132 FERC ¶ 61,109
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 6, 2010

In Reply Refer To:
Columbia Gas Transmission, LLC
Docket Nos. RP00-327-008 and RP00-604-008

Columbia Gas Transmission, LLC
5151 San Felipe, Suite 500
Houston, Texas 77056

Attention: James R. Downs,
Director of Regulatory Affairs

Reference: Compliance Filing - Segmentation Report

1. On October 30, 2009, Columbia Gas Transmission, LLC (Columbia) filed a segmentation report (2009 Segmentation Report) in compliance with the Commission's August 18, 2009 order (August 2009 Order)[1] in this proceeding. The August 2009 Order conditionally accepted Columbia's segmentation report for the initial twelve months of operations of its virtual Segmentation Pool for shippers to segment their firm capacity and directed Columbia to file a detailed: (1) updated 2009 Segmentation Report covering the initial 12 months (August 1, 2008 through July 31, 2009) of Navigates, Columbia's new Electronic Bulletin Board (EBB) system; and (2) description of any system developments that modified or could modify the operational characteristics of Columbia's system and their impact on segmentation. As discussed below, the Commission accepts the 2009 Segmentation Report.

[1] *Columbia Gas Transmission Corp.*, 128 FERC ¶ 61,166 (2009).

2. The Commission, in Order No. 637[2] required pipelines to permit a shipper to use its contracted firm capacity by segmenting that capacity into separate parts for its own use or for releasing segmented capacity to replacement shippers to the extent such segmentation is operationally feasible. Columbia maintained, in its filing to comply with Order No. 637, that it was operationally infeasible to implement physical segmentation on its system, proposing instead a virtual segmentation pool (Segmentation Pool). The Segmentation Pool permits shippers under Rate Schedules FTS (Firm Transportation Service), NTS (No Notice Service), SST (Storage Service Transportation), and OPT (Off-Peak Firm Transportation Service) to segment their existing transportation agreements into separate Supply Segment and Market Segment contracts. The Supply Segment contract provides for transportation from a primary and/or secondary receipt point(s) to the Segmentation Pool on a secondary basis. The Market Segment contract provides for transportation from the Segmentation Pool on a secondary basis to a primary and/or secondary delivery point(s). The gas to be transported from the Segmentation Pool must be equal to the amount of gas supply from transportation to the Segmentation Pool and/or from inventory transfers. As a result, the Segmentation Pool must be kept in balance on a daily basis and within each nomination cycle. The Segmentation Pool is considered a secondary point for nominations and scheduling, and shippers have the right to transport gas into and out of the Segmentation Pool on a secondary firm basis. Shippers are allowed under Rate Schedules FSS (Firm Storage Service) and FBS (Firm Balancing Service) to make storage withdrawals and transport the gas to the Segmentation Pool. In its July 19, 2002 order, the Commission found that Columbia's segmentation pooling approach was reasonable based on the operational characteristics of Columbia's reticulated system, and required Columbia to file a segmentation report on the first year of its operations.[3]

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[2] *Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637, FERC Stats. & Regs. ¶ 31,091, at 31,317 (Order No. 637), *clarified*, Order No. 637-A, FERC Stats. & Regs. ¶ 31,099 (Order No. 637-A), *reh'g denied*, Order No. 637-B, 92 FERC ¶ 61,062 (2000), *aff'd in part and remanded in part sub nom. Interstate Natural Gas Ass'n of America v. FERC*, 285 F.3d 18 (D.C. Cir. 2002), *order on remand*, 101 FERC ¶ 61,127 (2002), *order on reh'g*, 106 FERC ¶ 61,088 (2004), *aff'd sub nom. American Gas Ass'n v. FERC*, 428 F.3d 255 (D.C. Cir. 2005).

[3] *Columbia Gas Transmission Corp.*, 100 FERC ¶ 61,084 at P 51 (2002) (July 19 Order), *order on reh'g and clarification*, 104 FERC ¶ 61,168 (2003).

