

121 FERC ¶ 61,306
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.

Southern Star Central Gas Pipeline, Inc.

Docket No. RP08-84-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEET, SUBJECT TO REFUND
AND ESTABLISHING TECHNICAL CONFERENCE

(Issued December 28, 2007)

1. On November 30, 2007, Southern Star Central Gas Pipeline, Inc. (Southern Star) filed Seventh Revised Tariff Sheet No. 12 to its FERC Gas Tariff, Original Volume No. 1 and supporting working papers to reflect annual adjustments to its fuel and loss reimbursement percentages (FLRPs) as required by section 13 of its tariff's General Terms and Conditions (GT&C). Southern Star requests that the proposed tariff sheet implementing its revised FLRPs become effective January 1, 2008. For the reasons discussed below, the Commission accepts and suspends the tariff sheet to be effective January 1, 2008, subject to refund, and to the outcome of a technical conference to address the issues raised in this proceeding.

Background

2. Section 13 of the GT&C requires shippers to reimburse Southern Star for fuel and losses in kind.¹ The section also requires Southern Star to file annually to revise its FLRPs, effective January 1 of each year, based on actual fuel and losses for the twelve month period ending September 30 of the previous year, adjusted for any over or under recovery during the same period. Southern Star is required to submit specific calculations for its production area, market area, and for storage under section 13.

¹ See *Southern Star Central Gas Pipeline, LLC*, 109 FERC ¶ 61,378 (2004) (approving section 13 of the GT&C as part of a settlement in Docket Nos. RP03-135-000 and RP04-93-000).

Details of the Filing

3. The subject filing adjusts Southern Star's FLRPs to reflect changes in fuel usage and lost and unaccounted for gas (L&U) during the most recent twelve months ending September 30, 2007. Southern Star proposes to adjust its FLRPs as follows:

- (1) 1.62 percent increase in the Production Area FLRP from 1.18 percent to percent;
- (2) 0.54 percent increase in the Market Area FLRP from 0.51 percent to 1.05 percent; and
- (3) 0.76 percent increase in the Storage FLRP from 6.29 percent to 7.05 percent.

4. Southern Star states that the combination of an increase in the actual storage fuel and an under-recovery of storage fuel during the most recent twelve months, partially offset by an increase in the three-year average of actual customer storage injections, resulted in an increase in the fuel component of the storage fuel reimbursement percentage of 1.38 percent. The combination of a slight increase in the three-year average of actual customer storage injections, resulting in a decrease in the storage loss percentage of .05 percent. Southern Star further states that although the actual storage losses for the 2007 storage cycle were 697,924 Dths less than the 2006 losses, the calculation of the rolling three-year average of storage losses resulted in a slight increase due to the 2007 losses now included in the three-year average being higher than the 2004 storage losses previously included in the three-year average.

5. Additionally, the cumulative under-collection of storage losses continued to exceed the 500,000 Dth tolerance band established in the above-mentioned settlement, by 384,996 Dths, resulting in a decrease in the storage loss surcharge of 0.57 percent. Southern Star claims that the cumulative storage losses exceeded the 500,000 Dth tolerance band primarily because in its previous three filings, the actual yearly losses have exceeded the three-year averages and thereby fully utilized the 500,000 Dth tolerance band. Southern Star stated that since the 2007 losses are less than the three-year average, it anticipates that in next year's annual fuel filing, the tolerance band will no longer be exceeded and a surcharge will not be necessary.

6. Southern Star's filing includes the additional information related to its storage losses that the parties requested in its prior FLRP proceedings. Specifically, Appendix D includes Southern Star's storage losses by field since 1994, the spring and fall shut-in test results for the last three years, and the total injections, withdrawals and inventory balances for the last three years.

Public Notice, Intervention and Comments

7. Notice of Southern Star's filing was issued on December 3, 2007. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210. Pursuant to Rule 214, 18 C.F.R. § 385.214 (2007), all timely filed 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 this proceeding or place additional burdens on existing parties. The Missouri Public Service Commission (MoPSC) filed a protest and a request for a technical conference. The MoPSC also requested to consolidate the proceeding with Docket No. RP07-96-000. The Kansas Corporation Commission (KCC) also filed a protest and a request for a technical conference. On December 19, 2007, Southern Star filed an answer to the protests. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Southern Star's answer because it has provided information that assisted us in our decision-making process.

8. Both of the protesting parties question whether L&U gas in Southern Star's filing includes losses from two significant incidents² and, if so, whether the gas is properly recoverable as L&U based on the Commission's recent order in a fuel, L&U tracker filing of Colorado Interstate Gas.³ The Commission held in *CIG* that the pipeline could not recover through CIG's L&U tracker a loss of 451,000 Dth resulting from a down-hole failure of casing equipment in a storage field, since this type of unusual, non-recurring loss was not the type intended for recovery through CIG's tracking mechanism. The protesting parties believe that both of the incidents involving Southern Star may be unusual, non-recurring events outside the scope of recovery through Southern Star's FLRP tracking mechanism. The parties request suspension of the proposed FLRPs for the maximum period permitted, subject to refund and also request a technical conference to determine whether gas lost through the incidents is included in Southern Star's annual fuel filing and, if so, whether such lost gas is properly recoverable through an L&U tracker.

9. MoPSC also notes that Southern Star continues to experience significant losses at the McLouth storage field. Southern Star calculated a loss of 129,024 Dth for

² The two incidents include the loss of approximately 200,000 Mcf of gas due to a pipeline rupture in August 2007 at Southern Star's McLouth storage field and the loss of approximately 1 Bcf of gas due to a leak in January 2007 at Holcomb, Kansas.

