

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

ANR Pipeline Company

Docket No. RP04-435-005

ORDER DENYING REHEARING

(Issued December 11, 2006)

1. The Commission issued an order in this proceeding on July 3, 2006 accepting a contested settlement filed by ANR Pipeline Company (ANR).¹ The contested settlement concerned gas quality standards on ANR. Michigan Consolidated Gas Company (MichCon) and Michigan Gas Utilities Corporation (MGU)² filed requests for rehearing of the July 3 Order. For the reasons discussed below, the Commission denies the requests for rehearing.

Background

2. This proceeding arose out of the following circumstances. In the winter of 2000-2001, natural gas prices rose considerably. The price of natural gas became much higher relative to the price of liquid hydrocarbons such as propane and butane that suppliers had previously removed from the natural gas stream. Natural gas prices exceeded the value of the recovered liquids less fuel and plant costs so that processing the gas was less profitable for the producers than leaving the heavy hydrocarbons in the gas stream. As a

¹ 116 FERC ¶ 61,002 (2006) (July 3 Order).

² MGU states that it is the successor to the Michigan Local Distribution Company (LDC) assets formerly owned by Aquila, Inc., an active participant in this proceeding. MGU states WPS Resources Corporation purchased these assets on April 1, 2006 and restored the name MGU to the LDC service territory.

result, producers no longer wanted to process the gas supplied to ANR and to shippers on ANR.

3. ANR has a southeast supply leg that receives and transports gas from the Gulf of Mexico.³ Of four processing plants on its southeast leg, one shut down in November 2000 and a second shut down in December 2000.⁴ The result was that there was a greater quantity of heavier hydrocarbons in the gas stream, the cricondenthem hydrocarbon dewpoint (CHDP)⁵ of the gas rose, and the heavier hydrocarbons fell out of the gas stream as liquids within ANR's facilities and also within the facilities of its customers. The liquids fallout caused numerous operational problems for the pipeline and its customers.⁶ ANR stated that it experienced hydrocarbon liquid fallout on its compressor stations in Louisiana, Mississippi, Tennessee, Kentucky, and Indiana. It stated that the rest of the hydrocarbon liquids contaminated downstream pipeline, metering, and other equipment causing heater and regulator malfunctions and shut-ins of compressor stations. In some cases, ANR stated, the hydrocarbon liquids entered customer pipelines and resulted in similar operational problems.

4. ANR responded to these operational problems by issuing Operational Flow Orders (OFOs) effective January 1, 2001 which restricted receipts of gas that were not going to be processed and had a Btu content of over 1,050 Btu/cf.⁷ ANR subsequently issued a series of OFOs restricting the receipt of gas based on Btu content.

³ ANR's Southeast Area Facilities are defined in ANR's tariff as those facilities which are located upstream or south of the Eunice, LA compressor station. ANR FERC Gas Tariff, Second Revised Volume No. 1, General Terms and Conditions, section 1.58.

⁴ ANR December 11, 2003 Answer and Motion to Dismiss, Docket No. RP04-65-000, at 5; ANR August 2, 2004 Filing, Docket No. RP04-435-000, at 3-4, 9, Ex. K, and Ex. M.

⁵ For an explanation of the CHDP, see the July 3 Order at P 3-5 and Appendix B.

⁶ ANR December 11, 2003 Answer and Motion to Dismiss, Docket No. RP04-65-000, at 5-6; ANR August 2, 2004 Filing, Docket No. RP04-435-000, at 9, Ex. K, and Ex. M.

⁷ ANR December 11, 2003 Answer and Motion to Dismiss, Docket No. RP04-65-000, at 6-7.

5. On November 21, 2003, the Indicated Shippers⁸ filed a complaint against ANR in Docket No. RP04-65-000, claiming that ANR's issuance of OFOs was effectuating changes in the gas quality provisions of its tariff without making a filing under section 4 of the Natural Gas Act (NGA).⁹ On December 30, 2003, the Commission found that permanent changes to ANR's gas quality standards had to be achieved through a section 4 filing, and could not be effectuated by the posting of OFOs. The Commission directed ANR to cease and desist from issuing OFOs to effectively implement permanent gas quality restrictions and stated that ANR should file a tariff proposal to address gas quality issues on its system as soon as possible.¹⁰ ANR submitted such a filing on March 15, 2004, which the Commission rejected as insufficiently supported.¹¹

6. On August 2, 2004, ANR filed in the instant docket revised tariff sheets to address gas quality issues on its pipeline system (Filing of August 2, 2004). ANR's section 4 filing included a proposal to establish a 15° F CHDP Safe Harbor, ANR thereby agreeing to accept any gas with a CHDP at or below 15° F. On September 30, 2004 the Commission issued an order accepting and suspending the tariff sheets submitted with the August 2 filing, subject to conditions, and set the filing for hearing.¹² The Commission noted that the parties had questioned the adequacy and relevance of the data ANR submitted in support of its proposed CHDP Safe Harbor level and raised issues concerning ANR's sampling method and capability. The Commission stated that the issues raised concerning the appropriate level of ANR's proposed CHDP Safe Harbor were issues of fact to be resolved before an ALJ.¹³ Specifically, the Commission set for hearing the appropriate level of ANR's Safe Harbor CHDP; the criteria ANR will use for determining which points will be subject to a CHDP posting; and the mechanisms or

⁸ The Indicated Shippers filing the complaint consisted of BP America Production Company; BP Energy Company; Chevron Texaco Natural Gas, a division of Chevron U.S.A. Inc.; Exxon Mobil Corporation; and Shell Offshore Inc.

⁹ 15 U.S.C. § 717c (2000).

¹⁰ 105 FERC ¶ 61,394 (2003).

¹¹ 107 FERC ¶ 61,094 (2004).

¹² 108 FERC ¶ 61,323 (September 30 Order), *order on clarification, reh'g, and compliance filing and denying a stay*, 109 FERC ¶ 61,358 (2004) (December 22 Order).

¹³ September 30 Order at P 19.

methodology to be used for aggregating supplies.¹⁴ The Commission also stated that a properly selected CHDP should result in a tariff and service that customers can rely upon and that ANR can operationally provide with a high degree of confidence without the use of OFOs. The Commission stated that whether ANR's proposal will achieve this objective was among the issues to be examined at the hearing.¹⁵

7. On February 28, 2005, the *White Paper on Liquid Hydrocarbon Drop Out in Natural Gas Infrastructure* (White Paper) was filed with the Commission in Docket No. PL04-3-000, *Natural Gas Interchangeability*.¹⁶ Among other things, the White Paper discussed topics related to gas quality, that is, to the CHDP of gas, and the related problems of hydrocarbon liquid dropout. It also contained in two appendices a set of parameters to be considered in establishing a CHDP limit for gas quality and a process for establishing a CHDP limit.

8. ANR filed an Offer of Settlement on September 30, 2005. The settlement included approval of ANR's proposed 15° F CHDP Safe Harbor. Two parties opposed that aspect of the settlement, and on November 14, 2005, the ALJ certified it to the Commission as a contested settlement.¹⁷

9. On June 15, 2006, in Docket No. PL04-3-000, the Commission issued its *Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Natural Gas Company Tariffs*, 115 FERC ¶ 61,325 (2006) (*Policy Statement*). The *Policy Statement* provides guidance to individual companies regarding natural gas quality and interchangeability.¹⁸

¹⁴ *Id.* at P 23.

¹⁵ *Id.* at P 25.

¹⁶ By the Natural Gas Council's NGC+ Liquid Hydrocarbon Drop Out Task Group (February 28, 2005). The White Paper was filed with the Commission in this proceeding as [MC-2] (associated with MichCon Aud Direct [MC-1]) and attached to MichCon's October 20, 2005 Comments in Opposition to Settlement, Docket No. RP04-435-000, Exhibit A, Attachment 3, [first attachment].

¹⁷ *Certification of Contested Offer of Settlement*, 113 FERC ¶ 63,021 (2005) (*Certification*).

¹⁸ The *Policy Statement* states five general principles. In order for natural gas quality and interchangeability specifications to be enforced, they must be in the pipeline's tariff. Pipeline tariff provisions on natural gas quality and interchangeability should be

(continued)

10. The Commission approved ANR's Offer of Settlement on July 3, 2006.¹⁹ The Commission decided the contested issues on the merits and found that ANR had supported its proposed 15° F CHDP Safe Harbor with substantial evidence that was unrebutted. The Commission also found, among other things, that ANR's CHDP Safe Harbor may reasonably take into consideration ANR's ability to make deliveries to downstream interconnects, but that ANR is not required to base its CHDP Safe Harbor on extreme conditions on downstream systems. The Commission also found that the Settlement was otherwise just and reasonable.

Discussion

11. MichCon and MGU ask for rehearing. MGU incorporates the specifications of error in MichCon's request for rehearing so that these parties will be referred to collectively as MichCon.²⁰ MichCon contends that the Commission changed its policy

based upon sound science and should recognize the need to be flexible to enable the pipeline to balance safety and reliability concerns with the importance of maximizing supply. While not setting specific levels for hydrocarbon fallout or interchangeability parameters, the Policy Statement strongly encourages pipelines and their customers to use the interim guidelines in the White Paper of the NGC+ Liquid Hydrocarbon Drop Out Task Group as a common reference point. To the extent pipelines and their customers cannot reach agreement on gas quality and interchangeability, the Commission will resolve disputes on a case-by-case basis on a record of fact and technical review. Conformance of the Settlement with these principles is discussed at the end of this order.

