

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 1, 2006

In Reply Refer To:
Columbia Gas Transmission Corporation
Docket No. RP06-194-000

Columbia Gas Transmission Corporation
12801 Fair Lakes Parkway
Fairfax, VA 22033

Attention: Thomas D. Stone, Manager
Rates and Tariffs

Reference: Third Revised Sheet Nos. 167 and 168 to FERC Gas Tariff, Second
Revised Volume No. 1

Dear Mr. Stone:

1. On January 30, 2006, Columbia Gas Transmission Corporation (Columbia) filed the above-referenced tariff sheets to revise section 3, Injections Into Storage, and section 4, Withdrawals From Storage, of its FSS Rate Schedule, with a proposed effective date of February 1, 2006. Specifically, Columbia proposes to include as a permanent part of its tariff the following sentence in both sections 3(f) and 4(g) of Rate Schedule FSS:

Transporter may waive any of the limitations set forth in this section,
provided that such waiver is granted in a non-discriminatory manner.

Protests and comments were filed, the details of which are discussed below. Waiver of the 30-day notice requirement of part 154 of the Commission's regulations is granted and Columbia's proposed tariff revisions are accepted, effective February 1, 2006, subject to revisions as discussed below.

2. Columbia states that, among other things, section 4(d) of Rate Schedule FSS provides that a "Shipper's maximum storage inventory on February 1 shall not exceed 65% of its SCQ" (storage contract quantity) (February 1 65% limitation). It states that as a result of warmer than normal winter temperatures to date and Columbia's FSS shippers maintaining their SCQ at high levels out of concern over possible supply shortages

resulting from Hurricanes Katrina and Rita, some FSS shippers are in a position where they will be unable to meet the February 1 65% limitation on February 1, 2006. Columbia requests acceptance of the tariff sheets, which will provide it with the authority to waive the February 1 65% limitation to accommodate the FSS shippers' actions. Columbia asserts that the proposed language is consistent with the Commission's established policy to require pipelines to obtain approval of such specific waiver authority.¹ In the alternative, Columbia requests that the Commission's order accepting the tariff sheets, approve Columbia's waiver of the February 1 65% limitation, effective February 1, 2006.

3. Public notice of the instant filing was issued on February 2, 2006. Interventions and protests were due as provided in section 154.210, 18 C.F.R. § 154.2210 (2005), of the Commission's regulations. 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. Virginia Power Energy Marketing, Inc. (VPEM) and the East Ohio Gas Company and Hope Gas, Inc., (jointly, Dominion LDCs) filed protests. Amerada Hess Corporation (Amerada Hess) filed comments. Columbia filed an answer to the protests and comments. The Commission's Rules of Practice and Procedure generally prohibit answers to protests or answers.² However, in this case, the Commission will accept Columbia's answer because it provides information that may assist the Commission in its decision-making process.

4. VPEM states that it supports the proposal to grant the specific authority to waive the February 1 65% limitation in this instance. However, VPEM asserts that Columbia's proposal acts to modify its FSS tariff language to provide itself "pregranted" authority to waive more than the February 1 maximum storage inventory restriction. VPEM argues that the proposed language would give Columbia authority to waive, "among other things," (i) the notice provisions related to requests for injections and withdrawals (sections 3(a) and 4(a) respectively); (ii) injection service priorities and interruptability (section 3(b)); (iii) limitations on monthly and daily injections (section 3(c)); (iv) daily withdrawal "ratchets" (section 4(b)); (v) monthly minimum and maximum net withdrawals (section 4(c)), and (vi) the "imbalance to storage" provisions (section 4(e)). VPEM argues that the Commission has previously rejected granting to pipelines the wholesale authority to waive tariff provisions.³

¹ *MIGC, Inc.*, 103 FERC ¶ 61,098 at P 8 (2003).

² 18 C.F.R. § 385.213(a)(2) (2005).

³ Citing, *Discovery Gas Transmission L.L.C.*, 111 FERC ¶ 61,377 at 62,615-6 (2005) (*Discovery*); *Northern Border Pipeline Co., L.L.C.*, 110 FERC ¶ 61,203 (2005); *CenterPoint Energy Gas Transmission Co.*, 104 FERC ¶ 61,281 (2003).

5. The Dominion LDCs support the concept of Columbia having the ability to grant nondiscriminatory waiver of tariff limitations related to storage service, provided that such waiver will not impair Columbia's performance of its firm service obligations. The Dominion LDCs propose that Columbia's sections 3(f) and 4(g) of Rate Schedule FSS be modified as follows:

Transporter may waive any of the limitations set forth in this section, provided that such waiver is granted in a non-discriminatory manner and will not impair Transporter's performance of its firm service obligations.

6. Amerada Hess states that it does not oppose Columbia's proposal to waive the February 1 65% limitation for FSS shippers as of February 1, 2006, on a non-discriminatory basis nor does it oppose Columbia's proposed tariff revisions to sections 3 and 4 of Rate Schedule FSS, subject to appropriate limitations and conditions. Amerada Hess states that the proposed tariff revisions granting waiver authority would extend beyond the immediate circumstances set forth in its filing, and would permit Columbia to waive FSS requirements other than the February 1 65% limitation. Amerada Hess also notes that Columbia's proposal is more limited than waiver provisions that the Commission has expressed concern with in the past, since the proposed waiver authority would be limited to the requirements of sections 3 and 4 of Rate Schedule FSS. Amerada Hess further states that it understands the waiver authority to enable Columbia to address immediate operating issues and not to grant permanent waivers. Amerada Hess requests that the Commission limit its authorization of Columbia's FSS waiver authority to address current operational issues.

