

127 FERC ¶ 61,037  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Monroe Gas Storage Company, LLC

Docket No. RP09-447-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS SUBJECT TO  
REFUND AND FURTHER REVIEW

(Issued April 14, 2009)

1. On March 10, 2009, Monroe Gas Storage Company, LLC (Monroe) filed its initial FERC Gas Tariff, Original Volume No. 1,<sup>1</sup> in compliance with the Commission's December 21, 2007<sup>2</sup> and July 9, 2008<sup>3</sup> Orders in Docket Nos. CP07-406-000, *et al.* Monroe's proposed tariff also reflects modifications to comply with the capacity release requirements promulgated by Order Nos. 712 and 712-A,<sup>4</sup> revisions to its Forms of Service Agreement (FSA), and non-substantive revisions made for formatting and spelling corrections. Monroe requests an April 15, 2009 effective date for the tendered tariff sheets to coincide with the anticipated in-service date of its storage Project and the start of the interstate storage and hub services in accordance with its executed service agreements. Monroe also submitted six non-conforming service agreements to be effective on the in-service date which materially deviate from the revised FSAs as

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<sup>1</sup> See Appendix for a list of the proposed tariff sheets.

<sup>2</sup> *Monroe Gas Storage Company, LLC*, 121 FERC ¶ 61,285 (2007) (December 21, 2007 Order).

<sup>3</sup> *Monroe Gas Storage Company, LLC*, Docket No. CP07-406-002 (July 9, 2008) (unpublished letter order) (July 9, 2008 Order).

<sup>4</sup> *Promotion of a More Efficient Capacity Release Market*, Order No. 712, 73 Fed. Reg. 37,058 (June 30, 2008), FERC Stats. & Regs. ¶ 31,271 (2008), *order on reh'g*, Order No. 712-A, 73 Fed. Reg. 72,692 (Dec. 1, 2008), FERC Stats. & Regs. ¶ 31,284 (2008).

currently tendered.<sup>5</sup> As discussed below, the Commission accepts the tendered tariff sheets filed to comply with the December 21, 2007 and July 9, 2008 Orders and with Order Nos. 712 and 712-A, as well as tariff sheets reflecting non-substantive changes, to be effective the later of April 15, 2009, or the in-service date of the Project. The Commission accepts and suspends the non-conforming agreements and tariff sheets reflecting the revised FSAs, to be effective on the later of April 15, 2009, or the in-service date of the Project, subject to refund and further review.

### **Background**

2. In the December 21, 2007 Order, the Commission issued a certificate of public convenience and necessity authorizing Monroe to construct, own, operate, and maintain a high-deliverability natural gas reservoir storage facility and associated pipeline facilities and to provide firm and interruptible storage service and other interruptible hub services on an open access basis at market-based rates. In that order, the Commission approved Monroe's proposed *Pro Forma* FERC Gas Tariff, subject to certain revisions. The Commission granted the certificate subject to Monroe filing actual tariff sheets not more than 60 days nor less than 30 days prior to commencement of service. In the July 9, 2008 Order, the Commission approved Monroe's April 15, 2008 abbreviated application for a limited amendment of its certificate to permit it to offer enhanced interruptible park and loan services at market-based rates. Monroe states in the instant filing that it anticipates that it will be able to commence service on the Project pursuant to its certificate authority on April 15, 2009, and, accordingly, has specified that date as the effective date for its tariff.<sup>6</sup>

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<sup>5</sup> The non-conforming service agreements filed on March 10, 2009 were filed as non-public, privileged information. On March 26, 2009, Monroe resubmitted its non-conforming service agreements in order to file redacted and un-redacted versions as public and privileged information, respectively.

<sup>6</sup> Monroe states (filing transmittal at 2, note 4) that, on February 23, 2009, Monroe filed, in Docket No. CP07-403-003, an abbreviated application for limited amendment to its certificate authorization to relocate certain previously-approved wells and construct new wells and related facilities. Monroe states that it proposes to provide storage and hub services effective April 15, 2009, using only those portions of the Project not affected by the amended application. On March 13, 2009, in accordance with the December 21, 2007 and July 9, 2008 Orders, Monroe requested authorization to commence operations of the portions of facilities ready for service on April 15, 2009. Monroe is directed to advise the Commission of the actual in-service date of the Project if it is not April 15, 2009. Further, acceptance of the subject tariff sheets and service agreements is without prejudice to any action the Commission may take as a result of the

(continued...)

