

104 FERC ¶ 61,194
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

Nicole Gas Production Ltd.

Docket No. RP03-243-001

ORDER ACCEPTING TARIFF SHEETS SUBJECT TO CONDITION

(Issued August 11, 2003)

1. On July 14, 2003, Columbia Gas Transmission Corporation (Columbia) filed tariff sheets,¹ in response to the Commission's order issued June 11, 2003 in the instant proceeding² proposing to: (1) clarify that Columbia is not required to install or pay for gas measurement meters and measuring stations; (2) clarify procedures to be followed for measuring gas receipts or deliveries in the absence of meters; and (3) explain when a third party can construct meters and measuring stations. Columbia requests that its proposed tariff sheets be made effective August 15, 2003.

2. The Commission will accept the revised tariff sheets listed in footnote No. 1, to be effective August 15, 2003, subject to the condition discussed below. This order is in the public interest because it clarifies Columbia's tariff regarding meter installation and cost responsibility consistent with Commission policy.

I. Background

3. On June 11, 2003, the Commission issued an order addressing a Petition for Declaratory order filed by Nicole Gas Production Ltd. In the June 11, 2003 order the Commission interpreted Section 26.9(b) of the General Terms and Conditions of Columbia's tariff (GT&C) as requiring Columbia to install and pay for meters and meter stations to measure gas received into its system. The Commission found that given this interpretation, in order for Columbia's tariff to be clear and unambiguous, Columbia must

¹Fourth Revised Sheet No. 320 and Second Revised Sheet Nos. 410, 413, 415, and 416 to Columbia's FERC Gas Tariff, Second Revised Volume No. 1.

²Nicole Gas Production Ltd., 103 FERC ¶ 61,328 (2003).

file revised tariff language that makes it clear that it must install and pay for meters and metering stations if needed to measure gas receipts into its system, unless otherwise agreed. The Commission stated that if Columbia believes that the meter installation requirement is too onerous, it should file an alternate tariff proposal which the Commission would review. However, the Commission stated that, in the meantime, Columbia must comply with the requirement to install meters and metering stations.

4. In addition, the Commission found that the record in the proceeding did not reflect tariff provisions delineating the steps that Columbia must take to measure gas receipts if there is no meter. The Commission reasoned that because Section 26.13 of Columbia's GT&C provided for calculations or agreements to estimate gas volumes in cases where an existing meter is inaccurate or out of service, by analogy, it would be reasonable to apply the procedures in that section to resolve what volumes enter the system when there is no meter, including an agreement as to a calculation of volumes. Accordingly, the Commission directed Columbia to file to revise Section 26.13 to apply to situations where there is no meter.

5. On June 20, 2003, Columbia filed a petition for stay of the June 11, 2003 order. On July 11, 2003, Columbia filed a request for clarification and rehearing of the June 11, 2003 order. Columbia's request for stay is being denied in an contemporaneous order. The Commission will address the request for rehearing in a future order.

II. Proposal

6. Columbia's July 14, 2003 filing contains Columbia's alternate tariff proposal, which provides in Sections 9.5 and 26 that Columbia is not required to construct, install, or pay for meters and measuring stations. Columbia proposes to revise Section 26.9(a) of its GT&C to make it clear that, unless otherwise agreed, Columbia reserves the right to perform the maintenance, construction, installation, maintenance, and operation of meters and metering stations. Further, Columbia proposes to permit a third party to perform the construction, installation, operation, and maintenance of the meter and measuring station, but only if Columbia agrees in writing. Further, Columbia reserves the right to insure that the third party performs these activities in accordance with Columbia's standards, specifications, practices, and requirements. In its transmittal letter, Columbia clarifies that these standards include those imposed on Columbia such as by the Department of Transportation regulations.

7. In addition, Columbia proposes to add a new Section 26.13(c) to its GT&C, to address procedures to be followed if no meter has been installed. In such case, under its proposal, Columbia and the shippers may agree to a measurement calculation method to determine volumes of gas received into or delivered from Columbia's facilities. Such a

method or methods may include the one-minute pick test with correction factor (or gauged pressure test), clip value device, or test meter methods.

8. Columbia contends that adhering to the requirement in the June 11, 2003 order to install meters at its own cost will be onerous because Columbia would be subject to substantial financial harm and economic waste. Columbia states that, assuming an average meter installation cost of \$25,000 per meter, based on data for the year 2002, this request would result in a maximum installation cost of \$6,175,00 for the 247 unmetered wells connected to its system. Columbia contends that based on a price of \$5.00 per Dth, each of the 247 wells generates a gross revenue of approximately \$4,540 per year which does not justify the installation of a meter. Columbia argues that based upon the minor production from each well, requiring it to pay for meters whenever requested, is unjust and unreasonable. In addition, Columbia asserts that the requirement to install and pay for meters is inconsistent with its prior NGA rate case settlement in Docket No. RP95-408 and would hamper its ability to agree to allow a third-party to install the meters.

III. Interventions and Protests

9. Public notice of Columbia's July 14, 2003 filing was issued on July 16, 2003, protests due on or before July 23, 2003. Pursuant to Rule 214, 18 CFR § 384.214 (2003) of the Commission's regulations, any motions to intervene out-of-time filed as of the issuance of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on the existing parties. Baltimore Gas and Electric Company (BG&E) filed a motion to intervene and statement of position. Honeywell International, Inc. and East Ohio Gas Company d/b/a Dominion East Ohio and Hope Gas, Inc. d/b/a Dominion Hope also filed motions to intervene. On July 25, 2003, Nicole Energy Marketing, Inc., Nicole Gas Production, Ltd.,³ and Nicole Energy Services, Inc. (collectively referred to as Nicole Inc.) filed an untimely motion to intervene and protest to Columbia's proposal.⁴

10. Nicole Inc. asserts that the Commission should reject Columbia's proposed tariff revisions.⁵ Nicole Inc. argues that Section 26.9(b) as currently written and interpreted by

³Nicole Gas Production is already a party to the instant proceeding.

