122 FERC ¶ 61,303
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. RP07-699-000

ORDER FOLLOWING TECHNICAL CONFERENCE

(Issued March 31, 2008)

1. On September 19, 2007, in Docket No. RP07-699-000, Wyoming Interstate Company, Ltd. (WIC) filed tariff sheets[1] to revise its fuel tracking mechanism. On October 31, 2007, the Commission issued an order[2] accepting and suspending the tariff sheets, to become effective April 1, 2008, subject to a technical conference established to address the issues raised by WIC's filings. The technical conference was held on November 15, 2007. Based on further review of the filings and comments on the technical conference, the Commission conditionally accepts WIC's tariff sheets, with one exception, effective April 1, 2008.

I. Background

2. WIC's current tariff provides for the reimbursement of fuel gas quantities (fuel gas) and lost and unaccounted for gas quantities (L&U)—collectively referred to as FL&U—through a volumetric true-up mechanism. WIC calculates and files with the Commission FL&U reimbursement percentages at least annually. In this filing, WIC proposes to change the methodology for calculating the FL&U reimbursement percentage to include the tracking of changes in the value as well as the volumetric tracking of quantities used and retained (i.e., gas in kind).

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[1] Twelfth Revised Sheet No. 37A, Eleventh Revised Sheet No. 37C, Third Revised Sheet No. 39C, Ninth Revised Sheet No. 83, First Revised Sheet No. 83A, Original Sheet 83A.01, and Original Sheet No. 83A.02 to its FERC Gas Tariff, Second Revised Volume No. 2.

[2] *Wyoming Interstate Company, Ltd.*, 121 FERC ¶ 61,114 (2007).

3. In addition, WIC proposes to incorporate into its FL&U calculation the net cost or revenue of gas balancing activities. In support of its proposed expansion of FL&U adjustments to include gas balancing operations, WIC argues that under-collected (or over-collected) quantities affect the overall gas balance of its system and must come from purchases, or be taken from linepack or operational balancing agreements (OBAs). WIC notes that it has no storage assets, so if WIC over- or under-recovers fuel, such excess or shortfall must come from linepack or imbalance management. WIC states that each of these activities are conducted in the normal course of business to the benefit of all shippers and that the over- or under-collection of fuel and related gas balance items have both a volume and dollar impact on all shippers. WIC acknowledges that it includes the cost of service related to capitalized linepack in its base transportation rates, but states that when these assets vary, the costs of such purchases and sales of gas are not reflected in WIC's base rates.[3]

4. WIC states that the workpapers supporting its planned recovery mechanism will detail all sources and distributions of gas including FL&U over/under recovery and that any financial impacts of such measure will be credited to shippers and/or charged to shippers as a true-up in the L&U component of the reimbursement percentages. Any transportation service that is not assessed a fuel charge will still be charged the true-up reimbursement via the adjustment of the L&U retention percentages. Additionally, WIC proposes changing the definition of fuel gas to include "transportation-related" gas, instead of "compression" gas.

5. On October 1, 2007, Williams Power Company, Inc. (Williams) filed a protest primarily arguing that WIC's proposal to collect system balancing costs from all customers regardless of whether or not they incurred an imbalance or contributed to the loss is an inappropriate cross-subsidization that should be rejected. Indicated Shippers[4] also filed a protest arguing that WIC's proposed mechanism is too complicated and includes costs that are already included in WIC's existing rates. Like Williams, Indicated

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[3] WIC states that to calculate the components of the sources and distributions of gas balance-related activity as a dollar value, it will use the actual amounts it paid or received to purchase or sell gas or multiply the over- or under-recovered volume due to shipper imbalances by the appropriate cash-out index price for the month the activity occurred. In addition, WIC states that when converting the total annual cost or revenue adjustment amount to a volumetric quantity to be included in the retention percentages, it will divide the sum of the monthly dollar values by the average cash-out index price for the entire data collection period to generate a volume that is equivalent to the cost or revenue impact of the total gas balance related items.

[4] The Indicated Shippers are BP Energy Company, BP America Production Company, and Marathon Oil Corporation.

Shippers further argue that combining the fuel costs and system balancing costs in one surcharge would allocate costs in a manner that fails to reflect each shipper's responsibility for the costs. Indicated Shippers therefore request that the Commission reject WIC's proposal.

