

137 FERC ¶ 61,100
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 1, 2011

In Reply Refer To:
Docket Nos. RP10-401-000,
RP10-401-001,
RP10-401-002,
RP10-401-003,
RP10-577-002,
RP11-1822-000, and
RP11-1822-001

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

Attention: Mr. James R. Downs,
Vice President, Rates & Regulatory Affairs

Reference: Letter Order Approving Uncontested Settlement

Dear Mr. Downs:

1. On August 26, 2011, Columbia Gas Transmission, LLC (Columbia), submitted an offer of settlement (Settlement) in Docket Nos. RP11-1822-000 and RP10-401-000 which Columbia states resolves all issues in these dockets regarding certain third-party transportation costs that are recovered through Columbia's Transportation Costs Rate Adjustment (TCRA) mechanism. As discussed below, the Commission approves the proposed uncontested settlement as fair and reasonable and in the public interest.

2. On February 26, 2009, Columbia submitted its annual TCRA filing in Docket No. RP09-397-000, pursuant to Section 36 of the General Terms and Conditions (GTC) of Columbia's tariff. This mechanism allows Columbia to recover certain costs of third party transportation contracts used in Columbia's post-restructuring operations. In its 2009 TCRA filing, Columbia sought, for the first time, to recover the costs associated with a 24,600 dekatherm per day (Dth/d) firm transportation contract that Columbia holds on Millennium Pipeline Company, LLC (Millennium) under Rate Schedule FT-1 Service Agreement No. FT03-001 (Millennium FT-1 Capacity). On March 31, 2009, the Commission issued an order holding that Columbia was permitted to recover through the

TCRA mechanism costs attributable to the Millennium FT-1 Capacity, but ordered Columbia to sell the Millennium FT-1 capacity to Columbia's customers on a primary firm basis or provide an explanation of why this requirement should not apply.¹

Subsequently, the Commission approved Columbia's compliance filing that proposed that Columbia retain 8,000 Dth/d of the Millennium FT-1 capacity for operational purposes and offer the remainder of the Millennium FT-1 capacity as primary firm service for up to one year.²

3. On February 26, 2010, Columbia submitted its 2010 TCRA filing in Docket No. RP10-401-000, and again included the costs associated with the Millennium FT-1 Capacity. On March 31, 2010, the Commission issued an order reaffirming that these costs are appropriately recovered through the TCRA, subject to the Commission's evaluation of a report to be filed by Columbia regarding the quantity of Millennium FT-1 Capacity it can make available to shippers on a primary firm basis.³ Columbia submitted its report on May 4, 2010 (May 2010 Report).

4. On February 28, 2011, Columbia submitted its 2011 TCRA filing in Docket No. RP11-1822-000. Columbia again included the costs associated with the Millennium FT-1 Capacity. Because the Commission had not yet issued a final order on the May 2010 Report, Columbia requested that the Commission consolidate the 2011 TCRA filing with the 2010 TCRA filing in Docket No. RP10-401-000, solely with respect to the recovery of the Millennium FT-1 Capacity costs. Columbia also requested that the Commission set the issue of Columbia's recovery of the Millennium FT-1 Capacity costs for hearing. On March 31, 2011, the Commission issued an order accepting and suspending the tariff sheets associated with Columbia's 2011 TCRA filing, establishing hearing and settlement procedures, and consolidating the dockets associated with Columbia's 2010 and 2011 TCRA filings.⁴

5. Following the March 31, 2011 Order, settlement proceedings before a Settlement Judge appointed by the Chief Administrative Law Judge resulted in the instant Settlement filed by Columbia on August 26, 2011. On August 29, 2011 the Settlement Judge stated that comments on the Settlement were due no later than September 15, 2011; reply comments, no later than September 26, 2011.

¹ *Columbia Gas Transmission, LLC*, 126 FERC ¶ 61,319, at P 19 (2009).

² *Columbia Gas Transmission, LLC*, 128 FERC ¶ 61,071, at P 15 (2009).

³ *Columbia Gas Transmission, LLC*, 130 FERC ¶ 61,265, at P 34 (2010).

⁴ *Columbia Gas Transmission, LLC*, 134 FERC ¶ 61,258 (2011) (March 31, 2011 Order).

