

127 FERC ¶ 61,096
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

CenterPoint Energy Gas Transmission Company

Docket No. RP09-463-000

ORDER ON TARIFF FILING

(Issued April 30, 2009)

1. On March 20, 2009, CenterPoint Energy Gas Transmission Company (CenterPoint) filed revised tariff sheets¹ and supporting worksheets setting forth adjustments to its fuel retention percentages and Electric Power Costs (EPC) pursuant to sections 27 and 28 of its General Terms and Conditions. CenterPoint includes with its filing a separate limited section 4 proposal. CenterPoint seeks authority to incorporate into its tariff a temporary surcharge (Line O Loss Recovery Surcharge) to recover revenue associated with 91,511 Dth CenterPoint lost or used in repair efforts associated with a September 2008 failure on its Line O. To implement this proposal, CenterPoint includes alternative revised tariff sheets² setting forth its proposed fuel retention and EPC adjustments, along with its proposed surcharge. CenterPoint requests the Commission accept its alternative revised tariff sheets to become effective May 1, 2009. CenterPoint states if the Commission needs more information and suspends the proposed effective date of the Line O Loss Recovery Surcharge, it requests the Commission to permit its original revised tariff sheets to become effective May 1, 2009.

2. As discussed below, and set forth in the Appendix, the Commission accepts CenterPoint's revised tariff sheets setting forth its adjusted fuel retention percentages and EPCs, to become effective May 1, 2009. The Commission rejects CenterPoint's proposal to implement its Line O Loss Recovery Surcharge. Accordingly, the Commission rejects CenterPoint's proposed alternate revised tariff sheets.

¹ See Appendix.

² See Appendix.

I. Details of Filing

3. Section 27 of its General Terms and Conditions requires CenterPoint to file semi-annually to incorporate adjusted fuel retention percentages into its tariff, to become effective May 1 and November 1 of each year. CenterPoint's fuel retention percentages include both fuel use percentages and lost and unaccounted for gas (LUFG) percentages. Section 28 requires CenterPoint to file semi-annually to incorporate adjusted EPCs into its tariff, to become effective May 1 and November 1 of each year. These sections also set forth the 12-month base period CenterPoint should use in calculating its fuel retention and EPC adjustments for each reporting period.

4. In the instant filing, CenterPoint calculates its proposed fuel retention and EPC adjustments using data for the 12-month period ending December 31, 2008. CenterPoint proposes the following revised fuel use percentages: (1) a decrease from 1.77 percent to 1.47 percent for service under Rate Schedules FT (firm transportation), IT (interruptible transportation), HFT (hourly firm transportation), and EFT (enhanced firm transportation), as well as for the commodity charge under Rate Schedule RSS (reverse storage); (2) a decrease from 2.77 percent to 2.40 percent for service under Rate Schedule NNTS (no notice transportation); and, (3) a decrease from 1.55 percent to 0.77 percent for service under Rate Schedules FSS (firm storage) and ISS (interruptible storage). CenterPoint also proposes to increase its Delhi fuel use percentage from 0.05 percent to 0.06 percent.

5. CenterPoint proposes the following revised LUFG percentages: (1) an increase from 0.07 percent to 0.37 percent for service under Rate Schedules FT, IT, HFT, and EFT, as well as for the commodity charge under Rate Schedule RSS; (2) an increase from 0.33 percent to 0.69 percent for service under Rate Schedule NNTS; and, (3) an increase from 0.27 percent to 0.48 percent for service under Rate Schedules FSS and ISS. CenterPoint proposes a wheeling LUFG at the Perryville Hub of zero percent.

6. CenterPoint also proposes EPC adjustments for its various services. It proposes to increase its EPC adjustment from \$0.0011 to \$0.0014 per Dth for service under Rate Schedules FT, IT, HFT, and EFT, as well as the commodity charge for service under Rate Schedule RSS. CenterPoint proposes to increase its EPC adjustment from \$0.0007 to \$0.0012 per Dth for service under Rate Schedule NNTS. CenterPoint proposes attendant changes to the minimum and maximum tariff rates for each service consistent with the adjusted EPC charges.

