

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Colorado Interstate Gas Company

Docket No. RP05-618-002

ORDER ACCEPTING COMPLIANCE FILING

(Issued June 15, 2006)

1. On April 26, 2006, Colorado Interstate Gas Company (CIG) filed a tariff sheet¹ to comply with the Commission's March 27, 2006 Order, which required CIG to file actual tariff sheets to establish a true-up mechanism for over- or under-reimbursement of fuel costs under its existing tariff provisions. CIG requests a June 1, 2006 effective date for the true-up provisions which provide that the first true-up data collection period for non-storage fuel usage shall commence July 1, 2006. In addition, CIG requests further authorization to initiate a twelve-month true-up data collection period to take effect on January 1, 2006, for storage fuel gas usage.
2. The Commission will accept CIG's tariff filing effective June 1, 2006, and allow the commencement date of July 1, 2006 for the true-up data collection period applicable to non-storage fuel usage, and a commencement date of January 1, 2006 for the data collection period for storage fuel usage. The Commission also accepts CIG's proposal to implement the true-up adjustment on October 1 of each year, as consistent with CIG's historical fuel reimbursement calculation practices.

Background

3. On August 31, 2005, CIG filed a revised tariff sheet² to implement a quarterly adjustment to its lost and unaccounted-for (L&U) and other fuel gas reimbursement

¹ Original Sheet No. 380K to FERC Gas Tariff, First Revised Volume No.1.

² Thirty-Eighth Revised Sheet No. 11A to FERC Gas Tariff, First Revised Volume No.1.

percentage, the annual transportation fuel gas percentage, and the annual storage fuel gas percentage pursuant to section 1.30 of the General Terms and Conditions (GT&C) of its tariff. On September 30, 2005, the Commission accepted the quarterly adjustment, effective October 1, 2005, but required CIG either to file *pro forma* tariff sheets establishing a fuel true-up mechanism or show why it should not be required to do so.³

4. On November 23, 2005, CIG filed *pro forma* tariff sheets to add a true-up feature to its Fuel and Lost and Unaccounted (L&U) and Other Fuel Gas reimbursement mechanisms, as well as multiple other changes to its tariff. Because the other changes in the *pro forma* tariff sheets went beyond those required by the September 30, 2005 Order, the Commission rejected the *pro forma* filing and directed CIG to refile actual tariff sheets to provide a mechanism to true-up over- and under-reimbursements from shippers under CIG's existing fuel gas tracking provisions, without making any other changes to the existing provisions.⁴

April 26 Compliance Filing

5. CIG states that the instant filing is in compliance with the March 27 Order, and reflects the addition of true-up features to its Fuel and L&U and Other Fuel Gas reimbursement mechanisms.

6. CIG states that the proposed addition of the true-up features provides that the reimbursement quantity for each component now reflected in its approved Fuel and L&U and Other Fuel Gas tariff mechanism (including compressor fuel usage and retention of all types, miscellaneous fuel uses, and variable processing shrinkage and related liquid revenues used to calculate the Fuel Gas and Lost and Unaccounted for and Other Fuel Gas percentages) will now be compared against actual activity for all relevant elements to quantify the over- or under-recovery of Fuel and L&U. CIG further states that it will report in its annual filings the volumetric impact on the system of gas over- or under-recovery and adjust the annually updated reimbursement percentages accordingly. In short, the Fuel & L&U reimbursement percentages will be adjusted for volumetric over- or under-collections during prior periods.

7. In addition to the prospective reimbursement percentage, CIG will compute an unrecovered fuel gas cost, stated as a positive or negative reimbursement percentage, and will charge or refund to shippers the amount of the over- or under-recovered fuel costs.

³ *Colorado Interstate Gas Co.*, 112 FERC ¶ 61,356 (2005).

⁴ *Colorado Interstate Gas Co.*, 114 FERC ¶ 61,312 (2006).

CIG states that it will maintain a deferral account, including any necessary sub-accounts, to track the over- and under-collection of all Fuel and L&U for gas related to transportation, compression and storage services. CIG states that it will include these over- or under-recoveries in the projected requirements for the coming year.

