

126 FERC ¶ 61,319
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 31, 2009

In Reply Refer To:
Columbia Gas Transmission, LLC
Docket Nos. RP09-397-000 and
RP09-397-001

Columbia Gas Transmission, LLC
5151 San Felipe, Suite 2500
Houston, TX 77056

Attention: James R. Downs, Director of Regulatory Affairs

Reference: Annual Transportation Cost Rate Adjustment Filing

Dear Mr. Downs:

1. On February 26, 2009, Columbia Gas Transmission, LLC (Columbia Gas) filed revised tariff sheets¹ to reflect its annual Transportation Cost Rate Adjustment (TCRA), pursuant to the provisions of section 36 of the General Terms and Conditions (GT&C) of its tariff, with a proposed effective date of April 1, 2009. On March 9, 2009, Columbia Gas filed revised tariff sheets² to incorporate the proposed revisions to its annual TCRA surcharges into the new Third Revised Volume No. 1.³ Columbia Gas requests waiver of the 30-day notice period to permit an effective date of April 1, 2009. As discussed below, waiver of the notice period is granted and the tariff sheets referenced in footnote

¹ Ninety-Second Revised Sheet No. 25, Thirtieth Revised Sheet No. 25A, Ninety-First Revised Sheet No. 26, Eighty-Ninth Revised Sheet No. 27 and Seventy-Seventh Revised Sheet No. 28 to FERC Gas Tariff, Second Revised Volume No. 1.

² Third Revised Sheet Nos. 25, 26, 28, 29 and 30 to FERC Gas Tariff, Third Revised Volume No. 1.

³ On March 3, 2009, in an unpublished letter order in Docket Nos. RP09-340-000 and RP09-340-001, the Commission accepted Columbia Gas' filing of the Third Revised Volume No. 1 of its tariff reflecting Columbia Gas' conversion from a corporation to a limited liability company.

no. 2 are accepted and suspended effective April 1, 2009, subject to refund and conditions. The tariff sheets referenced in footnote no. 1 are now rendered moot.

2. This submission comprises Columbia Gas' annual filing pursuant to Section 36 and 45 of the GT&C of its tariff to adjust its TCRA. Section 36 of Columbia Gas' GT&C provides for the recovery of costs incurred for the transmission and compression of gas by others (Account No. 858 costs or 858 costs), applicable to Operational 858 costs⁴ as a transportation cost rate tracker (or TCRA). Columbia Gas' proposed TCRA rates consist of a: (1) current TCRA rate, reflecting an estimate of costs for a prospective 12-month period, and (2) TCRA surcharge rate, which is a true-up for actual activity within the deferral period. The current Operational TCRA Rate includes projected Operational Account No. 858 contract costs of \$32,980,143 and a net under-recovery, inclusive of interest, of \$2,601,545. Columbia Gas proposes to collect on an as-billed basis an under-recovery of \$2,052,177 in demand costs and to collect an under-recovery of \$549,368 in commodity costs applicable to its Operational Account No. 186.⁵ Overall, the revised TCRA rates provide increases in the demand rates ranging from \$0.015 to \$0.018 per Dth and either no change or increases in the current commodity rates ranging from 0.00 cents to 0.12 cents per Dth.

3. Columbia Gas also requests to include costs attributable to 24,600 Dth per day of firm capacity it holds on an affiliated system, Millennium Pipeline Company, LLC (Millennium), pursuant to a service agreement under Millennium's Rate Schedule FT-1. At present, Columbia Gas holds transportation capacity on Millennium pursuant to (1) a lease (Leased Capacity) and (2) its FT-1 service agreement (Millennium FT-1 Capacity). The Commission issued Columbia Gas a certificate to obtain the Leased Capacity in 2006 in conjunction with its abandonment of Columbia Gas's Line A-5.⁶ Columbia uses the Leased Capacity to serve customers previously served through Line A-5, which the Commission authorized Columbia Gas to abandon. In the certificate order, the Commission directed that Columbia Gas not include the cost of the Leased Capacity in its TCRA until it submits a Section 4 filing to remove the costs of the Line A-5 facilities from its base rates to prevent double recovery.⁷ It appears that Columbia Gas purchased

⁴ Operational 858 costs are defined as amounts paid to upstream pipelines for contracts retained as a result of transporters Order No. 636 restructuring, or utilized in the transporters' post-restructuring operations.