3. On June 1, 2005, Columbia filed an initial Segmentation Report on its first year of segmentation in compliance with the Commission's July 19 Order (2005 Segmentation Report). Columbia explained that during the first year of segmentation, all 285 requests for segmentation were approved in an instantaneous manner and that physical segmentation continued not to be operationally feasible on it system. After Columbia filed the initial segmentation report, it held discussions with its customers concerning possible modifications to its tariff provisions concerning segmentation, but subsequently Columbia reported that the discussions had not achieved any consensus. In addition, Columbia made numerous tariff and service revisions in preparation for its implementation of Navigates on August 1, 2008. The August 2009 Order conditionally accepted Columbia's initial Segmentation Report. However, the Commission stated that the tariff and service revisions related to the implementation of Navigates may have changed Columbia's operational characteristics. Therefore, the Commission directed Columbia to file on or before November 1, 2009, a segmentation report covering the first twelve months after Columbia's August 1, 2008 implementation of Navigates, and include a description of any operational changes and their impact on the implementation of segmentation on Columbia's system.[4]

4. On October 30, 2009, Columbia filed its 2009 Segmentation Report for the period August 2008 through July 2009. Columbia states that it received 521 segmentation requests which were approved immediately, representing almost twice as many segmentation requests as during the first year of implementation. Columbia explains that there have been no changes in its operational characteristics that would affect its ability to offer segmentation based on physical paths. Columbia contends that the number of segmentation contracts indicates that its segmentation pooling program is an effective program that continues to be the most just and reasonable method of implementing segmentation on its system.

5. Columbia states that it has identified one administrative issue arising from its implementation of Navigates. Columbia explains that when a shipper segments a service agreement, two contracts are created: (1) the Supply Segment contract (from receipt point to the Segmentation Pool); and (2) the Market Segment contract (from the Segmentation Pool to the delivery point). Columbia states that, under section 40.1(a) of the General Terms and Conditions (GT&C) of Columbia's tariff, shippers nominating on their Supply Segment contracts are not subject to retainage charges, and retainage is assessed only on deliveries from the Segmentation Pool to the shipper's delivery point. Columbia collects retainage at the receipt point under the Market Segment contract. Columbia further states that, accordingly, Navigates was programmed so that the

[4] August 2009 Order, 128 FERC ¶ 61,166 at P 20.

retainage portion of nominations into the Segmentation Pool under the Supply Segment contract were treated as overruns of the shipper's Transportation Demand (TD), since there is no retainage applicable to the Supply Segment contract. Columbia states that it will return to its prior practice of allowing shippers to "gross-up" their nominations on their Supply Segment contracts to include retainage that is collected on the Market Segment. Columbia contends that allowing shippers to "gross-up" their nominations will ensure that shippers are able to transport their full TD from the Market Segment to their delivery point.

6. Columbia also states that it will no longer accept nominations into the Segmentation Pool that exceed the TD of the segmented contract. Columbia explains that since it first implemented segmentation it has allowed deliveries into the Segmentation Pool that have exceeded the TD set forth in the Supply Segment contract, permitting transportation of gas in excess of TD on a firm basis at no charge. Columbia asserts that General Terms and Conditions (GT&C) sections 40.1(a) and 40.1(b) limit the TD on the Supply Segment and the Market Segment Contracts to the available TD on the firm transportation service agreement being segmented, but it has not enforced these provisions. Columbia states that it has allowed deliveries into the Segmentation Pool that have exceeded the TD in the Supply Segment Contract, and shippers have had the right to transport their full remaining TD on their underlying service agreement as primary firm capacity. Columbia asserts that, since it does not assess overruns, this practice has, in effect, allowed shippers to transport gas in excess of their TD on a firm basis at no charge.

7. Public notice of Columbia's 2009 Segmentation Report was issued on November 10, 2009, requiring protests to be filed in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.211(2010)). Independent Oil & Gas Association of West Virginia, Inc. (IOGA) filed comments in support of the "gross up" of retainage charges. Comments were also filed by Indicated Shippers.[5] Columbia filed an answer to Indicated Shippers' comments.[6]

[5] Indicated Shippers consist of: BP Energy Company and BP America Production Company; Delta Energy, LLC; Hess Corporation; and Interstate Gas Supply, Inc.

[6] The Commission's Rules of Practice and Procedure do not permit answers to protests (18 C.F.R. § 385.213(a)(2) (2010)). However, the Commission finds good cause to admit Columbia's answer since it will not delay the proceeding, will assist the Commission in understanding the issues raised, and will insure a complete record on which the Commission may act.

