123 FERC ¶ 61,220
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 29, 2008

In Reply Refer To:
Cheyenne Plains Gas Pipeline
Company, L.L.C.
Docket No. RP08-340-000

Cheyenne Plains Gas Pipeline Company, L.L.C.
Attn: Rex Adams, Director, Rates
Two North Nevada Avenue
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Reference: Revised Fuel and Lost and Unaccounted for Reimbursement Percentages

Ladies and Gentlemen:

1. On April 30, 2008, Cheyenne Plains Gas Pipeline Company (Cheyenne Plains) filed a revised tariff sheet[1] to reflect the annual update to its fuel and lost and unaccounted for gas (L&U) reimbursement percentages. For the reasons discussed below, the Commission accepts and suspends the revised tariff sheet, and allows it to become effective June 1, 2008, subject to refund and subject to Cheyenne Plains filing a revised tariff sheet removing certain losses associated with a fire at its Cheyenne Plains Compressor Station, within fifteen days of the date this order issues.

2. Cheyenne Plains' revised tariff sheet decreases the fuel reimbursement percentage from 0.90 percent to 0.72 percent and increases the L&U reimbursement percentage from -0.19 percent to 0.08 percent. Cheyenne Plains states the decrease in fuel mainly results from an increase in net system throughput for the twelve-month period ending on January 31, 2008, versus the prior twelve-month period. Cheyenne Plains further states the increase in the L&U reimbursement percentage is mainly due to higher L&U experienced during the aforementioned collection period.

3. In addition, Cheyenne Plains includes an explanation of the fuel and L&U impacts in its updated reimbursement percentages resulting from a fire at the Cheyenne Plains

[1] Sixth Revised Sheet No. 20 to its FERC Gas Tariff, Original Volume No. 1.

Compressor Station and amine processing plant (CP Station) on September 16, 2007. Section 26.3 of Cheyenne Plains' General Terms and Conditions (GT&C) expressly requires it to provide details of any gas losses due to fire, explosions or other calamities. Specifically, Cheyenne Plains explains that at approximately 12:30 p.m. on September 16, 2007, a fire broke out in the yard of the CP Station causing a shut-down of the Cheyenne Plains system. The fire erupted from a release of gas due to a failure in a flange connection associated with a relief valve on the suction side of the compressor station. According to Cheyenne Plains, the gas ignited when contacted by an open flame on an external utility heater in the path of the escaping gas. Cheyenne Plains states the fire lasted approximately ten minutes and that when detected its operations personnel performed an emergency shut-down of all of the facilities at the CP Station. This involved shutting down the compression in the El Paso Western Pipeline's Cheyenne Station, shutting in Wyoming Interstate Gas Company (WIC) facilities upstream of the station, and re-routing WIC gas into Colorado Interstate Gas Company's (CIG) system. According to Cheyenne Plains all three pipelines immediately declared a *force majeure*; however CIG and WIC rescinded the *force majeure* on their systems on September 17, 2007. Cheyenne Plains states that the CP Station remained fully out of service under its *force majeure* notice pending evaluation of the damage from the fire. CP Station returned to free flow of capacity (approximately 390 MMcf/day) for cycle four of the gas day on September 17, 2007.

4. Cheyenne Plains claims the damage to the CP Station was extensive. Cheyenne Plains estimates that the amount of gas lost during the fire incident was 3,726 Dths, related to the loss experienced when operations personnel activated the release valve and gas was consumed during the ten minute fire. Cheyenne Plains adds that during the repair process, it lost 336 Dths during blow down to repair leaks and lost another 3,066 Dths when it disconnected temporary piping around the station. Cheyenne Plains states the loss totals approximately 7,158 Dths of which 4,092 Dths[2] has been reflected as L&U in the instant proceeding.

