20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

112 FERC ¶61,268
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Cranberry Pipeline Corporation | Docket Nos. PR04-6-000
PR04-6-001

ORDER REJECTING PARTIAL SETTLEMENT, ESTABLISHING TRANSPORTATION AND STORAGE RATES, AND DIRECTING FILINGS

(Issued September 13, 2005)

1. On December 16, 2003, Cranberry Pipeline Corporation (Cranberry) filed, in Docket No. PR04-6-000, a petition to establish a maximum rate for its existing system-wide interruptible transportation only service. Cranberry also proposed maximum rates for newfirm and interruptible storage services from each of its two storage facilities, which include a bundled transportation service. Cranberry included a revised Statement of Operating Conditions (Operating Statement) to reflect the new storage services. Cranberry provides its interstate transportation services pursuant to section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA). On December 17, 2004, Cranberry submitted a partial settlement and a revised Operating Statement.[1] Cranberry requests that the settlement rates be effective from December 16, 2003, through December 15, 2006. In this order the Commission rejects Cranberry's partial settlement offer as being unfair and inequitable, establishes unbundled, system-wide section 311transportation and storage rates to be effective as of December 16, 2003, and orders refunds of amounts collected in excess of the approved rates. In addition, Cranberry is directed to file a revised Operating Statement within 60 days of the date of this order.

A. Background and the Rate Petition Filing

2. Cranberry owns and operates a natural gas pipeline system, including two gas storage fields, in West Virginia, which it uses to provide interstate section 311 service as well as intrastate service subject to the jurisdiction of the West Virginia Public Service Commission (PSC of West Virginia). Cranberry's previous section 311 transportation rate proceeding in Docket No. PR01-9-000 resulted in a settlement rate of 72 cents per Dth for system-wide bundled interruptible transportation service and 7.0 cents per Dth for

[1] 18 CFR § 284.123(e) (2004).

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

Hub Service.[2] The costs of Cranberry's entire transmission system, including both the Raleigh and X-1 storage facilities, were recovered by Cranberry's approved settlement rate for the transportation-only and Hub service. On December 16, 2003, Cranberry filed a new section 311 rate petition seeking the approval of a 68.17 cents per Dth system-wide rate for section 311 unbundled interruptible transportation service for a three-year period ending December 15, 2006. Cranberry stated that this system-wide rate would also be applicable to Cranberry's firm and interruptible intrastate system-wide transportation services.

3. In addition, Cranberry proposed, for the first time, to provide firm and interruptible storage services from each of its two storage fields. Cranberry asserted that storage services from the X-1 storage field shall be pursuant to NGPA section 311, and storage services from the Raleigh storage field shall be intrastate in nature. It proposed that each storage customer shall be entitled to an amount of transportation service equivalent to its maximum daily storage deliverability quantity. Cranberry accordingly proposed to assign a portion of its transportation costs to the new storage services in order to reflect the fact that those services will include a bundled transportation service. Cranberry requested Commission approval for its proposed bundled firm and interruptible storage rates for Cranberry's X-1 and Raleigh Storage Fields, respectively.

Cranberry proposed the following bundled storage rates:

X-1 Storage Field				Raleigh Storage Field			
	Reservation	Injection	Withdrawal		Reservation	Injection	Withdrawal
FSTS-1	$21.4320	$0.0546	$0.0546	FSTS-2	$29.8990	$0.0533	$0.0533
	Daily Reservation	Injection	Withdrawal		Daily Reservation	Injection	Withdrawal
ISTS-1	$0.7592	$0.0546	$0.0546	ISTS-2	$1.0363	$0.0533	$0.0533

4. Cranberry stated that due to a lack of interest among its current shippers and the general market conditions, it will discontinue offering its Hub Service. It stated that this service consisted of transportation between certain receipt and delivery point interconnects between Cranberry's pipeline facilities and the pipeline facilities of Columbia Gas Transmission Corporation (Columbia), Dominion Transmission, Inc. (Dominion), and Tennessee Gas Pipe Line Company (Tennessee). Cranberry also stated it would continue charging a $50 low flow meter fee to be assessed on a per-meter, per month basis to all shippers delivering gas into Cranberry's system from meters that average five Dth per day or less during any month.

---

[2] *Cranberry Pipeline Corp.*, 97 FERC ¶ 61,280 (2001).

5. Finally, Cranberry included a revised Operating Statement providing for the terms and conditions of its proposed storage services and certain other revisions to its existing Operating Statement on file with the Commission

B. Public Notice, Interventions and Protests

6. Public notice of the filing was published in the *Federal Register*, 69 Fed. Reg. 11,604 (2004), with comments, interventions and protests as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214[3] 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 the existing parties.

7. Motions to intervene and protests were filed by the Consumer Advocate Division of the State of West Virginia Public Service Commission (CAD), the Independent Oil & Gas Association of West Virginia (IOGA), and Monongahela Power Company (MPC). The Public Service Commission of West Virginia (PSC of West Virginia) and Equitable Production Company (Equitable) filed motions to intervene. CAD and Cranberry filed answers, which we accept as they may aid in the disposition of the issues in the case.

8. In sum, the protesters argue that Cranberry's proposed transportation and storage rates are unsupported, excessively high and based on a flawed cost allocation and rate design. Further, CAD and MPC state that Cranberry's revised Operating Statement imposes unduly restrictive provisions on service.

9. CAD also argues that Cranberry's filing improperly requests the Commission to assert jurisdiction over its intrastate rates. CAD argues that Cranberry's intrastate operations are subject to the PSC of West Virginia's jurisdiction and are outside the scope of the Commission's jurisdiction. In its answer, Cranberry asserts that in its last section 311 rate case,[4] CAD agreed to the interstate rates adopted in the Commission proceeding. Therefore, Cranberry argues, that based on this past practice, the Commission has jurisdiction to set the intrastate rates. CAD argues that its past acceptance of a settlement offer is not determinative of future jurisdiction over intrastate rates. Furthermore, CAD argues that while in the prior proceeding CAD did agree to Cranberry's settlement offer, it also protested Cranberry's treatment of the local

[3] 18 C.F.R. § 385.214 (2004).

[4] *Cranberry Pipeline Corp.*, 97 FERC ¶ 61,280 (2001).

