

168 FERC ¶ 61,139
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, Richard Glick,
and Bernard L. McNamee.

RH energytrans, LLC

Docket No. RP19-1362-000

ORDER ON BASELINE TARIFF

(Issued August 30, 2019)

1. On July 1, 2019, RH energytrans, LLC (RH energytrans) filed its initial baseline tariff in compliance with orders issued in Docket No. CP18-6-000,¹ authorizing RH energytrans to construct and operate a new interstate natural gas pipeline in Crawford and Erie Counties, Pennsylvania, and Ashtabula County, Ohio (Risberg Line Project). RH energytrans proposes to make tariff changes directed by the Certificate Order and miscellaneous housekeeping changes. RH energytrans requests extensions of time to implement the North American Energy Standards Board (NAESB) standards related to Electronic Data Interchange (EDI) / Electronic Delivery Mechanism (EDM) and Internet Electronic Transport (IET) communications protocols. We find RH energytrans has generally complied with the Certificate Order and conditionally accept its initial baseline tariff to become effective the later of September 1, 2019, or the date on which the facilities are placed into service. In addition, RH energytrans' requests for extensions of time are granted in part and denied in part, as discussed in the body of this order.

I. Background and Proposal

2. The Certificate Order authorized RH energytrans to construct and operate the Risberg Line Project to provide up to 55,000 dekatherms (Dth) per day of firm transportation service to markets in northeast Ohio. Specifically, RH energytrans was authorized to acquire and convert certain existing pipeline and compression facilities and to construct additional pipeline, compression, and auxiliary facilities.

¹ *RH energytrans, LLC*, 165 FERC ¶ 61,218 (2018) (Certificate Order), as amended, at 168 FERC ¶ 61,004 (2019).

3. In the Certificate Order, the Commission reviewed the rate aspects of RH energytrans' filing and generally approved its rates, with conditions.² On April 10, 2019, RH energytrans filed an application to amend its certificate of public convenience and necessity in order to revise its initial recourse rates to reflect an updated cost of service for the project and to reflect changes directed by the Certificate Order. On July 2, 2019, the Commission approved the amendment after determining that it satisfied the conditions of the Certificate Order.³

4. In the Certificate Order, the Commission conditionally approved the terms and conditions of RH energytrans' tariff subject to compliance with several conditions. On July 1, 2019, RH energytrans filed its initial baseline FERC NGA Gas tariff in the instant docket. RH energytrans proposes to make the tariff changes directed by the Certificate Order, as well as miscellaneous housekeeping changes. In addition, RH energytrans requests extensions of time to implement the NAESB standards related to EDI/EDM and IET communications protocols.

II. Notice, Interventions, and Comments

5. Public notice of the filing was issued on July 8, 2019. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁴ Pursuant to Rule 214,⁵ all timely filed motions to intervene and any unopposed 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 the proceeding or place additional burdens on existing parties. No adverse comments or protests were filed.

² In particular, the Commission directed RH energytrans to remove its acquisition adjustment. The Commission also directed RH energytrans to revise its methodology for calculating its allowance for funds used during construction (AFUDC), and gave RH energytrans the option to either file a written statement affirming that it has elected to be treated as a corporation for tax purposes, which would have allowed RH energytrans to include an income tax allowance in its cost of service, or not make the affirmative statement before filing actual tariff records setting forth the initial rates for service and recalculate the rates to reflect removal of the proposed income tax allowance and accumulated deferred income tax (ADIT) from its cost of service.

³ *RH energytrans, LLC*, 168 FERC ¶ 61,004.

⁴ 18 C.F.R. § 154.210 (2019).

⁵ 18 C.F.R. § 385.214 (2019).

III. Discussion

6. After reviewing the filing, the tariff records referenced in the Appendix are accepted, subject to the conditions discussed below, effective the later of September 1, 2019, or the date on which the facilities authorized in the Certificate Order are placed into service. RH energytrans should make this in-service effective date informational filing with the Commission through the eTariff portal using a Type of Filing Code 620.⁶ We also grant in part and deny in part RH energytrans' requested extensions of time, as discussed below. RH energytrans is directed to make a tariff compliance filing within 20 days from the date of issuance of this order.

A. Rate Schedule Interruptible Transportation Service (ITS) and Uncommitted Capacity

7. RH energytrans' initial proposed Rate Schedule ITS section 1.1(a), Availability, provided that:

Transporter has determined that ... it has available or will secure sufficient uncommitted capacity to provide the service requested by Shipper as well as to satisfy all of its firm service commitments.

