171 FERC ¶ 61,088
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

May 1, 2020

In Reply Refer To:
Hardy Storage Company, LLC
Docket No. RP20-761-000

Hardy Storage Company, LLC
700 Louisiana Street
Houston, TX 77002-2700

Attention: John A. Roscher, Director
Rates & Tariffs

Dear Mr. Roscher:

1. On April 1, 2020, Hardy Storage Company, LLC (Hardy) filed a tariff record to increase its retainage percentage.[1] Hardy states that it filed its annual retainage adjustment mechanism (RAM) in accordance with Section 30 of the General Terms and Conditions (GT&C) of its tariff. As discussed below, we accept Hardy's referenced tariff record effective May 1, 2020.

2. Hardy states that its rate schedules require customers to supply a quantity of gas, which is expressed as a percentage of gas quantities delivered into storage, to compensate Hardy for company-use gas (Company Use) and lost and unaccounted-for quantities (LAUF).[2] Hardy states that GT&C section 30 allows Hardy to adjust its retainage percentage through its RAM to take into account prospective changes in retainage requirements and unrecovered retainage quantities (whether positive or negative).[3] Hardy states that the instant filing represents its annual RAM filing to effectuate an adjustment to its retainage percentage for prospective changes (Current Retainage

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[1] Hardy Storage Company, LLC, FERC NGA Gas Tariff, Hardy Tariffs, Currently Effective Rates, Retainage Rates, 11.0.0.

[2] Hardy Transmittal at 2.

[3] *Id*.

Percentage Component) and unrecovered quantities (Unrecovered Retainage Percentage Component).[4]

3. In accordance with GT&C section 30.4(a), Hardy states that the Current Retainage Percentage Component is recalculated for each RAM filing and is equal to the estimated total Company Use and LAUF required during the 12-month period commencing with the effective date of its RAM filing divided by the total volumetric quantity estimated to be injected under the applicable rate schedules during the same 12-month period.[5]

4. Hardy states that in accordance with GT&C section 30.4(b), the Unrecovered Retainage Percentage Component is recalculated for each RAM filing and is equal to the actual total Company Use and LAUF quantities for the preceding calendar year less the retainage quantities retained by Hardy during the same year, with the result divided by the total volumetric quantities estimated to be injected during the 12-month period commencing with the effective date of its RAM filing.[6]

5. In the instant filing, Hardy proposes to revise its total retainage rate from 0.536% to 3.092%, an increase of 2.556 percentage points, to become effective May 1, 2020. Hardy states that the proposed 3.092% total retainage rate reflects a 2.015% current Company Use projection component with an associated under-collection surcharge of 0.457%, and a current LAUF projection component of 0.241% with an associated under-collection surcharge of 0.379%.[7]

6. Hardy asserts that it ended calendar year 2019 in a total under-collected position of 100,297 dekatherms (Dth). Hardy states that in calculating its retainage requirements, it uses the actual Company Use and LAUF volumes from its most recent 12-month operating period in its calculation of the Company Use and LAUF surcharge component for the upcoming 12-month period. Hardy states that as of December 31, 2019, it had an under-recovery of Company Use and LAUF gas quantities of 53,114 Dth and 47,183 Dth, respectively.[8]

7. Hardy states that this is a material change from the prior year where it ended calendar year 2018 in a total over-collected position of 196,088 Dth, reflecting a

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[4] *Id*.

[5] *Id*.

[6] *Id*. at 3.

[7] *Id*.

[8] *Id*.

Company Use over-collection of 36,676 Dth and a LAUF over-collection of 159,412 Dth.[9] Consequently, Hardy states that last year's retainage rate included over-collection surcharges of negative 0.290% and negative 1.134% for Company Use and LAUF, respectively.[10] Therefore, Hardy states that the majority of the 2.556% increase to the total proposed Retainage Percentage is the result of a reversal in the surcharge components from negative to positive for both Company Use and LAUF from the prior year's filing. Hardy asserts that the projected Company Use percentage only increases from 1.818% to 2.015%.[11]

8. Public notice of the filing was issued on April 3, 2020. Interventions and protests were due consistent with section 154.210 of the Commission's regulations.[12] Pursuant to Rule 214,[13] all timely filed motions to intervene and any motions to intervene filed out-of-time before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties.

9. On April 13, 2020, Exelon Corporation (Exelon) filed a protest.[14] Subsequently, on April 17, 2020, Washington Gas Light Company (WGL) filed to intervene out-of-time and protest Hardy's filing. On April 21, 2020, Hardy filed a motion to answer and answer in response to the protests. Rule 213 (a)(2) of the Commission's Rules of Practice and Procedure,[15] prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We accept Hardy's answer as it has provided information of assistance to our decision-making process.

