

121 FERC ¶ 61,152
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Algonquin Gas Transmission, LLC

Docket No. RP07-504-000

ORDER ESTABLISHING HEARING

(Issued November 15, 2007)

1. As discussed below, the Commission is establishing a hearing in the above-captioned proceeding to address specific gas quality and interchangeability issues on Algonquin Gas Transmission, LLC (Algonquin).

Background

2. On June 29, 2007, Algonquin Gas Transmission, LLC (Algonquin) filed revised tariff sheets pursuant to section 4 of the Natural Gas Act (NGA) proposing new tariff provisions regarding gas quality and interchangeability. Algonquin stated that it filed the revisions to be consistent with the future operations of its integrated pipeline system, which is expected to receive substantial new regasified liquefied natural gas (LNG) supplies near the northeastern terminus of its system in Massachusetts.

3. On July 30, 2007, the Commission issued an order¹ accepting and suspending the proposed tariff sheets, to be effective on January 1, 2008 or an earlier date to be later established by subsequent order, and establishing a technical conference. On August 21, 2007, the Commission held a technical conference to address the issues raised by Algonquin's filing. At the conclusion of the technical conference, the parties agreed to develop and submit to the Commission a list of issues requiring Commission resolution.

4. On September 4, 2007, Algonquin submitted to the Commission a list of contested issues. Algonquin states that it and the other parties to the proceeding agree that only the following issues require resolution by the Commission:

1. Wobbe Number Range: What is the appropriate Wobbe Number range?

¹ *Algonquin Gas Transmission, LLC*, 120 FERC ¶ 61,114 (2007).

- 2. Nitrogen Limit:** What is the appropriate nitrogen limit?
- 3. Oxygen Limit:** What is the appropriate oxygen limit?
- 4. Sulphur and Hydrogen Sulphide:** What are the appropriate limits for sulphur and hydrogen sulphide?
- 5. Hydrocarbon Constituent Limits:** Should there be hydrocarbon constituent limits? If so, what should they be?
- 6. Wobbe Number Rate of Change:** Should there be a Wobbe Number rate of change limit? If so, what should that be?
- 7. Waiver Provision:** What is the appropriate waiver language for section 4.7 of Algonquin's General Terms and Conditions?
- 8. Notification of Nonconforming Gas:** Should Algonquin's tariff be amended to provide for notification to customers in the event Algonquin has delivered or expects to deliver nonconforming gas? If so, what should the mechanism be for such a notification?
- 9. Demand Charge Credits:** Are demand charge credits properly within the scope of this proceeding? If so, should Algonquin's tariff be amended to provide for such credits if a receiving party declines to accept nonconforming gas tendered by Algonquin?
- 10. Total Inerts:** What is the appropriate limit for total inerts?

5. The Stipulation provides that with respect to issues 1 through 4, 7, and 10, Algonquin has the burden under section 4 of the Natural Gas Act ("NGA") to show that its proposed limits are just and reasonable, and any party proposing different limits has the burden under section 5 of the NGA to support its proposal. The Stipulation further provides that with regard to Issues 5, 6, 8, and 9, any party proposing a change to Algonquin's filing has the burden of proof.

6. Algonquin states that it has circulated this Stipulation to all parties in this proceeding, and that every party has either authorized Algonquin to represent that such party agrees to, or does not oppose, this Stipulation or has not responded to Algonquin's communications regarding the Stipulation.

7. Comments on the stipulated issues were submitted by the parties on September 24, 2007, and reply comments on October 15, 2007.

8. In addition, on September 7, 2007, Algonquin filed an Agreed Motion for a Shortened Suspension Period and to Place Tariff Sheets in Effect, asking the Commission to permit its revised tariff sheets with the new gas quality and interchangeability provisions to go into effect on November 25, 2007, subject to the outcome of this proceeding. On October 22, 2007, the Commission issued an order² granting the motion and allowing the proposed tariff sheets to go into effect on November 25, 2007, subject to conditions and to further Commission orders.

Discussion

9. Upon review of the list of stipulated contested issues submitted by Algonquin, the Commission finds that they raise questions of fact that are best resolved in the context of an evidentiary hearing. Therefore, the Commission will establish a hearing in this proceeding before an Administrative Law Judge to develop a record on the stipulated contested issues. The Commission clarifies that the issues to be addressed at the hearing are limited to the gas quality and interchangeability issues stipulated as contested by the parties in Algonquin's September 24, 2007 filing. The comments and reply comments filed by the parties in accordance with the procedure established at the technical conference will be part of the hearing record.

