171 FERC ¶ 61,179
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick, Bernard L. McNamee,
and James P. Danly.

Columbia Gulf Transmission, LLC — Docket No. RP20-858-000

ORDER ON TARIFF FILING

(Issued May 29, 2020)

1. On May 1, 2020, Columbia Gulf Transmission, LLC (Columbia Gulf) filed a revised tariff record[1] to modify the reservation charge crediting provisions set forth in section 40 of the General Terms and Conditions (GT&C) of its tariff. Specifically, Columbia Gulf proposes to change its methodology for calculating the volumes to which reservation charge credits (RCC) apply, and switch from the No-Profit method to the Safe Harbor method for determining when it must grant RCC. For the reasons discussed below, we accept the tariff record, effective June 1, 2020, as proposed.

Proposal

2. Columbia Gulf proposes to modify VII.40-General Terms & Conditions, Reservation Charge Credits (section 40) of its FERC Gas Tariff. Columbia Gulf's currently effective tariff sets forth the No-Profit method for calculating RCC. Under the No-Profit method, the pipeline provides RCC equal to the return on equity and income taxes portion of its rates starting on the first day of any *force majeure* event. Under the Safe Harbor method, the pipeline provides full credits to shippers after a short grace period, usually of 10 days or less. In the instant filing, Columbia Gulf proposes to change its method for assessing RCC to the Safe Harbor method.

3. To implement its change to the Safe Harbor method, Columbia Gulf proposes certain modifications to section 40 of its GT&C. Columbia Gulf's proposed modifications to section 40.2(a)(2) provide that, when Columbia Gulf is unable to schedule or deliver up to a shipper's eligible gas quantities, as determined in the proposed section 40.2(a)(2), for a period greater than 10 consecutive days due to a *force majeure* event, it will credit to shippers the full contract reservation rate applicable to the eligible

[1] Columbia Gulf Transmission, LLC, FERC NGA Gas Tariff, Columbia Gulf Tariffs, Gen. Terms and Conditions, Reservation Charge Credits, 5.0.0.

RCC volume not delivered by Columbia Gulf as calculated and discussed above for each day beyond 10 consecutive days that it is unable to provide service. Columbia Gulf's proposed revisions to sections 40.2(a)(2) and 40.2(b)(2)[2] reflect that on days when Columbia Gulf provides advance notice of an event that may result in the unavailability of service, the volume eligible for RCC will be equivalent to a shipper's average daily usage during the most recent seven days during which Columbia Gulf did not experience either a *force majeure* or non-*force majeure* event, prior to the notice date on its electronic bulletin board. Columbia Gulf states that eligible shipper volumes for RCC will continue to be based upon service from a shipper's primary receipt points to a shipper's primary delivery points. Columbia Gulf further states that the actual volumes for which RCC will be calculated will equal a shipper's seven-day average, less any quantity that the same shipper nominated and that Columbia Gulf scheduled and delivered. Columbia Gulf maintains that the proposed changes eliminate the need for shipper nominations to be confirmed in order to be eligible for RCC when Columbia Gulf has provided advance notice of a service interruption event.

4. Columbia Gulf states it is proposing that only firm service which is affected by either a *force majeure* or non-*force majeure* event shall be included in the daily usage utilized to calculate a shipper's seven-day historical average daily usage, for purposes of determining the volumes eligible for RCC. Columbia Gulf maintains that the revisions it is proposing to section 40 are consistent with Commission policy.[3] Specifically, Columbia Gulf asserts that the Commission has found it appropriate for a pipeline to calculate the RCC owed to shippers based on an appropriate historical average of usage as a substitute for the use of quantities nominated and/or confirmed for scheduling, when proper notification of the unavailability of service is provided during either *force majeure* or non-*force majeure* events.[4] Columbia Gulf argues that historical average usage is preferable to its current confirmable nomination methodology, because it reflects actual shipper utilization, provides certainty, and will effectively eliminate the inherent

[2] Section 40.2(a)(2) describes the volume to which RCC are eligible during a *force majeure* event, and section 40.2(b)(2) describes the volume to which RCC are eligible during a non-*force majeure* event.

[3] Columbia Gulf Transmittal Letter at 7 & n.22 (citing *Millennium Pipeline Co.*, 149 FERC ¶ 61,290 (2014)).

