

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

Trans-Union Interstate Pipeline, L.P.

Docket Nos. CP01-37-000 and
CP01-37-001

ORDER ISSUING BLANKET CERTIFICATE AUTHORIZING
TRANSPORTATION OF GAS IN INTERSTATE COMMERCE

(Issued September 23, 2003)

1. This Order grants Trans-Union Interstate Pipeline, L.P.'s (Trans-Union) November 22, 2000 application, filed pursuant to Section 7(c) of the Natural Gas Act (NGA) and Part 284, subpart G, of the Commission's Regulations, for a blanket certificate of public convenience and necessity authorizing Trans-Union to transport natural gas in interstate commerce on an open-access basis. The Order also approves Part 284 initial rates and a Part 284 tariff, subject to conditions. Further, the Order authorizes Trans-Union to charge negotiated rates. Approval of Trans-Union's requests is in the public interest because it will allow the pipeline, which currently transports gas only for an affiliated shipper that operates a turbine electric generating facility, to transport gas for third-parties on an open-access basis. Thus, available capacity on the interstate pipeline grid will be increased and potential shippers may be able to access alternative supplies.

Background And Proposal

2. On July 26, 2000, in Docket No. CP00-47-000, the Commission issued a certificate to Trans-Union authorizing it to construct and operate a 41.7-mile, 30-inch diameter high pressure pipeline with a capacity of 440,000 MMBtu/d, extending from an interconnection with Texas Gas Transmission, LLC (Texas Gas) in Claiborne Parish, Louisiana, to an interconnection, near El Dorado, Arkansas with a gas-fired 2,700 megawatt electric power generation facility owned by Union Power Partners (Union

Power), an affiliate of Trans-Union.¹ Also, in the certificate order, the Commission denied Trans-Union's proposal to become a single-use, non-open-access pipeline and directed the pipeline to file an application for a Part 284 blanket transportation certificate, along with initial Part 284 rates and a Part 284 tariff.²

3. On November 22, 2000, in compliance with the July 26, 2000 certificate order, Trans-Union filed its application for a Part 284, subpart G, blanket transportation certificate, in which it proposed initial rates and submitted a pro forma Part 284 tariff.³ As described below, Trans-Union also requested waivers of various Commission regulations and several standards promulgated by the Gas Industry Standards Board (GISB) or the North American Energy Standards Board (NAESB). These regulations and standards, for the most part, relate to the maintenance of an electronic bulletin board and information posting.⁴ Further, in the instant application, Trans-Union requests authority to charge negotiated rates.

4. On July 18, 2002, Trans-Union filed a supplement to its application in which it explains that circumstances have changed on its system necessitating certain

¹ Trans-Union Interstate Pipeline L.P., 92 FERC ¶ 61,066 (2000), Order on clarification, 93 FERC ¶ 61,115 (2000). Trans-Union designed its proposed system to provide 430,000 MMBtu/d of capacity to meet Union Power's needs; however, in the certificate order, the Commission determined that the system could, in fact, move 440,000 MMBtu/d.

² Lion Oil Company (Lion) filed a limited protest in the certificate proceeding, asserting that it might seek to utilize Trans-Union's pipeline to ship gas to its petroleum refinery at El Dorado, Arkansas and that Trans-Union should be required to operate on an open-access basis under Part 284. In the course of constructing the pipeline, Trans-Union installed a tee flange to use for deliveries to Lion between Mile Posts 33 and 34. Lion has not formally requested service on Trans-Union.

³ On November 22, 2000, Trans-Union also applied for a Part 157, Subpart F, blanket construction certificate. That request was assigned a separate docket number, Docket No. CP01-38-000, and the certificate was issued on January 30, 2001, 94 FERC ¶ 62,076 (2000).

