

130 FERC ¶ 61,142
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Wyoming Interstate Company, Ltd.

Docket No. RP10-337-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS
AND ESTABLISHING TECHNICAL CONFERENCE

(Issued February 25, 2010)

1. On January 28, 2010, Wyoming Interstate Company, Ltd. (WIC) filed tariff sheets¹ pursuant to section 4 of the Natural Gas Act (NGA) to revise its gas quality allocation procedures that WIC may implement when differing carbon dioxide or Btu standards on downstream pipelines cause reductions of deliveries. WIC proposes an effective date of March 1, 2010. As discussed below, the Commission will accept and suspend the proposed tariff sheets, to be effective August 1, 2010, or an earlier date set by subsequent Commission order, subject to conditions and the outcome of a technical conference.

Background

2. WIC states that it is responsible for maintaining gas quality specifications that facilitate safe and reliable system operations, and that other interstate pipelines may restrict or cease receipts into their pipeline in order to enforce their own gas quality specification requirements.² WIC indicates that the reduction may affect upstream shippers who transport natural gas across multiple interstate pipelines when downstream pipelines elect to restrict or cease receipts into their pipeline system to enforce the gas quality specification for carbon dioxide and Btu.³ In this filing, WIC states that it is

¹ Ninth Revised Sheet No. 72, and Fourth Revised Sheet No. 72A to WIC's FERC Gas Tariff, Second Revised Volume No. 2.

² See WIC transmittal at 2.

³ *Id.*

proposing certain gas quality allocation procedures intended to minimize flow reductions in accordance with the Gas Quality and Interchangeability Policy Statement.⁴ WIC states that its proposal will maximize available gas supplies and protect WIC's customers from being placed at a competitive disadvantage because of differing carbon dioxide or Btu gas quality specifications across the integrated pipeline grid, while allowing WIC to meet delivery specifications of interconnecting pipelines and maximize the supply on its system.

3. WIC proposes to reduce natural gas receipts beginning with the receipt source having the greatest variance from the applicable downstream gas quality specifications.⁵ If the first reduction does not solve the gas quality issues with the downstream pipeline, WIC will then reduce the receipt source with the next greatest variance and will continue reducing receipt sources until the downstream gas quality issues are resolved. WIC states that its proposed method of allocating for gas quality is similar to methodologies in other Commission-approved tariffs.⁶

4. WIC proposes to make a reasonable effort to notify receipt point operators by telephone and via the Electronic Bulletin Board (EBB) at the earliest time possible as to the action required to alleviate the downstream gas quality issue.⁷ Within two business days after resolving the gas quality problem, WIC will post to its EBB a description of the problem, the receipt point, the receipt point operator, the action required, the action taken, and the date and time that the problem was resolved.

Public Notice, Intervention and Comments

5. Notice of WIC's filing was issued on January 29, 2010. Interventions and protests were originally due on February 9, 2010, but that date was postponed to February 12,

⁴ *Natural Gas Interchangeability, Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Natural Gas Pipeline Company Tariffs* (Policy Statement), 115 FERC ¶ 61,325 (2006).

⁵ See WIC transmittal at 4.

⁶ See WIC transmittal at 4. Citing *Black Marlin Pipeline Company*, 88 FERC ¶ 61,132 (1999); Section 4.5 of the General Terms and Conditions of Kern River Gas Transmission Company's FERC Gas Tariff, Second Revised Volume No. 1; and Section 3.5 of the General Terms and Conditions of Northwest Pipeline GP's FERC Gas Tariff, Fourth Revised Volume No. 1.

⁷ See WIC transmittal at 4.

2010 because of weather-related government closures 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.

6. Protests or comments were filed by Independent Petroleum Association of America (IPAA), Copano Pipeline/Rocky Mountains, LLC and Copano Energy, L.L.C. (jointly Copano), Devon Energy Production Company, L.P. (Devon), Thunder Creek Gas Services, LLC (Thunder Creek), Yates Petroleum Corporation (Yates), Crestone Powder River, L.L.C. (Crestone), Wyoming Pipeline Authority (WPA), Anadarko Energy Services Company (AESC) and Western Gas Resources (WGR) filed a joint protest, and BP America Production Company, BP Energy Company, and Marathon Oil Company (collectively Indicated Shippers) filed a protest and request for clarification.

