UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Young Gas Storage Company, Ltd. Docket No. RP04-312-001

ORDER ON REHEARING AND CLARIFICATION

(Issued May 10, 2005)

1. On July 23, 2004, Young Gas Storage Company Ltd. (Young) requested rehearing or clarification of the June 23, 2004 Order in the captioned proceeding.[1] The June 23, 2004 Order accepted Young's proposed tariff sheets to permit purchases and sales of system gas effective June 28, 2004, subject to conditions, including the condition that it credit revenues from the sales of excess gas to its shippers. Young seeks rehearing or clarification of that condition. The Commission grants rehearing as discussed below. This order is in the public interest as it permits Young's proposed tariff provisions to become effective consistent with Commission policy and its existing tariff.

Background

2. On May 28, 2004, Young filed revised tariff sheets, to be effective June 28, 2004, to authorize the purchase and sale of natural gas for system operations. More specifically, Young proposed to add a new Section 29, Operational Purchases and Sales, to the General Terms and Conditions (GT&C) of its tariff to provide Young the authority to buy and sell gas to the extent necessary for the following: (1) to manage system storage; (2) to balance fuel quantities; (3) to implement the gas retention requirements of

[1] *Young Gas Storage Company, Ltd.*, Docket No. RP04-312-000, Unpublished Director Letter Order issued June 23, 2004 (June 23, 2004 Order).

Rate Schedules FS-1 and IS-1 contained in its tariff; and (4) to perform other operational functions in connection with storage and other similar services.

3. On June 23, 2004, the Commission accepted the proposed tariff sheets, subject to the following three conditions. Citing a January 22, 2004 Order in *Dominion*,[2] Young was required to revise Article 29 of its GT&C to provide that it will post the excess sales volumes for bid on its electronic bulletin board pursuant to the bidding procedures in Article 2 of its GT&C. Additionally, Young was required to revise Article 29 of its GT&C to clarify that revenues derived from the sale of excess system gas will be credited to its shippers. Finally, Young was required to revise Article 29 of its GT&C to provide for the filing of an annual report on operational purchases and sales.[3]

4. On July 26, 2004, Young filed its request for rehearing and clarification of the June 23, 2004 Order.

Discussion

5. Young seeks rehearing of the June 23, 2004 Order's condition that Young revise Article 29 of its GT&C to clarify that revenue derived from the sale of excess gas will be credited to its customers. Young argues that the Commission cannot require such a change to its tariff in the absence of any finding that Young's existing treatment of the revenues of excess system gas is unjust and unreasonable under section 5 of the NGA. Young claims that it rarely, if ever, purchases or sells excess system gas. Young asserts that, should Young do so, Young is currently at risk should the revenues from such sales not be sufficient to offset the costs of the sale and the costs of the purchases of operational gas by Young. Young contends that, just as there is currently no provision in Young's tariff requiring that Young credit to its shippers revenues from excess sales, there is no mechanism in Young's tariff whereby Young has the right or ability to seek recovery of such costs. Young asserts that the June 23, 2004 Order makes no finding that this "at risk" methodology of treating such revenues and costs is unjust and unreasonable; or indeed any finding that supports modifying Young's existing tariff as to this point. Young contends under section 5 of the NGA, 15 U.S.C. §717d, such a change in Young's tariff can only be made after the Commission has found the existing provisions are unjust

[2] *Dominion Transmission, Inc.*, 106 FERC ¶ 61, 029 (2004) (*Dominion*).

[3] The report was required to indicate the source of the gas, date of purchase/sale, volumes, purchase/sale price, costs and revenues from the purchase/sale, and the disposition of the costs and revenues.

and unreasonable. Young asserts that, rather, the basis for the Commission's action was the purported applicability of a Commission order in *Dominion*. Young claims, however, that the Commission simply failed to consider that Young is at risk for these costs and revenues and has no ability to recover any revenue deficiencies. In the absence of such a finding, the Commission has no authority to order Young to credit revenues from excess sales.

6. In the alternative, Young requests that, should the Commission fail to modify the order to remove the revenue crediting requirement, the Commission should clarify that Young may net the costs of operational sales and purchases from the excess sales revenues to be credited.

7. The Commission grants rehearing and modifies the June 23, 2004 Order to remove the obligation for Young to credit revenues from the sale of excess gas. Consistent with Commission policy, and its existing tariff, Young is not required to credit revenues from such sales of gas. Young is at risk for the costs and revenues associated with such purchases and sales of excess gas. Any issues regarding the treatment of such revenues should be addressed in Young's next general section 4 rate case proceeding.

8. Commission policy only requires crediting of penalty revenues.[4] Further, regarding gas retained as a penalty, Young need only credit non-offending shippers with the value of retained gas consistent with Article 28.2 of the GT&C of its existing tariff.[5] This provision resulted from the Commission's May 1, 2002 Order on compliance with Order No. 637, *et al*., where, in accordance with Order No. 637 and the Commission's ruling in *CIG*, [6] the Commission specifically directed Young to include a provision in its tariff requiring it to credit the *value* of the gas retained to its existing customers.[7] Having

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[4] *See* 18 C.F.R. § 284.12(c)(2)(v) (2004).

[5] Article 28.2 provides that the credit will be determined by multiplying the quantity of the gas retained by the average of the daily mid-point index prices for Rocky Mountains as published in Platt's gas market publication for each day of each month divided by the number of days in the month for the month in which the gas is retained. *See* Second Revised Sheet No. 106A to Young Gas Storage Company, Ltd. FERC Gas Tariff, Original Volume No. 1.

[6] *Colorado Interstate Gas Co*., 95 FERC ¶ 61,321 at 61,125 (2001) (*CIG*). *See also Blue Lake Gas Storage Co*., 96 FERC ¶ 61,164 at 61,729 (2001) (citing Order No. 637 and *CIG* to require crediting of the value of confiscated gas).

[7] *Young Gas Storage Company, Ltd*., 99 FERC ¶ 61,144 (2002).

already credited the value of such retained gas volumes, Young need not also credit the revenues from the later sale of such gas.

9. In this regard, the June 23, 2004 Order erred in citing the January 22, 2004 Order in *Dominion* as support for directing Young to credit all excess gas sales revenues. In the *Dominion* proceeding, although the Commission initially directed Dominion to credit revenues from the sale of confiscated gas, the Commission ultimately permitted Dominion to retain its existing tariff provision[8] which, like Young's, provides for the value of confiscated gas to be credited.[9]

The Commission orders:

Rehearing of the June 23, 2004 Order in the captioned proceeding is granted.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

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[8] *See* Third Revised Sheet No. 171 to Dominion Transmission, Inc. FERC Gas Tariff, Third Revised Volume No. 1.

[9] *Dominion Transmission, Inc.*, 106 FERC ¶ 61,283 (2004). *See* Dominion Transmittal Letter to January 28, 2004 Filing in Docket No. RP04-119-001 at 2 ("By simply cross-referencing existing tariff provisions here, DTI reflects its understanding that the Commission did not intend to alter the existing revenue credit provisions of the tariff, which implements settlements between [Dominion] and its customers.").