

130 FERC ¶ 61,091  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinohoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
and John R. Norris.

Wyoming Interstate Company, Ltd.

Docket No. RP09-148-003

ORDER ON COMPLIANCE FILING

(Issued February 4, 2010)

1. On November 9, 2009, Wyoming Interstate Company, Ltd. (WIC) filed *pro forma* tariff sheets<sup>1</sup> in response to the Commission's October 9, 2009 order, which found that the failure to provide reservation charge credits was unjust and unreasonable and directed WIC to file revisions to its tariff to provide credits when firm service is curtailed or show cause why it should not be required to do so.<sup>2</sup> In this order, we find that WIC's *pro forma* tariff sheets comply with the October 9 Order, subject to the conditions set forth in this order and that WIC's proposal, as modified herein, is just and reasonable. Accordingly, WIC is directed to file actual tariff sheets no later than May 1, 2010, consistent with this order.

**I. Background**

2. This proceeding began with a filing originally made by WIC on December 9, 2008, which addressed WIC's application and allocation of third-party charges. On June 11, 2009, the Commission accepted WIC's proposed tariff revisions, subject to conditions, and dismissed as beyond the scope of the proceeding a request from BP America Production Company and BP Energy Company (collectively, BP) to require WIC to provide reservation charge credits when the pipeline curtails firm service.<sup>3</sup> BP filed a request for rehearing of the June 11 Order to the extent that it did not address BP's request for the Commission to require WIC to provide curtailment credits. On October 9, 2009, the Commission granted rehearing of the June 11 Order, finding that WIC's tariff appeared to be contrary to the Commission's policy regarding the crediting of reservation

---

<sup>1</sup> *Pro Forma* Original Sheet Nos. 11C and 11D, and *Pro Forma* Second Revised Sheet No. 75 to WIC's FERC Gas Tariff Second Revised Volume No. 2.

<sup>2</sup> *Wyoming Interstate Co., Ltd.*, 129 FERC ¶ 61,022 (2009) (October 9 Order).

<sup>3</sup> *Wyoming Interstate Co., Ltd.*, 127 FERC ¶ 61,236 (2009) (June 11 Order).

charges when firm service is curtailed.<sup>4</sup> Accordingly, the Commission directed WIC to file revised tariff sheets that provide for reservation charge credits when firm service is curtailed, consistent with Commission policy. Alternatively, the October 9 Order directed WIC to show cause why it should not be required to file such tariff revisions.

## II. Details of Filing

3. In response to the October 9 Order, WIC filed *pro forma* tariff sheets on November 9, 2009, containing reservation charge crediting procedures applicable to *force majeure* and *non-force majeure* situations. For outages caused by *force majeure* situations, WIC proposes a reservation charge crediting mechanism that it claims provides for full reservation charge credits beginning 10 days after the declaration of a *force majeure* event. WIC states that mechanism is styled after the “Safe Harbor” reservation charge credit mechanism that the Commission has accepted in other proceedings.<sup>5</sup>

4. For outages caused by *non-force-majeure* situations, WIC proposed a reservation charge crediting mechanism that it claims provides full reservation charge credits for primary firm quantities that were nominated and confirmed but unable to be scheduled by WIC during the regular nomination cycles. WIC explained that its proposed mechanism provides that in the event that a shipper’s nominated and confirmed gas quantities are curtailed during one cycle and such quantities are scheduled in a later cycle, a reservation charge credit will not be due the shipper. WIC’s proposed tariff language includes the following provision, which describes the extent to which shippers would be due reservation charge credits in the event of a curtailment:

Subject to subsections (a) and (b) of this Section 4.16, if Transporter fails to schedule the nominated and confirmed quantities up to a Shipper’s MDQ by the end of the last nomination cycle in a Gas Day, Shipper shall receive a reservation charge adjustment unless such failure to schedule results from application of the scheduling priorities described

---

<sup>4</sup> October 9 Order, 129 FERC ¶ 61,022 at P 13.

