133 FERC ¶ 61,095
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.

Columbia Gulf Transmission Company Docket No. RP11-24-000

ORDER ACCEPTING AND SUSPENDING TARIFF SECTIONS
SUBJECT TO REFUND AND CONDITIONS AND FURTHER REVIEW

(Issued October 28, 2010)

1. On October 1, 2010, Columbia Gulf Transmission Company (Columbia Gulf) filed revised tariff sections to its FERC Gas Tariff, Third Revised Volume No. 1[1], to implement a new firm daily delivery point scheduling service under Rate Schedule SVS (Scheduling Variance Service or SVS). The revised tariff sections are proposed to become effective on November 1, 2010. For the reasons discussed below, the Commission accepts and suspends the revised tariff sheets to become effective April 1, 2011, subject to refund and conditions set forth below and further review.

Background

2. In Docket No. RP07-174, the Commission authorized Columbia Gulf to implement a daily Delivery Point Scheduling Penalty that applies to the difference between a shipper's scheduled deliveries at a delivery point and gas quantities the shipper takes at the point each day.[2] Shippers are subject to a penalty if their actual delivered volumes vary from their scheduled volumes by the greater of (1) 1,000 Dth or (2) three percent on Critical Days or five percent on Non-Critical Days. On February 11, 2010, the Commission approved Columbia Gulf's request for an indefinite waiver of the Delivery Point Scheduling Penalty for all shippers. Columbia Gulf must notify its shippers through a filing with the Commission at least 30 days prior to implementing the

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[1] *See* Appendix.

[2] *Columbia Gulf Transmission Co.*, 119 FERC ¶ 61,268 (2007), *order on reh'g*, 124 FERC ¶ 61,121 (2008).

Delivery Point Scheduling Penalty.[3] Columbia Gulf states that it intends to implement its scheduling penalties on April 1, 2011.

The Instant Filing

3. Columbia Gulf states that proposed Rate Schedule SVS will help firm shippers minimize their incurrence of scheduling penalties when their gas needs change during the day. In essence, Rate Schedule SVS will permit shippers to purchase the right to incur scheduling variances in excess of those which would ordinarily trigger the scheduling penalty. Columbia Gulf further states that Rate Schedule SVS will be available to shippers who receive transportation service under Rate Schedules FTS-1 and FTS-2. Columbia Gulf submits that shippers may purchase service under Rate Schedule SVS on a monthly, seasonal, or annual basis, depending on operational availability.

4. Columbia Gulf states that, under Rate Schedule SVS, it and the shipper will agree to a Maximum Daily Variance Quantity (MDVQ), which is defined as the maximum volume by which the shipper's actual deliveries can differ from its scheduled deliveries on any given day. The MDVQ which will be added to the scheduling penalty tolerance levels provided under General Terms and Conditions (GT&C) sections 19.4(a) and (b). Columbia Gulf further states that this service will allow shippers who have load variations greater than the scheduling tolerances provided for in Columbia Gulf's tariff to buy service that is tailored to their individual needs by increasing the tolerance for both under-deliveries and over-deliveries that will apply before scheduling penalties will be applicable. Columbia states that the customer's actual delivery quantities will be permitted to vary from the scheduled quantities by the tolerance level set forth in the tariff plus the MDVQ contracted for under Rate Schedule SVS without incurring a scheduling penalty, so long as the shipper's deliveries do not exceed its total transportation demand. Columbia Gulf asserts that, therefore, a customer's MDVQ will determine its level of scheduling flexibility within its transportation demand. Columbia Gulf further asserts that it does not currently have any other service that will allow shippers to increase the applicable tolerance for scheduling variances. Columbia Gulf states that a number of shippers have requested that Columbia Gulf provide service options to increase their scheduling flexibility and Rate Schedule SVS is a direct result of these requests. Columbia Gulf further states that it is also currently in the process of developing other services to provide greater flexibility to manage changes in their gas needs that occur on a day ahead or intraday basis.

