

129 FERC ¶ 61,214
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Columbia Gulf Transmission Company

Docket Nos. RP10-134-000
RP09-423-000
RP09-423-002

ORDER ESTABLISHING TECHNICAL CONFERENCE

(Issued December 10, 2009)

1. On February 27, 2009, in Docket No. RP09-423-000, Columbia Gulf submitted its Annual Transportation Retainage Adjustment (TRA) filing (Annual TRA filing). Columbia Gulf requested waivers to permit a July 1, 2009 effective date, and later an August 1, 2009 effective date, instead of the tariff prescribed April 1 effective date to allow it to continue discussions with its customers regarding an alternative fuel retainage recovery mechanism. Unable to finalize an alternative fuel retainage recovery mechanism, Columbia Gulf filed revised tariff sheets on July 1, 2009 to implement revised retainage percentages. On July 30, 2009, the Commission accepted and suspended the tariff sheets filed on July 1, 2009, to be effective August 1, 2009, subject to refund and the outcome of a technical conference.¹
2. On November 9, 2009, Columbia Gulf filed *pro forma* tariff sheets² in Docket No. RP10-134-000 proposing as an alternative fuel retainage recovery mechanism an incentive fuel savings sharing program utilizing fixed fuel retention percentages (Incentive Fixed Fuel or IFF filing). Columbia Gulf proposes that the IFF mechanism replace Columbia Gulf's current TRA mechanism. Columbia Gulf has also conditioned its proposal on the Commission's acceptance, without modification or condition, of Columbia Gulf's July 1, 2009 filing in Docket No. RP09-423-002.

¹ *Columbia Gulf Transmission Co.*, 128 FERC ¶ 61,105 (2009) (July 31 Order).

² See Appendix for identification of the *pro forma* tariff sheets.

3. As discussed below, the Commission directs Commission Staff to convene a technical conference to address the issues raised by Columbia Gulf's filing in Docket No. RP10-134-000 and report the results of the conference to the Commission within 90 days of the date this order issues. Because this proceeding presents interrelated issues with the TRA filing in Docket Nos. RP09-423-000 and RP09-423-002, the technical conference will also consider the issues raised in those dockets that relate to the IFF proposal.

I. Background

4. Columbia Gulf currently recovers its system's fuel requirements (Company Use Gas or CUG) and lost and unaccounted for gas (LAUF) by retaining in-kind a percentage of gas tendered by customers. Section 33 of the General Terms and Conditions (GT&C) of Columbia Gulf's tariff requires it to make an annual filing, to be effective on April 1 of each year, to revise the retainage percentages through which it recovers its CUG and LAUF costs. The retainage percentages for each fuel zone include two components. The first component recovers the CUG and LAUF which Columbia Gulf projects it will incur during the twelve month period that the retainage percentages will be in effect. The second component, known as the unrecovered surcharge component, reflects the reconciliation of actual CUG and LAUF quantities in prior periods with quantities retained by Columbia Gulf.

5. The procedural history of Docket No. RP09-423 is described in detail in the Commission's July 30, 2009 Order and will not be repeated here.³ Briefly, on February 27, 2009, Columbia Gulf made its Annual TRA filing as required by section 33 of the GT&C of its tariff and proposed to increase its retainage rates. Columbia Gulf received waivers to defer the effective date of the proposed rates until July 1, 2009, and later August 1, 2009, due to on-going discussions with its customers about implementing an alternative fuel retainage recovery mechanism.⁴ Unable to finalize an alternative recovery mechanism, Columbia Gulf filed revised tariff sheets on July 1, 2009 in order to place into effect on August 1, 2009 retainage rates that were higher than the then-current rates, but lower than the retainage rates it proposed in its February 27 Annual TRA filing. The retainage rates in the July 1, 2009 filing were the same as the retainage rates proposed in its February 27 Annual TRA filing, less the unrecovered surcharge component of those rates. Columbia Gulf reserved its right to recover the unrecovered CUG and LAUF quantities in a future filing.

³ See July 31 Order, 128 FERC ¶ 61,105 at P 3-4.

⁴ See *Columbia Gulf Transmission Company*, Docket No. RP09-423-001 (June 10, 2009) (unpublished letter order).

