

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Central Kentucky Transmission  
Company

Docket Nos. CP05-46-001, CP05-47-001  
and CP05-48-001

ORDER GRANTING REHEARING

(Issued July 11, 2006)

1. On March 20, 2006, Central Kentucky Transmission Company (Central Kentucky) filed a request for rehearing of an order issued on February 17, 2006 (February 17 Order) by the Commission in this proceeding.<sup>1</sup> In that order, the Commission issued several certificates of public convenience and necessity to Central Kentucky, as a result of which the pipeline became a natural gas company under section 7 of the Natural Gas Act (NGA), subject to the Commission's jurisdiction.<sup>2</sup> As discussed below, Central Kentucky requests rehearing of the Commission's decision in the February 17<sup>th</sup> Order not to approve Central Kentucky's proposed retainage factor because the pipeline had not provided support for this proposal. For the reasons explained in this order, the Commission is granting rehearing on this issue.

**Background and Request for Rehearing**

2. In the February 17 Order, the Commission issued a certificate of public convenience and necessity under NGA section 7 authorizing Central Kentucky to acquire and operate an undivided interest in KA-1 North facilities owned and operated by its affiliate, Columbia Gas Transmission Corporation (Columbia). Additionally, in the February 17 Order the Commission issued Central Kentucky a blanket certificate under Part 284, subpart G, of the Commission's regulations authorizing it to provide natural gas

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<sup>1</sup> *Central Kentucky Transmission Co.*, 114 FERC ¶ 61,170 (2006).

<sup>2</sup> Natural Gas Act, 15 U.S.C. § 717f(c) (2006).

transportation service in interstate commerce on an open access basis,<sup>3</sup> and a blanket construction certificate under Part 157, subpart F, of the Commission's regulations authorizing it to construct and operate facilities eligible for construction under automatic authority or through the prior notice provisions of that subpart.<sup>4</sup> Central Kentucky was formed for the purpose of acquiring the interest in the subject facilities, as contemplated in a settlement of a Columbia rate proceeding.<sup>5</sup>

3. In its application, Central Kentucky proposed a retainage factor for fuel use of 0.781 percent for its firm and interruptible service and stated that this percentage tracked the lost and unaccounted for fuel component of Columbia's current transportation retainage rate.<sup>6</sup> It also noted that it would adjust this factor to match Columbia's retainage rate when Columbia adjusted its rate. However, Central Kentucky did not explain why it needed a retainage factor on its system. In the February 17 Order, the Commission set the retainage rate at 0.0 percent, stating that "Central Kentucky has no compression on its system, and it has made no attempt to document lost and unaccounted for gas attributable to the KA-1 line."<sup>7</sup>

4. In its request for rehearing, Central Kentucky states that in a similar proceeding in which a pipeline, KO Transmission Company (KOT), acquired an ownership interest in a pipeline owned by Columbia in connection with an earlier Columbia rate settlement, the Commission permitted KOT to track the retainage rate charged by Columbia for lost and unaccounted for fuel, and subsequently approved adjustments to that rate tracking

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<sup>3</sup> 18 C.F.R. Part 284, subpart G (2006).

<sup>4</sup> 18 C.F.R. Part 157, subpart F (2006).

<sup>5</sup> *See Columbia Gas Transmission Corporation*, 79 FERC ¶ 61,044 (1997). In the settlement, Columbia agreed, among other things, to certain cost saving mechanisms for various customers, including Columbia Gas of Kentucky Inc. (Columbia Kentucky), a local distribution company affiliated with Columbia. Columbia Kentucky exercised the option provided by the settlement to acquire an interest in the capacity of Columbia's KA-1 North facilities, and Central Kentucky was formed so that the acquisition would not jeopardize Columbia Kentucky's exemption from regulation under the NGA.

<sup>6</sup> Central Kentucky's January 7, 2005 application at p. 7.

<sup>7</sup> *Central Kentucky*, 114 FERC at P 18.

Columbia's rate.<sup>8</sup> Central Kentucky contends that it is well-established that the Commission cannot depart from its precedent without a reasoned explanation.<sup>9</sup> Central Kentucky asserts that the Commission failed to explain its departure from previous policy in the February 17 Order.

5. Further, Central Kentucky points out that the Commission has recognized that it is appropriate for an interstate pipeline utilizing acquired capacity in another pipeline's facilities to be charged the other pipeline's retainage rate for lost and unaccounted for gas.<sup>10</sup> Central Kentucky explains that this is because when natural gas is transported over a capacity interest that is integrated with the capacity retained by another pipeline such that the gas of both pipelines is commingled, both pipelines' gas is subject to the same system losses. Under Central Kentucky's and Columbia's operating agreement, Columbia, as the operator of the facilities will charge Central Kentucky for lost and unaccounted for gas associated with Central Kentucky's transportation of gas over the acquired capacity. Therefore, according to Central Kentucky, it must be permitted to charge its customers the same rate.

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<sup>8</sup> *Citing KO Transmission Co.*, 74 FERC ¶ 61,101 (1996) (authorizing KOT to acquire an ownership interest in a pipeline owned by Columbia and accepting KOT's explanation that it had adjusted its projected interruptible transportation volumes to reflect a decrease in Columbia's fuel retainage percentage). Central Kentucky also cites a March 30, 2005 delegation order in Docket No. RP05-226-000, wherein the tariff sheet reflecting an adjustment to KOT's transportation retainage rate, which tracked the fuel costs assessed by Columbia to KOT, was accepted, and *KOT Transmission Co.*, 83 FERC ¶ 62,066 (1998), also a delegation order, in which KOT was authorized to acquire additional interests in certain Columbia facilities pursuant to a more recent Columbia rate settlement and to charge its existing Part 284 rates, which as explained, track Columbia's fuel retainage rate.

