

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

East Tennessee Natural Gas Company

Docket Nos. RP00-469-004
RP00-469-005
RP00-469-006
RP01-22-006
RP01-22-007
RP01-22-008
RP03-177-001
RP03-177-002
RP03-177-003

ORDER ON REHEARING AND COMPLIANCE FILINGS

(Issued February 18, 2004)

1. This order addresses East Tennessee Natural Gas Company's (East Tennessee) and the East Tennessee Group's (ETG) requests for clarification or rehearing of the Commission's May 23, 2003 Order in these proceedings (May 23 Order).¹ In addition, this order addresses East Tennessee's June 23, 2003 filing and August 14, 2003 supplemental filing to comply with the May 23 Order. As more fully explained below, we will accept certain tariff sheets subject to the conditions of this order and further review to be effective March 1, 2004, reject other tariff sheets, and direct East Tennessee to make certain modifications and file revised tariff sheets to reflect the modifications within 15 days of the date this order issues. In addition, the requests for rehearing or clarification are granted and denied, as discussed below. This order benefits customers by enhancing pipeline transportation services consistent with the Commission's policies in Order No. 637.

¹ East Tennessee Natural Gas Co., 103 FERC **&**61,237 (2003).

Background

2. On January 30, 2002, the Commission conditionally approved a settlement filed by East Tennessee to resolve its compliance with Order Nos. 637, 587-G, and 587-L (January 30 Order)² The May 23 Order, inter alia, accepted subject to conditions tariff sheets filed to comply with the Commission's January 30 Order on Settlement. The May 23 Order also addressed East Tennessee's December 2, 2002 filing in Docket No. RP03-177-000 to comply with the Commission's October 31, 2002 Order On Remand (Remand Order)³ in response to the decision by the United States Court of Appeals in Interstate Natural Gas Association of America v. FERC (INGAA).⁴ Finally, the May 23 Order granted and denied East Tennessee's request for rehearing and clarification of the January 30, 2002 Order.

3. East Tennessee and ETG filed requests for clarification or rehearing of the May 23 Order. East Tennessee also made a June 23, 2003 filing and August 14, 2003 supplemental filing to comply with the May 23 Order.

4. Public notices of East Tennessee's June 23, 2003 and supplemental August 14, 2003 compliance filings were issued. ETG filed comments on the June 23, 2003 compliance filing. No comments or protests to the August 14, 2003 supplemental filing were filed. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2002)), all motions to intervene are granted.

Discussion

Remand Order Compliance

5. The Remand Order required pipelines that must permit segmentation to file revised tariff sheets to expressly permit segmented transactions consisting of forwardhauls up to contract demand and backhauls up to contract demand to the same point at the same time. In the May 23 Order, the Commission rejected a provision in section 15.3 of the General Terms and Conditions (GT&C) proposed by East Tennessee to comply with this provision of the Remand Order.⁵ East Tennessee's proposed revision to section 15.3 included the following language:

² East Tennessee Natural Gas Co., 98 FERC ¶61,060 (2002).

³ 101 FERC ¶61,127 (2002).

⁴ Interstate Natural Gas Ass'n of America v. FERC, 285 F.3d 18 (D.C. Cir. 2002).

⁵ 103 FERC ¶ 61,237 at P 40.

In addition, for any movement of gas that traverses a segment(s) in which the total nominated quantity for that gas exceeds the firm contractual entitlement, the quantity in excess of the contractual entitlement shall be deemed to be outside of the Shipper's Contract Path.

6. The Commission found that the purpose or intent of this provision is not clear, and East Tennessee had provided no explanation of why this tariff language is required by the Remand Order and is necessary in order to implement the requirement regarding forwardhauls and backhauls to the same point. Therefore, the Commission rejected this proposed tariff language.

