125 FERC ¶ 61,240
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.

Wyoming Interstate Company, Ltd. Docket No. RP09-47-000

ORDER ACCEPTING AND SUSPENDING PRIMARY TARIFF SHEETS, REJECTING ALTERNATE TARIFF SHEETS, AND ESTABLISHING TECHNICAL CONFERENCE

(Issued November 26, 2008)

1. On October 31, 2008, Wyoming Interstate Company, Ltd. (WIC) filed "primary case" tariff sheets[1] reflecting revisions to the fuel and lost and unaccounted-for reimbursement percentages applicable to WIC's transportation services. WIC also submitted a report of operational purchases and sales for the period April 1, 2008 through August 31, 2008, and an informational section demonstrating the results of 12 months of cost/revenue true-up data for the period September 1, 2007 through August 31, 2008. Additionally, WIC submitted an "alternate case," which includes workpapers and alternate revised tariff sheets.[2] This is the first annual fuel filing pursuant to a recently accepted tariff mechanism monetizing and combining fuel-related and operation-related activities.[3] In this order, we accept and suspend WIC's primary case tariff sheets, to be effective December 1, 2008, subject to refund and to the outcome of a technical conference to address the issues raised in this proceeding, and we reject WIC's alternate case tariff sheets.

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[1] Twenty-third Revised Sheet No. 4C and Fifth Revised Sheet No. 4D to its FERC Gas Tariff, Second Revised Volume No. 2.

[2] Alternate Twenty-third Revised Sheet No. 4C and Alternate Fifth Revised Sheet No. 4D to its FERC Gas Tariff, Second Revised Volume No. 2.

[3] *See Wyoming Interstate Company, Ltd.*, 122 FERC ¶ 61,303 (2008) (March 31, 2008 Order) (accepting WIC's cost/revenue true-up mechanism).

I. **Background**

2. Article 30 of the General Terms and Conditions of WIC's tariff provides for the annual re-computation of WIC's fuel, lost and unaccounted-for percentages and requires WIC to file such re-computations on October 31 of each year, to be effective December 1 of that year. Additionally, for the first time, WIC's lost and unaccounted-for cost/revenue true-up percentage will reflect the over- or under-recovery of costs and revenues related to fuel and system balancing pursuant to WIC's new cost/revenue true-up mechanism.[4]

3. The reimbursement percentages contained in WIC's filing have two components—a base reimbursement percentage and a true-up reimbursement percentage attributable to the over- or under-recovery of gas quantities and related costs and revenues attributable to specific data collection periods. The base reimbursement percentages are determined by actual fuel usage and lost and unaccounted-for gas experienced during the 12 months ending August 31, 2008. The true-up reimbursement percentages account for the difference between the reimbursement percentages in effect at the time and the actual fuel and lost and unaccounted-for gas experienced over the course of the collection period. Furthermore, the lost and unaccounted-for cost/revenue true-up percentage reflects the dekatherm-equivalent of the costs and revenues attributable to fuel, linepack adjustments, system balancing activities, and other credit/debit activity. WIC states that these true-up percentages (collectively, the true-up mechanism) are designed to keep WIC and its shippers volumetrically and economically neutral with respect to fuel, lost and unaccounted-for gas, and related system balancing activities.

II. **Details of Filing**

4. WIC states that the reimbursement percentages listed below for fuel and lost and unaccounted-for gas were calculated based on actual throughput, customer fuel, lost and unaccounted for retention, fuel usage, and system losses/gains for the 12 months ending August 31, 2008. WIC further states that it is including all system balancing activities for the period April 1, 2008 through August 31, 2008. WIC's proposed reimbursement percentages, discussed in greater detail below, are summarized in the following tables:

[4] *See* March 31, 2008 Order, 122 FERC ¶ 61,303.

WIC's Proposed Fuel Reimbursement Percentages

	Base Percentage	True-up Percentage	Total Percentage
Mainline System	0.52%	0.03%	0.55%
Powder River Incremental	1.13%	0.40%	1.53%
Medicine Bow Incremental	0.35%	-0.01%	0.34%
Echo Springs Incremental	0.40%	-0.04%	0.36%
Piceance Incremental (WIC ML)	0.00%	0.00%	0.00%
Piceance Incremental (Other PL)	0.00%	0.00%	0.00%
Kanda Incremental (WIC ML)	0.00%	0.00%	0.00%
Kanda Incremental (Other PL)	0.00%	0.00%	0.00%

