

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

October 13, 2006

In Reply Refer To:  
Columbia Gas Transmission Corporation  
Docket No. RP06-594-000

Columbia Gas Transmission Corporation  
12801 Fair Lakes Parkway  
Fairfax, Virginia 22033-3874

Attention: Thomas D. Stone  
Manager, Rates and Tariffs

Reference: Revision to Penalty Provision

Ladies and Gentlemen:

1. On September 14, 2006, Columbia Gas Transmission Corporation (Columbia) filed a revised tariff sheet<sup>1</sup> proposing to revise Rate Schedule SIT (Storage in Transit) to provide for a \$0.25 per Dth penalty for each day at the end of a 30-day period in which the shipper does not comply with the tariff requirement to cross-zero twice, as defined below. The Commission accepts Columbia's proposed tariff sheet to be effective October 16, 2006, as requested.
2. Rate Schedule SIT service, available on an interruptible basis to any qualifying shipper, was originally designed as a balancing service for customers with wide swings in daily demand, such as electric power plants.<sup>2</sup> Under section 2(a) of Rate Schedule SIT, when an SIT shipper's actual daily receipts exceed that shipper's actual daily deliveries, the pipeline will, on an interruptible basis, inject the difference ("Undertendered Balance Quantity") into storage. Similarly, when an SIT shipper's actual daily delivery quantity exceeds actual daily receipt quantity, the pipeline will, on an interruptible basis, withdraw

---

<sup>1</sup> Sixth Revised Sheet No. 196 to FERC Gas Tariff, Second Revised Vol. No. 1.

<sup>2</sup> *Columbia Gas Transmission Corp.*, 64 FERC ¶ 61,060 (1993) (order on compliance filings made in response to Order No. 636).

the difference (“Overtendered Balance Quantity”) from storage. Columbia bills a commodity charge on the daily change, if any, in the shipper’s undertendered or overtendered balances. The maximum daily rate is \$0.0411 per Dth of such changes.

3. Pursuant to section 3(b) of Rate Schedule SIT, Columbia also maintains a running net balance of each SIT shipper’s undertendered or overtendered balance quantities. Such net balance is referred to as the Imbalance Quantity. That section provides that, twice during any 30-day period, SIT shippers are required to either eliminate any existing Imbalance Quantity, convert any outstanding undertendered balance to an overtendered balance, or convert any outstanding overtendered balance to an undertendered balance. For each 30-day period during which the shipper fails to satisfy this requirement (referred to as “crossing-zero-twice” in the instant proceeding), the shipper is required to pay an imbalance penalty of \$0.25 per Dth of its existing Imbalance Quantity at the end of such 30-day period.

4. On January 23, 2006, Columbia filed in Docket No. RP06-181-000 to revise its imbalance penalty under rate schedule SIT from \$0.25 per Dth to \$5.00 per Dth. Columbia asserted that due to the recent spike in natural gas prices, the twenty-five cent SIT penalty had created unintended opportunities for shippers to realize financial gains which, Columbia alleged, negatively affect its overall system operations. On February 22, 2006, the Commission issued an order<sup>3</sup> rejecting Columbia’s proposal to increase its SIT penalty stating that Columbia’s proposal to increase the SIT penalty for non-critical periods was contrary to Commission policy. The Commission found that the SIT penalty could be assessed any time that the cross-zero-twice conditions are not met, without distinguishing between critical and non-critical periods. The Commission explained that although nominal penalties may be permitted during non-critical periods, substantial penalties such as the one Columbia proposed are permitted only during critical periods where the penalized conduct would impair system reliability, or where necessary to prevent arbitrage that would cause the pipeline to underrecover its costs.<sup>4</sup> The Commission found that Columbia had not justified its proposal under either ground. In the February 22, 2006 Order, the Commission also found that Columbia had made no showing that whatever arbitrage was occurring caused it any financial loss or caused harm to the integrity of its system.

---

<sup>3</sup> *Columbia Gas Transmission Corp.*, 114 FERC ¶ 61,188 (2006) (February 22, 2006 Order).

<sup>4</sup> February 22, 2006 Order, 114 FERC ¶ 61,188 at P 16 (citing *Columbia Gas Transmission Corp.*, 113 FERC ¶ 61,191 at P 10 (2005) (allowing penalties to preserve reliability); *Northern Natural Gas Co.*, 105 FERC ¶ 61,172 (2003), *order on reh’g*, 107 FERC ¶ 61,252 (2004), *aff’d*, *The Industrials v. FERC*, 426 F.3d 405 (D.C. Cir. 2005) (preventing arbitrage that would cause underrecovery by pipeline) (*The Industrials v. FERC*)).

