120 FERC ¶ 61,287
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Colorado Interstate Gas Company Docket Nos. RP07-666-000
RP07-667-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS AND ESTABLISHING TECHNICAL CONFERENCE

(Issued September 27, 2007)

1. On August 31, 2007, in Docket No. RP07-666-000, Colorado Interstate Gas Company (CIG) filed tariff sheets[1] to revise its fuel tracking mechanism and, in Docket No. RP07-667-000, a tariff sheet[2] to update the calculation of its cash-out Index Price and cash-out System Index Price (collectively, cash-out prices). As discussed below, the Commission accepts and suspends the revised tariff sheets to be effective March 1, 2008, subject to the outcome of a technical conference to address the issues raised in these proceedings.

## I. Docket No. RP07-666-000

### A. Details of Filing

2. CIG's current tariff provides for the reimbursement of fuel gas quantities (fuel gas) and lost, unaccounted for and other fuel gas quantities (LUF) through a volumetric true-up mechanism. CIG calculates and files with the Commission the fuel gas reimbursement percentages on an annual basis and the LUF reimbursement percentages on a quarterly basis. In this filing, CIG proposes to change its methodology for calculating the LUF reimbursement percentage to include the tracking of changes in the value as well as the volumetric tracking of quantities used and retained (i.e., gas in kind).

3. In addition, CIG proposes to incorporate into its LUF calculation the net cost or revenue of gas balancing activities. In support of its proposed expansion of fuel and LUF adjustments to include gas balancing operations, CIG argues that real time under-collected (or over-collected) quantities must be part of the overall gas balance of the

[1] First Revised Sheet No. 380K, Second Revised Sheet No. 380L and Original Sheet No. 380L.01 to its FERC Gas Tariff, First Revised Volume No. 1.

[2] Third Revised Sheet No. 229A.01 to its FERC Gas Tariff, First Revised Volume No. 1.

system and must come from purchases, or be taken from linepack, operational balancing agreements or storage. It states that the over- or under-collection of fuel and related gas balance impacts have both a volume and a dollar impact to CIG and its shippers. CIG also states that it includes the cost of service related to base storage gas and capitalized linepack in its base transportation rates, but when these assets vary (i.e., by CIG's having to purchase or sell gas to correct imbalances) the costs of such encroachments are not reflected in the base rates.

4. With regard to the mechanics of its proposal, CIG states that it will calculate the components of the sources and distributions of fuel and gas balance-related activity as a dollar value by using actual cash amounts paid/received or by multiplying the over- or under-recovered volume by the appropriate price for the month the activity occurred. CIG notes that credit or debit activity that has an actual value (i.e., operational purchases and sales) will be recorded at the actual value and that shipper imbalance cash-out activity will be shown at the cash-out index price because penalty amounts above cash out are otherwise returned to shippers. Operational balancing agreement cash-out prices will be accounted for according to the operational balancing agreement contracts. In addition, CIG states that when converting the total annual cost/revenue adjustment amount back to a volumetric basis for inclusion in the LUF reimbursement percentage, the sum of the monthly dollar-values will be divided by the average cash-out index price for the entire date collection period in order to generate a volume that is equivalent to the cost or revenue impact of the total gas balance related items.

5. CIG states that the workpapers supporting its planned recovery mechanism will detail all sources and distributions of gas including fuel gas and LUF over/under recovery and that any financial impacts of that mechanism will be credited to shippers and/or charged to shippers as a true-up in subsequent LUF recovery filings. Additionally, while it adjusts its base LUF percentage on a quarterly basis, the cost and revenue true-up adjustment will only be adjusted annually at the same time the volumetric true-up and the fuel gas percentages are adjusted. Any transportation service that is not assessed a fuel charge will still be charged the true-up reimbursement via the adjustment of the LUF reimbursement percentage.

6. CIG requests an October 1, 2007, effective date and requests that the true-up quantities to be allocated to the LUF reimbursement percentage to be effective October 1, 2008, include two data collection periods: (1) a period from July 1, 2007 to June 30, 2008, using the current (i.e., volumetric) true-up mechanism and (2) a period from October 1, 2007 through June 30, 2008, reflecting the proposed true-up mechanism. CIG also states that although this proposal is independent of the outcome of its concurrently proposed cash-out price revision (Docket No. RP07-667-000), it will not object if the Commission wished to issue one order in both dockets.

