

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 4, 2004

In Reply Refer To:
ANR Pipeline Company
Docket No. RP02-340-003

ANR Pipeline Company
9 East Greenway Plaza
Houston, Texas 77046

Attention: Howard L. Nelson, Counsel

Reference: First Revised Sheet Nos. 192, 192A, 192B and 192C to
ANR's FERC Gas Tariff, Second Revised Volume No. 1

1. On December 24, 2002, ANR Pipeline Company (ANR) filed revised tariff sheets to comply with a Commission order dated November 26, 2002.¹ The Commission will accept ANR's revised tariff sheets, effective June 15, 2002, and deny an intervenor's request that ANR further expand the conditions under which it will grant contract demand reduction rights due to a transportation customer's loss of load. Our order benefits customers because it resolves the last issue concerning the circumstances under which ANR will provide contract reduction options to shippers.

Background

2. On May 14, 2002 ANR filed generally applicable tariff provisions that offer contract demand reduction rights under specified circumstances, including: (1) loss of load; (2) plant outage; (3) regulatory unbundling order; and (4) for shippers captive to ANR for transportation service, an option to reduce specified levels of MDQ for any reason. Eligibility for the loss of load option is limited to local distribution companies (LDC) and municipalities. Eligibility for the plant outage option is limited to industrial customers of ANR. The Commission accepted the proposal effective June 15, 2002,

¹ ANR Pipeline Company, 101 FERC ¶ 61,246 (2002) (Rehearing Order).

subject to ANR making a number of clarifying changes to its tariff.² ANR made a compliance filing on July 12, 2002. On November 26, 2002, the Commission issued its Rehearing Order. In the Rehearing Order, the Commission accepted ANR's compliance filing, granted in part a request for clarification of the June 13 Order and required ANR to further modify its tariff proposal. Specifically, the Commission instructed ANR to clarify that when it allows an LDC or municipality to reduce contract demand based on loss of load, pro rata reductions of contract demand with ANR should be based on the relative contract entitlements held by the LDC or municipality to serve the lost load.³ Therefore, if a customer holds equal amounts of capacity on ANR and on another pipeline that does not offer a contract demand reduction option, the customer should only be entitled to a contract demand reduction on ANR of 50 percent of its lost load. The Commission also ordered ANR to clarify whether an LDC or municipality may avail itself of a loss of load reduction option when one of its customers scales down its operations, including to minimal levels necessary for plant protection. If ANR intended to eliminate scaling down of operations by a plant customer of an LDC or municipality as a qualifying circumstance for the loss of load option, the Commission required ANR to explain why this circumstance would be different from the scaling down of operations that ANR allows for another contract reduction option, i.e., the plant outage option given to industrial customers of ANR. ANR made a filing on December 24, 2002, to comply with the Rehearing Order.

Compliance Filing

3. First, ANR revised sections 35.1(c), 35.2(c), and 35.3(c) to clarify that the pro rata reductions will be based on relative contract entitlements used to serve the lost load. Second, ANR states that it has revised the definition of "loss of load" in section 25.1(a) as requested by Dominion. Specifically, ANR's revised tariff language provides that:

Loss of load is defined as any of Shipper's customers with daily requirements on facilities owned or operated by Shipper exceeding 100 dth/day either permanently ceasing gas-consuming operations or scaling down such operations to plant protection levels, or by-passing Shipper by directly connecting to Transporter.⁴

² ANR Pipeline Company, 99 FERC ¶ 61,310 (2002) (June 13 Order).

³ See Rehearing Order at P 4 (quoting June 13 Order, 99 FERC at 62,322).

⁴ Section 35.1(a), First Revised Sheet No. 92.

ANR further states that this revised tariff language addresses the specific concern of Dominion by providing LDCs and municipalities similar rights under section 35.1 as industrial plants have under section 35.2.

Notice, Interventions and Protests

4. Notice of ANR's compliance filing was issued on December 31, 2002, with comments, protests and interventions due on January 6, 2003. The East Ohio Gas Company, d/b/a Dominion East Ohio (Dominion) filed comments. ANR filed an answer on January 9, 2003.

Discussion

5. The Commission finds that the revised tariff sheets satisfactorily comply with the Rehearing Order and are accepted effective June 15, 2002. First, ANR has satisfactorily revised sections 35.1(c), 35.2(c), and 35.3(c) to clarify that the pro rata reductions will be based on relative contract entitlements used to serve the lost load.

6. Second, with respect to ANR's revised definition of "loss of load," Dominion argues that ANR's tariff should be modified to state that an LDC or municipality shipper may qualify for a loss of load contract demand reduction option if one of its customers with daily requirements of more than 100 dth/day permanently scales down its operations. Dominion alleges that ANR's compliance filing does not adequately address the Commission's requirements in the Rehearing Order because it has not explained why it is now proposing to limit the "loss of load" option to circumstances when scaled-down operations are reduced to plant protection levels rather than to any permanent scaling-down of operations. Dominion argues that ANR either must explain the difference in treatment of scaled-down operations under the "loss of load" and the "plant outage" options, or it must propose similar treatment.

7. In its answer, ANR states that it agreed to revise the definition of "loss of load" as requested by Dominion in its request for clarification of the June 13 Order. ANR contends that Dominion now says that contract reductions should be allowed for any permanent scale-down of operations, and that this request improperly expands Dominion's prior request for clarification.

8. The Commission will deny Dominion's request that ANR further expand its definition of "loss of load." In its June 13 Order, the Commission stated that there is no policy requiring pipelines to permit customers to terminate or reduce their contractual obligations before the end of their contract terms.⁵ ANR voluntarily offered to provide

⁵ June 13 Order at 62,321.

contract demand reduction rights in certain situations on a non-discriminatory basis. In the instant filing, ANR has offered to further revise its “loss of load” definition to include the scaling-down of operations to plant protection levels as requested by Dominion in its request for rehearing. While the eligibility criteria under section 35.1, Loss of Load are still somewhat different from the eligibility criteria under section 35.1, Plant Outage, the two sections need not be identical in order to ensure the contract demand reduction option is offered on a non-discriminatory basis. ANR could reasonably find that an LDC has less need for a reduction in contract demand if one of the LDC’s industrial customers partially scales back operations than an industrial customer has when it partially scales back its operations. Such a partial scale-back would likely have less of an overall effect on the LDC’s need for capacity than a direct ANR industrial customer’s need for capacity. Also, an LDC should have a greater ability to find another use for its capacity. While Dominion would like ANR to further expand its definition of “loss of load,” further expansion is not required by Commission policy or regulations, and is something that is offered at ANR’s discretion. Therefore, we shall not require ANR to further revise its tariff. Accordingly, we shall deny Dominion’s request for further tariff modifications and accept ANR’s tariff sheets to become effective June 15, 2002.

By direction of the Commission. Commissioner Kelly not participating.

Linda Mitry,
Acting Secretary.

cc: All parties