6. Several parties filed either comments or protests to Columbia Gulf's July 1, 2009 TRA filing. Generally, these parties raised issues with the proposed retainage percentages; the amount of unrecovered CUG and LAUF quantities, in particular unrecovered LAUF quantities related to measurement anomalies occurring at the Leach and Means meter stations;⁵ and Columbia Gulf's right to recover in future filings the unrecovered quantities not included in the July 1, 2009 TRA filing, and any other unrecovered quantities. Columbia Gulf maintained that its proposed retainage rates are just and reasonable and its measurement technology complies with its tariff.

7. On July 31, 2009, the Commission accepted and suspended Columbia Gulf's reduced TRA rates, effective August 1, 2009, subject to refund and the outcome of a technical conference to discuss the issues raised by Columbia Gulf's TRA filing.⁶ Commission staff convened a technical conference on September 24, 2009 to discuss the issues raised by the protests to Columbia Gulf's July 1, 2009 TRA filing, as well explore the causes of the increased LAUF on Columbia Gulf's system and the steps it has taken to address the problem. Initial and Reply Comments were filed on October 8 and October 30, 2009, respectively. The commentors continued to object to Columbia Gulf's July 1, 2009 proposed TRA filing, raising objections similar to the protests raised earlier in the proceeding. The Commission has not yet issued a further order in that proceeding.

8. On November 9, 2009, Columbia Gulf filed revised tariff sheets in Docket No. RP10-134-000 proposing as an alternative retainage recovery mechanism, the Incentive Fixed Fuel mechanism. Columbia Gulf proposes that the Incentive Fixed Fuel mechanism replace Columbia Gulf's current TRA mechanism.

II. Details of Filing in Docket No. RP10-134-000

9. Columbia Gulf states that its Incentive Fixed Fuel proposal is a valuable and innovative approach to addressing fuel recovery, promoting fuel efficiency, and benefiting the environment. Columbia Gulf maintains that tracker mechanisms like its TRA mechanism do not encourage fuel efficiency or investment in substantial capital projects to reduce fuel. On the other hand, Columbia Gulf states that the incentives in the IFF program will compel it to undertake such extensive upgrades. Columbia Gulf projects that the total reduction in fuel after the identified qualified projects are placed in

⁵ Columbia Gulf delivers gas to Columbia Gas through its Leach and Means meters.

⁶ See July 31 Order, 128 FERC ¶ 61,105.

service is approximately 5.95 MMDth per year. Columbia Gulf states that its customers will receive 64 percent of these total projected savings or 3.808 MMDth per year.⁷

10. Specifically, Columbia Gulf proposes to file tariff sheets to revise section 33 of its GT&C to replace the TRA mechanism with the proposed IFF mechanism, and to incorporate the fixed rates described in its filing. Columbia Gulf states that its proposal consists of: (a) reduced fixed fuel rates; (b) a revenue sharing mechanism; (c) annual reports; (d) a seven year re-opener filing; and (e) Commission approval of various adjustments that are necessary for Columbia Gulf to more accurately reflect deliveries to Columbia Gas Transmission, LLC (Columbia Gas), its downstream affiliate.⁸

A. Description of IFF Proposal

1. Fixed Fuel Rates

11. Columbia Gulf states that its proposal would initially achieve fuel savings for shippers by immediately establishing fixed fuel retention percentages for its Mainline, Onshore and Offshore zones that are lower than the TRA rates proposed on July 1, 2009 in Docket No. RP09-423-002.⁹ Columbia Gulf states that the proposed rates provide shippers with rate certainty as to their in-kind fuel costs thereby allowing shippers to manage risk and plan their long-term strategies better. Columbia Gulf states that the fixed fuel rates are independent of Columbia Gulf's actual fuel requirement and that under the proposal it is solely at risk for any fuel under collection.

12. Under proposed section 33.6(a) of the GT&C, no later than seven years after the program's effective date, Columbia Gulf is required to make a limited section 4 filing under the Natural Gas Act (NGA) to replace, modify or retain the IFF mechanism (Re-Opener Filing). Further, under section 33.6(b) of the GT&C, Columbia Gulf and its shippers each have the right to seek at any time changes to section 33 or the fixed fuel rates pursuant to a NGA limited section 4 or general section 5 filing, respectively.

