

133 FERC ¶ 61,260  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

December 29, 2010

In Reply Refer To:  
Williston Basin Interstate Pipeline Company  
Docket No. RP11-1580-000

Williston Basin Interstate Pipeline Company  
P.O. Box 5601  
Bismark, ND 58506-5601

Attention: Keith A. Tiggelaar  
Director of Regulatory Affairs

Reference: Revised Tariff Sections 16 (Capacity Release) and 44 (NAESB Standards)

Dear Mr. Tiggelaar:

1. On December 1, 2010, Williston Basin Interstate Pipeline Company, (Williston) filed revised tariff records<sup>1</sup> to be effective January 1, 2011, which Williston states will clarify and enhance the readability of the capacity release provisions in section 16 of its tariff's General Terms & Conditions (GT&C). The tariff records listed in the Appendix are accepted to become effective January 1, 2011, subject to further revision as discussed herein.

2. Public notice of Williston's filing was issued on December 2, 2010, with comments due by December 15, 2010. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2010)), all timely filed motions to intervene and any motion 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 the proceeding or place additional burdens on existing parties. No protests or comments were filed.

3. The proposed tariff revisions either reorganize or make minor grammatical changes in currently effective tariff provisions, set forth in the tariff text a NAESB Standard previously incorporated by reference, or add language consistent with previous

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<sup>1</sup> See Appendix.

Commission approvals. Williston's proposed revisions are generally consistent with Commission policy, with one exception. On Sheet No. 158, Williston proposes to add a sentence to renumbered GT&C section 16.5.5 which would restrict the implementation of tariff language recently approved in Williston's Order No. 587-U compliance proceeding.<sup>2</sup> In pertinent part, the language approved in that order, now in renumbered section 16.5.5, recites verbatim NAESB Standard 5.3.26, which provides that for non-indexed based releases, the releasing shipper can specify that bids be submitted either in dollars and cents, or as a percentage of the maximum rate. Williston proposes to add the following sentence at the end of section 16.5.5: "A bid at a rate or percentage equal to Transporter's maximum reservation rate shall be a bid at Transporter's maximum reservation rate, as such may be in effect from time to time."

4. This proposed sentence would violate Commission policy and precedent that if a pipeline chooses to include a NAESB standard in the text of its tariff rather than incorporating the standard by reference, the standard must be set forth verbatim.<sup>3</sup> Williston Basin's proposed language here would constitute an impermissible departure from the verbatim text of NAESB Standard 5.3.26. Moreover, the proposed addition is inconsistent with the standards and Commission policy. Under Commission policy and NAESB standard 5.3.26, the releasing shipper is permitted to choose the bidding method for capacity release transactions when such deals are subject to the maximum rate. The releasing shipper may use a percentage of maximum rate release or it may instead choose a fixed (dollars and cents) release.<sup>4</sup> Should the releasing shipper choose the fixed rate (dollars and cents) alternative, the replacement shipper is not required to pay more than that rate even if the maximum rate increases.<sup>5</sup> Williston's proposal would conflict with the releasing shipper's election by requiring a replacement shipper bidding under the fixed rate (dollars and cents) election to pay a higher rate in the event that the maximum rate is raised. Therefore, acceptance of Sheet No. 158 is subject to Williston Basin,

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<sup>2</sup> Docket No. RP11-1486-000 (December 22, 2010) (director letter order).

<sup>3</sup> See, e.g., *Texas Eastern Transmission Corp.*, 77 FERC ¶ 61,175 (1996).

<sup>4</sup> A transportation service provider implements NAESB Standard 5.3.26 in accordance with NAESB Dataset 5.4.1, which gives the releasing shipper the ability to electronically specify a capacity release bidding method.

<sup>5</sup> On the other hand, if the release is subject to the maximum rate, the replacement shipper's rate under a fixed rate (dollars and cents) release would decrease in the event the pipeline's maximum rate is reduced below the fixed rate in the release.

within 15 days of the date of this order, filing a further revision of renumbered section 16.5.5 that removes the sentence proposed in this filing.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

Appendix

Williston Basin Interstate Pipeline Company  
Third Revised Volume No. 1  
FERC NGA Gas Tariff  
Tariff Records Accepted Effective January 1, 2011  
Subject to Condition

Sheet No. 152, Section 16: Firm Capacity Release Mechanism, 2.0.0

Sheet No. 153, , 2.0.0

Sheet No. 154, , 1.0.0

Sheet No. 155, , 2.0.0

Sheet No. 156, , 2.0.0

Sheet No. 157, , 2.0.0

Sheet No. 158, , 2.0.0 \*

Sheet No. 158A, , 1.0.0

Sheet No. 159, , 1.0.0

Sheet No. 160, , 2.0.0

Sheet No. 160A, , 1.0.0

Sheet No. 161, , 1.0.0

Sheet No. 162, , 1.0.0

Sheet No. 163, , 1.0.0

Sheet No. 164, , 1.0.0

Sheet No. 255A, , 1.0.0

(\*Acceptance Subject to Condition)