7. In its June 23, 2003 compliance filing, East Tennessee states that it proposes to modify the last sentence of section 15.3 to clarify that the scheduling priority "outside the path" is limited to the portion of the nominated quantity in excess of contract entitlements. As reflected in the marked version of Sub Fourth Revised Sheet No. 130 that proposed provision states that:

In addition, for any movement of gas that traverses a segment(s) in which the total nominated quantity for that contract exceeds the firm contractual entitlement, the nominated quantity in excess of the firm contractual entitlement shall be deemed to be outside of the Shipper's Contract Path for the portion of the nominated quantity that exceeds the firm contractual commitment. [Emphasis added]

8. East Tennessee has included an Appendix C in its June 23, 2003 compliance filing and an Appendix A in its request for rehearing to explain how this provision would operate and how the quantity would be calculated, and the scheduling priority in the event of overlapping nominations by a releasing shipper and a replacement shipper in the situation of a scheduled capacity release. The Commission has held that when a releasing shipper releases a segment of capacity to a replacement shipper, each shipper may nominate services at secondary points outside the segment up to its contract demand. However, the combined nominations of the releasing and replacement shippers may not exceed the contract demand of the releasing shipper's underlying contract on any portion of the mainline when they overlap. East Tennessee states that the purpose of its proposed section 15.3 is to clarify how it will assign priorities in the use of such overlapping nominations.

9. In Texas Eastern Transmission, LP, 103 FERC ¶ 61,278 (2003) (Texas Eastern), the Commission considered similar proposed language and related support. The Commission stated:

We have reviewed the examples included in Appendix C, and find they are consistent with Commission policy. They show that Texas Eastern

uses the "outside the path" term for scheduling purposes to determine whether the releasing or replacement shipper will be scheduled when quantities overlap. Texas Eastern has indicated that the nomination of any such overlapping quantities will be treated as a secondary outside the path transaction and will be accorded that priority and not be scheduled because the nomination would result in an overlap in excess of contract demand. We will accept Texas Eastern's proposal that includes the clarifying clause.⁶

10. Consistent with our determination in Texas Eastern, the Commission accepts subject to the conditions of this order, East Tennessee's Sub Fourth Revised Sheet No. 130. The marked version of Sub Fourth Revised Sheet No. 130 adds the phrase "for the portion of the nominated quantity that exceeds the firm contractual commitment" at the end of the above-quoted proposed language. In addition, Appendix C of the June 23, 2003 compliance filing and Appendix A of the request for rehearing refer to that additional language. However, the unmarked proposed tariff sheet does not contain this language. Therefore, East Tennessee must file a revised unmarked tariff sheet which includes all of the above-quoted language including the phrase omitted from the clean tariff sheet within 15 days of the date this order issues. Alt Fourth Revised Sheet No. 130 which reflects removal of the last sentence of proposed section 15.3 and Sub Third Revised Sheet No. 130 are rejected as moot.⁷

Segmentation - Forwardhaul and Backhaul

11. The May 23 Order (at P 35) denied rehearing of the direction in the January 30 Order that East Tennessee permit backhauls and forwardhauls to the same point, each up to the shipper's contract demand. That order clarified (at P 36) that this requirement applies only on that portion of East Tennessee's system where segmentation is required. The Commission also stated (at P 37), consistent with Algonquin Gas Transmission Co.,⁸ that where a transaction included a backhaul on the mainline and then a forwardhaul to a delivery point on the lateral, the pipeline

⁶ 103 FERC ¶ 61,278 at P 29.

⁷ In addition, East Tennessee has submitted both a Sub Seventh Revised Sheet No. 9 and superceding Sub Eighth Revised Sheet No. 9 and Sub Third Revised Sheet No. 129B and superceding Sub Fourth Revised Sheet No. 129B. Sub Eighth Revised Sheet No. 9 and Sub Fourth Revised Sheet No. 129B which contain additional proposed language are accepted subject to the conditions of this order. Sub Seventh Revised Sheet No. 9 and Sub Third Revised Sheet No. 129B are rejected as moot.

⁸ 98 FERC ¶ 61,211 at 61,774-5 (2002).

need not permit an overlap on the lateral in excess of contract demand. The May 23 Order also accepted East Tennessee's proposed tariff language in section 9.6 of Rate Schedule FT-A to comply with the requirement that it permit forwardhauls and backhauls to the same point subject to the elimination of one phrase (at P 43) that the Commission found could mislead shippers.

