

111 FERC ¶ 61,288  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

May 27, 2005

In Reply Refer To:  
Discovery Gas Transmission LLC  
Docket No. RP05-303-000

Discovery Gas Transmission LLC  
2800 Post Oak Boulevard - Level 8  
Houston, TX 77056

Attention: Kevin R. Rehm  
Vice President

Reference: Annual Fuel, Lost and Unaccounted for Gas Filing

Dear Mr. Rehm:

1. On April 28, 2005, Discovery Gas Transmission LLC (Discovery) filed a statement of its fuel, lost and unaccounted-for gas (FL&U) for the calendar year 2004, and revised tariff sheets reflecting a 0.0 percent FL&U retention percentage for calendar year 2005.<sup>1</sup> The revised tariff sheets are conditionally accepted for filing, effective July 1, 2005, as required by the tariff, subject to Discovery filing additional information within 15 days of the date of this order, as discussed below.

2. Section 4 of Discovery's FT-1, FT-2 and IT rate schedules provides that Discovery will calculate the actual amount of FL&U for the previous year and file any revisions to its retention percentage to more closely approximate the actual FL&U and to reflect differences between projections and actual fuel and losses from the previous calendar year. Under section 4, the revised percentage will be effective July 1 of each year.

---

<sup>1</sup> Discovery variously requests a May 28, 2005 effective date in its transmittal letter, and a June 1, 2005 effective date in the proposed tariff sheets.

3. Discovery states that the FL&U rate for 2004 was 0.0 percent, and that it proposes to maintain the 0.0 percent retention rate for 2005. Discovery's filing shows a cumulative over-recovery of FL&U of 1,000,613 MMBtus for the years 1998 through 2004. The cumulated recovery is a result of past years' retention rates when they are greater than zero percent. Discovery states that it will continue to maintain a liability to shippers for the remaining value of the over-recovered FL&U until Discovery has FL&U gas requirements that can be credited against this over recovered amount. Discovery states that it expects to begin under-recovering FL&U during 2005.

4. Discovery also states that it had a system "net gain" of "quantities" resulting from meter discrepancies and the operation of a deepwater, high-pressure three-phase pipeline system carrying hydrocarbon liquids, freewater and high-Btu natural gas. Discovery states that it will retain this net gain, as distinguished from the FL&U, pursuant to section 8.2 of the *pro forma* Service Agreements with its shippers.<sup>2</sup>

5. Public notice of Discovery's filing was issued on May 4, 2005, with comments due on or before May 10, 2005. Notice of interventions and unopposed timely filed motions to intervene are granted under the Rule 214 of the Commission's Rules and Practice and Procedure (18 C.F.R. § 385.214 (2004)). Any untimely motion to intervene filed as of this date of this order is granted. Granting late interventions at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. Indicated Shippers<sup>3</sup> filed a protest on May 10, 2005. On May 17, 2005, Discovery filed an answer to the protest.<sup>4</sup>

6. Indicated Shippers argue that Discovery should reflect in its fuel charge the system net gain it experienced, regardless of the fact that it had a 0.0 percent retention rate during the period. They assert that Discovery's fuel tracker mechanism in its tariff requires that

---

<sup>2</sup> Section 8.2 states:

Unless otherwise provided by the terms of a separate written agreement, all substances, whether or not of commercial value, including all liquid hydrocarbons or Condensates of whatever nature, that Transporter recovers in the course of transporting the quantities of Gas tendered hereunder by Shipper shall be Transporter's sole property and Transporter shall not be obligated to account to Shipper for any value, whether or not realized by Transporter, that may attach or be said to attach to such substances.

<sup>3</sup> The Indicated Shippers are BP Energy Company, BP America Production Company, and ChevronTexaco Natural Gas, a division of Chevron U.S.A. Inc.

<sup>4</sup> We will waive 18 C.F.R. § 385.213(a)(2) (2004) to permit the answer as it may aid in resolving the issues raised by the filing.

Discovery “reflect differences between projections and actual losses from the previous calendar year,” but says nothing about confiscating system gains during periods when there is a zero fuel charge. Indicated Shippers also contend that Commission policy does not permit Discovery to confiscate system gas gains as it proposes in its filing. They note that in *ANR Pipeline Co.*, the Commission stated that “having been given the opportunity to increase one cost item without regard to other cost decreases, the pipeline should not be permitted to overrecover that cost under any circumstances.”<sup>5</sup> Indicated Shippers contend that Discovery can only “track accurately” its fuel costs, as *ANR* states, by reflecting both gas gains and gas losses. Further, Indicated Shippers note the Commission’s statement in *ANR* that “with the recent escalation in natural gas prices, fuel has not only become a more significant factor in a pipeline’s operating costs but also a more significant excess revenue producer absent a true-up mechanism.”<sup>6</sup> Indicated Shippers assert that this “recent escalation in natural gas prices” adds to the need for Discovery to reflect gas gains in its fuel charge.

7. Indicated Shippers further argue that the liquids retention provision in section 8.2 of Discovery’s *pro forma* Service Agreements with shippers does not allow Discovery to take terms of gas that belong to shippers, because the tariff requires that Discovery redeliver to shippers at the delivery point the thermal equivalent of gas the shippers deliver into Discovery at the receipt point. Indicated Shippers contend that Discovery seeks to confiscate gas gains, but to fully flow through gas losses as part of FL&U, thus reaping a windfall. Indicated Shippers contend that Discovery’s tariff does not allow it to defer incorporating gas gains in its fuel charge, and therefore, Discovery has been improperly retaining these gas gains and should be required to submit a revised fuel filing that reflects these gas gains, including an interest component to reflect the time value that shippers were deprived of due to Discovery’s retention of gas gains.

