



June 19, 2023

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**North Baja Pipeline, LLC**  
700 Louisiana Street, Suite 1300  
Houston, TX 77002-2700

Jonathan Scullion  
Manager, Tariffs

**tel** (832) 320-5520  
**email** jonathan\_scullion@tcenergy.com  
**web** www.tcplus.com/north baja/

Re: North Baja Pipeline, LLC  
Change in FERC Gas Tariff  
Docket No. RP23-\_\_\_\_-000

Dear Ms. Bose:

Pursuant to Section 4 of the Natural Gas Act (“NGA”) and Part 154 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) regulations,<sup>1</sup> North Baja Pipeline, LLC (“NBP”) respectfully submits for filing and acceptance new Section 6.8.5<sup>2</sup> in the General Terms and Conditions (GT&C”) to be part of its FERC Gas Tariff, First Revised Volume No. 1 (“Tariff”), as more fully described below. NBP respectfully requests that the Commission accept these tariff revisions to become effective July 19, 2023.

### **Correspondence**

The names, titles, mailing addresses, and telephone numbers of those persons to whom correspondence and communications concerning this filing should be addressed are as follows:

Sorana Linder  
Director, Rates, Tariffs and Modernization  
Jonathan Scullion\*  
Manager, Tariffs  
NBP Pipeline Company  
700 Louisiana Street, Suite 1300  
Houston, Texas 77002-2700  
Tel. (832) 320-5520  
E-mail: jonathan\_scullion@tcenergy.com

David R. Hammel  
Director, Regulatory and Operations Law  
John P. Ryan\*  
Legal Counsel  
NBP Pipeline Company  
700 Louisiana Street, Suite 1300  
Houston, Texas 77002-2700  
Tel. (832) 320-5879  
Email: john\_ryan@tcenergy.com

\* Persons designated for official service pursuant to Rule 2010.

---

<sup>1</sup> 18 C.F.R. Part 154 (2023).

<sup>2</sup> Part 6.8.5 – GT&C, Early Termination of Service Agreements (“Section 6.8.5”).

### **Statement of the Nature, Reasons and Basis for Filing**

NBP is proposing to add tariff provisions in the new Section 6.8.5 that will allow NBP and a shipper to mutually agree, on a not unduly discriminatory basis, to terminate a firm service agreement prior to its expiration date. The proposed language includes a non-exhaustive list of the circumstances under which this discretion may be exercised and does not contemplate or propose any obligation by any shipper or NBP to terminate an existing firm service agreement.

Specifically, Section 6.8.5 is being added to the GT&C to permit NBP and its shippers to agree to terminate a long-term firm service agreement where a shipper (i) responds to a solicitation for capacity release offers in a reverse open season for capacity requiring construction of new facilities and the conditions set forth in the solicitation have been satisfied; or (ii) agrees to pay an exit fee that is sufficient to make the termination financially beneficial to NBP<sup>3</sup> or, in the alternative, a waiver of the exit fee where a shipper's firm service agreement provides for a discounted rate and NBP concludes that the capacity subscribed thereunder would be sold at a higher rate for the remaining term. The last sentence is included to clarify that an agreement to terminate a firm service agreement is not a material deviation from the applicable form of service agreement.

The Commission has previously approved tariff language for other natural gas pipelines that enables pipelines and their shippers to mutually determine if it is in the best interest of both parties to terminate a firm service agreement prior to the expiration of its term.<sup>4</sup> A shipper's interest is protected because it cannot be required to terminate an agreement prior to its expiration. Additionally, NBP's interest is protected because NBP is not required to allow any early termination that could potentially be financially detrimental to NBP. Further, NBP recognizes that a shipper's right to reduce or terminate its contract demand before the expiration of its contract is a valuable right, which must be granted in a not unduly discriminatory manner.<sup>5</sup> Consequently, terminations would be agreed to on a not unduly discriminatory manner. Finally,

---

<sup>3</sup> The Commission permits pipelines and their shippers to exercise their business judgment to negotiate exit fees, taking into account the particular circumstances of each contract termination. *See, e.g., Algonquin Gas Transmission, LLC*, 161 FERC ¶ 61,196 (2017). *See also Gulf Crossing Pipeline Company LLC*, RP16-1162-001 (October 28, 2016) (unpublished Director's letter order).

<sup>4</sup> *See National Fuel Gas Supply Corp.* 115 FERC ¶ 61,127 (2006) (order on compliance). *See also Tennessee Gas Pipeline Co.*, 97 FERC ¶ 61,255 (2001); *Columbia Gas Transmission, LLC*, 126 FERC ¶ 61,256 (2009); *Columbia Gulf Transmission Co.*, 127 FERC ¶ 61,073 (2009); and *Northern Natural Gas Co.*, 118 FERC ¶ 61,124 (2007).

<sup>5</sup> *See Tennessee Gas Pipeline Co.*, 97 FERC ¶ 61,255 at p. 62,029-30 (2001).