⁴ These standards are incorporated by reference into Section 284.12 of the Commission's regulations. 18 C.F.R. § 284.12. The GISB standards are now known as the NAESB standards.

modifications to the proposals in its November 22, 2000 application. According to Trans-Union, Union Power has decided to utilize a portion of its overall electric generating capacity for third-party tolling arrangements. Under this approach, third-party generators will contract for their own gas supply at Trans-Union's Sharon receipt point or upstream on Gulf States Pipeline (Gulf States) and/or Texas Gas. The third-party generators will enter into transportation service agreements with Trans-Union for transportation of their gas to the delivery point at Union Power's El Dorado plant. Union Power will utilize these shippers' gas to generate bulk electric power for the shippers' accounts and will deliver the power back to them at the Union Power/Entergy interconnection for sale to others. Thus, Trans-Union will now provide services to third-party shippers under Part 284. Accordingly, Trans-Union withdraws many of its waiver requests, which were based on the premise that would be providing service only to a single, affiliated shipper and, therefore, did not need to have an electronic bulletin board meeting the NAESB standards or to post certain information. Trans-Union also proposes two new sections to its proposed tariff and modifies other provisions to reflect the changed circumstances on its system. Additionally, Trans-Union has revised its rate proposal to reflect higher initial rates.

Proposed Part 284 Tariff

5. In its application, Trans-Union states that it will provide firm and interruptible transportation services on a non-discriminatory, open-access basis, consistent with the Commission's Part 284 regulations. Firm transportation will be offered when firm capacity is available under Rate Schedule FT and interruptible transportation will be offered under Rate Schedule IT. Trans-Union asserts that its tariff complies generally with the Commission's policies and regulations established in Order Nos. 636 and 637, as well as with the NAESB standards incorporated into the Commission's regulations, except to the extent that it requests certain waivers.

6. Previously Trans-Union sought waiver of the requirement that pipelines provide for an Electronic Delivery Interchange (EDI) and Electronic Delivery Mechanism (EDM). Instead, Trans-Union asserted, it would maintain an internet site and post as much of the information required by the Commission's regulations as was practicable. However, because Trans-Union will now have third-party shippers, Trans-Union explains that it is in the process of contracting for full internet/EDI services from a third-party vendor for operating its system consistent with Section 284.12 of the Commission's

regulations. Thus, Trans-Union no longer seeks waiver of the requirements related to the maintenance of an EDI/EDM and various posting standards.⁵

7. Trans-Union provided a chart with its application indicating which NAESB provisions it was seeking to waive and which it had incorporated into its tariff. Trans-Union asked for waiver of all of the Section 4 standards, which seek to impose uniformity on the way EDI/EDM sites should look and operate, because it was not planning to maintain the type of web site addressed in those standards. However, its justification for seeking waiver of numerous other sections was not so clear and Trans-Union's supplemental filing does not specify which NAESB provisions it still believes should be waived. In light of this, and the fact that more NAESB standards have been issued since Trans-Union filed its application, the Commission will not address any of the NAESB standards for which Trans-Union seeks waiver, except to the extent discussed below. Instead, when Trans-Union files to place its tariff into effect, it may request waivers of other specific NAESB standards as it believes to be appropriate.

8. From the application and supplemental filing, it appears that Trans-Union is still seeking waivers of : (1) Sections 284.221(g) and (h) of the Commission's regulations relating to receipt and delivery point flexibility; (2) Order No. 637's requirement that firm shippers who choose secondary points in their contract paths have priority over shippers where the points are not in the other shippers' contract paths; (3) certain Order No. 637 requirements related to imbalance penalties; (4) the Order No. 637 requirement that it offer a right of first refusal to shippers with multi-year contracts for services that are not available during a full year; and (5) the posting requirements of in Section 161.3(1) of the Commission's regulations which relate to market affiliate information. These waiver requests will be addressed herein.

9. Although Section 15 of Trans-Union's proposed tariff provides for the issuance of operational flow orders by the pipeline, Trans-Union has proposed a new Section 38 entitled "Operational Communications."⁶ According to Trans-Union, the purpose of the

⁵ Trans-Union cited USG Pipeline, 89 FERC ¶ 61,121 (1999), in support of its contention that the Commission has previously waived certain of its Part 284 requirements where it would be burdensome for a small pipeline to comply or inapplicable because of the characteristics of the system. Trans-Union asserts that since it has only one receipt and delivery point and is a small pipeline, its remaining requests for waiver still should be granted.

