

170 FERC ¶ 61,172  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Panhandle Eastern Pipe Line Company, LP

Docket No. RP19-1523-000

ORDER ON TECHNICAL CONFERENCE

(Issued February 28, 2020)

1. On August 30, 2019, Panhandle Eastern Pipe Line Company, LP (Panhandle) filed revised tariff records pursuant to section 4 of the Natural Gas Act (NGA) to implement a general rate increase (August 2019 Filing). Panhandle also proposed several revisions to the terms and conditions under which it provides transportation service, including changes to the General Terms and Conditions (GT&C) of its tariff including changes to certain rate schedules. On September 30, 2019, the Commission accepted and suspended the tariff records to be effective March 1, 2020, subject to refund and the outcome of a hearing on the rate issues and a technical conference on the non-rate tariff proposals.<sup>1</sup> This order addresses the issues set for technical conference. As discussed below, we accept in part and reject in part Panhandle's proposals.

**I. Background**

2. On January 16, 2019, pursuant to section 5 of the NGA, the Commission initiated an investigation, in Docket No. RP19-78-000, et al. (Section 5 Proceeding), to determine whether Panhandle's rates are just and reasonable, based on Panhandle's FERC Form No. 501-G filing.<sup>2</sup> On September 4, 2019, subsequent to submitting its August 2019 Filing, Panhandle filed a motion to terminate its Section 5 Proceeding and consolidate a contract issue with its August 2019 Filing. In the September 2019 Order, the Commission accepted and suspended certain tariff records to be effective March 1, 2020, subject to refund, the outcome of a hearing on all the rate issues, and a technical conference on the remaining non-rate tariff issues, and rejected one tariff proposal. In

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<sup>1</sup> *Panhandle Eastern Pipe Line Co., LP*, 168 FERC ¶ 61,208 (2019) (September 2019 Order).

<sup>2</sup> *Panhandle Eastern Pipe Line Co., LP*, 166 FERC ¶ 61,032 (2019).

addition, the Commission denied Panhandle's motion to terminate its Section 5 Proceeding and granted its motion to consolidate the Southwest Gas Storage Company contract issue in Docket No. RP19-257-005 with its August 2019 Filing.

3. A technical conference was held on October 30, 2019. Initial comments were due by November 26, 2019, with reply comments due by December 10, 2019. On November 12, 2019, Panhandle filed a supplemental filing (Supplemental Filing) in response to discussions at the technical conference, which included further information on certain proposed tariff changes and any associated *pro forma* tariff records.

4. On November 26, 2019, PCS Nitrogen Fertilizer, L.P. (PCS Nitrogen), Panhandle, Union Electric Company d/b/a Ameren Missouri (Ameren Missouri) and Ameren Illinois Company (Ameren Illinois) (together, Ameren Companies), Montpelier Generating Station LLC (Montpelier),<sup>3</sup> Sequent Energy Management, L.P. (Sequent), and the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis d/b/a Citizens Energy Group (Citizens Gas) filed initial comments. On December 10, 2019, Sequent, Ameren Companies, Direct Energy Business Marketing, LLC (Direct Energy), and Panhandle filed reply comments.

## II. Discussion

5. Panhandle's non-rate related proposals in the August 2019 Filing and the corresponding comments on the technical conference address the (1) cancellation of various transportation and storage services; (2) addition of a new provision for enhanced interruptible transportation service; (3) addition/renaming of certain definitions; (4) elimination of the current special rate for limited backhaul service; (5) changes to the contracting process; (6) modifications regarding the economic value of a request for service; (7) new provisions for contracting for future capacity; (8) modifications to scheduling parameters; (9) a new provision for deduct meters; (10) clarification of rights and obligations of a replacement shipper; (11) addition of new provisions for fuel reimbursement adjustments; (12) a new section for creditworthiness; and (13) addition of a new interruptible storage service, revised rate schedules to change reservation rates from monthly to daily, and minor modifications.

6. As discussed in more detail below, we (1) accept the cancellation of various transportation and storage services; (2) accept the new provision for enhanced interruptible transportation service; (3) acknowledge the withdrawal of Panhandle's addition/renaming of certain definitions; (4) accept the elimination of the current special rate for limited backhaul service; (5) accept the changes to the contracting process;

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<sup>3</sup> Montpelier is not a party to this proceeding. On December 18, 2019, the Presiding Administrative Law Judge denied Montpelier's out-of-time motion to intervene.

(6) accept the modifications regarding the economic value of a request for service; (7) accept and modify the new provisions for contracting for future capacity; (8) accept the modifications to scheduling parameters; (9) accept the new provision for deduct meters; (10) reject the clarification of rights and obligations of a replacement shipper; (11) reject the addition of new provisions for fuel reimbursement adjustments and accept the addition of miscellaneous fuel usage; (12) accept the new section for creditworthiness; and (13) accept the addition of a new interruptible storage service, accept the revision of rate schedules to change from monthly to daily reservation rates, and accept the minor modifications.

**A. Cancellation of Various Transportation and Storage Services**

**1. Proposed Tariff Provision**

7. Panhandle proposes to eliminate three rate schedules: (1) Hourly Firm Transportation Service (HFT); (2) Peaking Storage Service (PS); and (3) Interruptible Winter Storage Service (IWS), which have no existing contracts for service.<sup>4</sup> Panhandle states that Rate Schedule HFT has had no executed contracts since Commission acceptance of this rate schedule in May 2000, Rate Schedule PS has had no executed contract since its inception, and Rate Schedule IWS has had no service agreements in effect since March 2005.<sup>5</sup> Additionally, Panhandle proposes to eliminate the Winter Storage Service (WS) Rate Schedule. Panhandle asserts that there have been only two contracts under Rate Schedule WS that have been in effect since 1993, and no additional contracts have been executed. Panhandle states that it plans to convert the two existing Rate Schedule WS contracts to the Flexible Storage Service (FS) Rate Schedule. Panhandle states that Rate Schedule FS includes requirements similar to those in Rate Schedule WS and provides more flexibility to shippers.<sup>6</sup>

**2. Initial Comments**

8. Panhandle restates that there are no active contracts for Rate Schedules HFT, PS, and IWS and that there has been only limited interest in Rate Schedule WS.<sup>7</sup> Panhandle

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<sup>4</sup> August 2019 Filing, Ex. PE-0012 at 5.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Panhandle Initial Comments ¶¶ 6-7.

reiterates that it intends for the conversions of the two contracts from Rate Schedule WS to Rate Schedule FS to be seamless.<sup>8</sup>

9. In its comments, Citizens Gas states that it is one of two customers that take storage service under Panhandle's Rate Schedule WS.<sup>9</sup> Although Citizens Gas notes that Panhandle has confirmed that Rate Schedule WS shippers with discounted rates would continue to be subject to the same rates after Rate Schedule WS is cancelled, and that service migrated to Rate Schedule FS will be at existing contract parameters and rates, Citizens Gas requests that the Commission accept the termination of Rate Schedule WS subject to the condition that the Rate Schedule WS service may not be cancelled until new service agreements, including new discounted rate agreements, are executed with the customers converting to Rate Schedule WS to preserve their existing service parameters and also the previously bargained-for rates.<sup>10</sup>

### **3. Reply Comments**

10. In its reply comments, Panhandle reaffirms that the conversion of the Rate Schedule WS service agreements to Rate Schedule FS service agreements will not change any terms or conditions of service provided under each Rate Schedule WS shipper's existing service agreement, including any applicable discounted rate charged. Panhandle states that it will honor the rate in Citizens Gas's Rate Schedule WS service agreement to the end of the term of Citizens Gas's new Rate Schedule FS service agreement.<sup>11</sup>

### **4. Commission Determination**

11. We accept Panhandle's proposal to eliminate Rate Schedules HFT, PS, IWS, and WS. We find it reasonable to eliminate Rate Schedules HFT, PS, and IWS because none of them have currently effective contracts; therefore, no existing shippers will be negatively impacted. Additionally, we find it reasonable to eliminate Rate Schedule WS. Panhandle has adequately addressed Citizens Gas's concerns regarding the conversion of Rate Schedule WS service agreements to Rate Schedule FS service agreements.

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<sup>8</sup> *Id.* ¶ 8.

<sup>9</sup> Citizens Gas Initial Comments at 2.

<sup>10</sup> *Id.* at 2-3.

<sup>11</sup> Panhandle Reply Comments ¶ 2.

**B. New Provision for Enhanced Interruptible Transportation Service****1. Proposed Tariff Provision**

12. Panhandle proposes to add section 3.5, Takes in Excess of Permissible Hourly Deliveries, to Rate Schedule EIT. Proposed Rate Schedule EIT section 3.5 states:

If, pursuant to [s]ection 5 hereof, Shipper has been notified that it must limit takes to one-sixteenth of the Quantities nominated and scheduled for delivery at the Point(s) of Delivery, Shipper must use its best efforts to limit its takes to one-sixteenth of the Quantities nominated and scheduled for delivery at the Point(s) of Delivery as soon as possible, but in no event later than two hours following notification. If, after such two hours, the Shipper's takes exceed such hourly limitation for any hour during the next twenty-four hour period, Shipper shall pay the hourly charges as set forth in [s]ection 12.11(g) of the General Terms and Conditions.

If shippers violate the proposed provision, Panhandle proposes to penalize them according to GT&C Section 12.11(g) of its existing tariff, which states:

If a Shipper under Rate Schedule EFT, EIT, SCT, GDS or LFT, is duly notified by Panhandle to limit hourly deliveries to one-sixteenth of the Quantity scheduled for delivery on that Day and continues to take more Gas at the Point(s) of Delivery than the amount allowed, Shipper shall pay \$10 per Dt. or two times the Mid-Continent Spot Price calculated in accordance with [s]ection 12.11(c), whichever is greater, for the excess hourly deliveries in addition to all other applicable charges.

