UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Northern Border Pipeline Company   Docket No. RP04-204-000

ORDER ACCEPTING AND SUSPENDING
TARIFF SHEETS SUBJECT TO CONDITIONS

(Issued March 30, 2004)

1. On March 2, 2004, Northern Border Pipeline Company (Northern Border) filed the tariff sheets listed in the Appendix to this order to implement a new service option, Buyer Authorized Automatic Term Parking/Lending (ATPL) service, under its existing Rate Schedule Park and Loan (PAL), to be effective April 1, 2004. As discussed below, the Commission accepts and suspends Northern Border's proposal subject to refund and condition. This decision benefits the public because it accepts, subject to further support, a proposed service that appears to be consistent with our Order No. 637 policy of encouraging pipelines to offer balancing services to their customers and our interest in resolving issues relating to the operational compatibility of the gas and electric industries.

Northern Border's Proposal

2. Currently, Northern Border offers interruptible park and loan service under its Rate Schedule PAL that includes four different service options. Section 2.6 of Rate Schedule PAL states that Northern Border assigns the lowest priority to these park and loan services when it schedules such services.

3. The newly proposed fifth service option is named the "Buyer Authorized Automatic Term Parking/Lending" (ATPL) service. Northern Border believes this service option will allow certain customers with highly varying demands for gas, such as electric generators, to balance their usage of Northern Border's system.

4. Under the proposed ATPL option, the customer pre-authorizes Northern Border to nominate parking and/or lending service quantities at a designated point for a term agreed upon by the two parties. The customer establishes a maximum daily tolerance level which would equal to the maximum gas quantity that Northern Border could, on behalf of

the customer, automatically park or loan on a given gas day. The customer would also establish a maximum cumulative tolerance level that would equal the maximum cumulative gas quantity that Northern Border could park or loan during the term of the customer's ATPL service agreement.

5. Northern Border also revises section 3.1 of Rate Schedule PAL to provide that the monthly charge for all Rate Schedule PAL services would be the applicable daily PAL rate, multiplied by the maximum PAL quantity, multiplied by the applicable number of days within such month. In contrast, currently effective section 3.1 provides that the monthly charge is the applicable daily PAL rate, multiplied by the quantity of gas parked or leased for each separate transaction of the customer, multiplied by the applicable number of days within the month. Thus, in essence, Northern Border proposes to change the calculation of the monthly charge to a methodology that bills the customer for each unit of contract demand for the each service day, instead of the actual volumes used each service day. Northern Border's transmittal letter describes this proposed change as only establishing the rate for the newly proposed service option in this filing. However, the actual proposed revised tariff language applies to all five Rate Schedule PAL service options. In addition, Northern Border proposes other minor language clarifications to Rate Schedule PAL's existing provisions.

6. Northern Border believes that the proposed ATPL service option will provide its customers with the ability to respond to the evolving demands of serving variable load markets, especially electric generating facilities, whose loads fluctuate hourly and daily. Northern Border also believes this proposed service option will provide its customers with more flexibility to address their balancing needs which it states could not be achieved by making intra-day supply purchase/sales changes associated with fluctuating load requirements.

7. Northern Border asserts that its proposed changes will not impair or diminish the primary service rights of existing firm shippers. It also maintains that it will not obligate itself to provide ATPL service when capacity is unavailable or it would be required to construct or acquire new facilities or modify existing facilities. Northern Border believes this proposed enhancement to its Rate Schedule PAL service will assist customers in serving variable load markets while concurrently maintaining the operational integrity of its system.

Interventions and Protests

8. Public notice of the filing was issued on March 4, 2004. Interventions and protests were due as provided in Section 154.210 of the Commission's regulations.[1] Pursuant to Rule 214,[2] all timely filed motions to intervene and any motions to intervene filed before this order's issuance date are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. Process Gas Consumers Group (PGC) and People's Energy Wholesale Marketing, LLC (PEWM)) protested the filing or filed adverse comments.

9. Both PGC and PEWM support the proposed additional service option, but are concerned with the proposed rate for this, as well as all the other PAL services. They argue that the proposed change to section 3.1 of Rate Schedule PAL, which describes how all transactions are billed, improperly bases the charge on contract quantity rather than the actual activity. They contend that, as a result, the proposal has the potential to greatly increase the charge for all PAL services. PGC also objects to the fact that Northern Border appears to propose changing the rates for all other PAL services, without any explanation for why those charges should be revised. In addition, PEWM is concerned that the proposed tariff language change which adds the phrase "applicable number of days" is less clear than the currently effective language. As a result, PEWM is concerned that Northern Border may apply the charge based on the number of days in the month, rather than based on the number of days of actual activity. Therefore, PEWM asks the Commission to reject the proposed changes to section 3.1 of Rate Schedule PAL.

Discussion

10. The Commission recognizes the concerns raised by the protestors. However, we decline to take the action requested by them. Instead, the Commission accepts and suspends Northern Border's filing for five months, and requires Northern Border to file a further explanation of its proposed change to the rates charged for Rate Schedule PAL service.

11. The Commission's Part 284 regulations, as amended by Order No. 637, require pipelines to offer imbalance management services, such as park and loan service, in order to give shippers a greater ability to remain in balance and avoid penalties.[3] Northern

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[1] 18 C.F.R. § 154.210 (2003).

[2] 18 C.F.R. § 385.214 (2003).

