107 FERC ¶ 61,312
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Colorado Interstate Gas Company — Docket No. RP04-314-000

ORDER ACCEPTING TARIFF SHEETS SUBJECT TO CONDITIONS

(Issued June 25, 2004)

1. On May 28, 2004, Colorado Interstate Gas Company (CIG) filed revised tariff sheets[1] to authorize the purchases and sales of natural gas for system operations. CIG's proposal is consistent with Commission precedent as discussed below. The proposed tariff sheets are accepted to be effective June 28, 2004, subject to conditions discussed herein. This order is in the public interest since it provides for the purchases and sales of gas necessary for CIG to maintain system balance and storage while providing revenue credits to CIG's customers under certain circumstances.

Proposal

2. CIG has amended Article 37.1 of its General Terms and Conditions (GT&C) to provide CIG with the authority to buy or sell gas to the extent necessary for the following: (1) to maintain system pressure and line pack; (2) to manage system storage; (3) to balance fuel quantities; (4) to implement the cash out of imbalances procedures contained in section 7.11 of its GT&C; (5) to implement the gas retention requirements of Rate Schedules NNT-1, NNT-2, FS-1, PAL-1, IS-1, HUB-1, SS-1, and APAL-1 contained in its tariff; (6) to maintain system balance due to plant shrinkage from liquids extraction; and (7) to perform other operational functions of CIG in connection with transportation, storage, and other similar services.

3. CIG states that from time to time it is required to make operational purchases or sales of gas to maintain system operations. CIG maintains that it may buy or sell a shipper's imbalance through its cash-out procedures in section 7.11 of its GT&C. CIG

[1] Eighth Revised Sheet No. 225 and Fourth Revised Sheet No. 378 to FERC Gas Tariff, First Revised Volume No. 1.

also states that the provisions of various rate schedules, including PAL-1 in its tariff, provide for CIG to confiscate gas from a shipper that is not nominated and removed when required. CIG further claims that at certain times the applicable fuel retention percentages in its tariff may not match fuel consumption due to varying system conditions. Finally, CIG contends that it may be required to buy or sell gas due to plant shrinkage or gas loss from liquids extraction in order to maintain system balance, system pressure or to manage its system storage.

4. CIG claims that unlike a number of other pipelines,[2] its existing tariff does not specifically authorize CIG to buy or sell gas in the above situations. CIG notes that prior to the issuance of Order No. 2004,[3] many pipelines filed for and received a specific waiver of the requirement that transmission personnel and sales personnel function independently when the transmission personnel are buying and selling gas for the types of system operations described above. CIG states that it has considered seeking a similar waiver. However, CIG contends that it now appears to be unnecessary in light of section 358.3(e)(3) of the Commission's regulations promulgated by Order No. 2004, which excludes incidental purchases or sales of gas to operate interstate gas pipeline transmission facilities from the definition of Marketing or Sales. CIG believes this exempts pipeline purchases and sales of gas for operational reasons from the functional separation and other requirements of the Commission's revised pipeline affiliate rules.

Notice, Interventions and Protests

5. Public notice of the filing was issued on June 3, 2004. Interventions and protests were due June 9, 2004, as provided in section 154.210 of the Commission regulations, 18 C.F.R. § 154.210 (2003). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2003), all timely filed motions and motions to intervene out of time filed before the issuance of this order are granted. Granting late interventions at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. Indicated Shippers[4] filed a protest. Indicated Shippers argue that while it is acceptable for CIG to purchase and sell gas for operational reasons, there must be safeguards to ensure that CIG does not abuse this authority.

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[2] See Dominion Transmission, Inc. 106 FERC ¶ 61,029 (2004); Dominion Cove Point LNG, LP, 104 FERC ¶ 61,218 (2003); Columbia Gulf Transmission Co., 100 FERC ¶ 61,344 (2002).

[3] See Order No. 2004, 105 FERC ¶ 61,248 (2003); Order No. 2004-A, 107 FERC ¶ 61,032 (2004).

[4] The Indicated Shippers consist of BP Energy Company, BP America Production Company, and Chevron Texaco Natural Gas, a division of Chevron U.S.A. Inc.