¹⁹ July 3 Order.

²⁰ MGU also asks the Commission "to establish further procedures and/or create monitoring or reporting requirements that will ensure that, should there be a problem with gas quality in Michigan this winter, steps can be immediately implemented to ensure adequate supplies are available for Michigan residential consumers." MGU August 2, 2006 Request for Rehearing at 5. For the reasons discussed below, the Commission finds that ANR has supported its proposed 15° F CHDP Safe Harbor, and there is ample evidence in the record that ANR's tariff will provide Michigan consumers with adequate protection from liquid fallout. Thus, the Commission will deny MGU's request for additional procedures as unnecessary. Moreover, there are numerous avenues of relief at the state and federal levels to address concerns about adequacy of supplies for Michigan residential consumers. However, the Commission also finds it significant that there have been no incidents of fallout on the MichCon system over the 22 month period from February 1, 2004 through October 31, 2005, according to MichCon testimony in this proceeding.

that the requirements of downstream pipelines must be considered when ANR adopts its Safe Harbor CHDP and that it did so without supporting this change in policy with substantial evidence. MichCon also claims both that ANR's Safe Harbor evidence was insufficient and that it was rebutted; that ANR's analysis of its CHDP Safe Harbor did not conform to the White Paper; and that ANR did not comply with the requirements of the Commission's *Policy Statement*. The Commission finds the rehearing requesters' arguments are without merit and denies the rehearing requests, as discussed below.

A. Whether the Commission Justified a Change in Policy Concerning Consideration of Downstream Gas Quality Standards

1. Rehearing Requests

12. MichCon asserts that in approving the Settlement, the Commission departed from its policy in *Natural Gas Pipeline Company of America*.²¹ It contends that the Commission's policy in *Natural II* was to require pipelines establishing gas quality standards to meet the market and gas quality standards of downstream LDCs and others that are actually shipping gas for end-users (not just transporting gas in interstate commerce). MichCon cites the Commission's finding in the July 3 Order stating that "to the extent that *Natural II* may be read as establishing a policy that upstream pipelines must establish gas quality standards that enable them to satisfy whatever gas quality standards any downstream entity may establish for its system,²² the Commission no longer believes such a policy is appropriate." MichCon argues that the Commission's July 3 Order does not support the change in policy "with any meaningful evidence, much less substantial evidence."²³ MichCon asserts the Commission is required to justify its departure from the *Natural II* policy and that it must articulate the critical facts upon which it relied and support its decision with substantial evidence.²⁴

²¹ MichCon cites the July 3 Order at P 57-58 and *Natural Gas Pipeline Company of America*, 104 FERC ¶ 61,322, at P 48-50 (2003) (*Natural II*), rehearing of *Natural Gas Pipeline Company of America*, 102 FERC ¶ 61,234 (2003) (*Natural I*).

²² July 3 Order at P 57.

²³ MichCon Request for Rehearing at 5.

²⁴ MichCon cites *Atchison, Topeka & Santa Fe Ry. Co. v. Wichita Bd. Of Trade*, 412 U.S. 800, 805-06 (1973); *Town of Norwood v. FERC*, 962 F.2d 20, 22 (D.C. Cir. 1992); and *Columbia Gas Transmission Corp. v. FERC*, 628 F.2d 578, 593 (D.C. Cir. 1979).

13. First MichCon asserts that in changing its policy, the Commission relied on certain fixes or remedies for liquids fallout that downstream customers could use. MichCon asserts these included heaters and removal of liquids from the gas stream. It asserts that heating does not change the chemical composition of the gas or reduce the CHDP of the gas, but merely assures that the temperature of the gas stream is above the hydrocarbon dew point at the specific point where the gas is heated. MichCon states that once the gas leaves the heater, it is again subjected to the same low temperatures which would cause the liquid hydrocarbons to fall out of the gas stream. In addition, MichCon asserts that use of heaters is a remedy that is not available to it. It asserts that it is not operationally feasible to install heaters in the more populous regions of downstream customers' pipeline systems.²⁵ MichCon asserts that, consequently, there is no substantial evidence to support the Commission's findings.

14. MichCon asserts that another fix or remedy on which the Commission relied in changing its policy of meeting the market and gas quality standards of downstream LDCs was removal by LDCs of liquids that are susceptible to fallout from the gas stream. MichCon states that gas processing facilities are already in place and operating on the upstream portion of ANR's system.²⁶ MichCon states that requiring LDCs to remove liquids from the gas stream would result in duplicating upstream processing facilities.²⁷ It also asserts that requiring downstream parties to install this additional equipment is costly and effectively shifts the responsibility for and cost of managing liquid fallout from upstream producers and gas processors to downstream parties.

15. MichCon asserts that in changing the *Natural II* policy the Commission also relied on a finding that the policy violated the goal set forth in Order No. 636 of encouraging the development of a seamless interstate pipeline grid by enabling buyers and sellers to meet in a competitive national market and transact business in the most efficient way possible.²⁸ MichCon states the Commission determined that the *Natural II* policy violates that goal because (1) requiring all gas to be processed could prove inefficient; (2) setting the CHDP Safe Harbor at a level necessary to prevent fallout on systems in the

²⁵ MichCon cites MichCon Aud Direct at 12-13 [MC-1]; MichCon Aud Rebuttal at 8-10 [MC-10].

²⁶ MichCon cites MichCon Kramer Direct at 6 [MC-7].

²⁷ MichCon cites MichCon Aud Rebuttal at 6-9 [MC-10]; *Northwest Pipeline Corp.*, 71 FERC ¶ 61,253 (1995).

²⁸ MichCon cites July 3 Order at P 59-61.

coldest regions, the “worst case” downstream scenario approach, could reduce the amount of gas available for the interstate market; and (3) using the worst case downstream scenario approach could decrease pipeline throughput.

16. MichCon asserts that these rationales are unsupported by substantial evidence. First, MichCon asserts the evidence shows that processing is a source of profit for gas producers, not expense.²⁹ MichCon states that when processing economics are “upside down,” profits are merely reduced to a small extent. It states that there is nothing in the instant record to suggest that gas processing is a net expense to producers.

17. MichCon states in addition that there is no record evidence examining the effects on throughput of establishing a “worst case” CHDP based on downstream conditions. It asserts no party produced any credible evidence that a CHDP set at a level to ensure safe transportation of natural gas to the end user who pays for the gas would lead to any reduced throughput. MichCon argues that reduced throughput is more likely if ANR’s proposed Safe Harbor is allowed to stand. MichCon states this is so first because downstream entities can reject gas containing excessive natural gas liquids. It asserts that ANR currently has no means of meeting MichCon’s CHDP tariff requirements, creating a substantial likelihood that MichCon will be forced to reject gas tendered by ANR for transportation and storage on MichCon’s system.

18. MichCon asserts that reduced throughput is more likely under ANR’s CHDP Safe Harbor for a second reason as well. It asserts that when processing economics are upside down and producers leave natural gas liquids in the gas stream, the domestic energy supply is permanently lost to the extent that those liquids fall out and are disposed of as hazardous waste. MichCon asserts the record in this case shows that the adoption of a 15° F CHDP Safe Harbor will lead to liquid fallout and thus that the 15° F CHDP Safe Harbor will threaten the availability of gas supply and pipeline throughput.

19. MichCon asks the Commission to reverse its policy change and clarify that downstream operational characteristics must be considered and incorporated into upstream technical analyses when evaluating standards for gas receipts. It adds that if an evidentiary hearing is needed, the Commission should require one.

2. Discussion

20. The Commission denies MichCon’s rehearing requests with respect to the clarification of the *Natural II* policy. As a preliminary matter, the Commission

²⁹ MichCon cites MichCon Kramer Direct at 9 [MC-7].

emphasizes that the July 3 order did not state that downstream interests would be ignored in assessing the justness and reasonableness of a pipeline's proposed gas quality standards. To the contrary, the July 3 order recognized that a fundamental goal of Commission policy since Order No. 436 has been to encourage development of a seamless interstate pipeline grid. Consistent with that goal, the July 3 Order held that "an important consideration when an upstream pipeline establishes gas quality standards, including Safe Harbor provisions such as are at issue here, is the ability of downstream entities to accept the gas the upstream pipeline will be delivering to them."³⁰

21. However, the Commission was concerned that some of the broad language in *Natural Gas II*³¹ could be read as mandating that upstream pipelines' gas quality standards must require that all gas received on their systems meet whatever gas quality standards any downstream entity may establish, without consideration of any other relevant factors. This would, in essence, allow a single downstream entity, with special needs, to dictate the gas quality standards that all gas entering the upstream pipeline must meet. However, as the Commission stated in its *Policy Statement*, in reviewing gas quality standards the Commission tries to balance the needs and concerns of all segments of the gas industry.³² These interests vary widely. It would not be possible to balance these interests if one portion of one sector, the farthest downstream customer facing the most extreme conditions, could automatically set the gas quality standards for all supplies received at the pipeline's receipt points.