5. Columbia Gulf states that requests for service under Rate Schedule SVS will be evaluated on a case-by-case basis to determine whether it has the facilities available to provide the requested service and only for delivery points because the scheduling penalty is not applicable to receipt points. Columbia Gulf asserts that it intends to manage the

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[3] *Columbia Gulf Transmission Co.*, 130 FERC ¶ 61,098 (2010).

additional variance flexibility using its existing facilities, such as linepack and other transportation facilities. Because its SVS shippers will not be permitted to use their MDVQ to exceed their transportation demand, Rate Schedule SVS cannot be used to increase a shipper's firm entitlements. Columbia Gulf further asserts that, therefore, existing firm shippers will not be adversely affected by Rate Schedule SVS service. Columbia Gulf asserts that, by knowing in advance the variance levels that a shipper has subscribed to, Columbia Gulf will be better able to anticipate, manage and operate its system to accommodate these additional scheduling variances. Columbia Gulf asserts that it will review all requests for service under Rate Schedule SVS to ensure that the service will not affect the level or quality of service it provides to existing firm transportation and storage customers on its system.

6. Columbia Gulf states that service under Rate Schedule SVS will be provided using its existing facilities and be available to both shippers and delivery point operators so that points with multiple shippers will be eligible for added scheduling flexibility. Columbia Gulf asserts that Rate Schedule SVS will particularly benefit shippers that receive service at points that are not currently subject to operational balancing agreements (OBA).

7. Columbia Gulf states that, under circumstances where there are multiple shippers receiving gas at a given delivery point, Rate Schedule SVS provides that the scheduling penalty will not apply unless the total quantities delivered to all shippers vary from the aggregate quantities scheduled for all shippers by more than the tolerance level. Columbia Gulf further states that when a delivery point operator contracts for service under Rate Schedule SVS, the shippers taking gas at the delivery point will not be assessed a scheduling penalty until the aggregate quantities delivered to the delivery point vary from the quantities scheduled to that point by more than the tolerance level, plus the delivery point operator's MDVQ and the aggregate scheduling variance at the delivery point covered by Rate Schedule SVS will determine whether a scheduling penalty will be assessed.

8. Columbia Gulf is proposing to charge a maximum demand rate of $1.831 per Dth per Month for the MDVQ in a customer's Rate Schedule SVS service agreement. Columbia Gulf states that the rates proposed for Rate Schedule SVS are based on one half the current Non-Critical Day scheduling penalty rate of 12.04 cents per MMBtu, converted to a monthly demand charge.[4] Columbia Gulf further states that usage charges, as well as other applicable surcharges, such as retainage, will be assessed on the underlying transportation service agreement. Columbia Gulf contends that the Commission has approved a rate derived from the pipeline's scheduling penalty for a new

[4] A workpaper detailing the calculation of this rate is included in Appendix A to the filing.

service as just and reasonable, if that rate is based upon a Commission approved cost-based rate.[5] Columbia Gulf further contends that its scheduling penalty rate is equal to its maximum recourse interruptible transportation rate and the Commission has held that pipelines may use existing rates as a basis for deriving rates for new services.[6] Columbia Gulf asserts that the proposed Rate Schedule SVS rate is equally appropriate for a service that is designed to help shippers avoid their scheduling penalties. Columbia Gulf further asserts that Rate Schedule SVS will require Columbia Gulf to manage its entire system to accommodate the contractual delivery variances, and that the costs of providing that service implicate the entire transportation system and warrant a share of Columbia Gulf's transportation costs.

9. Columbia Gulf asserts that Rate Schedule SVS is a new and optional firm service and it is difficult for Columbia Gulf to predict the level at which the service will be subscribed. Columbia Gulf anticipates that shippers will contract and pay for an additional 7 to 10 percent of scheduling flexibility above the built-in tolerance levels, which would amount to approximately 14,000 to 30,000 Dth per day of Rate Schedule SVS service. Columbia Gulf estimates that the incremental annual revenues for Rate Schedule SVS service will be, at most, between $300,000 to $700,000.

10. Columbia Gulf contends that its proposed Rate Schedule SVS is consistent with similar scheduling variance services approved by the Commission in other pipeline proceedings.[7] Columbia Gulf further contends that the proposed optional SVS service is consistent with the Commission's policy of encouraging pipelines to provide new services that will allow customers to avoid the incurrence of penalties under Order No. 637.

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[5] Citing *Trunkline Gas Co.*, 75 FERC ¶ 61,003 (1996).

[6] Citing *CMS Trunkline Gas Co., LLC*, 100 FERC ¶ 61,048, at P 66 (2002) (*Trunkline*); *Panhandle Eastern Pipe Line Co.*, 90 FERC ¶ 61,119, at 61,360, *reh'g denied*, 91 FERC ¶ 61,174 (2000); and *Mojave Pipeline Co.*, 79 FERC ¶ 61,347, at 62,480 (1997).