8. CIG states that in the filing to be effective October 1, 2007 and in subsequent annual filings, its customers and the Commission will be able to review all data and computations relevant to that filing and the implementation of the true-up feature at that time.

9. Since the proposed revisions to its tariff will be implemented prospectively, CIG requests that the Commission's order regarding the instant filing permit a June 1, 2006 effective date for the true-up feature with the first true-up data collection period (for non-storage fuel) beginning no later than July 1, 2006. CIG states that this would permit it to collect twelve months of data for true-up adjustments in its annual fuel and L&U filing effective October 1, 2007. However, CIG requests a different data collection period for storage fuel.

10. CIG explains that since its Storage Fuel Gas reimbursement percentage is based on a rolling three-year accumulation of calendar year data, its annual filing effective October 1, 2007 will use 2004, 2005, and 2006 historical information to set the storage fuel recovery percentage. CIG requests authorization to initiate a twelve-month true-up data collection period to take effect on January 1, 2006 consistent with CIG's existing fuel reimbursement mechanism. To implement the storage true-up provision, CIG states that it will adjust the Storage Fuel Gas percentage (based on the rolling three-year average) for any volumetric over- or under-collection of gas during each twelve-month collection period.

Public Notice, Interventions and Protests

11. Public notice of CIG's compliance filing was published in the *Federal Register*, 71 FR 26939 (May 9, 2006), with comments, interventions and protests as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2005)), all timely-filed motions to intervene and any motions to intervene out-of-time before the issuance date of this order are granted. Indicated Shippers filed a protest. CIG filed an answer to Indicated Shippers' protest. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), prohibits an answer to protests, unless otherwise permitted by the decisional authority. The Commission finds good cause to accept CIG's answer.

Indicated Shippers' Protest

12. Indicated Shippers argue that the True-up Data period should begin October 1, 2005, and challenge CIG's proposed True-up Data period for transportation fuel that begins no later than July 1, 2006. Indicated Shippers argue that CIG submitted its compliance filing pursuant to section 4 (and not section 5) of the Natural Gas Act (NGA), and that the Commission in the September 30, 2005 Order told CIG that it must either show cause why it should not be required to file pro forma tariff sheets establishing a fuel true-up mechanism or to make such a *pro forma* filing. Thus, Indicated Shippers claim both CIG and shippers were on notice on September 30, 2005 that the Commission would require CIG to adopt a true-up mechanism. Subsequently, Indicated Shippers assert that to reflect the monthly nature of the fuel data, the effective date of the true-up Data Period should be no later than the first day of the next month, October 1, 2005.

13. Indicated Shippers also state that an October 1 implementation date is fully consistent with the policies underlying the ban on retroactive rates. Accordingly, Indicated Shippers assert that implementation of the True-up Data period as of that date is consistent with this notice.

14. Indicated Shippers have provided a workpaper attached as Appendix A to its protest which they allege shows that CIG has regularly and substantially over-recovered its fuel costs. Indicated Shippers further state that during the period from 1999 through 2003, CIG has over-recovered 11,757,436 Dth.⁵ Furthermore, Indicated Shippers assert that there is a significant risk that these over-recoveries have continued; consequently, they argue it is essential that CIG implement the true-up as soon as feasible. Indicated Shippers assert that if CIG is under-recovering fuel costs for the period beginning October 2006, an October 2006 initiation of the True-up Data Period will allow CIG to reflect these under-recoveries in the true-up filing. Also, Indicated Shippers state that delaying the effective date of the true-up mechanism would essentially reward CIG for submitting a flawed true-up proposal in its initial compliance filing in November 2005.

15. Indicated Shippers argue that even if CIG's compliance filing was made pursuant to NGA section 5, an October 2005 commencement date for the True-up Data period would still be justified. Indicated Shippers state that when a Commission directive involves the revision of a specific rate, the effective date is either the date of the

⁵ Indicated Shippers state that they relied on CIG's Form 2 data in calculating the fuel over-recovery. Indicated Shippers state that they were unable to access the CIG Form 2 which covers the year 2004.