7. On February 19, 2010, WIC filed a motion for leave to answer and answer to the protests. We will accept WIC's answer because it provides information that assisted us in our decision-making process.

Discussion

8. WPA and Copano state that WIC's proposal violates the Commission's policy which has consistently rejected a "lowest common denominator" approach to gas quality specifications.⁸ WPA and Copano contend that WIC's approach would allow the downstream pipeline with the narrowest gas quality specification to dictate upstream pipelines' gas quality specifications. WPA contends that the effect of pushing back upstream the most restrictive gas quality specifications of any downstream pipeline is costly and inefficient. WPA states that WIC's example is oversimplified and bears no relationship to a pipeline's actual operating structure.⁹ WPA provides a counterexample showing specific complications that could arise from adding a single receipt point to WIC's example. WPA requests that WIC clarify the actions it would take in the situation presented in the WPA protest.¹⁰ Copano contends that although the Commission's Policy Statement states that it will consider the requirements of downstream pipelines, it has subsequently made clear that "to the extent the Commission approved gas quality

⁸ See WPA protest at 4.

⁹ *Id.*

¹⁰ See WPA protest at 5.

standards for downstream pipelines, those determinations were based on findings that the relevant standards were just and reasonable for those specific pipelines, and have no application to the upstream pipeline's system."¹¹

9. WPA, Yates, and Crestone contend that the actions WIC would take under the proposed procedures would be unpredictable, and the triggering events are impermissibly vague. WPA, Yates, and Crestone request the Commission reject WIC's proposal.¹² Instead of the WIC proposed prefatory phrase "[i]n the event that a downstream pipeline refuses to accept delivery of gas from Transporter for reasons related to [carbon dioxide] or Btu," WPA suggests different introductory language for proposed Section 10.8 as follows:

In the event that a downstream pipeline notifies WIC that the quality of gas tendered by WIC to that pipeline is not in compliance with the Btu content and/or [carbon dioxide] gas quality specification contained in the tariff of the receiving pipeline...

10. WPA states that this alternative language would provide shippers with a more explicit understanding of when the gas quality allocation requirements would be applied. WPA suggests that "reasons related to carbon dioxide or Btu" may encompass reasons unrelated to whether the gas met the specific carbon dioxide or Btu gas quality specifications of the downstream pipeline.¹³ Moreover, WPA contends that WIC's proposal does not provide shippers with adequate advance notice of the ultimate gas quality specifications that will be enforced by WIC. WPA argues that the proposed gas quality allocation procedures would allow WIC to impose after-the-fact gas quality standards different from those set forth in WIC's tariff.

11. WPA, Devon, and Yates suggest the cases cited by WIC do not support the proposed tariff changes.¹⁴ WPA contends that in *Gulf South Pipeline Company*,¹⁵ the

¹¹ See Copano protest at 9 citing *Gulf South Pipeline Company*, 120 FERC ¶ 61,076, at P 39 (2007); *Accord Natural Gas Pipeline Company of America*, 124 FERC ¶ 61,034, at P 85 (2008); *Indicated Shippers v. Columbia Gulf Transmission Co.*, 123 FERC ¶ 61,150, at P 45 (2008).

¹² See WPA protest at 5, Crestone protest at 6, and Yates Protest at 10.

¹³ See WPA protest at 6.

¹⁴ See WPA protest at 7, Devon protest at 3, and Yates protest at 7.

¹⁵ See *Gulf South Pipeline Co.*, 120 FERC ¶ 61,076 (2007) (*Gulf South*).

Commission rejected Gulf South's proposal because Gulf South "failed to provide record evidence to demonstrate that gas on its system has been, or would be, rejected by its downstream interconnecting pipelines."¹⁶ Indicated Shippers, WPA, Yates, and Devon assert that WIC has not demonstrated that gas on its system has been or will be rejected by downstream interconnecting pipelines and requests the Commission reject WIC's proposal. Devon contends that WIC presents no facts or evidence that any downstream pipeline has rejected or threatened to reject deliveries from WIC due to gas quality.¹⁷ In addition, Devon asserts that WIC has not presented evidence of any changes on its pipeline system, including changes in the volumes and relative quality of its gas supply and no imminent change that will precipitate rejections from downstream pipelines. Indicated Shippers contend that WIC's proposal would undermine the certainty that shippers need regarding a pipeline's gas quality standards.

