UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

El Paso Natural Gas Company Docket No. RP04-61-000

ORDER ACCEPTING TARIFF SHEETS SUBJECT TO CONDITION

(Issued January 28, 2004)

1. On November 18, 2003, El Paso Natural Gas Company (El Paso) filed tariff sheets[1] to propose a directional transfer scheduling process for Rate Schedule FT-1 shippers. The Commission will accept the proposed tariff sheets, effective February 1, 2004, as an interim measure, subject to further order and modification based upon the outcome of Order No. 637 proceedings. The Commission will require El Paso to file a new comprehensive Order No. 637 compliance filing by April 1, 2004. This order is in the public interest, for it increases scheduling flexibility for El Paso's customers and renews the Order No. 637 compliance process.

Background

2. On August 29, 2003, the Commission issued an order (August 29 order)[2] accepting El Paso's compliance filing to implement the conversion of full requirements service to contract demand service and system-wide receipt rights to specific receipt rights in Docket No. RP00-336-014, the Capacity Allocation Proceeding. The Commission held a technical conference on September 24, 2003 to address issues related to that conversion, including El Paso's proposal to assign capacity rights at specific receipt-delivery point combinations (R/D Combos) and scheduling priorities. At the technical conference, El Paso discussed proposals to address shipper concerns that R/D Combos unnecessarily limit scheduling flexibility. El Paso discussed the possibility of adding flexible options to the R/D Combos such as a directional transfer scheduling alternative and a related tiered scheduling priority proposal to improve scheduling flexibility in conjunction with directional transfer scheduling.

---

[1] First Revised Sheet No. 214A, Eighth Revised Sheet No. 215, Original Sheet No. 219G, Original Sheet No. 219H, and Original Sheet No. 219I to its FERC Gas Tariff, Second Revised Volume No. 1-A.

[2] 104 FERC ¶ 61,232 (2003).

3. On October 2, 2003, El Paso filed a modified version of the tiered scheduling proposal. El Paso stated that it would take several months to implement directional scheduling but that the modified tiered scheduling proposal could be implemented more quickly. In a November 4, 2003 order,[3] the Commission accepted the proposed tariff sheets as an interim measure, subject to further order in the Capacity Allocation Proceeding, where the Commission would address directional transfer scheduling and the modified tiered scheduling proposal.

Instant Filing

4. El Paso proposes directional transfer scheduling (DTS) to provide greater scheduling flexibility for its shippers. El Paso has added a new Section 4.10 to its General Terms and Conditions (GT&C) setting forth the provisions applicable to DTS. El Paso states that it will aggregate the contract right or maximum daily quantity (MDQ) at receipt and delivery points under a transportation service agreement (TSA), consistent with the north-south and/or east-west capacity related to the shipper's R/D Combos. El Paso states that, using the R/D Combos specified in the shipper's TSA, El Paso will categorize the shipper's aggregate MDQs within its TSA into separate north-south and east-west contract rights. El Paso explains that, for scheduling purposes, each firm TSA will have a north-south and east-west transfer capacity entitlement (directional transfer limit) derived from the aggregated MDQs and the related R/D Combo quantities.

5. El Paso states that it has limited capacity to move gas from north to south and east to west on its system. El Paso asserts that, with DTS, it will be able to more appropriately track the use of this capacity and ensure that all shippers are served based on their contractual rights.

6. El Paso states that all confirmed quantities using receipt and delivery points listed on the TSA will be scheduled as primary firm to the extent such quantities do not exceed the TSA's aggregate MDQ for the receipt and delivery points, the TSA's directional transfer limits or the total contract entitlement. El Paso explains that this will permit shippers to mix and match the receipt and delivery points on their TSAs to take advantage of changing supply opportunities or to serve varying demand patterns without being limited to the primary rights defined by the specific R/D Combos. Requests that exceed these scheduling conditions cannot be scheduled as primary service, for they exceed the shipper's contract rights. The shipper could request alternate or overrun service using its directional scheduling rights.

