

132 FERC ¶ 61,250  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
John R. Norris, and Cheryl A. LaFleur.

CenterPoint Energy Gas Transmission Company

Docket No. RP10-865-000

ORDER GRANTING REQUEST FOR LIMITED WAIVER

(Issued September 22, 2010)

1. On June 18, 2010, CenterPoint Energy Gas Transmission Company (CenterPoint Transmission) filed a request for a limited waiver of a tariff provision which required it to assess certain charges on firm storage volumes subject to an in-field transfer. For good cause shown, we grant CenterPoint Transmission's request for a limited waiver.

**I. Background**

2. On December 15, 2009, CenterPoint Transmission submitted a petition for a limited, one time waiver of the requirements of Rate Schedule FSS which required it assess certain charges on firm storage volumes subject to an in-field transfer (December 2009 Petition). In its December 2009 Petition, CenterPoint Transmission noted that effective November 1, 2009 CenterPoint Energy Resources Corp. (CenterPoint Energy) had entered into an asset management agreement (AMA) to allow another party to manage its transportation and storage contracts. CenterPoint Transmission stated that as required by Rate Schedule FSS, it assessed the Rate Schedule FT commodity rate and the Fuel Use and LUGF percentages on those storage volumes transferred to CenterPoint Energy's asset manager.

3. CenterPoint Transmission stated that, after assessing the charges to CenterPoint Energy, CenterPoint Energy notified CenterPoint Transmission that it was unaware of this tariff provision when it negotiated its AMA, disputed the retention of volumes for transportation Fuel Use and LUGF, and asked that CenterPoint Transmission return those volumes.

4. In a February 2, 2010 order,<sup>1</sup> the Commission rejected CenterPoint Transmission's request for a limited, one-time waiver. The Commission found that CenterPoint Transmission had not shown good cause or provided adequate support for a limited one-time waiver of its tariff.<sup>2</sup>

5. On April 26, 2010, CenterPoint Transmission submitted a Rate Schedule FSS tariff revision which would, according to CenterPoint Transmission, remove tariff language that was ambiguous and had lead to confusion among the pipeline and its shippers (April 2010 Filing). CenterPoint stated that ambiguous tariff language contained in section 8 of Rate Schedule FSS could discourage the use of asset managers because the tariff language may be interpreted to require duplicative charges for in-field title transfers of storage volumes, even when the transfer only involves one shipper who is utilizing an asset manager, not two shippers.

6. CenterPoint proposed to delete references to transmission charges from section 8 of Rate Schedule FSS to eliminate the ambiguity of this tariff section.<sup>3</sup> After the tariff revision, CenterPoint stated there will no longer be a doubling of transportation charges (i.e., one for the in-field transfer and a second for removal from storage) where transportation service is only provided once for a single shipper with an asset management arrangement. In a May 26, 2010 order,<sup>4</sup> the Commission accepted CenterPoint's proposed tariff revision finding that the tariff changes were beneficial because they removed tariff language that would otherwise cause duplicative charges to

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<sup>1</sup>CenterPoint Energy Gas Transmission Co., 130 FERC ¶ 61,083 (2010) (February 2010 Order).

<sup>2</sup> February 2010 Order, 130 FERC ¶ 61,083 at 8.

<sup>3</sup> CenterPoint revised section 8 of Rate Schedule FSS as follows (in red-line):

If such transfer of title shall occur, the original shipper shall be responsible for ~~charges all applicable to the transportation to Storage Points of Injection as if such quantities had been delivered to such Shipper's other Delivery points and for all~~ storage charges up to the date of such transfer, and the succeeding Shipper shall be responsible for all storage charges applicable to such Gas under its Service Agreement on and after the date of transfer ~~and for separately paying charges upon withdrawal for the transportation of such Gas to its Delivery Point(s).~~

<sup>4</sup> CenterPoint Energy Gas Transmission Co., 131 FERC ¶ 61,175 (2010) (May 2010 Order).

be imposed when a shipper is utilizing an asset manager, which may, in turn, discourage the use of asset management arrangements.<sup>5</sup>

## II. Details of the Filing

7. CenterPoint Transmission states that this petition provides the explanation and reasons that the Commission found missing in its December 2009 Petition.