22. Rather, the Commission believes that, in reviewing a pipeline's proposed gas quality standards, all relevant factors should be considered. As the Commission stated in the July 3 Order, the potential for liquid fallout varies depending upon local conditions. For example, low ambient temperatures are a primary cause of liquid fallout. Thus, as gas moves from a region with a warmer climate, such as the Gulf of Mexico coastal area, to a region with a colder climate, such as the Upper Midwest, the more likely liquid fallout will be a problem. Moreover, even when a system is located in a cold climate, it may be built mostly below the frost line, such that only minor parts of the system are exposed to low atmospheric temperatures. Given these facts, the gas quality standards required to meet the most extreme conditions faced by any entity in the downstream, cold climate areas may not be needed for the safe operation of the pipeline or for most of its customers.

³⁰ 116 FERC at P 56.

³¹ 104 FERC ¶ 61,322 at P 50 (2003).

³² See *Policy Statement* at P 30.

23. In addition, there may be reasonable methods available to at least some of the downstream entities³³ to manage the potential for liquid fallout, other than requiring the gas to be processed before it is accepted onto the upstream interstate pipeline. For example, LDCs and other downstream entities may install heaters to offset decreases in temperature caused by pressure reductions.³⁴ In addition, such downstream entities may install filtration or separation equipment to collect liquids that do fallout as a result of temperature reductions.³⁵ Apart from the use of such equipment, downstream entities with access to supplies from more than one source may use blending to manage the CHDP of their gas in the same manner that upstream pipelines such as ANR use blending. Depending upon the circumstances in a particular case, any of these various methods could be a more efficient means of addressing the needs of a few downstream entities, than requiring all gas entering the upstream pipeline to meet the strict standards of a single downstream entity.

24. The Commission is also concerned about the potential adverse effects of requiring the upstream pipeline to impose the most stringent gas quality standards any downstream entity desires. In the *Policy Statement*, the Commission specifically sought to balance concerns for the safety of the nation's gas grid with the need to provide pipelines and their customers with the flexibility necessary to maximize the supplies of natural gas made available to pipelines.³⁶ The Commission recognizes the importance of ensuring that the nation's access to gas supplies is not adversely affected by unnecessarily stringent gas quality standards. Thus, the impact on access to gas supply sources is a factor that the Commission will consider in gas quality cases.

25. We reject MichCon's contention that the record contains no evidence that unnecessarily stringent gas quality standards can reduce the amount of natural gas available to the interstate market. Requiring natural gas entering a pipeline to satisfy a lower CHDP standard inevitably requires a greater percentage of the gas stream to be processed. As Aux Sable's witness testified, processing "reduces both the amount of natural gas available to the market and the amount of energy contained in the natural gas. Processing gas requires the use of natural gas as a fuel to provide the energy needed to extract the natural gas liquids. This reduces the supply of natural gas available to end

³³July 3 Order at P 57-59.

³⁴ Sections 2.4.8 and 3.3.1 of the *White Paper*.

³⁵ Section 1.4.7 of *White Paper*.

³⁶ *Policy Statement* at P 2, 24, and 30.

users. In addition, the extraction of natural gas liquids from the gas stream reduces the amount of gas energy available in the gas stream. This is because the natural gas liquids contain energy.”³⁷

26. MichCon asserts that, even if removing liquids from the gas stream reduces the amount of natural gas in the gas stream, it does not reduce the overall amount of energy available to the market. Rather, MichCon argues, processing the gas stream to remove the liquids simply shifts the destination of the liquids from the natural gas market to the petroleum market. MichCon accordingly argues that a producer’s decision not to process its gas during periods of “upside down” economics serves only to maximize the producer’s profits, and does not increase the overall energy available to the market. However, both the natural gas commodity and natural gas liquids markets are deregulated. Accordingly, a fundamental goal of the Commission’s regulation of natural gas pipelines is to allow the efficient transmission of price signals in the natural gas commodity market.³⁸ When natural gas commodity prices are higher than liquids prices, the market is signaling a greater need for natural gas supplies, than for liquids.

³⁷ Aux Sable Cross Answering Horner at 15 [ASL-5]). Witness Horner also provided an example, showing that on March 21, 2005, Alliance Pipeline delivered gas to the Aux Sable processing plant with 1,845,000 Dth of energy. Processing removed liquids equal to 245,000 Dth of energy and consumed 14,500 Dth of energy, with the result that the gas stream returned to Alliance has about 14 percent less energy than the gas stream that had been delivered to Aux Sable. *See also* Producers Coalition Doering Direct at 7-9 [PC-1], Aux Sable Cross Answering Horner at 17 [ASL-5], and White Paper at sections 2.3.1 [MC-2]) (processors are revenue maximizers); MichCon Aud Rebuttal at 20 [MC-10]) (if the economics of processing are upside-down, the gas will not be processed unless it is required to achieve pipeline quality); Producers Coalition Doering Direct at 36 [PC-1] (the more gas that by passes a processing plant, the less processing costs are incurred); *Id.* at 37 (the less flexibility in the required pipeline gas quality CHDP, the more processing costs are likely to be incurred); ANR Zersen Rebuttal at 3, 9-10 [ANR-5] (if the CHDP level is set too low, the available supply of pipeline quality gas will be lowered); Indicated Shippers Yoho Cross Answering at 8 [IS-6] (relatively lower pipeline required CHDP will put ANR’s customers at a disadvantage in finding supply).

³⁸ July 3 Order at P 56.

Therefore, permitting producers to respond to those price signals to the maximum extent possible³⁹ is in the public interest, and can reduce spikes in natural gas prices.⁴⁰

27. For all of these reasons, the Commission will not maintain a policy that a pipeline must set its receipt point gas quality standards so that gas received at a receipt point will be guaranteed never to result in any liquid fallout problems on any part of any downstream system. The Commission does not want to give every downstream customer the ability to require that its standard be applied to receipts on upstream pipelines. The upstream pipeline can take into consideration conditions on downstream entities, but, as the Commission determined in the July 3 Order, the Commission will not have a policy requiring a pipeline to meet all the standards of downstream customers.

28. MichCon's primary attack upon this modification of policy is its assertion that the Commission has not provided sufficient evidence to support such findings as that (1) more stringent gas quality standards may reduce supply and (2) installation of heaters on downstream entities could be a more efficient means of addressing liquid fallout. However, this contention misses the mark. In the relevant part of the July 3 order, the Commission was simply making a policy statement that it will not automatically mandate that upstream pipelines' gas quality standards must require that all gas received on their systems meet whatever gas quality standards any downstream entity may establish, without consideration of any other relevant factors. A Commission policy is not a rule or regulation to which pipelines and parties must conform. A policy provides guidance for the industry, but it is not a mandate.⁴¹ As a result, when the Commission applies the

³⁹ MichCon suggests that, if liquids do fallout in the pipeline as a result of insufficient processing and must be disposed of as hazardous waste, domestic energy supply could be reduced. [MC-1 at 18.] Establishing CHDP standards that minimize liquid fallout is a matter for individual cases.

⁴⁰ Aux Sable witness Horner testified that during the January 2001 gas price spike, the natural gas liquids industry reduced recovery by almost 500,000 bbls, which increased natural gas supply by over 1.5 Bcf/d, or about 3 percent. He also pointed out that natural gas liquids are stored in large quantities, so that such stored liquids are available to the liquids market during extreme gas price spikes. [ASL-5 at 16].

⁴¹ A policy statement announces to the public the policy which the agency hopes to implement in future rulemakings or adjudications. *Panhandle Eastern Pipe Line Company v. FERC*, 198 F.3d 266, 269-270 (D.C. Cir. 1999) (*Panhandle*). A policy statement is not a substantive rule nor a precedent and it does not establish a binding norm or finally determine the issues or rights to which it is addressed. *Id. citing Pacific Gas & Electric Co. v. Federal Power Commission*, 506 F.2d 33, 38-39 (D.C. Cir. 1974).

policy in an individual case, it must support the application based on substantial evidence in the record of that proceeding.⁴²

29. In this case, the Commission engages in that consideration with respect to MichCon in the subsequent sections of this order where we consider the reasonableness of ANR's proposed CHDP Safe Harbor, based on the specific evidence in this record concerning conditions on ANR and MichCon and their management of liquid fallout. Thus, the result in this case is not based on generic findings on such matters as whether more stringent gas quality standards reduce gas supply or what downstream entities can or cannot do to manage liquid dropout on their systems. The Commission will make such findings on a case by case basis. Here, it makes these findings with respect to MichCon in a later section of this order.

30. The cases cited by MichCon do not require a different result. *Atchison* was a rate case in which the railroads proposed to increase their rates. Their line-haul rates included a charge for in-transit inspections had previously been included in their line-haul rates. However, the railroads proposed to charge a separate charge for in-transit inspections without reducing their line-haul rates. Prior to *Atchison*, the Interstate Commerce Commission (ICC) had disallowed a separate charge for a service that had been performed as part of the line-haul rates unless there was substantial evidence that the additional charge was justified measured against (1) the overall services rendered and (2) the overall reasonableness of the increased line-haul rate. But in *Atchison*, the ICC approved the separate charge without requiring the railroads to prove that the total charges (the line-haul rate plus the in-transit inspection charge) were reasonable.

