121 FERC ¶ 61,145
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Columbia Gulf Transmission Company	Docket Nos. RP07-508-000 RP07-508-001 RP07-508-002

ORDER ACCEPTING TARIFF SHEETS

(Issued November 15, 2007)

1. On June 29, 2007, Columbia Gulf Transmission Company (Columbia Gulf) filed revised tariff sheets,[1] in Docket No. RP07-508-000, to implement revisions related to the replacement of the Navigator commercial operations Internet-based Electronic Bulletin Board (EBB) system and gas management system. On August 17, 2008, in Docket No. RP07-508-002, Columbia Gulf filed a request to change the originally requested effective date from August 1, 2007 to May 1, 2008, to coincide with the revised anticipated launch date of its new EBB system (Navigates). For the reasons discussed below, the Commission accepts the revised tariff sheets to be effective on the later of May 1, 2008, or the commencement of Navigates on the Columbia Gulf system.[2]

[1] Eighth Revised Sheet No. 193 and Ninth Revised Sheet No. 194, to Columbia Gulf's FERC Gas Tariff, Second Revised Volume No. 1.

[2] If Navigates commences on a date later than May 1, 2008, Columbia Gulf is directed to file a letter prior to that commencement stating the revised commencement date.

I. **Summary of Instant Filings**

A. **Elimination of Cross-Asset Capacity Release**

2. Columbia Gulf asserts that Navigates will allow it to automate and streamline many of its commercial processes, including contracting nominations, scheduling, allocations, invoicing, and decision support for customers. Columbia Gulf is proposing to revise section 14.3 of the General Terms and Conditions (GT&C) of its FERC Gas Tariff to eliminate section 14.3(e), which allows releasing shippers to include in release notices a requirement that potential replacement shippers bid on parcels of capacity on both Columbia Gulf and Columbia Gas Transmission Corporation (Columbia Gas) packaged together for bidding purposes (cross–asset capacity releases). Columbia Gulf states that, as presently configured, the new Navigates system cannot accommodate these cross-asset capacity releases. Columbia Gulf further states that, in view of the Commission's prohibition of certain types of tying arrangements[3] and the unsettled issues surrounding the type of conditions that releasing shippers may place on releases of capacity,[4] section 14.3(e) should be deleted. Columbia Gulf maintains that, while the cross-asset capacity releases that have been entered into under section 14.3(e) have not been unduly discriminatory in any respect, it is proposing to eliminate this feature out of an abundance of caution. Columbia Gulf further maintains that, to the extent the Commission's policy in this area becomes well established at some future date, it will consider whether it is appropriate to modify the Navigates system to accommodate the packaging of cross-asset capacity releases for bidding.

3. Columbia Gulf asserts that the deletion of section 14.3(e) will not prohibit releasing shippers from requiring a prospective replacement shipper to bid on parcels of capacity on both pipelines, but will only result in each parcel being evaluated independently. Columbia Gulf further asserts that independent auctions will be held on Columbia Gulf and Columbia Gas and releasing shippers may impose conditions in the separate release notices providing that the replacement shipper must purchase capacity on both pipelines in order to be the winning bidder.

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[3] *Citing, e.g., Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol and Order Denying Rehearing in Part, Granting Rehearing in Part, and Clarifying Order No. 636, Order No. 636-A*, FERC Stats. and Regs., Reg. Preambles January 1991- June 1996 ¶ 30,950, at 30,559 (1992) (Order No. 636-A); *Louis Dreyfus Energy Services, L.P.*, 114 FERC ¶ 61,246, at P 19-20 (2006).

[4] *Citing Coral Energy Resources, L.P., et al.*, 118 FERC ¶ 61,005 (2007).

B. Amended Proposed Effective Date and Waiver

4. On August 17, 2007, in Docket No. RP07-508-002, Columbia Gulf requested a change in the requested effective date from August 1, 2007, the originally requested effective date, to May 1, 2008.[5] Columbia Gulf states that on August 15, 2007, it announced through a posting on its EBB that the launch of Navigates was delayed again from its initially anticipated June 1, 2007 launch date and revised August 1, 2007 and September 1, 2007 launch dates to May 1, 2008. Columbia Gulf further states that the change of the requested effective date to May 1, 2008, will provide more time for customer training and testing their own systems and EDI interfaces in preparation for the launch of Navigates. Columbia Gulf also requests a waiver of the 60-day time limit in section 154.207 of the Commission's regulations[6] for the effective date of the tariff sheets. Columbia Gulf states that, in view of the need to have the effective date coincide with the new launch date of Navigates, good cause exists for the Commission to grant waiver of section 154.207.

