

138 FERC ¶ 61,176
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Texas Gas Transmission, LLC

Docket Nos. RP11-2569-002
RP11-2569-003

ORDER ON COMPLIANCE FILING

(Issued March 15, 2012)

1. On November 30, 2011, Texas Gas Transmission, LLC (Texas Gas) filed revised tariff records¹ to comply with the Commission's order issued on October 31, 2011, in Docket Nos. RP11-2569-000 and RP11-2569-001.² In that order, the Commission conditionally accepted Texas Gas' proposal to implement a new Enhanced Nominations Service (ENS) subject to Texas Gas Filing revised tariff records that (1) provide reasonable advance notice of bumping to interruptible shippers prior to the effectiveness of the gas flow and (2) clarify when Texas Gas would assess the ENS usage charge. On November 30, 2011, Texas Gas also filed a revised tariff record³ in Docket No. RP11-2569-003 to correct a formatting error in its compliance filing. For the reasons discussed below, Texas Gas' revised tariff records set forth in the Appendix comply with the Commission's October 31 order and are accepted effective November 1, 2011.

¹ Section 4.10, Currently Effective Rates - ENS, 2.2.0 and Section 5.10, Rate Schedules - ENS, 2.1.0 to Tariffs, FERC NGA Gas Tariff.

² *Texas Gas Transmission, LLC*, 137 FERC ¶ 61,093 (2011) (October 31 Order).

³ Section 4.10, Currently Effective Rates - ENS, 2.3.0 to Tariffs, FERC NGA Gas Tariff.

Background

2. On September 16, 2011, Texas Gas filed revised tariff records and supporting work papers to implement a new Enhanced Nominations Service (ENS). The North American Energy Standards Board (NAESB) currently provides shippers with four standard nomination cycles each gas day.⁴ Texas Gas proposed to provide shippers contracting for ENS service an additional eleven nomination cycles each gas day. These additional intra-day nomination cycles start at 8:00 a.m. Central Standard Time (CST) on the gas day and occur approximately every two hours across the gas day (with the exception of three hours between Cycle 8 and Cycle 9). For each cycle, the confirmation deadline is one hour after the nomination deadline and the effective flow time is two hours after the nomination deadline.⁵ Texas Gas proposed to offer its service to shippers holding firm and no-notice transportation service agreements at eligible receipt points, which Texas Gas will post on its website.⁶

3. When using ENS service, an ENS shipper is not able to bump another firm shipper's scheduled and flowing gas quantities. However, an ENS shipper is able to bump an interruptible shipper's scheduled and flowing gas quantities through ENS Additional Nomination Cycle No. 5 (which has a nomination deadline of 4:00 p.m. CST), but not thereafter. Texas Gas' tariff states that "to the extent an interruptible Customer's scheduled or flowing gas quantities are bumped by an ENS Customer during an additional nomination cycle, such interruptible Customer shall have the right to submit a nomination to re-schedule the gas quantities that were bumped during the subject additional nomination cycle at any receipt point eligible for service under Rate Schedule ENS."⁷ Texas Gas explained that under this section, a bumped interruptible customer "has the option to reschedule during a later cycle after it has had sufficient time to

⁴ October 31 Order, 137 FERC ¶ 61,093 at P 2.

⁵ As an example, under Rate Schedule ENS for Additional Nomination Cycle No. 1, the nomination deadline is 8:00 a.m. CST, the confirmation deadline is 9:00 a.m. CST, and the effective gas flow time is 10:00 a.m. CST.

⁶ Under its proposal, eligible receipt points were those where (i) the point operator has personnel available 24 hours a day to provide confirmation and (ii) there is electronic measurement and flow control operated by Texas Gas. Texas Gas provided a list of the seven receipt points that are currently eligible for ENS service and stated it would consider expanding that list if operationally possible.

⁷ Section 6.12, G T & C - Nominations, Confirmations, and Scheduling, 3.0.0.

complete its commercial arrangements.”⁸ Texas Gas also explained that if a bumped interruptible shipper wished to reschedule at a receipt point ineligible for ENS service, the interruptible shipper must wait until the next NAESB standard cycle to nominate to re-schedule.

4. In its October 31 Order, the Commission found that the Texas Gas proposal was generally reasonable as it applies to interruptible service even though the service did not comply with the NAESB standards regarding bumping of interruptible transportation.⁹ The Commission however found that Texas Gas had not provided sufficient advance bumping notice as required under section 284.12 of the Commission’s regulations. The Commission therefore conditionally accepted Texas Gas’ proposal to implement its ENS service subject to Texas Gas Filing revised tariff records that (1) provide reasonable advance notice of bumping to interruptible shippers prior to the effectiveness of the gas flow and (2) clarify when Texas Gas would assess the ENS usage charge.