12. WPA and Devon argue that WIC's proposal is fundamentally different from provisions the Commission accepted in *Black Marlin Pipeline Company*.¹⁸ WPA and Devon explain that shippers on Black Marlin are shut-in because they do not meet Black Marlin's approved gas quality specifications, not some other pipelines'.¹⁹ WPA points out that WIC's proposal is different in that it shuts in shippers who meet WIC's gas quality specifications, but may not meet downstream pipelines' gas quality specifications. WPA suggests that WIC should not be allowed to reject gas that meets the gas quality specifications that the Commission has found to be just and reasonable for WIC's system, where the shipper intends no delivery to a pipeline with specifications it cannot meet.²⁰

13. WPA, AESC, Indicated Shippers, and Copano argue that the precedent cited by WIC in its transmittal, specifically *White River Hub, LLC*,²¹ does not support WIC's proposal. WPA notes that under the White River Hub Tariff, a shipper's nomination of gas to a downstream pipeline that will not accept receipt of gas from the White River system based upon the downstream pipeline's own gas quality specifications will not be confirmed. WPA argues that this provision does not provide White River the authority

¹⁶ *Id.* at P 33 and 41.

¹⁷ *See* Devon protest at 4.

¹⁸ *See Black Marlin Pipeline Co.*, 88 FERC ¶ 61,174 (1999) (*Black Marlin*).

¹⁹ *See* WPA protest at 8, Devon protest at 4.

²⁰ *See* WPA protest at 8.

²¹ *See White River Hub LLC*, 116 FERC ¶ 61,132 (2008).

(as WIC's would) to reject the gas of other shippers who have not nominated gas to the particular downstream pipeline that is objecting to the quality of the commingled gas stream.

14. WPA, AESC, and Copano contend that none of the tariffs cited by WIC provide a mechanism to reject gas that conforms to the respective gas quality specifications of the individual pipeline to whom the gas is tendered, regardless of the nominated destination of the conforming gas.

15. Devon contends that the proposed curtailment procedures will not maximize supply, as WIC claims. Devon states that the proposed provision unnecessarily restricts access to current and future gas supplies without any commensurate system benefits.²² Devon argues that WIC's support for its proposal is limited to a hypothetical example using assumptions instead of actual information. Devon asserts that in order to maximize supply there must be an opportunity for each receipt point to determine if adjustments to allow the commingled stream to meet the more stringent requirements at the downstream delivery points without curtailing the entire point can be made.²³ Devon asserts that the proposal will result in a fluctuating gas quality standard for WIC's pipeline, inhibiting the development of coal bed methane supplies, which generally have higher carbon dioxide content than other reservoirs.²⁴ Devon argues that the consequence of tightening WIC's gas quality specification will reduce the economic life of Powder River coal bed methane gas wells, and cause the permanent loss of reserves.

16. Yates explains how the proposed tariff revisions would adversely affect Yates and other producers and gathering companies on WIC's Medicine Bow Lateral.²⁵ Yates explains that it has relied on WIC's existing gas quality specifications when structuring its operations. Because the coal bed methane produced in the Powder River Basin tends to have a higher concentration of carbon dioxide than conventional sources of natural gas,²⁶ Yates planned certain facilities that were constructed in consultation with WIC to treat its natural gas to the 3 percent carbon dioxide specification and the Gross Heating

²² See Devon protest at 6.

²³ *Id.*

²⁴ *Id.*

²⁵ See Yates Protest at 3.

²⁶ *Id.* at 4.

Value of not less than 950 Btu per cubic feet in WIC's tariff.²⁷ Given this background, Yates contends that all cost and risk associated with the proposed allocation procedure should not be borne exclusively by producers and gathering companies.²⁸ Yates contends that if it were determined that additional carbon dioxide extraction were needed, such increased capability would benefit the WIC system as a whole and may justify a broader allocation of costs. Yates argues that WIC should be required to absorb at least a share of the facilities costs in its future rates.

