

173 FERC ¶ 61,115
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

October 30, 2020

In Reply Refer To:
Northern Natural Gas Company
Docket No. RP21-26-000

Northern Natural Gas Company
1111 South 103rd Street
Omaha, NE 68124-1000

Attention: Kirk Lavengood, Vice President
General Counsel and Regulatory Affairs

Dear Mr. Lavengood:

1. On October 1, 2020, Northern Natural Gas Company (Northern) filed revised tariff records¹ to permit Northern to waive, in a not unduly discriminatory manner, any penalty for shippers' non-compliance with Northern's operational flow orders related to the Carlton Resolution,² and to revise tariff provisions related to Rate Schedule SMS (System Management Service) scheduling tolerances, and Daily Delivery Variance Charges. Northern requests that the tariff record relating to the Carlton Resolution, as listed in Appendix A, become effective on November 1, 2020. Northern requests that the tariff records relating to the Daily Delivery Variance Charges and Rate Schedule SMS, as listed in Appendix B, become effective on January 1, 2021 and November 1, 2021, respectively. For reasons discussed below, we accept the tariff record listed in Appendix A, reject the tariff records listed in Appendix B without prejudice to refiling, and deny waiver of 18 C.F.R. § 154.207 to permit certain tariff records to go into effect more than 60 days after being filed.

¹ See Appendices.

² "The Carlton Resolution" generally refers to a settlement memorialized in Northern's tariff under which certain shippers with receipt point entitlements in Northern's Market Area agree to flow volumes as required by Northern's operational flow orders through Northern's interconnection with Great Lakes Gas Transmission Company at Carlton, Minnesota in order to meet firm Market Area requirements. See *Northern Natural Gas Co.*, 77 FERC ¶ 61,201 (1996).

2. On July 19, 2020, Northern filed a Stipulation and Agreement of Settlement (Settlement) to resolve all issues concerning Northern's October 11, 2018 FERC Form No. 501-G filing submitted in Docket No. RP19-59-000 and its general Natural Gas Act (NGA) section 4 rate case filing submitted in Docket No. RP19-1353-000 (2019 Rate Case). The Presiding Administrative Law Judge certified the Settlement on July 21, 2020 and the Commission issued an order approving the Settlement on September 28, 2020.³ Article X of the Settlement established a Tariff Working Group to discuss mutually agreeable tariff changes for the Carlton Operational Flow Order, Rate Schedule SMS, Daily Delivery Variance Charges (including indexing of rates and tiering) and imbalance management.⁴ In the instant filing, Northern states that the Tariff Working Group met three times and that the proposal filed reflects these discussions.

3. In the instant filing, Northern proposes to revise its tariff to allow it to waive penalties related to the Carlton Resolution's operational flow orders in a not unduly discriminatory manner. The Carlton Resolution requires Carlton Sourcers to pay \$25 for each dekatherm that does not comply with Northern's requirements to increase or reduce firm receipts at Carlton. Northern also proposes to revise its tariff to change the structure of its Daily Delivery Variance Charges penalties from fixed amounts to the greater of the fixed amounts or indexed amounts calculated by multiplying the Platts "Gas Daily" Midpoint price by varying multipliers, depending on the severity of the daily delivery variance, on the applicable day of the applicable index point. In addition, Northern proposes to reduce Rate Schedule SMS availability and scheduling tolerances during periods when Northern has declared that System Overrun Limitations, System Underrun Limitations, and Critical Days are in effect. Northern states that the SMS service was intended to provide shippers additional flexibility during normal operating conditions. However, Northern maintains that its existing tariff limitations are now inadequate to protect system integrity in the face of increased throughput demands. Northern states that the proposed effective dates are based upon customer requests and the necessary time to implement computer system modifications.⁵

4. Public notice of the filing was issued on October 2, 2020. Interventions and protests were due as provided in section 154.210 of the Commission's

³ *Northern Natural Gas Co.*, 172 FERC ¶ 61,287 (2020).