WIC's Proposed Lost and Unaccounted-for Reimbursement Percentages[5]

	Base Percentage	True-up Percentage	Total Percentage
Mainline System	0.16%	0.16%	0.32%
Powder River Incremental	0.16%	0.15%	0.31%
Medicine Bow Incremental	0.16%	0.16%	0.32%
Echo Springs Incremental	0.00%	0.00%	0.00%
Piceance Incremental (WIC ML)	0.00%	0.00%	0.00%
Piceance Incremental (Other PL)	0.16%	0.17%	0.33%
Kanda Incremental	0.00%	0.00%	0.00%

[5] The true-up percentages in this chart reflect the sum of WIC's volumetric true-up and its primary case cost/revenue true-up.

(WIC ML)			
Kanda Incremental (Other PL)	0.12%	0.06%	0.18%

5. WIC states that the base fuel rates show an increase for the Powder River Incremental system due to increased fuel consumption and lower throughput, and an increase for the Mainline system due to increased fuel consumption on the Mainline resulting from higher throughput. WIC states that the Medicine Bow system shows a decreased fuel rate due to relatively unchanged fuel consumption and higher throughput, and the Piceance Incremental system shows a reduced base fuel rate due to reduced fuel consumption on that lateral. WIC next states that the base fuel rate for the Echo Springs Incremental system shows an increase due to a reduction in throughput. WIC notes that the lost and unaccounted-for rates for all segments of its system show an increase due to losses experienced in all months of its data collection period. WIC also notes that it will defer 15,750 Dth of over-retained fuel on the Piceance Incremental in order to avoid a negative reimbursement percentage for that system because negative reimbursement percentages are prohibited by WIC's tariff.

6. WIC states that its fuel and lost and unaccounted-for rates also include "auxiliary fuel," tracked in Account No. 812, consistent with long-standing practice. WIC notes the Commission's prior rejection of WIC's proposal to clarify the definition of "fuel gas" to include other transportation-related fuel costs in Docket No. RP07-699-000.[6] However, WIC states that despite this holding, the Commission did not require WIC to change its current tariff or its implementation. Therefore, WIC includes such costs in its proposed reimbursement rates.

7. WIC next explains that the lost and unaccounted-for true-up percentage comprises two components: (1) a volumetric true-up reimbursement percentage, which is based on the lost and unaccounted-for quantities experienced during the September 2007 through August 2008 period; and (2) a cost/revenue true-up reimbursement percentage, which is based on the lost and unaccounted-for quantities experienced and collected during the April 2008 through August 2008 period.

8. WIC states that the volumetric true-up reflects the difference between the actual lost and unaccounted-for gas on WIC's system and the amount retained from shippers, as computed monthly, based on 12 months of data ending August 31, 2008. WIC states that for this period, it under-collected 697,516 Dth.

[6] March 31, 2008 Order at P 39. WIC notes that this order, including the rejection of the "fuel gas" modification, is currently subject to a rehearing request.

9. WIC next describes its cost/revenue true-up, which identifies the quantity of gas that was purchased (sources) and sold (dispositions), the difference between the cost of the gas when the shortfall or overage occurred and the actual cost of gas bought or sold, and the differences in cost between the time when gas was removed from or placed into WIC's system ("timing differences"). WIC states that it credits or recovers from shippers the economic impact of daily changes in linepack and other gas balance activities resulting from fuel and imbalance activity. WIC notes that its workpapers recap all cost and revenue activity associated with fuel, lost and unaccounted-for gas and other related system balancing activities.

A. Cost/Revenue True-up Reimbursement Percentage – Primary Case

10. WIC bases its lost and unaccounted-for cost/revenue true-up percentage on an under-recovery of 413,875 Dth to account for net timing differences between total gas acquisition and disposition of $2,625,414 due WIC. Because this is the first annual filing with the cost/revenue true-up, WIC describes its methodology for implementing the true-up at length.

11. WIC acknowledges that in accepting WIC's new tracking mechanism, the Commission required WIC to distinguish between operational purchases and sales for system balancing (such as fuel imbalances) and those for shipper imbalances and service flexibility, and it does so in its "primary case," described here.[7] WIC states that the "Fuel Related Imbalance" workpapers outline costs and revenues of fuel and related system balancing lost and unaccounted-for gas, while the "Shipper Related Imbalance" workpapers delineate the assignment of costs and revenues for fuel, lost and unaccounted-for and related gas balance activity to shipper imbalances.

