

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 13, 2004

In Reply Refer To:
Columbia Gas Transmission Corporation
Docket No. RP03-222-000

Columbia Gas Transmission Corporation
P.O. Box 1273
Charleston, West Virginia 25325-1273

Attention: Kurt L. Krieger
Assistant General Counsel

Reference: Approval of Uncontested Settlement

Dear Mr. Krieger:

1. On June 2, 2003, Columbia Gas Transmission Corporation (Columbia) filed with the Commission a Stipulation and Agreement (Settlement) to resolve the remaining issues in dispute in this docket. Several parties filed comments in support of the proposed Settlement. As discussed below, the Commission will approve the proposed Settlement as fair and reasonable and in the public interest.

Background

2. The Commission approved a settlement in Columbia's last rate case in Docket No. RP95-408, et al., on April 17, 1997. 79 FERC ¶61 044 (1997). Among the provisions of that settlement was a provision that required Columbia to terminate its products extraction service, remove the costs of that service from its rates and transfer this function to MarkWest HydroCarbons, Inc. (MarkWest). The settlement provided that Columbia would collect, from its transportation customers, through its annual retainage adjustment mechanism (RAM), the cost of 650,000 Dth per year of fuel retainage for MarkWest until January 31, 2003. The settlement also permitted Columbia to seek to recover effective February 1, 2003 the actual fuel use by MarkWest on and after that date to compress dry gas, and provided parties to the proceeding the right to protest such filing.

3. On December 31, 2002 Columbia filed in the captioned docket to collect approximately 244,488 Dth annually from its transportation customers through its RAM and to collect the quantities of fuel associated with moving dry gas through three products extraction plants located on Columbia's pipeline system and operated by MarkWest, in order to provide such retained quantities to MarkWest as permitted by the settlement discussed above.

4. Columbia's December 31, 2002 filing was protested by parties that argued that additional retainage of volumes would constitute a subsidy to MarkWest and/or the Appalachian producers. The parties also argued (1) whether there was a sufficient showing of the benefits to all transportation customers; (2) whether certain gas should be defined as dry gas; (3) whether fuel should be provided to MarkWest because it is a non-jurisdictional entity; (4) whether fuel provided to MarkWest was required to compress natural gas for transportation on Columbia's system and was properly computed; and (5) whether Columbia had improperly sought to recover fuel for MarkWest's processing and treating operations.

5. On January 30, 2003 the Commission accepted the tariff sheets contained in Columbia's December 30, 2002 filing, suspended the sheets for five months, subject to refund, and required that a settlement judge be appointed and that the parties engage in settlement negotiations prior to a hearing. 102 FERC ¶ 61,090 (2003). On June 2, 2003 Columbia filed a Settlement with the Presiding ALJ in this proceeding and the ALJ certified the Settlement to the Commission on July 22, 2003, stating that approval of the proposed Settlement will resolve all disputed issues in the proceeding.

Provisions of the Settlement

6. A brief summary of the salient features of the Settlement is provided below.

7. Article I provides that during the period July 1, 2003 through March 31, 2007, Columbia shall collect a total of 165,000 Dth of natural gas from its transportation customers through its RAM set forth in Section 35 of the General Terms and Conditions of its FERC Gas Tariff in for MarkWest, in addition to otherwise approved retainage amounts, in accordance with a schedule set forth therein. Columbia agrees to file a tariff sheet to implement the collection of these quantities through its RAM to be effective the later of July 1, 2003, or the first day of the month following the Effective Date of this Stipulation.

8. Article II provides that this Stipulation shall become effective only upon final approval by the Commission without modification or condition, or if modifications or conditions are imposed by the Commission, the date the parties unanimously agree to accept such modification or condition.

9. Article III provides that approval of this Stipulation shall constitute a waiver of any of the Commission's Rules and Regulations that may be necessary to effectuate the Stipulation in accordance with all of its terms. Article III further provides that this Stipulation is a compromise for the purposes of settlement and that the Commission's approval thereof shall not constitute approval of or precedent regarding, any principle or issue underlying, or supposed to underlie, its content. The provision also states that the resolution of these proceedings shall not be deemed to be a settled practice as that term was interpreted and applied in Public Service Commission of the State of New York v. FERC, 642 F.2d 1335 (D.C. Cir. 1980), cert denied, 454 U.S. 880 (1981).

Comments on the Settlement

10. The Commission's Staff, the Columbia Distribution Companies (Distribution), New York State Electric and Gas Commission (NYSEG) filed comments in support of the proposed Settlement.

11. In its comments, the Independent Oil and Gas Association of West Virginia (IOGA) states that it does not contest the Settlement, but urges the Commission to recognize that this Settlement is not based on a record and does not establish any principles or precedent. IOGA states that the Commission should make clear that the level of MarkWest compressor fuel in the RAM is a negotiated quantity and is not based on any cost allocation or cost incurrence principle and this Settlement should not be used as precedent for future cost allocations on Columbia or other pipelines. In its reply comments, NYSEG states that IOGA's requested clarification is unnecessary because it is well established that the approval of an uncontested settlement does not constitute precedent for any purpose. On January 14, 2004, Columbia filed a request for the Commission to expedite its action on the proposed Settlement. In its request, Columbia responds to IOGA's comments and states that the clarification IOGA seeks is already embedded in Article III.B of the Settlement.

Discussion

12. The instant settlement proposal resolves issues related to Columbia's system to the apparent satisfaction of all parties involved. The Commission finds that the proposed Settlement appears to be fair and reasonable and in the public interest and therefore accepts the Settlement, to be effective as proposed. Further, IOGA's request that the instant Settlement not be construed as precedent for other allocations or assignments of costs in future proceedings, appears to be satisfied by the terms of the Settlement itself

and the fact that the Commission is approving this proposal as an uncontested settlement and has not ruled on the merits of any particular aspect of the Settlement.

By direction of the Commission.

Magalie R. Salas,
Secretary.

cc: All Parties

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