

108 FERC ¶ 61,310
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Calpine Energy Services, LP

v.

Gas Transmission Northwest Corporation

Docket No. RP04-217-000

ORDER DENYING COMPLAINT

(Issued September 22, 2004)

1. On March 30, 2004, the Commission issued an order establishing a complaint proceeding in response to a petition for clarification filed by Calpine Energy Services, L.P. (Calpine) relating to Gas Transmission Northwest Corporation's (formerly PG&E Gas Transmission, Northwest Corporation) (GTN) revised tariff sheets in Docket No. RP03-70-000, GTN's creditworthiness compliance filing.¹ Calpine filed its complaint on April 29, 2004. For the reasons discussed below, the Commission denies Calpine's complaint.

I. Background

2. On January 14, 2004, GTN filed tariff sheets in compliance with the Commission's December 24, 2003 Order in this docket.² Calpine filed a protest and a request for clarification concerning GTN's ability to require Calpine to post 12 months of collateral with respect to a contract for service on expansion facilities.

3. In the March 30, 2004 Order, the Commission found that it could not resolve this dispute, because the pleadings did not present a complete set of facts and arguments. The

¹ Gas Transmission Northwest Corporation, 106 FERC ¶ 61,320 (2004).

² PG&E Gas Transmission Northwest Corp., 105 FERC ¶ 61,382 (2003).

Commission found that Calpine's petition for clarification was actually in the nature of a complaint,³ but it failed to provide a detailed response to each requirement for a complaint under section 385.206 of the Commission's regulations, so as to permit answer, intervention and comment. Because Calpine's filing and GTN's answer did not fully comply with the Commission's complaint regulations and provide the information needed to resolve this issue, the Commission required Calpine, if it wished to pursue this matter, to make a supplemental filing within 30 days that fully complies with section 385.206(b)(2) of the regulations by setting out the full facts and circumstances at the time the precedent agreement was entered into on February 15, 2001 and the legal basis for its requested relief.

4. Specifically, Calpine (and GTN in its answer) were required to address the following: (1) a discussion, including citations, of the Commission's policy on prepayment collateral for mainline expansion shippers at the time the parties entered into the precedent agreement; (2) facts that would cast light on the parties understanding of the collateral requirements for the new mainline capacity at the time at which they entered into the agreement; (3) the specific tariff requirements, and other relevant information including loan agreements, relating to non-creditworthy expansion capacity shippers at the time of the precedent agreement; and (4) whether GTN could legitimately require 12 months of collateral from Calpine for its 2002 expansion capacity. GTN also would need to submit factual support for its asserted collateral requirements on all shippers acquiring 2002 mainline capacity and an explanation of the reasonableness of its collateral requirements relative to the risks imposed by undertaking the 2002 mainline expansion. Additionally, the parties were asked to consider and advise the Commission if they seek an interpretation of specific contract rights by the Commission, or whether contractual issues in dispute may more properly be determined by a court of competent jurisdiction.

II. Filings in Complaint Proceeding, Notice and Intervention

5. On April 29, 2004, Calpine filed its complaint. On May 20, 2004, GTN filed its answer. Additional data was filed by GTN on June 21, 2004. Notice of the complaint was issued on May 3, 2004. Process Gas Consumers Group, Northwest Industrial Gas Users and PPM Energy, Inc. filed petitions to intervene. No objections were filed.

³ See e.g., Northwest Pipeline Corp., 79 FERC ¶ 61,029 at 61,136 (1997); Texas Eastern Gas Transmission Corp., 99 FERC ¶ 61,353 at P 9 (2002); Tennessee Gas Pipeline Co., 99 FERC ¶ 61,357 at P 5 (2002); CNG Transmission Corp. and Algonquin Customer Group v. Texas Eastern Transmission Corp., 56 FERC ¶ 61,116 at 61,447 (1991).

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding.

