

131 FERC ¶ 61,201
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 28, 2010

In Reply Refer To:
Cameron Interstate Pipeline LLC
Docket No. RP10-396-000

Cameron Interstate Pipeline LLC
101 Ash Street, HQ 12
San Diego, CA 92101-3017

Attention: William D. Rapp, Senior Regulatory Counsel

Reference: Limited Waiver Request

Ladies and Gentlemen:

1. On February 25, 2010, Cameron Interstate Pipeline LLC (Cameron) filed a request for a one-time, limited waiver of section 22.3 of the General Terms and Conditions (GT&C) of its FERC Gas Tariff. Cameron seeks to continue in effect its current Fuel Retainage Percentage (FRP) of 0.20 percent for transportation services it provides under Rate Schedule FT and Rate Schedule IT. For the reasons discussed below, the Commission will grant Cameron's request for waiver, but direct Cameron to file to revise section 22 of its tariff consistent with the discussion below.

2. Cameron states it retains gas on an in-kind basis through assessment and collection of its currently effective FRP of 0.20 percent. Section 22.3 of the GT&C of its tariff provides that Cameron make an annual filing with the Commission at least 30 days prior to the effective date of a proposed change to its FRP, including supporting work papers for the revised FRP. Cameron states that the purpose of section 22.3 is to provide for annual adjustments in the FRP to reflect changes in the actual level of natural gas used or lost and unaccounted for (LAUF) in connection with Cameron's pipeline operations. Cameron asserts that, to function properly, the adjustment provision of section 22.3 should be based on complete and representative operational and accounting data reflecting natural gas used or LAUF. It asserts that the data currently available to Cameron does not, in its judgment, provide such a complete and representative measurement.

3. Cameron states that it began providing gas transportation service in late June 2009, and states that for the remainder of 2009 transportation volumes were sporadic. Further, in connection with the commencement of commercial operations, Cameron states it experienced some level of gas loss it believes will be nonrecurring. In Attachment A to its filing, Cameron provides a summary of its actual 2009 fuel retention, indicating that, without a waiver, its FRP would substantially increase from 0.20 to 0.75 percent. Cameron believes that its fuel retention volumes in 2009 are not representative of the actual operating conditions that will be experienced in 2010.

4. Accordingly, Cameron states that, rather than seeking to adjust its FRP at this time, Cameron proposes to defer its first FRP adjustment until 2011, when additional data will be available, which Cameron believes will result in a more representative measure of its FRP. Cameron states it currently has only one non-affiliated transportation customer, and that this customer supports the requested waiver.

5. Public notice of the request for waiver was issued on March 1, 2010. Interventions and protests were due on or before March 9, 2010. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2009)), all timely filed motions to intervene and any 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 this proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

6. Before the Commission can grant the request for waiver, we must first clarify what is being waived. Section 22.3 of the GT&C states as follows:

Procedure for Filing. At least thirty (30) days prior to the effective date of a change in the Fuel Retainage Percentage hereunder, Pipeline shall file annually with the Commission [a] report containing: (1) the revised Fuel Retainage Percentage for the calendar year beginning in January; and (2) a workpaper supporting the revised fuel requirements. Pipeline may file interim proposals between annual filings subject to approval by the Commission.

Although section 22.3 refers to Cameron annually filing a “report,” we find that section 22.3 is intended to obligate Cameron to make an annual FRP tariff filing once each calendar year at least 30 days prior to January 1 of the next year, to be effective January 1 through December 31 of that year. Accordingly, Cameron’s annual FRP filing must be filed on or before December 1 and must include a proposed tariff sheet reflecting its proposed revised FRP to be effective on January 1 of the calendar year subsequent to the year in which Cameron makes its required annual filing.

7. Cameron's initial FRP of 0.20 percent was approved by the Commission in its May 22, 2006 certificate order in Docket Nos. CP02-378-004, CP05-119-001, and CP05-121-001,¹ and, following acceptance of actual tariff sheets, went into effect November 1, 2008, when Cameron was permitted to go into service.² Thus, absent a request for waiver, section 22.3 required Cameron to have filed its first annual FRP revision no later than December 1, 2009, to be effective January 1, 2010, for the current calendar year of 2010. Cameron made no such filing.³ Cameron states in its Request for Waiver that it "seeks this waiver to the extent that Section 22.3 would require an increase during the current calendar year in the [FRP]." The Commission finds good cause to grant a one-time, limited waiver of section 22.3 of the GT&C of Cameron's tariff, as requested.

8. As Cameron has only requested a one-time, limited waiver of section 22.3 for calendar year 2010, we remind Cameron that its next annual FRP filing is due on or before December 1, 2010, to be effective January 1, 2011, to cover the next calendar year of 2011.

