

176 FERC ¶ 61,070
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 2, 2021

In Reply Refer To:
Northern Natural Gas Company
Docket No. RP21-836-000

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

Attention: JoAnna DeWald, Esq.
Senior Counsel

Dear Ms. DeWald:

1. On May 24, 2021, Northern Natural Gas Company (Northern) filed a petition requesting limited waiver of section 57 of the General Terms & Conditions (GT&C) of its tariff in order to credit approximately \$10 million in penalty revenue to customers earlier than otherwise required by the tariff. The penalty revenue to be credited consists of Daily Deliverance Variance Charges (DDVC) arising from the February 2021 extreme weather event. As discussed below, we grant the requested limited waiver of Northern's tariff, GT&C section 57 in order to permit Northern to credit DDVC penalty revenues to shippers outside the timeframe otherwise provided for in the tariff.

2. Northern states that, from February 4, 2021 through February 22, 2021, its pipeline system experienced sustained colder than normal temperatures. During the weather event, several receipt points in Northern's Field Area¹ under-performed, and several delivery points took gas in excess of scheduled quantities. Northern states that, based on the weather forecast and other operating factors, it was concerned that the under-performance at receipt points and the over-takes at delivery points would be detrimental to the system and put the pipeline's operating integrity at risk. Northern states that, to help protect the system for those gas days, it called a System Overrun

¹ GT&C section 1 defines Field Area as "the geographical area located south of the inlet to Northern's Clifton Compressor Station in Clay County, Kansas."

Limitation (SOL)² effective each day from February 4, 2021 through February 22, 2021, in the Market Area³ and from February 13, 2021 through February 22, 2021, in the Field Area, as well as six Critical Days⁴ from February 13, 2021 through February 18, 2021, effective in the Market and Field Areas. Northern explains that since DDVCs associated with Critical Days have higher fixed charges and index multiples than on a normal or SOL gas day, the amount of DDVCs invoiced and collected in February 2021 were significantly higher than normal.⁵

3. Northern explains that, in order to mitigate direct financial impact to customers, it posted a notice on February 19, 2021, seeking customer feedback regarding a proposal to provide penalty credits (refunds) earlier than the normal crediting process set forth in the tariff. GT&C section 57(1)(a) otherwise provides:

In January of each year, Northern will credit all penalty and DDVC revenues collected..., including interest per the Commission's regulations, during the prior contract year (November through October) [to Customers' February invoices].⁶

² According to Northern's tariff, in the event that the pipeline system operating integrity is in jeopardy, a SOL may be called for all or part of the System Management Service entitlement above the maximum daily quantity. In the event Northern's operating condition severely deteriorates, a Critical Day may be called in Northern's sole discretion. GT&C section 48(E).

³ GT&C section 1 defines Market Area as "the geographical area located north of the inlet to Northern's Clifton Compressor Station in Clay County, Kansas."

⁴ According to Northern's tariff, a Critical Day may be called in order (i) to alleviate conditions which threaten the integrity of its pipeline system, (ii) to maintain pipeline operations at the pressures required to provide an efficient and reliable firm transportation service to Shippers, and (iii) to maintain the pipeline system in balance for the foregoing purposes. GT&C section 48(F).

⁵ Northern's current DDVC methodology was filed and approved effective Jan. 1, 2021 after discussions with shippers provided for by settlement. *Northern Natural Gas Co.*, 173 FERC ¶ 61,291 (2020); *see also* Northern Settlement Filing, Docket No. RP19-1353-009 (June 19, 2020).

⁶ Petition at 2.

The tariff further provides that DDVCs are calculated based upon the greater of the stated fixed rate or a multiple of certain daily index-based rates, depending upon whether a SOL, system underrun limitation, or a Critical Day is in effect.⁷

4. In the February 19, 2021 notice, Northern proposed to refund DDVCs collected from November 2020 through February 2021 earlier than normal, if customers desired. Northern stated that a number of customers expressed interest in Northern seeking approval from the Commission for early refund of the penalty credits. As such, Northern states that it issued invoices for February 2021, including invoices for DDVCs, in mid-March 2021 and, as anticipated, the DDVC amounts were substantially higher than in prior months.

5. Due to the greater amount of DDVCs collected, Northern proposes to credit customers approximately \$10 million in DDVCs collected for the heating season of November 2020 through March 2021 by way of commodity invoices issued after a Commission decision approving the waiver. Northern states that the DDVC penalties collected will be remitted with interest computed pursuant to section 154.501 of the Commission's regulations⁸ through the day the penalties are credited to the customers. Northern states that, if the requested waiver is not accepted by the Commission, the collected DDVC penalties for the year ending October 31, 2021, will not be credited early and will instead be credited in the January 2022 commodity invoices in accordance with GT&C section 57 of its tariff.

