

124 FERC ¶ 61,202  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

August 28, 2008

In Reply Refer To:  
Ozark Gas Transmission, L.L.C.  
Docket No. RP08-458-000

Ozark Gas Transmission, L.L.C.  
110 West Seventh Street, Suite 2300  
Tulsa, Oklahoma 74119

Attention: David A. Harrell, Senior Director  
Regulatory Affairs

Reference: Off-System Storage Rates

Ladies and Gentlemen:

1. On July 28, 2008, Ozark Gas Transmission, L.L.C., (Ozark) filed revised tariff sheets<sup>1</sup> to modify provisions pertaining to off-system storage services. Specifically, Ozark requests approval to extend its pre-granted market-based rate authority under Rate Schedules FSS and NNS to new off-system storage services it provides to shippers under those rate schedules. Ozark requests that, should the Commission deny its proposal under either rate schedule, it authorize Ozark to remove that rate schedule from its FERC Gas Tariff. Ozark requests a September 1, 2008, effective date for its tariff sheets. For the reasons discussed below, the Commission rejects certain tariff sheets, and conditionally accepts others, effective September 1, 2008, as proposed. Further, the Commission grants Ozark's request to abandon Rate Schedule FSS and directs Ozark to file revised tariff sheets, within 15 days of the date this order issues, reflecting the changes discussed in this order.

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<sup>1</sup> See Appendix.

2. On December 21, 2001, the Commission issued an order<sup>2</sup> in Docket No. CP01-407-000 authorizing Ozark to offer firm and interruptible storage services to its shippers under Rate Schedules FSS and ISS, and no-notice service to shippers under Rate Schedule NNS. In its application, Ozark explained that it did not own or operate storage facilities, but instead proposed to lease certain facilities from its then-affiliate Transok.<sup>3</sup> Ozark requested market-based rate authority for service under Rate Schedules FSS and NNS. Ozark did not include with its proposal a market power analysis, but instead proposed to pass through Transok's market-based rates to its shippers. Ozark also noted that, under its proposal, the off-system facilities it would be leasing were owned by its affiliate, Transok, to whom the Commission had granted market-based rate authorization one year earlier under section 311 of the Natural Gas Policy Act.<sup>4</sup>

3. In the December 21, 2001 Order, the Commission granted in part Ozark's request for market-based rate authorization, and rejected it in part. First, the Commission granted Ozark authorization to charge market-based rates for service under Rate Schedule FSS. The Commission found that because Ozark and Transok were affiliates, and under its proposal Ozark was using Transok's off-system facilities, Ozark did not have to file a market power analysis to be granted market-based rate authority.

4. The Commission, however, rejected Ozark's proposal to charge market-based rates for the storage component of service under Rate Schedule NNS.<sup>5</sup> The Commission held that it has not permitted pipelines to charge market-based rates for transportation services because of the monopoly power interstate natural gas pipelines can exercise and the potential for tying transportation and storage services and rates. The Commission determined that, in order to permit Ozark to charge market-based rates for service under Rate Schedule NNS, the Commission would first have to review a market power study for transportation service (which Ozark did not include with its application) and conclude that Ozark would not be able to exercise market power in a relevant market area. Accordingly, the Commission denied Ozark's request to charge market-based rates for service under Rate Schedule NNS and directed Ozark to file to establish a cost-based rate for no-notice service. The Commission subsequently accepted Ozark's proposal to flow through any storage costs for service under Rate Schedule NNS to its shippers.

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<sup>2</sup> *Transok and Ozark Gas Transmission, L.L.C.*, 97 FERC ¶ 61,362 (2001) (December 21, 2001 Order).

<sup>3</sup> Now, Enogex, L.L.C., successor in interest to Transok.

<sup>4</sup> *Transok, L.L.C.*, 93 FERC ¶ 61,031 (2000).

<sup>5</sup> Rate Schedule NNS includes both a storage component and transportation component.

5. In the subject filing, Ozark explains that it has not received any shipper requests for storage or no-notice service in recent years, and therefore has not used the leased Enogex pipeline capacity in some time. According to Ozark, its agreement with Enogex allows Enogex to terminate the lease if Ozark does not utilize the capacity for 12 months, and Enogex has notified Ozark of its intent to terminate the lease.<sup>6</sup> Ozark contends that, despite the recent lack of demand for storage services on its system, it wants to continue offering storage services to its shippers, but must obtain off-system storage service as an alternative to the service it currently offers under its lease. Accordingly, Ozark proposes modifications to its current storage service provisions so it can continue to offer service under Rate Schedules FSS and NNS.

