

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 9, 2005

In Reply Refer To:
East Tennessee Natural Gas, LLC
Docket No. RP05-552-000

East Tennessee Natural Gas LLC
P.O. Box 1642
Houston, Texas 77251-1642

Attention: David A. McCallum
Director, Rates and Tariffs

Reference: Revisions to Tariff Provisions Governing Contracting, Creditworthiness,
Discounting and Electric Communications

Dear Mr. McCallum:

1. On August 12, 2005, East Tennessee Natural Gas, LLC (East Tennessee) filed revisions to its tariff provisions governing contracting, creditworthiness, discounting, and electronic communications (see Appendix for list of tariff sheets). The tariff sheets are conditionally accepted effective September 12, 2005, subject to review of further revisions which East Tennessee is directed to file within 30 days of this order, as discussed below.

2. Public notice of East Tennessee's filing was issued August 16, 2005, with interventions and protests due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2005)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2005)), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. East Tennessee Group (ETG) filed comments, and a contingent protest which is discussed below.

3. East Tennessee states that its proposal is designed to promote administrative efficiency, to further automate contracting for service and requesting discounts, and to enhance service flexibility. It states that many of the revisions are ministerial in nature, such as eliminating sections in the General Terms and Conditions (GT&C) of its tariff

that are outdated, moving text between sections when needed, renumbering sections, defining terms, etc. Also, East Tennessee is filing numerous tariff revisions that relate to its electronic LINK system for contracting, communications, and operations. East Tennessee contends that the revisions are designed to permit customers to more efficiently request and contract for services, request and confirm discounts, and otherwise conduct routine business with East Tennessee.

4. East Tennessee proposes to add new language in section 4.1 (Transportation Rates) of Rate Schedule FT-A providing that East Tennessee would use a Discount Confirmation to notify a shipper of its agreement to a “fixed rate to be charged for the duration of the transportation service.” ETG believes the reference to a fixed rate suggests a negotiated rate, and questions the use of a Discount Confirmation for this purpose. ETG requests that this apparent inconsistency be clarified. The Commission directs East Tennessee to file revised language that clarifies its proposal in light of ETG’s concerns.

5. East Tennessee proposes new provisions in sections 5.1(b), 5.2(b) (2) and (c) and 5.3, under which newly proposed and currently required credit information in section 6 must be submitted to the pipeline within 10 days of either a request for new service, or an amendment to existing service which affects the shipper’s financial obligations to East Tennessee (Billing Amendment). If the required information is not submitted by the end of the 10-day deadline, the shipper’s request will be considered null and void. In part, this credit information consists of currently required financial statements, annual reports, regulatory filings, lists of corporate affiliates, and written confirmations as to business solvency. East Tennessee also proposes to require the submission of any available reports from credit and bond rating agencies, a bank reference and at least two trade references. Finally, section 6.3 requires shippers to update creditworthiness information every 12 months.¹

6. Noting that its members commonly request primary point changes several times a year, ETG states that the new credit requirements are extremely onerous and unnecessary for existing shippers with established credit records and that many of its members, which are municipal local distribution companies, could not possibly assemble the necessary credit information in only 10 days.

7. ETG’s protest is denied. The Commission has approved in other proceedings the credit information requirements similar to those that East Tennessee now proposes for a

¹ This information is described in section 6.1, which section 6.3 incorrectly refers to as section 6.2.

service request or Billing Amendment² and finds that East Tennessee's proposed requirements are reasonable and consistent with Commission policy. We do not consider assembly and submission of such information to be unduly burdensome. A shipper should have ready access to copies of its own financial statements and reports. Bank and trade references should be readily available from entities with which a shipper has an ongoing business relationship. Such information is necessary to provide reasonable financial assurance to East Tennessee if a shipper's financial obligations change, as they may when, for example, a new point or service quantity is requested.

8. Further, we direct East Tennessee to include a provision in its tariff stating that shippers will have the opportunity to earn interest on their posted collateral. The Commission's *Policy Statement on Creditworthiness*³ requires a pipeline to provide its shippers with the opportunity to earn interest on collateral either by paying the interest itself, or giving the shipper the option to designate an interest-bearing escrow account to which the pipeline may gain access to payments for services provided, if needed.

9. East Tennessee revised GT&C section 5.2(a) to include the new term "Billing Amendment," which that section describes as an amendment to a service agreement which affects the shipper's financial obligations to East Tennessee without regard to applicable discount or negotiated rates. ETG argues that the term "Billing Amendment" is unclear, in particular due to the qualification that a determination as to whether an amendment is a Billing Amendment is to be made "without regard to the impact of any applicable discount or negotiated rates."⁴ We direct East Tennessee to file revised language clarifying its proposed definition of Billing Amendment to address ETG's concerns.