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

distribution companies. CAD states that in its order accepting that settlement, the Commission clearly stated that "Cranberry's service to LDCs in West Virginia is subject to the jurisdiction of the West Virginia Public Service Commission."[5]

10. During the course of this proceeding, Cranberry responded to several rounds of data requests from Commission Staff, CAD and MPC. As a result of these data requests, Cranberry revised its originally proposed rates. Specifically, in response to Staff data request of August 13, 2004, Cranberry attached Exhibit A, Revision 3 that includes the cumulative corrections since its original filing. Cranberry claims that the cumulated corrections result from: (1) greater Operations and Maintenance (O&M) accounting detail made available subsequent to the original filing; (2) revision to the allocation of Administrative and General (A&G) expenses from an O&M basis to the proper FERC *KN* Methodology;[6] (3) revision to the rate of return on equity from an incorrect 14.0 percent to the intended 12.5 percent; (4) revision to the incorrect accumulated Depreciation, Depletion and Amortization (DD&A) balance in rate base for the transmission plant function; (5) revision to the reservation and usage determinants used in transmission cost allocation and rate design, from 87,965 Dth to 93,129 Dth; and (6) revision to the allocation of Region Office Administrative and general expense made to Cranberry due to an incorrect accounting query. The updated rates are as follows:

Transportation Service

Interstate Interruptible Transportation Service (unbundled) $0.6473 per Dth
Intrastate Firm and Interruptible Transportation Service (unbundled) $0.6473 per Dth

Storage and Transportation Services (bundled)

X-1 Storage Field				Raleigh Storage Field			
	Reservation	Injection	Withdrawal		Reservation	Injection	Withdrawal
FSTS-1	$20.9105	$0.0149	$0.0149	FSTS-2	$27.7861	$0.0349	$0.0349
	Daily Reservation	Injection	Withdrawal		Daily Reservation	Injection	Withdrawal
ISTS-1	$0.7173	$0.0149	$0.0149	ISTS-2	$0.9833	$0.0349	$0.0349

[5] CAD protest at 3 *citing Cranberry Pipeline Corp.*, 97 FERC ¶ 61,280 at 61,279 (2001).

[6] *See Kansas-Nebraska Gas Co., Inc.*, 63 FPC 1691 (1975); *Williams Natural Gas Co.*, 77 FERC ¶ 61,277 at 62,189 (1996).

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

11. Cranberry and the active parties also initiated discussions aimed at resolving the issues raised by Cranberry's rate petition.[7] As a result of these discussions, Cranberry submitted, in Docket No PR04-6-001, the settlement to resolve certain issues raised by Cranberry's filing.

C. Summary of Cranberry's Settlement Offer

12. On December 17, 2004, Cranberry filed a partial settlement of its section 311 rates. In the settlement, Cranberry proposes to establish a system-wide unbundled interruptible transportation rate of 68.17 cents per Dth but does not propose to settle the issue for its bundled storage and transportation services. Cranberry states that this system-wide rate would apply to both interruptible transportation service pursuant to NGPA section 311, and firm and interruptible intrastate transportation service performed by Cranberry [8] from December 16, 2003, through December 15, 2006 (the Locked-in Period). Cranberry's settlement offer would also terminate the $50 low flow meter fee and would make certain revisions to Cranberry's originally-filed Operating Statement.

13. In addition to the above, Cranberry's settlement offer also contains the following provisions: (1) Cranberry's agreement to informally provide certain data to the CAD contemporaneously with Cranberry's filing of its next NGPA section 311 rate petition with the Commission; (2) the parties stipulating to the level of Allowance for Funds Used During Construction (AFUDC) to be included in Cranberry's rates, effective January 1, 2004, along with Cranberry's agreement to begin tracking AFUDC consistent with the Commission's Uniform System of Accounts; (3) the parties stipulating that Cranberry's rate design (with exception of Cranberry's proposed firm and interruptible storage service rates, rate design, and terms and conditions of service) and those portions of the Operating Statement revised pursuant to the settlement shall not be subject to revision and modification during the Locked-in Period before the Commission; (4) with the exception of the matters expressly settled pursuant to the settlement, the parties agree that all issues related to Cranberry's intrastate rates and terms and conditions for intrastate service are not resolved by the settlement; and (5) the settlement provides that no person is deemed to have approved, agreed, or consented to any principle or issue in this proceeding that would bar such person from raising or challenging any principle or issue in Cranberry's next section 311 rate case before the Commission.

---

[7] As a result of these discussions, on June 23, 2004, IOGA withdrew its protest of Cranberry's filing, though IOGA remains a party to this proceeding. On September 9, 2004, MPC withdrew its intervention and protest.

[8] Cranberry's intrastate transportation rates are subject to the jurisdiction of the PSC of West Virginia.

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

14. Cranberry and CAD filed comments in support of the settlement. However, CAD asserts that what it states are a few inadvertent errors contained in section III of the revised Operating Statement should be corrected before final adoption. Specifically, CAD claims that the Operating Statement inadvertently omits a reference to firm transportation rates. Further, CAD states that no agreement has been reached on the issues of Cranberry's firm and interruptible storage service rates, rate design, and terms and conditions of service and, accordingly, requests that section 15 of the Operating Statement be deleted because it reflects storage service. CAD requests that the Commission conduct an administrative proceeding to gather additional evidence upon which a reasoned decision on the contested matters may be based.

15. On January 18, 2005, Cranberry filed an answer to CAD's initial comments. Cranberry disagrees with CAD's characterization that the updated Operating Statement has inadvertently omitted a reference to firm interstate transportation in subsection (a) of section 1. Cranberry states that it is not proposing to, nor is it required to, offer stand-alone firm interstate transportation service under section 311 of the NGPA. Cranberry also disagrees with CAD that section 15 of the Operating Statement, which sets forth the terms and conditions applicable to Cranberry's firm and interruptible storage service, should be deleted because the parties have not been able to reach an agreement on Cranberry's firm and interruptible storage service rates, rate design, and term and conditions of service. Cranberry argues that it is currently providing storage services and must do so pursuant to the rates and terms and conditions on file with the Commission. Cranberry argues further that its bundled firm and interruptible storage rates and terms and conditions of such services set forth in its original filing as revised in its August 25, 2004, data response, are fair and equitable, and should be approved by the Commission without the convening of a Staff Panel as CAD suggests.

Discussion

16. Cranberry made its rate petition filing pursuant to section 311(a) of the NGPA.[9] According to the NGPA, the Commission is to determine rates for interstate transportation service provided by an intrastate pipeline that are fair and equitable. Although, the fair and equitable standard is broader than the just and reasonable standard, a fair and equitable rate may not exceed an amount which is reasonably comparable to the rates and charges which interstate pipelines would be permitted to charge for providing similar transportation services. The Commission will address only those transportation and storage rates and provisions of its Operating Statement applicable to providing section 311 transportation and storage services.