⁶Section 38 of the tariff appears on the pro forma Original Sheet No. 152 submitted with Trans-Union's supplemental filing.

section is to provide a vehicle for Union Power and/or other third-party shippers to communicate regarding operational variables that could have an impact on the integrity and reliability of the system. Trans-Union explains that Union Power will not only be a shipper on the system, but will also be the delivery point operator at the one delivery point on the system. Trans-Union hopes the informal communications between itself, its shippers and the delivery point operator will obviate the need to invoke Section 15 of the tariff, authorizing the issuance of OFOs, because the parties could take voluntary actions to address operational problems. Section 38 is also intended to allow the pipeline and shippers to communicate among themselves to track scheduled and actual flows to the Union Power delivery point and any other future delivery points. Trans-Union maintains that this proposed section is consistent with Order No. 637 and related orders since it provides the steps the pipeline will take before issuing an OFO and to ensure that the shippers creating the operational problem are targeted by the OFO.⁷

10. Trans-Union also proposes a new tariff Section 39, relating to liability of the parties to each other in the event any party experiences losses because of another party's actions.⁸ Trans-Union explains that now that it will have unaffiliated, third-party shippers on its system, it is necessary to address liability issues more substantively. Section 39 provides that neither the shipper nor the pipeline will be liable to each other for any indirect, special or consequential loss, damage, cost or expense based on claims of breach of contract, negligence, strict liability or otherwise. The types of losses for which there would be no liability include loss of profits or revenues, cost of capital, loss or damages for failure to deliver gas, cost of lost, purchased or replacement gas, cancellation of permits or certificates and the termination of contracts. Trans-Union states that its liability provision is identical to one approved in Alliance Pipeline L.P.'s effective tariff.⁹ Further, Trans-Union asserts that this tariff provision is consistent with the Commission's liability principles which provide that "there should be no liability

⁷Trans-Union cites to a number of pipelines' Order No. 637 compliance proceedings in which similar tariff provisions were approved. Trans-Union also notes that it may consolidate the language in new section 38 with section 15 governing the issuance of OFOs when it files to place its tariff into effect.

⁸Section 39 appears on pro forma Original Sheet No. 153 of Trans-Union's proposed tariff.

⁹The provision is at section 21.2 of Alliance Pipeline L.P.'s GT&C, Original Sheet No. 236.

without fault; and a person should not be able to avoid all liability caused by his own gross negligence or intentional actions.”¹⁰

Initial Rate Proposal

11. In its November 22, 2000 application, Trans-Union proposed a fully allocated, cost-based rate designed on a projected throughput of 440,000 MMBtu/d; a capital structure of 70/30 per cent debt to equity; a 9 percent cost of debt; a 14 percent return on equity; a depreciation of 5 percent (20 years); and a yearly cost of service of \$9,675,275. The rate base is stated as \$41,076,000. Trans-Union proposed a resultant firm transportation reservation charge of \$1.83 and an interruptible rate based on the 100 percent load factor equivalent of the firm rate. As discussed in more detail below, Trans-Union, in the July 18, 2002 supplement to its application, proposes to modify its proposed initial rate by using a throughput of 388,000 MMBtu/d, which would have the effect of increasing the initial Part 284 rates. The newly proposed rate for firm transportation service would be \$2.08 per MMBtu and proposed rate for interruptible service would be \$0.684.

12. In support of its proposed change, Trans-Union explains that Union Power has installed fewer turbines than it originally planned in its generating plant and, as a result, Trans-Union will only transport 378,000 MMBtu/d to the El Dorado Plant delivery point. Trans-Union asserts that it can only deliver that volume of gas to Union Power because the delivery point metering and take-away capacity is limited to 378,000 MMBtu. According to Trans-Union, it would be fair to itself, potential third-party shippers and Union Power for the firm transportation rates to be derived using billing determinants of 388,000 MMBtu per day (378,000 MMBtu/d for total volumes shipped to the El Dorado Delivery Point and 10,000 MMBtu/d for other possible third-party shippers such as Lion).