8. In its answer, Discovery states that it is not the amount over-recovered by past application of FL&U that it has the right to retain, but rather the separate cumulative system-wide gas gain after deducting FL&U. Discovery states that section 4 of its tariff refers only to actual fuel and losses, and allows Discovery to reduce a shipper’s gas quantity to compensate for such FL&U by the retention percentage. Discovery states that this provision is not a fuel tracker, but merely a means for the retention percentage proposed each year to recognize the level of fuel and losses in the prior year. Discovery states that is not confiscating a shipper’s gas and as required by its tariff, is re-delivering for each shipper an equivalent thermal quantity of gas that the shipper delivers to

---

<sup>5</sup> *ANR Pipeline Co.*, 110 FERC ¶ 61,339 at P 22 (2005) (*ANR*).

<sup>6</sup> *Id.* at P 24.

Discovery. Discovery notes that its FL&U provision is similar to provisions in other offshore gas pipelines tariffs.<sup>7</sup>

9. Discovery further explains that gains on offshore pipeline systems, which are not significant on a percentage basis (it asserts that Discovery's 2004 system gain is 0.44 percent of total system receipts) are not unusual and are created by a variety of factors, including, for example, the injection of methanol by offshore producers into their production streams prior to entry into the pipeline system to keep the liquids from freezing. It also states that some gas gains can occur due to the flashing of liquids to gas as they travel through the system. Discovery further states that meter inaccuracies can also contribute to system-wide gains to the extent they are accumulated within the one percent standard meter error permitted under Discovery's tariff. Discovery notes that some of the gains most likely occur on the non-jurisdictional deepwater, offshore gathering systems of Discovery and its parent, Discovery Producer Services LLC, where measuring of the gas stream at the point in the deepwater where the gathering and transportation systems interconnect cannot take place.

10. Finally, Discovery states that in their condensate agreements, shippers are compensated for loss of liquids that flash to gas. As a result, Discovery asserts that if it were not permitted to retain the gain that it experiences, its shippers would be compensated twice for gain quantities, once according to the relief requested here by the Indicated Shippers and once under the condensate agreements.

11. The Commission finds that Discovery has not answered a number of key questions raised by its filing, such as why system gains of those years when Discovery's FL&U retention rate is zero percent should not be part of Discovery's cumulative over-recovery. For example, if Discovery's FL&U retention rate was not zero percent in 2004, would the system gain have been part of Discovery's cumulative over-recovery? Further, Discovery has not provided sufficient information about its system operations to address Indicated Shippers' protest. Accordingly, we will conditionally accept Discovery's tariff sheets effective July 1, 2005, subject to Discovery filing additional information and supporting data. Specifically, Discovery should address in a compliance filing, within 15 days of the date of this order, the foregoing questions, as well as the following:

---

<sup>7</sup> Discovery notes the following tariffs: Chandeleur Pipe Line (owned by an affiliate of Chevron U.S.A. Inc.) First Revised Sheet No. 64A to FERC Gas Tariff, Second Revised Volume No. 1; Destin Pipeline Company, L.L.C. (owned by an affiliate of BP Energy Company) Second Revised Sheet No. 126 to FERC Gas Tariff, Original Volume No. 1; and Venice Gathering System, L.L.C. (owned by an affiliate of Chevron U.S.A. Inc.) Third Revised Sheet No. 4 and First Revised Sheet No. 57 to FERC Gas Tariff, Original Volume No. 1.

1. Does Discovery account for FL&U gas apart from system gain gas? If it does, why and how?
  2. How does Discovery re-deliver for each shipper an equivalent thermal quantity of gas that the shipper delivers to Discovery, and still experience a net system gain?
  3. What does the “condensates agreement” specifically state, and how are the shippers “compensated?”
  4. Does Discovery have any compressors on its system or any other fuel necessary operations?
  5. Explain how a “net gain” can occur from a meter discrepancy and under what tariff and/or contract provision such gas becomes Discovery’s gas.
  6. Explain, with examples and supporting documentation, how the “operation of [its] deepwater, high-pressure three-phase pipeline system carrying hydrocarbon liquids, free-water, and high-BTU natural gas” causes a “net gain of quantities,” and what constitutes such “quantities” (gas, liquids, liquefiabiles, BTUs, etc.).
  7. Explain, with examples, the difference between “lost and unaccounted for gas” and “net gains.” Does Discovery include as “net gains” gas that has “flashed” from liquids or liquefiabiles that it receives from the shipper at the receipt point? Explain fully.
  8. Does Discovery include natural gas, including natural gas that has “flashed” from liquids or liquefiable hydrocarbons, as “substances” it may retain as its property pursuant to section 8.2 of the FT-1 Rate Schedule *pro forma* contract? Explain fully.
  9. Explain, with supporting documentation, why Discovery expects to begin under-recovering F&LU during 2005 and what amounts it expects to under-recover. Explain and fully support why Discovery should not adjust its FL&U percentage to be effective July 1, 2005 to reflect the roughly 1 Bcf of over-recoveries.
12. Notice of such compliance filing shall be issued and the parties to this proceeding may file comments or protests within the time provided in the notice.

By direction of the Commission.

Linda Mitry,  
Deputy Secretary.