⁵ Columbia Gas uses Account No. 186 to account for all under or over recovered transportation costs for the 12-month deferral period.

⁶ See *Millennium Pipeline Co., LLC, et. al*, 117 FERC ¶ 61,319 (2006).

⁷ *Id.*

the Millennium FT-1 capacity pursuant to section 48 of its GT&C, permitting it to obtain off-system capacity on other pipelines.

4. Columbia Gas states, consistent with the directive in the certificate order, it only proposes in this filing to include the costs of its Millennium FT-1 Capacity in its TCRA. In addition, Columbia Gas states that the annual cost of service savings associated with the abandonment of the Line A-5 facilities is \$6,381,235. Columbia Gas contends that the annual cost associated with the Leased Capacity is \$5,029,766, for a net remaining balance of \$1,351,469. Therefore, Columbia Gas proposes to reduce the cost recovery for the Millennium FT-1 Capacity by \$1,351,469 to assure the Commission and its shippers that Columbia Gas will not double recover any portion of equivalent costs associated with the Line A-5 facilities while these costs are still part of base rates.

5. Columbia Gas further alleges that including the costs of Millennium FT-1 Capacity in Columbia Gas's TCRA filing is just and reasonable because: (1) existing customers benefitted by not having to bear as much as \$215 million in reliability and replacements cost that would have been required to upgrade deteriorated facilities associated with Columbia Gas' Line A-5; (2) shippers receive significant operational and financial benefits from this capacity; and (3) the Millennium FT-1 Capacity helps avoid other off-system costs.

6. Finally, Columbia Gas also attached a report filed with the Commission on December 24, 2008 detailing Columbia Gas' receipt of emergency natural gas transportation service because of a rupture on its Line 1278 in Pike County, Pennsylvania. Columbia Gas proposes to charge its shippers approximately \$961,000 for the costs associated with responding to the emergency situation.

7. Public notice of Docket Nos. RP09-397-000 and RP09-397-001 was issued on March 3, 2009 and March 12, 2009, respectively, with comments, interventions and protests due on or before March 10, 2009 and March 18, 2009, respectively. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2008)), all timely filed motions to intervene and any motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. Protests were filed by Chesapeake Appalachia, L.L.C. (Chesapeake); the Cities of Charlottesville and Richmond, Virginia (Cities); jointly by Stand Energy Corporation and United States Gypsum Company (the Joint Protesters); and Washington Gas Light Company (Washington Gas). Columbia Gas filed an answer to the protests, and the Joint Protesters filed an answer to Columbia Gas' answer. While the Commission's regulations do not permit the filing of answers to

protests,⁸ the Commission will accept the answers because they provide additional information which aids in our decision making process.

8. Most of the protesting parties argue that Columbia Gas did not adequately support and/or justify paying for additional transportation capacity from its affiliate, Millennium, and therefore, it should not be allowed to recover such costs through the TCRA mechanism.

9. Cities argues that Columbia Gas' filing is deficient and that the Commission should require Columbia Gas to provide additional information regarding the specific benefits provided by the Leased Capacity, the Millennium FT-1 capacity, and whether and to what extent the Millennium FT-1 capacity is needed to support service to Columbia Gas' customers. Cities requests that a technical conference be convened to address the factual issues raised in the TCRA filing so that the Commission can determine whether or not to permit Columbia Gas to include all or part of the Millennium FT-1 capacity costs in the TCRA rates.