31. The court found that it could not discover from the ICC's orders what policies the ICC was pursuing or the ICC's reason for permitting the railroads to increase their rates (decrease their services) without showing that the rates they proposed were reasonable. The court noted that the burden of proving the reasonableness of the increased rates was placed on the railroads by statute.⁴³

⁴² The Commission further notes that in *Natural II* the pipeline sought to justify its proposed gas quality standards by asserting that those standards were needed in order to make deliveries to downstream pipelines. Thus, *Natural II* did not present the issue raised by this case, of whether an upstream pipeline should be required to establish more stringent gas quality standards than it desires in order to assist downstream entities.

⁴³ *Atchison*, 412 U.S. 806, 816, 822.

32. Unlike *Atchison*, this case involves terms and conditions--it revises a general policy concerning standards for gas quality. Also unlike *Atchison* which did not explain a change in the burden of proof, both the July 3 Order and this order explain the reasons for a change made by the Commission in its policy concerning the gas quality standards on downstream entities. Finally, unlike *Atchison*, the Commission has required the proponent of the gas quality standard in this case, ANR, to support its proposal, in accordance with the applicable statute, section 4 of the NGA.⁴⁴

B. Whether ANR's CHDP Analysis Was Consistent with the White Paper

33. In this and subsequent sections of this order, we consider the issues raised on rehearing as to whether the record in this proceeding supports the settlement's 15^o F CHDP safe harbor provision. Because the settlement adopts ANR's section 4 proposal to establish that safe harbor, ANR bears the burden under NGA section 4 to show that its proposal is just and reasonable.⁴⁵ If ANR satisfies that burden, its proposal must be accepted, even if some other safe harbor level could also be found to be just and reasonable. As the Commission has explained: "[u]nder the statutory scheme set forth in the NGA, the pipeline has the initiative through a Section 4 filing to propose how it will recover its costs. If the pipeline's proposal is just and reasonable, the Commission must accept it, regardless of whether other just and reasonable rates may exist."⁴⁶ Parties supporting alternative safe harbor levels in this proceeding bear the burden of proof under section 5 of the NGA to show that their proposal is just and reasonable.⁴⁷ Thus, we may

⁴⁴ To the extent *Norwood* and *Columbia Gas* are applicable here, the Commission has satisfied their requirements that factual findings must be based on substantial evidence and that the Commission must provide explanations for changes in its policies. In *Norwood* a public utility proposed to use marginal cost rate design rather than embedded cost ratemaking for electric wholesale rates. The court affirmed the Commission's approval of the proposal as just and reasonable finding, *inter alia*, that there was substantial record support for it. *Columbia Gas* concerned the Commission's imposition of the United rate design on Texas Gas Transmission Corporation in place of the Atlantic Seaboard rate design. The court found the Commission failed to provide an adequate explanation for its changed approach and remanded the case.

⁴⁵ *Williston Basin Interstate Pipeline Co.*, 71 FERC ¶ 61,372, at 62,461 (1995).

⁴⁶ *Tennessee Gas Pipeline Co.*, 80 FERC ¶ 61,070, at 61,223 (1997), *aff'd*, *Consolidated Edison Co. vs. FERC*, 165 F.3d 992 (D.C. Cir. 1999).

⁴⁷ *Western Resources, Inc. v. FERC*, 9 F.3d 1568, 1577-9 (D.C. Cir. 1993).

not require ANR to adopt a different safe harbor unless we find (1) that ANR has not shown that its proposed 15°F CHDP Safe Harbor is just and reasonable and (2) that the alternative proposal is itself just and reasonable.

34. As we reiterate below, the Commission believes the record supports ANR's proposal. We first address MichCon's contentions that ANR did not base its proposed 15° F Safe Harbor CHDP on the technical requirements of the White Paper. In subsequent sections, we address MichCon's contentions that (1) ANR did not provide any other evidence to support its proposed safe harbor which was not rebutted, (2) ANR failed to properly take into account downstream interests, and (3) ANR's proposal does not comply with the Policy Statement.

1. July 3 Order

35. The White Paper includes interim guidelines for controlling hydrocarbon dropout in natural gas pipeline and distribution facilities, using either the CHDP or C6+ GPM methodologies.⁴⁸ ANR used the CHDP method. Appendix A of the White Paper "defined a set of parameters that may be useful in establishing the CHDP or C6+ GPM required to avoid hydrocarbon liquid dropout" for a relevant market area.⁴⁹ Appendix B of the White Paper sets forth a process for establishing a CHDP limit. The *Policy Statement* strongly encourages the use of the interim guidelines in the White Paper as a common reference point in negotiating technically based solutions.⁵⁰ In the July 3 Order, the Commission found the record showed that both ANR and the contesting parties were aware of the interim gas quality guidelines in the White Paper and debated whether ANR's analysis comported with the guidelines. The Commission concluded that ANR had considered many of the parameters listed in Appendix A of the White Paper.

2. Rehearing Requests

36. MichCon asserts that ANR did not base its proposed 15° F Safe Harbor CHDP on the technical requirements of the White Paper which, MichCon asserts, incorporate

⁴⁸ *Id.* at P 34. C6+ GPM stands for hexanes and heavier hydrocarbons as measured in gallons per thousand cubic feet of natural gas. The C6+ GPM method consists of measuring and controlling for the amount of these heavier hydrocarbons in the natural gas stream. *Id.* at P 19 n.20.

⁴⁹ White Paper, Appendix A.

⁵⁰ *Policy Statement* at P 32.

downstream interests.⁵¹ In particular, MichCon asserts ANR (1) failed to take into account minimum flowing gas temperatures by using an arbitrarily selected flowing gas temperature; (2) failed to take into account minimum ambient air temperatures; (3) failed to consider the presence of heating systems; (4) provided no analysis of the CHDP levels of gas supplies including those of downstream pipelines; (5) used an arbitrary pressure reduction rather than actual experienced pressure reductions; and (6) failed to consider end-user applications and the impact of storage. MichCon asserts ANR gave no consideration to Appendix A of the White Paper which includes these parameters.

37. MichCon asserts ANR did not follow the process for establishing a CHDP limit recommended by Appendix B of the White Paper.⁵² In particular, MichCon asserts ANR ignored step two of the Appendix B process which, it claims requires review of “historical data of the area for composition, flowing gas temperature, and pressure of delivered gas.” MichCon also asserts ANR failed to conduct a compositional analysis of historical gas quality data. MichCon asserts further that ANR failed to incorporate the requirements of Appendix A of the White Paper into its evaluation process in Appendix B. MichCon asserts that, instead ANR used a simple equation with arbitrarily selected temperature and pressure values to determine its proposed CHDP Safe Harbor value. MichCon asserts ANR’s own witness showed that these numbers are unreasonable when he conceded that the lowest daily flowing temperature at one ANR-MichCon interconnect averaged 27° F during the last three years--13° F lower than the temperature value used by ANR in deriving its proposed Safe Harbor CHDP.⁵³

38. MichCon asserts, in addition, that the White Paper methodology requires the CHDP determination to be based on an analysis of the lowest temperature and coinciding

⁵¹ MichCon lists the parameters as (1) minimum flowing gas temperature; (2) minimum ambient air temperature; (3) minimum ambient ground temperature; (4) operating pressure requirements; (5) pressure reduction; (6) CHDP levels of gas supplied including those of downstream pipelines; (7) experience with monitoring HDP levels and associated problems caused by hydrocarbon liquid dropout at various levels; (8) presence of heating systems; (9) presence of separation equipment; (10) prevailing and expected flow patterns; (11) impact of storage; (12) end user applications; and (13) LNG liquefaction peak shaving feed stock requirements.

⁵² MichCon Request for Rehearing at 15-16, *citing* White Paper, Appendix B [MC-2].

⁵³ MichCon cites ANR Zersen Rebuttal at 11:14 [ANR-5].

highest pressure drop of flowing gas at each place of pressure reduction.⁵⁴ MichCon states that, instead, ANR used (1) an arbitrarily selected temperature which was 6° F higher than even the lowest average monthly flowing temperature and (2) average reductions in pressure not representative of ANR's actual system operations in the northern part of ANR's system where winter gas deliveries are most critical.⁵⁵ MichCon asserts ANR then arbitrarily reduced its resulting value by 4° F.⁵⁶ MichCon asserts ANR's methodology is based on arbitrarily selected temperatures and pressures that do not represent actual winter conditions on the northern portion of its system.

39. MichCon asserts ANR examined one delivery point with MichCon after ANR conducted its analysis and determined that a CHDP of 15° F was sufficient at that one point. But MichCon asserts this examination of one delivery point is neither sufficient nor probative. MichCon asserts that, instead, ANR should have gone through the steps specified by the White Paper, in consultation with customers, or proposed an alternative method that can be justified based on actual system operations.

40. MichCon asserts there is no evidence in the record that supports the Commission's approval of the methodologies ANR employed to determine its 15° F CHDP Safe Harbor. It also asserts the Commission's approval is directly counter to its stated policy of supporting use of the White Paper in determining CHDP on interstate pipelines.