10. Exelon argues that Hardy has not shown that its proposed retainage percentage increase is just and reasonable. Exelon asserts that Hardy has failed to provide enough information by which the Commission or its customers can determine the justness and

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[9] *Id*.

[10] *Id*.

[11] *Id*. at 4.

[12] 18 C.F.R. § 154.210 (2019).

[13] 18 C.F.R. § 385.214 (2019).

[14] Exelon filed on behalf of its subsidiary Baltimore Gas and Electric Company (BGE).

[15] 18 C.F.R. § 385.213 (a)(2) (2019).

reasonableness of its proposal.[16] Exelon states that it is concerned with the validity of Hardy's assumptions in projecting customer usage, considering that Hardy did not ask BGE what its plans are for injecting and withdrawing storage from its field in the upcoming year.[17] Exelon asserts that Hardy provides little to back up its percentage figures, no explanation of how it makes projections of Company Use and LAUF, and no explanation for why it swings so widely from negative to positive under collections.[18]

11. Exelon further asserts that in Hardy's 2019 customer presentation, Hardy informed its customers that it was undertaking a field review study to determine the underlying causes of Company Use and LAUF, the accuracy of these measurements, and committed to an ongoing process of conducting inspections and validations.[19] Exelon claims that no mention of the field review, its results, or any adjustment are contained in its RAM filing.[20] Accordingly, Exelon requests that the Commission convene a technical conference, suspend Hardy's rates for the maximum period, and set the rates subject to refund based on the outcome of the technical conference.[21]

12. WGL's protest raises arguments similar to those raised by Exelon, including that the filing is a significant rate increase and that the filing has not been justified by Hardy. WGL also points out that Hardy has failed to include the results of the field measurement review that may impact the adjustments made in this instant filing.

13. In response to Exelon and WGL (joint Protestors), Hardy states that it has presented sufficient information to support its request and that Protestors' reliance on a statement in its 2019 presentation to customers is misplaced. Specifically, Hardy explains that it continues to perform inspections and validations of measurement equipment regularly as part of its standard operating procedures and that in 2019 it identified certain anomalous conditions on the measurement at Inkerman Storage. Hardy states it undertook a review of the measurement equipment and after its review, appropriate corrections were made and the meters at Inkerman Storage have since functioned within appropriate tolerance levels and the errors identified were resolved. Hardy further points out that the resulting adjusted LAUF volumes were utilized in

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[16] Exelon Protest at 2.

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] *Id.* at 3.

calculating Company Use and LAUF volumes for the instant filing. Thus, Hardy maintains that the instant filing reflects adjustments to the measurement errors.[22]

14. Hardy states that as explained in its filing the primary driver in the fuel increase was the reversal of the adjustment surcharge from a negative percentage to a positive percentage. Specifically, at the end of calendar year 2017, Hardy had an over-collection balance of approximately 251,000 Dth. This over-collected volume was appropriately included in Hardy's 2018 RAM filing, which established a negative surcharge to "refund" the over-collected volumes to customers. During the time the negative surcharge was in effect, Hardy states customers injected significantly more gas than Hardy had projected. This resulted in Hardy "over-refunding" roughly 61,000 Dth from May 2018 through April 2019. Additionally, Hardy asserts that unaccounted-for losses on its system in 2019 as well as a change from the gains it experienced on its system in 2017 and 2018, coupled with the over-refund in 2018, resulted in Hardy moving from an over-collection position to an under-collection position which supports a positive surcharge.[23]

15. We find that Hardy's filing provides sufficient information in support of its proposal and that its workpapers comply with GT&C Section 30 of its tariff. Protestors state that they are concerned with Hardy's assumptions in making its customer projections and request that the Commission convene a technical conference for further examination of Hardy's proposed rate increase. However, we find that Hardy has calculated its retainage rate consistent with its tariff and that a technical conference is not necessary. Furthermore, Hardy's annual RAM filings includes an Unrecovered Retainage Percentage Component that adjusts its retainage percentage for unrecovered quantities, whether positive or negative. Therefore, any inaccurate assumptions made by Hardy will be adjusted in its next annual RAM filing.

16. Protestors also assert that Hardy's filing does not sufficiently explain the large swings in its retainage percentage. However, we find satisfactory Hardy's explanation that its retainage percentage increases are the result of a reversal in the surcharge components from negative to positive for both Company Use and LAUF from the prior year's filing.

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[22] Hardy Answer at 3.

[23] *Id*. at 3-4.

17. Accordingly, we accept Hardy's proposed tariff record, effective May 1, 2020, and deny the request for a technical conference.

By direction of the Commission.

Kimberly D. Bose,
Secretary.