127 FERC ¶ 61,195
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Suedeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

Cheyenne Plains Gas Pipeline Company, LLC Docket No. RP09-566-000

ORDER ACCEPTING AND SUSPENDING PRIMARY TARIFF SHEET SUBJECT TO REFUND, CONDITIONS, AND FURTHER REVIEW, AND REJECTING ALTERNATE TARIFF SHEET

(Issued May 29, 2009)

1. On May 1, 2009, Cheyenne Plains Gas Pipeline Company, L.L.C., (Cheyenne Plains) filed an Eighth Revised Sheet No. 20 to its FERC Gas Tariff, Original Volume No. 1, as part of its Primary Case, to revise its Fuel and Lost and Unaccounted for Gas (FL&U) reimbursement percentages. These reimbursement percentages pertain to service Cheyenne Plains offers under Rate Schedules FT (Firm Transportation), IT (Interruptible Transportation), and SS (Interruptible Swing). As discussed below, Cheyenne Plains includes with its filing an Alternate Eighth Revised Sheet No. 20 as part of its Alternate Case. Cheyenne Plains seeks an effective date of June 1, 2009, for either its Primary Case tariff sheet or Alternate Case tariff sheet. This is Cheyenne Plains' first annual fuel filing pursuant to a recently accepted tariff mechanism pursuant to Cheyenne Plains' monetized FL&U tracking mechanism.

2. We accept and suspend Cheyenne Plains' Eighth Revised Sheet No. 20, to become effective June 1, 2009, subject to refund, the conditions set forth in this order, and further review and order of the Commission. We reject Cheyenne Plains' Alternate Eighth Revised Sheet No. 20.

I. **Background**

3. Section 26 of the Cheyenne Plains' General Terms and Conditions (GT&C) requires Cheyenne Plains to file at least annually to revise its FL&U reimbursement percentages. Cheyenne Plains states it must file with the Commission no later than April 30 of each calendar year for the recomputed percentages to become effective on June 1.

The data collection period for an April 30 filing is February 1 through January 31 of each year.

4. Section 26.4 of its GT&C sets forth procedures for Cheyenne Plains to calculate its FL&U reimbursement percentages. In general, Cheyenne Plains' FL&U reimbursement percentage comprises two components,—a fuel component and a lost and unaccounted for (L&U) component. To calculate its fuel component, Cheyenne Plains adds together (1) an estimate of how much fuel it will need to support the anticipated transportation service for all shippers under all rate schedules during the upcoming fuel reimbursement period; and (2) an adjustment reflecting the difference between actual quantities of fuel Cheyenne Plains used during the data collection period, and quantities of gas Cheyenne Plains retained for fuel during that collection period.

5. To calculate its L&U component, Cheyenne Plains adds together (1) an estimate of how much L&U it will experience supporting the anticipated transportation service for all shippers under all rate schedules during the upcoming reimbursement period; (2) an adjustment reflecting the difference between actual quantities of L&U Cheyenne Plains experienced during the data collection period and quantities of gas Cheyenne Plains retained for L&U during that collection period; and, (3) a cost/revenue true-up adjustment. The Commission accepted Cheyenne Plains' cost/revenue true-up by order issued May 30, 2008 (May 30 Order).[1] The mechanism became effective on June 1, 2008. Cheyenne Plains states the cost/revenue true-up adjustment reflects over- or under-recovery of costs and revenues related both to fuel and to system balancing. This component is the dekatherm-equivalent of the monetized costs and revenues attributable to fuel, shrinkage, linepack adjustments, system balancing activities, and other credit/debit activity.

II. Details of Filing

A. Primary Case

6. Cheyenne Plains uses a data collection period of February 1, 2008, through January 29, 2009.[2] In general, Cheyenne Plains proposes to increase its fuel reimbursement percentage from 0.72 percent to 0.94 percent. Cheyenne Plains states this increase is primarily due to the expiration of the prior volumetric true-up percentage of negative 0.11 percent and an increase in fuel use resulting from an increase in throughput

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[1] *Cheyenne Plains Gas Pipeline Company, LLC*, 123 FERC ¶ 61,227 (2008).

[2] Because the cost/revenue true-up was accepted effective June 1, 2008, however, the relevant data collection period for that component is the eight months between June 1, 2008, and January 31, 2009.

throughout the year. Cheyenne Plains also proposes to decrease its L&U reimbursement percentage from 0.08 percent to 0.07 percent.

