

129 FERC ¶ 61,285
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, and Philip D. Moeller.

Colorado Interstate Gas Company

Docket No. RP10-174-000

ORDER ACCEPTING TARIFF SHEETS

(Issued December 29, 2009)

1. On November 23, 2009, Colorado Interstate Gas Company (CIG) filed revised tariff sheets¹ to modify the segmentation provisions set forth in section 5.2 of its General Terms and Conditions (GT&C). Under its current tariff, CIG implements a “one-foot-in-bounds” rule, whereby a shipper nominating segmented transactions on CIG’s system must either have the receipt point or delivery point of its nomination within its primary flow path. CIG proposes to expand segmentation rights to shippers by allowing them to have neither the receipt or delivery point within the primary flow path, as long as part of the segmented flow path lies within the original primary flow path. CIG also proposes attendant changes to its scheduling priorities to accommodate this expansion of segmentation rights. CIG requests that its tariff sheets become effective on January 1, 2010. We accept CIG’s revised tariff sheets effective as proposed.

Details of Filing

2. Under its current segmentation provisions set forth in section 5.2 of its GT&C, CIG implements a “one-foot-in-bounds” rule. Under this provision, a shipper on CIG’s system nominating segmented transactions must either have the receipt point or delivery point of any segmented transaction within the original primary flow path. CIG states it incorporated this rule into its segmentation provisions during its Order No. 637 proceeding because of the complex nature of its reticulated pipeline system. In the instant filing, CIG proposes to expand segmentation rights for shippers by expanding the one-foot-in-bounds rule. Under the instant proposal, a shipper nominating segmented capacity on CIG’s system no longer has to have either the receipt or delivery point within

¹ Eleventh Revised Sheet No. 230, Second Revised Sheet No. 236A, Sixth Revised Sheet No. 279B, and Third Revised Sheet No. 279C to its FERC Gas Tariff, First Revised Volume No. 1.

the primary flow path. The shipper may now nominate to receipt and delivery points outside the primary flow path as long as the nominated flow path passes through the primary flow path.² CIG states this proposed tariff modification will provide shippers with an increased number of capacity alternatives when segmenting their primary rights. It adds that shippers will continue to have the option of using segmentation with a receipt or delivery point within the primary flow path.

3. To implement its changes, CIG proposes to modify the “Segmentation” definition set forth in section 1.98 of its GT&C to remove the requirement that the receipt or delivery point of a segmented transaction must lie within the primary path, and instead incorporate the requirement that only a portion of the nominated flow path must be within the primary flow path. CIG proposes similar changes to sections 5.2(b)(1) and 5.2(d)(1) of its GT&C.

4. As part of its proposal, CIG proposes to revise one element of its scheduling priorities to accommodate its modified one-foot-in-bounds rule. CIG’s currently effective scheduling priorities are set forth in section 5.10 of its GT&C. Under these provisions, the first quantities that CIG schedules are those utilizing primary capacity. The second quantities scheduled are those having flow path secondary priority. This priority is assigned to transportation transactions where the receipt and/or delivery point remain within the primary flow path, and the nominated flow path passes through at least part of the primary flow path. Next, CIG schedules all capacity with secondary priority.

5. To accommodate its modified one-foot-in-bounds rule, CIG proposes to revise what capacity is assigned the flow path secondary priority. Under its current tariff, where the receipt and delivery point both lie outside the primary flow path but a portion of capacity passes through the primary path, those sections of capacity outside the primary flow path are assigned secondary rights. CIG now proposes to assign those capacity segments the flow path secondary priority, which has a higher priority than the secondary priority outside the flow path. In order to qualify for the flow path secondary priority, however, the scheduled transaction must have the same direction of flow as the primary flow.

6. To implement its revised scheduling priority proposal, CIG modifies GT&C section 1.29 to provide as follows:

“Flow Path Secondary” or “Flow Path Secondary Capacity” shall mean the scheduling priority or the capacity status assigned to the portion of a Transportation transaction that extends beyond the Shipper’s Primary

² CIG states in its transmittal that it currently provides shippers the benefit of this flexibility, although it is not codified in its tariff.

Receipt-to-Delivery Flow Path when at least some portion of the nominated Receipt-to-Delivery Flow Path passes through the Shipper's Primary Receipt-to-Delivery Flow Path in the same direction of the Shipper's Primary Receipt. Flow Path Secondary Capacity is limited by the capacity entitlement of the underlying Transportation Service Agreement on the Primary Receipt-to-Delivery Flow Path Segment being used.