[9] 15 U.S.C. 3371(a)(2)(B) (2003).

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

17. Contrary to Cranberry's assertion, CAD's approval of the prior settlement, which provided for the interstate rate to apply to intrastate services, does not relinquish the PSC of West Virginia's jurisdiction over intrastate rates. Cranberry's intrastate transportation rates and services, as well as other related issues, are subject to the PSC of West Virginia's jurisdiction and are not addressed here.[10] Consequently, Cranberry is directed to remove all references to intrastate transportation services and rates from its Operating Statement.

18. Based on our review of the original filing, Cranberry's responses to the parties' data requests, and the settlement filing, the Commission finds that the partial settlement contains transportation rates that are unfair and inequitable and, therefore, rejects the partial settlement. The Commission rejects the partial settlement because the settlement rate exceeds the rate Cranberry proposes. As mentioned above, Cranberry, in response to Staff data request of August 13, 2004, replaced its originally proposed interruptible transportation rate of $0.6817 per Dth with a revised rate of $0.6473 per Dth due to its incorrect application of actual data. Nevertheless, the partial settlement contains an interruptible rate of $0.6817 which is the same as the originally proposed rate. The settlement rate cannot be fair and equitable, because the settlement rate is higher than Cranberry's own proposed updated cost-based transportation rate. Commission approval of this settlement rate would effectively allow Cranberry to use its interstate rates to subsidize its intrastate operations by shifting excessive cost recovery to interstate rates. Therefore, we will calculate a fair and equitable rate based on the record of this case. As discussed below, a fair and equitable cost-based rate for Cranberry's proposed unbundled system-wide interruptible section 311 transportation service is found to be $0.6015 per Dth.

19. As a result of rejecting the settlement, the Commission will establish fair and equitable unbundled interruptible transportation and unbundled firm/interruptible storage rates applicable to Cranberry's provision of section 311 transportation and storage services as follows.

---

[10] For example, CAD and the Staff of the PSC of West Virginia initiated a General Investigation of Cranberry's practices, docketed as Case No. 02-0655-GT-GI, alleging specific instances of discriminatory behavior and Cranberry's failure to comply with its West Virginia open-access obligations.

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

a. System-Wide Versus Separate Storage Services

20. In addition to continuing to provide system-wide section 311 transportation service,[11] in its original rate filing and settlement, Cranberry states that it proposes to provide separate storage services at each of its two storage facilities with only the X-1 storage facility being used to provide section 311 services. Accordingly, it proposes to design its section 311 storage rate using only the costs of the X-1 storage facility. Cranberry states that the X-1 storage field is used to provide interstate storage services because it is only capable of receiving lower Btu gas injections from the interconnected interstate pipelines, and withdrawals and deliveries will be made to the interconnected interstate pipeline facilities or Cranberry's facilities. Cranberry states, however, that the Raleigh field is used to provide only intrastate storage services because all deliveries and withdrawals from that facility are of higher Btu, locally-produced gas and will take place entirely within the West Virginia border. Cranberry proposes one set of rates (interstate storage rates) for the X-1 storage field and another set of rates (intrastate storage rates) for the Raleigh storage field.

21. The Commission finds that Cranberry has not supported its proposal to design section 311 storage rates based solely on the costs of the X-1 storage facility. Historically, Cranberry has operated its entire system on an integrated basis, providing section 311 transportation service at a rate that recovered the costs of its entire system, including the costs of both storage facilities.[12] A review of the Cranberry's pipeline flow paths[13] shows that Cranberry's transmission system is integrated with, and physically connected to, both storage facilities such that the gas flowing into and out of the Raleigh storage facility appears to be commingled with interstate gas even though Cranberry may account for the supplies as being injected into or withdrawn from the X-1 storage facility. Moreover it is irrelevant that, just like the X-1 storage facility, all deliveries and withdrawals from the Raleigh storage facility will physically take place within the West

---

[11] Prior to the subject rate petition, Cranberry only provided an interruptible transportation service. In the rate petition, Cranberry proposed to provide an unbundled interruptible transportation service and bundled storage services from each of its two storage fields. Cranberry calculates the bundled storage rates based on separate costs of service for each storage facility.

[12] In its September 3, 2004 response to a staff data request, Cranberry stated: "[u]p until May 1, 2004, Cranberry did not provide stand-alone storage service. Thus Cranberry did not track gas used for system management separately from gas injected into and withdrawn from storage on behalf of customers."

[13] The flow paths map is attached to Cranberry's March 5, 2004 response to MPC's February 27, 2004 Data Request, Question 1.22.

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

Virginia border as claimed by Cranberry. Both storage facilities are physically located within the state of West Virginia. The point is that both facilities are physically integrated with its transportation system which is used to provide interstate section 311 services, and all gas is commingled. In other words, interstate gas subject to a section 311 contract may end up in the Raleigh storage facility as a result of the normal operation of Cranberry's system on an integrated basis. Cranberry has not satisfactorily demonstrated otherwise. Therefore, the Commission finds that the costs of both storage fields should be used to calculate rates for section 311 storage services on a system-wide basis. Of course, Cranberry is free to decide how to operate its system and how much section 311 interstate storage service to provide vis-à-vis interstate service as long as it does so on a not unduly discriminatory basis.

b. Rate Base

22. The rate base as proposed in Cranberry's updated rates in its August 25, 2005, response to the Staff data request of August 13, 2005 includes Gross Plant, Accumulated Depreciation, Depletion and Amortization (DD&A), Working Capital, and Accumulated Deferred Income Taxes. The updated directly assigned transportation rate base is $42,644,795, and the updated directly assigned storage rate base is $2,620,802. The updated Gross Plant includes an asset adjustment and an AFUDC adjustment. The Commission will accept the asset adjustment because the added facilities will increase Cranberry's throughput by 17,100 Mcf per day.[14] However, the Commission rejects the proposed AFUDC adjustment because Cranberry provided no support for this figure and did not submit evidence that it even recorded such amounts on its books.[15]

23. Specifically, Cranberry's AFUDC calculations, as provided in CAD II-A-15, Workpaper AFUDC-1, contains no details of any project, but only the annual total of plant additions by categories of Storage Plant, Transmission Plant, Gathering and General. Cranberry may file a rate petition to include an AFUDC amount when it properly records AFUDC on its books, *i.e.*, on a project by project basis, providing the actual monthly balances accruing AFUDC. Consequently, we will eliminate the AFUDC ($4,246,242 and $133,223 applicable to Transmission and Storage plant, respectively) and a portion of Accumulated DD&A relating to the AFUDC ($2,143,832 and $75,538,

[14] *See* Cranberry's August 25, 2004, response to Staff's August 13, 2004, Data Request, Question No. 7.

