

167 FERC ¶ 61,142
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, Richard Glick,
and Bernard L. McNamee.

Enable Mississippi River Transmission, LLC

Docket Nos. RP18-923-000
RP18-923-002
RP18-923-003
RP18-923-005

ORDER ON COMPLIANCE AND MOTION FILINGS

(Issued May 16, 2019)

1. This order addresses the compliance filings submitted by Enable Mississippi River Transmission, LLC (MRT) on January 30, 2019 and December 17, 2018, as well as a motion filing submitted by MRT on December 28, 2018. For the reasons discussed below, the Commission accepts the tariff records in Appendix A, to become effective January 1, 2019, and rejects the tariff records in Appendix B.¹

Background

2. On June 29, 2018, in Docket No. RP18-923-000, MRT filed revised tariff records as part of its general rate case pursuant to section 4 of the Natural Gas Act, including proposed modifications to certain rate schedules and the General Terms and Conditions (GT&C) of its tariff. On July 31, 2018, the Commission accepted and suspended MRT's tariff records to be effective January 1, 2019, subject to refund, the outcome of hearing and settlement procedures, and a technical conference.² The Commission also directed MRT to file revised tariff records and supporting work papers to address the Commission's summary disposition on two rate issues: (1) to adjust its billing determinants to reflect the renewal of Spire Missouri Inc.'s (Spire Missouri)

¹ See Appendix A and Appendix B.

² *Enable Mississippi River Transmission, LLC*, 164 FERC ¶ 61,075 (2018) (July 2018 Order).

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437,240 Dth per day contract³ and (2) to remove a proposed tax allowance from its cost of service consistent with Commission precedent and policy.⁴ In response, MRT submitted *pro forma* tariff records with its revised rates, supporting statements, schedules, and witness testimonies in an August 30, 2018 compliance filing (August 2018 Compliance Filing).

3. On September 19, 2018, the technical conference was convened to discuss and examine MRT's non-rate related tariff proposals. Participants in the technical conference thereafter submitted initial and reply comments regarding the issues that had been discussed during the technical conference.

4. On December 7, 2018, the Commission issued an order addressing MRT's August 2018 Compliance Filing.⁵ In the December 2018 Order, the Commission found that the *pro forma* tariff records submitted in the August 2018 Compliance Filing comported with the Commission's directives in the July 2018 Order, insofar as they removed the income tax allowance from the cost of service and added billing determinants reflecting the re-contracted capacity as a known and measurable change having occurred during the test period. The Commission directed MRT to file actual tariff records consistent with the *pro forma* tariff records within ten days. MRT responded to this directive by filing actual tariff records in a December 17, 2018 compliance filing, in Docket No. RP18-923-002 (December 2018 Compliance Filing).

5. On December 28, 2018, in Docket No. RP18-923-003, MRT filed to move rates and tariff records into effect as of January 1, 2019 (December 2018 Motion Filing). In response to Ordering Paragraph C of the July 2018 Order and Paragraph 12 of the December 2018 Order, MRT adjusted plant balances in the attached rate computations to reflect facilities that had not been placed in service by the end of the test period.

6. On December 31, 2018, the Commission issued an order which addressed all of the non-rate related tariff proposals and directed MRT to file revised tariff records

³ *Id.* P 26 (citing 18 C.F.R. § 154.303(a) (2018)). In addition, the Commission directed MRT to include additional recontracted capacity, if appropriate. *Id.* PP 27-28.

⁴ *Id.* PP 29-30; *United Airlines, Inc. v. FERC*, 827 F.3d 122 (D.C. Cir. 2016); *Inquiry Regarding the Commission's Policy for Recovery of Income Tax Costs*, Revised Policy Statement on Treatment of Income Taxes, 162 FERC ¶ 61,227 (Revised Policy Statement), *order on reh'g*, 164 FERC ¶ 61,030 (2018) (Revised Policy Statement Rehearing); *SFPP, L.P.*, Opinion No. 511-C, 162 FERC ¶ 61,228 (2018).

⁵ *Enable Mississippi River Transmission, LLC*, 165 FERC ¶ 61,215 (2018) (December 2018 Order).

(continued ...)

reflecting the Commission's determinations within 30 days.⁶ On January 30, 2019, in Docket No. RP18-923-005, MRT submitted its compliance filing to revise its tariff records in accordance with the Commission's directives in the Order Following Technical Conference (January 30 Compliance Filing).