12. WIC states that its workpapers also detail the various system balancing components assigned to shipper imbalance activities. WIC explains that it allots imbalances between fuel-related activities and shipper-related activities by beginning with all activity on the system and removing anything that can be specifically identified as related to shipper imbalances. WIC states that it accounts for shipper-related imbalances by assigning costs related to operational purchases and linepack changes that are used to balance shipper-related activity on the system. WIC explains that it first assigns operational purchase costs to shipper imbalances; then if the shipper imbalance is

[7] WIC asserts, however, that it is more appropriate to assign the costs of all purchases and sales to the lost and unaccounted-for charge, and accordingly, it has included an "alternate case" (with associated tariff sheets) in which it does not distinguish between the types of imbalances, as required by the Commission.

not zero after the application of the operational purchases, further offsets are made using linepack.[8]

13. WIC further explains that fuel-related imbalances are sometimes used to offset shipper-related imbalances when appropriate, such as when WIC uses shipper imbalances to make up for under-recovery of fuel. WIC states that rather than sell the shipper imbalance gas and purchase the under-recovered fuel, it offsets the two amounts. Thus, WIC states that is assigns all costs that can be identified as fuel to fuel-related activity, including purchases from shipper imbalances; such volumes are then removed from the shipper-related activity and assigned to fuel-related activity to balance that category.

14. WIC states that net imbalance quantities taken from the pipeline by shippers amounted to 319,579 Dth.[9] WIC further states that the overall effect of the assignment of costs/revenues to shipper imbalance activities produced a net revenue to the system of $158,144, which WIC will retain.

15. WIC states that the remaining cost/revenue impact of operational purchases and sales was assigned to fuel-related activity and included in the calculation of the cost/revenue true-up. WIC states that the net fuel, lost and unaccounted-for over/under-collections reflect a net disposition of gas determined to be 452,426 Dth, at a cost of $1,444,342. WIC explains that it included operational purchases of 281,604 Dth, with a value of $2,248,776. WIC further states that it included shipper/operator imbalance cash-outs of 211,690 Dth with an associated value of $1,804,676.[10] WIC next states that capitalized linepack and other gas activities resulted in a disposition of 1,336 Dth, with a value of $7,625.

16. In sum, WIC states that for the period between April 2008 and August 2008, total gas balance sources equaled 493,294 Dth, with an associated value of $4,053,452, while

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[8] With respect to this process, WIC notes the following: (1) WIC did not make any operational purchases in April or May, so only linepack was used to offset shipper imbalance and any activity not offset by linepack was fuel-related; (2) in June, shipper-related imbalances showed a net increase to the system and were offset by linepack as operational purchases could not be used to offset such increases; in July and August, shipper-related imbalances were completely offset by operational purchases.

[9] WIC notes that this netting excludes 211,690 Dth that were placed on the system and used to offset fuel under-recoveries.

[10] WIC asserts that these were essentially purchases from shipper/operator amounts that were cashed out, which covered fuel under-recovery, instead of operational purchases.

total gas balance dispositions were the same volume, but with an associated value of $1,428,039. WIC therefore calculates the net timing differences between gas acquisition and disposition as $2,625,414 due WIC. WIC explains that it used this amount to determine its cost/revenue true-up percentages by dividing the amount by the average system cash-out value of $6.3435 to reach a Dth-equivalent of 413,875. WIC states that this volume is then allocated among each incrementally priced system and divided by the system throughput for the incremental system to determine a cost/revenue true-up component for each system. The cost/revenue true-up component is then added to the volumetric true-up component to reach the overall lost and unaccounted-for true-up percentage.

B. Cost/Revenue True-up Reimbursement Percentage – Alternate Case

17. In its "alternate case," WIC states that it is retaining a net revenue of $158,144 related to shipper/operator imbalances due to the Commission's requirement to distinguish operational purchases and sales for shipper-related imbalances from those for fuel-related imbalances. WIC explains that due to the Commission's March 31, 2008 Order, it has no applicable rate, surcharge, or tracking mechanism that requires it to flow through such revenues. WIC states that its alternate case fully assigns these revenues in recognition that the system operates as an integrated whole. WIC argues that its operational purchases and sales are made to account for overall operational considerations, not to address individual or specific activities. WIC further argues that decisions to purchase or sell operational gas are not solely within WIC's control and are made after considering operations in total to assure pipeline integrity in the face of fuel and other imbalances.