**Notice of Filing and Interventions, Protests, and Comments**

3. Notice of Monroe's March 10, 2009 filing was issued on March 12, 2009. Interventions and protests were due March 23, 2009, as provided in section 154.210 of the Commission's regulations.<sup>7</sup> Pursuant to Rule 214,<sup>8</sup> 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 protests or comments were filed.

**Discussion**

4. The Commission finds that Monroe's proposed initial tariff, as revised, complies with the Commission's December 21, 2007 and July 9, 2008 Orders and with Order Nos. 712 and 712-A. The Commission accepts the tariff sheets approved as *pro forma* sheets by the July 9, 2008 Order, as revised in the instant filing to reflect non-substantive revisions and tariff revisions filed to comply with Order Nos. 712 and 712-A, to become effective the later of April 15, 2009, or the in-service date of the Project.<sup>9</sup> However, the Commission finds that Monroe's proposed revisions to its FSAs and the non-conforming provisions of its service agreements have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission accepts and suspends the tariff sheets with substantive FSA revisions and the non-conforming agreements to become effective the later of April 15, 2009, or the in-service date of the Project, subject to refund and further review.<sup>10</sup>

**Order No. 712 Compliance**

5. Order Nos. 712 and 712-A were issued subsequent to the December 21, 2007 Order. In Order Nos. 712 and 712-A, the Commission removed the maximum rate ceiling on capacity releases of one year or less that take effect within one year after the pipeline is notified of the release. The Commission also modified its regulations in order to facilitate asset management arrangements (AMAs) by relaxing the Commission's

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application in Docket No. CP07-403-003.

<sup>7</sup> 18 C.F.R. § 154.210 (2008).

<sup>8</sup> 18 C.F.R. § 385.214 (2008).

<sup>9</sup> See Appendix.

<sup>10</sup> *Id.*

prohibition on tying and on its bidding requirements for certain capacity releases. The Commission further clarified that its prohibition on tying does not apply to conditions associated with gas inventory held in storage for releases of firm storage capacity. Finally, the Commission waived its prohibition on tying and bidding requirements for capacity releases made as part of a state-approved retail access program.

6. In the instant filing, Monroe submitted revisions to its tariff to comply with Order Nos. 712 and 712-A. Specifically, Monroe revised its tariff sheets by: (1) requiring each releasing shipper under a prearranged capacity release to state whether the replacement shipper is an asset manager or a marketer participating in a state-regulated retail access program; (2) requiring a releasing shipper to provide a detailed description of any storage inventory that must be transferred in connection with its release of storage capacity; and (3) clarifying that capacity releases to asset managers and marketers participating in state-regulated retail access programs are not subject to posting for bidding. Monroe has been authorized to charge market-based rates and therefore, does not have maximum tariff rates. Accordingly, those portions of the Commission's regulations in section 284.8(h) that refer to maximum tariff rates are currently inapplicable to Monroe.

7. The Commission finds that Monroe's proposed revisions to its tariff comply with Order Nos. 712 and 712-A. Therefore, the Commission accepts the tendered tariff sheets filed to comply with Order Nos. 712 and 712-A, to become effective the later of April 15, 2009, or the in-service date of the Project.

### **Media Discrepancies**

8. After reviewing Monroe's filing, the Commission found additional language on proposed Original Sheet Nos. 24 and 308 of the electronic media of Monroe's filing that did not appear on the hardcopy version of the tariff. Original Sheet No. 24 of Monroe's electronic media submission includes an additional section 4.3, which states, for capacity releases of one year or less, "a Customer may release firm capacity at any rate, including at a rate higher than the applicable negotiated rates set forth in Exhibit A<sup>11</sup> of Customer's Service Agreement with Operator." Further, Original Sheet No. 308 of Monroe's electronic media submission includes an additional provision in Section 1 of the FSA for Rate Schedule ISS, which states, the "Operator shall, on any Day, receive for injection into storage for Customer's account, a quantity of Gas up to Customer's Maximum Daily Injection Quantity ("MDIQ") as set forth on Exhibit A attached hereto...."

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<sup>11</sup> Exhibit A of Monroe's FSAs details the quantities and charges set forth in the service agreements executed between Monroe and its customers.