7. CenterPoint includes with its fuel retention and EPC tracker filing a limited section 4 tariff filing. CenterPoint proposes to incorporate into its tariff a Line O Loss Recovery Surcharge to recover losses associated with 91,511 Dth CenterPoint lost during a pipeline failure. CenterPoint's proposed surcharge is 0.02 percent multiplied by the quantity of gas that CenterPoint receives from shippers. CenterPoint proposes to collect this surcharge from shippers for service under all rate schedules. It states the surcharge

will only be in effect during the six-month period of the instant fuel tracker filing and will only apply to shippers transporting gas on CenterPoint's system during that time period. CenterPoint states that any under- or over-collection of the surcharge would be de minimis and would be rolled over into its next fuel tracker filing (to become effective November 1, 2009). It states, consistent with Commission policy, it will not discount or waive the surcharge. CenterPoint submits its proposed Line O Loss Recovery Surcharge as part of a limited section 4 filing, which is consistent with Commission policy set forth in *Columbia Gulf Transmission Company*.³

II. Public Notice, Interventions, and Comments

8. Public notice of CenterPoint's filing issued on April 7, 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 motion 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. Indicated Shippers and the Missouri Public Service Commission (MoPSC) filed protests, which we discuss below.

9. On April 9, 2009, CenterPoint filed an answer to the protests. On April 16, 2009, MoPSC filed an answer to CenterPoint's answer. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. In this case, we accept CenterPoint's answer because it provides information that assisted the Commission in our decision-making process. Because MoPSC's answer does not aid our decision in this case, we are not persuaded to accept its answer.

III. Discussion

10. The Commission accepts CenterPoint's revised tariff sheets setting forth its adjusted fuel retention percentages and EPCs, to become effective May 1, 2009, as shown in the Appendix. For the reasons discussed below, the Commission rejects CenterPoint's proposal to implement its Line O Loss Recovery Surcharge. Accordingly, the Commission rejects CenterPoint's proposed alternate revised tariff sheets.

³ *Citing Columbia Gulf Transmission Company*, 123 FERC ¶ 61,216 (2008) (finding that although a pipeline cannot recover in its fuel tracker gas lost as part of a catastrophic, one-time event, it may be able to recover such costs through a separate limited section 4 proceeding).

A. Fuel Tracker

11. MoPSC expresses concerns over one element of CenterPoint's fuel tracker. It contends that, in addition to the failure of Line O, CenterPoint reported four other pipeline incidents to the Department of Transportation (DOT) during the tracking period. MoPSC asserts the filing is silent as to whether it included any of these volumes in the proposed LUFG percentages, and whether any such volumes are appropriately recoverable through its LUFG. MoPSC asks CenterPoint to explain the circumstances of these incidents and confirm whether it included these losses in its LUFG percentages.

12. In its answer, CenterPoint explains the four incidents that MoPSC identifies. According to CenterPoint, two incidents did not involve loss of gas and had no bearing on its fuel percentages. The third incident involved damage to an above-ground block valve on Line R, which was struck by a vehicle and resulted in 1,536 Mcf of lost gas. The fourth incident was caused by line corrosion on Line B-106 and resulted in 1,876 Mcf of lost gas. CenterPoint includes these volumes in its fuel tracker calculations given their de minimis nature. CenterPoint notes these volumes are much less than what the Commission previously allowed a pipeline to include in its fuel tracker.⁴ In *WTG Hugoton, LP*, the Commission allowed the recovery through the fuel tracker of 17,304 MMBtu of gas lost due to a leak from a loss of packing around a valve stem.⁵

13. CenterPoint adds, as an example, that removing the total amount of lost gas associated with its Line B-106 and Line R incidents from its tracker would result in a reduction to its LUFG percentage for firm transportation from 0.3687 percent to 0.3678 percent. CenterPoint states, however, that because it rounds fuel percentages to the nearest hundredth in its tariff, removing these volumes would not change its proposed LUFG percentage of 0.37 percent for firm transportation.

14. The Commission finds that CenterPoint adequately addresses the concerns that MoPSC raises with regard to CenterPoint's proposed fuel retention percentages, and has provided sufficient support to justify accepting CenterPoint's proposed reimbursement percentages.