II. Notice of Filings, Interventions, Comments, and Protests, and Answer

5. Public notice of Columbia Gulf's filings in Docket Nos. RP07-508-000, RP07-508-001, and RP07-508-002 were issued on July 3, 2007, July 24, 2007, and August 24, 2007, respectively, with interventions and protests due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2007)). Pursuant to rule 214 (18 C.F.R. § 385.214 (2007)), 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. No comments or protests were filed in Docket Nos. RP07-508-001 and RP07-508-002 concerning the requested change in the proposed effective date. In Docket No. RP07-508-000, New Jersey Natural Gas Company, NJR Energy Services Company (NJR) and Indicated Shippers[7] filed protests. Interstate Gas Supply, Inc. (IGS) filed comments. Some parties requested summary judgment, suspension of the rates, a formal hearing, or a technical conference. Columbia Gulf filed

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[5] On July 18, 2007, in Docket No. RP07-508-001, Columbia Gulf had filed a request to change the requested effective date to September 1, 2007, to coincide with the then anticipated launch date of Navigates.

[6] 18 C.F.R. § 154.207 (2007).

[7] Indicated Shippers consists of Chevron U.S.A. Inc.; ExxonMobil Gas & Power Marketing Company, A Division of Exxon Mobil Corporation; and Hess Corporation.

an answer to the protests and comments, and Indicated Shippers[8] filed a reply to the answer.[9] The protests, comments, Columbia Gulf's answer, and Indicated Shippers answer to the answer will be discussed in detail below.

III. Discussion

6. The Commission accepts and suspends the proposed tariff sheets, to become effective on the later of May 1, 2008, or the commencement of Navigates on the Columbia Gulf system. The requests for suspension or summary rejection are denied.

A. Elimination of Cross-Asset Capacity Release

Positions of the Parties

7. The protests and comments generally object to Columbia Gulf's proposal to delete section 14.3(e) of the GT&C which permits releasing shippers to include in release notices a requirement that potential replacement shippers bid on parcels of capacity on both Columbia Gas and Columbia Gulf packaged together for bidding purposes as lacking adequate support and reducing flexibility. Indicated Shippers contends that, since Columbia Gulf asserts that it will no longer be capable of cross-asset releases due to the way Navigates is presently configured, it either implies that Navigates could allow cross-asset releases if it were configured differently or that Columbia Gulf acquired an upgrade that lacked the functionality of the system it replaced.

8. NJR argues that Columbia Gulf's customers should not suffer a loss of flexibility simply because Columbia Gulf failed to properly configure Navigates. NJR further argues that Columbia Gulf has been providing its customers this flexibility for many years, and it is unlikely that Columbia Gulf is now unable to offer this feature because of a lack of technical know-how. NJR contends that, in the event that Columbia Gulf is unable to offer this feature because of an oversight in the development of Navigates, it should be required to offer it as soon as possible after the start-up of Navigates, with an

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[8] BP Energy Company and BP America Production Company joined Indicated Shippers for its answer to Columbia Gulf's Answer.

[9] The Commission's Rules of Practice and Procedure do not permit answers to protests or answers to answers (18 C.F.R. § 385.213(a)(2)(2007)). Indicated Shippers argues that the Columbia Gulf's answer does not facilitate a full and complete record and should be disregarded or, alternatively, that its answer to the answer be considered. The Commission finds good cause to admit Columbia Gulf's answer and Indicated Shippers' answer to the answer since it will not delay the proceeding, may assist the Commission in understanding the issues raised, and will ensure a complete record.

interim arrangement during the intervening period, or delay the start-up of Navigates until it is able to offer this feature. NJR further contends that Columbia Gulf fails to explain how many other features of its tariff Columbia Gulf will be unable to offer under Navigates and how those should be treated.