[7] Citing *Trunkline*, LLC, 100 FERC ¶ 61,048; Trunkline Gas Company, LLC, FERC Gas Tariff, Third Revised Vol. No. 1, Original Sheet No. 134 to Original Sheet No. 147; *Panhandle Eastern Pipe Line Co.*, 97 FERC ¶ 61,046 (2001) (*Panhandle*); and Panhandle Eastern Pipeline Co. FERC Gas Tariff, Third Rev. Vol. No. 1, Original Sheet No. 124 to Original Sheet No. 127.

Notice of Filing, Interventions, Comments, and Protests

11. Public notice of Columbia Gulf's filing was issued October 4, 2010, with interventions and protests 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 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. Tennessee Valley Authority (TVA) and Process Gas Consumers Group and the American Forest & Paper Association (collectively the Associations) filed protests. Baltimore Gas and Electric Company (BGE), Piedmont Natural Gas Company, Inc. (Piedmont), Atmos Energy Corporation and Atmos Energy Marketing LLC (Atmos), Sequent Energy Management Company, L.P. (Sequent), and the City of Charlottesville and the City of Richmond (collectively the Cities) filed comments. TVA and Sequent request a technical conference. Columbia Gulf filed an answer to the protests and comments (Answer).[8]

12. In general, the protests and comments argue that Columbia Gulf has not sufficiently supported its proposal and request that it be suspended for the maximum period and consolidated with Columbia Gulf's new rate proceeding anticipated to be filed by November 1, 2010. TVA argues that Columbia Gulf should be required to provide other service alternatives rather than a service which it asserts "discriminates" in favor of Columbia Gulf's storage to the exclusion of third party storage providers. Sequent contends that Columbia Gulf has not demonstrated that service to existing shippers will not be degraded by the proposed SVS service and the proposal may be an indication that the current tolerances before scheduling penalties are imposed are overly restrictive. The Cities, Atmos, Piedmont, and the Associations are concerned that the new service may be subsidized by the existing firm shippers and question whether Columbia Gulf should be entitled to retain the revenues from the proposed service.

13. In its Answer, Columbia Gulf argues that the proposed service is consistent with Commission policy. Columbia Gulf asserts that the Commission has approved services similar to the proposed Rate Schedule SVS on two other pipelines.[9] Columbia Gulf further asserts that none of the protests to Columbia Gulf's filing have pointed to any specific provision of the proposed rate schedule that is either unjust or unreasonable.

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[8] Pursuant to 18 C.F.R. § 385.213 (2010), answers to protests are not permitted. In the instant circumstance, the Commission finds that the answer provides information useful in the examination of Columbia Gulf's filing and, therefore, the Commission accepts Columbia Gulf's answer.

[9] Citing *Trunkline*, 100 FERC ¶ 61,048 at P 61; *Panhandle*, 97 FERC ¶ 61,046.

Columbia Gulf contends that the Commission rejected similar arguments concerning the pipeline's retention of revenues in *Trunkline*[10] and the Commission rejected similar arguments concerning the impact of the service on existing shippers in *Panhandle*.[11] Columbia Gulf further contends that the proposed rate schedule will not degrade service to existing shippers because the service cannot be used to increase a shipper's deliveries above its Transportation Demand. Columbia Gulf asserts that Sequent has not provided any basis for its concern that existing service will be degraded. Columbia Gulf contends that the arguments raised by Sequent and TVA are, in essence, an attempt to relitigate the Commission's approval of scheduling penalties on Columbia Gulf's system and Rate Schedule SVS will help shippers manage their exposure to penalties, consistent with Commission policy as set forth in Order No. 637.[12]

14. Columbia Gulf argues that a technical conference or consolidation with Columbia Gulf's section 4 rate filing is not warranted. Columbia Gulf asserts that, while it intends to file its rate case before November 1, 2010, Columbia Gulf filed the proposed SVS service on October 1, 2010 so that the service could be implemented in advance of the implementation of scheduling penalties on Columbia Gulf's system on April 1, 2011. Columbia Gulf further asserts that consolidation of the service with the rate case could delay approval of the service and therefore reduce shipper options with respect to scheduling penalties once those penalties are implemented. Columbia Gulf contends that none of the protestors have argued that the specific rate being proposed by Columbia Gulf is unjust or unreasonable. Columbia Gulf asserts that the Commission approved rates in both *Trunkline* and *Panhandle* based on the pipelines' then-effective firm service rate. Columbia Gulf further asserts that, in contrast, Columbia Gulf is proposing a rate that is equal to one-half of the scheduling penalty which is a much lower rate than Columbia Gulf's rate for firm service.

