

121 FERC ¶ 61,249  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Crossroads Pipeline Company

Docket No. RP07-433-000

ORDER ON TECHNICAL CONFERENCE

(Issued December 10, 2007)

1. On May 1, 2007, Crossroads Pipeline Company (Crossroads) filed tariff sheets<sup>1</sup> to establish an annual transportation retainage tracker and a new retainage percentage for company use and lost and unaccounted for gas (LAUF) in section 35 (Transportation Retainage Adjustment (TRA)) of the General Terms and Conditions (GT&C) of its tariff, to become effective June 1, 2007. Crossroads also proposed a retainage surcharge percentage to recoup under-recovered company use and LAUF incurred during January, February and March of 2007. The filing was protested. On May 31, 2007, the Commission issued an order conditionally accepting certain tariff sheets reflecting Crossroads' tracker mechanism and accepting and suspending, subject to refund, other tariff sheets and establishing a technical conference.<sup>2</sup> In addition, the Commission rejected the proposed retroactive retainage surcharge. The Commission ordered Crossroads to file a revised tariff sheet removing the retroactive retainage surcharge from its proposal, resulting in a revised retainage rate of 0.96 percent.<sup>3</sup>

2. In this order, the Commission addresses the technical conference comments and finds that Crossroads' supporting data for its proposed 0.96 percent retainage rate, including its explanations and remedies for its LAUF increases on its system, adequately

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<sup>1</sup> Fifth Revised Sheet No. 6, First Revised Sheet Nos. 39, 359, and 360 and Original Sheet No. 361 of its FERC Gas Tariff, First Revised Volume No. 1.

<sup>2</sup> *Crossroads Pipeline Co.*, 119 FERC ¶ 61,221 (2007) (May 31 Order).

<sup>3</sup> On June 22, 2007, Crossroads filed Sixth Revised Sheet No. 6 to its FERC Gas Tariff, First Revised Volume No. 1, reflecting the 0.96 retainage percentage to comply with the May 31 Order, which was accepted by director's letter order issued July 26, 2007, effective June 1, 2007, subject to refund and the outcome of the technical conference.

supports the proposed 0.96 retainage rate. Accordingly, the Commission accepts the proposed 0.96 retainage rate, effective June 1, 2007, subject to an informational report condition. In addition, the Commission approves the proposal to change the filing and effective dates for Crossroads' annual fuel filings and directs Crossroads to file a revised tariff sheet implementing March 1 and April 1 as filing and effective dates, respectively, for its future annual TRA filings, within 30 days of this order.

### **Background**

3. In its May 1, 2007 filing, Crossroads submitted its annual adjustment to the retainage percentage applicable to Rate Schedules Firm Transportation (FT-1) and Interruptible Transportation (IT-1) as set forth at Sheet No. 6 of the tariff, pursuant to existing section 35 of its GT&C.<sup>4</sup> Crossroads stated that it established the retainage percentage of 0.2 percent in 1995, when it was first certified. Crossroads further stated that, even though it had periodically under-recovered its use and LAUF in the intervening years and had authority to adjust retainage since its initial certificate authorization, it had never done so. Specifically, Crossroads pointed out that over the past three years, it consistently under-recovered its current retainage level of 0.2 percent and reported in Appendix C of its May 1, 2007 filing which reflected a net under-recovery of 300,273 Dth for 2006. Crossroads asserted that it required an adjustment to recover, prospectively, all of Crossroads' current retainage requirements.

4. To remedy this past under-recovery and promote ease of future adjustments, Crossroads proposed to: (1) establish a retainage tracking mechanism similar to that used by its sister pipelines, Columbia Gulf Transmission Company (Columbia Gulf) and Columbia Gas Transmission Corporation (Columbia); and (2) increase the current retainage percentage from 0.2 percent to 1.085 percent, inclusive of a 0.125 percent unrecovered retainage surcharge. Crossroads explained that the proposal consists of two parts: (1) a projected rate to recover anticipated LAUF gas for the annual period June 1, 2007, through May 31, 2008; and (2) a surcharge rate based on under-recovered LAUF gas quantities for the first three months of 2007.

5. Crossroads stated that proposed section 35 is modeled after section 33 and section 35 of Columbia Gulf's and Columbia's GT&C, respectively. Like Columbia Gulf's and Columbia's provisions, Crossroads stated that its proposal uses the prior calendar year

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<sup>4</sup> The forerunner to section 35 of Crossroads' tariff was section 15, which authorized Crossroads to annually adjust its retainage percentage and was approved in Crossroads' initial certificate order. *See Crossroads Pipeline Co.*, 71 FERC ¶ 61,076 at 61,266 (1995); *order on reh'g*, 73 FERC ¶ 61,138 (1995). Section 15 was moved to section 35 in Crossroads' October 1, 2001 tariff filing that was approved by Commission order on October 31, 2001. *See Crossroads Pipeline Co.*, 97 FERC ¶ 61,126 (2001).

(the deferral period) and requires calculating and reconciling actual deferral period retainage requirements with retainage quantities actually collected through rates over that same period. According to Crossroads, this over or under-recovered component then becomes part of the retainage percentage in the subsequent year's filing. Similarly, Crossroads explained that the pipeline estimates the total retainage quantities required for the 12 months commencing with the effective date of the annual filing (June 1), which is based on a corresponding estimated level of throughput for the same future period. Crossroads stated that this amount becomes the current component of the revised retainage percentage.

6. Crossroads also included, in its May 1, 2007 filing, an affidavit of Columbia's Measurement and Regulation Manager, Mr. Harris, who provides technical engineering support for Crossroads.<sup>5</sup> In his affidavit, Mr. Harris explained the field operations the staff performed to identify potential reasons for the unrecovered gas: (1) tests and inspections of the measurement equipment; (2) leakage inspections on the measurement facilities; and (3) surveys on the pipeline for leaks, to identify the source of gas loss. Furthermore, he stated that those surveys found no leaks, but inspections in May and June of 2006 revealed that two gas chromatographs were incorrectly determining the energy content of the gas and required gas quantity adjustment corrections in August 2006. Crossroads stated that it continues performing inspection work on its system and plans completion of more work over the next few months.

7. Crossroads stated the LAUF portions of the current component of the retainage are based upon the calculated estimate for the 12-months beginning June 1, 2007, based on projected system-wide throughput. Consequently, Crossroads proposed to charge the current component for LAUF quantities of 0.96 percent.<sup>6</sup>

8. Crossroads also proposed to establish the initial deferral period commencing January 1, 2007. Consequently, the under-recovered component in this filing was limited to only the first three months of 2007 rather than the preceding calendar year (January 1, 2006 through December 31, 2006). Crossroads showed the actual experience during the initial three-month deferral period.<sup>7</sup> To assist in collecting the under-recoveries incurred in 2007, Crossroads proposed to add a 0.125 percent under-recovered surcharge component to the current component of the retainage described above.<sup>8</sup> In subsequent

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<sup>5</sup> See Crossroads' May 1, 2007 filing (Harris' Affidavit at 1).

<sup>6</sup> See Appendix A to Crossroads' May 1, 2007 filing at 2.

<sup>7</sup> See Appendix B to Crossroads' May 1, 2007 filing at 3.

<sup>8</sup> Crossroads stated that, as of the May 1, 2007 filing, only the first three months of 2007 data was available. See Crossroads' May 1, 2007 filing at 4.

annual filings, Crossroads proposed to true-up any under or over-collections via the surcharge mechanism established in proposed section 35. Crossroads stated that, while Crossroads bases its initial surcharge proposed here on the first three months of 2007 only, in subsequent years, the deferral period will comprise the 12 months of the preceding calendar year.