⁷ See Craig Chancellor Aff. at 11 (filed in support of Columbia Gulf's IFF filing).

⁸ As described further below, Columbia Gulf in its answer proposes to revise certain aspects of its proposal. Our description in the next section of Columbia Gulf's proposal takes into account such revisions.

⁹ Columbia Gulf claims that, assuming a \$5 price for natural gas, the IFF rates would equate to over \$19 million in annual customer savings when compared to the TRA rates proposed on July 1, 2009 in Docket No. RP09-423-002.

2. Revenue Sharing Provision

13. Columbia Gulf states that, in addition to an immediate rate reduction, the IFF proposal offers its customers opportunities to share in potential fuel savings achieved through Columbia Gulf's investment in capital projects (Qualified Capital Investments) targeted to increase fuel efficiency and reduce LAUF on its system.¹⁰ Columbia Gulf states that it plans to invest between \$85 million and \$125 million in such projects. Under the revenue sharing mechanism proposed in section 33.2 of the GT&C, for each annual period of the program, Columbia Gulf will calculate the difference between the gas provided by shippers for retainage and Columbia Gulf's actual CUG and LAUF for the same period (excess retainage). Columbia Gulf states that it will calculate the revenues it generates from the sales of excess retainage actually sold (excess retainage revenues)¹¹ and, if it receives excess retainage revenues above 50 percent of its cumulative gross capital investment in Qualified Capital Investments, Columbia Gulf's shippers will receive 40 percent of the amount above such threshold (shipper retainage revenues). Shipper retainage revenues will be increased or decreased by any positive or negative balance in Columbia Gulf's Unrecovered Retainage Quantities account on the day its TRA mechanism is terminated, until the balance of the Unrecovered Retainage Quantities account is zero.¹² Columbia Gulf will allocate the shipper retainage revenues to each shipper based on its pro rata share of the total CUG and LAUF retainage.

¹⁰ Proposed GT&C section 33.3 describes the types of projects that would be considered Qualified Capital Investments (e.g., new replacement engines/compressors that replace existing equipment and receipt and delivery meter replacements for improved measurement) as well as the projects that would be considered Non-Qualified Capital Investments and therefore, not used to determine revenue sharing (e.g., capital investments in facilities that are installed as part of an expansion or to increase capacity, facilities installed that would otherwise be considered normal maintenance, replacement of assets as a result of natural disasters, and assets in service prior to the effective date of the IFF program). Columbia Gulf states in its answer that in no case will an investment classified as Non-Qualified Capital Investment be considered a Qualified Capital Investment, and it is willing to revise its proposed tariff sheets accordingly.

¹¹ Under proposed section 33.2(b), Columbia Gulf is not required to sell excess retainage during any annual period; however, in its answer, Columbia Gulf states that it is willing to revise its proposal to require an auction at least once every three years. Columbia Gulf claims that the reason it is not required to sell excess gas is that it must retain discretion as to the timing of the sales in order to maximize the commodity price of such gas.

¹² Columbia Gulf states that under currently effective section 33.5(a) of the GT&C, if the TRA mechanism is terminated, shippers remain liable for any unrecovered
(continued...)

14. Columbia Gulf believes that its proposed 60/40 shared savings ratio is fair and reasonable given that Columbia Gulf has proposed to assume 100 percent of any losses resulting from the IFF program while it is in effect. Further, Columbia Gulf states it chose a 50 percent threshold because it creates an “incentive within an incentive” – the more it invests, the more it saves in fuel, and the more it saves in fuel, the more it and the shippers share in the rewards.¹³

15. Columbia Gulf states that it will not recover the costs of Qualified Capital Investments through its transportation rates while the IFF program is in effect. However, Columbia Gulf states that if the IFF program is terminated, it reserves the right to include the costs of Qualified Capital Investments or any other costs in its rates in future rate proceedings. According to Columbia Gulf, it must do so because it cannot afford the financial risk of not recovering the cost of these investments if the proposed IFF percentages are lowered to a level whereby no revenues are achievable to recover its qualified costs.¹⁴

16. Further, Columbia Gulf commits not to propose a tracker to capture any electric costs associated with the replacement of existing gas engines/compressors with electric compressors while the IFF program is in effect.¹⁵ Columbia Gulf states that this commitment does not apply to expansions of its system.

