

126 FERC ¶ 61,075
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

January 29, 2009

In Reply Refer To:
Egan Hub Storage, LLC
Docket No. RP09-160-000

Egan Hub Storage, LLC
P.O. Box 1642
Houston, TX 77251-1642

Attention: Janice K. Devers, General Manager
Tariffs and Commercial Development

Reference: Tariff Revisions

Dear Ms. Devers:

1. On December 16, 2008, Egan Hub Storage, LLC (Egan Hub) filed revised tariff sheets.¹ Specifically, Egan Hub states that it has reviewed its tariff, and proposes the instant modifications to simplify and clarify various provisions. As discussed below, the Commission will accept the proposed tariff sheets to be effective February 1, 2009, subject to conditions. The majority of Egan Hub's proposed changes are housekeeping changes or minor clarifications. The tariff sheets containing such administrative changes are just and reasonable and the Commission accepts them to be effective February 1, 2009. However, in each of its nine rate schedules under the title General Terms and Conditions, Egan Hub has made one of the following changes.

¹ See Appendix.

2. First, in Rate Schedules FSS, SSS, IPS, IWS, ILS, IBTS and IBS,² Egan Hub's current tariff provides that :

Applicable provisions of the General Terms and Conditions of this FERC Gas Tariff, as such provisions may be amended from time to time, are hereby incorporated by reference and made a part of this ... Rate Schedule, where applicable, and shall supplement the terms and conditions governing service rendered hereunder, as though stated herein, provided, however, that in the event of any inconsistency, the terms of this ... Rate Schedule shall control.

Egan Hub proposes to change this language to state:

All provisions of the General Terms and Conditions of this FERC Gas Tariff, as such provisions may be amended from time to time, are hereby incorporated by reference and made a part of this ... Rate Schedule, where applicable, and shall supplement the terms and conditions governing service rendered hereunder, as though stated herein. In the event of a conflict between such General Terms and Conditions and the provisions of this rate schedule or a ... Service Agreement under this rate schedule, the specific provisions of this rate schedule or a ... Service Agreement [under this rate schedule] shall control.

Generally, the difference in the new language proposed by Egan Hub would allow a Service Agreement to control any conflict with the GT&C in addition to the current language which would only permit the rate schedule to control a conflict with the GT&C.

Secondly, in Rate Schedules EPS and ELS,³ Egan Hub proposes to add the following language:

In the event of a conflict between such General Terms and Conditions and the provisions of this rate schedule or a ... Service Agreement [under this rate schedule], the specific provisions of this rate schedule or a ... Service Agreement [under this rate schedule] shall control.

² Third Revised Sheet No. 25, First Revised Sheet No. 36, First Revised Sheet No. 44, First Revised Sheet No. 53, First Revised Sheet No. 63, Third Revised Sheet No. 72, Fourth Revised Sheet No. 84, to FERC Gas Tariff, First Revised Volume No. 1.

³ Second Revised Sheet No. 37D and First Revised Sheet No. 38C to FERC Gas Tariff, First Revised Volume No. 1.

3. Therefore, under both proposed language additions, Egan Hub proposes to add language which states that if any conflict arises between its GT&C and a specific service agreement, the service agreement will control.

4. This proposed language would go beyond permitting the language of the specific rate schedule to control any conflict between the GT&C and the specific terms of the Rate Schedule in that in a conflict between the Service Agreement and the GT&C the Service Agreement would control. Accordingly, this proposed language is contrary to Commission policy and section 154.1(d) of the Commission's regulations [18 CFR §154.1(d) (2008)], which 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." Any service agreement that deviates from Egan Hub's GT&C may not be deemed to control any conflict unless it has been filed with the Commission and the Commission has determined that the deviations contained therein do not present a substantial risk of undue discrimination.⁴ The proposed language appears to attempt to circumvent this requirement by proposing that the Service Agreement which deviates from the GT&C would control without such a filing with the Commission to determine whether the deviating service agreement was just and reasonable.⁵

5. Therefore, the Commission finds that the proposed language is inconsistent with the Commission's policies and regulations as set forth above. Accordingly, the Commission accepts the referenced tariff sheets to be effective February 1, 2009, subject to Egan Hub filing, within 10 days of the date of this order, revised tariff sheets removing the subject language.