7. In Appendix A of the filing, Cheyenne Plains provides calculations regarding the derivation of both its fuel and L&U reimbursement percentages. For its fuel component, Cheyenne Plains' estimates fuel use of 2,976,085 Dth over a projected throughput of 334,017,137 Dth for the upcoming reimbursement period, resulting in a base fuel reimbursement percentage of 0.89 percent. For its fuel adjustment, Cheyenne Plains calculates a fuel under-recovery of 166,397 Dth over a throughput of 334,017,137 Dth, resulting in an adjustment percentage of 0.05 percent. Combining the fuel requirement and the fuel adjustment results in a net fuel component of 0.94 percent.

8. For its L&U component, Cheyenne Plains estimates an L&U fuel loss of 116,912 Dth over a projected throughput of 334,182,049 Dth for the upcoming reimbursement period, resulting in a base L&U reimbursement percentage of 0.03 percent. Cheyenne Plains then calculates its two adjustments to its base L&U percentage. For its volumetric true-up adjustment, Cheyenne Plains calculates an under-recovery of 158,379 Dth over a throughput of 334,182,049. For its cost/revenue true-up adjustment, Cheyenne Plains estimates an over-recovery of 16,904 Dth over the same throughput. Cheyenne Plains' net L&U adjustment is 0.04 percent, which results in a total L&U reimbursement percentage of 0.07 percent.

9. Cheyenne Plains states it calculated its cost/revenue true-up adjustment from a system gas balance displayed in its Operational Purchases and Sales report. It states this report balances all sources and dispositions of gas each month of the data collection period. Cheyenne Plains provides details of operational purchases and sales and other credit and debit activity as they pertain to its cost/revenue true-up in Schedules 1 through 7 in Appendix B of the filing. Cheyenne Plains states that pertinent Operational Balancing Agreement (OBA) cost and revenues are also delineated in those schedules. In sum, Cheyenne Plains provides monetized amounts for shipper imbalance cash-outs, OBA cash-outs, operational sales and purchases, line pack and net system balancing activity, net fuel and L&U, capitalized line pack, and other gas adjustments.

10. Cheyenne Plains acknowledges that the May 30 Order made clear that purchases and sales for system balancing are to be kept separate and must be recovered through the cash-out provisions and not through the fuel mechanism. Cheyenne Plains contends because it is an operationally integrated system, it is impossible to discern in real time the purchases and sales activities required to balance shipper and OBA imbalance activity separately from fuel-related activity. As a result, Cheyenne Plains asserts it used an allocation methodology to create two different reports from the operational purchases and sales report—one solely related to shipper and OBA imbalance activity and the other related to fuel activity. Cheyenne Plains states without doing this allocation, the distinct reports would not remain grounded in the fundamental principle of a system gas balance, and the costs would not be accurately tracked.

11. Under its cost/revenue true-up adjustment, Cheyenne Plains seeks recovery of $90,846 from shippers. Cheyenne Plains provides calculations as to how it converted this amount into an in-kind retention percentage on Schedule 9 of Appendix B to the filing. Cheyenne Plains states because its data collection period only spans eight months for the instant filing, it used an average of the monthly cash-out index price over the period to determine the Dth-equivalent value.

B. Alternate Case

12. Cheyenne Plains' FL&U calculations for its Alternate Case are identical to the calculations for its Primary Case, with the exception of its cost/revenue true-up adjustment. Cheyenne Plains notes that in the May 30 Order, the Commission stated that Cheyenne Plains could not recover costs or credit revenues associated with purchases and sales for system balancing through its cost/revenue true-up mechanism. Cheyenne Plains states it currently has no applicable rate, surcharge, or tracking mechanism that requires it to flow through such revenues. However, Cheyenne Plains asserts GT&C section 26.4(a)(v) specifically allows it to include "the under-recovered or over-recovered quantity of gas related to revenues and costs for FL&U, linepack adjustments, system balancing activities, operational purchases and sales, and other such credit and debit activities." Cheyenne Plains asserts the FL&U reimbursement percentages set forth on Alternate Eighth Revised Sheet No. 8 are consistent with this tariff provision.

13. Under its Alternate Case, Cheyenne Plains includes in its FL&U reimbursement percentages such items as fuel, other fuel, shrinkage, linepack adjustments, system balancing activities and other such credit/debit activity, including cash-outs. Under this Alternate Case, Cheyenne Plains calculates an L&U adjustment percentage—of negative 0.03 percent and results in a total L&U reimbursement percentage of 0.00 percent, a decrease from its current L&U reimbursement percentage of 0.08 percent. Cheyenne Plains states it would also refund $140,441 to shippers in cash by invoice credit. Cheyenne Plains supporting calculations are found in Schedules 1b through 7b of Appendix B.