Notice

7. Public notice of CIG's filing was issued on November 30, 2009. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2009)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2009)), all timely filed motions to intervene and any motions 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. Mico, Inc., (Mico) filed a protest. Mico generally supports CIG's proposal to expand its segmentation rights with the exception of one tariff revision, which we address below. On December 18, 2009, CIG filed an answer to Mico's protest. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits an answer to a protest unless otherwise ordered by the decisional authority. In this case, we accept CIG's answer because it provides information that assists the Commission in its decision-making process.

Discussion

8. CIG's proposed changes to its segmentation provisions, and attendant changes to its scheduling priorities, generally provide shippers with greater segmentation capabilities and operational flexibility. For these reasons, we will accept the revised tariff sheets. However, this acceptance is subject to certain conditions based on concerns raised by Mico, which we address below.

9. Mico states it does not object to CIG's proposal to expand its one-foot-in-bounds rule or its proposal to grant flow path secondary scheduling priority to segmentation transactions as long as a portion of the shipper's nominated flow path passes through the primary receipt-to-delivery flow path. Mico, however, protests the requirement that the transaction follow the direction of primary flow, which would bar backhaul shippers from obtaining the flow path secondary priority. Mico states that section 1.29 of CIG's GT&C defines flow path secondary priority to mean "the scheduling priority or the capacity status assigned to *Transportation* transactions" [emphasis added] for which the receipt point or delivery point lie within the primary path and the nominated flow path passes through the primary flow path. Mico then offers that in section 1.111, CIG defines transportation transactions to include "storage, exchange, backhaul, displacement or other methods of transportation." Mico contends that, based on these definitions, flow path secondary rights under CIG's current tariff are available to all transportation

transactions delineated in its tariff, including backhaul transactions, and are not restricted to just segmented transportation transactions.

10. Mico further acknowledges that CIG currently has in place a tariff provision providing that, for segmented transactions, to receive the flow path secondary priority, the direction of flow of the nominated path must be in the same direction as the primary flow path, citing section 5.2(d)(ii) of CIG's GT&C.³ Mico is concerned that in the instant filing, CIG is now proposing to extend this limitation to all transportation services. It asserts this would effectively prevent backhaul transportation transactions from receiving flow path secondary priority. According to Mico, CIG has not shown that this provision is just and reasonable since Mico believes the provision would seriously reduce the value to shippers of secondary point transportation transactions. Mico adds that this is inappropriate in the context of a filing that CIG states was made to increase shipper flexibility.⁴ Accordingly, Mico asks that the Commission reject CIG's proposal to incorporate into section 1.29 of its GT&C the phrase: "in the same direction of the Shipper's Primary Capacity."

11. In its answer, CIG offers that in Order No. 637 the Commission adopted its within-the-path priority for scheduling transactions. CIG states that, as a result of this policy, the Commission held in *Tennessee*⁵ that "flow reversals would be considered out-of-path for the purposes of determining scheduling priority. The primary right in a transportation contract is defined by its direction of flow between a primary receipt point to a primary delivery point." CIG contends the Commission reaffirmed this statement in its Order on Remand, providing that "such flow reverse transactions would receive lower scheduling priority than within-the-path transactions under the Commission's within-the-path scheduling priority. Thus, generally, most backhaul transactions will have lower scheduling priority than forwardhaul transactions."⁶ CIG asserts that, accordingly, its proposed scheduling changes to section 1.29 of its GT&C are merely a clarification of the fact that only transactions that are in the direction of the shipper's primary path rights are considered to be within the primary receipt-to-delivery flow path for purposes of

³ Section 5.2(d)(ii) of CIG's segmentation provisions provides that "Transactions that are opposite to the Primary Receipt-to-Delivery Flow Path are distinguished from the Shipper's Primary Capacity and shall be scheduled as Secondary Capacity up to the Shipper's MDQ."

⁴ In its protest, Mico describes an ongoing contractual disagreement it has with CIG over this particular tariff language.

⁵ *Tennessee Gas Pipeline Co.*, 99 FERC ¶ 61,017 (2002).

⁶ *Id.* at ¶ 42.

assigning the flow path secondary scheduling priority, which is consistent with Commission policy and precedent.

12. CIG's proposed changes to its segmentation provisions will offer shippers more operational flexibility and segmentation rights without affecting operations of existing shippers. Further, CIG adequately explains and justifies its tariff clarification that would require backhaul transactions to have secondary scheduling priority instead of flow path secondary scheduling priority. For these reasons, we accept CIG's revised tariff sheets.

The Commission orders:

The Commission accepts CIG's revised tariff sheets, to become effective January 1, 2010.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.