

136 FERC ¶ 61,230
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

MoGas Pipeline LLC

Docket No. RP11-2479-000

ORDER ACCEPTING TARIFF RECORD

(Issued September 30, 2011)

1. On August 31, 2011, MoGas Pipeline LLC (MoGas) filed a tariff record¹ as part of its required Annual Adjustment Filing to its Fuel and Gas Loss Retention Percentage, reflecting a decrease from 1.01 percent to 0.50 percent. MoGas states that it makes the filing pursuant to section 4 of the Natural Gas Act (NGA),² Part 154 of the Commission's Rules and Regulations,³ and section 7.37 of the General Terms and Conditions (GT&C) of its FERC Gas Tariff. The Missouri Public Service Commission (MoPSC) intervened and filed comments asserting that MoGas may have miscalculated the fuel loss percentage. As discussed below, the Commission accepts the tariff record identified in footnote 1 to become effective October 1, 2011.

Nature, Reasons, and Basis for Filing

2. MoGas states that its tariff requires it to make the Annual Adjustment Filing by August 31 every year (to become effective October 1 of that year) to adjust the Fuel and Gas Loss Retention Percentage based on the 12-month period ending June 30 of each year. MoGas explains that this rate is calculated pursuant to GT&C section 7.37 of its tariff.

3. MoGas points out that, on February 11, 2011, it made a Mid-Year Filing pursuant to section 7.37(5) of its tariff and that the Commission accepted the filing to become

¹ Section 4, Schedule of Rates for Transportation, 6.0.0 to Baseline Tariff, FERC NGA Gas Tariff.

² MoGas cites 15 U.S.C. § 717c (2006).

³ MoGas cites 18 C.F.R. Part 154 (2011).

effective March 1, 2011.⁴ MoGas adds that the Mid-Year Filing proposed to decrease its Fuel and Gas Loss Retention Percentage from 1.01 percent to 0.55 percent because the pipeline was experiencing a significant over-recovery of fuel.

4. MoGas states that the instant filing proposes an additional reduction of the Fuel and Gas Loss Retention Percentage from the currently-effective rate of 0.55 percent to 0.50 percent. MoGas adds that the Current Fuel and Gas Loss Retention Percentage Component is 0.70 percent, which it derived by estimating the total Fuel and Lost and Unaccounted for Gas (LUFG) quantities expected to be required between July 1, 2011, and June 30, 2012, divided by the total quantities estimated to flow under the rate schedules that are subject to the Fuel and Gas Loss Retention Percentage during the same 12-month period. MoGas states that the estimates are based on the prior year's actual data, from July 1, 2010, through June 30, 2011 (Preceding Annual Period).

5. Additionally, MoGas states that it determined the Unrecovered Fuel and Gas Loss Retention Percentage Component to be -0.20 percent. MoGas explains that it calculated this by determining the Fuel and LUFG quantities for the Preceding Annual Period,⁵ subtracting the Fuel and Gas Loss Retention Quantities during the Preceding Annual Period,⁶ and finally dividing the result by the Current Rate Schedule Quantities. MoGas states that, when combined, the Current Fuel and Gas Loss Retention Percentage and the Unrecovered Fuel and Gas Loss Retention Percentage yields the Annual Fuel and Gas Retention Percentage of 0.50 percent.⁷

Notice and Interventions

6. Notice of the MoGas filing was issued on August 31, 2011. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁸ Pursuant to Rule 214,⁹ all timely-filed motions to intervene and any unopposed motions

⁴ MoGas cites *MoGas Pipeline LLC*, 134 FERC ¶ 61,149 (2011).

⁵ Based on its calculations, the Commission believes that MoGas means that it used deferred under- and over- fuel recoveries during the 12-month period from July 1, 2010, to June 30, 2011.

⁶ Based on its calculations, the Commission believes that MoGas means that it subtracted the June 30, 2010 ending balance in the deferred fuel recovery account where it records under- and over-recoveries of fuel.

⁷ MoGas states that the calculations are set out in the workpapers attached to its filing as Appendix A.