8. Indicated Shippers request that the Commission clarify that Columbia's shippers are permitted to: (1) aggregate their TD under all of their firm transportation agreements, including contracts for services under different firm rate schedules, with Columbia under a single contractual entitlement for the purposes of entering into Supply and/or Market Segment Agreements; and (2) make Segmentation Pool inventory transfers that exceed the TD of the segmented contracts.

9. Indicated Shippers assert that Columbia provides virtual segmentation comparable to paper pooling which, unlike physical pooling, does not present any concern regarding overlapping physical nominations that exceed mainline capacity. Indicated Shippers also contend that Columbia's statement that it will no longer accept nominations into the Segmentation Pool that exceed the TD of a segmented contract is a significant departure from its longstanding practice of accepting such nominations. Indicated Shippers nonetheless state that they do not object in principle to this change. However, they are concerned that this change could impose unnecessary burdens on shippers depending on how Columbia intends to implement this new practice. Therefore, Indicated Shippers request that the Commission direct Columbia to clarify that it will permit shippers to aggregate their firm TD's under multiple contracts for segmentation purposes.

10. Indicated Shippers contend that, while section 40 of Columbia's GT&C clearly provides that the firm shipper's ability to segment a single contract is limited to the TD of the underlying contract being segmented, the tariff is less clear regarding the segmentation rights of a shipper with multiple firm contracts. Indicated Shippers point out that section 2(e) of Rate Schedule FTS provides that a shipper can combine service agreements under that rate schedule into a single service agreement with different termination dates for specified volumes of TD.[7] Indicated Shippers request clarification that a shipper using the master agreement provision of the FTS rate schedule can treat the combined agreements as a single contract for segmentation purposes, and enter into a Supply Segment or Market Segment contract for the aggregated TD of all the firm contracts under its master agreement. Indicated Shippers further assert that a shipper with multiple contracts should be able to aggregate the TD under all those contracts for purposes of segmentation, even in the absence of a master agreement.[8]

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[7] See, e.g., Rate Schedule FTS, section 2(e) which provides that Columbia and a shipper may mutually agree to combine the service agreements under that rate schedule into a single FTS service agreement with different termination dates for specified volumes of TD if the rates, terms, and conditions are distinctly maintained and not altered.

[8] Indicated Shippers contend that many firm shippers may contract for firm capacity on a short-term basis making the master agreement impractical.

11. Indicated Shippers assert that not allowing the aggregation of TDs for segmentation in these circumstances would be needlessly burdensome and potentially unworkable since the shipper would be required to establish separate Supply Segment and Market Segment contracts, including contracts for multiple receipt or delivery points, and to schedule each contract separately. Indicated Shippers further assert that, since each Segmentation Pool must be in balance in each nomination cycle and on a daily basis, requiring firm shippers to schedule and balance multiple pools with separate Supply and Market Area segmentation contracts for each contract will impose burdens on both Columbia and its shippers, endangering the continuation of the robust Segmentation Pool market. Indicated Shippers contend that Columbia does not identify any operational problem that would warrant imposition of such a burdensome process and that Columbia's tariff can be interpreted to permit this. Indicated Shippers further contend that use of the singular "contractual entitlement" in GT&C section 40.1 implies aggregation of capacity under multiple agreements and the reference to "firm transportation agreement being segmented" while stated in the singular in sections 40.1(a) and (b), does not contradict the more general intent stated in section 40.1 and is most logically construed as subordinate to the reference to the broader "contractual entitlement" concept. Indicated Shippers assert that the fact that a shipper has not entered into a master agreement should be immaterial and that the level of any firm shipper's aggregate TD quantity should be readily available to Columbia. Indicated Shippers further argue that Columbia should permit aggregation of firm TD under contacts under different firm rate schedules. Indicated Shippers assert that Columbia's tariff permits the shippers with firm capacity under different rate schedules to segment this capacity and section 40.1(d) of Columbia's tariff states that "[i]f a Shipper segments its SST and/or TPS [Third Party Storage] Service Agreement, the SST and/or TPS capacity shall be treated as if it is capacity segmented under Transporter's FTS Rate Schedule." Indicated Shippers further assert that, as segmented, the shipper's firm capacity under these different rate schedules takes on a generic character. Indicated Shippers contend that the fact the segmentation provisions of Columbia's tariff reference to the shipper's "contractual entitlement" in the singular under these different rate schedules strongly suggests that the tariff contemplates aggregation of the shipper's firm TD capacity under all of its firm contracts regardless of rate schedule for purposes of segmentation pooling.