[15] *See* Cranberry's July 23, 2004 response to CAD's fifth data request dated June 22, 2005, Question E-67 (Cranberry did not record AFUDC on its books and the AFUDC amount in its filing was imputed for ratemaking purposes).

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

respectively).[16] The resulting rate base is $40,517,384 versus Cranberry's updated rate base of $42,644,795 applicable to transportation asset. The resulting rate base is $2,569,013 versus Cranberry's updated rate base of $2,620,802 applicable to storage.

c. **Rate of Return**

24. Cranberry's initial filing used the year-end 2003 capital structure of Cranberry's parent, Cabot Oil & Gas Corporation (Cabot), which is 55.0211 percent equity and 44.9789 percent debt. Cranberry requested a return on equity of 12.5 percent and a debt cost of 7.3338 percent. In response to Staff's February 12, 2004 data request, question I-3, Cranberry states that its proposed 12.5 percent return on equity is consistent with the range of equity returns historically allowed by the Commission for similar pipelines. The response does not include a study following the Commission's preferred two-stage Discount Cash Flow (DCF) methodology used in pipeline rate cases.[17]

25. Cranberry stated in its August 25, 2004, response to the August 13, 2004 Staff data request that the 12.5 percent cost of equity sought by Cranberry is based on Cranberry's settlement in a 2001 proceeding and is based on data that is more than three years old. Our analysis is based on actual data through December 2004. Consequently, the 12.5 percent equity return sought by Cranberry is based on stale data that was never reviewed because the case was settled, and is unsupported by any recognized equity cost analysis. Accordingly, we will reject the proposed rate of return and will develop a rate of return based on the record evidence.

26. To derive a market-based estimate of the cost of equity to Cranberry, we used the two-step version of the DCF methodology, where the cost of equity, $k = (D(1+0.5g)/P)+g$.[18] As Cranberry has no publicly traded common stock, which is a required P input for the DCF formula, we calculated the cost of equity to a group of four pipelines that remain from a group the Commission used as a proxy for the risks of natural gas pipelines in *HIOS*.[19] The four pipelines in the proxy group were Equitable Resources Inc., Kinder Morgan, Inc., National Fuel Gas Supply Corporation, and Questar Pipeline Company.

---

[16] *See* Appendix No. 1.

[17] *See High Island Offshore System, L.L.C.*, 110 FERC ¶ 61,043 (2005) (*HIOS*).

[18] Where k = return on equity, D = annual dividend, g = growth, and P = average stock price.

[19] *Id.*

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

27. As shown in Appendix 3, Table No. 5, the result of our DCF analysis was a zone of reasonableness in return of equity of 8.99 - 13.29 percent, with a median of 10.58 percent. Furthermore, Cranberry makes no argument that it is riskier than other pipelines. Consequently, we will use the median equity return, 10.58 percent, to be applicable to Cranberry, in accordance with Commission precedent[20] and in light of the fact that we have seen no evidence to support a finding that Cranberry is any riskier than the average gas pipeline.

28. We will accept Cranberry's capital structure of 44.9789 percent long-term debt, 55.0211 percent common equity, and 7.3338 percent debt cost. When applied to Cranberry's capital structure and debt cost, the total after-tax return is 9.1199 percent, as shown in Appendixes 1 and 2.

d. Depreciation Rate

29. Cranberry used an overall depreciation rate of 1.6 percent for both transmission and storage in developing its originally proposed rates and did not revise that depreciation rate in its subsequent filings. Cranberry proposes annual depreciation expense by multiplying the depreciation rate by the total depreciable plant.[21] Cranberry's net plant amount represents 43.04 percent of its gross plant.[22] The proposed depreciation rate can be converted into a remaining life of 26.9 years for Cranberry's transmission and storage facilities. We find the proposed facility remaining life is reasonable and consistent with recent Commission orders addressing depreciation issues.[23] Consequently, the Commission finds that the proposed 1.6 percent overall depreciation rate is reasonable and the proposed depreciation rate is accepted.

[20] *Transcontinental Gas Pipeline Corp.,* 84 FERC ¶ 61,084 (1998) (*Transco*).

[21] *See* Cranberry's March 5, 2004 response to Staff's February 12, 2004, Data Request, Exhibit E.2-1.

[22] *See* Cranberry's August 25, 2004, response to Staff's August 13, 2004, Data Request, Exhibit A-5, Revision 3.

[23] For example, in *AES Ocean Express, LLC*, 105 FERC ¶ 61,030 (2003), the Commission accepted the company's proposal to use a 25-year life for supporting depreciation expense in its cost of service proposal.

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

e. Operation & Maintenance (O&M) and Administrative & General (A&G) Expenses

30. Based on a review of Cranberry's response to the parties' data requests, the Commission accepts Cranberry's updated O&M and A&G expenses of $795,922 and $12,246,691 applicable to storage and transportation service respectively.[24]

f. Low Flow Meter Fee

31. In its original filing, Cranberry proposed to continue assessing a $50 per month low flow meter fee to recover the costs and expenses associated with operating receipt point meters on its system that average five Mcf or less per day in a month. However, in computing its estimated cost of service, Cranberry credited the actual base period collection in order to arrive at the proposed cost of service.[25] In other words, Cranberry's proposed cost of service proposal is revenue neutral with respect to such fee.

32. Nevertheless, in its updated cost of service filing, Cranberry eliminated the Low Meter Fee Credit reflecting its agreement to terminate the fee.[26] This is consistent with IOGA's withdrawal of its protest. There, IOGA states that IOGA and Cranberry have agreed that Cranberry will remove the low flow meter fee in section 10 of the Operating Conditions. The proposal to eliminate the low flow meter free is accepted and Cranberry is directed to revise its Operating Statement accordingly.

g. Cost Allocation

33. Prior to the rate petition filing, Cranberry provided a bundled system-wide interruptible section 311 transportation-only service. In its original petition, Cranberry proposed to offer firm and interruptible storage services that included a bundled transportation service in addition to its existing interruptible transportation-only service. Cranberry proposed to allocate an amount of transportation cost of service to the new storage services to reflect the fact that those services will include a bundled transportation service. The allocated amount is computed based on the maximum daily storage

---

[24] *See* Cranberry's August 25, 2004 response to Staff's August 13, 2004, Data Request, Exhibit A-1, Revision 3. Cranberry's original proposal contains estimated O&M and A&G expenses of $993,880 and $12,168,870 applicable to storage and transportation service respectively.

