

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

July 11, 2003

In Reply Refer To:  
CenterPoint Energy Gas Transmission  
Company  
Docket No. RP00-482-005

CenterPoint Energy Gas Transmission Company  
525 Milam Street  
Shreveport, LA 71101

Attention: Lawrence O. Thomas, Director, Rate & Regulatory

Reference: Order No. 637 Compliance Filing

Dear Mr. Thomas:

1. On March 27, 2003, CenterPoint Energy Gas Transmission Company (CenterPoint) filed revised tariff sheets<sup>1</sup> to comply with the Commission's March 4, 2003 order on compliance with Order No. 637 (March 4 Order).<sup>2</sup> The March 4 Order accepted CenterPoint's filing subject to CenterPoint making certain revisions within 30 days of the orders. This order conditionally accepts the tariff sheets effective February 28, 2003, as requested, subject to CenterPoint making the revisions discussed below within fifteen days of the date of this order.

2. The filing was noticed on April 1, 2003, with comments, protests or interventions due on or April 8, 2003, as provided in Section 154.210 of the Commission's regulations. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214). No protests or adverse comments were filed.

3. The March 4 Order required CenterPoint to file revisions to its discounting and unauthorized overrun penalty provisions. Regarding discounting, the March 4 Order

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<sup>1</sup>Substitute Original Sheet No. 34, Substitute Original Sheet No. 456 and Substitute Original Sheet No. 457 to FERC Gas Tariff Sixth Revised Volume No. 1.

<sup>2</sup>CenterPoint Energy Gas Transmission Company, 102 FERC ¶ 61,258 (2003).

directed CenterPoint to: (1) remove tariff language that limits the applicability of discount retention rights to new contracts; (2) modify tariff language which completely excludes negotiated rate shippers from receiving the benefit of the CIG/Granite State policy; (3) remove language that allows a shipper to waive its rights to retain discounts; (4) modify tariff language that if CenterPoint ceases to offer a discount in a similarly situated transaction at the alternative point, then the shipper shall revert back to the maximum rate; and (5) modify tariff language to provide for an earlier response time (8:30 a.m.) to respond to discount requests made on non-business days or after 4 p.m. on business days. Regarding unauthorized overrun penalties, the March 4 Order directed CenterPoint to revise its tiered-penalty structure for critical periods so that it will not impose greater penalties than the penalty levels that already exist under its tariff. We find that CenterPoint's filing satisfactorily complies with the directives of the Commission's March 4 Order.

4. However, we find that one other aspect of CenterPoint's discount language in Section 12.5 of its General Terms and Conditions (GT&C) is inconsistent with the Commission's discount policy articulated in CIG /Granite State,<sup>3</sup> where the Commission adopted a new policy that permits a shipper to retain a discount when it moves to segmented points or secondary points through a streamlined process in which the pipeline processes requests for discounts within two hours. Under this policy, there is a rebuttable presumption that a shipper holding a discount at a point will retain a discounted rate if it chooses to segment, release capacity or use its flexible receipt and delivery point rights to move gas to another point, at which the pipeline has granted discounts of its firm or interruptible transportation services.

5. CenterPoint's discount language restricts the applicability of the Commission's discount policy to shippers with whom CenterPoint has agreed to a rate less than the maximum applicable recourse rate "limited to specific Receipt and Delivery Point combinations." Moreover, CenterPoint has proposed that the rebuttable presumption would only apply if at the time of the request one other shipper receives discounted service for the transactions "at such point combinations."

6. The Commission's discount policy was intended to allow all shippers with discounted rates who seek to use secondary points to retain a discount so long as a

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<sup>3</sup>Colorado Interstate Gas Co., 95 FERC ¶ 61,321 (2001); Granite State Gas Transmission, Inc., 96 FERC ¶ 61,273 (2001), reh'g denied, 98 FERC ¶ 61,019 (2002).

similarly situated shipper is receiving a discount.<sup>4</sup> Under CenterPoint's proposed tariff language, a shipper seeking to retain a discount when using a secondary delivery point could only be considered similarly situated to another shipper at that delivery point, if both shippers were also using the same receipt point. The Commission has rejected pipeline proposals for such "hard and fast" rules for determining whether shippers are similarly situated. As the Commission stated in Williams,

the pipeline must decide at the time a shipper requests to retain its discount whether the segmented or secondary point transaction is similarly situated with the transaction already receiving the discount at the secondary point. In making its determination, the pipeline must weigh all relevant factors rather than applying a hard and fast rule.<sup>5</sup>

CenterPoint can offer discounts on the basis of not only specific point combinations, but on the basis of other criteria including zones, transportation routes, and markets.<sup>6</sup> Merely because shippers may have a different primary transportation path is not sufficient to justify a finding that shippers are not similarly situated. For example, given the ability to use flexible receipt points, one shipper's use of a receipt point different from that of another does not necessarily mean that such shippers are not similarly situated at the delivery point at which the discount is given. While in some cases, the specific point combination may be relevant to the discount decision, in other cases, such as where a discount is given because a shipper is fuel switchable, it may not be. Therefore, CenterPoint cannot adopt a rule that automatically finds that discount requests with different transportation paths are always deemed non-similar.

7. For these reasons, CenterPoint's proposed restrictions on the applicability of the Commission's discount policy and proposed rule for determining whether shippers are similarly situated are at directly at odds with the Commission's discount policy and are rejected.

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<sup>4</sup>The shipper seeking to move its point will pay the higher of its contractual rate of the discount rate being offered at the alternative point. See CIG, 95 FERC ¶ 61,321, at 62,121 n. 38.

<sup>5</sup>Williams Gas Pipelines Central, Inc., 100 FERC ¶ 61,034 at P 56 (2002).

<sup>6</sup>See Section 12.5(a) of the GT&C. CenterPoint has not asserted that it offers discounts to shippers only on the basis of specific point combinations.

8. Accordingly, CenterPoint is directed to modify its tariff to eliminate all references to specific receipt and delivery point combinations in Section 12.5(b) of its GT&C within 15 days to be effective February 28, 2003.

By direction of the Commission.

Magalie R. Salas,  
Secretary.