

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

May 19, 2006

In Reply Refer To:  
Mississippi Canyon Gas Pipeline, LLC  
Docket No. RP06-312-000

Mississippi Canyon Gas Pipeline, LLC  
1100 Louisiana Street, Suite 3300  
Houston, TX 77002

Attention: Cynthia A. Corcoran  
FERC Compliance Officer and Senior Counsel

Reference: New Tariff Sheets Listing Non-Conforming Discount Agreements

Ladies and Gentlemen:

1. On April 19, 2006, Mississippi Canyon Gas Pipeline, LLC (Mississippi Canyon) filed tariff sheets to reflect numerous currently effective, non-conforming discount agreements.<sup>1</sup> Mississippi Canyon's filing also includes non-conforming discount agreements. Mississippi Canyon requests that the tariff sheets become effective May 19, 2006. As discussed below the Commission will accept the tariff sheets and contracts, to be effective May 19, 2006, as proposed, subject to further review and order of the Commission.

**Background**

2. Mississippi Canyon states that it was acquired by Enbridge, Inc. on December 31, 2004. Mississippi Canyon states that Enbridge, Inc. and Enbridge Energy Partners, L.P. (Enbridge) are continuing efforts to standardize and clarify Mississippi Canyon's tariff provisions and procedures for implementing discounted rate transactions. Mississippi Canyon states that it is filing the instant discounted rate agreements because they contain non-conforming contract provisions that are material deviations from its form of service in Mississippi Canyon's tariff.

3. Mississippi Canyon presents the Commission with 16 non-conforming contracts containing various material deviations ranging from typographical differences to entire

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<sup>1</sup> Sixth Revised Sheet No. 2, Fifth Revised Sheet No. 55, First Revised Sheet No. 155, and Original Sheet No. 156 to its FERC Gas Tariff, First Revised Volume No. 1.

provisions. Mississippi Canyon states that it has provided the Commission with three charts, one listing each discount agreement, one listing each related service agreement and one listing each related reserve commitment agreement. Mississippi Canyon states it has listed and described the deviating provisions and asserts that most of these agreements have been in effect for a long period of time and its shippers have made significant long-term commercial decisions in reliance on these agreements.

4. Mississippi Canyon states that the non-conforming contracts fall roughly into two categories: (1) discount agreements with the anchor shippers (or the successors of such shippers) and (2) discount agreements entered into after the initial construction of Mississippi Canyon (non-anchor shippers). Mississippi Canyon states that its anchor shippers contracted for capacity and agreed to commit reserves in connection with Mississippi Canyon's original open season and have signed service agreements under Rate Schedule FT-2, which requires shippers to commit reserves. Mississippi Canyon states that all but two anchor shippers have signed service agreements under Rate Schedule IT, which is subject to the discount agreements in conjunction with the commitment of reserves.<sup>2</sup>

5. Mississippi Canyon requests that the Commission find that these agreements are conforming in spite of the fact that Mississippi Canyon's tariff at the time of the execution of these discount agreements did not specify commitment of reserves as a condition for granting discounts. Mississippi Canyon states that the discount agreements with anchor shippers also contain a provision that would extend a discount to a future increase in volumes. Mississippi Canyon also states that one of the discount agreements contains a most favored nations provision, and a provision that requires a shipper to waive its Natural Gas Act (NGA) section 5 rights.<sup>3</sup> Further, Mississippi Canyon states that there are non-conforming provisions that allow prior period adjustments to invoices for fifteen months after the end of the year in which the invoice was sent, instead of within six months from the date the invoice was sent as is set forth in the form of service agreement.

6. Mississippi Canyon asserts that it has similar discount agreements with non-anchor shippers in that these discount agreements also include a provision requiring the shipper to commit reserves to Mississippi Canyon. Mississippi Canyon argues that these contracts should also be considered permissible. Further, Mississippi Canyon points out

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<sup>2</sup> ENI Petroleum Company, Inc. and Marathon Oil Company do not have interruptible transportation contracts subject to the discount agreements in this filing.

<sup>3</sup> See Appendix B, "Discount Letter Agreements", submitted in matrix format under item number 12. This contract is listed as BP America Production Company (May 16, 1996).

that there are two non-anchor shipper contracts that contain a NGA section 5 waiver that it believes should be permissible.

### **Notice**

7. Public notice of the instant filing was issued with interventions, comments, 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 of the Commission's Rules of Practice and Procedure (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 interventions, comments, or protests were filed.

### **Discussion**

8. Mississippi Canyon has presented the Commission with a large number of service agreements inherited from its predecessor that contain a wide variety of material deviations from its tariff or service agreement that range from typographical changes to the addition or subtraction of entire provisions that may affect the quality of service provided or present a substantial risk of undue discrimination. The Commission has not completed its review of these numerous provisions and changes. Accordingly, for this reason, and because the subject service agreements have been in effect for significant period already, the Commission will accept the proposed tariff sheets (listed in footnote No. 1) and accompanying service agreements to be effective May 19, 2006, as proposed, subject to further review and order of the Commission.

By direction of the Commission.

Magalie R. Salas,  
Secretary.