9. On May 14, 2007, Somerset Gas Transmission Company, LLC (Somerset) and North Coast Gas Transmission, LLC (North Coast) jointly filed a motion to intervene, protest, request for rejection or, alternatively, maximum suspension, summary disposition and establishment of a technical conference. On May 21, 2007, Crossroads filed an answer to Somerset and North Coast's protest.

10. In the May 31 Order, the Commission found that Crossroads' proposed transportation tracking provision, which is similar to tracking mechanisms approved for its sister pipelines, is just and reasonable and consistent with Commission policy and precedent<sup>9</sup> which requires a true-up provision as part of any periodic tracking mechanism to ensure just and reasonable operation of that mechanism. However, the Commission also found that Crossroads had not justified its proposed 0.125 unrecovered retainage surcharge, which reflects under-recoveries that occurred during the months of January, February and March of 2007, before the May 1 filing. The Commission stated that, when implementing a new tracker and true-up mechanism, a pipeline may not include in the initial true-up any under-recoveries that occurred prior to the effective date of the tariff provision.<sup>10</sup> The Commission stated that any true-up of such prior under-recoveries violates the filed rate doctrine and the rule against retroactive ratemaking. Accordingly, the Commission found Crossroads' proposed retainage percent of 1.085 as unjust and unreasonable and rejected the proposed increase. The Commission directed Crossroads to file a revised tariff sheet within 30 days of the May 31 Order to reflect the removal of the 0.125 retainage surcharge from its proposal resulting in a revised retainage rate of 0.96 percent effective, subject to refund and conditions of the May 31 Order, June 1, 2007.

11. The Commission directed its Staff to convene a technical conference in order to address the issues raised by the May 1, 2007 filing and the protest and to further discuss Crossroads' justification and support for its proposed transportation retainage percentage.

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<sup>9</sup> See *Colorado Interstate Gas Company*, 112 FERC ¶ 61,356 at PP 13-14 (2005) (citing *ANR Pipeline Company*, 110 FERC ¶ 61,069 at P 26 (2005)).

<sup>10</sup> *High Island Offshore System, L.L.C.*, 112 FERC ¶ 61,050 at P 145 (2005) (*HIOS*).

The Commission conditionally accepted and suspended, subject to refund, the proposed rate tariff sheets to be effective June 1, 2007, subject to the outcome of the technical conference and further order of the Commission.

12. Immediately prior to and subsequent to the issuance of the May 31 Order, a flurry of pleadings, including a contested settlement, were filed in this proceeding. On May 29, 2007, BP Canada Energy Marketing Corporation (BP) filed a motion to intervene out-of-time, protest and a request for a technical conference. On May 30, 2007, Crossroads filed (a) a motion for leave to answer and answer opposing BP's motion to intervene out-of-time and (b) a proposed settlement in Docket No. RP07-433-001 entered into with certain parties<sup>11</sup> (May 30 Settlement). On May 31, 2007, BP filed a motion for leave to answer and answer to Crossroads' answer in opposition. On June 19, 2007, BP filed comments opposing the May 30 Settlement and Crossroads filed comments in support of the settlement. On June 20, 2007, Constellation NewEnergy-Gas Division, LLC (CNE-Gas) filed a motion to intervene out-of-time. On June 29, 2007, Crossroads filed (a) a motion to postpone the technical conference in order that the Commission consider the pending settlement and (b) reply comments in support of the May 30 Settlement. On July 2, 2007, in Docket No. RP07-433-003, Somerset and North Coast jointly filed a request for rehearing or, alternatively, clarification of the May 31 Order. On July 3, 2007, in Docket Nos. RP07-433-000, -001, and -002, KNG Energy, Inc. (KNG) filed a motion to intervene out-of-time.

13. On July 23, 2007, the Commission issued an order,<sup>12</sup> in Docket Nos. RP07-433-000, -001, and -003, addressing several of the pleadings that were filed prior to and subsequent to the issuance of the May 31 Order. Specifically, the July 23 Order granted motions requesting late intervention, denied a motion to postpone the technical conference established by the May 31 Order, and granted rehearing of that order to the limited extent that the Commission ruled that the issue of the filing and effective dates for future annual tracker filings were to be included in the issues to be addressed at the technical conference.

14. On June 27, 2007, the Commission issued a notice scheduling the technical conference. As directed, the Commission Staff convened the technical conference on July 31, 2007. The central issue set for the technical conference was the increase in Crossroads' then current retainage percentage of 0.2 percent to 0.96 percent, which Crossroads claimed was principally due to the net under-recovery of 300,273 Dth for

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<sup>11</sup> The settling parties were Somerset and North Coast. On June 7, 2007, ProLiance Energy, LLC (ProLiance) filed a motion to hold the settlement proceedings in abeyance. They later withdrew the settlement on June 25, 2007.

<sup>12</sup> *Crossroads Pipeline Co.*, 120 FERC ¶ 61,082 (2007) (July 23 Order).

2006. In addition, the technical conference was convened to discuss the technical, engineering and operational issues raised by Crossroads' filing. At the conclusion of the conference, Staff and the parties agreed that comments would be filed by August 17, 2007, with reply comments due by August 31, 2007.<sup>13</sup>

15. On August 17, 2007, initial comments were filed by BP, Crossroads and Somerset and North Coast. Also, on August 17, 2007, KNG filed a letter notifying the Commission that it was not filing initial comments but reserved the right to file reply comments to respond to any issues raised in other parties' comments. On August 31, 2007, BP, Crossroads and KNG filed reply comments. In their comments, the parties raise issues about: (1) Crossroads' fuel tracker mechanism, requesting that the annual filings be the only fuel tracker filings with emphasis on no periodic filings between the annual filings; (2) whether Crossroads 2007/2008 actuals should reflect prior period adjustments for the entire 2007/2008 fuel rate period; (3) requiring more detailed information in fuel filings and information from pipelines downstream of Crossroads to provide records of imbalances between Crossroads and the particular pipeline; (4) the justness and reasonableness of the 0.96 retainage rate; and (5) whether refunds should only be paid to shippers paying the 2007/2008 fuel rate.

16. Subsequently, on September 6, 2007, Somerset and North Coast filed a joint motion requesting the Commission to permit a limited answer to the comments filed by KNG in which KNG requested the Commission to direct each of the pipelines downstream of Crossroads to provide records of imbalances between Crossroads and the particular pipeline. Otherwise, Somerset and North Coast state that other parties will not have an opportunity to respond to KNG's comments.

## **Discussion of Technical Conference Comments**

### **I. Filing and Effective Dates**

17. In its initial comments, Crossroads states that the parties at the technical conference raised concerns about the timing of the annual TRA filing and discussed whether Crossroads would be amenable to changing the date for the annual TRA filing to either October 1 to be effective November 1 or March 1 to be effective April 1. Crossroads states that, currently, section 35 of its tariff provides that Crossroads will make its annual TRA filing on or before May 1 to be effective June 1. Crossroads avers

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<sup>13</sup> On August 3, 2007, Crossroads and Somerset and North Coast filed a joint motion to withdraw the May 30 Settlement, which contained the retroactive component. No party opposed the withdrawal. Accordingly, the settlement has been withdrawn.

that, with one possible exception,<sup>14</sup> all the participants agreed to a March 1 filing and April 1 effective dates. Crossroads declares that it is willing to revise section 35 of its tariff to reflect the March and April dates and will amend its tariff in the next TRA filing, set for March 1, 2008, to establish that its annual TRA filing be made on March 1.<sup>15</sup>

18. In their initial comments, Somerset and North Coast, as well as BP,<sup>16</sup> claim that the parties at the technical conference generally agreed that Crossroads' proposed filing and effective dates for its future annual TRAs are problematic. However, Somerset and North Coast request October 1 filing and November 1 effective dates for future TRAs, to be in synch with the contracting practices of the downstream Ohio markets served by Crossroads and North Coast, which enter into annual contracts beginning November 1 of each year.<sup>17</sup> Somerset and North Coast state that, at the technical conference, both BP and KNG – customers of Crossroads and North Coast – agreed with the need to change these dates, but preferred March 1 filing and April 1 effective dates for future TRAs, to facilitate contracting on Crossroads by giving shippers sufficient notice of the fuel retention percentage in effect for the duration of the contracts. Somerset and North Coast also state that, at the technical conference, Crossroads confirmed that it would not object to changing the filing and effective dates of future filings to March 1 and April 1, respectively.<sup>18</sup> Somerset and North Coast stress that these revised dates were either

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<sup>14</sup> Crossroads explains that Somerset and North Coast's representative stated it was his understanding that Somerset and North Coast preferred an October 1 filing/November 1 effective date option, which he was to confirm with his client. Crossroads' Initial Comments at n. 2. *See* Somerset and North Coast's Initial Comments at 2 (where they accede to the other parties' position on this issue).