3. Commission Decision

41. In the July 3 Order the Commission found that ANR's analysis determining a 15° F CHDP was consistent with the White Paper guidelines, as per the Policy Statement in Docket No. PL04-3-000.⁵⁷ The Commission in its Policy Statement encourages pipelines and their customers to use the NGC+ interim guidelines as a common scientific reference point for resolving gas quality and interchangeability issues. The interim guidelines suggest a process for applying scientific principles to individual markets⁵⁸ but

⁵⁴ MichCon cites MichCon October 20, 2005 Comments in Opposition to Settlement, Docket No. RP04-435-000, Exhibit A at 3, P 9 and Attachment 4 at 2 (using White Paper methodology, the appropriate CHDP for ANR would be -14° F or less).

⁵⁵ MichCon cites the White Paper at 30 [MC-2]; MichCon October 20, 2005 Comments in Opposition to Settlement, Docket No. RP04-435-000, Exhibit A at 3, P 10.

⁵⁶ MichCon cites ANR Zersen Direct at 12:8 [ANR-1].

⁵⁷ July 3 Order, at PP 107-111.

⁵⁸ White Paper, Point 1 of Appendix B [MC-2].

do not address the specifics of individual pipeline circumstances or tariff provisions.⁵⁹

42. MichCon's claim that ANR failed to consider the parameters required by the White Paper is not determinative. Appendix A of the White Paper defined a set of parameters that "may be useful in establishing the CHDP "required to avoid hydrocarbon liquid dropout" for a relevant market area.⁶⁰ It was not the Commission's intent to require a pipeline to rigidly follow all of the parameters of the White Paper, but to set out the practical suggestions of the White Paper to be considered in conjunction with a pipeline's operating conditions to achieve the ultimate goal of safe, reliable service. However, the July 3 Order found that ANR did consider many of the parameters listed in Appendix A of the White Paper.⁶¹ The parameters in Appendix A include technical factors such as minimum flowing gas temperature, minimum ambient air temperature, minimum ambient ground temperature, operating pressure requirements, pressure reduction, CHDP levels of gas supplied, including to downstream pipelines, experience with monitoring CHDP levels and associated problems caused by hydrocarbon liquid drop at various levels, presence of heating systems, presence separation equipment, prevailing and expected flow patterns, and the impact of storage. As discussed below, ANR did consider these factors in developing its 15° F CHDP Safe Harbor, consistent with the White Paper.

43. ANR calculated the 15° F CHDP Safe Harbor, based on its systems operations, and followed the steps in Appendix B of the White Paper.⁶² Steps 1 through 3 of that process state that the pipeline should define the area for which the limit is to be applied, review the historical data of the area for composition, flowing gas temperature and

⁵⁹ The White Paper indicates that there are at least six (6) industry segments along the value chain with different concerns hydrocarbon liquid fallout concerns (section 1.1): producers, gas processors, pipelines, local distribution companies, direct connect customers and end users [MC-2]. Of those listed segments, only the interstate pipeline component of the pipeline industry segment is within the Commission's jurisdiction. The paper made no recommendation as to which industry segment or combination thereof should bear primary responsibility for controlling CHDP, nor did the Commission's *Policy Statement*.

⁶⁰ White Paper, Appendix A.

⁶¹ July 3 Order at P 110.

⁶² July 3 Order at P 87.

pressure of delivered gas, and then, in Step 3, “select a candidate CHDP limit based on historical gas quality data.” ANR in Step 1 properly defined the area for which its CHDP limit is to be applied as its transmission system, although it also took into consideration the interests of its customers, both producers and downstream customers.⁶³

44. Contrary to MichCon’s assertion that ANR ignored Step 2, ANR did review the relevant Step 2 data. It found that typical flowing gas temperatures in its primary market areas range in average from 37° F to 70° F in the summer and from 34° F to 57° F in the winter. ANR testified that during the past four years it had experienced low average monthly temperatures in the mid-thirty degree range.⁶⁴ ANR similarly reviewed operating pressures on its system, among other things finding that it had 385 delivery meter stations with pressure control regulators that produce an average pressure drop of 431 psi.⁶⁵ With regard to the composition of its gas stream, ANR testified that approximately two thirds of the gas delivered to ANR is gas supply attached to the ANR system in the Southwest and Mid-Continent areas and gas delivered into ANR’s pipeline in the market areas such as that coming from Canada. These supplies have historically not presented any significant liquid fallout concerns for ANR because these supplies have been processed before delivery to ANR.⁶⁶ ANR testified that the remaining one-third of the gas on ANR’s system originates in the Gulf of Mexico and is transported on ANR’s Southeast System. This gas tends to be extremely rich in hydrocarbon liquefiabiles.⁶⁷ ANR’s pipeline system is not equipped to handle the amount of liquids that would fall out if the majority of gas coming from the Gulf of Mexico was not processed.⁶⁸

⁶³ ANR Zersen Direct at 13 [ANR-1]; Filing of August 2, 2004 at 11.

⁶⁴ ANR Anderson Direct at 4 and ANR-2 at 41 and 43. *See also* July 3 Order at P 85 and materials cited.

⁶⁵ ANR Anderson Direct at 5 and ANR-2 at 5-6. *See also* July 3 Order at P 86-87 and materials cited.

⁶⁶ ANR Anderson Direct at 6 [ANR-4].

⁶⁷ *Id.*

⁶⁸ *Id.* at 8; Exhibits D, J, and N, August 2, 2004 filing (showing total liquids storage capacity on Southeast System divisions as 238,700 gallons and average daily removal of liquids by three processing plants at or upstream of Eunice on the Southeast System as 1,421,002 gallons).

45. In Step 3, ANR, based on the above information, selected a candidate 15° F CHDP Safe Harbor. ANR determined the candidate CHDP using benchmark figures of 40° F as a low system temperature and 300 psi as a representative pressure drop. ANR found that 40° F was representative of the actual flowing mainline low temperatures on many days during the year.⁶⁹ With respect to pressure drops, ANR determined that there were 78 meters that did not have heaters and that, while the maximum pressure reduction at these meter stations was 760 psi, the average pressure reduction at these points was 282 psi.⁷⁰ Based on these data, ANR determined that a 300 psi drop was an appropriate figure to use as a representative pressure drop. ANR recognized that there are days when flowing gas temperatures fall below 40° F, but it believed that the 40° F figure was supported by the fact that during peak times when ANR is experiencing the coldest flowing temperatures, the pipeline's line pack and capacity are such that large pressure reductions are less likely to occur. Based on the fact that a 300 psi pressure reduction will cause a 21° F drop in flowing gas temperature, ANR determined that in order to avoid liquid fallout, HDP temperature needed to remain below 19° F.⁷¹ It then arrived at the candidate CHDP Safe Harbor of 15° F by including a safety margin of four degrees to provide a cushion to address potential temperature readings below 40° F.⁷²

46. MichCon argues that ANR erred in using a benchmark 40° F gas flowing temperature in selecting its candidate CHDP Safe Harbor, since ANR has stated that the lowest daily flowing average temperature at one ANR-MichCon interconnect averaged 27° F during the last three years. However, the selection of a "candidate" CHDP level at the Step 3 stage of the Appendix B process is a matter of judgment on the part of the pipeline based on a general review of conditions on its pipeline. The remaining steps of the process are then used to verify whether the chosen "candidate" will in fact accomplish the goal of minimizing liquid fallout. If the remaining steps show that liquid dropout may occur at a point, then the process provides for the pipeline either to select a lower candidate CHDP or consider alternatives such as installation of gas heating equipment.⁷³ Here, as discussed below, in Step 6 of the process, ANR analyzed the very ANR-MichCon interconnect that experienced a low 27° F gas flowing temperature, and

⁶⁹ ANR Zersen Rebuttal at 4 [ANR-5].

⁷⁰ ANR Zersen Rebuttal at 5 [ANR-5]; Exhibit H at 1, August 2, 2004 filing.

⁷¹ ANR Zerson Direct at 12.

⁷² *Id.*.

⁷³ *See* Step 8.

determined that, taking into account the coinciding pressure at that point, there should not be liquid dropout even with a flowing gas temperature of 27° F. Thus, there was no need to consider alternatives to the 15° CHDP Safe Harbor.

47. Step 4 requires the pipeline to develop a phase diagram that represents the gas at the selected CHDP. Step 5 requires the pipeline to draw the J-T line, representing a 7° F drop in temperature for every pressure decrease of 100 psi, tangent to the HDP curve. In Step 6, the pipeline identifies “the lowest temperature and highest pressure of flowing gas at each place of pressure reduction and plot[s] the corresponding point on the phase diagram.” MichCon contends that ANR did not perform Step 6 of the White Paper methodology properly, because it did not determine the lowest temperature and coinciding highest pressure of flowing gas at every place of pressure reduction, but instead allegedly used an arbitrarily selected temperature that was 6° F higher than the lowest average monthly flowing temperature on ANR’s system and unrepresentative pressure reductions.

