

126 FERC ¶ 61,213
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Columbia Gas Transmission, LLC

Docket No. CP07-367-005

ORDER AMENDING CERTIFICATE

(Issued March 10, 2009)

1. On February 10, 2009, Columbia Gas Transmission, LLC (Columbia) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) to amend the certificate of public convenience and necessity issued by the Commission on January 14, 2008, authorizing Columbia to construct and operate the Eastern Market Expansion Project (EME Project).¹ Specifically, Columbia proposes to revise the initial incremental transportation and storage rates for the EME Project to reflect increases in the actual and projected costs of constructing the EME Project facilities. For the reasons discussed below, we will grant the requested certificate amendment.

Background

2. The January 14 Order granted Columbia authority to abandon, construct, and operate certain natural gas storage, compression, and pipeline facilities in Ohio, West Virginia, and Virginia, in order to provide storage and storage related transportation services under Rate Schedules SST (Storage Service Transportation) and FSS (Firm Storage Service) for its EME Project customers. The Commission approved initial incremental demand rates for the project² and directed Columbia to file actual tariff sheets identical to the pro forma sheets in its application within 30 to 60 days prior to

¹ *Columbia Gas Transmission Corp.*, 122 FERC ¶ 61,021 (2008) (January 14 Order).

² The Commission also approved Columbia's proposal to charge expansion shippers its existing Rate Schedule FSS and SST commodity rates for service on the facilities.

commencing service on the project facilities. The in-service date for these facilities is expected to be April 1, 2009.

Columbia's Proposal

3. Columbia states that since the filing of its original application, the market price for materials, labor, and engineering for natural gas pipeline construction has increased substantially. Consequently, Columbia states that the estimated construction costs of the EME Project have increased from the \$174,385,174 approved in the January 14 Order, to an estimated total cost of construction of \$216,946,499, an increase of \$42,561,325. Columbia explains that the primary drivers of these cost increases were prime contractor costs and materials.

4. In light of the cost increases for the EME Project facilities, Columbia requests authority to revise its initial incremental rates for the EME Project facilities prior to placing these facilities in service under Rate Schedules FSS and SST.³ Columbia has set forth the proposed cost of services and rate revisions derived from the higher construction cost estimates for the EME Project in amended Exhibits K, N, and P. Columbia states that the revised estimated costs are based, in part, on actual expenditures for the project that have been incurred to date during the construction process. In accordance with the Commission's previous directive related to Columbia's EME Project,⁴ Columbia states it also has revised the initial rates authorized by the January 14 Order to reflect the rate consequences of placing certain EME Project pipeline facilities in service prior to April 1, 2009, including the recovery of costs, termination of the Allowance for Funds

³ Columbia states that its request here is consistent with Commission policy that permits a pipeline to file a certificate amendment to revise its approved initial rates prior to placing its facilities in service. *Citing Tennessee Gas Pipeline Co.*, 61 FERC ¶ 61,155, at 61,523 (1992).

⁴ In an order issued on December 15, 2008, the Commission authorized Columbia to offer firm and interruptible transportation services under Rate Schedules FTS and ITS using the capacity of certain EME Project pipeline facilities that had been or would be placed in service before the proposed in-service date of April 1, 2009. That authority was conditioned on Columbia filing to revise the initial rates authorized for the EME Project to reflect the rate consequences of placing any EME Project facilities in service prior to April 1, 2009. *Columbia Gas Transmission Corp.*, 125 FERC ¶ 61,290 (2008). (December 15 Order).

Used During Construction, and the effects of commencing depreciation of the facilities placed in service.⁵

5. Based on the revised cost estimates, Columbia proposes to decrease the firm monthly reservation charge for service under Rate Schedule SST from \$19.664 per Dth per month to \$18.464 per Dth per month. For storage service under Rate Schedule FSS, Columbia proposes to increase the Maximum Daily Storage Quantity reservation charge to \$4.345 per Dth per month (from \$3.317 per Dth per month) and to increase the Storage Contract quantity demand charge to \$0.072 per Dth per month (from \$0.055 per Dth per month). Columbia also explains that its proposal reflects the cost sharing arrangement agreed to between Columbia and the EME Project customers pursuant to the methodology set forth in signed precedent agreements that resolves all issues associated with the EME Project construction cost increases. Pursuant to this resolution, Columbia states that the maximum rates for the EME service are capped at an annual delivered cost of \$270 per Dth.⁶

Notice, Interventions, and Protests

6. Public notice of Columbia's filing was published in the *Federal Register* on February 19, 2009 (74 Fed. Reg. 7,680). Orange and Rockland Utilities, Inc. and the Cities of Charlottesville, Virginia and the Easton Utilities Commission (jointly, Charlottesville and Easton) filed unopposed motions to intervene. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, all timely filed motions to intervene are granted.⁷

7. Charlottesville and Easton filed comments supporting the requested amendment but seek one clarification. Their concern relates to language in the proposed tariff sheets related to FSS and SST service that states that "[if] EME customers incur an overrun" for

⁵ See Columbia's February 10, 2009 Amended Application, Exhibit P at 11.