Public Notice, Interventions, and Protests

7. Public notice of the December 2018 Compliance Filing, the December 2018 Motion Filing, and the January 30 Compliance Filing was issued on January 2, 2019, January 9, 2019, and January 31, 2019, respectively. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁷ Pursuant to Rule 214,⁸ all timely motions to intervene and any unopposed 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 this proceeding or place additional burdens on existing parties.

8. On December 28, 2018, Ameren Illinois Company and Union Electric Company d/b/a Ameren Missouri (jointly, Ameren) submitted comments in response to MRT's December 2018 Compliance Filing. Ameren states that it has no objections to MRT's revised tariff records but does take issue with a particular section of the attached transmittal letter, wherein MRT states:

If it is ultimately decided either by the Commission or by judicial review that the Commission committed legal error in this proceeding or other Commission proceedings (*e.g.*, Docket Nos. PL17-1 or CP17-40) impacting this proceeding, MRT hereby provides notice that MRT's instant filing is without prejudice to, and is undertaken while reserving, all of its rights including the right to be put in the position it would have held had the Commission not committed legal error. This pleading constitutes notice that MRT retains the right to seek redress effective to January 1, 2019, to address legal error reflected in the Commission's order(s) in the referenced dockets.

⁶ *Enable Mississippi River Transmission, LLC*, 165 FERC ¶ 61,285 (2018) (Order Following Technical Conference).

⁷ 18 C.F.R. § 154.210 (2018).

⁸ 18 C.F.R. § 385.214 (2018).

Ameren states that it has submitted comments only to clarify that MRT may not reserve its rights in this docket to “seek redress effective to January 1, 2019” for “legal error” in other dockets, and that MRT may not expand the scope of this proceeding to encompass its arguments, rights, or remedies from other proceedings.

9. On February 11, 2019, Ameren submitted comments in response to MRT’s January 30 Compliance Filing, taking issue with two aspects of the filing: (1) MRT’s proposed language in GT&C Section 25.3 implementing a tolerance level for unauthorized overrun quantities and (2) MRT’s failure to reinstate a particular provision of Rate Schedule PALS (park and loan service) pertaining to advance fee arrangements to lock-in discounted rates.

10. With regard to the first issue, Ameren specifies that it does not object to MRT’s proposed four percent tolerance level. However, Ameren requests that the Commission direct MRT to remove the word “Unauthorized” and the capitalization of the immediately following words “overrun quantities” from the final sentence of GT&C Section 25.3. Ameren states that the retention of the word “Unauthorized” creates unnecessary confusion as to this provision of the tariff, as quantities within the four percent tolerance level are to be charged at the authorized overrun rate. Ameren suggests that its requested language change would alleviate any possibility of confusion.

11. With regard to the second issue, Ameren states that it does not object to MRT’s decision to rescind Rate Schedule PALS proposals that would have established an Auto-PALS service. However, Ameren points out that in the process of reverting the provisions to their prior state, MRT did not include the last sentence of Rate Schedule PALS Section 4 that permitted a shipper to enter into an advance fee arrangement with MRT to lock in a discounted rate for PALS service applicable to a particular transaction or for a specified period or quantity that was not to exceed the maximum rate for PALS service that could otherwise be charged. Ameren states that MRT has provided no explanation for its failure to include the sentence related to advance fee arrangements in Rate Schedule PALS Section 4 and requests that it be reinstated.

Discussion

12. The Commission finds that MRT has largely complied with the Commission’s directives in this proceeding, except as addressed below with respect to an issue raised by Ameren.

13. In the December 2018 Compliance Filing, MRT anticipates issues that are outside the scope of this proceeding by retaining its “right to seek redress effective to January 1, 2019” in case of “legal error.” As noted by Ameren, the Commission will address the arguments, rights, and/or remedies in the appropriate proceedings. Such concerns with eventual future disposition of the issues in this proceeding are speculative and premature.

14. We disagree with Ameren's claim that the word "Unauthorized" in the final sentence of GT&C Section 25.3 will cause confusion. GT&C Section 25.3 defines unauthorized overrun quantities as those quantities of gas which have not been approved in advance by MRT but are nevertheless received or delivered in excess of the customer's rate zone capacity. A quantity's designation as unauthorized overrun is thus based on MRT's pre-approval. As such, any quantity of gas received or delivered in excess of the customer's rate zone capacity without pre-approval is considered an unauthorized overrun quantity even if it falls within MRT's proposed four percent tolerance level. The Commission finds that the phrasing proposed in GT&C Section 25.3 makes it clear that MRT will charge *authorized overrun rates* for unauthorized overrun quantities *within this four percent tolerance*, and *unauthorized overrun rates* for unauthorized overrun quantities *beyond the four percent tolerance*.

