

132 FERC ¶ 61,124
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 13, 2010

In Reply Refer To:
Columbia Gulf Transmission Company
Docket No. RP10-965-000

Columbia Gulf Transmission Company
5151 San Felipe, Suite 2500
Houston, Texas 77056

Attention: James R. Downs, Vice President
Rates & Regulatory Affairs

Reference: Non-Conforming Agreements

Ladies and Gentlemen:

1. On July 14, 2010, Columbia Gulf Transmission Company (Columbia Gulf) filed six currently effective service agreements¹ under Rate Schedule FTS-1 as non-conforming. Columbia Gulf includes with its filing a revised tariff record² to include the six agreements on the list of non-conforming agreements set forth in its tariff. For the reasons set forth below, we accept Columbia Gulf's agreements for filing and accept its revised tariff record to become effective August 16, 2010, as proposed.

2. Columbia Gulf states it is in the process of performing a full review of its currently effective service agreements to identify any that may include non-conforming

¹ The agreements are with the City of Charlottesville (Contract No. 37890), Elam Utility Company (Contract No. 43444), Belfry Gas Company (Contract No. 43452), Piedmont Natural Gas (Contract Nos. 43461 and 43462), and New Jersey Natural Gas Company (Contract No. 44406).

² Service Agreement Forms, Non-Conforming Service Agreements, 1.0.0, to Columbia Gulf Tariffs, FERC Tariff, Third Revised Volume No. 1.

provisions.³ Columbia Gulf states that it filed the six subject agreements because each includes an evergreen provision that represents a material deviation from its *pro forma* service agreement. The deviating provision would let the shipper continue service under the agreement on a year-to-year basis, unless either Columbia Gulf or the shipper terminates the agreement with six months prior written notice. Columbia Gulf has notified each shipper with such a non-conforming contract that Columbia Gulf would be exercising its right to terminate the agreement upon the expiration of the currently effective term. In its filing, Columbia Gulf includes a copy of these notices of termination with each agreement. Columbia Gulf states that these notices of termination effectively nullify any undue risk as a result of the evergreen provision, and notes that shippers operating under the agreements will still be entitled to renew the agreements under the right of first refusal provisions in Columbia Gulf's tariff.

3. Public notice of the filing was issued on July 16, 2010. Interventions and protests were due on or before July 26, 2010, as provided in section 154.210 of the Commission's regulations.⁴ Pursuant to Rule 214,⁵ 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. No party filed a protest or adverse comments.

4. The evergreen provision set forth in each of the six subject agreements represents a material deviation from Columbia Gulf's *pro forma* service agreement. However, since Columbia Gulf served notice upon each shipper that it would be exercising its right to terminate the agreement upon the expiration of the currently effective term, this would effectively nullify the evergreen provision and give the parties an opportunity to enter into a new agreement not containing such a provision. This should eliminate any risk of undue discrimination that may result from the provision. Accordingly, we accept the

³ It appears that Columbia Gulf failed to timely file the subject service agreements in compliance with section 154.1(d) of the Commission's regulations. Applicants are reminded that they must submit required filings on a timely basis, or face possible sanctions by the Commission. *See Southern Star Central Gas Pipeline, Inc.*, 125 FERC ¶ 61,082 (2008).

⁴ 18 C.F.R. § 154.210 (2010).

⁵ 18 C.F.R. § 385.214 (2010).

agreements for filing and accept Columbia Gulf's revised tariff record setting forth the six agreements on its list of non-conforming agreements.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

cc: All Parties

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