### B. <u>Public Notice, Intervention and Comments</u>

7. Notice of CIG's filing was issued on September 5, 2007. Interventions and protests were due as provided in section 154.210 of the Commission's regulations,

18 C.F.R. § 154.210 (2007). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2007), all timely-filed motions to intervene and any motions to intervene out-of-time before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. On September 12, 2007, Williams Power Company, Inc. (Williams) filed a protest and request to consolidate dockets and on September 13, 2007, Indicated Shippers[3] filed a protest one day out of time.

8. Williams states that CIG's cost/revenue and volume true-up feature will be incorporated within the LUF factor and collected from all customers regardless of whether or not they incurred an imbalance or contributed to the loss. It argues that such cross-subsidization between customers and rate schedules should be rejected. Williams argues that unless CIG calculates transportation fuel separately from storage fuel, and transportation LUF separately from storage LUF, the Commission's long-standing policy of matching cost incurrence with cost causation will be violated.

9. Williams also expresses concern that CIG's proposal to change how it calculates fuel and LUF in Docket No. RP07-666-000, along with its filings in Docket No. RP07-667-000 and Docket No. RP07-668-000,[4] will result in CIG collecting more than the net economic costs it incurs for source fuel, LUF and operational balancing gas. Williams requests that the Commission consolidate the three dockets and convene a technical conference.

10. Indicated Shippers state that CIG's proposal to recover its fuel costs and system balancing costs via a single tracker surcharge is too complicated and includes costs that are already included in CIG's existing rates. They argue that system balancing costs are the types of costs that pipelines include in their rate base, which is used to determine a pipeline's rates in a general Natural Gas Act (NGA)[5] section 4 rate case. Indicated Shippers contend that CIG has not demonstrated that its system balancing costs are not already recovered through its existing rates. In addition, Indicated Shippers argue that CIG's proposal would aggregate fundamentally different types of costs (i.e., fuel costs and system balancing costs) overcomplicating the Commission's and shippers' ability to review CIG's fuel costs and usage.

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[3] The Indicated Shippers are BP Energy Company, BP America Production Company, and Marathon Oil Company.

[4] In accordance with its currently effective tariff, CIG filed its annual fuel gas and quarterly LUF adjustments on August 31, 2007, in Docket No. RP07-668-000. That filing will be addressed in a separate order. The proposals in Docket Nos. RP07-666-000 and RP07-667-000, though not formally consolidated, will be considered together at the technical conference established by our order here. Therefore, the Commission declines at this time to grant Williams' request for consolidation.

[5] 15 U.S.C. § 717d (2000).

11. Indicated Shippers also argue that if the Commission accepts CIG's proposal, the Commission should require CIG to balance its system on a monthly basis and purchase or sell the necessary replacement gas as close as possible to when the imbalance was created. They state that if CIG chooses not to balance its system on a monthly basis during the month following the imbalance, CIG should be deemed to have balanced its system during the following month. Indicated Shippers argue that monthly balancing is necessary to ensure that excessive costs are not allocated to shippers due to unilateral decisions by CIG on when to purchase or sell operational gas.

12. In addition, Indicated Shippers argue that linepack costs should not be allowed to be included in the surcharge because linepack costs are included in CIG's rate base. Finally, they state that CIG's expansion and monetization of its fuel and LUF mechanism in Docket No. RP07-666-000, in conjunction with its proposed changes in Docket RP07-667-000, will result in CIG over-recovering its replacement gas costs. Indicated Shippers request that the Commission reject the filing.

