

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeen G. Kelly.

Columbia Gulf Transmission Company

Docket Nos. RP05-221-001  
RP05-221-002

ORDER ON REHEARING AND ACCEPTING COMPLIANCE FILING

(Issued June 10, 2005)

1. On May 2, 2005, Orange and Rockland Utilities, Inc. (Orange and Rockland) filed a request for rehearing of the Letter Order issued on March 31, 2005, in this proceeding (March 31, 2005 Order).<sup>1</sup> In that order, the Commission accepted revised tariff sheets reflecting the calculation of Columbia Gulf Transmission Company's (Columbia Gulf) annual Transportation Retainage Adjustments (TRA), which are determined pursuant to section 33 of the General Terms and Conditions (GT&C) of Columbia Gulf's FERC Gas Tariff. On April 29, 2005, Columbia Gulf filed revised tariff sheets in compliance with the March 31, 2005 Order.

2. As discussed below, the Commission denies rehearing and accepts the revised tariff sheets filed in compliance with the March 31, 2005 Order to be effective April 1, 2005. This order benefits customers by ensuring that Columbia Gulf's TRAs are calculated in accordance with the Commission-approved methodology set out in the pipeline's tariff.

---

<sup>1</sup> *Columbia Gulf Transmission Co.*, 110 FERC ¶ 61,404 (2005).

### **Background**

3. This proceeding commenced when Columbia Gulf filed revised tariff sheets on March 1, 2005. The revised tariff sheets reflected the annual TRA calculations based on a projection of throughput in each of Columbia Gulf's zones for the 12-month period beginning April 1, 2005, and calculated in accordance with the existing methodology established in Columbia Gulf's tariff. Columbia Gulf's deferral period for the filing was the preceding calendar year (January 1, 2004 through December 31, 2004), and Columbia Gulf explained that it was in a net over-recovery position at the end of that period. For that reason, Columbia Gulf stated that it was implementing an over-recovered surcharge component for each of the TRA factors to decrease future quantities to be retained.

4. Orange and Rockland protested the March 1, 2005 filing, arguing, *inter alia*, that Columbia Gulf had not justified its proposed allocation of fuel over-recovery between its Offshore, Onshore, and Mainline zones. Orange and Rockland requested that the Commission require a recalculation of the fuel surcharge percentages premised on the over-and under-recoveries of each zone so that the over-recovery volumes would be allocated to the zones in which they actually occurred. In particular, Orange and Rockland argued that, because the Mainline is at the northern end of the Columbia Gulf system, customers of Mainline service are unfairly burdened by the results of upstream zones under Columbia Gulf's methodology.

5. Columbia Gulf responded that its allocation methodology for over- and under-recoveries of fuel was a long-standing historical practice approved by the Commission, pointing out that it has used this approved methodology since the inception of the TRA mechanism as part of its Order No. 636 compliance filing.

6. In the March 31, 2005 Order, the Commission rejected Orange and Rockland's protest and accepted Columbia Gulf's filing to be effective April 1, 2005, subject to Columbia Gulf's filing revised tariff sheets to clarify certain aspects of the allocation methodology. The Commission emphasized that it previously had approved the allocation methodology used by Columbia Gulf,<sup>2</sup> pointing out that its review of the pipeline's annual TRA filings for the past several years confirmed that Columbia Gulf had applied this methodology consistently and without protest. Thus, the Commission found that Columbia Gulf's allocation methodology was not "demonstrably unfair" to Mainline customers. The Commission stated that, under the approved methodology, customers of all zones are allocated a percentage of fuel over- or under-recoveries based

---

<sup>2</sup> See *Columbia Gulf Transmission Co.*, 72 FERC ¶ 61,161 at 61,793.

on each zone's percentage of total system deliveries, an approach that does not favor any class of customer over another.

7. However, the Commission found that section 33 of Columbia Gulf's GT&C was somewhat unclear regarding the methodology for allocating system fuel over- and under-recoveries. The Commission cited the following language in section 33.4(b) of Columbia Gulf's GT&C:

In each Annual [TRA] filing, Transporter shall calculate the unrecovered Retainage percentage by: (i) determining the company-use, lost, and unaccounted-for quantities for the preceding calendar year (Preceding Annual Period); (ii) subtracting the Retainage quantities retained by Transporter during the Preceding Annual Period; and (iii) dividing the result (the Unrecovered Retainage Quantities), whether positive or negative, by the Current Transportation Quantities (excluding off-system quantities, for the 12-month period commencing on the effective date of that Annual [TRA] filing).

8. Section 33.4(d) of Columbia Gulf's GT&C states as follows:

[t]he methodology of this section 33.4 specified in paragraphs (a), (b), and (c) shall be separately applicable to the onshore lateral and offshore lateral zones of the FTS-2 and ITS-2 Rate Schedules and the mainline zone of the FTS-1 and ITS-1 Rate Schedule using their respective transportation quantities, excluding off-system quantities, as applicable, associated with each zone.