C. Kirk Compressor Project Fuel Volumes

14. In its December 20, 2007 certificate order,[3] the Commission directed Cheyenne Plains to separately track the fuel attributable to its Kirk Expansion Project facilities from its system fuel. Cheyenne Plains states Appendix C details fuel, throughput, and indicated transportation fuel percentages for the system in general, and for its Kirk Expansion Project facilities. Schedule 1 of Appendix C shows that while Cheyenne Plains' total system fuel rate is 0.89 percent, the fuel rate for the Kirk project is 1.10

[3] *Cheyenne Plains Gas Pipeline Company, LLC,* 121 FERC ¶ 61,273 (2007).

percent. Cheyenne Plain asserts these figures are consistent with the net benefit test information filed in the certificate proceeding for the Kirk Expansion Project.

III. Public Notice, Interventions, and Comments

15. Notice of Cheyenne Plain's filing was issued on May 5, 2009. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2008). 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. BP America Production Company and BP Energy Company (BP) filed a motion for summary rejection and protest. Kansas Corporation Commission (KCC) filed a request for technical conference.

16. In its protest, BP requests the Commission summarily reject Cheyenne Plains' Alternate Case, in which Cheyenne Plains combines system balancing costs into its FL&U reimbursement percentages, which is contrary to the May 30 Order's prohibition of such a combination.

17. BP expresses other concerns with Cheyenne Plains' Primary Case fuel adjustment. According to BP, Cheyenne Plains stated that because its system is operationally integrated, it is impossible to discern in real time the purchases and sales activities required to balance shipper and OBA imbalance activity from fuel-related activity. As a result, Cheyenne Plains developed an allocation methodology to create reports for operational purposes due to system balancing activities and due to fuel-related activities. BP argues Cheyenne Plains fails to adequately explain this allocation methodology. BP asserts the Commission should direct Cheyenne Plains to fully explain how this allocation methodology works, so as to determine whether it complies with the Commission's May 30 Order.

18. BP also contends that the Commission should reject Cheyenne Plains' proposal to include accrued and imputed costs in its fuel and L&U rates.[4] BP states under Commission policy, pipelines may only collect costs actually incurred in purchases or sales of gas to make up for imbalances (fuel or otherwise).[5] BP asserts Cheyenne Plains

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[4] BP defines accrued costs as costs due to changes in the value of gas from the date of the imbalance to the date of an actual purchase or sale to make up for the imbalance. BP defines imputed costs as costs derived from the cash-out index price.

[5] BP, Protest at 4-5 (citing *Colorado Gas Interstate Gas Co*., 126 FERC ¶ 61,085, at P 23-24 (2009); *Northern Border Pipeline Co*., 103 FERC ¶ 61,134, at P 82 (2003); *ANR Pipeline Co*., 80 FERC ¶ 61,173 (1997)).

includes as part of its fuel and L&U rates, approximately $3.4 million of accrued/imputed operational sales and approximately $2.3 million of accrued/imputed operational purchases. BP contends, given that Cheyenne Plains' Primary Case fuel tracker filing includes both accrued costs and imputed costs that it did not actually incur, the Commission should require Cheyenne Plains to remove these costs from its proposed fuel and L&U rates and only allow Cheyenne Plains to recover costs actually incurred for the purchase and/or sale of gas for fuel-related activities.

19. BP also asserts Cheyenne Plains' fuel tracker contains inconsistent information. According to BP, Cheyenne Plains states on Schedule 4 of Appendix B that it did not make any operational purchases or sales in the eight-month reporting period, but includes about $1.1 million in operational purchases in Schedule 1b of Appendix B. BP asks the Commission to direct Cheyenne Plains to remove the costs related to these operational purchases from its fuel rates, unless Cheyenne Plains can demonstrate it incurred actual out-of-pocket expenses. BP adds the Commission should require Cheyenne Plains to submit the electronic spreadsheets used to derive its fuel and L&U rates with the formulas and linkages intact. It states this additional information would assist the Commission and Cheyenne Plains' shippers to better understand how Cheyenne Plains calculated its fuel and L&U rates.

20. Finally, BP states that in the Commission's order approving the Kirk Expansion Project, the Commission stated it would "grant a predetermination of rolled-in rate treatment, barring any significant change in the circumstances presented by Cheyenne Plains" in that proceeding.[6] BP states the Commission also explained that if a future rate review showed "that the revenue benefits generated by the project are offset by the fuel consumption associated with the project, the Commission would consider such offset a significant change in circumstances."[7] BP asserts the Commission should rescind the rolled-in rate treatment with respect to fuel and order Cheyenne Plains to charge for fuel incrementally for the Kirk Expansion Project because existing shippers are facing higher fuel rates directly as a result of the project. BP supports its position by citing data Cheyenne Plains includes in its worksheets.