13. Panhandle states that currently Rate Schedule EIT only refers to excess permissible hourly deliveries during an Operational Flow Order (OFO) situation. Panhandles states that its proposed language in Rate Schedule EIT section 3.5 identifies the parameters during a non-OFO situation and the GT&C reference for the penalty charge that would be incurred.<sup>12</sup> Panhandle asserts that this proposal is consistent with the language recently approved by the Commission for its Rate Schedules EFT, LFT, and SCT. Panhandle also proposes to revise its existing Rate Schedule EIT section 3.6, including to change the section title to "Unauthorized Overrun Penalty for Takes During an OFO" and deleting the phrase "an Overrun Penalty" and replacing it with "the hourly charges." In addition, in its Supplemental Filing, Panhandle states that it agrees to revise the proposed language in the last sentence of section 3.6 of Rate Schedule EIT by removing "hourly charges" and adding "Unauthorized Overrun Penalty." Panhandle filed

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<sup>12</sup> August 2019 Filing, Ex. PE-0012 at 7.

the correction as *pro forma* tariff records included in Attachment A in its Supplemental Filing.<sup>13</sup>

## 2. Initial Comments

14. Panhandles states that proposed section 3.5 in Rate Schedule EIT restates an existing provision from Rate Schedule EFT in GT&C Section 12.11(g), which states that a shipper under Rate Schedule EIT can be charged for takes in excess of permissible hourly deliveries during non-OFO situations after the shipper has been given a two hour notice to limit its hourly deliveries to 1/16th of the quantity scheduled for delivery on a given gas day.<sup>14</sup> Panhandle points out that the proposed provision for its interruptible service does not restrict a shipper's contractual rights and only applies when a shipper exceeds its allowed hourly flow rate and has a detrimental effect on Panhandle's operations.<sup>15</sup> Panhandle states that if its system experiences extreme conditions, then notice under the proposed provision is the first step to get the system back in balance; the proposal is a tool to avoid issuing an OFO, which has a higher penalty rate.<sup>16</sup>

15. Sequent opposes this revision for several reasons. First, Sequent states that section 284.12(b)(2)(v) of the Commission's regulations states that "[a] pipeline may include in its tariff transportation penalties only to the extent necessary to prevent the impairment of reliable service."<sup>17</sup> Sequent therefore argues that the Commission should reject the new provision in its entirety because Panhandle has failed provide an operational predicate for this new penalty charge.

16. Second, Sequent states that the proposal is not limited to non-OFO conditions and asserts that Panhandle could impose both this Rate Schedule EIT section 3.5 hourly-take penalty and the Rate Schedule EIT section 3.6 unauthorized overrun penalty on the same volume of gas, thus violating the Commission's prohibition on penalty stacking.<sup>18</sup>

17. Third, Sequent argues that the proposed hourly penalty charge in GT&C Section 12.11(g) of "\$10 per Dt. or two times the Mid-Continent Spot Price" is

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<sup>13</sup> Panhandle Supplemental Filing at 1.

<sup>14</sup> Panhandle Initial Comments ¶ 12.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Sequent Initial Comments at 4 (citing 18 CFR § 284.12(b)(2)(v)(2019)).

<sup>18</sup> *Id.*

excessive and unlawful.<sup>19</sup> Sequent states that Commission policy only permits pipelines to impose hourly scheduling variance charges during non-critical times, if at all, only on a nominal basis, and restricts the penalty to an amount not exceeding one times the applicable recourse rate for interruptible transportation service.<sup>20</sup>

18. Finally, Sequent states that the proposed charge is unreasonable in that it lacks a proper notification process. Sequent requests that to the extent the Commission does not reject the proposed Rate Schedule EIT section 3.5 altogether, the Commission should at a minimum require Panhandle to provide one business day's advance notice of the imposition of hourly charges during non-OFO events, and require that such notification be delivered both to the shipper's OFO contact and to the point operator's OFO contact, consistent with notification procedures set forth in GT&C Section 12.17(a) of Panhandle's current tariff.<sup>21</sup>

19. Montpelier argues that as an electric generation facility interconnected with the Panhandle system, it could potentially face scenarios where it would have to pay the penalty to Panhandle or face a non-performance charge for failure to meet its energy delivery obligations.<sup>22</sup> Montpelier also notes that if Panhandle were to provide short notice of the hourly limit, then it would not have sufficient time to adjust nominations to match the daily scheduled quantity to Montpelier's hourly needs to comply with Montpelier's obligations. Montpelier states that if Panhandle were to provide at least 24-hours' notice, particularly in non-critical situations, then shippers would at least have the opportunity to better match daily scheduled quantities to hourly needs and generators could offer units into the PJM markets with appropriate expectations.<sup>23</sup> Finally, Montpelier argues that Panhandle has not provided a reason for why it would need to impose an hourly delivery limitation on a shipper on an expedited basis where there is not an emergency situation on Panhandle's system, nor does the proposed tariff language require Panhandle to provide a reason for imposing the hourly delivery limitation during a non-critical period.<sup>24</sup>

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.* (citing *El Paso Natural Gas Co.*, 139 FERC ¶ 61,096, at P 83 (2012)).

<sup>21</sup> *Id.* at 5.

<sup>22</sup> Montpelier Initial Comments at 5-6.

<sup>23</sup> *Id.* at 6.

<sup>24</sup> *Id.* at 6-7.

### 3. Reply Comments

20. In its reply comments, Panhandle states that its proposal to charge the penalty contained in GT&C Section 12.11(g) does not constitute a new penalty charge. Panhandle states that this penalty is currently in effect for Panhandle's services under Rate Schedule EIT as well as Rate Schedules EFT, SCT, GDS and LFT.<sup>25</sup> Panhandle states that the only difference between its proposal and the currently effective language of its tariff is that its proposal modifies the amount of notice to be provided by Panhandle before it invokes the currently existing penalty charge in GT&C Section 12.11(g). Panhandle asserts that in objecting to its penalty, Sequent is attacking its existing tariff provision, which is not at issue because no change has been proposed for the penalty provision. Panhandle also asserts that Sequent's claim that there is no operational predicate for this provision is misguided. Panhandle states that Sequent ignores the fact that Rate Schedule EIT already provides that Panhandle shall be entitled to require a shipper to restrict takes at any point during any hour to 1/16th of the gas nominated on that day by notifying the shipper, and that the penalty charge already exists in the currently effective tariff provision.<sup>26</sup> Therefore, Panhandle argues that the "operational predicate" has already been established.

21. Further, Panhandle asserts that this penalty is applicable only if Panhandle experiences extreme operational conditions on its system. Panhandle argues that the penalty is a necessary tool to get the system back in balance before the issuance of an OFO and the accompanying higher penalty rate.<sup>27</sup>

22. Panhandle states that the penalty charges under sections 3.5 and 3.6 of Rate Schedule EIT are different charges and will not result in "penalty stacking."<sup>28</sup> Panhandle explains that the penalty charge under GT&C Section 12.11(g) is a penalty charge for takes in excess of the maximum hourly rate during non-OFO situations while unauthorized overrun penalties under section 3.6 are for daily overruns during an OFO situation. Therefore, Panhandle states that both penalty charges cannot be stacked. Panhandle asserts that both penalties have been accepted by the Commission and that

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<sup>25</sup> Panhandle Reply Comments ¶ 3.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* ¶ 6.



Sequent's new claim that the penalty charge is "excessive and unlawful" fails to recognize this.<sup>29</sup>

23. Panhandle also states that Sequent's concerns about the notification process for the Rate Schedule EIT restrictions are without merit. Panhandle states that its newly proposed section 3.5 of its Rate Schedule specifically refers to section 5 of its Rate Schedule, which states that Panhandle will provide notice "by notifying Shipper via the Messenger system, the Web Site, telephone or electronic communication."<sup>30</sup> Lastly, Panhandle objects to Sequent's request for at least one business day's advance notice because it would not allow for timely action and is therefore unreasonable.<sup>31</sup>

24. Ameren Companies state that the Commission should accept Panhandle's proposal. Ameren Companies note that the provision gives Panhandle a tool to balance the system without issuing an OFO.<sup>32</sup> Ameren Companies disagree with Sequent's and Montpelier's comments and state that Sequent and Montpelier offer no reason for exempting Rate Schedule EIT from this system integrity measure that is already in place in other rate schedules. Ameren Companies point out that Rate Schedule EIT is an interruptible transportation service with lower priority than firm rate schedules like Rate Schedule EFT. Ameren Companies argue that imposing this hourly take restriction on firm shippers while exempting interruptible shippers would place a disproportionate burden on firm shippers to manage their deliveries in a way that preserves system integrity. Ameren Companies further argue that this would also be contrary to Panhandle's scheduling priority, which gives higher priority to firm service.<sup>33</sup>

#### **4. Commission Determination**

25. We accept Panhandle's proposed changes to Rate Schedule EIT. The proposed language for section 3.5 of Rate Schedule EIT already exists in GT&C Section 12.11(g) of Panhandle's tariff as well as in other rate schedules, including the firm version (Rate Schedule EFT) of Rate Schedule EIT. In fact, Panhandle has maintained the existing penalty applicable to Rate Schedule EIT in accordance with an existing tariff provision, GT&C Section 12.11(g). With its proposal, Panhandle is only modifying the notice period it must provide before invoking the penalty. Moreover, as the language mirrors an

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<sup>29</sup> *Id.*

<sup>30</sup> *Id.* ¶ 7.

<sup>31</sup> *Id.*

<sup>32</sup> Ameren Companies Reply Comments at 8.

<sup>33</sup> *Id.*

existing provision in Rate Schedule EFT, there is no reason to exempt Rate Schedule EIT shippers from an hourly takes penalty that is already applicable to their firm counterparts. By adding this language to Rate Schedule EIT, Panhandle attempts to clarify that this penalty is relevant during non-OFO situations after notification and that Rate Schedule EIT shippers are subject to the same measures already in place in other rate schedules. Therefore, this is not a new penalty and Sequent's comments that it does not comply with Commission regulations are misplaced.

26. Furthermore, although Sequent argues that this penalty is excessive for a scheduling penalty, we note that section 3.5 of Rate Schedule EIT is an imbalance penalty charge that only applies when shippers are notified to limit takes *after* quantities have been nominated and scheduled. The Commission allows pipelines to charge penalties to the extent necessary to prevent the impairment of reliable service and also requires pipelines to provide shippers on a timely basis with as much information as possible about the imbalance and overrun status of each shipper and the imbalance of the pipeline's system.<sup>34</sup> If Panhandle faces system integrity issues and needs shippers to limit deliveries following the nomination and scheduling processes, then Panhandle must have measures in place to enforce those limits. Panhandle asserts that this provision is a necessary tool to help avoid the issuance of an OFO, which has a higher penalty rate and would have a further detrimental effect on both Panhandle and its shippers.

