

UNITED STATES OF AMERICA 106 FERC ¶ 61,214
FEDERAL ENERGY REGULATORY COMMISSION

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

CenterPoint Energy Gas Transmission Company Docket No. IN03-11-001

ORDER APPROVING STIPULATION AND CONSENT AGREEMENT

(Issued March 4, 2004)

Introduction

1. The Commission approves the attached Stipulation and Consent Agreement (Agreement) between the Division of Enforcement, Office of Market Oversight and Investigations (OMOI) and CenterPoint Energy Gas Transmission Company (CEGT). The Agreement resolves alleged violations in a Show Cause Order issued by the Commission on September 15, 2003, CenterPoint Energy Gas Transmission Company, 104 FERC ¶ 61,280 (2003), resulting from a staff investigation that determined that CEGT had failed to properly report to the Commission or post on its web site all non-conforming terms and conditions in its negotiated rate contracts.

2. The September 15, 2003 Show Cause Order required CEGT to show cause why CEGT's failure to report and post all of the non-conforming terms and conditions in its negotiated rate contracts does not violate Section 4 of the Natural Gas Act, Sections 154.1(d), 284.12(a) and 284.13(b) of the Commission's regulations¹ and the Commission's April 25, 1996 and October 2, 1996 orders granting CEGT's predecessor, NorAm Gas Transmission Company (NorAm) the authority to enter into negotiated rate contracts.²

¹18 C.F.R. §§ 154.1(d), 284.12(a) and 284.13(b) (2003).

²NorAm, 75 FERC ¶ 61,091 (1996), order on reh., NorAm, 77 FERC ¶ 61,011 (1996).

3. This settlement is in the public interest because it resolves alleged violations by CEGT of the reporting requirements for negotiated rate contracts with a settlement that requires CEGT to: file a tariff provision proposing that it file all its negotiated rate contracts with the Commission prior to their taking effect; post details of previously unreported non-conforming terms and conditions in its negotiated rate contracts on CEGT's website; file tariff provisions granting recourse shippers the same terms and conditions granted under negotiated rate contracts with Arkansas Gas Consumers Inc.; use a filed Form of Service Agreement as a starting point for negotiated rate contracts; pay \$75,000 for investigative costs; and follow a compliance plan for three years.

Interventions

4. On October 14, 2003, the Arkansas Gas Consumers group (AGC) filed a petition to intervene in this proceeding. On October 21, 2003, the Arkansas Public Service Commission (APSC) filed a notice of intervention. On October 23, 2003, CEGT filed an opposition to AGC's motion.

5. The Commission denies the respective motions to intervene of AGC and APSC. The Commission intended the Show Cause proceeding in this docket to proceed as an investigative and, if appropriate, enforcement proceeding. Its purpose was to examine instances of potential wrongdoing by CEGT concerning its compliance with the requirements for reporting and posting non-conforming terms and conditions in negotiated rate contracts and take remedial action where needed. The Commission is thus acting in a prosecutorial manner in this matter, rather than strictly as an adjudicator. This view is consistent with the Commission's authority under the Natural Gas Act (NGA). In Baltimore Gas & Electric Co. v. FERC, 252 F.3d 456 (D.C. Cir. 2001), the court held that the Commission's investigative and enforcement decisions were actions committed to agency discretion by law. Id. at 458; see 5 U.S.C. § 701(a)(2) (2000). Specifically, the court found that the NGA "lack[ed] guidelines against which to measure FERC's decision how, or whether, to enforce that statute." 252 F.3d at 460. On this basis, and in order facilitate the timely resolution of this proceeding, the Commission clarifies that it is treating the captioned proceeding as an investigation under Part 1b of its regulations. See also, Fact Finding Investigation of Potential Market Manipulation of Electric and Natural Gas Price, 105 FERC ¶ 61,063, P. 5 (2003).

6. The nature of this Show Cause proceeding, specifically that it is an investigatory rather than adjudicatory proceeding, has important implications with respect to potential intervenors. There are no parties to an investigative proceeding. 18 C.F.R. § 1b.11 (2003). Moreover, only a party can contest a settlement, 18 C.F.R. § 385.602(h) (2003),

or request rehearing, 18 C.F.R. § 385.713(b) (2003). Under Rule 713, “party” includes only an applicant in a proceeding, a respondent to a proceeding, or an intervenor. 18 C.F.R. § 385.102(c) (2003).

7. Given the Commission’s conclusion that this Show Cause proceeding should be treated as an investigation, it necessarily follows that, under Part 1b, there can be no “parties” and thus no intervenors. Consequently, the Commission is treating AGC’s and APSC’s pending motions for intervention as motions to file comments. See e.g., Fact Finding Investigation of Potential Market Manipulation of Electric and Natural Gas Price, 105 FERC ¶ 61,063, P. 7 (2003). The Commission notes that in AGC’s filing, AGC requested that the Commission not revoke or suspend CEGT’s market based rate authority. The Agreement we approve today does not include this remedy.

The Stipulation and Consent Agreement

8. The facts stipulated in the Agreement concern CEGT’s compliance with the reporting and posting requirements for non-conforming terms and conditions in negotiated rate contracts that CEGT entered into between October 31, 1997 and April 1, 2003, and which were in effect, and not pending before the Commission, after January 1, 2001. In the Agreement, Enforcement states CEGT violated the NGA and the Commission’s regulations by failing to report and post all of the non-conforming terms and conditions in 70 negotiated rate contracts cited in Appendix A of the Agreement. CEGT neither admits nor denies that its actions violated any provision of the NGA or the Commission’s regulations.