<sup>15</sup> Crossroads states that it does however retain the right to make periodic TRA filings as defined in section 35.2 of its GT&C. Crossroads' Initial Comments at n. 3.

<sup>16</sup> BP supports an April 1 effective date, asserting that: (1) it will allow parties to properly plan for the upcoming season, while not adjusting to a new fuel rate in the middle of a season; (2) it is more consistent with other pipelines' effective dates for new fuel rates; and (3) it will allow shippers on Crossroads to more accurately plan and coordinate their gas transportation on different pipelines for the upcoming 12-month period. BP's Initial Comments at 10-11.

<sup>17</sup> Somerset and North Coast's Initial Comments at 1-2 (*citing* May 14, 2007 Motion to Intervene, Protest, Requests for Rejection, or Alternatively, Maximum Suspension, Summary Disposition, and Technical Conference at 10-11).

<sup>18</sup> *See* Crossroads' May 21, 2007 Answer at 13.

supported or not opposed by *all* parties in this proceeding. Therefore, Somerset and North Coast accede to the position of the other parties, and support March 1 and April 1 as the filing and effective dates, respectively, for all future TRA filings.

19. The Commission finds that a March 1 filing date and an April 1 effective date for Crossroads' annual TRA filings is just and reasonable because it will facilitate contracting on Crossroads by giving shippers sufficient notice of the fuel retention percentage in effect for the duration of the contracts. Crossroads has agreed to this change and all parties to this proceeding either support these dates or are not opposed to them. Crossroads is directed to revise its TRA provision to provide for these dates.

## II. Periodic Tracker Filings

20. In its initial comments, Somerset and North Coast request the Commission to clarify that annual TRA filings be the *only* fuel tracker filings that Crossroads may submit.<sup>19</sup> Somerset and North Coast argue, and BP agrees, that proposed section 35 would permit Crossroads to file any number of periodic filings between annual filings, which they contend wholly undermines the reason for moving the filing and effective dates, *i.e.*, to establish certainty of the fuel retention percentage in effect for the duration of contracts before contracting. Specifically, Somerset and North Coast stress that Crossroads' ability to make periodic filings undermines the price signal intended to reflect the relative costs of transporting on Crossroads versus other alternatives and creates uncertainty for downstream shippers regarding the costs of transporting on Crossroads. They argue that this, in turn, eliminates the incentive of certainty that the proposed shift to March 1 and April 1 for the filing and effective dates was designed to create.<sup>20</sup>

21. Somerset and North Coast and BP argue that Crossroads can still recover its fuel costs via an annual filing without periodic filings. Somerset and North Coast state that an argument vehemently urged by Crossroads to establish a tracker in this proceeding is that its pre-existing tariff allowed Crossroads to propose a fuel rate *annually*.<sup>21</sup> Thus,

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<sup>19</sup> Somerset and North Coast's Initial Comments at 2. BP states that it agrees with this request. *See* BP's Reply Comments at 9-10.

<sup>20</sup> Somerset and North Coast's Initial Comments at 2-4. BP states that it agrees with Somerset and North Coast that periodic filings eliminate many of the benefits relating to setting an annual TRA filing for March 1, effective April 1. *See* BP's Reply Comments at 10.

<sup>21</sup> *See* Crossroads' May, 21, 2007 Answer at 10.

Somerset and North Coast assert that eliminating the opportunity for periodic filings is fully consistent with Crossroads' pre-existing tariff and the previous arguments of Crossroads, which they argue the Commission relied upon to approve a fuel tracker.<sup>22</sup>

22. Finally, Somerset and North Coast state that other Commission regulated pipelines in the region do not have periodic trackers such as Crossroads proposes. Specifically, Somerset and North Coast state that ANR Pipeline Company provides for only an annual fuel tracker filing, while Panhandle Eastern Pipeline Company, LP, Viking Gas Transmission Company and Trunkline Gas Company, LLC each have a fuel tracker that provides for only two filings each year that correspond to winter and summer contracting seasons (October 1, effective November 1, for winter and March 1, effective April 1, for summer).<sup>23</sup> Somerset and North Coast aver that while seasonal filings require a change in the contracting practices in the Ohio markets, from predominantly annual to seasonal periods, at the least, they allow for greater certainty and effective price signals than the unlimited periodic filings proposed by Crossroads in this proceeding.<sup>24</sup>

23. In its reply comments, Crossroads contends that the provision allowing Crossroads to make periodic, as well as annual tracker, filings was among the tariff provisions approved by the Commission in its May 31 Order. Therefore, Crossroads argues that the request of Somerset and North Coast that the Commission modify its earlier order and now reject that tariff authorization should be rejected. Specifically, Crossroads argues that the Commission reject Somerset and North Coast's request because: (1) it is procedurally inappropriate and untimely since Somerset and North Coast could have sought rehearing on this point but did not; (2) the nature of Crossroads' future retainage filings was not an issue for the technical conference and thus cannot be raised at this time; (3) the purpose of the retainage filing is not to provide rate certainty to the shippers, but to allow the pipeline to recover the costs of its fuel and LAUF gas; and (4) Somerset and North Coast have a remedy since they can intervene and protest any future periodic retainage adjustment filing Crossroads may make. In addition, Crossroads argues that while it filed a settlement in this proceeding, prior to the technical conference, it subsequently withdrew it and parties should not be confused about items they hoped to address in settlement but are not the subject of these technical conference proceedings.<sup>25</sup>

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<sup>22</sup> Somerset and North Coast's Initial Comments at 3-4.

<sup>23</sup> See sections 37, 24, 26 and 22 of the GT&C of its FERC Gas Tariff for ANR, Panhandle, Viking and Trunkline, respectively.

<sup>24</sup> Somerset and North Coast's Initial Comments at 4.

<sup>25</sup> See Crossroads' Reply Comments at 3.

24. The Commission rejects the arguments of Somerset and North Coast and BP. We disagree that allowing Crossroads to file periodic TRAs in between annual filings undermines the certainty of the fuel retention percentage provided by annual TRAs. Moreover, as Crossroads points out, the main purpose of TRAs is not to ensure rate certainty but to allow the pipeline to recover costs, consistent with Commission policy and precedent, through a periodic tracking mechanism to ensure just and reasonable rates.<sup>26</sup> The Commission notes that Crossroads' fuel tracking mechanism, which permits periodic filings in between annual filings, was approved in the May 31 Order. No party raised this issue on rehearing. We further note that this issue was not set for discussion at the technical conference. Accordingly, the Commission denies the requests for clarification that Crossroads' annual TRA filings be the only fuel tracker filings that Crossroads may submit.