5. On July 28, 2006, the Commission denied Columbia's request for rehearing of the February 22, 2006 Order.<sup>5</sup> The July 28, 2006 Order stated that the Commission's rejection of Columbia's \$5.00 penalty proposal was without prejudice to Columbia proposing less drastic changes to its existing penalty to give shippers an added incentive to comply with the cross-zero requirement. Specifically, the July 28, 2006 Order stated that the Commission would be receptive to proposals to change the SIT tariff so that, for example, the \$0.25 per Dth penalty would be assessed on the imbalance on a daily basis once thirty days pass without the shipper crossing zero twice.<sup>6</sup>

6. Columbia states that in response to the Commission's July 28, 2006 Order, it is proposing to revise its imbalance penalty under Rate Schedule SIT to provide that after the end of any 30-day period in which a shipper fails to cross zero twice, Columbia will assess a \$0.25 per Dth penalty on the shipper's imbalance for each day until the crossing zero twice requirement has been met. Columbia states that the revised penalty provision will give shippers sufficient financial motivation to comply with the terms of the SIT service.

7. Columbia explains that it provides service under the SIT rate schedule out of retained storage, which is a limited volume of storage capacity used to provide operational and balancing requirements associated with the operation of its pipeline system, as well as providing service under other rate schedules. Columbia states that the failure of SIT shippers to comply with the cross-zero twice requirement can impair Columbia's ability to effectively and efficiently manage the balancing of its total system operations. Columbia further states that the revised proposal will allow it to enforce the terms and conditions of the SIT rate schedule, thereby protecting its ability to render service in accordance with the purpose for which the rate schedule was designed. Columbia claims that its proposal is thus consistent with the Commission's policy that penalties be designed to provide economic incentives to discourage shippers from taking actions that could threaten or harm the operational integrity of a pipeline's system. Lastly, Columbia states that the revised penalty proposed for failing to cross zero twice will provide it with the ability to enforce that provision under the SIT rate schedule under all circumstances and prevent the necessity of issuing an Operational Flow Order under certain circumstances.

8. Notice of Columbia's filing was issued September 19, 2006. Interventions and protests were due September 26, 2006, as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2006)). On September 27, 2006, Hess Corporation (Hess) filed a motion to intervene out of time and comments, which are discussed below. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), all timely motions to intervene and any motions to intervene out of time filed before the issuance date of this order are granted. Granting

---

<sup>5</sup> *Columbia Gas Transmission Corp.*, 116 FERC ¶ 61,097 (2006) (July 28, 2006 Order).

<sup>6</sup> *See* July 28, 2006 Order, 116 FERC ¶ 61,097 at P 25.

late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. Columbia filed an answer on October 3, 2006. Under Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 213(a)(2) (2006), answers to protests are not accepted unless otherwise ordered by the decisional authority. The Commission will accept Columbia's answer because it provided information that assisted in our decision making process.

9. Hess states that it is concerned that there may be circumstances in which an SIT shipper is unable to comply with the cross-zero twice requirement due to a prior period adjustment (PPA) in the running SIT balance. Hess claims that it is possible that an SIT shipper could arrange to schedule transportation service to satisfy the cross-zero twice requirement based on the running net balance information Columbia makes available, only to discover after the fact that the information it had relied on was incorrect, and that due to the PPA, the shipper had not satisfied the cross-zero twice requirement.

10. Hess also submits that section 3(b) of Rate Schedule SIT provides that "if there is an interruption of Shipper's service under this Rate Schedule, Transporter will waive the [cross-zero twice requirement] and for each day of interruption, one corresponding day will be added to the 30-day time period." Hess requests clarification stating that the same principle should require that in the event an SIT shipper fails to comply with cross-zero twice requirement solely due to its reliance on the SIT balance information available to it, the shipper should not be subject to the SIT penalty solely due to a PPA.

11. In its answer, Columbia responds to Hess's concerns stating that section 19.5(e) of the General Terms and Conditions (GT&C) of its tariff provides that "to the extent that any imbalance directly results from Shipper's reliance on inaccurate data from Transporter, no penalty will be assessed for that portion of the imbalance shown by Shipper to be attributable to such inaccurate data." Columbia states that the revised SIT penalty does not affect the Shippers' right to avoid penalties under section 19.5(e) of the GT&C of its tariff in any respect, and that the scenario described by Hess would not result in Hess having to pay a penalty for failure to cross-zero twice during a 30-day period. Lastly, Columbia states that, consistent with the language of its tariff, Columbia does not intend to assess the penalty on that portion of the imbalance that failed to cross-zero twice to the extent that portion of the imbalance remaining and not crossing zero twice is attributable to inaccurate data provided by Columbia or a PPA. Columbia states that it assumes that Hess, in good faith, is scheduling its known SIT account balance to cause it to cross-zero-twice, and not relying on an insignificant PPA quantity to allow it to technically argue that it has no obligation to cross-zero-twice at the end of its 30-day period. Columbia states that this would contradict the purpose of the SIT rate schedule, and violate GT&C section 19.5(e). Columbia concludes that this should allay Hess's concerns.

12. Columbia's revised penalty proposal is consistent with a penalty provision that the Commission indicated would be acceptable in the July 28, 2006 Order. Additionally, Columbia's answer satisfactorily addresses Hess's concern regarding the application of the penalty provision in situations where shippers have relied on information supplied by

Columbia that is determined to be inaccurate. Accordingly, Columbia's Sixth Revised Sheet No. 196 to FERC Gas Tariff, Second Revised Vol. No. 1, is accepted, effective October 16, 2006, as requested.

By direction of the Commission.

Magalie R. Salas,  
Secretary.