

126 FERC ¶ 61,313
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ANR Pipeline Company

Docket No. RP09-428-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS SUBJECT
TO REFUND AND CONDITIONS AND ESTABLISHING TECHNICAL
CONFERENCE

(Issued March 31, 2009)

1. On February 27, 2009, ANR Pipeline Company (ANR) filed revised tariff sheets¹ to comply with the annual fuel and electric power cost re-determination provisions of sections 1.68 and 37 of the General Terms and Conditions (GT&C) of its tariff. The lost and unaccounted for component of Transporter's Use percentage includes an adjustment for gas loss due to Hurricane Ike, which damaged ANR's facilities in the Gulf of Mexico in 2008. ANR also proposes to increase the gas fuel charge and the electric power cost charge for its Cold Springs 1 Storage Field (Cold Springs 1) in Michigan. Finally, ANR proposes to charge an additional gas fuel charge and/or electric power cost charge for in-field storage transfers between the Cold Springs 1 storage facility and ANR's other storage facilities. ANR requests that the tariff sheets become effective April 1, 2009. For the reasons discussed below, the Commission accepts and suspends ANR's tariff sheets to be effective April 1, 2009, subject to refund and conditions, and the outcome of the technical conference established by this order.

Background

2. The purpose of ANR's filing is to comply with the annual fuel and electric power cost re-determination provisions of sections 1.68 and 37 of ANR's GT&C. The

¹ First Revised Sheet No. 10A, Twenty-Sixth Revised Sheet No. 19, Fourth Revised Sheet No. 19A, Seventh Revised Sheet No. 149 to FERC Gas Tariff, Second Revised Volume No. 1.

Transporter's Use percentages for ANR's general system transportation and storage services are comprised of: (1) the current fuel use percentages, reflecting ANR's gas usage in the previous calendar year, and (2) the annual volumetric surcharge reflecting the true-up of over and under collections of gas during the previous calendar year. The electric power cost charges for transportation services are comprised of: (1) the current electric power charges reflecting ANR's electric power costs incurred during the previous calendar year, and (2) the annual electric power cost surcharge reflecting the true-up of over and under collections of electric power costs for the previous calendar year, inclusive of carrying charges on the monthly net over and under collection activity.

3. ANR states that the proposed lost-and-unaccounted for component of the Transporter's Use percentages includes an adjustment for ANR's gas loss incurred as a result of Hurricane Ike which hit the Gulf of Mexico on September 11 and 12, 2008 and caused significant damage to ANR's offshore facilities. ANR states that the Hurricane Ike gas loss reflected in its filing totals 187,540 Mcf. ANR asserts that the Commission has been supportive of such hurricane cost recovery efforts, as evidenced by Commission actions taken in 2005 when Hurricanes Katrina and Rita hit the Gulf. ANR submits that during that time, the Commission authorized efficient use of existing gas infrastructure to expedite hurricane-related cost recovery. ANR proposes that the fuel tracker is the quickest and most efficient method for recovery of such losses resulting from Hurricane Ike. ANR states that inclusion of this hurricane-related gas loss represents less than 1 percent of the systemwide Transporter Use percentage for gas used in ANR's 2008 operations.

4. ANR also filed separate charges to redetermine the Transporter's Use percentage and electric power cost charges for the Cold Springs 1 storage facility. The Transporter's Use percentage is comprised of: (1) the current fuel use percentage, reflecting Cold Springs 1 gas usage in the previous calendar year (as adjusted for known and measurable changes projected to occur in 2009), and (2) the annual volumetric surcharge, reflecting the trueup of over and under collections of gas during the previous calendar year. The electric power cost charge for Cold Springs 1 is comprised of: (1) the current electric power charge, reflecting Cold Springs 1 power costs incurred during the previous calendar year (as adjusted for known and measurable changes projected to occur in 2009), and (2) the annual electric power cost surcharge, reflecting the true-up of over and under collections of electric power costs for the previous calendar year, inclusive of carrying charges on the monthly net over and under collection activity.

