128 FERC ¶ 61,257
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Saltville Gas Storage Company, L.L.C.	Docket Nos.	RP08-479-002 and RP08-479-003;
East Tennessee Natural Gas, LLC	Docket Nos.	RP08-487-002 and RP08-487-003;
Algonquin Gas Transmission, LLC	Docket Nos.	RP07-139-006 and RP07-139-007 (*Not Consolidated*)

ORDER DENYING REQUEST FOR REHEARING
AND ACCEPTING COMPLIANCE FILING

(Issued September 17, 2009)

1. On March 30, 2009, Saltville Gas Storage Company, L.L.C. (Saltville), East Tennessee Natural Gas, LLC (East Tennessee), and Algonquin Gas Transmission, LLC (Algonquin) (collectively, Spectra or the Spectra pipelines) filed a request for rehearing, or alternatively clarification, of the Commission's order issued on February 26, 2009 (February 26 Order).[1] On March 30, 2009, the Spectra pipelines also filed revised tariff sheets in compliance with the February 26 Order.[2] As discussed in more detail below, the Commission denies the requests for rehearing, and accepts the subject tariff sheets effective March 1, 2009, consistent with the February 26 Order.

I. **Background**

2. On August 1, 2008, Saltville and East Tennessee filed proposed changes to their respective tariffs concerning, among other things, a net present value (NPV) allocation

[1] *Saltville Gas Storage Co., L.L.C.* 126 FERC ¶ 61,181 (2009).

[2] *See* Appendix for list of tariff sheets.

method for available capacity to include the probability of default as one of its factors.[3] Under this proposal, the value of a prospective bid would first be assessed using the standard, commonly-accepted NPV calculation, and then further reduced by a certain percentage, the Risk of Default Factor. The Risk of Default Factor is found by reading Standard & Poor's *Cumulative Average Default Rates by Rating Modifier* table for the bidder's credit rating and the term of the bid.[4] A bid's NPV could be reduced anywhere from zero percent (the factor for a one-year bid from a shipper with perfect credit) to 52.5 percent (the factor for a fifteen-year bid from a shipper with the worst credit rating).

3. On August 29, 2008, the Commission accepted and suspended the proposed tariff changes of both Saltville[5] and East Tennessee[6] (the August 29 Orders), subject to refund and conditions, and subject to the outcome of a technical conference. In both orders, the Commission directed its Staff to convene a technical conference to address the proposed services and terms and conditions. A similar proposal had been made by Algonquin in Docket No. RP07-139-000, *et al*. On February 16, 2007, the Commission accepted and suspended similar proposed changes to Algonquin's tariff, subject to refund and conditions.[7] On July 19, 2007, the Commission accepted a compliance filing by Algonquin, subject to certain modifications.[8] Hess Corporation (Hess) requested clarification and rehearing and Nexen Marketing U.S.A. Inc. (Nexen) requested rehearing of the July 19, 2007 Order. Algonquin filed a motion to answer. Consolidated Edison Company of New York, Inc., and Orange Rockland Utilities filed a reply to Hess' request for clarification. On September 19, 2007, the Commission granted a request for rehearing for further consideration. By the time the August 29 Orders were issued in Saltville and East Tennessee, the Commission had not issued a final order for Algonquin.

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[3] Net present value is a standard method for appraising long-term projects by using the time value of money to determine the present value of a time series of discounted cash flows. The calculation takes the form $\Sigma\ (R_t / (1+i)^t)$, where Σ is the summation function, R is the nominal return, t is the time, and *i* is the discount rate.

[4] *See* Standard & Poor's Ratings Direct, Feb. 5, 2008, at p 11, *available at* https://www2.standardandpoors.com/spf/pdf/products/2007_Default_Study.pdf. The Risk

[5] *Saltville Gas Storage Company, L.L.C.*, 124 FERC ¶ 61,209 (2008).

[6] *East Tennessee Natural Gas, LLC*, 124 FERC ¶ 61,210 (2008).

[7] *Algonquin Gas Transmission, LLC*, 118 FERC ¶ 61,123 (2007).

[8] *Algonquin Gas Transmission, LLC*, 120 FERC ¶ 61,072 (2007) (July 19, 2007 Order).

