FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 3, 2006

In Reply Refer To:
Central New York Oil and Gas Company, LLC
Docket Nos. RP06-171-000
RP06-171-001

Central New York Oil And Gas Company
Two Brush Creek Boulevard
Suite 200
Kansas City, MO 64112

Attention: William R. Moler,
Vice President, Midstream Operations

Reference: Revised Tariff Sheets Reflecting Changes to General Terms and Conditions and Rate Schedules

Dear Mr. Moler:

1. On January 6, 2006, as supplemented on January 11 and 19, 2006, Central New York Oil And Gas Company (CNYOG) filed revised tariff sheets[1] to: (1) establish a procedure for CNYOG to enter into pre-arranged deals for new capacity in connection with an expansion of its storage facility, (2) update the tariff to reflect CNYOG's recent change of ownership, (3) eliminate the categories of service under Rate Schedule FSS and make conforming changes to the definitions in Rate Schedule FSS, and (4) reorder priorities of service for Overrun and Interruptible storage service. The Commission will accept the tariff sheets effective February 6, 2006, subject to the conditions discussed below.

2. CNYOG proposes to add a new sub-section 2.2, Pre-Arranged Storage Service and Interim Service, to section 2, Requests for Service, of the General Terms and Conditions of Service (GT&C) of its tariff. CNYOG states that the proposal will implement a pre-arranged deal storage service and interim service program, with

[1] See Appendix for listing of the tariff sheets.

CNYOG having the right to limit a right of first refusal (ROFR) or other renewal rights, so that a customer may subscribe for capacity under CNYOG's planned expansion, which will essentially double CNYOG's Stagecoach Storage Facility from 13.25 Bcf of working gas to approximately 26.25 Bcf of working gas. CNYOG contends that its program for pre-arranged storage service is consistent with Commission orders[2] and provides customers with long lead times in subscribing for capacity in CNYOG's planned expansion project (Expansion Capacity) the opportunity to secure such capacity in advance. CNYOG states that it is in the process of negotiating precedent agreements with customers and that once binding precedent agreements are executed the capacity covered by the agreements will be put out for bid so that any interested customer will have the opportunity to secure the capacity by offering a higher bid. CNYOG states that the proposed program will benefit customers by allowing for the efficient allocation of Expansion Capacity, ensuring that the capacity is awarded to the customers that value it most and providing customers with long lead times a means to reserve capacity for their future needs. CNYOG further states that because its pre-arranged deal program is oriented around its planned Expansion Project, it differs slightly from other pre-arranged deal programs because, instead of executing an FSS Service Agreement, a winning bidder will execute a binding precedent agreement for FSS Service. Once the conditions in the precedent agreement are fulfilled or waived, CNYOG and the affected customer will execute a Rate Schedule FSS Service Agreement.

3. CNYOG further proposes various clean-up tariff revisions to reflect a change in ownership with Inergy LP purchasing CNYOG and its affiliate eCORP Marketing LLC now known as Inergy Gas Marketing, LLC. CNYOG also proposes changes in firm service to: (1) allow service offered by CNYOG to have the same flexibility as service made available under capacity release, (2) revise the definition of "Maximum Daily Injection Quantity," (3) replace the definition of "Storage Contract Year" with "Storage Contract Term" for Rate Schedule FSS, and (4) eliminate tying Maximum Daily Injection Quantity to five percent and Maximum Daily Withdrawal Quantity to 10 percent under Rate Schedule ISS.

4. Lastly, CNYOG proposes to reorder the scheduling and curtailment priorities of service to place overrun service under Rate Schedule FSS ahead of interruptible service under Rate Schedule ISS. CNYOG contends that it is adjusting its tariff to meet the need of firm customers, reordering the priority of service as follows: (1) Rate Schedule FSS, (2) Rate Schedule FSS Overrun Service, (3) Rate Schedule ISS; and (4) Rate Schedule ISS Overrun Service. CNYOG indicates that Rate

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[2] *Citing, Great Lakes Transmission, LP*, 112 FERC ¶ 61,341 (2005); *ANR Pipeline Co*., 113 FERC ¶ 61,273 (2005); *Gas Transmission Northwest Corp*., 109 FERC ¶ 61,141 (2004); *Northern Natural Gas Co*., 109 FERC ¶ 61,388 (2004).

Schedule FSS overrun service will continue to be fully interruptible and subordinate to firm service at all scheduling intervals. CNYOG supports the proposal for overrun service to have a higher priority than interruptible service, citing Tennessee Gas Pipeline Company and Alliance Pipeline, L.P.[3] as examples of pipelines with tariffs providing such a priority of service.

5. Public notice of CNYOG's filing was issued January 11, 2006, with interventions and protests due as provided in section 154.210 of the Commission's regulations (18 C.F.R. ¶ 154.210 (2005)). Pursuant to Rule 214 (18 C.F.R. ¶ 385.214 (2005)), 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. No parties filed adverse comments or protests to the filing.

