

133 FERC ¶ 61,002
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

MoGas Pipeline LLC

Docket No. RP10-1158-000

ORDER ACCEPTING TARIFF FILING

(Issued October 1, 2010)

1. On September 1, 2010, MoGas Pipeline LLC (MoGas) filed a tariff record¹ to revise its annual Fuel and Gas Loss Retention Percentage. The filing is made in compliance with the Settlement filed on March 16, 2010, by MoGas in Docket No. RP09-791-000 and the Letter Order Accepting Uncontested Settlement issued on July 30, 2010.² For the reasons discussed below, we grant waiver of the Commission's thirty day notice requirement and MoGas' request to file the Annual Adjustment Filing one day out of time and accept the tariff record to be effective October 1, 2010.

Background

2. On March 16, 2010, MoGas filed a Settlement in Docket No. RP09-791-000 to resolve the general rate case it filed on June 30, 2009, pursuant to section 4 of the Natural Gas Act (NGA). Article III of the Settlement provides that MoGas will revise its tariff to implement a fuel tracker with a true up mechanism. The Commission approved the Settlement to become effective on September 1, 2010. MoGas states it is concurrently making the compliance filing in Docket No. RP10-1155-000 to add the agreed-upon fuel tracker provision to its tariff. That tariff provision requires MoGas to make an Annual Adjustment Filing.

¹ Section 4, Schedule of Rates for Transportation, 3.0.0, to Baseline Tariff, FERC NGA Gas Tariff.

² *MoGas Pipeline LLC*, 132 FERC ¶ 61,092 (2010).

3. The fuel tracker language agreed upon in the Settlement provides that MoGas will, on a monthly basis, account for all under or over recovered fuel and gas loss retention quantities based on volumes received for transportation less total volumes delivered, effective January 1, 2010. The language also provides that MoGas will make an Annual Adjustment Filing to adjust the Fuel and Gas Loss Retention Percentage based on the 12-month period ending June 30 of each year by or on August 31 of each year, to become effective on the subsequent October 1. However, in compliance with the terms of the Settlement, the Initial Annual Adjustment Filing is based on the six-month period of January 1 through June 30, 2010.

Details of Filing

4. MoGas' Annual Adjustment Filing increases its Fuel and Gas Loss Percentage from 0.99 percent to 1.01 percent. MoGas states it calculated the rate pursuant to Tariff Section 7.37, Version 0.0.0 of MoGas's General Terms and Conditions (G&T)³ of its tariff. MoGas estimated its Current Fuel and Gas Loss Retention Quantities by multiplying the Initial Period Fuel and Lost and Unaccounted for Gas (LUFG) quantities by two to annualize it. MoGas states that it adjusted its projected Current Fuel and Gas Loss Retention Quantities downward by 10,000 Dth to take into account that the months between January and June are not representative of Fuel and LUFG quantities over a typical 12 month period because January and February typically are the coldest months of the year, and therefore, throughput and thus Fuel and LUFG are higher in those months. MoGas states that to ameliorate the impact of having the months with the highest volumes in the initial period, it has estimated for the upcoming 12-month period that it will actually incur lower Fuel and LUFG than that occurred in the Initial Period. MoGas asserts that its estimate results in a lower Fuel and Gas Loss Retention Percentage for the next 12 months to the benefit of shippers. MoGas states that in the event it under-recovers Fuel and LUFG in the upcoming 12-month period, it will be corrected through the true up mechanism in next year's Annual Adjustment Filing, as specified in Section 7.7.4(b) of its tariff.⁴

5. Pursuant to 18 C.F.R. § 385.212 (2010), MoGas moves for permission to file its Annual Adjustment Filing one day out-of-time and for waiver of the 30-day notice requirement of 18 C.F.R. § 154.207 (2010). MoGas states that under the Settlement it is required to make its Annual Adjustment Filing no later than

³ Previously Section 37 in the *pro forma* tariff sheets filed with the Settlement in Docket RP09-791-000.

⁴ *Pro forma* Section 37.4(b).

August 31. MoGas states that MoGas and its consultants experienced technical difficulties with the Commission's new eTariff system that resulted in a delay such that the instant filing could not be made during regular business hours. MoGas states that although it made the filing after normal FERC business hours on August 31, 2010, MoGas served the filing on all parties so that no party is prejudiced by the delay of the filing and parties will still have thirty days to review.