[3] 18 C.F.R. § 284.12(c)(2)(iii) (2003).

Border's proposed ATPL service option to be offered as part of its PAL Rate Schedule appears to be consistent with this policy. It provides a method by which shippers with unpredictable changes in their required level of service, including electric generators, can minimize imbalances by authorizing the pipeline to nominate the necessary parking or lending service to offset any imbalances. The service also appears to be consistent with our interest in resolving issues relating to the operational compatibility of the gas and electric industries. Finally, no customer objects to Northern Border offering the service. The only objections concern Northern Border's proposed rate for the service. We will, therefore, not reject the filing as PGC has requested.

12. While the Commission is accepting Northern Border's proposed new service option, Northern Border has not shown that its rate proposal is just and reasonable. Northern Border does not propose to change the rates per dekatherm, as reflected on the Rate Schedule PAL rate sheets. However, it does propose to change how it bills those rates. Currently, it bills those rates to each dekatherm of gas parked or loaned for each transaction of the customer. However, in its instant filing, Northern Border proposes, instead, to bill those rates to each dekatherm of a shipper's "Maximum PAL Quantity." As PGC states, Northern Border's tariff defines the maximum PAL quantity as "the Dekatherms per day of gas shown as the Maximum Park and Loan Quantity that is relative to the Parking Points and Lending Points shown on Exhibit A to a Buyer's PAL Agreement." PGC is concerned that shippers would be charged for the maximum PAL quantity regardless of the actual quantity used by a shipper. As a result, PGC believes shippers would be forced to pay for PAL service they do not use and Northern Border would receive compensation even if it does not actually provide any service. PGC says it is inappropriate for a shipper to be charged for an amount of service that it does not use.

13. The Commission agrees with PGC and PEWM that Northern Border fails to explain the apparent increase in rates for the other PAL services or to justify the rate proposed for the ATPL service. Under Northern Border's proposal, it would bill its PAL customers for each unit of their PAL contract quantities, regardless of their actual usage of the service. Such a charge is a reservation or demand charge. The Commission's Part 284 regulations only permit reservation charges for firm service.[4] The regulations provide that the rate for an interruptible service must be a volumetric rate "that recovers the costs allocated to the service to the extent that the projected units of that service are actually purchased and may not include a demand charge, a minimum bill, or minimum take provision or any other provision that has the effect of guaranteeing revenue."[5]

[4] 18 C.F.R. § 284.7(e) (2003).

[5] 18 C.F.R. § 284.10(c)(1) (2003).

14. The existing service options under Rate Schedule PAL are clearly interruptible, since section 2.6 of that rate schedule provides that PAL service will be scheduled only after all other services, including other interruptible services, have been scheduled. Therefore, Northern Border's proposal to transform the rates for the existing service options from volumetric usage charges to reservation charges billed to each unit of contract demand is contrary to Commission policy and must be rejected. Moreover, Northern Border's rate proposal could only be appropriate for the new service option to the extent that Northern Border intends the new service option to have some element of firmness. If Northern Border is undertaking to guarantee that it will nominate sufficient ATPL service during an agreed-upon term so that the customer does not incur imbalances within the agreed upon tolerance level, then a reservation charge for each unit of contract demand could be appropriate. However, Northern Border's proposal, as it stands, does not clearly give a customer choosing the ATPL option such a guarantee, particularly since Northern Border has not revised section 2.6 concerning the priority of the service to limit its applicability to the existing service options.

15. Accordingly, within thirty (30) days of the date of this order, the Commission directs Northern Border to revise its proposal consistent with the above discussion. In particular, Northern Border must first revise its proposal so that any rate proposal in this filing applies only to the new service option proposed herein. Second, Northern Border must clarify the proposed scheduling priority for the proposed new service option, and explain, consistent with 18 C.F.R. §§ 154.202(a)(1)(iv) and 154.204(d) (2003), the impact of the new service on existing firm and interruptible customers in light of the proposed priority for the new service option. Third, Northern Border must propose a rate for the new service option consistent with the clarified service priority and provide a full justification for the proposed rate.

Suspension

16. Based on a review of the filing, the Commission finds that the proposed tariff sheets listed in the Appendix, have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept the tariff sheets for filing, and suspend their effectiveness for the period set forth below, subject to refund and the conditions in this order.

17. The Commission's policy regarding rate suspensions is that rate filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards.[16]

18. Therefore, the Commission will exercise its discretion to suspend these tariff sheets for five months to take effect September 1, 2004, subject to the conditions set forth in the body of this order.

The Commission orders:

(A) Northern Border's filing to implement a proposed ATPL service option under its Rate Schedule PAL is accepted and suspended, subject to refund and the conditions discussed in the body of this order and the ordering paragraph below, to become effective the earlier of September 1, 2004, or on a date the Commission specifies in any future order issued in this proceeding.

(B) Within thirty (30) days of the date of this order, Northern Border is directed to make a filing to revise its proposal consistent with the discussion in the body of this order.

By the Commission. Commissioner Kelly not participating.

(S E A L)

Linda Mitry,
Acting Secretary.

Appendix

Northern Border Pipeline Company
FERC Gas Tariff, First Revised Volume No. 1

Tariff Sheets Accepted and Suspended for Five Months

Second Revised Sheet No. 184
Third Revised Sheet No. 185
Original Sheet No. 185A
First Revised Sheet No. 186
First Revised Sheet No. 187
Third Revised Sheet No. 467