7. El Paso states that these conditions will typically provide adequate safeguards to ensure that no firm shipper is adversely impacted by another firm shipper's nominations. El Paso believes, however, that there may be instances where DTS must be suspended in

[3] 105 FERC ¶ 61,176 (2003).

order to ensure that all firm service is scheduled properly. Therefore, El Paso proposes that it may suspend DTS under certain conditions when pipeline capacity is reduced below design levels due to events such as force majeure, maintenance or when increased physical capacity constraints occur. El Paso states that, if capacity allocation is necessary during those times, DTS could produce results that are different from those produced under the current R-D Combos scheduling process.[4] This circumstance could occur when capacity and point rights under a TSA are bifurcated by a system constraint (when the constraint is within the contract service area). On segments where delivery points are bifurcated by the constraint, DTS may cause the rights of shippers to be overstated. El Paso provides examples showing how these "unintended results" could occur. El Paso concludes that, to be equitable, capacity allocation due to downstream constraints may need to be based on the R-D Combos, not on the DTS limits.

8. While El Paso does not anticipate this event to occur very often, El Paso states that if it does occur on a continuing basis, El Paso will notify the affected shippers that it will begin using R-D Combos rather than directional transfer limits to allocate capacity in the next Timely Nomination Cycle. El Paso states that such notification will follow the bumping notice procedures contained in its tariff. El Paso further states that DTS will resume upon a further notification to shippers that the suspension has been lifted. El Paso states that it will submit a report to the Commission six months after implementation of DTS describing any instances in which DTS was suspended, including the reason for suspension and the length.

9. El Paso has revised Section 4.2 of its GT&C to integrate DTS with its tiered scheduling priority provision. El Paso proposes to remove references to R/D Combos from the scheduling priority provision and to revise the Alternate 1 and Alternate 2 service priorities to include DTS. R/D Combos have been removed to indicate that R/D Combos no longer will be used for scheduling purposes, except when DTS is suspended. The Alternate 1 and Alternate 2 categories are revised to provide the highest alternate scheduling priority to those shippers requesting service within their directional and contract rights. El Paso states that it continues to propose a preference in the first alternate priority for primary receipt points that are coupled with alternate delivery points due to its belief that the assignment and use of primary receipt points has been one of the most valued rights on the El Paso system in recent years.

10. The revised scheduling priorities contained in Section 4.2 are listed below.

a. Primary receipt point to primary delivery point.

---

[4] El Paso included in its filing two examples of "unintended results" from possible circumstances that could cause El Paso to suspend DTS and revert to scheduling using R-D Combos.

b. Alternate 1 Firm Service: First, to service that does not exceed the directional transfer scheduling rights using a receipt point listed in the TSA to a delivery point not listed in the TSA. Second, to service using a receipt point listed in the TSA to a delivery point not listed in the TSA, or to service using receipt and delivery points listed in the TSA, that exceeds the shipper's directional transfer scheduling rights.

c. Alternate 2 Firm Service: First, to service that does not exceed the directional transfer scheduling rights using a receipt point not listed in the TSA to a delivery point listed in the TSA. Second, to service using a receipt point not listed in the TSA to a delivery point listed in the TSA that exceeds the shipper's directional transfer scheduling rights.

d. Alternate 3 Firm Service: Service using a receipt point not listed in the TSA to a delivery point not listed in the TSA.

11. El Paso concludes that implementation of DTS will enable El Paso to provide primary scheduling rights for all confirmed quantities using receipt and delivery points listed in the TSAs that are within related directional and contract rights. El Paso states that this will allow shippers to use their contracted capacity as flexibly as possible and will distinguish alternate requests using directional and contract rights from those requests that exceed directional and contract rights. El Paso further states that while the proposal does not provide contract paths, it recognizes a shipper's mainline capacity rights and provides a shipper greater use of those rights, consistent with the goals of Order No. 637.

Public Notice and Protests

12. Public notice of El Paso's filing was issued on November 21, 2003, with protests due as provided in Section 154.210 of the Commission's regulations.[5] On December 19, 2003, Public Service Company of New Mexico filed a late motion to intervene. All timely motions to intervene and all motions to intervene out of time filed before the issuance of this order are granted pursuant to Rule 214 of the Commission's Rules of Practice.[6] Granting late intervention at this early stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties.