6. On September 15, 2011, comments supporting the offer were filed by Columbia, Baltimore Gas and Electric Company (BGE), City of Charlottesville, Virginia, Easton Utilities Commission, and City of Richmond, Virginia (jointly Cities), and Commission Trial Staff (Staff). Subsequently, on September 16, 2011, Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., and Columbia Gas of Virginia, Inc., (collectively NiSource) filed a motion for leave to file comments out of time which was granted by the Chief Administrative Law Judge. However, on June 23, 2011, after the parties had reached a settlement in principle, and again on September 26, 2011, Stand Energy Corporation (Stand Energy) filed a motion seeking intervention in these proceedings out-of time and, in the case of the September 26, 2011 filing it also requested alternative status for its comments as *amicus curiae*. The Chief ALJ denied these motions on June 28, 2011,⁵ and again on September 27, 2011, finding that Stand Energy had failed to provide an explanation of why it waited over a year before seeking to intervene in these proceedings.⁶ The Chief ALJ also found that granting late intervention could place additional burdens on the parties who had negotiated a settlement in principle.

7. On September 29, 2011, the Settlement Judge certified the offer to the Commission as an uncontested offer of Settlement.⁷ The proposed Settlement consists of the salient terms outlined below.

8. Article 1.1 of the Settlement provides that Columbia will have the right to recover the costs associated with the Millennium FT-1 Capacity through the earlier of December 22, 2023 or the date Columbia is permanently relieved of all of its obligations under its service agreement with Millennium. Article 1.2 provides that Columbia's recovery of the Millennium FT-1 Capacity costs included in Docket Nos. RP10-401-000 and RP11-1822-000 will no longer be subject to refund. Article 1.3 provides that Columbia will have the right to retain the revenues it earns from any sales of the Millennium FT-1 Capacity on a primary firm basis from March 1, 2009 through March 31, 2012. Article 1.4 provides that Columbia may recover the full costs of the Millennium FT-1 Capacity through March 31, 2018. Articles 1.5 and 1.6 provide that, for the period commencing April 1, 2018, Columbia's recovery of the costs of the Millennium FT-1 Capacity will be calculated pursuant to a risk-sharing mechanism. Article 1.7 provides for the accounting treatment following the termination of Millennium FT-1 service agreement. Article 1.8 provides that upon the effectiveness of the Settlement, parties agree to waive and relinquish all claims raised in these proceedings.

⁵ *Columbia Gas Transmission, LLC*, 135 FERC ¶ 63,020 (2011).

⁶ *Columbia Gas Transmission, LLC*, 136 FERC ¶ 63,018 (2011).

⁷ *Columbia Gas Transmission, LLC*, 136 FERC ¶ 63,019 (2011).

9. Article 2.1 provides that, from April 1, 2012, until the earlier of December 21, 2013 or until Columbia permanently releases or turns back its Millennium capacity, Columbia will cease offering the Millennium FT-1 Capacity on a primary firm basis under the terms and conditions of its tariff and will instead make that capacity available for release pursuant to the capacity release provisions of Millennium's tariff. Article 2.2 provides that Columbia will undertake commercially reasonable efforts to permanently release or turn back its rights to the Millennium FT-1 Capacity. Article 2.3 provides that Columbia will credit all revenues from the release of the Millennium FT-1 Capacity to the TCRA, including any amounts that exceed the annual costs of the Millennium FT-1 Capacity.

10. Article 3 sets forth the effective date and term of the Settlement. Article 4 provides the obligations of the Settling Parties in the event the Settlement is contested. Lastly, Article 5 contains provisions setting forth the various reservations and conditions applicable to the Settlement, including Article 5.7 of the Settlement which states that, "[T]he standard for review of proposed changes to the provisions of the Settlement will be the ordinary just and reasonable standard, and not the "public interest" standard."

11. No participant in these proceedings has contested the Settlement. The Settlement resolves difficult issues, providing certainty to Columbia and its shippers concerning the rate treatment of the subject Millennium FT-1 capacity. Accordingly, the Commission finds that the proposed uncontested settlement appears to be fair, reasonable, and in the public interest, and the Settlement is hereby approved pursuant to Rule 602(g)(3) of the Commission's regulations.⁸ The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings.

12. Based on its approval of the instant settlement, the Commission will terminate the proceedings in Docket Nos. RP10-401-000, RP10-401-001, RP10-401-002, RP10-401-003, RP11-1822-000, RP11-1822-001, and RP10-577-002.

By the direction of the Commission. Commissioner Spitzer is not participating.

Kimberly D. Bose,
Secretary.

⁸ 18 C.F.R. § 385.602 (g)(3) (2011).