4. On September 26, 2008, the Commission issued a Notice of Technical Conference to address the issues raised in the proceedings for Saltville, East Tennessee, and Algonquin. All three companies are subsidiaries of Spectra. On December 17, 2008, Spectra filed a Stipulation and Agreement (Settlements) in each of the respective dockets.[9]

5. In the February 26 Order, the Commission conducted an "independent consideration of fairness, reasonableness, and the public interest,"[10] and found the Settlements unacceptable. The Commission found that the Settlements discriminated against shippers rated less than BBB- by requiring the posting of collateral greater than what is justified by the NPV bid evaluation formula used by the pipeline. The Commission explained that valuing the collateral required by the non-creditworthy shipper at the full contractual value by year is not consistent with the use of NPV to value bids. The Settlements also overstated the risk of a BB+ shipper as compared to a BBB- shipper. The Settlements would require a shipper just below the cut-off rating to pay several years' worth of collateral, even though the Commission found the actual risk presented by such a shipper to be marginal. Accordingly, the Commission approved the Settlements, subject to conditions, effective March 1, 2009. Specifically, the Commission conditioned acceptance on (1) revision of the provisions determining the amount of collateral a non-creditworthy shipper would need to provide in order to avoid a reduction in the NPV of its bids, and (2) either revision of the Settlements to reflect only the increased risk associated with a non-creditworthy shipper or an explanation of the basis upon which the reduction in bid is calculated.

II. Discussion

A. Conditional Acceptance of the Settlements

1. Request for Rehearing

6. Spectra asserts that the Commission should grant rehearing and should approve the Settlements without condition or modification, as it typically does with uncontested settlements. Spectra contends that the Commission has not sufficiently explained why it would do otherwise in this case, and the February 26 Order is therefore in error. Spectra states that it and the other parties "compromised each of their positions in order to reach a resolution of the issues in the case that was acceptable to all and as such was

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[9] The Settlements resolved the issues raised by Hess and Nexen in the Algonquin proceeding.

[10] February 26 Order, 126 FERC ¶ 61,181 at P 11 (quoting *Petal Gas Storage, L.L.C. v. FERC*, 496 F.3d 695, 700 (D.C. Cir. 2007)).

uncontested."[11] Spectra avers that the resolution was fair and reasonable and in the public interest.

7. Spectra contends that "[t]he Commission particularly favors uncontested settlements," because they "conserve the resources of the Commission and the parties and resolve complicated issues in a way that is agreeable for the regulated entity and its customers."[12] In this case, Spectra explains that the parties reached agreement with the pipelines on how the Risk of Default Factor would work in evaluating bids for existing capacity. Spectra asserts that the issues were complicated, and the positions of the parties were widely different, but "a balance was struck that … prevented the necessity to rule on complicated issues of fact and policy."[13] Spectra maintains "[t]he Commission's February 26 Order upset that balance by requiring a change adverse to the Spectra Pipelines."[14]

8. "The Commission's action in conditioning the Settlements sets a bad precedent," Spectra claims, because "[p]arties will be reluctant to settle contentious issues if the Commission will take the settlements, unilaterally modify it, and require the pipeline to make a substantive compliance filing."[15] Spectra states that this approach takes a settled method and changes it without the parties' consent. Spectra concludes that this will discourage settling, which is generally the opposite of what the Commission has tried to encourage.

2. Commission Determination

9. While the Commission frequently approves uncontested settlements, the Commission has a responsibility to provide "independent consideration of fairness, reasonableness, and the public interest."[16] Indeed, the Commission exercises this authority when necessary, attaching conditions to uncontested settlements, and even

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[11] Spectra Request for Rehearing at 9.

[12] *Id.*

[13] *Id*. at 10.

[14] *Id*.

[15] *Id*.

[16] *Petal Gas Storage, L.L.C. v. FERC*, 496 F.3d 695, 700 (D.C. Cir. 2007).

rejecting some entirely.[17] And, the Commission has recently rejected an uncontested settlement based on a similar creditworthiness proposal.[18] The Commission exercises this authority particularly when the settlement, as this one, may have an impact on future parties or others not present during the negotiations.[19] In this case, for example, the Settlements did not treat reasonably the interests of non-creditworthy shippers. For the substantive reasons discussed in the February 26 Order and reviewed in the sections below, that independent consideration of the public interest led the Commission to the conclusion that Spectra's proposed Settlements were not fair and reasonable. Given this conclusion, it would have been an abrogation of the Commission's duty to have approved the Settlements simply out of a general desire to promote uncontested settlements.