[25] *See* Exhibit A-1 to Cranberry's rate petition.

[26] *See* Cranberry's August 25, 2004, response to Staff's August 13, 2004, Data Request, Exhibit A-1, Revision 3.

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

deliverability quantity that is subscribed during the open season. Cranberry states that the resulting storage rates will reflect a storage customer's usage of an amount of transportation service equivalent to its maximum daily storage deliverability quantity.

34. The Commission is not convinced that Cranberry has supported its proposal to include a bundled transportation service within its proposed new storage services. Consistent with Commission policy, we find that Cranberry's proposed storage services should be offered on an unbundled basis without any transportation service bundled within them. The storage service rates, as proposed by Cranberry, include the estimated storage cost of service and an allocated portion of the estimated transportation cost of service. Consequently, under Cranberry's proposal, a storage customer will pay storage rates which include an embedded amount of the allocated transportation cost. It is not reasonable for those storage customers who elect to purchase only storage service from Cranberry to pay for transportation service they do not receive. Further, requiring the proposed storage services to be offered on an unbundled basis will provide a level playing field with other pipelines providing unbundled cost-based storage and transportation services, and will prevent a customer purchasing and using only Cranberry's storage services from being required to subsidize those customers using Cranberry's unbundled transportation service. Therefore, Cranberry's bundled storage services proposal is rejected. The Commission will establish a set of fair and equitable storage rates applicable to unbundled storage services to be offered by Cranberry as discussed in this order.

h. Rate Design

35. Cranberry's proposed interruptible transportation rate is designed by dividing its estimated cost of service by the estimated billing determinants.[27] We find this approach is acceptable. However, as discussed above, the revised total cost of service is $20,113,096[28] that is $1,042,756 less than Cranberry's updated estimate. In its March 5, 2004, response to Question B of Staff's February 12, 2004 data request, Cranberry stated that its average three-year annual total system-side throughput *i.e.* inter and intrastate throughput was 27,194,016 Dth. Cranberry's estimate of 27,194,016 Dth/year reflects only its last three-year average throughput, and does not include recently added

---

[27] The Commission's regulations do not require intrastate pipelines to provide firm transportation services. 18 CFR § 284.7(a)(2) (2004). Since Cranberry proposes to provide interruptible section 311 transportation service, a firm transportation rate need not be established.

[28] *See* Appendix No.1.

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

6,241,500 Dth/year of transportation capacity,[29] despite including costs related to the newly added facilities in its proposed cost of service. It is consistent with Commission policy to require that rates for NGPA section 311 service be designed based on the full capacity of facilities added after section 311 service has commenced in order to place the risk of underutilization on the company rather than on the company's interstate customers.[30] Because the record does not reflect other, post-section 311 capacity additions or downtime estimates for the recent capacity addition, and does not reflect that throughput significantly increased as a result of the recent capacity addition,[31] we will include the full 6,241,500 Dth/year of recently added capacity in designing the rates. Accordingly, we will use a transportation billing determinant which includes the same three-year average system-wide total throughput, plus the recently added transportation capacity. The resulting transportation billing determinant is 33,435,516 Dth/year. The computed interruptible transportation rate using the revised billing determinants is $0.6015 per Dth.

36. As to storage rate design, Cranberry did not use the Commission's accepted *Equitable* method[32] to classify and allocate storage costs for the purposes of designing its proposed storage rates. Cranberry classified one hundred percent of the fixed storage costs to the deliverability cost category. Under the *Equitable* method, one-half of fixed and variable storage costs are classified to the capacity cost category, and one-half to the deliverability cost category. We have designed the storage rate based on the *Equitable* method as we find that it is a fair and reasonable method.

37. Regarding billing determinants used to design storage rates, Cranberry proposes to use the quantities of storage service that was subscribed during the open season. However, according to the *Equitable* method, storage design deliverability and capacity are used to design storage rates. Accordingly, the Commission shall use the subject

---

[29] In its August 25, 2004, response to Staff's August 13, 2004 Date Request, Question No. 7, Cranberry states that it has placed the following plant facility additions in service after August 31, 2003: (1) Walen Station; (2) Harco Station; and Dow Pipeline. Cranberry states that the total added transportation capacity is 17,100 Mcf per day which translates to 6.241,500 Dth/year. Cranberry states that these capacities were not included in the total billing determinants in its original filing, nor were they included in the billing determints in its updated August 25, 2004 filing.

[30] *See Lear Petroleum Corp.*, 42 FERC 61,015 at 61,054 (1988).

[31] *See* Cranberry's March 5, 2004 response to staff's February 25 2004, data request, Question B.

[32] *See Equitable Gas Co.*,, 36 FERC ¶ 61,147 (1986) (*Equitable*).

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

storage maximum deliverability of 68 MMcf per day to compute the storage deliverability rate.[33] The Commission shall use the maximum working gas capacity of 3.35 Bcf to compute the capacity rate.[34] Lastly, the Commission shall use Cranberry's proposed volume of 3,769,534 Mcf to design both injection and withdrawal rates. [35] The computed storage deliverability rate is $0.8385 per MMBtu per month.[36] The computed storage capacity rate is $0.0170 per MMBtu per month.[37] The computed injection/withdrawal rate is $0.0077 per MMBtu.[38] Lastly, the 100 percent load factor interruptible storage rate is computed to be $0.0166 per MMBtu per day.[39] We find these rates to be fair and equitable and reject the updated rates included in Cranberry's August 25, 2004, response to Staff data request of August 13, 2004.

i. <u>Fuel & Unaccounted For Gas</u>

38. In its March 5, 2004, response to Staff's February 12, 2004, data request, Question L, Cranberry provides the total fuel and lost-and-unaccounted for gas on its system for the past three years. As shown on Schedule L-1 included in its response, the computed percent Fuel & Unaccounted for Gas is 5.17 percent and 7.61 percent for storage and transportation operations respectively. The Commission finds the proposed fuel rates of 5.17 percent and 7.61 percent applicable to storage and transportation service, respectively, to be fair and equitable and the proposed fuel rates are accepted.

j. <u>Statement of Operating Conditions</u>

39. In its original rate filing, herein, Cranberry included a proposed revised Operating Statement to reflect its proposed bundled storage services. In its settlement proposal, Cranberry included a further revised Operating Statement as Exhibit A. However, since the settlement is being rejected and the Commission is setting system-wide section 311

---

[33] *See* Cranberry's August 25, 2004, response to Staff's August 13, 2004, Data Request, Exhibit A-4, Revision 3. The estimated injection and withdrawal volume represents Cranberry's last three-year average injection and withdrawal volume.

