

123 FERC ¶ 61,124
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.

Wyoming Interstate Company, Ltd.

Docket No. RP08-47-001

ORDER ON COMPLIANCE FILING

(Issued May 5, 2008)

1. On December 28, 2007, Wyoming Interstate Company, Ltd. (WIC) filed revised tariff sheets¹ to comply with the Commission's November 29, 2007 order in this proceeding (November 29 Order)² and to clarify the procedures associated with the computation of fuel and lost and unaccounted-for (L&U) (collectively, FL&U) percentages. WIC requests an effective date of January 28, 2008, for its proposed tariff sheets. As discussed below, we accept WIC's revised tariff sheets to be effective January 28, 2008, as proposed.

I. Background

2. The November 29 Order accepted WIC's annual re-computation of fuel and L&U retention percentages and permitted WIC to make a cash-out refund of certain over-collected quantities to shippers.³ The order also required WIC to amend section 30.3 of its tariff, which states "neither the Fuel or the L&U will be less than zero,"⁴ such that "[n]egative components (e.g., L&U) must be offset against positive components (e.g., Fuel) to determine whether the overall FL&U adjustment is negative, and whether any quantities should be excluded from the adjustment (Excluded Quantities)."⁵

¹ Nineteenth Revised Sheet No. 4C, First Revised Sheet No. 5A.01, and Tenth Revised Sheet No. 83 to its FERC Gas Tariff, Second Revised Volume No. 2.

² WIC, 121 FERC ¶ 61,213 (2007).

³ *Id.* P 13-14.

⁴ *Id.* P 15 (citing FERC Gas Tariff, Second Revised Vol. No. 2, Eighth Revised Sheet No. 83).

⁵ *Id.*

3. In its compliance filing with the November 29 Order, WIC includes two parts to its proposed revision to section 30.3. Proposed section 30.3(a) provides that for shippers charged both a fuel and an L&U component, the sum of the components cannot be less than zero although either component making up that sum may be less than zero. WIC also states that any quantities that would have reduced the calculation of either component to less than zero would be used to offset the other component. In the event that the sum of the two components is less than zero, WIC states that it will adjust the FL&U percentage to zero, and any quantities that would have reduced the calculation to less than zero will be carried forward to offset future FL&U percentages.

4. WIC's proposed section 30.3(b) states that for shippers charged only an L&U percentage pursuant to section 30.6 of WIC's tariff, the L&U percentage cannot go below zero and that any quantities that would have reduced the calculation of L&U to less than zero will be applied to offset fuel gas in the current period. WIC states that in the event that the sum of the fuel and L&U components is less than zero, the FL&U percentage will be adjusted to zero and any quantities that would have reduced the calculation to less than zero will be carried forward to offset future FL&U percentages. WIC adds that, for ease of reference, it has also modified a tariff sheet to separately display the L&U charge from the fuel charge.

II. Public Notice, Intervention and Comments

5. Notice of WIC's filing was issued on January 2, 2008. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210. 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 filed 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 January 9, 2008, Williams Gas Marketing, Inc. (Williams) filed a protest.

6. On February 11, 2008, WIC filed an answer to Williams' protest. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept WIC's answer because it has provided information that assisted us in our decision-making process.

7. Williams states that it does not oppose proposed section 30.3(a), and therefore limits its comments to proposed section 30.3(b).⁶ Williams states that proposed section 30.3(b) is discriminatory toward shippers with backhaul transportation quantities that are subject only to an L&U charge. Williams argues that the problem with WIC's proposal is

⁶ Williams suggests, however, that WIC clarify the initial phrase in section 30.3(a) by deleting "For Shippers assessed" and replacing it with "For quantities subject to."

that it would apply negative L&U quantities as an offset to fuel quantities. Although this offsetting is reasonable for forward-haul quantities subject to both an L&U and a fuel charge, Williams states that for backhaul quantities not subject to a fuel charge, this proposal has the effect of unjustly crediting a negative L&U quantity to forward-haul shippers subject to both a fuel and an L&U charge.

8. To remedy this matter, Williams argues that the Commission should require WIC to continue to track the L&U component separately and, to the extent the L&U percentage is negative, the Commission should order WIC to simply defer those negative quantities that are not subject to a fuel charge to offset against future positive L&U charges assessed to backhaul transportation quantities (i.e., those quantities subject only to the L&U charge).⁷ Williams states that this would comply with the intent of the November 29 Order as well as giving both forward-haul and backhaul shippers the benefit of a negative L&U percentage, apportioned between them by relative quantities shipped.

9. In its answer, WIC asserts that its proposed section 30.3(b) is consistent with the Commission's November 29 Order, which required that a negative L&U percentage offset a positive fuel percentage and that any negative quantities remaining after an offset be deferred and carried forward for use in future FL&U percentages. WIC states that under its proposal, all quantities associated with a negative L&U percentage are used to offset a positive fuel percentage, and if there are any remaining negative amounts, they will be deferred to future FL&U percentages. Furthermore, WIC states that requiring it to abandon its single L&U mechanism and create two L&U mechanisms would go beyond what was required by the November 29 Order.

10. WIC also argues that Williams' protest implies a degree of precise cost allocation that is not present in WIC's fuel and L&U tracking mechanisms. WIC states that its trackers establish percentages based on historical use and past collections as well as projections about future use and collections. WIC explains that these percentages do not exactly match actual fuel use or L&U. WIC also notes that over- or under-collected quantities resulting from these percentages are not refunded to individual shippers or classes of shippers. Instead, such quantities are incorporated into new reimbursement percentages to apply in the subsequent year.