Section 284.9(a)(3) of the Commission's regulations states that service on an interruptible basis means that the "capacity to provide the service *is subject to a prior claim* by another customer or class of service."⁷ The Commission explained that, as proposed in the *pro forma* tariff submitted by RH energytrans, that provision would restrict RH energytrans' ability to market and provide interruptible service on capacity that is subject to prior claim by a firm contract customer but is unused.⁸

8. In its compliance baseline tariff filing, RH energytrans modified Rate Schedule ITS section 1.1(a), Availability, to:

Transporter has determined that ... it has the facilities necessary to provide the service requested by Shipper.

⁶ *Electronic Tariff Filings*, 130 FERC ¶ 61,047, at P 17 (2010). In addition, RH energytrans is advised to include, as part of the eFiling description, a reference to the certificate proceeding, Docket No. CP18-6-000, and the actual in-service date for this project.

⁷ 18 C.F.R. § 284.9(a)(3) (2019) (emphasis added).

⁸ Certificate Order, 165 FERC ¶ 61,218 at P 56.

9. We find that the revised Rate Schedule ITS section 1.1(a) is still contrary to section 284.9(a)(3) of the Commission's regulations, as explained above and in the Certificate Order. We reject this provision and direct RH energytrans to remove it from its tariff.

B. Obligation to Serve

10. The Certificate Order noted an internal inconsistency in the tariff. When discussing the obligations to serve commitments in the General Terms and Conditions (GT&C) of the tariff, section 6.2(h) provides that RH energytrans "shall not be obligated to deliver any greater quantity than is *confirmed and received*."⁹ In the *pro forma* agreements, however, RH energytrans instead uses the term "nominated" to mean the same thing. Article II.1.c of the *pro forma* firm service agreement states: "Seller shall Tender to or for the Account of Customer, on a firm basis at the Point of Delivery, Equivalent Quantities of Gas to the quantity *nominated* by Customer at the Point of Receipt."¹⁰ The Commission explained that confirmed and received quantities can be equal to or less than nominated quantities. Thus, the definitions of the obligations to serve in GT&C section 6.2(h) and Article II.1.c and Article II.2 of the firm and interruptible *pro forma* service agreements, respectively, were different. The Certificate Order required RH energytrans to select one of the obligations to serve commitments and to standardize that commitment throughout its tariff.¹¹

11. In its compliance baseline tariff filing, RH energytrans proposed to modified GT&C section 6.2(h) to:

For any Gas Day, Transporter shall deliver the quantity nominated by Shipper, *provided that quantity is confirmed by Transporter and received by Transporter for Shipper's account*. Otherwise, Transporter shall not be obligated to deliver any greater quantity than confirmed by Transporter or received for Shipper's account.¹²

⁹ Emphasis added.

¹⁰ Emphasis added. Article II.2 of the *pro forma* interruptible service agreement provides substantially similar language: "Seller shall Tender to or for the account of Customer, at the Point of Delivery, Equivalent Quantities of Gas *nominated* by Customer at the Point of Receipt."

¹¹ Certificate Order, 165 FERC ¶ 61,218 at P 61.

¹² Emphasis added.

RH energytrans does not propose any changes to the relevant sections of the *pro forma* service agreements.

12. We find that the revised section 6.2(h) of the GT&C of RH energytrans' tariff is essentially the same as initially proposed, and RH energytrans does not propose any changes to the relevant sections of the *pro forma* service agreements. As a result, the proposed modification does not address the inconsistent obligations to serve noted in the Certificate Order. In revised GT&C section 6.2(h), RH energytrans is not obligating itself to cover for Shipper's shortfall if Shipper nominates gas but fails to confirm and deliver that gas; however, in the proposed *pro forma* service agreements RH energytrans does obligate itself to cover for Shipper's shortfall if Shipper nominates gas but fails to confirm and deliver that gas.

13. We will not accept revisions that are internally inconsistent in the tariff. Following standard industry convention, in which the Shipper must supply the gas that it nominates, we accept revised section 6.2(h) of the GT&C of RH energytrans' tariff and reject Article II.1.c and Article II.2 of the *pro forma* firm and interruptible service agreements, respectively. RH energytrans must revise these provisions to provide for the transporter to deliver to shipper the quantity that is *confirmed and received* by transporter.

C. NAESB Wholesale Gas Quadrant (WGQ) Standards

14. The Certificate Order required RH energytrans to implement the NAESB WGQ Version 3.1 Standards¹³ and make conforming adjustments to GT&C section 22, Compliance with 18 C.F.R., Section 284.12. Further, the Commission found that RH energytrans needed to identify clearly in its tariff the specific Standards, by Standard number, from which it is seeking a waiver or an extension of time of Standards related to using the Internet to conduct business transactions, consistent with Order No. 587-V.¹⁴ In its compliance baseline tariff filing, RH energytrans requests extension of time to comply with certain NAESB WGQ Version 3.1 Standards.