5. ANR states that the fuel use, electric power cost charge and injection volumes experienced in 2008 are not representative of that anticipated in 2009. ANR submits that the adjustments for known and measureable changes made to projected 2009 fuel, electric power costs and injection volumes will have the effect of better matching cost incurrence with cost recovery and levelizing the fuel rates charged over the next few years. ANR states that the electric compression installed as part of the Cold Springs 1 project was not

available for injections which commenced in April, 2008. ANR states that, in an effort to facilitate injections and provide the storage services committed to in the Cold Springs 1 project during this initial start-up year, it contracted for service from a third-party provider, which billed ANR on an in-kind basis. As a result, ANR states that the estimated 2008 Transporter's Use percentage and electric power cost charge previously approved in Docket No. RP08-240-000² were understated and overstated, respectively, resulting in an under collection of fuel-in-kind and an over collection of electric power costs from the Cold Springs 1 customers at the end of 2008. ANR states that such under and over collection of actual costs are reflected in the respective Cold Springs 1 true-up adjustments in this filing. ANR states that its general system Transporter's Use percentages and electric power cost charges are not affected by the Cold Springs 1 fuel costs or true-up adjustments.

6. Finally, ANR states that an additional purpose of the filing is to revise tariff provisions regarding fuel assessed on in-field storage transfers between ANR's integrated storage system and Cold Springs 1. ANR states that while it operates the aggregate of its storage facilities on an integrated basis, the Commission's order certifying Cold Springs 1 required ANR to track Cold Springs 1 fuel to Cold Springs 1 shippers, necessitating a revision in how in-field transfers are handled when Cold Springs 1 is involved.³ ANR states that while it would not typically physically move gas from one storage field to another to effectuate an in-field storage transfer from one shipper's account to another shipper's account, the Commission's requirement that Cold Springs 1 be tracked and accounted for separately necessitates a revision to this historic practice. ANR asserts that to assure an equitable recovery of electric power costs and fuel costs incurred at Cold Springs 1 from its shippers, it is necessary to match up the physical gas in Cold Springs 1 with the gas accounted for in each Cold Springs 1 shippers' account. ANR contends that without the tariff revisions proposed herein, gas injected into Cold Springs via an in-field transfer would bear no electric compression fuel costs while gas physically injected would bear all the electric compression costs. ANR asserts that, in a worse case scenario, if all the gas was injected via in-field transfers, there would be no one left to bear the electric compression costs.

7. ANR states that any transfers from ANR's integrated storage system into Cold Springs 1 must be treated as an injection into Cold Springs 1 and assessed the applicable Cold Springs 1 fuel charges. Conversely, ANR states that any transfer from Cold Springs 1 into the integrated system must be treated as an injection into the integrated system and assessed the applicable general system storage fuel rate. ANR states that this change in

² See, Unpublished Director Letter Order issued March 21, 2008.

³ Citing, *ANR Storage Company*, 119 FERC ¶ 61,220 (2007) and *ANR Pipeline Company*, 122 FERC ¶ 61,061 (2008).

the treatment of in-field transfers is being made by ANR to alleviate the Commission's concerns regarding cross-subsidization of costs between the otherwise integrated fields and the Cold Springs 1 field. ANR asserts that in seeking this revision it is not deviating from its fuel tracker because it will collect over time the actual fuel usage on the system, no more and no less.

Public Notice and Interventions

8. Public notice of ANR's filing was issued on March 4, 2009. 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 the proceeding or place additional burdens on existing parties.

9. Protests were filed by Integrys Gas Group (Integrys), the Wisconsin Distributor Group, the Indicated Shippers,⁴ and Southwest Energy, L.P. (Southwest Energy). Supplemental comments were filed by Nexen Marketing U.S.A. Inc. (Nexen). Integrys, the Wisconsin Distributor Group, the Indicated Shippers, and Nexen protest ANR's proposal to include in the lost and unaccounted for component of its Transporter's Use percentage an adjustment for gas lost due to Hurricane Ike. The protesters argue that hurricane-related lost gas is beyond the type of routine lost gas that pipelines are allowed to recover in fuel rate filings. The protesters contend that fuel losses due to a catastrophic, one-time event cannot be recovered in a pipeline's fuel tracker. Protesters submit that fuel trackers are intended to recover fuel used in normal operations and losses that cannot be accounted for. Protesters contend that if a pipeline suffers an extraordinary, one-time loss that could not be reasonably predicted when it filed its last Natural Gas Act section 4 rate case, that pipeline may be able to recover that cost in a separate limited section 4 proceeding, but the pipeline cannot recover the loss in its annual fuel tracker filing.⁵

10. Finally, Integrys suggests that the type of costs caused by Hurricane Ike could be insured against by ANR. Similarly, the Wisconsin Distributor Group asks that ANR be required to disclose whether it maintained insurance against such gas losses, and the extent to which such losses are reimbursable.