5. Further, Cheyenne Plains states that after the fire, it took a variety of measures to increase its capacity including working with CIG to construct an approximately 300 foot piping interconnection between CIG's Front Range jumper compressor and the Cheyenne Plains pipeline downstream of the disabled compressor station (CIG Piping) and executing an Interruptible Transportation Service (IT) agreement with CIG on October 10, 2007. In addition, Cheyenne Plains states that this IT agreement allowed it to schedule increased operational available capacity through the new piping on the discharge side of the disabled compressors. Finally, Cheyenne Plains returned to full service on November 7, 2007, and promptly terminated the *force majeure* notice.

[2] This includes 3,726 Dths due to the activation of the release valve and consumed in the fire plus 366 Dths lost during the repair process.

6. Cheyenne Plains states that the fuel charged by CIG to move the gas into Cheyenne Plains system under the IT contract totaled 116,559 Dths during October and November 2007. Cheyenne Plains also included in the total fuel usage volumes listed in Schedule D of its filing, the 3,066 Dths lost when it disconnected the temporary piping at the CP Station and the 116,559 Dths of transportation fuel incurred under the IT agreement with CIG. Cheyenne Plains adds that it carries private third-party property loss and business interruption insurance and has filed a claim for the losses resulting from the fire. It states the actual amount of the claim and the reimbursable amount on the claim is unknown at this time; however, if it recovers the costs related to the fire, including the costs associated with the CIG Piping and the related fuel charges, it will reflect the recovery of those amounts in the next annual fuel and L&U adjustment filing.

7. Notice of Cheyenne Plains' filing issued on May 1, 2008.[3] Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2007). 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 the proceeding or place additional burdens on existing parties. On May 12, 2008, Indicated Shippers[4] filed a protest and on May 21, 2008, Cheyenne Plains filed an answer. 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 Cheyenne Plains' answer because it provides information that assisted us in our decision making-process.

8. In their protest, Indicated Shippers state shippers should not be required to reimburse Cheyenne Plains for 7,158 Dths of lost fuel associated with the fire because, under the Commission's policy, where fuel loss is related to a catastrophic, non-recurring event, the fuel loss is not recoverable because it is neither "unaccounted for" nor "other fuel gas."[5] Indicated Shippers state that in *Colorado Interstate Gas Co.*[6] the Commission rejected the inclusion of fuel lost associated with a well casing failure and that in *Williams Natural Gas Co.*,[7] the Commission found that Williams could not recover 1.0

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[3] 73 Fed. Reg. 26,101 (2008).

[4] The Indicated Shippers are Anadarko Petroleum Corporation, BP America Production Company, and BP Energy Company.

[5] Indicated Shippers Protest at 2.

[6] 121 FERC ¶ 61,161 (2007), *order on reh'g* 123 FERC ¶ 61,183 (2008) (*Colorado Interstate Gas*).

[7] 73 FERC ¶ 61,394 (1995), *order on reh'g*, 74 FERC ¶ 61,215 (1996) (*Williams).*

Bcf of storage gas that had migrated from a storage field over time, since such migration was not associated with normal operating costs. Indicated Shippers argue that, like the situation in *Colorado Interstate Gas*, the failure of the flange on the relief valve and the resulting fire at the Cheyenne Plains compressor station is a "catastrophic system failure for which fuel and gas loss mechanisms were never intended."[8] They argue that the Commission should require Cheyenne Plains to eliminate from its fuel and L&U rates the 7,158 Dths of fuel associated with the equipment failure resulting in the loss of gas. Additionally, Indicated Shippers state they are not contesting the inclusion of the 116,559 Dths of transport fuel related to the IT contract with CIG, as long as any insurance proceeds Cheyenne Plains receives are credited back to the fuel account as Cheyenne Plains has committed to do.

9. In response to the protest, Cheyenne Plains argues that *Williams* and *Colorado Interstate Gas* are inapposite. Cheyenne Plains asserts that GT&C section 26 contains no exception for fuel used or gas lost in connection with catastrophic or non-recurring events. According to Cheyenne Plains, the following provision of section 26.3, expressly contemplates and provides for the recovery of fuel lost due to a fire:

> Transporter will provide details of any known and identifiable line loss due to explosion, fire, or other calamity and any related insurance claims in its FL&U adjustment filings.