3. Annual Report

17. Columbia Gulf proposes to file a report within 60 days of the end of each annual period so that shippers and Commission Staff will be able to evaluate Columbia Gulf’s shipper retainage revenue calculations and monitor Columbia Gulf’s Qualified Capital Investments, CUG and LAUF. Columbia Gulf states that, in addition, shippers and the Commission will be able to monitor Columbia Gulf’s efforts to reduce fuel by reviewing

retainage quantities from the period that the TRA mechanism was in effect, and that the balance in the unrecovered retainage quantities account on the termination date of the TRA mechanism will be allocated to any successor services. Accordingly, as described above, Columbia Gulf proposes to allocate any account balance by reducing the revenues that would otherwise be distributed to shippers under the IFF mechanism, thereby ensuring Columbia Gulf has an opportunity to recover any unrecovered retainage quantities.

¹³ Columbia Gulf Transmittal Letter at 11.

¹⁴ *Id.* at 13.

¹⁵ *Id.*

Columbia Gulf's Annual FERC Form No. 2 filing. Columbia Gulf states that page 520 of FERC Form No. 2 will provide information on the amount of gas received from shippers as fuel and the amount used by Columbia Gulf, as well as LAUF. Columbia Gulf states that to the extent it sells any excess retainage, it will report those revenues in the Operational Purchases and Sales reports under section 41 of the GT&C of its tariff.

4. Re-Opener Filing

18. As previously mentioned, under proposed GT&C section 33.6, Columbia Gulf is required to make a NGA limited section 4 filing within seven years of the effective date of the IFF mechanism to replace, retain or modify the IFF mechanism and the IFF rates (Re-Opener Filing). Columbia Gulf states that the seven year timeline balances the need for Columbia Gulf to make its investments and commence receiving revenues from the IFF program, while also providing a reasonable time for the Commission and shippers to review the IFF mechanism. Columbia Gulf states that, in addition, during the period the IFF mechanism is in effect, Columbia Gulf and its shippers would each have the right to make changes to the program or the IFF rates at any time, Columbia Gulf through a limited section 4 filing and shippers through a section 5 filing.

5. OBA Adjustments Between Columbia Gulf and Columbia Gas

19. Columbia Gulf states that the proposed IFF program is being made subject to: (a) Commission approval of any Operational Balancing Agreement (OBA) adjustments that were included in its TRA proceeding in Docket No. RP09-423 and in the most recent fuel tracker (RAM) proceeding in Docket No. RP09-393 filed by its downstream affiliate Columbia Gas;¹⁶ (b) continuation of such adjustments between the companies while the IFF program is in effect; and (c) recovery of such OBA Adjustments in any RAM filing

¹⁶ On February 25, 2009, Columbia Gas submitted its annual Retainage Adjustment Mechanism (RAM) filing, as modified on March 9, 2009, to revise its fuel retainage percentages. On March 31, 2009, the Commission accepted and suspended Columbia Gas' proposed RAM rates, subject to further Commission review. *Columbia Gas Transmission, LLC*, 126 FERC ¶ 61,318 (2009) (March 31 Order). On April 9, 2009, Columbia Gas filed a revised tariff sheet and responses in compliance with the directive in the March 31 Order to respond to the issues raised by the protests regarding the prior period adjustments under the OBA between itself and Columbia Gulf, demonstrating that there is no double recovery of fuel between the two pipelines and that any prior period adjustments included in its RAM filing have not been collected through Columbia Gulf's tracker mechanism and a revised tariff sheet. On May 8, 2009, the Commission accepted the proposed tariff sheet, subject to further Commission action with respect to Columbia Gas' responses to the March 31, 2009 Order. *Columbia Gas Transmission, LLC*, Docket No. RP09-393-002 (May 9, 2009) (unpublished letter order).

that applies to the period in which the OBA adjustments were made. Columbia Gulf states that it relied upon the OBA adjustments in developing the proposed IFF rates.¹⁷

B. Consistency with Commission Policy

20. Columbia Gulf maintains that its IFF proposal is consistent with existing Commission policies that allow use of fixed fuel rates and permit incentives for infrastructure improvements.¹⁸ Further, Columbia Gulf maintains that its IFF proposal is consistent with the requirements for incentive rate programs articulated by the Commission in the Alternative Rate Design Policy Statement¹⁹ in that (a) efficiency gains from system upgrades would be shared with shippers through lowered fuel rates and the revenue sharing mechanism; (b) Columbia Gulf would provide performance standards by filing annual reports which will enable shippers and the Commission to ascertain the effectiveness of the IFF mechanism; and (c) the IFF mechanism will be subject to a re-opener filing no later than seven years from the effective date of the mechanism.