<sup>5</sup> Wyoming Interstate Co., Ltd., November 9, 2009 Compliance Filing at 3 (citing *Texas Eastern Transmission Corp.*, 62 FERC ¶ 61,015, at 61,090, *order on reh’g*, 63 FERC ¶ 61,100, at 61,434 (1993); *Tuscarora Gas Transmission Co.*, 123 FERC ¶ 61,109, at P 11 (2008); *Natural Gas Pipeline Co.*, 102 FERC ¶ 61,326 (2003), *order on clarification and reh’g*, 108 FERC ¶ 61,170 (2004)).

in Article 7 of the General Terms and Conditions. A reservation charge adjustment will not be due Shipper on any quantities that are scheduled in a later cycle for that Gas Day.<sup>6</sup>

5. WIC states its proposed tariff revisions will require modifications to WIC's nominations and scheduling process, as well as its accounting processes. Therefore, it commits to file actual tariff sheets upon completion of these modifications, but no later than May 1, 2010.

### **III. Indicated Shipper's Protest**

6. 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 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. On November 23, 2009, Indicated Shippers<sup>7</sup> filed a protest.

7. In their protest, Indicated Shippers seek clarification in connection with the above-quoted language, which Indicated Shippers state could be read to bar a credit when WIC cuts a shipper's nomination but is available to schedule the cut nomination in a later cycle.<sup>8</sup> Indicated Shippers state that they agree that where a shipper submits a nomination and the pipeline initially cannot schedule all or part of the nomination, but the shipper re-submits the unscheduled portion of the nomination in a later cycle and WIC is able to schedule and flow that nomination, no curtailment credit should be due the shipper for volumes flowed. However, Indicated Shippers argue that to the extent that WIC intends the above-quoted language to mean that a shipper does not receive a

---

<sup>6</sup> Wyoming Interstate Co., Ltd., Gas Tariff, *Pro Forma* Second Revised Volume No. 1, Original Sheet No. 11C (emphasis added).

<sup>7</sup> The Indicated Shippers are BP America Production Company, BP Energy Company, and Marathon Oil Company.

<sup>8</sup> The nomination cycles are as follows:

Cycle 1 (Timely) – 11:45AM – effective 9:00AM of Gas Day

Cycle 2 (Evening) – 6:15PM – effective 9:00AM of Gas Day

Cycle 3 (Intraday 1) – 10:15AM – effective 5:00PM of Gas Day

Cycle 4 (Intraday 2) – 5:15PM – effective 9:00PM of Gas Day

curtailment credit if WIC is available to ship the gas during a later nomination cycle, even if the shipper does not re-submit its nomination during that later cycle, then the Commission should reject the proposal.

8. In other words, Indicated Shippers contend that shippers should not be required to continue nominating capacity through to the end of the gas day in order to receive curtailment credits. They argue that once a nomination is curtailed in the Timely initial nomination (Cycle 1), a shipper would likely need to make alternative arrangements on another pipeline, and it would not be able to utilize any later confirmed WIC capacity should it become available during a later cycle. Indicated Shippers contend that in such a situation, the shipper should receive a credit for the service curtailed in the Timely cycle. Indicated Shippers argue that the need for a shipper to turn to another pipeline is particularly compelling in the event that WIC curtails a nomination made during the Timely (Cycle 1) or Evening (Cycle 2) nomination cycles (which take place the day before the Gas Day), but is available to schedule the nominations during either of the Intraday cycles (Cycles 3 and 4) (which take place during the Gas Day when the gas nominated in the first two cycles is already flowing) because any capacity scheduled during those Intraday cycles would result in gas flowing for only a portion of the Gas Day.

9. Accordingly, Indicated Shippers argue that WIC should only be exempt from providing a curtailment credit for nominated quantities that it curtails if the shipper whose nomination was cut in an earlier nomination cycle decides to re-submit a nomination during a later cycle, and WIC is able to schedule the nomination during the later cycle and deliver the gas.

#### **IV. WIC's Answer**

10. On December 7, 2009, WIC filed an answer to Indicated Shippers' protest. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept WIC's answer because it has provided information that assisted us in our decision-making process.

