

127 FERC ¶ 61,060
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 21, 2009

In Reply Refer To:
Egan Hub Storage, LLC
Docket No. RP09-298-000

Egan Hub Storage, LLC
P.O. Box 1642
Houston, TX 77251-1642

Attention: Janice K. Devers, General Manager
Tariffs and Commercial Development

Reference: Order No. 712-A Compliance Filing

Dear Ms. Devers:

1. On January 26, 2009, Egan Hub Storage, LLC (Egan Hub) filed revised tariff sheets¹ proposing modifications to sections 4.1 and 4.4 of the General Terms and Conditions (GT&C) of its tariff to comply with Order No. 712-A.² The revised tariff sheets are accepted, subject to the conditions discussed below, effective February 26, 2009 as requested.

2. In Docket No. RP09-77-000, Egan Hub filed tariff sheets that, among other things, modified its GT&C to comply with the capacity release requirements promulgated by Order No. 712.³ The Commission accepted Egan Hub's proposed tariff sheets, subject to the Commission's further consideration of the issue raised in that proceeding by Atmos

¹ Second Revised Sheet No. 113 and Sixth Revised Sheet No. 117 to its FERC Gas Tariff, First Revised Volume No. 1.

² *Promotion of a More Efficient Capacity Release Market, order on reh'g*, Order No. 712-A, 73 Fed. Reg. 72,692 (Dec.1, 2008), FERC Stats. & Regs. ¶ 31,284 (2008).

³ *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).

Energy Corporation regarding the flow through of a releasing customer's usage charges to its asset manager replacement customer. *See Egan Hub Storage, LLC*, 125 FERC ¶ 61,401 (2008). After Egan Hub's filing to comply with Order No. 712, the Commission issued Order No. 712-A, clarifying Order No. 712 and the Commission's capacity release regulations in several respects.

3. In this docket, Egan Hub is proposing to modify section 4.1 of its GT&C to reflect the clarification in paragraph 130 of Order No. 712-A regarding conditions concerning the sale and/or repurchase of gas in storage outside the context of an asset management arrangement as well as further negotiated terms and conditions related to the commodity portion of the transaction. Egan Hub is also proposing to modify section 4.4 of its GT&C, stating that the modification incorporates the revised text of section 284.8(h)(2) of the Commission's regulations, which describes the required twenty-eight day hiatus on releases of 31 days or less to the same replacement customer without bidding.

4. Public notice of Egan Hub's filing was issued on January 29, 2009. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁴ Pursuant to Rule 214,⁵ all timely filed motions to intervene and any motions to intervene out-of-time 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. Comments were filed by Atmos Energy Marketing LLC (Atmos Marketing). On February 17, 2009, Egan Hub filed an answer to Atmos Marketing's comments. Rule 213(a)(2) of the Commission's regulations, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Egan Hub's answer because it has provided information that assisted us in our decision-making process.

5. For the reasons discussed below, the Commission finds that Egan Hub's proposed revisions to sections 4.1 and 4.4 of its GT&C are generally consistent with Order No. 712-A and the Commission's capacity release policies and accordingly, the Commission accepts Egan Hub's filing, subject to conditions.

6. Atmos Marketing generally supports Egan Hub's proposed revisions, but asks the Commission to require Egan Hub to include provisions allowing the flow through of usage and fuel rate discounts from releasing customers to their asset managers in a capacity release transaction. A general refusal to allow the flow through of discounted usage and fuel rates, Atmos Marketing argues, would impede asset management transactions and therefore not be in conformance with the general principles established

⁴ 18 C.F.R. § 154.210 (2008).

⁵ 18 C.F.R. § 385.214 (2008).

in Order Nos. 712 and 712-A, namely the creation of an efficient and competitive capacity release program and the promotion of the use of asset management arrangements as a critical component to that program.

7. In its answer, Egan Hub argues that Atmos Marketing's comments are inapplicable to Egan Hub. Egan Hub states that the Commission authorized it to charge market-based rates⁶ and, since there is no maximum rate from which to discount, there can be no usage charge discounts for Egan Hub's services. Egan Hub states that the releasing customer's usage charges should always flow through to replacement customers on a pipeline or storage provider with market-based rates, regardless of whether that customer is an asset manager or some other entity, absent an agreement to the contrary by the pipeline or storage provider.

8. The issue raised by Atmos Marketing regarding the flow through of usage charge discounts from the releasing customer to its qualified asset manager and whether the fact that Egan Hub has market-based rates should affect this issue is currently pending in Docket No. RP09-77-000. Therefore, we accept Egan Hub's tariff sheets filed in this proceeding, to be effective February 26, 2009, subject to the outcome of the proceeding in Docket No. RP09-77-000.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

cc: All Parties

⁶ Citing *Egan Hub Partners, L.P.*, 77 FERC ¶ 61,016 (1996).