B. Standard of Review for Settlements

1. Request for Rehearing

10. Spectra cites to a sentence in the order stating that the collateral terms were "unjust and unreasonable" and argues that the Commission erred by applying the "just and reasonable" standard of review to the Settlements. Spectra contends that the Commission's regulations and case law establish that the standard of review for uncontested settlements is the "fair and reasonable and in the public interest" standard of review, while the "just and reasonable" standard is the standard of review for contested settlements.[20] Spectra notes that the Commission acknowledged in the February 26 Order that the Settlements were uncontested and that the standard of review was the "fair and reasonable and in the public interest" standard of review. However, Spectra observes, the February 26 Order then made a finding that the method for calculating collateral was "unjust and unreasonable and unduly discriminatory." Spectra concludes that the Commission therefore applied the incorrect legal standard in evaluating the method of calculating collateral under the Settlements, and this is error.

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[17] *Amaranth Advisors L.L.C.*, 126 FERC ¶ 61,112 (2009) (rejecting uncontested Settlements between Respondents and Commission's Office of Enforcement Litigation Staff).

[18] *Tuscarora Gas Transmission Co.*, 127 FERC ¶ 61,217 (2009) (*Tuscarora*).

[19] *E.g., Norwalk Power, LLC*, 125 FERC ¶ 61,390 (2008) (conditionally accepting subject to revisions to the standard of review applicable to non-settling third parties).

[20] *See* Spectra Request for Rehearing at 11 (citing, e.g., 18 C.F.R. § 385.602(g)(3) (2008).

2. **Commission Determination**

11. Our original order referenced the correct standard for approving an uncontested settlement - which is whether the settlement "appears to be fair and reasonable and in the public interest."[21] Upon examination of the terms and conditions of the settlement, we concluded that it did not appear to be fair and reasonable or in the public interest. In fact, when we examined it more closely, we found that it was unjust and unreasonable, and unreasonably discriminatory because of the undue burden it would place on non-creditworthy shippers that might seek service on the pipelines in the future: [22]

> The Commission will approve the Settlements subject to conditions relating to the collateral required of shippers with credit ratings less than BBB- (non-creditworthy shippers). In acting on an uncontested Settlement, the Commission has a duty to provide "independent consideration of fairness, reasonableness, and the public interest." While the proposed Settlements satisfy these criteria with respect to shippers who are rated BBB- and above, it discriminates against shippers rated less than BBB- by requiring the posting of collateral greater than what is justified by the NPV bid evaluation formula used by the pipeline.[23]

As we disagree that we applied an incorrect standard, we deny rehearing.

C. **Review of Evidentiary Support for Settlements**

1. **Request for Rehearing**

12. Spectra takes issue with one sentence in the February 26 Order which states: "The Spectra Companies have not provided any justification for their use of the Standard & Poor's table to calculate collateral in this manner, nor have they cited to any literature suggesting that its method for calculating collateral is accepted in the financial

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[21] February 26 Order at P 19; 18 C.F.R. §385.602(g)(3) (2008) (emphasis added).

[22] *See Petal Gas Storage, L.L.C. v. FERC*, 496 F.3d at 700 (emphasizing the use of the word "may" in Rule 602 and stating "the Commission has a duty to disapprove uncontested settlements that are unfair, unreasonable, or against the public interest").

[23] February 26 Order, 126 FERC ¶ 61,181 at P 19 (quoting *Petal Gas Storage, L.L.C. v. FERC*, 496 F.3d 695, 700 (D.C. Cir. 2007)).

markets."[24] It argues that "the Commission does not generally require evidence in support of an uncontested Settlement, and the February 26 Order did so without explaining its deviation from Commission policy."[25] It further argues that any settlement is a compromise position and, by definition, it would not be supported by the evidence or justifications offered by any party to the proceeding in support of its position.

