156 FERC ¶ 61,183
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

September 16, 2016

In Reply Refer To:
Kern River Gas Transmission Company
Docket No. RP16-1174-000

Kern River Gas Transmission Company
2755 East Cottonwood Parkway
Salt Lake City, UT 84121

Attention: Laura Demman, Vice President, Regulatory & Government Affairs

Reference: New Optional Firm Peaking Transportation Service

Dear Ms. Demman:

1. On August 17, 2016, Kern River Gas Transmission Company (Kern River) filed tariff records[1] to implement a new, firm peaking transportation service, Rate Schedule KRF-PK. In conjunction with the implementation of this new rate schedule, Kern River proposes to add to its tariff a form of service agreement and a statement of rates applicable to Rate Schedule KRF-PK, and to make minor, ministerial revisions related to adding the new rate schedule. In addition, Kern River requests waiver of section 154.202(a)(1)(B)(viii) of the Commission's regulations.[2] As discussed below, the Commission grants the requested waiver, and accepts Kern River's tariff records, effective September 17, 2016, subject to Kern River revising proposed Rate Schedule KRF-PK, as discussed herein.

2. Kern River proposes to implement Rate Schedule KRF-PK, to provide an optional, firm peaking transportation service for those shippers whose usage peaks for a certain numbers of hours each day. Kern River explains that a shipper receiving service under Rate Schedule KRF-PK will be able to nominate its total daily requirements in

[1] *See* Appendix.

[2] 18 C.F.R. § 154.202(a)(1)(B)(viii) (2016).

accordance with the nomination and scheduling procedures currently detailed in section 13 of the General Terms and Conditions (GT&C) of Kern River's tariff. Kern River states that it will receive the natural gas at the shipper's primary receipt point(s) on a relatively uniform hourly basis on the gas day for which it is nominated. Kern River states that it will deliver the gas to the shipper's primary delivery point(s) at an hourly rate, and for a specific number of hours, that is more consistent with the shipper's expected peak flow requirements on the calendar day it is needed.

3. Kern River maintains that its proposed Rate Schedule KRF-PK is patterned after Rate Schedule KRF-1[3] with some differences in Section 1 – Availability, Section 2 – Applicability and Character of Service, and Section 3 – Qualification for Service. Kern River states that firm peaking service is available only when it has determined that it has sufficient capacity available to perform the specific peaking service requested without adversely affecting existing firm transportation service to any other firm shipper. Kern River states that it does not plan to allocate any specific capacity to provide service under Rate Schedule KRF-PK, inasmuch as the capacity that would be used to provide peaking service also is available to provide firm transportation under Rate Schedule KRF-1. Kern River states that requests for the proposed peaking service will be evaluated on a non-discriminatory, case-by-case basis and because it has no storage on its system, such evaluation will be based on the Transportation Maximum Daily Quantity (TMDQ), maximum hourly quantity (MHQ), peak flow period hours (PFP), and receipt and delivery points requested. It further states that capacity to provide the proposed firm peaking service generally may be available when (1) the natural gas is to be delivered on a backhaul basis or (2) the primary receipt point(s) are in close proximity to the primary delivery point(s), i.e., minimizing the delay between physical receipt and physical delivery of gas. If Kern River determines that capacity is available to provide the proposed peaking service, it states that it may enter into a pre-arranged transaction with the requesting shipper, the terms of which will be posted for bid in accordance with section 27.2(c) of its GT&C.

4. Pursuant to proposed Rate Schedule KRF-PK, deliveries to the primary delivery point(s) listed on the shipper's transportation service agreement (TSA) may be made at a non-uniform hourly flow rate that exceeds the shipper's TMDQ, provided that the total quantity delivered may not exceed shipper's TMDQ on any gas day. Kern River states that a shipper receiving service under proposed Rate Schedule KRF-PK may nominate during any nomination cycle set forth in section 13 of the GT&C of Kern River's tariff. Kern River will deliver the gas to the shipper's primary delivery point(s) in accordance with the MHQ and PFP set forth in the shipper's TSA provided that at least 70 percent of

[3] Kern River states that it also provides firm transportation service on its High Desert Lateral under Rate Schedule KRF-L1. Transmittal at 1 n.1.

the shipper's total daily scheduled quantity is received by Kern River before deliveries on behalf of the shipper commence. Referencing NAESB's definition of a gas day, Kern River states that a shipper's PFP may span two gas days, but only one calendar day.[4]

5. Due to the fact that Kern River has no storage on its system, it states that the proposed peaking service is subject to the following conditions:

> (1) Deliveries to the shipper at its primary delivery point(s) must commence no more than 24 hours after shipper's confirmed quantities are scheduled to flow to Kern River; and
>
> (2) Unless Kern River and the shipper agree otherwise, at least 70 percent of a shipper's total daily scheduled quantity must be received by Kern River at shipper's primary receipt point(s) before Kern River will commence deliveries at shipper's primary delivery point(s).