Discussion

6. The Commission finds that CIG's proposal to buy or sell excess gas on its system, with several modifications to the proposed tariff language, is just and reasonable and consistent with Commission policy.[5]

Bidding

7. Indicated Shippers urge that CIG use an open, transparent auction approach when the pipeline wants to do an operational purchase/sale. Indicated Shippers contend that an auction ensures that the pipeline gets the best possible terms for the operational purchase/sale,[6] and that this approach is already used by other pipelines in doing operational purchases/sales.[7] Indicated Shippers contend that CIG has approximately 1000 affiliated companies that are engaged in a wide variety of businesses,[8] creating the risk that CIG might favor an affiliate when CIG does an operational purchase/sale. If the Commission decides not to require CIG to use an auction to do an operational purchase/sale, Indicated Shippers ask that the Commission at least impose restrictions on affiliate transactions such as a price floor equal to the higher of the actual sales price of the buy index price.

8. In Dominion, the Commission required the use of bidding procedures for the purchase and sale of gas for operational purposes.[9] The Commission found that all parties will have an opportunity to bid on the sale of any excess gas incidental to the pipeline's operations. The Commission also found that posting the gas for sale will provide shippers with the opportunity to compete for those volumes. For these same reasons, the Commission will require CIG to revise Article 37.1 of its GT&C to provide that it will post the excess sales volumes for bid on its electronic bulletin board pursuant to the bidding procedures in Article 2 of its GT&C. As a result of the open and

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[5] See Dominion Transmission, Inc. 106 FERC ¶ 61,029 (2004); Dominion Cove Point LNP, 104 FERC ¶ 61,218 (2003); Columbia Gulf Transmission Co., 100 FERC ¶ 61,344 (2002).

[6] Indicated Shippers cite Dominion Transmission, Inc., 106 FERC ¶ 61,029, at 61,102 (2004).

[7] Indicated Shippers cite Gas Daily, March 2, 2000 (Gulf South Pipeline announces auction of excess storage inventory).

[8] Docket No. TS04-111, Order No. 2004 Informational Filing of CIG (filed February 9, 2004).

[9] See Dominion Transmission, Inc. 106 FERC ¶ 61,029, at 61,102 (2004).

transparent manner in which bidding procedures will be conducted, Indicated Shippers' alternative request to impose restrictions on affiliate transactions such as a price floor is unnecessary.

Scheduling

9. Indicated Shippers argue that CIG's proposed operational purchase/sale should have a lower priority than firm service. Indicated Shippers contend that CIG's proposal does not address the scheduling priority of an operational purchase/sale. However, Indicated Shippers cite to CIG's tariff which provides for the operational purchase/sale of gas having a priority lower than firm service.[10] Therefore, the Commission finds that Indicated Shippers' concern is satisfied, and no further action is necessary.

Specific Circumstances for Purchases/Sales of Incidental Gas

10. Indicated Shippers argue that the proposed tariff language lists specific situations in which CIG could perform an operational purchase or sale of gas. However, CIG also includes a catchall clause that would allow CIG to do an operational purchase or sale "to perform other operational functions of transporter in connection with transportation, storage and other similar services." Indicated Shippers state that to prevent a pipeline from abusing its authority to do operational purchases/sales, the Commission has recognized that a tariff provision that authorizes a pipeline to do operational purchases/sales must specify all of the situations in which the transaction is justified.[11]

11. In Dominion, the Commission found that if the pipeline becomes aware of other sources of gas incidental to its system operations that it wishes to sell, the pipeline will have to file for and receive the appropriate Commission approval to add that source to its FERC tariff.[12] The Commission finds that CIG has filed for and provided sufficient detail as to the specific situations relating to an operational purchase or sale of gas. CIG's purchases and sales pursuant to proposed Article 37.1 of CIG's GT&C are for limited purposes: to maintain system pressure and line pack; for operations to manage system storage; to balance fuel quantities; to implement cash out of imbalances; to implement gas retention; and to maintain system balance due to plant shrinkage from liquids extraction. As a result, no further change is necessary.

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[10] Section 5.1(b)(ii) of CIG's GT&C, Substitute Thirteenth Sheet No. 283.

[11] Indicated Shippers cite Dominion Transmission, Inc. 106 FERC ¶ 61,009, at 61,101 (2004). See also Gulf South Pipeline, 99 FERC ¶ 61,149 (2002).

[12] See Dominion Transmission, Inc. 106 FERC ¶ 61,029, at 61,101 (2004).

Rebundling Sales and Transportation

12. Indicated Shippers argue that the Commission should follow its policy of barring a pipeline from rebundling transportation and sales service as part of an operational purchase/sale.[13] For example, if CIG transports gas to a delivery point in order to do an operational sale of the gas at that location, the purchaser would not have to pay any transportation costs. Indicated Shippers argue that CIG's shippers pay a 33.4 cent per Dth rate for interruptible transportation service pursuant to Rate Schedule TI-1 and for firm transportation pursuant to Rate Schedule FT-1 stated on a 100% load factor basis. Indicated Shippers conclude that if CIG can transport gas to accommodate an operational sale, this would give CIG an unfair advantage in marketing because the shipper would avoid paying to transport the gas.