12. Finally, Indicated Shippers argue that Columbia should clarify that the segmentation TD limits do not apply to Segmentation Pool inventory transfers.[9] Indicated Shippers assert that such inventory transfers are not transportation events, and

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[9] GT&C section 18 of Columbia's tariff permits inventory transfers under specified rate schedules.

pose no operational issues for Columbia. Indicated Shippers further assert that firm shippers with segmentation pools on Columbia's system transfer the quantities that exceed their segment TD to other parties, possibly through a trading platform.

13. In its answer, Columbia contends that it should not be required to allow a shipper to aggregate the TDs under multiple contracts for purposes of segmentation, unless it has mutually agreed with a shipper to combine contracts under one rate schedule into a single contract under a master agreement. Columbia argues that limiting the segmented transportation to a shipper's TD under each separate contract is consistent with Commission policy. Columbia asserts that, as Indicated Shippers itself recognizes (at 5), "Commission policy does not require pipelines to permit segmentation if the combined nominations of the releasing and replacement shippers exceed the underlying contract quantity."[10] Columbia contends that the basis for the Commission's TD segmentation restriction is not solely to protect system operations, but also to ensure that shippers cannot rely on segmentation to acquire more firm transportation rights than are set forth in their firm transportation service agreements. Columbia further contends that the Commission's policies on segmentation were designed to optimize the effective use of the capacity for which shippers pay, not to give shippers free firm transportation rights. Columbia asserts that, although it did allow shippers to exceed their TD on deliveries into the Segmentation Pool, it did not assess overrun charges for deliveries that exceeded a shipper's TD which is inconsistent with the Commission's policy that segmentation should be limited to the capacity for which a shipper pays.

14. Columbia argues that its tariff permits it to mutually agree with a shipper to enter into a master agreement combining multiple primary firm contracts under a particular rate schedule into a single contract.[11] In that case, the combined contracts may be treated as a single contract for purposes of segmentation. However, Columbia asserts this is not what Indicated Shippers are proposing. Columbia asserts that Indicated Shippers are requesting that Columbia act as if otherwise separate service agreements not subject to a master agreement are combined and aggregate contracts across all rate schedules solely for segmentation without regard to these tariff provisions. Columbia contends that it should not be required to permit such aggregation. It argues that GT&C sections 40.1(a) and 40.1(b) clearly state that the TD of the Supply and Market Segment will be limited to the TD "of the firm transportation service agreement being segmented" and thus do not permit aggregation of segmented contracts.

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[10] Columbia's answer at 3.

[11] Citing, e.g., Rate Schedule FTS, section 2(e).

15. Columbia further argues that such aggregation is administratively unworkable and an undue administrative burden. Columbia asserts that it would need to evaluate, for each of the four nomination cycles, every request for segmentation to determine whether the shipper's segmentation nomination exceeds its total firm entitlements under all service agreements. Columbia further asserts that shippers should be responsible for properly managing their own contracts. Columbia argues that, while Indicated Shippers are concerned about managing a handful of contracts, the requested aggregation would impose on Columbia the burden of manually evaluating nearly 3,000 contracts, four times a day, to ensure that a shipper has not exceeded its firm entitlements. Columbia further argues that the flexibility provided by segmentation makes it virtually impossible for Columbia to allow the aggregation of contracts, even assuming Columbia had some method in place for doing so.

16. Finally, Columbia argues that shippers should not be permitted to make inventory transfers that exceed the TD of their underlying firm contract. Columbia asserts that such inventory transfers without charges would indirectly allow impermissible free transportation service. Columbia further asserts that, contrary to the Indicated Shippers' assertions, ultimately this gas physically flows on Columbia's system and should be limited to the shipper's TD which is the basis on which it models its system and markets its capacity.

17. The Commission accepts the 2009 Segmentation Report as in compliance with the August 2009 Order and Order No. 637. As Columbia points out, its firm rate schedule contracts contain a provision permitting a shipper with multiple firm contracts under a particular rate schedule to agree with Columbia to combine those contracts into a single contract. Therefore, a shipper with multiple contracts under the same rate schedule may combine them into a single contract for purposes of segmentation. However, for the reasons discussed below, the Commission finds that Columbia need not allow shippers to aggregate the TDs of separate contracts for purposes of segmentation in any other circumstance.