Kern River further states that the shipper may nominate from secondary receipt points and/or to secondary delivery points as long as the service using secondary points will be provided on a uniform hourly basis to the maximum extent possible. Also, according to Kern River, capacity may be released subject to the terms of the shipper's TSA. If the shipper releases only a portion of its capacity, the percentage of MHQ to be released must be the same as the percentage of the Demand Maximum Daily Quantity (DMDQ) to be released and the PFP for both the releasing shipper and the replacement shipper must be the same as the PFP initially set forth in the releasing shipper's TSA.

6. Last, Kern River requires that when a potential shipper submits a request for service under Rate Schedule KRF-PK, the shipper must provide its desired MHQ and PFP in addition to the information required when requesting service under Rate Schedule KRF-1.

7. Kern River proposes to implement a new form of service agreement applicable to service under Rate Schedule KRF-PK that is essentially the same as the currently effective form of service agreement applicable to service under Rate Schedule KRF-1 with the following exceptions: (1) shippers under Rate Schedule KRF-PK are not eligible for service at Period Two rates; (2) service under Rate Schedule KRF-PK will be provided on a Dekatherm basis, and a shipper's TMDQ will be equal to its DMDQ; (3) the rate language included in section 2.2 is specific to Rate Schedule KRF-PK; and (4) blank spaces to reflect a shipper's PFP and MHQ have been included and columns reflecting receipt and delivery point pressures have been omitted.

[4] Transmittal at 3 n.2.

8. Kern River proposes to charge a reservation/demand rate for service under Rate Schedule KRF-PK that is derived from the currently effective maximum daily reservation/demand rate for Firm, Incremental Rate Service, applicable to Kern River's 2003/2010 Expansion Projects under Rate Schedule KRF-1, adjusted to reflect the PFP set forth in the KRF-PK shipper's TSA. It also notes that a shipper receiving firm transportation service under Rate Schedule KRF-PK will be subject to a maximum daily reservation/demand rate that varies according to the amount of capacity Kern River must have available to provide the firm peaking service.[5] Kern River asserts that the proposed KRF-PK rates are just and reasonable because they are derived from cost-based rates that were previously accepted by the Commission and the proposed rate formula is similar to formulas accepted by the Commission for non-uniform hourly service in other proceedings.[6]

9. Kern River states that the proposed peaking service is a new optional service that will utilize existing unsubscribed capacity, subject to Kern River's ability to provide the service based on the parameters of a specific request. As Kern River cannot predict the extent to which this service will be requested, it seeks waiver of section 154.202 (a)(1)(B)(viii) of the Commission's regulations requiring workpapers showing the estimated effect of costs and revenues from new service over the 12-month period commencing from the tariff record's effective date.

10. Public notice of the instant filing was issued on August 18, 2016. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.[7] Pursuant to Rule 214,[8] 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. Anadarko Energy Services Company, Chevron

[5] For example, Kern River states that if a shipper has a TMDQ of 12,000 Dth/day, but wishes to utilize its full 12,000 TMDQ during a four-hour period, Kern River would need to have available capacity of 3,000 Dth per hour (12,000 Dth/4 hours), or six times the capacity, to ensure that such shipper's peak demand could be met. Transmittal at 6. Kern River states that, in this example, the maximum daily reservation/demand rate that it would need to charge for service under Rate Schedule KRF-PK to remain revenue neutral would be $3.4902 per Dth ($0.5817 x 6). *Id.*

[6] Transmittal at 6 (citing *e.g.*, *Great Lakes Gas Transmission Ltd. P'ship*, 120 FERC ¶ 61,105 (2007)).

[7] 18 C.F.R. § 154.210 (2016).

[8] *Id*. § 385.214.

U.S.A. Inc., ConocoPhillips Company, Occidental Energy Marketing, Inc., Shell Energy North America (US), L.P., and Southwest Gas Corporation (jointly, Indicated Shippers) filed a motion for clarification and comments urging changes to the proposal before acceptance. On August 31, 2016, Kern River filed an answer to Indicated Shippers' motion for clarification. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure[9] prohibits answers to protests unless otherwise ordered by the decisional authority. We will accept Kern River's answer because it provides information that assisted us in our decision-making process.