15. In the January 30 Compliance Filing, MRT explains that the establishment of its proposed Auto-PALS service was contingent upon the successful implementation of a daily balancing program. However, because the Commission rejected MRT's proposed daily balancing program, MRT explains that it is no longer seeking to implement the revisions associated with the Auto-PALS service and has eliminated the related changes to Rate Schedule PALS. As pointed out by Ameren, MRT has failed to reinstate a provision pertaining to advance fee arrangements for discounted rates under Rate Schedule PALS in Substitute Second Revised Sheet No. 78. Similarly, the Commission also notes that the reference to "Advance Fee (if any)" has been omitted from Substitute Third Revised Sheet No. 377 of the January 30 Compliance Filing. Given that MRT has chosen to withdraw its proposed Auto-PALS service provisions, the aforementioned tariff records submitted in the January 30 Compliance filing are no longer supported. As such, the Commission rejects these tariff records, as well as the corresponding tariff records submitted in the initial rate case filing in Docket No. RP18-923-000 and the December 2018 Motion Filing in Docket No. RP18-923-003. As a result of these actions, the currently effective tariff records will remain in effect.

16. The Commission accepts MRT's tariff records as listed in Appendix A, effective January 1, 2019. The Commission rejects all tariff records listed in Appendix B.⁹

⁹ Appendix A lists tariff records from the January 30 Compliance Filing, as well as the portion of the tariff records from the December 2018 Motion Filing for which there are no corresponding tariff records in the January 30 Compliance Filing (which, if they existed, would have superseded the motion records). Appendix B lists all superseded tariff records from the initial rate case, the December 2018 Compliance Filing, the December 2018 Motion Filing, and two tariff records from the January 30 Compliance Filing, as explained in the body of this order.

The Commission orders:

The tariff records listed in Appendix A are accepted and the tariff records listed in Appendix B are rejected, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Enable Mississippi River Transmission, LLC
FERC NGA Gas Tariff
Tariff Database

Tariff records accepted effective January 1, 2019:

Docket No. RP18-923-003

[Sheet No., Sixth Revised Volume No. 1, 6.0.0](#)
[Sheet No. 4, System Map, 4.0.0](#)
[Sheet No. 5, Market Zone Map, 3.0.0](#)
[Sheet No. 6, Field Zone Map, 4.0.0](#)
[Sheet No. 11, Firm and Interruptible Storage Service Rates, 10.0.0](#)
[Sheet No. 12, Pool Transfer Charges, 4.0.0](#)
[Sheet No. 20, Currently Effective Rates Footnotes, 7.0.0](#)
[Sheet No. 33, RATE SCHEDULE FTS, 2.0.0](#)
[Sheet No. 38, RATE SCHEDULE SCT, 2.0.0](#)
[Sheet No. 39, RATE SCHEDULE SCT, 2.0.0](#)
[Sheet No. 76, RATE SCHEDULE PALS, 2.0.0](#)
[Sheet No. 92, Definitions, 3.0.0](#)
[Sheet No. 93, Definitions, 4.0.0](#)
[Sheet No. 105, NAESB Standards and Internet Web Site, 3.0.0](#)
[Sheet No. 107, NAESB Standards and Internet Web Site, 6.0.0](#)
[Sheet No. 108, NAESB Standards and Internet Web Site, 6.0.0](#)
[Sheet No. 110, NAESB Standards and Internet Web Site, 6.0.0](#)
[Sheet No. 152, Conditions of Receipt and Delivery, 3.0.0](#)
[Sheet No. 157, Conditions of Receipt and Delivery, 2.0.0](#)
[Sheet No. 159, Conditions of Receipt and Delivery, 3.0.0](#)
[Sheet No. 161, Conditions of Receipt and Delivery, 3.0.0](#)
[Sheet No. 166, Nominations, Scheduling, and Curtailment, 2.0.0](#)
[Sheet No. 177, Nominations, Scheduling, and Curtailment, 3.0.0](#)
[Sheet No. 207, Transportation Balancing, 4.0.0](#)
[Sheet No. 208, Transportation Balancing, 2.0.0](#)
[Sheet No. 260, Termination of Service/Right of First Refusal, 2.0.0](#)
[Sheet No. 333, Segmentation of Capacity, 2.0.0](#)
[Sheet No. 334, Segmentation of Capacity, 2.0.0](#)
[Sheet No. 343, Firm Transportation Service Agreement, 3.0.0](#)
[Sheet No. 347, Firm Transportation Service Agreement, 2.0.0](#)
[Sheet No. 349, Firm Transportation Service Agreement, 3.0.0](#)
[Sheet No. 369, Storage Service Agreement, 3.0.0](#)