13. Protests were filed by Southern California Gas Company (SoCalGas) and jointly by Arizona Public Service Company and Pinnacle West Energy Corporation (APS/Pinnacle). UNS Gas, Inc. (UNS Gas) filed a limited protest and request for technical conference. Southwest Gas Corporation (Southwest Gas) filed a request for

[5] 18 C.F.R. § 154.210 (2003).

[6] 18 C.F.R. § 385.214 (2003).

clarifications and condition. Comments were filed by Phelps Dodge Corporation (Phelps Dodge), Salt River Project Agricultural Improvement and Power District (Salt River), and El Paso Electric Company (El Paso Electric). Comments in support were filed by Blythe Energy, LLC (Blythe), BP America Production Company and BP Energy Company (jointly, BP), and Texas Gas Service Company, a Division of Oneok Inc. (Texas Gas Service). Indicated Shippers and Blythe filed answers to the request for technical conference.

14. The comments in support generally argue that the proposed DTS and revised scheduling priority provision are an appropriate alternative to R/D Combos and are another step toward Order No. 637 compliance and improved scheduling flexibility. The protestors maintain that the proposal would increase uncertainty and is more appropriately addressed as part of a comprehensive Order No. 637 compliance proceeding. A number of commenters contend that the Order No. 637 proceeding should not be further delayed. Many commenters request that the provision relating to suspension of DTS be modified to include explicit standards on which to determine the need to suspend DTS.

Discussion

15. The Commission will accept the proposed tariff sheets subject to the modifications and conditions discussed below. The Commission finds that the directional transfer scheduling provision and related scheduling priority provision are reasonable interim measures that will further improve scheduling flexibility and ease the conversion of full requirements service to contract demand service and the conversion of system-wide receipt rights to specific receipt rights. This proposal responds to the Commission's directive in the Capacity Allocation Proceeding that El Paso simplify its nomination and scheduling processes to address shipper concerns.[7] The DTS proposal is supported by a majority of El Paso's customers as a beneficial step to provide additional scheduling flexibility. The proposal is, however, an interim measure pending the outcome of El Paso's Order No. 637 proceeding. The Commission will require El Paso to file a new comprehensive Order No. 637 compliance filing, in a new docket, by April 1, 2004. At that time the Commission and the parties can address the scheduling issues in conjunction with the panoply of Order No. 637 issues and ensure that El Paso's system complies with all the Order No. 637 requirements.

Directional Transfer Scheduling

16. SoCalGas supports El Paso's efforts to provide additional scheduling flexibility beyond the flexibility provided by R/D Combos. However, SoCalGas argues that El Paso has failed to show that DTS is not unjust and unreasonable if it produces the "unintended

[7] 104 FERC ¶ 61,044 (2003) at P42.

results" cited by El Paso. SoCalGas refers to the examples set forth by El Paso in its filing that SoCalGas states could result in greater cuts to nominations made within a shipper's R/D Combos and small cuts to nominations made within another shipper's DTS but in excess of that shipper's R/D Combos. SoCalGas suggests instead that El Paso modify its existing scheduling priority provision to supplement firm primary to primary service while retaining the proposed first alternate priority for service from primary receipt to alternate delivery points.

17. BP supports El Paso's statement that this proposal moves El Paso's scheduling processes closer to the Commission's Order No. 637 within-the-path priority policy. BP, however, asserts that this filing is but one more interim step and urges no further delay to full compliance with Order No. 637. APS/Pinnacle, on the other hand, strongly disputes El Paso's contention that DTS will improve scheduling flexibility and will advance Order No. 637 initiatives. APS/Pinnacle is not in favor of a piecemeal approach to Order No. 637 implementation and believes that El Paso is attempting to institutionalize procedures that restrict a shipper's use of its capacity in advance of Order No. 637 implementation. APS/Pinnacle states that DTS will lead to greater uncertainty for shippers without providing offsetting benefits. APS/Pinnacle believes that the proposal may inhibit, not expedite the scheduling process due to its complicated nature. APS/Pinnacle argues that the overly complicated restrictions of DTS provide no real opportunity for APS/Pinnacle to consolidate receipt and delivery points. The inability to consolidate receipts and deliveries across contracts prevents El Paso from improving scheduling flexibility. To the contrary, APS/Pinnacle states that DTS will adversely affect APS/Pinnacle by increasing the uncertainty of scheduling capacity through the vague suspension provision. APS/Pinnacle concludes that the Commission should reject the filing and require that any future filing that impacts shippers' utilization of their capacity should be made as part of a complete Order No. 637 compliance filing.