6. First, Ozark states that it cannot economically purchase off-system storage services to hold in reserve to meet shipper demand for storage services when, or if, such demand develops. Instead, Ozark proposes to purchase third-party service only in response to actual shipper demand. Under its proposal, should a shipper request storage service on Ozark's system under Rate Schedule FSS, Ozark would contract for third-party storage services and, in turn, negotiate market-based rates with the prospective shippers under its current market-based rate authority. Ozark's proposed tariff provision provides that Ozark will seek off-system storage services by soliciting proposals for service under a proposed timeline Ozark sets forth in Rate Schedule FSS. The provision also states that a shipper's right to extend service under any such agreement would be limited by Ozark's ability to extend the terms of its third-party storage and transportation services.

7. Second, Ozark proposes to continue offering Rate Schedule NNS service to shippers under its current pricing mechanism of passing through costs of off-system storage services and related transportation services to its shippers using the service. Ozark states that its proposal to offer off-system storage services on an on-demand basis is consistent with Commission regulations and policies, and would benefit shippers by offering them more operational flexibility.

8. The Commission accepts Ozark's proposal to continue offering service to shippers under Rate Schedule NNS using its current pricing mechanism of passing through off-system storage and transportation costs to shippers. This proposal conforms to Commission policy and continues to provide Ozark's shippers with operational flexibility.

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<sup>6</sup> On July 28, 2008, in Docket No. CP08-447-000, Ozark and Enogex filed with the Commission an application to abandon the lease. Ozark states that upon abandonment of the lease, it no longer will have direct access to Enogex's storage and will be unable to provide storage service as described in the Commission's 2001 Order.

9. However, the Commission rejects Ozark's proposal to continue offering service under Rate Schedule FSS under its current market-based rate authority. The Commission finds that Ozark's proposal is no longer consistent with the Commission's original authorization to charge market-based rates for stand-alone storage service. First, the Commission originally granted Ozark market-based rate authorization without Ozark filing a market power analysis because it was obtaining off-system services through an affiliate. At that time, the Commission concluded that Ozark and Transok, as affiliates, could be treated as the same entity for purposes of calculating firm size and market concentration as part of a market power analysis. The Commission also concluded that Ozark did not have market power in the same relevant market for storage services for the same reasons the Commission concluded that Transok did not have market power. In the subject application, Ozark states that it is no longer affiliated with Transok, now Enogex. Further, Ozark's proposal would allow it to obtain off-system storage services from non-affiliated storage providers. Accordingly, the Commission finds that Ozark's current proposal for market-based rate authority exceeds its original authorization to charge market-based rates for off-system storage because it no longer will be offering the services through a lease with an affiliated service provider.

10. Also, under its original market-based rate authorization, Ozark proposed to "charge its storage customers market-based storage rates that will pass-through Transok's market-based storage rates."<sup>7</sup> In the subject filing, Ozark is proposing to obtain off-system storage from a third-party and then negotiate new market-based rates for its shippers desiring the services. The Commission also finds that the proposal exceeds Ozark's original authorization for stand-alone storage service under Rate Schedule FSS because Ozark is proposing more than just passing through the off-system storage service costs. For these reasons, and absent a market power analysis showing that Ozark lacks market power in its relevant market area, the Commission rejects Ozark's proposal to charge shippers market-based rates for off-system storage services under Rate Schedule FSS.

11. In accordance with the discussion above, the Commission rejects those revised tariff sheets that only include revisions pertaining to changes in Rate Schedule FSS service, as set forth in the Appendix. The Commission conditionally accepts the tariff sheets that include changes to both Rate Schedule FSS and Rate Schedule NNS service, subject to Ozark filing to revise those tariff sheets consistent with the discussion above. Also, because the Commission is rejecting Ozark's proposed changes to service under Rate Schedule FSS, the Commission grants Ozark's request to abandon Rate Schedule FSS from its FERC Gas Tariff. The Commission directs Ozark to file revised tariff sheets, within 15 days of the date this order issues, reflecting the revisions described in this order. Further, this order is subject to the outcome of Ozark's and Enogex's application in Docket No. CP08-447-000 to abandon its lease for off-system services.

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<sup>7</sup> *Ozark Gas Transmission, L.L.C.*, 97 FERC ¶ 61,362 at 62,678 (2001).

12. Public notice of Ozark's filing was issued on July 31, 2008. Interventions and protests were due as provided by 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 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. No party filed a protest or adverse comments.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

cc: All Parties

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**Appendix**

Ozark Gas Transmission, L.L.C.  
Original Volume No. 1

Tariff Sheets Conditionally Accepted Effective September 1, 2008

First Revised Sheet No. 13B  
First Revised Sheet No. 35  
Fourth Revised Sheet No. 109A  
First Revised Sheet No. 154

Tariff Sheets Rejected

Original Sheet No. 29  
Original Sheet No. 29A  
First Revised Sheet No. 30  
Original Sheet No. 34B  
First Revised Sheet No. 137