II. Comments Following Technical Conference

6. WIC, Williams, Indicated Shippers, and Anadarko Petroleum Corporation (Anadarko) filed initial comments and reply comments. In addition, WIC filed an answer to Williams' and Indicated Shippers' reply comments.

A. Initial Comments

7. In its comments, WIC states the purpose of its proposal is to keep WIC and its customers revenue neutral with respect to FL&U and related gas balance items. WIC argues that its proposal is materially the same as a tracking mechanism the Commission accepted in *El Paso Natural Gas Co.*,[5] which encompasses both fuel-related losses and other operational impacts. In *El Paso*, WIC's affiliate pipeline proposed a tracking mechanism that included the costs associated with fuel and L&U, and the financial impact of gas acquisition and disposition (including the financial impact of linepack and other system gas balance items such as cash-out and imbalance activity). Thus, WIC argues that, consistent with *El Paso*, the Commission should approve its proposal here. WIC commits to providing detailed annual filings that will allow for meaningful review of WIC's FL&U use and recoveries, related purchases and sales, and all other system balancing items, stating that its annual filings will provide a level of data consistent with that required by the Commission in *El Paso*.

8. WIC disputes the notion that its proposal will improperly spread costs to all shippers in violation of cost causation principles. WIC states that it is appropriate to track the financial impact of gas balance items in its L&U percentage, noting that all shippers, including backhaul shippers, benefit from the operational purchases and sales made by WIC. WIC further states that it is impossible to trace the cause of a particular operational purchase or sale to any distinct event. Thus, WIC argues that the costs and benefits of price fluctuations associated with those operational purchases and sales should be spread to all shippers. Additionally, WIC notes that it currently bears a risk of volatility associated with its system imbalance management activity due to unpredictable changes in the price of natural gas. WIC argues that because the purchases and sales it makes to maintain proper linepack levels result from shipper behavior, it is shippers who should properly bear the costs and retain the benefits of any costs or gains attributable to sale or purchase of replacement gas.

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[5] 117 FERC ¶ 61,361 (2006), *order on compliance filing*, 120 FERC ¶ 61,152 (2007) (*El Paso*).

9. WIC objects to the idea that its proposal will result in an over-recovery of its costs, noting that the purpose of its proposal is to keep WIC and its shippers revenue neutral by flowing over- or under-collections to its shippers via the L&U reimbursement percentage and, where necessary, making cash refunds to shippers. WIC explains that by using "vintage accounting," WIC's true-up filings will demonstrate whether the intended cost or revenue amount was collected through the L&U reimbursement percentage and WIC will readjust the percentage as necessary in future periods to ensure no over-recovery occurs. Finally, WIC notes that the costs it seeks to recover through its proposal are legitimate costs of doing business, not otherwise reflected in its rates.

10. In their initial comments, the Indicated Shippers argue that WIC has not justified its proposal, which Indicated Shippers refer to as a System Operational Surcharge. Indicated Shippers contend that the system operational costs and linepack that WIC includes in its fuel tracking mechanism are already covered in WIC's existing rates as established in the black box settlement in WIC's most recent rate case proceeding.[6] Thus, Indicated Shippers assert, recovery of these costs through WIC's fuel tracking mechanism would amount to a double recovery. Indicated Shippers argue that a black box settlement should be interpreted as encompassing all components of the pipeline's cost of service and the Commission should find that these costs are embedded in WIC's existing rates.

11. Indicated Shippers next argue that WIC's proposed monetization of system costs would disrupt commercial transactions and that by introducing price volatility into the heretofore in-kind transactions, WIC's proposal would immerse WIC in a gas merchant function. Indicated Shippers note that WIC's proposal places no conditions governing the buying and selling of gas. Therefore, Indicated Shippers argue that WIC will have no incentive to minimize its purchases of operational gas. Indicated Shippers state that the ability of the pipeline to significantly affect gas commodity prices will take place if WIC's proposal to monetize system costs is approved. Furthermore, Indicated Shippers argue, WIC's proposal improperly socializes costs by allocating them by throughput, instead of by shipper responsibility, violating the requirement that cost incurrence match cost responsibility. Also, Indicated Shippers state that the inclusion of operational balancing agreement costs is inappropriate because such costs are already allocated pursuant to the terms of the OBAs.