⁶ A copy of the executed cost allocation resolution is attached to Columbia's amended application at Exhibit Z-5. The resolution also provides that Columbia will make a limited section 4 filing to adjust the rates to reflect the actual costs of the EME Project if the actual costs would result in an annual delivered cost pursuant to the sharing mechanism set forth in the precedent agreements of less than \$270 per Dth.

⁷ 18 C.F.R. § 385.214 (2008).

SST or FSS service, they will pay an additional incremental overrun rate.⁸ They state that both Charlottesville and Easton have FSS and SST entitlements that predate the EME expansion that are subject to the system FSS and SST rates and seek clarification that any overrun related to a non-incremental SST or FSS contract would not be subject to the incremental overrun rate.

8. Columbia filed for leave to answer and an answer to the concerns raised by Charlottesville and Easton. Columbia states that it never intended to charge the EME Customer Group the higher overrun rate for their existing FSS and SST service. Accordingly, Columbia proposes to revise its proposed tariff language set forth on the rate sheets for Rate Schedules FSS (footnote 3) and SST (footnote 4) to clarify that the additional overrun charges will only be applicable to EME customers' SST and FSS service "that is provided under their EME Project service agreements." Columbia indicates it is authorized to state that the proposed revisions adequately address the concerns raised by Charlottesville and Easton. Although the Commission's Rules of Practice and Procedure do not permit answers to protests or answers,⁹ the Commission finds good cause to waive Rule 213(a)¹⁰ and admit the answer provided by Columbia because it provides information that has assisted us in our decision making.

Discussion

9. Because revising the initial incremental cost-based recourse rates require amending the authorization issued in the January 14 Order, Columbia's request is subject to the jurisdiction of the Commission and the requirements of NGA sections 7(c) and (e).

10. In its February 10, 2009 Filing, Columbia describes the basis for the cost revisions and provides revised cost exhibits to support its proposal. Columbia has provided satisfactory explanations for the increased plant costs, and no existing or prospective customers on Columbia's system have protested the revised project costs. Additionally, we find that Columbia has satisfactorily complied with the Commission's directive in the December 15 Order to revise the initial rates for the EME Project to reflect the rate consequences of placing any EME Project facilities in service prior to April 1, 2009. We

⁸ *Citing* language in footnote 4 on Pro Forma 89th Revised Sheet No. 26 and footnote 3 on Pro Forma 25th Revised Sheet No. 29.

⁹ 18 C.F.R. § 385.213(a)(2) (2008).

¹⁰ *See* section 385.101(e) (permitting the Commission to waive any provision of Part 385 for good cause).

also find that Columbia's proposal to revise its proposed tariff to clarify that the additional charges for overrun service under Rate Schedules FSS and SST will only apply to Rates Schedule FSS and/or SST service agreements that utilize the EME facilities adequately addresses Charlottesville's and Easton's concerns. Therefore, the Commission approves Columbia's proposed tariff revisions and the revised incremental recourse rates for the EME project.

11. In the January 14 Order, the Commission determined that the incremental rate design for the expansion services ensured that Columbia would assume the financial risk for its EME Project without relying on subsidization from its existing customers, consistent with the Commission's policy statement on new facilities.¹¹ Analysis of Columbia's revised initial incremental cost-based recourse rates bears out the same conclusion, i.e., that existing customers will not contribute to expansion project costs. In view of the above, we find that it is in the public convenience and necessity to grant Columbia's request for amendment of its certificate authority to revise its initial incremental cost-based recourse rates to reflect the current cost estimates for its EME Project.

12. Columbia is directed to file actual tariff sheets to implement the initial rates for the EME Project as approved in the January 14 Order and amended herein within seven days of the date of this order.

13. The Commission on its own motion, received and made a part of the record all evidence, including the application(s), as supplemented, and exhibits thereto, submitted in this proceeding and upon consideration of the record.

The Commission orders:

(A) Columbia's certificate of public convenience and necessity is amended to authorize the revised initial incremental cost-based recourse rates, as described more fully in the application and in the body of this order.

¹¹ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999); *orders clarifying statement of policy*, 90 FERC ¶ 61,128 (2000) and 92 FERC ¶ 61,094 (2000).

(B) Columbia is directed to file actual tariff sheets to implement the initial rates for the EME Project as approved in the January 14 Order and amended herein within seven days of the date of this order.

By the Commission. Commissioner Kelliher is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.