

122 FERC ¶ 61,046
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

CenterPoint Energy – Mississippi River Transmission Corporation Docket No. RP08-135-000

ORDER ACCEPTING TARIFF SHEETS SUBJECT TO CONDITIONS

(Issued January 18, 2008)

1. On December 21, 2007, CenterPoint Energy – Mississippi River Transmission Corporation (MRT) filed revised tariff sheets¹ to provide its customers with increased flexibility, specifically with respect to extending service agreements, as well as to remove certain outdated tariff provisions, and to make a variety of clarifying and housekeeping changes. For the reasons discussed below, the tariff sheets are accepted, to be effective January 21, 2008, subject to conditions.

Filing

2. MRT proposes to add a new section 15.10 to its General Terms and Conditions (GT&C) to allow MRT and its customers, by mutual agreement on a not unduly discriminatory basis, to extend, or extend and modify, the customer's service through the renegotiation of the terms of an existing service agreement prior to its expiration and any required posting of capacity under the right of first refusal (ROFR) process. MRT also proposes to exempt requests for discounted rates under existing service agreements and requests to amend interruptible service agreements from the requirements of section 5 of the GT&C that such requests be in writing and contain certain information. MRT also seeks to revise its tariff to allow MRT to waive the current requirement in section 5.4(b) of the GT&C that a customer requesting service under multiple rate schedules must submit a separate request for each rate schedule.

¹ See Appendix.

3. MRT proposes a number of miscellaneous tariff revisions as well. Among these changes, MRT proposes to include language specifying that the definition of Line Capacity² would only apply to MRT's West, Main, and East Lines. MRT also seeks to remove language from section 8.2(e) of the GT&C providing that firm quantities scheduled at secondary points without line priority shall be interrupted during the month to accommodate confirmed nominations for firm customers within line priority at such secondary points. MRT explains that it wants to delete this language because it might be interpreted to suggest that scheduling priorities are determined other than in accordance with North American Energy Standards Board (NAESB) nomination cycles. MRT states that the deletion of this language does not represent any change, as MRT will continue to schedule service in accordance with its tariff provisions, which comport with NAESB Standards.

4. MRT requests the Commission permit the tariff sheets to become effective January 21, 2008, provided that if the Commission orders any change to the tariff sheets, MRT reserves the right to file a later motion to place the proposed tariff sheets into effect at the end of the suspension period.

Notice and Comments

5. Notice of MRT's filing issued on January 2, 2008. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210. Pursuant to Rule 214, 18 C.F.R. § 385.214 (2007), 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 this proceeding or place additional burdens on existing parties. Central Illinois Public Service Company d/b/a AmerenCIPS, Union Electric Company d/b/a AmerenUE, and Illinois Power Company d/b/a Ameren IP (collectively Ameren) filed a request for clarification or modification of several of the proposed tariff revisions.

6. On January 15, 2008, MRT filed an answer to Ameren's request for clarification. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2)(2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept MRT's answer because it provides information that assisted us in our decision-making process.

7. Ameren requests that MRT include in its new section 15.10 a requirement that MRT finalize any contract extension prior to the initiation of the ROFR procedure,

² Line Capacity is the total amount of capacity a customer has contracted for in a particular line based on its primary path pursuant to the service agreement being utilized, as adjusted to reflect any released capacity consistent with the terms of a temporary release. See section 8.2(b)(iii) of the GT&C of MRT's tariff.

consistent with *Tennessee Gas Pipeline Co.*³ Ameren also seeks clarification that the addition of section 15.10 to MRT's tariff will not affect MRT's obligation under section 154.1(d) of the Commission's regulations and the precedent established in *Columbia Gas Transmission Corp.*⁴ to file any renegotiated agreements that materially deviate from its *pro forma* service agreement and to post any available capacity on its website pursuant to section 15 of its tariff.

8. Ameren also requests that MRT clarify what procedures customers should follow to request discounts or changes to interruptible service. In particular, Ameren seeks clarification that if customers request discounts from MRT in non-written form, that MRT grant or deny such discounts in writing, consistent with *Reliant Gas Transmission Co.*⁵

9. Ameren also wants MRT to clarify the process through which customers may obtain waiver of the requirement to file separate requests for service under different rate schedules, and argues that the Commission should require MRT to include language in its tariff stating MRT will exercise its discretion to waive the separate request requirement on a not unduly discriminatory basis.