10. In conjunction with the Wobbe rate of change issue, the Commission expects the parties to address the related issue of how and when such information will be passed or reported from the data's source to the parties that need the information. Algonquin's tariff is in compliance with the North American Energy Standards Board's (NAESB) gas quality reporting standard 4.3.90, which requires a minimum posting of daily average data for previous days.³ However, if it is determined that a Wobbe rate of change reporting requirement is necessary, this NAESB standard may not be adequate. The issue of timely reporting of gas quality data has appeared in other proceedings.⁴ And in Order No. 587-S, the Commission noted that in individual cases pipelines may be required to exceed the minimum NAESB gas quality posting requirements.⁵ While the Commission

² 121 FERC ¶ 61,076 (2007).

³ Algonquin's FERC Gas Tariff, 5th Revised Volume No. 1, 1st Revised Sheet No. 614.

⁴ *E.g.*: *Natural Gas Pipeline Co.*, 102 FERC ¶ 61,234, *order on reh'g*, 104 FERC ¶ 61,322 (2003); *ANR Pipeline Co.*, 109 FERC ¶ 61,358 at P 4-7 (2004); and *AES Ocean Express, LLC v. Florida Gas Transmission Co.*, 119 FERC ¶ 61,075 at P 131-144 (2007).

⁵ *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587-S, 70 FR 28204, 70 FR 37031, FERC Stats. & Regs, Regulations Preambles 2001-2005 ¶ 31,179 at P 19-22 (2005).

is setting this issue for hearing with respect to Algonquin's system, this issue has occurred frequently enough that we would ask NAESB to endeavor to develop a uniform set of standards regarding the posting of rapidly changing gas quality information applicable to those pipelines which are required under their tariffs to do so.

11. The Commission further clarifies that the hearing is to address the stipulated issues in the context of the Commission's Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Natural Gas Pipeline Company Tariffs (Policy Statement).⁶ As the Commission explained in the June 27, 2007 Order, the Policy Statement established five principles for pipelines and parties to follow to create gas quality and interchangeability standards. First, the Policy Statement states that only gas standards that are in the tariff can be enforced. Second, the Policy Statement states that gas standards need to be flexible to allow pipelines to balance safety and reliability concerns with the importance of maximizing supply, as well as recognizing the evolving nature of the science underlying gas quality and interchangeability specifications. Third, the Policy Statement states that pipelines and customers should develop gas quality and interchangeability specifications based on technical requirements. Fourth, the Policy Statement states that pipelines and customers are encouraged to use the Natural Gas Council Plus (NGC+) interim guidelines as a common scientific reference point for resolving gas quality and interchangeability issues. And lastly, the Policy Statement states that to the extent that pipelines and their customers cannot resolve disputes over gas standards, then those issues should be brought before the Commission.

12. The Policy Statement specifically recognizes the importance of providing pipelines and their customers with the flexibility needed to maximize the introduction of new supply into the grid and of encouraging rather than impeding the movement of gas to the grid and the ultimate consumers. The Policy Statement recognizes that imports of LNG are expected to increase and seeks to lower potential barriers to these imports while at the same time ensuring the safety and reliability of the grid.⁷

13. We understand that, consistent with the Policy Statement, Algonquin has engaged in discussions with its customers concerning the proposed gas quality and interchangeability tariff provisions, and has brought to the Commission the issues that the parties were unable to resolve. While we therefore find it appropriate to set these issues for hearing, we encourage the parties to continue to attempt to reach a consensus on these issues.

⁶ 115 FERC ¶ 61,325 (2006).

⁷ *Id.* at P 24 - 25.

The Commission orders:

(A) Pursuant to the Commission's authority under the NGA, particularly sections 4, 5, and 15, and the Commission's rules and regulations, a public hearing is to be held in this proceeding concerning the lawfulness of Algonquin's filing with regard to the stipulated issues.

(B) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to 18 C.F.R. § 375.304 (2007), must convene a prehearing conference in this proceeding to be held within 20 days after issuance of this order, in a hearing or conference room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. The prehearing conference shall be held for the purpose of clarification of the positions of the participants and establishment by the presiding judge of any procedural dates necessary for the hearing. The presiding administrative law judge is authorized to conduct further proceedings in accordance with this order and the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.