21. Columbia Gulf also maintains that its proposed IFF mechanism meets the general requirements and spirit of the Commission's policies regarding fuel incentives. However, Columbia Gulf states that its proposed IFF mechanism differs from the requirements the Commission imposed in *Texas Gas*²⁰ and *El Paso*.²¹ Columbia Gulf asserts that it cannot satisfy the requirement to provide a method for evaluating whether specific fuel savings achieved in a given period are attributable to the fuel reduction program because it does not believe it is possible to develop an acceptable and accurate

¹⁷ Columbia Gulf Transmittal Letter at 14.

¹⁸ *Id.* at 3 (citing *Fuel Retention Practices of Natural Gas Pipelines*, 125 FERC ¶ 61,213 at P 3 (2008) (*Fuel Retention Practices*); *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines, Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076, at 61,238 (1996) (*Alternative Rate Design Policy Statement*)).

¹⁹ Columbia Gulf states that those requirements include: (a) sharing with ratepayers efficiency gains from the program; (b) providing performance standards and a method for evaluating the proposal; and (c) providing a term during which the mechanism would be in place.

²⁰ Columbia Gulf Transmittal Letter at 5 (citing *Texas Gas Transmission, LLC*, 126 FERC ¶ 61,235 (2009)).

²¹ *Id.* (citing *El Paso Natural Gas Company*, 126 FERC ¶ 61,247 (2009)).

method of attributing actual fuel reductions to projects, given the operational complexities of its system and other variables that affect fuel use. Nevertheless, Columbia Gulf states that its proposal avoids the need for the evaluation requirement by immediately providing fuel savings to shippers through reductions in retainage rates, regardless of the actual savings achieved.

III. Public Notice, Intervention and Comments

22. Notice of Columbia Gulf's filing was issued on November 12, 2009. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2009). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2009), all timely-filed motions to intervene and any motions to intervene out-of-time 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. BG Energy Merchants, LLC (BG Energy), Duke Energy Utilities,²² Sempra Energy Trading LLC (Sempra), NiSource Distribution Companies,²³ Sequent Energy Management, L.P. (Sequent), J.P. Morgan Ventures Energy Corporation (J.P. Morgan), and Tennessee Valley Authority (TVA) filed comments. Protests were filed by the Associations,²⁴ Atmos Energy Corporation (Atmos), Baltimore Gas and Electric Company (Baltimore Gas), the Cities,²⁵ Orange and Rockland Utilities, Inc. (O&R), Piedmont Natural Gas Company, Inc. (Piedmont), and Washington Gas Light Company (Washington Gas). East Ohio Gas Company (Dominion East Ohio) filed a limited protest. Several parties requested that the Commission order a technical conference or hearing, or both, to discuss the issues raised by Columbia Gulf's IFF filing.

23. On December 4, 2009, Columbia Gulf filed an answer to the protests made in this proceeding. Under Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), answers to protests are prohibited unless otherwise ordered by the decisional authority. We will accept Columbia Gulf's answer because it provides information that will assist us in our decision-making process.

²² Duke Energy Utilities include Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc.

²³ NiSource Distribution Companies include Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., and Columbia Gas of Virginia, Inc.

²⁴ The Associations include the American Forest & Paper Association and the Process Gas Consumers Group.

²⁵ Cities include City of Charlottesville, Virginia and City of Richmond, Virginia.

A. Fixed Fuel Rates

24. Piedmont and Atmos Energy argue that the proposed fixed fuel rates are at the very high end of what a shipper could expect to pay for base fuel assuming a zero balance in the deferred account. Therefore, they argue, Columbia Gulf stands to receive a monetary gain when system throughput is less than its projections. Washington Gas states that the proposed fuel rate is seemingly more than adequate for Columbia Gulf's fuel needs and would not increase Columbia Gulf's overall risk.

