

126 FERC ¶ 61,158
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Acting Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

Columbia Gulf Transmission Company

Docket Nos. RP08-347-002
RP08-347-004

ORDER ON REHEARING AND COMPLIANCE FILINGS

(Issued February 20, 2009)

1. On December 2, 2008, the Commission issued an order following a technical conference (December 2, 2008 Order)¹ that addressed revised tariff sheets² filed on April 30, 2008, by Columbia Gulf Transmission Company (Columbia Gulf) which reflected its 2008 annual Transportation Retainage Adjustment (TRA) to track changes in its fuel requirements, to be effective June 1, 2008. In the December 2, 2008 Order, the Commission directed Columbia Gulf to file revised tariff sheets to modify its company use gas (CUG) and lost and unaccounted for (LAUF) forward haul retainage percentages effective June 1, 2008, and to make refunds and submit a refund report in accordance with section 154.501 of the Commission's regulations.³ In addition, the Commission directed Columbia Gulf to provide a report with its next annual TRA filing that includes details on the scope and outcome of its LAUF investigation.
2. On December 9, 2008, as amended on December 10, 2008, Columbia Gulf filed a request for rehearing of the December 2, 2008 Order with respect to the directive to make refunds, and included an alternative request to extend, until February 17, 2009, the time for it to issue the refund required by the December 2, 2008 Order.⁴ To the extent

¹ *Columbia Gulf Transmission Company*, 125 FERC ¶ 61,255 (2008).

² Forty-Fifth Revised Sheet No. 18, Thirty-Second Revised Sheet No. 18A and Forty-Sixth Revised Sheet No. 19 to FERC Gas Tariff, Second Revised Volume No. 1.

³ 18 C.F.R. § 154.501 (2008).

⁴ On January 15, 2009, the Commission Secretary granted Columbia Gulf an extension of time to make the refund, pending the Commission's consideration of the

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rehearing is not granted, Columbia Gulf seeks clarification as to how to calculate dollar interest on in-kind gas retainage collection because it states that its tariff does not associate a dollar value with any in-kind retainage collection. On December 15, 2009, in Docket No. RP08-347-004, Columbia Gulf made a filing to comply with the December 2, 2008 Order. For the reasons discussed below, the Commission grants rehearing and accepts the compliance filing as proposed.

I. Background

3. Columbia Gulf made its April 30, 2008 annual fuel tracker filing pursuant to the provisions of section 33 of the General Terms and Conditions (GT&C) of its tariff,⁵ to be effective June 1, 2008. By order issued May 29, 2008 (May 29, 2008 Order),⁶ the Commission accepted and suspended the April 30, 2008 filing, permitting it to become effective June 1, 2008, subject to refund and conditions, and the outcome of a technical conference. Of relevance here, the Commission denied Columbia Gulf's request for waiver to modify its methodology for the over/under-recovery surcharge associated with assigning CUG to the zones in which it was incurred and directed Columbia Gulf to file revised tariff sheets reflecting its tariff allocation methodology.

4. On June 2, 2008, Columbia Gulf submitted revised tariff sheets to comply with the May 29, 2008 Order. In its answer to a protest to the filing, Columbia Gulf also explained that it had inappropriately included backhaul quantities in developing the allocation factors used in the allocation of the CUG over/under surcharge portion of its retainage rate to zone, but stated that the difference in the rates would be small and requested that the Commission not require it to file revised retainage rates at that time and to defer that and any other adjustments until after the technical conference. On June 30, 2008, the Commission issued a letter order that conditionally accepted the revised tariff sheets filed June 2, 2008, to be effective June 1, 2008, subject to refund and to the outcome of the technical conference proceeding.⁷ The Commission granted waiver for Columbia Gulf to defer application of the revised retainage rates contained in the June 2, 2008 filing until July 1, 2008, and allowed Columbia to defer any refunds until a further

request for rehearing and the alternate request for clarification.

⁵ Section 33 of Columbia Gulf's tariff provides a tracker mechanism to recover CUG and LAUF gas. These costs are recovered through retainage factors, which factors consist of current (projected) and an over/under recovered (deferral) component.

⁶ *Columbia Gulf Transmission Co.*, 123 FERC ¶ 61,216 (2008).

⁷ *Columbia Gulf Transmission Co.*, 123 FERC ¶ 61,313 (2008) (June 30, 2008 Letter Order).

order of any other adjustments that may arise from the technical conference proceeding in this docket. The technical conference was held on July 16, 2008. Thereafter, the parties filed initial and reply comments. Among other things, the comments questioned Columbia Gulf's proposed recovery of gas losses attributable to a rupture of its Line 100 and resulting venting of gas on its Line 200 in the vicinity of its Delhi Compressor Station.