9. The Agreement contains six remedial sections:

- (A) CEGT agrees to file with the Commission a tariff provision proposing that it will file each negotiated rate contract that it executes by the earlier of (a) two business days following contract execution or (b) the day of execution if gas is expected to flow within two days of contract execution, although contracts are not required to be filed earlier than sixty days prior to their effective date.
- (B) For each of the negotiated rate contracts with previously unreported non-conforming terms and conditions listed in Appendix A to the Agreement, CEGT will post on its web site the non-conforming terms and conditions in the contract, a detailed narrative outlining: the manner in which the posted terms differ from CEGT’s form of service agreement, including a web link to the currently effective standard form of service agreement in CEGT’s tariff; the effect of such terms on the rights of the parties; and why the deviation does not present a risk of undue discrimination.

- (C) CEGT agrees to file tariff provisions with the Commission proposing to make transportation services and terms and conditions that are available under negotiated rate contracts with AGC also available to recourse shippers.
- (D) CEGT agrees to use the Form of Service Agreement in its tariff as a starting point for negotiated rate agreements rather than using web links to terms and conditions that are only available on the internet.
- (E) CEGT agrees to pay \$75,000 to the U.S. Treasury to reimburse staff's cost of investigation.
- (F) CEGT agrees to follow the compliance plan in Appendix B to the Agreement and to provide yearly compliance updates for three years.

10. CEGT has already filed tariff sheets implementing items (A) and (C) above as part of a compliance filing in Docket No. RP96-200-118. The Agreement does not address or resolve issues in that proceeding or pending in any other docketed matter.

The Commission finds:

The Agreement provides an equitable resolution of this matter and is in the public interest.

The Commission orders:

- (A) The attached Stipulation and Consent Agreement is approved in its entirety without modification.
- (B) Docket No. IN03-11-000 is terminated, save for determination of compliance with this Settlement Order and Agreement.
- (C) The petitions to intervene by Arkansas Gas Consumers, Inc. and Arkansas Public Service Commission are hereby denied.

Docket No. IN03-11-001

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(D) The Commission's approval of the attached Stipulation and Consent Agreement does not constitute approval of, or precedent regarding, any principle or issue in this matter.

By the Commission.

(SEAL)

Magalie R. Salas,
Secretary.

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

CenterPoint Energy Gas Transmission Company Docket No. IN03-11-000

Stipulation and Consent Agreement

I. INTRODUCTION

The Staff of the Division of Investigations and Enforcement, Office of Market Oversight and Investigations ("OMOI") and CenterPoint Energy Gas Transmission Company ("CEGT") enter into this Stipulation and Consent Agreement ("Agreement") to resolve the non-public audit and investigation conducted by OMOI in Docket No. IN03-11-000 under Part 1b of the Commission's regulations, 18 C.F.R. Part 1b (2003).

In April 2003, OMOI initiated a preliminary, non-public audit relating to CEGT's negotiated rate contracts. As a result of the audit, on September 15, 2003, the Commission issued a Show Cause Order requiring CEGT "to show cause why its failure to report and post all of the non-conforming terms and conditions in its negotiated rate contracts does not violate Section 4 of the Natural Gas Act (NGA), Sections 154.1(d), 284.12(a) and 284.13(b) of the Commission's regulations [18 C.F.R. §§ 154.1(d), 284.12(a) and 284.13(b) (2003)] and the Commission's April 25, 1996 and October 2, 1996 orders granting CEGT's predecessor, NorAm Gas Transmission Company (NorAm)

the authority to enter into negotiated rate contracts.”³ The Show Cause Order further required CEGT to show cause “why its failure to report to the Commission all non-conforming terms and conditions in its negotiated rate contracts” should not warrant one or more of the following remedies: (1) suspending or revoking CEGT’s authority to enter into negotiated rate contracts; (2) requiring that all negotiated rate contracts be filed with the Commission for pre-approval before they take effect; (3) providing all preferential non-conforming terms and conditions not reported to the Commission in negotiated rate contracts to all similarly situated shippers; and (4) implementing a strict compliance plan to ensure that all non-conforming terms and conditions in CEGT’s future negotiated rate contracts are reported to the Commission.

Immediately after the issuance of the Show Cause Order, CEGT contacted OMOI, offered its cooperation and promptly provided OMOI with extensive materials in response to the Show Cause Order explaining CEGT’s position regarding the contracts in question. CEGT and OMOI met on several occasions, exchanging additional information and further discussing their positions. This process contributed to the resolution of this proceeding in the manner set out in this Agreement.

II. STIPULATION

CEGT and OMOI stipulate to the following:

³ *CenterPoint Energy Gas Transmission Co.*, 104 FERC ¶ 61,280 (2003) (citing *NorAm*, 75 FERC ¶ 61,091 (1996), *order on reh.*, *NorAm*, 77 FERC ¶ 61,011 (1996)) (footnotes omitted).