Proposal To Change Negotiated Rates

13. The certificate Order noted that Trans-Union and Union Power had entered into a service contract under which Union Power, the only anticipated shipper at the time the application was filed, would make monthly payments to cover interest costs, depreciation at 3.33 percent per year, and Operation and Maintenance (O&M) costs for the facilities. To allow the financial arrangements between Trans-Union and Union Power to be

¹⁰Citing ANR Pipeline Company, 98 FERC ¶ 61,218 at 61,862 (2002); and Arkla Energy Resources Company, 64 FERC ¶ 61,166 at 62,490 (1993).

implemented, the Commission explained that the payments made by Union Power could be considered a negotiated rate and that the fully allocated, cost-based Part 284 rate which Trans-Union was required to file would serve as the recourse rate for firm service. Thus, in the instant application, Trans-Union also requests authority to charge negotiated rates. Trans-Union asserts that the proposed tariff provisions regarding negotiated rates are consistent with the Commission's policies as articulated in its Statement of Policy on this subject.¹¹

14. In this regard, Trans-Union states that its negotiated rate proposal provides that:

- Shippers will be free to elect recourse rates;
- Trans-Union will keep separate, identifiable accounts for volumes transported, billing determinants, rate components, surcharges and revenues associated with negotiated rates;
- The highest rate a shipper must match to continue its transportation agreement is the maximum, Commission-approved recourse rate;
- For the purposes of allocating capacity, shippers willing to pay more under a negotiated rate than the maximum recourse rate will be considered to have paid or offered to pay the maximum rate;
- For the purposes of awarding capacity that becomes available on the system in the future, determining best bids and applying matching procedures from the right of first refusal provisions in the tariff, Trans-Union will use the lower of the negotiated rate or the recourse rate;
- The precise level of Trans-Union's negotiated rates will be set forth in its tariff;
- The identity of the shippers electing negotiated rates will be set forth in the Trans-Union's tariff; and
- Identical penalties will be applicable to recourse rate and negotiated rate shippers.

Interventions

15. Notice of Trans-Union's November 22, 2000 application was published in the Federal Register on February 10, 2000 (65 Fed. Reg. 6598-99). No timely motions to intervene, protests or notices of intervention were filed. On July 30, 2002, Lion Oil Company (Lion) filed a motion to intervene and protest in response to Trans-Union's

¹¹See Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipeline, et al., 74 FERC ¶ 61,076 (1996).

filing of the supplement to its application. Although this motion to intervene was untimely, the Commission will grant late intervention because Lion has an interest in this proceeding, Trans-Union's supplement modified the substance of its initial rate proposal, and late intervention will not prejudice or otherwise delay resolution of this proceeding.

16. Lion notes that in the certificate proceeding, the Commission found that the actual capacity of Trans-Union's proposed pipeline was 440,000 MMBtu/d. Because Part 284 rates were not an issue in that proceeding, Lion acknowledges that the Commission did not affirmatively approve any rate or rate methodology. Lion points out, nevertheless, that the Commission did state that because Trans-Union would provide a year-round firm service for Union Power, the maximum, fully allocated, cost-based rate for its firm rate schedule should serve as the recourse rate for negotiated rates. Lion contends that the Commission envisioned that Trans-Union would establish rates based on the actual capacity of the pipeline, consistent with precedent on this issue.¹²

17. Lion asserts Trans-Union's proposal to calculate the initial rates using a lower throughput has the result of shifting costs from the affiliated shipper, Union Power, to non-affiliated shippers. Further, Lion states that Trans-Union did not include its negotiated contract with Union Power in its filing. Therefore, Lion contends that if Union Power is still paying the same, fixed monthly sum to Trans-Union, then recalculating the rates with lower billing determinants could result in Trans-Union double collecting some of its costs, since the proposed Part 284 rates do not account for the negotiated rates with Union Power. Lion notes that footnote 9 of Trans-Union's supplemental filing appears to confirm that Trans-Union will receive the same amount of money from Union Power.¹³ Lion contends that the Commission originally approved the pipeline project on the assumption that Union Power would be using and paying for over 95 percent of the pipeline's capacity. For all of these reasons, Lion urges the Commission

¹²Citing Portland Natural Gas System., 76 FERC & 61,123 at 61,660-61 (1996) and Crossroads Pipeline Co., 71 FERC & 61,076 (1995).