10. Ameren also seeks clarification as to why MRT's tariff revisions limit the definition of Line Capacity to the West, Main, and East Lines, and do not include the Fountain Hill Line. Ameren is also concerned about MRT's deletion of certain language from section 8.2(e), which provides that MRT shall interrupt firm quantities scheduled at secondary points without line priority during the month to accommodate confirmed nominations for firm customers within line priority at such secondary points. Ameren wants clarification that this revision will not impact section 8.3(b), which similarly states that firm customers utilizing secondary receipt points without line priority will be curtailed before such customers with line priority. Ameren would also like MRT to clarify how the revision to 8.2(e) is consistent with NAESB nomination cycles.

11. In its answer, MRT states that in response to Ameren's request, it is willing to change section 15.10 to state that any contract extension be agreed to before the initiation of the ROFR procedure. MRT proposes to modify section 15.10 as follows:

Prior to the expiration of the term of an existing firm Service Agreement and prior to notification to MRT of a firm

³ 119 FERC ¶ 61,126, at P 18 (2007), *order on reh'g and compliance*, 121 FERC ¶ 61,149 (2007) (*Tennessee*).

⁴ 120 FERC ¶ 61,289 (2007) (*Columbia Gas*).

⁵ 89 FERC ¶ 61,302 (1999).

capacity holder's desire to exercise its right of first refusal, if applicable, MRT and the firm capacity holder may mutually agree to renegotiate the terms of such agreement in exchange for the Customer's agreement to extend, or extend and modify, the Service Agreement with respect to all or part of the underlying capacity on a case-by-case basis in a not unduly discriminatory manner.

12. MRT also clarifies that the revisions to section 15.10 will not affect MRT's obligations under section 154.1(d) of the Commission's regulations to file service agreements that materially deviate from the *pro forma* service agreement, or under section 15 of the GT&C to post available capacity.

13. In response to Ameren's concerns regarding the written documentation of grants or denials of discounts requests, MRT explains that it has procedures in place to ensure that discount requests are recorded. MRT states that all discount requests are entered into a log. MRT explains that also entered into the log is whether the request was granted or denied, and if denied, the reason. MRT further states that it posts discount offers on its website, as required by the Commission's regulations.

14. MRT explains that its revision to section 5.4(b) was intended to allow customers to submit one written request to address requests for service under multiple rate schedules. MRT further explains that pursuant to the Commission's regulations, it is required to grant waivers on a not unduly discriminatory basis, so there is no need to modify section 5.4(b) to specify this requirement as Ameren requests. MRT states that as additional assurance that waivers are granted on a not unduly discriminatory basis, MRT records all waivers in a waiver log.

15. MRT also explains its revision limiting the definition of Line Capacity to the West, Main, and East Lines. MRT states that, as a practical matter, there is no need for a customer to have Line Capacity rights on lines other than MRT's principal transmission lines. MRT asserts this is why the Fountain Hill Line, which connects to storage, does not need to be included in the definition of Line Capacity.

16. Finally, MRT explains that its revision of section 8.2 does not affect any other provisions regarding scheduling, including the NAESB Standards, or the curtailment provisions in section 8.3.

Discussion

17. For the reasons stated below, we accept MRT's tariff revisions, to become effective January 21, 2008, subject to conditions.

18. Ameren requests that MRT include in its new section 15.10 a requirement that MRT finalize any contract extension prior to the initiation of the ROFR procedure, consistent with *Tennessee*. The Commission established such a requirement in *Tennessee* in order to grant capacity holders and the pipeline the maximum time and flexibility to negotiate contract extensions, while ensuring that contract negotiations terminate prior to the bidding process, so as not to allow parties to post the expiring capacity under the ROFR and subsequently elect to use the non-ROFR extension process after reviewing the competing bids. In its answer, MRT states that it does not object to modifying its proposed section 15.10 to state that any contract extension be agreed to before the ROFR procedure is initiated. We find the language MRT proposes in its answer fulfills the requirements established in *Tennessee* because it grants the parties flexibility in negotiating contract extensions, but also prevents the parties from using the ROFR bidding process to influence their negotiations. As such, the Commission directs MRT to file revised tariff sheets, within 15 days of the date this order issues, to modify section 15.10 to include the language submitted in its answer.