1. CEGT is an interstate natural gas pipeline subject to the NGA, the Natural Gas Policy Act of 1978, and the Commission's regulations. CEGT provides open access transportation services pursuant to a certificate issued by the Commission in Docket No. CP88-820-000, and Part 284 of the Commission's regulations, 18 C.F.R. Part 284 (2003). CEGT, on behalf of various shippers, transports and delivers natural gas: (a) to natural gas distributors for resale for ultimate public consumption; (b) to industrial users for their own use and consumption; and (c) to third party pipeline interconnections located in the states of Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee and Texas.

2. Section 154.1(d) of the Commission's regulations, 18 C.F.R. § 154.1(d) (2003), states that "[A]ny contract or executed service agreement which deviates in any material aspect from the form of service agreement in the tariff is subject to the filing requirements of this part."

3. In a 1996 policy statement, the Commission required that the filing for negotiated rate contracts consist of a summary of the contract in a tariff sheet filed with the Commission or, alternatively, the complete contract documentation. *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines, Regulation of Negotiated Transportation Services, Statements of Policy and Comments*, 74 FERC ¶ 61,076 (1996), *order on clarification*, 74 FERC ¶ 61,194 (1996), *order on reh'g*, 75 FERC ¶ 61,024 (1996). On July 25, 2003, the Commission reiterated the filing requirements in *Natural Gas Pipeline Negotiated Rate Policies and Practices*, 104 FERC ¶ 61,134 (Modified Policy Statement) (2003).

4. In 1996, the Commission granted CEGT's predecessor, NorAm, the authority to enter into negotiated rate contracts. *NorAm*, 75 FERC & 61,091 (1996). On rehearing of that order, the Commission required that NorAm "file either its negotiated rate contracts or tariff sheets reflecting the essential elements of its negotiated rate agreements necessary to permit shippers that believe they are similarly situated with respect to a particular negotiated rate customer, to make such a determination. If NorAm elects to file tariff sheets, those sheets must state the name of the shipper, the negotiated rate, the type of service, the receipt and delivery points applicable to the service, and the volume of gas to be transported." *NorAm*, 77 FERC & 61,011 at 61,037 (1996). The Commission further ordered that if NorAm filed a tariff sheet and not the contract, the tariff sheet must include a statement affirming that the negotiated rate contract does not deviate in any material aspect from the form of service agreement in the tariff. *Id.*

5. During the course of OMOI's audit of CEGT's negotiated rate contracts, OMOI requested all of CEGT's negotiated rate contracts that were in effect at any time on or after January 1, 2001. OMOI examined each of the contracts provided by CEGT for material deviations that would have required either that the contract be filed with the Commission or that CEGT file a tariff sheet with the Commission stating that material deviations are present in the contract. OMOI also examined whether CEGT followed the Commission's posting requirements for negotiated rate contracts.

6. As a result of the audit, on September 15, 2003, the Commission issued the Show Cause Order, cited in Article I of this Agreement, resulting from Staff's conclusions that CEGT had failed to report and post some or all of the non-conforming

terms and conditions in 76 negotiated rate contracts between itself and its shippers that were in effect on or at any time after January 1, 2001.

7. In the Show Cause Order, the Commission stated that it considers a material deviation to be any contract provision which affects the substantive rights of the parties and which goes beyond the information required in the Form of Service Agreement in the tariff and cited *Tennessee Gas Pipeline Company*, 97 FERC & 61, 225 at 62,028 (2001) ("*Tennessee*"). The Commission stated that its rationale was that it cannot approve deviations that it has not seen. The Show Cause Order further explained that material deviations from the service agreement fall into two categories: those that must be prohibited because they present a significant potential for undue discrimination among shippers and those that can be permitted without substantial risk of undue discrimination, citing *Tennessee*, 97 FERC at 62,029; *ANR Pipeline Company*, 97 FERC & 61,223 at 62,016 (2001) ("*ANR*").

8. The Show Cause Order further stated that one category of material deviations that is generally not permitted relates to negotiated terms and conditions of service and that the Commission has not provided pipelines with the authority to file for pre-approval of the right to negotiate terms and conditions of service with individual customers because of the risk of undue discrimination among customers. The Commission cited *Tennessee*, 97 FERC at 62,029; *ANR*, 97 FERC at 62,017 and instructed that negotiated terms and conditions of service include any provision that results in a customer receiving a different quality of service than that provided other

customers under the pipeline's tariff or that affects the quality of service received by others. *Id.*

9. Section 284.13(b) of the Commission's regulations, 18 C.F.R. § 284.13(b) (2003), requires an interstate pipeline to report its firm and interruptible transportation transactions on the Internet. Pipelines are also required to post tariff sheets for transactions according to NAESB standard 4.3.6, which is incorporated into section 284.12(a) of the Commission's regulations. 18 C.F.R. § 284.12(a) (2003). For this proposition, the Show Cause Order also cited Columbia Gas Transmission Company, 97 FERC ¶ 61,221 (2001).

10. Over the course of several months, OMOI met with CEGT to discuss resolution of the Show Cause Order. During these discussions, CEGT explained, among other things, that certain of the non-conforming provisions in 24 contracts listed in the Show Cause Order, had been reported to the Commission by including a statement in filed tariff sheets that the "Standard Rate and Related Provisions" could be found in the "News" section of CEGT's web site. The contracts in the Show Cause proceeding that fit into this category are included in Appendix A to this Agreement.

