

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

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

Northern Natural Gas Company

Docket No. RP19-1353-005  
RP19-1353-000  
RP19-1353-002

ORDER ON COMPLIANCE FILING

(Issued May 27, 2020)

1. On January 15, 2020, Northern Natural Gas Company (Northern) filed tariff records to comply with the Commission's order (Order on Technical Conference) issued on December 31, 2019 in Docket No. RP19-1353-000.<sup>1</sup> As discussed below, we accept the tariff records in Appendix A effective January 1, 2020, subject to condition, and reject as moot the tariff records in Appendix B.<sup>2</sup>

**I. Background**

2. On July 1, 2019, Northern filed a general Natural Gas Act (NGA) section 4 rate case proposing revisions to the General Terms and Conditions (GT&C) of its FERC Gas Tariff and its transportation and storage service rate schedules. On July 31, 2019, the Commission issued an order accepting and suspending certain tariff records to be effective January 1, 2020, subject to refund and the outcome of a hearing and a technical conference on non-rate tariff issues.<sup>3</sup>

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<sup>1</sup> *Northern Natural Gas Co.*, 169 FERC ¶ 61,268 (2019) (Order on Technical Conference).

<sup>2</sup> Appendix A lists tariff records from the instant filing. Appendix B lists tariff records from Docket Nos. RP19-1353-000 and RP19-1353-002, which were accepted and suspended by the Commission on July 31, 2019 and October 11, 2019, respectively.

<sup>3</sup> *Northern Natural Gas Co.*, 168 FERC ¶ 61,069 (2019). Issues arising from Northern's Prospective Case were also set for hearing.

3. On December 31, 2019, the Commission issued an order addressing the non-rate tariff issues and required Northern to submit a compliance filing within 15 days. In the order, the Commission found certain changes to Northern's storage rate schedules, the resolution of prior period imbalances and various housekeeping changes to the tariff to be just and reasonable and rejected Northern's proposed changes to its open season requirements as unjust and unreasonable. In addition, the Commission directed Northern to file an annual Operational Purchase and Sales Report and to file revised tariff records setting forth the parameters under which it will engage in operational purchases (or sales) and the reporting requirements for such transactions.

4. On January 15, 2020, Northern submitted the instant filing to comply with the Order on Technical Conference. Northern proposed modified language defining when Account Balance Transfers are permitted; revised its Operational Balancing Agreements tariff records; and added parameters regarding its operational purchases and sales along with annual reporting requirements. In addition, Northern proposed that its first Operational Purchase and Sales Report will contain information covering calendar year 2020 and will be filed on or before May 1, 2021.

## **II. Public Notice and Interventions**

5. Public notice of Northern's filing was issued on January 16, 2020. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R § 154.210 (2019)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2019)), all timely filed motions to intervene and any unopposed motion 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.

6. Northern States Power Company, a Minnesota Corporation, Northern States Power Company, a Wisconsin Corporation, and Southwestern Public Service Company (collectively, Xcel Companies) and BP Canada Energy Marketing Corporation and XTO Energy Incorporated (collectively, Indicated Shippers) filed protests regarding Northern's proposed reporting of operational purchases and sales of natural gas. Both protesters argue that Northern's proposed language for reporting requirements does not clearly obligate Northern to file annual operational purchases and sales reports beyond the first report. Xcel Companies also argue that Northern should be directed to submit data for calendar year 2019 and its first annual report by May 1, 2020, as opposed to submitting calendar year 2020 data by May 1, 2021. In addition, Xcel Companies assert that Northern should clarify the proposed language that sets forth the parameters under which Northern will engage in operational purchases and sales, specifically the provision which allows Northern to "make operational purchases and sales of natural gas in order to

perform other operational functions in connection with transportation, storage and other similar services” because the phrase “other operational functions” is overly broad and vague.<sup>4</sup>

7. On January 30, 2020, Northern submitted an answer to the protests of Xcel Companies and Indicated Shippers. Northern agrees that its proposed tariff language did not clearly require the Operational Purchase and Sales Report to be filed annually and provided clarifying language stating its agreement that its requirement to file the report is an annual obligation. Northern disagrees with the protests regarding the filing date for the first Operational Purchase and Sales Report and the scope of the permitted operational purchases and sales. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213 (a)(2) (2019), prohibits answers to protests or answers unless otherwise permitted by the decisional authority. We accept Northern’s answer because it has provided information that assisted us in our decision-making process.

### **III. Discussion**

8. We find Northern’s instant filing generally complies with the Order on Technical Conference, except for issues related to the Operational Purchases and Sales Report. As discussed below, we will require Northern to make further revisions to its tariff.