9. Indicated Shippers argues that Columbia Gulf's contention that it seeks to delete GT&C section 14.3(e) out of an abundance of caution rings hollow, in view of Columbia Gulf's assertion that Navigates cannot provide the release flexibility required under section 14.3(e) and the fact that section 14.3(e) is already part of Columbia Gulf's tariff. Indicated Shippers asserts that the Commission has encouraged pipelines to establish multi-pipeline or regional auctions and has allowed pipelines to lease capacity on other pipelines to provide seamless service to shippers who need both pipelines. NJR argues that section 14.3(e) must comport with the Commission's existing capacity release policy or the Commission would not have accepted it. NJR further argues that any concerns by Columbia Gulf over if and how the Commission may choose to modify its capacity release policy in the future are not a sufficient basis to reduce customer flexibility.

10. Indicated Shippers contends that, while Columbia Gulf asserts that the proposal will not significantly alter the status quo, it would degrade historical service flexibility. NJR asserts that it is not clear whether releasing shippers will or will not be able to require potential replacement shippers to bid on both parcels, but it is clear that Columbia Gulf will no longer evaluate the bids together. NJR requests that the Commission require Columbia Gulf to clarify its proposal. NJR asserts that, due to the operational interdependency of the two pipeline systems, capacity on one but not the other may have limited value. NJR further asserts that, while Columbia Gulf contends that the only change is that Columbia Gulf and Columbia Gas will evaluate each parcel independently, this does not mitigate the releasor's loss of flexibility and bidders will not know until the end of the auctions whether they have obtained both parcels of capacity.

Commission Ruling

11. The Commission accepts Columbia Gulf's proposal to eliminate GT&C section 14.3(e), which allowed releasing shippers to include in release notices a requirement that potential replacement shippers bid on capacity on both Columbia Gulf and Columbia Gas packaged together for bidding purposes. The tariff language which Columbia Gulf seeks to eliminate is a portion of its existing FERC Gas Tariff accepted by the Commission as just and reasonable. However, the Commission has no policy requiring pipelines to offer this option to shippers. Columbia Gulf and Columbia Gas are two independent pipelines

and one cannot be required to allow capacity on its system to be posted for release on the other pipeline's website and be bid upon as one package.[10]

12. In its transmittal letter, Columbia Gulf states that the deletion of section 14.3(e) will not prohibit releasing shippers from requiring a prospective replacement shipper to bid on parcels of capacity on both Columbia Gas and Columbia Gulf. In its answer, Columbia Gulf asserts that the sole difference will be that each parcel of released capacity will be evaluated in the independent auctions on Columbia Gas and Columbia Gulf, relying on section 14.1(b) of their GT&C. In its answer to the answer, Indicated Shippers argues that section 14.1(b)(7) does not permit the releasing shipper to place any conditions on bids. Indicated Shippers further argues that if a shipper submits the high bid on Columbia Gulf but not on Columbia Gas for the releasor's other capacity, and Columbia Gulf is evaluating the bids on its system independently, it should award the capacity on its system to the highest bidder. Indicated Shippers contends that Columbia Gulf's proposal will reduce flexibility and complicate the allocation of capacity to the shipper that places the highest value on the capacity.

13. Section 14.1(b) of both Columbia Gulf's and Columbia Gas' GT&C provide, in part, that:

> Releasor may initiate the assignment of the service rights it is seeking to release and assign by electronically transmitting the information specified below to Transporter's EBB ("Release Notice"). Such electronic Release Notice shall contain the following information regarding the capacity that Shipper is seeking to release:
> * * *
> (7) whether Releasor will accept contingent bids for the capacity being released and, if so, *all terms and conditions of acceptable contingencies including the manner in which such contingent bids will be evaluated;* [Emphasis added.]

Therefore, section 14.1(b)(7) clearly permits the releasor to condition the release of the capacity so that it will accept a bid contingent on the bidder having won both parcels of capacity in separate auctions and to establish the manner in which the contingent bids on each pipeline are independently evaluated. The capacity will be offered to the shipper who places the highest value on the capacity as offered by the releasor.

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[10] *Duke Energy Marketing America, LLC, et al.*, 114 FERC ¶ 61,198, at P 38 (2006).