NBP recognizes that Section 284.13(b)(1)(viii)<sup>6</sup> of the Commission’s regulations requires NBP post on its internet website any early termination arrangement, including the amount of any exit fee, as a special detail pertaining to a transportation contract. NBP commits to complying with the above-referenced Commission regulations in order to provide NBP’s shippers with transparency regarding any agreed-to early termination arrangements.

The proposed tariff language will provide NBP and its shippers with the flexibility needed to, among other things, accommodate changes in a shipper’s business circumstances. By placing the early termination provision in Section 6.8.5 of the GT&C of its Tariff, NBP provides notice to all shippers of NBP’s willingness to consider the possible early termination of long-term firm service agreements. NBP’s proposal should be accepted as just and reasonable because it is consistent with Commission precedent and ensures fairness amongst all shippers.

#### **Request for Waiver and Effective Date**

NBP respectfully requests the Commission accept the tariff section filed herein and included as Appendix A, to become effective July 19, 2023.

#### **Other Filings Which May Affect This Proceeding**

There are no other filings before the Commission that may significantly affect the changes proposed herein.

#### **Contents of Filing**

In accordance with Section 154.7(a)(1) of the Commission’s regulations, NBP is submitting the following XML filing package, which includes:

1. This transmittal letter;
2. A clean version of the tariff section (Appendix A); and
3. A marked version of the tariff section (Appendix B).

#### **Certificate of Service**

As required by Sections 154.7(b) and 154.208 of the Commission’s regulations, a copy of this filing is being served upon all of NBP’s existing customers and interested state regulatory agencies. A copy of this letter, together with any attachments, is available during regular business hours for public inspection at NBP’s principal place of business.

---

<sup>6</sup> 18 C.F.R. Section 284.13(b)(1)(viii) (2023).

Pursuant to Section 385.2005 of the Commission's regulations, the undersigned has read this filing and knows its contents, and the contents are true as stated, to the best of his knowledge and belief. Additionally, the undersigned possesses full power and authority to sign such filing.

Any questions regarding this filing may be directed to Jonathan Scullion at (832) 320-5520.

Respectfully submitted,

**NORTH BAJA PIPELINE, LLC**

*Jonathan Scullion*

---

Jonathan Scullion  
Manager, Tariffs

Enclosures

# Appendix A

## Clean Tariff

***North Baja Pipeline, LLC  
FERC Gas Tariff, First Revised Volume No. 1***

**Tariff Section**

**Version**

6.8.5 - GT&C, Early Termination of Service Agreements

v.0.0.0

#### 6.8.5 Early Termination of Service Agreements.

NBP may, in a not unduly discriminatory manner, agree with Shipper to terminate its Service Agreement prior to its expiration date. The situations in which NBP may agree to terminate such a Service Agreement include, without limitation, the following:

- (a) where Shipper responds to a solicitation for capacity release offers in a reverse open season for capacity requiring the construction of new facilities and the conditions set forth in the solicitation have been satisfied;
- (b) where Shipper agrees to pay an exit fee that is sufficient, taking into account the remaining term of the Service Agreement and the value and liquidity of the capacity subscribed under the Service Agreement being terminated, to make the termination financially beneficial to NBP, in NBP's reasonable judgment. NBP may waive the exit fee where Shipper's Service Agreement provides for a discounted or negotiated rate and NBP concludes that the capacity subscribed thereunder would be sold at a higher rate for the full remaining term of the Service Agreement, or where other arrangements produce a financial benefit to NBP.

An agreement to terminate a Service Agreement hereunder shall not constitute a material deviation from the applicable Form of Service Agreement.

# Appendix B

## Marked Tariff

***North Baja Pipeline, LLC  
FERC Gas Tariff, First Revised Volume No. 1***

**Tariff Section**

**Version**

6.8.5 - GT&C, Early Termination of Service Agreements

v.0.0.0

6.8.5 Early Termination of Service Agreements.

NBP may, in a not unduly discriminatory manner, agree with Shipper to terminate its Service Agreement prior to its expiration date. The situations in which NBP may agree to terminate such a Service Agreement include, without limitation, the following:

- (a) where Shipper responds to a solicitation for capacity release offers in a reverse open season for capacity requiring the construction of new facilities and the conditions set forth in the solicitation have been satisfied;
- (b) where Shipper agrees to pay an exit fee that is sufficient, taking into account the remaining term of the Service Agreement and the value and liquidity of the capacity subscribed under the Service Agreement being terminated, to make the termination financially beneficial to NBP, in NBP's reasonable judgment. NBP may waive the exit fee where Shipper's Service Agreement provides for a discounted or negotiated rate and NBP concludes that the capacity subscribed thereunder would be sold at a higher rate for the full remaining term of the Service Agreement, or where other arrangements produce a financial benefit to NBP.

An agreement to terminate a Service Agreement hereunder shall not constitute a material deviation from the applicable Form of Service Agreement.