11. Concurrent with the Show Cause Order, on September 15, 2003, the Commission issued an Order Directing Filing of Tariff Provisions and Modifying Non-Conforming Agreements. 104 FERC ¶ 61,281 (2003) ("RP Docket Order"). In that order, the Commission ruled on 12 pending dockets relating to negotiated rate agreements by CEGT. In the RP Docket Order, the Commission found that several of the agreements under review, including the agreements between CEGT and members of

Arkansas Gas Consumers, Inc. ("AGC"), contain provisions, as currently constituted, that are inconsistent with the Commission's policies. On October 15, 2003 CEGT filed a request for rehearing of the RP Docket Order (Docket No. RP96-200-114), which is pending before the Commission.

12. Some of the issues and unreported terms and conditions in the Show Cause Order overlapped with the RP Docket Order because thirty-six of the contracts listed in the Show Cause Order involved shippers that were signatories to an umbrella agreement between CEGT and the members of the AGC ("the AGC Rate Agreement").

13. CEGT, which had obtained extensions of time to make its RP Docket Order compliance filing, timely made its filing on January 14, 2004 (RP Docket Compliance Filing). In its RP Docket Compliance Filing, Docket No. RP96-200-118, CEGT filed tariff sheets that, among other things, clarified that transportation services and terms and conditions that are available to parties to the AGC Rate Agreement also are available to recourse shippers. CEGT also stated in its RP Docket Compliance Filing that no shipper that has ratified the AGC Rate Agreement is bound by or required to perform the provisions in that agreement that the Commission ordered to be removed.

III. ALLEGED VIOLATIONS

A. OMOI's position:

1. CEGT violated Section 4 of the Natural Gas Act, Sections 154.1(d), 284.12(a) and 284.13(b) of the Commission's regulations, 18 C.F.R. §§ 154.1(d), 284.12(a) and 284.13(b), and the Commission's April 25, 1996 and October 2, 1996

orders granting CEGT's predecessor, NorAm, the authority to enter into negotiated rate contracts, by failing to report and post some or all of the non-conforming terms and conditions in the contracts listed in Appendix A of this Agreement. The unreported terms and conditions for each agreement are stated in column five in the Appendix.

2. CEGT did not provide adequate notice to the Commission and shippers of non-conforming provisions in 24 negotiated rate contracts when it included a statement in filed tariff sheets for those contracts that the "Standard Rate and Related Provisions," could be found in the "News" section of CEGT's web site. This statement did not provide adequate notice to the Commission and shippers of the non-conforming provisions because it did not explicitly state the non-conforming terms and conditions applicable to each negotiated rate agreement. Moreover, CEGT would have the ability to alter the information on the web site, thereby changing numerous negotiated rate agreements filed with the Commission, without the knowledge of shippers, including those shippers that are signatories to those contracts, or giving the Commission notice and an opportunity to review the changes. The contracts in the Show Cause Proceeding that fit into this category are included in Appendix A to this Agreement.

B. CEGT's position:

CEGT neither admits nor denies that its actions violated any provision of the NGA or the Commission's regulations. However, to avoid extended litigation with respect to the matters described or referred to herein, to avoid uncertainty, and to effect a complete and final settlement of the investigation in Docket No. IN03-11-000, CEGT is entering into this Agreement.

IV. REMEDIES

For purposes of settling any and all civil and administrative disputes, and in lieu of any other penalty or remedy that the Commission might assess or determine concerning any of the allegations in the Show Cause Order, including the Appendices, in Docket No. IN03-11-000:

1. CEGT agrees to file with the Commission a tariff provision providing that CEGT will file each negotiated rate contract that it executes by the earlier of (a) two business days following contract execution or (b) the day of execution if gas is expected to flow within two days of contract execution; provided, however, that no such contract shall be required to be filed earlier than sixty days prior to its effective date. On January 14, 2004, CEGT made a tariff filing with the Commission to implement this provision. See CEGT January 14, 2004 Compliance Filing (Docket No. RP96-200-118).

2. Within 30 days of a Commission order approving this Agreement without modification, for each negotiated rate contract listed on Appendix A to this Agreement, CEGT will post on its web site the specific language of the unreported provisions cited in column five of Appendix A. The web link to where these provisions are posted shall be clearly marked on CEGT's homepage. For each contract, CEGT also shall provide a detailed narrative on its web site outlining: the manner in which the posted terms differ from CEGT's form of service agreement, including a web link to the currently effective standard form of service agreement in CEGT's tariff; the effect of such terms on the rights of the parties; and why such deviation does not present a risk of undue discrimination. For each contract in Appendix A that is currently in effect, CEGT will

post on its web site, the information described above in this paragraph until the contract is no longer in effect. For each contract in Appendix A that is no longer in effect, CEGT will post the above-described information on its web site for 90 days. All of the information for each contract in Appendix A posted by CEGT under this paragraph, whether or not currently in effect, must also be archived following the expiration of the posting requirements of this paragraph, pursuant to the provisions of 18 C.F.R. § 284.12(b)(3)(v) (2003). In lieu of posting the information for any or all of the contracts in Appendix A to this Agreement as required under this paragraph, CEGT may make a filing with the Commission containing the same information that CEGT is required to post for the contract(s) under this paragraph.