⁴ Stipulation and Settlement Agreement, Docket No. RP19-1353-009 (June 19, 2020), Article X.

⁵ Northern Transmittal at 3.

regulations.⁶ Pursuant to Rule 214,⁷ all timely filed motions to intervene and any unopposed motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. SEMCO Energy Gas Company (SEMCO); the Northern Municipal Distributors Group⁸ and the Midwest Region Gas Task Force Association⁹ (collectively, NMDG/MRGTF); and Exelon Generation Company, LLC (Exelon) protested the filing. Upper Midwest Shipper Group¹⁰ and CenterPoint Energy Resources Corporation filed comments in support of the filing. Northern States Power Companies¹¹ and Southwestern Public Service Company and Flint Hills Resources, LP filed comments acknowledging the filing. On October 19, 2020, NMDG/MRGTF filed an Amended Motion to Intervene and Comments. On October 22, 2020, Northern filed an answer to the protests in this filing. Pursuant to Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,¹² answers to

⁶ 18 C.F.R. § 154.210 (2020).

⁷ 18 C.F.R. § 385.214 (2020).

⁸ Northern Municipal Distributors Group is composed of the following Iowa municipal-distributor customers of Northern: Alton, Cascade, Cedar Falls, Coon Rapids, Emmetsburg, Everly, Gilmore, Graettinger, Guthrie Center, Harlan, Hartley, Hawarden, Lake Park, Manilla, Manning, Orange City, Osage, Preston, Remsen, Rock Rapids, Rolfe, Sabula, Sac City, Sanborn, Sioux Center, Tipton, Waukee, West Bend, Whittemore, and Woodbine.

⁹ Midwest Region Gas Task Force Association is composed of the following municipal-distributor and local distribution customers of Northern: Austin Utilities, Circle Pines, Community Utility Company, Dooley's Natural Gas, Great Plains Natural Gas Company, Greater Minnesota Gas, Hibbing, Hutchinson, New Ulm, Northwest Natural Gas Company, Owatonna, Round Lake, Sheehan's Gas Company, Inc., Two Harbors, Virginia, and Westbrook, Minnesota; Midwest Natural Gas, Inc., and St. Croix Valley Natural Gas, Wisconsin; Watertown, South Dakota; and the cities of Fremont, Lyons, and Stromsburg, and the Village of Pender Nebraska.

¹⁰ Upper Midwest Shipper Group is Wisconsin Electric Power Company, Wisconsin Gas LLC, Upper Michigan Resources Corporation, Minnesota Energy Resources Corporation, Interstate Power & Light Company, Wisconsin Power & Light Company, and Madison Gas and Electric Company.

¹¹ Northern States Power Companies are Northern States Power Company, a Minnesota Corporation, and Northern States Power Company, a Wisconsin Corporation.

¹² 18 C.F.R. § 385.213(a)(2) (2020).

protests are prohibited unless otherwise ordered by the decisional authority. The Commission will accept Northern's answer because it provides information that has assisted us in our decision-making process.

5. All protestors state that they raised concerns with the proposed tariff changes during the Tariff Working Group. NMDG/MRGTF and Exelon also note that Northern set up a process where comments were only submitted to Northern, leaving other participants unaware of their concerns. SEMCO further states that Northern never responded to its communication.¹³ Exelon notes that the Settlement provided that for Northern to proceed with any tariff changes, significant support is required from participating customers and Northern,¹⁴ which Exelon argues is difficult to determine due to Northern's lack of transparency.

6. Exelon argues that the maximum multiplier for Northern's proposed Daily Delivery Variance Charges is three times higher than originally proposed and is not supported by Northern's transmittal. Exelon states that Northern failed to document financial harm caused by billing the penalty gas at the original rate.