9. Northern proposes the following tariff language at section 50.A of the GT&C on Substitute Second Revised Sheet No. 292A:

Northern may make operational purchases and sales of natural gas in order: (1) to maintain system pressure and line pack; (2) to balance Fuel and UAF quantities; (3) to implement the imbalance procedures in this Tariff; and (4) to perform other operational functions in connection with transportation, storage and other similar services.

On or before May 1, 2021, Northern will file an annual report reflecting the operational purchases and sales for the 12 month period ending the preceding December 31 and each year thereafter. The annual report will identify the following: (1) the source of the operational gas purchased or sold; (2) the date of such sale or purchase; (3) the volume; (4) the purchase or sale price; (5) the costs and revenues from such purchase or sale; (6) the disposition of the associated costs and revenues; and (7) an explanation of the purpose of any operational transaction.

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<sup>4</sup> Xcel Companies Protest at 4 (quoting Northern’s Substitute Second Revised Sheet No. 292A).

10. Xcel Companies<sup>5</sup> and Indicated Shippers<sup>6</sup> assert that the language of Northern's proposed annual reporting requirements does not obligate Northern to file Operational Purchase and Sales Reports on an ongoing annual basis beyond the initial report. As stated above, in its answer, Northern agrees with the protesters that the proposed language is not clear with regards to its annual reporting requirement<sup>7</sup> and submitted *pro forma* tariff records as part of its answer to replace Sheet No. 292A, which clarifies the tariff language consistent with the protesters' concerns. Northern proposes the following language: "On or before May 1, 2021, and by May 1 of each year thereafter, Northern will file an annual report reflecting the operational purchases and sales for the 12 month period ending the preceding December 31."

11. We agree that the language Northern proposed in its filing did not clearly state that Northern is required to file the Operational Purchase and Sales Report annually. However, we find the language proposed by Northern in its Answer fulfills the requirements set forth in the Order on Technical Conference and ensures that a report will be issued annually. Therefore, we direct Northern to file revised tariff records to incorporate into its tariff the language contained in its answer concerning the filing of the annual report.

12. In the Order on Technical Conference, the Commission required Northern to establish annual reporting requirements for its operational purchases and sales but did not state when the first Operational Purchase and Sales Report must be filed.<sup>8</sup>

13. Northern filed proposed tariff revisions designating May 1, 2021 as the date to submit its initial annual Operational Purchase and Sales Report. Xcel Companies argue that Northern failed to explain why it could not submit its initial report in 2020. Xcel Companies argue that Northern should be required to file such a report on or before May 1, 2020, to reflect operational purchases and sales of gas for calendar year 2019. Xcel Companies further argue that in *Northern Border*<sup>9</sup> and *CIG*,<sup>10</sup> the two cases relied

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<sup>5</sup> Xcel Companies Protest at 6.

<sup>6</sup> Indicated Shippers Protest at 3.

<sup>7</sup> Northern Answer at 2-3.

<sup>8</sup> Order on Technical Conference, 169 FERC ¶ 61,268 at P 54.

<sup>9</sup> Xcel Companies Protest at 3 (citing *Northern Border Pipeline Co.*, 128 FERC ¶ 61,230, at P 7 (2009)).

<sup>10</sup> Xcel Companies Protest at 3 (citing *Colorado Interstate Gas Co.*, 107 FERC ¶ 61,312, at P 15 (2004), *order on reh'g*, 111 FERC ¶ 61,216, at P 13 (2005) (*CIG*)).

upon by the Commission in the Order on Technical Conference to support its requirement for a report, the pipelines involved in those proceedings were able to issue reports covering the 12-month period immediately preceding the applicable final Commission orders.<sup>11</sup>

14. In its answer, Northern states that it selected the later date because it is currently undergoing a general NGA section 4 rate case proceeding and has already responded in discovery to voluminous data requests.<sup>12</sup> Northern argues it does not make sense to file the initial annual report during the same period of time covered by the rate case base and test periods where there was already substantial discovery conducted. Northern asserts that because of its on-going general NGA section 4 proceeding, its circumstance is different than those found in *Northern Border* and *CIG*.

15. We find that Northern has failed to show why providing an Operational Purchase and Sales Report for 2019 is overly burdensome. Northern concedes that it has already produced large volumes of data covering the base and test periods for its rate case proceedings and therefore, we conclude this information should be easily accessible. Accordingly, consistent with the Commission's rulings in *Northern Border* and *CIG*, we direct Northern to file its initial Operational Purchase and Sales Report within 60 days of the date of this order, to report on the time period between January 1, 2019 and December 31, 2019.

