

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Texas Gas Transmission, LLC

Docket No. RP05-617-000

ORDER ACCEPTING AND SUSPENDING
TARIFF SHEET, SUBJECT TO REFUND,
AND ESTABLISHING A TECHNICAL CONFERENCE

(Issued October 31, 2005)

1. On August 31, 2005, Texas Gas Transmission, LLC (Texas Gas) filed a revised tariff sheet ¹ and supporting workpapers reflecting its annual filing to adjust its Effective Fuel Retention Percentages (EFRPs) pursuant to section 16 of the General Terms and Conditions (GT&C) of its FERC Gas Tariff. The new EFRPs are proposed to become effective November 1, 2005. For the reasons discussed below, the Commission accepts and suspends the tariff sheet, to be effective November 1, 2005, subject to refund and the outcome of a technical conference.

Details Of The Filing

2. The proposed EFRPs adjust the applicable fuel rates for Texas Gas's NNS/SGT/SNS, FT/STF/IT, and FSS/ISS rate schedules.² The new EFRPs consist of the applicable Projected Fuel Retention Percentages (PFRPs) and Fuel Adjustment

¹ First Revised Third Revised Sheet No. 36 to Texas Gas's FERC Gas Tariff, Second Revised Volume No. 1.

² NNS – No-Notice Firm Transportation Service; SGT – Small General Firm Transportation Service; SNS – Summer No-Notice Service; FT – Firm Transportation Service; STF – Short-Term Firm Transportation Service; IT – Interruptible Transportation Service; FSS – Firm Storage Service; ISS – Interruptible Storage Service.

Percentages (FAPs). Appendix B to Texas Gas's filing contains supporting data and calculations used to determine the new EFRPs, PFRPs, and FAPs.

3. Texas Gas states that the impact of the fuel rate adjustments varies from zone to zone, rate schedule to rate schedule, and season to season. According to Texas Gas, the overall impact results in a very slight overall increase in the proposed EFRPs, as compared to the currently effective rates. Texas Gas further states that of the 34 EFRPs filed by Texas Gas, 14 decrease, 15 increase, and 5 are nearly unchanged (increase or decrease 0.02 or less). Texas Gas explains that the small overall rate increase is due primarily to a slight net under-collection of approximately 0.15 TBtu, as compared to a net over-collection of approximately 1 TBtu reflected in last year's filing.

4. According to Texas Gas, the new seasonal PFRPs for transportation service under rate schedules NNS/SGT/SNS and FT/STF/IT, are computed by correlating projected system distribution with historic system distribution and fuels from the winter and summer seasons since November 1, 1993. Accordingly, states Texas Gas, the projected fuel, use, and loss for the Winter 2005-2006 and Summer 2006 are based on historic trends and projected distributions. Texas Gas further explains that fuels attributable to each service type are proportional to the total throughput in each zone attributable to that service type.

5. The new seasonal EFRPs, according to Texas Gas, are derived in the same manner as described above for the PFRPs, except the EFRPs include any net over- or under-collections of fuel, plus the effect of unaccounted for quantities as of July 31, 2005. Texas Gas further explains that all net over- or under-collections of fuel are attributed to the appropriate season, service type, and zone; unaccounted for quantities of gas are distributed *pro rata* based on the projected fuel use for each season.

6. Finally, Texas Gas states that new PFRPs, EFRPs, and FAPs applicable to storage service under rate schedules FSS and ISS are derived using similar methods as those described above. Specifically, according to Texas Gas, the PFRPs are based on an historic correlation of injection/withdrawal activity with allocated storage-related fuels; the EFRPs include the effect of over- or under-collections attributed to storage activity related to FSS/ISS activity.

Notice, Interventions, And Protests

7. Notice of Texas Gas's filing was published in the *Federal Register*, 70 Fed. Reg. 54,731 (2005). Interventions and protests were due as provided in Rule 210 of the Commission's regulations, 18 C.F.R. § 384.210 (2005). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2004), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention

at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. Indicated Shippers (BP America Production Company, BP Energy Company, and Chevron U.S.A. Inc.) filed a protest. Constellation NewEnergy-Gas Division, LLC, filed a motion to intervene, comments, and request for conditions. On September 26, 2005, as amended on September 29, 2005, Texas Gas filed a motion for leave to answer the comments and the protest. Under Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), answers to comments and protests are not accepted unless otherwise ordered by the decisional authority. The Commission will accept Texas Gas's answer because it further clarifies the issues. The protest, comments, and answer are discussed below.

Discussion

Indicated Shippers' Protest and CNE-Gas's Comments

8. Indicated Shippers generally argue that Texas Gas has not adequately explained the proposed changes in the fuel rates, and request that the Commission suspend the proposed fuel rates for the maximum five month period, subject to refund, and require Texas Gas to submit a further explanation of its calculation of the proposed fuel rates.

