121 FERC ¶ 61,135
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Wyoming Interstate Company, Ltd. Docket No. CP07-14-001

ORDER ON REHEARING AND CLARIFICATION

(Issued November 5, 2007)

1. On June 7, 2007, the Commission issued an order (June 7 Order)[1] granting Wyoming Interstate Company, Ltd. (WIC) authorization to construct and operate facilities which comprise the Kanda Lateral and Mainline Expansion Projects. On July 6, 2007, WIC filed a request for rehearing and/or clarification of the June 7 Order. As discussed below, we will grant rehearing in part, deny rehearing in part, and clarify the June 7 Order.

Background

2. The June 7 Order approved the application filed by WIC to construct and operate facilities to provide approximately 406,000 dekatherms (Dth) per day of firm lateral transportation capacity out of the Uintah Basin area in Utah (the Kanda Lateral) and up to 150,000 Dth per day of additional firm transportation capacity on WIC's mainline in Wyoming (the Mainline Expansion). WIC's request for clarification or rehearing addresses conditions imposed in the June 7 Order concerning the depreciation rate for the Kanda Lateral facilities and the treatment of revenues from interruptible transportation services on the Kanda Lateral.

3. In reviewing WIC's proposed rate design for the Kanda Lateral, the Commission found that WIC's proposed depreciation rate was not appropriate. Specifically, WIC used a fifteen-year depreciation period based on the contract term to calculate the incremental recourse rates for the Kanda Lateral. The Commission rejected WIC's use of an economic life based on contract term, finding that it is reasonable to expect the useful life of this facility will be well beyond 15 years since this area is a growing producing region. In the June 7 Order, the Commission directed WIC to recalculate its proposed rates based on the depreciation rate underlying its currently-approved mainline rates or

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[1] *Wyoming Interstate Pipeline, Ltd.*, 119 FERC ¶ 61,251(2007).

some other rate supported by a fully developed depreciation study, rather than the contract life. WIC was directed to file the recalculated recourse rates no less than 30 days, but no more than 60 days, prior to commencement of service.

4. Additionally, the June 7 Order found that the Kanda Lateral recourse rates contained no provision for interruptible service revenue crediting. Consequently, the Commission directed WIC to revise its tariff to include a provision for interruptible service revenue crediting, consistent with the Commission's policy regarding new interruptible services that requires either a 100 percent credit of the interruptible revenues, net of variable costs, to firm and interruptible customers or an allocation of costs and volumes to these services.

Request for Clarification and/or Rehearing

Depreciation

5. WIC states that it intends to submit a depreciation rate for the Kanda Lateral based upon an economic life study. In order to provide adequate time for the Commission to address this matter prior to the in-service date of the Kanda lateral, WIC requests that the Commission allow it to submit a recalculated recourse rate and supporting materials as early as possible, rather than limiting the period from 60 to 30 days before the commencement of service on the Kanda Lateral. Additionally, WIC states that while the June 7 Order identifies WIC's depreciation rate underlying its currently-approved mainline rates to be 2.79 percent, WIC's depreciation rate for mainline facilities is 2.05 percent for pipeline measurement and miscellaneous transmission assets and 3.8 percent for compression assets.

Commission Response

6. The Commission will grant WIC's request to submit the required material earlier than the period stated in the June 7 Order. WIC is directed to include in the supporting materials a schedule showing the proposed depreciation rate for the Kanda Lateral. WIC is also directed to file its revised rates sheets for the Kanda Lateral on a pro forma basis. We also clarify that WIC's correct depreciation rate for mainline facilities is 2.05 percent for pipeline measurement and miscellaneous transmission assets and 3.8 percent for compression assets.

