

133 FERC ¶ 61,203
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 7, 2010

In Reply Refer To:

Columbia Gas Transmission, LLC

Docket Nos. RP09-792-000

RP09-792-001

RP09-792-002

RP09-792-003

RP10-401-000

RP10-401-001

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

Attention: James R. Downs, VP, Rates & Regulatory Affairs

Reference: Offer of Settlement

Dear Mr. Downs:

1. On September 1, 2010, Columbia Gas Transmission, LLC (Columbia) submitted a Stipulation and Agreement (Settlement), to resolve all issues regarding Columbia's third-party transportation costs incurred by Columbia as a result of the November 5, 2008 rupture of Columbia's Line 1278. Columbia stated that it had circulated the Settlement to all participants in these proceedings, and that they had all indicated that they support or do not oppose the Settlement, or they have not responded. On September 2, 2010, the Settlement Judge in this proceeding requested comments on the Settlement, to be filed no later than September 21, 2010. Commission Staff, PSEG Energy Resources & Trade LLC, and Cities (collectively to the City of Charlottesville, Virginia; the Easton Utilities Commission; and the City of Richmond, Virginia) each filed comments in support.

2. On October 6, 2010, the Settlement Judge certified this uncontested settlement.¹ As discussed below, the Commission approves the Settlement as proposed, including the language contained on the *pro forma* tariff sections appended to the Settlement.
3. On November 5, 2008, Columbia experienced a rupture on its Line 1278. As a result of the rupture, Columbia states that it would have been unable to meet its existing firm service commitments to customers that were served off of facilities downstream of Line 1278. In order to maintain continued service during the winter heating season, Columbia states that it entered into monthly contracts with Tennessee Gas Pipeline Company (Tennessee), Central New York Oil and Gas Company (CNYOG), Millennium Pipeline Company, LLC (Millennium), and Empire Pipeline Company (Empire) for emergency transportation service to counter the Line 1278 rupture in December 2008 and January 2009.
4. On February 26, 2009, Columbia submitted its annual Transportation Cost Rate Adjustment (TCRA) filing in Docket No. RP09-397-000, pursuant to Section 36 of the General Terms and Conditions (GTC) of Columbia's tariff. The TCRA mechanism allows Columbia to track and recover the costs of third party transportation contracts used in Columbia's post-restructuring operations. In its TCRA filing, Columbia sought to recover the emergency transportation costs incurred from the four pipelines during December of 2008. On March 31, 2009, the Commission issued an order requiring Columbia to remove emergency transportation costs from its TCRA filing. The Commission's order was without prejudice to Columbia submitting a limited NGA section 4 filing seeking to recover these costs.²
5. On June 30, 2009, consistent with the Commission's guidance in the March 2009 Order, Columbia requested a "Line 1278 Surcharge" in Docket No. RP09-792-000 to recover the costs of third party transportation services that were used to continue uninterrupted service to Columbia's shippers until service could be restored on Line 1278 (June 2009 Filing). On July 31, 2009, the Commission accepted and suspended Columbia's June 2009 Filing to be effective January 1, 2010, subject to refund and further order of the Commission.³

¹ *Columbia Gas Transmission, LLC*, 133 FERC ¶ 63,001 (2010).

² *Columbia Gas Transmission, LLC*, 126 FERC ¶ 61,319, at P 22 (2009) (March 2009 Order).

³ *Columbia Gas Transmission, LLC*, 128 FERC ¶ 61,115 (2009) (July 2009 Order).

6. On October 15, 2009, the Commission reconsidered its holding in the March 2009 Order that Columbia was prohibited from recovering these emergency transportation costs through its TCRA surcharge.⁴ The Commission held that it would permit Columbia to place into effect on November 1, 2009, the surcharge Columbia proposed in the June 2009 Filing. However, the Commission directed Columbia to: (1) recalculate the surcharge so that it would recover, during the period November 1, 2009 through March 31, 2010, only the costs of Columbia's December 2008 transportation costs associated with the rupture; and (2) allocate the revised surcharge to the applicable rate schedules "on an as-billed basis and in manner consistent with Transporter's currently effective cost allocation and rate design."⁵ The Commission also held that Columbia was not permitted to seek recovery of its January 2009 emergency transportation costs until it submitted its 2010 annual TCRA filing.⁶ The Commission also set for hearing "all issues concerning prudence of Columbia's incurrence of the third party transportation costs" included in its June 2009 Filing.⁷ The Commission held the hearing in abeyance for settlement judge proceedings, and the Chief ALJ appointed a Settlement Judge.