7. Amerada Hess also requests that the Commission clarify that any waiver granted under this authority is subject to the Standards of Conduct, in section 358.5(c)(4) of the Commission's Regulations,⁴ which requires pipelines to post any and all waivers granted to shippers within 24 hours of when Columbia exercises its discretion under any terms of the tariff and to clarify that the waiver authority is subject to section 154.1(d) of the Commission's Regulations, which requires that any non-conforming contract must be filed with the Commission for approval. Finally, Amerada Hess states that Columbia should be obligated to respond to any shipper requesting a waiver within a reasonably timely fashion.

8. On February 16, 2006, Columbia filed an answer to the comments and protests. Columbia states that the commenting and protesting parties have failed to present any legitimate grounds for rejecting or modifying Columbia's proposal to implement its proposed FSS sections 3(f) and 4(g) to provide waiver of certain limitations set forth in sections 3 and 4 of Rate Schedule FSS. Columbia argues that VPEM's protest is directly

⁴ 18 C.F.R. § 358.5(c)(4) (2005).

at odds with section 358.5(c)(1) of the Commission's regulations⁵ and established case precedent. Citing section 358.5(c)(1), Columbia states that the Commission requires pipelines to include specific language in their tariffs in order to have the authority to waive any specific tariff provisions and that the regulations require pipelines to grant such waivers in a non-discriminatory manner. Columbia also states that section 358.5(c)(2)⁶ requires pipelines to grant any such waivers on a non-discriminatory basis and that section 358.5(c)(4) requires that any waivers be recorded in a written log and posted on the pipeline's Internet Website within 24 hours of the waiver being granted. Columbia states that the cases cited by VPEM to support its argument that Columbia's request is overbroad involve the rejection of "generic" waiver authority provisions in pipelines' General Terms and Conditions that would have provided pipelines the authority to waive any and all tariff provisions. Columbia states that its tariff filing fully complies with the Commission's regulations and it is not seeking generic waiver authority of its tariff.

9. Columbia states that the request by the Dominion LDCs to incorporate language stating, "such waiver will not impair Columbia's performance of its firm obligations" is unnecessary, as its tariff is not lacking in provisions that require and facilitate the protection of its firm service obligations. Columbia also states that the Commission should reject Amerada Hess' request to limit Columbia's waiver authorization to circumstances "where granting such waiver is appropriate to address current operational issues." Columbia states that, because sections 3 and 4 of Rate Schedule FSS address specific operational parameters surrounding Columbia's provision of FSS service, by nature these provisions would only be waived by Columbia if "current operational issues" permitted such waiver.

10. Finally, Columbia states that there is no reason for the Commission to clarify that any waiver granted under the proposed revisions is subject to section 358.5(c)(4) of the Standards of Conduct or to clarify that waiver authority is subject to the Commission's regulations on non-conforming service agreements as the Commission's regulations are quite clear on these points and nothing in Columbia's filing could be construed to permit it to circumvent these regulations.

11. The Commission agrees with Columbia that its waiver proposal is substantially different from the generic waiver proposals rejected by the Commission. As stated in *Discovery*,⁷ "the Commission's intent is to prevent negotiations for service agreements that reflect permanent waivers of tariff terms and conditions of service which may result in undue discrimination among shippers; not to prohibit waivers that apply for temporary periods for operational reasons on a case by case basis." The Commission also

⁵ 18 C.F.R. § 358.5(c)(1) (2005).

⁶ 18 C.F.R. § 358.5(c)(2) (2005).

⁷ 111 FERC ¶ 61,377 at P 14 (2005).

recognized the need for advance waivers to address specific, short-term operational problems for a temporary, prospective period. Columbia's request is limited to sections 3 and 4 of its FSS Rate Schedule and, as noted in its answer, would apply should "current operational issues" permit. VPEM's request to reject the proposal is therefore denied. However, consistent with *Discovery*, we will require Columbia to modify the language of its tariff waiver provision to allow waivers of past defaults, and also advance waivers, for specific, temporary, operational problems on a case-by-case and non-discriminatory basis.

12. Under the Commission's Standards of Conduct, in section 358.5(c)(4),⁸ pipelines are required to post any and all waivers granted within 24 hours of the occurrence. Also, pursuant to section 154.1(d)⁹ of the Commission's regulations, any non-conforming contract must be filed with the Commission. As these regulations apply to all pipeline companies, no additional language will be required here. Amerada Hess' request to add this additional tariff language is denied.

13. We find good cause to waive the 30-day notice requirement of part 154 of the Commission's regulations and Columbia's tariff sheets are accepted, effective February 1, 2006, subject to Columbia filing revised tariff language, as directed in the text above, within 15 days of the issuance of this order.

By direction of the Commission.

Magalie R. Salas,
Secretary.

cc: All Parties

⁸ 18 C.F.R. § 358.5(c)(4) (2005).

⁹ 18 C.F.R. § 154.1(d) (2005).