⁴ The Indicated Shippers consist of Chevron U.S.A. Inc. and ConocoPhillips Company.

⁵ *Citing, Columbia Gulf Transmission Co.*, 125 FERC ¶ 61,255 (2008); *Colorado Interstate Gas Co.*, 121 FERC ¶ 61,161 (2007), *reh'g denied*, 123 FERC ¶ 61,183 (2008); and *Southern Star Central Gas Pipeline, Inc.*, 125 FERC ¶ 61,388 (2008).

11. The Indicated Shippers, Southwest Energy and Nexen protest (1) the level of Cold Springs 1 storage Transporter's Use percentage and electric power cost charges proposed by ANR, and (2) ANR's proposal to charge additional gas fuel and/or electric power cost charges for in-field storage transfers between the Cold Springs 1 storage facility and ANR's other storage facilities. The Indicated Shippers also assert that the proposed in-field transfer charge does not take into account the fact that a storage customer's initial gas injection into either Cold Springs 1 or ANR's general system storage is subject to a gas fuel and/or an electric power cost charge. The Indicated Shippers request that the Commission (1) require ANR to provide additional information regarding its proposed Cold Springs 1 storage gas fuel and electric power cost charges; (2) convene a technical conference regarding ANR's proposed Cold Springs 1 storage gas fuel and electric power cost charges and ANR's proposal to charge additional gas fuel and electric power cost charges for in-field storage transfers between the Cold Springs 1 storage facility and ANR's other storage facilities; and (3) reject the proposed in-field transfer charge, or alternatively require ANR to propose an electric power cost charge for in-field transfers involving Cold Springs 1 that takes into consideration previous injection charges paid. Southwest Energy requests that the Commission reject the proposal by ANR to charge for in-field transfers and also reject the proposed Cold Springs 1 fuel charges.

12. Indicated Shippers asserts that given the inadequacy of the existing record in this proceeding, it is impossible for shippers or the Commission to review ANR's proposed Cold Springs 1 storage gas fuel and electric power cost charges and to determine whether the proposals are just and reasonable. Indicated Shippers contends that it is also impossible to determine whether ANR's proposal regarding additional gas fuel and electric power cost charges for in-field transfers between the Cold Springs 1 storage facility and ANR's other storage facilities is just, reasonable and not unduly discriminatory, given that ANR can and should continue to operate all of its storage facilities as an integrated facility (irrespective of whether ANR tracks gas fuel use and electric power costs for the Cold Springs 1 storage facility separately). Indicated Shippers assert that additional information and a technical conference is needed to allow all interested parties and the Commission to better understand the facts and causes of the significant increase to ANR's proposed Cold Springs storage gas fuel and electric power cost charges. Nexen supports Indicated Shippers request for a technical conference. Indicated Shippers submits that ANR's unsupported claims of "known and measurable changes" are not adequate to justify an increase from \$0.04/Dth to \$0.1444/Dth for current Cold Springs 1 electric power costs, nor are ANR's unsupported claims regarding in kind fuel provided to ANR Storage adequate to justify a Cold Springs 1 gas fuel under-recovery that results in a Cold Springs 1 gas fuel true-up charge of 1.6 percent.

13. On March 23, 2009, ANR filed an answer to the protests. ANR seeks denial of the requests to remove the cost of gas losses due to Hurricane Ike from the lost and unaccounted for component of its Transporter's Use percentage. ANR also asserts that it has adequately supported the projected increases in fuel charges associated with the Cold

Springs 1 facility, and the need to charge fuel for in-field storage transfers between Cold Springs 1 and its other storage facilities. However, ANR also agrees that a technical conference would be appropriate to address the Cold Springs 1 fuel issues if the Commission requires more information.

