

131 FERC ¶ 61,085
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Colorado Interstate Gas Company

Docket No. RP08-104-001

ORDER ON REHEARING AND RECONSIDERATION

(Issued April 29, 2010)

1. On September 22, 2008, BP America Production Company and BP Energy Company (BP) filed a request for rehearing of the Commission's August 22, 2008 order in this proceeding.¹ For the reasons stated below, the Commission dismisses BP's request for rehearing, but on reconsideration of the August 2008 Order the Commission directs CIG to provide such workpapers that it has, showing separately the component elements of its filing.

I. Background

2. On November 30, 2007, Colorado Interstate Gas Company (CIG) filed workpapers to fulfill its quarterly tariff filing requirement for lost, unaccounted-for (L&U) and other fuel gas (together, LUF), and to validate and continue the existing zero reimbursement percentage for LUF as provided for in its tariff. In response to CIG's filing, Indicated Shippers² filed a protest and request for additional information. Indicated Shippers stated that CIG identified LUF as a single number but did not separately identify the amount of L&U and the amount of other fuel gas. Indicated Shippers argued that other fuel gas should be separately identified in CIG's quarterly fuel filing to allow the Commission and interested shippers to verify each component of the LUF adjustment, and any changes in L&U and other fuel gas.

3. In a December 20, 2007 answer to the protest, CIG argued that its tariff does not require it to state L&U separately from other fuel gas, and that it had provided the same level of detail as it had in prior quarterly LUF filings. Additionally, CIG asserted that,

¹ *Colorado Interstate Gas Co.*, 124 FERC ¶ 61,177 (2008) (August 2008 Order).

² The Indicated Shippers are BP America Production Company, BP Energy Company and Marathon Oil Company.

because CIG's tariff does not require it to calculate separate components for L&U and other fuel gas, to the extent the Commission believes CIG must calculate separate components of the LUF reimbursement percentage the Commission may only do so prospectively under section 5 of the Natural Gas Act.

4. In the August 2008 Order, the Commission found that CIG calculated the LUF reimbursement percentage in accordance with the formula provided in its tariff,³ and did not direct CIG to provide greater workpaper detail to justify its quarterly LUF adjustment. The Commission thus denied Indicated Shippers' request for workpapers separately identifying L&U and other gas, and the subject rehearing request followed.

II. Rehearing Request

5. On September 22, 2008, BP filed its request for rehearing of the August 2008 Order, and on October 17, 2008, CIG filed an answer to the request for rehearing.

6. On rehearing, BP argues that the Commission erred by failing to require CIG to revise its tariff to require that CIG's fuel filings separately state its L&U quantities. BP argues that such disclosure is needed to allow the Commission and shippers to review changes in CIG's L&U quantities and to compare CIG's L&U quantities with those of other comparable pipelines to determine if there may be a problem with CIG's operations that is causing excessive L&U.⁴ BP adds that when a fuel filing discloses a spike in a pipeline's L&U, the Commission requires the pipeline to explain the cause of the L&U increase, and the Commission often requires the pipeline to initiate an investigation to determine the cause of the L&U increase. BP states that these investigations reveal problems in a pipeline's metering, accounting or other practice and that the pipeline can then fix the problems, reducing L&U and, in turn, reducing costs to shippers. BP argues that the duty to disclose L&U has resulted in significant improvements in pipeline operations to address problems that have caused L&U.⁵

7. BP argues that because CIG's filings reflect only the aggregate LUF quantities, a large increase in L&U would be muted (i.e., offset by a decrease in other fuel).⁶ BP

³ See August 2008 Order at 8.

⁴ BP Request for Rehearing at 2.

⁵ BP describes investigations conducted on the L&U levels of three pipelines. See *id.* at 3-5 (citing *Columbia Gulf Transmission Co.*, 123 FERC ¶ 61,216 (2008); *Crossroads Pipeline Co.*, 119 FERC ¶ 61,221, *order on technical conference*, 121 FERC ¶ 61,249 (2007); *Wyoming Interstate Company, Ltd.*, 101 FERC ¶ 61,255 (2002)).

⁶ BP Request for Rehearing at 5.

argues that it is impossible to evaluate whether CIG's L&U quantities are at a reasonable level or to detect increases in L&U. BP contends that as a result, there is no way to determine if there may be problems with CIG's operations that are causing excessive L&U.

8. BP also argues that some types of gas losses, such as those resulting from the pipeline's negligence or those that are not associated with normal pipeline operations, are not recoverable via CIG's fuel tracker. BP asserts that absent a requirement that CIG separately disclose L&U, the Commission might not be able to detect an increase in L&U that includes gas losses that are not recoverable via the fuel tracker. BP adds that because the CIG and its corporate affiliate Wyoming Interstate Company, Ltd. (WIC) are operated in tandem, fully integrated and reliant upon each other, a significant change in L&U in a CIG fuel tracker filing may indicate a change in the way L&U is allocated between the CIG and WIC pipeline systems.⁷

9. In addition, BP states that CIG has been expanding its system to accommodate the growth in gas production and demand in the Rocky Mountain region and that many of these expansions involve the roll-in of the expansion L&U with the L&U of the existing system. BP argues that disclosure of L&U will ensure that any increase in L&U caused by new facilities can be readily identified and addressed.

10. BP adds that the Commission should require CIG to identify in its fuel filings any discrete gas loss event on its system that is reflected in its L&U. BP states that some pipelines have failed to disclose gas loss events, which impairs the ability of parties to evaluate whether the pipeline should be able to recover the related gas loss quantities.⁸

III. Procedural Matters

11. Rule 713(d)(1) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d)(1) (2009), prohibits answers to a request for rehearing. Therefore, we will reject CIG's answer to the request for rehearing.