19. We also find that, as MRT clarifies in its answer, the addition of section 15.10 to MRT's tariff does not diminish MRT's obligations under section 154.1(d) of the Commission's regulations and *Columbia Gas*. MRT must still file with the Commission any service agreement that deviates in any material aspect from the *pro forma* agreement and to post any available (or potentially available capacity) on its website.

20. Ameren requests clarification as to what procedures customers should use to request discounts or interruptible service given MRT's tariff revision to section 5.4 of the GT&C. Specifically, Ameren would like to ensure that the grant or denial of discounts will be in writing, even if requests are not, to ensure MRT grants discounts on a not unduly discriminatory manner. The Commission finds that, based in the information provided in its answer, MRT has in place sufficient procedures to ensure the documentation of requests, grants, and denials of discounts, and to guarantee that they are awarded on a not unduly discriminatory basis.

21. Ameren also requests that MRT clarify the process by which customers may obtain waiver of the requirement to file separate requests for each type of service requested under section 5.4(b), and argues that MRT should include language in this section obligating MRT to grant requests to waive the separate request requirement on a not unduly discriminatory basis. The Commission agrees that MRT's tariff revision of section 5.4(b) requires clarification. MRT's proposal states that customers must submit a separate request for each type of service requested, "unless MRT otherwise agrees." MRT explains in its answer that this revision was intended to allow customers to submit one written request to address multiple rate schedules. However, it is not clear from the tariff language alone that this is what MRT intends by its revision. Therefore, the Commission orders MRT to file revised tariff sheets, within 15 days of the date this order issues, clarifying section 5.4(b). MRT is not required to revise section 5.4(b) to state that

waivers must be granted on a not unduly discriminatory basis because, as MRT explains in its answer, the Commission's regulations and MRT's waiver log already ensure this will be the case.

22. Ameren also seeks clarification why MRT's tariff revisions of section 8.2(b)(iii) limit the definition Line Capacity to MRT's West, Main, and East Lines, and do not include the Fountain Hill Line. The Fountain Hill Line connects MRT's Unionville Storage Facilities to its Main Line system. As MRT clarifies in its answer, there is no need for customers to have Line Capacity rights on lines other than MRT's principle transmission lines. Since the Fountain Hill Line only connects to storage, there is no need for MRT to include the Fountain Hill Line in the definition of Line Capacity.

23. Finally, Ameren would like clarification that despite the revision of section 8.2(e), section 8.3(b) shall continue to govern curtailments for firm customers utilizing secondary receipt points. MRT states that the deletion of the language from section 8.2(e) does not represent any change and will not affect the curtailment provisions of section 8.3.. Consistent with this understanding, the Commission clarifies that section 8.3(b) will continue to apply as it did prior to the instant tariff filing.

24. Therefore, the Commission accepts the referenced tariff sheets, to be effective January 21, 2008, subject to MRT's making a compliance filing within 15 days of the date this order issues, as discussed above.

The Commission orders:

(A) The tariff sheets listed in the Appendix to this order are accepted, effective January 21, 2008, subject to revision and consistent with the clarifications discussed in the body of this order.

(B) MRT shall make a compliance filing within 15 days of the date this order issues providing: (1) revisions to section 15.10 consistent with the language proposed in MRT's answer; and (2) revisions to section 5.4(b) of the GT&C clarifying that, upon the agreement of MRT, customers may submit one written request for service under multiple rate schedules.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

CenterPoint Energy-Mississippi River Transmission Corporation
Docket No. RP08-135-000
Effective January 21, 2008, Subject to Conditions

FERC Gas Tariff
Third Revised Volume No. 1

Eighth Revised Sheet No. 11
Fourth Revised Sheet No. 39
Third Revised Sheet No. 88
Third Revised Sheet No. 91
Fourth Revised Sheet No. 92
Fourth Revised Sheet No. 98
Fourth Revised Sheet No. 111
Fourth Revised Sheet No. 122
Sixth Revised Sheet No. 125
Fifth Revised Sheet No. 150
Fourth Revised Sheet No. 172
Third Revised Sheet No. 173
Fifth Revised Sheet No. 185
Third Revised Sheet No. 186
Fourth Revised Sheet No. 245
Seventh Revised Sheet No. 263
Fifth Revised Sheet No. 267
Sixth Revised Sheet No. 288
Fifth Revised Sheet No. 289
First Revised Sheet No. 291A