

111 FERC ¶ 61,102
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Williston Basin Interstate Pipeline Company

Docket Nos. RP00-107-005 and
RP00-107-006

ORDER ON COMPLIANCE FILING AND MOTION FOR REFUNDS

(Issued April 19, 2005)

1. On June 14 and 15, 2004, Williston Basin Interstate Pipeline Company (Williston) filed revised tariff sheets and supporting data to comply with the Commission's May 11, 2004 Order.¹ No party filed a protest or a request to intervene. On February 1, 2005, the Montana Consumer Counsel and the South Dakota Public Utilities Commission (State Agencies) filed a motion requesting that the Commission direct the implementation of rate reductions and refunds by Williston. We find that the refund rates filed on the tariff sheets designated in Attachment A to this order satisfactorily comply with our orders in this proceeding and that Williston must make refunds for a past period. For the reasons discussed below, Williston is directed to file tariff sheets, effective the date of this order, containing the rates shown on Attachment B to this order. Because this order directs Williston to make refunds, the State Agencies' motion is dismissed as moot. This order benefits the public interest in that it sets forth just and reasonable rates on Williston's system calculated consistent with Commission policy and our findings in this proceeding.

Background

2. On July 3, 2003, the Commission issued an order on the Initial Decision in this proceeding and directed Williston to make a filing in compliance with that order².

¹ *Williston Basin Interstate Pipeline Company*, 107 FERC ¶ 61,164 (2004) (May 11 Order). The Commission designated Williston's instant compliance filing as Docket No. RP00-107-005 and the supplement as subdocket -006.

² *Williston Basin Interstate Pipeline Company*, 104 FERC ¶ 61,036 (2003) (July 3 Order). Williston's earlier compliance filing and request for rehearing were designated Docket Nos. RP00-107-003 and -004.

Thereafter, Williston filed to comply and sought rehearing of the July 3 Order. On May 11, 2004, the Commission issued its order on rehearing and compliance, rejecting the *pro forma* tariff sheets submitted by Williston, directing Williston to recalculate its cost of service underlying its rates to reflect the determinations made in the May 11 Order and to file revised tariff sheets based on such recalculation. The Commission also remanded certain issues regarding Williston's Rate Schedule X-13 for further proceedings.³

Instant Compliance Filing

3. On June 14, 2004, as supplemented on June 15, 2004, Williston submitted two volumes each containing proposed tariff sheets and work papers. Volume I contains revised tariff sheets and work papers reflecting Williston's calculation of refund rates proposed to be effective June 1, 2000. Volume II contains *pro forma* tariff sheets and work papers reflecting Williston's prospective rates. According to Williston the only difference between the rates in Volume I and those in Volume II is that Volume I rates utilize a discount rate design methodology previously allowed by the Commission and Volume II rates utilize the discount methodology prescribed by the Commission in our July 3 and May 11 Orders in the instant proceeding.

4. According to Williston, both volumes reflect the same cost-of-service based on our findings in the May 11 order and include a rate base reflecting our findings with regard to working capital, accumulated deferred income taxes, and the elimination of certain storage royalty payments. The cost-of-service reflects a rate of return on equity of 12.48 percent and composite depreciation rates of 5.01 percent, 2.38 percent, and 2.31 percent for gathering, storage and transmission plant, respectively. The depreciation expense also reflects negative salvage rates of 0.85 percent for storage and 0.21 percent for all transmission plant. Other cost-of-service items are reduced from those in Williston's original application including, but not limited to, *ad valorem* taxes, regulatory commission expenses, charitable donations and costs associated with Williston's new offices in Bismarck, North Dakota.

5. Williston also indicates that, except for Volume I and Volume II differences in quantities used in the discount methodologies, the contractual and throughput levels for gathering, storage, and transmission services are all based on our findings in the May 11 Order.