7. Exelon contends that Northern's proposal "would significantly change the nature and usefulness of the SMS product."¹⁵ Exelon explains that the limitations proposed reduce the value of the service on System Overrun Limitations, System Underrun Limitations, and Critical Days, defeating the purpose of the service. SEMCO states that Northern clearly needs the proposed modifications to address operational concerns but argues that Northern's transmittal shows it cannot actually provide SMS service for a significant portion of the year. Rather, SEMCO requests the Commission require Northern to provide reservation charge credits for days when SMS is restricted.

8. NMDG/MRGTF proposed an exemption for small customers, arguing that small customers are not the cause of Northern's reliability problems. NMDG/MRGTF states that excluding small customers would be consistent with cost causation.

9. As discussed below, we accept the proposed tariff record listed in Appendix A to be effective November 1, 2020. We deny Northern's request for waiver of the

¹³ SEMCO Protest at 7.

¹⁴ Settlement at Article X(A).

¹⁵ Exelon Protest at 3.

Commission's 60-day notice requirement,¹⁶ and reject the proposed tariff records listed in Appendix B without prejudice to refiling.

10. We accept the revised tariff record listed in Appendix A, to be effective November 1, 2020 as proposed. No protestor raised any issues with Northern's proposal to reserve the right to waive any Carlton penalty on a not unduly discriminatory basis.

11. We reject the tariff records listed in Appendix B without prejudice to Northern refiling at a later date. Section 154.207 provides that pipelines must file proposed changes to a tariff with the Commission not less than 30 days nor more than 60 days prior to the proposed effective date, unless waiver is granted by the Commission.¹⁷ Northern proposes effective dates of January 1, 2021, and November 1, 2021, more than 60 days from the date of filing. While Northern requests a waiver for any and all Commission regulations necessary to allow the tariff records to become effective,¹⁸ we do not find good cause to waive section 154.207 of the Commission's regulations.¹⁹ Northern must provide more detailed support to show good cause, particularly when some of the proposed tariff records will not be effective until the passage of a full year. We do not address whether the proposed tariff records in Appendix B are just and reasonable, and we encourage Northern to work with shippers to develop mutually agreeable tariff changes before re-filing.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁶ 18 C.F.R. § 154.207 (2020).

¹⁷ 18 C.F.R. § 154.207 (2020).

¹⁸ Northern Transmittal at 5.

¹⁹ See, e.g., *National Fuel Gas Supply Corp.*, 143 FERC ¶ 61,155, at P 14 (2013) (denying waiver of section 154.207 and rejecting tariff records proposed to go into effect at an indefinite date in the future); *Alliance Pipeline L.P.*, 136 FERC ¶ 61,066, at P 35 (2011) (rejecting request for waiver of section 154.207 where pipeline stated its proposal would take effect at least six months in the future, once its business systems were reprogrammed).

Appendix A

Northern Natural Gas Company
FERC NGA Gas Tariff
Gas Tariffs

Tariff record accepted effective November 1, 2020:

[Sheet No. 263D, G T and C Allocation of Capacity, 3.0.0](#)

Appendix B

Northern Natural Gas Company
FERC NGA Gas Tariff
Gas Tariffs

Tariff records rejected:

[Sheet No. 53, Currently Effective Rates GS-T and CS-1, 19.0.0](#)
[Sheet No. 291A, G T and C Daily Delivery Variance Charges, 2.0.0](#)
[Sheet No. 292, G T and C Daily Delivery Variance Charges, 2.0.0](#)
[Sheet No. 148, Rate Schedule SMS, 1.0.0](#)
[Sheet No. 149, Rate Schedule SMS, 1.0.0](#)
[Sheet No. 290, G T and C Daily Delivery Variance Charges, 2.0.0](#)
[Sheet No. 291, G T and C Daily Delivery Variance Charges, 1.0.0](#)
[Sheet No. 291A, G T and C Daily Delivery Variance Charges, 3.0.0](#)
[Sheet No. 292, G T and C Daily Delivery Variance Charges, 3.0.0](#)

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