11. In its motion, Indicated Shippers question whether Kern River's proposal to allow for a PFP to extend across two consecutive gas days could allow a Rate Schedule KRF-PK shipper priority access to capacity (whether mainline or delivery point) in the event of a constraint on Kern River's system. They contend that the proposed language at Rate Schedule KRF-PK, section 2.3 is unclear about whether the KRF-PK shipper would be permitted to have its gas 'scheduled' for Gas Day 2, in the Timely Cycle for Gas Day 1. Indicated Shippers state that they have raised this concern with Kern River and Kern River has agreed to specific tariff language that would make clear that Rate Schedule KRF-PK shippers would be scheduled and curtailed at the same level as Rate Schedule KRF-1 shippers. Where there is a PFP that extends across two Gas Days, Kern River has agreed that the Rate Schedule KRF-PK shipper would receive the same priority for scheduling as other firm shippers. Further, according to Indicated Shippers, Kern River stated that it is willing to clarify that if a PFP spans across two consecutive Gas Days and Kern River is unable to schedule all firm quantities nominated and confirmed for the second Gas Day, the quantity to be delivered by Kern River on the second Gas Day will be allocated on a pro rata basis with other firm nominations in accordance with section 13.2 of the GT&C of Kern River's tariff. Indicated Shippers request that the Commission require Kern River to implement these changes to the proposed tariff language.

12. Next, Indicated Shippers comment that there are no criteria spelled out in the proposed tariff section addressing how Kern River will evaluate whether a request for KRF-PK service would adversely affect existing firm transportation services. Specifically, they are concerned that KRF-PK service may cause pressure fluctuations at existing delivery points that could result in firm shippers with primary firm delivery point rights experiencing degradation to their firm service. They ask that Kern River clarify that KRF-PK service will not significantly alter existing line pressures.

13. Last, Indicated Shippers are concerned about Kern River's request for waiver of section 154.202(a)(1)(B)(viii) and ask that the Commission condition its approval of the waiver request, as it has previously, on Kern River submitting a report within 45 days following the first year of service detailing the following: (1) the date service was

[9] *Id.* § 385.213(a)(2).

rendered for each transaction, (2) the volume shipped under each transaction, (3) monthly volumes, (4) the name of the shipper for each transaction, (5) whether the shipper is an affiliate of the pipeline, (6) the rate charged for each transaction, (7) the revenues received for each transaction, and (8) the monthly revenues for this service.

14. In its answer, Kern River states that it agrees to revise the proposed Rate Schedule KRF-PK to address the Indicated Shippers' concern related to priority of service. It states that it does not object to providing a cost and revenue report after one year of implementing the peaking service. However, Kern River responds that the clarification related to pressure as requested by Indicated Shippers is too ambiguous. Kern River reiterates that the firm transportation service it is contractually obligated to provide to existing customers, including any commitment to pressure associated with firm service, will not be affected by the proposed peaking service. Kern River explains that before making a peaking service available, it will examine the existing service it has agreed to provide shippers on its system, and evaluate whether it can continue to provide that service and the new peaking service. Kern River states that if it cannot, the new peaking service will not be provided.

15. Kern River further explains that line pressures continuously fluctuate depending on a number of factors, and it suggests that attempting to define "significant alteration of existing line pressures" would be problematic. Kern River states that existing contractual pressure obligations are currently known and can be used to determine whether a peaking service would affect the transportation service that Kern River has agreed to provide to an existing firm shipper. Furthermore, Kern River argues that requiring that the KRF-PK service not significantly alter existing line pressures may hinder Kern River's ability to operate its system. Kern River explains that it models and operates its system to fulfill the service it has agreed to provide, which includes contracted delivery point pressure levels. Kern River states that Indicated Shippers' requested clarification would require Kern River to change its modeling and operate its system based on currently existing pressures rather than the pressures Kern River agreed to when contracting for transportation service. It requests that the Commission accept the clarifications agreed to and reject the clarification related to pressure as requested by Indicated Shippers.