B. Revenue Sharing Mechanism

25. Several parties raised issues with Columbia Gulf's revenue sharing mechanism. For various reasons, protestors believe the proposed sharing formula would not enable customers to receive a portion of revenues from Columbia Gulf's sale of excess retainage, and would result in Columbia Gulf over recovering on the Qualified Investments. Among other things, they think the sharing threshold (50 percent of Qualified Investments) is set too high, particularly taking into consideration the roughly \$70 million in compression investments Columbia Gulf could make.²⁶ They variously propose (a) a lower threshold or a different sharing formula for revenues exceeding the threshold, (b) excluding investments in meter replacements from the sharing formula, or (c) a delay in implementing the IFF program until the Leach and Means delivery point meter replacements have been performed and a new LAUF baseline is established from which to determine savings. Several protestors call for a cap on Columbia Gulf's recovery of revenues from the sales of excess retainage or request that Commission require Columbia Gulf to seek permission for expenditures above \$85 million and a process for reviewing such a request.

26. Washington Gas objects to the fact that the sharing formula would compare aggregate Qualified Investments to annual excess retainage. Washington Gas maintains these cost categories are mismatched, and cannot be validly compared. Several protestors are also concerned that Columbia Gulf could coordinate the timing of its investments with its sales of excess retainage to manipulate the monetary level of the 50 percent threshold to continually prevent the revenue sharing formula from being triggered.

27. In its answer, Columbia Gulf maintains that it must retain sole discretion as to when investments are made, but that it has the incentive to move quickly under the program due to extended lead times that are necessary before such investments will produce results.

²⁶ It is argued that the cost of compression upgrades will not be justified by the amount of fuel reductions they provide.

28. BGE asserts that the sharing formula insulates Columbia Gulf from any real possibility of risk, despite Columbia Gulf's claim that it is "solely at risk for any fuel under collection." Other protestors identified other aspects of the proposal that they believe could likewise reduce Columbia Gulf's risk of loss, for example how unrecovered fuel amounts existing when the TRA program terminates are handled and how Qualified Capital Investments will be depreciated.

29. Several parties raise objections regarding the nature of investments that would constitute Qualified Capital Investments under the proposed mechanism. Baltimore Gas argues that delivery meter replacements are necessary to bring Columbia Gulf into compliance with its tariff and do not warrant an incentive. Baltimore Gas notes that section 26.10(c) of the GT&C requires Columbia Gulf to make a measurement adjustment to zero error for any period in which previously recorded errors are greater than one percent. Baltimore Gas states that Columbia Gulf disclosed at the technical conference in Docket No. RP09-423-002 that the Leach A meters have recorded errors as high as 1.15 percent. Baltimore Gas believes an incentive should not be warranted for Columbia Gulf to take remedial measures that are required under its tariff.

30. Piedmont and Atmos believe that LAUF is a separate issue from fuel efficiency. Piedmont and Atmos maintain that improved measurement accuracy does not reduce fuel use or efficiency, and therefore capital investments in improved measurement should not be considered Qualified Capital Investments. Moreover, Piedmont and Atmos argue that Columbia Gulf's measurement problems can be corrected by mathematical adjustments to measured quantities at the interconnection with Columbia Gas. Sequent argues that because Columbia Gulf would make and recover capital expenditures under the program without a general rate review, it is critical that the Qualified Capital Investments be narrowly drawn to achieve fuel savings only. O&R asserts that upgrading the meters at Leach and Means, without Columbia Gas also upgrading its meters, would not increase fuel efficiency or produce environmental benefits. O&R maintains such upgrades at Leach and Means only would only transfer the same metering problem to Columbia Gas's system, so that customers shipping on both pipelines would pay the IFF incentive but have no reasonable basis to expect tangible benefits.

31. In reply, Columbia Gulf asserts that if its proposed sharing percentages are pared back below what is being proposed, the risk/reward calculation will be undermined. Similarly, Columbia Gulf states that there should be no cap on the revenues Columbia Gulf can receive under the proposed IFF mechanism. Columbia Gulf argues that given there is no floor – Columbia Gulf assumes all the downside risk – a cap on the upside would be inappropriate. Moreover, Columbia argues, the IFF mechanism contains other customer protections, such as the seven year reopener, the shared savings above a certain threshold, and the annual reporting process, that will provide both customers and the Commission ample opportunity to review the level of returns Columbia Gulf is making on its investments.