9. According to section 154.4(b)(1) of the Commission's regulations, the signature on a filing constitutes a certification that the paper copies contain the same information as contained on the electronic media.<sup>12</sup> The additional language that appears on Original Sheet Nos. 24 and 308 of its electronic media filing was not previously approved by the Commission in the December 21, 2007 or July 9, 2008 Orders. In its review, the Commission finds no comparable language in the paper copy of Monroe's March 10, 2009 filing. Accordingly, pursuant to section 154.4(b)(1) of the Commission's regulations, the Commission rejects any additional language appearing in the electronic media that does not appear in the hardcopy of Monroe's filing.<sup>13</sup> Monroe is directed to file revised electronic media within 20 days of the date of this order that conforms to the hardcopy version of its proposed tariff.

**Revisions to Forms of Service Agreement (FSA) and Non-Conforming Agreements**

10. Monroe states that it revised its FSAs to better reflect the existing provisions in its tariff and the preferences of those customers that have executed service agreements with Monroe. Monroe also submitted non-conforming agreements for the Commission's information and review as potentially materially deviating agreements within the meaning of the Commission's regulations.<sup>14</sup>

11. Monroe revised its FSAs in form and style by: (1) eliminating section 4, Incorporation of Rate Schedules and Tariff Provisions, of its Enhanced Hub Services Agreement (EHSA); (2) reorganizing the EHSA to conform with the scheme found in the Firm Storage Service Agreement (FSSA), Interruptible Storage Service Agreement (ISSA), and Hub Services Agreement (HSA); (3) revising the Capacity Release Umbrella Agreement (CRUA) and Electronic Information Management System Agreement (EIMSA) to generally conform in style, form, and substance to the other FSAs; and (4) performing miscellaneous housekeeping, stylistic, and conforming changes to the FSAs.

12. Monroe further revised the provisions of its FSAs by:

- a. revising the Service to be Rendered provision in its FSSA and ISSA to indicate the quantity of gas to be injected into storage and withdrawn by the

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<sup>12</sup> 18 C.F.R. § 154.4(b)(1) (2008).

<sup>13</sup> Monroe is directed in any future filings to fully comply with the requirements of 18 C.F.R. § 154.4(b)(1) (2008) or risk rejection of its entire filing, pursuant to 18 C.F.R. § 154.5 (2008).

<sup>14</sup> 18 C.F.R. §§ 154.1(d) and 154.112(b) (2008).

customer, and to indicate the acceptance and delivery obligations of Monroe and the customer, respectively;

- b. revising the Rates provision in its FSSA and ISSA so that the customer shall reimburse Monroe for the customer's *pro rata* portion (based on actual storage inventory of all customers) of all *ad valorem* taxes, property taxes, and/or other similar taxes assessed against and paid by Monroe;
- c. expanding the Law of Agreement provision in its FSSA, ISSA, EHSA, and HSA to require the parties to consent to:
  - i. the jurisdiction of New York State courts;
  - ii. the laying of venue in New York State courts of an action relating to the FSSA, and
  - iii. waiving inconvenient forum objections;
- d. adding a Transfer and Assignment provision (except for in the EHSA where it pre-exists), that incorporates GT&C section 23<sup>15</sup> by reference and otherwise emphasizes aspects of the FSAs that were already in place by virtue of the GT&C;
- e. adding a Waiver of Jury Trial provision to all six FSAs; and
- f. adding miscellaneous provisions to all six FSAs, which are already set forth in various parts of the GT&C.

13. Monroe states that, by amending its FSAs, it is committing to incorporating the same language into service agreements with similarly situated customers (absent a future request by Monroe and approval by the Commission of a material deviation from these provisions). Thus, Monroe asserts that the revisions to the FSAs cannot serve to discriminate against, or result in any undue preference towards, any party.

14. In Appendices E and F of its filing, Monroe also submitted six non-conforming agreements that contain material deviations from the FSAs currently being tendered with its FERC Gas Tariff, Original Volume No. 1, for the Commission's information and

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<sup>15</sup>Section 23 of the General Terms and Conditions (GT&C) of Monroe's proposed tariff provides that successors are entitled to the obligations of its predecessors under a service agreement and that the restrictions on assignment shall not prevent the party from pledging or mortgaging its rights under a service agreement as security for indebtedness.

review. On September 10, 2008, Monroe entered into a FSSA and EHSA with Citigroup Energy Inc. On September 26, 2008, Monroe entered into a FSSA and an ISSA with Morgan Stanley Capital Group Inc. Finally, on September 29, 2008 and November 21, 2008, Monroe entered into FSSAs with PPL Energyplus, LLC and Sequent Energy Management, respectively. In Appendix G, Monroe describes the service agreement deviations, asserts how the deviations do not change the conditions under which service is to be provided, and asserts how they do not present a risk of undue discrimination.