48. We recognize that ANR did not determine the lowest temperature and coinciding highest pressure of flowing gas at every place of pressure reduction. However, the purpose of Step 6 of Appendix B is to check on the candidate CHDP Safe Harbor that has been chosen in Step 3. A bullet under Step 6 in Appendix B states that the pipeline should “consider the effects of existing equipment, such as gas heaters.” ANR did that, and eliminated points with heaters from further analysis, since the heaters would ensure no liquid fallout at those points. Next, rather than testing every single point in their market area, ANR selected its only delivery points to MichCon and East Ohio, without heaters and their lowest flowing temperatures (one for MichCon and two for East Ohio).⁷⁴ ANR then determined the lowest temperatures that had occurred at those points over the last three years (27.4° F at the MichCon point and 29.7° F at the East Ohio points) and their coinciding highest pressure, and determined that there would be no liquid fallout at those points from 15° F gas.⁷⁵ There was no need to consider liquid

⁷⁴ ANR Zersen Rebuttal at 11-12 [ANR-5]; “ANR-MichCon Metering Facilities, Appendix B Process for establishing a Cricondenthem HDP Limit” [ANR-8] and “ANR-Dominion East Ohio Metering Facilities, Appendix B Process for establishing a Cricondenthem HDP Limit,” [ANR-9]. The analysis for MichCon showed MichCon has one unheated meter and that it had a low temperature of 27.4 ° F with an associated highest pressure of 392 psi over the period May, 2002 through June, 2005. The analysis for Dominion East showed that Dominion East has two unheated meters and that they had a low temperature of 29.7 ° F with an associated pressure of 573.3 psi.

⁷⁵ *Id.*

fallout at other delivery points, since those points have heaters and the risk of fallout is considerably less at heated delivery points. The Commission accordingly rejects MichCon's objections to ANR's delivery point analysis and affirms that it is probative with respect to the lack of liquid fallout at delivery points with MichCon and Dominion East Ohio with a CHDP Safe Harbor of 15° F.

49. Finally, we note that ANR explained that, while the Safe Harbor that it proposed was the result of a formula applied to chosen parameters, "it is also the result of reasoned judgment based on ANR's knowledge and experience as the operator of its system over many years."⁷⁶ ANR also stated that it "has a primary responsibility to operate its system in a safe and reliable manner." It added, however, that "this need for operational integrity must be balanced with the need for system supply, and thus, ANR does not want to impose limitations that are overly strict and that would prevent certain supply from entering the system, especially if that gas would not adversely affect ANR's operations and system reliability."⁷⁷ When, as here, issues are raised as to whether a proposed gas quality standard is sufficiently strict to prevent operational problems on a pipeline system, it is appropriate to give weight to the testimony of witnesses with substantial experience operating that pipeline. ANR has presented testimony by its employees primarily responsible for the operation of its system, and they have testified that the system will be safely operated with a 15° F Safe Harbor. In addition, ANR's effort to avoid imposing overly strict limitations that would prevent certain gas supplies from entering the system was consistent with the Policy Statement's concern that pipeline not impose unnecessarily strict gas quality standards that impede access to gas supplies.

C. Probative Value of Lack of Liquid Dropout on MichCon's System from February 1, 2004 through October 31, 2005

50. In finding that 15° F is an appropriate Safe Harbor CHDP for ANR, the Commission relied, in part, on MichCon's testimony that it had not experienced liquid fallout on its system as a result of gas delivered by ANR. MichCon's testimony included the twenty-two month period from February 1, 2004 through October 31, 2005. During this period ANR initially used a CHDP limit of 20° to 25° F and subsequently a CHDP limit of 15° F.⁷⁸

⁷⁶ ANR Zersen Rebuttal at 3 [ANR-5].

⁷⁷ ANR Zerson Direct at 3.

⁷⁸ *Id.* at P 91.

51. MichCon asserts on rehearing that the Commission draws an inappropriate conclusion from its testimony concerning the absence of liquid fallout on its system during the 22-month period. MichCon asserts that the dry gas delivered to MichCon during this 22-month period possessed a “hydrocarbon dew point well below 0° Fahrenheit,” and that this low temperature virtually eliminated the possibility of any liquid fallout.⁷⁹ MichCon asserts its evidence merely shows that, historically, ANR has delivered gas to MichCon at a very low CHDP at which liquid fallout does not occur. MichCon asserts that, accordingly, the lack of liquid fallout during the 22-month period does not support the conclusion that ANR’s CHDP Safe Harbor of 15° F will prevent dropout at downstream delivery points.

52. The Commission affirms its finding that there is substantial evidence that 15° F is an appropriate receipt point CHDP Safe Harbor for ANR. In reaching this conclusion in the July 3 Order, the Commission relied primarily on the evidence concerning ANR’s system and on ANR’s analyses of the actual lowest temperatures and coincident pressures at the delivery points on its system most at risk for liquid fallout, as discussed above. These delivery points were for MichCon and another downstream entity⁸⁰ that do not have heaters.⁸¹ In the July 3 Order, the Commission cited evidence concerning lack of fallout on MichCon’s system as further supporting evidence that a 15° F CHDP Safe Harbor is appropriate for ANR.

53. Even though the evidence of lack of fallout on MichCon’s system is not necessary to the Commission’s holding, the Commission regards the lack of fallout on MichCon’s system during the 22-month period as providing additional evidence buttressing our holding that a CHDP Safe Harbor of 15° F is just and reasonable for ANR’s system. MichCon testified that there were no incidents of liquid dropout as a result of ANR deliveries, including during the 22-month period. ANR’s receipt point CHDP Safe Harbor during the 22-month period was 15° F or above. The Commission affirms that the lack of incidents on MichCon’s system during this period supports the finding that 15° F is an appropriate receipt point CHDP Safe Harbor for ANR and will allow ANR to make deliveries at delivery points with its customers without liquid fallout.

⁷⁹ MichCon cites MichCon Aud Rebuttal at 7 [MC-10].

⁸⁰ East Ohio Gas Company d/b/a Dominion East Ohio (Dominion East).

⁸¹ July 3 Order at P 91.

D. Whether ANR's evidence was rebutted

54. In the July 3 Order, the Commission found that the opposing parties, including MichCon, had not rebutted ANR's evidence that 15° F is an appropriate Safe Harbor CHDP for ANR.⁸² MichCon contends, however, that it offered substantial analytical evidence rebutting ANR's proposed Safe Harbor. It states this rebuttal evidence consisted of its own testimony that the Safe Harbor for ANR's system should be no higher than 0° F⁸³ and ANR's demonstration that the Safe Harbor on ANR's system should be -14° F or -59° F.⁸⁴ The Commission rejects these contentions as discussed below.

1. MichCon's Farm Tap Evidence as Rebuttal Evidence

55. MichCon's claims that the CHDP Safe Harbor should be no higher than 0° F are based, in part, on an analysis of its farm taps that MichCon states it performed in accordance with the White Paper.⁸⁵ The White Paper provides that the presence of heating systems should be considered in establishing a CHDP limit.⁸⁶

56. In its testimony, MichCon stated that it has 190 city gate stations, all of which have heating equipment.⁸⁷ It stated that it has 878 farm taps that serve multiple customers and 676 active farm taps that serve individual customers.⁸⁸ None of the farms taps have heating equipment. MichCon states that, in accordance with the White Paper, it

⁸² *Id.* at P 92 citing MichCon Aud Rebuttal at 7 [MC-10].

⁸³ MichCon cites MichCon Aud Direct at 22 [MC-1] and MichCon Aud Rebuttal at 4-7 [MC-10].

⁸⁴ MichCon cites MichCon October 20, 2005 Comments in Opposition to Settlement, Docket No. RP04-435-000, Exhibit A at Attachment 4 [ANR-7 at 1-4].

⁸⁵ MichCon Aud Direct at 16, 21-22 [MC-1]; Representative 15° F Dew Point Curve with J-T Line, Representative 0° F Dew Point Curve with J-T Line [MC-6]; MichCon Aud Rebuttal at 6, 8- 9, and 17 [MC-10].

⁸⁶ White Paper, Appendix A.

⁸⁷ MichCon Aud Rebuttal at 8 [MC-10].

⁸⁸ *Id.* at 6; Representative 15° F Dew Point Curve with J-T Line; Representative 0° F Dew Point Curve with J-T Line [MC-6]. MichCon states that it has approximately 1,000,000 customers total (MichCon Aud Rebuttal at 8 [MC-10]).

included only its farm taps⁸⁹ in its analysis because these delivery points have no heaters and because the greatest likelihood for problems related to hydrocarbon liquid fallout would occur at such locations.⁹⁰

57. MichCon analyzed the temperature and pressure conditions at its unheated 878 farm taps with multiple customers by creating two HDP curves on two different graphs, one with a CHDP of 0° F and the other with a CHDP of 15° F. Michcon then plotted 54 points representing the range of temperature and pressure experienced at its 878 farm taps on each graph.⁹¹ MichCon's HDP curves show the following. Farm taps at 17 of the data points are to the left of the J-T line on the HDP curve with a 0° F CHDP. Thus, farm taps at 17 of the data points may experience liquid dropout with a gas stream that has a CHDP of 0° F. Farm taps at 30 data points are to the left of the J-T line on the 15° F CHDP HDP curve.⁹² Thus, farm taps at 30 of the data points may experience liquid dropout with a gas stream that has a CHDP of 15° F. Farm taps at 24 of the data points

⁸⁹ "A farm tap is a pressure-reducing station connected to MichCon's transmission or high pressure distribution systems through which MichCon directly delivers natural gas to a limited number of customers, generally in rural areas." MichCon Aud Rebuttal at 4 [MC-10]. MichCon's farm tap facilities are "above-ground facilities that typically consist of regulation equipment to reduce the pressure so that the gas can be delivered to the end users." *Id.* There is "generally no liquid separation equipment or drips on the service lines leading from the farm taps to the customers' homes and/or facilities . . ." *Id.* at 5.

