UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, and Joseph T. Kelliher.

Trailblazer Pipeline Company

Docket Nos. RP03-162-009 and
RP03-162-010

ORDER ACCEPTING TARIFF SHEETS, REJECTING OTHER TARIFF SHEETS, AND DISMISSING INITIAL DECISION

(Issued April 9, 2004)

1. On March 10, 2004, Trailblazer Pipeline Company (Trailblazer) filed tariff sheets[1] to implement lower rates for Trailblazer consistent with an Offer of Settlement (Settlement) filed by Trailblazer on September 22, 2003. The March 10, 2004 filing supersedes a compliance filing by Trailblazer submitted on February 27, 2004. Trailblazer requests a waiver of the 30-day notice requirement so that the instant tariff sheets can become effective March 1, 2004. As there are no more contesting parties to the Settlement, the instant tariff sheets remove the rates for non-consenting parties. For the reasons discussed below, the Commission accepts the instant tariff sheets, to be effective March 1, 2004, and dismisses the Initial Decision as moot.

[1] Sixth Revised Sheet No. 1, Substitute Eleventh Revised Sheet No. 5, Substitute Eleventh Revised Sheet No. 6, Substitute Fourth Revised Sheet No. 7, and Substitute Original Sheet No. 7A to FERC Gas Tariff, Third Revised Volume No. 1.

Background

2. On November 29, 2002, Trailblazer filed a general rate case under section 4 of the Natural Gas Act (NGA).[2] On December 31, 2002, the Commission accepted and suspended the filing subject to the outcome of a hearing on the rate issues.[3]

3. As a result of settlement discussions, on September 22, 2003, Trailblazer filed the Settlement, intending to resolve all the issues in its section 4 rate proceeding. The Settlement provided an almost 25 percent decrease in the rates originally filed by Trailblazer in this proceeding, from the currently effective level of 11.95 cents to 9 cents, with a similarly substantial reduction in the recourse rate applicable to expansion shippers, to become effective on January 1, 2004. The Settlement was structured so that the Settlement rates would apply only to consenting parties, and provided for the severance of the contesting parties to litigate their "direct interest," as defined therein.

4. The Administrative Law Judge (ALJ) certified the Settlement to the Commission in an order issued October 3, 2003.[4] The Indicated Shippers, at that time Marathon Oil Company (Marathon), BP America Production Company and BP Energy Company (collectively, BP), contested the Settlement. Accordingly, the ALJ held a hearing concerning the rates to be charged the contesting parties. Following the hearing, the ALJ issued an initial decision on January 21, 2004.[5]

5. On January 23, 2004, the Commission approved the Settlement for consenting parties, subject to modification by expanding the definition of "direct interest" which could be litigated by contesting parties under Article VII of the Settlement.[6]

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[2] Trailblazer's proposed rates reflected a decrease in jurisdictional transportation revenues of approximately $210,000 below its currently effective recourse rates: $91,946 for shippers on its existing system and $117,692 for shippers on an expansion system placed in service in May 2002.

[3] Trailblazer, 101 FERC ¶ 61,405 (2002).

[4] Trailblazer, 101 FERC ¶ 61,405 (2002).

[5] Trailblazer, 106 FERC ¶ 63,005 (2004).

[6] Trailblazer Pipeline Co., 106 FERC ¶ 61, 034 (2004) (Settlement Order) (severing Indicated Shippers to litigate the reasonableness of the rate applicable to any contracts in which they have a "direct interest," including any future contract they enter into directly with the pipeline and any contracts they obtain through capacity release from another shipper).

6. On February 20, 2004, Trailblazer notified the Commission that Trailblazer accepts the Settlement, as modified by the Commission. Also on February 20, 2004, BP filed a motion to become a consenting party to the Settlement, and to withdraw its comments opposing the Settlement.

7. On February 23, 2004, Marathon filed a request for rehearing of the Commission's Settlement Order. On February 27, 2004, Trailblazer filed tariff sheets to implement the lower rates in the Settlement. The proposed tariff sheets included the different rates for consenting and contesting parties.[7] However, on March 1, 2004, Marathon subsequently filed to become a consenting party to the Settlement, and to withdraw its Brief on Exceptions from the Initial Decision and its Request for Rehearing of the Settlement Order.

8. On March 3, 2004, Trailblazer informed the Commission that the Settlement in this proceeding was uncontested. Accordingly, on March 10, 2004, Trailblazer filed the instant tariff sheets to implement the lower rates for consenting parties provided for in the Settlement for all shippers and to reflect the fact that the Settlement is no longer contested by removing the rates for contesting parties. Trailblazer requests waiver so that the tariff sheets can go into effect March 1, 2004. Trailblazer stated that the March 10 tariff sheets supersede the tariff sheets in its February 27 filing.

9. Finally, on March 11, 2004, BP filed a motion requesting that the Commission vacate the Initial Decision since the Commission approved the Settlement and the litigating parties have now joined the Settlement.

10. Public Notice of Trailblazer's February 27, 2004 filing was issued on March 2, 2004, and public notice of Trailblazer's March 10, 2004 filing was issued on March 16, 2004. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2003)). No protests or adverse comments were filed. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2003)), all timely filed motions to intervene and any motions 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.

[7] Sixth Revised Sheet No. 1, Eleventh Revised Sheet No. 5, Eleventh Revised Sheet No. 6, Fourth Revised Sheet No. 7, and Original Sheet No. 7A to FERC Gas Tariff, Third Revised Volume No. 1.

Discussion

11. In its Settlement Order, the Commission approved the Settlement, as modified, as fair and reasonable for the consenting parties. As stated above, all parties have now joined the Settlement and have agreed to pay the instant rates. Also, the request for rehearing of the Settlement Order has been withdrawn. Thus, the Commission accepts Trailblazer's proposed tariff sheets included in its March 10 filing as consistent with the Settlement. These proposed tariff sheets supersede the tariff sheets filed on February 27, 2004, which included rates for contesting parties and are now moot. We find that the Initial Decision's resolution of the proper rate and scope of severance for contesting parties is no longer necessary, and we therefore dismiss the Initial Decision as moot. The Commission grants waiver to allow the tariff sheets to become effective March 1, 2004, to enable Trailblazer to bill at the reduced Settlement rate starting with bills for March service, thereby expediting the benefits of the Settlement.

The Commission orders:

(A) The Commission accepts the tariff sheets filed on March 10, 2004, to become effective March 1, 2004, as discussed in the body of this order.

(B) The tariff sheets filed on February 27, 2004, are rejected as moot.

(C) The Initial Decision is hereby dismissed.

By the Commission. Commissioner Kelly not participating.

(S E A L)

Linda Mitry,
Acting Secretary.