

145 FERC ¶ 61,176
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

WBI Energy Transmission, Inc.

Docket No. RP14-118-000

ORDER ACCEPTING AND SUSPENDING TARIFF RECORDS
SUBJECT TO REFUND AND ESTABLISHING
HEARING PROCEDURES

(Issued November 26, 2013)

1. On October 31, 2013, WBI Energy Transmission, Inc. (WBI Energy) filed revised tariff records reflecting a general rate increase under section 4 of the Natural Gas Act (NGA) as well as certain other tariff changes.¹ For the reasons discussed below, the Commission accepts and suspends the proposed tariff records listed in the Appendix to be effective May 1, 2014, subject to refund and the outcome of hearing procedures.

I. Details of the Filing

2. WBI Energy states it has been over 13 years since it changed its rates, and that there have been significant changes to WBI Energy's system and energy markets since its last rate change. WBI Energy asserts the proposed rate increase will allow it to recover its operating costs, earn a reasonable rate of return on its investment, and attract sufficient capital in the current economic environment.

3. WBI Energy requests an effective date of December 1, 2013, for its proposed rates and tariff changes. WBI Energy states that the proposed rates are based upon actual operational costs ending June 30, 2013, adjusted for known and measureable changes anticipated to occur during the nine-month period ending March 31, 2014. WBI Energy states that the instant filing reflects an increase in annual jurisdictional revenues of \$28,917,796 compared to the rates currently in effect. WBI Energy states that the instant filing justifies an overall annual cost-of-service of \$114,982,921, which is an

¹ See Appendix.

increase of approximately \$61.4 million above the overall cost-of-service in WBI Energy's last general rate case. WBI Energy states that the revenue requirement reflects an overall rate of return of 11.03 percent, a return on equity (ROE) of 13.90 percent, and a cost of debt of 5.97 percent. WBI Energy seeks a discount adjustment to account for its discounted volumes. WBI Energy contends that such volumes were discounted to meet competition.

4. WBI Energy's proposed rates also reflect the roll-in of the costs and volumes of the Sheyenne Expansion and the Mapleton Extension. WBI contends that each of these facilities qualifies for rolled-in rate treatment because, for each project, the projected test period revenues exceed the projected test period costs.

5. WBI Energy also proposes to create a separately stated transportation rate for the Garden Creek and Stateline lateral projects, two recently constructed laterals. WBI Energy asserts that a separately stated transportation rate is appropriate for these facilities because they are not integrated with the rest of WBI Energy's system. WBI Energy notes that these facilities are each only twelve miles in length and cannot access the transmission and storage facilities on WBI Energy's main system. WBI Energy states that the Garden Creek and Stateline facilities require no compression or electric power and that it would be inappropriate to assess system-wide fuel and electric power costs to shippers using these facilities. Therefore, WBI Energy is proposing a separately stated fixed fuel rate for each lateral.

6. WBI Energy states that the revised tariff records also reflect certain non-substantive housekeeping changes associated with the proposed rate change.

II. Notice

7. Public notice of the filing was issued on November 4, 2013. Interventions and protests were due November 12, 2013, as provided in section 154.210 of the Commission's regulations.² Pursuant to Rule 214,³ all timely filed motions to intervene and any unopposed 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. Protests were

² 18 C.F.R. § 154.210 (2013).

³ *Id.* § 385.214.

filed by the WBI Shipper Group,⁴ Northern States Power Company (NSP), and CHS Inc. (CHS).

8. On November 14, 2013, WBI Energy filed an answer. Rule 213(a)(2) of our regulations prohibits answers to protests unless otherwise ordered by the decisional authority.⁵ The Commission accepts WBI Energy's answer because it has assisted us in the decision making process.

III. Protests and Answer

9. The WBI Shipper Group, NSP, and CHS assert that WBI's proposed increases to the transportation, storage, and gathering rates are unjust and unreasonable, and therefore unlawful. They state that WBI Energy has not supported the cost-of-service components used to justify the proposed rates. They request that the Commission (i) suspend the proposed tariff records for the maximum suspension period permitted by the NGA and (ii) set all aspects of the proposal for an evidentiary hearing.