B. Line O Loss Recovery Surcharge

15. Indicated Shippers and MoPSC protest CenterPoint's proposed Line O Loss Recovery Surcharge, recommending the Commission reject the proposal as unsupported and unjustified. Indicated Shippers argue CenterPoint provides limited information

⁴ *WTG Hugoton, LP*, 125 FERC ¶ 61,288 (2008).

⁵ *Id.*

regarding the cause of the fuel loss, whether there was a responsible party, and whether CenterPoint is seeking compensation from the responsible party or from an insurance provider. Indicated Shippers assert that CenterPoint's claim that it is proposing the surcharge through a limited section 4 filing instead of a fuel tracker is meritless, since CenterPoint submitted the proposal with its fuel tracker filing and proposes to roll any under- or over-recovery from the surcharge into its next fuel tracker filing. Indicated Shippers add that allowing CenterPoint to recover the cost of this fuel loss through a surcharge does not provide the proper incentive to CenterPoint to properly maintain and insure its facility.

16. MoPSC asserts the Commission favors full rate cases over single issue rate cases, and contends CenterPoint fails to provide any basis for the Commission to waive this policy and allow CenterPoint to recover losses associated with the Line O failure through a limited section 4 filing. MoPSC states that CenterPoint has not filed a full section 4 rate case since 1994, and that CenterPoint's increased costs due to the line failure are probably offset by decreased costs in other areas.

17. MoPSC adds that CenterPoint fails to provide enough information to justify recovering the gas loss through a section 4 filing. MoPSC contends the filing is devoid of any analysis as to whether CenterPoint should assume the risk of gas loss due to line failure, citing section 6.2 of CenterPoint's tariff.⁶ MoPSC cites the Commission's policy on the extent to which losses may be recovered in a tracking mechanism:

[G]as lost as a result of a catastrophic, one-time event is not recoverable in a fuel tracker, which is intended to recover (1) fuel used in normal operations, and (2) losses that cannot be accounted for. When a pipeline suffers an extraordinary, one-time loss that could not reasonbl[y] have been predicted when it filed its last section 4 rate case, the pipeline may be able to recover that cost in a separate limited section 4 proceeding.⁷

However, MoPSC argues that pipelines only have the *opportunity* to recover such costs through a limited section 4 filing; a limited section 4 filing does not guarantee recovery.

⁶ Section 6.2 provides "[t]he party deemed to be in control and possession of the Gas to be transported or stored as provided above in section 6.1 shall be fully responsible for and shall indemnify and hold harmless the other party with respect to any and all losses...liabilities or damages arising from or in connection with the first party's control and possession of Gas."

⁷ *Columbia Gulf Transmission Company*, 123 FERC ¶ 61,216, at P 17 (2008).

18. In its answer, CenterPoint asserts the Commission only rejects filings that are patently deficient or a violation of an applicable statute, regulation, or Commission policy. It argues that, since none of these conditions apply to its instant filing, the Commission should accept its proposal.

19. CenterPoint provides additional information concerning its Line O failure. According to CenterPoint, Line O is a 24-inch diameter mainline facility; the failure was caused by a rupture due to corrosion. CenterPoint asserts that it complies with all applicable DOT safety and inspection requirements, and it inspects and performs cathodic testing on Line O on a regular basis. CenterPoint states that testing did not reveal the corrosion that occurred on Line O because the rupture occurred on a section of pipeline located between testing areas. CenterPoint states as a result of the corrosion failure, it had to isolate approximately 60 miles of Line O to perform repair work and additional testing. CenterPoint states it immediately reported the incident to the DOT and the Commission, and posted notice of the incident on its website.

20. CenterPoint states it received no reimbursement for losses associated with the Line O failure since the value of the loss was below its insurance deductible. CenterPoint adds it is not aware of any potential claims against third parties related to the incident through which it may recover any portion of the losses. CenterPoint states that, accordingly, its proposed gas loss surcharge is the only method available to CenterPoint to recover the loss.

21. CenterPoint also asserts, contrary to MoPSC's statement, its tariff does not place liability for losses solely on CenterPoint, nor does it prevent CenterPoint from recovering lost gas from its shippers. It states, were the Commission to adopt the position that MoPSC advocates, the provisions of CenterPoint's tariff related to the recovery of LUGF would be meaningless.