12. We find that the BP's rehearing request is also procedurally deficient because it fails to include a Statement of Issues section separate from its arguments, as required by Rule 713 of the Commission's Rules of Practice and Procedure.⁹ Rule 713(c)(2) requires

⁷ *See id.* at 5-6.

⁸ *Id.* at 6.

⁹ 18 C.F.R. § 385.713(c)(2) (2009). *Revision of Rules of Practice and Procedure Regarding Issue Identification*, Order No. 663, FERC Stats. & Regs. ¶ 31,193 (2005), *order on reh'g*, Order No. 663-A, FERC Stats. & Regs. ¶ 31,211 (2006).

that a rehearing request include a separate section entitled “Statement of Issues” listing each issue presented to the Commission in a separately enumerated paragraph that includes representative Commission and court precedent on which the participant is relying.¹⁰ Under Rule 713, any issue not so listed will be deemed waived. Accordingly, we will dismiss BP’s rehearing request on procedural grounds.¹¹ However, because it raises an issue that warrants clarification—whether a tariff revision is required before the Commission may require more ample workpaper support for CIG’s LUF filings than the Commission has requested for prior LUF filings—the Commission is treating the rehearing request as a petition for reconsideration of the August 2008 Order, in order to address this issue.

IV. Discussion

13. As the Commission stated in the August 2008 Order, section 42.2 of CIG’s tariff details how CIG derives the LUF reimbursement percentage but does not require CIG to list L&U and other fuel gas separately. This is not to say that the current tariff bars the Commission from requiring workpapers and full support for the derivation of each input to CIG’s LUF filings. Plainly, in order to prepare accurate LUF filings, CIG must have data on both “L&U” and “other fuel gas,” which together comprise the LUF reimbursement it is requesting from shippers. It is CIG’s burden under section 4 of the Natural Gas Act to fully support its filing to whatever level of granularity the Commission may direct. The fact that the Commission may not have heretofore required full workpaper support for each LUF filing does not bar the Commission for seeking such data when it determines this is appropriate. Moreover, this does not necessarily require a revision in the LUF tariff provisions. Rather, seeking adequate supporting data (in this case showing the discrete L&U and “other fuel” inputs to the LUF) is accomplished pursuant to the agency’s NGA authority at sections 4 and 16, and does not require a tariff revision pursuant to NGA section 5. Under NGA section 4 the burden of proof is on the natural gas company to support the justness and reasonableness of its charge, and section 16 authorizes the Commission to prescribe the form of reports and information it may

¹⁰ As explained in Order No. 663, the purpose of this requirement is to benefit all participants in a proceeding by ensuring that the filer, the Commission, and all other participants understand the issues raised by the filer, and to enable the Commission to respond to these issues. Having a clearly articulated Statement of Issues ensures that issues are properly raised before the Commission and avoids the waste of time and resources involved in litigating appeals regarding which the courts of appeals lack jurisdiction because the issues on appeal were not clearly identified before the Commission. *See* Order No. 663, FERC Stats. & Regs. ¶ 31,193 at P 3-4.

¹¹ *See, e.g., Grand Traverse County, City of Traverse City, Michigan*, 126 FERC ¶ 61,224 (2009); *Entergy Servs.*, 122 FERC ¶ 61,059 (2008).

require to implement the NGA. The Commission has codified these information requirements in its regulations, and it is clear the company must maintain workpapers sufficient to support a filing, including a limited section 4 fuel adjustment under a pipeline's tariff.¹²

14. Therefore, while we dismiss BP's rehearing request, including its request for a tariff revision, the Commission upon reconsideration of the August 2008 Order, finds that given the variability in lost and unaccounted for gas volumes, as well as "other fuel" processing amounts, the need for transparency in CIG's LUF filings has increased, so that shippers and the Commission may require more supporting detail in order to identify problems early and remedy them quickly. CIG itself appears to have recognized the value and need for such transparency. In response to Indicated Shippers' protest of its November 30, 2007 filing, while CIG argued that its tariff does not require it to calculate separate components for L&U and other fuel gas, it also stated that:

Although CIG opposes any re-filing of its November 30 quarterly filing or actually having separately stated amounts in its Tariff for "Lost and Unaccounted For Gas" and "Other Fuel Gas," CIG continues to seek improvements in the information and detail it provides in its quarterly filings. CIG is willing to provide additional information in its workpapers for "Lost and Unaccounted For Gas" and "Other Fuel Gas" in future quarterly filings. CIG thus proposes to include additional information for those requested categories in its next quarterly filing. Shippers will be able to review and comment on the filing, including comments as to whether the additional specific detail is warranted.¹³

15. The Commission finds that CIG, to the extent it has workpapers separately identifying the L&U and "other fuel gas" inputs to its subject LUF adjustment, should provide this additional information by filing it with the Commission within 30 days of the date of this order. The Commission finds that no revision of the tariff is needed in order to facilitate production of this information. In sum, the Commission is not requiring the re-filing of the subject LUF adjustment, simply further workpapers in support of it. The Commission also appreciates CIG's offer to include this additional information in its future quarterly filings so that the Commission and shippers can track L&U separately from other fuel gas, without the need for extensive process and multiple orders.

¹² See 18 C.F.R. § 154.314(a) (2009).

¹³ CIG December 20, 2007 Answer at 4.

The Commission orders:

(A) BP's request for rehearing is hereby dismissed, as discussed in the body of this order.

(B) CIG shall file, within 30 days of this order, the additional supporting information delineating the component derivation of its LUF adjustment, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.