¹³Footnote 9 states:

Under . . . [Union Power's] negotiated rate (monthly cost reimbursement) as summarized in Original Sheet No. 151 . . . [Union Power] will still be paying the same amount for these smaller initial volumes, hence a higher cost unit, and so should the third-party generators/shippers.
July 18, 2002 Supplement at 13.

to reject the alternative rate proposal based on the lower billing determinants and require Trans-Union to charge rates based on the full capacity of the system.

Discussion

18. Trans-Union's pipeline will be used to transport natural gas in interstate commerce. Therefore, the operation of the facilities, the tariff governing the terms and conditions of service, and the rates charged for service are subject to the Natural Gas Act and the Commission's jurisdiction.

19. The Commission will issue Trans-Union a blanket transportation certificate under Part 284, subpart G, authorizing it to provide open access transportation service to third-party shippers under the terms and conditions of Part 284 of the Commission's regulations as well as other sections of the regulations which may apply. Further, the Commission finds that the pro forma tariff filed by Trans-Union generally complies with the Commission's policies and regulations. However, in some respects the tariff does not fully comply with the Commission's policies and regulations or, as noted, Trans-Union seeks waivers from compliance.

Tariff Issues

20. With regard to the Order No. 637, et al./NAESB standards, since Trans-Union filed its application and supplement, there have been additions and modifications to the standards. Most recently, for example, Order No. 587-R updated the business standards practices to Version 1.6.¹⁴ Therefore, Trans-Union must review its tariff and bring it up to date with Version 1.6 when it files to place the tariff into effect. Additionally, to the extent a NAESB standard does not apply to its pipeline because of the unique characteristics of its system or other aspect of its operations, Trans-Union does not need to ask for specific waivers of such standards. Thus, for example, if the pipeline does not have the ability to provide certain services, such as storage, those services need not be listed on the EDI/EDM. Likewise, there is no need for Trans-Union to address in its tariff the priority of shippers at secondary points, because there are no secondary points on the system. If circumstances change, however, and a standard becomes applicable to the pipeline's operations, then the pipeline must file to modify its tariff to comply and otherwise act to comply with the standard. As noted above, to the extent Trans-Union

¹⁴ Standards for Business Practices of Interstate Natural Gas Pipelines, Order No. 587-R, 102 FERC ¶ 61,273, 68 FR 13813 (March 21, 2003), III FERC Stats. & Regs. Regulations, ¶ 31,141 (March 12, 2003).

desires a waiver of a specific standard, it may request the waiver when it files to place its tariff into effect.

21. Additionally, Trans-Union need not ask for specific waivers of other sections of the Commission's regulations if those sections do not on their face apply to the pipeline. For example, Trans-Unions does not need a waiver of Sections 284.221(g) and (h), requiring pipelines to provide Part 284 shippers with flexible receipt and delivery points, because Trans-Union's system currently has only one receipt and one delivery point. The same is true of the requirement in Section 284.12(b)(2)(iii), requiring pipelines with imbalance penalty provisions in their tariffs to provide other services, such as parking and lending, to facilitate imbalance management. That section specifically states "to the extent practicable."¹⁵ Therefore, since the characteristics of Trans-Union's system do not allow for such "other services," no waiver of the regulations is necessary, nor does the pipeline's noncompliance with that section require explanation. Likewise, Trans-Union can't comply with the segmentation requirements of Section 284.7(d).¹⁶

22. As noted, in its original application Trans-Union sought waiver of Section 161.3 of the Commission's regulations, which sets out standards of business conduct for pipelines with marketing affiliates. In its supplement, Trans-Union assures the Commission that since Union Power is an affiliate, it will adhere to the standards of Section 161.3. However, while it is true that Union Power is an affiliated generator of Trans-Union, it is not a marketing affiliate because it does not make any sales for resale of natural gas. Therefore, our current standards of conduct set forth in 161.3 do not apply

¹⁵ 18 C.F.R. § 284.12(b)(2)(iii).

