156 FERC ¶ 61,068
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 27, 2016

In Reply Refer To:
Ruby Pipeline, L.L.C.
Docket No. RP16-1080-000

Ruby Pipeline, L.L.C.
P.O. Box 1087
Colorado Springs, CO 80944-1087

Attention: M. Catherine Rezendes,
Director, Rates

Dear Ms. Rezendes:

1. On June 30, 2016, Ruby Pipeline, L.L.C. (Ruby) filed a request for waiver of its tariff requirements under section 13 of the General Terms and Conditions (GT&C) of Ruby's FERC Gas Tariff to permit a one-time return of over-collected Fuel Gas and Lost and Unaccounted-for Gas (L&U) (collectively, FL&U) to its shippers on an in-kind basis. Ruby requests that the Commission grant this waiver no later than July 29, 2016, in order to allow shippers to take advantage of the positive imbalance on their contracts for the August 2016 flow month. As discussed below and for good cause shown, the Commission grants temporary and limited waiver of section 13 of Ruby's GT&C to allow a one-time return of FL&U over-collection, effective July 29, 2016, as requested.

2. Section 13 of Ruby's GT&C requires Ruby to adjust its FL&U reimbursement percentage every three months. Additionally, Ruby states that its tariff describes the methodology to be used in determining the FL&U reimbursement percentages, including netting of over-collected or under-collected Fuel Gas or L&U volumes. Ruby states that its tariff does not cash-out over-collected quantities of Fuel Gas or L&U quantities, and does not permit a negative Fuel Gas or L&U reimbursement percentage. It explains that, instead, over-collected quantities of Fuel Gas are offset against quantities of under-collected L&U and vice-a-versa. To the extent any over-collected quantities remain after the offset, Ruby states that they are deferred to a future filing.[1]

[1] Transmittal at 1 (citing *Ruby Pipeline, L.L.C.*, 144 FERC ¶ 61,114 (2013) (approving the revised tariff provisions to remove cash-out provisions)).

3. Beginning with its quarterly FL&U filing effective April 1, 2014,[2] Ruby states that it began deferring over-collected quantities and has continued to defer any over-collected volumes in virtually every quarterly FL&U filing since that time.[3] Specifically, Ruby acknowledges that in the latest quarterly filing that will be effective July 1, 2016, it had 315,916 Dekatherms (Dth) of positive L&U that was deferred to a future filing.[4]

4. On May 27, 2016, Ruby states that it filed revised tariff records (the "May Filing") proposing to continue its total FL&U reimbursement percentage at zero percent. In the May Filing, Ruby explained that it was still experiencing positive L&U[5] and, even after netting under-collected fuel quantities with previously deferred over-collected L&U quantities, Ruby had a remaining over-collection of deferred L&U in the amount of 315,916 Dth. As also described in the May Filing, Ruby states that it continued to forecast throughput levels that do not require the use of gas-fired compressors during that period. Therefore, Ruby states that it foresees little opportunity in the near future to offset the over-collected L&U against under-collected Fuel Gas.

5. Ruby states that given this unique convergence of circumstances that includes a positive L&U situation and low gas burn for compression, it requests waiver of its tariff provisions requiring deferral of its currently over-collected FL&U quantities to a future period, in order to permit it to immediately return the over-collected amounts in-kind to shippers. Ruby explains that the 315,916 Dth of currently over-collected deferred FL&U volumes would be returned to shippers through contractual imbalances. Specifically, Ruby proposes to provide a shipper with its allocable share of the deferred FL&U over-collected quantity as a positive imbalance on the shipper's transportation contract. Ruby asserts that this imbalance effectively provides FL&U quantities to the shippers that, among other things, may be used to reduce receipt point nominations equal to the positive imbalance. Further, Ruby asserts that this method allows the return of the over-collected quantities sooner than under the applicable tariff provisions while avoiding the perverse economic incentives caused by a negative reimbursement percentage.[6]

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[2] *Id*. at 2 (citing *see* Docket No. RP14-525-000).

[3] Ruby states that the only exception to this is the quarterly FL&U filing effective October 1, 2014 where all accumulated deferred quantities were netted against an under-collection of fuel gas. *Id*. (citing *see* Docket No. RP14-1227-000).

[4] *Id*. (citing *see* Docket No. RP16-978-000).

[5] Ruby states that it has actively investigated possible causes of such positive L&U and has found no issues with its measurement equipment nor has it identified any data errors. *Id*. at n.5.

[6] Ruby avers that this proposed method also avoids possible disputes over the appropriate price to use to value the gas for cash-outs that have occurred in the past. Transmittal at 2 (citing *see Ruby Pipeline, L.L.C.*, 144 FERC ¶ 61,114 at PP 2-6).

6. Ruby states that the imbalance quantities for each shipper would be determined using the total throughput for the period January 1, 2016 through March 31, 2016, which is the data collection period for the May Filing,[7] for each shipper with a transportation contract in effect on the date an order is issued approving this waiver request.[8] Ruby explains that each shipper's share of the total throughput (expressed as a percentage) is then applied to the total currently over-collected deferred volumes of 315,916 Dth. In addition, Ruby points to Appendix A of its filing to provide an illustrative example of these calculations.[9]

7. Ruby states that once the waiver is approved and implemented, the returned quantities will become imbalances as discussed above and treated like any other imbalances under Ruby's Tariff. As such, shippers may resolve such imbalances in any manner permitted by the Tariff, including reducing receipt point nominations. Further, Ruby states that if the positive imbalance of over-collected quantities is not otherwise resolved under the Tariff, those imbalances would be subject to the cash-out provisions in GT&C sections 10.1(h) and 10.3(b) of Ruby's Tariff.

8. Public notice of the filing was issued on July 5, 2016. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.[10] Pursuant to Rule 214,[11] all timely filed motions to intervene and any unopposed motion 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 the proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

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[7] *Id*. at 3 (referencing Docket No. RP16-978-000 wherein both the Fuel and L&U retention percentages are set to 0.00 percent and 315,916 Dth of over-collected L&U is deferred to a future filing).

[8] Ruby asserts that applying imbalances only to contracts in effect as of August 1, 2016 is appropriate because there would be no way for a shipper to utilize the imbalances unless they had a contract in effect on the day the imbalances were applied. *Id*. at n.8.

[9] Ruby states that to the extent that new contracts are executed between the date of this filing and the date an order is issued, Ruby cannot determine the exact volume of over-collected FL&U to allocate to each applicable shipper. Therefore, Ruby states that the final allocated volumes in the same form as Appendix A will be posted on Ruby's electronic bulletin board no later than two business days after the issuance of the order approving Ruby's request. *Id*. at n.9.

[10] 18 C.F.R. § 154.210 (2015).

[11] *Id*. § 385.214.

9. The Commission finds that in the circumstances as described above, Ruby's tariff waiver request is reasonable and may be granted. Therefore, for good cause shown, the Commission grants temporary and limited waiver of section 13 of the GT&C of Ruby's Tariff in order to permit a one-time return of over-collected FL&U to its shippers on an in-kind basis, effective July 29, 2016, as described herein.

By direction of the Commission.

Kimberly D. Bose,
Secretary.