Commission Determination

18. The Commission finds that El Paso's proposed DTS provision is a reasonable interim measure that will provide improved scheduling flexibility. El Paso has provided suspension provisions to ensure that DTS will not adversely impact other firm shippers' service. As discussed above, the Commission is requiring El Paso to file a comprehensive Order No. 637 filing where all scheduling, pathing, and other Order No. 637 issues can be addressed together. In the interim, the Commission finds that DTS, as modified below, will minimize the unintended results protested by SoCalGas and will address SoCalGas's concerns. DTS and the related scheduling priority provision will be subject to the outcome of the Order No. 637 proceeding. Thus, El Paso will not be "institutionalizing" procedures but instead will be able to provide benefits to its shippers in the interim until related issues are addressed in the Order No. 637 proceeding.

19. The Commission will not, however, require El Paso to allow aggregating rights across contracts, as requested by APS/Pinnacle. The limits proposed by El Paso, such as providing DTS within contractual limits, will allow El Paso to implement DTS within the operational constraints of the system. It is reasonable that DTS accord primary firm service to transactions that are within contractual limits. If APS/Pinnacle values the flexibility of consolidating receipt and delivery points across contracts, it has the option of consolidating contracts to do so.

20. Therefore, the Commission will accept El Paso's DTS proposal, subject to the clarification with regard to MDQ limits and the modifications discussed below with regard to suspension of DTS.

MDQ Limits to Directional Transfer Scheduling

21. UNS Gas and El Paso Electric state that shippers should not be limited to the individual MDQ of each D-Code established in the R/D Combo. UNS Gas argues that shippers should be permitted the flexibility to deliver to their own D-Codes limited only by directional transfer limits, aggregate contractual limits and the meter's physical capacity. Salt River and Phelps Dodge argue that the only limits needed for reliable operation are directional transfer limits and aggregate contract limits. UNS Gas asserts that gas in excess of D-Code quantities, but using contract receipt and delivery points within aggregate contract quantities and directional transfer limits, should retain priority over all other nominations except primary to primary. UNS Gas states that that priority is provided under the existing scheduling priority provision, but El Paso proposes to relegate such transactions to second priority within Alternate 1 Firm Service behind transactions that do not exceed directional transfer limits using a receipt point in the TSA to a delivery point not in the TSA.

22. Further, UNS Gas, Phelps Dodge, and El Paso Electric contend that R/D Combos are no longer needed, even during times when DTS is suspended. Many of the EOC shippers continue to oppose R/D Combos and request that they be removed from the DTS provision.

23. Southwest Gas requests clarification of the phrase "aggregate MDQ for the receipt and/or delivery points" in Section 4.10(c) and asks the Commission to clarify that shippers have the right to aggregate delivery point rights located in common areas of the system. For example, Southwest Gas states, if a TSA lists two primary delivery points in a common area with MDQs of 10,000 and 5,000 dth respectively, the shipper could schedule 15,000 dth at the first point on a primary firm basis, assuming the transaction was within the directional transfer limits, the TSA contract demand, and the physical capacity of the delivery point. Southwest Gas contends that this clarification is consistent with El Paso's statement that its proposal "will permit shippers to combine the receipt and delivery rights in common areas on the system and to use these combined rights to

serve all of their market needs as long as the combined rights do not exceed their rights at certain north-south and east-west mainline locations on the system."[8]

Commission Determination

24. The Commission agrees that the tariff language and the explanation in the cover letter, read together, are not clear as to the MDQ limits. The Commission finds Southwest's interpretation reasonable. The Commission will require El Paso to modify Section 4.10(c), as requested by Southwest Gas, to clarify that shippers can aggregate receipt and delivery rights located in common areas. This clarification addresses the concerns raised by the EOC Shippers, UNS Gas, El Paso Electric, Phelps Dodge and Salt River concerning MDQ limits. The Commission will not, however, require El Paso to remove R/D Combos from DTS. The Commission finds it reasonable to maintain R/D Combos as proposed by El Paso on an interim basis until the issue of pathing and related issues are addressed in the Order No. 637 proceeding.