15. The Commission has not completed its review of the proposed modifications to the FSAs or the non-conforming service agreements and requires more time to determine whether Monroe's proposed FSA provisions and non-conforming agreements are just and reasonable and not unduly discriminatory, pursuant to section 4 of the Natural Gas Act. Accordingly, the Commission accepts and suspends the non-conforming agreements and the revisions to the FSAs to become effective the later of April 15, 2009, or the in-service date of the Project, subject to refund and further review. Finally, with regard to Monroe's claim of privilege for its non-conforming service agreements, we believe that as these agreements are for jurisdictional service, NGA section 4 requires that they be made public.<sup>16</sup> We, therefore, intend to make the un-redacted agreements available to the public. Monroe is given 20 days from the date of this order to file comments justifying the continued non-public treatment of the un-redacted non-conforming service agreements.<sup>17</sup>

### **Suspension**

16. The Commission's policy regarding suspensions is that tariff filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or inconsistent with other statutory standards.<sup>18</sup> It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.<sup>19</sup> The Commission finds that such

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<sup>16</sup> *Columbia Gas Transmission Corp.*, 97 FERC ¶ 61,221 at 62,001-2 (2001). *SG Resources*, 125 FERC ¶ 61,191 at P 23-24 (2008).

<sup>17</sup> *See* 18 CFR § 388.112(d) (2008).

<sup>18</sup> *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

<sup>19</sup> *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (nominal one-day suspension).

circumstances exist here, where Monroe is filing proposed revised FSAs and non-conforming service agreements. Therefore, the Commission will accept and suspend the proposed FSAs and non-conforming agreements, to be effective the later of April 15, 2009, or the in-service date of the Project, subject to refund and further review.

The Commission orders:

(A) Original Sheet Nos. 1 through 299, 307, 313-315, 322-324, 330-333, 340-343, and 346, plus Title Sheet, to Monroe's FERC Gas Tariff, Original Volume No. 1 are accepted to become effective the later of April 15, 2009, or the in-service date of the Project.

(B) Original Sheet Nos. 300-306, 308-312, 316-321, 325-329, 334-339, and 344-345, to Monroe's FERC Gas Tariff, Original Volume No. 1 are accepted and suspended to become effective the later of April 15, 2009, or the in-service date of the Project, subject to refund and further review, as discussed in this order.

(C) The six non-conforming service agreements described in this order are accepted and suspended, to be effective the later of April 15, 2009, or the in-service date of the Project, subject to refund and further review.

(D) Monroe is directed to file revised electronic media within 20 days of the date of this order that conforms to the hardcopy version of its proposed tariff.

(E) Within 20 days of the date of this order, Monroe may file comments justifying the continued non-public treatment of the un-redacted non-conforming service agreements.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

**Appendix**

Monroe Gas Storage Company, LLC  
 FERC Gas Tariff, Original Volume No. 1  
Tariff Sheets to be Effective April 15, 2009

Original Sheet No. 1	Original Sheet No. 39	Original Sheet No. 75
Original Sheet No. 2	Original Sheet No. 40	Original Sheet No. 76
Original Sheet No. 3	Original Sheet No. 41	Original Sheet Nos. 77-99
Original Sheet No. 4	Original Sheet No. 42	Original Sheet No. 100
Original Sheet No. 5	Original Sheet No. 43	Original Sheet No. 101
Original Sheet No. 6	Original Sheet No. 44	Original Sheet No. 102
Original Sheet No. 7	Original Sheet No. 45	Original Sheet No. 103
Original Sheet No. 8	Original Sheet No. 46	Original Sheet No. 104
Original Sheet No. 9	Original Sheet No. 47	Original Sheet No. 105
Original Sheet No. 10	Original Sheet No. 48	Original Sheet No. 106
Original Sheet No. 11	Original Sheet No. 49	Original Sheet No. 107
Original Sheet No. 12	Original Sheet No. 50	Original Sheet No. 108
Original Sheet No. 13	Original Sheet No. 51	Original Sheet No. 109
Original Sheet No. 14	Original Sheet No. 52	Original Sheet No. 110
Original Sheet Nos. 15-16	Original Sheet No. 53	Original Sheet No. 111
Original Sheet No. 17	Original Sheet No. 54	Original Sheet No. 112
Original Sheet Nos. 18-19	Original Sheet No. 55	Original Sheet No. 113
Original Sheet No. 20	Original Sheet No. 56	Original Sheet No. 114
Original Sheet No. 21	Original Sheet No. 57	Original Sheet No. 115
Original Sheet No. 22	Original Sheet No. 58	Original Sheet No. 116
Original Sheet No. 23	Original Sheet No. 59	Original Sheet No. 117
Original Sheet No. 24	Original Sheet No. 60	Original Sheet No. 118
Original Sheet No. 25	Original Sheet No. 61	Original Sheet No. 119
Original Sheet No. 26	Original Sheet No. 62	Original Sheet No. 120
Original Sheet No. 27	Original Sheet No. 63	Original Sheet No. 121
Original Sheet No. 28	Original Sheet No. 64	Original Sheet No. 122
Original Sheet No. 29	Original Sheet No. 65	Original Sheet No. 123
Original Sheet No. 30	Original Sheet No. 66	Original Sheet No. 124
Original Sheet No. 31	Original Sheet No. 67	Original Sheet No. 125
Original Sheet No. 32	Original Sheet No. 68	Original Sheet No. 126
Original Sheet No. 33	Original Sheet No. 69	Original Sheet No. 127
Original Sheet No. 34	Original Sheet No. 70	Original Sheet No. 128
Original Sheet No. 35	Original Sheet No. 71	Original Sheet No. 129
Original Sheet No. 36	Original Sheet No. 72	Original Sheet No. 130
Original Sheet No. 37	Original Sheet No. 73	Original Sheet No. 131
Original Sheet No. 38	Original Sheet No. 74	Original Sheet No. 132

