

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Colorado Interstate Gas Company

Docket Nos. RP06-397-000 and
RP01-350-015

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued August 7, 2006)

1. On June 20, 2006, Colorado Interstate Gas Company (CIG) filed, pursuant to Rule 207 of the Commission's regulations,¹ an uncontested settlement agreement, with associated *pro forma* tariff sheets,² negotiated outside the context of an existing rate proceeding and resolving all issues on the lawfulness of CIG's transportation and storage rates during the term of the settlement. As part of its petition, CIG also requested that the Commission amend CIG's existing obligation in Docket No. RP01-350-000, *et al.* to file a general rate case to be effective on or before February 1, 2007. The Commission approves the settlement and CIG's request to amend the prior settlement in RP01-350-000, and directs CIG to file revised tariff sheets within 30 days of the issuance of this order to implement the settlement consistent with its terms.

Background

2. CIG's existing rates were established under a prior settlement in Docket No. RP01-350-000, *et al.* The prior settlement obligated CIG to file a new system-wide rate case proposing new base tariff rates to be effective no later than October 1, 2006.

3. In December 2005, CIG and its customers began discussing the possibility of resolving the issues related to its upcoming filing for new system-wide base rates.

¹ 18 C.F.R. §385.207(a)(5) (2006).

² The subject *pro forma* tariff sheets are contained in Appendix B to the settlement.

Subsequently, CIG sought three amendments to the prior settlement in Docket No. RP01-350-000 to defer preparation of a rate case and allow the parties additional time to continue settlement discussions. The Commission approved each request³ such that CIG is currently required to file new system-wide base rates July 31, 2006, to be effective no later than February 1, 2007.⁴ Approval of the new settlement will extinguish this filing requirement.

4. Accordingly, CIG has filed the new settlement pursuant to Rule 207(2)(5)⁵ of the Commission's regulations consistent with the Commission's guidance for implementing settlements outside the context of an existing proceeding as set forth in *Dominion Transmission Inc.*⁶ and asks that the settlement be promptly approved⁷ as fair and reasonable and in the public interest.

Provisions of the Settlement

5. Article I provides a brief background of the settlement. Article II provides that, upon approval and effectiveness of the settlement, CIG's obligations to file a general section 4 rate case under the settlement previously approved in Docket No. RP01-350-000 are extinguished. Any other rights or obligations under the prior Docket No. RP01-

³ *Colorado Interstate Gas Co.*, 114 FERC ¶61,173 (2006); *Colorado Interstate Gas Co.*, 115 FERC ¶61,039 (2006); *Colorado Interstate Gas Co.*, 115 FERC ¶ 61,304 (2006).

⁴ 115 FERC ¶61,304 (2006).

⁵ 18 C.F.R. §385.207(a)(5) (2006).

⁶ 111 FERC ¶61,285 (2005).

⁷ CIG also requests that the last sentence of paragraph 5.5 of Article V of the prior settlement in Docket No. RP01-350-000 be changed to the following:

In that regard, CIG shall be obligated to file a new system-wide rate case proposing new base tariff rates no later than thirty (30) days after a Commission order becomes final that either: 1) rejects the Petition and/or Stipulation and Agreement ("Stipulation") filed on June 20, 2006 requesting modification of Article V of the Stipulation and Agreement filed in Docket No. RP01-350-000, *et al.*, or 2) conditions, clarifies or modifies in any way the Stipulation in a manner that is unacceptable to CIG. CIG shall notify the Commission in writing within fifteen (15) days of the issuance of such an order if it is unacceptable. A Commission order becomes final after it is no longer subject to rehearing or to review by a court.

350-000 settlement are amended to the extent necessary to implement the terms of the settlement.

6. Article III states that during its term, the settlement establishes CIG's maximum and minimum base rates for transportation and storage services. The settlement also sets forth the depreciation rates to be used by CIG. Included in those rates is a negative salvage rate for transmission plant of 0.10 percent. CIG will establish a separate sub-account in Account No. 108 to record the amounts of negative salvage. CIG will also reclassify \$25 million of its existing total accumulated depreciation in Account No. 108 as a negative salvage reserve for transmission plant in the new sub-account. Additionally, Article III establishes a future revenue crediting mechanism applicable to miscellaneous services and addresses CIG's post retirement benefits other than pension expenses and accumulated deferred income taxes. Finally, Article III establishes an incentive fuel sharing mechanism.

7. Article IV provides that the term of the settlement is from October 1, 2006 through the earlier of the date that rates become effective as a result of a general rate change application by CIG, the date rates become effective as a result of Commission action taken pursuant to section 5 of the NGA, or October 1, 2011. During the settlement period, the parties waive all rights to challenge the settlement rates. CIG may file a new system-wide rate case on or after October 1, 2010 but must file a rate case to be effective no later than October 1, 2011.

8. Article V governs the effectiveness of the settlement. Article VI sets forth reservations and limitations, and provides that the settlement represents a negotiated settlement and relates only to the specific matters referred to therein. Appendix A lists parties specifically supporting and not opposing CIG's petition and Appendix B contains *pro forma tariff* sheets.

Public Notice of Filing, Interventions and Comments

9. Notice of the subject filing was issued on June 23, 2006, with interventions and protests due on or before June 30, 2006. Pursuant to Rule 214, (18 C.F.R. § 385.214 (2006)), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted.

10. All of the parties filing comments support or do not contest the settlement. Indicated Shippers,⁸ while supporting the settlement, filed comments on June 30, 2006,

⁸ The Indicated Shippers are BP America Production Company, BP Energy Company, Chevron USA Inc., and Marathon Oil Company.

requesting clarification of Article III concerning the operation of newly established Account 108 sub-account (Negative Salvage Reserve).

11. On July 7, 2006, CIG filed reply comments clarifying that the establishment of a separate Negative Salvage Reserve sub-account will not broaden or change the types of expense that CIG would otherwise be allowed to charge to its Accumulated Depreciation Account 108. CIG also states that its accounting activity during the term of the settlement in Account No. 108, including the separate sub-account, may be examined and challenged by the Commission and other parties in CIG's next general, system-wide rate case. CIG states that it has shown these clarifications to Indicated Shippers and that with these clarifications, Indicated Shippers support the settlement.

Discussion

12. The settlement is a "black-box" agreement that allows CIG and its customers to establish a reasonable, system-wide rate structure without the expense of litigation. Consistent with the Commission's guidance for settlement outside the context of an existing proceeding as set forth in *Dominion Transmission Inc.*, the agreement resolves rate issues without a hearing and lengthy litigation. When a pipeline negotiates an agreement with its customers and others to change its rates or terms and conditions of service, and it desires approval of the agreement before making an actual NGA section 4 tariff filing, it may file, pursuant to Rule 207(a)(5), a petition for approval of the agreement, along with *pro forma* tariff sheets reflecting how the agreement will be implemented.⁹ This is the procedure CIG has followed here. The settlement provides rate certainty in the form of a rate moratorium until October 1, 2010, and was accomplished in lieu of contentious proceedings before the Commission. The Commission finds that the proposed settlement appears to be fair and reasonable and in the public interest, and it is hereby approved, with the rates to be effective as provided in the settlement.

The Commission orders:

(A) The subject settlement in Docket No. RP06-397-000 and CIG's request to amend paragraph 5.5 of Article V of the prior settlement in RP01-350-000 are approved as discussed in the body of this order.

⁹ *Dominion*, 111 FERC ¶61,285 at P 32.

(B) CIG is directed to file actual tariff sheets, and is authorized to implement and carry out the terms and provisions of the subject settlement.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.