## II. Docket No. RP07-667-000

### A. Details of Filing

13. In its filing, CIG proposes to revise the calculation methods of its two cash-out pricing provisions. Under CIG's current tariff, the cash-out "System Index Price" is defined as the average weekly price of a five-week period.[6]

14. CIG proposes that, instead of calculating the "System Index Price" by averaging the North and South index prices, it will determine the higher of the two prices by separately determining the weekly prices for each reporting point. Under CIG's proposal, if shippers owe gas to CIG, either because of shipper under-deliveries or a failure to return loaned gas, the cash-out price will be the highest of the weekly averages among the North and South; if CIG owes gas to a shipper, however, the cash-out price will be the lowest of the weekly averages among the North and South prices.

15. A different index under the current tariff, termed the cash-out "Index Price," is currently defined as the average of daily midpoint index prices for Oklahoma-NGPL, Mid-Continent (South) and Rockies-CIG (N. Syst.) (North), as published in Platt's Gas Daily Price Guide for each day of the production month. CIG states that it uses the cash-

[6] The average weekly price is composed of the average of the daily midpoint index prices for Rockies-Cheyenne Hub (North) and Oklahoma-NGPL, Mid-Continent (South), as published in Platt's Gas Daily Price Guide for that week. CIG states that it uses the cash-out System Index Price to cash out shipper net monthly imbalances by applying a market-related rate to end-of-month imbalances, thereby converting the imbalance to a monetary amount for payment. CIG also states that it uses the cash-out System Index Price to value gas sold to a shipper as a result of the shipper's failure to return loaned gas or make up for under-delivered gas.

out "Index Price" to convert liquid revenues to gas equivalents for computation of its quarterly LUF. CIG proposes that, instead of calculating this index price by using the daily midpoint index prices, it will always use the higher of the daily North or South prices in calculating cash-out prices, thereby increasing the LUF recovered from shippers to a level CIG asserts is more economically "neutral."

16. CIG states that its proposed adjustments have two primary goals — to more closely align the cash-out prices to the actual purchase price of replacement gas and to prevent the opportunity among shippers to engage in geographic arbitrage. Referring to its most recent operational purchases and sales annual report,[7] CIG notes that a price disparity exists between the amount billed to shippers (i.e., the "average" cash-out prices) and the actual purchase price of replacement gas, which is based on higher spot market prices.

17. In support of its proposal, CIG states that it must compete with shippers for the same gas supplies, which leads to unavailability of less-expensive supplies and increased pipeline constraints. CIG states that such pipeline constraints are the result of current price differentials between North and South, which has led to north-to-south bottlenecks and exceptionally high load factors on CIG's system capacity. CIG also cites a recent increase in Rocky Mountain production and the delay in additional take-away capacity as triggering full utilization of CIG's north-to-south transfer capabilities. CIG states that such constraints inhibit the ability of CIG and its storage customers to balance CIG's storage pool without purchasing the higher-price southern gas supplies to maintain its southern storage fields inventory level. Finally, CIG notes that a recent Commission order required CIG to provide a lower scheduling priority for gas purchased for operational purposes.[8] Thus, CIG asserts, it cannot compete for capacity against primary and secondary firm in a constrained north system.

18. CIG requests an October 1, 2007, effective date for its proposal.

### B. <u>Public Notice, Intervention and Comments</u>

19. Notice of CIG's filing was issued on September 5, 2007. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2007). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2007), all timely-filed motions to intervene and any motions to intervene out-of-time before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. Williams Power Company, Inc. (Williams) and Indicated Shippers filed protests.

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[7] The report covers the period from July 2005 through June 2006. It was filed in Docket No. RP07-663-000.

[8] *Colorado Interstate Gas Co.*, 111 FERC ¶ 61,216, at P 19-20 (2005).

20. Williams states that CIG's proposal to use the higher of/lower of pricing mechanism is flawed and will result in CIG systematically overvaluing the cash-out prices and collecting more than necessary to cover its actual cost of fuel, LUF, system purchases and system sales related to cash-out shipper imbalances. Williams further states that CIG has failed to provide factual data sufficient to support a change from its current method of calculating its cash-out prices.