18. WIC states that its alternate case filing reflects revised lost and unaccounted-for reimbursement percentages supporting WIC's position that it should be economically neutral to fuel, lost and unaccounted for, shipper imbalance activities, and other related gas balancing requirements. WIC believes that this is consistent with its characterization of the proposal in Docket No. RP07-699-000. WIC argues that the inter-relationship of different activities on the system and a lack of a cost/revenue true-up mechanism for shipper imbalance activities suggests that the alternate case is appropriate.

III. Public Notice, Interventions and Comments

19. Notice of WIC's filing was issued on November 4, 2008. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (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. Williams Gas Marketing, Inc. (Williams) and BP America Production Company and BP Energy Company (collectively, BP) filed protests.

20. In its protest, BP argues that the Commission should reject WIC's alternate case, suspend its primary case for the full five-month period, and establish a technical conference with procedures that would allow parties to obtain information needed to evaluate WIC's filing.

21. BP argues that WIC is seeking to expand the scope of the fuel tracking mechanism to include system balancing activities not related to fuel and related gas costs and revenues. BP also expresses concerns that WIC has not adequately explained its allocation of system balancing costs between shipper imbalances and fuel imbalances. BP points out that WIC may have the operational flexibility during certain periods to delay operational gas transactions for some period after an imbalance emerges on its system. BP therefore argues that the timing costs associated with those other sources should be allocated to shipper imbalances, not fuel imbalances. BP also claims that WIC includes imbalance cash-out costs, which are related to shipper imbalances and therefore should not be included in the fuel rate, in the cost/revenue true-up calculation.

22. BP next contends that WIC's allocation methodology is erroneously based on the assumption that the only relevant imbalances for the purpose of allocating operational gas costs are those imbalances not resolved by the end of the month and were cashed out according to WIC's fuel mechanism. BP argues that the level of cash-outs does not dictate WIC's need to balance its system and therefore the imbalance quantity used to allocate costs is significantly under-stated. BP also states that WIC fails to explain how it allocated the system balancing costs among incrementally priced systems. BP argues that all of these concerns, the fact that this is WIC's first filing utilizing the recently monetized cost/revenue true-up, and the fact that shippers have an interest in ensuring that appropriate corrections are made to WIC's allocation methods here and in future filings, compel the need for a technical conference and a maximum suspension period.

23. Additionally, BP argues that WIC's cost/revenue true-up should not recover imputed costs. BP states that the Commission's rate policy requires rates to reflect a pipeline's actual costs, rather than imputed costs.[11] BP states that because the system balance quantities belong to shippers, it is inappropriate for WIC's rate to reflect in the surcharge a change in the value of these quantities. Lastly, BP points out that in a similar filing by Colorado Interstate Gas Company the Commission noted that the filing raised "complex and significant issues" and directed its staff to convene a technical conference.[12] Likewise in this docket, BP believes similar action is necessary to examine WIC's cost/revenue true-up to determine whether it is justified in view of its above-described flaws.

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[11] Citing *Northern Border Pipeline Co.*, 103 FERC ¶ 61,134, at P 82 (2003).

[12] *Colorado Interstate Gas Co.*, 124 FERC ¶ 61,311, at P 36 (2008).

24. In its protest, Williams argues that among other issues with WIC's filing, the cost/revenue true-up is improperly calculated, it does not comply with the Commission's Order in Docket No. RP07-699-000, and it is unjust and unreasonable. Williams states that the Commission should either reject the cost/revenue true-up component entirely, or, at a minimum, establish further procedures, such as a technical conference, to enable further review of WIC's proposal. Williams offers a number of observations that it contends merit further review.

25. Williams states that the Commission's approval of the cost/revenue true-up was to become effective April 1, 2008 as stated in the March 31, 2008 Order,[13] consistent with the Commission's acceptance of the mechanism pending the outcome of a technical conference.[14] Williams argues that despite this effective date, WIC has included a pre-April 1, 2008 cumulative imbalance of 385,382 Dth to capture and economically value monthly activity. Williams contends that the March 31, 2008 Order states that any cumulative over- or under-recovery of fuel and lost and unaccounted-for gas through March 31, 2008 should be trued-up volumetrically, and the new economic cost/revenue true-up should be applied to newly originating imbalances beginning April 1, 2008. Williams calculates the impact of this treatment to be an approximate $1 million overstatement of the net fuel cost/revenue balance and requests that the Commission order WIC to remove the 385,382 Dth from its workpapers and file corrected workpapers and tariff sheets complying with the March 31, 2008 Order. Also, Williams states that WIC violated the March 31, 2008 Order by including and economically valuing a beginning cumulative imbalance for linepack of roughly 90,000 Dth, which should also be removed.