Public Notice, Interventions and Protests

6. Public notice of the filing was issued on September 1, 2010. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2010)). Pursuant to Rule 214, (18 C.F.R. § 385.214 (2010)) all timely 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.

7. On September 13, 2010, the Missouri Public Service Commission (MoPSC) filed comments and a request for additional information and Union Electric Company d/b/a AmerenUE and Central Illinois Public Service Company d/b/a AmerenCIPS (collectively, Ameren) filed a protest and a request to reject the filing. On September 14, 2010, MoGas filed an answer to the protests. On September 22, 2010, Ameren filed a motion to respond and response to MoGas' answer. Under Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R § 385.213(a)(2) (2010), answers to protests and answer are not permitted unless otherwise ordered by the decisional authority. The Commission will accept MoGas' answer because it has provided information that assisted us in our decision-making process, however, the Commission will not accept Ameren's answer to MoGas' answer.

Protests

8. MoPSC and Ameren state the filing does not provide complete documentation necessary to allow a determination that the claimed fuel percentage does not include any volumes associated with imbalances or gas purchased or sold by MoGas. MoPSC requests that the Commission direct MoGas to file complete supporting data for its fuel filing including documentation that reconciles MoGas' *Operationally Available Capacity Report*, "Scheduled Quantity" with Appendix B in the fuel filing.

9. MoPSC also states the documentation should include enough detail to separate actual fuel usage from LUGF. MoPSC states separating these two

components in the calculation of the actual quantities of gas expended for fuel and LUFG allows for a comparison to MoGas' rate case in Docket No. RP09-791-000 and whether additional issues exist with excessive Fuel or LUFG amounts. MoPSC contends that establishing a baseline of both fuel and LUFG will help ensure that only actual fuel costs are being passed through the fuel clause.

10. Ameren states that MoGas has failed to provide sufficient information to allow parties to determine whether volumes attributable to either imbalances or pipeline sales and purchases have been included in the calculation of the Fuel and LUFG Quantities which are required by the tariff to be excluded from the calculation. In addition, Ameren states that MoGas' filing fails to provide any of the necessary documentation to support its calculations and estimates. Ameren requests that the Commission reject the filing or, in the alternative, suspend it for a day and allow it to become effective subject to refund.

11. Ameren states that MoGas' filing is based upon estimated annual retention quantities of 111,222 Dth and estimated annual throughput of 11,407,052 Dth. The estimated annual retention quantities volume was derived by comparing actual gas receipts to actual gas deliveries for the January 1, 2010 to June 30, 2010 period, multiplying by 2, and subtracting 10,000 Dth. According to the filing, MoGas had receipts of 60,611 Dth in excess of gas deliveries during the first six months of 2010. Ameren states that MoGas has provided no additional information to determine the reason for the 60,611 Dth difference between receipts and deliveries, whether it related to imbalances or whether any pipeline operational gas purchases or sales were involved, nor did MoGas provide any reason for the 10,000 Dth reduction. Ameren also states that MoGas has provided no support for the reasonableness of doubling that estimate to arrive at an annualized retention volume.

12. Additionally, Ameren disputes the methodology MoGas used to estimate its annual throughput. Ameren states that MoGas' quantity of 11,407,052 Dth is simply the sum of receipts for the six month period January 1, 2010 – June 30, 2010 multiplied by 2. Ameren contends that actual data from MoGas' more than two years of operation as an interstate pipeline shows throughput far in excess of the projected volume of 11,407,052 Dth used in its current estimation since MoGas' throughput for calendar years 2008 and 2009 was 22,510,951 Dth and 16,069,171 Dth, respectively.

Answer

13. MoGas states that its tariff clearly prohibits it from including in the calculation of the Fuel and Gas Loss Retention Percentage all volumes of gas attributable to shipper imbalances and all volumes of gas MoGas purchased or

sold. Nevertheless, MoGas adds, it affirmatively states that it did not include either volumes associated with imbalances or gas purchased or sold in its Fuel Filing.

