

132 FERC ¶ 61,072
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 27, 2010

In Reply Refer To:
CenterPoint Energy Gas Transmission
Docket No. RP10-835-000

CenterPoint Energy Gas Transmission Company
P.O. Box 21734
Shreveport, Louisiana 71151

Attention: Lawrence O. Thomas, Senior Director

Reference: Petition for Waiver

Ladies and Gentlemen:

1. On June 9, 2010, CenterPoint Energy Gas Transmission Company (CEGT) filed a petition for limited waiver of the transactional posting requirements set forth in section 284.13(b)(2) of the Commission's regulations as they relate to CEGT's new nomination balancing service (NBS). CEGT proposes an alternative reporting scheme that it states more closely matches the nature of its NBS transactions. For the reasons discussed below, we grant the limited waiver.
2. On March 18, 2010, the Commission issued a letter order in Docket No. RP10-383-000 approving, among other things, a new nomination balancing service for CEGT.¹ CEGT states it adopted the service to assist its shippers in resolving unequal receipt and delivery point nominations.² The service is optional to shippers and, as an interruptible service, is subject to available capacity. CEGT only allows NBS transactions under Rate Schedule PHS (Perry Hub Service), a park and loan service. CEGT states that in order to use the service, the shipper must have a separate NBS agreement under Rate Schedule PHS.

¹*CenterPoint Energy Gas Transmission Company*, 130 FERC ¶ 61,222 (2010).

²CEGT notes the service is to resolve nomination imbalances, and not physical imbalances (i.e., the differences between volumes nominated and volumes actually used).

3. CEGT states that in planning to implement its new service on July 1, 2010, it encountered a compliance hurdle. Section 284.13(b)(2) of the Commission's regulations requires that, for pipeline interruptible service, the pipeline must post on a daily basis, no later than the first nomination for service under an interruptible agreement, the following information (1) shipper name; (2) rate charged; (3) maximum rate; (4) the receipt and delivery points covered between which the shipper is entitled to transport gas at the rate charged; (5) the quantity of gas the shipper is entitled to transport; (6) any special details pertaining to the agreement; and (7) whether the shipper is affiliated with the pipeline. According to CEGT, by nature of its nomination balancing service, its NBS agreements do not specify receipt and delivery points and gas quantities, since the service does not involve gas flowing between points. Rather, the service enables a shipper to balance its receipt and delivery nominations through parks and loans at any point under one of the shipper's transportation agreements, and without the need to find additional supply or cut deliveries on a certain day. CEGT asserts that any movement of gas between points that may result from such NBS nominations will occur pursuant to the shipper's other transportation service agreement, and the points and quantities associated with that transportation service agreement would already be posted in accordance with section 284.13(b) of the Commission's regulations.

4. Further, CEGT states that it expects a high level of requests for the nomination balancing service on a daily basis, because of the operational flexibility the service affords. It explains that each individual nomination under an NBS agreement could involve a change in the points to which the service is being applied and the quantity of gas the pipeline is willing to provide, since the ability of CEGT to offer its nomination balancing agreement is subject to operational constraints. Due to the expected frequent use of the service, CEGT seeks limited waiver of the transactional posting requirements set forth in section 284.13(b)(2) of the Commission's regulations. Instead of making individual transactional postings for each NBS nomination, CEGT instead proposes to use the following reporting requirements for NBS transactions.

5. First, for each new NBS agreement executed, it proposes to post all of the required transactional information specified in section 284.13(b)(2) with the exception of the receipt and delivery points and the gas quantity, since that information is not included in the agreement. Then, CEGT proposes to post on its website each day (1) the rate applicable to all NBS transactions within each of its pooling areas, and (2) its maximum rate under Rate Schedule PHS. CEGT contends this proposal will provide adequate transparency since the posted daily NBS rates would be available to all shippers for review, and the same rate would apply to all NBS transactions in the pooling area until CEGT posts an alternative rate. CEGT states that should a unique and currently unforeseeable circumstance warrant some shipper receiving a different NBS rate than the rate posted for the applicable pooling area, CEGT would post on its website, no later than the first nomination for service under the NBS agreement, the identity of the shipper receiving the different rate, the applicable pooling area, the rate that shipper is receiving,

any special details pertaining to the agreement, and whether that shipper is a CEGT affiliate. CEGT asserts its proposed reporting approach is consistent with the purpose and intent of the transactional posting requirements set forth in section 284.13(b)(2) of the Commission's regulations.

6. Public notice of the filing was issued on June 10, 2010. Interventions and protests were due on or before June 21, 2010. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2010)), 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 proceeding or place additional burdens on existing parties.

7. Shell Energy North America (US), L.P., (Shell) filed an answer in opposition to CEGT's petition for waiver request. Shell requests that the Commission deny the petition for waiver for two reasons. First, it states that shippers need the full transactional information as set forth in section 284.13(b)(2) of the Commission's regulations to ensure that discrimination is not occurring on CEGT's system. It asserts that if the Commission grants CEGT's request for waiver, shippers would not know at what points, or capacity levels, the NBS transactions were effectuated, even though CEGT would have this information available. As a result, shippers that compete directly with NBS nominations would be left without critical data to determine whether discrimination is occurring, and whether they are similarly situated to other shippers who may receive competitive benefits.

