission proceedings.¹⁶ Several parties state that while Northern Border did conduct outreach to stakeholders regarding its proposed tariff prior to filing, Northern Border rejected customer proposals to adjust the safe harbor or to retrofit Northern Border’s turbines to burn higher-Btu gas and failed to consider the consequences to upstream parties and interconnecting pipelines. Several commenters also state that this filing does not provide enough time for market participants to prepare for and mitigate operational impacts from any changes that Northern Border makes to its gas specifications before they become effective.

15. Protestors state that Northern Border’s proposal may prevent upstream natural gas entities from entering Northern Border’s system. Flatirons and Steel Reef assert that natural gas entities who use the WBI pipeline system have higher Btu natural gas, which is acceptable for the WBI pipeline system but would not meet Northern Border’s proposed 1100 Btu safe harbor limit and proposed upper limit.¹⁷

16. Protestors also assert that the proposed gas provisions are inconsistent with the Commission’s Gas Quality Policy Statement. WBI asserts that the Gas Quality Policy Statement states “rigid gas quality and interchangeability requirements could

¹⁴ Whiting Comments at 2-3.

¹⁵ Targa-Andeavor Comments at 11.

¹⁶ See Gas Quality Policy Statement, 115 FERC ¶ 61,325 at P 31 (stating that “the Commission encourages pipelines and their customers to resolve gas quality and interchangeability issues on their own, either prior to or outside of formal Commission proceedings”).

¹⁷ Flatirons Comments at 5 and Steel Reef comments at 3.

unnecessarily restrict the introduction of new sources of supply, which is inconsistent with the Commission's policy of encouraging new supplies and the construction of infrastructure to bring new supplies to market."¹⁸ Targa-Andeavor also argues that Northern Border's proposed revisions do not comply with Commission policy because Northern Border does not follow the NGC+ interim guidelines, which they assert recommend an upper Btu limit of 1110 Btu per cubic foot.¹⁹

17. Indicated Shippers and Hiland state that market participants are already weathering a drastic reduction in demand for gas resulting from the COVID-19 pandemic and extreme commodity price volatility leading to a rapid and significant decline in Bakken production, which calls into question whether Northern Border's proposal is even necessary.²⁰

18. WBI states that Northern Border's proposed tariff change may be unduly discriminatory, noting that its use of the Glen Ullin compressor station as the measuring point for its Btu limit is unsupported. It argues the new definition of tendering party requires clarification as it is not clear how this provision will be administered and who exactly Northern Border believes should bear the expense of bringing the gas into compliance with the tariff specifications.

19. Targa-Andeavor, Oasis Intervenors, Indicated Shippers, Hiland, and Continental argue the Commission should reject Northern Border's filing as procedurally deficient, unsupported, and unjust and unreasonable and that Northern Border should submit a new proposal, after having meaningful conversations with shippers, addressing the issues raised in this instant filing. In the alternative, WBI, Targa-Andeavor, Oasis Intervenors, and Hiland request that if the Commission does not reject Northern Border's filing, the Commission should suspend the effectiveness of Northern Border's proposed gas quality tariff revisions for the maximum allowable five-month period and either convene a technical conference or establish an evidentiary hearing to resolve the issues.

20. In its answer, Northern Border states that the filing is neither defective in form nor substance and does not meet the Commission's strict and demanding standard for rejection. Northern Border states that it disagrees with Protestors' comments that it did

¹⁸ WBI comments at 6 n.10 (quoting Gas Quality Policy Statement, 115 FERC ¶ 61,325 at P 33).

¹⁹ Targa-Andeavor comments at 9 (citing Gas Quality Policy Statement, 115 FERC ¶ 61,325 at P 32, stating that "pipelines and their customers are strongly encouraged to use the NGC+ interim guidelines as a common scientific reference point for resolving gas quality and interchangeability issues").

²⁰ Indicated Shippers Comments at 4 and Hiland comments at 7-8.

not engage in a collaborative process and that its filing describes the collaborative process that Northern Border engaged in with its customers and stakeholders. Northern Border states that during these meetings stakeholders expressed concerns about the lack of flexibility and resulting economic impact of the proposed gas quality tariff revisions and suggested that Northern Border increase flexibility in its proposed gas quality tariff revisions through the pairing concept. Northern Border states it revised its gas quality tariff proposal to incorporate this concept. Northern Border states that the filing proposes a flexible process consistent with the Commission's policy of minimizing any unnecessary restriction of the supplies available to the national gas market. Northern Border further states that these gas quality revisions are not in response to a single downstream market or end-user concern. Northern Border states that of the seven pipelines its system interconnects with, four have a "hard cap" upper limit of 1,100 Btu or less.

21. Northern Border states that the Commission's Gas Quality Policy Statement is replete with references to the operational problems that result from pipelines receiving natural gas containing a high proportion of liquid and liquefiable hydrocarbons and a high energy density, as measured in Btu per cubic foot of natural gas.²¹ Northern Border asserts that a common theme in Protestors' comments is the cost and time required to lower the Btu level of the Bakken gas and that they do not want to pay to make their gas acceptable in the marketplace and want to place the economic burden and safety risks of the ethane in the natural gas stream on downstream pipelines, local distribution companies and end-users.