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[10] Citing *Panhandle*, 97 FERC at 61,268, *Trunkline*, 100 FERC ¶ 61,048 at P 62.

[11] Citing *Trunkline*, 100 FERC ¶ 61,048 at P 63.

[12] Citing *Regulation of Short-Term Natural Gas Transportation Services* and *Regulation of Interstate Natural Gas Transportation Services,* Order No. 637, FERC Stats. & Regs. ¶ 31,091, at 31,311, *clarified*, Order no. 637-A, FERC Stats. & Regs. ¶ 31,099, *reh'g denied*, Order No. 637-B, 92 FERC ¶ 61,062 (2000), *aff'd in part and remanded in part sub nom. Interstate Natural Gas Ass'n of America v. FERC,* 350 U.S. App. D.C. 366, 285 F. 3d 18 (D.C. Cir. 2002), *order on remand*, 101 FERC ¶ 61,127 (2002), *order on reh'g*, 106 FERC ¶ 61,088 (2004), *aff'd sub nom. American Gas Ass'n v. FERC*, 368 U.S. App. D.C. 176, 428 F.3d 255 (D.C. Cir. 2005).

15. Columbia Gulf contends that the Commission should also find that a technical conference is not warranted, since no party has raised any specific arguments with respect particular provisions of the proposed service. Columbia Gulf asserts that the proposed Rate Schedule SVS is fully consistent with service approved on other pipelines, and no shipper provided a reasonable basis for asserting that service to existing shippers will be degraded. Columbia Gulf contends that, therefore, existing firm shippers will not be negatively impacted by Rate Schedule SVS service. Columbia Gulf asserts that it intends to manage the additional variance flexibility using Columbia Gulf's existing facilities. Columbia Gulf asserts that it has also affirmed that it will review all requests for service to ensure the level or quality of service to existing firm transportation and storage customers will not be affected. Columbia Gulf argues that Sequent's assertion that the proposed service undercuts the presumption that scheduling penalties are needed is mistaken. Columbia Gulf contends that the proposed SVS service will help alleviate a problem of scheduling variances because, by virtue of signing up for the service, Columbia Gulf will have advance notice of the level of swings that a shipper anticipates and plan, on any given day, for load swings that are based on the MDVQ selected by the shipper.

Discussion

16. Columbia Gulf must adequately support its filing and respond to the issues raised by the protests and comments. In its answer, Columbia Gulf argues that the Rate Schedule SVS is consistent with Commission policy and precedent and the concerns raised in the protests should be rejected. However, before we respond to the issues raised by the protests and comments, we will provide the parties with the opportunity to respond to Columbia Gulf's answer within twenty (20) days of the date of this order. Therefore, the Commission accepts and suspends the proposed tariff sections, to become effective April 1, 2011, subject to refund and conditions and further Commission review. Finally, the requests by TVA and Sequent that the Commission initiate a technical conference are denied as unnecessary at this time.

Suspension

17. Based upon a review of the filing, the Commission finds that the proposed tariff sections have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission accepts the tariff sections for filing, subject to refund, and suspends their effectiveness for the period set forth below, subject to the conditions set forth in this order.

18. It is the Commission's policy generally to suspend rate filings for the maximum period permitted by statute if preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory

standards.[13] It is also recognized however, that shorter suspensions may be warranted under circumstances in which suspension for the maximum period may lead to harsh and inequitable results.[14] Such circumstances do not exist here. Accordingly, the Commission will exercise its discretion to suspend the proposed tariff sections to be effective April 1, 2011, subject to refund and subject to the conditions and further review as set forth in the body of this order and in the ordering paragraphs below.

The Commission orders:

(A) The tariff sections listed in the Appendix of this order are accepted and suspended, to become effective April 1, 2011, subject to refund and conditions and further review, as discussed in this order and the ordering paragraphs below.

(B) The parties are permitted to file a response to Columbia Gulf's answer within twenty (20) days of the date of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

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

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

APPENDIX

COLUMBIA GULF TRANSMISSION COMPANY
Columbia Gulf Tariffs
FERC NGA Gas Tariff

Tariff Records Accepted and Suspended, effective April 1, 2011

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Currently Effective Rates, SVS Rates, 0.0.0
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Service Agreement Forms, SVS Appendix, 0.0.0
Miscellaneous Forms, Bid for Capacity Release, 1.0.0
Miscellaneous Forms, Request for Service, New Agreement, 1.0.0
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