³ May 11 Order, 107 FERC ¶ 61,164 at Ordering Paragraph (C). Hearings are on-going on those issues remanded in Docket Nos. RP00-107-003 and -004.

6. With respect to discounted volumes, Williston submitted different discount methodologies and adjustments in the allocation of storage costs. Volume I reflects an iterative discount methodology wherein Williston used discounted Rate Schedule IS-1 capacity volumes in both the allocation of storage costs and in the design of storage rates for the refund period. According to Williston, this methodology is consistent with past Commission precedent. Volume II reflects an iterative discount methodology wherein unadjusted Rate Schedule IS-1 capacity volumes are used in the allocation of storage costs, while discounted Rate Schedule IS-1 capacity volumes are used in the design of storage rates. Williston states that this methodology is consistent with the Initial Decision as affirmed in the July 3 Order and Williston applies this change only in rate design on a prospective basis.

7. Williston also submitted separate discount calculations to reflect the inclusion of the GRI surcharge and the elimination of the GRI surcharge. Volume I reflects the calculation of discounts with the surcharges in the maximum rates for the Rate Schedule FT-1 reservation rate and the Rate Schedule IT-1 commodity rate for the refund period. Williston states that this method is consistent with the method allowed in its Docket No. RP92-236-000, *et al.* rate case. Volume II reflects the calculation of discounts excluding the GRI surcharges as required by the Initial Decision affirmed in the July 3 Order. Williston believes it must apply this change only on a prospective basis.

8. Williston made the instant filing without prejudice to its rights on rehearing and/or judicial review of any of the issues in this proceeding and matters currently pending. Williston also reserves its rights relative to any refunds and/or rebilling that may result from the final outcome of this proceeding.

Protests, Motions, and Notices of Intervention

9. Protests, motions or notices to intervene were due on Williston's compliance filing no later than June 26, 2004. No new notices or motions to intervene or protests were filed.

Discussion

10. We find that Williston's work papers reflect the cost-of-service approach found to be just and reasonable in this proceeding and that its refund rates shown on Appendix D of Volume I and the tariff sheets in Volume I are acceptable. As a result, Williston is hereby directed to make refunds to its customers based on the refund rates on its Volume I tariff sheets within 30 days of the date of this order. Such refunds will be for the period beginning June 1, 2000 and ending on the date of this order and shall include interest in accordance with section 154.501(d) of our regulations under the Natural Gas Act.

11. Our review of Volume II indicates that Williston has not developed its prospective rates in accordance with the discount methodology we found just and reasonable in our July 3 Order and again in our May 11 Order in this proceeding.

12. Williston discounts certain services and uses an iterative process to determine the maximum rate for such services based on discount-adjusted volumes. The method used by Williston and found in Volume II of its compliance filing does not reflect the characteristics of the methodology we discussed in our May 11 Order (May 11 Order at PP 84 – 94). For instance, under Williston’s iterative process, the maximum IS-1 rate starts at \$0.12185 per Dth and after four iterations settles at a lesser rate of \$0.05004 per Dkt⁴. Thus, using Williston’s methodology, the maximum rate decreases through successive iterations as the throughput volumes are reduced. This is contrary to what one would expect under the methodology we found just and reasonable in this proceeding. As we stated in the May 11 Order (P 84), using staff’s methodology, which we adopted, the iterative process results in an *increase* in the maximum rate with each iteration and the difference between the rate and the one that immediately preceded it becomes smaller and smaller until the computed rates converge. Consequently, it appears Williston’s discount methodology contained in Volume II of its compliance filing is flawed.

13. In addition, our review of Williston’s Schedule J-1(a) in Volume II shows that Williston has used discounted volumes for cost allocation purposes. For instance, the MDDQ for FT-1 service that we found to be just and reasonable in our orders is 317,826 Mdth yet Schedule J-1(a) uses a reduced level for FT-1 MDDQ in the allocation process. Also, on Schedule J-1(b) Williston develops allocation factors to allocate storage costs to transportation services based on reduced volume levels at each step in the iterative process. Thus it appears that Williston has reallocated costs at each step contrary to our orders in this proceeding.