[4] Columbia Gulf Transmittal Letter at 5 (citing *Midwestern Gas Transmission Co*., 137 FERC ¶ 61,257, at P 22 (2011)).

difficulties with the confirmation of pooling nominations when determining eligible RCC quantities.[5]

5. Columbia Gulf states that the changes to section 40.2(a)(1) reflect the revisions proposed to the calculation of gas quantities eligible for RCC discussed above for non-*force majeure* events. Columbia Gulf states that the calculation of RCC during such events will be based upon a shipper's full contract reservation rate and will be applied to the eligible gas quantities as determined in the proposed section 40.2(a)(2), beginning with the first Gas Day of the non-*force majeure* event. Columbia Gulf asserts that these changes are consistent with the Commission's requirement for non-*force majeure* events.[6]

6. Columbia Gulf states that the same Safe Harbor RCC calculation methodology will be applied to recourse, discounted, and negotiated rate service agreements. Additionally, Columbia Gulf clarifies in sections 40.2(a)(1) and 40.2(b)(1) that volumes flowing under secondary service shall not be eligible for RCC under either a *force majeure* or non-*force majeure* event, respectively. Columbia Gulf states that its proposed tariff revisions that revises its RCC calculation methodology are consistent with the Safe Harbor method and with language previously approved by the Commission for other pipelines.[7]

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[5] Columbia Gulf states that with the proposed change to the use of a historical daily average usage volume to determine eligible RCC quantities, it is removing superfluous language in section 40, paragraph 1(a)(1), and all of paragraph 1(e).

[6] Columbia Gulf Transmittal Letter at 6 (citing *Millennium Pipeline Co.*, 149 FERC ¶ 61,290, at PP 8 & 17).

[7] Specifically, Columbia Gulf cites the following FERC Gas Tariffs: ANR Pipeline Company, Part 6.36.2, General Terms & Conditions, Reservation Charge Credits; Gas Transmission Northwest LLC, Part 5.1.3.9, Rate Schedule FTS-1, Reservation Charge Credit-Force Majeure Event; Great Lakes Gas Transmission Limited Partnership, Part 6.10.3(b), General Terms & Conditions, Force Majeure, Remedies, and Reservation Charge Credits; Northern Border Pipeline Company, Part 6.6.7(1), General Terms & Conditions, Reservation Charge Credits; and Portland Natural Gas Transmission System, Part 6.21.4(a), General Terms & Conditions, Liability and Remedies.

Notice and Responsive Pleadings

7. Public notice of the filing was issued on May 4, 2020. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.[8] Pursuant to Rule 214,[9] all timely filed unopposed 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 this proceeding or place additional burdens on existing parties. Timely adverse comments and/or protests were filed[10] by Joint Protesters[11] and Range Resources Appalachian – Appalachia, LLC (Range).

8. On May 22, 2020, Columbia Gulf filed an answer to the protests. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest unless otherwise ordered by the decisional authority.[12] The Commission will accept the instant answer because it provides information that will assist us in our decision-making process.

9. Joint Protestors and Range object to Columbia Gulf's proposal to eliminate RCC for volumes nominated from secondary points. In general, protestors argue that Columbia Gulf's proposed revisions to its RCC methodology will inhibit point flexibility by discouraging shippers from using pools and alternate receipt and delivery points on a secondary basis. Specifically, protestors contend that the proposed elimination of RCC for secondary receipt points will force shippers into choosing between using only primary firm receipt and delivery point combinations or losing out on RCC, but availing themselves of the Commission's secondary point policies. Furthermore, protestors maintain that shippers have invested considerable reliance on RCC for volumes nominated from secondary points. Protestors also assert this provision was agreed to in Columbia Gulf's previous rate settlement and claim that the elimination of RCC for volumes nominated from secondary points will disrupt the way many firm shippers have

[8] 18 C.F.R. § 154.210 (2019).

[9] 18 C.F.R. § 385.214 (2019).

[10] Direct Energy Business Marketing, LLC filed comments but later withdrew them on May 22, 2020.

[11] In this instant proceeding Joint Protesters refers to EQT Energy LLC, Spotlight Energy, LLC, and Tenaska Marketing Ventures.

[12] 18 C.F.R. § 385.213(a)(2) (2019).

historically conducted business on the Columbia Gulf system. Generally, protestors request that the Commission reject this element in Columbia Gulf's instant filing.