<sup>9</sup> *Citing Louisiana Public Service Comm. v. FERC*, 184 F.3d 892 (D.C. Cir. 1999) and *ANR Pipeline Co. v. FERC*, 71 F.3d 987 (D.C. Cir. 1995).

<sup>10</sup> *Citing Dominion Transmission, Inc.*, 104 FERC ¶ 61,267 at P 80, *order on reh'g*, 105 FERC ¶ 61,350 (2003) (*Dominion*) (stating that the pipeline leasing capacity to another pipeline must either charge the lessee for lost and unaccounted for gas or impute billing determinants for lost and unaccounted gas attributable to the lessee's volumes when calculating its rate).

## Discussion

6. The Commission will grant Central Kentucky's request for rehearing and allow it to charge its shippers for lost and unaccounted for gas at a rate which tracks Columbia's rate for this item. The February 17 Order rejected Central Kentucky's proposal to charge a retainage rate on the grounds that the system would have no compression on its system and that Central Kentucky had not otherwise supported its proposed retainage for lost and unaccounted for gas. In its rehearing request, Central Kentucky explains that it is necessary for it to charge a retainage rate for lost and unaccounted for gas because Columbia will charge Central Kentucky for its proportionate share of the lost and unaccounted for gas pursuant to the operating agreement under which Columbia will operate the facilities.

7. In *Mississippi River*, the Commission explained:

[s]imilar to fuel use, lost and unaccounted-for-gas is also a variable cost . . . because the greater the amount of gas that is transported, the greater the chance that some of the gas may be lost . . . [and that while] a pipeline may exempt a customer from such a charge . . . by showing that no gas is lost or unaccounted for . . .[,] the very nature of lost and unaccounted for gas . . . [is such that] it is virtually impossible to detect with any certainty which customers account for the quantities of lost and unaccounted-for-gas.<sup>11</sup>

Thus, we agree that Central Kentucky, like most pipelines, will have lost and unaccounted for gas associated with the transportation it provides over its portion of the capacity in the facilities it jointly owns with Columbia and it should be permitted to charge a retainage rate for lost and unaccounted for gas.

8. In addition, because Columbia will be operating the KA-1 North pipeline on behalf of itself and Central Kentucky, it will be charging Central Kentucky, pursuant to the operating agreement, a retainage rate for the volumes transported over the system for Central Kentucky's shippers. Therefore, Central Kentucky proposes to charge its customers the same retainage rate that Columbia will charge Central Kentucky. As Central Kentucky points out, in *Dominion*, which involved one pipeline's leasing capacity on another pipeline's facilities such that the gas being transported by each party would be commingled in the same facility, the Commission required the lessor to charge the lessee its retainage rate for lost and unaccounted for gas so that the lessor's shippers

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<sup>11</sup> *Mississippi River Transmission Corp.*, 98 FERC ¶ 61,119, at 61,353 (2002) (*Mississippi River*) (cited in *Dominion supra* note 10).

would not subsidize the lessee's shippers' transportation costs.<sup>12</sup> Although Central Kentucky is acquiring an interest in Columbia's pipeline, as opposed to leasing capacity, the situation is analogous to that in *Dominion*. It is therefore appropriate for Central Kentucky to charge its shippers the same retainage rate that Columbia charges its shippers.

9. The Commission notes that to the extent Central Kentucky's proposal to make periodical limited section 4 filings to adjust its retainage rate is viewed as a fuel tracker, its proposal is consistent with our policy articulated in *ANR Pipeline Company*.<sup>13</sup> In *ANR* we determined that pipelines with tariffs that permit them to track fuel costs through periodic limited section 4 filings must also include a true-up provision in their fuel tracker mechanisms.<sup>14</sup> Since Columbia's fuel tracking mechanism does contain such a true-up mechanism<sup>15</sup> and Central Kentucky is using Columbia's mechanism instead of developing its own, we find that Central Kentucky meets the requirements of *ANR*.

10. The Commission, however, will require Central Kentucky to revise its tariff to specifically state in section 32 of the GT&C that the retainage rate for lost and unaccounted for gas that it will charge its shippers is the same as Columbia's retainage rate for lost and unaccounted for gas. Section 32 should also state that Central Kentucky will make a limited section 4 filing to adjust its retainage rate to match any adjustment in Columbia's rate after any changes to Columbia's rate have been approved.<sup>16</sup>

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<sup>12</sup> *Supra note 10.*

<sup>13</sup> *ANR Pipeline Co.*, 108 FERC ¶ 61,050 (2004), *order on reh'g*, 110 FERC ¶ 61,069, *order on reh'g*, 111 FERC ¶ 61,290 (2005) (*ANR*).

<sup>14</sup> *ANR*, 110 FERC ¶ 61,069 at P 28.

<sup>15</sup> *See Columbia Gas Transmission Corp.* FERC Gas Tariff, Second Revised Volume 1 (Columbia's tariff), section 35 of the General Terms and Conditions (GT&C).

<sup>16</sup> Columbia's most recent proposal to adjust its retainage rate was accepted, but suspended subject to refund because the Commission found that Columbia had not sufficiently supported an increase in the fuel use component of its retainage rate. *See Columbia Gas Transmission Corp.*, 114 FERC ¶ 61,329 (2006). In compliance with that order, Columbia filed additional documentation to support its proposed adjustment to its retainage rate, which filing was noticed on April 25, 2006. Columbia had proposed a decrease in the component for lost and unaccounted for gas. When Central Kentucky files to place its rates into effect prior to the in-service date of its facilities, the rate for lost and unaccounted for gas should be Columbia's currently effective retainage rate for this component.

The Commission orders:

Rehearing of the Commission's February 17, 2006 Order is granted.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.