9. The Commission determined that section 33.4(b) does not state clearly whether total system over- and under-recoveries of fuel are allocated to each zone based on each zone's percentage of total system deliveries or whether individual fuel over- and under-recoveries for each zone are determined based on the over- and under-recoveries actually incurred in each zone. Because section 33.4(d) requires the section 34.4(b) methodology (which is unclear) to be used, the Commission also found that section 33.4(d) is unclear and ordered Columbia Gulf to revise section 33 of its tariff to clarify its Commission-approved allocation methodology.

### **Request for Rehearing**

10. On rehearing, Orange and Rockland contends that the Commission erred in (1) permitting Columbia Gulf to calculate the unrecovered fuel component of the TRA using an improper methodology, (2) requiring one class of customers to subsidize

another, (3) requiring Columbia Gulf to submit new tariff language conforming to its allocation methodology rather than revising the tariff language to establish a just and reasonable methodology, and (4) implicitly limiting the Commission's ability to require changes to historic practices to reflect new arguments, facts, and circumstances.

11. Orange and Rockland agrees that section 33(b) is unclear. However, Orange and Rockland maintains that the TRA filing does not calculate fuel percentages for the period commencing April 1, 2005 in an appropriate manner, instead allocating the over- and under-recoveries according to the three zones' percentages of Columbia Gulf's total deliveries.

12. For example, Orange and Rockland explains that Columbia Gulf's Mainline deliveries represent 45.66 percent of the pipeline's total deliveries. Thus, Orange and Rockland states that the pipeline allocates 45.66 percent of the net 2,626,880 Dth of over-recovery (1,199,434 Dth) to the Mainline zone, which results in a Mainline surcharge of -0.206 percent. In contrast, Orange and Rockland states that had Columbia Gulf calculated the surcharge using the zone-by-zone information and then allocated the Unaccounted For gas on the basis of total deliveries, the Mainline surcharge would be -0.472 percent. Despite this, Orange and Rockland concedes that Columbia Gulf consistently employed the same allocation methodology in this instance that it employed in the cases cited by the Commission in the March 31, 2005 Order.

13. Orange and Rockland reiterates its claim that the March 31, 2005 Order requires Mainline shippers to subsidize onshore and offshore customers. According to Orange and Rockland, the pipeline's data demonstrate that, in 2004, the Mainline customers over-compensated the pipeline's Company Use fuel requirements by 2,950,494 Dth. Additionally, Orange and Rockland claims that Columbia Gulf's Onshore customers over-compensated the pipeline by only 146,367 Dth. However, it asserts, the Onshore customers are credited with an over-recovery surcharge (-0.210 percent) that is more beneficial than the Mainline customers' -0.206 percent surcharge. Orange and Rockland notes that the Commission rejected this argument, stating in part in the March 31, 2005 Order:

Under the approved methodology, customers of all zones are allocated a percentage of fuel over- or under-recoveries based on each zone's percentage of total system deliveries. This approach does not favor any class of customer over another, and as noted above, has previously been found by the Commission to be just and reasonable.<sup>3</sup>

---

<sup>3</sup> *Columbia Gulf Transmission Co.*, 110 FERC ¶ 61,404 at P 12 (2005).

14. Orange and Rockland challenges the Commission's statement in the March 31, 2005 Order that Columbia Gulf's methodology does not favor any class of customer over another. Orange and Rockland asserts that the Mainline customers provided vastly more fuel in 2004 than was required to provide service to them, although they are not permitted to recoup all of that fuel through a commensurate adjustment. Instead, Orange and Rockland contends that the Mainline customers receive an adjustment that is less than one-half of the adjustment to which they are entitled, and the Onshore and Offshore customers receive credit for the remainder of the Mainline customers' 2004 excess fuel contribution.

15. Orange and Rockland asserts that its analysis of the TRA data for the period from 2000 to 2005 demonstrates that, in five of these years, the same subsidization has occurred, in contravention of sections 4(b) and 5(b) of the Natural Gas Act (NGA)<sup>4</sup> and sections 284.7(b) and 284.9(b) of the Commission's regulations.<sup>5</sup> Orange and Rockland maintains that the Commission has broad power to remedy such unlawful discrimination and preferences.<sup>6</sup>

16. Finally, Orange and Rockland contends that Columbia Gulf's consistent use of an unreasonable methodology does not prohibit the Commission from taking corrective action.<sup>7</sup> Orange and Rockland acknowledges that the Commission gave some consideration to Columbia Gulf's allocation methodology in *Columbia Gulf Transmission Co.*,<sup>8</sup> but Orange and Rockland argues that that case did not address the issue presented here, *i.e.*, reallocation of the over-recovery of fuel in one zone for the

---

<sup>4</sup> 15 U.S.C. §§ 717c(b), 717d(b) (2003).