27. Sequent's and Montpelier's request for one business day's notification of this penalty is impossible given that the provision describes a situation in which shippers are notified to limit hourly takes following nominations and scheduling. It is not practical to require one business day's notification of a penalty for which the purpose is the correction of hourly take imbalances on the pipeline. The provision as written in Rate Schedule EIT section 3.5 and elsewhere in other rate schedules clearly states that shippers must limit their takes to 1/16th of nominated and scheduled quantities "no event later than two hours following notification," giving shippers a set amount of time to abide by those requirements. Regarding Sequent's concerns about the notification process of hourly take limits, the provision as written in Rate Schedule EIT and elsewhere in other rate schedules refers to subsection 5, which provides the communication methods that Panhandle will use to notify shippers.

28. Accordingly, we do not find this existing penalty, or the identical penalty found in existing Rate Schedule EFT, to be excessive or inconsistent with our policies and decline to take any further action.

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<sup>34</sup> 18 C.F.R. § 284.12 (b)(2)(v).

## C. Addition/Renaming for Certain Definitions

### 1. Proposed Tariff Revision

29. Panhandle proposes to add two definitions to set forth the parameters of what constitutes forwardhaul and backhaul transportation transactions in GT&C Section 1.<sup>35</sup> Panhandle states that these definitions are consistent with the Commission-accepted definitions found in the Trunkline Gas Company, LLC (Trunkline) and Florida Gas Transmission Company, LLC (Florida Gas) tariffs.<sup>36</sup>

30. In its Supplemental Filing following the technical conference, Panhandle states that it will remove the proposed forwardhaul and backhaul definitions.<sup>37</sup>

### 2. Initial Comments

31. Ameren Companies note that while Panhandle has decided to withdraw its proposed backhaul and forwardhaul definitions, Panhandle agreed during the technical conference to provide data in the Supplemental Filing on how its flow patterns would be impacted by changes. Ameren Companies believe that Panhandle should still be required to provide information on system flow patterns to its shippers because it would be helpful for understanding other provisions found in the tariff.<sup>38</sup>

### 3. Reply Comments

32. In response to Ameren Companies' comments, Panhandle states that because it has withdrawn its proposed tariff provision regarding these definitions, the issue is moot and providing such flow data is unnecessary.<sup>39</sup>

### 4. Commission Determination

33. Panhandle states that in its Supplemental Filing, it has withdrawn its proposal to revise its forwardhaul and backhaul definitions. Accordingly, because there is no

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<sup>35</sup> August 2019 Filing, Ex. PE-0012 at 8.

<sup>36</sup> *Id.*

<sup>37</sup> Panhandle Supplemental Filing at 2.

<sup>38</sup> Ameren Initial Comments at 3.

<sup>39</sup> Panhandle Reply Comments at 2.

proposal before us, we decline Ameren Companies' request to direct Panhandle to provide flow data to its shippers.

**D. Elimination of Special Rate for Limited Backhaul Service Rate**

**1. Proposed Tariff Provision**

34. Panhandle proposes to eliminate a rate for a limited class of backhaul service in section 3.3 of Rate Schedules FT, EFT, SCT, LFT, IT, and EIT along with any references throughout the tariff.<sup>40</sup> Panhandle states that with the changes in flow patterns on its system, this rate provides a discount-type service that cannot be justified based on the miles of haul which it represents.<sup>41</sup>

**2. Initial Comments**

35. Panhandle states that the rate it proposes to eliminate applies only to volumes of gas received at or east of Tuscola, Illinois for redelivery at or west of the Haven, Kansas compressor station, as set forth in section 3.3 of Rate Schedules FT, EFT, SCT and LFT.<sup>42</sup> Panhandle states that the change will not have a negative impact on shippers because the volumes currently subject to this backhaul rate are minimal.<sup>43</sup> Furthermore, Panhandle asserts that this rate for limited backhaul service that can be no longer provided as a backhaul is being subsidized by firm shippers that are not using this service.<sup>44</sup>

36. Ameren Companies argue that Panhandle has provided limited information to explain its tariff change.<sup>45</sup> Ameren Companies state that shippers need additional information on Panhandle's new flow patterns in order to properly evaluate the impact on Panhandle's backhaul services and request that the Commission set the issue for hearing to allow further development of a factual record.<sup>46</sup>

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<sup>40</sup> August 2019 Filing, Ex. PE-0012 at 7.

<sup>41</sup> *Id.*

<sup>42</sup> Panhandle Initial Comments ¶ 16.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* ¶ 17.

<sup>45</sup> Ameren Companies Initial Comments at 10.

<sup>46</sup> *Id.*

### 3. Reply Comments

37. Panhandle states that Ameren Companies did not take a position on this proposal and instead only argue that this matter should be set for hearing because they need additional information on Panhandle's new flow patterns in order to properly evaluate the impact of this proposal on Panhandle's backhaul services.<sup>47</sup> Panhandle states that it provided sufficient flow information at the technical conference.<sup>48</sup> Panhandle reiterates that due to new flow patterns on the Panhandle system, gas now physically moves from east to west for a substantial portion of Panhandle's system located east of Tuscola, Illinois, and thus this service is no longer backhaul.<sup>49</sup> Furthermore, Panhandle argues that the shippers that have used this backhaul service did not object to the elimination of this rate.<sup>50</sup> Lastly, Panhandle states that the elimination of this rate for a backhaul service that is no longer a backhaul will eliminate any possible subsidy by firm shippers that do not use this service.<sup>51</sup>

### 4. Commission Determination

38. We accept Panhandle's proposed elimination of a special rate for a limited class of backhaul service in section 3.3 of Rate Schedules FT, EFT, SCT, LFT, IT, and EIT.<sup>52</sup> Panhandle states that its system flow patterns have changed and now the rate for limited backhaul service is no longer a backhaul service and is being subsidized by firm shippers that do not use the service. We find that Panhandle has adequately set forth its reasoning and the state of its system to support the elimination of this special backhaul rate. To the extent that the elimination of this rate for these services causes any cost allocation issue, that matter may be examined at the hearing established in this proceeding.

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<sup>47</sup> Panhandle Reply Comments ¶ 9.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* ¶ 10.

<sup>50</sup> *Id.* ¶ 11.

<sup>51</sup> *Id.*

<sup>52</sup> We note that Panhandle has inconsistently described its proposal. Panhandle's testimony states that it is proposing to eliminate the special rate for a limited class of backhaul service in section 3.3 of Rate Schedules FT, EFT, SCT, LFT, IT, and EIT. In its initial and reply comments, Panhandle states it is only revising Rate Schedules FT, EFT, SCT, and LFT. However, we note that Panhandle has made tariff revisions to eliminate section 3.3 of Rate Schedules FT, EFT, SCT, LFT, and EIT.

## **E. Changes to Contracting Process**

### **1. Proposed Tariff Provision**

39. In GT&C Sections 6.7 and 7.1(c) of its tariff, Panhandle proposes to revise the time period within which a shipper must execute and return a tendered service agreement from 30 days to 15 days, providing that Panhandle and shippers may agree to extend the deadline.<sup>53</sup> Panhandle also proposes to eliminate the language in GT&C Section 7.1(c) that requires Panhandle to tender a service agreement within 30 days once capacity becomes available.<sup>54</sup> Panhandle states that the modification to shorten the time period for a shipper to tender a service agreement is intended to enhance Panhandle's contracting process and complete sales of capacity in a more expeditious manner.<sup>55</sup> Furthermore, Panhandle states that the proposal to eliminate the 30-day requirement for Panhandle to tender a service agreement once capacity becomes available will provide a more efficient contracting process.<sup>56</sup>

### **2. Initial Comments**

40. Panhandle notes that during the technical conference, certain shippers requested that the proposed timeframe be changed from 15 calendar days to 15 business days.<sup>57</sup> However, Panhandle explains that the Commission has previously approved a 15 calendar day timeframe for returning executed service agreements.<sup>58</sup> Panhandle also states that a 15 calendar day period should be sufficient given that its tariff already has

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<sup>53</sup> August 2019 Filing, Ex. PE-0012 at 8.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 8-9.

<sup>56</sup> *Id.* at 9.

<sup>57</sup> Panhandle Initial Comments ¶ 18.

<sup>58</sup> *Id.* ¶ 18 & n.7 (citing *Tennessee Gas Pipeline Co.*, 76 FERC ¶ 61,101, at 61,524 (1996) (Commission found that a 15 calendar day requirement for a shipper to return an executed contract is reasonable, citing to its approval of a 10 calendar day turnaround time in Docket No. RP96-184-000); *Natural Gas Pipeline Corp. of Am.*, Docket No. RP96-184-000 (Apr. 19, 1996) (delegated order); *Southern Natural Gas Co.*, 92 FERC ¶ 61,265, at 61,880 (2000) (Commission approved shortening the time to 15 calendar days (or 10 calendar days) to return an executed contract); *Gas Transmission Northwest, LLC*, 148 FERC ¶ 61,216 (2014) (Commission approved a tariff change from 30 days to 15 calendar days to return an executed contract)).

*pro forma* service agreements setting out all the terms and conditions, which leaves nothing left to negotiate at the time a service agreement is tendered for execution. However, Panhandle acknowledges that some shippers may need more time to arrange for execution of a service agreement and proposes that a shipper and Panhandle may extend the 15-day deadline upon mutual agreement.<sup>59</sup>

### 3. Commission Determination

41. We accept Panhandle's proposal to modify GT&C Sections 6.7 and 7.1(c) in order to shorten the timeframe within which a shipper must execute and return a tendered service agreement from 30 calendar days to 15 calendar days, provided that Panhandle and a shipper may mutually agree to extend the deadline. We also accept Panhandle's proposal to eliminate the language in GT&C Section 7.1(c) that requires Panhandle to tender a service agreement within 30 days once capacity becomes available. The Commission has previously found that 15 days is a reasonable time period for a shipper to return an executed contract,<sup>60</sup> and if mutually agreeable, Panhandle and the shipper have the ability to extend the deadline.

## F. Modifications Regarding the Economic Value of a Request for Service

### 1. Proposed Tariff Provision

42. Panhandle proposes to modify GT&C Section 7.1(b) in order to determine the economic value of a request for service based on the net present value (NPV), which may be calculated on a per dekatherm (Dth) basis or on an aggregate basis, as stated in the open season notice.<sup>61</sup> Panhandle claims that the Commission has accepted such a definition of NPV in the tariffs of Gulf South Pipeline Company, LLC (Gulf South) and Texas Gas Transmission, LLC.<sup>62</sup> Panhandle states that utilizing an NPV calculation recognizes the time value of money over the term of the contract, and calculating the

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<sup>59</sup> Panhandle Initial Comments ¶ 18.