22. Northern Border states its filing provides evidence of existing operational issues resulting from the ethane content of the gas burned in its gas-fired compressors. Northern Border asserts that the Gas Quality Policy Statement states that gas quality "is concerned with the impact of non-methane hydrocarbons on the safe and efficient operation of pipelines, distribution facilities and end-user equipment."²² Northern Border argues that the revised Btu gas quality provisions are required to address the operational and safety issues of the owners and operators of distribution facilities and end-use equipment that transport gas on Northern Border's system.

23. Northern Border states that it has shown that the proposed modifications to its existing gas quality provisions are just and reasonable under section 4 of the Natural Gas Act and that the motions to deny or reject the Northern Border filing must be dismissed by the Commission. Additionally, Northern Border states that the requests for a technical

²¹ Northern Border answer at 6 (citing Gas Quality Policy Statement, 115 FERC ¶ 61,325 at PP 2-5).

²² *Id.* at 7 (quoting Gas Quality Policy Statement, 115 FERC ¶ 61,325 at P 3).

conference or hearing are unnecessary and burdensome to the Commission and must also be denied.

24. In their separate answers, Continental, Oasis Intervenors, and WBI claim that Northern Border's answer mischaracterizes the relevant law and facts, fails to fully respond to the protests, and fails to cure the fatal deficiencies in the tariff filing.

Determination

25. Northern Border's filing raises a number of technical, engineering, and operational issues that are best addressed at a technical conference. At the technical conference, Commission Staff and interested persons will have an opportunity to further discuss Northern Border's justification and support for its proposed maximum Btu limit and for its ancillary tariff revisions.

26. At the technical conference, Northern Border should be prepared to address the concerns raised by the parties in this proceeding and, if necessary, to provide additional technical, engineering, and operational support for its proposed maximum Btu limit and for its ancillary tariff revisions. In addition, any party proposing alternatives to Northern Border's proposal should also be prepared to support its position with adequate technical, engineering, and operational information.

27. Based upon its analysis of the information provided in this proceeding, Commission Staff may issue data requests prior to the technical conference and/or a notice of the technical conference containing questions that need to be addressed by Northern Border or other parties at the conference. Commission Staff is accordingly directed to convene a technical conference to explore the issues raised by the filing. Given that the circumstances caused by the COVID-19 pandemic may disrupt, complicate, or otherwise change the ability of participants to meet in person, Commission Staff may conduct the conference remotely (by telephone or electronically), as appropriate.

Suspension

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

29. The Commission's policy regarding tariff suspensions 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 that it may be inconsistent with other statutory standards.²³ It is recognized, however, that shorter suspensions may be warranted in circumstances where suspensions for the maximum period may lead to harsh and inequitable results.²⁴ Such circumstances do not exist here. Therefore, the Commission shall exercise its discretion to suspend the tariff record to take effect on November 1, 2020, subject to the conditions set forth in the body of this order and in the ordering paragraphs below.

The Commission orders:

(A) The tariff record filed in this docket is accepted and suspended to be effective November 1, 2020, subject to refund and the conditions described in the body of this order.

(B) Commission Staff is directed to convene a technical conference to explore the issues raised by the filing. Given that the circumstances caused by the COVID-19 pandemic may disrupt, complicate, or otherwise change the ability of participants to meet in person, Commission Staff may conduct the conference remotely (by telephone or electronically), as appropriate.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

²³ See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

²⁴ See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

Appendix

Parties who Filed Protests or Comments Opposing the Filing

Continental Resources, Inc. (Continental)
Flatirons Field Services LLC (Flatirons)
Hiland Partners Holdings LLC (Hiland)
ConocoPhillips Company and XTO Energy Inc. (Indicated Shippers)
Independent Petroleum Association of America (IPAA)
Oasis Petroleum Marketing LLC and OMP Operating LLC (Oasis Intervenors)
Outrigger Energy II LLC (Outrigger)
Steel Reef Burke LLC (Steel Reef)
Targa Badlands LLC and Andeavor Field Services LLC (Targa-Andeavor)
WBI Energy Transmission, Inc. (WBI)
Whiting Oil and Gas Corporation (Whiting)

Parties who Filed Comments in Support of the Filing

Ameren Illinois Company (Ameren)
Basin Electric Power Cooperative (Basin)
CenterPoint Energy Resources Corporation d/b/a CenterPoint Energy Minnesota Gas (CenterPoint)
Encore Energy Services (Encore)
MidAmerican Energy Company (MidAmerican)
Northern Illinois Gas Company d/b/a/ Nicor Gas Company (Nicor)
Northern States Power Company and Northern States Power Company (NSP Companies)
SEMCO Energy Gas Company (SEMCO)
Tenaska Marketing Ventures (Tenaska)
Vector Pipeline L.P. (Vector)
Watertown Municipal Utilities (Watertown)