12. In its January 23, 2003 compliance filing, East Tennessee states that, consistent with the clarifications granted on rehearing of the January 30 Order, it has modified section 9.1 of Rate Schedule FT-A to limit the area where forwardhauls and backhauls to the same point are permitted to the portion of its system where segmentation is permitted. Specifically, East Tennessee proposed to add the following proposed language to section 9.1 in Sub Original Sheet No. 13:

The nomination of a forwardhaul transaction and a backhaul transaction to the same point pursuant to Shipper's segmentation rights upstream of Dixon Springs (Compressor Station 3104) within Shipper's Contract Path on the 3100 Line and on any segment of Transporter's system upstream of Lewisburg (Compressor Station 3206) within Shipper's Contract Path on the 3200 Line in excess of Shipper's contract MDTQ shall not be deemed to be an overlap, provided that the two transactions do not overlap on a lateral.

13. In its comments on the June 23, 2003 filing, ETG notes that the new sentence in section 9.1 of Rate Schedule FT-A defines the permitted forwardhauls and backhauls "to the same point" upstream of Dixon Springs and upstream of Lewisburg differently. As proposed in the June 23 filing, section 9.1 would permit forwardhauls and backhauls "to the same point" upstream of Dixon Springs but "on any segment of Transporter's system" upstream of Lewisburg

14. In its August 14, 2003 supplemental filing, East Tennessee states that it intends to treat segmentation upstream of Dixon Springs and Lewisburg the same and accordingly, it proposes to delete the phrase "on any segment of Transporter's system" from proposed section 9.1 as suggested by ETG. It included the change on Second Sub Original Sheet No. 13.

15. Since the August 14, 2003 filing addresses ETG's concern, the Commission accepts Second Sub Original Sheet No. 13 subject to the conditions of this order. In addition, as requested by ETG, the acceptance of the tariff sheets in this order is subject to further review pending review of the East Tennessee's December 15, 2003 filing to revise its tariff provisions concerning segmentation in light of its Patriot Project Expansion going into service. Accordingly, Sub Original Sheet No. 13 is rejected as moot.

16. In its request for rehearing of the May 23 Order, East Tennessee contends that the Commission's requirement that it remove a phrase from its proposed section 9.6 of Rate Schedule FT-A was based on a misreading of the proposed tariff language. ETG, in its rehearing request, contends that the Commission should have required East Tennessee to replace its entire proposal with language that more clearly implements the Commission's policy concerning forwardhauls and backhauls to the same point. East Tennessee included two alternative proposals for complying with the May 23 Order's directive concerning proposed section 9.6 of Rate Schedule FT-A. Its primary proposal, in Sub Original Sheet No. 13A, makes a number of language changes to its originally proposed section 9.6. Its alternate proposal, in Alt Original Sheet No. 13A, removes the phrase the May 23 Order required it to remove. The Commission finds that East Tennessee's primary proposal adequately implements the Commission's policy concerning forwardhauls and backhauls to the same point. Accordingly, the Commission accepts Sub Original Sheet No. 13A and rejects Alt Original Sheet No. 13A. The Commission also finds that the acceptance of East Tennessee's primary proposal addresses the concerns raised in the two rehearing requests.⁹

Imbalance Trading Transportation Charge

17. In the May 23 Order, the Commission determined that East Tennessee had provided a sufficient explanation of why it should be permitted to charge point operators a transportation charge in connection with the netting and trading of imbalances. East Tennessee bills its shippers under regular transportation rate schedules, such as Rate Schedule FT-A and Rate Schedule FT-GS, based upon the amounts scheduled for delivery. The point operators must also be customers under Rate Schedule LMS-PA for receipt point operators and Rate Schedule LMS-MA for delivery point operators. As discussed further below, East Tennessee's Rate Schedule LMS-MA requires the delivery point operator to pay for deliveries in excess of scheduled amounts as part of the cashing out of imbalances. The May 23 Order found that in these circumstances netting and trading of imbalances could lead to a loss of transportation revenue. For example, in a situation when East Tennessee delivered more than it scheduled, it would not be compensated for the additional service it had provided if it could not charge for the transportation as part of the netting and trading.

⁹ In its rehearing request, ETG also pointed out that the phrase the Commission found to be misleading in proposed section 9.6 was also in proposed section 9.1. East Tennessee's August 14, 2003 supplemental filing of Second Sub Original Sheet No. 13 removed that phrase from section 9.1. Since the Commission is accepting that filing, this issue is moot.