[34] *Id.*

[35] *Id.*

[36] *See* Appendix 2 pg. 3 of 3

[37] *Id.*

[38] *Id.*

[39] *Id.*

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

storage rates based on the instant record, the settlement's proposed Operating Statement is being rejected as well. Further, in light of our rejection of its proposed bundling of transportation and storage services, and the other rulings herein, the proposed revised operating statement included with its original rate filing must be revised to reflect these rulings. Specifically, Cranberry is directed to file a revised Operating Statement to reflect: (1) the rate design discussed in the body of this order, *i.e.*, a single unified, integrated system with services at both storage facilities subject to FERC's jurisdiction; (2) the low meter fee no longer being collected; and (3) the removal of all references to intrastate transportation services and rates. Cranberry should also include any other revisions agreed to with the parties and to respond to the protests filed in response to its December 16, 2003 and December 17, 2004 Operating Statement filings. This compliance filing will be subject to protest, Commission review, and further Commission order.

<u>The Commission orders</u>:

(A) The rates established by the Commission, as stated in this order, shall be Cranberry's transportation and storage rates for services performed under section 311 of NGPA, effective December 16, 2003.

(B) Within 30 days from the date of the final order in this proceeding, Cranberry shall refund, with interest as determined in accordance with 18 C.F.R. § 154.501(d) (2004), any amount it has collected for NGPA section 311 transportation of natural gas through its facilities above the rates established in this order, on or after December 16, 2003.

(C) Within 60 days of this order, Cranberry must file a revised Operating Statement, as discussed above, to become effective on the date established in a subsequent Commission order as discussed herein.

(D) On or before December 16, 2006, Cranberry must file a petition for new NGPA section 311 transportation and storage rates, to be effective December 16, 2006.

By the Commission. Commissioner Brownell dissenting with a separate statement attached.

(S E A L)

Magalie R. Salas,
Secretary.

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

Cranberry Pipeline Corporation					
Docket No. PR04-6-000 Transmission					
				FERC	
				Adjustment	
		Cranberry	FERC	AFUDC	
RATE BASE		(See Note 2)		(See Note 1)	
Gross Plant		$126,579,479	$122,333,237	$4,246,242	
Accumulated DD&A		($71,361,320)	($69,217,488)	($2,143,832)	
Net Plant		$55,218,159	$53,115,749	$2,102,410	
Working Capital					
Materials and supplies		$341,060	$341,060		
Storage Inventory		$0	$0		
Total Working Capital		$341,060	$341,060		
			-		
Accum. Def. Inc Taxes (See Note 3)		($12,914,425)	($12,914,425)		
			-		
Total Rate Base		$42,644,795	$40,542,384		
Note 1: See Exhibit Staff F.1-1(response to Staff Feb. 12, 2004, Data Req.)					
Note 2: See Exhibit A-5, Revision 3 (response to Staff Aug. 13, 2004, Data Request)					
Note 3: See Exhibit Staff E.5-1 (response to Staff Feb. 12, 2004, Data Request)					

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

RATE OF RETURN			9.1199%		
TOTAL RETURN			$3,697,422.83		
DEPRECIATION RATE			1.6000%		
DEPRECIATION EXPENSE			$1,957,331.79		
TOTAL COST OF SERVICE					
Operating & Maintenance			$7,691,727		
Administrative & General			$4,554,964		
Depreciation			$1,957,332		
Other Taxes			$581,748		
Return Allowance			$3,697,423		
Income taxes			$1,629,902		
Total			$20,113,096		
BILLING DETERMINANTS					
Usage			33,435,516		
RATE OF RETURN					
		Capital		Weighted	
	Amount	Ratio	Cost	Cost	
		(See Note 4)			
Cost of Long Term Debt	55,024,144	44.9789%	7.3338%	3.2987%	
Common Equity	67,309,093	55.0211%	10.5800%	5.8212%	
Total	122,333,237	100.00%		9.1199%	
Note 4: See Staff I.1 - Cabot O&G Capital Structure Detail					

TAX DERIVATION			FERC	
Return Allowance			$3,697,423	
Less Interest			$1,337,356	
After Tax Allowance			$2,360,067	
Pre-tax Taxable Income			$3,989,969	
State Inc. Tax @ 9%			$359,097	
Fed. Taxable Income			$3,630,872	
Fed. Income Tax @ 35%			$1,270,805	
Total Fed and State Tax			$1,629,902	
INTERRUPTIBLE TRANS. RATE				
Cost of service	$20,113,096			
Billing Determinants	33,435,516			
Interruptible Rate	$0.6015			

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

Cranberry Pipeline Corporation					
Docket No. PR04-6-000 Storage					
		Cranberry	FERC	AFUDC	
RATE BASE		(See Note 2)		(See Note 1)	
Gross Plant		$3,971,337	$3,844,011	$127,326	
Accumulated DD&A		($2,999,303)	($2,923,765)	($75,538)	
Net Plant		$972,034	$920,246	$51,788	
Working Capital					
Materials and supplies		$10,701	$10,701		
Storage Inventory		$2,187,361	$2,187,361		
Total Working Capital		$2,198,062	$2,198,061		
			-		
Accum. Def. Inc Taxes (See Note 3)		($549,294)	($549,294)		
			-		
Total Rate Base		$2,620,802	$2,569,013		
Note 1: See Exhibit Staff F.1-1 and CAD 2, A-15					
Note 2: See Exhibit A-5, Revision 3					
Note 3: See Exhibit Staff E.5-1					

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

RATE OF RETURN			9.1199%		
TOTAL RETURN			$234,291		
DEPRECIOATION RATE			1.6000%		
DEPRECIOATION EXPENSE			$61,504		
TOTAL COST OF SERVICE					
	Total	Fixed	Variable		
Operating & Maintenance	$638,965	609,779	29,186		
Administrative & General	$156,956	156,956			
Depreciation	$61,504	61,504			
Other Taxes	$202,552	202,552			
Return Allowance	$234,291	234,291			
Income taxes	$103,281	103,281			
Total	$1,397,549	1,368,363	29,186		
VOLUME DETERMINANTS	Deliverability (Mcf)	Capacity (Mcf)	Inj/Withdrawal		
X-1	60,000	2,750,000	3,307,339		
Raleigh	8,000	600,000	462,195		
Total	68,000	3,350,000	3,769,534		
RATE OF RETURN					
		Capital			
	Amount	Ratio	Cost	Cost	
		(See Note 4)			
Cost of Long Term Debt	1,155,514	44.9789%	7.3338%	3.2987%	
Common Equity	1,413,499	55.0211%	10.5800%	5.8212%	
Total (Rate Base)	2,569,013	100.0000%		9.1199%	
Note 4: See Staff I.1 - Cabot O&G Capital Structure Detail					

