140 FERC ¶ 61,075
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 26, 2012

In Reply Refer To:
Ruby Pipeline, L.L.C.
Docket No. RP12-840-000

Ruby Pipeline, L.L.C.
Post Office Box 1087
Colorado Springs, CO 80944

Attention: Ms. M. Catherine Rezendes
Director, Rates, Ruby Pipeline L.L.C.

Reference: Fuel Reimbursement Filing and Limited Waiver Request

Ladies and Gentlemen:

1. On June 29, 2012, Ruby Pipeline, L.L.C. (Ruby) filed revised tariff records[1] to reflect changes to its fuel and lost and unaccounted for (FL&U) reimbursement percentage and its electric power cost (EPC) rate. Ruby supplemented this filing on July 6, 2012, to correct minor typographical errors in supporting schedules, but did not file additional tariff records. Ruby requests a limited waiver of the Commission's regulations and of section 13 and section 28 of the General Terms and Conditions (GT&C) of its tariff, to offset the monetary value of the net FL&U over-collection against the EPC under-collection during the prior data collection period. As discussed below, we grant Ruby's request for a limited waiver the Commission's regulations and its tariff, so that it may offset FL&U over-collections with EPC under-collections, and accept Ruby's revised tariff records reducing the FL&U retention percentage from 0.44 to 0.00 percent, subject to the conditions set forth below, effective July 1, 2012.

[1] Ruby Pipeline, L.L.C., FERC NGA Gas Tariff, Ruby Tariff, Original Vol. 1.0.0, Part II: Stmt. of Rates, Section 1 - Service Rates, 3.0.0 and Part II: Stmt. of Rates, Section 2 - Fuel and L&U Rates, 3.0.0.

2. Sections 13 and 28 of Ruby's GT&C require Ruby to adjust its FL&U reimbursement percentage and its EPC rate at least once every three months. Ruby made its most recent request to adjust the percentage and rates on May 1, 2012, with an effective date of June 1, 2012. Ruby's next FL&U and EPC adjustment filing would have been due no later than August 1, 2012, to be effective September 1, 2012, but Ruby filed early, in accordance with section 28 of its GT&C. The data collection period for the filing is the period between March 1, 2011 and May 31, 2012.

3. Ruby states that the projected fuel requirement for the upcoming period is lower compared to levels initially forecasted in Ruby's previous FL&U Filing. Ruby proposes maintaining its current period volumetric reimbursement percentage at 0.00 percent. Ruby additionally proposes maintaining its current EPC rate at $0.039/Dth. Ruby further proposes decreasing the prior period portion of the EPC rate by $0.014/Dth for a total EPC rate of $0.025/Dth. Ruby states these changes reflect higher than anticipated reliance on electric compression relative to gas compression, based on actual operating experience.

4. Ruby requests a limited waiver of sections 13 and 28 of its tariff to enable its proposed netting of fuel over-collections against the EPC under-collection amount. Specifically, Ruby requests that the Commission permit Ruby to net FL&U volumes, and to offset the monetary value of net FL&U against the EPC under-collection during the prior data collection period, rather than separately computing a volumetric true-up percentage for FL&U, and an EPC true-up rate. Ruby also requests a waiver of part 154.207 of the Commission's regulations,[2] which states that pipelines must file proposed changes with the Commission no later than thirty (30) days, nor more than sixty (60) days prior to the effective date of a given tariff.

5. Ruby states that during the previous data collection period, Ruby over-collected 235,560 Dth of fuel due to lower throughput than projected and a greater reliance on electric compression. Ruby also over-collected 100,762 Dth of L&U during the previous data collection period. Ruby requests waiver of its tariff to offset the "monetary value" of the 336,322 Dth net FL&U over-collection against the EPC under-collection. Ruby proposes calculating a monetized value associated with the FL&U over-collection by using the average daily mid point prices for Kern River, Opal as published in *Platt's Gas Daily*, applied to the net FL&U under/over-collection volumes for each month of the March 1, 2012 through May 31, 2012 collection period. Ruby proposes to use the Kern River, Opal Index Price because operational purchases and sales of gas for Ruby are

[2] 18 C.F.R. 154.207 (2012).

conducted predominately at the Opal hub." Ruby proposes returning this net over-collection via a $0.014/Dth negative true-up rate.

