

140 FERC ¶ 61,172
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

August 31, 2012

In Reply Refer To:
MGTC, Inc.
Docket No. PR12-21-000

MGTC, Inc.
1099 18th Street, Suite 1800
Denver, CO 80202

Attention: Christopher L. Wilson
Regional Manager, Commercial Development

Reference: Rate Election and Revised Statement of Operating Conditions

Ladies and Gentlemen:

1. On April 4, 2012, MGTC, Inc. (MGTC) filed a rate election pursuant to section 284.123(b)(1)(ii) of the Commission's regulations¹ proposing to update its rates for interstate service to match its newly effective rates for comparable intrastate service approved by the Wyoming Public Service Commission (Wyoming PSC).² Along with its rate election, MGTC also included tariff records comprising a revised statement of operating conditions (SOC)³ containing provisions, which were recently approved by the Wyoming PSC for intrastate service. MGTC asserts that the primary purpose of its state rate proceeding, which is the basis for the instant filing, was to remove interruptible

¹ 18 C.F.R. § 284.123(b)(1)(ii) (2012).

² See MGTC's Application, Exhibit 1 showing the Wyoming PSC's order approving its intrastate rates (Settlement Order).

³ MGTC, Inc., FERC NGPA Gas Tariff, MGTC, Inc. Statement of Operating Conditions, [Table of Contents, Section 1 - Title and Table of Contents, 1.0.0](#); [SOC, Section 2 - Statement of Operating Conditions, 1.0.0](#); and [Rate Summary, Section 3 - Rate Summary, 1.0.0](#).

service from MGTC's offerings and instead exclusively provide firm transportation services. MGTC asserts that this change was also approved by the Wyoming PSC. MGTC proposes that the rates and SOC revisions become effective March 6, 2012, the date the Wyoming rates became final. The Commission accepts MGTC's rates and revised SOC effective March 6, 2012, as proposed, subject to the condition discussed below.

2. MGTC is a Hinshaw pipeline,⁴ and has been granted a section 284.224 blanket certificate⁵ by the Commission.⁶ Since its application for blanket certificate, MGTC has elected, under section 284.123(b)(1)(ii) of the Commission's regulations,⁷ to establish the same rates for interstate service as those contained in its currently effective rate schedules for comparable intrastate service on file with the Wyoming PSC.

3. On May 2, 2011, MGTC filed an application with the Wyoming PSC for a general rate increase and revisions to its Wyoming PSC tariff. As part of its application, MGTC proposed to eliminate its interruptible transportation rate schedule and provide only firm transportation, with rates charged on a dekatherm (Dth) basis. MGTC further proposed to update its Wyoming PSC tariff's terms and conditions of service including, among other things, changes to the: (1) transportation request information section; (2) nomination procedures; and (3) gas quality specifications. On February 16, 2012, the Wyoming PSC issued an order approving a settlement agreement among the participants of the proceeding on an interim basis; the order became final on March 6, 2012, after MGTC obtained certain certificates for pending pipeline projects.

4. MGTC states that the instant filing is meant to implement, at the federal level, the outcome of its recent state proceeding, which was resolved by the Wyoming PSC's Settlement Order. Specifically, MGTC proposes to cease providing interruptible

⁴ Section 1(c) of the Natural Gas Act (NGA) exempts from the Commission's NGA jurisdiction those pipelines which transport gas in interstate commerce if: (1) they receive natural gas at or within the boundary of a state; (2) all the gas is consumed within that state; and (3) the pipeline is regulated by a state Commission. This exemption is referred to as the Hinshaw exemption after the Congressman who introduced the bill amending the NGA to include section 1(c). *See ANR Pipeline Co. v. Federal Energy Regulatory Comm'n*, 71 F.3d 897, 898, 315 U.S. App. D.C. 189 (1995) (briefly summarizing the history of the Hinshaw exemption).

⁵ 18 C.F.R. § 284.224 (2012).