### **III. Prior Period Adjustments for Entire 2007/2008 Fuel Rate Period**

25. BP states that Crossroads' 2007/2008 LAUF "actuals" should reflect the appropriate prior period adjustments (PPAs) for the entire 2007/2008 fuel rate period. BP submits that Crossroads identified several metering and measurement inaccuracies that it either has or intends to correct.<sup>27</sup> BP states that Crossroads made PPAs to correct for metering and measurement inaccuracies, identified and corrected in 2006; and, thus, the LAUF for the 2007/2008 fuel rate period should not reflect these metering/measurement inaccuracies. Thus, BP states that the future and the prior meter reads are adjusted as if the metering/measurement inaccuracies did not exist. BP agrees with this approach of adjusting prior period volumes to reflect known metering and measurement inaccuracies.<sup>28</sup>

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<sup>26</sup> See *Colorado Interstate Gas Company*, 112 FERC ¶ 61,356 at PP 13-14 (2005), citing *ANR Pipeline Company*, 110 FERC ¶ 61,069 at P 26 (2005); see also 18 C.F.R. § 154.403 (2007).

<sup>27</sup> BP states that these inaccuracies, and Crossroad's actions to remedy them, include: (1) Auburn and Cygnet meters with incorrect energy content (Btu) readings (fixed and PPAs made); (2) Schererville compressor station with small packing leak (fixed); (3) Turbine inlet welds not smooth (grind smooth by November 2007 and, presumably, make PPAs); (4) Flow rate at Cygnet meter below tolerances and resulting in "dead" gas samplings and low meter accuracy (replace the Cygnet meter, move the chromatograph meter from the Cygnet receipt point to the North Coast receipt point where most of the gas is delivered off of the Crossroads' system, and presumably make PPAs); and (5) Flow rate at Sherwood meter below tolerances resulting in low meter accuracy (replace meter and presumably make PPAs). See BP's Initial Comments at 3-4.

<sup>28</sup> BP's Initial Comments at 4.

26. BP, therefore, believes that the same approach should be used to adjust for the metering and measurement errors and inaccuracies that will be addressed by the additional corrective measures that, at the technical conference, Crossroads agreed to take by November 2007. In particular, BP points to the following metering and measurement errors: (1) the flow rate at Cygnet meter below tolerances and resulting in “dead” gas samplings and low meter accuracy; (2) possible Btu errors because the receipt point (North Coast) where the majority of gas is delivered off of the Crossroads system does not have a chromatograph meter installed; and (3) the flow rate at the Sherwood meter below tolerances resulting in low meter accuracy.<sup>29</sup> BP states that once these problems are corrected with new and/or relocated meters, Crossroads expects the amount of LAUF to be less because the quantities of metered receipts should be higher and more in line with the metered deliveries.

27. BP asserts that one significant benefit of these corrections and changes is more accurate meter readings in the future. However, BP suggests that Crossroads also take into account the impact these metering and measurement corrections should have on prior periods, at least for fuel rate purposes. BP asserts that it is critical that prior period meter readings during the 2007/2008 fuel rate period be adjusted in the form of PPAs as part of Crossroads’ next fuel filing. BP suggests that Crossroads use such PPAs, which are consistent with the PPAs that Crossroads made in 2006 for the inaccurate energy content meter readings, to determine the actual fuel loss during the 2007/2008 period. BP argues that only by including such PPAs in Crossroads’ next fuel filing will the next fuel filing reflect the true LAUF “actuals;” otherwise, BP contends the true-up will be unjust and unreasonable because it will not reflect the actual LAUF experience on Crossroads. BP also argues that requiring Crossroads to make PPAs for the metering/measurement errors identified and corrected in 2007/2008 is consistent with Crossroads’ prior practice.<sup>30</sup>

28. BP requests that, if the Commission accepts Crossroads’ proposed retainage rate of 0.96 percent, subject to a true-up, the Commission should require that Crossroads make the appropriate PPAs to determine the LAUF actuals for the 2007/2008 fuel rate period. BP argues that, based on Crossroads’ prior PPAs reflecting metering and measurement errors, the Commission should require Crossroads to make similar PPAs in its next fuel filing reflecting the metering and measurement problems identified and corrected during the 2007/2008 fuel rate period. BP stresses that if PPAs are not made,

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<sup>29</sup> *See Id.* at 4.

<sup>30</sup> Specifically, BP notes that, in the Affidavit of Mr. Harris in Crossroads’ May 1, 2007 filing, Mr. Harris stated that Crossroads believed that meters (presumably the Cygnet and Sherwood meters with the energy content (Btu) errors) required modifications and potential volume adjustments. *See* BP’s Initial Comments at 6-7.

then, the 0.96 percent retainage rate is unjust and unreasonable because it is unrepresentative of the actual 2006 fuel use and LAUF experience and, thus, should not be used as the basis for setting the 2007/2008 fuel rates.

29. In its reply comments, Crossroads asserts that the Commission should reject BP's proposal that Crossroads include in its 2008 retainage adjustment filing a PPA that in effect retroactively adjusts the 0.96 percent projected retainage rate approved for 2007. Crossroads argues that BP's proposal is not premised on a sound understanding of the intended function of the TRA. Crossroads contends that PPAs should not apply retroactively to the *projected rate* approved for 2007; but, instead, any applicable PPA (shown as an over or under-collection) should properly flow through to the shippers via the true-up mechanism. Crossroads states that any PPA, commencing June 1, 2007, forward<sup>31</sup> and impacting the actual LAUF or company use gas quantities, will be reflected in the unrecovered retainage percentage, defined and calculated pursuant to section 35.4 of Crossroads' GT&C.

30. Crossroads argues that BP's comments regarding a PPA associated with the Cygnet and North Coast delivery points, as well as the installation of the new meter at the Cygnet delivery, further demonstrate BP's misunderstanding of PPAs. Crossroads asserts that BP's suggestion that PPAs would appropriately reflect (1) grinding the welds smooth at turbine meter inlets, (2) replacing the Cygnet meter, and (3) moving the chromatograph from the Cygnet delivery point to the North Coast delivery point is incorrect.<sup>32</sup> Crossroads argues that the *prospective* smoothing of welds, the installation of an additional meter at Cygnet and the installation of a chromatograph at North Coast do not change *past reality*; and, thus, do not create PPAs. Crossroads emphasizes that the *prospective* work at Cygnet, North Coast and on the welds result in no change to past gas flow numbers or measurements by which Crossroads can adjust prior gas quantities. Therefore, argues Crossroads, any supposition in this proceeding that the work to be performed by Crossroads somehow creates a change in the past should be rejected.

31. In addition, Crossroads states that the losses of 2006 do actually represent the 2007 rate. Crossroads states that it anticipates that true-ups in its 2008 filing will affect the future retainage rate. Crossroads asserts that the Commission approved this true-up

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<sup>31</sup> Crossroads states that it will not recover any LAUF undercollected quantities incurred prior to May 31, 2007. Therefore, it asserts, any PPAs impacting these gas quantities prior to May 31, 2007, should not be included as an addition to, or a subtraction from the retainage percentage calculation in any prospective retainage rate filing. *See* Crossroads' Reply Comments at n. 2.

<sup>32</sup> *See* BP's Initial Comments at 3-4.

mechanism in its May 31 Order.<sup>33</sup> Those true-ups, continues Crossroads, reflect the changes in measurement facilities that Crossroads is installing this fall. According to Crossroads, it will not, however, reassess or recalculate the 2007 projected 0.96 percent retainage rate. Crossroads argues that the retroactive adjustment BP seeks has never been imposed before and should not be imposed now.