18. Indicated Shippers erroneously interpret Columbia's tariff to permit aggregation of all contracts, including contracts for service under multiple rate schedules, for segmentation purposes. However, contrary to Indicated Shippers' view, the plain language of GT&C sections 40.1(a)[12] and 40.1(b)[13] expressly provides with regard to

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[12] Section 40.1(a) provides that:

(a) Supply Segment. One segment designated as the "Supply Segment" must be nominated from primary and/or secondary receipt point(s) to the

(continued…)

segmentation that the TD of the Supply Segment and Market Segment is limited to the TD of "the firm transportation service agreement being segmented." Therefore, Indicated Shippers' interpretation is in conflict with this express limitation to the TD of the underlying contract in Columbia's tariff. In addition, with respect to the conflicting arguments concerning administrative burden, the Commission agrees with Columbia that adopting Indicated Shippers' position would create an undue administrative burden on Columbia and that Indicated Shippers' arguments are directed to far fewer contracts for which individual shippers will be primarily responsible.

19. With respect to inventory transfers, Columbia is required by its tariff to transport only the levels provided for in the shipper's contract and not to provide the free transportation service which would result from approval of Indicated Shippers' request. The Commission also denies Indicated Shippers' request that Columbia be required to allow its shippers to utilize inventory transfers that exceed the TD of the underlying firm contract being segmented. As Columbia points out, inventory transfers ultimately flow on Columbia's system and, therefore, consistent with these requirements and Commission policy, should be limited to the shipper's TD. Requiring Columbia to provide additional firm service beyond the shipper's underlying TD for segmentation is inconsistent with Order No. 637 and Columbia's tariff.

20. Columbia's limitation of transportation to and from the Segmentation Pool to the TD of the underlying firm transportation contracts paid for by the shipper is consistent with Commission policy regarding segmentation and Columbia's tariff. The regulations

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> Segmentation Pool. The Supply Segment contract Transportation Demand shall be limited to the Transportation Demand set forth in *the firm transportation service agreement being segmented*. The Supply Segment is not entitled to utilize secondary delivery points other than the Segmentation Pool and is not subject to Commodity Charges or Retainage by Transporter (emphasis added).

[13] Section 40.1(b) provides that:

> (b) Market Segment. The second segment designated as the "Market Segment" shall be nominated from the Segmentation Pool and/or secondary receipt point(s) to Shipper's primary and/or secondary delivery point(s). Subject to the exceptions set forth in Section 40.5 below, the Market Segment contract Transportation Demand shall be limited to the available Transportation Demand of *the firm transportation service agreement being segmented*, and shall be subject to all applicable rates and surcharges provided for in this Tariff (emphasis added).

promulgated by Order No. 637 require that the pipeline "permit a shipper to make use of the firm capacity for which it has contracted by segmenting that capacity."[14] As the Commission explained in Order No. 637-A, as a general matter, pipelines are not required to permit segmentation in circumstances where nominations by a shipper or a combination of releasing and replacement shippers exceed the contract demand of the underlying contract on any segment.[15] With respect to the provision of firm transportation to a shipper at no charge, the Commission also stated, in Order No. 637-A, that segmentation was intended to "optimize the system so that firm shippers can make the most effective use of the capacity *for which they pay*."[16] Further, as the Commission found in the August 2009 Order (at P 19), gas associated with virtual pools physically exists and, therefore, can have operational impacts. In fact, Indicated Shippers (at 7) themselves state that they do not object in principal to Columbia's restriction of segmentation transportation to TD.

21. Finally, Columbia's proposed "gross up" of retainage charges is reasonable. As IOGA states, in its supporting comments, this method will avoid confusion and ensure that Navigates properly accounts for retainage.

22. The Commission accepts the 2009 Segmentation Report as in satisfactory compliance with the August 2009 Order. No further Commission action is required in this proceeding.

By direction of the Commission. Commissioner LaFleur is not participating.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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[14] 18 C.F.R. § 284.7(d) (2010).

[15] Order No. 637-A, FERC Stats & Regs. ¶ 31,099 at 31,591.

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