FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

January 29, 2004

In Reply Refer To:
Enbridge Pipelines (Midla) L.L.C.
Docket No. RP03-200-000

Enbridge Pipelines (Midla) L.L.C.
1100 Louisiana, Suite 3300
Houston, TX 77002

Attention: Donald R. Whittington

Reference: Revised Tariff Sheets to Comply with Remand Order

Dear Mr. Whittington:

1. On December 13, 2002, Enbridge Pipelines (Midla) L.L.C. ("Midla") tendered for filing revised tariff sheets[1] to comply with the Remand Order issued on October 31, 2002, in Docket No. RM98-10-011 (Remand Order).[2] In the Remand Order, the Commission, inter alia, reaffirmed its prior holding that a segmented transaction consisting of a backhaul and forwardhaul to the same point that exceeds contract demand is permissible. The Commission accepts the revised tariff sheets to become effective on the date this order issues, subject to Midla filing revised tariff sheets containing substitute language and eliminating certain language, as discussed below, within 15 days of the date this order issues.

2. Notice of Midla's filing was issued on December 18, 2002. Interventions and protests were due as provided for in § 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2003). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2003)), all timely motions to intervene and any motions to intervene out-of-time filed as of the issuance date of this order are granted. No protests were received.

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[1] First Revised Sheet Nos. 137, 139, 140, 141, and 155 to its FERC Gas Tariff, Fifth Revised Volume No. 1.

[2] Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services, 101 FERC ¶ 61,127 (2002).

3. In Section 8.2(b) of its General Terms and Conditions (GT&C), Midla proposes that a customer may only nominate segments between points within its transportation path. In Order No. 637-A, the Commission held that shippers must be given the right to segment outside their capacity path. This follows from the fact that a shipper may move to any point within the zone for which it has paid even if that point is outside the contractual path, because the shipper has the right to utilize all points within the zone.[3] Accordingly, Midla must file tariff sheets to revise the proposed language in Section 8.2 of its GT&C to provide that shippers may segment capacity outside their contractual path.

4. Midla also proposes that customers may exceed capacity entitlements at a point provided that any resulting overlap of contract quantities at a point consists only of a forwardhaul(s) up to capacity entitlement and a backhaul(s) up to capacity entitlement to the same point. The proposed language may be misleading. Therefore, consistent with our decisions in Enbridge Pipelines (KPC)[4] and Enbridge Pipelines (AlaTenn) L.L.C.,[5] the Commission directs Midla to eliminate this proposed language and file, within 15 days of the date this order issues, substitute tariff language providing that a segmented transaction consisting of a backhaul up to contract demand and a forwardhaul up to contract demand to the same point is permissible.

5. Furthermore, in Section 8.2(b) of its GT&C, Midla proposes that nominations that result in an overlap of contract quantities at a point will be considered out of the path for scheduling purposes. Consistent with our decision in AlaTenn[6], we direct Midla, within 15 days of the date this order issues, to revise its proposed tariff provision to expressly provide that only transactions with a flow in the opposite direction of the shipper's primary path will be considered out-of-path for scheduling purposes. Additionally, as we stated in AlaTenn,[7] the scheduling priority for reverse flow transactions is a secondary firm priority, which will provide a lower priority for nominations to primary firm points and secondary points within the contract primary capacity path but higher than nominations for interruptible quantities. Consistent with this prior ruling, Midla should file revised tariff sheets, within 15 days of the date this order issues, which clarifies that the scheduling priority for the reverse flow transactions is the priority for secondary firm out-of-path transactions.

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[3] See CenterPoint Energy-Mississippi River Transmission Corp., 102 FERC ¶ 61,216 at P 14-17 (2003).

[4] 103 FERC ¶ 61,088 at P 9 (2003).

[5] 104 FERC ¶ 61,114 at P 7 (2003) (AlaTenn).

[6] Id. at P 3-4.

[7] Id. at P 5-6.

6. Finally, upon further review of Midla's existing tariff, we find that the within-the-path scheduling priority requirement of Order No. 637 has been incorrectly incorporated into the curtailment procedures in Section 6 of its GT&C rather than into its scheduling procedures in Section 15.3 of its GT&C. Midla should revise its tariff to remove these procedures from the curtailment section and include them in the scheduling section of Midla's tariff. Midla's curtailment procedures should also be revised to provide for the curtailment of firm services on a pro-rata basis consistent with Commission policy.[8]

7. Finally, the Commission found in the Remand Order that it could not justify the five-year matching cap for the right of first refusal (ROFR). Therefore, the Commission permitted pipelines to revise their tariffs to remove the five-year matching cap. Midla has removed the term matching cap in Section 7.4(d) of the GT&C to provide that in order to match the "Best Bid," a customer must agree to a rate equal to the rate set forth in the "Best Bid" and agree to execute a Service Agreement for a term equal to the term set forth in the "Best Bid". Consistent with the Court's holding vacating the five-year cap and the Commission's decision in the Remand Order, we will allow Midla to remove the cap from its tariff, to become effective on the date this order issues.

By direction of the Commission

Magalie R. Salas
Secretary.

cc: Cynthia A. Corcoran
Dir. Regulatory Compliance, Legal Department
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All Parties

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[8] Willliston Basin Interstate Pipeline Co., 62 FERC ¶ 61,144 at 62,025 (1993); Algonquin Gas Transmission Co., 62 FERC ¶ 61,132 at 61,896 (1993) (requiring curtailment of all firm services on a pro-rata basis).