

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

CenterPoint Energy - Mississippi River
Transmission Corporation

Docket No. RP05-691-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS SUBJECT TO
REFUND AND ESTABLISHING TECHNICAL CONFERENCE

(Issued October 31, 2005)

1. On September 30, 2005, CenterPoint Energy – Mississippi River Transmission Corporation (MRT) filed revised tariff sheets¹ to adjust the Fuel Use and Lost and Unaccounted-for Gas (LUFG) Percentages under its Rate Schedules FTS, SCT, ITS, FSS and ISS. MRT requests a November 1, 2005, effective date. In addition, MRT requests authorization to implement supplemental adjustments to MRT’s Fuel Use and Loss Percentages to become effective May 1, 2006, to reconcile past under-collections of fuel gas under MRT’s transportation rate schedules and past over-collections of fuel gas under MRT’s storage rate schedules.² For the reasons discussed below, MRT’s revised tariff sheets are accepted and suspended, effective November 1, 2005, subject to refund and the outcome of a technical conference.

The Subject Filing

2. MRT files the revised tariff sheets to adjust its Fuel Use and LUFG percentages as required by section 22 of the General Terms and Conditions (GT&C) of its tariff. MRT

¹ Fifty-Fifth Revised Sheet No. 5, Fifty-Fifth Revised Sheet No. 6, Fifty-Second Revised Sheet No. 7, and Twenty-Fourth Revised Sheet No. 8 of its FERC Gas Tariff, Third Revised Volume No. 1.

² MRT filed Pro Forma Sheet Nos. 5, 6, 7 and 8 of its FERC Gas Tariff, Third Revised Volume No. 1 reflecting the supplemental adjustments. MRT states that although it seeks approval of the supplemental adjustment in this filing, MRT will file tariff sheets on or before April 1, 2006 to place them into effect on May 1, 2006, and will include them in next year’s fuel tracker filing.

states that pursuant to the Commission's Order in Docket Nos. RP02-562-003 and RP02-562-004,³ this filing reflects a system-wide LUFG percentage and includes a system gas balance for the twelve-month period ended June 30, 2005.⁴

3. Section 22.4(a) of its GT&C authorizes MRT to include adjustments to the Fuel Use and LUFG Annual Surcharges to recover under-collections or over-collections attributable to the immediately preceding Base Period, July 1, 2003 to June 30, 2004, as well as subsequent periods. MRT identifies several errors in the calculations of the Transportation and Storage Surcharges for the Fuel Use and LUFG percentages that became effective on November 1, 2004. MRT claims that those errors caused MRT to undercollect gas under its transportation rate schedules, and to overcollect gas under its storage rate schedules.

4. MRT also identifies errors in the calculations of the Storage Surcharges for Fuel Use and LUFG percentages that became effective on November 1, 2002 and November 1, 2003, which caused MRT to overcollect gas under its storage rate schedules. MRT claims that absent waiver of section 22.4(a), adjustments to the percentages (to correct the errors) that became effective November 1, 2002 and November 1, 2003 that are beneficial to MRT's customers would not be allowed.

5. MRT requests Commission authorization to implement its proposed adjustments through special supplemental adjustments, rather than through the Annual Surcharge mechanism. MRT asserts that whereas the Annual Surcharge described in section 22 of its tariff would become effective on November 1, 2005, and would stay in effect for 12 months, it proposes to effectuate the supplemental adjustments on May 1, 2006, and terminate them no later than April 30, 2007. MRT proposes this delay because it wants the supplemental adjustments to become effective after the upcoming Winter season. In addition, MRT proposes to terminate the supplemental adjustments as soon as the underlying adjustments resolve aforementioned calculation errors. MRT states that because section 22.4(g) of its GT&C establishes a November 1 to October 31 Recovery Period, MRT requests the Commission waive section 22.4(g) to permit implementation of the Supplemental Adjustments as proposed.

6. To implement the supplemental adjustments, MRT requests the following specific waivers and approvals:

- (1) Waiver of section 22.4(a) which "prohibits MRT from seeking recovery of Fuel Use and LUFG and any adjustments related to Fuel Use and LUFG incurred in periods prior to the immediately preceding Base Period." The

³ *Mississippi River Transmission Corp.*, 104 FERC ¶ 61,068 (2003).