2. <u>Commission Determination</u>

13. First, as we made clear in the February 26 Order, the Commission rejected the Settlements because we found as a substantive manner "that valuing the collateral required by the non-creditworthy shipper at the full contractual value by year is not consistent with the use of NPV to value bids."[26] The reference to Spectra's failing to justify its proposal to calculate collateral refers not only to the explanatory statement provided with the Settlements, but to Spectra's failure to justify the identical approach to calculating collateral in its initial filing. While evidence is not necessary to support an uncontested settlement, the filing party is required to submit an explanatory statement that demonstrates that the settlement is at least fair and reasonable and in the public interest. A settlement may rely upon the existing record.[27] However, in this instance, Spectra did not, in either its initial filing or in the Settlements, provide any support for its initial filing, and in particular for calculating collateral in a manner that was at odds with the present value formula used by Spectra to determine bids.

D. <u>Rejection of Settlements' Method for Calculating Collateral</u>

1. <u>Request for Rehearing</u>

14. Spectra asserts, "[t]he premise underlying the method for calculating collateral reflects the realities of collateral, and the Commission erred by rejecting it."[28] Spectra argues that the collateral mechanism affords a non-creditworthy bidder an opportunity, not a requirement, to post additional collateral in order to increase the NPV of its bid up to what it would have been if the bidder were creditworthy. Spectra states that "[t]he method for calculating collateral in the Settlements was that a non-creditworthy bidder wishing not to have the Risk of Default Factor apply to its bid would post enough

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[24] February 26 Order, 126 FERC ¶ 61,181 at P 22.

[25] Spectra Request for Rehearing at 12.

[26] February 26 Order, 126 FERC ¶ 61,181 at P 23.

[27] 18 C.F.R. § 385.602(c)(1) (2008).

[28] Spectra Request for Rehearing at 13.

collateral, in yearly increments, to move to the probability of default on the S&P Table below what a hypothetical bidder with an S&P Rating of BBB- would have for the term of the bid."[29]

15. Spectra offers, by way of example, a bidder with an S&P rating BB+ and a bid for 10 years. Spectra states that the S&P Table gives a probability of default of 10.21 percent at 10 years for a rating of BB+ and a probability of default of 6.91 percent at 10 years for an entity with an S&P Rating of BBB-. Spectra states that the BB+ bidder would have to post enough collateral to reduce the term of its bid that is unsecured to a probability of default less than 6.91 percent. In this case, Spectra states, the S&P Table shows that a BB+ bidder with a term of six years has a probability of default of 6.71 percent. Spectra concludes that the BB+ bidder would have to post four years of collateral in order to avoid application of the Risk of Default Factor.

16. Spectra argues that "[t]he method for calculating collateral in the Settlements, while different from the collateral posting method proposed in the tariff filings, accurately reflects the role that collateral plays in a transaction."[30] Spectra asserts that "[i]f a pipeline agrees to provide 10 years' worth of services and takes four years' worth of collateral, it is unsecured, and thus exposed, for six years of the 10 year term of the agreement."[31] Spectra concludes that "[i]t is logical … to look to the S&P Table for the rate of default of someone with the shipper's credit rating for a six-year term."[32]

17. Spectra asserts that the Commission's proposed changes in the February 26 Order would greatly overvalue collateral. Spectra argues that, "as proposed in the Settlements[,] every dollar of collateral secures only an equivalent dollar of the bidder's payment obligations, but the changes required by the February 26 Order would mean that each dollar of collateral would secure many multiples of as many dollars of the bidder's payment obligations."[33] Spectra contends that the February 26 Order does not explain or support why this is an appropriate way to value collateral in the context of these cases and the Settlements. Spectra also contends that the Commission does not explain why it rejects use of the S&P Table for calculating collateral as the Settlements do when it had approved a similar use of the S&P Table to calculate collateral when it approved the

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[29] *Id*.

[30] *Id.*

[31] *Id.* at 13-14.

[32] *Id.* at 14.

[33] *Id*.

Algonquin tariff filing. Spectra concludes that these failures to explain its holding constitute error.

