120 FERC ¶ 61,162
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 16, 2007

In Reply Refer To:
Wyoming Interstate Company, Ltd.
Docket No. RP07-529-000

Wyoming Interstate Company, Ltd.
P.O. Box 1087
Colorado Springs, CO 80944

Attention: Catherine E. Palazzari
Vice President

Reference: Revised Tariff Sheets

Dear Ms. Palazzari:

1. On July 17, 2007, Wyoming Interstate Company, Ltd. (WIC) filed revised tariff sheets[1] to propose a mechanism that would allow WIC to fully recover the cost incurred by WIC in contracting for off–system capacity as requested by a shipper(s). WIC's proposed tariff sheets also allow it to make available any unused off-system capacity on a secondary and interruptible basis, and addresses contract extensions for agreements that rely on off-system capacity where WIC does not have the unilateral right to extend the term of the off-system contract. The Commission accepts the tariff sheets, as conditioned below, to be effective August 17, 2007, as proposed.

2. In its filing, WIC states that Article 6 of its General Terms and Conditions (GT&C) of its tariff permits it to acquire off-system capacity from a third-party pipeline for operational purposes or to provide service to its shippers. WIC states that under those circumstances, the off-system capacity is treated as an extension of WIC's pipeline system and the shipper receiving service from/to an off-system point(s) are billed transportation rates as if the off-system point(s) were part of WIC's system. WIC states

[1] Second Revised Sheet No. 11A, Seventh Revised Sheet No. 28, Fourth Revised Sheet No. 61, Tenth Revised Sheet No. 63, Fourth Revised Sheet No. 63A to FERC Gas Tariff, Second Revised Tariff No. 2

that the current provisions do not address situations where WIC would not ordinarily have contracted for and/or acquired the off-system capacity but for the request of a shipper. WIC's filing proposes to revise GT&C Article 6 to provide that if WIC, at the request of a shipper, the requesting shipper, agrees to acquire off-system capacity to provide seamless transportation service for that shipper's benefit, the shipper may be required to pay WIC, in addition to its recourse or discount rates, any additional amounts including fuel not to exceed the charges WIC is obligated to pay the third-party pipeline for the off-system capacity. WIC states that its proposal is consistent with Commission precedent approving similar proposals by *ANR Storage Company*, in Docket No. RP06-421-000 (unpublished letter order issued July 19, 2006), and by *Tennessee Gas Pipeline Company*, in Docket No. RP07-151-000, 118 FERC ¶ 61,159 (2007) (*Tennessee*).

3. Public notice of WIC's filing was issued with interventions and protests due as provided in section 154.210 of the Commission's regulations, (18 C.F.R. § 154.210 (2007)). On July 25, 2007, BP America Production Co. and BP Energy Company filed timely motions to intervene. On July 29, 2007, Williams Power Company, Inc. (Williams), filed a Motion to Intervene, Seek Clarification and Protest. Pursuant to Rule 214 (18 C.F.R § 385.214 (2007)), all timely, unopposed 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 nor place additional burdens on existing parties.

4. In its filing, Williams states that it is concerned that the proposed tariff changes may go beyond simply allowing WIC to effectively pass through the cost associated with the off-system transaction(s), because the proposed tariff language does not contain the limitation, as stated in WIC's cover letter, that WIC will be allowed to recover only Third Party Charges, including fuel, that do not exceed the charges that WIC is obligated to pay for the third-party pipeline capacity. Thus, Williams requests that a sentence be added to proposed GT&C sections 3.12 and 4.13 as indicated:

> 3.12 Third Party Charges: Shipper may, on a non-discriminatory basis, be required to pay to Transporter, if applicable, any Third Party Charges in accordance with Article 6 of the General Terms and Conditions. <u>In no event shall such Third Party Charges paid by Shipper exceed the amount incurred and paid by Transporter for the applicable off-system capacity.</u>
>
> 4.13 Third Party Charges: Shipper may, on a non-discriminatory basis, be required to pay to Transporter, if applicable, any Third Party Charges in accordance with Article 6 of the General Terms and Conditions. <u>In no event shall such Third Party Charges paid by Shipper exceed the amount incurred and paid by Transporter for the applicable off-system capacity.</u>

5. Williams also states that WIC would reap a windfall from its proposal to make available any off-system capacity, not used by the requesting shipper, on a secondary or interruptible basis, because it would have been fully compensated for such capacity by its shipper(s). Williams believes that absent requirement that revenue generated from WIC's sale of secondary or interruptible service be credited to the shipper on whose behalf such off-system capacity was originally acquired. Williams states that WIC would have the potential to retain revenues which would flow dollar for dollar to its equity holders and not be reflected in its cost of service.

6. Williams requests that proposed GT&C section 6.3 be modified as indicated:

> 6.3 Any off-system capacity acquired by Transporter for the benefit of a Shipper which is not used by that Shipper shall be offered to other Shippers on a secondary and interruptible basis, pursuant to Transporter's FERC Gas Tariff and subject to Transporter's currently effective rates, including any applicable third party charges, as such tariff and rates may change from time to time. Transporter will indicate in its posting of any off-system capacity available for service whether any, <u>and, if so, what,</u> third party charges will apply to the use of such off-system capacity. <u>Any amounts collected in excess of such third party charges will be refunded to Shipper for the benefit of which the third-party capacity was acquired.</u>

7. The Commission finds that Williams' proposed revisions to GT&C sections 3.12 and 4.13, are consistent with provisions previously accepted by the Commission. The revisions allow WIC, at the request of its shipper, to acquire off-system capacity for the benefit of the requesting shipper, provided the shipper is willing to pay an additional amount for the off-system capacity. Such tariff provisions recognize that when a pipeline and a shipper agree, a pipeline can provide a service to the shipper by arranging for transportation of the shipper's gas to or from the pipeline. As WIC's transmittal accompanying the proposed provisions states that only the amount of the charges that WIC incurs will be passed on to the requesting shipper, the language requested by Williams serves to clarify that the pass-along charges cannot exceed the amount incurred by WIC, and we will require WIC to submit revised tariff sheets incorporating that language.

8. The Commission, however, denies Williams' proposed revision to GT&C section 6.3. The proposed revisions would require WIC to reimburse the shipper the amount that WIC receives, if and when another shipper is scheduled to use the capacity on a secondary or interruptible basis. The revision is unnecessary because the requesting shipper can achieve the requested reimbursement simply by releasing the capacity through WIC's capacity release procedure. However, to the extent this shipper chooses not to release the capacity it has under contract, the Commission's open access transportation rules require the pipeline to make all idle capacity available for use by other shippers on a secondary firm or interruptible basis. To the extent there is increased

revenue to the pipeline, current Commission policy allows the pipeline to retain the revenue from such service.[2] In this situation, the revenue WIC receives from marketing the idle capacity will be treated in the same manner as it treats other interruptible transportation revenue that it receives under its open-access provisions. Ultimately, these revenues and volumes will be reflected in the design of the pipeline's rates in its next general rate case.

9. Accordingly, the Commission accepts the instant tariff sheets to be effective on August 17, 2007, subject to WIC's filing revised tariff sheets within ten days of the date of this order, as discussed above.

By direction of the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Acting Deputy Secretary.

[2] *See ANR Pipeline Co.*, 110 FERC ¶ 61,069 P 25 (2005), and *Canyon Creek Compression Co.*, 99 FERC ¶ 61,351 P 14 ("pipeline is at risk for under-recovery of its costs between rate cases, but may retain any over-recovery").