10. Similarly, Chesapeake argues that given the Leased Capacity, it is not clear why the additional Millennium FT-1 Capacity is required at all to maintain service to Line A-5 customers. Chesapeake states that it is impossible to ascertain from Columbia Gas' filing which of the benefits are attributable to the Leased Capacity and which are a result of the Millennium FT capacity. Accordingly, Chesapeake requests that the Commission either reject the filing as lacking required supporting materials or suspend it pending the submission by Columbia Gas of additional supporting information and an opportunity for interested parties to respond to Columbia Gas' supplemental filing.

11. Washington Gas argues that, until Columbia Gas fully explains the reason for paying for additional transportation service from Millennium and supports those payments as being beneficial for its customers, Columbia Gas should not be allowed to recover such costs through the TCRA mechanism.

12. In its answer to these protests, Columbia Gas states that the Millennium FT-1 capacity provides benefits to shippers that are not provided by the Leased Capacity. Columbia Gas asserts that the capacity from the lease is used entirely to serve its Line A-5 shippers. Further, Columbia Gas states that the Leased Capacity is needed to meet its primary firm obligations, and is not available for enhancing system flexibility. In contrast, Columbia Gas states that Millennium FT-1 capacity: (1) can be used to transport an additional source of gas receipts on its system; (2) can be used to provide flexibility in the use of Columbia Gas' New York storage fields to serve its eastern

⁸ 18 C.F.R. § 385.213 (2008).

markets; (3) can be (and has been) used to maintain firm service during *force majeure* events or system outages; (4) will help mitigate the need to limit secondary capacity in this portion of its system; (5) can serve as a back up to historic line A-5 markets if gas supplies at the Ramapo interconnect become disrupted; (6) helps provide additional flexibility to shippers; and (7) allows Columbia Gas' shippers to access points on Millennium's system at a much lower rate. Moreover, Columbia Gas argues that the above benefits are unique to the Millennium FT-1 capacity. Accordingly, Columbia Gas states that Commission should find that Columbia Gas has properly included the costs of this capacity in its TCRA filing.

13. Finally, Columbia Gas states, in light of the further clarification provided in its answer regarding its Millennium FT-1 Capacity, a technical conference is not warranted. Columbia Gas believes the Commission should resolve issues raised in the protests based on the current record of this proceeding.

14. The Joint Protesters do not object to the inclusion of the Millennium FT-1 Capacity in Columbia Gas' TCRA filing or Columbia Gas' proposed TCRA rates. However, the Joint Protesters request that the Commission condition any approval of Columbia Gas' proposal to recover costs associated with its Millennium FT-1 Capacity on the following requirements: (1) Columbia Gas must provide its customers full use of the capacity as if it were part of Columbia Gas' system, including the right to reserve primary point, and (2) Columbia Gas must credit to the TCRA one-hundred percent of any increased revenue or savings generated by the Millennium FT-1 Capacity, including revenue generated by the release of the capacity to any third party. In short, the Joint Protesters do not oppose the inclusion of costs associated with Columbia Gas' Millennium FT-1 Capacity in the TCRA if Columbia Gas' customers receive the full benefit of the reserved capacity and Columbia Gas properly accounts for any revenues or reservation charge credits received as a result of capacity release.

15. In reply to the Joint Protesters, Columbia Gas contends that it uses the Millennium FT-1 Capacity to provide much needed system flexibility in a constrained part of its system. As a result, Columbia Gas states that it cannot offer this capacity on a primary firm basis under shippers existing contracts.

16. Columbia Gas clarifies that when the capacity is not being used for operational purposes, shippers will be permitted to use that capacity under their existing contracts on a secondary basis. Columbia Gas further states that it may make short term releases of this capacity to shippers who desire primary rights when it is not otherwise needed. Columbia Gas clarifies that, consistent with Commission precedent and Columbia Gas'

historic practice,⁹ any revenues from the release of the Millennium FT-1 capacity will be credited to shippers in Columbia Gas' next annual TCRA filing.