2. Commission Determination

18. We continue to find that using the Standard & Poor's table in the way Spectra proposed in the Settlements to determine collateral for a shipper with a credit rating below BBB- is not reasonable. The Commission has consistently found that pipelines proposing a risk of default approach to determining creditworthiness must include a reasonable method of determining collateral. In its first ruling on a risk-weighted NPV model, in *Gas Transmission Northwest Corp.*, the Commission required the pipeline "to provide that a shipper could elect to post additional collateral to increase the net present value of its bid."[34] As the *Policy Statement on Creditworthiness* had already advised, pipelines are to "apply a reasonable limit on the amount of collateral a non-creditworthy shipper would have to provide in order to have its bid considered equivalent to that of creditworthy bidders."[35]

19. Under Spectra's proposed method of determining bids, the present value of a bid by a shipper BBB- or better is not subject to reduction even though these bids present a risk of default. However, bids by shippers with credit ratings lower than BBB- are subject to a reduction. For example, on a 10-year contract, the risk of default for a shipper with a BB+ credit rating is 10.21 percent over the life of the contract.[36] Using the example from the February 26 Order of a $100/month, 100 Dth/day per month bid and a 10 percent discount factor, the industry-standard, risk-blind NPV calculation returns a present value of $756,712. Using Spectra's own proposed formula, this NPV is further reduced by the Standard & Poor's risk of default factor for a bidder with a given bond rating over a given time frame. In this example, the risk created by the shipper with a BB+ credit rating is 10.21 percent times $756,712, or $77,260. The Commission holds that, in the context of bids for pipeline capacity, payment of collateral equal to that $77,260 differential would eliminate the risk of default as determined by Spectra's own approach to evaluating present value. Since the Settlements would require the posting of

[34] *Gas Transmission Northwest Corp.*, 117 FERC ¶ 61,315, at P 16 (2006).

[35] *Policy Statement on Creditworthiness for Interstate Natural Gas Pipeline and Order Withdrawing Rulemaking Proceeding*, FERC Stats. & Regs. ¶ 31,191, at P 16 (2005).

[36] Of the companies studied by Standard & Poor's, 10.21 percent of companies with a BB+ credit rating defaulted at some time during a 10 year contract.

additional collateral exceeding the effect of the risk of default on the present value, we find such a proposal unreasonable.[37]

20. Spectra argues that, under the Settlements, "every dollar of collateral secures … an equivalent dollar of the bidder's payment obligations."[38] But, as pointed out in the February 26 Order, a dollar for dollar application of collateral is inconsistent with the use of present value to determine the value of a bid. The premise of the present value calculation is that a dollar in the future is not worth as much as a dollar today, so that future dollars are discounted when determining the current value of a stream of payments. Spectra correctly applies this present value when it determines the value of the bid. However, by treating every dollar of collateral as securing a dollar of payment obligations, it ignores the effect on present value of the collateral, requiring the potential shipper to put up far more collateral than the effect of the risk of default on present value. As shown in the example in the February 26 Order, this difference is significant. Under Spectra's proposal, the effect of a risk of default of 10.21 percent is $77,260, while Spectra's proposed collateral to offset that risk is $480,000.[39]

E. Rejection of Saltville and East Tennessee tariff filings

1. Request for Rehearing

21. Spectra asserts, "[t]he Commission provided no basis for rejecting the tariff sheets in the Saltville Tariff Filing and the East Tennessee Tariff Filing, and such rejection is error."[40] Spectra states that the February 26 Order discusses what it perceives as problems with the Settlements, but that the methods in the Settlements are very different from the methods in the tariff filings. In particular, Spectra notes that even though the tariff filings apply the Risk of Default Factor to bidders of all credit ratings, the Commission stated, "[t]he August 1, 2008 tariff sheets filed by Saltville and East Tennessee revising their credit provisions are rejected since these tariff sheets suffer from the same problems as noted above."[41] Spectra asserts that the tariff filings did not

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[37] Put another way, we find it unreasonable for Spectra to calculate the shipper's bid using one methodology (present value * risk of default), and then use another methodology to determine how much collateral is needed to eliminate the reduction in bid.

[38] Spectra Request for Rehearing at 14.

[39] *See* February 26 Order, 126 FERC ¶ 61,181 at Appendix.

[40] Spectra Request for Rehearing at 14.