⁹⁰ MichCon Aud Rebuttal at 5 [MC-10].

⁹¹ *Id.* at 6. MichCon created two representative hydrocarbon dew point curves, the first with a CHDP of 15° F and the second with a CHDP of 0° F. It then plotted the 878 farm taps on each of the two graphs with the 15° F and 0° F hydrocarbon dew point curves according to the inlet temperature and pressure at each tap. However, MichCon used only one data point to represent farm taps with the same temperature and pressure reduction characteristics. The result was that each graph contained only 54 data points. MichCon then drew a Joule-Thomson (J-T) line tangent to the hydrocarbon dewpoint curve on each graph. The J-T line represents a decrease in temperature of the gas stream of 7° F for each decrease in pressure of 100 psi. MichCon stated the points to the left of the J-T line will experience liquid fallout when cut to either a 60 or 10 psig outlet pressure.

⁹² Representative 15° F Dew Point Curve with J-T Line, Representative 0° F Dew Point Curve with J-T Line [MC-6].

are to the right of the J-T line on both HDP curves. These farm taps will not experience liquid dropout regardless of whether a gas stream has a 0° F CHDP or a 15° F CHDP.

58. The Commission finds MichCon's evidence does not rebut ANR's evidence that a receipt point 15° F CHDP Safe Harbor is appropriate for ANR's system. First, MichCon's evidence does not concern conditions on ANR's system, but, instead conditions at MichCon's own delivery points to its customers, so that it does not establish anything concerning operating conditions on ANR.

59. Second, MichCon's evidence shows that with respect to its own system, MichCon has heating equipment on all of its citygate delivery points and that only its farm taps, which represent less than 0.2 percent of its customers,⁹³ lack such equipment. Thus, it is evident that MichCon does not rely only on the CHDP of the gas it receives to ensure that liquid fallout does not occur on its system.

60. Third, the Commission finds that MichCon's farm tap evidence does not rebut a 15° F CHDP Safe Harbor as appropriate for ANR. The Commission notes that, according to MichCon, heaters could be provided to heat the existing equipment at the farm taps to prevent meter freeze offs at a cost of \$3 million.⁹⁴ It also notes MichCon testified that heating equipment to heat the gas stream could be installed at these locations. MichCon stated this additional equipment would be significantly more expensive, but did not provide a cost figure. The Commission finds MichCon's farm tap analysis indicates that even with a CHDP of 0° F, some farm taps on MichCon will be at risk of liquid dropout.⁹⁵ Thus, accepting MichCon's farm tap evidence, MichCon would have to install

⁹³ Aux Sable Horner Cross Answering at 5.

⁹⁴ MichCon Aud Direct at 13 [MC-1].

⁹⁵ MichCon also states that it determined that of the 1,554 active farm taps on its system, "755 more farm tap locations (approximately half of MichCon's farm tap locations) would experience hydrocarbon liquid fallout if gas with a hydrocarbon dew point of 15° Fahrenheit were delivered to those points than if the gas had a hydrocarbon dew point of 0° Fahrenheit." MichCon Aud Rebuttal at 6 [MC-10] (emphasis removed). However, MichCon does not present any supporting graphs for this statement. Thus, it is not possible to tell how many farm tap locations would not experience liquid fallout under either a 0° F or 15° F CHDP. Nor does MichCon indicate how this statement relates to its graphic analysis of its 878 multi-customer farm tap locations in [MC-6].

(continued)

some equipment even with a CHDP of 0° F. Therefore, there is nothing in MichCon's evidence to show that it does not have a reasonable remedy available to it. In addition, MichCon's estimates of \$3 million and significant additional costs assume that heating equipment must be installed at all of the farm tap locations. But MichCon's evidence shows that heating equipment is not needed at all of these locations. Thus, the Commission finds that MichCon has overestimated the costs of remedial measures for its farm taps. Moreover, MichCon is a major local distribution company and Hinshaw pipeline, as shown by the fact it is ANR's largest single customer. It has presented no evidence to show that the estimated cost of installing any necessary heaters would be a substantial hardship on it or have any significant impact on the rates it charges its customers.

61. As the Commission determined in the July 3 Order, methods, such as heaters, are available for preventing liquid fallout once gas has been processed to a pipeline's HDP or CHDP Safe Harbor limits.⁹⁶ The Commission finds that based on its testimony in this case, MichCon has not shown that it does not have a reasonable remedy for liquid fallout that may occur when the CHDP Safe Harbor on ANR's system is 15° F.

2. ANR's Worst Case Analyses as Rebuttal Evidence

62. MichCon also contends other evidence rebutted ANR's 15° F CHDP Safe Harbor. It claims this rebuttal evidence consisted of ANR's demonstration that the Safe Harbor on ANR's system should be -14° F or -59° F.⁹⁷ The Commission rejected this argument in the July 3 Order⁹⁸ and affirms that rejection here. MichCon cited two analyses done by ANR in response to a data request by the Producer Coalition, requesting that ANR conduct a White Paper Appendix B analysis using the lowest temperature experienced on ANR's system and the highest pressure reduction. That analysis suggested that the maximum CHDP for points in the state of Michigan -14° F where only pressure drops on ANR's system were considered and -59° F when all pressure drops, including those at

Thus, this evidence can only be used to support the general conclusion that more farm tap locations would be at risk for liquid dropout with a 15° F CHDP than with a CHDP of 0° F.

⁹⁶ July 3 Order at P 58.

⁹⁷ MichCon cites MichCon October 20, 2005 Comments in Opposition to Settlement, Docket No. RP04-435-000, Exhibit A at Attachment 4 [ANR-7 at 1-4].

⁹⁸ July 3 Order at P 92.

delivery points, were considered.⁹⁹ These studies were based on the lowest winter-time temperature on ANR's system in Michigan, -8° F and highest pressure reduction of 850 psi.¹⁰⁰ As the Commission found in the July 3 order, the studies only took into account the lowest temperature and greatest pressure drop on ANR's system and ignored all the other flowing gas temperatures on ANR. That is, these studies in response to the Producer Coalition data request showed maximum low temperatures and maximum pressure drops that are not coinciding. They do not occur at the same point on the system¹⁰¹ and thus do not represent actual conditions on the system.

63. The Commission found that, as a result, the CHDP Safe Harbor level suggested by these studies was significantly lower than the 0° F originally proposed by MichCon and later sought for deliveries at its interconnects with ANR. Further, the Commission noted, the focus of this proceeding has been to determine the highest CHDP of gas delivered to ANR, which ANR can safely and reasonably accept on its system. The Commission stated the worst case parameters identified in the studies were delivery point parameters. It stated that while ANR must take delivery point conditions into consideration, and it should know the extreme limits of its operating envelope, ANR does not have to establish its Safe Harbor CHDP on the basis of the worst case scenario. Accordingly, the Commission found, and affirms here, that the ANR studies cited by MichCon do not support MichCon's contention that ANR's CHDP Safe Harbor should be less than 15° F.

E. Whether ANR Properly Considered Downstream Interests in Proposing Its Safe Harbor

64. MichCon cites the Commission's statement in the July 3 Order that "ANR's CHDP safe harbor may reasonably take into consideration ANR's ability to make deliveries to downstream interconnects, but that ANR is not required to base its CHDP Safe Harbor on operating conditions on downstream systems."¹⁰² MichCon asserts this

⁹⁹ Citing "ANR Pipeline Company, Docket No. RP04-435-000, June 16, 2005 Data Request [and related material]" [ANR-7].

¹⁰⁰ "ANR Pipeline Company, Docket No. RP04-435-000, June 16, 2005 Data Request [and related material]" at 9 [ANR-7].

¹⁰¹ *Id.* at 3-4; ANR Zersen Rebuttal at 10-11 [ANR-5].

¹⁰² MichCon cites the July 3 Order at P 2. MichCon also cites P 92 of the July 3 Order which states: "While ANR must take delivery point conditions into consideration, and it should know the extreme limits of its operating envelope, ANR does not have to establish its Safe harbor CHDP on the basis of worst case scenario."

statement means that the Commission does want downstream interests to be considered when setting upstream operational constraints even if those upstream operational constraints are not based entirely on downstream operations. MichCon asserts that, contrary to its statement in the July 3 Order, the Commission has approved an operational aspect of ANR's tariff that was developed without taking any downstream interests into consideration.¹⁰³

65. The Commission rejects MichCon's assertion that it did not consider downstream interests in reviewing ANR's CHDP Safe Harbor. As discussed above, the record before the Commission indicated that the 15° F CHDP Safe Harbor satisfied most of ANR's downstream customers' operational requirements. The record contained comments of downstream LDC customers on ANR's contested Offer of Settlement. These LDCs occupy positions along ANR's system in Ohio, Illinois, Wisconsin, and Michigan. Other than MichCon and MGU (then Aquila), the LDCs consented to or supported the 15° F CHDP Safe Harbor as adequate to prevent liquid fallout on ANR's system and as presenting little risk to their systems of receiving liquids from ANR.¹⁰⁴ Thus, for the consenting or non-objecting downstream customers, the 15° F CHDP Safe Harbor was a reasonable CHDP limit.