III. Complaint Proceeding

A. Facts Underlying the Complaint

6. From January 2, 2001 to February 15, 2001, GTN conducted an open season for its 2002 expansion project. As part of this open season, GTN provided that a non-creditworthy shipper would be required to post one year's demand charges. The Open Season bidding instructions for expansion capacity provides that a Shipper who is non-creditworthy:

must 1) obtain a letter of credit from a commercial bank or financial institution . . . which meets GTN's letter of credit requirements; or
2) deposit, in U.S. currency, the equivalent dollar amount of one year's demand charges applicable to the service request.⁴

On February 15, 2001, Calpine entered into a precedent agreement with GTN for mainline expansion capacity to be in operation in 2002. Since Calpine did not meet the creditworthiness standards in GTN's tariff, GTN required Calpine to post 12 months of security for that capacity.

7. With respect to creditworthiness, paragraph 6 of the precedent agreement makes satisfaction of creditworthiness a prerequisite to construction and the provision of transportation service:

Transporter's obligations to continue to develop and construct and operate the 2002 Expansion Facilities and/or to provide transportation service for Shippers are expressly made subject to . . . , (iii) ongoing satisfaction by Shipper of the creditworthiness provisions and other requirements for service set forth in Transporter's pro forma Tariff. . . .⁵

8. At the time the parties entered into the precedent agreement, GTN's tariff General Terms and Conditions, section 18.3 (a), stated that "credit limits will be established based

⁴ GTN Answer and Comments Attachment E.

⁵ Calpine Complaint Exhibit B.

on the level of requested service and Shipper credit-worthiness as established by the following: . . . (b) Approval by PG&E GT-NW's lenders"⁶

9. In the March 14, 2003 Order in *e prime, inc. v. PG&E Gas Transmission, Northwest Corp. (Eprime)*,⁷ the Commission held that GTN lacked the authority to impose a 12-months prepayment of service for existing shippers under its current tariff, because there were no longer any lender requirements for collateral for non-creditworthy shippers. The Commission, therefore, ruled that GTN should be limited to three months of collateral for existing shippers, corresponding to the Commission's collateral policy for shippers on existing facilities.

10. On March 17, 2003, after the first *Eprime* order, GTN refunded to Calpine collateral in excess of three months of service. However, in its letter of March 17, 2003, regarding the return of collateral, GTN stated:

GTN's proactive reduction of customer collateral does not prejudice its pursuit of regulatory remedies related to FERC's recently articulated credit policies. In particular, FERC has made clear that new capacity and major system expansion capacity -unlike existing system capacity - is subject to a collateral requirement of up to 12 months. GTN will ask FERC to clarify what "vintages" of GTN capacity are subject to this higher creditworthiness standard. These actions may ultimately impact the amount of collateral GTN requires from you to support certain of your contracts. If appropriate, GTN will contact you to increase your collateral for the expansion contracts that you hold.⁸

11. The Commission recognized in a later order in the *Eprime* proceeding, as well as in other orders, that collateral for expansion projects can exceed the collateral limits applicable to customers subscribing to service on existing facilities:

The Commission clarifies that the order in this proceeding does not affect or determine the prepayment obligations of non-creditworthy shippers that are expansion capacity shippers A determination of the prepayment

⁶ Tariff Original Sheet Nos. 132-133.

⁷ 102 FERC ¶ 61,289 (2003), *order on reh'g*, 104 FERC ¶ 61,026 (2003).

⁸ GTN Answer and Comments at Exhibit B.

obligations on non-creditworthy expansion shippers was never the subject of Eprime's complaint Accordingly, clarification is granted to make clear that this proceeding has not determined the prepayment obligations of non-creditworthy expansion shippers on GTN's pipeline.⁹

12. On January 22, 2004, GTN reviewed its position on Calpine's security requirements and requested Calpine to post an additional \$2.4 million of collateral, based on GTN's position that it can require firm capacity expansion shippers, who are not creditworthy, to post 12 months of security as collateral.

B. Calpine's Position

13. Calpine asserts that GTN's collateral requirement for expansion capacity shippers is contained in GTN's tariff provision incorporated into the precedent agreement it signed with GTN in 2001.¹⁰ Calpine argues that the Calpine-GTN precedent agreement did not specify a collateral obligation but deferred to the tariff provision. It also maintains that both existing capacity non-creditworthy customers and expansion capacity customers were, in the relevant time period, required to provide the same amount of security.

