

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeen G. Kelly.

Cheyenne Plains Gas Pipeline Company, L.L.C.

Docket Nos. CP04-345-001  
CP03-302-000  
CP03-302-001

ORDER GRANTING CLARIFICATION AND REHEARING, IN PART, AND  
DENYING MOTION

(Issued December 20, 2004)

1. On March 24, 2004, in Docket Nos. CP03-302-000 and CP03-302-001, the Commission authorized Cheyenne Plains Gas Pipeline Company, L.L.C. (Cheyenne Plains) to construct and operate a new 380-mile interstate natural gas pipeline commencing at the Cheyenne Hub in Colorado and terminating near Greensburg, Kansas.<sup>1</sup> The March 24 Order also approved construction of the Cheyenne Compressor Station in Weld County, Colorado. In a subsequent order issued on September 27, 2004, in Docket No. CP04-345-000, Cheyenne Plains was authorized to install and operate an additional compressor unit at the Cheyenne Compressor Station.<sup>2</sup>

2. On August 11, 2004, Cheyenne Plains filed a motion in Docket Nos. CP03-302-000, *et al.*, requesting the Commission to modify the condition in Ordering Paragraph B(5) in the March 24 Order requiring Cheyenne Plains to file a cost and revenue study three years after the in-service date of its pipeline. On October 8, 2004, Cheyenne Plains filed a request for clarification and/or rehearing of the Director's September 27 Order with respect to the order's requirement that Cheyenne Plains file a second cost and revenue study three years after the in-service date of the new compressor unit and to clarify the negotiated rate discussion in the order.

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<sup>1</sup> *Cheyenne Plains Gas Pipeline Co., L.L.C.*, 106 FERC ¶ 61,275 (2004).

<sup>2</sup> *Cheyenne Plains Gas Pipeline Co., L.L.C.*, 108 FERC ¶ 62,269 (2004).

3. As discussed below, we are denying Cheyenne Plains' motion in Docket Nos. CP03-302-000 and CP03-302-001, granting, in part, Cheyenne Plains' requests for clarification and rehearing with respect to the three-year cost and revenue studies, and granting its request for clarification of the negotiated rate discussion. This order is in the public interest because it explains certain rate requirements with respect to cost and revenue studies required of Cheyenne Plains and clarifies the Commission's negotiated rate policy.

### **Cost and Revenue Studies**

4. The March 24 Order in Docket Nos. CP03-302-000, *et al.* approved the construction of Cheyenne Plains' 380-mile pipeline and required Cheyenne Plains to file, within three years after the in-service date of the facilities authorized in the order, a study either justifying its existing recourse rates or proposing alternative rates (Ordering Paragraph (B)(5)). The September 27 Order in Docket No. CP04-345-000 approved construction of additional compression facilities for the pipeline and required a second filing to justify recourse rates three years after the commencement of service using the additional compression facilities (Ordering Paragraph (C)). Cheyenne Plains' planned in-service date for the expansion facilities is in late 2005 or early 2006, approximately one year after service begins on the originally certificated facilities in late 2004.<sup>3</sup>

5. In its August 11 motion, Cheyenne Plains requests the Commission to modify the three-year rate review requirement in the March 24 Order to permit it to file only one rate review analysis three years after the in-service date of the additional compression facilities approved in the September 27 Order. In its request for clarification or rehearing of the September 27 Order, Cheyenne Plains reiterates its request for clarification that only one study is required and that it should be filed at the end of the third year following the in-service date of the additional compression authorized in the September 27 Order. If clarification is not granted, Cheyenne Plains requests rehearing of the requirement to file two cost and revenue studies.

6. Cheyenne Plains argues that the requirement to file a cost and revenue study for the initial facilities and another study for the expansion facilities approximately one year later is excessive relative to the requirement the Commission has placed on other newly certificated projects and would not effectively use the scarce resources of the Commission, the pipeline, or its shippers.

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<sup>3</sup> On December 1, 2004, Cheyenne Plains was authorized to commence service on the 380-mile-long mainline pipeline.

7. We will deny Cheyenne Plains' motion to revise the due date of the cost and revenue study required by the March 24 Order, grant its request for clarification that only one study is required, and deny its request for rehearing that the study should be filed three years after the in-service date of the expansion facilities approved in the September 27 Order. As discussed below, Cheyenne Plains should file the study at the end of the first three years of operation of its pipeline rather than three years after the in-service date of the expansion facilities.

8. The Commission requires a cost and revenue study three years after a pipeline begins service in order to test, after gaining actual operating experience, whether the cost of service estimates made by the pipeline prior to construction provide for an appropriate rate for service.<sup>4</sup> In instances where newly certificated facilities are being constructed in phases and different recourse rates apply with the addition of each phase, the Commission has either required separate cost and revenue studies for each phase<sup>5</sup> or permitted the pipeline to file one cost and revenue study after all of the phases have been placed into service.<sup>6</sup> Since the facilities approved in Docket No. CP04-345-000 are expansion facilities and Cheyenne plains is not proposing different initial rates for the expanded facilities we will vacate Ordering Paragraph (C) in the September 27 Order requiring that Cheyenne Plains file a second cost and revenue study three years after the in-service date of the expansion facilities. Cheyenne Plains should file cost and revenue data for the first three years of operating its new pipeline which will include the first two years of cost and revenue data related to the expansion facilities approved in the September 27 Order. In that proceeding, the Commission will be able to examine Cheyenne Plains' claimed operating costs and make determinations regarding its recourse rates. In the three year restatement filing, Cheyenne Plains is required to use projected units of service no lower than those upon which it's approved initial rates are based. Cheyenne Plains is required to provide updated cost of service data, in the form specified by Section 154.313 of the Commission's regulations, including cost of plant in service and compression gas flow analysis, which includes compression and operating pressure of its facilities.

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<sup>4</sup> See, e.g., *Trunkline LNG Co.*, 82 FERC ¶ 61,198 (1998), *aff'd*, 194 F.3d 68 (D.C. Cir. 1999).

<sup>5</sup> See *Gulfstream Natural Gas System, L.L.C.*, 105 FERC ¶ 61,052 (2003).

<sup>6</sup> See *Saltville Gas Storage Co.*, 107 FERC ¶ 61,267 (2004).

**Negotiated Rate Discounts**

9. Citing *NorAm Gas Transmission Company (NorAm)*,<sup>7</sup> the September 27 Order stated that Cheyenne Plains could not recover shortfalls resulting from negotiated rates from its recourse rate shippers. We grant Cheyenne Plains' request for clarification that, on rehearing of the decision in *NorAm*,<sup>8</sup> the Commission stated that it was not adopting a *per se* rule against discount adjustments to recourse rates to reflect negotiated rates. We also clarify that, in *Colorado Interstate Gas Company*,<sup>9</sup> the Commission stated that it would consider the possible inclusion of a negotiated rate discount in the discount adjustment to recourse rates when and if the pipeline presented an appropriate tariff provision containing adequate protective measures for the recourse rate shippers.

**The Commission orders:**

(A) Cheyenne Plains' requests for clarification and rehearing of the September 27 Order are granted, in part, and its motion to modify the three-year rate review requirement in the March 24 Order is denied all as discussed in the body of this order.

(B) Ordering Paragraph (C) in the September 27, 2004 Order in Docket No. CP04-345-000 is vacated.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>7</sup> 77 FERC ¶ 61,011 (1996).

<sup>8</sup> *NorAm Gas Transmission Co.*, 81 FERC ¶ 61,204 at p. 61,872 (1997).

<sup>9</sup> 85 FERC ¶ 61,042 at p. 61,126 (1998).