Enable Mississippi River Transmission, LLC
FERC NGA Gas Tariff
Tariff Database

Tariff records accepted effective January 1, 2019:

Docket No. RP18-923-005

[Sheet No. 8, Firm Transportation Service Rates, 12.1.0](#)
[Sheet No. 9, Small Customer Transportation Service Rates, 12.1.0](#)
[Sheet No. 10, Interruptible Transportation Service Rates, 12.1.0](#)
[Sheet No. 13, Park and Loan Service Rates, 5.1.0](#)
[Sheet No. 37, RATE SCHEDULE SCT, 2.1.0](#)
[Sheet No. 45, RATE SCHEDULE ITS, 2.1.0](#)
[Sheet No. 74, RATE SCHEDULE PALS, 2.1.0](#)
[Sheet No. 77, RATE SCHEDULE PALS, 2.1.0](#)
[Sheet No. 79, RATE SCHEDULE PALS, 2.1.0](#)
[Sheet No. 109, NAESB Standards and Internet Web Site, 6.1.0](#)
[Sheet No. 201, Transportation Balancing, 3.1.0](#)
[Sheet No. 202, Transportation Balancing, 2.1.0](#)
[Sheet No. 203, Transportation Balancing, 2.1.0](#)
[Sheet No. 204, Transportation Balancing, 2.1.0](#)
[Sheet No. 205, Transportation Balancing, 3.1.0](#)
[Sheet No. 206, Transportation Balancing, 3.1.0](#)
[Sheet No. 256, Termination of Service/Right of First Refusal, 3.1.0](#)
[Sheet No. 257, Termination of Service/Right of First Refusal, 3.1.0](#)
[Sheet No. 258, Termination of Service/Right of First Refusal, 4.1.0](#)
[Sheet No. 259, Termination of Service/Right of First Refusal, 3.1.0](#)
[Sheet No. 302, No Obligation to Offer Service at Less Than Maximum Rate, 3.1.0](#)
[Sheet No. 324, Filing Fees, 2.1.0](#)
[Sheet No. 332, Penalty Revenue Crediting, 4.1.0](#)
[Sheet No. 376, PALS Service Agreement, 3.1.0](#)

Enable Mississippi River Transmission, LLC
FERC NGA Gas Tariff
Tariff Database

Tariff records rejected:

Docket No. RP18-923-000

[Sheet No. 4, System Map, 3.0.0](#)

[Sheet No. 5, Market Zone Map, 2.0.0](#)

[Sheet No. 6, Field Zone Map, 3.0.0](#)

[Sheet No. 8, Firm Transportation Service Rates, 8.0.0](#)

[Sheet No. 9, Small Customer Transportation Service Rates, 8.0.0](#)

[Sheet No. 10, Interruptible Transportation Service Rates, 8.0.0](#)

[Sheet No. 11, Firm and Interruptible Storage Service Rates, 7.0.0](#)

[Sheet No. 12, Pool Transfer Charges, 2.0.0](#)

[Sheet No. 13, Park and Loan Service Rates, 2.0.0](#)

[Sheet No. 20, Currently Effective Rates Footnotes, 5.0.0](#)

[Sheet No. 33, RATE SCHEDULE FTS, 1.0.0](#)

[Sheet No. 37, RATE SCHEDULE SCT, 1.0.0](#)

[Sheet No. 38, RATE SCHEDULE SCT, 1.0.0](#)

[Sheet No. 39, RATE SCHEDULE SCT, 1.0.0](#)

[Sheet No. 45, RATE SCHEDULE ITS, 1.0.0](#)

[Sheet No. 74, RATE SCHEDULE PALS, 1.0.0](#)

[Sheet No. 76, RATE SCHEDULE PALS, 1.0.0](#)

[Sheet No. 77, RATE SCHEDULE PALS, 1.0.0](#)

[Sheet No. 78, RATE SCHEDULE PALS, 1.0.0](#)

[Sheet No. 79, RATE SCHEDULE PALS, 1.0.0](#)

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[Sheet No. 108, NAESB Standards and Internet Web Site, 5.0.0](#)

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[Sheet No. 110, NAESB Standards and Internet Web Site, 5.0.0](#)

[Sheet No. 152, Conditions of Receipt and Delivery, 2.0.0](#)

[Sheet No. 157, Conditions of Receipt and Delivery, 1.0.0](#)

[Sheet No. 159, Conditions of Receipt and Delivery, 2.0.0](#)

[Sheet No. 161, Conditions of Receipt and Delivery, 2.0.0](#)