6. New Jersey Natural Gas Company and NJR Energy Services Company (collectively New Jersey) and Consolidated Edison Company of New York, Inc. (Con Edison) filed comments in support of CNYOG's proposal to change the priority of service so that authorized overrun storage service under Rate Schedule FSS has priority over interruptible storage service under Rate Schedule ISS. The New Jersey and Con Edison comments are summarized below.

7. New Jersey contends that there are good practical reasons as well as policy reasons to approve CNYOG's proposal to afford Rate Schedule FSS authorized overrun a higher priority than Rate Schedule ISS service. To support its position, New Jersey first cites the scheduling priorities in Tennessee's FERC Gas Tariff which affords authorized overrun service for both Tennessee's firm storage and its firm transportation services a higher priority, for both scheduling and curtailment purposes, than under Tennessee's interruptible service rate schedules.[4] New Jersey claims that since Tennessee is the only pipeline interconnected to CNYOG's storage facility to transport gas to and from storage, it makes sense for the priority of service protocol on CNYOG to be consistent with Tennessee. Secondly, New Jersey claims that the Commission's policy to encourage additional development of natural gas storage

[3] *See* CNYOG "supplemental filing" submitted on January 11, 2006, correcting original transmittal letter and providing additional information, including copies of Tennessee Gas Pipeline Company (Tennessee) FERC Gas Tariff, Fifth Revised Volume No. 1, Fourteenth Revised Sheet No. 316, First Revised Sheet No. 316A, Twelfth Revised Sheet No. 317 and Alliance Pipeline L.P., (Alliance) FERC Gas Tariff, Original Volume No. 1, Original Sheet No. 229 and First Revised Sheet No. 230.

[4] *Id.*

infrastructure supports CNYOG's realignment proposal, citing the recent *Storage Rate NOPR*[5] to support this claim. New Jersey contends that since the revenue for firm shippers is critical to developing new storage projects, the FSS authorized overrun customers should be afforded a higher priority than ISS customers to facilitate the economic viability and development of additional storage infrastructure.

8. Con Edison cites a *Tennessee*[6] order as support for granting priority to firm (FSS) customers over interruptible (ISS) as consistent with Commission policy while CNYOG's existing tariff provision,[7] which provides that FSS and ISS have priority over overrun service, is not consistent with Commission policy. Con Edison claims that it is not aware of a single other pipeline that give ISS customers a scheduling priority over overrun service and this priority is an inequity to CNYOG's firm customers. Con Edison contends that CNYOG's proposal will rectify this inequity by reversing the priorities of Overrun Service and ISS service and should be approved.

9. The Commission will accept the revised tariff sheets subject to the following modifications. CNYOG's proposal to reorder the priority of service, with overrun service having a higher priority than interruptible is denied. Although authorized FSS overrun service is associated with a firm service contract, nevertheless, it is still an interruptible service. The overrun service is, therefore, indistinguishable from any other interruptible service. The Commission traditionally considers authorized overrun and interruptible service as identical, and has held that pipelines must revise their tariffs so that interruptible and overrun services have the same scheduling priority.[8] The Commission makes a similar finding in this case, and directs CNYOG to revise its proposed tariff language so that the priority for authorized overrun and interruptible service is identical. While Tennessee's and Alliance's tariffs do provide

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[5] *Rate Regulation of Certain Underground Storage Facilities*, 113 FERC ¶ 61,306 (2005) (*Storage Rate NOPR*).

[6] *Tennessee Gas Pipeline Co*., 72 FERC ¶ 61,260 at 62,157 (1995) (*Tennessee*).

[7] See Section 10.1(c) of CNYOG's General Terms and Conditions at First Revised Sheet No. 99 to CNYOG's FERC Gas Tariff, Original Volume No. 1.

[8] *Portland Natural Gas Transmission System*, 106 FERC ¶ 61,289 at P 50 (2004); *TriState Pipeline, L.L.C.*, 88 FERC ¶ 61,328 at p. 62,006 (1999); *Puget Sound Energy, Inc*., 84 FERC ¶ 61,347 at p. 62,516 (1998); *CNG Transmission Corp*., 81 FERC ¶ 61,346 at p. 62,592 (1997); *National Fuel Gas Supply Corp*., 63 FERC ¶ 61,291 at p. 63,024 (1993); *High Island Offshore System and U-T Offshore System*, 63 FERC ¶ 61,280 at p. 62,826 (1993); *Equitrans, Inc*., 63 FERC ¶ 61,009 at pp. 61,063-064 (1993); and *Tennessee Gas Pipeline Co*., 62 FERC ¶ 61,250 at p. 62,676 (1993).

for a priority for authorized overrun over interruptible services, the orders approving those particular tariff provisions[9] did not specifically address the inconsistency with Commission policy and we will not follow that inconsistency in this case. In fact, in a previous order on Tennessee's compliance with Order No. 636, issued March 16, 1993, the Commission specifically rejected Tennessee's proposal to give overrun storage quantities a higher priority than overrun transportation. The Commission observed: "The Commission has said on many occasions that overrun service is not entitled to a higher priority than interruptible service."[10] Accordingly, we will follow that policy in this proceeding.