IT Crediting

7. WIC asserts that the requirement in the June 7 Order regarding interruptible service revenue crediting constitutes an impermissible shift in Commission policy. While acknowledging that the Commission required 100 percent crediting of interruptible

revenues in *Entrega Gas Pipeline Inc. (Entegra),* [2] WIC claims that the Commission has approved mechanisms for the sharing of interruptible service revenues in some cases to provide the pipeline with an incentive to try to sell interruptible services.[3]

8. WIC also maintains that a determination of the appropriate treatment of interruptible service revenues is complicated by the fact that the only firm service on the Kanda Lateral will be provided under a negotiated rate agreement. In this regard, WIC cites *Cheyenne Plains Gas Pipeline Co., L.L.C.*, (*Cheyenne Plains*), [4] in which the Commission permitted Cheyenne Plains and its negotiated rate customers to amend their negotiated rate contracts to allow a 50/50 percent sharing of a proportionate amount of the IT revenue. WIC contends that because the Commission directed Cheyenne Plains to submit a tariff provision that would provide its firm recourse rate shippers a proportionate share of the IT revenues, WIC should be allowed to submit a similar proposal to the Commission in compliance with the June 7 Order's directives regarding interruptible revenue crediting. WIC requests that the Commission clarify that it can do so.

Commission Response

9. The Commission's long-standing policy regarding new interruptible services requires either a 100 percent credit of interruptible services, net of variable costs, to firm and interruptible customers or an allocation of costs and volumes to such services. The rationale underlying the crediting aspect of this policy is twofold. First, crediting revenues generated by interruptible service keeps pipeline revenues within the projected cost-of-service. Second, crediting these revenues reduces what customers pay for service, effectively lowering their rates to the level that would result if costs were allocated to interruptible services. This crediting requirement does not represent an "important shift in Commission policy" as alleged by WIC; rather, it is the Commission's policy that has been consistently applied for years, not only in *Entegra*, but in a host of other cases as well.[5]

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[2] 112 FERC ¶ 61,177 (2005).

[3] *Citing Transwestern Pipeline Company (Transwestern),* 64 FERC ¶ 61,156, at 62,260 (1993) (allowing Transwestern to retain 10 percent of interruptible revenues recovered above a threshold level).

[4] 108 FERC ¶ 61, 052 (2004).

[5] *See, e.g., East Tennessee Natural Gas LLC,* 114 FERC ¶ 61,122 at P 31(2006); *Tractebel Calypso Pipeline, LLC,* 106 FERC ¶ 61,273 at P 11 (2004); *Vector Pipeline L.P.*, 85 FERC 61,083 (1998); *Maritimes & Northeast Pipeline L.L.C.*, 80 FERC 61,136, at 61,475 (1997).

10. WIC's reliance on *Transwestern* as an example of an instance where the Commission allowed the sharing of interruptible service revenues between the pipeline and the firm shippers is misplaced. *Transwestern* is distinguishable. In *Transwestern*, the Commission required the pipeline to credit 90 percent of any interruptible revenue received in excess of the costs allocated to interruptible services. This crediting requirement was imposed in the unique context of an Order No. 636 restructuring proceeding and the uncertainties created by that order's unbundling and capacity release requirements. Further, this crediting mechanism was imposed in addition to the pipeline allocating costs to interruptible service. In contrast, the instant proceeding involves the determination of initial rates for new services where WIC has proposed no allocation of costs to interruptible services. In these circumstances, the Commission has not allowed a pipeline to share interruptible revenues with recourse rate shippers. Accordingly, we will deny rehearing to the extent that WIC seeks to implement a sharing of interruptible revenues between the pipeline and its firm recourse rate shippers.

11. However, WIC is correct that in the recent order in *Cheyenne Plains* the Commission addressed its interruptible revenue crediting policy as it relates to negotiated rate contracts. In *Cheyenne Plains*, we clarified that a pipeline and its negotiated rate customers may agree in their negotiated rate contracts to allow for a sharing of a proportionate amount of interruptible revenues collected by the pipeline and a pipeline may credit interruptible revenues to negotiated rate shippers in accordance with these agreements. However, to the extent that recourse rate shippers take service on the pipeline, we required that firm and interruptible shippers receive a proportionate share of 100 percent of interruptible revenues collected (less administrative costs to provide the IT service). We clarify that WIC may file an interruptible revenue crediting mechanism consistent with our findings in *Cheyenne Plains.*

<u>The Commission orders</u>:

(A) WIC's request for rehearing of the June 7 Order is granted, in part, and denied, in part, as discussed in the body of this order.

(B) The June 7 Order is clarified, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.