6. Ruby asserts that good cause exists to grant waivers of the Commission's filing timelines and Ruby's tariff provisions to minimize the operational impact of increasing linepack volumes and the impact of start-up period operational issues on its rates. Without the waivers, Ruby's volumetric true-up rate would be negative 0.64 percent for Fuel, negative 0.27 percent for L&U, and an EPC true-up rate of positive $0.005, rather than a single true-up rate of negative $0.014 for EPC.

7. Public notice of the filing was issued on July 2, 2012. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2012)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2012)), all timely filed motions to intervene and any unopposed motion 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. On July 11, 2012, BP Energy Company (BP) filed a motion to intervene and protest.

8. In its protest, BP Energy asserts that it does not oppose Ruby's requested waivers or Ruby's proposal to reduce its FL&U retention percentage from 0.44 percent to 0.00 percent. BP does, however, question Ruby's methodology for calculating the monetary value to apply to the FL&U over-collection. Further, BP requests that the Commission require Ruby to post its incidental purchases and sales for competitive bid, in compliance with Commission policy.

9. BP Energy asserts that section 27 of Ruby's tariff requires Ruby to include "information regarding purchases and sales in its EPC Filings pursuant to section 28 of the GT&C."[3] Further, BP Energy states that section 28 of Ruby's tariff requires Ruby to make an EPC adjustment filing at least every three months, in conjunction with the FL&U adjustment filings described in section 13 of the GT&C.

10. Accordingly, these provisions require Ruby to provide a report of its incidental purchases and sales in the EPC Filing that occurs at least every three months. Given that Ruby did not provide such a report of its operational purchases and sales in its filings, BP asks the Commission to require Ruby to comply with its tariff, and file a report of such incidental purchases and sales.

[3] BP Protest at 1 (*citing e.g.*, *Southern Natural Gas Co*., 133 FERC ¶ 61,183, at P 12 (2010) (*Southern*).

BP explains that Ruby's report of purchases and sales incidental to its operations is necessary to verify Ruby's claim that its operational purchases and sales occur predominantly at the Opal hub, and to determine whether Ruby's proposal to use the daily average mid-point price at Kern River, Opal is a just and reasonable approach to determine the value of the fuel over-collection in the subject filing.

11. BP also points out that the Commission policy as enunciated in *Southern* and elsewhere requires that all operational sales of gas be subject to bidding, to provide all of the pipeline's shippers with the opportunity to compete for those volumes. Because Ruby's tariff does not currently require Ruby to post its incidental purchases and sales for competitive bid, BP asks that the Commission have Ruby file revised tariff sheets to require Ruby to post for competitive bid operational purchases and sales of gas, as consistent with Commission policy.

12. The Commission finds good cause to grant the limited waivers requested by Ruby to permit it to effectuate the proposed reduction in combined FL&U and EPC rates, effective July 1, 2012, subject to Ruby providing additional detail concerning its operational purchases and sales to support its use of the average daily mid-point price at Kern River, Opal, for assigning a value to its fuel over-recovery.

13. BP is correct that Ruby's tariff requires it to provide this information. Ruby is therefore directed, within thirty (30) days of this order, to provide for the relevant period supporting this filing, the source of the operational gas purchased or sold, the date of such purchase or sale, the volume, the purchase or sale price, the costs and revenues from such purchases and sales, the disposition of the associated costs and revenues and an explanation of the purpose of any operational transaction, for each purchase or sale of gas. Consistent with its tariff, Ruby must provide similar information to accompany its future quarterly EPC Filings.

14. Currently, Ruby's tariff does not contain provisions requiring the posting and bidding of operational sales of gas. Regardless of whether a pipeline's tariff contains express provisions related to bidding procedures required for the sale of operational gas, current Commission policy as enunciated in *Southern* requires that all operational sales of gas be subject to bidding.

15. Accordingly, Ruby is directed, within thirty (30) days of this order, either to file revised tariff records including a requirement that the operational gas for

sale and purchase be posted for bidding pursuant to the existing bidding procedures in its GT&C, or to show cause why it should not be required to do so.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.