8. CenterPoint Transmission states that its FSS service has typically been provided to CenterPoint Resources to service the requirements of its retail customers. CenterPoint Transmission notes that, as a consequence of CenterPoint Resources' obligations to its retail customers, there have been few opportunities for CenterPoint Resources to release portions of its FSS capacity. CenterPoint Transmission notes that this changed as result of the Commission's Order No. 712<sup>6</sup> which, according to CenterPoint Transmission, clarified the Commission's capacity release rules in support of AMAs. CenterPoint Transmission states that as a result of Order No. 712, CenterPoint Resources investigated the possibility of using an AMA and eventually entered into an AMA. CenterPoint Transmission states that, in over 15 years as a holder of FSS storage capacity, CenterPoint Resources was never confronted with in-field transfer fuel and LUFGR retentions imposed by CenterPoint Transmission until it entered into the AMA. Therefore, CenterPoint Transmission states that based on CenterPoint Resources experience as a shipper using both transportation and storage capacity, CenterPoint Resources would have had no reason to be aware of the Fuel and LUFGR retentions imposed by CenterPoint Transmission.

9. CenterPoint Transmission states that a review of its tariff by CenterPoint Resources would not have made CenterPoint Resources aware of the in-field transfer fuel and LUFGR retentions imposed by CenterPoint Transmission. CenterPoint Transmission notes that section 8 of Rate Schedule FSS, which was in effect at the time CenterPoint Resources entered into the AMA, did not expressly identify Fuel and LUFGR retentions; rather, section 8 of Rate Schedule FSS only spoke generally of application charges. Further, CenterPoint Transmission states that section 8 of Rate Schedule FSS provided that the applicable transmission charges were to be accessed on two different shippers, the "original shipper" and the "succeeding shipper." CenterPoint Transmission states that this scenario does not fit CenterPoint Resources situation regarding an asset manager.

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<sup>5</sup> May 2010 Order, 131 FERC ¶ 61,175 (2010) at 9.

<sup>6</sup> *Promotion of a More Efficient Capacity Release Market*, Order No. 712, FERC Stats. & Regs. ¶ 31,271 (2008), *order on reh'g*, Order No. 712-A, FERC Stats. & Regs. ¶ 31,284 (2008), *order on reh'g*, Order No. 712-B, 127 FERC ¶ 61,051 (2009) (collectively Order No. 712).

Therefore, CenterPoint Transmission states that CenterPoint Resources would have had no reason to be aware of the Fuel and LUFG retentions imposed by CenterPoint Transmission.

10. Further, CenterPoint Transmission argues that unlike its December 2009 Petition, the waiver request in this proceeding is not intended to be “limited” or for “one time” only. CenterPoint Transmission notes that CenterPoint Resources pursuit of an AMA disclosed a flaw in CenterPoint Transmission’s tariff that had the potential to undermine the use of AMAs on its system. CenterPoint Transmission states it submitted the April 2010 Filing to eliminate ambiguous and confusing portions of section 8 of Rate Schedule FSS. CenterPoint Transmission states that the purpose of the tariff filing was to ensure that such charges would not be imposed under similar circumstances involving AMAs in the future. As noted above, the May 2010 Order accepted CenterPoint Transmission’s revisions to section 8 of Rate Schedule FSS. CenterPoint states that unless the Commission grants the waiver requested in this petition, CenterPoint Resources will be the only shipper to ever pay the additional Fuel and LUFG retentions imposed by CEGT when employing an asset manager.

### **III. Public Notice, Intervention and Comments**

11. Notice of CenterPoint Transmission’s filing was issued on June 23, 2010. Interventions and protests were due as provided in section 154.210 of the Commission’s regulations, 18 C.F.R. § 154.210 (2010). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2010), 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. CenterPoint Resources, Oklahoma Corporation Commission, Louisiana Public Service Commission, Sequent Energy Management, L.P., Tenaska Marketing Venture, and Arkansas Public Service Commission submitted motions to intervene and comments in support of CenterPoint Transmission’s motion.

### **IV. Discussion**

12. Granting waiver of a pipeline’s existing tariff is within the discretion of the Commission, but is not automatic. A pipeline must show good cause to support its request for a waiver. The Commission finds that good cause exists to grant CenterPoint Transmission its waiver request. CenterPoint Transmission has shown that CenterPoint Resources may have been unaware of the potential for CenterPoint Transmission to retain Fuel and LUFG for an in-field storage transaction with an asset manager and that section 8 of Rate Schedule FSS may have been ambiguous regarding in-field storage transfers associated with an asset manager. Further, the Commission found in its May 2010 Order that the Rate Schedule provision CenterPoint Transmission had sought to waive would

have caused duplicative charges and therefore CenterPoint Transmission was permitted to revise this provision.<sup>7</sup> Thus, it is appropriate that CenterPoint Transmission be permitted to waive such duplicative charges that were assessed to CenterPoint Resources prior to the Commission's acceptance of CenterPoint Transmission's revised tariff language.

The Commission orders:

CenterPoint Transmission's request for waiver of former section 8 of Rate Schedule FSS its tariff is granted.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>7</sup> May 2010 Order, 131 FERC ¶ 61,175 at P 9.