18. However, the Commission found that East Tennessee's proposal to charge the "difference in transportation revenues" that may result from imbalance trading was ambiguous, as it left to East Tennessee's discretion what the difference in transportation revenues may have been. The Commission stated that, under Rate Schedules LMS-MA and LMS-PA, imbalances are calculated monthly on a point-by-point basis and that these imbalances are the net imbalance of all transportation services from or to the point. The Commission further stated that when these netted imbalances are traded with other point's imbalances, there may or may not be a comparable set of transportation service agreements behind the point and, for East Tennessee, these imbalance volumes have lost all attribution to any specific transportation service. Therefore, the Commission concluded that, it is not clear what transportation rate East Tennessee will apply, and East Tennessee cannot simply choose any transportation rate. Accordingly, East Tennessee was directed to file revised tariff language, with adequate support, expressly stating the proposed transportation charges and how they would be calculated.

19. The Commission also found that East Tennessee did not fully address the reimbursement by the pipeline to the shipper should an overpayment to East Tennessee result from a netting and trading transaction. This could occur where a receipt point operator trades an underage below scheduled receipts to a delivery point operator with an underage below scheduled deliveries. East Tennessee was directed to modify its tariff to include language crediting or refunding revenue should a netting and/or trading transaction result in an overpayment to East Tennessee.

20. East Tennessee states that, in compliance with these requirements of the May 23 Order, it is modifying section 8.4 of Rate Schedule LMS-MA and section 6 of Rate Schedule LMS-PA to set out the proposed transportation charge to be calculated for traded quantities and include crediting or refunding of revenue in the event that an overpayment to East Tennessee occurs.

21. East Tennessee proposes to base its transportation charge on the transportation charges it collects when it cashes out a point operator's imbalances. East Tennessee does not require its Rate Schedule LMS-PA delivery point operators to pay any transportation charge when receipt point operator's imbalances are cashed out. Accordingly, East Tennessee does not propose to impose any transportation charge on receipt point operators who engage in trades. However, East Tennessee's Rate Schedule LMS-MA does require delivery point operator's to pay such a charge in connection with the cash out of their imbalances. Specifically, section 8.5(a) of Rate Schedule LMS-MA provides, in part, that:

In addition to the cash out of the monthly imbalance: (A) Balancing Party shall pay to Transporter the "Transportation Component" if total actual quantities delivered are greater than scheduled quantities, or (B)

Transporter shall pay to the Balancing Party the "Transportation Component" if total actual quantities delivered are less than scheduled quantities. The "Transportation Component" shall be equal to (1) the commodity rate pursuant to Tennessee Gas Pipeline Company's Rate Schedule FT-A for transportation from Tennessee's Zone 1 to Transporter's system multiplied by the monthly imbalance plus, (2) Transporter's commodity rate under Rate Schedule FT-A or FT-GS, as applicable, multiplied by the monthly imbalance, plus (3) an additional amount to cover Transporter's cost of gas for the system fuel and use and lost and unaccounted for gas. The additional amount shall be calculated by multiplying (1) the amount of fuel necessary to transport the imbalance on the systems of both Tennessee and Transporter by (2) the Average Price as defined in section 8.5(c)(i) below.
[Emphasis added]

22. East Tennessee proposes to amend section 8.4 of Rate Schedule LMS-MA to provide that for each LMS-MA imbalance that is traded, it will calculate a transportation component equal to the transportation charges/credits provided for by section 8.5(a) when imbalances are cashed out. East Tennessee then proposes that the resulting transportation charges/credits for each party to the trade be netted out. Specifically, proposed section 8.4 states:

If the Transportation Component calculated for the party with a due pipeline imbalance [i.e., the pipeline delivered more at the point than was scheduled] is greater than the Transportation Component for the party with a due shipper imbalance, [i.e., the pipeline delivered less at the point than was scheduled] Transporter shall assess upon the party with the due pipeline imbalance a transportation charge equal to the difference between the two Transportation Components. If the Transportation Component calculated for the party with a due pipeline imbalance is less than the Transportation Component for the party with a due shipper imbalance, Transporter shall credit the difference to the party with the due shipper imbalance.