1. Extension of Time to Implement Standard 0.4.1

15. RH energytrans requests an extension of time to comply with NAESB WGQ Version 3.1 Standard 0.4.1. This is a business practice standard that requires a pipeline to provide the service requesters with information related to storage activities and/or balances. In Order No. 587-V, the Commission explained its policy towards requests for

¹³ *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587-Y, 165 FERC ¶ 61,109 (2018) (Order No. 587-Y).

¹⁴ Certificate Order, 165 FERC ¶ 61,218 at P 74.

waivers or extensions of time of the NAESB WGQ Standards.¹⁵ Extensions of time are not appropriate for Standards applicable to business functions the pipeline does not support. In such a case, as long as the pipeline does not perform the business function, it does not trigger a requirement to comply with the Standard and hence no extension of time is required. NAESB WGQ Version 3.1 Standard 0.4.1 only applies in situations where a pipeline provides storage services. RH energytrans has no storage and does not provide storage service.¹⁶ Thus, we find no need to grant the requested extension of time to comply. If, at some point, RH energytrans provides storage services, it will be required to comply with the Standard. Accordingly, RH energytrans is directed to file revised tariff records to remove NAESB WGQ Version 3.1 Standard 0.4.1 from the section titled “Standards for which Waiver or Extension of Time to Comply have been granted.”¹⁷

2. Extensions of Time to Implement EDI and EDM Requirements

16. RH energytrans requests an extension of time to implement NAESB’s WGQ Version 3.1 Standards relating to various EDI¹⁸ and EDM¹⁹ requirements until such time as RH energytrans is requested by a Part 284, open access customer to provide such electronic data services. RH energytrans states that it does not anticipate that any foreseeable customer would seek to use the EDI/EDM communication protocols; thus, RH energytrans asserts that the implementation of those protocols would impose an unnecessary burden. Further, RH energytrans states that the Commission previously has granted an extension of time to comply with these Standards, and that it operates on the same basis that the Commission relied on when it previously granted extensions for

¹⁵ *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587-V, 140 FERC ¶ 61,036, at P 38 (2012) (Order No. 587-V).

¹⁶ Certificate Order, 165 FERC ¶ 61,218 at P 92.

¹⁷ RH energytrans’ proposed tariff record is otherwise in compliance with the currently effective NAESB standard as it included NAESB WGQ Version 3.1 Standard 0.4.1 in its tariff by listing Standard 0.4.1 in the standards incorporated by reference section.

¹⁸ EDI standards require computer-to-computer electronic data interchange of information in files as mapped from the NAESB WGQ datasets and communicated between trading partners over the Internet using the NAESB Internet Electronic Transport.

¹⁹ EDM standards relate to the use of the Internet for pertinent business practice and electronic communications.

compliance with these Standards.²⁰ For good cause shown, we grant RH energytrans an extension of time²¹ to comply with EDI/EDM transactions, as requested.²² The extensions of time are limited to the NAESB WGQ Version 3.1 Standards promulgated by Order No. 587-Y,²³ and will be in effect until a Part 284 customer requests RH energytrans to offer the EDI/EDM transactions or data via its website. Further, RH energytrans must be fully compliant with the NAESB WGQ Version 3.1 Standards as it relates to proprietary location codes.²⁴

3. Other Standards

17. While RH energytrans' compliance baseline tariff filing is largely compliant with the directives in Order No. 587-Y,²⁵ we require RH energytrans to file revised tariff records to:

- (1) Either list Standards 1.3.17 and 1.3.41 in the section titled "Standards Incorporated by Reference," or include the text of the Standards and properly identify their location in the tariff;

²⁰ RH energytrans transmittal at 4 (citing *Eastern Shore Natural Gas Co.*, 154 FERC ¶ 61,250, at P 57 (2016)).

²¹ RH energytrans is granted an extension of time until 90 days after it receives a request from a customer to utilize such datasets.

²² NAESB WGQ Version 3.1 Standards 2.4.1, 2.4.2, 2.4.6 through 2.4.11, 2.4.17, 2.4.18, 3.4.1 through 3.4.4, 5.4.20 through 5.4.23, and 5.4.27.

²³ See *B-R Pipeline Co.*, 128 FERC ¶ 61,126, at P 6 (2009) (each time the Commission adopts new versions of the Standards, a pipeline seeking to retain an existing waiver must request a waiver of the new Standards).

²⁴ See *Equitrans L.P.*, 153 FERC ¶ 61,320, at PP 9-13 (2015) (where the Commission explained that compliance with the requirements set forth in the Standards as they apply to the posting on a pipeline's Internet website of information on proprietary location codes does not require an interstate pipeline to incur substantial additional software upgrade costs, and enables the Commission and customers to continue to identify active interconnection points, referenced in their Form No. 549B, Index of Customers, through the website postings).