⁸ 18 C.F.R. § 154.210 (2011).

⁹ 18 C.F.R. § 385.214 (2011).

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.

Comments of MoPSC

7. MoPSC asks the Commission to review the fuel loss calculation and section 7.37.4(b) of the MoGas tariff to determine if MoGas incorrectly included unrecovered fuel from January 2010 through June 2010 that MoGas subsequently recovered through its initial annual fuel adjustment filing in Docket No. RP10-1158-000. If that is the case, MoPSC asks the Commission to reduce the proposed MoGas 0.50 percent fuel percentage by removing the 3,856 Dth from its fuel loss calculation, which would result in a revised fuel percentage of 0.47 percent.¹⁰

8. MoPSC states that the MoGas filing calculates the unrecovered fuel for the preceding 12 months, but also includes the unrecovered fuel for the January 2010 through June 2010 period, which it claims was to be used only in the calculation for the Initial Annual Adjustment Filing. MoPSC maintains that, by including the January 2010 through June 2010 unrecovered fuel in the instant filing, MoGas has disregarded the plain language of its tariff. In addition, states MoPSC, by including the January 2010 through June 2010 unrecovered fuel, 3,856 Dth, in the current unrecovered fuel calculation, the MoGas customers would be reimbursing the pipeline for fuel costs that it already collected from them from October 2010 through September 2011.

9. MoPSC states that, on March 16, 2010, MoGas filed a Settlement in Docket No. RP09-791-000 to resolve the general rate case it filed on June 30, 2009, which the Commission accepted to be effective September 1, 2010. MoPSC contends that Article III of the Settlement provides that MoGas will revise its tariff to implement a fuel tracker with a true-up mechanism. Further states MoPSC, MoGas filed a compliance tariff record on the effective date of the Settlement to revise its annual Fuel and Gas Loss Retention Percentage.

10. Additionally, MoPSC states that the fuel tracker language established in the Settlement provided that MoGas would, on a monthly basis, account for all under- or over-recovered fuel and gas loss retention quantities based on volumes received for transportation, less total volumes delivered, effective as of January 1, 2010. MoPSC also states that the language provided that MoGas will make an Annual Adjustment Filing to adjust the Fuel and Gas Loss Retention percentage based on the 12-month period ending June 30 of each year by no later than August 31 of each year, to become effective each

¹⁰ MoPSC cites the MoGas Annual Fuel and Gas Loss Retention Percentage Adjustment Filing, Docket No. RP11-2479-000, Appendix A, page 3.

October 1. MoPSC states that, in compliance with the terms of the Settlement, MoGas filed an Initial Annual Adjustment on September 1, 2010, which included a calculation of the January 2010 through June 2010 under-recovered fuel and gas retention quantities of 3,856 Dth.¹¹ MoPSC states that this amount was included in the determination of the Initial Annual Fuel and Gas Retention Percentage, 1.01 percent, to be effective from October 1, 2010, through September 30, 2011.¹² MoPSC adds that the Commission approved the MoGas revised tariff record to become effective October 1, 2010.

11. Next, continues MoPSC, on February 11, 2011, MoGas filed a Mid-Year Fuel and Gas Loss Retention Percentage Adjustment to become effective March 1, 2011. MoPSC explains that MoGas requested authorization to decrease its Fuel and Gas Loss Retention percentage from 1.1 percent to 0.55 percent. MoPSC points out that, in the instant filing, MoGas states that its Initial Annual Adjustment Filing took into account the under-collection quantities from January 2010 through June 2010. MoPSC claims that because such under-collection quantities were trued-up in the MoGas Initial Annual Adjustment Filing, “MoGas adjusted the estimate to remove the effect of the prior period under-recovery, 3,856 Dth” in its subsequent Mid Year fuel retention adjustment filing.¹³ However, MoPSC notes that MoGas included the January 2010 through June 30, 2010 under-recovered fuel and gas retention quantities in determining the 0.55 percent fuel retention percentage in the Mid Year filing. According to MoPSC, the MoGas Initial and Mid Year fuel adjustment filings “compensated MoGas for January 2010 through June 2010 unrecovered fuel.”¹⁴ MoPSC asserts that it is therefore “inappropriate for MoGas to include as unrecovered fuel the 3,856 Dth of gas it has already recovered from customers.”¹⁵

Answer of MoGas

12. While the Commission’s regulations prohibit answers such as that submitted by MoGas, the Commission will accept it in this case because it has provided additional record information that assists the Commission in addressing the original MoGas filing in this proceeding.