[Sheet No. 166, Nominations, Scheduling, and Curtailment, 1.0.0](#)

Enable Mississippi River Transmission, LLC
FERC NGA Gas Tariff
Tariff Database

Tariff records rejected:

[Sheet No. 177, Nominations, Scheduling, and Curtailment, 2.0.0](#)
[Sheet No. 201, Transportation Balancing, 1.0.0](#)
[Sheet No. 202, Transportation Balancing, 1.0.0](#)
[Sheet No. 203, Transportation Balancing, 1.0.0](#)
[Sheet No. 204, Transportation Balancing, 1.0.0](#)
[Sheet No. 205, Transportation Balancing, 2.0.0](#)
[Sheet No. 206, Transportation Balancing, 2.0.0](#)
[Sheet No. 207, Transportation Balancing, 3.0.0](#)
[Sheet No. 208, Transportation Balancing, 1.0.0](#)
[Sheet No. 256, Termination of Service/Right of First Refusal, 2.0.0](#)
[Sheet No. 257, Termination of Service/Right of First Refusal, 2.0.0](#)
[Sheet No. 258, Termination of Service/Right of First Refusal, 3.0.0](#)
[Sheet No. 259, Termination of Service/Right of First Refusal, 2.0.0](#)
[Sheet No. 260, Termination of Service/Right of First Refusal, 1.0.0](#)
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[Sheet No. 347, Firm Transportation Service Agreement, 1.0.0](#)
[Sheet No. 349, Firm Transportation Service Agreement, 2.0.0](#)
[Sheet No. 369, Storage Service Agreement, 2.0.0](#)
[Sheet No. 376, PALS Service Agreement, 2.0.0](#)
[Sheet No. 377, PALS Service Agreement, 2.0.0](#)

Docket No. RP18-923-002

[Sheet No. 8, Firm Transportation Service Rates, 10.0.0](#)
[Sheet No. 9, Small Customer Transportation Service Rates, 10.0.0](#)
[Sheet No. 10, Interruptible Transportation Service Rates, 10.0.0](#)
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[Sheet No. 12, Pool Transfer Charges, 3.0.0](#)
[Sheet No. 13, Park and Loan Service Rates, 3.0.0](#)

Enable Mississippi River Transmission, LLC
FERC NGA Gas Tariff
Tariff Database

Tariff records rejected:

[Sheet No. 20, Currently Effective Rates Footnotes, 6.0.0](#)

Docket No. RP18-923-003

[Sheet No. 8, Firm Transportation Service Rates, 12.0.0](#)

[Sheet No. 9, Small Customer Transportation Service Rates, 12.0.0](#)

[Sheet No. 10, Interruptible Transportation Service Rates, 12.0.0](#)

[Sheet No. 13, Park and Loan Service Rates, 5.0.0](#)

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[Sheet No. 37, RATE SCHEDULE SCT, 2.0.0](#)

[Sheet No. 45, RATE SCHEDULE ITS, 2.0.0](#)

[Sheet No. 74, RATE SCHEDULE PALS, 2.0.0](#)

[Sheet No. 77, RATE SCHEDULE PALS, 2.0.0](#)

[Sheet No. 78, RATE SCHEDULE PALS, 2.0.0](#)

[Sheet No. 79, RATE SCHEDULE PALS, 2.0.0](#)

[Sheet No. 109, NAESB Standards and Internet Web Site, 6.0.0](#)

[Sheet No. 201, Transportation Balancing, 3.0.0](#)

[Sheet No. 201, Transportation Balancing, 2.0.0](#)

[Sheet No. 202, Transportation Balancing, 2.0.0](#)

[Sheet No. 203, Transportation Balancing, 2.0.0](#)

[Sheet No. 203A, Transportation Balancing, 0.0.0](#)

[Sheet No. 204, Transportation Balancing, 2.0.0](#)

[Sheet No. 205, Transportation Balancing, 3.0.0](#)

[Sheet No. 206, Transportation Balancing, 3.0.0](#)

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[Sheet No. 258, Termination of Service/Right of First Refusal, 4.0.0](#)

[Sheet No. 259, Termination of Service/Right of First Refusal, 3.0.0](#)

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[Sheet No. 377, PALS Service Agreement, 3.0.0](#)

Enable Mississippi River Transmission, LLC
FERC NGA Gas Tariff
Tariff Database

Tariff records rejected:

Docket No. RP18-923-005

[Sheet No. 78, RATE SCHEDULE PALS, 2.1.0](#)

[Sheet No. 377, PALS Service Agreement, 3.1.0](#)