Details of Filing

5. Texas Gas proposes two tariff revisions to comply with the October 31 Order. First, Texas Gas proposes to add a footnote to the Rate Schedule ENS rate sheet to clarify when the usage charge will be applied. The footnote states: “[t]he ENS Commodity charge shall apply to all nomination changes (including both increases and decreases) scheduled during the Additional Nominations Cycles referenced in Section 5.10[5.2].”

6. To comply with the Commission directive in the October 31 Order to provide reasonable advance notice to bumped interruptible shippers, Texas Gas proposes to add the following language to section 5 of Rate Schedule ENS: “[p]rior to the Confirmation Deadline, Texas Gas will make available preliminary Scheduled Quantities to affected shippers and point operators, including notice to bumped shippers.” The new language is added to the provision in Texas Gas’ September 16, 2011 proposal providing that “The Effective Flow Time shall be when Scheduled Quantities are made available by Texas Gas to affected shippers and point operators, including notice to bumped parties.” Texas Gas states that under its proposal, the confirmation deadline is one hour prior to the effective gas flow, and thus bumped shippers will be provided with at least one-hour advance notice of bumping.

⁸ Texas Gas October 4, 2011 Answer at 10.

⁹ October 31 Order, 137 FERC ¶ 61,093 at P 26 (citing NAESB Standards 1.3.2 and 1.3.39).

Notice, Protests, and Answers

7. Public notice of the filing was issued on December 1, 2011, allowing for protests to be filed on or before December 12, 2011. Protests were filed by Atmos Energy Marketing LLC (Atmos) and Indicated Shippers.¹⁰ On December 14, 2011, Texas Gas filed an Answer to Protests and Request for Clarification. On December 19, 2011, Indicated Shippers filed an answer. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2)(2011), prohibits an answer to a protest unless otherwise ordered by the decisional authority. The Commission accepts the answers filed by Texas Gas and Indicated Shippers because they have provided information that assisted our decision-making process.

8. In its protest, Atmos asserts that Texas Gas' proposal to provide notice of bumping only one hour before gas flow does not constitute "reasonable advance notice." It contends that these occurrences of bumping would likely occur on peak days when re-scheduling or re-routing gas would be virtually impossible. Atmos adds that by 3:00 p.m. intraday market liquidity is significantly impaired. Atmos asserts that reasonable advance notice only will occur if Texas Gas adheres to the current policy of not bumping flowing gas after the Intraday 1 nomination cycle, which provides at least three hours notice prior to bumping.¹¹

9. Indicated Shippers express similar concerns, asserting that Texas Gas' proposed language does not provide shippers with reasonable advance notice. They state that under the current NAESB scheduling standards, the shortest notice a bumped shipper is given prior to the effective gas flow is three hours (in the Intraday 1 nomination cycle). They contend that under the proposed tariff language, a bumped shipper may have as little as one hour or less to alter its supply arrangement to account for bumped quantities.

10. Indicated Shippers also request certain clarifications with respect to Texas Gas' proposed compliance language. First, they ask Texas Gas to clarify whether it will provide notice of bumping prior to the confirmation deadline or prior to the effective flow time. Second, they ask Texas Gas to clarify whether it will base its bumping notice on preliminary scheduled quantities or actual scheduled quantities. Finally, they ask Texas Gas to clarify, in cases where the preliminary scheduled quantity differs from the actual

¹⁰ ConocoPhillips Company and Chevron Natural Gas, a division of Chevron U.S.A., Inc. (collectively, Indicated Shippers).

¹¹ Under the Intra-Day 1 nomination cycle, bumped shippers receive notice by 2:00 p.m. and are bumped at 5:00 p.m. NAESB Standard 1.3.2.

scheduled quantity, whether a bumped shipper will be expected to adjust its volumes to account for any differences between the preliminary and actual scheduled quantities.

11. In its answer, Texas Gas asserts that the Commission should reject protestors' contentions that its compliance language providing for one-hour advance bumping notice does not provide reasonable advance notice. It states that the protestors ignore that its proposed service involves short nomination-cycle time frames. Texas Gas contends that, because the duration of each nomination cycle under its ENS service is only two hours, providing bumped shippers with at least one-hour advance notice is certainly reasonable. Texas Gas adds that its proposal to provide bumped shippers with preliminary scheduled quantities prior to the confirmation deadline provides the best available information given the short time frames of the ENS nomination cycle and that actual quantities will generally not be available prior to the confirmation deadline. Texas Gas further states that Indicated Shippers' suggestion to provide three-hour advance notice of bumping would not be possible because each nomination cycle under the service is only two hours long.