32. In response to the argument that measurement problems can be corrected by mathematical adjustments to measured quantities, Columbia Gulf claims that such adjustments are not long-term solutions because they have limited application and are based on assumptions that can change.

33. Finally, Columbia Gulf states in its answer that any losses on fuel will not be added to the rate base of future retainage rates.

C. Annual Reports

34. Sequent does not believe that the annual report offers sufficient protection for shippers in light of the term of the IFF mechanism and the limitations of the section 5 complaint process. Sequent believes that the Commission must augment the annual report with a structured annual review process consisting of a formal technical conference, coupled with formal auditing and general discovery rights.

D. Re-Opener Filing

35. Various parties express concern regarding the duration of the program, and how Columbia Gulf intends to recover the value of Qualified Capital Investments either at the end of a 7-year term or if the program is prematurely terminated by Columbia Gulf, or by the Commission. O&R proposes that if the proposal is implemented with a 50 percent sharing level, the Commission should expressly prohibit Columbia Gulf from seeking recovery of Qualified Capital Investment costs if Columbia Gulf unilaterally terminates the program prior to the Re-Opener Filing. However, if the Commission on its own motion or at the request of another party terminates the program, O&R proposes that such costs could be recovered in future rate proceedings. One protestor believes that 7 years may be too long a term for a novel mechanism that may prove to need adjustment. Another suggests a 5-year term, with any unrecovered Qualified Capital Investment costs to be recoverable only in a general NGA section 4 proceeding.

36. Baltimore Gas believes that under the proposal, Columbia Gulf's customers will be exposed to higher base rates if the pipeline does not have to write down the value of its investments in a future rate proceeding. BG Energy expresses a similar concern about Columbia Gulf's reservation of the right to include Qualified Capital Investments in its rates in future rate proceedings, particularly without a method for evaluating the relationship between investments and savings.

37. Columbia Gulf states in its answer states that a seven-year term is necessary in order for Columbia Gulf to have sufficient incentive to make investments of the magnitude contemplated to significantly reduce fuel use. Columbia Gulf maintains that a five-year term will cause several projects to fall out of the program

38. Columbia Gulf also states in its answer that it will not seek to include more than the depreciated net book value of Qualified Capital Investments in future rates. Columbia Gulf states that it is only reserving the right to seek inclusion of the assets in rate base, and is not asking the Commission to guarantee what assets and the costs to be included. Columbia Gulf contends that it is appropriate that it be allowed to seek to include in rate base, in a future proceeding, the undepreciated value of the investments at the expiration of the program because customers will be receiving a real benefit from the Qualified Capital Investments for the remaining useful live of these facilities.

E. OBA-Related Adjustments

39. Various parties are concerned about the potential effect of the IFF program on operational and gas accounting issues that arise from Columbia Gulf deliveries of gas to its downstream affiliate Columbia Gas, and how the program would affect shippers that transport on both systems. In particular, they are concerned about Columbia Gulf conditioning its proposal on the Commission's approval of prior period adjustments under an OBA that have been proposed by both companies in their latest fuel tracker filings. Among their stated concerns are that, for parties shipping on both systems, the proposed OBA adjustments would effectively reduce a portion of the imputed savings in the "immediate and upfront lowered fuel rates" that Columbia Gulf touts in its IFF proposal. Washington Gas asserts that procedures must be developed to review, prior to the IFF going into effect, the final OBA adjustment that Columbia Gulf and Columbia Gas intend to make. It also requests that the periodic reports to be filed by Columbia Gulf under the IFF program include a disclosure of OBA imbalances and adjustments at least between the two affiliates. The parties are also concerned that resolution of the LAUF measurement problem on Columbia Gulf's system would shift the problem to Columbia Gas's system.