¹⁶In its application, Trans-Union sought waiver of Order No. 637's requirement, codified in section 284.12(b)(2)(v), that pipelines credit back to non-offending shippers any penalty revenues net of costs. Trans-Union states that it expected to have only one affiliated shipper and anticipated that it rarely would impose penalties. Therefore, it didn't need the incentive crediting provides not to impose inappropriate penalties. Since there will now be unaffiliated shippers on the system, we believe there is no basis for a waiver of the requirement. Trans-Union should develop a revenue crediting provision and include it in the tariff.

to the relationship between Trans-Union and Union Power and no waiver of those rules is necessary.¹⁷

23. The Commission also approves Trans-Union's proposed new Section 30 of the GT&C. This provision sanctions informal communications between Trans-Union, shippers and Union Power as the delivery point operator regarding any potential or actual operating problems on the system at any given time. Through this section Trans-Union signals its intention to pursue informal communications with its shippers and Union Power before it invokes the more formal provisions of Section 15 of its proposed tariff, which permits the issuance of OFOs to remedy operational problems. Thus, Section 30 is consistent with Section 284.12(b) (2)(iv) of the Commission's regulations, codifying certain NAESB standards, which requires pipelines to take all reasonable actions to minimize the issuance of OFOs. Further, if Trans-Union chooses to incorporate Section 30 into Section 15 of its tariff, it may do so.

24. The Commission also accepts the language proposed in new Section 39 with respect to the liability of the transporter and shipper to each for certain losses. Trans-Union correctly points out that this language has been approved in the tariffs of other pipelines.

Initial Rates

25. As described, Trans-Union seeks to change the billing determinants for its initial rate calculation because its largest shipper, Union Power, requires less gas than originally planned. The Commission will not approve that request. Lion is correct that the Commission's policy regarding construction of pipeline facilities is that the rates should be based on the actual capacity of the facilities.

26. Here, Trans-Union proposes to change the billing determinants because the shipper for whom the line was proposed, and sized, has subsequently determined it needs

¹⁷ However, we note that on September 27, 2001, the Commission issued a Notice of Proposed Rulemaking in Docket No. RM01-10-000, Standards of Conduct for Transmission Providers, 66 FR 50919 (Sep. 27, 2001), IV FERC Stats. & Regs. Regulation Preambles ¶ 32,555 (Sep. 27, 2001). There, the Commission proposed standards of conduct which would govern the relationships between transmission providers and all of their energy affiliates, not just those engaged in marketing or sales functions. If the final rule adopts the proposed standards of conduct, Trans-Union's relationship with Union Power would be governed by those regulations.

less capacity. It appears that Union Power will make the same monthly payment to Trans-Union as originally agreed, which has the effect of increasing Union Power's unit cost for capacity. This is an appropriate agreement between the pipeline and its shipper as to the allocation of costs. We note that it has always been contemplated that Union Power, an affiliate of Trans-Union, would underwrite the costs of the pipeline.¹⁸ However, the recourse rate available to the third-party shippers, should be a cost-based, fully allocated rate based on the capacity of the system, which the Commission has found to be 440,000 MMBtu/d.

27. In its November 22, 2000 application, Trans-Union appropriately proposes initial rates based on the capacity of the system. Trans-Union included workpapers demonstrating how its rate was calculated. The Commission finds that Trans-Union has adequately demonstrated the cost-based character of its rates. Therefore, we find that Trans-Union has satisfactorily complied with Sections 284.7(e) and 284.10 of the Commission's regulations and approve the following initial rates: \$1.83 for firm transportation and \$0.602 for interruptible transportation. Trans-Union shall file tariff sheets not more than 60 days nor less than 30 days before beginning Part 284 service reflecting these rates as the recourse rates for service.