⁶ *MGTC, Inc.*, 52 FERC ¶ 62,257 (1990).

⁷ 18 C.F.R. § 284.123(b)(ii) (2012).

transportation and provide only firm transportation under rate schedules for Small Firm Transportation and Large Firm Transportation. The proposed rate for Small Firm service includes the following charges: demand - \$3.2176 per Dth; delivery - \$0.1210 per Dth; authorized overrun - \$0.7500 per Dth; and customer charge - \$178.57 per month. The proposed rate for Large Firm service includes the following charges: demand - \$2.750 per Dth; delivery - \$0.3316 per Dth; and authorized overrun - \$0.7500 per Dth. The switch from providing interruptible to now providing firm service is also reflected in many of the SOC revisions. Other SOC revisions include: company description; definition reference to Wyoming tariff; transportation request information; gas quality specifications; and nomination procedures; rate sheet revisions; and other edits.

5. On June 8, 2012, Commission Staff sent a request for additional information pursuant to 375.307(b)(3)(ii) of the Commission's regulations.⁸ On June 22, 2012, MGTC filed responses to Staff's data request, including a copy of its then-effective tariff on file with the Wyoming PSC.

6. Public notice of MGTC's filing was issued on April 6, 2012. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁹ Pursuant to Rule 214,¹⁰ all timely filed motions to intervene and any unopposed 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. There were no adverse comments or objections filed with regard to MGTC's rate election and SOC revisions.

7. The rates contained in this filing were approved by the Wyoming PSC following an extensive administrative process with the opportunity for full participation by any parties affected by proposed changes to MGTC's Wyoming tariff rates and terms and condition of service in a proceeding. The revised SOC appears to mirror the tariff on file with the Wyoming PSC and reflects the change from interruptible to firm service. The Commission accepts MGTC's filing, effective March 6, 2012, as proposed, subject to the condition that MGTC file an informational filing five years from the date of this order, to allow the Commission to review MGTC's rates.

8. As a Hinshaw pipeline, when MGTC was granted its blanket certificate, no rate review requirement was established and it appears MGTC is currently under no obligation to make such a filing, other than its obligation to file, within 30 days, changes

⁸ 18 C.F.R. § 375.307(b)(3)(ii) (2012).

⁹ 18 C.F.R. § 154.210 (2012).

¹⁰ 18 C.F.R. § 385.214 (2012).

to its operations, rates, or rate election under section 284.123(e) of the Commission's regulations.¹¹ However, in Order No. 735 the Commission established a policy of requiring periodic rate reviews for Hinshaw pipelines every five years.¹² Therefore, consistent with Order No. 735, the Commission will require a periodic rate review requirement for MGTC and we direct MGTC to make its rate review filing five years from the date of this order. At that time, MGTC is directed to file with the Commission an informational filing with cost, throughput, revenue and other data, in the form specified in section 154.313 of the Commission's regulations.¹³ This will allow the Commission to determine whether any change in MGTC's interstate transportation rates is required pursuant to section 5 of the Natural Gas Act. MGTC may file a petition for rate approval under section 284.123(b) of the Commission's regulations to establish new maximum rates at any time within the five-year period to fulfill this periodic rate review requirement.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹¹ 18 C.F.R. § 284.123(e) (2012).

¹² *Contract Reporting Requirements of Intrastate Natural Gas Companies*, Order No. 735, FERC Stats. & Regs. ¶ 31,310, *order on reh'g*, Order No. 735-A, FERC Stats. & Regs. ¶ 31,318 (2010); *see also Hattiesburg Industrial Gas Sales, L.L.C.*, 134 FERC ¶ 61,236 (2011) (here the Commission imposed the five year rate review requirement on Hattiesburg Industrial Gas Sales, L.L.C. in an order approving Hattiesburg's multiple revisions to its SOC).

¹³ 18 C.F.R. § 154.313 (2012).