FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 22, 2005

In Reply Refer To:
Columbia Gas Transmission Corporation
Docket No. RP06-46-000

Columbia Gas Transmission Corporation
12801 Fair Lakes Parkway
P.O. Box 10146
Fairfax, Virginia 22030-0146

Attention: Carl W. Levander, Vice President

Reference: Revisions to Penalty Provisions

Dear Mr. Levander:

1. On October 24, 2005, Columbia Gas Transmission Corporation (Columbia Gas) filed revised tariff sheets[1] to replace its existing fixed price penalties with penalties based on three times a daily index price for shippers who take in excess of Total Firm Entitlements (TFE) during critical periods, fail to interrupt service, or fail to comply with Operational Flow Orders (OFOs) for Rate Schedules FSS, GTS and FBS.[2] The Commission accepts the tariff sheets effective November 23, 2005, as proposed.

2. Notice of Columbia Gas' filing was issued on October 27, 2005, with interventions and protests due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2005). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2005), all timely 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. Process Gas Consumers Group (PGC) filed a protest to the filing, while Amerada

[1] See Appendix for list of revised tariff sheets.

[2] Respectively, Firm Storage Service, General Transportation Service and Firm Balancing Service.

Hess Corporation (Amerada Hess) and South Jersey Gas Company (South Jersey) filed comments to the filing. Columbia Gas filed an Answer to the protest and comments.[3] These pleadings are discussed below. Baltimore Gas and Electric Company filed a statement in support of the filing.

3. Section 19.1 of the General Terms and Conditions (GT&C) of Columbia Gas' tariff currently provides that if a shipper takes gas in excess of its TFE on a "critical day" as declared by the pipeline and as defined in GT&C section 19.7, Columbia Gas shall assess a penalty of $10.00 per Dth. Section 19.2 of the GT&C provides that if a shipper fails to interrupt service when ordered to do so by the pipeline, Columbia Gas shall assess a penalty of $5.00 per Dth for the first three percent in excess of the shipper's lowered Scheduled Daily Receipt Quantity or lowered Scheduled Daily Delivery Quantity, and $10.00 per Dth for quantities in excess of 103 percent. Section 19.3 of the GT&C provides that if a shipper fails to comply with an OFO, Columbia Gas shall assess a penalty of $5.00 per Dth.

4. Columbia Gas asserts that, with the significant increases in natural gas prices of the last several years, the currently effective penalties may no longer be enough to deter shippers from violating tariff-based protections that are in place to preserve system integrity. Therefore, Columbia Gas proposes to remove these penalty provisions, and institute instead a penalty equal to three times the midpoint of the range of prices reported for "Columbia Gas, Appalachia" as published in the daily price survey by Platts' *Gas Daily*.

5. On November 19, 2004, the Commission issued its *Order Regarding Future Monitoring of Voluntary Price Formation, Use of Price Indices in Jurisdictional Tariffs, and Closing Certain Tariff Dockets*,[4] which determined that weekly indices should meet at least one of four criteria, one of which was that the average daily volume traded at the index location was at least 25,000 Dth of gas per day. In the instant filing, Columbia Gas has submitted data documenting that over a ninety-day period, an average of 479,000 Dth per day are traded at "Columbia Gas, Appalachia."

6. PGC protests Columbia Gas' proposal, arguing that the revised penalty provisions are contrary to established Commission policy that a pipeline may include a penalty in its tariff only to the extent necessary to prevent the impairment of reliable service, and any such penalty must be "narrowly designed." PGC argues that a penalty level of three times an index price would be excessive, and that it is Columbia Gas' burden to show

[3] While the Commission's rules of Practice and Procedure generally prohibit answers to comments, the Commission will accept Columbia Gas' answer to allow a fuller understanding of the issues. *See* 18 C.F.R. § 385.213(a)(2) (2005).

[4] 109 FERC ¶ 61,184 (2004).

that its alternative to a capped penalty structure is just and reasonable and narrowly tailored to deter conduct detrimental to its system operations. Amerada Hess states that it understands current natural gas prices necessitate a change in the current penalties, but proposes instead that Columbia Gas take the existing flat penalties of $5.00 and $10.00 per Dth, and have them serve as an adder to 100 percent of the index price. Amerada Hess asserts that this would allow Columbia Gas to be protected from high prices and volatility of the natural gas market, while not over penalizing shippers on their system. South Jersey objects to the filing, asserting that the proposed penalty increase is unnecessary. South Jersey argues that any increase over the *Gas Daily* midpoint would provide an incentive to avoid overruns, and therefore there is no need for Columbia Gas to propose such a substantial increase.