12. Additionally, Indicated Shippers argue that fuel exempt transactions (i.e., backhaul transactions) should not be subject to fuel reimbursement charges and that allocation factors exist that can be used to reasonably approximate the portion of system operating costs not associated with fuel. Finally, Indicated Shippers note that an exempt transaction does not rely on fuel and therefore the shipper should not have to pay fuel

[6] Indicated Shippers, Initial Comments at 1 (citing *Wyoming Interstate Company, Ltd.*, 101 FERC ¶ 61,343 (2002)).

usage costs, and shippers that do not incur imbalances should not have to pay costs related to imbalances beyond the operational costs included in WIC's rates.

13. Like Indicated Shippers, Williams expresses concern that WIC's proposal will inappropriately assess fuel-related charges on backhaul transactions. In addition, Williams asserts that the "illustrative" workpapers supporting WIC's proposal are deficient because they do not use actual data from an actual fuel true-up period, such as the time period reflected in WIC's annual recomputation of fuel and L&U retention percentages,[7] or from an annual operational reporting period, such as the 2006-2007 operational purchases and sales data,[8] and they do not show the calculations of the L&U reimbursement percentage adjustment. Based on Williams' analysis the "illustrative" workpapers do not show that WIC suffers from any operational issues or irreparable financial harm that cannot be addressed using its existing pipeline assets and through its existing tariff provisions. Therefore, Williams argues that there is not a compelling need for change. Williams states that initial comments submitted in a near-identical proposal by Colorado Interstate Gas Company (CIG) in Docket No. RP07-666-000 on pages 4-7, describing the "illustrative" workpapers' failure to comprehensively demonstrate the potential impact of CIG's proposal on its system, are also relevant here with respect to WIC's system.

14. Furthermore, Williams states that WIC's proposal creates a significant risk of intergenerational cross-subsidies spanning multiple periods. Williams argues that WIC's proposed vintaging process will result in perpetual changes to the L&U reimbursement percentage, and may interminably postpone proper reimbursement.

15. In addition, Williams states that WIC's proposal will not be revenue neutral. Williams believes that if WIC's operational purchase cost for the imbalance gas it acquires is less than the average cash out index price, WIC will be able to retain the difference. Williams also states that WIC's proposed economic true-up will inevitably create volumetric imbalances as a result of WIC's conversion of economic value credits or charges into volumetric amounts which will force WIC into the gas market more and more frequently. Williams objects to WIC's assertions that its system gas balance activities cannot be separately identified and suggests that the mechanism will result in more shipper challenges to the prudence of WIC's operational purchases and sales.

16. Like Indicated Shippers, Anadarko argues that WIC's proposal violates the Commission's policy that cost incurrence be matched with cost responsibility. Anadarko also argues that WIC proposes to inappropriately include gas costs that are neither lost

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[7] WIC, October 31, 2007 Filing, Docket No. RP08-47-000.

[8] WIC, September 28, 2007 Filing, Docket No. RP08-6-000.

nor unaccounted for in its L&U tracking mechanism.[9] According to Anadarko, WIC's proposal will eliminate WIC's incentive to maximize the value of its purchases and sales, creates additional system imbalances that could require WIC to incur additional fuel costs, and double-recovers WIC's fuel costs.

B. Reply Comments

17. In its reply comments, WIC states that its proposal is not barred by the terms of the Stipulation and Agreement that settled its most recent rate case.[10] WIC asserts that this settlement did not contemplate WIC's fuel and L&U percentages and, therefore, did not limit WIC's right to modify them here. WIC next argues that, contrary to Williams' assertions that WIC's proposal is not adequately supported, WIC has provided sufficient information to justify its proposal, including a description of the mechanism, a technical conference presentation, illustrative workpapers in its initial comments, and additional data on how the proposed true-up would work for the period ending August 31, 2007 in its reply comments. WIC also notes that El Paso National Gas Company's (El Paso) recent annual recomputations of fuel and unaccounted for retention percentages[11] further supports WIC's proposal as WIC has pledged to provide the same amount of data as El Paso provided in its updates.

18. Regarding the substance of its proposal, WIC reiterates that its economic true-up mechanism will flow all costs or gains through to shippers. WIC states that Williams' arguments to the contrary are based on a typographical error in Docket No. RP07-666-000 (wherein CIG submitted a proposal almost identical to WIC's proposal here). WIC states that it has since corrected this error and that its explanation of its vintage accounting procedures show that its proposed economic true-up will flow through to shippers any over- or under-recoveries caused by fluctuations in the price of gas. WIC acknowledges that its proposal will allow the L&U retention percentage to differ from actual L&U volumes; however WIC notes that such discrepancies are inherent characteristics of true-ups that result from any such mechanism, either volumetric or economic.

