

124 FERC ¶ 61,192
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.

Colorado Interstate Gas Company

Docket No. RP08-480-000

ORDER REJECTING TARIFF SHEET

(Issued August 28, 2008)

1. On August 1, 2008, Colorado Interstate Gas Company (CIG) filed a request to waive its tariff to permit it to make an out-of-cycle adjustment to its transportation fuel gas and storage fuel gas percentages. CIG also filed a revised tariff sheet¹ reflecting the out-of-cycle adjustment, requesting an effective date of September 1, 2008. Because CIG has not shown good cause to waive its tariff, we deny CIG's request for waiver and reject its proposed tariff sheet.

I. Details of Filing

2. Article 42 of the GT&C of CIG's tariff requires CIG to calculate its transportation fuel gas and storage fuel gas percentages on an annual basis. Under CIG's tariff, the fuel gas percentages are composed of (1) a forward-looking current period reimbursement percentage and (2) a fuel true-up percentage attributable to the over/under recovery of fuel for prior periods. CIG filed the most recent annual adjustment to its fuel gas percentages on August 31, 2007 in Docket No. RP07-668-000 based on a data collection period from July 1, 2006 through June 30, 2007 (2007 Fuel Filing). The Commission accepted CIG's annual adjustment to its fuel gas percentages effective October 1, 2007.² Additionally, in February 2008, CIG filed a request to make an out-of-time adjustment to

¹ Fifty-First Revised Sheet No. 11A to its FERC Gas Tariff, First Revised Volume No. 1.

² *Colorado Interstate Gas Co.*, 120 FERC ¶ 61,286 (2007).

its transportation fuel gas percentage. On March 31, 2008, the Commission accepted this request and granted CIG waiver of its tariff to make the adjustment.³

3. CIG states that in the 2007 Fuel Filing, CIG based its true-up percentages on over-recoveries of 1,094,239 Dth of transportation fuel and 85,619 Dth of storage fuel. CIG anticipates that shippers should be fully reimbursed for these over-recoveries just after September 1, 2008. CIG contends that if these true-up percentages are not removed from the transportation and storage fuel reimbursement percentages, the current period fuel collections will result in shippers owing CIG transportation and storage fuel gas and increased fuel reimbursement percentages in the future. Therefore, CIG proposes to remove the true-up portion of its current transportation and storage fuel gas percentages as of September 1, 2008—approximately 30 days earlier than it would otherwise do so. CIG states that any minor differences remaining at that point will be reflected in its 2008 annual fuel filing.

4. Specifically, CIG's proposal will result in an increase in its current transportation fuel percentage of 1.25 percent to 1.46 percent. CIG's proposal will also result in an increase in its current storage fuel percentage of 0.53 percent to 0.73 percent. CIG states that its proposed transportation and storage fuel gas percentages will allow for the collection of fuel gas that more closely approximates actual use based on the recent available data.

5. CIG, therefore, requests a limited waiver of its tariff to allow it to make the above-described out-of-time adjustment to its transportation and storage fuel reimbursement percentages, arguing that approval of this request will benefit shippers.

II. Public Notice, Intervention and Comments

6. Notice of CIG's filing was issued on August 4, 2008. 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 (2008), 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. Nexen Marketing USA, Inc. (Nexen) filed comments.

7. Nexen expresses concern about an apparent increase in CIG's out-of-cycle filings, arguing that such filings are becoming burdensome. Nexen states that the inability for CIG's customers to rely on a stated fuel percentage when entering into supply deals injects a considerable degree of uncertainty and risk into the marketplace, which can

³ *Colorado Interstate Gas Co.*, 122 FERC ¶ 61,304 (2008).

result in higher prices and economic inefficiencies. Nexen contends that customers can be harmed by earlier-than-anticipated increases in their fuel obligations, depending on market conditions and trends. Furthermore, Nexen states that it is possible that CIG may be manipulating its fuel usage in conjunction with the management of its retained storage capacity to the disadvantage of its customers.

8. Nexen notes that CIG's fuel tracker contains a true-up, arguing that barring some exceptional "bust" in its fuel collection factors, CIG should only make adjustments to its fuel rates once a year. Therefore, Nexen requests that the Commission require CIG to fully explain the operational purchases and sales and its retained storage usage, as well as any other transactions that lead to CIG's need to adjust its fuel rates out-of-cycle.

III. Discussion

9. Because CIG has not shown good cause, we deny its request for waiver and reject its proposed tariff sheet. Granting waiver of a pipeline's existing tariff is within the discretion of the Commission, and is not automatic. A pipeline must show good cause to support its request for a waiver. "[G]ood cause for waiver of existing tariff mechanisms cannot be demonstrated if the waiver unreasonably upsets the balance of expectations of the parties subject to those provisions."⁴

10. CIG's support for its waiver request, i.e., that it anticipates returning its over-recoveries from last year on or around September 1, 2008, does not rise to the level of good cause to support granting a waiver. Because CIG's fuel tracker contains a true-up mechanism, it is capable of accounting for any over- or under-recoveries that CIG incurs throughout the year. CIG does not state that the potential under-collection will be inordinately large or difficult to manage through its tracker. Nor has CIG provided any reason as to why it would be unreasonable or inappropriate to allow its fuel tracker and true-up mechanism to run their course. However, by changing its fuel percentages out-of-cycle, CIG would upset the reasonable expectations of its customers, who conduct their business in reliance on CIG's tariff, and the method provided therein to account for fuel costs. Furthermore, this filing seeks to make the second out-of-cycle adjustment to CIG's fuel reimbursement percentages within the current annual period. As indicated by Nexen, such continuous extra-tariff adjustments upset the reasonable expectations of shippers that CIG will adjust and maintain reimbursement percentages once over the course of a year. Finally, we note that under the terms of its tariff, CIG must file its annual adjustment to its fuel reimbursement percentages roughly one month from the date of the instant filing. Therefore, we see no harm in holding CIG to the terms of its tariff, and accordingly, we deny CIG's waiver request.

⁴ *Wyoming Interstate Co., Ltd.*, 122 FERC ¶ 61,299 (2008).

The Commission orders:

- (A) CIG's request for waiver of its tariff is denied.
- (B) The proposed tariff sheet listed in footnote no. 1 is rejected.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.