¹¹ MoPSC cites the MoGas Annual Fuel Adjustment Filing, Docket No. RP10-1158-000, Appendix B at 3.

¹² MoPSC cites *id.* at 1.

¹³ MoPSC cites the MoGas Mid-Year Fuel and Gas Loss Retention Percentage Adjustment Filing, Docket No. RP11-1772-000.

¹⁴ MoPSC Comments at 6.

¹⁵ *Id.*

13. MoGas asserts that its Annual Adjustment Filing benefits its shippers by reducing their rates while setting a rate that will true-up any over- or under-recovery from the prior period to bring future adjustments to fuel rates as close to zero as possible. MoGas contends that its calculation follows the plain language of its tariff, which also is consistent with the settlement in Docket No. RP09-791-000 and Commission policy that requires trackers to have true-up mechanisms. MoGas explains that the 3,856 Dth included in its filing for purposes of trueing up does not double-recover the amounts at the expense of shippers.

14. According to MoGas, the MoPSC proposal would eliminate the true-up aspect of the mechanism, which MoPSC admits was a negotiated element of the pipeline's most recent NGA section 4 rate case.¹⁶

15. MoGas contends that the Settlement required it to implement a fuel tracker with a true-up mechanism as set forth in the *pro forma* tariff provisions included in the Settlement. MoGas explains that this Settlement tariff language is identical to the existing tariff section 7.37, which the Commission accepted.¹⁷ MoGas points out that the MoPSC proposal would deny the pipeline the ability to include any unrecovered or over-recovered fuel and gas loss retention percentage quantities from the previous year. MoGas contends that this would negate the true-up mechanism established in the Settlement.

16. Moreover, continues MoGas, the MoPSC proposal could harm shippers in the future because it does not understand the realities of a tracker and true-up mechanism. MoGas maintains that the reality is that, on its own, a fuel tracker will never reconcile to zero because the pipeline will never precisely recover the exact amount of fuel used to transport shippers' gas. MoGas asserts that the purpose of the true-up is not only to allow the pipeline to recover any unrecovered prior period amounts, but also to return, through a credit, any over-collected volumes. According to MoGas, if it had over-recovered 3,856 Dth, as opposed to having under-recovered this amount in a prior period, MoPSC would likely not be arguing for elimination of the true-up mechanism. MoGas contends that, if the Commission accepts MoPSC's methodology, that would nullify the true-up

¹⁶ MoGas cites *MoGas Pipeline LLC*, 132 FERC ¶ 61,092 (2010). MoGas emphasizes that true-up mechanisms are an approved element of fuel tracking procedures that adjust cost items outside of a general NGA section 4 rate case. *ANR Pipeline Co.*, 110 FERC ¶ 61,069, at P 22, 26, 28 (2005).

¹⁷ MoGas cites tariff section 7.37(3), which provides as follows: "Annually, Transporter shall adjust the Fuel and Gas Loss Retention Percentage to take into account both prospective changes in Fuel and Gas Loss Retention requirements and unrecovered Fuel and Gas Loss Retention Quantities from the preceding period. . . ."

mechanism, and any potential future over-recovered amount will never be credited back to the shippers.

Commission Analysis

17. The Commission finds that MoGas correctly calculated its revised fuel reimbursement percentages consistent with section 7.37 of its GT&C. Accordingly, the Commission accepts the tariff record identified in footnote 1.