16. In the Order on Technical Conference, the Commission directed Northern to file revised tariff records setting forth the parameters under which it will engage in operational purchases (or sales) and the reporting requirements for such transactions.<sup>13</sup>

17. Xcel Companies assert that the proposed language authorizing Northern to make operational purchases and sales of gas "to perform other operational functions in connection with transportation, storage and other similar services" is overly broad and vague and request that the language be clarified or omitted. Xcel Companies assert that "[o]verly broad and vague Tariff language that creates uncertainty as to rate components is in contravention to the Natural Gas Act and the long standing Commission principle that customers must have advance notice of a rate before service."<sup>14</sup>

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<sup>11</sup> Xcel Companies Protest at 3.

<sup>12</sup> Northern Answer at 4.

<sup>13</sup> Order on Technical Conference, 169 FERC ¶ 61,268 at PP 53-54.

<sup>14</sup> Xcel Companies Protest at 4-5 (citing *Transcontinental Gas Pipe Line Co., LLC*, 167 FERC ¶ 61,144, at P 18 (2019) (the Natural Gas Act and the filed rate doctrine require a pipeline to file proposed rates in advance of commencement of service))

18. In its answer, Northern argues that the Commission has accepted the same language it proposes in other companies' tariffs including the exact language to which the Xcel Companies objects.<sup>15</sup> Northern argues that if a shipper believes a transaction is not operational in nature, it has the option to raise the issue with Northern directly, in a rate proceeding, or submit a complaint with the Commission.

19. We find that the tariff language authorizing Northern "to perform other operational functions in connection with transportation, storage and other similar services" provides sufficient detail concerning the specific situations relating to an operational purchase or sale of gas and therefore accept it as just and reasonable.<sup>16</sup> Consistent with the Commission's orders in *WIC* and *CIG*, to the extent Northern becomes aware of other sources of gas incidental to its system operations that it wishes to purchase or sell, it will have to file for and receive the appropriate Commission approval to add that source to its FERC tariff.<sup>17</sup>

20. We accept Northern's tariff records as listed in Appendix A, subject to the conditions discussed above. We reject all tariff records listed in Appendix B as moot, as they are superseded by the tariff records in Appendix A.

The Commission orders:

(A) The tariff records in Appendix A are accepted effective January 1, 2020, subject to Northern filing revised tariff records within 60 days of the issuance date of this order modifying its tariff to clarify Northern's obligation to file Operational Purchase and Sales Reports on an ongoing annual basis beyond the initial report as discussed in the body of this order.

(B) The tariff records in Appendix B are rejected as moot.

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(citing *W. Res., Inc. v. FERC*, 72 F.3d 147, 149 (D.C. Cir. 1995)); see also, *Columbia Gas Transmission Corp. v. FERC*, 831 F.2d 1135, 1140 (D.C. Cir. 1987) (explaining that the filed rate doctrine is derived from Section 4 of the Natural Gas Act)).

<sup>15</sup> Northern cites to the tariffs of Colorado Interstate Gas Company, GT&C Section 28; ANR Pipeline Company, GT&C Part 6.35; Northern Border Pipeline Company, GT&C Part 6.45; Viking Gas Transmission Company GT&C Part 8.15; and Wyoming Interstate Company, GT&C Section 27.

<sup>16</sup> *Wyoming Interstate Company*, 107 FERC ¶ 61,315 (2004) (*WIC*); *CIG*, 107 FERC ¶ 61,312, *order on reh'g*, 111 FERC ¶ 61,216.

<sup>17</sup> *WIC*, 107 FERC ¶ 61,315 at P 12; *CIG*, 107 FERC ¶ 61,312 at P 11.

(C) Within 60 days of issuance date of this order, Northern must submit its annual Operational Purchase and Sales Report for 2019 as discussed above.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**Appendix A**

Northern Natural Gas Company  
FERC NGA Gas Tariff  
Gas Tariffs

Tariff records filed in Docket No. RP19-1353-005 accepted effective January 1, 2020:

[Sheet No. 54, Effective Rates TF TFX LFT GS-T TI and FDD, 24.2.1](#)

[Sheet No. 54A, Fuel Unaccounted-For Exemptions, 8.1.0](#)

[Sheet No. 54B, Fuel Unaccounted-For Exemptions, 4.1.0](#)

[Sheet No. 61, MIDS, 11.2.0](#)

[Sheet No. 62, MIDS, 23.2.0](#)

[Sheet No. 109, Rate Schedule TF, 1.2.0](#)

[Sheet No. 124, Rate Schedule TFX, 2.2.0](#)

[Sheet No. 132, Rate Schedule TI, 2.2.0](#)

