

134 FERC ¶ 61,203
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 16, 2011

In Reply Refer To:
Columbia Gas Transmission, LLC
Docket No. RP11-1775-000

Columbia Gas Transmission, LLC
5151 San Felipe, Suite 2500
Houston, TX 77056

Attention: James R. Downs, Vice President of Rates and Regulatory Affairs

Reference: Revised Tariff Record to Extend Service Agreements

Ladies and Gentlemen:

1. On February 14, 2011, Columbia Gas Transmission, LLC (Columbia) filed a revised tariff record¹ to revise section 4.1(b)(2) of the General Terms and Conditions (GT&C) of its FERC Gas Tariff, Fourth Revised Volume No. 1, to clarify that Columbia can mutually agree with a shipper to extend the term of any service agreement. Columbia proposes an effective date of March 16, 2011. For the reasons discussed below, the Commission accepts the revised tariff record.
2. Columbia states that, currently, section 4.1(b)(2) authorizes Columbia and its shippers to extend only long-term discounted, negotiated rate or recourse rate service agreements but not short-term agreements. Section 4.1(b)(2) reads as follows:

Prior to the expiration of the term of any *Recourse Rate, discounted rate or negotiated rate long-term* Service Agreement(s), Transporter and Shipper may mutually agree to renegotiate the terms of such agreement(s) in exchange for Shipper's agreement to extend the use of at least part of its existing service under such restructured Service Agreement(s) (*emphasis added*).

¹ Gen. Terms & Conditions, Auctions of Available Firm Service, 2.0.0 to Baseline Tariffs, FERC NGA Gas Tariff.

3. Columbia explains that, recently, it has received requests to extend both short-term service agreements and service agreements at market-based rates under Columbia's Rate Schedule FSS-M. Columbia states that the proposed revision will ensure that all shippers on Columbia's system have the same right to extend their service agreements. Therefore, to authorize the extension of short-term agreements, Columbia proposes to revise its section 4.1(b)(2) as follows:

Prior to the expiration of the term of *any Service Agreement(s)*,
Transporter and Shipper may mutually agree to renegotiate the terms of
such agreement(s).... (*Emphasis added*).

4. Public notice of Columbia's filing was issued on February 14, 2011. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.² Pursuant to Rule 214,³ all timely filed motions to intervene and any unopposed 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 existing parties. On February 28, 2011, comments were filed by Statoil Natural Gas LLC (Statoil). On March 2, 2011, Columbia filed an answer to the comments. Under Rule 213(a)(2) of the Commission's regulations, answers to comments and answers are prohibited unless otherwise ordered by the decisional authority.⁴ We will accept Columbia's answer because it provides information that will assist us in our decision-making process.

5. Statoil states that it is concerned that Columbia's proposal bypasses the bidding process for all transportation service agreements on its system, will tie up capacity that would otherwise be available, and prevent shippers who value the capacity more highly from accessing it. Statoil states that the Commission's open access policy generally requires pipelines to provide public notice of available capacity. Statoil states that the Commission previously has granted pipelines discretion to exercise their business judgment regarding the sale of their capacity. However, Statoil argues that exceptions to the Commission's open access policy typically have been for shippers who have committed, and thereby bound themselves, to the pipeline for extensive periods of time.

6. Given the nature of the revisions proposed by Columbia, in its answer, Columbia argues that Statoil's concern is unwarranted and inconsistent with prior Commission precedent. Columbia asserts that Statoil has not shown why the ability to extend short-

² 18 C.F.R. § 154.210 (2010).

³ 18 C.F.R. § 385.214 (2010).

⁴ 18 C.F.R. § 385.213(a)(2) (2010).

term service agreements poses any greater risk than a pipeline's ability to extend long-term service agreements. Columbia states, that, as Statoil correctly concedes, the Commission "has granted pipelines discretion to exercise their business judgment regarding the sale of their capacity."⁵ In particular, Columbia states that the Commission has recognized that this business judgment extends to decisions regarding whether or not to agree to an extension of a service agreement. Columbia states that, as the Commission's holding in *Texas Gas Transmission, LLC (Texas Gas)* makes clear,⁶ the Commission presumes that pipelines will always endeavor to obtain the highest rate possible for capacity, whether through an auction or through the extension of a service agreement. Moreover, Columbia states that nothing in *Texas Gas* limits the Commission's analysis to extensions of long-term service agreements. Therefore, Columbia states that there is no reason to believe that extensions of short-term service agreements will frustrate the Commission's goal of ensuring that capacity is awarded to the shipper that values it the most. Columbia states that, if it does not believe that a contract extension will result in a rate that represents market conditions, it can and will post that capacity for auction instead of agreeing to a contract extension.

7. Columbia states that its system has a robust capacity release market that provides shippers with ample opportunity to obtain short-term transportation service. Therefore, according to Columbia, shippers who want access to short-term capacity are not limited solely to unsubscribed capacity on Columbia. Accordingly, Columbia states that there is no reasonable basis for concluding that the ability to extend the short-term service agreements of shippers already on the system will impede access to pipeline capacity. Moreover, Columbia states that Statoil's concerns are adequately addressed by the provision in section 284.13(b) of the Commission's regulations that specifically requires pipelines to post "with respect to each contract, or *revision of a contract for service*" all pertinent information regarding the contract, including the duration of the contract.⁷

8. Columbia has adequately responded to the concerns raised by Statoil. As Columbia points out, the Commission has approved tariff provisions permitting pipelines to negotiate extensions of agreements, including modifications in existing contracts.⁸ We find no reason to limit this right to long-term agreements. Therefore, the Commission will permit Columbia and its shippers to extend the term of any existing service

⁵ Columbia Answer at 2 (*citing* Statoil Comments at 3).

⁶ *Texas Gas Transmission, LLC*, 125 FERC ¶ 61,095 (2008) (*citing Northern Natural Gas Company*, 115 FERC ¶ 61,270, at P 45 (2006); *Tennessee Gas Pipeline Co.*, 121 FERC ¶ 61,149 (2007)).

⁷ 18 C.F.R. § 284.13(b)(1)(v) (2010) (emphasis added).

⁸ *Northern Natural Gas Co.*, 118 FERC ¶ 61,053, at P 44 (2007).

agreement, including short-term service agreements. Statoil has not shown why giving Columbia and its shippers the right to extend short-term service agreements poses any greater risk than the ability to extend long-term service agreements, particularly given the fact that Columbia has a robust capacity release market. We believe that Columbia's proposal allows it to use its business judgment regarding the sale of its capacity so that if it determines that extending an agreement with an existing shipper gives it as much or more revenue as it could expect to obtain through marketing the capacity to third parties, it need not commit the capacity to a bidding process and may extend the contract. Mutual negotiations of contract extensions, whether short-term or long-term, are within the scope of what the Commission has found permissible.

9. Further, pursuant to section 284.13(b) of the Commission's regulations, Columbia will be required to post all pertinent information regarding contracts, including all revisions to the contracts. Thus, any agreement by Columbia to extend a service agreement (whether it is a short-term or long-term agreement) will be reflected in Columbia's transactional postings. These postings should ensure adequate transparency for all contract extensions, particularly given the fact that a shipper has the right to lodge a complaint with the Commission and argue against the propriety of any particular contract extension. Therefore, the Commission will accept the revised tariff.

By direction of the Commission.

Kimberly D. Bose,
Secretary.