17. In response to Columbia Gas' answer, the Joint Protesters argue that Columbia Gas' allegations are misleading, and that Columbia Gas's tariff requires that it offer the Millennium FT-1 Capacity to shippers on a primary firm basis. The Joint Protesters point out that section 48.1 of Columbia Gas's tariff, authorizing it to purchase off-system capacity on other pipelines, provides:

48.1 From time to time, Transporter may acquire capacity on a third-party system. When Transporter acquires such off-system capacity, it will utilize the off-system capacity to provide service to Transporter's shippers under its FERC Gas Tariff, and the "shipper must have title" policy is waived to permit such use. This Section 48 does not preclude Transporter from seeking case specific authorization for the utilization of off-system capacity by Transporter for other purposes.¹⁰

18. The Joint Protesters state that there is nothing which authorizes Columbia Gas to use the Millennium FT-1 capacity for any purpose other than general service under Columbia Gas' tariff. The Joint Protesters contend that Columbia Gas did not seek or receive a case-specific authorization to limit the use of the Millennium FT-1 Capacity or to restrict shippers' access to the Millennium FT-1 Capacity to secondary firm service. Thus, the Joint Protesters maintain that the Millennium FT-1 Capacity should be treated, pursuant to section 48 of the tariff, as an extension of Columbia Gas' system which is available for general use by its shippers on a primary or secondary basis.

19. The Commission approves Columbia Gas' proposed inclusion of the cost of the Millennium FT-1 capacity in its TCRA, subject to the conditions discussed below. Columbia Gas has shown that the Millennium FT-1 Capacity does provide benefits to Columbia Gas' shippers. Moreover, Columbia Gas has complied with our concerns regarding the double recovery of its costs related to the Line A-5 facilities by not including the costs associated with the Leased Capacity that Columbia Gas obtains from Millennium in its TCRA costs.¹¹ However, Columbia Gas has not adequately explained

⁹ *Citing, Columbia Gas Transmission Corp.*, 93 FERC ¶ 61,064, at 61,177 (2000).

¹⁰ Columbia Gas Transmission, LLC, FERC Gas Tariff, Third Revised Volume No. 1, Original Sheet No. 401.

¹¹ Columbia Gas' clarification that any revenues from the release of the Millennium FT-1 capacity will be credited to shippers in Columbia Gas' next annual TCRA filing is consistent with Commission precedent and Columbia Gas' historic practice.

the basis for its refusal to offer the Millennium FT-1 Capacity to its shippers on a primary firm basis. It appears that Columbia Gas obtained that capacity pursuant to section 48 of its GT&C, permitting it to acquire off-system capacity on another pipeline. The premise of the Commission's policy, established in *Texas Eastern Transmission Corporation*,¹² permitting pipelines to obtain off-system capacity was that such capacity would be offered on an open access basis pursuant to the pipeline's tariff.¹³ Consistent with that policy, section 48 of Columbia Gas' GT&C requires Columbia Gas to use such off-system capacity "to provide service to Transporter's shippers under its FERC Gas Tariff." Section 284.7(a)(3) of the Commission's open access regulations, and Columbia Gas' tariff, require it to offer primary firm service. Columbia Gas has not provided any explanation as to why that requirement does not, or should not apply with respect to the Millennium FT-1 capacity. Accordingly, Columbia Gas must, within 30 days of the date of this order, either offer the Millennium FT-1 capacity to its customers on a primary firm basis, or file a detailed explanation why it should not be subject to such a requirement.