18. MoPSC disagrees with how MoGas interpreted certain portions of its fuel tracker tariff language set forth in section 7.37 of its GT&C. Specifically, MoPSC contends that, in its fuel tracker calculations, MoGas not only accounts for unrecovered fuel for the preceding 12 months, but also accounts for 3,856 Dth of unrecovered fuel for the January 2010 through June 2010 period, which it claims should not be included in the current fuel tracker calculations because it falls outside the 12-month adjustment period. MoPSC argues that including the 3,856 Dth of fuel in the current tracker contravenes the tariff language setting forth MoGas's fuel tracker mechanism.

19. The Commission disagrees with MoPSC's interpretation of MoGas's fuel tracker mechanism. Section 7.37(4)(b) of the tariff provides that, in calculating the unrecovered fuel and gas loss retention percentage component of the fuel, quantities for the preceding 12-month period should be accounted for. MoGas's fuel tracker mechanism includes a deferred fuel account. Under a deferred fuel account, a pipeline uses the prior period's ending balance in its account, which tracks over- and under-recoveries of fuel and lost gas, as a basis for calculating the unrecovered fuel retention percentage for the next period. MoGas's use of the 3,856 Dth underrecovery from the previous fuel adjustment period as the starting point for the next adjustment period is consistent with how pipelines use deferred fuel accounts in fuel tracking mechanisms.

20. Further, Article III of MoGas's settlement in Docket No. RP09-791-000,¹⁸ which implemented MoGas's current fuel tracking mechanism, provides that "MoGas will implement a fuel tracker with a true-up mechanism." Under MoPSC's interpretation of the MoGas tariff, MoGas would not be allowed to include in its fuel tracker over and under recoveries from previous adjustment periods. Under this interpretation, MoGas's fuel tracker would not include the true-up mechanism contemplated by the settlement. For this reason, the Commission finds that MoGas's interpretation of its tariff, which allows MoGas to true-up its fuel by accounting for over- or under-recoveries from previous adjustment periods, is correct.

¹⁸ 132 FERC ¶ 61,092 (2010).

21. Further, in the order accepting MoGas's Initial Annual Adjustment filing in Docket No. RP10-1158, the Commission, addressing a protest concerning how the calculations were performed, noted that the time period to be used for the underlying throughput in the filing was not explicitly stated in the tariff. Nevertheless, the Commission stated that it seemed appropriate to use the MoGas chosen time period. The Commission also noted that the tariff required MoGas to account for all under- or over-recovered Fuel and Gas Loss Retention Quantities by determining the total volumes received for transportation less the total volumes delivered, and that MoGas had followed the methodology set forth in its tariff.

22. Section 7.37 permits MoGas to track its fuel consumption and lost gas quantities resulting from providing transportation service; to receive reimbursement for such quantities by retaining in-kind a percentage of receipts based on annual estimates of throughput, fuel needs, and lost gas over the next 12-month period; to include in the retention percentage a component for truing up past over-and under-recoveries of fuel and lost gas; and to adjust such retention percentage annually, and if necessary, in a mid-year adjustment filing.

23. Lastly, MoPSC focuses on section 7.37(4)(b) of its GT&C, which states that quantities during the preceding 12-month period should be used in the calculation of the true-up component. However, this section must also be interpreted, as MoGas has done, in accordance with section 7.37(5)(b), which states that "Any Unrecovered Fuel and Gas Loss Retention Quantities, whether positive or negative, subsequent to the last Annual Adjustment Filing shall be included in the calculation of the Fuel and Gas Loss Retention Percentage in the next Annual Filing." The Commission finds that MoGas properly interprets the provision to mean that "any unrecovered . . . quantities" means any ending balance from the last period that hasn't been resolved at the time of the last Annual Adjustment filing, as opposed to only any unrecovered quantities incurred during the next 12-monther period. Therefore, the fuel underrecovery carried over from the previous fuel adjustment period becomes part of the current fuel adjustment period, and thus MoGas correctly includes the 3,856 Dth of unrecovered quantities in the instant fuel tracker.

The Commission orders:

The MoGas tariff record is accepted to become effective October 1, 2011.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.