<sup>60</sup> See *Southern Natural Gas Co.*, 92 FERC ¶ 61,265, at 61,880 (Commission stated that industry practice ranges from 30 to 10 days and approved shortening the time from 30 to 15 days); *Tennessee Gas Pipeline Co.*, 76 FERC ¶ 61,101, at 61,524 (1996) (Commission found that a 15-day requirement for a shipper to return an executed contract is reasonable).

<sup>61</sup> August 2019 Filing, Ex. PE-0012 at 9.

<sup>62</sup> *Id.*

NPV on a per Dth basis also recognizes the value of a shipper's request per unit of pipeline capacity.<sup>63</sup>

43. Panhandle also proposes to change the annual discount factor used to determine the economic value of requests for service to be the prime interest rate in accordance with section 154.501(d) of the Commission's regulations as posted on the Commission's website.<sup>64</sup> According to Panhandle, the method in the current tariff uses an underlying rate of return applicable to a prior rate case, which is not readily apparent when the rate results from a black box settlement.<sup>65</sup>

44. As Panhandle notes in its Supplemental Filing, at the technical conference shippers expressed concern that an open season could straddle two posted interest rates and requested that the discount rate be specified in the open season posting.<sup>66</sup> In response, Panhandle agreed to modify GT&C Section 7.1(b) to specify that the interest rate will be the rate in effect on the first day of the open season posting and provided *pro forma* tariff records in Attachment A to the Supplemental Filing reflecting this modification.<sup>67</sup>

## 2. Initial Comments

45. Panhandle states that these changes will help ensure that the capacity is awarded to the customer who values it most, and that there are no negative impacts to customers because the methodology to be used will be set out in the open season notice.<sup>68</sup>

## 3. Commission Determination

46. We accept Panhandle's proposal to modify GT&C Section 7.1(b) regarding the calculation of the economic value of a request for service, as modified by Panhandle in its Supplemental Filing, to specify that the interest rate will be the rate in effect on the first day of the open season posting. We find that Panhandle has adequately addressed its shippers' concerns regarding potentially conflicting prime interest rates that Panhandle

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<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.* at 9-10.

<sup>66</sup> Panhandle Supplemental Filing at 2.

<sup>67</sup> *Id.*

<sup>68</sup> Panhandle Initial Comments ¶ 19.



would use if an open season were to straddle two posted interest rates. Moreover, we find that Panhandle's proposal is consistent with Commission policy and we therefore accept the proposed language.<sup>69</sup> Panhandle is directed to file actual tariff sheets reflecting this language within 15 days of the issuance this order.

## **G. New Provisions for Contracting for Future Capacity**

### **1. Proposed Tariff Provision**

47. Panhandle proposes new tariff provisions under GT&C Section 7.1 (d)-(i) pertaining to contracting for future capacity. GT&C Section 7.1(d) describes situations in which requests for future service may be accepted and processed. Panhandle states that the Commission has recognized that prospective shippers need assurance that they can obtain future capacity on the pipeline.<sup>70</sup> GT&C Section 7.1(e) addresses posting of certain future capacity prior to an open season. GT&C Section 7.1(f) outlines the procedures for conducting an open season whether for immediate or future capacity and also describes the procedures for submitting, evaluating and awarding the bids received from the open season posting.<sup>71</sup> GT&C Section 7.1(h) states that when future capacity is awarded or capacity is reserved, such capacity is available on an interim basis up to the commencement date of the service agreement of the awarded capacity, as required by the Commission.<sup>72</sup> Panhandles states that it reserves the right to limit the shipper's extension rights, including right of first refusal (ROFR), within the interim service agreement. Panhandle states the Commission has granted waiver of ROFR rights on interim sales of capacity in cases of reserved capacity and future sales of capacity awarded to bidders in an open season based on the highest NPV.<sup>73</sup> GT&C Section 7.1(g) addresses the open season process when Panhandle negotiates with a prospective shipper for service to commence at some time in the future. GT&C Section 7.1(i) states that Panhandle may reserve capacity for a future expansion project for which an open season has been or will

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<sup>69</sup> See *Gulf South Pipeline Co., LP*, Docket No. RP11-2178-000 (June 30, 2011) (delegated order); *Texas Gas Transmission, LLC*, Docket No. RP10-366-000 (Mar. 2, 2010) (delegated order).

<sup>70</sup> August 2019 Filing, Ex. PE-0012 at 10 (citing *Gulf South Pipeline Co., LP*, 161 FERC ¶ 61,274 (2017) (*Gulf South*)).

<sup>71</sup> *Id.* at 10-11.

<sup>72</sup> *Id.* at 11 (citing *Gulf South Pipeline Co., LP*, 135 FERC ¶ 61,119, at n.19 (2011)).

<sup>73</sup> *Id.* (citing *Gulf South*, 161 FERC ¶ 61,274).

be held for up to 12 months prior to Panhandle filing for certificate approval of the proposed expansion project.<sup>74</sup>

48. In its Supplemental Filing, Panhandle proposes to revise GT&C Section 7.1(e) such that Panhandle will post future capacity five business days prior to commencement of an open season.<sup>75</sup> Panhandle states that shippers requested that such capacity be posted for five business days, and Panhandle agreed to make this change. Panhandle states that shippers requested that Panhandle add a provision in GT&C Section 7.1(f) to post the name of the winning bidder(s) and the methodology to determine the winning bid(s) immediately after the conclusion of the open season.<sup>76</sup> Panhandle states that the methodology shall be NPV, as further specified in the open season posting, and agrees to add a provision to post the winning bidder(s). Panhandle's revisions are shown in the *pro forma* tariff records in Attachment A of its Supplemental Filing.

## 2. Initial Comments

49. Panhandle reiterates the proposed revisions to its tariff provisions as stated in its Supplemental Filing pertaining to contracting for future capacity. Additionally, Panhandle proposes to add subsection titles to GT&C Section 7.1 in order to clarify the purpose and content of each subsection.<sup>77</sup> Panhandle submitted new *pro forma* tariff records showing all of its proposed revisions in Attachment A of its initial comments.

50. Ameren Companies state that Panhandle agreed to add GT&C Section 7.1(f) requiring the pipeline to post the name of the winning bidder(s) following an open season but declined to post the winning bid or the methodology employed. Ameren Companies argue that Panhandle should be required to post not only the identity of the winner(s), but the winning bid(s) and the methodology Panhandle employed to calculate the winner.<sup>78</sup> Ameren Companies state that the Commission has recognized the pipeline's "obligation to present in an open, understandable, and transparent manner all bidding criteria and evaluation methodologies," and required the pipeline to post the winning bid and NPV

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<sup>74</sup> *Id.* at 11.

<sup>75</sup> Panhandle Supplemental Filing at 2.

<sup>76</sup> *Id.*

<sup>77</sup> Panhandle Initial Comments ¶ 21.

<sup>78</sup> Ameren Companies Initial Comments at 8.

analysis.<sup>79</sup> Furthermore, Ameren Companies state that posting the winning bid and associated calculation will prevent potential discrimination in the open season and provide that “a check on the NPV analysis was actually performed.”<sup>80</sup>

### 3. Reply Comments

51. In response to Ameren Companies’ comments, Panhandle notes that the Commission required such information in *Northern Border II* because the pipeline had already agreed in an earlier proceeding on a related tariff provision to provide such information, and therefore it was consistent to have such a requirement for future sales of capacity.<sup>81</sup> Panhandle argues that the Commission did not find in *Northern Border II* that all pipeline tariff proposals addressing future capacity would need to post a required list of information in order to be considered just and reasonable.<sup>82</sup>

### 4. Commission Determination

52. We find Panhandle’s proposal to revise GT&C Sections 7.1(d)-(i) reasonable. Panhandle has proposed just and reasonable terms for posting, awarding, and reserving future capacity as well as limiting extension rights within interim service agreements that are consistent with Commission precedent.<sup>83</sup> However, as discussed below, we direct Panhandle to revise GT&C Section 7.1(f).

53. In *Northern Border I*, the Commission stated that, in response to the concerns raised and to ensure transparency, the pipeline was directed to post the identity of the winning bidder(s) and bid(s) as well as the NPV analysis used to determine the successful bidder(s).<sup>84</sup> The Commission approved modifications to Northern Border’s auction procedures to incorporate a NPV bid evaluation methodology, but required Northern Border to post, after the fact, the winning bid and associated bid calculation analysis.

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<sup>79</sup> *Id.* (citing *Northern Border Pipeline Co.*, 168 FERC ¶ 61,090, at P 19 (2019) (*Northern Border II*); *Columbia Gas Transmission, LLC*, 148 FERC ¶ 61,218, at P 43 (2014) (*Columbia*)).

<sup>80</sup> *Id.* (citing *Columbia*, 148 FERC ¶ 61,218 at P 43).

<sup>81</sup> Panhandle Reply Comments ¶ 14 (citing *Northern Border Pipeline Co.*, 164 FERC ¶ 61,150, at P 13 (2018) (*Northern Border I*)).

<sup>82</sup> *Id.*

<sup>83</sup> *Gulf South*, 161 FERC ¶ 61,274 at P 31.

<sup>84</sup> *Northern Border I*, 164 FERC ¶ 61,150 at P 19.

The Commission explained that it was “Northern Border’s obligation to present in an open, understandable, and transparent manner all bidding criteria and evaluation methodologies in the posting soliciting bids for available capacity under GT&C Section 6.26.4” that rendered Northern Border’s proposal just and reasonable and consistent with Commission policy.<sup>85</sup> The Commission directed Northern Border to make a compliance filing to revise its tariff to provide that it will post the NPV analysis used to determine the successful bidder or bidders along with the winning bids.<sup>86</sup>

54. In *Northern Border II*, the Commission stated that its finding was “consistent with prior Commission orders directing information to be posted with regard to winning bids following open seasons in order to ensure transparency and the Commission has relied on such posting requirements to establish that open season procedures are transparent, non-discriminatory, and fair.”<sup>87</sup> The Commission also reaffirmed that pipelines have an “obligation to present in an open, understandable, and transparent manner all bidding criteria and evaluation methodologies in the posting soliciting bids for available capacity[...].”<sup>88</sup>

55. Panhandle argues that in *Northern Border II*, the pipeline already agreed to provide the winning bid(s) and the calculation of the winning bid(s) in an earlier proceeding and, therefore, the Commission did not find that all pipeline tariff proposals addressing future capacity would need to post a required list of information in order to be considered just and reasonable. We are not persuaded by Panhandle’s arguments.<sup>89</sup> As shown by the *Northern Border* proceeding, the Commission relies on a posting of the calculations to provide an open and transparent process, and the Commission has directed

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<sup>85</sup> *Northern Border I*, 164 FERC ¶ 61,150 at P 19.

