

108 FERC ¶ 61,091
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Kinder Morgan Interstate Gas Transmission, L.L.C. Docket No. RP04-336-000

ORDER ACCEPTING TARIFF SHEETS

(Issued July 29, 2004)

1. On June 17, 2004, Kinder Morgan Interstate Gas Transmission, L.L.C. (Kinder Morgan), filed revised tariff sheets¹ to modify and clarify certain storage provisions. Specifically, Kinder Morgan eliminates from its tariff date-specific storage inventory level requirements under Rate Schedules FSS and NNS,² and replaces them with volumetric storage inventory level requirements that are effective year-round. Kinder Morgan also clarifies: (1) when it can issue a Directional Notice changing storage inventory levels; (2) that it must credit back to shippers the value of confiscated gas; (3) certain operational definitions; (4) when shippers may trade inventories between storage rate schedules; (5) the applicability of authorized and unauthorized overrun charges; and, (6) certain other ambiguous or contradictory provisions from Rate Schedules FSS, NNS, and ISS. Kinder Morgan requests an August 1, 2004, effective date for its tariff sheets.

2. We accept Kinder Morgan's revised tariff sheets effective August 1, 2004, as proposed. This order benefits shippers by providing additional operational flexibility.

Details of Filing

3. Kinder Morgan proposes to revise certain provisions of Rate Schedules FSS, NNS, and ISS; its General Terms and Conditions (GT&C); and its various *pro forma* storage service agreements. Kinder Morgan submits this filing to address complaints shippers filed against Kinder Morgan when it recently tried to modify the storage inventory levels used to adjust shipper withdrawal rights through the issuance of Directional Notices.

¹ See Appendix.

² Rate Schedule FSS is firm storage service and Rate Schedule NNS is no-notice service.

Section 3.2 of Kinder Morgan's currently effective Rate Schedule FSS ties a shipper's withdrawal rights to a series of date-specific storage inventory levels. It stipulates that shippers can retain 100 percent of their Withdrawal Quantity (WQ) rights by maintaining an inventory level of 95 percent of their Maximum Storage Volume (MSV) between October 15 and October 31; and by maintaining an inventory level of at least 40 percent of their MSV on January 31 of each year. Section 3.2 also provides a cycling requirement, whereby a shipper's storage inventory must not exceed 20 percent of the MSV by March 31 of each year. Kinder Morgan incorporates by reference these provisions into Rate Schedule NNS through section 2.7 of that rate schedule. Shippers not adhering to these date-specific storage inventory target levels will lose a portion of their WQ. Kinder Morgan introduced these provisions during restructuring to address the presence of a peak winter gas season.

4. Kinder Morgan proposes to replace the date-specific requirements concerning the level of their storage inventories with year-round volumetric inventory requirements. Under the proposal, Rate Schedules FSS and NNS shippers will receive 100 percent of their WQ for inventory levels greater than 40 percent; 75 percent of their WQ for inventory levels less than or equal to 40 percent, but greater than 20 percent; 50 percent of their WQ for inventory levels less than or equal to 20 percent; and, 0 percent of their WQ where inventory is zero.³ Kinder Morgan also proposes to eliminate from Rate Schedules FSS and NNS the cycling provision requiring a shipper's storage inventory level to not exceed 20 percent of the MSV by March 31 of each year. Kinder Morgan proposes to remove the seasonality aspect of its current storage provisions to recognize that a winter and summer peak season now exist in the current gas marketplace.

5. Kinder Morgan proposes other storage-related tariff changes as well. Specifically, it proposes to: (1) revise section 35.1 of its GT&C and provisions of certain rate schedules to clarify that it will refund back to shippers the value of confiscated gas; (2) revise section 28.5(e) of its GT&C to specify that it can issue a Directional Notice modifying storage inventory levels when system integrity is at risk; (3) clarify when shippers can trade inventories between its various storage rate schedules; (4) modify its various *pro forma* storage service agreements for clarity; (5) clarify in Rate Schedules NNS and FSS what constitutes authorized and unauthorized overrun charges; (6) better define certain operational terms throughout its storage rate schedules; (7) remove or clarify certain ambiguous and contradictory provisions from its various storage rate schedules; and, (8) make other minor administrative tariff changes. Kinder Morgan contends that its proposal offers shippers greater flexibility, and will clarify and remove ambiguous language from its tariff.