7. On October 23, 2009, Columbia submitted revised tariff sheets, including the December 2008 emergency transportation costs in its TCRA surcharge, effective November 1, 2009. On February 26, 2010, Columbia submitted its 2010 annual TCRA filing in Docket No. RP10-401-000, which included the emergency transportation costs incurred during January 2009.

8. On March 31, 2010, the Commission accepted the Company's 2010 annual TCRA filing and suspended the proposed rates, to be effective April 1, 2010.⁸ The Commission also consolidated Columbia's TCRA filing in Docket No. RP10-401-000 with the ongoing settlement and hearing procedures established in Docket No. RP09-792-000 for purposes of resolving all issues concerning the prudence of Columbia's incurrence of the emergency third-party transportation costs.

9. Following the October 2009 Order, Columbia states that it engaged in numerous formal and informal settlement discussions with shippers on its system to resolve all

⁴ *Columbia Gas Transmission, LLC*, 129 FERC ¶ 61,037 (2009) (October 2009 Order).

⁵ October 2009 Order, 129 FERC ¶ 61,037 at P 35.

⁶ *Id.*

⁷ *Id.* at P 36-37.

⁸ *Columbia Gas Transmission, LLC*, 130 FERC ¶ 61,125 (2010).

issues regarding Columbia's right to recover the transportation costs incurred as a result of the rupture of Line 1278. Columbia asserts that these efforts have resulted in this Agreement.

10. Columbia states that the Settlement provides generally that: (1) Columbia has the right to recover certain third-party transportation costs incurred as a result of the Line 1278 rupture; and (2) Columbia will revise its tariff to implement certain reservation charge credits. A brief description of the settlement is set forth below.

11. Article 1.1 provides that Columbia is entitled to recover \$3,402,709 in third-party transportation costs, exclusive of carrying charges, incurred by Columbia as a result of the Line 1278 rupture. Article 1.2 provides that, upon the effective date of the Settlement, all parties will be deemed to have relinquished all claims raised in these proceedings regarding the prudence of Columbia's incurrence of the Emergency Transportation Costs.

12. Article 2.1 provides that Columbia will file to revise its tariff to provide for reservation charge credits, consistent with the *pro forma* tariff sections included as Exhibit A to the Settlement. Pursuant to Article 2.2, the proposed tariff sections will become effective November 1, 2010, subject to Commission approval of the Settlement. Article 2.3 provides that Columbia retains its right under Section 4 of the Natural Gas Act to propose future revisions to these tariff provisions. All parties reserve their right to take any position on any such future tariff filing. Article 2.4 provides that nothing in the Settlement or the proposed tariff sections shall be construed as limiting any other rights or remedies that any party may have in law or at equity arising from Columbia's inability to schedule and/or deliver up to the shipper's Transportation Demand that occurs subsequent to the effective date of the Settlement.

13. Article 3.1 provides that the Settlement will become effective on the date of a final Commission order, no longer subject to rehearing, approving the Settlement as to all its terms without material modifications, reservations or conditions. Article 3.2 provides that Columbia has the right to withdraw the Settlement if it is contested by any party.

14. Article 4 contains provisions setting forth the various reservations and conditions applicable to the Settlement.

15. The Commission approves the Settlement as proposed, including the contents of the *pro forma* tariff sections included as Exhibit A to the Settlement. The Commission finds that the uncontested Settlement appears to be fair, reasonable, and in the public interest.⁹ The Commission notes that settlement of these issues will save time and

⁹ 18 C.F.R. § 385.602(g)(3) (2010).

expense for all the parties involved. The Settlement resolves all issues pending in these dockets, including the requests for rehearing in Docket Nos. RP09-792-003 and RP10-401-001, all of which are now dismissed as moot. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings. Columbia is directed to file actual tariff sections within 15 days of the date of this order, to be effective November 1, 2010, consistent with Article 2.2 of the Settlement.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.