23. East Tennessee concludes that the imbalance transportation charge set forth in the proposed revisions to section 8.4 of Rate Schedule LMS-MA ensures East Tennessee does not lose transportation revenue as a result of trading, while also providing for proper crediting or refunding of transportation charges to customers in the event of an overpayment to East Tennessee. It also accounts for the situation in which East Tennessee remains revenue neutral, thus eliminating the need to assess an imbalance transportation charge. Appendix D of the compliance filing contains examples of the imbalance transportation charge calculation in various imbalance scenarios.

24. In its comments on the compliance filing, ETG is concerned about the use of the same transportation component as used in the cash out mechanism. ETG points out that section 8.5(a) concerning cash outs incorporates Tennessee Gas Pipeline Company's (Tennessee) FT-A commodity rate in the Transportation Component for each FT-A and FT-GS service, in addition to the applicable East Tennessee commodity rate. ETG asserts that there appears no reason to include Tennessee's commodity rate in the imbalance trading calculations and East Tennessee's examples in Appendix D do not do so. ETG contends that in trades between FT-A and FT-GS in which shippers have paid for transportation it appears that the two Tennessee commodity rates would net out, but where one of the Transportation Components is zero (in examples 5 and 6) including the Tennessee commodity rate would increase the resultant charge or credit. ETG argues that East Tennessee should be required to clarify how section 8.5(a) applies to the imbalance trading calculations and whether it is consistent with the examples in Appendix D.

25. The Commission accepts East Tennessee's proposal, subject to two modifications. As the Commission has found with other orders, netting and trading imbalances in the month after the imbalances occurred does not change the transportation service that the pipeline performed during the month the imbalance occurred. The pipeline is entitled to be compensated for the actual transportation services it performed, and netting and trading should not change the compensation it receives.¹⁰ On East Tennessee's system, shippers taking deliveries at a point are billed for transportation services based on their scheduled deliveries, regardless of whether actual deliveries at a point were more or less than scheduled deliveries. The delivery point operator is then responsible for the variation from scheduled amounts.

26. When an imbalance is cashed out rather than being traded, the delivery point operator must pay for any additional deliveries beyond scheduled amounts and receives a credit if actual deliveries were less than scheduled amounts. East Tennessee calculates the charges/credits for the transportation service it performs based on the usage charge applicable to the delivery point operator's firm transportation agreement. Thus, if the delivery point operator is a shipper under Rate Schedule FT-A, its charge/credit for East Tennessee transportation service is based on the \$0.0072 usage charge in Rate Schedule FT-A, plus applicable fuel use charges. If the delivery point operator is a shipper under Rate Schedule FT-GS, its charge/credit is calculated based on the \$0.6818 usage charge in Rate Schedule FT-GS, plus applicable fuel use charges. Inclusion of these charges/credits in the cash-out mechanism reasonably compensates East Tennessee for any additional transportation

¹⁰ Maritimes & Northwest Pipeline, L.L.C., 106 FERC ¶ 61,074 at P 7, 8, 22, and 23 (2004) (Maritimes).

service it performed beyond scheduled amounts and reasonably requires East Tennessee to give credits where it actually performed less service than scheduled.¹¹

27. In Maritimes, the Commission found that it is reasonable that the pipeline impose the same charge for transportation associated with a variation from scheduled amounts in the same manner if a trade occurs, as it would if there was no trade. This is consistent with the fact that the trade does not change the service which the pipeline actually performed during the month when the imbalance occurred. East Tennessee proposes to calculate the same charges and credits for the transportation service it provides when imbalances are traded as it does when the imbalances are cashed out. However, it then proposes to offset the credit to the operator of the delivery point where deliveries were less than scheduled amounts against the charge to the operator of the delivery point where the deliveries exceeded scheduled amounts. As a result, East Tennessee would not charge or credit the two delivery point operators the same amount it would have charged or credited had no trade occurred. Therefore, the charges and credits to each delivery point operator would not reflect the actual service East Tennessee had provided at the points in question.