⁴ MRT's filing at n. 2.

Base Period at issue is from July 1, 2004 to June 30, 2005; therefore, the “immediately preceding Base Period” spans July 1, 2003 to June 30, 2004. However, the storage service over-collections discovered by MRT include over-collections that occurred from July 2001 through June 2003. These over-collections result from filing errors, not changes in or adjustments to Fuel Use and LUFG. Correction of these over-collections will benefit MRT’s customers and MRT requests a waiver of section 22(a) of its Tariff to implement the storage supplemental adjustments to correct prior errors in the calculation of the Storage Fuel Use and LUFG percentages in effect during July 2001 through June 2003.

- (2) Waiver of section 22(g) which defines the Recovery Period for MRT’s Fuel Use and LUFG percentages as the twelve-month period beginning November 1 each year. MRT requests this waiver to have the authority to:
 - a. defer the implementation of the transportation and storage supplemental adjustments until May 1, 2006. As a result of unusual market conditions and the impact of Hurricanes Katrina and Rita, natural gas prices during the upcoming Winter are expected to reach unprecedented high levels that may be temporary. The proposed delay allows MRT’s customers to avoid purchasing additional gas volumes at such unusually high prices;
 - b. terminate the proposed transportation supplemental adjustments effective the earlier of (1) the month after MRT collects 2,301,649 Dth, or (2) April 30, 2007; and,⁵
 - c. terminate the proposed storage supplemental adjustments effective the earlier of (1) the month after MRT refunds 688, 417 Dth, or (2) April 30, 2007.⁶

7. In addition, MRT requests approval to true-up any remaining transportation and storage over/under collections in the supplemental adjustments that are the subject of this filing, and to include these trued-up amounts in its Fuel Use and LUFG percentages that will become effective November 1, 2007.

⁶ MRT states that upon correcting all the balances, it will file tariff sheets to remove the supplement adjustments from both its transportation and storage Fuel Use and LUFG percentages.

Notice, Interventions, and Protest

8. The Commission noticed MRT's filing on October 5, 2005. Interventions and protests were due October 12, 2005, as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2004)). All timely filed motions to intervene and any motions to intervene out-of-time filed before the date of issuance of this order are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214 (2004)). Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. On October 12, 2005, the Missouri Public Service Commission (MoPSC) filed a protest and Laclede Gas Company (Laclede) and Laclede Energy Resources (LER) filed comments.

9. MoPSC claims that MRT failed to adequately support and justify its proposed supplemental surcharge to recover 598,107 Dth of LUFG related to the incorrect gas flow calculations at certain points (primarily for gas flowing from MRT's West Line to CEGT).⁷ MoPSC requests the Commission require MRT to provide further documentation to support its 598,107 Dth adjustment. MoPSC argues that the only support contained in MRT's filing relating to this issue is Appendix D, page 4 and this information merely states the meter number, whether it is a receipt or delivery meter, the flow month, revised volumes, reported volumes, and the LUFG effect. MoPSC claims that "with the limited fact information provided in the cover letter, it seems the instruments (presumably orifice flow meters with a meter tube piping assembly) would have been reading lower than the actual flow rate; thereby reducing LUFG rather than increasing LUFG as is reflected in MRT's Appendix D."

10. Specifically, MoPSC requests the Commission require MRT to submit: (i) meter charts and original invoices relative to the problem meter points; (ii) documentation associated with the installation of the meter tubes and the maintenance and testing of the affected meters; (iii) all internal and external correspondence relating to the detection and correction of errors at the subject points; and, (iv) the underlying calculations for the "revised" volumes.

11. MoPSC also requests that given MRT's historical difficulties with respect to managing its fuel use and gas losses and the compilation of its fuel filings,⁸ the Commission should seriously consider revising MRT's tariff under section 5 of the NGA to prospectively implement fixed Fuel Use and LUFG rates.

⁷ MoPSC indicates that CEGT is an affiliate pipeline. MoPSC also states that CEGT's most recent fuel filing (in Docket No. RP05-674) contains no discussion or indication of a corresponding "prior period adjustment" correcting CEGT's receipts and reducing CEGT's LUFG during the July 2003-April 2005 time period.

⁸ See e.g. *Mississippi River Transmission Corp.*, 91 FERC ¶ 61,199 at 61,698 (May 30, 2000).