12. Texas Gas also asks the Commission to reject Atmos' argument that the only reasonable notice is to prohibit the bumping of flowing gas after the Intraday 1 nomination cycle confirmations. It asserts that this argument goes far beyond the October 31 Order's directive of providing reasonable advance notice. Texas Gas adds that its proposal is consistent with the Commission's no-bump rule.

13. Texas Gas also contends that the Commission should disregard as unsubstantiated Atmos' concerns that interruptible shippers may find it "virtually impossible" to reschedule or re-route gas if an interruptible shipper is bumped after 3:00 p.m. According to Texas Gas, Atmos' argument ignores that the parties bumped by firm ENS shippers are interruptible shippers and that Atmos is seeking protection from the risks associated with interruptible service. Texas Gas notes that the Commission stated in the October 31 Order that "[g]iven the inherently contingent nature of interruptible service, we find it reasonable that interruptible shippers must take the risks associated with the service."¹² It notes that the Commission also held in the October 31 Order that "the possibility that interruptible shippers may need to make business adjustments for bumped volumes is not a reason to reject Texas Gas' proposal."¹³ Texas Gas asserts that if interruptible shippers are concerned that their service may be interrupted, they can always adjust their business practices to obtain firm service.

¹² October 31 Order, 137 FERC ¶ 61,093 at P 29.

¹³ *Id.* P 30.

14. Lastly, Texas Gas contends that Atmos' protest ignores the purpose of the proposed ENS service, which is to improve the integration between the natural gas and power industries. It adds that the Commission's policy is to encourage pipelines to add services or increase nomination opportunities to better fit the profile for gas-powered generation. Texas Gas asserts that permitting firm ENS shippers to bump interruptible shippers with a one-hour advance notice is reasonable and will improve the integration of the natural gas and electric generation sectors and increase the reliability of the electric grid.

15. In their answer, Indicated Shippers reiterate that the proposed one-hour bumping notice is not reasonable, and that the bumping provided for by the current NAESB standards, where the minimum bumping notice is three hours, establishes what is reasonable. By failing to comply with the three-hour bumping notice, Indicated Shippers contend that Texas Gas has failed to comply with the October 31 Order.

16. Indicated Shippers also assert that Texas Gas admits that it cannot comply with even its own proposed notice standard. They state that Texas Gas offers in its answer that it can provide one-hour's notice to bumped shippers, which it states "is certainly reasonable."¹⁴ However, they express concern that later in its answer Texas Gas admits that "[a]ctual quantities generally will not be available prior to the Confirmation Deadline."¹⁵ Indicated Shippers assert that since actual bumped quantities will not be made available to bumped shippers prior to the confirmation deadline, shippers receiving bump notices will not even have the one-hour notice that Texas Gas proposes.

17. Finally, Indicated Shippers express concerns that Texas Gas' answer does not respond to the clarifications it sought in its protest, which Indicated Shippers state are critical to understanding what Texas Gas is proposing in its compliance filing.

Discussion

18. The Commission accepts Texas Gas' compliance filing, finding that the one-hour proposed notice of bumping provided prior to the confirmation deadline is just and reasonable and complies with our regulations. Section 284.12 of the Commission regulations provides that:

A pipeline must give scheduling priority to an intra-day nomination submitted by a firm shipper over nominated and

¹⁴ Indicated Shippers, December 19, 2011 Answer at p. 2.

¹⁵ Id. at p. 3.

scheduled volumes for interruptible shippers. When an interruptible shipper's scheduled volumes are to be reduced as a result of an intra-day nomination by a firm shipper, the interruptible shipper must be provided with advance notice of such reduction and must be notified whether penalties will apply on the day its volumes are reduced.¹⁶

Under the circumstances presented by the ENS service, we find that Texas Gas' proposal to provide one-hour notice of bumping based upon the preliminary scheduled quantities for firm shippers complies with the regulations and is reasonable. Shippers that contract for interruptible service should be prepared to make adjustments resulting from the inherently contingent character of interruptible service. Texas Gas allows bumped interruptible shippers to make adjustments by renominating any of their bumped volumes at the standard nomination timelines as well as any of the enhanced nomination periods. The one-hour advance notice will provide interruptible shippers with reasonable time to plan whether and how to renominate bumped volumes.