[41] *See id.* at 15 (quoting February 26 Order, 126 FERC ¶ 61,181 at P 26).

propose changes to the credit provisions of East Tennessee's or Saltville's tariffs. Spectra assumes the Commission meant that it was rejecting all of the tariff sheets contained in the East Tennessee and Saltville tariff filings since it did not specify any sheets that it was accepting. Spectra concludes that rejecting all such tariff sheets without explanation, particularly when most of them do not implicate the Risk of Default Factor, is error.

2. Commission Determination

22. The Commission affirms its rejection of all of East Tennessee's and Saltville's original tariff sheets on three grounds. First, both the original tariff sheets and the Settlement tariff sheets are part of an integrated approach to using Risk of Default in credit determinations. While the originally filed tariff sheets do indeed differ from the Settlements in many respects, both suffer from the same extreme system for valuing collateral. As the above sections make clear, that system is neither fair, nor just, nor reasonable, nor in the public interest, and so the Commission could not approve the original tariff sheets any more than it could approve the Settlements so long as the offending collateral provisions remained.

23. Spectra is correct that the original tariff sheets applied risk of default to both creditworthy and non-creditworthy shippers, while the Settlement tariff sheets treat all shippers with credit statuses at or above BBB- as equally creditworthy. But the integrated tariff provisions for collateral with respect to both are the same, and so the original filing can be rejected on the same ground as the Settlements.

24. Second, Spectra itself agreed in the Settlements to replace the original tariff sheets with revised tariff sheets proposing to limit the use of the risk of default mechanism as applied to creditworthy shippers (those with ratings at or above BBB-). The filing of the Settlements thus constitutes a change to the original filing in this respect.[42] As a result, the Commission need not act on a set of tariff provisions that the pipeline is no longer supporting.

25. Third, in the suspension order, we set the entirety of the Spectra filing for technical conference, including the question whether the applicability of the Risk of Default approach to all bidders is just and reasonable. In the recent *Tuscarora* order, we found that a tariff provision identical to the originally proposed provision is unjust and unreasonable.[43] Since we see no distinction between the provision addressed in the

[42] 18 C.F.R. § 154.205(d) (Order No. 714, effective November 3, 2008).

[43] *Tuscarora,* 127 FERC ¶ 61,217 at P 22-25.

Tuscarora order and the original tariff filed by Spectra, we also find that Spectra's provision is unjust and unreasonable for the reasons articulated in the *Tuscarora* order.

26. As the February 26 Order stated, the Settlements would be acceptable if the settling parties revised the collateral provision as discussed in that order. Therefore, we appropriately conditioned our approval of the Settlements on the filing of just and reasonable tariff provisions relating to collateral from non-creditworthy shippers.

F. Request for Clarification on Future Filings

1. Request for Rehearing

27. Spectra contends that the Commission should grant rehearing and approve the Settlements without condition or modification for all of the reasons explained above. However, Spectra avers that "if the Commission does not approve the Settlements without condition or modification, then it should clarify that the February 26 Order, and any subsequent orders on rehearing or compliance filings do not preclude parties from submitting filings in the future that contain different methodologies from those in the compliance filings."[44]

2. Commission Determination

28. We agree that Spectra is free to submit other approaches to determining credit and collateral and that, as we have done here, we will review those proposals to determine whether the tariff proposals are just and reasonable under section 4 of the Natural Gas Act. Our determination here is limited to the collateral provisions included in the original filing and the Settlements, which we find unjust and unreasonable.

III. Compliance Filings

29. The February 26 Order required that the Settlements' application of the Risk of Default Factor to a bid "either be revised to reflect only the increased risk associated with a non-creditworthy shipper" as compared to a minimally creditworthy bidder, or else Spectra must provide "an explanation for why the settlement provision should be found just and reasonable."[45] In compliance with this directive, the Spectra pipelines state they will modify the application of the Risk of Default Factor to take into account only the incremental risk between the bidder and a customer with a Standard & Poor's bond rating of BBB-.

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[44] Spectra Request for Rehearing at 16.

[45] February 26 Order, 126 FERC ¶ 61,181 at P 25.