28. For example, if the two point operators trading underages and overages from scheduled amounts were under the same transportation rate schedule, neither would receive any charge or credit, despite the fact that one had received more service at the point than it had paid for and the other had received less. If the operator of the point where deliveries exceeded scheduled amounts was a Rate Schedule FT-GS shipper, and the operator of the point where deliveries were less than scheduled amounts was a Rate Schedule FT-A shipper with a lower usage charge, the first operator would pay a charge, but it would be reduced by an amount equal to the credit that East Tennessee would otherwise give the second shipper, and the second shipper would receive no credit. The Commission finds that this offsetting of charges and credits is inconsistent with our holding in Maritimes that the pipeline should “impose the same charge for transportation associated with the variation from scheduled amounts in the same manner, whether or not a trade occurs.” Accordingly, East Tennessee must revise its proposed section 8.4 of Rate Schedule LMS-MA to eliminate the offsetting of the charges and credits.

¹¹ As described above, East Tennessee’s cash-out mechanism also includes in the cash-out charge or credit a component representing the usage charge on Tennessee. This appears to be because the commodity index price used to determine the cost of the gas taken from East Tennessee or left on the system is based on commodity prices in Tennessee’s production area. Thus, inclusion of the Tennessee usage charge in the cash-out price is an appropriate means of adjusting the commodity index price to represent the cost of gas delivered to East Tennessee’s system.

29. The Commission also requires East Tennessee to clarify that the charges/credits it will impose for transportation service in the context of the trading of imbalances will not include any charge or credit related to transportation service on Tennessee. Above, the Commission has stated that the inclusion of the costs of transportation service on Tennessee may be appropriate as part of the price for cashing out imbalances, since such costs may be appropriately treated as part of the commodity cost of gas on the East Tennessee system. However, the trading of imbalances is an alternative to the cashing out of the cost of the gas commodity. The only transportation charge East Tennessee is permitted to impose in conjunction with the trading of imbalances is a charge for transportation service performed by East Tennessee. Such charges should be based solely on the rates for transportation service on East Tennessee and should not include any allowance for transportation service performed by some other pipeline. In fact, in the examples in Appendix D, the Transportation Component for LMS-MA transactions uses only East Tennessee's maximum usage rate for FT-A and FT-GS shippers. Therefore, in view of the examples presented in Appendix D, it does not appear that East Tennessee intended by its reference to the section 8.5 cash out to include charges for transportation on Tennessee's system. In any case, East Tennessee has not supported the use of charges for transportation on the Tennessee system for calculating the imbalance trading charge Transportation Component for LMS-MA transactions. Accordingly, the Commission directs that, within 15 days of the date this order issues, East Tennessee file revised tariff sheets, consistent with the discussion above, clarifying that the Transportation Component proposed for LMS-MA transactions used to calculate the imbalance transportation trading charge does not include charges for transportation on the Tennessee system.

Cumulative Imbalance Penalty, Action Alert Penalty, and Unauthorized Delivery Imbalance Charge

30. In the May 23 Order, the Commission consistent with the rulings in other Order No. 637 orders, required East Tennessee to remove the proposed Cumulative Imbalance Penalty provisions and the proposed increase adding an index price component for a violation of an Action Alert OFO and unauthorized delivery imbalance charge from its proposed tariff sheets.

31. East Tennessee states that that it has removed section 47.1 of the GT&C and related references from section 6 of Rate Schedule LMS-MA, section 4.4 of Rate Schedule LMS-PA, and section 14.2 of its GT&C. East Tennessee further states that it has modified section 47.5(a) of its GT&C to reinstate the currently effective Action Alert Penalty of \$0.98 per Dth set forth in section 14.8 of its GT&C. Finally, East Tennessee submits that it has modified section 47.6(a) of its GT& C to reinstate the currently effective charge equal to three times the Rate Schedule FT-A daily demand rate set forth in section 15.8 of its GT&C.

32. East Tennessee's proposed revisions are accepted subject to the conditions of this order as in compliance with the May 23 Order.

Partial Day Releases and Tariff Provisions Proposed in Other Proceedings

33. The May 23 Order rejected as moot certain changes related to partial day capacity releases, since those changes were being addressed in East Tennessee's Order No. 587-O proceeding in Docket Nos. RP02-493-000, et al. East Tennessee states that the tariff sheets submitted in Appendix A of the compliance filing do not contain the proposed changes related to partial day releases that were originally filed in this proceeding. However, East Tennessee further states that the filing includes revised provisions approved in intervening proceedings.¹² East Tennessee submits that it has included revised provisions approved or with respect to the Order No. 587-O and 587-R proceedings anticipated to be approved in these intervening proceedings.