19. WIC next asserts that the addition of an economic true-up will not materially increase the need to review WIC's sales and purchases of operational gas for prudence because under its current mechanism, WIC is already subject to prudence challenges for

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[9] Anadarko, Initial Comments at page 3.

[10] *Wyoming Interstate Co., Ltd.*, 92 FERC ¶ 61,256 (2000) (*WIC*).

[11] El Paso, Docket No. RP08-106-000 (Dec. 19, 2007) (unpublished letter order); *El Paso*, 117 FERC ¶ 61,361 (2006), *order on compliance filing*, 120 FERC ¶ 61,152 (2007)

such activities. WIC also reiterates that although it can measure fuel, L&U and imbalance volumes, it cannot trace or attribute specific operational purchases and sales to those activities or to specific gas balance changes. Thus, WIC maintains that because direct tracing is impossible, it is appropriate for WIC to recover the above-mentioned costs through the L&U retention percentage, which is paid by all shippers, both forward haul and backhaul. Additionally, WIC notes again in its reply comments that it should not alone bear the economic risks attendant with maintaining a proper level of operational gas as it does now. Rather, WIC states that such financial and timing-related risk associated with the change in gas commodity prices is more properly borne by shippers.

20. In their reply comments, the Indicated Shippers reiterate many of the arguments they made in their initial comments. They expand on their argument that WIC's proposal improperly allocates imbalance-related costs based on throughput, stating that WIC recovers its FL&U on a real-time basis and that WIC's proposal is primarily intended to monetize system balancing costs and obscure such costs by bundling them with FL&U costs. Indicated Shippers distinguish *El Paso*, by stating that El Paso made no attempt to argue that imbalances on its system actually changed its linepack, except for minor variations directly attributable to fuel. Indicated Shippers further argue that El Paso's proposal was narrower in scope than the mechanism WIC proposes here.

21. Indicated Shippers state that WIC's proposal includes new types of theoretical costs and revenues. They argue that WIC does not have any on-system processing plants, and therefore WIC has not supported inclusion of "shrinkage" in its proposed tracker. They further argue that WIC mislabels OBA imbalances as linepack variations or encroachments and that WIC has not shown that it is incurring costs under these OBAs that are not already fully recovered under WIC's tariff or the OBAs. Indicated Shippers assert that such OBAs are intended to be self-contained mechanisms that correct their own imbalances and therefore it is inappropriate to socialize these costs in WIC's proposed true-up mechanism. Indicated Shippers also question WIC's reasoning in support of changing its definition of "fuel gas," arguing that WIC's proposal broadens the definition of fuel gas in a manner that is both ambiguous and unsupported.

22. Indicated Shippers also note the relationship between WIC's proposal in this docket and its proposal in Docket Nos. RP08-47-001 to eliminate language from section 30.3 of the General Terms and Conditions (GT&C) of its tariff that would prohibit either the fuel or L&U component of WIC's FL&U reimbursement percentages from being less than zero.[12] Indicated Shippers argue that the revised section 30.3 in Docket No. RP08-47-001 should supersede WIC's revisions to that section made in this filing. Finally,

[12] WIC's December 28, 2007, filing in Docket No. RP08-47-001 is a compliance filing resulting from a Commission order requiring WIC to remove this ban on negative component parts of the FL&U percentages. *Wyoming Interstate Co., Ltd.*, 121 FERC ¶ 61,213 (2007).

Indicated Shippers argue that if the Commission accepts WIC's proposal, it should make the effective date April 1, 2008, and require WIC to use its current mechanism for any FL&U quantities over- or under-collected through March 31, 2008, so as not to violate the ban on retroactive ratemaking. Indicated Shippers notes that April 1, 2008 is the end of the suspension period established by the Commission's order setting the technical conference.

23. In its reply comments, Williams maintains its objections to the data WIC provided to support its proposal and adds that *El Paso* is inapposite because of differences between the pipelines' systems. Specifically, Williams notes that El Paso tracks the financial impact of gas balance items in its fuel reimbursement percentage whereas WIC intends to use its L&U reimbursement percentage. Williams argues that this is not a non-material difference because it will force backhaul shippers to absorb a fuel-related charge even though they do not use fuel. Furthermore, Williams argues that the impact of WIC's proposal will be much more extreme than the impact of El Paso's proposal on El Paso's shippers, and that on the WIC system the economic true-up will overwhelm the L&U reimbursement percentage. Finally, Williams argues that linepack costs are already included in WIC's rate base and that WIC has sufficient tools to manage imbalances under its current tariff.