16. The Commission finds that Kern River's proposal is just and reasonable in that it provides additional flexibility to shippers whose usage peaks for a certain number of hours each day without impairing its existing service commitments.[10] The proposed

[10] *See Gulf South Pipeline Co., LP*, 136 FERC ¶ 61,086, at P 20 (2011) (reiterating that the Commission has previously approved pipelines' offers of firm transportation service that provide increased flexibility to their customers over the objection of shippers as long as such services do not degrade the services provided to the pipeline's existing shippers).

peaking service will allow Kern River to deliver natural gas to the shipper's primary delivery point(s) at an hourly rate, and more consistent with the shipper's expected peak flow requirements on the calendar day it is needed. Kern River states that the Firm Peaking service will be available only when it has determined that it has sufficient capacity available to perform the specific peaking service requested without adversely affecting existing firm transportation service to any other firm shipper. Also, the Commission notes that according to Kern River, the proposed peaking service will utilize existing unsubscribed capacity, subject to Kern River's ability to provide the service based on the parameters of a specific request.

17. Kern River agrees to revise the proposed Rate Schedule KRF-PK to address Indicated Shippers' concerns related to priority of service. Therefore, the Commission directs Kern River to revise Rate Schedule KRF-PK to make clear that (1) Rate Schedule KRF-PK shippers would be scheduled and curtailed at the same level as Rate Schedule KRF-1 shippers; (2) where there is a PFP that extends across two Gas Days, Kern River has agreed that the Rate Schedule KRF-PK shipper would receive the same priority for scheduling as other firm shippers; and (3) if a PFP spans across two consecutive Gas Days and Kern River is unable to schedule all firm quantities nominated and confirmed for the second Gas Day, the quantity to be delivered by Kern River on the second Gas Day will be allocated on a pro rata basis with other firm nominations in accordance with section 13.2 of the GT&C of Kern River's tariff.

18. The Commission agrees with Kern River that requiring the KRF-PK service to not significantly alter existing line pressures is too ambiguous as there is no established definition on what constitutes a significant alteration. Moreover, Kern River already has tariff and contractual pressure obligations, and these can be used as reference to determine whether the KRF-PK service can be provided without affecting the transportation service to existing firm shippers. The Commission finds that Kern River's answer provides sufficient clarification for Indicated Shippers' concerns on line pressure. Therefore, the Commission rejects Indicated Shippers' motion on clarification related to pressure. Upon consideration, the Commission finds that the proposed Rate Schedule KRF-PK is just and reasonable and the filed tariff records are accepted subject to Kern River revising proposed Rate Schedule KRF-PK regarding priority as directed above.

19. The Commission grants waiver of the requirement in section 154.202(a)(1)(B)(viii) that a pipeline seeking to initiate a new service must include workpapers showing the estimated effect on revenue and costs over a twelve-month period commencing on the effective date of the instant tariff records. The Commission has previously granted waiver of the same requirement when approving new rate schedules for innovative services derived from the rates for existing firm transportation services

rather than via cost allocation methods.[11] Here, the proposed Rate Schedule KRF-PK rates are derived from cost-based rates previously accepted by the Commission and the proposed rate formula is similar to formulas accepted by the Commission for non-uniform hourly service in other proceedings.[12] Accordingly, the Commission finds good cause to grant the request for waiver.

20. Indicated Shippers request that the Commission condition Kern River's request for waiver of 154.202(a)(1)(B)(viii) upon the submission of a report, as detailed below, within 45 days following the first year of service. Kern River does not object to Indicated Shippers' request. Therefore, the Commission will require Kern River to file an activity report within 45 days after the conclusion of Rate Schedule KRF-PK's first year of operation. The report must detail (1) the date service was rendered for each transaction, (2) the volume shipped under each transaction, (3) monthly volumes, (4) the name of the shipper for each transaction, (5) whether the shipper is an affiliate of Kern River, (6) the rate charged for each transaction, (7) the revenues received for each transaction, and (8) the monthly revenues for this service.

21. For the reasons set forth above, the Commission accepts the tariff records referenced in the Appendix to this letter, effective September 17, 2016, subject to Kern River revising, within 30 days of this letter order, proposed Rate Schedule KRF-PK regarding priority, as directed above, and filing an activity report as described above after one year of service.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[11] *Gulf South Pipeline Co., LP*, 136 FERC ¶ 61,086 at P 23; *CenterPoint Energy Gas Transmission Co.*, 125 FERC ¶ 61,334, at P 14 (2008).

[12] Transmittal at 6 & n.5 (citing *Great Lakes Gas Transmission Ltd. P'ship*, 120 FERC ¶ 61,105).

Appendix

Kern River Gas Transmission Company
FERC NGA Gas Tariff
Gas Tariff
Tariff Records Accepted Effective September17, 2016

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