Cheyenne Plains argues that information concerning fuel lost through fire or other calamity and related insurance claims would be unnecessary if the tariff did not intend to allow recovery of such losses through the tracker.

10. The Commission finds that the gas lost as a result of the fire at the CP Station is not recoverable through Cheyenne Plains' fuel and L&U reimbursement percentages. As stated previously by the Commission, fuel tracking mechanisms are appropriate for normal operating costs but are not appropriate for the recovery of gas losses outside the scope of normal pipeline operations.[9] Further, it is not reasonable for a pipeline to recover through its fuel tracking mechanism gas lost due to an unusual, non-recurring event.[10] Here, the gas lost due to the fire, which was caused by an unexpected, non-

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[8] Indicated Shippers Protest at 2 (*citing Colorado Interstate Gas Co.*, 121 FERC ¶ 61,161 at P 25).

[9] *See Williams*, 73 FERC ¶ 61,394 at p. 61,215 (1995) (finding that Williams could not use its fuel and loss reimbursement mechanism to recover costs associated with storage gas losses not related to normal pipeline operations).

[10] *See Colorado Interstate Gas*, 121 FERC ¶ 61,161 at P 24 (finding that pipeline could not recover gas lost as a result of a well casing failure through its fuel tracking mechanism).

routine system failure (i.e., the failure of a flange connection associated with a relief valve) cannot be construed to be a normal operating cost. Thus, it would be unreasonable for Cheyenne Plains to recover the 7,158 Dths of lost fuel associated with the fire from its shippers through its fuel and L&U reimbursement percentages.

11. Further, the Commission also finds Cheyenne Plains' interpretation of section 26.3 as allowing losses associated explosions, fires, and other calamities to be unreasonable.[11] The Commission interprets section 26.3 as providing the process for the annual adjustment of fuel and L&U reimbursement percentages; however this section does not address the kinds of losses that are properly included in a fuel tracker. Moreover, as discussed above, under Commission precedent, fuel tracking mechanisms are appropriate for normal operating costs but are not appropriate for the recovery of gas losses outside the scope of normal pipeline operations. Accordingly, the Commission directs Cheyenne Plains to file a revised tariff sheet removing the 7,158 Dths of lost gas from its fuel and L&U reimbursement percentages, within 15 days of the date of this order issues. Further, to the extent that Cheyenne Plains receives any property loss or business interruption insurance proceeds for the costs associated fire, the Commission directs Cheyenne Plains to reflect the recovery of those amounts in its next annual update of its fuel and L&U reimbursement percentages.

12. Accordingly, the Commission accepts and suspends Cheyenne Plains' revised tariff sheet, effective June 1, 2008, subject to Cheyenne Plains filing, within 15 days of the date this order issues, a revised tariff sheet removing the 7,158 Dths in question from its fuel and L&U reimbursement percentages.

13. The Commission's general policy is to suspend tariff filings for the maximum period permitted by statute if preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards.[12] It is also recognized however, that shorter suspensions may be warranted under circumstances in which suspension for the maximum period may lead to harsh and inequitable results.[13] Such circumstances exist here where the filing is made pursuant to an approved tracking provision. Accordingly, the Commission will exercise its discretion

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[11] *See Colorado Interstate Gas*, 121 FERC ¶ 61,161 at P 19 & n.22 (*citing Williams*, 74 FERC ¶ 61,215, at p. 61,699 (1996) ("[The L&U tracker] simply describes how fuel and loss percentages are to be calculated and collected. It has nothing to say regarding when amounts are losses eligible for recovery.")).

[12] *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

[13] *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

to suspend for a shorter period and permit the rates to take effect on June 1, 2008, subject to refund and subject to CP filing a revised tariff sheet as discussed above.

By direction of the Commission.

Kimberly D. Bose,
Secretary.