122 FERC ¶ 61,044
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

January 18, 2008

In Reply Refer To:
Eastern Shore Natural Gas Company
Docket No. RP08-131-000

Eastern Shore Natural Gas Company
417 Bank Lane
Dover, DE 19904

Attention: Ronald A. Craig
Contract and Billing Administrator

Reference: Out-of-Cycle Fuel Tracker and Cash Out Refund/Surcharge Filings, and Combined Refund of Over-recovered Deferred Cash Out Costs and Deferred GRO Costs

Dear Mr. Craig:

1. On December 19, 2007, Eastern Shore Natural Gas Company (Eastern Shore) filed revised tariff sheets[1] with supporting calculations to implement an out-of-cycle Fuel Retention Percentage (FRP) of 0 percent, effective January 18, 2008. Eastern Shore's filing also includes calculations reflecting out-of-cycle Cash Out Refund/Surcharge calculations. On the basis of these calculations, Eastern Shore proposes to refund to its customers $1,257,213, inclusive of interest, an amount which combines $942,950 in over-recovered Deferred GRO (Gas Required for Operations) costs and over-recovered Deferred Cash Out costs. For reasons detailed below, Eastern Shore seeks waiver for the referenced tariff sheets and refund distribution to be effective on January 18, 2008. There are no protests or adverse comments. The Commission accepts the referenced tariff sheets to be effective on January 18, 2008, and directs Eastern Shore to implement its proposed refund distribution as discussed below.

2. Public notice of the filing was issued on December 21, 2007. Interventions and protests were due as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2007)), all timely filed motions to intervene and any motion to intervene out-of-time filed before the issuance date of this order are

[1] Twentieth Revised Sheet No. 4 and Nineteenth Revised Sheet Nos. 5 and 6 to FERC Gas Tariff, Second Revised Volume No. 1.

granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

3. Section 31 of Eastern Shore's General Terms and Conditions (GT&C), requires Eastern Shore to annually file revised tariff sheets to redetermine its system-wide FRP for a 12-month period to be effective each July 1. The redetermined FRP is based on the most recent 12 months of activity for which data is available. In addition, GT&C section 35 requires Eastern Shore to make a separate annual filing to either implement a system-wide recovery surcharge effective each July 1, or distribute a refund to its customers by each May 1, of the difference between total amounts received and paid under the cash out provisions of its tariff. The Cash Out Refund/Surcharge calculation is based on a 12-month billing period ending each March 31.

4. Regarding its obligation to make separate annual FRP and Cash Out Refund/Surcharge filings, Eastern Shore states that due to extenuating circumstances, it did not submit the 2006 annual filings and has delayed the 2007 annual filings until now. This filing therefore, consists of separate out-of-cycle FRP and Cash Out Refund/Surcharge calculations based on twenty-four months of data, and also contains a proposal to combine Eastern Shore's separate refund obligations under each section into one refund.

5. Eastern Shore states the following regarding the FRP portion of its filing. When preparing its 2006 Annual Fuel Retention Adjustment filing, its calculation resulted in a negative 0.39 percent. This situation had never occurred before, and Eastern Shore suspected it to be a measurement issue. Eastern Shore set its FRP at 0 percent, effective July 1, 2006, while it investigated. Since then, its technical support personnel have conducted an extensive evaluation of the measurement of gas volumes throughout the Eastern Shore system. All of Eastern Shore's receipt and delivery point measurement stations have also been inspected. Where applicable, Transcontinental Gas Pipe Line Corporation and Columbia Gas Transmission Corporation, Eastern Shore's upstream transporters, were requested to perform and did perform similar inspections. These evaluations have identified no measurement discrepancies that would require adjustment under the terms of Eastern Shore's tariff. As part of Eastern Shore's efforts to ensure measurement accuracy, these evaluations and inspections are being performed on an on-going basis.

6. Eastern Shore states that it acknowledges the delay in making this filing but believes it was prudent to wait until it completed its investigation and was satisfied that its supporting detail was accurate and complete to the best of its abilities. Furthermore, Eastern Shore believes its customers have not been harmed, as it has calculated interest for refunds due at the appropriate FERC-published rates through the date of this filing, and will further adjust such interest through the actual date such refunds are distributed.

Eastern Shore also apologizes for not seeking a waiver of its tariff provisions to implement the 0 percent FRP that it has charged its customers since July 1, 2006, in order to mitigate over-recovery of GRO costs while it completed its investigation.

7. Eastern Shore states that the FRP is designed to reimburse Eastern Shore for the cost of its Gas Required for Operations (GRO), which consists of: (a) gas used for compressor fuel, and (b) gas otherwise used, lost or unaccounted for, in its operations. Eastern Shore's re-determined FRP is comprised of two components: (1) a projected component based on Eastern Shore's actual GRO quantities and transportation receipts, and (2) a deferred component based on Eastern Shore's Deferred GRO Account balance. The deferred component is intended to "true-up" under/over-recovered GRO costs via a positive surcharge percentage rate or a negative surcharge percentage rate, respectively. Through this FRP tracker mechanism, Eastern Shore ultimately recovers only the GRO costs it has actually incurred for natural gas used in its system operations.