6. For purposes of allocating the DDVC penalty credits to firm and interruptible customers, Northern proposes to follow the allocation method in GT&C section 57.2, which provides that Northern will prorate the DDVC dollars based on the weighted value equal to the total annual scheduled volume at the delivery points that are subject to DDVCs where each shipper takes the swing, multiplied by a percent equal to 100 % minus the percent of the total DDVC dollars paid by each shipper for the heating season. Northern states that, for the early DDVC credits, it proposes to use for allocation purposes the annual scheduled quantities for the trailing 12 months ending May 31, 2021.

7. Following completion of the contract year ending October 31, 2021, and contingent upon the Commission's acceptance of the instant proposal, Northern will determine the DDVC penalty credits for April 1, 2021 through October 31, 2021, and any remaining DDVC amounts collected for November 1, 2020 through March 31, 2021 that were not collected by the time the early credits were refunded, including the appropriate carrying charges. Northern states that it will allocate the remaining penalty credits to

⁷ GT&C section 48(E-H).

⁸ 18 C.F.R. § 154.501 (2020).

customers in accordance with GT&C section 57.2 of its tariff based on the annual scheduled quantities for the trailing 12 months ending October 31, 2021.

8. On May 11, 2021, Northern held a customer call to obtain feedback regarding Northern's early DDVC credit proposal, including the proposed timing and the allocation methodology. Northern states that it did not receive any questions or comments from customers during the call, but that two days later, on May 13, 2021, it received a comment from one customer indicating its preference to maintain the current tariff method of DDVC crediting which Northern ultimately adopted.

9. Public notice of the filing was issued on May 25, 2021. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁹ Pursuant to Rule 214, all timely filed motions to intervene are granted.¹⁰ On May 28, 2021, the Northern Municipal Distributors Group (NMDG)¹¹ and the Midwest Region Gas Task Force Association (MRGTF),¹² as well as the individual members of each group, (together, NMDG/MRGTF) filed a motion to intervene and comments.

10. In their comments, NMDG/MRGTF state that they appreciate Northern's effort to expedite the credits to shippers at a time when shippers incurred higher than normal gas costs to remain in balance during Winter Storm Uri. NMDG/MRGTF state that they believe Northern's petition will not increase the burden on any shippers that are subject to the DDVC penalties. Furthermore, NMDG/MRGTF state that they support Northern's petition because by shortening the time period when Northern holds the penalties, there

⁹ 18 C.F.R. § 154.210 (2020).

¹⁰ 18 C.F.R. § 385.214 (2020).

¹¹ NMDG 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.

¹² MRGTF 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.

will be the benefit of a reduction in the interest that Northern is required to pay when it credits the penalties to its customers.¹³

11. We grant Northern's request for waiver. We evaluate the request for waiver of Northern's tariff provisions using the "four-factor test." The Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.¹⁴ We find that the circumstances of the instant case satisfy the foregoing criteria.

12. First, we find that Northern acted in good faith by submitting this filing as soon as practicable to relieve financial hardship resulting from higher than average penalties incurred during the February 2021 weather event. Second, we find that the waiver is limited in scope because Northern seeks a one-time waiver of the relevant tariff provisions. Third, we find that the requested waiver addresses a concrete problem because, absent the waiver, Northern's customers would have to wait until January 2022 to receive the DDVC credits to which they are entitled. Finally, we find that the requested waiver does not result in undesirable consequences, such as harm to third parties. Here, there is no evidence in the record of negative consequences such as harm to third parties due to the requested waiver of GT&C section 57. The waiver of the tariff provisions will ensure that the customers receive the credits for the DDVCs collected from November 2020 through March 2021 earlier than required by Northern's tariff. Further, we note that no customer has protested the request for waiver and that two customer groups filed comments in support.

13. Accordingly, we grant Northern's request for a limited waiver of GT&C section 57 of its tariff in order to return to customers the credits for the DDVC revenues collected for the months of November 2020 through March 2021 earlier than required by the tariff.

By direction of the Commission.

Debbie-Anne A. Reese,
Deputy Secretary.

¹³ NMDG/MRGTF Motion to Intervene and Comments at 2-3.

¹⁴ See, e.g., *Citizens Sunrise Transmission LLC*, 171 FERC ¶ 61,106, at P 10 (2020); *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).