14. Calpine argues that GTN's lawful authority to impose 12 months of security obligation on shippers was decided in the Eprime proceeding, and that PG&E-GTN lacks the authority in its tariff to impose 12-months prepayment of service.¹¹ Therefore, it maintains that since its collateral obligation is based on the tariff, its collateral requirement should be reduced to the three months established in Eprime. It contends that GTN's actions after the decision in *Eprime* in refunding collateral in excess of three months of demand charges is an admission that 12 months of collateral cannot be required.

15. Calpine maintains that GTN's subsequent request for \$2.8 million in additional collateral represents a retroactive application of the new requirements incorporated with the Commission's December 24, 2003 Order, in which it recognized that GTN could collect security up to the cost of facilities constructed for a non-creditworthy customer.¹²

⁹ *E prime v. PG& E Gas Transmission Northwest Corp.*, 104 FERC ¶ 61,026 at P 9 (2003).

¹⁰ Calpine Complaint at 10.

¹¹ *E-Prime*, 102 FERC ¶ 61,289 at 61,916 (2003).

¹² *PG& E Gas Transmission Northwest Corp.*, 102 FERC ¶ 61,382 at P 56.

Calpine and PPM request that the Commission's new policy on expansion capacity security be prospective only and that the Commission find that all such security requirements be agreed and negotiated in the context of precedent agreements. However, subsequent to the Commission's December 24, 2003 Order, GTN demanded the additional collateral. Calpine argues that its precedent agreement with GTN, section 6 (iii), requires only that "ongoing satisfaction by the shipper of the creditworthiness provisions . . . set forth in Transporter's pro forma tariff."¹³ Calpine argues that GTN's actions to retroactively apply a 12-month collateral requirement disregards the *Eprime* decision and the order disregards GTN's creditworthiness proceedings.¹⁴ Calpine urges the Commission to find that, as the time Calpine executed its precedent agreement, GTN lacked tariff authority to impose a 12-months collateral obligation.

16. Calpine argues that the *Calpine Energy Services, L.P. v. Southern Natural Gas Company (Sonat)*¹⁵ decision does not control a decision here because circumstances in this case bear no resemblance to those in *Sonat*.¹⁶ In *Sonat*, the Commission found that Calpine had agreed to collateral obligations substantially different from those in the tariff. Here, Calpine contends it and GTN negotiated a precedent agreement explicitly incorporating the requirements in the tariff. At that time in 2001, Calpine argues that GTN's tariff only authorized a three month collateral obligation and GTN treated both the expansion and existing capacity shippers alike.¹⁷ Calpine argues that *Sonat* does not endorse retroactive application of new commission decisions. Instead, the Commission's order viewed the parties' obligations as those struck in the transportation agreements. Therefore, Calpine argues GTN can only require three-month reservation charges as security.

¹³ Calpine Complaint at 10, 17.

¹⁴ Calpine Complaint at 16.

¹⁵ *Calpine Energy Services, L.P. v. Southern Natural Gas Company*, 103 FERC ¶ 61,273 (2003), *reh'g denied*, 105 FERC ¶ 61, 033 (2003).

¹⁶ Calpine Complaint at 18.

¹⁷ Calpine Complaint at 19.

B. GTN's Answer and Comments

17. GTN argues that the only issue in this proceeding is Calpine's collateral obligation under a 2001 transportation agreement for new capacity.¹⁸ GTN bases its claim on the specific creditworthiness provisions of the Expansion Program, which required 12 month's collateral as a condition of bidding on new pipeline capacity.

18. GTN asserts this conclusion is consistent with *Sonat*, where Calpine also agreed to collateral as a condition of obtaining expansion capacity.¹⁹ GTN claims that the *Sonat* proceeding was decided on the finding of intent at the time the precedent agreement was agreed to by the parties, and the same rationale applies here. GTN claims that it made clear through its bidding instructions for the Open Season that 12 months of collateral was necessary.

19. GTN argues that Calpine misunderstands the *Eprime* precedent, as it is assertedly limited to collateral requirements for existing capacity and does not apply to new, expansion capacity to be constructed by the pipeline.²⁰ GTN notes that Calpine provided the 12 months of security as required by the 2001 precedent agreement prebid process.

