

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell

CenterPoint Energy Gas Transmission Company

Docket No. RP96-200-104

ORDER ACCEPTING AND SUSPENDING TARIFF SHEET SUBJECT
TO REFUND AND CONDITIONS AND FURTHER REVIEW

(Issued July 11, 2003)

1. On June 16, 2003, CenterPoint Energy Gas Transmission Company (CEGT) filed a revised tariff sheet¹ which it states corrects a tariff sheet which has been accepted and suspended subject to refund and conditions and further review by a June 13, 2003 order in Docket No. RP96-200-102.² For the reasons discussed below, the Commission will waive the notice requirements of Section 154.207 of the regulations, and accept and suspend Substitute Second Revised Sheet No. 862, to be effective May 16, 2003, subject to refund and conditions and further review. This order benefits the public by allowing the Commission to obtain necessary information to determine whether the proposed rates and terms of service are just and reasonable and not unduly discriminatory.

Details of the Filing

2. CEGT has filed a tariff sheet which it states corrects a tariff sheet which reflects a negotiated rate transaction under contract number 1003565 with Entergy Arkansas, Inc. The revision changes an Activity Rate to \$0.01 per Dth from \$0.08 per Dth.

3. CEGT requests that the Commission grant any waivers of the Commission's regulations which are necessary in order to make the tariff sheets effective as of May 16, 2003.

Notice, Interventions and Protests

4. The filing was noticed on June 18, 2003, with comments, protests or interventions due on or before June 30, 2003. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2003)), all

¹Substitute Second Revised Sheet No. 862 to FERC Gas Tariff, Sixth Revised Volume No. 1

²103 FERC ¶ 61,330 (2003).

timely motions to intervene are granted and any motions to intervene out of time filed before the date of this order are granted. Granting late intervention at this stage of the proceedings will not disrupt the proceedings or place additional burdens on existing parties. No protests were filed.

Discussion

5. CEGT has filed the tariff sheet, and not the contract, to reflect the essential elements of this transaction. However, it has not included a statement affirming that this negotiated rate contract does not deviate in any material aspect from the form of service agreement in the tariff. Such a statement is mandatory as required by the order on rehearing of the order accepting CEGT's tariff provision authorizing it to negotiate rates pursuant to the Commission's negotiated rate policy.³ Thus, the Commission does not have the requisite information to evaluate this transaction to determine whether the agreement includes material deviations and if so, whether that deviation might be unduly discriminatory or otherwise contrary to Commission policy. Therefore, the Commission will accept and suspend the tariff sheet, subject to refund and conditions and further review.

6. Based on the information available and because CEGT has not made the requisite statement that there are no material deviations with respect to these transactions, the Commission directs CEGT to file a copy of the agreements and any related contracts and documentation, so that the Commission can determine if the agreements are non-conforming. Upon receipt of this information, the filings will be subject to further review to determine if they are consistent with the Commission's regulations and policies. The Commission's conditional acceptance will also be subject to the outcome of the proceedings in Docket No. RP96-200-102. Since the filing corrects CEGT's previous filing in Docket No. RP96-200-102 of a tariff sheet implementing a negotiated rate agreement and significantly reduces the rate, the Commission waives the 30-day notice requirement in Section 154.207 in order to permit the instant tariff sheet to take effect May 16, 2003, the date the tariff sheet in Docket No. RP96-200-102 took effect.

Suspension

7. Based upon a review of the filing, the Commission finds that Substitute Second Revised Sheet No. 862 has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. While the Commission does not ordinarily suspend negotiated rate filings, in the instant case the Commission lacks

³See 75 FERC & 61,091 (1996); order on rehearing, 77 FERC & 61,011 (1996).

sufficient information to determine if any conditions should be imposed on the instant filing. Accordingly, the Commission will accept Substitute Second Revised Sheet No. 862 for filing, and suspend its effectiveness for the period set forth below, and permit it to become effective, subject to refund and conditions and further review.

8. The Commission's policy regarding rate suspensions is that rate 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 that it may be inconsistent with other statutory standards.⁴ 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.⁵ Such circumstances exist here where the pipeline is filing to correct a previous filing and the correction reduces the rate previously filed. Therefore, the Commission will exercise its discretion to suspend the rates for a shorter period and permit the rates to take effect on May 16, 2003, subject to refund and conditions and further review.

The Commission orders:

(A) Substitute Second Revised Sheet No. 862 to FERC Gas Tariff, Sixth Revised Volume No. 1, is accepted and suspended, to be effective May 16, 2003, subject to refund and conditions and to the outcome of the proceedings in Docket No. RP96-200-102 and further review, as discussed in the body of this order and the ordering paragraphs below.

(B) Waiver of the 30-day notice requirement of Section 154.207 of the Commission's regulations is granted.

(C) CEGT must file the negotiated rate agreement contracts and any related contracts and documentation within 15 days of the date this order issues.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

⁴See Great Lakes Gas Transmission Co., 12 FERC & 61,293 (1980).

⁵See Valley Gas Transmission, Inc., 12 FERC & 61,197 (1980).