Monroe Gas Storage Company, LLC  
FERC Gas Tariff, Original Volume No. 1  
Tariff Sheets to be Effective April 15, 2009

Original Sheet No. 133	Original Sheet No. 171	Original Sheet No. 323
Original Sheet No. 135	Original Sheet No. 172	Original Sheet No. 324
Original Sheet No. 136	Original Sheet No. 173	Original Sheet No. 330
Original Sheet No. 137	Original Sheet No. 174	Original Sheet No. 331
Original Sheet No. 138	Original Sheet No. 175	Original Sheet No. 332
Original Sheet No. 139	Original Sheet No. 176	Original Sheet No. 333
Original Sheet No. 140	Original Sheet No. 177	Original Sheet No. 340
Original Sheet No. 141	Original Sheet No. 178	Original Sheet No. 341
Original Sheet No. 142	Original Sheet No. 179	Original Sheet No. 342
Original Sheet No. 143	Original Sheet No. 180	Original Sheet No. 343
Original Sheet No. 144	Original Sheet No. 181	Original Sheet No. 346
Original Sheet No. 145	Original Sheet No. 182	
Original Sheet No. 146	Original Sheet No. 183	
Original Sheet No. 147	Original Sheet No. 184	
Original Sheet No. 148	Original Sheet No. 185	
Original Sheet No. 149	Original Sheet No. 186	
Original Sheet No. 150	Original Sheet No. 187	
Original Sheet No. 151	Original Sheet No. 188	
Original Sheet No. 152	Original Sheet No. 189	
Original Sheet No. 153	Original Sheet No. 190	
Original Sheet No. 154	Original Sheet No. 191	
Original Sheet No. 155	Original Sheet No. 192	
Original Sheet No. 156	Original Sheet No. 193	
Original Sheet No. 157	Original Sheet No. 194	
Original Sheet No. 158	Original Sheet No. 195	
Original Sheet No. 159	Original Sheet No. 196	
Original Sheet No. 160	Original Sheet No. 197	
Original Sheet No. 161	Original Sheet No. 198	
Original Sheet No. 162	Original Sheet No. 199	
Original Sheet No. 163	Original Sheet No. 200	
Original Sheet No. 164	Original Sheet No. 201	
Original Sheet No. 165	Sheet Nos. 202-299	
Original Sheet No. 166	Original Sheet No. 307	
Original Sheet No. 167	Original Sheet No. 313	
Original Sheet No. 168	Original Sheet No. 314	
Original Sheet No. 169	Original Sheet No. 315	
Original Sheet No. 170	Original Sheet No. 322	

Monroe Gas Storage Company, LLC  
FERC Gas Tariff, Original Volume No. 1  
Tariff Sheets to be Effective April 15, 2009, Subject to Refund and Further Review

Original Sheet No. 300  
Original Sheet No. 301  
Original Sheet No. 302  
Original Sheet No. 303  
Original Sheet No. 304  
Original Sheet No. 305  
Original Sheet No. 306  
Original Sheet No. 308  
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