

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

ANR Pipeline Company

Docket No. RP04-201-002

ORDER INVITING COMMENTS

(Issued October 8, 2004)

1. On August 12, 2004, ANR Pipeline Company (ANR) and the Wisconsin Distributor Group (WDG)<sup>1</sup> requested rehearing of the Commission's July 13, 2004 Order which acted under section 5 of the Natural Gas Act to require ANR to prospectively establish a fuel tracker with a true-up mechanism.<sup>2</sup> The Commission found that ANR's tariff provisions concerning fuel use and lost and unaccounted (L&U) for gas were unjust and unreasonable because for 7 of the last 8 years ANR consistently over collected its fuel use volumes by approximately 32.1 Bcf for this period and was not required to refund such over collections to its customers. In fact, ANR reported that it had overcollected 4,521,002 Dth of fuel and L&U in 2002 and undercollected 970,848 Dth of fuel and L&U in 2003, resulting in a net overcollection of 3,550,154 Dth. The Commission concluded that this net overcollection represented approximately \$22.6 million for this two year period.

2. In their requests for rehearing, ANR and WDG argue, *inter alia*, that the existing fuel use mechanism benefits ANR's customers by giving ANR an incentive to reduce its fuel use. They point out that, because ANR's fuel recovery mechanism bases each year's fuel retention percentage on the average of fuel use on ANR's system during the preceding three years, ANR is able to retain a portion of any overrecoveries of fuel resulting from a downward trend in ANR's fuels use. On the other hand, they point out that ANR must absorb a portion of any underrecoveries if fuel use trends upward. WDG contends that this benefit to customers from the incentives built into the fuel recovery mechanism is shown by the fact that ANR's fuel consumption has declined from about

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<sup>1</sup> The WDG members in this proceeding are: Alliant Energy, Wisconsin Power & Light Company, City Gas Company, Madison Gas & Electric Company, Wisconsin Gas LLC, Wisconsin Electric Power Company and Wisconsin Public Service Corporation.

<sup>2</sup> *ANR Pipeline Company*, 108 FERC ¶ 61,050 (2004) (July 13, 2004 Order).

53-55 Bcf per year in 1996 and 1997 to about 33-36 Bcf per year in 2002 and 2003. ANR asserts that this reduction in fuel use has reduced customers fuel cost by over \$26.9 million in 2002 and 2003. ANR and WDG have each attached various charts and graphs to their rehearing request to support these conclusions.

3. In light of these contentions by ANR and WDG, including the new evidence in the charts and graphs attached to their rehearing requests, the Commission believes it would be helpful to give other intervenors in this case an opportunity to respond to the rehearing requests. Therefore, within fifteen days of the issuance of this order, parties are invited to file comments on the claims made by ANR and WDG that, *inter alia*, the existing fuel mechanism results in system benefits which offset the over collection of gas.

4. ANR is also required to file *pro forma* tariff sheets by October 12, 2004, in compliance with the July 13, 2004 Order, incorporating tariff language setting forth a fuel tracker with a true-up mechanism. WDG requested that the Commission act on the rehearing request by October 6 so that ANR would not have to make the compliance filing if the Commission granted rehearing. Since the Commission is seeking additional comments, the Commission will not act on the rehearing requests at this time. However, we see no reason to delay ANR's compliance obligation. The Commission does not ordinarily stay compliance requirements simply because rehearing is pending, and developing the required tariff language should not be unduly burdensome. Requiring ANR to file the *pro forma* tariff sheets will provide parties with the opportunity to review and comment on the proposed fuel tracker and true-up mechanism. After the responses to the requests for rehearing are evaluated, the Commission can contemporaneously act on both the requests for rehearing and ANR's *pro forma* tariff sheet.

5. Finally, on August 9, 2004, the Peoples Gas Light and Coke Company and North Shore Gas Company filed a motion to intervene out-of-time. They are customers of ANR and claim that, when this proceeding was initiated, there was no reason to think the filing would lead to a change until a recent contact was made by ANR seeking input from them in order to address the Commission's directives. In addition, on September 9, 2004, the Northern Indiana Public Service Company and Northern Indiana Fuel and Light Company also filed a motion to intervene out-of-time. They are firm shippers on ANR's system. They state they did not seek earlier intervention but because ANR has been contacting its customers at this stage in the proceeding for input about possible proposals for its fuel recovery mechanism they want to intervene now. They state they will accept the record that has been established to date so that no disruption will result. They argue that no prejudice to any party will result from granting their out-of-time intervention because ANR now seeks input from customers for any change that may take place to its fuel methodology.

6. Notice of a possible change to ANR's fuel recovery mechanism was given early in this proceeding, which was in the March 30, 2004 Order where we sought comment by the parties on whether ANR's methodology for determining fuel use and lost and unaccounted for percentages should be changed.<sup>3</sup> Therefore, good cause has not been shown to support the motion. Rather, contrary to the claims of the movants, granting late intervention at this stage of the proceeding may disrupt the proceeding or place additional burdens on existing parties. Accordingly, pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. §385.214), the motion to grant late intervention is denied.

The Commission orders:

(A) Within fifteen days of the issuance of this order, parties are invited to file comments on the claims made by ANR and WDG in their requests for rehearing.

(B) ANR is required to file *pro forma* tariff sheets by October 12, 2004 in compliance with the July 13, 2004 Order, incorporating tariff language setting forth a fuel tracker with a true-up mechanism.

(C) The motions to intervene out-of-time are denied.

By the Commission. Commissioner Kelly not participating.

( S E A L )

Linda Mitry,  
Acting Secretary.

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<sup>3</sup> See *ANR Pipeline Co.*, 106 FERC ¶ 61,328 at 62,290 (2004).