

121 FERC ¶ 61,100  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Columbia Gas Transmission Corporation

Docket Nos. RP07-171-000  
RP07-171-001

ORDER ON COMPLIANCE FILING

(Issued October 29, 2007)

1. This order addresses a compliance filing that Columbia Gas Transmission Corporation (Columbia Gas) made on March 30, 2007, in response to the Commission's March 15, 2007 order in this proceeding (March 15 Order).<sup>1</sup> The March 15 Order accepted and suspended, subject to refund and condition, to be effective March 17, 2007, Columbia Gas' proposed tariff revisions to Rate Schedule SIT (Storage In Transit) filed February 15, 2007, and directed Columbia Gas to file information and an explanation, with adequate support, concerning inventory transfers. The Commission accepts Columbia Gas' March 20, 2007 filing as being in satisfactory compliance with the Commission's March 15 Order.

**I. Background**

2. Columbia Gas' Rate Schedule SIT service provides for interruptible storage of gas to balance differences between actual receipts and actual deliveries under a shipper's transportation service agreements under other rate schedules. Under Rate Schedule SIT, SIT shippers may create positive or negative inventory imbalances within a 30-day period, provided that the net inventory imbalance be zeroed out at least twice during the month ("cross-zero-twice requirement"). For each day after a 30-day period during which a SIT shipper did not comply with the cross-zero-twice requirement, the SIT shipper is required to pay an inventory imbalance penalty of \$0.25 per dekatherms (Dth).

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<sup>1</sup> *Columbia Gas Transmission Corp.*, 118 FERC ¶ 61,210 (2007) (March 15 Order).

3. Section 18 of Columbia Gas' General Terms and Conditions (GT&C) permits a shipper to transfer inventory in its gas account under either a storage or transportation service agreement to another of its accounts or to the account of another shipper. Section 18.2(e) provides that a SIT customer who has a remaining inventory balance after having met the cross-zero-twice requirement, may make a cost-free transfer of the inventory imbalance amount to another shipper's SIT service agreement, provided that the shipper to whom the balance is transferred has also met the cross-zero-twice requirement. Section 18.3(a) provides that a shipper not seeking to make a cost-free transfer under section 18.2 may nominate its inventory imbalance amounts for transportation pursuant to the terms of the service agreement under which such amounts are held in the account of the shipper.

4. On February 15, 2007, Columbia Gas submitted a tariff filing proposing to revise section 18 of its GT&C, to close a loophole through which it asserted SIT shippers are able to meet the cross-zero-twice requirement without physically zeroing out SIT inventory, and thus avoiding penalties. The revisions to GT&C section 18 would: (1) prohibit a SIT shipper from transferring its SIT inventory to the SIT account of another shipper (or shippers), unless both accounts move closer to zero (and without causing either to also cross zero) as a result of that inventory transfer; (2) prohibit SIT shippers from creating a SIT imbalance pursuant to a paper inventory transfer; (3) prohibit shippers with service agreements under Rate Schedules FSS (Firm Storage Service), FBS (Firm Balancing Service), or ISS (Interruptible Storage Service) from transferring inventory under these rate schedules to the account of a SIT shipper unless the SIT shipper's account moves closer to zero as a result; and (4) revise GT&C section 18.5 to authorize Columbia Gas to reject any proposed inventory transfers that fail to conform to the revised language in sections 18.2(e) and 18.3(a). In its February 15, 2007 tariff filing, Columbia Gas argued that closing this loophole would ensure that SIT service would be used for the purpose for which it was designed: a short-term storage service provided out of retained storage capacity.

5. On March 1, 2007, Conectiv Energy Supply, Inc. (CESI) protested Columbia Gas' February 15, 2007 tariff filing,<sup>2</sup> objecting to the limitations on transfers using a hypothetical posed by Columbia Gas.<sup>3</sup> Using Columbia Gas' example, CESI stated that Columbia Gas' proposal would prohibit Shipper A, with a SIT balance of positive 100, from transferring a SIT balance of positive 30 to Shipper B, who has a SIT balance of negative 20. That is because the transfer would cause Shipper B to cross zero from its existing negative imbalance of 20 to a positive imbalance of 10. This would violate Columbia Gas' proposed requirement that inventory transfers not cause a shipper to cross zero. However, CESI pointed out that the transfer would bring both shippers closer to

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<sup>2</sup> See CESI Protest filed March 1, 2007 at 5 (CESI March 1, 2007 Protest).

<sup>3</sup> See Columbia Gas Transmittal Letter at 2.

zero, and contended that Columbia Gas had not shown why such a transfer should be prohibited. CESI claimed that Columbia Gas' objective of not creating a new SIT balance where one did not exist previously is somewhat in conflict with its defined objective of moving closer to zero.