Suspension of Directional Transfer Scheduling

25. Many commenters and protestors object to the suspension provisions in Section 4.10(d)[9] as vague and overbroad in granting El Paso discretion to suspend DTS. Salt River argues that the provision should include explicit standards for El Paso to apply in deciding whether to suspend DTS. Similarly, Phelps Dodge asserts that the provision should set forth objective, verifiable criteria for suspension. The commenters generally agree that El Paso should modify the provision to clarify that it will suspend DTS only when capacity is below design due to events such as force majeure and maintenance, consistent with the explanation in the transmittal letter. Southwest Gas further requests clarification that suspension of DTS would be limited to those parties, on a non-discriminatory basis, whose use of DTS is negatively affecting a firm shipper's primary to primary service. APS/Pinnacle further states that the provisions regarding notice period and length of suspension are vague.

Commission Determination

26. The Commission agrees that the suspension language is vague and overly discretionary. The provision should clearly state how and when suspension would occur to ensure that other firm shippers' service is not affected. The Commission will not accept a scheduling proposal that increases the possibility of curtailment. The

---

[8] El Paso's cover letter at p. 2.

[9] Section 4.10(d) provides that "El Paso may suspend the directional transfer scheduling provisions of this section if it determines that the process is frequently operating in a manner that produces results different than would result from the use of R/D Combos."

Commission thus directs El Paso to modify Section 4.10(d) to set forth objective, explicit criteria for how and when DTS suspension would occur, incorporating the language from the transmittal letter that DTS may be suspended when pipeline capacity is reduced below design levels. Such a modification should reduce uncertainty and address the shippers' concerns. The revised tariff sheets should also clarify that suspension of DTS will be limited, where possible, to those parties whose actions impact other shippers' firm service and clarify provisions regarding notice and length of suspension.

27. The Commission is accepting this proposal as an interim measure subject to the outcome of the Order No. 637 proceeding. Scheduling issues will be addressed as part of a comprehensive Order No. 637 proceeding to insure that these issues are addressed as a whole, and not on a piecemeal basis. As stated above, the Commission believes that DTS is an appropriate interim step to further the goals in the Capacity Allocation Proceeding prior to Order No. 637 implementation.

28. Southwest Gas further requests clarification regarding Section 4.10(d)(ii) which contains the scheduling priority El Paso will use when DTS is suspended. Southwest Gas notes that these provisions differ from those accepted in Docket No. RP04-19-000 in that no priority is provided for confirmed quantities in excess of R/D Combos but less than transportation CD. Southwest Gas seeks clarification as to why El Paso proposed an approach different from that accepted by the Commission. The Commission will grant Southwest Gas's request for clarification and require El Paso to modify its proposal or provide an explanation as to why the provision differs from the priority accepted by the Commission.

Priority Scheduling

29. The commenters generally support the revised scheduling priority, stating it will minimize the discriminatory aspects of the tiered structure currently in place. As with the DTS proposal, the Commission will accept the revised scheduling priority provision as an interim measure pending the outcome of the Order No. 637 proceeding.

Request for Technical Conference

30. UNS Gas requests that the Commission hold a technical conference to address the issues related to DTS and the revised scheduling priority provision.[10] These proposals were discussed in the September 24, 2003 technical conference. The parties have filed comments on those proposals after the conference. The Commission is accepting this proposal as an interim measure. DTS and scheduling provisions will be addressed along with other Order No. 637 issues in the forthcoming proceeding. The Commission finds

[10] Indicated Shippers filed an answer in opposition to the request for technical conference, and Blythe filed an answer in support of Indicated Shippers' answer.

that an additional technical conference is not warranted in this instance and will deny UNS Gas's request.

The Commission orders:

(A) The revised tariff sheets are accepted, effective February 1, 2004, subject to the conditions set forth in the body of this order.

(B) El Paso is required to file revised tariff sheets, as discussed in the body of this order, within 15 days of the date of this order.

(C) El Paso is required to file a new comprehensive Order No. 637 compliance filing, by April 1, 2004, in a separate docket.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.