<sup>86</sup> *Id.* P 32.

<sup>87</sup> *Northern Border II*, 168 FERC ¶ 61,090 at P 19 (citing *Northern Border I*, 164 FERC ¶ 61,150 at P 13 (*Sea Breeze Pacific Juan de Fuca Cable, LP*, 112 FERC ¶ 61,295, at P 27 (2005) (“Once all contracts have been executed related to the open season, Sea Breeze will identify the names of the winning bidders and the general terms of the contract, and report the results of the open season to the Commission. Thus, the open season criterion is satisfied”); *Rockies Express Pipeline LLC*, 160 FERC ¶ 61,127 (2017)).

<sup>88</sup> *Northern Border II*, 168 FERC ¶ 61,090 at P 19 (citing *Northern Border I*, 164 FERC ¶ 61,150 at P 13).

<sup>89</sup> *See, e.g., Rockies Express Pipeline LLC*, 165 FERC ¶ 61,017, at P 15 (2018). (rejecting arguments that a pipeline need not post such information as the NPV, term, and quantity of gas for the winning bid for each open season).

pipelines to post information with regard to winning bid(s) following open seasons in order to ensure such transparency. Accordingly, we direct Panhandle to revise GT&C Section 7.1(f) of its tariff to post the winning bid and the methodology employed to determine the winning bid following an open season.

## **H. Modifications to Scheduling Parameters**

### **1. Proposed Tariff Provision**

56. In GT&C Section 8.8(c), Panhandle proposes to add two additional scheduling priority categories for nominations through a constraint within a primary path just below the scheduling priority of nominations from primary receipt points to primary delivery points.<sup>90</sup> The two categories include nominations from secondary receipt points to primary delivery points to be scheduled before nominations from primary receipt points to secondary delivery points.<sup>91</sup>

57. In GT&C Sections 8.8(a)(5), 8.8(b)(5), and renumbered 8.8(c)(6), Panhandle also proposes a change to the scheduling criteria for interruptible service so that multiple nominations at the same rate will now be scheduled on a pro rata basis, rather than by the nomination with the earliest request date.<sup>92</sup>

58. In GT&C Sections 8.8(a)(7), 8.7(b)(7), and renumbered 8.8(c)(7), Panhandle states that it needs to correct the reference for scheduling receipts, deliveries, and service through a constraint point to provide that all shippers (firm and interruptible) can rank delivery and receipt points for scheduling purposes. Panhandle asserts that its current tariff provides ranking for firm services.<sup>93</sup>

### **2. Initial Comments**

59. Panhandle reiterates its proposal to add three priorities for scheduling secondary points within a shipper's primary path through a constraint.<sup>94</sup> Panhandle states that the Commission has previously concluded that "to the extent there are scheduling conflicts

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<sup>90</sup> August 2019 Filing, Ex. PE-0012 at 12.

<sup>91</sup> *Id.* (citing *Tennessee Gas Pipeline Co., L.L.C.*, 145 FERC ¶ 61,058 (2013) (*Tennessee*)).

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> Panhandle Initial Comments ¶ 31.

over two secondary within-the-path transactions, the pipeline is free to choose any reasonable method of resolving such a conflict.”<sup>95</sup> Panhandle also notes that its proposed scheduling is similar to the language approved in *Tennessee*.<sup>96</sup>

60. PCS Nitrogen filed comments in support of Panhandle’s proposal. PCS Nitrogen states that consistent with Commission precedent, allowing nominations from secondary receipt points to primary delivery points to be scheduled before nominations of primary receipt points to secondary delivery points helps end-use customers such as PCS Nitrogen who have minimal flexibility to vary where they receive service.<sup>97</sup>

61. Ameren Companies state that they do not object to Panhandle’s proposal but raise concerns that the order of scheduling priority proposed in GT&C Section 8.8(b) conflicts with GT&C Section 8.8(a) governing scheduling of receipts, which prioritizes the scheduling of service from primary receipt points to secondary delivery points over service from secondary receipt points to primary delivery points.<sup>98</sup> Ameren Companies recommend that the Commission set this issue for hearing so that parties may gather more information related to the impact of scheduling priorities between GT&C Sections 8.8(b) and (c) and GT&C Section 8.8(a).<sup>99</sup>

62. Sequent objects to Panhandle’s proposal and argues that it will adversely impact those who use primary path rights with gas sourced at primary receipt points to serve multiple markets.<sup>100</sup> Sequent argues that Panhandle has failed to demonstrate that the proposed scheduling provision is just and reasonable.<sup>101</sup> Furthermore, Sequent argues that *Tennessee* is an outlier that should not be applied as precedent to other tariffs.

63. Sequent explains that elevating firm-pathed transactions using primary delivery points over the same firm transactions using primary receipt points confers an undue

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<sup>95</sup> *Id.* ¶ 32 n.19 (citing *Texas Eastern Transmission, LP*, 102 FERC ¶ 61,198, at P 33 (2003) (*Texas Eastern*)).

<sup>96</sup> *Id.*

<sup>97</sup> PCS Nitrogen Initial Comments at 2.

<sup>98</sup> Ameren Companies Initial Comments at 9.

<sup>99</sup> *Id.*

<sup>100</sup> Sequent Initial Comments at 2.

<sup>101</sup> *Id.* at 2-3.

preference upon one group of firm shippers at the expense of another.<sup>102</sup> Sequent states that all firm shippers who have paid for and nominate firm path rights through a mainline constraint should be treated equally in the scheduling process, irrespective of where gas is sourced or delivered. Finally, Sequent states that Panhandle's existing language requires scheduling of firm capacity within tiers on an economic basis. Sequent states that economic scheduling is highly atypical and contravenes the Commission's general "firm-is-firm" policy. In addition, Sequent states it is disruptive of service across multiple pipelines and even requires Panhandle to implement stopgap compensatory provisions, such as the asset management agreements (AMA) valuation provision for capacity release proposed in this proceeding to address new, adverse consequences of this scheduling protocol that continually evolve over time. Sequent states that it expects to address this scheduling defect as an NGA section 5 issue and resolve it in settlement or hearing in this proceeding.<sup>103</sup>

### 3. Reply Comments

64. Panhandle states that Ameren Companies are incorrect and that there is no conflict between the provisions in GT&C Section 8.8(a) and Sections 8.8(b), and (c). Panhandle clarifies that GT&C Section 8.8(a) addresses scheduling at a particular receipt point. Panhandles states that, for scheduling from a specific receipt point, GT&C Section 8.8(a) prioritizes shippers with primary receipt points. Conversely, Section 8.8(b), which addresses scheduling at a particular delivery point, prioritizes shippers that have that point as their primary delivery point. Panhandle states that GT&C Section 8.8(c) addresses curtailment of capacity on a system segment.<sup>104</sup>

65. In response to Sequent's concerns, Panhandle reiterates that its proposal is consistent with Commission precedent and has been followed in subsequent orders and set out in various pipeline tariffs.<sup>105</sup>

66. Direct Energy states that it supports Sequent's comments in opposition to Panhandle's proposed revisions regarding secondary firm in-path scheduling priorities.<sup>106</sup> Direct Energy restates that Panhandle has not provided support for why its proposed scheduling priorities are appropriate in the specific context of service on Panhandle's

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<sup>102</sup> *Id.* at 3.

<sup>103</sup> *Id.*

<sup>104</sup> Panhandle Reply Comments ¶ 17.

<sup>105</sup> *Id.* ¶ 16.

<sup>106</sup> Direct Energy Reply Comments at 4.

system.<sup>107</sup> Direct Energy states that the comparison to *Tennessee* is inappropriate because Tennessee has a larger and more complex system than Panhandle and also provides shippers with means to maintain a high priority (e.g., posting all compressor stations with available capacity and allowing meter bounce transactions), which Panhandle does not provide.<sup>108</sup> Direct Energy reiterates Sequent's comment that all firm shippers who have paid for and nominated firm rights through a mainline constraint should be treated equally in their scheduling regardless of the source or delivery points of their gas. Direct Energy also agrees with Sequent that *Tennessee* should not be extended as precedent to additional pipelines, and restates Sequent's concerns that Panhandle's proposal would be unnecessarily disruptive across markets and would provide an arbitrary and undue preference to certain secondary firm in-path transactions over others. Accordingly, Direct Energy requests that the Commission reject Panhandle's provision or set it for hearing.<sup>109</sup>

67. Sequent asserts that Panhandle did not provide any additional evidence in its initial comments to support its proposal, but instead attempts to justify it by citing language from *Texas Eastern*.<sup>110</sup> Sequent argues that the *Texas Eastern* language is outdated and that it merely expresses the tautology that any legally sufficient path-priority mechanism must be just and reasonable.<sup>111</sup> Rather, Sequent maintains that Panhandle's argument is deficient because it contains no evidence that demonstrates that the proposed scheduling tiers are just and reasonable and not unduly discriminatory, given the specific facts and circumstances on Panhandle's system.<sup>112</sup> Sequent reiterates that it uses its primary path rights to serve human needs customers and that there is no legally-defensible basis to discriminate against Sequent in favor of other shippers using the same primary path rights to serve the same types of customers.<sup>113</sup> Sequent requests that the Commission reject this provision.

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<sup>107</sup> *Id.*

<sup>108</sup> *Id.* at 5.

<sup>109</sup> *Id.*

<sup>110</sup> Sequent Reply Comments at 2.

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> *Id.* at 2-3.



#### 4. Commission Determination

68. We accept Panhandle's proposed revisions to scheduling priorities.

69. First, as Panhandle asserts, Ameren Companies' concerns about conflicting tariff provisions are misplaced. GT&C Section 8.8(a) addresses priorities for scheduling at receipt points, GT&C Section 8.8(b) addresses priorities for scheduling at delivery points, and GT&C Section 8.8(c) addresses scheduling of constraints other than at a point of receipt or delivery. Therefore, there is no scheduling conflict between proposed GT&C Section 8.8(b) and GT&C Section 8.8(a).