³ Proposed section 3.9 of Rate Schedule NNS and proposed section 3.4 of Rate Schedule FSS.

6. Kinder Morgan states that the following shippers support its proposal: Seminole Energy Services, L.L.C.; Atmos Energy Corporation; and, Kinder Morgan, Inc. Kinder Morgan states that the following shippers do not oppose its proposal: Midwest United Energy, L.L.C.; Midwest Energy, Inc.; Aquila Networks; Wyoming Producer Consumer Alliance; and, National Public Gas Agency acting as agent for the City of Alma, Nebraska, City of Wisner, Nebraska, and City of Central City, Nebraska.

Notice

7. The Commission issued notice of Kinder Morgan's filing on June 24, 2004. Interventions, comments, and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2003)). Pursuant to rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214 (2003)), all timely filed motions to intervene and any 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 the proceeding or place additional burdens on existing parties. Hastings Utilities filed a protest and Kinder Morgan filed a response to the protest, as discussed below.

Discussion

8. We accept Kinder Morgan's proposed tariff provisions. The tariff changes are generally consistent with Commission policy, and will benefit shippers by providing additional flexibility and by clarifying and removing ambiguity from certain storage tariff provisions.

9. Hastings Utilities protests two provisions of Kinder Morgan's proposal. First, Kinder Morgan incorporates the following provision into section 29.5(e) of its GT&C: "Transporter has the right to issue a Directional Notice and require specified storage inventory levels under any applicable rate schedule in order to maintain system integrity. Any such Directional Notice shall be posted in accordance with the terms and conditions set forth herein." Hastings Utilities asserts that the Commission should reject this proposal as being too broad. It expresses concerns that the provision would allow Kinder Morgan to issue a Directional Notice that includes unspecified storage inventory levels, which may be impossible to comply with on short notice. It states that a unilateral reduction in firm service and its replacement with "reasonable efforts" based service is a serious concern for shippers using firm service to meet peak-day needs. Hastings Utilities also contends that Kinder Morgan should clearly state in its tariff all restrictions and limitations on shippers' entitlements. Kinder Morgan responds that the changes are reasonable and consistent with its current tariff.

10. We accept Kinder Morgan's provision and reject Hastings Utilities' arguments. Kinder Morgan's right to issue a Directional Notice under this section revising storage inventory levels is limited to circumstances where such action is necessary to preserve system integrity. It does not give Kinder Morgan the unlimited authority to indiscriminately issue Directional Notices. The Commission generally allows pipelines to issue operational flow orders or similar notices like Directional Notices when unforeseen circumstances place a pipeline's safety and integrity at risk. Such issuances allow pipelines to preserve safe and proper system operating conditions. Although Hastings Utilities asks that the Commission require Kinder Morgan to specify in its tariff all restrictions and limitations on shippers' entitlements, it would not be prudent to do so since the Directional Notices are designed to address unforeseen circumstances where the required storage inventory level changes may not be known in advance. Further, section 29.5(f) of Kinder Morgan's GT&C specifies posting and compliance requirements regarding any issued Directional Notice.

11. Second, Hastings Utilities protests two similar provisions in Kinder Morgan's Rate Schedule NNS. Section 2.1 of Kinder Morgan's currently effective Rate Schedule NNS provides that: "This rate schedule should apply to the combination of firm transportation and firm storage services on Transporter's system, except as provided in section 16 of the General Terms and Conditions of the FERC Gas Tariff under this Rate Schedule." Kinder Morgan proposes to revise the provision to provide that: "This rate schedule should apply to the combination of Firm Transportation ("FT") and Firm Storage Services ("FSS") on Transporter's system, except as provided in section 16 of the General Terms and Conditions of this Tariff." Also, Kinder Morgan adds the following provision to section 3.2 of Rate Schedule NNS: "Each Dth of MDCQ of NNS represents a Dth of FSS deliverability and a Dth of FT capacity from storage to the delivery point(s)."

12. Hastings Utilities asks that the Commission reject these two tariff changes, arguing that Kinder Morgan provides no explanation why its Rate Schedule NNS service should be tied to its FT and FSS services. It contends that the language could result in unnecessary ambiguity, and is directly contrary to the intended character of NNS service.