20. GTN argues that Calpine's argument regarding retroactive application of the 2003 order in Docket No. RP03-70-000 need not be addressed as the Commission's order states that GTN will not retroactively impose credit requirements for previous expansions beyond the credit requirements applicable when GTN initially executed the contracts for expansions.²¹

21. GTN argues that the Commission's policy on February 15, 2001 authorized pipelines to require a shipper seeking expansion capacity to post one year's reservation charges citing, *inter alia*, *Sonat* and *Alliance Pipeline, LP*.²² GTN argues that the parties' understanding of the security requirements for new capacity is explained in the Open Season documents.²³ GTN argues that Calpine was a successful bidder for new capacity

¹⁸ GTN Answer and Comments at 1.

¹⁹ GTN Answer and Comments at 2.

²⁰ GTN Answer and Comments at 5.

²¹ GTN Answer and Comments at 4.

²² *Alliance Pipeline, LLP*, 84 FERC ¶ 61,239 at 62,214 (1998).

²³ GTN's Answer and Comments, Attachment A.

and executed a firm precedent agreement and posted 12 months worth of collateral and thus clearly understood and agreed with the applicable collateral requirement of 12 months reservation charges.²⁴

22. GTN states that when it returned excess collateral in March 17, 2003, it specifically told shippers it would pursue clarification from the Commission and would request an increase in collateral if appropriate.²⁵ GTN claims its tariff, which was based on lender approval of non-creditworthy shipper's collateral, required 12 months security, but was superceded in 1995, and thus, GTN argues that the tariff fails to resolve the matter.

23. GTN does not believe a resort to contract law is required.²⁶ In the absence of an appropriate tariff requirement, as shown by the decision in *Eprime*, the Commission relied on a reasonable regulatory approximation policy and thus the three month limit in *Eprime* is not applicable to expansion capacity on the pipeline.

C. Discussion

24. The Commission finds that the level of collateral requested by GTN does not violate the precedent agreement, GTN's tariff, or Commission policy. Accordingly, the Commission rejects the complaint and will not reduce Calpine's collateral from twelve to three months of demand charges for its 2001 expansion capacity.

25. The Commission finds that its decision in *Sonat* applies equally here. In *Sonat*, the Commission found that collateral requirements for mainline expansions must be reasonable in light of the underlying risks of the project, including the risk to the pipeline of remarketing that capacity.²⁷ As the Commission explained, section 7 of the Natural Gas Act does not obligate pipelines to build new facilities for shippers.²⁸ If pipelines are prevented from requiring collateral sufficient to protect their investments in new capacity requested by shippers, the result may be that pipelines decide not to construct needed

²⁴ GTN Answer and Comments at 17, 22.

²⁵ GTN Answer and Comments at 22, 23.

²⁶ GTN Answer and Comments at 14.

²⁷ *Sonat*, 103 FERC ¶ 61,273 at PP 31-32.

²⁸ *Panhandle Eastern Pipe Line Co. v. FERC*, 204 F.2d 675 (3rd Cir. 1953); *Panhandle Eastern Pipe Line Co.*, 91 FERC ¶ 61,037 at 61,141-42 (2000).

facilities, or that the cost of capital for the pipeline itself would increase, raising rates to other shippers. Further, pipeline mainline expansions can be exceedingly expensive and pipelines cannot be expected to commit funds to such expansions on behalf of non-creditworthy shippers without adequate collateral protection. A pipeline undertaking a system expansion may require larger amounts of collateral from non-creditworthy shippers than from shippers on existing facilities, since the pipeline is entitled to ensure, prior to investing significant resources in the expansion, that it will have a reasonable possibility of protecting its investment from the impact of a subsequent shipper default. In short, the Commission concluded that pipelines should not be required to serve as a partial guarantor of the shipper by constructing the facilities without adequate protection.²⁹

26. In this case, the Commission finds that the one-year collateral requirement for new mainline construction is reasonable. As GTN points out, the Commission traditionally has permitted one-year collateral requirements for new mainline construction.³⁰

27. Calpine argues that the precedent agreement between it and GTN, through its incorporation of GTN's GT&C, limits the collateral to three months of demand charges, based on the *Eprime* decision.³¹ However, the parties here do not dispute that GTN required the payment of 12 months collateral from Calpine, as well as from other shippers, as a condition of the precedent agreement.³² The Open Season documentation,

²⁹However, once the construction costs have been incurred and the pipeline is in service, new shippers that take service on existing facilities cannot legitimately be subjected to the same collateral requirement as the shippers upon whose credit the construction was financed. Once pipeline facilities are constructed, the major risk to the pipeline is the potential loss of reservation charges associated with the contract termination process. The Commission's established three-month collateral requirement provides the pipelines with sufficient protection against this risk.