32. In any event, argues Crossroads, BP's entire discussion of the accounting of PPAs is not germane to the issue at hand in this proceeding, specifically, whether Crossroads' proposed projected retainage rate of 0.96 percent is appropriate. Crossroads argues that BP's unjustified attempt to define today, without any data or even a TRA filing, what Crossroads' 2008 retainage rate will be and how it should be calculated, must be rejected. Crossroads contends that the proper forum for a discussion of the impact of PPAs on Crossroads' projected retainage rate, or the calculation of the retainage percentage in relation to the true-up mechanism, can be deferred to, and appropriately discussed in, Crossroads' next TRA filing.

33. In its reply comments, BP responds that, even if the steps proposed by Crossroads do address and remedy the LAUF problem, it is critical for Crossroads to make the appropriate PPAs in its next annual fuel filing when determining the fuel true-up surcharge/credit. BP stresses that it is unclear whether and how Crossroads proposes to make such PPAs to the LAUF volumes to reflect the metering and measurement errors identified and corrected by Crossroads. BP asserts that the Commission and the shippers only will be able to determine whether Crossroads' actions have been just and reasonable if and when Crossroads has (1) identified and properly remedied the causes of the increase in the reported LAUF and (2) made the appropriate PPAs to reflect the metering and measurements errors causing the reported LAUF in its next fuel filing.

34. For the same reasons the Commission rejected the proposed retroactive surcharge in the May 31 Order, the Commission finds that BP's request that Crossroads be required to make PPAs to determine the LAUF actuals for the entire 2007/2008 fuel rate period is unlawful in part and unnecessary in part and, therefore, is rejected. Granting BP's request as to periods prior to the June 1, 2007 effective date of its TRA tariff provision would violate the filed rate doctrine and the rule against retroactive ratemaking.<sup>34</sup> Any potential PPAs relative to the period commencing June 1, 2007, is unnecessary as any such adjustment will be reflected in prospective adjustments to the retainage percentage in Crossroad's next TRA filing.

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<sup>33</sup> See May 31 Order at P 23 (citation and footnote omitted).

<sup>34</sup> *High Island Offshore System, L.L.C.*, 112 FERC ¶ 61,050 at P 145 (2005) (*HIOS*).

#### **IV. Requests for More Detailed Information in TRA Filings**

35. In its initial comments, Crossroads states that it is amenable to the parties' request at the technical conference that Crossroads provide additional work papers to support its future TRA filings. Beginning with its 2008 TRA filing and each subsequent TRA filing, Crossroads agrees to file additional work papers that – to the extent the information is available – provide sufficient detail to quantify the adjustments made to actual metered receipt and delivery quantities, such as gas used in operations, PPAs, and any resulting LAUF quantities.

36. In its initial comments, BP asserts that transparency in the determination of Crossroads' LAUF should be a primary goal of Crossroads' annual fuel filings and should eliminate the need for Crossroads to provide additional support for its proposed fuel rates in supplemental filings and the need for the Commission to set Crossroads' annual fuel rate filings for technical conference. Therefore, BP requests that Crossroads include in its annual fuel filings the following additional information: (1) a description and reconciliation of the differences between Crossroads' annual fuel filing and its Form 2A; (2) detailed information regarding Crossroads' operational purchases/sales of gas and purchases/sales of gas as imbalance gas from/to interconnected parties via their Operational Balancing Agreements (OBAs); (3) a detailed description of any PPAs made; (4) detailed additional work papers that include: (a) metered receipts/deliveries; (b) actual fuel use; (c) fuel received from shippers; (d) cashout receipts/deliveries; (e) imbalance/line pack adjustments to metered receipts/deliveries; (f) other adjustments to metered receipts/deliveries; (g) system purchases/sales; (h) volumes delivered/received; and, (i) calculated fuel loss; and (5) a detailed description of any additional steps that Crossroads has or plans to take to address metering/measurement errors and inaccuracies that may be resulting in reported LAUF.<sup>35</sup> BP asserts that this information allows the Commission and shippers to verify the actual LAUF included in Crossroads' annual fuel filings and to monitor the steps taken by Crossroads to ensure that the reported LAUF is the actual LAUF.

37. In its reply comments, Crossroads asks the Commission to reject, as unprecedented, BP's request that the additional information it lists be included in Crossroads' annual TRAs.<sup>36</sup> Crossroads argues that the level of detail requested by BP is grossly inflated and unsupported. Crossroads contends that it already committed to providing additional work paper detail in the subsequent TRA filing, including identifying all adjustments to actual metered receipt and delivery quantities. Crossroads

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<sup>35</sup> See BP's Initial Comments at 8 for a more detailed description of the information requested.

<sup>36</sup> See BP's Initial Comments at 8-10.

argues that, if parties to Crossroads' next TRA proceeding find the work papers insufficient in that proceeding, they can seek additional information in that proceeding. However, at this time, continues Crossroads, without any showing of necessity, it is inappropriate for the Commission to impose such a perpetual and burdensome task on Crossroads.<sup>37</sup>

38. In its reply comments, BP argues that Crossroads should include in next year's fuel filing its operational gas sales and purchases allowing the Commission and the shippers to determine whether any additional prior period or other adjustments should be made via the true-up mechanism. Similarly, to the extent the reported LAUF remains significantly greater than the LAUF volumes historically experienced on Crossroads, BP states that the Commission also may need to review the imbalance records (as well as the operational gas sales/purchases) of the interconnected pipelines to determine whether the LAUF is in fact gas being "found" by any of the interconnected parties.<sup>38</sup>

39. In its reply comments, KNG agrees with BP's initial comments. KNG also requests that the Commission require submission of imbalance records for each of the pipelines connected downstream of Crossroads. KNG asserts that this information will reveal precisely whether the LAUF is actually received for the benefit of one or more of the downstream pipelines. KNG asserts that this request/suggestion has been made previously in this proceeding by Crossroads in its May 21, 2007 answer.<sup>39</sup> KNG asserts that, if downstream pipelines are the sole beneficiaries of the gas that Crossroads claims as LAUF, as it asserts several parties suspect, shifting the cost of that gas to all Crossroads' customers, including KNG, results in an unjust and unreasonable allocation of costs.<sup>40</sup>

40. In its answer to KNG's reply comments, Somerset and North Coast request the Commission to permit a limited answer to the reply comments filed by KNG. Somerset and North Coast contend that they are aware of the Commission's practice of allowing only initial and reply comments after a technical conference. However, Somerset and

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<sup>37</sup> Crossroads' Reply Comments at 6.

<sup>38</sup> BP's Reply Comments at 5.

<sup>39</sup> KNG's Reply Comments at 3 (*citing* Crossroads' May 21, 2007 Answer at 12 (citation omitted)).

<sup>40</sup> KNG's Reply Comments at 4.

North Coast argue that KNG's reply comments constitute highly inappropriate "sandbagging" and allow KNG to present an incomplete and "skewed" view of the relevant facts without any opportunity for other parties to respond.<sup>41</sup>

41. Somerset and North Coast argue that KNG's request that the Commission require them, as pipelines downstream of Crossroads, to provide records of imbalances between Crossroads and the particular pipeline should have been made in KNG's initial comments so that the request and underlying arguments could be responded to by other parties. Instead, argue Somerset and North Coast, KNG filed a letter advising the Commission that it would not be filing any initial comments, but reserved the right to file reply comments. Thus, Somerset and North Coast contend that the tack of KNG from the start was not to set forth the affirmative relief it now requests until reply comments when no party would have an opportunity to respond.