24. In its reply comments, Anadarko reiterates its argument that WIC's proposal would inappropriately place balancing costs on all of its shippers, not just those that caused WIC to incur the balancing costs. Anadarko states that WIC has not supported its assertion that such costs cannot be attributable to a single shipper or class of shippers, pointing out that WIC is able to track shippers' imbalances under its cash-out mechanism. Furthermore, Anadarko argues that if WIC cannot attribute costs to a specific cause, it should not be permitted to collect them. In conclusion, Anadarko once again points out that WIC's economic true-up will create additional system imbalances that will need to be recovered in a subsequent year's volumetric true-up and that WIC has failed to provide an explanation for the problem. Therefore, Anadarko argues that the proposal should be rejected by the Commission as unjust and unreasonable.

25. In an answer, WIC agrees with Indicated Shippers about the relationship of this filing and its filing in RP08-47-001, stating that WIC has effectively withdrawn its proposal in this docket to modify section 30.3 of its GT&C. WIC further agrees to remove the reference to "shrinkage" from its proposal as it does not presently experience shrinkage on its system. WIC objects to Indicated Shippers' argument about the "fuel gas" definition, stating that the change is intended to incorporate fuel used for transportation-related purposes, such as providing building heat for compressor stations.

26. WIC also objects to Indicated Shippers' characterization of WIC's OBAs, arguing that OBAs are important in allowing WIC to provide reliable service to its shippers and to support a functioning interstate pipeline grid. WIC argues that OBAs are directly related to FL&U activity on its system by allowing WIC to transfer gas among

interconnecting pipelines depending on fluctuations in WIC's fuel, L&U and other uses. WIC states that its proposed true-up mechanism incorporates gas transferred pursuant to OBAs because such gas has a value that changes over time and is therefore properly reflected in WIC's tracking mechanism. WIC disputes Indicated Shippers' assertion that it recovers FL&U costs on a real-time basis, arguing that it would not need a true-up, volumetric or economic, if this were the case. WIC states that its actual over- or under-recovered FL&U varies materially from its percentage-based retention quantities depending on a number of factors, including shipper activity.

27. Finally, WIC argues that its proposal should go into effect on November 1, 2007. WIC argues that this date would not violate the ban on retroactive ratemaking, as argued by Indicated Shippers, because shippers have had notice since WIC filed its proposal in September 2007.

III. Discussion

28. We accept WIC's proposed revision to its L&U tracking mechanism, subject to conditions, as discussed below. As a preliminary matter, we find that WIC's proposal is not barred by the settlement in WIC's most recent rate case.[13] While the parties to the settlement listed the settlement rates that would apply during the term of the settlement, they did not address WIC's tracked costs, including the L&U tracking mechanism.[14]

29. Turning to the merits of WIC's proposal, we note that WIC's proposal is nearly identical to a proposal made by its affiliate CIG, which we recently accepted.[15] WIC's current FL&U tracking and true-up mechanism is designed to keep WIC and its shippers volumetrically neutral through the annual adjustments to WIC's in-kind fuel gas reimbursement percentages. However, we find that the current mechanism does not ensure WIC and its shippers are entirely revenue neutral with regard to the effects of daily activities associated with fuel gas used in WIC's operations. Due to the nature of pipeline operations, there will be daily and monthly volume differences in actual versus collected fuel, even if on average the annual quantity collected is equal to that used. Further, in order to effectively maintain the overall balance on their transmission systems, pipelines must, on a real-time, daily basis, conduct such activities as purchase or sell gas, take or replace linepack gas and work with interconnecting pipelines to maintain balance via operational balancing agreements.

[13] *WIC*, 92 FERC ¶ 61,256.

[14] *See* WIC, April 25, 2000 Stipulation and Agreement, Docket No. RP99-381-006, at 2 and App. A.

[15] *Colorado Interstate Gas Company*, 122 FERC ¶ 61,191 (2008) (*CIG)*.

30. The Commission has previously recognized that when a pipeline is permitted to "track changes in a particular cost item without regard to changes in other cost items . . . there should be a guarantee that changes in that cost item are tracked accurately."[16] Here, WIC states that because it currently tracks volumetric but not dollar value differences between actual fuel retained and fuel burned, it bears the risk (downside or upside) associated with volatility in gas prices. Thus, WIC's proposal here should enable it to more accurately track its costs and reflect them in its reimbursement percentages.

