

168 FERC ¶ 61,162
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 19, 2019

In Reply Refer To:
West Texas Gas, Inc.
Docket No. RP19-1371-000

John & Hengerer LLP
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Attention: Matthew T. Rick
Attorney for West Texas Gas, Inc.

Dear Mr. Rick:

1. On July 1, 2019, West Texas Gas, Inc. (West Texas) filed a report detailing its purchased gas cost reconciliation for the 12-month period ending April 30, 2019, pursuant to section 19 of the General Terms and Conditions (GT&C) of its FERC Gas Tariff (Tariff) and Article I of a September 1998 settlement (Settlement).¹ In the instant filing, West Texas also requests a waiver of its Tariff and the Settlement in order to provide a reconciliation report for prior periods from May 1, 2010 through April 30, 2018. For good cause shown, we grant the requested waiver and accept the reconciliation report, as discussed below.
2. West Texas states that it makes limited wholesale sales on a discrete pipeline system in the Texas Panhandle and northeastern New Mexico (that it refers to as the Dalhart System) that are subject to the Commission's jurisdiction and were originally authorized by the Commission in 1984.² West Texas states that the Commission did not

¹ *West Texas Gas, Inc.*, Docket No. RP98-25-004 (Sept. 17, 1998) (delegated order).

² Transmittal at 2 (citing *West Texas Gas, Inc. and Peoples Natural Gas Co. Division of InterNorth, Inc.*, 26 FERC ¶ 61,065 (1984)).

require West Texas to restructure its services following the issuance of Order No. 636,³ and West Texas has maintained its merchant function, making jurisdictional sales pursuant to a tariff on file at the Commission.⁴ Since April 1, 2008, such jurisdictional sales have been made to only one customer, New Mexico Gas Company, Inc. (New Mexico Gas), and according to West Texas, these jurisdictional sales account for only a small percentage of the total sales on the Dalhart System (approximately 2.19 percent for the 12-month period ending on April 30, 2019).

3. West Texas states that, prior to 1998, it recovered the cost of gas purchases associated with its jurisdictional sales pursuant to a purchased gas adjustment clause, but that the use of this clause was terminated pursuant to the Settlement. West Texas states that under terms of the Settlement, the purchased gas cost adjustment clause was replaced with a spot-market based pricing methodology that is reflected in GT&C section 19. West Texas states that the mechanism provides for West Texas to use a Permian Basin index to price jurisdictional gas sales, with annual purchased gas cost reconciliation filings made to true-up actual purchased gas costs with costs that are recovered under the index. West Texas states that such annual filings are to be made on July 1 of each year for the prior 12-month period ending on April 30. West Texas states that differences between actual purchased gas costs and costs recovered under the index are to be refunded or billed to customers with interest.

4. West Texas states that it submitted its last annual purchased gas cost reconciliation filing on November 1, 2010 in Docket No. RP11-1490-000. It states that, shortly afterwards, the outside counsel retained by West Texas for purposes of making annual reconciliation and other filings to the Commission retired, resulting in a lapse in annual reconciliation filings. West Texas states that it discovered the lapse in early 2019 while investigating a severe depression in the Permian Basin index it uses to price jurisdictional gas sales which caused elevated cost under-recoveries. West Texas states that it promptly disclosed the lapse to its only jurisdictional customer, New Mexico Gas. West Texas states that it initiated discussions with New Mexico Gas in an effort to reconcile purchased gas costs for both the current 12-month period that ended on April 30, 2019, and prior periods from May 1, 2010 through April 30, 2018.

5. West Texas states that the instant filing is submitted pursuant to those discussions. West Texas states that, using the methodology set forth in its Tariff for calculating reconciliation amounts, including interest, West Texas calculates that it is owed a total reconciliation amount of \$663,940 for both the current 12-month period ending on April 30, 2019 and the prior periods from May 1, 2010 through April 30, 2018. However, West Texas states that it has agreed to forego its recovery of interest on under-

³ *Id.* (citing *West Texas Gas, Inc.*, 83 FERC ¶ 61,005, at 61,019 (1998)).

⁴ Transmittal at 2.

recoveries incurred for periods through April 30, 2018, reducing the total reconciliation amount to \$615,920. West Texas states that it is authorized to state that New Mexico Gas has agreed to pay the reconciliation amount of \$615,920 in this instance, with payment to be made on or before September 30, 2019, with the following two caveats: (1) such agreement does not reflect any agreement on the part of New Mexico Gas with respect to the issue of whether the recovery of under-recoveries incurred for prior periods through April 30, 2018 is required or otherwise consistent with West Texas's Tariff and/or Commission policy; and (2) New Mexico Gas expressly reserves its right to protest or otherwise oppose any filing that West Texas may make in the future to recover similar prior period under-recoveries.

6. Accordingly, with the above caveats, West Texas requests that the Commission accept this reconciliation report, proposing a total reconciliation amount of \$615,920. To the extent needed, West Texas requests waiver of GT&C section 19 of its Tariff and the Settlement in order to file this reconciliation report for prior periods and accept the payment of \$615,920 from New Mexico Gas on or before September 30, 2019, without additional interest charges for the period until payment is made, provided payment is made on or before September 30, 2019. West Texas avers that such waiver will both reflect and facilitate the agreement reached between West Texas and New Mexico Gas and is, therefore, consistent with the Commission's strong preference for the negotiated resolution of issues.⁵

7. Public notice of the filing was issued on July 8, 2019. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁶ Pursuant to Rule 214,⁷ all timely motions to intervene and any unopposed 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 the proceeding or place additional burdens on existing parties. New Mexico Gas filed comments in support of the instant filing, and asks the Commission to accept the reconciliation report and grant the requested waivers to facilitate the efficient and mutually agreeable means of reconciling past costs not previously billed to New Mexico Gas. No adverse comments or protests were filed. The filing is therefore uncontested.

⁵ *Id.* at 3 (citing *Southwest Power Pool, Inc.*, 160 FERC ¶ 61,026 (2017) (stating that "Commission policy favors settlements, as they provide parties with certainty, reduce litigation costs, and permit parties to reach reasonable compromise in resolving difficult issues"))).

⁶ 18 C.F.R. § 154.210 (2019).

⁷ *Id.* § 385.214.

8. We have reviewed the instant filing and find that good cause exists to grant limited waiver of GT&C section 19 of West Texas' Tariff and the Settlement. We find that granting this unopposed waiver request will facilitate the parties' mutually agreed upon resolution of the issue of the lapsed reports, which appears to be reasonable, and no other party will be adversely affected. We thus accept the reconciliation report for the 12-month period ending April 30, 2019 and the reconciliation report for the prior periods from May 1, 2010 through April 30, 2018.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.