

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

In re Columbia Gulf Transmission Company

Docket No. IN07-25-000

ORDER APPROVING STIPULATION AND CONSENT AGREEMENT

(Issued May 21, 2007)

1. The Commission approves the attached Stipulation and Consent Agreement (Agreement) between the Office of Enforcement (Enforcement) and Columbia Gulf Transmission Company (Columbia Gulf). This Order resolves a formal investigation pursuant to section 1b.5 of the Commission's regulations, 18 C.F.R. §1b.5 (2006), directed by the Commission on July 20, 2006,¹ into the issue of whether Columbia Gulf's actions have violated and/or are continuing to violate the Commission's orders in Docket Nos. RP04-215-000, *et. al.* The Agreement requires Columbia Gulf to pay a civil penalty of \$2 million. We approve the Agreement as appropriate under the circumstances and in the public interest.

Background

2. Columbia Gulf and Tennessee Gas Pipeline Company (Tennessee) are joint owners of the Blue Water Project (BWP) in Louisiana and, since 1972, have operated the Blue Water Project under the terms of the Blue Water Project Operating Agreement (BWOA). Under the BWOA, Columbia Gulf operates the western portion of the BWP, including the terminus facilities at the Egan, Louisiana complex. On October 6, 2003, Tennessee served notice to Columbia Gulf of Tennessee's intent to install a receipt interconnection at the Egan complex. Columbia Gulf declined to permit the interconnection, and Tennessee filed a complaint on March 12, 2004, asking the

¹ *Tennessee Gas Pipeline Company v. Columbia Gulf Transmission Company*, 116 FERC ¶ 61,065 (2006) (July 20, 2006 Order).

Commission to direct Columbia Gulf to allow installation of a receipt interconnection at Egan.²

3. Following a hearing, an Administrative Law Judge (ALJ) ruled that Tennessee's interconnection should be allowed.³ The Commission affirmed the ALJ's decision on July 25, 2005, and directed Columbia Gulf "to allow the construction and operation of the receipt point requested at Egan, Louisiana, by Tennessee, as soon as operationally possible."⁴ Columbia Gulf sought rehearing, clarification and a stay of the Commission's order. On November 22, 2005, the Commission denied Columbia Gulf's request for rehearing and stay in its entirety.⁵ Regarding Columbia Gulf's request for clarification that it, and not Tennessee, would operate the new receipt meter at Egan, however, the Commission noted that either Columbia Gulf or Tennessee can select a new receipt point location on the BWP without restriction, that Tennessee had selected a location outside of the Egan complex operated by Columbia Gulf, and stated that the Commission "confirms that the July 25 Order, which construes the Operating Agreement as allowing the remedy sought by Tennessee, made no modifications to the Operating Agreement." *Id.* at P 54.

4. Although Columbia Gulf recognized that Tennessee was permitted to construct the interconnection facilities, Columbia Gulf interpreted the Commission's November 22, 2005 Order as granting the clarification on the question of which company would operate the interconnection. Thereafter, through a series of letters with Tennessee beginning in January 2006, Columbia Gulf senior management told Tennessee that Columbia Gulf would both *construct* and operate all of the facilities in Tennessee's proposed interconnection and that Tennessee would have to enter into a separate interconnection agreement. On March 31, 2006, Tennessee filed a request for a declaratory order, asserting that it is entitled to construct and operate the interconnection, that Columbia

² Docket No. RP04-215-000.

³ *Tennessee Gas Pipeline Company v. Columbia Gulf Transmission Company*, 110 FERC ¶ 63,041 (2005).

⁴ *Tennessee Gas Pipeline Company v. Columbia Gulf Transmission Company*, 112 FERC ¶ 61,118 at Ordering Paragraph (A) (2005) (July 25, 2005 Order).

⁵ *Tennessee Gas Pipeline Company v. Columbia Gulf Transmission Company*, 113 FERC ¶ 61,200 (2005) (November 22, 2005 Order).