10. Joint Protestors and Range also take issue with Columbia Gulf's proposal to determine a shipper's RCC eligible volumes upon a seven-day usage history. Generally, protestors assert that the proposed revisions allow Columbia Gulf to control its RCC payment amounts by manipulating the notice process for service outages. Protestors allege this will eliminate Columbia Gulf's incentive to plan and manage service outages in an efficient manner. Furthermore, protestors contend that Columbia's proposal to use a seven-day historical average could disproportionally affect firm shippers that use capacity differently on a seasonal basis. Generally, protestors request that the Commission reject this element in Columbia Gulf's instant filing.

11. In its answer, Columbia Gulf argues that its proposal to not provide crediting to secondary transactions is consistent with Commission policy. Columbia Gulf argues that the protesters' reliance on the pipeline's application of RCC to secondary points in the past is misplaced. Columbia Gulf states that the previous arrangement was part of a settlement, but that the settlement has terminated and in any event there was no moratorium on the RCC clauses.[13] Columbia Gulf argues that the fact that the previous arrangement was just and reasonable is irrelevant so long as the instant proposal is just and reasonable. Regarding the proposed use of historical average data, Columbia Gulf states that its proposal has been misconstrued. Columbia Gulf states that it regularly posts its scheduled maintenance events well in advance, as part of its prudent efforts to limit the impact of maintenance on customers.[14]

Discussion

12. As discussed below, we accept the revised tariff record, effective June 1, 2020, as proposed. Commission policy requires that pipelines and shippers share the risk of certain service interruptions by providing RCC, but the Commission is flexible concerning the arrangement established by the pipeline to accommodate such risk. The Commission has approved two main methods, the "No-Profit" method, and the "Safe Harbor" method, but also allows "any other method provided it results in the same type of risk-sharing as the two approved methods do."[15] In this filing, Columbia Gulf is switching from the No-Profit method, which provides shippers a partial credit with no delay period, to the Safe Harbor method, which provides full credits after a delay period. No parties object to Columbia's choice of the Safe Harbor method. Rather, they object to

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[13] Columbia Gulf Answer at 5.

[14] *Id*. at 7.

[15] *Natural Gas Supply Assn*., *et al*., 135 FERC ¶ 61,055, at P 16 (2011).

the changes regarding how RCC are calculated, which we address below: the use of historical averages to calculate credits when Columbia Gulf provides advance notice of an outage, and the failure to include delivery to secondary points when calculating those credits.

13. Joint Protesters and Range raise objections to Columbia Gulf using historical average usage to determine crediting during an outage. The Commission's policy holds that, when the pipeline gives advance notice of an outage before shippers have submitted scheduling nominations for the day (or days) of an outage, it is reasonable for the pipeline to calculate the RCC based on an appropriate historical average of usage, such as the shipper's prior seven days utilization of firm capacity.[16] This policy recognizes that, when advance notice of an outage has been given, the shippers' scheduling nominations may not accurately reflect what they would have scheduled without advance knowledge that the scheduling nominations would not be accepted. We see no reason to find that Columbia Gulf may intentionally delay the posting of notices to manipulate credits in the manner described in the protests, as an artificially delayed response could harm the pipeline's ability to protect its own system. Accordingly, consistent with our policies, we find that Columbia Gulf's proposed use of historical averages of usage for nominations is reasonable in order to minimize the potential for gaming if shippers have advance knowledge that their nominations will not be accepted.[17] We find no unique circumstances present on Columbia Gulf that would prevent us from applying that general policy here.

14. Joint Protesters and Range also object that, in calculating credits, Columbia Gulf will not include nominations through secondary points. While pipelines are free to provide credits above and beyond our requirements, the Commission only requires RCC for primary firm service, not secondary firm service.[18] We will not require Columbia Gulf to include secondary points in its historical calculations here.

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[16] *Southern Natural Gas Co*., 135 FERC ¶ 61,056, at PP 33-34 (*Southern*), *order on reh'g*, 137 FERC ¶ 61,050 (2011).

[17] *Tennessee Gas Pipeline Co.*, 135 FERC ¶ 61,208 (2011), *order on reh'g and compliance*, 139 FERC ¶ 61,050, at P 92 (2012) (*Tennessee*).

[18] *Tennessee*, 139 FERC ¶ 61,050 at P 96; *Southern*, 135 FERC ¶ 61,056, at P 40.

<u>The Commission orders</u>:

For the reasons discussed above, we accept the tariff record as just and reasonable, effective June 1, 2020, as proposed.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.