66. The only objecting downstream customers were MichCon and MGU. These parties stated they face extreme cold temperatures.¹⁰⁵ In particular, MichCon testified to the probability of liquids fallout at unheated farm taps on its system. The Commission found that the farm taps on MichCon's system represented the most extreme conditions faced by an ANR customer, that is, they represented a worst case scenario.¹⁰⁶ In addition, the Commission found that the liquids fallout that might occur once gas was processed to meet ANR's CHDP Safe Harbor limit could be addressed by equipment such as heaters, drips, filtration or separation equipment, and knockout vessels, all of which are intended

¹⁰³ MichCon cites MichCon October 20, 2005 Comments in Opposition to Settlement, Docket No. RP04-435-000, Exhibit A at 3, P 10.

¹⁰⁴ July 3 Order at P 28-30, comments of Dominion East Ohio, Northern Illinois Gas Company d/b/a Nicor Gas Company (Nicor Gas), the Wisconsin Distributor Group (WDG), and the Peoples Gas Light and Coke Company and North Shore Gas Company (Peoples).

¹⁰⁵ July 3 Order at P 49 and 69 (MichCon testimony that ANR has experienced flowing gas temperatures as low as -8° F in Michigan).

¹⁰⁶ July 3 Order at P 59.

to remove small accumulations of liquids.¹⁰⁷ The Commission found this type of equipment was a reasonable remedy for liquid dropout that might occur on the LDCs' systems.

67. Accordingly, the Commission determined that, in the circumstances presented in this case, where the objecting parties represent extreme conditions and reasonable remedies are available, it was inappropriate for conditions at MichCon's farm taps to dictate the gas quality requirements that all shippers on the ANR system must meet.¹⁰⁸ The Commission set the CHDP Safe Harbor for ANR at a level that addresses normal operating conditions on ANR.¹⁰⁹ A lower CHDP requirement was not necessary for all gas entering ANR's pipeline system as it was not needed for safe and reliable operations of the pipeline and most of ANR's customers had consented to or not objected to the 15° F CHDP Safe Harbor indicating that it was unnecessary for their systems as well. In addition, the Commission found that reasonable remedies were available for liquid fallout that might occur with a 15° F CHDP Safe Harbor. Consequently, contrary to MichCon's assertions, the Commission did consider downstream entities in setting ANR's CHDP Safe Harbor.

F. Whether ANR Complied with the Commission's Policy Statement

1. The July 3 Order

68. Although the *Policy Statement* was not in effect during the instant proceeding, the Commission found that the Settlement is consistent with the five gas quality principles in the *Policy Statement*.¹¹⁰ The Commission found that, first, the Settlement proposes to continue placing ANR's gas quality provisions in its tariff, consistent with the *Policy Statement*. The *Policy Statement* states that pipeline tariff provisions on gas quality need to be flexible to allow pipelines to balance safety and reliability concerns with the importance of maximizing supply, as well as recognizing the evolving nature of the science underlying gas quality specifications. The Commission found the Settlement provides ANR flexibility to accept gas that does not meet a posted CHDP limit, where it

¹⁰⁷ *Id.* at P 58 citing White Paper, sections 1.4.6-1.4.8 [MC-2].

¹⁰⁸ *Id.* at P 61.

¹⁰⁹ *Id.* at P 106.

¹¹⁰ July 3 Order at P 107-112.

can do so without impairing safety or reliability through pairing of supplies and also through permitting changes in the future.

69. Second, the *Policy Statement* states that pipelines and their customers should develop gas quality specifications based on technical requirements. The Commission found that the instant ANR proceeding established a record that delved into the operational characteristics of the ANR system, operating parameters of key delivery points, and the key gas quality specifications necessary for ANR to stay within its operating parameters. The Commission also noted that while the *Policy Statement* specifically mentioned only pipelines and their customers in setting forth this and the following two principles, the Commission expects that all interested parties, including producers, processors, and end users, as well as pipelines and their customers, will have an opportunity to participate in the resolution of these issues. The Commission found that representatives of all these industry sectors participated in the instant ANR proceeding.

70. Third, the *Policy Statement* strongly encourages the use of the White Paper as a common reference point in negotiating technically based solutions. The Commission found that the Settlement is consistent with the *Policy Statement* with respect to use of the White Paper because the parties were aware of the White Paper and debated whether ANR's analysis comported with the White Paper guidelines and also because ANR used the CHDP as its gas quality standard. Last, the *Policy Statement* states that to the extent disputes over gas quality cannot be resolved by the parties, those disputes can be brought before the Commission to be resolved on a case-by-case basis, on a record of fact and technical review. The Commission noted that ANR's original gas quality proposal and the resulting Settlement were contested and that the Commission established a hearing to create a record. It noted that the July 3 Order used that record to resolve the disputed issues. It also noted that all interested parties, including pipelines, customers, producers, and processors, had an opportunity to participate in the hearing. The Commission found the procedures followed in this proceeding were consistent with those in the *Policy Statement*.

2. Rehearing Requests

71. MichCon asserts that ANR's gas quality provisions do not comply with the *Policy Statement*. First, it asserts that these provisions do not meet the principle that gas quality provisions need to be flexible to allow pipelines to balance safety and reliability concerns with the importance of maximizing supply. MichCon asserts ANR's gas quality provisions are not flexible because they do not provide ANR the flexibility to reject gas that meets its tariff provisions even if failure to do so would impair the safety of downstream customers such as MichCon. MichCon asserts that the safety and well-being of MichCon's customers will be put at risk if ANR cannot reject such gas. MichCon

asserts that the July 3 Order permits ANR to plan only for conditions on its southeast system which is located in warm climates and not for the weather and pressure conditions occurring in Michigan.

72. MichCon also asserts that ANR's gas quality provisions do not comply with the *Policy Statement* because they were not developed with ANR's customers. MichCon states that it is the largest customer of ANR, accounting for 18 percent of ANR's firm maximum daily quantity, but it was not consulted by ANR prior to ANR's filing. It asserts that, instead, ANR negotiated its Safe Harbor primarily with producers who are minimal shippers on ANR's system, accounting collectively for only about three to four percent of the firm MDQ on ANR's system. It states ANR presented the Settlement to MichCon as a take-it-or-leave-it proposal.¹¹¹ MichCon states that, thus, at a minimum, the Settlement does not represent the interests of ANR's largest customer.

3. Commission Decision

73. The Commission rejects MichCon's objections. ANR has shown that the Settlement's receipt point Safe Harbor provisions are supported by its evaluation of its system's safety and reliability concerns,¹¹² took into consideration its downstream delivery point limitations,¹¹³ and were concerned with maximizing throughput.¹¹⁴ MichCon asserts ANR's gas quality provisions are not flexible because they do not provide ANR the flexibility to reject gas that meets its tariff provisions even if failure to do so would impair the safety of downstream customers such as MichCon. However, that was not the purpose of this proceeding. This proceeding started because ANR was concerned with the potential that some tendered customers' gas would result in liquid hydrocarbon fallout that would impact *its* operations. Neither the Settlement nor the July 3 Order established, nor foreclosed the opportunity for, delivery point CHDP levels. Further, ANR has the flexibility to issue an OFO to reduce the Safe Harbor CHDP to avoid an event that threatens the operational integrity of ANR's system.¹¹⁵

¹¹¹ MichCon cites MichCon October 31, 2005 Reply Comments at 4 n.3.

¹¹² July 3 Order at P 65-93.

¹¹³ *Id.* at P 47-64.

¹¹⁴ ANR Direct Anderson at 8 [ANR-4].

¹¹⁵ July 3 Order at P 19.

74. MichCon also alleges that ANR's Safe Harbor standards do not comply with the *Policy Statement* because they were not developed with ANR's largest customers. It should be noted, however, that eleven parties, including LDCs, producers and other shippers on ANR's system filed comments in support of the Settlement. The Commission rejects MichCon's assumption that the *Policy Statement* requires pipelines to accede to every customer's requirements. That is not the case. The Commission prefers that gas pipelines and their customers develop mutually agreeable standards (Principle 3). In the event the parties cannot resolve their disputes, the Commission stands ready to resolve issues within our jurisdiction on a case-by-case basis based on the facts and technical review (Principle 5). The July 3 Order did not establish delivery point gas quality standards. Further, the Commission anticipates that tariff gas quality standards may change in the future in recognition of changing requirements and technology.¹¹⁶ The Settlement also recognizes the tariff standards may change in the future.¹¹⁷ Thus, MichCon and other ANR customers are not foreclosed from working with ANR and each other to define and support future gas quality tariff modifications.

The Commission orders:

The requests for rehearing are denied.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

¹¹⁶ *Policy Statement* at P 27.

¹¹⁷ July 3 Order at P 21 and 109.