14. There is other evidence that the iterative process used by Williston is flawed. For instance, on Schedule J-2 Williston presents its first iteration step and shows an allocation of storage costs to transportation service of approximately \$26 million. However, the total storage cost of service found reasonable in our orders in this proceeding and reflected elsewhere in Williston’s work papers is approximately \$13 million. These types of anomalies provide no confidence regarding the accuracy of Williston’s work papers that underlie its prospective rates.

⁴ Neither Williston’s work papers nor its filing reveal the origin of the \$0.12185 rate, the first iteration of the maximum IS-1 rate, located on Schedule J-1(e) and used as the basis of Williston’s iterative process. The \$0.05004 rate is located in Schedule J-2(b) of Volume II.

15. As a consequence, we have designed rates for Williston using the discounting methodology we found to be just and reasonable in this proceeding. Those rates appear in Attachment B to this order.

The Commission orders:

(A) The tariff sheets filed by Williston as part Volume I and identified in Attachment A to this order are accepted to be effective on the dates indicated thereon.

(B) Williston is directed to file revised tariff sheets, within 30 days of the date this order, reflecting the rates set forth on Attachment B to this order to become effective on the date this order issues .

(C) Williston is directed to make refunds within 30 days of the date this order issues, and file a report of refunds within 30 days of the date refunds are disbursed to its customers, as discussed in the body of this order.

(D) The motion filed by State Agencies is dismissed as moot.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

**Williston Basin Interstate Pipeline Co.
Docket Nos. RP00-107-005 and -006**

FERC Gas Tariff, Second Revised Volume No. 1

Tariff sheets containing refund rates:

Revised Tariff Sheets Effective June 1, 2000:

2nd Sub 35th Revised Sheet No. 15
2nd Sub 17th Revised Sheet No. 15A
2nd Sub 38th Revised Sheet No. 16
2nd Sub 17th Revised Sheet No. 16A
2nd Sub 34th Revised Sheet No. 18
2nd Sub 17th Revised Sheet No. 18A
2nd Sub 17th Revised Sheet No. 19

Revised Tariff Sheets Effective August 1, 2000:

Sub 38th Revised Sheet No. 15
Sub 19th Revised Sheet No. 15A
Sub 40th Revised Sheet No. 16
Sub 19th Revised Sheet No. 16A
Sub 37th Revised Sheet No. 18
Sub 19th Revised Sheet No. 18A
Sub 19th Revised Sheet No. 19

Revised Tariff Sheets Effective January 1, 2001:

Sub 39th Revised Sheet No. 15
Sub 20th Revised Sheet No. 15A
Sub 41st Revised Sheet No. 16
Sub 20th Revised Sheet No. 16A
Sub 38th Revised Sheet No. 18
Sub 20th Revised Sheet No. 18A

Revised Tariff Sheets Effective January 1, 2001 (cont):

Sub 20th Revised Sheet No. 19

Revised Tariff Sheets Effective February 1, 2001:

Sub 40th Revised Sheet No. 15
Sub 21st Revised Sheet No. 15A
Sub 42nd Revised Sheet No. 16
Sub 21st Revised Sheet No. 16A
Sub 39th Revised Sheet No. 18
Sub 21st Revised Sheet No. 18A
Sub 21st Revised Sheet No. 19

Revised Tariff Sheets Effective May 1, 2001:

Sub 36th Revised Sheet No. 21

Revised Tariff Sheets Effective July 1, 2001:

Sub 41st Revised Sheet No. 15
Sub 40th Revised Sheet No. 18

Revised Tariff Sheets Effective August 1, 2001:

Sub 42nd Revised Sheet No. 15
Sub 22nd Revised Sheet No. 15A
Sub 43rd Revised Sheet No. 16
Sub 22nd Revised Sheet No. 16A
Sub 41st Revised Sheet No. 18
Sub 22nd Revised Sheet No. 18A
Sub 22nd Revised Sheet No. 19
Sub 37th Revised Sheet No. 21

Revised Tariff Sheets Effective October 1, 2001:

Sub 43rd Revised Sheet No. 15
Sub 44th Revised Sheet No. 16
Sub 42nd Revised Sheet No. 18
Sub 38th Revised Sheet No. 21

Revised Tariff Sheets Effective January 1, 2002:

Sub 44th Revised Sheet No. 15
Sub 45th Revised Sheet No. 16
Sub 43rd Revised Sheet No. 18
Sub 39th Revised Sheet No. 21

Revised Tariff Sheets Effective January 23, 2002:

1st Sub 39th Revised Sheet No. 21

Revised Tariff Sheets Effective February 1, 2002:

Sub 46th Revised Sheet No. 15
Sub 23rd Revised Sheet No. 15A
Sub 46th Revised Sheet No. 16
Sub 23rd Revised Sheet No. 16A
Sub 44th Revised Sheet No. 18
Sub 23rd Revised Sheet No. 18A
Sub 23rd Revised Sheet No. 19
2nd Sub 40th Revised Sheet No. 21

Revised Tariff Sheets Effective August 1, 2002:

Sub 47th Revised Sheet No. 15
Sub 24th Revised Sheet No. 15A
Sub 47th Revised Sheet No. 16
Sub 24th Revised Sheet No. 16A

Revised Tariff Sheets Effective August 1, 2000 (cont):

Sub 45th Revised Sheet No. 18
Sub 24th Revised Sheet No. 18A
Sub 24th Revised Sheet No. 19

Revised Tariff Sheets Effective January 1, 2003:

Sub 48th Revised Sheet No. 15
Sub 48th Revised Sheet No. 16
Sub 46th Revised Sheet No. 18

Revised Tariff Sheets Effective February 1, 2003:

Sub 49th Revised Sheet No. 15
Sub 25th Revised Sheet No. 15A
Sub 49th Revised Sheet No. 16
Sub 25th Revised Sheet No. 16A
Sub 47th Revised Sheet No. 18
Sub 25th Revised Sheet No. 18A
Sub 25th Revised Sheet No. 19

Revised Tariff Sheets Effective August 1, 2003:

Sub 52nd Revised Sheet No. 15
Sub 28th Revised Sheet No. 15A
Sub 52nd Revised Sheet No. 16
Sub 28th Revised Sheet No. 16A
Sub 50th Revised Sheet No. 18
Sub 28th Revised Sheet No. 18A
Sub 28th Revised Sheet No. 19

Revised Tariff Sheets Effective October 1, 2003:

Sub 53rd Revised Sheet No. 15
Sub 29th Revised Sheet No. 15A
Sub 53rd Revised Sheet No. 16
Sub 29th Revised Sheet No. 16A
Sub 51st Revised Sheet No. 18
Sub 29th Revised Sheet No. 18A
Sub 29th Revised Sheet No. 19

Revised Tariff Sheets Effective April 1, 2004:

Sub 54th Revised Sheet No. 15
Sub 30th Revised Sheet No. 15A
Sub 54th Revised Sheet No. 16
Sub 30th Revised Sheet No. 16A
Sub 52nd Revised Sheet No. 18
Sub 30th Revised Sheet No. 18A
Sub 30th Revised Sheet No. 19

