

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

OkTex Pipeline Company

Docket No. RP04-390-000

ORDER ACCEPTING AND SUSPENDING TARIFF  
SHEETS SUBJECT TO REFUND AND FURTHER COMMISSION ACTION

(Issued July 30, 2004)

1. On July 2, 2004, OkTex Pipeline Company (OkTex) filed tariff sheets<sup>1</sup> to update its Fuel Retention Percentage (FRP) for its Midstream System and establish a tracking mechanism to annually adjust its FRP under section XXXIX of its General Terms and Conditions (GT&C). OkTex requests the proposed tariff sheets become effective August 1, 2004. For the reasons set forth below, the Commission conditionally accepts and suspends the tariffs sheets for five months, effective January 1, 2005, subject to refund and further Commission action. This order benefits the public because it ensures that any fuel retention tracking mechanism that may be added to OkTex's tariff is adequately supported.

**Background**

2. In the July 2, 2004 filing, OkTex revised its Midstream System FRP by increasing the current level of .25 percent to 1.13 percent which is four and a half times the current level. The Midstream System's current FRP of .25 percent has not been revised since OkTex acquired the 27-mile, 16 inch pipeline system by merger in November 2000. Under the merger agreement, OkTex assumed all of the former Midstream Pipeline's service obligations and operational and economic responsibilities for the facilities and adopted the interruptible rates, including the previously negotiated discount arrangements. The Midstream System extends from the tailgate of the Rodman Plant in Garfield County, Oklahoma to interconnections with Southern Star Central Gas Pipeline, ONEOK Gas Transportation, LLC., Enogex Inc., and CenterPoint Energy Gas Transmission Company.

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<sup>1</sup> Second Revised Sheet No. 5B, Sixth Revised Sheet No. 17, Original Sheet No. 40L to FERC Gas Tariff, Volume 1.

3. OkTex notes that Midstream System's current .25 percent FRP no longer adequately reimburses OkTex for lost and unaccounted-for gas quantities. There are no compression facilities on this pipeline segment. OkTex's supporting workpaper for the 12-months ending May 31, 2004, purportedly shows actual average line loss of 1.13 percent. OkTex states that to help ensure against the over- or under- recovery of gas costs, it also proposes to implement a fuel retention tracker to annually adjust, if necessary, the FRP to reflect for the succeeding 12-months, the actual gas loss experienced during the prior 12-months. OkTex's proposes its new FRP tracker provisions in section XXXIX of its GT&C.

### **Interventions and Protests**

4. Notice of OkTex's filing was issued on July 9, 2004, with interventions and protests due July 14, 2004, as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214 (2003)), all timely unopposed filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. As discussed further below, Eagle Gas Marketing Company and Mustang Gas Products LLC (the Protestors) filed a joint motion to intervene, a protest, and a request for rejection, or in the alternative, a five-month suspension subject to refund and a technical conference.

### **Discussion**

5. The Protestors assert that OkTex has not justified its proposed tracker. They first assert that the system is only 27 miles long, with few receipt and delivery points, and even under these limited circumstances, OkTex cannot identify the source of leakage it claims has increased more than fourfold. They further assert that it is not even clear that the gas loss increase has been as large as claimed. They note that there is a substantial monthly variance in the data, and that in recent months the percentage loss has steadily declined, from 1.72 percent in January, 2004 to 0.43 percent in July. They argue that OkTex has admitted that it does not understand the source of the lost and unaccounted for gas, and has not submitted detail to justify the proposed increase. Protestors also assert that OkTex may only institute a tracking mechanism prospectively, and cannot use the new mechanism to cure fuel cost under-recoveries that its existing tariff would not allow it to recover.

6. The Protestors include in their pleading a request for additional information and analysis on seven specific items they believe OkTex should provide before the proposed rates become effective. These include all its workpapers, a description of all receipt and delivery points and whether they are metered, together with actual measurements, the sampling rate, four years of data, updated monthly after May 2004, an accounting of all imbalances, and a summary of OkTex's procedures regarding how it manages imbalances. They note that the Commission previously required a pipeline to provide

detailed information on lost and unaccounted for gas quantities,<sup>2</sup> and that in another case the pipeline conducted a seven month study to determine the cause of the lost and unaccounted for gas claimed by the pipeline.<sup>3</sup>

7. The Commission concludes that OkTex has not adequately justified its proposed FRP increase, and for this reason will accept and suspend the instant filing for five months, subject to refund and conditions. Recognizing that it may be burdensome for OkTex to obtain the four years of data that the Protestors have requested, the Commission finds it reasonable that OkTex provide at least two years of information to help establish whether the trends reflected in the instant filing are seasonal. OkTex should respond to Protestors' other requests, and explain in greater detail why it cannot determine the source of gas leakage on its system. For example, protestors suggest OkTex test all meters on the system for accuracy, and report the results. We direct OkTex to file the requested information with the Commission within 30 days after this order issues. Protestors will be permitted 20 days thereafter to file comments on OkTex's response. At that juncture the Commission will determine whether a technical conference, or what other action may be appropriate.

### **Suspension**

8. Based upon a review of the filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept the tariff sheets for filing and suspend their effectiveness for the period set forth below, and permit them to become effective, subject to the conditions set forth in this order.

9. The Commission's policy regarding rate suspensions is that rate filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards.<sup>4</sup> It recognizes, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.<sup>5</sup> Such circumstances do not exist here.

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<sup>2</sup> *Citing* Northern Natural Gas Co., 101 FERC ¶ 61,024 at PP 13 and 14 (2002).

<sup>3</sup> *Citing* Columbia Gas Transmission Corp., 97 FERC ¶ 61,251 at 62,643-44 (2002), *order on reh'g*, 90 FERC ¶ 61,341 (2002).

<sup>4</sup> *See* Great Lakes Gas Transmission Co., 12 FERC ¶ 61,197 (1990) (five month suspension).

<sup>5</sup> *See* Valley Gas Transmission, Inc., 12 FERC ¶ 61,197 (1980) (one day suspension).

Therefore, the sheets filed in this docket are accepted and suspended for the full five months, to be effective January 1, 2005, subject to refund and subject to the conditions set forth in the body of this order and in the ordering paragraphs below.

The Commission orders:

(A) The tariff sheets listed in footnote No.1 are accepted and suspended for five months, to be effective January 1, 2005, subject to refund and conditions, and further action by the Commission.

(B) OkTex shall file with the Commission and provide the information requested by the Protestors, as modified by this order, within 30 days after this order issues. Comments on that information shall be filed with the Commission 20 days thereafter.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.