[Sheet No. 135D, Rate Schedule FDD, 8.1.0](#)

[Sheet No. 135E, Rate Schedule FDD, 4.1.0](#)

[Sheet No. 136, Rate Schedule FDD, 2.1.0](#)

[Sheet No. 140, Rate Schedule FDD, 3.2.0](#)

[Sheet No. 142C, Rate Schedule PDD, 7.1.0](#)

[Sheet No. 144, Rate Schedule IDD, 8.1.0](#)

[Sheet No. 154, Rate Schedule MPS, 4.1.0](#)

[Sheet No. 155, Rate Schedule MPS, 4.1.0](#)

[Sheet No. 201B, G T and C Table of Contents, 4.2.0](#)

[Sheet No. 205, G T and C Definition of Terms, 7.1.0](#)

[Sheet No. 205A, G T and C Definition of Terms, 4.1.0](#)

[Sheet No. 206, G T and C Definition of Terms, 4.1.0](#)

[Sheet No. 206A, G T and C Definition of Terms, 1.1.0](#)

[Sheet No. 207, G T and C Definition of Terms, 1.1.0](#)

[Sheet No. 263B, G T and C Allocation of Capacity, 2.1.0](#)

[Sheet No. 264, G T and C Billing Throughput Quantity, 3.1.0](#)

[Sheet No. 267, G T and C Balancing, 3.1.0](#)

[Sheet No. 269A, G T and C Balancing, 2.1.0](#)

[Sheet No. 281, G T and C Quality, 1.1.0](#)

[Sheet No. 282, G T and C Processing, 1.1.0](#)

[Sheet No. 283, G T and C Processing, 1.1.0](#)

[Sheet No. 292A, G T and C No-Notice Obligation, 2.1.0](#)

[Sheet No. 300, G T and C Periodic Rate Adjustment, 2.2.0](#)

[Sheet No. 300A, G T and C Periodic Rate Adjustment, 2.1.0](#)

[Sheet No. 301, G T and C Periodic Rate Adjustment, 1.1.0](#)

[Sheet No. 301A, G T and C Periodic Rate Adjustment, 1.2.0](#)

[Sheet No. 301B, G T and C Periodic Rate Adjustment, 1.2.0](#)

[Sheet No. 301C, G T and C Periodic Rate Adjustment, 1.2.0](#)



Northern Natural Gas Company  
FERC NGA Gas Tariff  
Gas Tariffs

Tariff records filed in Docket No. RP19-1353-000 rejected as moot:

[Sheet No. 54, Effective Rates TF TFX LFT GS-T TI and FDD, 24.0.1](#)  
[Sheet No. 54A, Fuel Unaccounted-For Exemptions, 8.0.0](#)  
[Sheet No. 54B, Fuel Unaccounted-For Exemptions, 4.0.0](#)  
[Sheet No. 61, Reserved for Future Use, 11.0.0](#)  
[Sheet No. 62, Reserved for Future Use, 23.0.0](#)  
[Sheet No. 109, Rate Schedule TF, 1.0.0](#)  
[Sheet No. 124, Rate Schedule TFX, 2.0.0](#)  
[Sheet No. 132, Rate Schedule TI, 2.0.0](#)  
[Sheet No. 135D, Rate Schedule FDD, 8.0.0](#)  
[Sheet No. 135E, Rate Schedule FDD, 4.0.0](#)  
[Sheet No. 136, Rate Schedule FDD, 2.0.0](#)  
[Sheet No. 140, Rate Schedule FDD, 3.0.0](#)  
[Sheet No. 142C, Rate Schedule PDD, 7.0.0](#)  
[Sheet No. 144, Rate Schedule IDD, 8.0.0](#)  
[Sheet No. 154, Rate Schedule MPS, 4.0.0](#)  
[Sheet No. 155, Rate Schedule MPS, 4.0.0](#)  
[Sheet No. 201B, G T and C Table of Contents, 4.0.0](#)  
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[Sheet No. 301C, G T and C Periodic Rate Adjustment, 1.0.0](#)

Northern Natural Gas Company  
FERC NGA Gas Tariff  
Gas Tariffs

Tariff records filed in Docket No. RP19-1353-002 rejected as moot:

[Sheet No. 54, Effective Rates TF TFX LFT GS-T TI and FDD, 24.1.1](#)

[Sheet No. 61, MIDS, 11.1.0](#)

[Sheet No. 62, MIDS, 23.1.0](#)

[Sheet No. 109, Rate Schedule TF, 1.1.0](#)

[Sheet No. 124, Rate Schedule TFX, 2.1.0](#)

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