<sup>5</sup> 18 C.F.R. §§ 284.7(b), 284.9(b) (2004).

<sup>6</sup> Orange and Rockland cites *ANR Pipeline Co. v. Transcontinental Gas Pipe Line Corp.*, 84 FERC ¶ 61,106, *order on reh'g* (1998), 91 FERC ¶ 61,066, *reh'g denied*, 93 FERC ¶ 61,277 (2000); *Transcontinental Gas Pipe Line Corp.*, 111 FERC ¶ 61,093 at P 8 (2005); *Transcontinental Gas Pipe Line Corp.*, 106 FERC ¶ 61,299 at P 122 (2004); *Tennessee Gas Pipeline Co.*, 101 FERC ¶ 61,303 (2002), *reh'g denied*, 111 FERC ¶ 61,103 (2005).

<sup>7</sup> Orange and Rockland cites *Tennessee Gas Pipeline Co.*, 103 FERC ¶ 61,275 (2003); *Tennessee Gas Pipeline Co.*, 111 FERC ¶ 61,094 (2005).

<sup>8</sup> 72 FERC ¶ 61,161 (1995).

benefit of customers in other zones. Further, Orange and Rockland states that current conditions differ markedly from those present in 1995 because the subsidy today is much more substantial. In addition, it asserts that, because the March 31, 2005 Order admits that Columbia Gulf's tariff is not clear on this point, it would not advance the goals of the NGA to require Orange and Rockland to re-argue this point in a future rate case.

17. The Commission denies Orange and Rockland's request for rehearing. The purpose of the filing in this docket was to set out the annual TRA calculated in accordance with the previously-approved methodology in Columbia Gulf's tariff. The justness and reasonableness of the methodology is not at issue here; that determination was made when the Commission accepted those provisions of the tariff. While the March 31, 2005 Order requires Columbia Gulf to clarify the tariff's allocation methodology, that fact does not constitute a determination that the approved methodology itself is unclear or unjust and unreasonable. The purpose was merely to require Columbia Gulf to reflect the approved methodology in the tariff language. The record before the Commission in this proceeding is inadequate to allow the Commission to find that the approved allocation methodology is unjust and unreasonable and to revise the methodology acting under NGA section 5, which is the action Orange and Rockland seeks. When Columbia Gulf files its next NGA general section 4 rate proceeding, Orange and Rockland will have an opportunity to challenge the TRA calculation methodology and participate in creating a record that could support the revision it seeks here. The Commission's action here is consistent with its past actions in response to Columbia Gulf's annual TRA filings.<sup>9</sup>

### **Compliance Filing**

18. On April 29, 2005, Columbia Gulf filed revised tariff sheets as required by the March 31, 2005 Order.<sup>10</sup> Notice of the filing was issued on May 4, 2005. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.<sup>11</sup> Pursuant to Rule 214,<sup>12</sup> all timely filed motions to intervene are granted. Orange and Rockland filed a protest to the compliance filing, raising the same arguments it advanced

---

<sup>9</sup> See *Columbia Gas Transmission Co.*, 110 FERC ¶ 61,404 at P 11 (2005).

<sup>10</sup> Fourth Revised Sheet No. 268 and Third Revised Sheet No. 269 to FERC Gas Tariff, Second Revised Volume No. 1

<sup>11</sup> 18 C.F.R. § 154.210 (2004).

<sup>12</sup> 18 C.F.R. § 385.214 (2004).

in its original protest to the March 1, 2005 filing and in its request for rehearing. It does not, however, contend that Columbia Gulf failed to comply with the directives of the March 31, 2005 Order. The issues raised in the protest are not appropriate with respect to a compliance filing as the only issue is whether Columbia Gulf complies with the Commission's directives.

19. On May 18, 2005, Columbia Gulf filed an answer to the protest. The Commission's regulations prohibit answers to protests unless the decisional authority permits such an answer. In the instant case, the Commission will not accept Columbia Gulf's answer because the additional information contained in the answer was not needed by the Commission to determine whether the April 29, 2005 filing complies with the requirements of the March 31, 2005 Order.

20. The Commission finds that Columbia Gulf's April 29, 2005 filing satisfactorily complies with the requirements imposed by the March 31, 2005 Order. Accordingly, the Commission will accept the tariff sheets effective April 1, 2005, as requested by Columbia Gulf.

The Commission orders:

(A) Rehearing of the March 31, 2005 Order in this proceeding is denied, as discussed in the body of this order.

(B) Columbia Gulf's compliance filing and the tariff sheets listed in footnote number 10 of this order are accepted for filing effective April 1, 2005.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.