

124 FERC ¶ 61,105
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.

Cheyenne Plains Gas Pipeline Company, LLC

Docket No. RP08-362-002

ORDER CLARIFYING PRIOR ORDER

(Issued July 29, 2008)

1. On June 30, 2008, Cheyenne Plains Gas Pipeline Company, LLC (CPG) filed a request for clarification, or in the alternative rehearing, of the Commission's May 30, 2008 Order accepting CPG's proposed modifications to its fuel tracking mechanism, subject to conditions.¹ In this order, the Commission clarifies the May 30, 2008 Order, and denies CPG's request for rehearing as moot.

I. Background

2. Prior to the May 30, 2008 Order, CPG's tariff provided for the reimbursement of fuel gas quantities and lost and unaccounted-for gas quantities (L&U)—collectively referred to as FL&U—through an in-kind volumetric true-up mechanism. On May 1, 2008, CPG filed a proposal to change its in-kind true-up mechanism to a monetized, value-based mechanism for the tracking of FL&U and other related gas balance costs. The new methodology for calculating its FL&U reimbursement percentages assigns a monetary value to the FL&U volumes, to reflect changes in the value of over- or under-collected gas quantities.

3. The May 30, 2008 Order accepted CPG's proposal, subject to the condition that CPG remove a provision (section 26.4(a)(vii)) that would have given it total discretion to cash-out over-collected FL&U quantities when gas prices might be considered low, whereas shippers would have no discretion to elect to cash-out or repay under-collected

¹ *Cheyenne Plains Gas Pipeline Co., LLC*, 123 FERC ¶ 61,227 (2008) (May 30, 2008 Order).

quantities when gas prices were perceived as high.² The Commission found that CPG's provision was not evenhanded because it provided CPG an option that shippers lacked. CPG had not shown this provision to be just and reasonable in light of the apparent imbalance that would exist if the Commission approved the proposed new valuation methodology for FL&U volumes.³ Accordingly, the Commission required CPG to remove this provision from its proposed tariff sheets.

II. Request for Clarification, or in the Alternative Rehearing

4. CPG requests that the Commission clarify that the May 30, 2008 Order is without prejudice to the ability of a pipeline to seek a waiver of a tariff requirement to reduce its reimbursement percentages to return over-collections, or to the ability of a pipeline to seek approval of a tariff provision that would allow it to cash out over-collections in certain defined circumstances. To the extent the Commission does not so clarify the May 30, 2008 Order, CPG requests rehearing on this point.

5. CPG is concerned that the May 30, 2008 Order might be interpreted as barring any filing seeking to cash out over-collections by economic trackers, such as the one approved for CPG in this docket. CPG asserts that cash-outs of over-collections may still be reasonable in the context of fuel trackers where the in-kind reimbursements have been monetized. Therefore, CPG seeks clarification that it remains able to seek waivers to cash-out over-collections if warranted under particular circumstances, as well as tariff provisions that allow it to cash out over-collections under defined circumstances.

III. Discussion

6. The May 30, 2008 Order does not bar CPG from making future tariff filings, or from seeking waiver of its existing tariff or Commission policies. The May 30, 2008 Order required CPG to remove a tariff provision that would have given CPG total discretion to cash-out over-collections whenever market conditions were in its favor, without any commensurate ability for shippers to cash-out under-collections at their discretion. Where CPG's (and other pipelines') fuel tracking mechanisms have been monetized, the Commission has held that value and revenue neutrality are core elements that must be maintained. The May 30, 2008 Order noted that in such a value-based

² CPG's proposed section 26.4(a)(vii) provided that "[t]ransporter may elect to cash out a FL&U Requirement Adjustment or Cost and Revenue True-up when transporter owes quantities to shippers using the first of the month price reported in *Inside FERC* for the Cheyenne Hub for the appropriate month when the adjustment over-collection occurred." CPG, May 1, 2008 Filing.

³ March 30, 2008 Order, at P 15.

tracking system, “giving one party a unilateral option to cash-out at will, outside the normal cycle, would not be just and reasonable.”⁴

7. The May 30, 2008 Order, however, did not foreclose CPG from requesting a waiver of its tariff to cash-out FL&U over-collections when good cause exists for such a waiver and where particular circumstances provide a just and reasonable basis for such a waiver. Nor did that order foreclose CPG from filing a tariff provision that would allow for cash-outs of over-collections in defined circumstances. Any such tariff provision, of course, would have to be shown to be just and reasonable.

8. Therefore, the Commission grants CPG’s requested clarifications, as discussed above, and denies the related request for rehearing as moot.

The Commission orders:

(A) CPG’s request for clarification is granted, as discussed in the body of this order.

(B) CPG’s request for rehearing is denied as moot.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁴ *Id.* at P 16.