31. Further, we note that WIC's proposed tracking mechanism is similar to one the Commission accepted in *El Paso*,[17] and virtually identical to the one most recently accepted in *CIG*.[18] While there are some differences from the El Paso mechanism, as noted above, the essential elements (i.e., an economic true-up mechanism that includes system operational balancing costs and revenues) remain the same, and are consistent with the policy established in *ANR* that require tracking mechanisms to accurately track costs. Accordingly, we find it reasonable, in light of *El Paso* for WIC to propose a similar tracking mechanism, and in light of the recent *CIG* order, for the Commission to accept it.

32. With regard to the concerns raised by the commenters regarding over-recoveries, we find them to be unsubstantiated, premature or speculative at this point. Protestors argue that this proposal will lead to WIC's over-recovering its costs. However, WIC has stated that to the extent that any over-collection occurs, it will refund such amounts through the L&U reimbursement percentage, or if necessary, through cash refunds including interest. Thus, challenging the prospect of an over-recovery is premature at this point; however, we note that interested parties will have the opportunity to challenge the calculation of WIC's actual reimbursement percentages when WIC files the annual update. WIC has also given assurances that its annual update will be fully transparent and understandable. This will require WIC to provide substantial detail with respect to operational purchases and sales for fuel use versus daily operations related to shipper imbalances and service flexibility provided by WIC under its various transportation and storage rate schedules.

33. In addition, Indicated Shippers argue that WIC's operational gas and linepack costs are included in WIC's rate base, and therefore WIC's attempt to recover those costs in its tracking mechanism would lead to a double-recovery. WIC unequivocally states that linepack purchase and sales costs are not reflected in the base rates. We agree with Indicated Shippers that linepack quantities and values included in WIC's Account No.

[16] *ANR Pipeline Co.*, 110 FERC ¶ 61,069, at P 26 (2005) (*ANR*).

[17] *El Paso Natural Gas Co.*, 114 FERC ¶ 61,305, at P 207-08 (2006).

[18] *CIG*, 122 FERC ¶ 61,191 (2008).

117 are included in the rate base underlying WIC's rates. However, WIC's linepack balance as reflected in that Account does not change as a result of this filing. WIC is only proposing to recover costs associated with daily purchases and sales due to shortfalls and over-recoveries of compressor fuel. The underlying linepack balance in Account No. 117 will remain the same. Accordingly, we reject Indicated Shippers' arguments.

34. Similarly, we reject Indicated Shippers' argument against the inclusion of OBA-related imbalances in WIC's proposed tracker mechanism. Although WIC may remain volumetrically neutral with respect to OBA-related imbalances, it faces economic volatility in these imbalances due to the fluctuating price of gas. By tracking the value of OBA-related imbalances, WIC's proposal should prevent it from realizing an economic gain or loss from such activity. To ensure this economic neutrality and to prevent any possibility of double recovery, we will require WIC to clearly delineate in its annual filings any OBA-related costs or revenues from other costs or revenues, such as those associated with encroachments to linepack, to ensure that these costs and revenues are tracked accurately and transparently.

35. We also reject protesters' arguments requesting that backhaul shippers be exempt from WIC's monetized L&U mechanism because they do not use fuel. WIC is required to make operational sales and purchases to maintain system operation for all shippers on the pipeline system. Moreover, every shipper on the system contributes to the need for WIC to make operational gas purchases, the costs of which are reflected in WIC's proposed L&U mechanism. The Commission's general policy is that all shippers pay fuel charges, including lost and unaccounted for. Pipelines may exempt shippers from fuel charges for transactions that do not use fuel; however, pipelines may not exempt shippers from lost and unaccounted for charges.[19]

36. Protesters also argue that monetization of the operational costs in WIC's fuel tracking mechanism is inappropriate because it would introduce price volatility into shipper transactions and it would transform WIC's tracking mechanism into a gas market hedging platform for the pipeline. However, under the existing tariff, WIC still needs to purchase and sell gas for operational purposes. Its FL&U tracking mechanism is designed to track and true-up such costs. WIC has shown how its current mechanism may produce inaccurate results. WIC's proposal requires that it remain revenue neutral in its purchases and sales of operational gas. To this end, WIC must report these purchases and sales in a fully transparent manner. Thus, shippers will have an opportunity to review WIC's purchases and sales to ensure that they were made for system operational purposes. We note that the protesters have generally argued that WIC does not need to make this change to its true-up mechanism and that they are satisfied