Commission's directive or the date when the Commission accepts a compliance filing by the pipeline to implement the directive.

16. Indicated Shippers state that CIG's practice of making regular retroactive adjustments to its fuel rate underscores that it is appropriate to implement the True-Up Data Period as of October 1, 2005. Indicated Shippers state that CIG explained that the retroactive adjustments were needed to ensure that the tracker properly reflected CIG's fuel costs. Indicated Shippers further state that the Commission has approved these retroactive adjustments, even though these adjustments violated the time parameters in CIG's fuel trackers. Indicated Shippers also state that the retroactive adjustments were needed to ensure that the fuel tracker accurately reflected the pipeline's fuel costs and reimbursements.

17. Indicated Shippers assert that they are not asking the Commission to implement the True-up Data Period retroactively, that is, prior to the issuance of the order, nor are they asking the Commission to violate the terms of CIG's tariff. Indicated Shippers argue that they are simply asking the Commission to adopt an October 2005 True-up Data Period commencement date to ensure that the true-up immediately ensures against over- or under-recoveries of fuel costs. Indicated Shippers also ask that if the Commission decides that an October 2005 True-up Data Period commencement date is improper, then the Commission should approve a December 2005 True-up Data Period commencement date because this date is the first full month after CIG submitted its original *pro forma* compliance filing.

18. Indicated Shippers also propose that the true-up adjustment should reflect data from the prior calendar year. CIG proposes to implement the true-up adjustment on October 1 of each year, at the same time as its October fuel adjustment. Indicated Shippers state that the Commission already requires calendar year data for numerous types of pipeline filings, including Form 2. To permit comparison with Form 2 data, Indicated Shippers urge that a uniform annual reporting period be adopted. Indicated Shippers assert that CIG already submits a quarterly fuel filing by March 1 of each year to go into effect the following April 1, based on the prior calendar year data for L&U and Other Fuel. Thus, Indicated Shippers state the true-up adjustment could be implemented as part of the March quarterly filing.

CIG's Answer

19. On May 19, 2006, CIG submitted a response to Indicated Shippers' protest. Specifically, CIG asserts that Indicated Shippers' proposals would constitute retroactive ratemaking if the effective date preceded the approval of a compliance filing by the Commission. CIG also argues that changing the period of months to be used as a base for the data used in the true-up adjustments to a calendar year period would be disruptive and

contrary to a long standing practice of using the 12-month data period commencing July 1 each year for non-storage fuel adjustments.

20. CIG argues that before a true-up mechanism can become effective pursuant to NGA section 5, the Commission must not only find that the existing fuel tariff was unjust and unreasonable, but must also find that a specific true-up mechanism is just and reasonable. This can only take place if the instant compliance filing is approved and a prospective effective date set by the Commission.

21. CIG further argues that it made a good faith effort to comply with the September 30, 2005 Order when it filed the *pro forma* tariff sheets, and that there is no proof, but only speculation based on outdated information, that CIG has overrecovered fuel since September 2005.

22. CIG argues that Indicated Shippers' proposal to reset the true-up data period as a calendar year should be rejected. CIG explains it has used the period beginning October 1 as an effective date for each annual cycle of fuel adjustments, as that is the beginning of the winter heating season and has been accepted by the Commission for many years, since the Purchased Gas Adjustment era.

Discussion

23. In the order issued September 30, 2005, the Commission found that CIG's existing tariff mechanism for the recovery of fuel costs is inconsistent with the policy established in *ANR*⁶ requiring that trackers include a true-up mechanism. Therefore, the Commission, pursuant to NGA section 5, required CIG to develop a true-up mechanism to be applied on a prospective basis which accounts for the over- and under-recovery of fuel gas.⁷ CIG was directed to show why it should not be required to file *pro forma* tariff sheets establishing a fuel true-up mechanism so that all parties and the Commission can review CIG's proposed mechanism to determine if it conforms to Commission policy. The Commission did not fix or establish the true-up mechanism's parameters in the September 30, 2005 Order. In the order of March 27, 2006, the Commission found that CIG had proposed changes broader than the scope of the compliance directive of the September 30, 2005 Order. The Commission rejected the *pro forma* tariff sheets and directed CIG to refile actual sheets to include only a mechanism that trues-up over- and under-reimbursements from shippers under current tracking provisions in CIG's existing

⁶ *ANR Pipeline Co.*, 110 FERC ¶ 61,069 at 61,339 (2005).