⁴The Commission will waive the protest date to permit the protest of Nicole Inc. as this protest contains information that may aid the Commission in its consideration of the issues raised by the instant filing.

⁵Nicole Inc. makes a variety of arguments that appear to be in response to Columbia's request for rehearing of the Commission June 11, 2003 order, including, for
(continued...)

the Commission correctly requires that gas deliveries onto the Columbia system be measured by meters. Nicole Inc., argues that requiring Columbia to use meters in this manner will avoid disputes between Columbia and its shippers over gas measurement and will result in increased volumes of available gas for public consumption resulting from the full crediting of gas delivered onto the transmission system. Nicole Inc., also contends that Columbia's justification that the installation of meters is not economic because of the low production of the well is without merit. Nicole Inc. argues that Columbia has grossly overstated the cost of meters at \$25,000 per meter. Nicole Inc. asserts that the actual cost per meter is only \$5,000. Second, Nicole Inc., contends that the use of meters will show that the wells in question are producing more than Columbia reports and includes a list of 18 wells whose recorded production allegedly doubled on average after meters were installed. Nicole Inc. asserts that, if Columbia installs meters Columbia will actually gain revenue as the true amount of the gas it actually transports from these wells will increase. Nicole Inc. argues that the use of meters will also reveal the large amount of "line loss" on Columbia's system which would require Columbia to repair its lines. Finally, it asserts that if the Commission approves Columbia's proposal it should be made prospectively effective.

11. BG&E sees merit in Columbia's contention that installation of meters to measure small gas production is uneconomic. However, BG&E states that it is also aware that Columbia has on prior occasions experienced significant unaccounted-for fuel cost disallowances attributable to excessive estimates of Appalachian production. BG&E contends that any authorization granted to Columbia to forego metering should not be considered to constitute advance approval of the passthrough of unsubstantiated unaccounted for fuel costs.

IV. Discussion

12. The June 11, 2003 order provided Columbia with the opportunity to file an alternate tariff proposal for Commission review, if Columbia believes that the meter installation requirement in its existing tariff is too onerous. The Commission finds that Columbia has adequately explained the economic hardship if it were required to install meters whenever such an installation was requested and will accept its proposal.

⁵(...continued)

example, an attack on Columbia's claim on rehearing that the Commission lacks jurisdiction. Such arguments will not be addressed as they constitute an impermissible answer to a request for rehearing and are not relevant to Columbia's instant filing. See 18 CFR § 385.713 (d)(1) (2003).

13. Under the Natural Gas Act, pipelines must be given the opportunity to recover the costs incurred in performing jurisdictional service for their customers. Columbia's measurement of receipts into its system is a necessary part of performing transportation service for its customers. Under Columbia's proposal, shippers are required to inform Columbia whether they wish a meter to be installed at a point and if so, to pay for the installation of the meter. The Commission finds that it is reasonable to require the shippers whose requests for service require the installation of meters to bear the costs of such meters because the majority of any benefit from the installation of a meter would accrue to the customer requesting the meter. Columbia's proposal gives the shipper requesting the meter the right incentive to have a meter installed only if the requested meter makes economic sense in light of the cost of the meter and the revenues from the production of gas placed on the system at that point. This reasoning is valid regardless of whether the actual cost of any particular meter is closer to Columbia's estimate of \$25,000 per meter or Nicole, Inc.'s estimate of \$5,000 per meter. Further, if in the shipper's view, meters are not an economically viable option at any particular point, under Columbia's proposal, the shipper and Columbia may agree on a reasonable alternative. Therefore, it is reasonable to permit Columbia to be reimbursed for the out-of-pocket costs of installing these meters.

14. Further, Columbia has proposed a reasonable process to follow in the absence of meters, as well as procedures for the shippers or a third party to perform the installation and construction of the meter and measuring station.

15. Several additional issues are also raised by Columbia's filing. First, both Nicole Inc. and BG&E have raised concerns regarding Columbia's accounting for lost and unaccounted for fuel costs. The Commission clarifies that its action in the instant proceeding is without prejudice to any action regarding proposals by Columbia relating to its lost and unaccounted for fuel costs. Second, Nicole Inc. argues that Columbia failed to serve the instant filing on its interruptible service customers and, therefore, contends that the Commission should not act on Columbia's filing until such customers have been served and have had an opportunity to comment. There is no procedural error in acting on the filing. As set forth above, the Commission has issued proper public notice of Columbia's July 14, 2003 filing and, therefore, finds that it is reasonable to act on the filing at this time. Third, a typographical error appears on line 6 of the first sentence in Section 26 entitled "Measurement" on Second Revised Sheet No. 410 in that it reads, "Transporter shall be not be required to pay . . ." (emphasis added). Columbia is directed to modify line 6 to read, "Transporter shall not be required to pay. . .".

16. Accordingly the Commission accepts the tariff sheets listed in footnote No. 1 to be effective August 15, 2003, subject to the conditions set forth in the body of this order.

The Commission orders:

(A) The revised tariff sheets listed in footnote No. 1 are accepted effective August 15, 2003, subject to the condition set forth in the body of this order.

(B) Within 15 days of this order, Columbia must file a revised tariff sheet, to correct the typographical error in Section 26 as specified in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.