21. KCC requests the Commission convene a technical conference to further examine certain issues with Cheyenne Plains' fuel tracker filing. The two issues KCC identifies are the (1) proposal to include accrued or non-cash costs in its cost/revenue true-up adjustment, and (2) proposed Alternate Case.

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[6] BP, Protest at 6 (citing *Cheyenne Plains Gas Pipeline Company, L.L.C.*, 121 FERC ¶ 61,273, at P 43 (2007)).

[7] *Id.* (citing *Cheyenne Plains Gas Pipeline Company, L.L.C.*, 121 FERC ¶ 61,273, at P 44 (2007)).

IV. Discussion

22. The Commission has reviewed Cheyenne Plains' filing as well as BP's protest and KCC's comments. The Commission finds that Cheyenne Plains has not shown its proposed FL&U reimbursement adjustments set forth on Eighth Revised Sheet No. 20 (Primary Case) to be just and reasonable, and the FL&U adjustments may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission suspends Cheyenne Plains' Primary Case tariff sheet for the period set forth below, subject to refund, the conditions discussed below, and further review and order of the Commission. Although we will not convene a technical conference at this time, the Commission directs Cheyenne Plains to file additional information, within 30 days of the date this order issues, addressing the protests and comments of the parties. Parties will have 20 days to comment on Cheyenne Plains' filing.[8]

23. Specifically, Cheyenne Plains should provide additional information fully explaining and detailing (1) the proposed allocation methodology it employed to create reports for operational purposes due to system balancing activities and due to fuel-related activities; (2) the extent to which Cheyenne Plains' fuel tracker incorporates accrued and imputed costs; (3) the "operational purchases" inconsistency that BP indentifies (discussed in P 18 above); and (4) why the Commission should continue to allow rolled-in fuel treatment for the Kirk Expansion Project facilities (i.e., a comparison of the revenue benefits of the project compared with the cost of fuel consumption associated with the project), addressing the concerns that BP raised.

24. The Commission's policy regarding rate suspensions is that rate 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 suspensions for the maximum period may lead to harsh and inequitable results. *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension). Such circumstances exist here where Cheyenne Plains' filing establishes new FL&U reimbursement percentages pursuant to an existing tariff provision. Therefore, the Commission shall exercise its discretion to suspend the rates to take effect on June 1, 2009, subject to refund, the conditions set forth in the body of this order and in the ordering paragraphs below, and further review and order.

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[8] We will not require Cheyenne Plains to file electronic spreadsheets at this time, as requested by BP. We may instead revisit the matter following Cheyenne Plains' responses to the information requests listed herein.

25. With regard to Cheyenne Plains' proposed Alternate Case, we reject Alternate Eighth Revised Sheet No. 20, which contravenes the May 30 Order. The proposed tariff sheet accompanying Cheyenne Plains' Alternate Case does not follow the Commission's requirements for Cheyenne Plains' implementation of its monetized true-up mechanism, as discussed in the May 30 Order.[9] In that order, the Commission conditioned its acceptance of Cheyenne Plains' cost/revenue true-up by requiring that "[p]urchases and sales for system balancing are to be *kept separate and must be recovered through the cash-out provisions and not through the fuel mechanism*."[10] The Commission also required Cheyenne Plains to file "annual updates that fully document purchases and sales of fuel gas volumes, and that distinguish purchases and sales for system balancing purposes and, if any, for providing flexibility under its various services."[11] The Commission held that such descriptions and workpapers must be sufficiently transparent to permit adequate review of activity under the true-up mechanism. Cheyenne Plains acknowledges that its Alternative Case tariff sheet combines its fuel-related imbalance costs and revenues and its shipper-related imbalance costs and revenues. Accordingly, the Commission rejects the Alternate Case tariff sheet as not in compliance with the May 30 Order.

The Commission orders:

(A) Eighth Revised Sheet No. 20 is accepted and suspended, effective June 1, 2009, subject to refund, the conditions set forth in the body of this order, and further review and order of the Commission.

(B) Cheyenne Plains must respond to the inquiries set forth in Paragraph 23 within 30 days of the date the order issues. Parties will have 20 days to respond.

(C) Alternate Eighth Revised Sheet No. 20 is rejected.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

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[9] May 30 Order, 123 FERC ¶ 61,227 at P 14 and n.11.

[10] *Id*. (emphasis added).

[11] *Id*.