26. Williams next argues that WIC's allocation of costs and revenues to daily operations related to shipper imbalances and service flexibility has produced unusual results. Specifically, Williams notes that quantities for fuel-related imbalance activity total 493,294 Dth, and quantities for shipper-related activity total 1,113,346 Dth, which is more than twice the level of fuel-related imbalance activity. However, Williams also notes that the economic cost allocated to the shipper-related imbalance activity is a positive $158,144, compared to a negative $2,625,414 for fuel-related activity. Moreover, Williams states that WIC's allocation of operational purchases to shipper-related activity averaged $7.70/Dth whereas allocation to fuel-related activity averaged $7.98/Dth. Williams questions how it is that WIC's purchases to cover shipper-related imbalances are less expensive than those purchases that cover for random fuel variances and therefore argues that WIC's proposed allocation method is likely unjust and unreasonable.

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[13] *Wyoming Interstate Company, Ltd.*, 122 FERC ¶ 61,303.

[14] *Wyoming Interstate Company, Ltd.*, 121 FERC ¶ 61,114 (2007).

27. Williams asserts that WIC's alternate case shares similar infirmities to those it describes above with respect to WIC's primary case. In addition, Williams argues that the alternate case violates the Commission's order approving the cost/revenue true-up by not allocating costs to operational purchases for shipper-imbalance activity. Therefore, Williams opposes the alternate case.

IV. Discussion

28. The Commission has reviewed WIC's filing as well as the protests filed by Williams and BP in this proceeding and finds that the manner in which WIC's proposed fuel, lost and unaccounted-for reimbursement percentages were calculated raise complex and significant issues, which are best addressed at a technical conference.

29. It is not possible to determine, at this juncture, whether WIC's proposed reimbursement percentages are just and reasonable. A technical conference will afford the Commission Staff and the parties to the proceeding an opportunity to discuss all of the issues raised by WIC's filing, including but not limited to the issues raised in the protests of both Williams and BP and the general allocation methods relied on by WIC. The technical conference will also afford the parties an opportunity to re-evaluate the fundamental underpinnings of the cost/revenue true-up and determine whether its execution has indeed brought greater accuracy to WIC's fuel, and lost-and-unaccounted-for calculation. At the technical conference, WIC should be prepared to fully explain its methodology for determining the reimbursement percentages, specifically the cost/revenue true-up aspect thereof. Any party proposing alternatives to WIC'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 WIC or other parties at the conference.

30. The proposed tariff sheet accompanying WIC's alternate case does not follow the Commission's requirements for implementation of a monetized true-up mechanism.[15] The Commission conditioned its approval of WIC's cost/revenue true-up on WIC's filing "annual updates that fully document purchases and sales of fuel gas volumes, and that distinguish purchases and sales for system balancing purposes and, if any, for providing flexibility under its various services."[16] The Commission also required that "[p]urchases and sales for system balancing are to be kept separate and must be recovered through the cash-out provisions and not through the fuel mechanism."[17] WIC acknowledges that its

[15] March 31, 2008 Order at P 37.

[16] *Id*.

[17] *Id.* at n.23.

alternate case tariff sheets combine its fuel-related imbalance costs and revenues and its shipper-related imbalance costs and revenues. Accordingly, the Commission rejects the alternate case tariff sheet as not in compliance with the requirements for implementing monetized true-up mechanisms.

31. Furthermore, the Commission finds that the proposed tariff sheets accompanying WIC's primary case have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Therefore, the Commission will accept and suspend the primary case tariff sheets, subject to the conditions set forth in this order.

32. The Commission's policy regarding rate suspensions is that rate 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). Such circumstances exist here where WIC's filing establishes new reimbursement percentages for the upcoming annual period pursuant to an existing tracking mechanism. Therefore, the Commission shall exercise its discretion to suspend the rates to take effect on December 1, 2008, subject to the conditions set forth in the body of this order and in the ordering paragraphs below.

The Commission orders:

(A) The proposed tariff sheets listed in footnote 1 are accepted and suspended, effective December 1, 2008, subject to refund and to the outcome of the technical conference established by this order.

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

(C) The alternate tariff sheets listed in footnote 2 are rejected.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.