³⁰ See, e.g., *North Baja Pipeline LLC*, 102 FERC ¶ 61,239 at 61,711 and P 15 (2003); *Alliance Pipeline LP*, 84 FERC ¶ 61239 at 62,214 (1998).

³¹ Calpine Complaint at 19.

³²The Commission recognizes that GTN has applied its collateral requirement in a nondiscriminatory manner against all non-creditworthy expansion capacity shippers.

for example, makes clear that non-creditworthy expansion shippers must “deposit, in U.S. currency, the equivalent dollar amount of one year’s demand charges applicable to the service request.”³³

28. Calpine maintains that “GTN’s intent [was] to apply its tariff’s credit requirements to the expansion project.”³⁴ Calpine argues that the *Eprime* decision found that GTN was without tariff authority to apply the 12 months collateral requirement and that, therefore, it must apply the 3 months collateral requirement that the Commission required in *Eprime*.

29. Whatever the relative understanding or intent of GTN as to its tariff authority to require 12 months of collateral, there is ample evidence here to show that the parties clearly understood that 12 months of collateral was necessary for the expansion shippers. The Commission’s decision in *Eprime* found only that GTN’s tariff did not provide it with authority to charge a shipper on existing facilities 12 months of collateral, since GTN’s loan agreements no longer specified a collateral requirement. The Commission, therefore, found that GTN must return collateral that exceeds three-months of demand charges, which reflected the Commission’s existing policy for collateral for shippers using existing facilities.

30. The Commission made clear in the *Eprime* orders that this finding was limited to shippers subscribing to capacity on existing facilities, and did not apply to shippers on expansion facilities.³⁵ Therefore, the *Eprime* decision does not require that GTN reduce its collateral requirements for expansion shippers to three months, as Calpine argues. As discussed earlier, 12 months of collateral is just and reasonable for expansion facilities and in light of the parties’ understanding that 12 months collateral was required for non-creditworthy expansion shippers, the Commission finds no basis to change the collateral requirements.

31. Calpine maintains that the controlling factor should be GTN’s “intent” to apply the same collateral requirements to shippers on existing facilities and expansion shippers, and it argues that any change in collateral requirements for shippers on existing shippers,

³³ GTN Answer and Comments, Attachment E.

³⁴ Calpine Complaint at 12.

³⁵ *Eprime*, 104 FERC ¶ 61,026, at P 9 (“the Commission clarifies that the order in this proceeding does not affect or determine the payment obligations of non-creditworthy shippers that are expansion shippers”).

therefore, should automatically apply to expansion shippers. In the first place, the relevant issue here is not GTN's intent with respect to comparability between existing and expansion shippers, but whether GTN and Calpine understood at the time of the expansion project that the collateral requirement for non-creditworthy shippers was 12 months. GTN's misunderstanding of its tariff authority to charge 12 months of collateral for shippers on existing facilities does not negate its clear intent to apply 12 months of collateral for non-creditworthy expansion shippers.³⁶ And, as discussed above, the Commission's decision in *Eprime* that GTN's existing tariff does not support charging 12 months of collateral does not require that the same remedial three-month collateral requirement for existing shippers be applied to expansion shippers.

32. The Commission finds no distinguishable difference between this case and *Sonat*. In *Sonat*, the pipeline required a shipper to put up 30 months of collateral as a prerequisite for signing a service agreement for transportation upon completion of the construction. The service agreement, however, incorporated by reference the creditworthiness conditions of the pipeline's tariff, and the tariff specified only three months of collateral. The Commission found that the 30 months of collateral represented a reasonable sharing of the risks of the project and that the pipeline's signing of the service agreement (incorporating the three-month collateral requirement of the tariff) was ambiguous with respect to collateral for construction projects and did not undue the clear understanding of the parties that 30 months collateral was needed for the construction project.