8. Shell also contends that CEGT has not shown why it cannot comply with the Commission's transactional posting requirements. Shell asserts that CEGT would have available all information needed to meet the posting requirements set forth in the regulations, including the point and quantity information for each NBS nomination. It states that any minor inconvenience associated with posting the transactional data is not sufficient to overcome the harm that would be created by granting the waiver. Shell states that, at a minimum, the Commission should require CEGT to provide the full posting information the next day so that other shippers can determine if they have been discriminated against.

9. On June 25, 2010, CEGT filed an answer to Shell's opposition to CEGT's petition for waiver request. On June 30, 2010, Shell filed an answer in response to CEGT's answer. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2)(2010), prohibits both an answer to a protest, and an answer to an answer, unless otherwise ordered by the decisional authority. We will accept CEGT's and Shell's answers because they provide information that assisted us in our decision-making process. CEGT asserts that Shell is using this proceeding inappropriately to seek an expansion of the Commission's regulations on transactional reporting. It argues that the regulations only require the pipeline to post information about shippers' interruptible

service entitlements, not information about shippers' actual throughput or use of interruptible service. CEGT states that since Shell is asking for actual quantity and point information for each individual NBS transaction, it is asking for information beyond what the Commission requires. CEGT adds that granting the limited waiver will not deprive shippers of any information required by section 284.13(b)(2), or of their ability to monitor for undue discrimination. In its answer, Shell asserts that the Commission should view each NBS nomination that changes either a point or quantity as requiring a separate posting under the Commission's regulations to give shippers the ability to monitor for undue discrimination and preference. Shell maintains that it is not requesting more information than required under the Commission's regulations, and that CEGT has acknowledged that the reason for its waiver request was that the regulations could be read to require a separate posting for each NBS quantity and each NBS change of points.

10. The Commission has reviewed CEGT's request for limited waiver of the transactional posting requirements set forth in section 284.13(b)(2) of the Commission's regulations, and finds that CEGT adequately supports and justifies its requested waiver. The nature of CEGT's nomination balancing service makes it difficult for CEGT to comply with the transactional posting requirements set forth in section 284.13(b)(2), since an NBS agreement does not include a specific entitlement or receipt and delivery points. CEGT proposes to comply with the Commission's transactional posting requirements by (1) posting for each new agreement all of the required transactional information specified in section 284.13(b)(2) with the exception of the receipt and delivery points and the gas quantity; and (2) posting on its website each day the rate applicable to all NBS transactions within each of its pooling areas, and its maximum rate under Rate Schedule PHS. CEGT also proposes to post complete information for any shipper receiving a rate different from the daily posted NBS rate. We find that CEGT's proposal, in conjunction with full transactional reporting under the underlying rate schedules, satisfies the transparency requirements the Commission seeks in section 284.13(b)(2). Accordingly, the Commission grants the limited waiver.

11. In its opposition to the waiver request, Shell contends that the Commission should require CEGT to post both specific point information and specific quantity information for each individual NBS transaction. With respect to specific quantity information, we will not require this level of posting, since it goes beyond what section 284.13(b)(2)(v) requires. For service quantities, the regulations require the pipeline to post "the quantity of gas the shipper is entitled to transport" and not the quantity associated with each individual transaction for interruptible services. Further, in Order No. 637-A, the Commission established its transaction posting requirements for interruptible services, stating: "Because the Commission is not requiring the posting of daily throughput for firm service, it has determined not to require daily posting of throughput for interruptible

service. The information required under the regulation will be sufficient to enable the Commission and shippers to monitor interruptible transactions.”³

12. With regard to the posting of receipt and delivery points, section 284.13(b)(2)(iv) requires the pipeline to post “the receipt and delivery points covered between which the shipper is entitled to transport gas at the rate charged” This regulation requires the posting of points covered in individual transactions between which the shipper is entitled to transportation at the rate charged. Since CEGT’s NBS agreements do not include receipt and delivery points (since the service is administered system-wide under its park and loan service), we find that CEGT’s NBS reporting proposal satisfies the transparency requirements the Commission seeks in section 284.13(b)(2), given the system-wide nature of NBS nominations, and the fact that point data will still be provided for the underlying services that NBS supports. Inasmuch as the nomination balancing service is used to support these other services on CEGT’s system, including both firm and interruptible transportation services, CEGT must still fully comply with all required transactional posting requirements for those underlying services, including the reporting of the receipt and delivery points covered in the underlying transactions. Accordingly, the Commission will grant the limited waiver of the point posting requirements for NBS service, as this waiver will not impair the transparency goals of the Commission’s regulations.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

cc: All Parties

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³*Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637-A, FERC Stats. & Regs. ¶ 31,099, at 31,619 (2000).