⁷ *Colorado Interstate Gas Co.*, 112 FERC ¶ 61,356 at P 11.

tariff, and no more.⁸ CIG has now made a compliance filing consistent with the requirement that the true-up mechanism be applied to CIG's existing tariff provisions without changing the existing provisions, and it is therefore accepted. The only remaining issues are those raised by Indicated Shippers, namely, the effective date of the true-up tariff provision, and the appropriate time period for the data collection to be used for each true-up.

24. CIG states that since the proposed tariff revisions implementing the true-up mechanism will be implemented prospectively, effective June 1, 2006, it requests a True-Up Data period for transportation fuel that begins no later than July 1, 2006, which would permit CIG to collect twelve months of data for true-up adjustments in its annual fuel and L&U filing effective on October 1, 2007, and would be consistent with its existing fuel adjustment cycle. Based in part on the theory that CIG's compliance filings were made pursuant to NGA section 4, Indicated Shippers argue that the True-Up Data period should begin October 1, 2005. We find that a true-up data period beginning July 1, 2006 is appropriate because our prior orders directing that a true-up mechanism must be added to CIG's tariff were actions pursuant to NGA section 5. As such, the new true-up provision can become effective only upon a determination by the Commission that it is just and reasonable. Having now concluded that the proposed true-up mechanism is just and reasonable, we may specify a date on which it is to be effective on a prospective basis. The earlier of the date proposed or the date of issuance of this order is the soonest the mechanism can be placed in effect.⁹ CIG has requested a June 1, 2006 effective date for the tariff provisions, which include a July 1, 2006 date for commencement of the non-storage fuel True-Up Data period, which date is consistent with the historical operation of CIG's fuel adjustment provision. Since the Commission's intention was to apply the new true-up mechanism to CIG's existing fuel adjustment provisions, the effective date, and data collection commencement dates proposed by CIG are accepted.

25. Indicated Shippers' proposal that the effective date of the new true-up mechanism should be October or December 2005 is rejected. Although the September 30, 2005 Order provided notice that a true-up of fuel recoveries would be required, until a specific true-up mechanism was submitted and approved, the requirements of NGA section 5 -- that the Commission fix the new just and reasonable mechanism -- had not been fulfilled.

26. The Commission has considered Indicated Shippers' request that CIG's true-up adjustment should reflect data from the prior calendar year, rather than the non-calendar

⁸ *Colorado Interstate Gas Co.*, 114 FERC ¶ 61,312 at P 20.

⁹ *See Enbridge Pipelines (KPC)*, 102 FERC ¶ 61,304 (2003).

twelve months that CIG historically uses. CIG has explained that it has historically tracked gas cost/revenue data using an October-September fiscal year and that it now makes quarterly filings detailing Form 2 type data, so Indicated Shippers can compute fiscal year data for comparison purposes. Additionally, CIG's tracker filings must contain all of the data necessary for the purposes of validating proposed fuel charges, as required by the Commission's regulations, 18 C.F.R. § 154.403 (2005). Moreover, as the Commission always intended the true-up mechanism to apply to CIG's existing fuel provisions and practices without other changes, it is reasonable to preserve CIG's non-calendar year data collection period for the non-storage fuel reimbursement.

27. Finally, the Commission will also grant CIG's request to initiate a twelve-month true-up data collection period to take effect on January 1, 2006, consistent with CIG's existing storage fuel reimbursement mechanism. This approach also appears consistent with CIG's historical methodology for determining its Storage Fuel Gas reimbursement percentages.

The Commission orders:

The Commission accepts CIG's compliance tariff sheet referenced in footnote 1, to be effective June 1, 2006.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.