

125 FERC ¶ 61,241  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

November 26, 2008

In Reply Refer To:  
Sabine Pipe Line LLC  
Docket No. RP09-38-000

Sabine Pipe Line LLC  
c/o Chevron Pipe Line Company  
4800 Fournace Place  
P.O. Box 430  
Bellaire, TX 77042-0430

Attention: Mary Anne Collins, Regulatory Manager

Reference: Revisions to Fuel and Unaccounted For Gas Provisions

Dear Ladies and Gentlemen:

1. On October 30, 2008, Sabine Pipe Line LLC (Sabine) filed revised tariff sheets<sup>1</sup> to modify the Fuel and Unaccounted For Gas provisions set forth in section 27 of its General Terms and Conditions (GT&C), to be effective November 30, 2008. Under its current tariff, Sabine must file to update its fuel gas reimbursement percentages (FRPs) and unaccounted for gas reimbursement percentages (UFRPs) every November, to become effective January 1 of each year. Among other things, Sabine proposes to change its redetermination period to file updated FRPs and UFRPs every February to become effective April 1 of each year.<sup>2</sup> The Commission conditionally accepts Sabine's revised tariff sheets to be effective November 30, 2008, subject to the conditions discussed below.

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<sup>1</sup> Second Revised Sheet No. 317, Second Revised Sheet No. 317A, and Second Revised Sheet No. 318 to its FERC Gas Tariff, Original Volume No. 1.

<sup>2</sup> Sabine's proposed changes to its fuel tracker would apply to its general fuel provisions as well as those provisions pertaining to its Port Neches compressor station and Henry Hub compressor station.

2. In addition to proposing a change in the redetermination period, as indicated above, Sabine proposes the following additional revisions to its Fuel and Unaccounted For Gas provisions: (1) to formalize in its tariff that, in calculating the FRPs and UFRPs, the percentages, “or any component thereof,” can never be less than zero; (2) to clarify that in the event Sabine fails for any reason to recover either its compressor fuel or loss and unaccounted for quantities from a previous period, it may include these quantities in a subsequent fuel filing; (3) substitute in its fuel provisions the words “quantity/quantities” for the words “volume/volumes” consistent with other sections of its tariff; and, (4) correct a section reference.

3. The Commission issued notice of Sabine’s filing on November 3, 2008, allowing for protests and interventions as provided by Rule 211 and 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.211 and 385.214 (2008). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2008), 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. Sequent Energy Management, L.P. (Sequent), and Shell Energy North America (US), L.P. (Shell), filed protests, which we discuss below.

4. Sequent protests Sabine’s proposal to change its redetermination period so that updated FRPs and UFRPs become effective April 1 of each year instead of January 1. Sabine asserts that this modification will provide more consistency and transparency for its shippers, and provide greater flexibility by having the term of its fuel mechanism more closely coincide with industry-accepted practices. Sequent questions Sabine’s assertion that the modified redetermination period will more closely coincide with industry-accepted practices, and asserts that Sabine failed to provide any substantive rationale to support its proposed changes. Sequent contends that Sabine has not shown that its proposed modification will be more consistent, transparent, and flexible to shippers than its current mechanism. Sequent adds that Sabine has not shown that its current redetermination date is unreasonable. Sequent contends that many pipelines do not use the revised time frame that Sabine proposes, and the modified redetermination period would pose a significant change to the way shippers plan their activities on Sabine’s system. Sequent asserts that changing the mechanism would unduly hamper the expectations of shippers that rely on Sabine’s tariff to conduct business. It adds that Sabine failed to provide a full evaluation of the potential impacts its proposal would have on shippers, and provided no supportive documentation, analysis, or meaningful discussion relating to its proposal. Sequent contends that Sabine should provide, at a minimum, an analysis of how its proposed changes in the redetermination time frame would impact FRP and UFRP levels for the most recent filing the Commission accepted, and provide information as to the economic impact of its proposal. Sequent urges the Commission to reject Sabine’s proposal, or convene a technical conference.

5. The Commission accepts Sabine's modified redetermination period. The Commission does not have a policy for fuel trackers with regard to which date updated fuel percentages must become effective. The Commission generally allows the pipeline to decide when to effectuate its revised fuel percentages. In this case, no shipper other than Sequent protested Sabine's proposal to move the effective date of its fuel percentage updates to April 1 of each year. Further, several other pipelines have fuel tracking mechanisms that effectuate updated fuel percentages on April 1 of each year, including Quest Pipelines (KPC), Florida Gas Transmission Company, LLC, and Rockies Express Pipeline, LLC.<sup>3</sup> Accordingly, the Commission finds Sabine's proposal to change the effective date of its fuel percentage updates to April 1 of each year to be reasonable.