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[19] *See, e.g.*, *Northern Natural Gas Pipeline*, 119 FERC ¶ 61,278, at P 13-14 (2007); *Colorado Interstate Gas Co.*, 112 FERC ¶ 61,199 (2005); *Mississippi River Transmission Corp.*, 98 FERC ¶ 61,119, at 61,353 (2002).

with the current mechanism. However, for the reasons stated above we find WIC's proposal to be just and reasonable.[20]

37. Therefore, we accept WIC's proposed tracking mechanism, subject to the following conditions. First, to ensure transparency in the costs and revenues that will be recovered through the revised FL&U tracking mechanism, WIC is required to establish and maintain sub-accounts 117.2 (System Balancing Gas) and 117.4 (Gas Owed to System Gas) as defined under Part 201 of the Commission's Regulations.[21] Second, in the event that WIC cannot flow through an over-collection in a given year because of the limits of its FL&U reimbursement percentage, WIC will be required to provide cash or invoice credit refunds to its customers, including interest at the Commission's interest rate specified under section 35.19(a)(2)(iii) of the Commission's Rules and Regulations,[22] from the time of WIC's annual filing until the time such refunds are made. Finally, WIC must file annual updates that fully document purchases and sales of fuel gas volumes, and that distinguish purchases and sales for system balancing purposes and, if any, for providing flexibility under its various services.[23] Such descriptions and workpapers must be sufficiently transparent to permit adequate review of activity under this true-up mechanism.

38. As noted above, WIC's revised tariff sheets will become effective on April 1, 2008. WIC argues that even if its proposal becomes effective on April 1, 2008, it should be permitted to apply its new true-up mechanism to the annual period beginning September 1, 2007. We disagree. "[T]he Commission has held that when . . . a pipeline implements a new tracker and true-up mechanism, it may not include in the initial true-up any under-recoveries that occurred prior to the effective date of the tariff provision."[24] WIC attempts to distinguish *Crossroads* by arguing that a true-up mechanism may include activity as of the date a company files a proposed tariff sheet, rather than its effective date, because the filing of proposed tariff sheets puts shippers on notice of a

[20] *See Wisconsin Public Power, Inc. v. FERC*, 493 F.3d 239, 266 (D.C. Cir. 2007) ("Merely because petitioners can conceive of a refund allocation method that they believe would be superior to the one FERC approved does not mean that FERC erred in concluding the latter was just and reasonable. Again, reasonableness is a zone, not a pinpoint.").

[21] 18 C.F.R. Part 201 (2007).

[22] 18 C.F.R. § 35.19(a)(2)(iii) (2007).

[23] Purchases and sales for system balancing are to be kept separate and must be recovered through the cash-out provisions and not through the fuel mechanism.

[24] *Crossroads Pipeline Co.*, 119 FERC ¶ 61,221, at P 24 (2007) (*Crossroads*).

possible change. However, as in *Crossroads*, we determine that any true-up of under-recoveries prior to the effective date—not the filing date—violates the filed rate doctrine and the rule against retroactive ratemaking.[25] Accordingly, WIC's proposed monetized true-up mechanism may not be applied to any quantities over- or under-collected prior to April 1, 2008.

39. We reject WIC's proposal to change the definition of "fuel gas" in section 1.29 of the GT&C. WIC states that the change in the definition of "fuel gas" will allow it to recover additional costs, such as fuel used to heat compressor stations. However, WIC has not shown that such costs are not currently recovered in its base rates. Therefore, we reject this change so as to prevent WIC from double-recovering these costs. We also reject WIC's proposal to modify section 30.3 of the GT&C, because this section is the subject of WIC's filing in Docket No. RP08-47-001. Finally, WIC must delete reference to "shrinkage" under section 30.5 of its GT&C as WIC does not currently experience shrinkage on its system.

The Commission orders:

(A) With the exception of Eleventh Revised Sheet No. 37C, WIC's proposed tariff sheets referred to in footnote 1 of this order are accepted, effective April 1, 2008, subject to conditions as discussed herein.

(B) Eleventh Revised Sheet No. 37C is rejected.

(C) WIC is hereby directed to make a compliance filing within thirty (30) days of the date of this order to reflect the modifications discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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[25] *Id.*