142 FERC ¶ 61,230
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 27, 2013

In Reply Refer To:
KPC Pipeline, LLC
Docket No. RP13-634-000

John & Hengerer
1730 Rhode Island Avenue, NW Suite 600
Washington, DC 20036-3116

Attention: Matthew T. Rick

Dear Mr. Rick:

1. On March 1, 2013, KPC Pipeline, LLC (KPC) filed a revised tariff record[1] pursuant to Section 23 of its General Terms and Conditions (GT&C) to reflect the annual adjustment to its Fuel Reimbursement Percentages (FRPs) set forth in its tariff. The revised tariff record reflects a decrease in the FRPs for Zones 1, 2, and 3 for the Summer (April 2013-October 2013) and Winter (November 2013-March 2014) periods. KPC requests waiver of its tariff to adjust the negative FRPs it calculated in Zones 2 and 3 to zero. As discussed below, the Commission grants a one time limited waiver to KPC's tariff and accepts the tariff record to become effective April 1, 2013, as proposed.

2. Section 23 of KPC's GT&C requires KPC to file its annual Fuel Reimbursement Adjustment 30 days prior to April 1 of each year. The current FRP is determined based on the estimated Quantities of Gas delivered for the account of Shippers under Rate Schedules FT, FT-NN, SCT, SCT-NN, IT, PAL and approved non-conforming service agreements, and the projected Quantities of Gas that shall be required for fuel usage and the lost and unaccounted for gas (FL&U). Additionally, Section 23 states that KPC is required to compute an Annual Fuel Reimbursement Surcharge computed by dividing the Deferred Fuel Reimbursement Account balance four months prior to April 1 by the estimated Quantities of Gas to be transported during the Recovery Period.

[1] KPC Pipeline, LLC; FERC NGA Gas Tariff; FERC Gas Tariff, Third Revised Volume No. 1: 12-Fuel Reimbursement Percentages, 4.0.0.

3. In its instant filing, KPC proposes the following FRPs: (1) an FRP of 0.1490 percent for the Zone 1 Summer period and 0.3570 percent for the Zone 1 Winter period; (2) an FRP of 0.0000 percent for the Zone 2 Summer period and 0.0000 percent for the Zone 2 Winter period, and (3) an FRP of 0.0000 percent for the Zone 3 Summer period and 0.0000 for the Zone 3 Winter period. The FRPs calculated by KPC for Zones 2 and 3 were negative, so KPC proposes to set the Zones 2 and 3 FRPs at zero in lieu of a negative FRP to charge its shippers.

4. KPC's calculation of its FRP for both the summer period and winter period shows a reduction for both periods in all three zones. KPC states that the primary cause of the reduction is a decrease in fuel usage during the period February 2012 through January 2013, which resulted in both an over-recovery that is reflected in a negative Annual Fuel Reimbursement Surcharge and reduced fuel use projections for the period in which the updated FRPs will be in effect (April 2013 through March 2014). The FRP calculations for the summer and winter periods in Zones 2 and 3 resulted in negative FRPs. KPC proposes to adjust its negative FRPs for Zones 2 and 3 to zero, consistent with previous Commission orders.[2] KPC states that it will continue to track all over and under-recoveries in a deferred account, thereby ensuring that all over-recoveries are eventually returned to shippers.

5. Public notice of the filing was issued on March 4, 2013. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2012)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2012)), all timely filed motions to intervene and any unopposed 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 the proceeding or place additional burdens on existing parties. On March 12, 2013, the Kansas Corporation Commission (KCC) filed a notice of intervention and comments on the instant filing.

6. In its comments, KCC states that it does not oppose KPC's one-time adjustment of a negative FRP to zero and acknowledges that there may be sound reasons for doing so for a short period. KCC also states, however, that general ratemaking principles prohibit "retroactive ratemaking."[3] KCC states that the prohibition against retroactive ratemaking is supported by a fundamental principle of cost-of-service ratemaking that cost-incurrence should match cost-causation. KCC further states that it is in the nature of a true-up under a tracker mechanism that some mismatch between cost-causation and cost-incurrence is inevitable, but the question is one of degree.

[2] *Kinder Morgan Louisiana LLC*, 139 FERC ¶ 61,274, at P 6 (2012).

[3] *Associated Gas Distributors v. FERC*, 898 F.2d 809, 810 (D.C. Cir. 1990).

7. KCC notes that KPC avers that it will continue to track over and under-recoveries in a deferred account to ensure that all over-recoveries are eventually returned to shippers. KCC states that this assurance addresses the underlying purpose of the true up, but does not fully address the departure from the cost-causation/cost-incurrence principle reflected in KPC's deferral of returning over-collected FL&U reimbursement to shippers who paid those excessive charges. KCC urges the Commission to limit to one year any approval of KPC's proposal to substitute a zero reimbursement percentage for the otherwise justified negative reimbursement rate, and to direct KPC to file a proposed refund plan with its next annual Fuel Reimbursement Filing if the reimbursement percentages are negative.

8. The Commission accepts KPC's proposed reimbursement percentages as just and reasonable to become effective April 1, 2013. The Commission acknowledges the KCC's concerns and is granting only a one-time waiver to KPC to effectuate the adjusted fuel reimbursement percentages. Holding reimbursement rates at zero, rather than reflecting negative overall reimbursement rates, is sometimes reasonable so long as all of the over-recovered amount eventually will be returned to the appropriate shippers.[4] KPC will not be required to file a proposed refund plan with its next annual Fuel Reimbursement Filing if the reimbursement percentages are negative. However, if there is an over-recovery in a subsequent filing, parties shall have the right to intervene and raise the issue again in later Fuel Reimbursement filings, at which time a refund plan may be appropriate. KPC's Deferred Component true-up mechanism will carry this balance to the next semi-annual adjustment period, and thus neither KPC nor its shippers should be disadvantaged.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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[4] *See Columbia Gulf Transmission Co.*, 132 FERC ¶ 61,134, at P 43 (2010).