7. In its answer, Columbia Gas asserts that the arguments presented in opposition to the proposed index price based penalty cannot be reconciled with established precedent or the material facts. Columbia Gas asserts that PGC, Amerada Hess and South Jersey ignore the steady, dramatic increases in natural gas prices, as well as the necessity for penalties that prevent conduct that will have a detrimental impact on system reliability and integrity. Columbia Gas states that the index price based penalty proposal is based on the plain realities of the existing market and current events.

8. In response to PGC's argument that Columbia Gas' index price based penalty proposal is "not narrowly tailored" and is contrary to the Commission's policy under Order No. 637, Columbia Gas notes that the Commission emphasized in Order No. 637-A that penalties remain "an appropriate tool to protect system reliability."[5] Columbia Gas asserts that its proposed penalty increase is designed to prevent the impairment of reliable service in compliance with section 284.12(b)(2)(v) of the Commission's regulations.

9. In response to the parties' assertions that Columbia Gas' proposed penalties are excessive, Columbia Gas argues that the penalty increases are designed to provide appropriate incentives for shippers to comply with the tariff-based protections that are designed to preserve system integrity. Columbia Gas maintains that, when considered relative to the market price of natural gas, the level of proposed penalties is appropriate.

10. The Commission finds that Columbia Gas' proposed change in the level of the subject penalties is reasonable. Because these penalties are only applied when a critical day notice has been issued, they are by definition invoked only when system integrity is threatened. The Commission has consistently approved high penalties to deter conduct

[5] Columbia Gas cites *Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637-A, FERC Stats. & Regs., Regs. Preambles [1996-2000] ¶ 31,099, at 31,607 (2000).

that might threaten pipeline operations.[6] Given the current increased gas prices and the potential for prices to continue rising, Columbia Gas could reasonably conclude that its current fixed penalties may no longer act as an effective deterrent to actions that might threaten pipeline operations. Columbia Gas' proposed penalty provisions, based on multiples of price indices, are similar to others the Commission has approved and found to be just and reasonable.[7] Although Amerada Hess may have a viable alternative, it has not shown that Columbia Gas' proposal is unjust and unreasonable. Further, penalty revenues are credited to shippers who abide by Columbia Gas' tariff, and do not generate any profit for Columbia Gas. Finally, the Commission finds that Columbia Gas has adequately supported its proposed use of the "Columbia Gas Appalachia" index as reasonable and consistent with Commission's policy. The Commission therefore accepts Columbia Gas' revised tariff sheets effective November 23, 2005.

By direction of the Commission.

Magalie R. Salas,
Secretary.

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[6] *Paiute Pipeline Co.*, 111 FERC ¶ 61,107, at P 8 (2005).

[7] See*, e.g.*, *Northwest Pipeline Corp*., 100 FERC ¶ 61,347 P77 (2002) (approving tariff containing Operational Flow Order penalty equal to the greater of $10.00/Dth or four times the highest absolute price reflected in the local daily price survey). The Commission has also approved OFO penalties per Dth equal to three times the midpoint of the range of prices reported for a published index price location in *Midwestern Gas Transmission Co.*, 112 FERC ¶ 61,345 (2005) and *Viking Gas Transmission Co.*, 112 FERC ¶ 61,098 (2005). Additionally, the Commission has approved index price based OFO penalties for other pipelines, *e.g.*, *Paiute Pipeline Co.*, 111 FERC ¶ 61,107 (2005); *Southern Star Central Gas Pipeline, Inc.*, 107 FERC ¶ 61,071 (2004); and *Gulf South Pipeline Co., LP*, 104 FERC ¶ 61,160 (2003).

APPENDIX

Columbia Gas Transmission Corporation
FERC Gas Tariff, Second Revised Volume No. 1

Accepted Effective November 23, 2005:

Fifth Revised Sheet No. 123
Fifth Revised Sheet No. 124
Third Revised Sheet No. 170
Eighth Revised Sheet No. 171
First Revised Sheet No. 244
First Revised Sheet No. 245
Fourth Revised Sheet No. 390