6. In the March 15 Order, the Commission accepted and suspended Columbia Gas' proposed tariff sheets to be effective March 17, 2007, subject to condition. The Commission found that neither Columbia Gas' proposal nor its answer addressed why a shipper's account should be prohibited from crossing zero after a transfer, when such a transfer takes a shipper closer to zero. Using the example from the CESI March 1, 2007 Protest, the Commission found, in the March 15 Order, that Columbia Gas had not explained why Shipper B should not be permitted to accept up to 39 Dth (resulting in an imbalance of positive 19, closer to zero than negative 20). The Commission directed Columbia Gas to fully explain and provide support for why a transfer that would move a shipper closer to zero but may leave them with a balance on the other side of zero, should not be permitted.

## II. Compliance Filing

7. In its March 30, 2007 compliance filing, Columbia Gas reiterates that paper inventory transfers between SIT accounts should be permitted: (a) only for the purpose of reducing both SIT shippers' imbalances and moving each one closer to zero; and (b) without causing either account – whether at a positive or negative account balance starting point – to cross zero.<sup>4</sup> According to Columbia Gas, if a shipper is allowed to cross zero by any amount through paper inventory transfers, that shipper is inappropriately being allowed to continue to store an imbalance under SIT and avoid the physical zeroing out of its imbalance through physical draw down or pay back. This lack of physical imbalance reduction or management by the shippers involved allows them to create an on-going, longer term imbalance obligation that Columbia Gas must be prepared to satisfy at that shipper's later request beyond the time period contemplated if SIT account balancing was occurring as intended.<sup>5</sup>

8. Columbia Gas further explains:

If the standard under SIT was relegated to asking what is the aggregate effect on SIT account balances, then the aggregate of all SIT account balances could remain unchanged forever with SIT shippers simply engaging in paper inventory transfers among each other to satisfy the cross-zero

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<sup>4</sup> Columbia Gas Compliance Filing at 2.

<sup>5</sup> *Id.*

requirement. The SIT Rate Schedule was not intended to allow certain SIT shippers to engage in such a shell game and limit the physical usefulness of the service for other SIT shippers desiring to use it for its intended physical balancing purposes.”<sup>6</sup>

### **III. Public Notice, Interventions, Protests, and Answers**

9. Notice of Columbia Gas’ compliance filing was published in the *Federal Register*, 72 Fed. Reg. 18,226 (2007). Protests were due as provided in section 154.210 of the Commission’s regulations (18 C.F.R. § 154.210 (2007)). CESI filed a protest of the compliance filing on April 6, 2007, to which Columbia Gas filed an answer. Under Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), answers to protests are not permitted unless otherwise ordered by the decisional authority. We will accept Columbia Gas’ answer because it provides information that has assisted us in our decision-making process.

10. Pursuant to the notice of Columbia Gas’ original February 15, 2007 section 4 filing in this proceeding, all motions to intervene were due on February 27, 2007. In its March 15 Order, the Commission granted any late motions to intervene which had been filed as of the date of that order. On March 29, 2007, two weeks after the March 15 Order, Hopewell Cogeneration Limited Partnership (Hopewell) and Suez Energy Marketing NA, Inc. (Suez) each filed a motion for leave to intervene out of time. On April 2, 2007, Columbia Gas filed a motion for leave to answer and an answer opposing Suez and Hopewell’s motions for late intervention (April 2, 2007 Answer). On April 5, 2007, Hopewell and Suez filed a joint motion for leave to answer Columbia Gas’ April 2, 2007 Answer. We will not accept the answer to answer filed by Hopewell and Suez as it does not provide information that has assisted us in our decision-making process.

11. Suez and Hopewell state that “[d]ue to inadvertence, [neither was] . . . aware of the Columbia [Gas] proposal until very recently.”<sup>7</sup> In its answer, Columbia Gas requests that the Commission deny Suez and Hopewell’s late interventions because they have not shown extraordinary circumstances or good cause for their failure to intervene in a timely manner and because granting their late interventions would disrupt this proceeding and prejudice the parties.

12. In ruling on a motion to intervene out of time, the Commission applies the criteria set forth in Rule 214(d) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2007), and considers, among other things, whether the movant had good

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<sup>6</sup> *Id.* at 3.

<sup>7</sup> Suez Late Intervention at 3; Hopewell Late Intervention at 3.

cause for failing to file the motion within the time prescribed, whether any disruption to the proceeding might result from permitting the intervention, and whether any prejudice to or additional burdens upon the existing parties might result from permitting the intervention. A petitioner for late intervention bears a higher burden to show good cause for late intervention after the Commission has issued a final order in a proceeding.<sup>8</sup>

13. Neither Hopewell nor Suez has made an attempt to address the standards set forth in Rule 214(d). Suez and Hopewell merely assert that “[g]ood cause exists for granting this late intervention” and that they were not “aware of the Columbia [Gas] proposal until very recently” “[d]ue to inadvertence.” These general statements and failure to learn of a proceeding to timely intervene are not good cause to grant late intervention, particularly, as in this case, where intervention is sought at the compliance stage of the proceeding following issuance of a Commission order approving revised tariff sheets. Therefore, the requests for late intervention are denied.