3. CEGT agrees to file a tariff provision making transportation services and terms and conditions that are available to parties to the AGC Rate Agreement also available to recourse shippers. On January 14, 2004, CEGT filed tariff sheets with the Commission to implement this provision. See CEGT January 14, 2004 Compliance Filing (Docket No. RP96-200-118).

4. CEGT agrees that for each negotiated rate contract that it executes subsequent to the Effective Date of this Agreement, CEGT will not refer to "Standard Rate and Related Provisions" on its web site. Instead, CEGT will use the Tariff Form of Service Agreement, as it may be in effect from time to time, as the starting point for its negotiated rate agreements. (In its January 14, 2004 Compliance Filing in Docket No. RP96-200-118, CEGT has filed a new Form of Service Agreement to be included in its Tariff.) Upon expiration of the final agreement referencing CEGT's web site regarding

these provisions, CEGT will remove the "Standard Rate and Related Provisions" page from its web site.

5. CEGT agrees to implement fully and follow the Compliance Plan attached as Appendix B to this Agreement.

6. Within seven business days after the date of the Commission's order approving this Agreement in its entirety without modification (Effective Date), CEGT shall pay \$75,000 to the United States Treasury to reimburse the Commission for a portion of the costs of the audit and investigation. CEGT shall make this payment by delivering a certified check, payable to the Federal Energy Regulatory Commission at Lockbox 93938, Chicago, Illinois 60673, or by completing an electronic wire transfer to an appropriate Commission account.

V. TERMS

1. OMOI and CEGT state that they enter into this Agreement voluntarily and that, other than the agreements provided herein, no tender, offer, or promise of any kind whatsoever has been made by any party to this Agreement or by any member, officer, agent, or representative thereof, to induce the other party to enter into this Agreement.

2. This Agreement resolves only those issues raised in the Commission's September 15, 2003 Show Cause Order in Docket No. IN03-11, *CenterPoint Energy Gas Transmission Company*, 104 FERC ¶ 61,280, and does not address or affect any issues pending in any other matter.

3. Unless the Commission issues an order approving this Agreement in its entirety without modification, this Agreement shall be null and void and of no effect

whatsoever, and neither OMOI nor CEGT shall be bound by any provision or term of the Agreement, unless they agree otherwise in writing.

4. Upon the issuance of a final Commission order approving this Agreement without modification, this Agreement shall resolve as to CEGT, its agents, officers, directors and employees, both past and present, and the Commission shall be forever barred from bringing against CEGT, its agents, officers, directors, or employees, both past and present, any and all administrative or civil claims or matters asserting any and all claims, liabilities, causes of action, demands, rights, alleged entitlements, obligations, known or unknown, asserted or not asserted, vested or unvested, without limitation, arising out of, related to, or connected with the allegations referred to in the Show Cause Order or in Part III of this Agreement. Upon the issuance of a final Commission order approving this Agreement without modification, the investigation in Docket No. IN03-11-000 shall be deemed terminated. This Agreement shall not bar Commission action in the event the Commission determines that CEGT has failed to comply with any provision of Part IV of this Agreement.

5. Except as set forth in the Compliance Plan in Appendix B to this Agreement, upon the issuance of a final Commission order approving this Agreement without modification, all document preservation requirements imposed by OMOI in the investigation for Docket No. IN03-11-000 shall be deemed terminated.

6. This Agreement does not limit CEGT from filing tariff provisions on matters that are unrelated to or consistent with the remedies in Section IV to this Agreement

7. The provisions of this Agreement shall apply to CEGT and its successors and assigns.

8. The parties agree that a Commission order approving this Agreement without modification or condition shall be a final and nonappealable order under section 19 of the NGA, 15 U.S.C. § 717r (2000). With regard to such order, CEGT waives: hearings pursuant to the applicable provisions of the NGA; the filing of proposed findings of fact and conclusions of law; an initial decision by an administrative law judge pursuant to the Commission's Rules of Practice and Procedure; post-hearing procedures pursuant to the Commission's Rules of Practice and Procedure; and judicial review by any court.

9. With respect to the representations of the parties set forth herein, the undersigned representative of each party represents and warrants that he has read them and knows the contents thereof, that all the statements and matters set forth are true and correct to the best of his knowledge, information, and belief, and that he understands that each party enters into this Agreement in express reliance on those representations.

10. Each of the undersigned warrants that he is an authorized representative of the party designated, is authorized to bind such party, and accepts this Agreement on behalf of that party.

11. This Agreement may be executed in counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one agreement.

Agreed to and accepted this 18th day of February, 2004.