70. Additionally, we find that Panhandle has proposed a reasonable method of addressing in-path capacity allocation during times of constraint. The Commission has established that "to the extent there are scheduling conflicts over two secondary within-the-path transactions, the pipeline is free to choose any reasonable method of resolving such a conflict."<sup>114</sup> In fact, the Commission has found that pipelines are free to propose different priority provisions that may be deemed reasonable.<sup>115</sup> If the rates, terms, and conditions proposed by the pipeline are just and reasonable, then the Commission must accept them regardless of whether other rates, terms, and conditions may be just and reasonable.<sup>116</sup> As noted above, a pipeline is free to choose any reasonable method for assigning priority to in-path transactions involving primary and secondary points, provided it does so on a not unduly discriminatory and just and reasonable basis.<sup>117</sup> Here, Panhandle has chosen to add two additional scheduling priorities for nominations from secondary receipt points to primary delivery points to be scheduled before nominations from primary receipt points to secondary delivery points, which is consistent with the scheduling priority approved in *Tennessee*.<sup>118</sup> Furthermore, Sequent has not shown that Panhandle's proposal is unduly discriminatory. Accordingly, we find Panhandle's scheduling priority to be reasonable.

71. Moreover, we accept Panhandle's proposal to use economic scheduling within tiers. Commission policy regarding economic scheduling of firm secondary capacity permits pipelines to schedule secondary capacity by either the highest percentage of the

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<sup>114</sup> *Texas Eastern*, 102 FERC ¶ 61,198 at P 33.

<sup>115</sup> *El Paso Natural Gas Co.*, 62 FERC ¶ 61,311, at 62,988 (1993).

<sup>116</sup> *Tennessee Gas Pipeline Co., L.L.C.*, 147 FERC ¶ 61,117, at P 16 (2014).

<sup>117</sup> *Tennessee*, 145 FERC ¶ 61,058 at P 31.

<sup>118</sup> *Id.*

applicable maximum rate or by the highest absolute price.<sup>119</sup> Panhandle proposes to schedule secondary capacity by the highest percentage of the applicable maximum rate, which is consistent with Commission policy.<sup>120</sup>

## **I. New Provision for Deduct Meters**

### **1. Proposed Tariff Provision**

72. Panhandle proposes to add a new requirement to GT&C Section 11.10 regarding the transportation of gas to a deduct meter located on a downstream third party system behind a primary point of delivery located on Panhandle's system.<sup>121</sup> Panhandle's new provision will require a minimum 500 Dth/day for each new deduct meter added after October 1, 2019, or after any Commission-ordered suspension period.<sup>122</sup> Panhandle states that any volumes less than the 500 Dth/day threshold would continue to be served by the local provider who is already directly connected to Panhandle.<sup>123</sup>

73. In its Supplemental Filing, Panhandle states that its proposal would result in administrative efficiency, and that currently there are only four deduct meters that fall below the volumetric threshold.<sup>124</sup> Panhandle lists its ongoing administrative costs, including (1) microwave and/or cell phone dial-up costs to transmit the hourly/daily volumes delivered; (2) field technician labor/travel costs to set up meter(s) and perform monthly inspections in accordance with regulated measurement practices; and (3) home office personnel costs to administer the accuracy of the meter readings as they are recorded in its Measurement's Flo-Cal system. According to Panhandle, this hourly/daily measurement data is then electronically sent to the Messenger system where volumes are allocated to shipper's contracts and ultimately billed to shippers.<sup>125</sup> Panhandle indicates

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<sup>119</sup> *Tennessee Gas Pipeline Co., L.L.C.*, 139 FERC ¶ 61,050, at P 41 (2012).

<sup>120</sup> [Panhandle Eastern Pipe Line Company, LP, Fourth Revised Volume No. 1, GT&C Section 8., Nomination and Scheduling of Service, 2.1.0.](#)

<sup>121</sup> August 2019 Filing, Ex. PE-0012 at 13.

<sup>122</sup> *Id.* In the September 2019 Order, the Commission accepted and suspended certain tariff records to be effective March 1, 2020, subject to refund, the outcome of a hearing and technical conference.

<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

that it views end-use volumes at levels below 500 Dth/day to be more typical of commercial and/or small industrial load served by local distribution companies (LDCs).<sup>126</sup> Furthermore, Panhandle states that the 500 Dth/day level will not impact the vast majority of the existing deduct meters.<sup>127</sup>

## 2. Initial Comments

74. Panhandle states that it proposed the volumetric limit on future deduct meters added after March 1, 2020 in order to lessen the administrative burden of processing multiple very small requests.<sup>128</sup> Panhandle states that of the current 23 deduct meters, only four are below the 500 Dth/day threshold, and they will not be affected by the new volume limit because they will be grandfathered.<sup>129</sup> Panhandle states that volumes at levels below 500 Dth/day are typical of commercial and/or small industrial load served by LDCs and are best managed by LDCs.<sup>130</sup> Panhandle also states that its proposal will allow it to continue the use of deduct meters at a reasonable level while limiting the administrative burden and expense involved, which, according to Panhandle, should be undertaken by LDCs.<sup>131</sup>

75. Ameren Companies state that Panhandle did not provide any explanation for its new volumetric threshold, and in its Supplemental Filing, offered only that operating and maintaining deduct meters have associated administrative costs.<sup>132</sup> According to Ameren Companies, this information does not provide sufficient justification for imposing a 500 Dth/day threshold on deduct meters that discriminates against shippers that serve smaller retail customers.<sup>133</sup> Ameren Companies also state that Panhandle did not provide

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<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> Panhandle Initial Comments ¶ 33.

<sup>129</sup> *Id.* Panhandle corrects these numbers in its reply comments (¶ 21) stating that there are 22 deduct meters on the Panhandle system, and six flow gas at less than 500 Dth/day.

<sup>130</sup> *Id.*

<sup>131</sup> *Id.* ¶ 34.

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

any information showing why it considers 500 Dth/day to be a reasonable threshold.<sup>134</sup> According to Ameren Companies, based on retail customer usage, Ameren Missouri believes that the 500 Dth/day threshold will unreasonably exclude certain end-users and discriminate against small customers.<sup>135</sup> Ameren Companies state that Ameren Missouri currently has eight retail customers that take gas through Ameren Missouri's distribution system and use deduct meters, and all but one fall below the 500Dth/day threshold.<sup>136</sup> According to Ameren Companies, these volumes are indicative of retail customer usage levels and demonstrate that a usage threshold of 500 Dth/day for new deduct meters is too high and would prevent new customers with similar volumes from utilizing deduct meters without justification.<sup>137</sup> Therefore, according to Ameren Companies, Panhandle's proposed volumetric threshold unduly discriminates against similarly situated customers and should be rejected.<sup>138</sup>

### 3. Reply Comments

76. Panhandle states that it is not just and reasonable for it to be required to process a deduct meter request without any volumetric limit and that it proposed a limit of 500 Dth/day on a going forward basis in order to avoid the administrative burden and expense of such requests.<sup>139</sup> Panhandle states that it is not necessary for it to conduct a study of costs when the administrative burden and expense involved with very small volume deduct meters should be borne by LDCs serving the entity behind the deduct meter.<sup>140</sup> According to Panhandle, the beneficiaries of deduct meters are customers of their respective LDCs; therefore, deduct meters for entities with extremely low volumes (less than 500 Dth/day) should be administered by the LDCs, which are better equipped to manage these very small volumes.<sup>141</sup> Panhandle argues that as an interstate pipeline, it

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<sup>134</sup> *Id.* at 7.

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> Panhandle Reply Comments ¶ 18.

<sup>140</sup> *Id.*

<sup>141</sup> *Id.* ¶ 19.

is inappropriate for it to continue to be saddled with the administration of these small volume deduct meters for the benefit of customers of the LDCs.<sup>142</sup>

77. In response to Ameren Companies' claim that it would be unduly discriminatory for Panhandle to implement a 500 Dth/day limit on new deduct meters, Panhandle argues that it is unduly discriminatory for Panhandle to continue to afford such special treatment to customers of particular LDCs. Panhandle also reiterates that existing deduct meters will be grandfathered.<sup>143</sup>

78. Ameren Companies state that Panhandle has not met its burden of proof to demonstrate that its proposed tariff change is just and reasonable and not unduly discriminatory and therefore its proposed tariff change in GT&C Section 11.10 should be rejected.<sup>144</sup> Ameren Companies argue that Panhandle's assertions that it incurs ongoing administrative costs associated with deduct meters at volume levels below 500 Dth/day and that these deduct meters are typical of commercial and/or small industrial load served by LDCs and best managed by LDCs are only Panhandle's opinions supported by no data or precedent.<sup>145</sup> Ameren Companies also point out that Panhandle has not calculated the costs associated with deduct meters or quantified the costs it will avoid by imposing a volumetric limit.<sup>146</sup>

79. Ameren Companies explain that Ameren Missouri has eight customers that currently receive gas through its distribution system and use deduct meters, seven of which fall below the 500 Dth/day threshold.<sup>147</sup> According to Ameren Companies, these usage levels demonstrate that a 500 Dth/day threshold would be too high and prohibit future retail customers from accessing deduct meters, which discriminates against small end-use customers located on Ameren Missouri's distribution system by preventing them from accessing the pipeline directly.<sup>148</sup> Ameren Companies also state that Panhandle's

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<sup>142</sup> *Id.*

<sup>143</sup> *Id.* ¶ 21.

<sup>144</sup> Ameren Companies Reply Comments at 5.

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

<sup>147</sup> *Id.* at 6.

<sup>148</sup> *Id.*

volumetric threshold harms Ameren Missouri by requiring it to manage these end-users' imbalances through its distribution system.<sup>149</sup>

#### **4. Commission Determination**

80. We accept Panhandle's proposal to limit deduct meters added after March 1, 2020 to a volumetric limit of 500 Dth/day. Panhandle proposes this volumetric limit on future deduct meters in order to lessen costs and to "lessen the administrative burden of processing multiple very small requests."<sup>150</sup> Although Panhandle did not conduct a study to determine these costs, Panhandle outlined the ongoing administrative expenses it may incur by allowing deduct meters below 500 Dth/day to be added to its system,<sup>151</sup> including field technicians, inspections, office administrative and dial-up costs to transmit the hourly/daily volumes delivered.<sup>152</sup> The Commission has previously accepted minimum volume requirements for new connections due to the costs and operational challenges of serving such similar small volume points.<sup>153</sup> Finally, we note that the proposed minimum will not have an impact on existing deduct meters because they will be grandfathered under GT&C Section 11.10. Therefore, Panhandle's proposal to limit deduct meters to a volumetric limit of 500 Dth/day is accepted.

#### **J. Clarification of Rights and Obligations of a Replacement Shipper**

##### **1. Proposed Tariff Provision**

81. Panhandle proposes a new GT&C Section 15.7(g) to specify the rates used when scheduling a replacement shipper's nomination to secondary points on its system.<sup>154</sup> Panhandle proposes to schedule a replacement shipper utilizing the replacement shipper's rate. However, Panhandle also proposes one exception to this policy. For Asset Management Agreements (AMA) and retail choice capacity release transactions,

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<sup>149</sup> *Id.*

<sup>150</sup> Panhandle Initial Comments ¶ 33.