#### **IV. CESI Protest**

14. CESI protests that Columbia Gas’ compliance filing is “clearly insufficient” and does not “provide a meaningful response to the concerns of its shippers.”<sup>9</sup> CESI argues that Columbia Gas does not understand that there may be business reasons why a shipper would want to convert, via an inventory transfer, its SIT balance from a negative to a positive balance through use of Columbia Gas’ current tariff provisions, and that Columbia Gas did not attempt to provide a rationale for prohibiting a shipper from using an inventory transfer to move its SIT balance from zero to something greater than zero in any of its filings.<sup>10</sup>

15. CESI contends that the requirement that a shipper must cross-zero-twice with its SIT inventory either physically or through a for-cost transfer is well documented in Columbia Gas’ currently effective tariff provisions.<sup>11</sup> CESI argues that Columbia Gas has plainly ignored these tariff provisions requiring SIT shippers to cross-zero-twice during a 30-day period with their SIT inventories and that Columbia Gas cannot use this faulty premise for proposing new and additional inventory transfer restrictions under Rate

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<sup>8</sup> See, *Williston Basin Interstate Pipeline Co.*, 31 FERC ¶ 61,045, at 61,076 (1985); *California Independent System Operator, Inc. and Southern California Edison Co.*, 91 FERC ¶ 61,243, at 61,877 (2000); *Florida Gas Transmission Co.*, 100 FERC ¶ 61,241, at P 32 (2002).

<sup>9</sup> CESI Protest at 3.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 5.

Schedule SIT.<sup>12</sup> CESI requests that the Commission reject Columbia Gas' proposal, without prejudice to permitting Columbia Gas to re-work and re-file the relevant tariff language in the future.

## V. Columbia Gas Answer

16. Columbia Gas argues that the Commission should not consider CESI's protest as it does not seek to challenge the veracity of Columbia Gas' explanation, but instead, is a reiteration of CESI's March 1, 2007 protest to Columbia Gas' February 15, 2007 filing, thus opposing Columbia Gas' approved tariff revisions in their entirety and ignoring the limited nature of the Commission's directive in the March 15 Order.<sup>13</sup> Columbia Gas asserts that CESI cannot seek reversal of the March 15 Order under the guise of a protest to a compliance filing, but rather, must comply with the requirements of section 713 of the Commission's Rules of Practice and Procedure. Columbia Gas also contends that CESI's "business reason" for engaging in transfers in which it crosses zero by going from a negative account balance to a positive account balance (or vice versa) is to convert SIT from a short-term balancing service into a low cost storage service. Columbia Gas states that, contrary to the SIT rate schedule, CESI's stated position would allow a SIT shipper to avoid the requirement to "physically" cross zero twice by continually turning an overtendered balance quantity into an undertendered balance quantity or vice versa. Columbia Gas asserts that CESI has failed to counter Columbia Gas' explanation as to "why a transfer that would move a Shipper closer to zero but may leave them with a balance on the other side of zero" should be prohibited.<sup>14</sup>

## VI. Discussion

17. The March 15 Order generally accepted Columbia Gas' proposal to revise the SIT Rate Schedule but required Columbia Gas to fully explain and provide support for its proposal to prohibit transfers of SIT inventory that would move a Shipper closer to zero but leave them with a balance on the other side of zero. Such a condition did not require Columbia Gas to revise its tariff, but merely to provide an explanation with adequate support. Columbia Gas explained in its compliance filing, that allowing SIT inventory transfers under which a shipper crosses zero enables shippers to create an on-going imbalance obligation with no physical imbalance reduction or management by the shipper. Columbia Gas provided examples to support its position that if a shipper were permitted to use an SIT inventory transfer with another shipper to cross zero, the transfer would not physically resolve the existing imbalance and could create a longer term

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<sup>12</sup> *Id.*

<sup>13</sup> Columbia Gas Answer at 3-4.

<sup>14</sup> Columbia Gas Answer at 4.

imbalance, contrary to the purpose of the SIT Rate Schedule to serve as a short-term balancing service. Columbia Gas explains that a Shipper could continuously participate in paper inventory transfers that swing from positive to negative imbalances and back to positive imbalances again (*e.g.*, from +19 to -18, from -18 to +17, from +17 to -16, from -16 to +15, and so forth). Columbia Gas demonstrates that, by focusing on the aggregate of two shippers' SIT account balances, physical imbalances could be allowed to continue in perpetuity.

18. We agree with the arguments in Columbia Gas' Answer that CESI's protest should be denied. We find that CESI essentially reiterates arguments from its March 1, 2007 protest filed against Columbia Gas' February 15, 2007 proposal and fails to raise any legitimate ground for rejecting Columbia Gas' compliance filing, or even discuss the adequacy of Columbia Gas' explanation. We find that Columbia Gas has satisfactorily complied with the March 15 Order by providing the necessary information and explanation with adequate support concerning inventory transfers.

The Commission orders:

Columbia Gas' compliance filing of March 30, 2007 is hereby accepted, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Acting Deputy Secretary.