6. Section 27.3 of Sabine's current tariff provides that "[i]n no event will a FRP or a UFRP be less than zero." Sabine proposes to modify this provision to add the following highlighted language: "In no event will a FRP or a UFRP, *or any component thereof*, be less than zero." Sabine contends this merely memorializes the process that has been Sabine's practice since its initial fuel filing in Docket No. RP06-582, as well as subsequent redeterminations that the Commission approved.

7. Shell protests this element of Sabine's filing, arguing it contravenes Commission policy and precedent, citing *Wyoming Interstate Company*.<sup>4</sup> We agree with Shell. In *Wyoming*, the Commission found that a "never less than zero" convention for individual components of a fuel redetermination filing could lead to higher fuel and lost and unaccounted for gas recovery because it could prevent a positive component from fully offsetting a negative component. Accordingly, we direct Sabine to file revised tariff sheets removing the "never less than zero" language for such components from its tariff within 20 days of the date of this order.

8. Section 27.4 of Sabine's GT&C sets forth how Sabine must calculate its annual revised UFRP. Sabine proposes to incorporate the following language into section 27.4: "Add to these quantities any and all quantities of Unaccounted For Gas not supplied by Shippers pursuant to this or any predecessor Section 27.4 for any prior period(s)." Sabine proposes similar tariff language in section 27.5 for determining its revised Port Neches FRP, and in section 27.6 for determining its revised Henry Hub FRP.

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<sup>3</sup> Quest Pipelines (KPC) (Original Sheet No. 185 to its FERC Gas Tariff, Second Revised Volume No. 1); Florida Gas Transmission Company, LLC (First Revised Sheet No. 333 to its FERC Gas Tariff, Fourth Revised Volume No. 1); and Rockies Express Pipeline, LLC (Original Sheet No. 276 to its FERC Gas Tariff, Second Revised Volume No. 1).

<sup>4</sup> *Wyoming Interstate Co.*, 121 FERC ¶ 61,213, at P 15 (2007) (*Wyoming*).

9. Shell argues that the Commission should reject these revisions as being overly broad and running afoul of the Commission's prohibition against retroactive rate making. Shell argues that it is Sabine's responsibility to properly calculate and then collect fuel and lost and unaccounted for gas through its annual fuel tracker, and Sabine should not be allowed to freely go back to prior periods outside its relevant annual tracker period to make an adjustment to its current tracker filing. Shell cites *Crossroads Pipeline Company*<sup>5</sup> where, it asserts, the Commission rejected a similar proposal.

10. The Commission finds that it is generally reasonable for a pipeline to provide in its tariff the authority to file to make prior period adjustments to fuel rates in order to permit the pipeline to be made whole for its actual incurrence of fuel and lost and unaccounted for costs. However, we will not accept Sabine's tariff language as proposed. Sabine is proposing that in the event it fails for any reason to recover either its compressor fuel or lost and unaccounted fuel quantities from a previous redetermination period "pursuant to this or any predecessor Section 27.4 for any prior periods," it may include such "additional" quantities in a subsequent FRP/UFRP redetermination filing. The effect of this quoted language would violate the prohibition against retroactive ratemaking as it would allow Sabine to include in any filing in the future prior period adjustments to recover past under-recoveries that occurred at any time in the past, even if they occurred before the effectiveness of this tariff provision. In *Crossroads*,<sup>6</sup> the Commission determined that when implementing a new tracker and true-up mechanism, a pipeline may not include in the initial true-up any under-recoveries that occurred prior to the effective date of the tariff provision. The Commission similarly determined in *HIOS*,<sup>7</sup> that the pipeline could not include in its fuel tracker under-recoveries that occurred prior the effective date of its new tracker mechanism. Further, its proposal is inconsistent with the purpose of a tracker, i.e., to true-up both under- and over-recoveries, as it only applies to adjustments for past under-recoveries and not to past over-recoveries. Accordingly, acceptance of the proposed tariff sheets is conditioned on Sabine re-filing to provide that Sabine may include prior period adjustments for both under-recoveries and over-

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<sup>5</sup> *Crossroads Pipeline Co.*, 121 FERC ¶ 61,249, at P 34 (2007) (*Crossroads*).

<sup>6</sup> *Id.* P 10.

<sup>7</sup> *High Island Offshore System, LLC*, 112 FERC ¶ 61,050, at P 145 (2005) (*HIOS*).

recoveries that occurred subsequent to November 30, 2008, the effective date of the instant tariff revisions. We direct Sabine to file revised tariff sheets within 20 days of this order reflecting the foregoing modification.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

cc: All Parties

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