17. Crestone and Yates argue that WIC's proposal would create uncertainty as to when gas can flow on WIC's system, thereby interfering with existing commercial contracting practices and expectations.²⁹ Crestone claims that targeting only certain gas supplies for shut-in significantly devalues that gas because no downstream market, even those markets whose gas quality standards are below those of the subject supply, would be able to depend on that gas actually being available.³⁰

18. Devon and Copano assert that WIC's proposal is unjust and unduly discriminatory in application because it favors shippers of either lower carbon dioxide gas over shippers of higher carbon dioxide, or higher Btu content gas even though both meet WIC's gas quality provisions.³¹ Devon notes that WIC's parent company, El Paso Natural Gas Company, owns interests in several pipelines in the area, including several in the Cheyenne Hub area, and there is potential for abuse either by providing a competitive advantage to affiliate pipelines or by utilizing the curtailment to maximize WIC's investments in pipeline expansions.³²

19. Copano and AESC contend that WIC's proposal unduly discriminates against Medicine Bow Lateral Gas Supplies. Copano notes that suppliers of gas located off the Medicine Bow Lateral have paid higher charges for WIC transportation services to the Cheyenne Hub, on a per unit basis, than suppliers who ship gas to the Cheyenne Hub via

²⁷ *Id.* at 5 citing WIC's General Terms and Conditions sections 10.2 and 10.3(F) (Sheet No. 70).

²⁸ *Id.* at 10.

²⁹ *See* Yates protest at 4, and Crestone protest at 4.

³⁰ *See* Crestone protest at 6.

³¹ *See* Devon protest at 8, Copano protest at 8.

³² *See* Devon protest at 8.

the WIC mainline.³³ Copano and AESC state that WIC's system has always operated on an integrated basis and all supplies are subject to commingling with the gas of other shippers on the system and to changes in the gross heating value and other specifications that may result. Copano suggests WIC install treating equipment to boost the thermal content of the gas as needed and recover the costs of the additional facilities in its reservation rates.³⁴ AESC states that the Medicine Bow Lateral exports approximately 86 percent of the gas produced at the Powder River Basin. Under the proposed allocation procedures, AESC argues that the market would be deprived of supplies, placing upward pressure on gas prices and consumer costs.³⁵

20. AESC suggests that there may alternative measures available to mitigate gas quality concerns. AESC notes that in December 2009, WIC unilaterally implemented a piping modification that redirected gas flows on its system to address Btu gas quality concerns raised by Colorado Interstate Gas Company, a WIC affiliate. AESC claims that WIC's piping modification reduced blending of WIC Medicine Bow and WIC Mainline supply in order to increase the Btu level for Colorado Interstate Gas Company.³⁶ AESC requests the Commission require WIC to reverse the piping modifications made in December 2009, in order to allow blending of gas coming down the Medicine Bow Lateral and mitigate the gas quality issues on downstream systems.

21. Indicated Shippers suggest that WIC try to negotiate a resolution of the issues with the downstream pipeline, potentially including blending or processing by WIC, the downstream pipeline, and/or a third-party processor on behalf of either or both pipelines.³⁷ Indicated Shippers request that WIC consider seeking Commission authorization to change its gas quality standards only if these measures do not suffice. In the alternative, Indicated Shippers suggest a "Pro-Rata Approach" in which WIC would impose cuts across all of the pertinent receipt points, with a heavier weighting of the cuts at receipt points that deviate the most from the pertinent downstream pipeline gas quality standard.³⁸ Further, Indicated Shippers indicate that Southern Natural Gas Company uses

³³ Copano protest at 10 citing WIC's FERC Gas Tariff, Thirteenth Revised Sheet No. 4.

³⁴ *Id.* at 12.

³⁵ *See* AESC protest at 7.

³⁶ *Id.* at 8.

³⁷ *See* Indicated Shippers protest at 5.

³⁸ *Id.* at 7.

the “Pro-Rata Approach” in cutting receipts that do not satisfy Southern Natural Gas Company’s standard regarding hexanes and heavier hydrocarbons.

22. Indicated Shippers request that the Commission require WIC to adopt tolerance tiers so that there is an equal cut at receipt points where the gas quality is approximately equal.³⁹ Indicated Shippers contend that the tolerance tiers would mitigate inequities inherent in WIC’s proposal. Indicated Shippers note that the Commission recently required WIC to adopt tariff language that provides for a reservation charge credit if WIC curtails firm service.⁴⁰ Indicated Shippers therefore request that the Commission clarify that WIC should provide a reservation charge credit if receipts are cut due to a downstream pipeline’s gas quality requirement.