13. Kinder Morgan responds that the revision to section 2.1 is an administrative change designed to clean up tariff language, and merely capitalizes the terms Firm Transportation and Firm Storage Services. Kinder Morgan argues this does not change the substance of its tariff.

14. Further, Kinder Morgan argues that its revision to section 3.2 of Rate Schedule NNS accurately describes the nature of its no-notice service: a single service made up of embedded FT and FSS components available on a non-nominated basis. Kinder Morgan states that its NNS has always been a combination of these two firm service components. Kinder Morgan states that this is further evidenced by section 2.5 of Rate Schedule NNS

which specifies that FT and FSS are the two embedded components of NNS and are available separately for capacity release. Kinder Morgan contends that referencing FT and FSS in section 3.2 of Rate Schedule NNS adds clarity, but does not change the nature of NNS service. In addition, Kinder Morgan states that, since NNS is not superior to its other firm services, but rather has the same priority, its tariff revisions would not degrade NNS service.

15. We accept Kinder Morgan's revisions to sections 2.1 and 3.2 of Rate Schedule NNS. Kinder Morgan is not changing the nature of its no-notice service. In section 2.1, it merely capitalizes an existing reference to FT and FSS services, and in section 3.2, it clarifies the established nature of its no-notice service that is referenced elsewhere in the rate schedule.

Request for Technical Conference

16. Hastings Utilities requests that the Commission suspend Kinder Morgan's proposal for five months and convene a technical conference to allow all interested parties to discuss the proposal and resolve all outstanding issues. Hastings Utilities adds that a technical conference would provide Kinder Morgan the opportunity to explain the operational considerations which prompted the subject filing.

17. We reject Hastings Utilities' request for a technical conference as unnecessary. Hastings Utilities was the only party to comment on Kinder Morgan's filing,⁴ and the Commission has addressed its two concerns above.

The Commission orders:

Kinder Morgan's tariff sheets listed in the Appendix are accepted effective August 1, 2004, as proposed.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

⁴ As noted above, Kinder Morgan states that ten shippers either support or do not oppose its proposal. In its reply to Hastings Utilities' protest, Kinder Morgan states that this represents over 75 percent of the no-notice service and small customer service contracted capacity.

Appendix

Kinder Morgan Interstate Gas Transmission, L.L.C.
Fourth Revised Volume No. 1-A

Tariff Sheets Accepted Effective August 1, 2004

Eighth Revised Sheet No. 4D	Second Revised Sheet No. 96
First Revised Sheet No. 63	First Revised Sheet No. 97
First Revised Sheet No. 64	Third Revised Sheet No. 98
First Revised Sheet No. 65	First Revised Sheet No. 99
Second Revised Sheet No. 66	Third Revised Sheet No. 100
Second Revised Sheet No. 67	Second Revised Sheet No. 101
First Revised Sheet No. 68	Third Revised Sheet No. 102
Second Revised Sheet No. 69	Original Sheet No. 102A
Second Revised Sheet No. 70	First Revised Sheet No. 103
Second Revised Sheet No. 71	First Revised Sheet No. 111
First Revised Sheet No. 72	Second Revised Sheet No. 112
Second Revised Sheet No. 73	First Revised Sheet No. 113
Second Revised Sheet No. 74	First Revised Sheet No. 117
Second Revised Sheet No. 75	First Revised Sheet No. 118
Sixth Revised Sheet No. 76	First Revised Sheet No. 119
First Revised Sheet No. 79	First Revised Sheet No. 120
First Revised Sheet No. 84	Second Revised Sheet No. 121
Second Revised Sheet No. 85	First Revised Sheet No. 122
Second Revised Sheet No. 86	Fourth Revised Sheet No. 123
First Revised Sheet No. 87	Second Revised Sheet No. 124
First Revised Sheet No. 89	Second Revised Sheet No. 125
First Revised Sheet No. 90	First Revised Sheet No. 134
First Revised Sheet No. 91	Third Revised Sheet No. 135
Second Revised Sheet No. 92	First Revised Sheet No. 136
First Revised Sheet No. 93A	First Revised Sheet No. 137
First Revised Sheet No. 94	First Revised Sheet No. 140
First Revised Sheet No. 95	

Kinder Morgan Interstate Gas Transmission, L.L.C.
Fourth Revised Volume No. 1-B

Tariff Sheets Accepted Effective August 1, 2004

Fifth Revised Sheet No. 77
Seventh Revised Sheet No. 86