CenterPoint Energy Gas
Transmission Company

OMOI Enforcement Staff

By: _____
Cyril J. Zebot
Vice President - Pipeline Financial Analysis

CenterPoint Energy Gas and
Transmission Company

By: _____
Robert E. Pease
Director, Division of
Enforcement
Office of Market Oversight
and Investigations

Appendix A

CenterPoint Energy Gas Transmission Company

Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
Arkansas Electric Cooperative Corporation	1002565	FT & SBS	RP96-200-054	1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues. 2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.	X	
Dynergy Marketing and Trade	1002680	FT	RP96-200-059	1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues. 2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.	X	
Dynergy Marketing and Trade	1002681	FT	RP96-200-059	1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues. 2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.	X	

Appendix A

CenterPoint Energy Gas Transmission Company

Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
Dynegy Marketing and Trade	1002901	FT	RP96-200-081	<ol style="list-style-type: none"> 1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues. 2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights. 		X
Entergy Arkansas, Inc.	1002348	FT	RP96-200-037	<ol style="list-style-type: none"> 1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues. 2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights. 	X	
Oneok Energy Marketing	1003138	FT	RP96-200-089	<ol style="list-style-type: none"> 1) Pipeline will help find a party willing to enter into a financial risk management transaction with the Shipper. 2) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues. 3) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights. 	X	X

Appendix A

CenterPoint Energy Gas Transmission Company

Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
Oneok Energy Marketing	1003284	FT	RP96-200-089	1) Pipeline will help find a party willing to enter into a financial risk management transaction with the Shipper.	X	
				2) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.		X
				3) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.		X
Reliant Energy Services, Inc	1003134	FT	RP96-200-086	1) Pipeline will help find a party willing to enter into a financial risk management transaction with the Shipper.	X	
				2) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.		X
				3) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.		X
Cooper Tire and Rubber Company	1000181, 1002981 and 1003330	FT & HFT	RP96-200-069	1) Shipper must support Account 858 cost recovery through rates.		X

Appendix A

CenterPoint Energy Gas Transmission Company

Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
Cross Oil Refining & Marketing Inc.	1000182, 1002829, 1003332 and 1002990	FT & HFT	RP96-200-069	1) Shipper must support Account 858 cost recovery through rates.	X	
El Dorado Chemical Company	1000184	FT	RP96-200-069	1) Shipper must support Account 858 cost recovery through rates.	X	
US Vanadium Corp.	1000501	FT	RP96-200-069	1) Shipper must support Account 858 cost recovery through rates. 2) If Shipper supports a FERC proceeding involving a challenge to rates then Pipeline may require a delivery point change.	X	
Columbian Chemicals	1000506	FT	RP96-200-069	1) Shipper must support Account 858 cost recovery through rates. 2) If Shipper supports a FERC proceeding involving a challenge to rates then Pipeline may require a delivery point change.	X	
Maybelline Products Co	1001109	FT	RP96-200-073	1) Shipper must support Account 858 cost recovery through rates.	X	

Appendix A

CenterPoint Energy Gas Transmission Company

Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
SMI Steel Arkansas	1001157	FT	RP96-200-069	2) If Shipper supports a FERC proceeding involving a challenge to rates then Pipeline may require a delivery point change.	X	
				1) Shipper must support Account 858 cost recovery through rates. 2) If Shipper supports a FERC proceeding involving a challenge to rates then Pipeline may require a delivery point change.	X	X
Norandal USA, Inc	1001159, 1002980 and 1003385	FT & HFT	RP96-200-069	1) Shipper must support Account 858 cost recovery through rates.	X	
				2) If Shipper supports a FERC proceeding involving a challenge to rates then Pipeline may require a delivery point change.	X	X
Producers Rice Mill Inc.	1001196	FT	RP96-200-069	1) Shipper must support Account 858 cost recovery through rates.	X	
				2) If Shipper supports a FERC proceeding involving a challenge to rates then Pipeline may require a delivery point change.	X	X

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Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
Taber Extrusions, Inc.	1001334, 1002987 and 1003333	FT & HFT	RP96-200-069	1) Shipper must support Account 858 cost recovery through rates. 2) If Shipper supports a FERC proceeding involving a challenge to rates then Pipeline may require a delivery point change.	X	
	1001348	FT	RP96-200-069	1) Shipper must support Account 858 cost recovery through rates. 2) If Shipper supports a FERC proceeding involving a challenge to rates then Pipeline may require a delivery point change.	X	
	1002147, 1002988 and 1003331	FT and HFT	RP96-200-069	1) Shipper must support Account 858 cost recovery through rates. 2) If Shipper supports a FERC proceeding involving a challenge to rates then Pipeline may require a delivery point change.	X	
Cooper Tire and Rubber Co.	1002577, 1002979 and 1003328	FT & HFT	RP96-200-069	1) Shipper must support Account 858 cost recovery through rates. 2) If Shipper supports a FERC proceeding involving a challenge to rates then Pipeline may require a delivery point change.	X	

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Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
Riceland Foods, Inc.	1000199, 1002986 and 1002340	FT and HFT	RP96-200-069	1) Shipper can not change ARKLA delivery points.	X	
Arkansas Steel Assoc	1000198	FT	RP96-200-069	1) Shipper can not change ARKLA delivery points.	X	
Wabash Alloys, LLC	1000204, 1002989 and 1003386	FT and HFT	RP96-200-069	1) Shipper can not change ARKLA delivery points.	X	
Temple-Inland Forest Product Inc.	1000426	FT	RP96-200-069	1) Shipper can not change ARKLA delivery points.	X	
GEO Specialty Chemicals Inc.	1000662	FT	RP96-200-069	1) Shipper can not change ARKLA delivery points.	X	
Arkansas Aluminum Alloys, Inc.	1000671	FT	RP96-200-069	1) Shipper can not change ARKLA delivery points.	X	