F. Consistency with Commission Policy

40. Several protestors argue that Columbia Gulf's proposal should not be exempt from the Alternative Rate Design Policy Statement's requirement that incentive rate programs contain evaluation standards. The Associations and Baltimore Gas note the Commission's concern that without such standards, pipelines could share fuel savings produced by reasons other than capital investments.²⁷ Sequent believes the proposal's lack of an evaluation method focusing on gains from each project would make it difficult to determine whether the program is bettering fuel efficiency on the system compared with rates that would exist under the current TRA tracking mechanism. Consequently,

²⁷ Baltimore Gas Protest at 14-16 and The Associations Protest at 3-6 (citing *Texas Gas*, 126 FERC ¶ 61,235; *El Paso*, 126 FERC ¶ 61,247).

Sequent requests that Columbia Gulf include such a comparison analysis in its annual report that would be filed under the IFF program.

41. Finally, policy objections were lodged concerning the possibility that such a program would create a new profit center for pipelines, and undermine the traditional process by which the Commission establishes appropriate levels of recovery in a general rate proceeding under section 4 of the NGA.

42. Columbia Gulf states in its answer that in *Texas Gas* the Commission rejected the argument that pipelines should only be permitted to implement fuel incentive mechanisms in general section 4 rate cases and expressly allowed Texas Gas to file its fuel incentive mechanism pursuant to a limited section 4 filing.²⁸

IV. Discussion

43. In the notice terminating the Notice Of Inquiry concerning the Commission's policies on the in-kind recovery of fuel and lost and unaccounted-for gas by natural gas pipeline companies,²⁹ the Commission recognized that "the operation of the interstate pipeline system involves a significant amount of fuel use and lost and unaccounted for gas to deliver supplies to market," and "[f]uel gas charges now make up a greater percentage of the overall interstate transportation rate than they have in the past."³⁰ The Commission believed, as did many of the parties in that proceeding, that fuel savings incentive mechanisms could be helpful in ultimately reducing such fuel gas charges, and the Commission determined that case-by-case consideration of incentive proposals would assist in the development of the Commission's policies concerning pipelines' recovery of fuel costs. Here, Columbia Gulf has proposed a fuel savings incentive mechanism, the stated purpose of which is to reduce fuel costs on its system.

44. A number of parties either do not oppose the proposal or express general support while requesting clarifications or modifications to the proposal. Other parties protest the proposal and ask the Commission to reject it. While the proposal may have flaws as asserted in the protests and comments, the Commission believes that careful consideration of Columbia Gulf's proposal to implement an experimental incentive mechanism could assist in the development of the Commission's policies concerning

²⁸ Columbia Gulf Answer at 15-16 (citing *Texas Gas*, 126 FERC ¶ 61,235 at P 24).

²⁹ *Fuel Retention Practices of Natural Gas Companies*, 120 FERC ¶ 61,255 (2007).

³⁰ *Fuel Retention Practices of Natural Gas Companies*, 125 FERC ¶ 61,213, at P 12 (2008).

pipelines' recovery of their fuel costs. Therefore, the Commission is directing its staff to hold a technical conference to consider Columbia Gulf's IFF proposal and what changes, if any, might be necessary or appropriate. A technical conference will provide an appropriate forum to obtain responses to the questions raised by the parties and provide further information on Columbia Gulf's IFF proposal. Because Columbia Gulf's IFF proposal raises issues related to Columbia Gulf's TRA filing in Docket No. RP09-423-002, the technical conference will also consider the issues raised in that docket.

The Commission orders:

The Commission's staff is directed to convene a technical conference to address the issues raised by Columbia Gulf's filings in Docket Nos. RP09-423-000, RP09-423-002, and RP10-134-000 and report the results of the conference to the Commission within 90 days of the date this order issues.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

**Columbia Gulf Transmission Company
FERC Gas Tariff
Second Revised Volume No. 1
Docket No. RP10-134-000
Pro Forma Tariff Sheets**

Fifty-First Revised Sheet No. 18
Thirty-Eighth Revised Sheet No. 18A
Fifty-Second Revised Sheet No. 19
Eighth Revised Sheet No. 40
Fourth Revised Sheet No. 47
First Revised Sheet No. 47A
Seventh Revised Sheet No. 55A
Seventh Revised Sheet No. 63A
Tenth Revised Sheet No. 125
Fifth Revised Sheet No. 268
Fourth Revised Sheet No. 269
First Revised Sheet No. 270
Original Sheet No. 271