19. Moreover, ENS service requires a quick turnaround between nominations and gas flow for both firm and interruptible services. Since the nomination cycle under Rate Schedule ENS is two hours, requiring a three-hour bumping notice, as advocated by the protests, would not be possible while still preserving the nature of ENS service. In balancing the interests of interruptible and firm shippers, we find that the one-hour notice in this situation is reasonable since the interruptible shippers can renominate at the same cycles as the ENS firm shippers.

20. Indicated Shippers and Atmos contend that one hour notice requirements are inconsistent with the NAESB standards that required three hours notice. If these protests are contending that Texas Gas' proposal should be rejected as inconsistent with the NAESB standards, that issue is not timely raised in a protest to Texas Gas' compliance filing. In protests to Texas Gas' original September 16, 2011 Filing, a number of parties maintained that the filing was not consistent with the NAESB standards. In accepting Texas Gas' ENS service in the October 31 Order, the Commission recognized that ENS service's interruptible bumping provisions deviate from the requirements set forth in the

¹⁶ 18 C.F.R. § 284.12(b)(1)(i).

NAESB standards.¹⁷ A contention that the Commission should not permit deviation from the NAESB standards therefore should have been raised on rehearing, not as a protest to a compliance filing. However, no party sought rehearing of the October 31 Order.

21. To the extent the Indicated Shippers and Atmos are citing the NAESB standards as support for an argument that one-hour notice is not reasonable, we find for the reasons provided, that one-hour notice based upon ENS Shippers' preliminary scheduled quantities is reasonable under our regulations. While Texas Gas' tariff does not provide as long a notice as the NAESB standards, it provides interruptible shippers with more, and earlier, opportunities to renominate than under the existing NAESB standards.¹⁸ In these circumstances, interruptible shippers have numerous opportunities to renominate any bumped volumes.

22. Indicated Shippers also request several clarifications including when Texas Gas will provide notice of bumping, whether it will base its bumping notice on preliminary scheduled quantities or actual scheduled quantities, and whether a bumped shipper will be expected to adjust its volumes to account for any differences between the preliminary and actual scheduled quantities. We find no reason to further clarify these issues. The tariff states that Texas Gas will provide notice of bumped volumes prior to the confirmation deadline based on the nominations and preliminary scheduled volumes of the ENS shippers. The tariff then provides that Texas Gas will provide a final bumping notice at the effective flow time. Interruptible shippers will be able to reschedule their bumped volumes at any of the standard NAESB time periods as well as any of the ENS

¹⁷ October 31 Order, 137 FERC ¶ 61,093 at PP 26-27 (citing NAESB Standards 1.3.2 and 1.3.39). In its next filing to update compliance with NAESB standards, Texas Gas should identify in the section of its tariff that incorporates by reference NAESB standards, the standards that are affected by the ENS service. *Standards for Business Practices for Interstate Natural Gas Pipelines*, 67 Fed. Reg. 10,418-19 (Feb. 22, 2012), 138 FERC ¶ 61,124, at P 25 (2012).

¹⁸ Under the NAESB standards, the interruptible shipper bumped during the Intra-Day 1 cycle has only one additional opportunity to renominate, at the Intra-Day 2 cycle at 5 p.m. in the afternoon, and that nomination does not take effect until 9 p.m. Under Texas Gas' tariff, the bumped interruptible shipper can renominate at any of the standard nomination timelines and at any of ENS nomination opportunities which may occur earlier in the day and take effect more quickly than the NAESB standard. For example, if the interruptible shipper is notified it is bumped at 11 a.m. due to nominations in ENS Cycle 2, it can submit a nomination at 12:00 p.m. for ENS Cycle 3 and if that nomination is not successful can submit nominations at subsequent ENS cycles or the 5 p.m. Intraday 2 standard nomination time.

nomination periods. The interruptible shippers' final scheduled volumes for the day will be based on the final scheduled volumes that are sent out at effective flow time as adjusted by any subsequent nominations made by the interruptible shipper. With respect to penalties, the pipeline under our regulations needs to notify a shipper whether penalties will apply on the day its volumes are reduced.¹⁹

The Commission orders:

The tariff records set forth in the Appendix of this order are accepted effective November 1, 2011.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁹ 18 C.F.R. § 284.12(b)(1)(i).

Appendix

Texas Gas Transmission, LLC
Tariffs
FERC NGA Gas Tariff

Tariff Records Accepted, Effective November 1, 2011

Section 5.10, Rate Schedules - ENS, 2.1.0
Section 4.10, Currently Effective Rates - ENS, 2.3.0