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Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
Southwestern Electric Power Co.	1002369	FT	RP96-200-055	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p> <p>2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.</p> <p>3) If Transporter unable to collect Negotiated Rate then Transporter may collect max rate retroactively and Shipper may terminate contract.</p>	X	
Williams Energy Services Company	1002590	FT	RP96-200-056	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p> <p>2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.</p>	X	
Williams Energy Services Co.	1001981	FT	RP96-200-026	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p>	X	

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Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
Republic Paperboard Co.	1002337	FT	RP96-200-048	2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.	X	
				1) Full requirements provision.	X	
				2) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.	X	
Amoco Energy Trading Corp.	1002186	FT	RP96-200-034	3) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.	X	
				1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.	X	
				2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.	X	

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Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
Union Pacific Fuels (now Duke Energy Fuels LP)	1002198	FT	RP96-200-034	1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.	X	
				2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.	X	
Baptist Health System	1003105	FT	RP96-200-083	1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.		X
				2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.		X
Baptist Health System	1003106	FT	RP96-200-083	1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.		X
				2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.		X

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Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
Baptist Health System	1003107	FT	RP96-200-083	1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues. 2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.		X
Baptist Health System	1003108	FT	RP96-200-083	1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues. 2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.		X
Baptist Health System	1003109	FT	RP96-200-083	1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues. 2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.		X

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Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
Central Arkansas Veterans	1003099	FT	RP96-200-083	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p> <p>2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.</p>		X
Central Arkansas Veterans	1003100	FT	RP96-200-083	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p> <p>2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.</p>		X
Duke Energy Hot Springs, LLC	1002755 and 1002908	FT	RP96-200-079	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p> <p>2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.</p>		X

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Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
Dynegy Marketing and Trade	1002934	FT	RP96-200-076	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p> <p>2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.</p>		X
Entergy Arkansas, Inc.	1003072	FT	RP96-200-080	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p> <p>2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.</p>		X
Entergy Power, Inc.	1002824	FT	RP96-200-068	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p> <p>2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.</p>		X

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Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
Remington Arms Company, Inc.	1003101	FT	RP96-200-083	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p> <p>2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.</p>		X
St. Vincent Health System	1003102	FT	RP96-200-083	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p> <p>2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.</p>		X
St. Vincent Health Systems	1003103	FT	RP96-200-083	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p> <p>2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.</p>		X

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Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
St. Vincent Health Systems	1003104	FT	RP96-200-083	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p> <p>2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.</p>		X
Bibler Bros. Lumber Co.	1001227	FT	RP96-200-067	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p> <p>2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.</p>		X
Ensco, Inc.	1001153	FT	RP96-200-071	<p>1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues.</p> <p>2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights.</p>		X

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Shipper	Contract Number	Type of Service	Docket Number	Non-Conforming Provisions	Not Reported	Inadequately Reported
Great Lakes Chemical Corp.	1000187	FT	RP96-200-066	<ol style="list-style-type: none"> 1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues. 2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights. 		X
Hot Springs Power Co. LLC	1002891	FT	RP96-200-087	<ol style="list-style-type: none"> 1) Shipper waives rights to credits or benefits from rates, refunds, penalties or other revenues. 2) Pipeline may terminate or modify agreement, retroactively, if waivers are ineffective or Shipper seeks to avail itself of waived rights. 		X

APPENDIX B

NEGOTIATED RATE CONTRACTING COMPLIANCE PLAN FOR CENTERPOINT ENERGY GAS TRANSMISSION COMPANY

This Negotiated Rate Contracting Compliance Plan (Compliance Plan) responds to specific issues and recommendations arising from a non-public audit and investigation conducted by the Office of Market Oversight and Investigations (OMOI) and the Commission's Show Cause Order issued on September 15, 2003 in Docket No. IN03-11-000, 104 FERC ¶ 61,280 (2003).

CenterPoint Energy Gas Transmission Company (CEGT) will implement the policies and take the steps outlined below, to resolve issues that have arisen regarding compliance with the Commission's applicable statutes, rules and regulations.

This Compliance Plan applies to CEGT and to any successor interstate pipeline company owned or controlled by CenterPoint Energy, Inc. This Compliance Plan will be in effect for three years following the date the Federal Energy Regulatory Commission approves the Stipulation and Consent Agreement in Docket No. IN03-11-000 (Agreement) in its entirety without modification (Effective Date). OMOI agrees to promptly review any material submitted in response to the Compliance Plan and will not unreasonably withhold approval of matters submitted for consideration.

CEGT may request that the Commission modify this Compliance Plan during its three-year term. Nothing in this Compliance Plan relieves CEGT from complying with the Commission's rules and regulations currently in effect and as they may be amended.

I. Negotiated Rate Contracting Compliance Official

1. CEGT will designate an individual whose title will be "Negotiated Rate Contract Compliance Official" (Compliance Official). This individual will be the contact person for the Commission staff for CEGT's negotiated rate contracting compliance issues and will be responsible for overseeing implementation of this Compliance Plan during its term. This individual will be a pipeline employee. CEGT may assign support personnel to assist the Compliance Official as it sees fit. CEGT may designate a replacement Compliance Official during the term of this Compliance Plan and must notify the Commission of any such change.
2. CEGT will develop a written policy for negotiated rate contracting matters. The policy will include measurable goals and appropriate corrective responses when policies or procedures are not followed.