11. Finally, WIC states that Williams fails to support its suggested clarifications to the initial phrases of both proposed sections 30.3(a) and 30.3(b). Furthermore, WIC explains that its tariff assesses FL&U reimbursement percentages to shippers and not to quantities. Therefore, WIC argues that these changes are not necessary.

⁷ As in proposed section 30.3(a), Williams suggests that WIC clarify the initial phrase in section 30.3(b) by deleting "For Shippers not assessed Fuel Gas pursuant to section 30.6" and replacing it with "For quantities not subject to a Fuel Gas charge."

III. Discussion

12. As discussed below, we find WIC's proposed tariff sheets to be consistent with the November 29 Order. Williams does not protest WIC's proposed section 30.3(a), which applies to transactions that are subject to both a fuel and an L&U charge. Therefore, our discussion will focus on WIC's proposed section 30.3(b), which applies to transactions with volumes that are subject to an L&U charge only.⁸

13. The November 29 Order required WIC to amend its FL&U mechanism to provide that negative components of WIC's FL&U percentages (e.g., L&U) must offset positive components (e.g., fuel) before any overall negative FL&U quantities are deferred to a future filing.⁹ The Commission took this action out of a concern that WIC's practice of carrying forward negative components of the composite FL&U rate instead of offsetting them against positive components was distorting the overall FL&U rate and forcing shippers to pay a higher FL&U rate than would otherwise be justified by WIC's actual costs.¹⁰ Thus, the November 29 Order required WIC to amend its tariff to more accurately align its fuel and L&U costs with its allocation of those costs by providing for the prompt return of quantities owed shippers instead of deferral of certain parts of those quantities.

14. WIC's proposed sections 30.3(a) and 30.3(b) achieve the goals of the November 29 Order by minimizing the carrying forward of negative components of the periodic FL&U adjustments. WIC's proposed revisions will have the desirable effect of promptly returning over-recovered L&U quantities to shippers, rather than deferring them to future periods.

15. We disagree with Williams' argument that WIC's proposal would deprive shippers in fuel-exempt transactions from receiving the benefits of a negative L&U percentage. Such shippers will likely have entered into other transactions that utilized fuel, so the effects of the credit will flow through in those transactions. By requiring WIC to offset negative components against positive components of the overall FL&U percentage in the November 29 Order, however, we did not intend for WIC to abandon its single-charge

⁸ Section 30.6 of the General Terms and Conditions (GT&C) of WIC's tariff lists two classes of transactions exempt from fuel charges—displacement/backhaul transactions and transactions in the No-Fuel Wheeling Area—both of which are exempt from fuel charges because WIC does not use compression to transport gas in these types of transactions. WIC, FERC Gas Tariff, Second Revised Vol. No. 2, Original Sheet No. 83B.

⁹ WIC, 121 FERC ¶ 61,213 at P 15.

¹⁰ *Id.*

FL&U cost-recovery mechanism, and we did not find it to produce unjust or unreasonable results. While perfection in the tracking of FL&U amounts is never fully achievable, WIC's crediting proposal adequately complies with the November 29 Order.

16. Historically, WIC's FL&U tracker has functioned as a single-charge mechanism. In 2006, WIC began separately stating its fuel and L&U percentages in order to implement the fuel exempt transportation paths listed in section 30.6 of its tariff.¹¹ However, in doing so, WIC did not propose, nor did the Commission require, WIC to create a separate and distinct L&U tracker for backhaul transactions that use no fuel. We decline to do so here. The intent of the November 29 Order was to provide for the prompt return of over-recovered L&U quantities to shippers, and to limit the quantities that could be deferred to future periods, thereby more accurately aligning the allocation of WIC's fuel and L&U costs with the time period in which they were incurred. WIC's compliance filing achieves that goal.

17. Furthermore, we disagree with Williams' argument that backhaul transactions that use no fuel are somehow entitled to separate recompense for over-collected L&U volumes. L&U is not an identifiable charge-type, as is compressor fuel, but is a calculation that is included as part of the overall FL&U reimbursement rate. As WIC notes, Williams' argument presumes a level of precision within WIC's tracker that does not exist. Section 30.6 of WIC's GT&C merely exempts certain transactions from a fuel charge and nothing more. Moreover, WIC's tariff nowhere creates a separate L&U tracker for fuel-exempt transactions, and Williams has not shown such a tracking mechanism to be unjust and unreasonable. Further, we are not persuaded that the relatively small percentage of the overall FL&U charge that the L&U constitutes warrants requiring the pipeline to implement a separate tracking mechanism given the possible administrative burden and costs associated with implementing such a tracker. Therefore, we find that WIC's proposed section 30.3(b) reasonably allocates over-collected L&U quantities to the general level of fuel charges within the relevant period.

18. Accordingly, we find WIC's proposed sections 30.3(a) and 30.3(b) are just and reasonable and comply with the November 29 Order.

¹¹ *Wyoming Interstate Company, Ltd.*, Docket No. RP06-440-000 (Aug. 25, 2006) (unpublished letter order) (accepting WIC's July 20, 2006, filing listing fuel-exempt transportation paths).

The Commission orders:

The tariff sheets referenced in footnote 1 are accepted, effective January 28, 2008.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.