109 FERC ¶ 61,196
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Arkansas Oklahoma Gas Corporation Docket No. PR04-8-001

ORDER ON REHEARING

(Issued November 22, 2004)

1. On August 9, 2004, West Central Arkansas Gas Consumers, Inc. (WCAGC) filed a request for rehearing or clarification of the Commission's letter order issued on July 9, 2004, in this proceeding.[1] As discussed in this order, the Commission denies WCAGC's request for rehearing. The Commission reaffirms its finding that Arkansas Oklahoma Gas Corporation's (AOG) proposed reduction in its maximum interruptible transportation rate and its fuel retention percentage for company fuel use and lost and unaccounted for gas (LAUG) to be fair and equitable. This order benefits customers because it implements a rate reduction by AOG.

Background

2. AOG is a Hinshaw pipeline which performs interstate transportation service pursuant to a blanket Order No. 63 certificate and §§ 284.224(e)(1) and 284.123(b)(2) of the Commission's regulations. On February 13, 2004, AOG filed a petition requesting the Commission to approve a decrease in AOG's current maximum interruptible transportation rate from $0.2329 per MMBtu to $0.1024 per MMBtu. AOG also requested approval of a decrease in the existing retention percentage rate for LAUG from 2.766 percent to 2.09 percent. AOG made this filing in compliance with the Commission's letter order approving a settlement agreement in Docket No. PR01-8-000, issued June 13, 2001. The Commission's September 8, 2004 order found AOG's proposed rates to be fair and equitable.

[1] Arkansas Oklahoma Gas Corporation, 108 FERC ¶ 61,037 (2004).

3. WCAGC is a group of industrial end-users and agricultural concerns in Arkansas that purchase natural gas and intrastate transportation service from AOG. They do not receive interstate Order No. 63 service from AOG. They opposed AOG's proposed rate decrease on the ground that the rate decrease, as well as AOG's discounting practices, would force Arkansas intrastate customers to subsidize AOG's interstate service. WCAGC now requests rehearing of the July 2003 Order approving the rate decrease on similar grounds. WCAGC requests the Commission to review its finding that AOG's proposed maximum jurisdictional interruptible transportation rate and LAUG rate are fair and equitable. WCAGC again argues that AOG's Order No. 63 transportation rates and discounting practices unreasonably force AOG's Arkansas retail customers to subsidize AOG's Order No. 63 transportation services. Specifically, WCAGC argues that AOG violated Commission policies in extending discounts to shippers without demonstrating that the shippers are similarly situated or that such discounts are competitively necessary. WCAGC also asserts that AOG's discounting benefits Stephens Production Company (SPC) which is not only AOG's largest gas shipper and supplier but is also owned, in large part, by the same beneficial owners of AOG. WCAGC also argues that AOG's Order No. 63 interruptible transportation rates force AOG's Arkansas retail customers to subsidize off-system shippers. WCAGC asserts further that AOG's revenues from its interstate Order No. 63 service may affect the rates for the intrastate service paid by its members, since the interstate revenues are used in the state rate-setting process. WCAGC contends that, contrary to the Commission's Part 284 regulations, AOG's rate filing did not establish a minimum interruptible transportation rate for off-system shippers below which AOG could not discount. Finally, WCAGC argues that interstate pipelines are required to promptly report discounts so that other shippers can determine if they are eligible for smaller discounts. WCAGC states that no such transaction reporting requirements apply to intrastate Hinshaw pipelines such as AOG and, thus no shipper has any way of currently knowing what discounts are being offered to any other shippers.

Discussion

5. The Commission denies WCAGC's request for rehearing. WCAGC contends that it has not been given a sufficient opportunity to inquire into AOG's costs of performing its Order No. 63 interstate service and its throughput, and if it had been given this opportunity, it probably could have shown that the interstate rate and fuel retention percentage should be higher. WCAGC contends that the Commission should require AOG to establish a higher rate and fuel retention percentage for its interstate service so as to avoid requiring the intrastate customers to subsidize the interstate customers.

6. The Commission rejects this contention. The Commission does not require a pipeline's maximum rates to be at a level that would permit the pipeline to fully recover the costs properly allocated to jurisdictional services. Pipelines situated in highly competitive areas may choose to set maximum rates at a lower level in order to encourage higher system throughput which may realize greater revenues than what they may have received using the maximum rates. The Commission only requires that the maximum rate not exceed the level that is necessary to recover all the costs properly allocated to jurisdictional services. WCAGC concedes that AOG's proposed rate and fuel retention percentage for its interstate service is not excessive. Therefore, there is no need to inquire into whether AOG might be able to justify a higher rate. Even if it could justify a higher rate for its interstate service, the Commission would not order AOG to increase its rate for interstate service.

7. WCAGC's concern is that AOG's setting of its interstate rates at a level below the level that could be supported based of a full allocation of the costs AOG incurs in performing the service could cause AOG's intrastate customers to subsidize the interstate service. However, AOG's rates for intrastate service are within the jurisdiction of the Arkansas Public Service Commission. WCAGC and other parties may raise the subsidization issue in the retail rate proceeding, and none of our findings in the instant proceeding prevents the Arkansas Public Service Commission from ensuring that Arkansas retail customers do not subsidize the interstate service. Therefore, we will deny WCAGC's request for rehearing on this point.

8. WCAGC contends that the Commission improperly failed to investigate whether AOG's discounting practices may be unduly discriminatory. However, AOG states that it offers all its interruptible transportation customers a uniform discounted rate of $0.050 per MMBtu. WCAGC suggests that offering a uniform discounted rate may be unduly discriminatory, because customers without competitive alternatives would receive the same discounts as those with competitive alternatives. This issue might be relevant if a pipeline were proposing to adjust its rate design volumes downward to account for discounts, and there was a concern that the discount adjustment would lead to a higher rate for captive customers receiving the interstate service for which the Commission is establishing a rate. However, here there is no issue as to whether an excessive discount adjustment may be requiring captive customers paying the interstate interruptible rate at issue in this proceeding to pay too high a rate, since WCAGC is seeking to require AOG to increase its rates for that service. In any event, by offering the $0.05 per MMBtu rate to all its interstate customers, AOG assures that no captive customers could be harmed. Accordingly, the Commission denies WCAGC's request for rehearing that the Commission require AOG to file discount transportation agreements with the Commission for review.

9. Finally, a minimum rate for AOG interstate interruptible transportation service is not necessary in this proceeding due to the fact that AOG has no variable cost associated with providing the interruptible transportation service. Essentially the minimum rate for that service is zero. The Commission has held that fuel use and lost and unaccounted for gas are variable costs which may not be discounted. Therefore, the Commission finds that the LAUG fuel retention percentage approved in this case is part of AOG's minimum rate for its interstate service and may not be discounted.

<u>The Commission Orders</u>:

WCAGC's request for rehearing is denied, as discussed in this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.