42. In response to KNG's comments, Somerset and North Coast assert that KNG's request is without merit and relies on a reference to speculation by Crossroads in a May 21, 2007 pleading that a review of the 2005 and 2006 records of Somerset and North Coast "could" help answer some of the questions associated with Crossroads' LAUF calculation.<sup>42</sup> Somerset and North Coast argue, however, that KNG omit that, at the technical conference, Crossroads not only explained that in a subsequent June 29, 2007 pleading, it confirmed that the imbalance records of Somerset and North Coast would not answer any questions associated with Crossroads' LAUF calculation. Somerset and North Coast state that Crossroads also explained that its May 21, 2007 pleading was based on the possibility that its delivery meter at North Coast was not appropriately calibrated and thus might be recording inappropriate quantities of natural gas being delivered. They state that Crossroads later confirmed, based on subsequent tests, that the delivery meter at North Coast accurately reflected the delivered volumes. Notably, Somerset and North Coast assert that, neither KNG nor any other party at the technical conference responded to this demonstration by Crossroads.<sup>43</sup>

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<sup>41</sup> Somerset and North Coast's Answer at 1. Under Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 213(a)(2) (2007), answers to protests or answers are generally prohibited. However, under the circumstances here, where KNG did not initially submit comments to which parties could respond and only submitted reply comments, the Commission will permit the Answer of Somerset and North Coast.

<sup>42</sup> Somerset and North Coast's Answer at 2 (*citing* KNG's Reply Comments at 3.) Somerset and North Coast note that the second and third pages of KNG's reply comments are paginated incorrectly as pages 3 and 4. (The reference in this footnote reflects the incorrect pagination of the comments.)

<sup>43</sup> Somerset and North Coast's Answer at 2.

43. Somerset and North Coast argue that the only other reason for inaccurate delivery records from Crossroads' to North Coast is that the Btu content of the delivered gas was measured downstream of the North Coast delivery point at Cygnet.<sup>44</sup> Yet, continues Somerset and North Coast, as counsel for Somerset and North Coast stated at the technical conference, neither Somerset nor North Coast has any records on the Btu content of the gas delivered, making it abundantly clear that the requested records of Somerset and North Coast cannot shed any light on the LAUF experienced by Crossroads.<sup>45</sup>

44. Finally, Somerset and North Coast argue that, apart from what they assert is the fact that KNG's arguments are bereft of support, the historic imbalance records for the North Coast delivery point, *i.e.*, the records for *any* period prior to the June 1, 2007 effective date of the fuel tracker in this proceeding, are clearly irrelevant. They argue that such records provide information for the time period when Crossroads recovered its fuel by its 0.2 percent stated fuel rate and not via the fuel tracker implemented in this proceeding. Whether Crossroads under or over-recovered fuel during such prior periods, they contend, has no possible bearing on the issues determined in this proceeding. Therefore, Somerset and North Coast request that the Commission accept the instant limited pleading, which they believe demonstrates that KNG's request for historic reports is not only inappropriate, but irrelevant to the resolution of issues raised in this proceeding.

45. At this time, the Commission rejects the requests of BP<sup>46</sup> and KNG for additional information, both in this proceeding and in future TRA filings, as unnecessary and overly burdensome. The Commission finds that Crossroads' evidence presented in the technical conference proceeding herein sufficiently justifies its proposed 0.96 retainage percent in this proceeding. Further, we find that Crossroads' past and proposed actions to reduce LAUF on its system are appropriate and sufficient at this time, the effects of which should be reflected in its next TRA filing. Finally, its agreement to provide, in future TRA filings, additional work papers quantifying adjustments made to actual metered receipt and delivery quantities, including information for gas used in operations, PPAs and resulting LAUF quantities, will generally provide adequate information to review the reasonableness of its future proposed TRAs. In addition, as Crossroads states, if parties to Crossroads' future TRA proceedings find the work papers and other information insufficient, they may seek additional information in that proceeding at that time. We

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<sup>44</sup> See Crossroads' June 29, 2007 Reply Comments on Settlement, at Mr. Harris' Affidavit at P 7.

<sup>45</sup> Somerset and North Coast's Answer at 3.

<sup>46</sup> See BP's Initial Comments at 7-8 and BP's Reply Comments at 5.

also reject KNG's request that Crossroads provide historic imbalance records of downstream pipelines. KNG's request relies on information provided by Crossroads in an earlier pleading<sup>47</sup> where Crossroads stated that historical negative transportation imbalances between its system and Somerset and North Coast's could result from measurement errors with their meters and that a review of Somerset's and North Coast's Gas Balance Reports could help answer some of the questions associated with the LAUF quantities. Crossroads later reviewed all of the active delivery meters on its system, including the meter delivering to North Coast, and concluded that, except for meters discussed in Mr. Harris' supplemental Affidavit, they accurately read the gas volumes.<sup>48</sup> Finally, any implication that Crossroads' operational purchases and sales of gas, imbalances, or line pack adjustments on its system will reveal mis-accounted-for LAUF gas volumes is speculative and, accordingly, no additional information is required at this time.

#### **V. Justness and Reasonableness of the Retainage Rate of 0.96 Percent**

46. In its initial comments, Crossroads states that at the technical conference, it explained that its retainage rate of 0.96 percent is based on the prior year's actuals, a method routinely used by its sister pipelines when estimating LAUF.<sup>49</sup> Crossroads also states that no party challenged this methodology at the technical conference.

47. Crossroads next states that its expert witness, Mr. Harris, at the technical conference, detailed how Crossroads tracked and studied the: (1) increases in LAUF in 2004; (2) steps taken to inspect its system in 2005, 2006 and 2007 to identify the cause of the increased losses; (3) corrections to its gas chromatographs that appeared initially to reduce LAUF in 2006; and (4) continuing efforts of Crossroads to identify and remedy the increased LAUF. In addition, Crossroads states that it explained how and why LAUF is, by definition, an unidentifiable quantity as are the reasons for the LAUF. Crossroads provides in its initial comments, Exhibit A (its power point presentation presented at the July 31 technical conference).

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<sup>47</sup> See Crossroads' May 21, 2007 answer at 12-13.

<sup>48</sup> See Crossroads' June 29, 2007 Reply Comments on Settlement, at 8 and at Mr. Harris' Affidavit at P 9.

<sup>49</sup> Crossroads states that it does not utilize gas compression; and, therefore, virtually all of its retainage is made up of LAUF. Crossroads contends that the Commission has recognized the reasonableness of projecting LAUF based upon the prior year's actuals. Crossroads' Initial Comments at n. 1 (*citing Columbia Gas Transmission Corporation*, Docket No. RP07-335-000, Letter Order Issued on March 28, 2007, P 1).

48. Crossroads contends that, although all participants at the technical conference had the opportunity for frequent questions and discussion to clarify Crossroads' presentation, no participant challenged the data provided by Mr. Harris or the steps taken by Crossroads to reduce the current LAUF quantities. Therefore, Crossroads argues, via the two affidavits submitted by Mr. Harris in this proceeding (on May 1, 2007, and June 29, 2007), as well as Mr. Harris' presentation at the technical conference, that it has sufficiently demonstrated it has prudently addressed LAUF on its system and expended significant time, effort and expense to identify and remedy the situation. Crossroads stresses that although the retainage adjustment is higher than in the past, it is not unreasonable in the circumstances presented here.<sup>50</sup>

49. Crossroads states that, additionally, it presented concrete steps it plans to make by November 2007, which it believes, once accomplished, will aid in reducing LAUF quantities. Crossroads states that these steps are: (1) installing an additional meter at the Cygnet delivery point to enable accurate measurement during low flow periods; (2) rebuilding the Sherwood meter station by installing a new turbine meter to replace the existing out-of-tolerance meter; (3) moving the Cygnet gas chromatograph upstream to the North Coast delivery point; and (4) grinding the welds smooth at some turbine inlets per American Gas Association (AGA) recommendations. Crossroads submits that it commenced the work on the turbine inlets and ordered all of the metering and gas chromatograph equipment. Crossroads states that the meter efforts should be completed by November 1 of this year. Crossroads also states that it will relocate the gas chromatograph once North Coast formally approves the site location. Therefore, Crossroads asserts that it has sufficiently demonstrated prudence in addressing the LAUF situation on its system, and the Commission should conclude that the projected retainage percentage of 0.96 percent is appropriate.<sup>51</sup>