10. In its answer, WBI Energy states that it does not object to setting its filing for hearing. However, noting that the WBI Shipper Group states that the hearing should include "proposed fuel reimbursement percentages," WBI counters that the hearing should not address its fuel reimbursement percentages. WBI states that these fuel reimbursement percentages are calculated pursuant to section 37 of the General Terms and Conditions of its tariff, and the Commission recently accepted WBI's fuel filing pursuant to these procedures in Docket No. RP13-1292-000.

IV. Discussion

11. The Commission will establish a hearing to explore the issues raised regarding WBI Energy's filing. WBI Energy's proposal and the protests raise material issues of fact that require further investigation. The Commission finds that it is appropriate to examine these issues in the context of a hearing where a factual record can be developed by the parties. In its filing, WBI Energy proposed a separately stated fuel rate for the Garden Creek and Stateline lateral projects, and these changes, along with any other changes WBI Energy has proposed in this proceeding to its fuel rates and policies, should be among the issues addressed at hearing pursuant to section 4 of the NGA. Other issues

⁴ The WBI Shipper Group consists of Cross Timbers Energy Services, Inc.; Hess Corporation and Sequent Energy Management, L.P.

⁵ 18 C.F.R. § 385.213(a)(2) (2013).

related to WBI's fuel mechanism in section 37 of its GT&C or fuel rates may also be considered at the hearing pursuant to section 5 of the NGA.

12. Based upon review of the filing, the Commission finds that the proposed tariff records set forth in the Appendix have not been shown to be just and reasonable, and may be unjust, unreasonable, and unduly discriminatory or otherwise unlawful. Accordingly, the Commission will accept and suspend the effectiveness of the tariff records in the Appendix for five months, subject to refund and hearing, as set forth in this order.

13. The Commission's policy regarding suspensions is that tariff 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 inconsistent with other statutory standards.⁶ 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.⁷ Such circumstances do not exist here. The Commission will therefore suspend the tariff records for the maximum period, to be effective May 1, 2014, subject to refund and the outcome of the hearing procedures ordered herein.

The Commission orders:

(A) The tariff records set forth in the Appendix are accepted and suspended effective May 1, 2014, subject to refund and the outcome of the hearing established in this order.

(B) Pursuant to the Commission's authority under the Natural Gas Act, particularly sections 4, 5, 8, and 15, and the Commission's rules and regulations, a public hearing is to be held in Docket No. RP14-118-000 concerning the lawfulness of WBI Energy's proposed tariff records.

(C) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to 18 C.F.R. § 375.304 (2013), shall convene a prehearing conference in this proceeding within twenty (20) days after issuance of this order, in a hearing or conference room of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. The prehearing conference

⁶ See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

⁷ See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

shall be held for the purpose of establishing a procedural schedule. The Presiding Administrative Law Judge is authorized to conduct further proceedings in accordance with this order and the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

WBI Energy Transmission, Inc.
FERC NGA Gas Tariff
Third Revised Volume No. 1

Tariff records accepted and suspended, to be effective May 1, 2014, subject to refund, and the outcome of a hearing.

[Sheet No. 12, Notice of Currently Effective Rates, 10.0.0](#)

[Sheet No. 13, , 9.0.0](#)

[Sheet No. 14, , 10.0.0](#)

[Sheet No. 14A, , 0.0.0](#)

[Sheet No. 14B, , 0.0.0](#)

[Sheet No. 15, , 2.0.0](#)

[Sheet No. 16, , 10.0.0](#)

[Sheet No. 17, , 9.0.0](#)

[Sheet No. 17A, , 0.0.0](#)

[Sheet No. 17B, , 0.0.0](#)

[Sheet No. 18, , 10.0.0](#)

[Sheet No. 19, , 3.0.0](#)

[Sheet No. 20, , 10.0.0](#)

[Sheet No. 21, , 2.0.0](#)

[Sheet No. 22, Rate Schedule FT-1, 3.0.0](#)

[Sheet No. 35, Rate Schedule IT-1, 2.0.0](#)

[Sheet No. 36, , 1.0.0](#)