33. Similarly, here, the parties clearly understood that 12 months collateral was required for the construction and the open season requirements made that requirement clear. The parties also executed a service agreement which required ongoing satisfaction of creditworthiness provisions of GTN's tariff. However, in contrast to *Sonat*, at the time

³⁶ Moreover, even if GTN did "intend" to apply the same tariff requirements to existing and expansion shippers at the time, there is no equitable justification for requiring GTN to continue treating existing and expansion shippers alike, since such treatment was predicated on GTN's misunderstanding of its ability to continue charging 12 months based on its past lending requirements. GTN clearly intended to apply the 12 months collateral to both existing and expansion shippers. The fact that the Commission's policy with respect to collateral for existing shippers prevented GTN from charging existing shippers 12 months collateral should not preclude the use of 12 months collateral for expansion shippers where such collateral is consistent with Commission policy.

the parties entered into the precedent agreement, there was no clear inconsistency between the collateral requirement demanded and the credit requirements in GTN's tariff. At the time, GTN believed, not wholly unreasonably, that its tariff provided it with the authority to continue to apply its prior lender's collateral requirements to shippers on existing facilities and to expansion shippers. The fact that the Commission ultimately disagreed with GTN's interpretation of its tariff authority with respect to existing shippers does not negate the parties' understanding at the time that 12 months collateral was necessary for the expansion project.³⁷ As in *Sonat*, GTN's lack of tariff authority to collect the 12 months collateral does not vitiate the parties' clear understanding that 12 months collateral was necessary for the expansion project.

34. If Calpine believed that this required level of collateral for the expansion project violated the precedent agreement and GTN's GT&C, Calpine should have brought this matter to the Commission's attention at a much earlier stage. As the Commission explained in *Sonat*, "Calpine should not be permitted to benefit by inducing Sonat to construct the project by agreeing to pay the required collateral, and then waiting until after Sonat obtained financing, committed resources to the project, and virtually completed the project to bring a complaint to the Commission's attention."³⁸ Similarly, here, Calpine should not be permitted to benefit by challenging the 12 months collateral it agreed to pay since the project's inception now that the project has been completed.

35. Calpine also argues that GTN's action in now seeking 12 months of collateral is improperly attempting to apply retroactively the Commission's finding in GTN's tariff filing in Docket No. RP03-70, which stated:

[I]n GTN's answer filed on June 17, 2003, GTN clarified that it will not retroactively impose credit requirements for previous expansions beyond the credit requirements applicable when GTN initially executed contracts for expansions. Accordingly, the Calpine and PPM requests that the

³⁷ While in *Sonat* the collateral requirement was a conditioned precedent to signing the service agreement, with no written confirmation of that requirement, in this case the open season agreements, which included both the precedent agreement and the credit requirements, clearly specified that the collateral requirement for the expansion project was 12 months of demand charges.

³⁸ *Sonat*, 105 FERC ¶ 61,033 at P 24.

collateral requirements for expansions be clarified have been satisfied; and GTN's related provisions, subject to the above required change, are accepted.³⁹

36. Neither GTN nor the Commission is seeking to give retroactive effect to its decision regarding collateral for expansion projects. GTN is not seeking here to retroactively apply new collateral requirements to expansion shippers; rather, it is continuing to apply the same 12 months collateral that it required prior to the Commission's *Eprime* order.

37. Calpine argues that GTN's return of its collateral after the *Eprime* decision should be treated as an admission that it cannot require 12 months collateral. But, GTN's return of these funds does not constitute an admission, since it expressly conditioned the return on seeking Commission review of its credit policies: "GTN's proactive reduction of customer collateral does not prejudice its pursuit of regulatory remedies related to FERC's recently articulated credit policies. . . . If appropriate, GTN will contact you to increase your collateral for the expansion contracts that you hold."⁴⁰ Holding GTN's actions as an admission against it would only discourage pipelines from returning funds to shippers pending the resolution of a dispute, and is, in fact, the antithesis of conduct that should be encouraged.

38. In light of the foregoing, the Commission finds no basis to grant Calpine the relief it requests in its complaint, and accordingly, the complaint is denied.

The Commission orders:

Calpine's complaint is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

³⁹ 105 FERC ¶ 61,382 at P 56.

⁴⁰ GTN Answer and Comments at Exhibit B.