10. Also regarding requests for service, although currently East Tennessee is not required to process a request for service until all information is complete, section 5.2 (a) now states that East Tennessee's request for additional information from a shipper will not affect the priority of a shipper's request for new or amended service. Under proposed revisions to sections 5.3 and 5.4, requests to change or add a new point or increase a daily quantity will be considered Billing Amendments (thereby requiring the credit information specified in section 6 to be submitted), and will be dated as received

² *Texas Eastern Transmission, LP*, 106 FERC ¶ 61,018 (2004).

³ *Policy Statement on Creditworthiness for Interstate Natural Gas Pipelines and Order Withdrawing Rulemaking Proceeding*, FERC Stats. & Regs. ¶ 31,191 at P10 (2005).

⁴ ETG Protest at 4.

on the date all required supporting information in sections 5 and 6 is submitted. ETG finds these revisions unclear.

11. We direct East Tennessee to file revised tariff language to clarify section 5.4 regarding how and why it differentiates the processing of new requests for receipt and delivery points in its first sentence, versus various requests for amendments described in its second sentence.

12. East Tennessee proposes to add new language in section 5.5 of the GT&C stating that it will not be required to perform a requested service in the event all necessary facilities do not exist at the time the request is made. ETG states that section 5.5 appears to be circular and unworkable. It states that, if a shipper wanted to request a service that would necessitate the construction of new facilities, those facilities must already be in place before the shipper can make the request. ETG asserts that if the proposal is intended to provide that East Tennessee can always refuse transportation requests that would necessitate the construction of facilities, even when the shipper is willing to fully reimburse East Tennessee, it goes too far. The Commission agrees that section 5.5 should be clarified, and directs East Tennessee to file revised tariff language reflecting such clarification to respond to ETG's comments.

13. East Tennessee proposes to delete a list of the informational elements included in a Request for Service from GT&C section 5.2(a) and move the list to its website, "as such list may be amended from time to time." ETG argues that that such proposal would remove the request for service elements now "subject to the Commission's purview" out of our jurisdiction, and allow East Tennessee to change such elements at will. ETG states that if the proposal is approved, it reserves the right "to bring to the Commission's attention any changes to such elements that East Tennessee may attempt to make on its website."⁵

14. This part of East Tennessee's proposal is approved. Consistent with electronically-based business transaction standards now adopted throughout the natural gas industry, East Tennessee is proposing herein to accept Requests for Service only electronically via its LINK System. We have approved similar proposals,⁶ and have also removed from the Commission's regulations the requirement that a tariff state the information required in a Request for Service.⁷ In so doing, we have not relinquished our

⁵ *Id.*

⁶ *See Panhandle Eastern Pipe Line Co.*, 72 FERC ¶ 61,166 (1995).

⁷ *Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions*, Order No. 566, III FERC Stats. & Regs. ¶ 30,997 (1994).

responsibility or ability to ensure that East Tennessee carries out its open-access obligations under the Natural Gas Act to act in a not unduly discriminatory manner. ETG retains the right to bring its concerns regarding East Tennessee's administration of the Request for Service to our attention.

15. East Tennessee proposes to amend section 5.7(b)(2) of the GT&C to allow East Tennessee to refuse a request for an amendment of primary receipt and delivery points if the amendment would have the effect of reducing overall firm capacity on East Tennessee's system or otherwise impair its ability to provide firm transportation service. ETG believes this provision would give unwarranted discretion to East Tennessee to refuse a point change request if the resulting change in flow design would prevent impair its ability to maximize revenues from contractually created backhaul capacity. ETG believes this proposal conflicts with the Commission's policy favoring flexibility in point changes.

16. We will approve East Tennessee's proposed language in this regard subject to East Tennessee deleting the words "reducing overall firm capacity on Transporter's system or otherwise" and adding the word "existing" before the words "firm transportation service" in section 5.7(b)(2). This will clarify the proposal to be consistent with Commission open-access policies that pipelines are not required to grant service requests that would impair existing firm services, and also cannot withhold currently available capacity from valid requests for service. These modifications should address ETG's concern that this proposal is intended to give East Tennessee the ability to maintain a plan to maximize future creation of firm capacity through design flows.

17. Finally, East Tennessee proposes to add new section 5.9 (Prospective Sale of Available Capacity and Minimum Terms of Any Awards) to its GT&C. This section imposes limits on the amount of time that shippers can request delayed commencement of service under contracts. For contracts less than 90 days, service must commence no later than 5 days after the request for service is granted. For contracts greater than 90 days and less than one year, the delay can be no more than 30 days. For contracts greater than one year, the delay can be no more than six months.

