UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Kern River Gas Transmission Company Docket No. RP00-337-006

ORDER ACCEPTING TARIFF SHEETS
SUBJECT TO FURTHER REVISION

(Issued December 24, 2003)

1. On July 10, 2003, Kern River Gas Transmission Company (Kern River) filed several revised tariff sheets[1] in compliance with the Commission's June 25, 2003 Order accepting Kern River's Park and Loan (PAL) Service.[2] For the reasons discussed below, the Commission conditionally accepts the tendered sheets effective October 1, 2003, as discussed below. This order benefits the public by allowing the Commission to ensure that Kern River's PAL service is not overly restrictive and conforms to the Commission's policy objective regarding park and loan service.

I. Details of the Filing

2. Kern River filed several revised tariff sheets pertaining to Kern River's existing segmentation provisions and submitted actual tariff sheets to implement Kern River's PAL service in accordance with the Commission's directive in its June 25 Order. Kern River proposes to add language to Section 26 of its tariff pertaining to segmentation. Kern River proposes to revise Section 26.2(d), Segmentation with Capacity Release, to include language allowing scheduled nominations for forward hauls and backhauls to the same delivery point, to the extent that capacity is available, to exceed a shipper's current transportation maximum daily quantity (TMDQ).

3. Kern River also proposes to revise Sections 26.1(b) and 26.2(b) to clarify that a releasing shipper can release a segment of capacity extending between two secondary points. Under that scenario, a shipper could create capacity segments that do not have primary receipt and/or primary delivery point entitlements. Kern River proposes to revise its forms of Exhibits A and RP to include information designating whether the

[1] See Appendix.

[2] Kern River Gas Transmission Company, 103 FERC ¶ 61,341 (2003).

receipt and delivery points are physical meter stations, or if these points are segmentation points that are used to establish the boundaries of a shipper's primary mainline rights.

4. Kern River proposes to modify Section 4.4 of its tariff to state that no penalties would be assessed should Kern River fail to accept a valid PAL nomination, as required by our June 25 Order. Kern River also proposes other tariff changes which Kern River considers minor exceptions to its PAL service.

5. Kern River proposes to lower the maximum rate applicable to PAL service from $0.6123 per Dth to $0.6115 per Dth. Kern River explains that the maximum rate for PAL service is based on the maximum rate for interruptible service, which has been lowered.[3]

6. Kern River proposes to add language to its Section 4.4 to include a definition of a "valid" park and loan nomination. Kern River explains that it wants to ensure that shippers understand precisely what is required in order for a nomination to be considered valid. Kern River defines a "valid" nomination as a nomination containing all the required information submitted by the evening nomination cycle and meeting the following conditions:

a) For the withdrawal of parked gas, the nominated quantity must be confirmed and scheduled by the delivery point operator and mainline capacity must be available. If mainline capacity is not available, the shipper must have primary firm rights through any constraint points on Kern River's mainline from the park and loan point to the delivery point that is nominated.

b) For the repayment of loaned gas, the nominated quantity must be confirmed and scheduled by the receipt point operator and mainline capacity must be available. If mainline capacity is not available, the shipper must have primary firm rights through any constraint points on Kern River's mainline from the receipt point to the park and loan point.

7. Kern River proposes that a shipper with primary mainline rights to, or from, the park and loan point could elect to submit a nomination to withdraw or repay gas during any of the nomination cycles. Kern River further asserts that a shipper that submits an intra-day nomination must be accountable if the withdrawal or repayment cannot occur in the time frame required. Finally, Kern River stipulates that a shipper without primary mainline rights could nominate to withdraw parked gas, or to repay loaned gas, using secondary or interruptible mainline capacity, but the shipper will be held accountable should the transaction not occur in the time frame required. Kern River avers that, should

[3] See Letter Order issued in Docket No. RP02-231-000 on May 21, 2002.

a shipper fail to use all means available to withdraw gas or fails to make up volumes, the shippers will be subject to penalties.

II. Notice, Interventions and Protests

8. The filing was noticed on July 16, 2003, with comments, protests or interventions due on or before July 22, 2003. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2003)), all timely motions to intervene are granted and any motions to intervene out-of-time filed before the date of this order are granted. Granting late intervention at this stage of the proceedings will not disrupt the proceeding or place additional burdens on existing parties. Indicated Shippers filed a protest in this proceeding.

9. Indicated Shippers notes that, under Kern River's definition of a "valid" nomination, mainline capacity must be available, or if it is not available, the shipper must have primary rights through the constrained points. Indicated Shippers interprets this definition to mean that a penalty would be assessed, despite the fact that a PAL shipper submitted a timely nomination and complied with Kern River's constraint nomination, even though Kern River could not schedule the capacity. Indicated Shippers believes Kern River's definition of a "valid" nomination is discriminatory and runs counter to the Commission's policy on PAL penalties. Indicated Shippers argues that Kern River is limiting what a "valid" nomination should be under Commission policy.

III. Discussion

10. The Commission finds that Kern River's proposed PAL service does not conform to Commission policy. Specifically, the Commission finds that proposed Section 4.4 is unreasonable and should be removed from Kern River's tariff. Under Section 4.4, Kern River can assess a penalty if a shipper nominates to repay loaned gas or remove parked gas of PAL quantities but cannot withdraw the nominated quantities because the shipper does not have firm primary rights at constraint points or the pipeline does not have available capacity on an interruptible basis. The Commission notes that Kern River's parking and lending is an interruptible balancing service. This is a service separate and distinct from other services offered by Kern River. Kern River's proposal, in essence, requires the use of firm capacity to schedule this interruptible service. The proposed tariff language is unreasonable because PAL shippers who have otherwise complied with Kern River's notification, i.e., submitted timely nominations, but could not be scheduled on the system due to capacity constraints on Kern River's system, will nonetheless be subject to penalty. Commission policy dictates that PAL shippers be notified and given an opportunity to make up injections or withdrawals prior to penalties being applied. This means that if the pipeline fails to schedule, the shipper's obligation to comply with the notification to withdraw or return gas will be tolled until such time that the pipeline

schedules the nomination.[4] Therefore, the Commission directs Kern River to revise its tariff accordingly. Otherwise, Kern River's filing complies with the Commission's June 25, 2003 Order.

The Commission orders:

(A) The Commission accepts the revised tariff sheets listed in the Appendix to this order, subject to the revisions discussed in the body of this order, effective October 1, 2003.

(B) Kern River is directed to file, within 15 days of the date of this order, revised tariff sheets related to its PAL service consistent with the discussion in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

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[4] Transcontinental Gas Pipe Line Corp., 79 FERC ¶ 61,104 at 61,476 (1997); ANR Pipeline Company, 83 FERC ¶ 61,087 at 61,428 (1998).

Appendix

Kern River Gas Transmission Company
Docket No. RP00-337-006

FERC Gas Tariff, Second Revised Volume No. 1

<u>Kern River Gas Transmission Company: Second Revised Volume No. 1</u>

Original Sheet No. 8
Sheet No. 9
Original Sheet No. 69-B
Original Sheet No. 69-C
Original Sheet No. 69-D
Original Sheet No. 69-E
Original Sheet No. 69-F
First Revised Sheet No. 200
First Revised Sheet No. 201
First Revised Sheet No. 202
Original Sheet No. 214
Sheet Nos. 215-299
Second Revised Sheet No. 305
Original Sheet No. 339
Original Sheet No. 340
Original Sheet No. 341
Original Sheet No. 342
Sheet Nos. 343-349
Second Revised Sheet No. 402