13. The Commission's policy is to require a pipeline's operational sales service to be unbundled from its transportation service.[14] Further, the Commission concluded in Order No. 636-B that pipelines must unbundle sales and transportation components of their bundled, city-gate, sales service.[15] The Commission found that one reason for adopting the instant rule was a need to ensure equality of transportation, which is best obtainable when the pipeline makes only unbundled sales. While CIG's proposal to make operational sales of gas is not the type of sales service envisioned in Order No. 636, the Commission will require CIG to unbundle its operational sales from its transportation service to the maximum extent practicable, e.g., excess storage sold off at the storage field. In addition, the Commission will require CIG to charge the same transportation rate for operational purchases/sales that other shippers on its system pay. These requirements should satisfy Indicated Shippers' concerns.

Cost and Revenue Reporting

14. Indicated Shippers argue that the risk of abuse warrants requiring CIG to file an annual report that describes and justifies each of its operational purchases/sales. Indicated Shippers state that the Commission has imposed this reporting requirement on other pipelines.[16] In addition, Indicated Shippers argue that if the Commission allows

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[13] See Gulf South Pipeline, 99 FERC ¶ 61,149 (2002); Dominion Cove Point LNG, LP, 104 FERC ¶ 61,218, at 61,765 (2003).

[14] See Gulf South Pipeline, 99 FERC ¶ 61,149 (2002); Dominion Cove Point LNG, LP, 104 FERC ¶ 61,218, at 61,765 (2003).

[15] See Order No. 636-B, 61 FERC ¶ 61,272, at 61,991-61,992 (1992).

[16] See Dominion Transmission, Inc., 106 FERC ¶ 61,029, at 61,101 (2004).

CIG to flow-through the cost of operational gas purchases, the Commission should require CIG to adopt in its tariff objective standards that will require CIG to make operational gas purchases on an ongoing, current basis.

15. The Commission agrees that it is appropriate for CIG to be required to report for review its operational purchases and sales. In Dominion, the Commission required an annual report to help ensure that the pipeline was not charging its customers for the under-recovery of gas on the one hand while realizing revenue generated from the sale of gas for over-recovery on the other.[17] The Commission also found that the annual filing will provide interested parties with the opportunity to examine the pipeline's sales of excess gas and question the revenues realized from such sales. In CIG's case, the Commission finds that CIG's purchases and sales of gas for fuel are already appropriately reported and examined in the context of CIG's fuel tracker provision in section 1.30 of its GT&C. Further, CIG indicates in its transmittal letter that in the event it sells gas that it has acquired pursuant to Article 33.4 of its GT&C, it will credit the value of that gas to its shippers in its quarterly fuel tracker filings. However, it is not clear from CIG's tariff where the costs and revenues associated with other operational purchases and sales are accounted for, reported and evaluated. In Dominion, the Commission required the pipeline to revise its tariff to provide that revenues derived from the sale of gas will be credited to the pipeline's shippers.[18] Accordingly, CIG is required to file to revise its tariff to provide for the filing of an annual report on operational purchases and sales along with a revenue crediting plan. The report should indicate the source of the gas, date of the purchase/sale, volumes, purchase/sale price, costs and revenues from the purchase/sale, and the disposition of the costs and revenues.

Waiver of Section 284.286

16. Section 284.286 of the Commission's regulations provides that a pipeline must organize its unbundled sales and transportation operating employees so that they function independently of each other. CIG contends that Order No. 2004 does not require CIG to request waiver of section 284.286 of the Commission's regulations with regard to the purchase and sale of incidental gas. The Commission has determined that section 358.3(e)(3) of the Commission's regulations provides that "[m]arketing or sales does not include incidental purchases or sales of natural gas to operate interstate natural gas pipeline transmission facilities." Therefore, no waiver of section 284.286 of the Commission's regulations is necessary with regard to incidental purchases or sales of gas to operate interstate gas pipeline transmission facilities.

[17] See Dominion Transmission, Inc. 106 FERC ¶ 61,029, at 61,101 (2004).

[18] Id.

<u>The Commission orders</u>:

(A) The tariff sheets listed in Footnote 1 are accepted effective June 28, 2004, subject to the conditions of this order.

(B) CIG is directed to file revised tariff sheets within fifteen days of the date of this order, modifying its proposed tariff language as discussed above.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.