20. In addition to Washington Gas' objection to the inclusion of Millennium FT-1 Capacity costs, Washington Gas is also concerned about Columbia Gas' recovery of the costs associated with an emergency response to a line disruption in Pike County, Pennsylvania. Washington Gas asserts that Columbia Gas describes an emergency response that it had to undertake in the northern part of its system when its line 1278 ruptured in Pike County, PA in November, 2008. Washington Gas argues that Columbia Gas is now proposing to collect from its customers about \$960,000 of costs related to responding to this emergency. As a general matter, Washington Gas supports Columbia Gas coming to its customers' aid when emergency strikes and doing everything possible to restore service. However, Washington Gas argues that the information provided with this filing does not make it clear that customers should be responsible for bearing the costs of this particular situation. Washington Gas states that it is not sure whether recovery of these costs is proper given the instant filing's lack of information regarding the nature of the emergency event or who (if anyone) is responsible for it. Moreover, Washington Gas argues that if Columbia Gas was insured for this event, it could end up double-recovering if both its insurance carriers and its customers are required to pay.

21. In its answer, Columbia Gas asserts that Washington Gas does not dispute that the rupture occurred or that the contracts were necessary to ensure firm service to Columbia Gas' shippers. Moreover, Columbia Gas claims that Washington Gas did not provide any evidence that the rupture was not a bona fide *force majeure* event. Accordingly, Columbia Gas states that Washington Gas' assertion that the cause of the rupture should be investigated as part of Columbia Gas' TCRA filing should be rejected as outside the

¹² *Texas Eastern Transmission Corp.*, 93 FERC ¶ 61,273 (2000) (*Texas Eastern*).

¹³ *Tennessee Gas Pipeline Co.*, 118 FERC ¶ 61,159 at P10 (2007).

scope of this proceeding. Lastly, Columbia Gas states that it will credit through the TCRA any reimbursement it receives from insurers for the costs of these emergency transportation contracts.

22. While the Commission believes that Columbia Gas' emergency actions which allowed for continued service to its customers are to be encouraged, the Commission has held that tracking mechanisms should track only those costs related to normal pipeline operations. Specifically, the Commission has found that it is not reasonable for a pipeline to recover through its fuel tracking mechanism gas lost due to an unusual, non-recurring event because such extraordinary losses are more appropriately recovered through a pipeline's insurance or the normal ratemaking process.¹⁴ The costs resulting from the rupture at Line 1278 that Columbia Gas proposes to recover here are precisely the type of costs that the Commission has determined are not appropriate for inclusion in a fuel tracker filing.¹⁵ The Commission's decision on this matter, however, is without prejudice to Columbia Gas making a separate, limited section 4 filing to recover these extraordinary one-time costs incurred to provide service during the outage of Line 1278, where issues such as prudence and offsets for insurance recoveries could be considered.

23. The Commission, therefore, accepts and suspends Columbia Gas' proposed revisions to its TCRA surcharges subject to Columbia Gas removing approximately \$961,000 from its surcharges as a result of the rupture on its Line 1278 in Pike County, Pennsylvania. Accordingly, within 30 days of the date of this order, Columbia Gas is directed to file revised tariff sheets reflecting the removal of the costs resulting from the rupture at Line 1278 from its proposed TCRA surcharges.

24. Based on a review of the filing, the Commission finds that the proposed tariff sheets referenced in footnotes no. 2 have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. The revised tariff sheets referenced in footnote no. 1 are now rendered moot. Accordingly, the Commission shall accept the tariff sheets referenced in footnote 2 for filing and suspend their effectiveness for the period set forth below, subject to the conditions set forth in this order.

25. The Commission's policy regarding suspensions is that tariff filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or

¹⁴ See, e.g., *Southern Star Central Gas Pipeline, Inc.*, 125 FERC ¶ 61,388 (2008).

¹⁵ See, e.g., *Columbia Gulf Transmission Company*, 125 FERC ¶ 61,255 (2008).

inconsistent with other statutory standards.¹⁶ It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.¹⁷ Here, where Columbia Gas is filing its annual TCRA, the Commission will exercise its discretion to accept and suspend the tariff sheets for a minimal period, to become effective April 1, 2009, subject to refund and other conditions set forth above.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

¹⁶ See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

¹⁷ See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).