14. Accordingly, releasing shippers may condition the separate release notices to provide that the replacement shipper must purchase capacity on both pipelines in order to be the winning bidder. This method is consistent with the Commission determination regarding aggregation of firm capacity on upstream and downstream pipelines for release in Order No. 636-A. The Commission stated in Order No. 636-A that:

> a shipper holding capacity on an upstream and downstream pipeline, which together provide a path from the Gulf to New York, could aggregate that capacity for a single release. Each block of capacity could be sold at up to the maximum rate on each pipeline and the transaction would have to be posted on each pipeline's electronic bulletin board. [[11]]

Therefore, the Commission, while allowing shippers to aggregate upstream and downstream capacity on different pipelines, does not require that the capacity be combined for bidding purposes on both pipelines. Under Columbia Gulf's proposal, shippers will continue to have the ability to package released capacity through separate auctions on Columbia Gas and Columbia Gulf. There is no need to further clarify this proposal. Further, contrary to NJR's assertion, there is no contradiction between the elimination of GTC section 14.3(e) and the use of separate auctions to evaluate packaged released capacity.

B. Navigates Training and Implementation

Positions of the Parties

15. Indicated Shippers asserts that making the proposed revisions effective simultaneously with the Navigates launch risks substantial implementation problems and degradation of services. Indicated Shippers contends that this launch has been planned for many months, yet Columbia Gulf has chosen to make its implementing tariff filings piecemeal, with no comprehensive explanation of the impact, and has waited until only a few weeks before the launch to make this and other filings. Indicated Shippers further contends that training of shipper personnel has been grossly inadequate. Indicated Shippers asserts that, despite the limited time remaining, the NiSource Inc.'s (NiSource)[12] website shows that it has posted only three of thirteen training manuals that shippers evidently must review to schedule and receive service on any of the NiSource pipelines. Indicated Shippers further asserts that one of the missing manuals is for "contracting" although the website states it will post that manual "soon".

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[11] Order No. 636-A, at 30,558, n. 144.

[12] Columbia Gulf and Columbia Gas are subsidiaries of NiSource.

16. Columbia Gulf responds that these parties incorrectly assume that it has completed customer training on Navigates. Columbia Gulf states that it announced on July 17, 2007, that it was going to delay the launch of Navigates in order to provide adequate time for training. Columbia Gulf further responds that there are now seven training modules available for Navigates training,[13] not three as asserted by Indicated Shippers. In its August 17, 2007, request for change of effective date, Columbia Gulf asserts that the change in requested effective date to May 1, 2008, will provide customers with more time for training and testing their own systems and EDI interfaces in preparation for the launch of Navigates. Columbia Gulf asserts that it is well aware of the need to provide its customers with complete and thorough training on Navigates. Columbia Gulf further asserts that the Navigates system was launched for Columbia Gulf's affiliate Hardy Storage Company, LLC (Hardy) on April 1, 2007. Columbia Gulf contends that some of the same customers that transport and store gas on its system are also customers of Hardy and therefore are already trained on Navigates and use it on a daily basis. Columbia Gulf asserts that Navigates will provide improved information access and management, reporting capabilities and flexibility. Columbia Gulf further asserts that, without the implementation of Navigates, the existing system ultimately will cease to meet critical functional requirements.

17. In its August 8, 2007, answer to Columbia Gulf's answer, Indicated Shippers asserts that, since it filed its protest in this proceeding, Columbia Gulf has requested a postponement of the effective date of the proposed tariff revisions. Indicated Shippers further asserts that it remains to be seen whether postponement will allow sufficient training time, but the postponement offers some reassurance that Columbia Gulf recognizes the need for training and integration prior to start up, particularly with the new tariff provisions becoming effective contemporaneously.

Commission Ruling

18. Columbia Gulf explains that it has requested a delay in implementation (now including the further delay until May 1, 2008) and will adequately train its shippers concerning Navigates. Further, Columbia Gulf states that it has trained customers, is in the process of training other customers, and has extended its training program to provide sufficient time for training. Therefore, the Commission rejects the objections by Indicated Shippers as premature and unsupported.

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[13] Columbia Gulf states that the seven training modules cover the following topics: System Conventions, Contracts, Supernominations, Nominations, Pooling, Segmentation on Columbia, and Flowing Gas. Columbia Gulf further states that video files for all of these topics will be available in the very near future.