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

TAX DERIVATION			FERC		
Return Allowance			$234,291		
Less Interest			$84,743		
After Tax Allowance			$149,548		
Pre-tax Taxable Income			$252,829		
State Inc. Tax @ 9%			$22,755		
Fed. Taxable Income			$230,074		
Fed. Income Tax @ 35%			$80,526		
Total Fed and State Tax			$103,281		
RATE DERIVATION					
Firm Storage		Deliverability	Capacity	Inj/With	
Cost of Service		$684,182	$684,182	$29,186	
Billing Determinants		68,000	3,350,000	3,769,534	
Firm Storage Rates		$0.8385	$0.0170	$0.0077	
Interruptible Storage					
100 % load factor ISS rate	$0.0166				

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

Table No. 1
Dividend Yield (%),
IBES Five-Year Median
Growth Rate Estimates (%)

HIOS PROXY GROUP - Four Natural Gas Pipeline Proxies (Of Nine Original)3/

Ticker			Continuous DivYield 1/	IBES Est. 2/
EQT	Equitable Resources		2.80%	10.0
KMI	Kinder Morgan, Inc.		3.54%	11.7
NFG	National Fuel Gas		4.11%	4.5
STR	Questar		1.92%	9.0
		Average	3.09%	8.8
		Median	3.17%	9.5

1. Dividend Yield, 6-month average, 7/04 through 12/04
2. IBES Monthly Summary Data, January 20, 2005
3. Five Companies were eliminated: Coastal Corp. - acquired by El Paso
   Columbia Energy - Acquired by Nisource, Inc.
   Enron Corp. – In bankruptcy - no data
   El Paso Corp. - financial difficulties, lower dividend
   Williams cos. - financial difficulties, lower dividend

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

Table No. 2

Estimate of Growth in U.S. Gross Domestic Product (GDP)

[% per year]

ECONOMY:		2009-2025	2009-2029	2009-2059	2009-2080
GDPCurr$ -Global (DRI)		5.4	5.4	NA	NA
-EIA-Reference case		6.2	NA	NA	NA
-SSA – Intermediate case		4.6	4.5	4.5	4.4
Average - Global Insight (DRI-WEFA), 2009-28, EIA 2009-25, SSA 2009-2059					5.35

SOURCE: Long-term Growth Estimate

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

Table No. 3

Calculation of DCF Growth ("g") (%)

HIOS PROXY GROUP - Four Natural Gas Pipeline Proxies (Of Nine Original)3/

	(A) IBES Growth Rate		(B) Est. GDP Growth Rate	Average [2*(A)+1*(B)]/3
Equitable Resources	**10.0**		**5.35**	**8.45**
Kinder Morgan, Inc.	**11.7**		**5.35**	**9.58**
National Fuel Gas	**4.5**		**5.35**	**4.78**
Questar	**9.0**		**5.35**	**7.78**
			Average	**7.65**
			Median	**8.12**
			High	**9.58**
			Low	**4.78**
			Midpoint	**7.18**

Table No. 4
Derivation of Dividend Yield (%)
for DCF Formula

HIOS PROXY GROUP - Four Natural Gas Pipeline Proxies (Of Nine Original)3/

	(Continuous Yield)	+	(___Discrete Yield_____) (Continuous x	Growth)	/2 =	Average Yield (%)
Equitable Resources	2.80	+ (	2.80	1.0845	) /2 =	2.92
Kinder Morgan, Inc.	3.54	+ (	3.54	1.0958	) /2 =	3.71
National Fuel Gas	4.11	+ (	4.11	1.0478	) /2 =	4.20
Questar	1.92	+ (	1.92	1.0778	) /2 =	2.00

Average	3.21
Median	3.31
High	4.20
Low	2.00
Midpoint	3.10

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

Table No. 5
Common Equity Cost Calculation
DCF Methodology (%)
[2:1 (66.7%) weighting for S-T Growth]

HIOS PROXY GROUP - Four Natural Gas Pipeline Proxies (Of Nine Original)3/

	Dividend Yield (D/P)	+	Growth Rate (g)	=	Cost of Capital (K)
Equitable Resources	2.92	+	8.45	=	11.37
Kinder Morgan, Inc.	3.71	+	9.58	=	13.29
National Fuel Gas	4.20	+	4.78	=	8.99
Questar	2.00	+	7.78	=	9.78

	ALL
Average	10.86
Median	10.58
High	13.29
Low	8.99
Midpoint	11.14

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Cranberry Pipeline Corporation Docket No. PR04-6-000

(Issued September 13, 2005)

BROWNELL, Commissioner, dissenting:

Cranberry filed a partial settlement. The settlement is uncontested, supported by the Public Service Commission of West Virginia (PSCWV), the State of West Virginia Public Service Commission Division of Consumer Advocate (CAD), and the Independent Oil & Gas Association of West Virginia (IOGA). The settlement establishes the transportation rates plus refunds; the level of AFUDC plus Cranberry's commitment to begin tracking AFUDC consistent with the Uniform System of Accounts effective January 1, 2004; and (3) Cranberry's commitment to provide the PSCWV with certain information contemporaneously with its next section 311 filing. The one issue not settled is whether Cranberry's two storages fields will operate on an integrated basis or recognize that one field provides intrastate service and the other provides interstate service. CAD requests additional process to fully develop a record.

The majority rejects the partial settlement, denies CAD's request for more process on the storage issue and makes merits decisions without adequate support. Therefore, I dissent.

On balance, it seems to be fair and equitable to give the parties the benefit of the bargain they worked so hard to achieve by approving the partial uncontested settlement. PSCWV, CAD and IOGA were (and are) extremely active parties in this proceeding. For example, CAD has issued 5 sets of data requests to Cranberry. They support the partial settlement because it is a significant reduction to the existing $0.72 transportation rate; no active party opposes it; it avoids further costly and burdensome litigation of a heavily contested case; and it is consistent with the Commission's stated preference for cases to be resolved through settlements (see *Cranberry*, 107 FERC ¶61,147 at p.15).