10. While New Jersey claims that it is critical for the development of new storage projects that authorized overrun be awarded a higher priority than interruptible, the Commission has found in other storage and liquefied natural gas cases that overrun requests should not have a higher priority than interruptible and has rejected proposals giving authorized overrun service a higher priority than interruptible.[11] The Commission's policy is that capacity must be allocated to the shipper which places the highest value on the capacity.[12] If shippers need more capacity, the shippers should sign up for additional firm capacity which would entitle them to a higher priority and greater access to storage service. The Commission will not provide a special exemption for CNYOG to circumvent our policy which holds that overrun service is comparable to interruptible service and should have the same priority as interruptible service. Further, the *Storage Rate NOPR* cited by New Jersey is pending Commission action and does not address the priority of service realignment sought by CNYOG. Accordingly the Commission rejects CNYOG's proposed tariff language.

11. The Commission also notes that CNYOG's existing tariff on priority of service, provides at section 10.1(c) of the General Terms and Conditions, that "Service under

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[9] *See Tennessee Gas Pipeline Co*., 72 FERC ¶ 61,260 at p. 62,157 (1995), *reh'g denied*, 73 FERC ¶ 61,083 (1995) and *Alliance Pipeline L.P.*, 80 FERC ¶ 61,149 (1997), *reh'g granted in part*, 84 FERC ¶ 61,239 (1998) (*Preliminary Determination on Non-Environmental Issues*).

[10] *Tennessee Gas Pipeline Co*., 62 FERC ¶ 61,250 at p. 62,676 (1993).

[11] *See Golden Pass LNG Terminal LP*, 112 FERC ¶ 61,041 at P 53 (2005); *Vista del Sol LNG Terminal LP*, 111 FERC ¶ 61,432 at P 51 (2005); *Avoca Natural Gas Storage*, 68 FERC ¶ 61,045 at pp.61,154-155 (1994); *Algonquin LNG, Inc*., 64 FERC ¶ 61,173 at P 62,528 (1993); *ANR Storage Co*., 51 FERC ¶ 61,114 at p. 61,305 (1990).

[12] *See Florida Gas Transmission Co.*, 102 FERC ¶ 61,217 at P 23 (2003); *see also, Columbia Gulf Transmission Co.*, 100 FERC ¶ 61,344 at P 41(2002).

both FSS and ISS shall have priority over Overrun Service."[13] This provision also is inconsistent with Commission's policy that interruptible service and overrun service should have the same priority and, therefore, it is unjust and unreasonable.[14] CNYOG is required to revise this provision of its tariff to provide that overrun service and interruptible service will have the same priority, consistent with Commission policy.

12. CNYOG is proposing a provision for pre-arranged storage and interim service that would permit customers to bid on future storage capacity prior to that capacity being built or acquired. CNYOG has provided a definition of Expansion Capacity, how the Expansion Capacity will be posted, and the capacity reservation procedure. To ensure that the pre-arranged storage service is used only for storage capacity that has not been built and does not apply to existing capacity, CNYOG is directed to revise its tariff, clarifying that the new pre-arranged storage service does not apply to existing storage capacity in its currently constructed storage field.

13. The Commission conditionally accepts CNYOG's revised tariff sheets effective February 6, 2006, and directs CNYOG to file revised tariff sheets consistent with the discussion above, within twenty days from the date of this order.

By direction of the Commission.

Magalie R. Salas,
Secretary.

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[13] See Second Revised Sheet No. 98 to CNYOG's FERC Gas Tariff, Original Volume No. 1.

[14] *See CNG Transmission Corp.*, 81 FERC ¶ 61,346 at p. 62,592 (1997); *Tennessee Gas Pipeline Co*., 62 FERC ¶ 61,250 at p. 62,676 (1993).

Appendix

Central New York Oil And Gas Company, LLC
FERC Gas Tariff, Original Volume No. 1

Tariff Sheets Accepted Effective February 6, 2005, Subject to Conditions

Third Revised Sheet No. 0
Second Revised Sheet No. 2
First Revised Sheet No. 4
First Revised Sheet No. 10
First Revised Sheet No. 11
First Revised Sheet No. 12
First Revised Sheet No. 13
Second Revised Sheet No. 15
Second Revised Sheet No. 16
Third Revised Sheet No. 19
Second Revised Sheet No. 23
Second Revised Sheet No. 25
First Revised Sheet No. 26
First Revised Sheet No. 33
Third Revised Sheet No. 72
First Revised Sheet No. 73
First Revised Sheet No. 74
Second Revised Sheet No. 75
Original Sheet No. 75A
Original Sheet No. 75B
First Revised Sheet No. 76
First Revised Sheet No. 78
First Revised Sheet No. 79
Third Revised Sheet No. 80
Third Revised Sheet No. 98
Second Revised Sheet No. 99
Third Revised Sheet No. 104
First Revised Sheet No. 120
First Revised Sheet No. 121
Second Revised Sheet No. 122
Second Revised Sheet No. 132
Second Revised Sheet No. 134
Second Revised Sheet No. 138
First Revised Sheet No. 139