C. **Technical Conference**

Positions of the Parties

19. Indicated Shippers argues that, if the Commission does not reject the filing, the Commission should convene a technical conference and direct Columbia Gulf to provide a comprehensive explanation of all Navigates-related filings[14] and operational changes and consolidate these proceedings. Indicated Shippers argues that these Navigates filings are related, and to evaluate whether they are just and reasonable, they must be consolidated and considered comprehensively. Indicated Shippers further argues that by filing these tariff changes in a staggered and piecemeal manner Columbia Gulf has avoided an examination of the comprehensive impact of the Navigates-related changes by the Commission and the shippers.

20. NJR and IGS also contend that, because of the interrelated nature of the proposals it would make much more sense for the Commission and Columbia Gulf's customers to have an opportunity to evaluate and consider the proposed changes in aggregate. They further contend that, by proposing the changes piecemeal, many of the historical flexibilities that have enhanced service on Columbia Gulf's system are being eroded under the guise of non-substantive changes in preparation for Navigates. They argue that by establishing a technical conference to consider all of Columbia Gulf's recent EBB-related, PAL, scheduling and other proposed tariff changes, the Commission would afford customers the opportunity to productively work with Columbia Gulf to refine all of its recent proposals to arrive at an integrated package of changes that best meet the needs of Columbia Gulf and its customers.

Commission Ruling

21. The requests for a formal hearing and a technical conference and consolidation with other proceedings are denied as unnecessary. The issues concerning the acceptance of the instant revised tariff sheets can be determined on the record in this proceeding independently of the other proceedings. Further, the other proceedings referenced are in

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[14] Indicated Shippers identifies other Navigates-related filings as the new daily scheduling penalties in Docket No. RP07-174, conditionally accepted, 119 FERC ¶ 61,268 (2007); the new master agreement for PAL service in Docket No. RP07-412, conditionally accepted, 119 FERC ¶ 61,233 (2007); the streamlined firm contracting in Docket No. RP07-415, Letter Order dated June 8, 2007 (unreported); Auto PAL service in Docket No. RP07-478, conditionally accepted, 121 FERC ¶ 61,147 (2007); and the modifications to the *pro forma* Form of Assignment Agreement in Docket No. RP07-500, 121 FERC ¶ 61,045 (2007).

varying procedural stages, with the proposals either accepted or conditionally accepted, and a technical conference was not instituted in any of these proceedings.[15]

D. Amended Proposed Effective Date and Waiver

22. The Commission grants the request for change in the effective date of the instant revised tariff sheets to the later of May 1, 2008, or the commencement of Navigates on the Columbia Gulf system, to allow the effective date to coincide with the launch date for Navigates. Further, the Commission finds good cause to grant waiver of section 154.207 of the Commission's regulations.

The Commission orders:

(A) Columbia Gulf's Eighth Revised Sheet No. 193 and Ninth Revised Sheet No. 194 are accepted to become effective on the later of May 1, 2008, or the commencement of Navigates on the Columbia Gulf system, as discussed in this order.

(B) The request of Columbia Gulf for waiver of section 154.207 of the Commission's regulations is granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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[15] In addition to this order in Docket No. RP07-508, orders have been issued in the following dockets: Docket No. RP07-340-000, 119 FERC ¶ 61,267 (2007); Docket No. RP07-174-000, 119 FERC ¶ 61,268 (2007); Docket No. RP07-412-000, Letter Order dated June 5, 2007, 119 FERC ¶ 61,233 (2007); Docket No. RP07-413-000, Letter Order dated June 5, 2007, 119 FERC ¶ 61,235 (2007); Docket No. RP07-414-000, Letter Order dated June 8, 2007 (unreported); Docket No. RP07-415-000, Letter Order dated June 8, 2007 (unreported); Docket No. RP07-478-000, 121 FERC ¶ 61,147 (2007); Docket No. RP07-479-000, 121 FERC ¶ 61,148 (2007); Docket No. RP07-500, 121 FERC ¶ 61,045; Docket No. RP07-507, 121 FERC ¶ 61,146 (2007); and Docket No. RP07-509-000, 121 FERC ¶ 61,046 (2007).