<sup>151</sup> *Id.* ¶ 34.

<sup>152</sup> Panhandle Reply Comments ¶ 18.

<sup>153</sup> See, e.g., *Gulf South Pipeline Co., LP*, 103 FERC ¶ 61,105 (2003).

<sup>154</sup> August 2019 Filing, Ex. PE-0012 at 13.

Panhandle proposes to schedule secondary points using the *releasing* shipper's (not the replacement shipper's) reservation rate.<sup>155</sup>

## 2. Initial Comments

82. Panhandle states that it is consistent with Commission policy to award capacity based upon the replacement shipper's rate. Panhandle explains that the proposed revision would provide a higher scheduling priority to shippers that place higher value on the capacity.

83. In support of the exception for AMAs and retail choice replacement shippers, Panhandle explains that the purpose of AMA transactions is to provide efficient management of the releasing shipper's capacity.<sup>156</sup> Accordingly, given the relationship between an AMA and the releasing shipper, Panhandle states that it is appropriate to award the capacity based upon the releasing shipper's rate. Moreover, absent this authority, Panhandle states that AMA releases may be disadvantaged in their access to secondary firm transportation because over the past year, the majority of AMA releases on Panhandle's system have been at a reservation rate of zero.<sup>157</sup>

84. Ameren Companies oppose Panhandle's proposal to award capacity based upon the replacement shipper's rate. Ameren Companies assert that replacement shippers should be permitted to assume the releasing shipper's rate for purposes of determining scheduling priority.<sup>158</sup>

## 3. Reply Comments

85. Panhandle reiterates the arguments advanced in its initial comments. Ameren Companies and Direct Energy state that if scheduling priority for release transactions is to be determined based on rates, scheduling for all replacement shippers should be based

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<sup>155</sup> *Id.*

<sup>156</sup> Panhandle Initial Comments ¶ 36.

<sup>157</sup> *Id.*

<sup>158</sup> Ameren Companies Initial Comments at 4.

on the releasing shipper's rate, not the replacement shipper's rate as in Panhandle's proposal.<sup>159</sup>

86. Shippers adopt different positions regarding Panhandle's proposed exceptions for AMAs and state retail access program marketers. Direct Energy and Sequent support Panhandle's proposal.<sup>160</sup> In contrast, Ameren Companies assert that Panhandle's proposal affords undue preferential treatment to AMA and state retail access program marketer replacement shippers.<sup>161</sup>

#### 4. Commission Determination

87. We reject Panhandle's proposed GT&C Section 15.7(g). Although Panhandle may use the replacement shipper's rate for scheduling released capacity, Panhandle cannot then allocate capacity based upon the releasing shipper's rate for AMA and state-regulated retail access replacement shippers. Under Commission policy, pipelines may schedule secondary point capacity for replacement shippers either based upon the releasing shipper's rate or the replacement shipper's rate.<sup>162</sup> However, historically, whichever policy the pipeline adopts has been applied equally to all replacement shippers.

88. The record does not support the adoption of a new Commission policy here that adopts Panhandle's proposed distinction between AMAs and all other replacement shippers. The "objective of scheduling secondary firm service is to allocate capacity to the shipper who values it the most. . . ."<sup>163</sup> Given that Panhandle treats every other replacement shipper as valuing the capacity at the replacement shippers' rate, Panhandle has not supported a finding that an AMA replacement shipper values the capacity at the rate paid by the releasing shipper.

89. We are also not persuaded by Panhandle's concern that most AMAs have a reservation rate of zero, and, thus, the utilization of AMAs would be impaired because AMAs receive lower priority in the scheduling of constrained secondary point capacity. For GT&C Section 15.7(g) to apply to an AMA, Panhandle's system must both be

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<sup>159</sup> Ameren Companies Reply Comments at 4; Direct Energy Reply Comments at 6.

<sup>160</sup> Direct Energy Reply Comments at 6; Sequent Reply Comments at 4.

<sup>161</sup> Ameren Companies Reply Comments at 3.

<sup>162</sup> *Tennessee Gas Pipeline Co., L.L.C.*, 139 FERC ¶ 61,050 at P 41.

<sup>163</sup> *Id.* P 54.



constrained and the AMA must be seeking to use secondary point capacity. Panhandle does not describe the likelihood that such a scenario will arise<sup>164</sup> or how it would significantly impede the utilization of an AMA. In any case, a firm replacement shipper, including an AMA, does not have a guaranteed firm contractual right to secondary points.<sup>165</sup> Moreover, to the extent Panhandle remains concerned about the secondary point rights of AMAs, existing Commission policy permits Panhandle to determine the allocation of capacity to all replacement shippers based upon the releasing shipper's rate. Were Panhandle to adopt this option, then the AMA (like every other replacement shipper) could obtain capacity using the releasing shipper's rate, and the fact that the AMA's replacement shipper reservation rate is set at zero would not be relevant to the scheduling of secondary point capacity.

90. Accordingly, we reject Panhandle's proposed GT&C Section 15.7(g). Because Panhandle's current tariff includes no provision for how it schedules secondary point capacity for replacement shippers, Panhandle is directed to file revised tariff records consistent with the discussion in this order.

**K. Addition of New Provisions for Fuel Reimbursement Adjustment**

**1. Proposed Tariff Provision**

91. In its August 2019 Filing, Panhandle proposed two new provisions to its fuel reimbursement adjustment: GT&C Section 24.5, Out of Cycle Adjustment, and GT&C Section 24.6, Notice of Responsibility of Deferred Amounts. In the September 2019 Order, the Commission rejected GT&C Section 24.5 and required Panhandle to file compliance tariff records reflecting the removal of the out-of-cycle adjustment language within 30 days of the date of the order.<sup>166</sup> On October 16, 2019, Panhandle filed revised tariff records to comply by removing proposed GT&C Section 24.5, which were

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<sup>164</sup> For example, if an AMA is shifting underutilized capacity to secondary points during an off-peak period, Panhandle has not explained why constraints at secondary points are likely during this off-peak period that would trigger the application of Panhandle's proposed GT&C section 15.7(g). See *Tennessee Gas Pipeline Co., L.L.C.*, 139 FERC ¶ 61,050 at P 54 (explaining that it is unlikely that secondary capacity would be constrained during off-peak periods).

<sup>165</sup> *Tennessee Gas Pipeline Co., L.L.C.*, 139 FERC ¶ 61,050 at P 18 (explaining that a firm shipper's guaranteed firm contractual rights are limited to primary points). Additionally, Panhandle's concern about AMAs having a replacement rate of zero presupposes that AMAs and shippers could not negotiate a different replacement rate in light of Panhandle's economic scheduling policy for secondary points.

<sup>166</sup> September 2019 Order, 168 FERC ¶ 61,208 at ordering para. (B).

accepted and suspended effective March 1, 2020.<sup>167</sup> Panhandle's revised tariff record now lists the original GT&C Section 24.6, Notice of Responsibility of Deferred Amounts as GT&C Section 24.5. For consistency and clarity, we will continue to refer to the section titled Notice of Responsibility of Deferred Amounts as section 24.6 throughout this order.

92. According to Panhandle, proposed GT&C Section 24.6, Notice of Responsibility of Deferred Amounts is intended to identify the responsible party in the event the Fuel Reimbursement Adjustment section is changed in any matter that adversely affects Panhandle's recovery of the full fuel amount reflected in its deferred fuel accounts.<sup>168</sup> Panhandle defines the responsible party as each shipper that received transportation service during the period affected by such fuel adjustment deferred account.<sup>169</sup> Panhandle states each responsible party's deferred fuel amount will be calculated based on the shipper's proportionate share of the amount of Panhandle's unrecovered deferred fuel amounts for the transportation services which were provided.<sup>170</sup> According to Panhandle, this is consistent with the language the Commission previously accepted in Trunkline's tariff.<sup>171</sup> Furthermore, Panhandle states that the addition of miscellaneous fuel usage to the fuel reimbursement adjustment process provides that all fuel costs will be tracked and is similar to other interstate pipelines' tariffs.<sup>172</sup>

## 2. Initial Comments

93. Panhandle reiterates its proposal to add a new section to GT&C Section 24, titled Notice of Responsibility of Deferred Amounts.<sup>173</sup> Panhandle also states that the addition

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<sup>167</sup> *Panhandle Eastern Pipe Line Co., LP*, Docket No. RP19-1523-002 (Nov. 20, 2019) (delegated order).

<sup>168</sup> August 2019 Filing Ex. PE-0012 at 14-15.

<sup>169</sup> *Id.* at 15.

<sup>170</sup> *Id.* at 15.

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> Panhandle Initial Comments ¶ 37.

of miscellaneous fuel usage to the fuel reimbursement adjustment process provides that all fuel costs will be included in the fuel tracker and not in the cost of service.<sup>174</sup>

94. Sequent urges the Commission to reject Panhandle's proposed GT&C Section 24.6, stating that Panhandle's proposal is untenably broad and inappropriately seeks to make Panhandle's shippers the guarantors of fuel, irrespective of the circumstances leading to any future fuel under-recovery.<sup>175</sup> Sequent argues that because Panhandle's GT&C Section 24 fuel recovery mechanism can be altered only by Commission order following an NGA section 4 filing by Panhandle or NGA section 5 action by the Commission, Panhandle will have ample opportunity at that time to propose, for Commission review and prior approval, a new or altered tariff mechanism to deal with any fuel under-recoveries.<sup>176</sup>

### 3. Reply Comments

95. Panhandle filed reply comments in response to Sequent's claim that GT&C Section 24.6 is too broad and inappropriately makes shippers the guarantors of fuel. Panhandle states that it is merely seeking to ensure that it is able to recover any amounts in the Deferred Fuel Reimbursement Account.<sup>177</sup> According to Panhandle, it maintains a Deferred Fuel Reimbursement Account pursuant to GT&C Section 24.4(c), that includes appropriate subaccounts, with such subaccounts being increased or decreased for a positive or negative change in Fuel Reimbursement for the billing month.<sup>178</sup> Panhandle also states that the Deferred Fuel Reimbursement Account is detailed in each Panhandle fuel filing.<sup>179</sup> Panhandle argues that the Commission's policy is that a pipeline is entitled to recover from its shippers all of the fuel that is properly accounted for in a pipeline's fuel tracker.<sup>180</sup> Panhandle explains that it has a fuel tracker, as opposed to a fixed fuel

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<sup>174</sup> *Id.*

<sup>175</sup> Sequent Initial Comments at 5.