8. Eastern Shore states that the twenty-four month period ending March 31, 2007 resulted in a negative GRO for the combined two-year period. Eastern Shore's compressor fuel usage for the twenty-four month period ending March 31, 2007 was 39,975 Dth. This quantity was, however, more than offset by Eastern Shore's negative lost or unaccounted for quantity of (124,479) Dth for the same period. Eastern Shore's GRO thus netted to (84,504) Dth, resulting in a calculated projected GRO of (0.21) percent. Additionally, Eastern Shore calculated a negative Deferred GRO (0.34) percent, due to calculated Deferred GRO Account balance of ($942,950) during the twenty-four-month deferral period ended March 31, 2007. Rather than assess its customers a negative total FRP of (0.55) percent, Eastern Shore proposes in this filing to implement a 0 percent FRP.

9. Eastern Shore states that it experienced a Cash Out over-recovery of $242,405 during the twenty-four-month period ended March 31, 2007. Eastern Shore's calculations detailing the over-recovery are shown in Appendix C, Schedules 1 through 5 of the filing. Shown on Schedule 1 are the individual components of each month's cash activities. These components include monthly cash-out imbalances resulting from customers, total cash imbalance resulting from storage injection/withdrawal activities undertaken by Eastern Shore for system balancing, and GRO account activity. This schedule also reflects interest calculated through March 31, 2007 and the cash-out amounts recovered by Eastern Shore via operation of its Cash-Out Surcharge for the period April 1, 2005 through March 31, 2007. Schedule 2 details the monthly variable storage imbalances for the period April 2005 through March 2007, as included on Schedule 1, Line 27. Schedules 3 and 4 detail the monthly computation of interest and deferred income taxes, respectively. Schedule 5 details the monthly recoveries of Eastern Shore's Unrecovered Cash Out Balance for the period April 1, 2005 though March 31, 2007 through the mechanics of the applicable Cash Out Surcharges that were implemented during that period.

10. In light of the circumstances described above, Eastern Shore proposes to: (1) maintain a Fuel Retention Percentage of 0.00 % effective January 18, 2008; (2) retain its existing Cash Out Surcharge of $0.00 per Dth effective January 18, 2008; and (3) refund to its customers upon issuance of a Commission Letter Order accepting the proposed tariff sheets filed herein $1,257,213, inclusive of interest through the date of its filing, an amount which combines its $942,950 over-recovery of deferred GRO costs with its $242,405 over-recovery of deferred Cash Out costs. Refunds shall be allocated to each customer based on the ratio of a customer's actual deliveries to actual system total deliveries for the twenty-four-month period ending March 31, 2007.

11. The Commission will grant all waivers as requested and (a) accept, effective January 18, 2008, the tariff sheets identified in footnote no. 1 implementing a 0 percent fuel retention percentage, (b) accept Eastern Shore's out-of-cycle Cash Out Refund/Surcharge calculation of $242,405 in over-recovered Cash Out costs, and (c) direct Eastern Shore to refund to its customers $1,257,213, consisting of the over-recovered Cash Out costs and $942,950 in Deferred GRO costs, inclusive of interest to the date of refund. While the FRP and Cash Out filings are supposed to be made separately under Eastern Shore's tariff, a combined refund will more expeditiously facilitate Eastern Shore's remedy for its delay in making the appropriate filings.

12. The Commission notes that, while Eastern Shore appropriately undertook an investigation of its fuel use during a 24-month period ending March 31, 2007, and unilaterally reduced its fuel retention to 0, this does not excuse the fact that it failed to make the annual filings required under sections 31 and 35 of its tariff, or that it failed to seek waiver or extension in a timely manner of these filing requirements. Nevertheless, because Eastern Shore has come forward on its own with a remediation proposal to which none of its customers have objected, and it charged a 0 percent fuel retention percentage, the Commission will, under these circumstances, waive the tariff's filing requirements as to the past, and waive its tariff's FRP provisions to permit Eastern Shore to charge a 0 fuel retention percentage prospectively for the period covered by this filing. These are one-time waivers and, therefore, Eastern Shore is advised that it must comply with its tariff in the future.

13. Finally, the Commission notes that certain language in paragraphs (c) and (d) of GT&C section 31 of Eastern Shore's tariff appears to have been inadvertently deleted. Eastern Shore is directed to review the text of section 31 and, within 15 days of this order, file tariff sheets that reflect the restoration of the missing text.

By direction of the Commission.

Kimberly D. Bose,
Secretary.