³ *Colorado Interstate Gas Company*, 121 FERC ¶ 61,161 (2007) (*CIG*).

McLouth in 2007, which amounts to approximately 6 percent of the working gas in the storage field. MoPSC argues that this loss follows significant losses for the field over the last several years and, although losses during 2007 are lower than in recent years, the significant ongoing losses for a relatively small storage field remain a serious concern. MoPSC states that it raised concerns with the McLouth losses in Docket No. RP07-96-000 and, while MoPSC eventually withdrew its objections to Southern Star's proposed 2007 FL&U percentages, its withdrawal was premised on the understanding that Southern Star was in the process of comprehensively evaluating all of its storage fields in accordance with KCC regulations. MoPSC states that Southern Star should be required to identify any information that it (or its consultants) have developed since the Company's filing in Docket No. RP07-96-000 that indicates why Southern Star continues to experience significant losses at the McLouth field.

10. MoPSC requests that the Commission suspend Southern Star's proposed storage rate increase for a full five months and that when the suspension period expires, the increase should become effective subject to refund pending investigation of Southern Star's FLRPs. MoPSC further requests the Commission establish technical conference procedures that obligate Southern Star to respond to interested parties' discovery requests and allow parties to submit comments and conclusions to the Commission concerning Southern Star's FLRPs after the technical conference. The KCC requested the Commission issue a data request preliminary to establishing a technical conference in order to obtain information on whether Southern Star's filing includes losses related to the two incidents and, if so, information related the incidents. In the event substantive concerns remain unresolved at the conclusion of the technical conference process, MoPSC states the Commission could establish procedures for a formal evidentiary hearing.

11. In its answer, Southern Star asserts that after reviewing its data with respect to the percentage in the Production Area, Southern Star determined that it was affected by a leak on its 26-inch "R" line near Hutchinson, Kansas. Southern Star also states that to a lesser extent the Storage percentage was affected by the failure of a gas storage field gathering line, north of McLouth, Kansas. Southern Star notes that it does not agree that either of the events described above are unusual in the normal course of prudent pipeline operations or unrecoverable under its FLRP mechanism, but states that it does not object to the establishment of a technical conference to review its filing. Southern Star also requests that the MoPSC's request for consolidation be rejected and that protestors' request for five-month suspension be rejected on the grounds that the requests are without merit.

Discussion

12. The Commission has reviewed Southern Star's filing as well as the protests filed in this proceeding and finds that Southern Star's proposed fuel and loss reimbursement percentages raise numerous issues, including technical, engineering and operational issues, which are best addressed at a technical conference. Further information is needed in support of Southern Star's proposed reimbursement percentages. Specifically, further information is needed regarding certain losses on Southern Star's system discussed in the protests, the nature and extent of those losses, and Southern Star's manner of accounting for those losses, i.e., whether Southern Star included such losses in the reimbursement percentages proposed in the instant filing.

13. It is not possible to determine, at this juncture, whether Southern Star's proposed fuel and loss reimbursement percentages are just and reasonable. A technical conference will afford the Commission Staff and the parties to the proceeding an opportunity to discuss all of the issues raised by Southern Star's proposal, including but not limited to amounts included in Southern Star's fuel and loss reimbursement percentages. Specifically, Southern Star should be prepared to address all the concerns raised in the protests, and if necessary, to provide additional technical, engineering and operational support for its proposals. Any party proposing alternatives to Southern Star's proposals should also be prepared to similarly support its position. Finally, based upon its analysis of the information provided in this proceeding, the Commission Staff may issue data requests prior to the technical conference, or a notice of the technical conference may contain questions that need to be addressed by Southern Star or other parties at the conference.

14. Based upon a review of the filings, the Commission finds that the proposed tariff sheet has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept the tariff sheet for filing and suspend its effectiveness for a minimal period to be effective January 1, 2008, subject to the conditions set forth in this order.

15. The Commission's policy regarding tariff filing suspensions is that such filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards. *See, Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension). It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. *See, Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (minimum suspension). The Commission finds that circumstances exist here where Southern Star is filing an annual update pursuant to an approved gas tracker mechanism. Therefore, the Commission will

accept and suspend the proposed tariff sheet to be effective January 1, 2008, subject to the outcome of the technical conference established herein and further orders of the Commission.

16. Regarding MoPSC's request for consolidation of this filing with Southern Star's previous annual fuel filing in Docket No. RP07-96-000, the Commission finds that consolidation is unnecessary. The filings consider inputs to Southern Star's fuel and loss reimbursement percentages from two distinct time periods, and inquiry into each period may proceed separately. Therefore, the Commission denies MoPSC's request for consolidation of the two filings. In any event, the refund condition imposed on the instant filing offers shippers protection to the extent the outcome of the previous proceedings informs or affects the instant case. To that end, the Commission's acceptance of Southern Star's instant filing is subject to the outcome of the proceedings in Docket No. RP07-96-000.

The Commission orders:

(A) Southern Star's Seventh Revised Tariff Sheet No. 12 to its FERC Gas Tariff, Original Volume No. 1 is accepted and suspended to be effective January 1, 2008, subject to refund and the outcome of the technical conference established by this order and subject to the outcome of the proceedings in Docket No. RP07-96-000.

(B) The Commission's staff is directed to convene a technical conference to address the issues raised by Southern Star's filing and report the results of the conference to the Commission within 120 days of the date this order issues.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.