22. The Commission rejects CenterPoint's limited section 4 filing to recover the Line O Loss Recovery Surcharge. We have previously allowed pipelines to establish a surcharge via a limited section 4 filing to recover costs related to damage resulting from events outside the pipeline's control, such as Hurricane Katrina.⁸ However, allowing a limited surcharge to recover the costs of hurricane damage is different from the situation here. The failure of Line O does not appear to be the result of forces beyond the pipeline's control, where questions of prudent operation are more or less irrelevant. Rather, the Line O loss appears to result from a line failure that the pipeline could either avoid through system maintenance or insure itself against. Line failures that result from corrosion, such as the Line O failure at issue here, do not rise to the level of an "extraordinary, one-time loss" that could not be predicted when a pipeline filed its last

⁸ *Chandeleur Pipe Line Co.*, 117 FERC ¶ 61,250 (2006).

general section 4 rate case.⁹ Rather, pipelines have the ability, and indeed the responsibility, to maintain their systems to prevent such losses. Therefore, the gas lost as a result of the Line O failure is not recoverable through a limited section 4 filing.

23. Moreover, CenterPoint's limited section 4 filing was made in conjunction with its semi-annual fuel and LUFGE adjustment filing, and it proposes to true-up the Line O Loss Recovery Surcharge in its next fuel and LUFGE adjustment filing. Because CenterPoint's proposal appears to be inextricably intertwined with its fuel and LUFGE tracking mechanism, CenterPoint's limited section 4 filing is effectively a separately stated component of CenterPoint's fuel and LUFGE adjustment filing. However, under the Commission's fuel/LUFGE tracker policy, CenterPoint would not be permitted to recover losses associated with the Line O failure. Fuel and LUFGE tracking mechanisms are appropriate to recover fuel used or lost in the course of normal pipeline operations, and losses that cannot be accounted for.¹⁰ The Line O loss was neither unaccounted for, nor was it incurred in the normal course of pipeline operations. Rather, unlike a slow and gradual leak,¹¹ it was the type of rare, catastrophic, and non-recurring event that the Commission has specifically determined are unrecoverable in tracking mechanisms.¹² Accordingly, the Commission rejects the Line O Loss Recovery Surcharge, consistent with Commission policy prohibiting the recovery of catastrophic losses in fuel tracking mechanisms.

C. Request for Technical Conference

24. MoPSC requests the Commission convene a technical conference to address the arguments raised in this proceeding. In its answer, CenterPoint argues a technical conference is not necessary since CenterPoint addresses the parties' concerns in its answer. The Commission agrees and will not convene a technical conference at this time.

⁹ *Columbia Gulf Transmission Company*, 123 FERC ¶ 61,216 at P 17.

¹⁰ *Id.*

¹¹ *See WTG Hugoton, LP*, 125 FERC ¶ 61,288, at P 33 (2008).

¹² *See Cheyenne Plains Gas Pipeline Co., LLC*, 123 FERC ¶ 61,220, at P 10 (2008) (citing *Colorado Interstate Gas Co.*, 121 FERC ¶ 61,161, at P 24 (2007), *order on reh'g*, 123 FERC ¶ 61,183 (2008); *Williams Natural Gas Co.*, 73 FERC ¶ 61,394, at 61,215 (1995)).

The Commission orders:

(A) CenterPoint's revised tariff sheets, as set forth in the Appendix, are accepted, to become effective May 1, 2009, as proposed.

(B) CenterPoint's alternate revised tariff sheets, as set forth in the Appendix, are rejected.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

APPENDIX

**CenterPoint Energy Gas Transmission Company
FERC Gas Tariff
Sixth Revised Volume No. 1**

Tariff Sheets Accepted Effective May 1, 2009

Nineteenth Revised Sheet No. 17
Sixteenth Revised Sheet No. 18
Sixteenth Revised Sheet No. 19
First Revised Sheet No. 20
Thirteenth Revised Sheet No. 31
Seventeenth Revised Sheet No. 32

Tariff Sheets Rejected

Alternate Nineteenth Revised Sheet No. 17
Alternate Sixteenth Revised Sheet No. 18
Alternate Sixteenth Revised Sheet No. 19
Alternate First Revised Sheet No. 20
Alternate Thirteenth Revised Sheet No. 31