21. Indicated Shippers state that CIG has failed to provide information sufficient to show that the proposed cash-out prices are just and reasonable, and has not shown that its current method of calculating the cash-out System Index Price prevents it from fully recovering its replacement gas costs. They state that CIG provides no specific information about its stated under-recovery or its historical North-South replacement gas purchase allocations and that CIG has failed to show that it will not over-collect cash-out costs under its adjusted cash-out prices. Indicated Shippers further state that CIG's proposed method of calculating the cash-out System Index Price presents a high risk that CIG will over-collect replacement gas costs. Indicated Shippers argue that CIG's proposal, rather than more accurately tracking actual replacement gas costs, will instead allow CIG to pay a lower price for long imbalances while shippers would be required to pay a higher price for short imbalances.

22. In addition, Indicated Shippers state that CIG has not shown that the current method for calculating the cash-out System Index Price causes gaming or a likelihood of gaming. Specifically, Indicated Shippers argue that the GT&C of CIG's current tariff equips CIG with the tools to prevent gaming of the cash-out mechanism, such as imbalance penalty tiering provisions.

23. Indicated Shippers state that if the Commission accepts CIG's proposed adjustment of the cash-out System Index Price, the Commission should require CIG to credit any excess revenue or over-collections to shippers so that the amounts collected reflect the actual replacement costs paid by CIG. In other words, to the extent that the Commission accepts CIG's cash-out pricing proposal in Docket No. RP07-667-000, it should require CIG to credit shippers for any cash-out over-collections or excess revenues resulting from CIG charging a cash-out price higher than its actual replacement gas costs (or receiving a lower price than the amount for which CIG sold replacement gas).

24. Finally, Indicated Shippers state that CIG's proposal to adjust the cash-out Index Price used to calculate LUF reimbursements will artificially inflate the fuel and LUF rate. Indicated Shippers state that the proposal, which uses the higher of the North and South daily index price instead of the average of the two prices, will unfairly minimize the Dth-equivalent of liquids and have an upward impact on fuel and LUF rates while failing to reflect the actual experience on CIG's system. In sum, they request that the Commission reject both the new daily Index Price as well as the new weekly System Index Price reflected in CIG's filing.

## III. Commission Determination

25. The Commission has reviewed CIG's filings in Docket Nos. RP07-666-000 and RP07-667-000, as well as the protests filed in these dockets, and finds that CIG's proposals to modify its existing fuel and LUF mechanism and to adjust its methodology for calculation of its cash-out prices raise numerous issues, including technical, engineering and operational issues, which are best addressed at a technical conference.

26. Since it is not possible to determine, at this juncture, whether or how CIG's existing fuel, LUF, and balancing provisions should be changed, the conference will afford the Commission Staff and the parties to the proceeding an opportunity to discuss all of the issues raised by CIG's proposals to modify its fuel and LUF mechanism and to adjust its cash-out price calculations. Specifically, CIG should be prepared to address all the concerns raised in the protests, and if necessary, to provide additional technical, engineering and operational support for its proposals. Any party proposing alternatives to CIG's proposals should also be prepared to similarly support its position. Finally, based upon its analysis of the information provided in this proceeding, the Commission Staff may issue data requests prior to the technical conference, or a notice of the technical conference may contain questions that need to be addressed by CIG or other parties at the conference.

27. Based upon a review of the filings, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept such tariff sheets for filing and suspend their effectiveness for the full statutory period, subject to the conditions set forth in this order.

28. The Commission's policy regarding tariff filing suspensions is that such filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards. *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension). It is recognized, however, that shorter suspensions may be warranted in circumstances where suspensions for the maximum period may lead to harsh and inequitable results. *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension). No such circumstances exist here. Therefore, the Commission will exercise its discretion to suspend the rates to take effect on March 1, 2008 (or some earlier date if directed in a subsequent order), subject to the conditions set forth in the body of this order and in the ordering paragraphs below.

The Commission orders:

(A) CIG's tariff sheets referenced in footnote 1 and 2 are accepted and suspended to be effective March 1, 2008 (or some earlier date if directed in a subsequent order), subject to the outcome of the technical conference established by the order.

(B) The Commission's staff is directed to convene a technical conference to address the issues raised by CIG's filings and report the results of the conference to the Commission within 120 days of the date this order issues.

By the Commission.

( S E A L )

Kimberly D. Bose,
Secretary.