12. MoPSC further argues that with the increasing volatility of gas prices and MRT's propensity for "prior period adjustments," MRT's existing fuel tracker mechanism may no longer be just and reasonable.

13. MoPSC requests that the Commission approve MRT's proposed tariff changes, subject to an evidentiary hearing under section 4 of the Natural Gas Act (NGA). MoPSC also requests the Commission initiate an NGA section 5 investigation into the justness and reasonableness of MRT's existing fuel tracker mechanism.

14. Finally, MoPSC claims that, in an attempt to resolve all issues before the end of the five-month suspension period for the supplemental adjustments proposed by MRT, it would not oppose the Commission establishing technical/settlement conference procedures whereby the Commission would direct MRT to provide parties with additional data and information on an expedited basis. MoPSC states that if substantive concerns remain unresolved at the end of the suspension period, formal evidentiary hearing procedures would be needed.

15. Laclede states that it does not oppose MRT's filing. However, Laclede states that its non-opposition to MRT's filing is contingent on the Commission's approval of MRT's request for a waiver of section 22.4(a) to permit the offset of crediting storage customers for previous out-of-period over-collections. Laclede also states that, in light of the unusual nature of the supplemental adjustment that MRT proposes to both transportation and storage services, and current inflated natural gas prices, Laclede believes the Commission should direct MRT to provide customers a choice as to how to make up the additional gas MRT alleges its customers owe. Laclede suggests that an alternative option should be for MRT to establish a set amount of fuel that it determines each customer owes MRT based on that customer's past use of the MRT system during the period in which the errors occurred, and for MRT to allow that customer to return such gas in-kind to MRT over a period of time that is mutually agreeable to the customer and MRT. Laclede asserts the Commission previously approved a make-up of fuel-in-kind in settlement of MRT's earlier contested fuel adjustment proceeding in Docket No. TM00-1-25.

16. LER states that, if the Commission permits MRT to flow-through its supplemental adjustments, LER supports the surcharge method proposed by MRT, since it is the only method that ensures that a marketer like itself can recover the additional costs from its customers.

Discussion

17. The Commission accepts and suspends MRT's filing to become effective November 1, 2005. The Commission finds that the protest and comments raised significant issues that require further review, especially given MRT's historical need for substantial out-of-period adjustments. At this juncture, a technical conference is the best

procedure to allow discussion and possible resolution of the issues raised in the protest and comments. At the conference, MRT should be prepared to respond to all technical issues that have been raised and all remedies that have been suggested.

18. The Commission denies MoPSC's request that the Commission act under section 5 of the NGA to prospectively require MRT to implement fixed Fuel Use and LUGF rates. The use of a fuel tracker mechanism does not result in unjust and unreasonable rates. Commission policy allows pipelines to use either fixed Fuel Use and LUGF rates or a fuel tracker mechanism to recover fuel cost. The Commission only requires that if a pipeline chooses a fuel tracking mechanism it must include a true-up mechanism.⁹ MRT's fuel tracking mechanism does include such a true-up mechanism and accordingly is consistent with Commission policy.

Suspension

19. It is the Commission's policy generally to suspend rate filings for the maximum period permitted by statute if preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards. *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension). It is also recognized however, that shorter suspensions may be warranted under circumstances in which suspension for the maximum period may lead to harsh and inequitable results. *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension). Such circumstances exist here where the pipeline is filing pursuant to a Commission approved tracker mechanism. In view of these circumstances, MoPSC's request for a five-month suspension is rejected as unsupported. Accordingly, the Commission will exercise its discretion to suspend the rates for a shorter period and permit the rates to take effect on November 1, 2005, subject to refund and conditions.

The Commission orders:

(A) The tariff sheets listed in fn. 1 are accepted and suspended, to be effective November 1, 2005, subject to refund, and the outcome of a technical conference.

⁹ *ANR Pipeline Co.*, 110 FERC ¶ 61,069 at P 28, *order on rehearing*, 111 FERC ¶ 61, 290 (2005).

(B) The Commission's Staff is hereby directed to convene a technical conference to explore the issues raised as discussed in the body of this order. The Staff is to report the results of the technical conference to the Commission within 120 days of the date this order issues.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.