11. In its answer, WIC requests that the Commission reject the protest and approve WIC's proposal with additional modifications. Specifically, WIC acknowledges that shippers may need to turn to other sources of supply and new markets, or possibly need to reach existing supplies and markets via alternative pipelines, if WIC is unable to schedule a shipper's firm nominations. Accordingly, WIC states that it is willing to modify its proposed language to provide that "reservation charge credits will be based on the quantity not scheduled up to a shipper's MDQ *at the close of Evening Nomination*

Cycle” (Cycle 2).<sup>9</sup> However, WIC states that if the shipper’s nominated and confirmed quantities at the end of final cycle (Cycle 4) increase above the shipper’s Evening cycle (Cycle 2) nominated, confirmed, and scheduled quantities, reservation charge credits will be based upon the shipper’s Evening cycle (Cycle 2) nominated, confirmed, and scheduled quantities at the end of Cycle 4.<sup>10</sup>

12. WIC argues that the requirement for shippers to nominate in the Timely and Evening Cycles is necessary to ensure that nominations reflect a shipper’s actual need for capacity. WIC contends that shippers who submit nominations merely to “earn” a credit rather than to request needed transportation service pervert the purpose of the credit and may also create a falsely full pipeline that results in harm to other shippers who truly need the pipeline capacity. WIC states that its proposal is designed to ensure that WIC provides credits only for the level of service shippers would have taken absent the pipeline outage.

13. WIC notes its agreement with Indicated Shippers that where a shipper re-submits a cut nomination in a later cycle, and WIC is able to schedule and flow the nomination during a later cycle, no curtailment credit would be due the shipper.

## V. Discussion

14. The Commission’s October 9 Order found that WIC’s tariff appeared to be contrary to the Commission’s policy regarding the crediting of reservation charges when firm service is curtailed, and it required WIC to file revised tariff sheets that provide for reservation charge credits, or show cause why it should not be required to do so. As described above, WIC required time to adjust its nomination, scheduling, and accounting processes, and filed *pro forma* tariff sheets providing for reservation charge credits. The Commission finds that WIC’s proposal, as revised by its answer and subject the condition articulated below, complies with the October 9 Order.

15. WIC’s originally proposed *pro forma* tariff language provides for full reservation charge credits only when a nominated amount was curtailed and the shipper continued to nominate that amount during the Timely and Evening cycles on the day prior to the Gas Day, as well as through the last Intraday cycle (Cycles 3 and 4) of the Gas Day itself. In response to Indicated Shippers’ protest, WIC refined its proposal in its answer, requiring that a shipper continue nominating its needed amount only through the Evening cycle in order to receive full reservation charge credits.

---

<sup>9</sup> Wyoming Interstate Co., Ltd., December 7, 2009 Answer at 4 (emphasis in original).

<sup>10</sup> *Id.*

16. As a general matter, we accept WIC's revised proposal to require a shipper to re-submit a nomination only through the Evening cycle in order to receive a reservation charge credit for service curtailed in the Timely cycle, rather than requiring a shipper to re-submit its nomination through the Intraday cycles (Cycles 3 and 4). WIC voices the reasonable concern that without such a requirement, shippers could game the nomination process during periods of scheduled or unscheduled maintenance. Requiring shippers to re-submit nominations in the Evening cycle in order to receive reservation credits for curtailed nominations should reduce the likelihood of any potential gaming.

17. However, WIC's proposed revision only partially answers Indicated Shippers' objection that a shipper, whose WIC nomination is curtailed and who then nominates on another pipeline, would be unreasonably denied reservation charge credits for the curtailed amount if WIC were later available to schedule and flow the curtailed amount and the shipper did not re-submit its nomination. When a shipper, whose nominated amount is curtailed by WIC in the Timely cycle, nominates on another pipeline so as to flow the WIC-curtailed volumes, it would be unreasonable for WIC to require that shipper to re-submit its nomination to WIC in the Evening cycle in order to claim a reservation credit. We therefore find that WIC's proposal needs to be modified to make clear that in the limited case where a shipper nominates on another pipeline after being curtailed by WIC, the shipper should receive reservation charge credits for the curtailed amount without having to re-submit a now unnecessary nomination to WIC in the Evening cycle. Consistent with both WIC and Indicated Shippers' positions, however, if the shipper subsequently uses more capacity on WIC in the Intraday cycles, its credits may appropriately be reduced.

18. In sum, we find that WIC's proposal, as modified in its answer, generally complies with the October 9 Order and the Commission's policy on the provision of curtailment credits, subject to WIC's clarifying that a shipper whose service is curtailed in the Timely cycle and who nominates on another pipeline as a result of WIC's curtailment, does not need to re-submit a nomination on WIC in the Evening cycle in order to receive reservation charge credits for the curtailed portion of the Timely nomination.

The Commission orders:

WIC is directed to file actual tariff sheets reflecting the language on the *pro forma* tariff sheets as revised by its answer, and also reflecting the additional condition and language discussed above, no later than May 1, 2010.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.