18. ETG believes such limits on delaying service are unduly short, given delays it states occur commonly in lining up supply sources and storage services to be linked with the requested transportation service. ETG states that projects to interconnect with other pipelines or new gathering systems have historically required much more than six months, and that East Tennessee's tariff should be able to accommodate such planning horizons.

19. We find East Tennessee's proposed time limits on delayed commencement of service are similar to those previously approved by the Commission and ETG has provided insufficient reason for their rejection here.⁸

20. East Tennessee proposes to clarify in section 6.2 of its GT&C that the amount of security required from an existing customer is "equal to the highest three (3) months of activity (based on usage of in-kind and loan agreements and the billed amounts, including cashout amounts, for all other agreements)" for all of the customer's active service agreements during the previous twelve months. The Commission accepts East Tennessee's proposal subject to East Tennessee refile to clarify that the definition of "in-kind" usage does not include fuel in the determination of the amount of security required from customers. Because fuel is supplied by East Tennessee's shippers, requiring the amount of security to include fuel is not appropriate.

21. Finally, East Tennessee proposes to add language in section 17.15 (Transporter's Rights to Terminate Temporary Capacity Releases) to state that for segmented releases, the pipeline cannot be required to permit a replacement shipper to retain its geographic segment of capacity, may require the replacement shipper to pay for the full capacity path of the defaulting shipper at the lower of the rate the defaulting shipper paid or the applicable maximum rate. ETG asserts that this language has little relevance to East Tennessee, where segmentation is only allowed on a tiny portion of the pipeline at the west end. We deny the protest, because this proposal is consistent with Commission policy.⁹

22. The Commission conditionally accepts East Tennessee's revised tariff sheets effective September 12, 2005, subject to East Tennessee filing revised tariff sheets consistent with the discussion above within 30 days of the date of this order.

By direction of the Commission.

Magalie R. Salas,
Secretary.

⁸ *Texas Eastern Transmission, LP*, 106 FERC ¶ 61,018 (2004).

⁹ *National Fuel Gas Supply Corp.*, 101 FERC ¶ 61,063 at P 12 (2002).

Appendix
Tariff Sheets Accepted Subject to Condition
To Be Effective September 12, 2005
FERC Gas Tariff, Third Revised Volume No. 1

Second Revised Sheet No. 1
First Revised Sheet No. 102
Original Sheet No. 103A
First Revised Sheet No. 104
First Revised Sheet No. 105
First Revised Sheet No. 123
First Revised Sheet No. 124
Original Sheet No. 124A
First Revised Sheet No. 162
First Revised Sheet No. 221
First Revised Sheet No. 222
First Revised Sheet No. 223
First Revised Sheet No. 224
First Revised Sheet No. 225
First Revised Sheet No. 226
First Revised Sheet No. 227
First Revised Sheet No. 228
Second Revised Sheet No. 300
Second Revised Sheet No. 302
First Revised Sheet No. 312
First Revised Sheet No. 313
First Revised Sheet No. 314
First Revised Sheet No. 315
Original Sheet No. 315A
Original Sheet No. 315B
Original Sheet No. 315C
Original Sheet No. 315D
First Revised Sheet No. 316
Original Sheet No. 316A
Original Sheet No. 316B
First Revised Sheet No. 317
First Revised Sheet No. 338
First Revised Sheet No. 339
First Revised Sheet No. 342
First Revised Sheet No. 349
First Revised Sheet No. 356
First Revised Sheet No. 360
First Revised Sheet No. 363

First Revised Sheet No. 375A
Original Sheet No. 375A.01
First Revised Sheet No. 375B
First Revised Sheet No. 375C
First Revised Sheet No. 375D
First Revised Sheet No. 375E
Second Revised Sheet No. 391
Second Revised Sheet No. 391A
First Revised Sheet No. 391B
First Revised Sheet No. 501
First Revised Sheet No. 508
First Revised Sheet No. 510
First Revised Sheet No. 521
First Revised Sheet No. 527
First Revised Sheet No. 529
First Revised Sheet No. 611
First Revised Sheet No. 612
First Revised Sheet No. 613
First Revised Sheet No. 614
First Revised Sheet No. 615
First Revised Sheet No. 616
Original Sheet No. 616A
First Revised Sheet No. 651
First Revised Sheet No. 652
First Revised Sheet No. 653
First Revised Sheet No. 654
First Revised Sheet No. 661
First Revised Sheet No. 662
First Revised Sheet No. 663
First Revised Sheet No. 664
First Revised Sheet No. 681
First Revised Sheet No. 682
First Revised Sheet No. 683
First Revised Sheet No. 684
Second Revised Sheet No. 685
First Revised Sheet No. 686