28. Further, consistent with Commission policy, we will require Trans-Union to file to justify its initial rates at the end of its first three years of its actual operation.¹⁹ In its rate filing, Trans-Union's projected units of service should be no lower than those upon which its approved initial rates are based. The filing must include a cost and revenue study in the form specified in Section 154.313 of the Commission's regulations, updating cost of service data. After review, the Commission will determine whether it should exercise its authority under NGA Section 5 to establish just and reasonable rates. Alternatively, in lieu of this filing, Trans-Union may make an NGA Section 4 filing to propose alternative rates.

Negotiated Rates

29. As described, Trans-Union requests authority to charge negotiated rates. It has included pro forma tariff sheets setting forth the terms and conditions under which negotiated rates will be offered. The Commission finds that Trans-Union's negotiated

¹⁸ 92 FERC ¶ 61,066 at 61,214.

¹⁹ See, e.g., Energy West Development, Inc., 102 FERC ¶ 61,015 (2002).

rate proposal is consistent with the Alternative Rate Policy Statement,²⁰ and the Commission's decision in NorAm Gas Transmission Company.²¹ As noted above, the maximum firm transportation rate will serve as the recourse rate. Each time Trans-Union enters into a negotiated rate contract, it must file either the contract or numbered tariff sheets. If it chooses the latter, the tariff filing must state for each shipper the negotiated rate, all applicable charges, the applicable receipt and delivery points, the volume to be transported, the applicable rate schedule for the service, and a statement affirming that the affected service agreements do not deviate in any material aspect from the form of service agreement in Trans-Union's tariff. Trans-Union must also disclose any other agreement, understanding, negotiation, or consideration associated with the negotiated agreements. Finally, Trans-Union must maintain separate and identifiable accounts for volumes transported, billing determinants, rate components, surcharges and revenues associated with its negotiated rates in sufficient detail so that they can be identified in Statements G, I and J in any future NGA Section 4 or 5 rate case.²²

Conclusion

30. For all of the reasons discussed, the Commission is issuing to Trans-Union a Part 284 blanket transportation certificate authorizing it to provide open access transportation pursuant to the regulations set forth in Part 284 of the Commission's regulations and at the initial rates approved herein. Further, the Commission approves the pro forma tariff, including new Sections 30 and 39, subject to Trans-Union's updating the provisions consistent with the most recent NAESB standards and making any revisions discussed herein. Finally, the Commission approves Trans-Unions negotiated rate proposal.

31. At a hearing held on September 10, 2003, the Commission on its own motion, received and made a part of the record in this proceeding, all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record.

²⁰See supra note 13.

²¹77 FERC & 61,011 (1996) (NorAm).

²²Also, consistent with the Alternative Rate Policy Statement and NorAm, the Commission will not permit Trans-Union to recover from existing shippers any revenue shortfall due to the charging of negotiated rates.

The Commission orders:

(A) Part 284 blanket transportation certificate is issued to Trans-Union authorizing it to provide open access transportation service under the terms and conditions of Part 284 of the Commission's regulations and as discussed herein.

(B) Trans-Union is authorized to charge the initial rates approved herein for its Part 284 transportation services.

(C) Trans-Union's negotiated rate proposal is approved as discussed herein.

(D) The pro forma tariff submitted by Trans-Union is approved subject to Trans-Union's updating the provisions consistent with the latest NAESB standards.

(E) Trans-Union shall file to place its revised tariff and initial rates into effect no less than 30 days and no more than 60 days before it commences providing Part 284 service.

(F) The authority issued in Paragraph (A) above is conditioned on Trans-Union's compliance with all relevant provisions of the NGA and the Commission's regulations, in particular with Parts 154 and 284.

(G) Lion's out-of-time motion to intervene is granted and its protest is granted to the extent discussed herein.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.