9. However, pursuant to section 5 of the Natural Gas Act, we find certain language of section 22 of the GT&C is unjust and unreasonable and not consistent with Commission policy and, therefore, will require Cameron to file certain revisions as discussed below to render that provision just and reasonable and consistent with Commission policy. Section 22.2 currently states:

¹ *Cameron LNG, LLC and Cameron Interstate Pipeline, LLC*, 115 FERC ¶ 61,229, at P 25-26 (2006) ("For both its firm and interruptible services, Cameron Interstate proposes 0.2 percent retainage for fuel and lost and unaccounted for gas. The Commission generally finds Cameron Interstate's proposed cost of service and initial rates reasonable for a new pipeline entity, such as Cameron Interstate, subject to the modifications and conditions imposed below.").

² Delegated Letter Order in Docket No. RP08-647-000 (approving Original Tariff Sheet No. 6, *et al.*) (October 30, 2008); Delegated Letter Order in Docket Nos. CP05-119-000 and CP05-121-000 (granting request to commence service) (October 31, 2008); Cameron notification, Docket No. CP05-119-000, *et al.*, (November 10, 2008) (Cameron's 36.5 mile pipeline placed into service November 1, 2008).

³ Cameron has subsequently revised Original Tariff Sheet No. 6 twice: first, effective June 30, 2009, to rename its FTS and ITS schedules to FT and IT, respectively, and second, effective December 1, 2009, to amend its maximum reservation charges and usage charges. Neither filing addressed the FRP.

Fuel Retainage Percentage. The Fuel Retainage Percentage shall be as quantified pursuant to this Section 22 and in the currently effective Sheet No. 6 of this Tariff. The FRP shall be subject to adjustment hereunder for service under all Rate Schedules unless otherwise explicitly provided in the Rate Schedule. The FRP shall be equal to the sum of (a) the currently effective FRP and (b) any increment added during an OFO issued pursuant to GT&Cs Section 9 for any gas used by the Pipeline in operating its system, gas lost in system operations and unaccounted for gas (including, but not limited to, force majeure events).

10. Section 22.2 is ambiguous as to how Cameron is to calculate each year's FRP. Section 22.2 also lacks a provision to true-up for under or over-recovery of fuel as required by Commission policy.⁴ Accordingly, we direct Cameron to revise GT&C section 22.2 to clarify that the FRP will consist of two components: (1) a current component to recover the fuel use and lost and unaccounted for gas (LAUF) which Cameron projects it will incur during the upcoming annual period; and (2) a true-up component that adjusts the FRP for under or over-recoveries in a specified prior period. Consistent with section 154.403(c) of the Commission's regulations,⁵ Cameron's proposal must include a method of calculating both the current component and the true-up component of its fuel tracking mechanism. For example, the current component could be calculated by dividing (1) a projection of fuel and LAUF costs based on actual fuel and LAUF during a recent prior period by (2) a projection of throughput based on actual throughput during the same prior period. The true-up component could be calculated by subtracting the fuel and LAUF volumes under the previous FRP in effect for that prior period from actual fuel use and LAUF for that period and dividing the result by the same projected throughput used to determine the current component. However, Cameron may propose use of whatever method it believes reasonable to calculate the current and true-up components of the FRP, so long as the choice of that method is in accordance with section 154.403, is fully supported, and is just and reasonable.⁶

⁴ See, e.g., *ANR Pipeline Company*, 110 FERC ¶ 61,069 (2005).

⁵ 18 C.F.R. § 154.403(c) (2009).

⁶ See, e.g., *Texas Gas Transmission, LLC*, 120 FERC ¶ 61,186, at P 36 (2007) (approving tracker that uses alternative methodology and review period); *High Island Offshore System, L.L.C.*, 110 FERC ¶ 61,043, at P 219-221 (2005) (allowing pipeline to determine what period of past data would be used to project future fuel usage).

11. Further, as noted above, the reference in section 22.3 to Cameron annually filing a “report” of changes to its FRP is a misnomer. Cameron should revise this provision that obligates it to annually file any change to its FRP on a revised Rate Sheet No. 6 by December 1 each year, to be effective January 1 of the next year.⁷ Finally, in order to limit the application of section 22 to the FRP, Cameron must revise section 22.1 by deleting the first two sentences of that section which provide that Cameron will periodically file rates and charges to reflect changes in expenditures “such as” the Fuel Retainage Percentage and shall include “expenditures chargeable to operations as well as ... includable in rate base.” Cameron must file these revisions within 30 days of the date this order issues.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁷ If Cameron proposes no change in an existing FRP, Cameron still must file by December 1 to request approval of the Commission to do so.