14. With respect to its projected throughput, MoGas states the throughput used in the fuel filing is based on the actual throughput for the period January 1, 2010 through June 30, 2010. As this is MoGas' initial fuel filing, MoGas states its tariff requires use of six months of data.⁵ MoGas states the data in the fuel filing is identical to that provided in MoGas' FERC Form 3Qs filed for the first and second quarters of 2010 and that Ameren's reliance on MoGas' throughput in 2008 and 2009 is misplaced since in 2008 and the first half of 2009, prior to the in-service date of Rockies Express Pipeline, MoGas experienced significantly higher volumes on its system. However, MoGas states those market conditions no longer exist and, based on current conditions, MoGas' best estimate is that 2010 throughput will be as reflected in the filing.

15. Finally, MoGas states that Section 7.37 of its tariff does not obligate it to provide sufficient detail to separate actual fuel usage from Lost and Unaccounted for Gas; however, to aid the Commission in resolving this matter MoGas is providing a worksheet, attached to the answer, showing the breakdown between Fuel and LUFG.

Discussion

16. The Commission accepts the proposed tariff record implementing MoGas' Initial Annual Adjustment Filing, to become effective October 1, 2010, as consistent with the tracker provisions agreed to in its Settlement and filed concurrently with this proceeding. MoGas' tariff requires MoGas to account for all under or over recovered Fuel and Gas Loss Retention Quantities by determining the total volumes received for transportation less the total volumes delivered and MoGas has followed the methodology that is set forth in its tariff. The result of the fuel filing is a small increase in MoGas' fuel rate from 0.98 percent to 1.01 percent. The Commission finds no need to require additional information from MoGas further explaining the difference between receipts and deliveries. In addition, the Commission finds MoGas has provided sufficient explanation for reducing its Current Fuel and Gas Loss Retention Quantity by 10,000 Dth to reflect the increased throughput in the first six months of the year and also notes this reduction results in a lower fuel retention percentage for shippers.

⁵ MoGas states pursuant to tariff Section 7.37 future annual filings will be based on a 12-month period.

17. The Commission finds MoGas' use of throughput based on the period January 1, 2010 through June 30, 2010 to be appropriate for its Initial Annual Adjustment Filing. MoGas' tariff requires the use of the January 1, 2010 through June 30, 2010 time period for determining the Fuel and LUGF quantities in the Initial Annual Adjustment Filing and, although the time period to be used for the underlying throughput is not explicitly stated,⁶ it certainly seems appropriate to also use this time period in the Initial Annual Adjustment Filing.

18. Both MoPSC and Ameren state that MoGas' filing fails to provide sufficient information to allow parties to determine whether volumes attributable to either imbalances or pipeline sales and purchases have been included in the Fuel and Gas Loss Retention Component and its Unrecovered Fuel and Gas Loss Retention Component. MoGas' tariff Section 7.37, Version 0.0.0, (2) clearly prohibits the inclusion of volumes related to shipper imbalances and gas purchased and sold by MoGas in the fuel filing. In addition, MoGas affirmatively states in its answer that it did not include either volumes associated with imbalances or gas purchased or sold in its fuel filing. Therefore, the Commission sees no need to compel additional information in this area. In addition, the Commission sees no need to require MoGas to provide additional documentation that reconciles the *Operationally Available Capacity Report*, "Scheduled Quantity" with Appendix B in the fuel filing. The *Operationally Available Capacity Report* is a daily report that provides shippers with a snapshot of the amount of capacity available at specific points on the pipeline at varying times in the nomination cycle. MoPSC has not provided sufficient explanation why having MoGas attempt to reconcile this report to Appendix B would aid the parties in determining whether MoGas has properly calculated its fuel percentage.

19. Finally, although MoPSC states MoGas should be required to provide additional documentation that includes enough detail to separate actual fuel usage from LUGF, the tariff provisions governing MoGas' fuel filings, which were recently agreed to as part of its rate case settlement, do not expressly state this level of detail is to be provided. However, in its Answer MoGas nevertheless included a worksheet showing the breakdown between Fuel and LUGF. Therefore, the Commission will not require further documentation on LUGF to be provided.

20. No party has protested MoGas' request to file the Annual Adjustment Filing one day out-of-time and MoGas has shown good cause for the Commission to grant its request. Therefore, MoGas' request to file the Annual Adjustment Filing on September 1, 2010, one day out-of-time, is granted.

⁶ Section 37.4(b) describes the calculation as the "Current Rate Schedule Quantities."

The Commission orders:

(A) MoGas' revised tariff record is accepted to be effective October 1, 2010.

(B) MoGas' request to file the Annual Adjustment Filing on September 1, 2010, one day out-of-time, is granted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.