30. Spectra further notes that the Settlements, "stated that the collateral required would be the greater of the collateral required under the creditworthiness provisions or the collateral posted with the bid."[46] However, "given the condition in the February 26 Order requiring a change in method and the related dramatic decrease in the amount of collateral," Spectra instead proposes that "the collateral posted in the bidding process will be in addition to the collateral required" under the pre-existing creditworthiness provisions of the GT&C.[47] Spectra states that the collateral required to meet the creditworthiness requirements of the Tariff is separate from the capacity allocation process and is required before a customer can receive service. Spectra states that this puts all bidders on the same playing field before application of the Risk of Default Factor. Spectra avers that, by contrast, the capacity allocation process does not require any collateral and only provides a means of increasing the value of a shipper's bid. In addition, Spectra has retained the cap on the total amount of collateral at 50 percent of the revenue under the bid. Spectra provides an example to illustrate this new method for calculating collateral:

> The NPV for a 10 year bid at $10,000 per month is $756,712, and the BB+ bidder has its bid discounted by 3.3 percent, so that it equals $731,740, which is a difference of $24,971. The BB+ bidder, because it is not creditworthy, has to provide three months worth of collateral ($30,000), in any form acceptable under [the pre-existing collateral provision] of the GT&C, regardless of whether or not it chooses to post additional collateral to improve its bid. To have its bid evaluated at the higher NPV of $756,712, as if it had an S&P Rating of BBB-, the bidder has the option of posting additional collateral of $24,971. Thus, the total collateral posted by the BB+ bidder is $54,971.[48]

Spectra notes that this amount is not only less than the $480,000 worth of collateral that would have been required by the Settlements, but also less than the $77,260 set out in the Commission's example in the February 26 Order.

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[46] Saltville March 30, 2009 Compliance Filing at 2.

[47] *Id*.

[48] *See id.* at 3.

31. The Commission finds that the modifications to the methodologies for calculating the Risk of Default Factor and additional collateral comply with the directives set forth in the February 26 Order. Accordingly, the Commission accepts the compliance filings. The tariff sheets set forth in the Appendix are accepted effective March 1, 2009, consistent with the February 26 Order.

The Commission orders:

(A) The requests for rehearing are denied, as set forth in the body of the order.

(B) The compliance filings and the attendant tariff sheets set forth on the Appendix to this Order are accepted, effective March 1, 2009.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

APPENDIX

Algonquin Gas Transmission, LLC
Docket No. RP07-139, *et al.*
FERC Gas Tariff,
Fifth Revised Volume No. 1
<u>Accepted, effective March 1, 2009:</u>

Third Revised Sheet No. 513
Original Sheet No. 513A
Original Sheet No. 513B
Fourth Revised Sheet No. 533

Saltville Gas Storage Company, L.L.C.
Docket No. RP08-479, *et al.*
FERC Gas Tariff,
Original Volume No. 1
<u>Accepted, effective March 1, 2009:</u>

Sub Fifth Revised Sheet No. 107
Third Revised Sheet No. 111A
Sub Original Sheet No. 111A.01
Sub First Revised Sheet No. 111B
Sub Original Sheet No. 111B.01
Sub Second Revised Sheet No. 111C
Sub Original Sheet No. 111C.01
Original Sheet No. 111C.01a
Original Sheet No. 111C.01b
Sub Original Sheet No. 111C.02
Sub Fifth Revised Sheet No. 112
Sub Original Sheet No. 112.01
Sub Original Sheet No. 112.02
Sub Original Sheet No. 112.03
Sub Second Revised Sheet No. 112A
Sub Original Sheet No. 112A.01
Fifth Revised Sheet No. 113

East Tennessee Natural Gas, LLC
Docket No. RP08-487, *et al.*
FERC Gas Tariff,
Third Revised Volume No. 1
<u>Accepted, effective March 1, 2009:</u>

Sub Second Revised Sheet No. 313
Sub Second Revised Sheet No. 315
Sub Second Revised Sheet No. 315A
Sub Second Revised Sheet No. 315B
Sub Original Sheet No. 315B.01
Sub Original Sheet No. 315B.02
Sub Original Sheet No. 315B.03
Original Sheet No. 315B.03a
Original Sheet No. 315B.03b
Sub Original Sheet No. 315B.04
Sub Original Sheet No. 315B.05
Sub Original Sheet No. 315B.06
Sub Second Revised Sheet No. 315C
Third Revised Sheet No. 315D
Sub Fifth Revised Sheet No. 317
Fifth Revised Sheet No. 340