There are other significant non-rate benefits to the settlement. In particular, Cranberry has agreed to follow the Uniform System of Accounts and provide the PSCWV with certain information contemporaneously with its next section 311 filing. This case has involved intense discovery disputes and, at one point, Cranberry asked the Commission to appoint a Discovery Master (see *Cranberry*, 107 FERC ¶61,147). The increased transparency resulting from Cranberry's commitment to provide data early and

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

in a more useable form provides a very significant consumer protection benefit.

I would also grant CAD's request for further process regarding the storage issue. CAD states that "given the importance of these matters to the ultimate configuration of Cranberry's operations, as well as the absence of any record which can be reviewed by the Commission, there is no alternative but to conduct an administrative proceeding for the purpose of receiving additional evidence upon which a reasoned decision on the contested matters may be based." Further, CAD submits that convening a Staff Panel is consistent with Commission precedent citing *EPTG*, 99 FERC ¶61,295 and *Bay Gas*, 108 FERC ¶61,161.

Cranberry has two storage fields, the X-1 field and the Raleigh field. Cranberry proposes to design an intrastate storage rate based on the costs of the Raleigh field and an interstate storage rate based on the costs of the X-1 field. Cranberry asserts that the Raleigh field is only used for intrastate services because all deliveries and withdrawals from that field will take place within the West Virginia border. Cranberry asserts that the X-1 is for interstate services because it is capable of receiving gas from interstate pipelines (i.e., Columbia, Dominion and Tennessee) and withdrawals will be made to either Cranberry or the interstate pipelines. Further, local gas is "rich" gas with a BTU content of approximately 1200 to 1300 and Cranberry does not have the facilities to process such gas for injection into the X-1 field. Thus, the gas stored in the X-1 field is delivered from the interstate pipelines. Further, Cranberry states that, due to flow restrictions, gas from the Raleigh field is only delivered to on-system markets. (See response to Data Request N in the February 12, 2004 data request).

The order requires Cranberry to roll the costs of the storage fields into one rate, a result that increases rates to interstate customers. The rationale used is that Cranberry has historically operated its entire system on an integrated basis using both its transmission and storage facilities. Past history is not be representative of the use of the system on a going-forward basis where Cranberry had not previously provided stand-alone storage service and we require Cranberry to unbundle its transportation service from its storage service. The order also asserts that the storage fields should be treated on a rolled-in basis because storage gas is commingled on the transmission system before delivery to the customer and a historical flow paths map shows that the storage fields are interconnected with the transmission facilities. Every pipeline system has these characteristics. Yet, we have approved pipelines using certain storage fields for specific services and other storage fields for general service; pipelines using certain storage fields for open access service and other storage fields for individual certificate service; and pipelines using only line pack to provide parking service (a storage service).

Section 284.10(c)(4)(i) of the regulations requires that the rates only reflect the

costs of the service. I do not believe a general declaration that the storage fields operate in an integrated manner provides a sufficient basis to find that both storage fields are necessary for intrastate and interstate service, nor does it appear to be consistent with our requirement to unbundled services. I believe the appropriate course would be to set the issue for hearing to determine as a factual matter what facilities are used to provide stand-alone storage service on the Cranberry system. [40]

I also do not agree with the merits decisions on several issues. Cranberry invested in infrastructure to increase its system capacity by 17,100 Dt per day. The order eliminates the AFUDC because Cranberry has not provided "details on a project by project basis." Further, the order imputes additional rate design volumes (i.e. volumes added to actual throughput experienced on the system) under the assumption that the new capacity is used at 100 load factor (i.e. 17,100 Dt per day multiplied by 365 days to equal 6,241,500 Dt). Finally, the order reduces the return on equity from 12.5 percent to 10.58 percent. I do not view these decisions as based on facts, supported by the facts. In fact, the decisions could be viewed as punitive and, thereby, discourage participation in our section 311 program and investment in infrastructure.

Although Cranberry did not, and is not obligated to, keep its records on a project by project basis, there is no doubt that Cranberry has incurred AFUDC for these investments. Consequently, a representative amount should be determined using another method, possibly average costs incurred by the industry, instead of eliminating all AFUDC costs.

Further, there is no risk analysis laid out in the draft order. There is simply the conclusory statement that the Commission will use the medium equity return "… in light of the fact that we have seen no evidence to support a finding that Cranberry is any riskier than the average gas pipeline." The facts simply do not support such a general declaration. All the risk of cost recovery is borne by Cranberry since all service volumes on the Cranberry system are interruptible. In fact, Cranberry operates much like a gatherer in which segments of its system are added that are "directly related to the deliverability of individual producing wells." As such, they are subject to extensive competition from non-jurisdictional gatherers. These facts make Cranberry different from most interstate pipelines.

Moreover, Cranberry proposed to design its transportation rates using the actual three-year average of service volumes of 27,190,016 Dt. As part of the settlement, all active parties agreed to use the three-year average throughput. Instead, the order requires Cranberry to design its rates on 33,435,516 Dt, reflecting the assumption that the new

[40] *See,e.g.,* Consolidated Gas Transmission Corporation, 41 FERC ¶ 61,129 (1987).

20050913-3053 Issued by FERC OSEC 09/13/2005 in Docket#: PR04-6-000

capacity is used at 100 percent load factor (i.e., gas is transported at maximum capacity every day of the year for the next three years). The new investment was to add capacity to accommodate "projected future increases in gas supplies being developed by various producers with acreage near Cranberry's facilities." (See response to Data Request 7 in the August 13, 2004 data request). As such, the investment increases the market options for producers and, at the same time, increases supply choices for consumers, but does not necessarily increase overall service volumes. The added capacity is not connecting any new, large volume reservoir. Appalachian gas is low volume and declining. Cranberry's system was designed to connect thousands of low deliverability gas wells and continues to be constructed to "tie-in" gas production from newly completed wells. Further, the order cites no record evidence that overbuilding is an issue. Consequently, I believe that this outcome does not provide the pipeline with an opportunity to earn a "fair" rate of return; discourages investment in infrastructure; and discourages participation in the section 311 program.

Further, for the reasons set forth in High Island Offshore System, L.L.C., 110 FERC ¶ 61,043 (2005), I think the majority's finding on the return on equity is not adequately supported. For the reasons set forth in Green Canyon Pipe Line Company, L.P., 98 FERC ¶ 61,041 (2002), I would not impose a triennial rate approval requirement on Section 311 pipelines.

Finally, I would like to express a general concern that the creeping erosion of our light-handed regulatory approach to the section 311 program furthers no policy objective; potentially is detrimental to increasing competition in the gas industry; and is contrary to the intent of Congress.

For these reasons, I respectfully dissent.

____

Nora Mead Brownell
Commissioner