50. In its initial comments, BP argues that the LAUF component is significantly overstated in the proposed 0.96 percent fuel rate, which would take effect June 1, 2007. BP claims that, although the "actual" LAUF in 2006 is still unknown, after the various metering and measurement errors identified by Crossroads are taken into account, the actual fuel loss in 2006 is significantly less than the LAUF that Crossroads included in its May 1, 2007 filing. However, BP recognizes that the Commission may allow Crossroads to implement the 0.96 percent fuel rate, subject to a true-up, because the impact of Crossroads' metering and measuring errors on the "actual" fuel loss is still unknown and is not expected to be known until November 2007, and because the 2007/2008 fuel rate is only an estimate to be trueed-up based on the actual fuel use and LAUF experience.<sup>52</sup>

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<sup>50</sup> Crossroads' Initial Comments at 4.

<sup>51</sup> *Id.* at 5.

<sup>52</sup> BP's Initial Comments at 1.

51. BP states that to address the LAUF problem, on an expedited basis, the Commission should require Crossroads to include (1) a description of the corrective steps that Crossroads has taken and (2) the results in its next annual fuel filing. BP expresses concern that Crossroads' planned future steps, to be completed by November 2007, to address the inaccurate metering and measurement facilities on the Crossroads system will not address the LAUF problem. BP asserts that there is no indication that the increase in LAUF is actually an increase in LAUF on the Crossroads system and not found gas on the interconnected systems, such as the Columbia and/or the North Coast system. BP acknowledges Crossroads' claim that there are no problems at the North Coast interconnect; however, BP claims that North Coast, which does not purchase gas, has been selling gas. Furthermore, BP recognizes that the excess gas on the North Coast system could result from an over-collection of fuel from its customers; however, such excess gas also could result from more gas flowing from the Crossroads system onto the North Coast system than scheduled. BP believes that it is essential that Crossroads' efforts to address the metering and measurement inaccuracies occur on a timely basis and solve the problem. Therefore, BP requests that the Commission direct Crossroads to include a status report in its next annual fuel filing.<sup>53</sup>

52. BP states that, if the metering/measurement problems identified by Crossroads address the significant increase in LAUF, the problem is solved. However, to the extent that the corrections are not made on a timely basis or do not address the LAUF problem, BP reserves the right to challenge any fuel rates proposed in Crossroads' next fuel filing as unjust and unreasonable. BP states that it does not object to fuel rates that include a component for true LAUF, but opposes a fuel rate that includes a LAUF component for gas that is not really lost but is a result of known metering inaccuracies or other problems that are known or should be known.<sup>54</sup>

53. In its reply comments, Crossroads indicates that the Commission, in the May 31 Order, required a technical conference for the purpose of further discussing "Crossroads' *justification and support for its proposed transportation retainage percentage*.... In addition, any party proposing alternatives to Crossroads' proposal should also be prepared to support its position with adequate technical, engineering and operational information."<sup>55</sup> Crossroads asserts that much, if not all, of BP's comments are irrelevant to what Crossroads' 2007 projected retainage rate should be. Further, Crossroads states that BP had ample opportunity at the technical conference to provide an alternative to the projected 0.96 percent retainage rate, but did not do so.

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<sup>53</sup> *Id.* at 9.

<sup>54</sup> *Id.* at 10.

<sup>55</sup> Crossroads' Reply Comments at 1-2 (emphasis added) (*citing* June 27, 2007 Notice of Technical Conference).

54. In addition, Crossroads argues that, contrary to BP's assertions, the 0.96 percent retainage rate currently before the Commission *does* represent Crossroads' actual 2006 fuel use and LAUF quantities. Crossroads states that BP argues otherwise by suggesting that problems with measurement facilities led to a false, unjust and unreasonable LAUF rate.<sup>56</sup> Crossroads reiterates that LAUF, by its very nature, is unknowable and cannot be defined and stresses that it is the difference between the gas that is received by the pipeline and the amount that is delivered by the pipeline or otherwise accounted for. Crossroads explains that the remaining lost and *unaccounted* for quantities result from losses that cannot be identified as occurring at any particular location – including losses due to problems with measurement devices.<sup>57</sup> In conclusion, Crossroads requests that the Commission find that the 0.96 percent retainage rate, approved in the May 31 Order, is approved and no longer subject to refund. Crossroads further requests that the Commission reject BP's and Somerset and North Coast's arguments.

55. In its reply comments, BP argues that Commission Staff and shippers at the technical conference questioned Crossroads' steps taken and intended steps to address the increase in the reported LAUF over the last few years, with particular focus on the metering and measurement problems and errors identified to-date by Crossroads.<sup>58</sup> BP asserts, however, that the shippers' attempts at the technical conference to better understand Crossroads' system, the causes of the reported LAUF and Crossroads' past and planned actions are misrepresented by Crossroads' initial comments that the shippers did not challenge Crossroads' proposed LAUF rate or the steps taken by Crossroads to reduce the reported LAUF.<sup>59</sup> Particularly, BP argues that Crossroads is erroneously suggesting that the only way shippers on Crossroads could object to the proposed LAUF rate or to the steps taken by Crossroads to remedy the reported LAUF increase was for the shippers to make an alternative technical presentation at the technical conference regarding the cause of the reported LAUF on Crossroads' system. BP further argues that such a suggestion ignores that only Crossroads can explain what it did to identify, address and remedy the metering and measurement problems that gave rise to the increase in the reported LAUF on its system.<sup>60</sup>

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<sup>56</sup> Crossroads' Reply Comments at 5 (*citing* BP's Initial Comments at 6).

<sup>57</sup> Crossroads' Reply Comments at 5.

<sup>58</sup> KNG, in its reply comments, agrees with BP's claim that parties at the technical conference challenged the fact of the losses. KNG's Reply Comments at 3.

<sup>59</sup> BP's Reply Comments at 3 (*citing* Crossroads' Initial Comments at 2).

<sup>60</sup> BP's Reply Comments at 3.

56. BP also argues that it has never indicated that the actions taken by Crossroads are just, reasonable or adequate or that Crossroads prudently addressed and remedied the reported LAUF problem.<sup>61</sup> BP asserts that in fact, as even Crossroads recognized at the technical conference, it is premature to make such determinations. BP states that, at this time, it is unknown whether Crossroads resolved the reported LAUF problem, particularly since Crossroads only recently determined that certain of its practices are not in compliance with industry standards or the manufacturer guidelines.<sup>62</sup> In addition, BP points out that Crossroads also recognized that during the course of this proceeding it came to different conclusions regarding the possible causes of the increase in the reported LAUF, *i.e.*, Crossroads' suggestion that the reported LAUF increase related to found gas on the North Coast system and, now, its dismissal of such a suggestion. BP also argues that, even though Crossroads also identified and made various PPAs related to Btu measurement errors at two metering stations, the reported LAUF is still higher than historical amounts and Crossroads continues its investigation of the LAUF increase.<sup>63</sup>

57. BP repeats its initial comments that the proposed 0.96 percent fuel rate is not reflective of the actual LAUF experienced on the Crossroads, but understands that the Commission may prefer addressing the LAUF estimate's inaccuracies in Crossroads' next fuel filing via the true-up mechanism. BP believes that, as an alternative, the Commission could either require Crossroads to implement a lower fuel rate for this fuel period that better reflects the actual LAUF experience on Crossroads system or require Crossroads to address the inaccuracies included in its LAUF estimate in its next fuel filing via the true-up mechanism.<sup>64</sup>

58. In its reply comments, KNG agrees with BP's initial comments. KNG is concerned about whether: (1) Crossroads' purported increase in LAUF is, in fact, an increase in LAUF and not "found gas on the interconnected systems, such as the Columbia and/or North Coast system;"<sup>65</sup> (2) North Coast, which does not purchase gas, has been selling gas; and (3) the excess gas on the North Coast system could result from

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<sup>61</sup> BP's Reply Comments at 6 (*citing* Crossroads' Initial Comments at 2).