14. ANR maintains that whether a particular cost is the result of normal pipeline operations or the result of a hurricane is irrelevant to the issue of cost recovery. Accordingly, ANR believes that because the Hurricane Ike gas losses fall within the plain meaning of “lost and unaccounted for gas,” they should be recoverable in the tracker filing. Among other things, ANR asserts that it would be administratively inefficient to refuse to allow ANR to recover such costs through a fuel tracker while requiring ANR to seek recovery of such costs in a different limited section 4 proceeding. Finally, ANR states that it did not insure its offshore facilities against loss due to hurricanes because it determined that such insurance was not cost effective.

Discussion

15. The Commission accepts and suspends ANR’s proposed revisions to its systemwide Transporter’s Use percentages and electric power cost charges subject to ANR removing from the lost and unaccounted for component of its Transporter’s Use percentage the 187,540 Mcf of gas lost as a result of Hurricane Ike. The Commission has held that fuel tracking mechanisms should appropriately track only those costs related to normal pipeline operations. The Commission has found that it was not reasonable for a pipeline to recover through its fuel tracking mechanism gas lost due to an unusual, non-recurring event. Such extraordinary losses are more appropriately recovered through a pipeline’s insurance or the normal ratemaking process.⁶ The Hurricane Ike-related gas losses that ANR proposes to recover here are precisely the type of extraordinary costs that the Commission has determined are not appropriate for inclusion in a fuel tracker filing.⁷ Accordingly, within 30 days of the date of this order, ANR is directed to file revised tariff sheets reflecting the removal of the Hurricane Ike-related gas losses from its systemwide Transporter’s Use percentage. Our holding here is without prejudice to ANR making a separate, limited section 4 filing to recover these extraordinary costs.

16. The Commission has reviewed ANR’s filing and the protests of the parties and finds that it is not possible to determine whether ANR’s proposed Transporter’s Use percentage and electric power cost charges for the Cold Springs 1 storage facility are just and reasonable. The Commission also finds that ANR has not justified its proposal to charge additional gas fuel and electric power cost charges for in-field storage transfers

⁶ See, e.g., *Southern Star Central Gas Pipeline, Inc.*, 125 FERC ¶ 61,388 (2008).

⁷ See, e.g., *Columbia Gulf Transmission Co.*, 125 FERC ¶ 61,255 (2008).

between the Cold Springs 1 storage facility and ANR's other storage facilities. ANR's proposal for the Cold Spring 1 storage facility raise numerous issues, which are best addressed at a technical conference. Additional information is needed to review in support of ANR's proposed gas fuel and electric power costs. For example, as requested by Indicated Shippers, additional information and an explanation is needed concerning the "known and measurable" changes to the 2008 Cold Springs storage gas fuel use and electric power costs and why there is such a substantial increase in projected gas fuel use and electric power costs. ANR should be prepared to discuss these issues at the technical conference.

17. A technical conference will afford the Commission Staff and the parties to the proceeding an opportunity to discuss all of the issues raised by ANR's proposal. ANR should be prepared to address all the concerns raised in the protests, and if necessary, to provide additional technical, engineering and operational support for its proposals. Any party proposing alternatives to ANR's proposals should also be prepared to similarly support its position. 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 ANR or other parties at the conference.

Suspension

18. Based on a review of the filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept the tariff sheets for filing, and suspend their effectiveness for the period set forth below, subject to the conditions in this order.

19. 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 suspension for the maximum period may lead to harsh and inequitable results. *See, Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (minimum suspension). The Commission finds that such circumstances exist here where ANR is filing its annual update pursuant to an approved fuel use and electric power cost tracker mechanism. Therefore, the Commission will accept and suspend the proposed tariff sheets to be effective April 1, 2009, subject to refund, the conditions of this order and the outcome of the technical conference established herein and further orders of the Commission in this proceeding.

The Commission orders:

(A) ANR's revised tariff sheets listed in footnote number 1 are accepted and suspended to be effective April 1, 2009, subject to refund, the conditions of this order, the outcome of the technical conference established by this order, and further orders of the Commission in this proceeding.

(B) ANR is directed to file revised tariff sheets reflecting the removal of the Hurricane Ike-related gas losses from the Transporter's Use percentage within 30 days of the date of this order. This holding is without prejudice to ANR making a separate, limited rate filing under section 4 of the Natural Gas Act to seek recovery of such costs.

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

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.