5. In the December 2, 2008 Order, the Commission addressed the issues raised at the technical conference. With regard to the issue of the recovery of claimed gas losses attributable to the Line 100 rupture, the Commission stated that only gas lost as a result of normal pipeline operations may be flowed through in a tracking mechanism and therefore concluded that gas lost as a result of extraordinary events, like the rupture of Line 100 and resultant venting of gas at Line 200, cannot be recovered through a fuel tracking mechanism. Accordingly, the Commission directed Columbia Gulf to file revised tariff sheets, within 15 days of that order, to remove the quantities resulting from the rupture of Line 100 and the subsequent vent off of Line 200 from the CUG component of the surcharge calculation from the 2007 deferral period.

6. As to the issues of refunds related to the corrections in to CUG and the LAUF retainage rates, the Commission rejected Columbia Gulf's proposal to roll refund amounts into its next annual TRA filing because the rejected allocation calculations and gas losses are specific to this period's customers and services. Therefore, the Commission directed Columbia Gulf to make refunds and to file a refund report, in accordance with section 154.501 of the Commission's regulations,⁸ to account for any difference in the revised retainage rates that were being directed and the April 30, 2008 conditionally-accepted rates. Further, the Commission found it appropriate to require the TRA rates reflecting the adjustments required by this order and the prior orders to be made effective June 1, 2008.

II. Discussion

A. Rehearing

1. Columbia Gulf's Position

7. Columbia Gulf seeks rehearing of the Commission's requirement that Columbia Gulf refund to specific customers over-collected gas retainage that Columbia Gulf collected in-kind. Columbia Gulf also seeks rehearing of the requirement that Columbia Gulf provide monetary interest on these directed refunds of in-kind natural gas. Columbia Gulf argues that both directives – refunds of natural gas and the calculation of

⁸ 18 C.F.R. § 154.501 (2008).

interest thereon – are inappropriate in the context of a retainage tracker mechanism with a true-up that keeps the customers and the pipeline whole and the company use gas and lost and unaccounted for obligations balanced on an ongoing basis through operation of that mechanism and its deferral account.

8. Columbia Gulf asserts that the goal of these requirements is to return to shippers gas quantities that the Commission held should not have been included in the retainage rate. According to Columbia Gulf, this objective can best be satisfied by: (a) removing any disallowed or over-collected gas amounts prospectively in Columbia Gulf's April 1, 2009 Annual TRA filing and (b) crediting the deferral account portion of the tracker to reflect the over-recovery. Columbia Gulf explains that, under this process, the over-collected amounts would be flowed-back to customers on an in-kind basis through the normal operation of the retainage tracker mechanism. In this way, Columbia Gulf states, all amounts that might be considered a "refund" would be carried over to Columbia Gulf's April 1, 2009 Annual TRA filing that will use 2008 as a deferral period as required by section 33.4 of its tariff.

9. Columbia Gulf asserts that requiring refunds on a customer specific basis of in-kind retainage gas collections is unprecedented and unnecessary. However, at the very least, Columbia Gulf maintains that the Commission should not require monetary interest on in-kind refunds of that gas.⁹ Columbia Gulf asks that the Commission to find on rehearing that Columbia Gulf is not required to make customer-specific refunds (with interest) of in-kind retainage gas that was collected in-kind. Instead, Columbia Gulf argues that the over-collected quantities should be flowed back to shippers through the normal operation of Columbia Gulf's retainage tracker mechanism.

10. Moreover, Columbia Gulf states that it does not have tariff authority to convert gas quantities collected in-kind into a dollar equivalent, nor does it have the authority to sell any over-collected retainage gas in order to make these monetary refunds. Thus, Columbia Gulf believes that making a like-kind credit of over-collected retainage gas is the only permitted method of making the refund. Finally, Columbia Gulf does not believe that interest payments are warranted for gas that has been collected in-kind.

11. However, if the Commission denies rehearing and requires Columbia Gulf to make monetary refunds with monetary interest, Columbia Gulf requests that, in order to facilitate the refund process, it should be permitted to implement its refund obligation through an in-kind adjustment to the individually affected shippers. Columbia Gulf

⁹ Rehearing at 2 and note 3. Columbia Gulf states that it does not know how to begin to calculate such interest because Columbia Gulf's collection of retainage is in-kind, i.e., Columbia collected gas, not money.

argues that this is in keeping with the true-up mechanism of its tracker and is, thus, Columbia Gulf's only option for providing a refund.¹⁰ Columbia Gulf requests the Commission to clarify that this in-kind method of refund is acceptable.

2. Commission Decision

12. The Commission does not agree with Columbia Gulf's assertions that refunds of over-collected retainage gas may only be made in-kind or that the lack of a tariff provision that provides for the monetization of refunds of over-collected retainage gas is an impediment to Commission authority to require such refunds.¹¹ However, upon reconsideration, the Commission will grant rehearing and permit Columbia Gulf to flow the refund volumes through its deferred accounts without interest in its next annual TRA filing because the amounts involved here are small and Columbia Gulf soon will be making its 2009 annual TRA filing.