<sup>62</sup> *See* Crossroads' June 29, 2007 Reply Comments on Settlement, at Mr. Harris' Affidavit at 3-4 (citations omitted).

<sup>63</sup> BP expects that adding a chromatograph meter to the North Coast meter station will significantly impact the reported LAUF volumes. BP's Reply Comments at 8.

<sup>64</sup> BP's Reply Comments at 3.

<sup>65</sup> KNG's Reply Comments at 1 (*citing* BP's Initial Comments at 9).

an over-collection of fuel from its customers or from more gas flowing from the Crossroads system onto the North Coast system than scheduled.<sup>66</sup> KNG argues that Crossroads itself raised this potential explanation in earlier pleadings.<sup>67</sup>

59. KNG requests that the Commission deny Crossroads' request for a five-fold increase in its retainage percentage and undertake the suggested additional information-gathering step to resolve Crossroads' LAUF issue. Alternatively, KNG supports BP's recommendation that any increase in the retainage percentage for the 2007-2008 period remain subject to true-up to take into account information that is subsequently revealed by Crossroads' planned remedial actions.

60. The Commission finds that Crossroads has adequately demonstrated that the proposed 0.96 percent retainage rate represents Crossroads' actual 2006 fuel use and LAUF quantities. As Crossroads has explained, LAUF, by its very nature, is unknowable and cannot be defined. It is the difference between gas that is received by the pipeline and the amount that is delivered by the pipeline or otherwise accounted for. The remaining lost and unaccounted for quantities result from losses that cannot be identified as occurring at any particular location – including losses due to problems with measurement devices. The proposed 0.96 retainage percent will be subject to a true-up in the next TRA filing, which will therefore address any inaccuracies in Crossroads' LAUF estimates. Finally, the Commission finds that, as reflected in Crossroads' comments detailing its past and planned actions to reduce LAUF,<sup>68</sup> Crossroads has prudently attempted to address the LAUF increase on its system. Accordingly, the Commission finds that Crossroads has adequately supported its proposed 0.96 retainage percentage.

## **VI. Credits or Refunds to Shippers Paying the 2007/2008 Fuel Rate**

61. In its initial comments, BP states that the Commission's general practice for a fuel true-up is for the next fuel rate to reflect any true-up for the previous period and not require pipelines to provide the true-up directly to shippers that actually paid the fuel rate but instead to all shippers on the pipeline during the next fuel rate period. However, BP asserts that, in this particular case, the Commission should require that any fuel true-up apply "only" to the shippers who are paying the 0.96 percent fuel rate, which BP asserts Crossroads admits would be lower if the metering/measurement corrections were made earlier. BP asserts that the 0.96 percent fuel rate is not a true reflection of the 2006

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<sup>66</sup> *Id.* (citing BP's Initial Comments at 9-10).

<sup>67</sup> KNG's Reply Comments at 3 (citing Crossroads' May 21, 2007 Answer at 12).

<sup>68</sup> *See* Crossroads' Initial Comments at 4; *see also* Crossroads' June 29, 2007 Reply Comments on Settlement, at Mr. Harris' Affidavit at P 10.

“actuals” and does not account for identified metering and measurement errors. BP argues that part of the inaccuracy results from Crossroads only now proposing a fuel tracker and true-up mechanism. Thus, BP contends that neither the Commission nor the shippers were aware of the significant metering and measurement inaccuracies on Crossroads resulting in the reported LAUF that is not the actual LAUF experienced. BP states that, although Crossroads plans to implement corrections and changes to its system to determine the true LAUF, such changes are unlikely to occur before November 2007. BP continues that in any event, a new fuel rate will not be effective until April 1, 2008, at the earliest.<sup>69</sup>

62. BP claims that, as a result, unduly discriminatory generational inequities are likely unless the fuel true-up applies to the shippers actually paying the 2007/2008 fuel rate. BP argues that it is difficult, if not impossible, to determine the just and reasonableness of the 0.96 percent fuel rate until after Crossroads makes the necessary metering and measurement corrections to address known inaccuracies. BP submits that for this reason, the current proceeding is more akin to a rate case, in which the Commission allows rates to go into effect, subject to a refund, than a traditional fuel rate case, where fuel rates vary from year to year, with relatively small true-up percentages recognizing that even the best estimates are not always correct. BP is not requesting that the Commission change its fuel tracker and true-up policy, but instead requests that the Commission recognize the unique circumstances in this proceeding and require the true-up apply in the form of a credit or refund to shippers that paid the 2007/2008 fuel rate.<sup>70</sup>

63. In its reply comments, Crossroads requests that the Commission reject BP’s proposal that all true-ups under the 0.96 percent projected rate be credited or refunded *only* to shippers paying that rate. Crossroads points out that BP cannot cite a single instance of the Commission imposing such a requirement. Crossroads argues that ordering such a refund would be tantamount to rejecting Crossroads’ Commission approved true-up mechanism, which was approved as just and reasonable in the May 31 Order. Crossroads stresses that BP’s efforts to amend the May 31 Order constitute a collateral attack on a Commission order and should be rejected.<sup>71</sup>

64. Crossroads states that, as the Commission has recognized, Crossroads’ true-up mechanism will capture any over/under collection of LAUF and company use quantities and adjust the projected retainage rate by the appropriate amount. Crossroads argues that, contrary to BP’s assertion, Crossroads’ proposal is a retainage filing, not a rate case

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<sup>69</sup> BP’s Initial Comments at 11.

<sup>70</sup> *Id.* at 12.

<sup>71</sup> Crossroads’ Reply Comments at 7.

filing and any revenue crediting requirement would simply add an undue burden on Crossroads in administering these quantities. Therefore, asserts Crossroads, the Commission should reject BP's proposal and allow the true-up mechanism to perform as intended.<sup>72</sup>

65. The Commission reiterates its findings that Crossroads has adequately supported its proposed 0.96 percent TRA rate, and that Crossroads' true-up mechanism will capture any over/under collection of LAUF and company use quantities and will adjust the projected retainage rate by the appropriate amount. We also find: (1) the tracking mechanism, which provides for a true-up to all shippers, was accepted in the May 31 Order as just and reasonable and BP has not shown otherwise; (2) this proceeding is a retainage tracker filing and therefore falls under the fuel tracker and true-up policy and not the policy cited by BP of requiring refunds in general rate cases;<sup>73</sup> and (3) there is no Commission precedent and policy, or special circumstances, that requires imposing such a refund or crediting requirement. We, therefore, reject BP's request that true-ups related to the 2007/2008 fuel rate period under the 0.96 percent fuel rate, be credited or refunded only to shippers paying that rate.

The Commission orders:

(A) Crossroads' proposed tracking provisions and retainage rate are hereby accepted, subject to conditions as discussed in the body of this order.

(B) Within 30 days of this order, Crossroads shall file a revised tariff sheet reflecting revised filing and effective dates for its TRA filings and shall separately file an informational report detailing its actions taken to reduce LAUF, as discussed in the text above.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>72</sup> *Id.*

<sup>73</sup> BP's Initial Comments at 12.