23. Notwithstanding its objections to the current proposal, WPA supports efforts to address the consequences of disparate gas quality specifications prevailing on the national pipeline grid. As a means to move forward, WPA and Crestone support a technical conference in this docket to address the issues raised by WIC’s filing. Thunder Creek adopts and incorporates by reference the arguments and positions presented by Devon and Yates in their motions to intervene and protests. AESC, Copano, Yates, Devon, Indicated Shippers, and Thunder Creek request the Commission reject WIC’s proposed tariff sheets or in the alternative suspend WIC’s tariff proposal for the maximum statutory period and establish a technical conference.

Answer

24. In its answer, WIC provides a factual history indicating that physical receipts on the Medicine Bow Lateral have increased causing escalating carbon dioxide levels and commensurately lower Btu levels in its comingled gas stream.⁴¹ WIC contends that previously gas quality issues were managed by blending the gas stream at the Cheyenne Hub high pressure pool. However, in late 2009, WIC contends that it become aware that its current blending procedures would not be a viable long-term solution to mitigate the comingled gas quality.⁴² Subsequently, WIC indicates that a piping modification was performed in December 2009 at its Dullknife Interconnect, located at the Cheyenne Hub,

³⁹ *Id.* at 11.

⁴⁰ See Indicated Shippers protest at 11 citing *Wyoming Interstate Company, Ltd.* 129 FERC ¶ 61,022, *order on compliance filing*, 130 FERC ¶ 61,091 (2010).

⁴¹ See WIC answer at 3.

⁴² *Id.* at 4 and Appendix A.

to allow for lower-Btu Medicine Bow receipts to be delivered directly to Trailblazer Pipeline Company, LLC (Trailblazer) which shares common carbon dioxide and Btu specifications with WIC's system.⁴³ WIC indicates that the other interconnecting pipeline, Colorado Interstate Gas Company (CIG), shares a carbon dioxide threshold of three percent; however the minimum specification for Gross Heating Value on CIG pipeline is 968 Btu per cubic foot compared with the shared Trailblazer and WIC threshold of 950 Btu per cubic foot.

25. WIC states that it is open to exploring other short-term and long-term options at a technical conference and believes an open discussion on alternative methods to address merchantability of the gas to downstream parties is appropriate.⁴⁴

Commission Determination

26. The Commission has reviewed WIC's tariff filing, as well as the comments and protests, and finds that WIC's proposed gas quality allocation procedures raise a number of technical, engineering, and operational issues that are best addressed at a technical conference. Accordingly, the Commission directs its staff to convene a technical conference to address the issues raised by WIC's filing and to report the results of the conference to the Commission within 120 days of the date this order issues. At the technical conference, Staff and all parties will have an opportunity to further discuss shippers' and the state agency's objections to, and WIC's justifications for, the proposed gas quality allocation procedures.

27. WIC should be prepared to address all concerns raised by the parties in their comments and to provide additional technical, engineering, and operational support for its proposed gas quality allocation procedures. Consistent with the Commission's Policy Statement, WIC should be prepared to explain how its proposal conforms with or differs from the Interim Guidelines and principles.⁴⁵ Further, WIC should be prepared to identify and discuss any existing gas quality waivers on its system, including how long those waivers have been in place. In addition, any party proposing alternatives to WIC's proposals should be prepared to support its position with adequate technical, engineering, and operational information.

⁴³ *Id.* at 4.

⁴⁴ *Id.* at 6.

⁴⁵ *See* Policy Statement at P 34 and 37.

Suspension

28. Based on a review of the filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept the tariff sheets for filing, and suspend their effectiveness for the maximum period to be effective August 1, 2010 or an earlier date set by subsequent Commission order, subject to the conditions in this order.

29. The Commission's policy regarding tariff filing suspensions is that such 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 suspension for the maximum period may lead to harsh and inequitable results. *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (minimum suspension). The Commission finds that such circumstances do not exist here. Therefore, the Commission will exercise its discretion and suspend the proposed tariff sheets for the maximum period and permit them to become effective August 1, 2010, subject to the outcome of the technical conference established herein and further orders of the Commission.

The Commission orders:

The tariff sheets listed above are accepted and suspended, to be effective August 1, 2010 or an earlier date set by subsequent Commission order, subject to the outcome of the technical conference established in this proceeding and further order of the Commission.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.