34. As noted in the May 23 Order, the Commission has considered partial day release revisions in another proceeding. East Tennessee states that while it has removed its proposed revisions related to partial day releases that were originally filed in this proceeding, it has submitted proposed tariff sheets in the June 23, 2003 compliance filing which include the revised provisions approved or with respect to the Order No. 587-O and 587-R proceedings anticipated to be approved in intervening proceedings. Therefore, the Commission's acceptance of the tariff sheets in these proceedings is subject to the tariff sheets being revised to reflect any revisions ordered by the Commission in the other proceedings to which East Tennessee refers.

Other Modifications

PAL service

35. East Tennessee states that it has determined that certain charges reflected on Rate Sheet No. 4A for the Park and Loan (PAL) service are not applicable to this service. East Tennessee asserts that, specifically, the adjustments under sections 33 (Gas Research Institute Rate Adjustment) and 34 (FERC Annual Charge Adjustment) for the PAL service have been removed from this rate sheet. East Tennessee further asserts that section 34.1 of its GT&C has also been modified to remove PAL from the list of Funding Services for the ACA charge.

¹² East Tennessee states that since the submission of its March 27, 2002 and December 2, 2002 compliance filings, the Commission has accepted and established effective dates prior to September 1, 2003 for tariff sheets in Docket Nos. RP02-262, RP02-493, RP02-558, RP03-113, and RP03-188.

36. The January 30 Order accepted the East Tennessee's revised tariff sheets proposing a maximum recourse rate, subject to discounting, for the new PAL service equivalent to the maximum Rate Schedule IT rate. The Commission stated that the rate design for PAL service would be examined in East Tennessee's next general rate proceeding. Therefore, East Tennessee's proposed revisions, to which no party objects, are accepted subject to the conditions of this order. Consistent with our prior decision, the rate design for PAL service will be examined in East Tennessee's next general rate proceeding.

Curtailment Priority

37. East Tennessee states that, in its March 27, 2002 compliance filing, it proposed a change to the curtailment priorities set forth in section 15.6 of its GT&C to state that service would be curtailed in the reverse order of the scheduling priorities defined in section 15.3 of the General Terms and Conditions. East Tennessee further states that it is submitting a revised section 15.6 to remove the modifications proposed in the March 27, 2002 compliance filing and to instead retain the currently effective curtailment provision. East Tennessee asserts that it is submitting this change to reflect the Commission's policy, as articulated in certain recent Order No. 637 compliance proceedings,¹³ that once secondary firm capacity is scheduled, all firm services should be curtailed on a pro rata basis. Proposed section 15.6 of the GT&C on Sub Fifth Revised Sheet No. 131 provides, in part, that East Tennessee:

will curtail interruptible service first in reverse scheduling order and then firm service pro rata; provided that verifiable receipt point quantities will not be subject to a supply short fall curtailment.

38. East Tennessee correctly points out that its proposed modification to curtailment priority is consistent with recent Order No. 637 compliance filings. Therefore, the proposed revisions are accepted subject to the conditions of this order.

The Commission orders:

(A) Revised tariff sheets filed on June 23, 2003, and August 14, 2003, in these proceedings, except those rejected as indicated in the Appendix to this order, are accepted to be effective March 1, 2004, subject to the conditions in this order and the Ordering Paragraphs below and further review, as discussed in the body of this order.

¹³ Citing Texas Eastern Transmission, LP, 103 FERC 61,278 (2003); Maritimes & Northeast Pipeline, L.L.C., 100 FERC ¶ 61,030 (2002), reh'g denied, 103 FERC ¶ 61,316 (2003); Gulfstream Natural Gas System, L.L.C., 103 FERC ¶ 61,068 (2003).

(B) The requests for clarification or rehearing are hereby granted, and denied, as discussed in the body of this order.

(C) East Tennessee is directed to file revised tariff sheets consistent with the directives set forth in this order within 15 days of the date this order issues.