13. Accordingly, Columbia Gulf is directed to include in its next annual TRA filing separate line item adjustments to account for the following: (1) the rejection of Columbia Gulf's proposed allocation methodology in the Commission's May 29, 2008 Order; (2) the rejection of Columbia Gulf's proposed recovery of extraordinary gas losses in the December 2, 2008 Order; (3) the elimination of backhaul quantities as directed in the December 2, 2008 Order; (4) the reconciliation of the deferred application of the revised retainage percentages from June 1, 2008, to July 1, 2008, in Columbia Gulf's June 2, 2008 compliance filing in Docket No. RP08-347-001; and (5) the reconciliation of the deferred application of the revised retainage percentages from June 1, 2008, to January 1, 2009, in Columbia Gulf's December 15, 2008 compliance filing in Docket No. RP08-347-004.¹² Further, Columbia Gulf is directed to include the support for the above-ordered line item adjustments in electronic spreadsheet form with formulas in its next annual TRA filing.

¹⁰ Columbia Gulf states that section 33 of its tariff requires Columbia Gulf to collect retainage in-kind as a percentage of the gas that is transported on its system. In addition, Columbia Gulf states that its tariff does not grant it the authority to convert those in-kind gas quantities to a dollar equivalent.

¹¹ The Commission has required pipelines that have in-kind gas tracker mechanisms to make refunds. *See Transcontinental Gas Pipe Line Corp.*, 90 FERC ¶ 61,165, at 61,507 (2000).

¹² *See* discussion, *infra*, of Columbia Gulf's December 15, 2008 compliance filing.

B. December 15, 2008 Compliance Filing

1. Summary of Columbia Gulf's Filing

14. On December 15, 2008, Columbia Gulf filed revised tariff sheets¹³ to comply with the December 2, 2008 Order. The revised tariff sheets reflect two adjustments to be made to the rates filed in its June 2, 2008 compliance filing. The first adjustment is related to Columbia Gulf's use of allocation factors that included backhaul quantities in the deliveries. Columbia Gulf states that the revised sheets reflect that the CUG over/under collection surcharge is now allocated on forward haul deliveries. Second, as directed by the December 2, 2008 Order, Columbia Gulf states that it removed the volumes associated with the December 2007 Line 100 rupture and subsequent venting of Line 200 near Delhi. It states that a total of 30,183 Dth related to this incident has been removed in this filing. Finally, Columbia Gulf states that it is adjusting its CUG and LAUF forward haul retainage percentages compared to those in the June 2, 2008 filing, as follows: (1) 0.006 percent increase for offshore from 0.492 percent to 0.498 percent; (2) 0.006 percent increase for onshore from 0.678 percent to 0.684 percent; and (3) 0.004 percent decrease for mainline from 2.795 percent to 2.791 percent.

15. Columbia Gulf proposes that the compliance rates in this filing be applied January 1, 2009, forward so as not to disrupt its shipper bid week gas nominations previously submitted for December 2008 business. Columbia Gulf explains that the rates in the June 2, 2008 filing that the Commission approved in the June 30, 2008 Letter Order were used for customer nominations for its December 2008 business, which means that Columbia Gulf's customers already submitted many nominations for the month of December. Accordingly, Columbia Gulf is proposing to use the June 2, 2008 rates for December business, rather than require customers to re-nominate these quantities. Columbia Gulf instead proposes that the retainage rates reflected in its December 15, 2008 compliance filing be made effective June 1, 2008, for purposes of the refund obligation, but that the revised rates will not be charged for services through December 31, 2008, and that it be permitted to commence charging them on January 1, 2009, forward.

2. Notice

16. Public notice of the filing was issued on December 17, 2008, with comments due on or before December 29, 2008. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2008)), all timely filed motions to intervene and any motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the

¹³ Forty-Seventh Revised Sheet No. 18, Thirty-Fourth Revised Sheet No. 18A and Forty-Eighth Revised Sheet No. 19 to FERC Gas Tariff, Second Revised Volume No. 1.

proceeding will not disrupt the proceeding or place additional burdens on existing parties. No comments or protests were filed.

3. Commission Decision

17. The Commission has reviewed Columbia Gulf's December 15, 2008 compliance filing and finds that it is in satisfactory compliance with the December 2, 2008 Order and therefore accepts the revised tariff sheets to become effective June 1, 2008, as proposed. Waiver is hereby granted to defer application of the revised retainage rates filed herein until January 1, 2009.

The Commission orders:

(A) Columbia Gulf's tariff sheets identified in footnote 13 are accepted to be effective June 1, 2008, as proposed, and waiver is granted as discussed above.

(B) For the limited reasons discussed above, Columbia Gulf's request for rehearing is granted.

(C) Columbia Gulf's request for clarification is rendered moot.

(D) Columbia is directed to reflect line item adjustments in its next annual TRA filing for its refunds and interest resulting from the adjustments directed by the Commission in the December 2, 2008 Order, as discussed in the body of the order.

By the Commission. Commissioner Kelliher not participating.

(S E A L)

Kimberly D. Bose,
Secretary.