<sup>176</sup> *Id.* at 6.

<sup>177</sup> Panhandle Reply Comments ¶ 26.

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> *Id.* ¶ 28 (citing *Kern River Gas Transmission Co.*, 116 FERC ¶ 61,217, at P 19 (2006) (pipeline's fuel tracker is "intended to track the actual fuel used to provide transportation for its shippers and neither [the pipeline] nor its customers are expected to gain or lose based on the operation of the fuel tracker."); *ANR Pipeline Co.*, 110 FERC ¶ 61,069, at P 19, *order on reh'g*, 111 FERC ¶ 61,290 (2005) (referencing

rate, and is therefore entitled to recover the fuel that is properly accounted for in such fuel tracker, including the full amount of the Deferred Fuel Reimbursement Account.<sup>181</sup>

96. Ameren Companies state that the proposed tariff language seeks to hold shippers responsible for their proportionate shares of under-recovered amounts, which shifts the risk for under-recovery from the pipeline to its shippers.<sup>182</sup> Ameren Companies also state that GT&C Section 24 of Panhandle's tariff can only be changed by the pipeline through an NGA section 4 filing, and until such filing, Panhandle's tariff currently includes a fuel recovery mechanism, which should be sufficient.<sup>183</sup>

#### 4. Commission Determination

97. We reject Panhandle's proposed GT&C Section 24.6 Notice of Responsibility for Deferred Amounts. In its August 2019 Filing, Panhandle did not adequately explain why the new GT&C Section 24.6 provision is necessary or what circumstances would trigger the new provision. We find Panhandle has not satisfied its burden under NGA section 4 to show that its proposal is just and reasonable.<sup>184</sup> In addition, section 154.7(a)(6) of the Commission's regulations requires a pipeline to include a detailed explanation of the need for a change or addition to its tariff. Panhandle has provided no such explanation of the reasons for its proposed change to its Fuel Reimbursement Adjustment.

98. Panhandle merely states that the new section is "proposed to identify the responsible party *in the event* the Fuel Reimbursement Adjustment section is changed *in any matter* that adversely affects Panhandle's recovery of the full fuel amounts reflected in its deferred fuel accounts."<sup>185</sup> Panhandle does not explain what events would change the Fuel Reimbursement Adjustment section or why this new provision is needed in addition to its existing fuel tracker and surcharge mechanism. As provided in GT&C Section 24.4(c) of Panhandle's tariff, and as described in Panhandle's initial comments and reply comments, Panhandle's fuel tracker currently permits for the collection of the

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18 C.F.R. § 154.403 in stating that the Commission's regulations permit a pipeline to adjust its fuel reimbursement percentages in a periodic limited rate filing pursuant to a methodology set forth in the pipeline's tariff.)).

<sup>181</sup> *Id.*

<sup>182</sup> Ameren Companies Reply Comments at 7.

<sup>183</sup> *Id.*

<sup>184</sup> 18 C.F.R. § 154.204 (2019).

<sup>185</sup> August 2019 Filing, Ex. PE-0012 at 14-15 (emphasis added).

deferred fuel account balances.<sup>186</sup> Therefore, we see no reason why Panhandle's proposed GT&C Section 24.6 is necessary, given that Panhandle has the right to address any fuel under-recoveries in an NGA section 4 filing and can address any changes to its collection mechanism if and when that change occurs. We do accept, however, Panhandle's addition of miscellaneous fuel usage in GT&C Section 24.4(d) to the fuel reimbursement adjustment process, as this revised language removes miscellaneous fuel usage from Panhandle's cost of service, and accounts for it in the fuel tracker instead.

**L. New Section for Creditworthiness**

**1. Proposed Tariff Provision**

99. In the August 2019 Filing, Panhandle indicated that it added GT&C Section 29 to present more fully-described procedures with regards to creditworthiness that are both streamlined and consistent with Commission policy and similar to Florida Gas's and Transwestern Pipeline Company, LLC's tariff provisions.<sup>187</sup> Panhandle asserts that, Commission policy requires pipelines to establish and use objective criteria for determining creditworthiness, and GT&C Section 29.2 proposes objective criteria.<sup>188</sup> Panhandle states that GT&C Section 29.3 outlines the information that may be reviewed by Panhandle to determine creditworthiness, and GT&C Section 29.4 sets out an alternative mechanism to assess creditworthiness when a shipper does not qualify for creditworthiness under the objective criteria of GT&C Section 29.2.<sup>189</sup> Panhandle states that GT&C Section 29.5 details alternative credit support a shipper can provide if a shipper fails to establish or maintain creditworthiness.<sup>190</sup> Panhandle also outlines additional provisions to address security for new receipt and delivery facilities (GT&C Section 29.6), Panhandle's right to re-evaluate shipper's creditworthiness and notify shipper of non-creditworthiness (GT&C Section 29.7), procedures for suspension of service (GT&C Section 29.8) and termination of the service agreement (GT&C Section 29.9), a re-evaluation request by a non-creditworthy shipper (GT&C Section 29.10), and creditworthiness associated with new or expanded facilities (GT&C Section 29.11).<sup>191</sup> Panhandle also proposes to revise GT&C Section 6 for the portions related to

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<sup>186</sup> Panhandle Initial Comments ¶ 37; Panhandle Reply Comments ¶ 26.

<sup>187</sup> August 2019 Filing, Ex. PE-0012 at 15.

<sup>188</sup> *Id.*

<sup>189</sup> *Id.*

<sup>190</sup> *Id.* at 16.

<sup>191</sup> *Id.*

creditworthiness to reflect references to GT&C Section 29 and update any other creditworthiness references throughout the tariff.<sup>192</sup>

## 2. Initial Comments

100. Panhandle explains that the information requirements outlined in the proposed tariff provision on creditworthiness are more specific and consistent with the overall information requirements of the current tariff.<sup>193</sup> Furthermore, Panhandle states that it has provided a timeline for disputing any finding of non-creditworthiness and requirements for Panhandle to reevaluate its previous findings, as well as additional shipper protections.<sup>194</sup> Finally, Panhandle notes that at the technical conference, Panhandle described some corrections that are needed to certain cross-references in the new GT&C Section 29.<sup>195</sup> Panhandle provided those corrections in the *pro forma* tariff records included in Attachment A of its initial comments.

## 3. Commission Determination

101. We accept Panhandle's proposed creditworthiness tariff provision as consistent with Commission policy. In the *Creditworthiness Policy Statement*, the Commission stated that pipelines must establish and use objective criteria for determining creditworthiness, but allowed individual pipelines to establish those criteria.<sup>196</sup> We find Panhandle's proposed creditworthiness provision establishes objective criteria that are reasonable and consistent with the creditworthiness provisions that the Commission has previously accepted.<sup>197</sup> In addition, we find that the other creditworthiness changes proposed by Panhandle comply with Commission policy as stated in the *Policy Statement on Creditworthiness*.

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<sup>192</sup> *Id.*

<sup>193</sup> Panhandle Initial Comments ¶ 39.

<sup>194</sup> *Id.*

<sup>195</sup> *Id.* ¶ 40.

<sup>196</sup> *Policy Statement on Creditworthiness Issues for Interstate Natural Gas Pipelines and Order Withdrawing Rulemaking Proceeding*, 111 FERC ¶ 61,412 (2005) (*Policy Statement on Creditworthiness*).

<sup>197</sup> *Florida Gas Transmission Co., LLC*, 151 FERC ¶ 61,254, at PP 144-152 (2015).

**M. Addition of New Interruptible Storage Service Rate Schedule, Revising Rate Schedules for Daily Reservation Rates, and other Minor Modifications**

**1. Proposed Tariff Provisions**

102. Panhandle proposes to add a new Rate Schedule IFS (Interruptible Flexible Storage Service). With the cancellation of Rate Schedule IWS, as previously discussed,<sup>198</sup> Panhandle states that there is a need to create a new interruptible storage service that complements the firm service under Rate Schedule FS. Panhandle states that Rate Schedule IFS offers similar flexibility as Rate Schedule FS but on an interruptible basis.<sup>199</sup>

103. Panhandle also proposes to revise sections 3.1 in Rate Schedules FT, EFT, LFT, and DVS and sections 3.1 and 3.2 of Rate Schedules IOS and FS to state rates on a daily basis.<sup>200</sup>

104. Panhandle states that it is proposing other minor changes to its tariff, including: (1) modifying statements that refer to notifying shippers by replacing facsimile and e-mail with “electronic communication”; (2) adding the word “hourly” to the charges incurred for takes in excess of permissible hourly deliveries mentioned in section 3.6 of Rate Schedule EIT, section 3.5(b) of Rate Schedules EFT and SCT, section 3.5(c) of Rate Schedule LFT and GT&C Section 12.11(g); (3) renaming the title of section 3.6 for Rate Schedule EIT to be consistent with the titles of section 3.5(c) for Rate Schedules EFT and SCT and section 3.5(d) of Rate Schedule LFT; (4) moving current GT&C Section 6.6, which explains how to file a complaint regarding requests for service, to new GT&C Section 6.8; and (5) correcting spelling of “pro-rata” to “pro rata” and “pro-rated” to “prorated” throughout the tariff.<sup>201</sup>

**2. Initial Comments**

105. Panhandle reiterates its proposed minor modifications to its tariff.<sup>202</sup> Panhandle also notes that a correction is needed in the description of the Monthly Capacity Charge

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<sup>198</sup> See *supra* P 11.

<sup>199</sup> August 2019 Filing Ex. PE-0012 at 6.

<sup>200</sup> *Id.*

<sup>201</sup> *Id.* at 16-17.

<sup>202</sup> Panhandle Initial Comments ¶ 41.

calculation for firm storage in section 3.1 of Rate Schedules IOS and FS, and has revised it in the submitted *pro forma* tariff records.<sup>203</sup>

**3. Commission Determination**

106. We accept Panhandle's proposed Rate Schedule IFS, revision of its stated rates to a daily basis, and minor modifications to its tariff.

**III. Conclusion**

107. Panhandle is directed to comply with the findings above within 15 days of the date of this order.

The Commission orders:

Panhandle's non-rate tariff proposals are disposed of as more fully described above. Within 15 days of the date of this order, Panhandle is required to make a compliance filing using a type of filing code 580 to reflect these determinations.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>203</sup> *Id.* ¶ 11.