(D) The Commission finds that subject to the modifications and conditions discussed above, East Tennessee has complied with the May 23 Order in these proceedings.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

APPENDIX

EAST TENNESSEE NATURAL GAS COMPANY

Filed in Docket No. RP00-469-005

Second Revised Volume No. 1

Tariff Sheets Conditionally Accepted To Be Effective March 1, 2004

Sub Sixth Revised Sheet No. 1	Sub Second Revised Sheet No. 125
Sub First Revised Sheet No. 2	Sub Third Revised Sheet No. 126
Sub Third Revised Sheet No. 4A	Sub Eighth Revised Sheet No. 127
Sub Fourth Revised Sheet No. 33	Sub Fifth Revised Sheet No. 129A
Sub Seventh Revised Sheet No. 52	Sub Fifth Revised Sheet No. 132
Sub Eighth Revised Sheet No. 52A	Sub Fourth Revised Sheet No. 134
Sub Second Revised Sheet No. 52B	Sub Sixth Revised Sheet No. 139
Sub Fifth Revised Sheet No. 52C	Sub Fifth Revised Sheet No. 140
Sub Seventh Revised Sheet No. 54	Sub Third Revised Sheet No. 144
Sub Second Revised Sheet No. 54B	Sub Fourth Revised Sheet No. 167
Sub Fifth Revised Sheet No. 55	Sub Fifth Revised Sheet No. 168
Sub First Revised Sheet No. 55A	First Revised Sheet No. 175A
Sub Eighth Revised Sheet No. 61	Sub Ninth Revised Sheet No. 176
Sub First Revised Sheet No. 62A	Sub Original Sheet No. 176A
Sub Eighth Revised Sheet No. 63	Sub Original Sheet No. 177A
Sub Third Revised Sheet No. 64	Sub Original Sheet No. 177B
Sub Original Sheet No. 68	Sub Original Sheet No. 177C
Sub Original Sheet No. 69	Sub Original Sheet No. 177D
Sub Original Sheet No. 70	Sub Original Sheet No. 177E
Sub Original Sheet No. 71	Sub Original Sheet No. 177F
Sub Original Sheet No. 72	Sub Original Sheet No. 177G
Sub Original Sheet No. 73	Sub Second Revised Sheet No. 205
Sub Original Sheet No. 74	Sub First Revised Sheet No. 207
Sub Original Sheet No. 75	Sub Second Revised Sheet No. 208
Sheet Nos. 76-99	Sub First Revised Sheet No. 214
Sub Seventh Revised Sheet No. 101	Sub Third Revised Sheet No. 216
Sub Sixth Revised Sheet No. 103	Sub Third Revised Sheet No. 217
Sub Eighth Revised Sheet No. 105	Sub Second Revised Sheet No. 223
Sub First Revised Sheet No. 105A	Sub Third Revised Sheet No. 224
Sub First Revised Sheet No. 112	Sub Second Revised Sheet No. 225
Sub Third Revised Sheet No. 113	Sub Second Revised Sheet No. 230
Sub Fifth Revised Sheet No. 123	Sub Second Revised Sheet No. 231
Sub Fifth Revised Sheet No. 124	Sub Third Revised Sheet No. 232

Sub First Revised Sheet No. 233
Sub First Revised Sheet No. 234
Sub Second Revised Sheet No. 235
Sheet Nos. 236-237
Sub Second Revised Sheet No. 273
Sub First Revised Sheet No. 8
Sub Eighth Revised Sheet No. 9
Sub Original Sheet No. 9A
Sub Fifth Revised Sheet No. 10
Sub Original Sheet No. 13A
Sheet Nos. 14-16
Sub First Revised Sheet No. 19
Sub Fifth Revised Sheet No. 20
Sub Fourth Revised Sheet No. 129B
Sub Fourth Revised Sheet No. 130
Sub Fifth Revised Sheet No. 131
Sub Fourth Revised Sheet No. 147

Filed in RP00-469-006

Second Sub Original Sheet No. 13

Tariff Sheets Rejected As Moot

Sub Original Sheet No. 13
Alt Original Sheet No. 13A
Alt Fourth Revised Sheet No. 130
Sub Third Revised Sheet No. 130
Sub Seventh Revised Sheet No. 9
Sub Third Revised Sheet No. 129B