9. Indicated Shippers specifically argue that Texas Gas has not adequately explained why the Zone SL fuel rate increases while other rates decrease, or why the summer fuel rates for FT/STF/IT from Zone SL to Zone SL/1/2/3/4 are higher than the winter fuel rates for these same shippers, particularly when storage fuel rates are accounted for separately. Indicated Shippers also argue, among other things, that Texas Gas has not explained how fuel use by zone was determined, and that Texas Gas has not sufficiently explained or defined various parts of its fuel analysis.

10. Indicated Shippers also assert that the throughput volumes Texas Gas used in the fuel filing are inconsistent with the throughput volumes used in Texas Gas's ongoing rate case. Finally, Indicated Shippers argue that Texas Gas's claimed unaccounted-for gas volumes are substantial and should be reviewed, and objects to the use of an apparent twelve year range of cumulative data to support its fuel and unaccounted-for gas adjustment.

11. CNE-Gas acknowledges that Texas Gas's methodology for computing the new seasonal PFRPs applicable to transportation services is consistent with Texas Gas's practices in previous fuel filings. CNE-Gas expresses concern, however, that this traditional methodology may not be appropriate given pending developments on the Texas Gas system. Specifically, CNE-Gas cites Midwestern Gas Transmission's plans to upgrade by November 1, 2005, its Whitesville delivery point into Texas Gas in Texas Gas's pipeline in Zone 3, resulting in a near doubling of the Whitesville point delivery

capacity. CNE-Gas concludes that this expansion suggests a higher than normal likelihood of forecast errors in the EFRPs.

12. CNE-Gas further submits that inaccurate projection of EFRPs would be exacerbated by the current high price of natural gas and cause material distortions in the market in that shippers may seek or shun transactions based on the fuel charges associated with them. As fuel cost inaccuracies are corrected in future fuel adjustment filings, there may be attendant intergenerational inequities as different shippers are charged the costs other shippers should have borne. In an effort to keep the projected fuel costs as accurate and possible, and more closely match cost recovery with cost causation, CNE-Gas asks that the Commission accept Texas Gas's filing subject to the condition that Texas Gas file updated information, detailing its experience under the proposed EFRPs during the upcoming winter, soon after that winter period ends. The Commission could then order an "interim" fuel adjustment pursuant to section 5 of the Natural Gas Act (NGA), if it determined that to be appropriate.

Texas Gas's Answer

13. Texas Gas answers that it has fully supported its proposal and that it is simply implementing its existing fuel adjustment tariff provision. Texas Gas responds that the increases in fuel retention percentages for zone SL/SL customers were a result of the previous years' under-collection, as explained in the filing at Appendix C, and that the summer FT/STF/IT fuel for Zone SL/2 increase is due to a lower net over-collection than last year. Texas Gas responds further that its filing already provides a comprehensive analysis of the projected throughput for each service type and zone on the Texas Gas system for upcoming winter and summer periods, and attempts to offer more explanation and data to assuage Indicated Shippers' concerns. Texas Gas suggests that any inconsistency between its rate case data and its fuel adjustment data is due to the inherent differences between the types of throughput estimate used in each filing, and timing differences. Texas Gas submits that the fuel and lost and unaccounted-for amounts are supported in the filing and are based on the over/under collections for only the previous year (not a twelve year period), and that Indicated Shippers misunderstand Texas Gas's cumulation calculations. As for CNE-Gas's concerns, Texas Gas asserts in response that the possibility of a change in gas usage patterns on its system is merely speculative, and while it understands that higher natural gas prices may result in higher fuel costs for some shippers, this is not sufficient grounds for ordering an interim fuel adjustment pursuant to NGA section 5, insofar as its existing fuel mechanism remains just and reasonable.

Commission Disposition

14. The parties have raised numerous questions about Texas Gas's proposal, as described above. Although Texas Gas has attempted to answer these objections, the

Commission finds they warrant further examination and discussion. A technical conference will provide an appropriate forum to probe both the validity of the objections and Texas Gas's answers. The Commission will therefore accept and suspend Texas Gas's filing, to become effective as proposed, but subject to refund, and will establish a technical conference in order to address the issues that have been raised by the filing.

Suspension

15. Based upon a review of the filing, the Commission finds that Texas Gas's proposal may not be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept Texas Gas's revised tariff sheet for filing and suspend its effectiveness for the period set forth below, and permit it to become effective, subject to refund and the outcome of a technical conference.

16. The Commission's policy regarding 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 inconsistent with other statutory standards.³ The Commission recognizes, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.⁴ Such circumstances exist here, where the pipeline is filing pursuant to an approved tariff mechanism. Therefore, the Commission will exercise its discretion to suspend the tariff sheet and permit it to become effective November 1, 2005.

The Commission orders:

(A) The Commission accepts and suspends Texas Gas's First Revised Third Revised Sheet No. 36 to its FERC Gas Tariff, to be effective November 1, 2005, subject to refund, and subject to the outcome of the technical conference established by this order.

³ See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

⁴ See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

(B) The Commission's staff is directed to convene a technical conference and report the results of that conference to the Commission within 120 days of the date this order issues.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.