**Williston Basin Interstate Pipeline Co.
Docket Nos. RP00-107-005 and -006**

FERC Gas Tariff, Second Revised Volume No. 1

Rates to be Effective on a Prospective Basis

<u>Rate Schedule</u>	<u>Unit</u>	<u>Base Tariff Rate (\$/Dkt)</u>
Rate Schedule FT-1		
Reservation Charge		
MDDQ – Maximum	Rate per Eqv. Dkt per Mo.	7.37928
MDDQ – Minimum	Rate per Eqv. Dkt per Mo.	7.37928
Commodity Charge – Max	Rate per Dkt	0.03120
Commodity Charge – Min	Rate per Dkt	0.03120
Scheduled Overrun Charge – Max	Rate per Dkt	0.30884
Scheduled Overrun Charge – Min	Rate per Dkt	0.03120
Firm Gathering Charge		
MDDQ – Max	Rate per Eqv. Dkt per Mo.	12.29809
MDDQ – Min	Rate per Eqv. Dkt per Mo.	0.00000
Commodity – Max	Rate per Dkt	0.01384
Commodity – Min	Rate per Dkt	0.01384
Interruptible Gathering Charge		
Maximum	Rate per Dkt	0.43807
Minimum	Rate per Dkt	0.01384

<u>Rate Schedule</u>	<u>Unit</u>	<u>Base Tariff Rate (\$/Dkt)</u>
Rate Schedule FTN-1		
Reservation Charge		
MDDQ – Max	Rate per Eqv. Dkt per Mo.	0.47491
MDDQ – Min	Rate per Eqv. Dkt per Mo.	0.01589
Rate Schedule IT-1		
Commodity Charge		
Maximum	Rate per Dkt	0.30884
Minimum	Rate per Dkt	0.03120
Scheduled Overrun Charge		
Maximum	Rate per Dkt	0.30884
Minimum	Rate per Dkt	0.03120
Firm Gathering Charge		
Maximum	Rate per Dkt	12.29809
Minimum	Rate per Dkt	0.00000
Commodity Gathering Charge		
Maximum	Rate per Dkt	0.01384
Minimum	Rate per Dkt	0.01384
Interruptible Gathering Charge		
Maximum	Rate per Dkt	0.43807
Minimum	Rate per Dkt	0.01384

<u>Rate Schedule</u>	<u>Unit</u>	<u>Base Tariff Rate (\$/Dkt)</u>
Rate Schedule FS-1		
Capacity Reservation		
Maximum	Rate per Eqv. Dkt per Mo.	0.02102
Minimum	Rate per Eqv. Dkt per Mo.	0.00000
Capacity Deliverability		
Maximum	Rate per Eqv. Dkt per Mo.	1.90602
Minimum	Rate per Eqv. Dkt per Mo.	0.00000
Injection		
Maximum	Rate per Dkt	0.00888
Minimum	Rate per Dkt	0.00888
Withdrawal		
Maximum	Rate per Dkt	0.00888
Minimum	Rate per Dkt	0.00888
Scheduled Overrun Charge		
Injection – Max	Rate per Dkt	0.23920
Injection – Min	Rate per Dkt	0.00888
Scheduled Overrun Charge		
Withdrawal – Max	Rate per Dkt	0.23920
Withdrawal – Min	Rate per Dkt	0.00888
Rate Schedule IS-1		
Capacity		
Maximum	Rate per Dkt per Mo.	0.05003
Minimum	Rate per Dkt per Mo.	0.00000
Injection		
Maximum	Rate per Dkt	0.00888

<u>Rate Schedule</u>	<u>Unit</u>	<u>Base Tariff Rate (\$/Dkt)</u>
Rate Schedule IS-1 (cont)		
Injection		
Minimum	Rate per Dkt	0.00888
Withdrawal		
Maximum	Rate per Dkt	0.06896
Minimum	Rate per Dkt	0.00888
Scheduled Overrun Charge		
Injection – Max	Rate per Dkt	0.00888
Injection – Min	Rate per Dkt	0.00888
Withdrawal – Max	Rate per Dkt	0.06896
Withdrawal – Min	Rate per Dkt	0.00888
Rate Schedule PAL-1		
Commodity Charge		
Maximum	Rate per Dkt	0.30884
Minimum	Rate per Dkt	0.03120