6. Public notice of the filing was issued on December 19, 2008. Interventions and protests were due as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2008)), all timely filed motions to intervene and any 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

⁴ *Columbia Gas Transmission Corp.*, 97 FERC ¶ 61,221, at 62,003 (2001). The Commission has stated that it would consider a material deviation from the form of service agreement to be "any provision of a service agreement which goes beyond the filling in of the spaces in the form of service agreement with the appropriate information provided for in the tariff and that affects the substantive rights of the parties. Therefore § 154.1 requires the filing of any service agreement which contains a material deviation of this type." *ANR Pipeline Co.*, 97 FERC ¶ 61,224, at 62,022 (2001).

⁵ *Columbia Gas Transmission Corp.*, 97 FERC ¶ 61,221, at 62,002 (2001); *See also Tejas Gas Pipeline Co.*, 81 FERC ¶ 61,053 (1997).

proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

By direction of the Commission. Commissioner Kelliher not participating.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Egan Hub Storage, LLC
FERC Gas Tariff, First Revised Volume No. 1
Tariff Sheets Accepted
Effective February 1, 2009, Subject to Condition

Second Revised Sheet No. 2
Second Revised Sheet No. 4
Second Revised Sheet No. 10
Second Revised Sheet No. 11
Second Revised Sheet No. 11A
Second Revised Sheet No. 11B
Third Revised Sheet No. 12
Third Revised Sheet No. 13
Third Revised Sheet No. 14
Third Revised Sheet No. 15
Third Revised Sheet No. 16
First Revised Sheet No. 17
Second Revised Sheet No. 20
Third Revised Sheet No. 21
Second Revised Sheet No. 22
Third Revised Sheet No. 23
Fifth Revised Sheet No. 24
Third Revised Sheet No. 25
Second Revised Sheet No. 30
Third Revised Sheet No. 31
Second Revised Sheet No. 32
Second Revised Sheet No. 33
Third Revised Sheet No. 34
Fifth Revised Sheet No. 35
First Revised Sheet No. 36
Second Revised Sheet No. 37
First Revised Sheet No. 37A
Second Revised Sheet No. 37D
Second Revised Sheet No. 38
First Revised Sheet No. 38A
First Revised Sheet No. 38C
Third Revised Sheet No. 40
Third Revised Sheet No. 41
Third Revised Sheet No. 42
Fourth Revised Sheet No. 43
First Revised Sheet No. 44

Third Revised Sheet No. 50
Third Revised Sheet No. 51
Third Revised Sheet No. 52
First Revised Sheet No. 53
Third Revised Sheet No. 60
Third Revised Sheet No. 61
Third Revised Sheet No. 62
First Revised Sheet No. 63
Third Revised Sheet No. 70
Third Revised Sheet No. 71
Third Revised Sheet No. 72
Third Revised Sheet No. 80
Third Revised Sheet No. 81
Third Revised Sheet No. 82
Fourth Revised Sheet No. 83
Fourth Revised Sheet No. 84
Fourth Revised Sheet No. 100
Fifth Revised Sheet No. 101
Sixth Revised Sheet No. 102
Fourth Revised Sheet No. 103
Fifth Revised Sheet No. 104
Fourth Revised Sheet No. 105
Second Revised Sheet No. 108B
Second Revised Sheet No. 109A
Third Revised Sheet No. 109B
Third Revised Sheet No. 110
Fifth Revised Sheet No. 125
Fifth Revised Sheet No. 126
Fourth Revised Sheet No. 127
Fourth Revised Sheet No. 128
Second Revised Sheet No. 128A
Second Revised Sheet No. 129
Second Revised Sheet No. 130
Second Revised Sheet No. 131
Second Revised Sheet No. 132
Fourth Revised Sheet No. 133
Fourth Revised Sheet No. 134
Fourth Revised Sheet No. 135
Second Revised Sheet No. 136
Second Revised Sheet No. 137
Fourth Revised Sheet No. 138
Fourth Revised Sheet No. 139
Third Revised Sheet No. 140

Second Revised Sheet No. 141
Third Revised Sheet No. 142
Fifth Revised Sheet No. 143
Second Revised Sheet No. 144
Second Revised Sheet No. 145
Third Revised Sheet No. 146
Fourth Revised Sheet No. 147
Fifth Revised Sheet No. 148
Fourth Revised Sheet No. 149
Third Revised Sheet No. 156
Second Revised Sheet No. 157
Second Revised Sheet No. 158
Second Revised Sheet No. 159
Fifth Revised Sheet No. 163
Original Sheet No. 164
Original Sheet No. 165
Sheet Nos. 166-199
Second Revised Sheet No. 241
First Revised Sheet No. 244
First Revised Sheet No. 245