3. Within 30 days of the Effective Date, CEGT will submit the policy to OMOI for approval.
4. Within five (5) working days after OMOI has approved such policy and the training procedures described in paragraph II.2 below, CEGT will notify all Applicable Employees (individuals responsible for negotiating negotiated rate contracts, filing negotiated rate contracts with the Commission, posting transactional information, or posting Tariff Sheets on CEGT's web site) of the negotiated rate contract policy and procedures.

II. Training

1. As part of the policy developed in I.2 above, CEGT will develop a written policy for negotiated rate contract training. The training policy will state that CEGT will require all Applicable Employees to successfully complete the training. The policy will also state that, beginning 90 days after the notification described in paragraph I.4., no current Applicable Employee may continue as an Applicable Employee if that individual has not completed the required training and no new Applicable Employee may continue in such role unless that employee completes the required training within 10 days after being designated an Applicable Employee. Applicable Employees will be required to complete the negotiated rate contract training for each year of the three (3) years that this Compliance Plan is in effect.
2. Within 60 days of the Effective Date, CEGT will submit to OMOI for approval a written procedure for training for negotiated rate contract matters.
3. The Compliance Official will be responsible for the following:
 - a. Identifying all Applicable Employees.
 - b. Notifying all Applicable Employees of the time and place for negotiated rate contract training.
 - c. Providing an electronic or hard-copy of the written policy and procedures to each CEGT Applicable Employee when the employee is notified of the time and place for negotiated rate contract training.
 - d. Developing procedures for tracing and verifying attendance (and non-attendance) and creating material to be used during the training. The Compliance Official will be responsible for reviewing the training material at least annually for updating as appropriate or necessary.
 - e. Retaining training materials and verification of attendance until the next Commission audit, but in no event for a period longer than five (5) years from the Effective Date.

III. Contracting

1. As part of the policy developed in I.2., above, CEGT will develop a written policy regarding negotiated rate contracting.
2. CEGT will abide by the following procedures regarding negotiating rate contracting:
 - a. CEGT will file each of its negotiated rate agreements in accordance with the requirements of the Commission's July 25, 2003 Modification of Negotiated Rate Policy in Docket No. PL02-6-000. In addition, CEGT will also submit each entire negotiated rate agreement to the Commission, identifying all documents essential to clarifying or explaining any provision of the agreement.
 - b. CEGT will file with the Commission each negotiated rate contract that it executes subsequent to the Effective Date of the Agreement by the earlier of (a) two business days following contract execution or (b) the day of execution if gas is expected to flow within two days of the contract execution; provided, however, that no such contract shall be required to be filed earlier than sixty days prior to the effective date for service to commence under the agreement.
 - c. CEGT will require that all negotiated rate contracts be signed and dated by each of the contracting parties.

IV. Transactional Postings and Negotiated Rate Contract Filings

1. As part of the policy developed in Part I.2. above, CEGT will develop a written policy regarding the posting of transactional information and the filing of negotiated rate contracts.
2. CEGT will abide by the following procedures for posting transactional information and filing negotiated rate contracts:
 - a. Marketing Department employees ("Marketer(s)") will coordinate with CenterPoint's legal counsel on drafting negotiated rate contracts.
 - b. The Marketer will notify the Regulatory Department and the appropriate Client Services Department employee ("CSR") that a filing to the Commission is required.
 - c. The Marketer will send the contract to the shipper for execution.
 - d. The Marketer will date stamp the receipt date of the executed contract and will promptly provide the original executed contract to the CSR.
 - e. The CSR will create a scanned or conformed copy (PDF version) of the contract.
 - f. The CSR will send the PDF version of the contract to the Regulatory Department.

- g. The Regulatory Department will prepare the appropriate rate filing and will distribute the filing and the PDF copy of the contract to FERC and all tariff holders.
- h. Steps a. through g. will be accomplished in a manner that permits the Regulatory Department to meet CEGT's filing obligations set out in Section III.2.b., above.
- i. The CSR will prepare and post the transactional posting in accordance with the provisions of 18 C.F.R. § 284.13 (2003) or subsequent amendments of those provisions approved by the Commission.
- j. The CSR will post the PDF copy of the contract to CEGT's web site under "Reference Data" at the same time CEGT makes the transactional postings in Section IV.2.i. above.
- k. By the 5th working day of each month, the Compliance Official (or designee) will obtain from the Marketing Department a list of all negotiated rate contracts entered into during the prior month. The Compliance Official will compare the list of negotiated rate contracts to the transactional postings and reference data postings made during the prior month.
- l. By the 10th working day of each month, the Compliance Official will make any corrections that are required by the above review and maintain a log of the results of each monthly review, including any corrective actions taken as required by the monthly review.
- m. For the three years that this Compliance Plan is in effect, the Compliance Official will submit a copy of the log of the results to OMOI quarterly. The log and all review documents will be retained until the next FERC audit, but in no event for a period longer than five (5) years from the Effective Date.

V. Compliance Report

- 1. On the first day of the month which is at least 30 days after the first through third year, CEGT shall file with the Commission a report in Docket No. IN03-11 explaining how, during the previous annual period, the pipeline implemented the Compliance Plan and ensured continued compliance with the applicable provisions of this Agreement and the Compliance Plan (Compliance Report).