²⁵ Order No. 587-Y, 165 FERC ¶ 61,109.

(2) Change the incorrect reference of “GT&C Section 1.50” to “GT&C Section 1.35” in the section titled “Standards not Incorporated by Reference and their Location in Tariff;”

(3) Change the incorrect reference of “GT&C Section 1.49” to “GT&C Section 1.34” in the section titled “Standards not Incorporated by Reference and their Location in Tariff;” and

(4) Change the incorrect reference of “5.4.2” to “5.4.20” in the section titled “Standards for which Waiver or Extension of Time to Comply have been granted.”

RH energytrans must make this compliance filing within 20 days of the date of issuance of this order.

The Commission orders:

(A) RH energytrans’ referenced tariff records are hereby accepted, to be effective the later of September 1, 2019, or the date on which the facilities are placed into service, subject to it making a compliance filing within 20 days of the date of issuance of this order revising its tariff as discussed in the body of this order.

(B) RH energytrans’ requests for extensions of time are granted in part and denied in part, as discussed in the body of this order, and the extensions of time granted herein are limited to the NAESB WGQ Version 3.1 Standards promulgated by Order No. 587-Y.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

**RH energytrans, LLC
FERC NGA Gas Tariff
FERC NGA Gas Tariff**

*Tariff Records Accepted
Effective the later of September 1, 2019, or the date on which the facilities are placed
into service*

[Overview, Part I, Section 0: Cover Page, 0.0.0](#)
[Overview, Part I, Section 1: Table of Contents, 0.0.0](#)
[Overview, Part I, Section 2: Preliminary Statement, 0.0.0](#)
[Overview, Part I, Section 3: System Map, 0.0.0](#)
[Overview, Part I, Section 4: Points of Contact, 0.0.0](#)
[Statement of Rate, Part II, Section 1: Statement of Rates, 0.0.0](#)
[Rate Schedules, Part III, Section 1: Rate Schedule FTS, 0.0.0](#)
[Rate Schedules, Part III, Section 2: Rate Schedule ITS, 0.0.0](#)
[GT&C, Part IV, Section 0: Index, 0.0.0](#)
[GT&C, Part IV, Section 1: Definitions, 0.0.0](#)
[GT&C, Part IV, Section 2: Measurement, 0.0.0](#)
[GT&C, Part IV, Section 3: Quality, 0.0.0](#)
[GT&C, Part IV, Section 4: Requests for Services, 0.0.0](#)
[GT&C, Part IV, Section 5: Service Conditions, 0.0.0](#)
[GT&C, Part IV, Section 6: Nominations and Scheduling Procedures, 0.0.0](#)
[GT&C, Part IV, Section 7: Responsibility for Natural Gas, 0.0.0](#)
[GT&C, Part IV, Section 8: Operating Provisions, 0.0.0](#)
[GT&C, Part IV, Section 9: Capacity Release Program, 0.0.0](#)
[GT&C, Part IV, Section 10: Imbalance Management, 0.0.0](#)
[GT&C, Part IV, Section 11: System Operational Parameters, 0.0.0](#)
[GT&C, Part IV, Section 12: Billing and Payment, 0.0.0](#)
[GT&C, Part IV, Section 13: Fuel and Lost and Unaccounted For, 0.0.0](#)
[GT&C, Part IV, Section 14: Penalties, 0.0.0](#)
[GT&C, Part IV, Section 15: Reservation Charge Credits, 0.0.0](#)
[GT&C, Part IV, Section 16: Annual Charge Adjustment Surcharge, 0.0.0](#)
[GT&C, Part IV, Section 17: Waivers, 0.0.0](#)
[GT&C, Part IV, Section 18: Descriptive Headings, 0.0.0](#)
[GT&C, Part IV, Section 19: Transporter's Web Site, 0.0.0](#)
[Part IV, Section 20: Affiliate-Related Information, 0.0.0](#)
[GT&C, Part IV, Section 21: Adverse Claims to Natural Gas, 0.0.0](#)
[GT&C, Part IV, Section 22: Compliance w/ 18 C.F.R. Section 284.12, 0.0.0](#)
[GT&C, Part IV, Section 23: Taxes, 0.0.0](#)
[GT&C, Part IV, Section 24: Indemnification/Liability, 0.0.0](#)

**Appendix
Page 2 of 2**

[GT&C, Part IV, Section 25: Complaint Procedures, 0.0.0](#)

[GT&C, Part IV, Section 26: Incidental Purchases and Sales, 0.0.0](#)

[Service Agreement Forms, Part V, Section 1: FTS Service Agreement, 0.0.0](#)

[Service Agreement Forms, Part V, Section 2: ITS Service Agent, 0.0.0](#)