Gulf must provide taps for Tennessee's interconnection facilities, and that no separate interconnection agreement can be required.⁶

5. On July 20, 2006, the Commission granted Tennessee's request for a Declaratory Order, finding that Tennessee was entitled both to construct and to operate the new receipt interconnection, and explicitly directing Columbia Gulf to permit the taps requested by Tennessee to be installed no later than ten days after upstream metering facilities have been constructed by Tennessee.⁷ The Commission also initiated the investigation that is the subject of this docket. *Id.* at P 31 and Ordering Paragraph (C). Following this order, the interconnection was constructed and, on October 1, 2006, placed into service. The interconnection, which has been named Acadia, has been in service since that date. Columbia Gulf operates the western portion of the BWP, including the Egan complex, and Tennessee operates the Acadia interconnection.

6. On August 21, 2006, Columbia Gulf sought clarification and rehearing of the July 20, 2006 Order, challenging the Commission's conclusion that Tennessee could operate the interconnection. The Commission denied rehearing,⁸ and Columbia Gulf sought review.⁹

Alleged Violation

7. Enforcement alleges that Columbia Gulf failed to comply with the Commission's direction by creating unwarranted obstacles to Tennessee's interconnection plans and by not meaningfully working with Tennessee to allow the interconnection after the Commission had directed Columbia Gulf to allow the new interconnection as soon as operationally possible. Specifically, Enforcement alleges that Columbia Gulf violated the Commission's November 22, 2005 Order by insisting that Columbia Gulf would design and construct the interconnection, and that Tennessee had to sign a separate interconnection agreement to that effect. The Commission had ruled that Tennessee was allowed to construct the interconnection at a location of its choosing, and Tennessee had

⁶ Docket No. RP06-297-000.

⁷ *Tennessee v. Columbia Gulf*, *supra*, 116 FERC ¶ 61,065 at Ordering Paragraph (A).

⁸ *Tennessee Gas Pipeline Company v. Columbia Gulf Transmission Company*, 117 FERC ¶ 61,147 (2006).

⁹ *Columbia Gulf Transmission Company v. Federal Energy Regulatory Commission*, D.C. Cir. No. 06-1425 (filed December 29, 2006).

designed the facilities and had selected a location outside of Columbia Gulf's Egan complex. Columbia Gulf did not seek clarification of the Commission's determination that Tennessee could construct the interconnection.

8. Enforcement further alleges that Columbia Gulf's conduct resulted in a substantial delay until October 2006 in placing the interconnection into service. Enforcement alleges that Columbia Gulf's actions unreasonably delayed an interconnection that had been authorized and which Columbia Gulf had been directed to allow, and thus undermined the Commission's open-access program.

Stipulation and Agreement

9. Enforcement and Columbia Gulf have entered into the attached Agreement to resolve the formal investigation that the Commission initiated in its July 20, 2006 Order. The Agreement, *inter alia*, requires Columbia Gulf to pay a \$2 million civil penalty to the United States Treasury within ten days of this Order.

10. Columbia Gulf neither admits nor denies Enforcement's allegations or that any action or inaction by Columbia Gulf in connection with the Acadia interconnection constitutes a violation of law or of the Commission's statutes, regulations, orders, and/or policies. Columbia Gulf states that it has entered into the Agreement to avoid extended litigation and in the interest of resolving any dispute between Enforcement and Columbia Gulf without further proceedings.

Determination of the Appropriate Penalty

11. The Commission may impose civil penalties of up to \$1 million per day per violation pursuant to section 22(a) of the Natural Gas Act (NGA), as amended by the Energy Policy Act of 2005.¹⁰ The violation in this case occurred after August 8, 2005, the effective date of the Commission's NGA civil penalty authority.

12. In approving the Agreement and the \$2 million civil penalty, we considered the factors set forth in our Policy Statement on Enforcement.¹¹ With respect to the seriousness of the offense, we considered all factors, including that the Commission's

¹⁰ Energy Policy Act of 2005, Pub. L. No. 109-58, § 314 (b)(1)(B) (2005). Under NGA section 22(a), 15 U.S.C. §§ 717t-1(a), the Commission can assess a penalty "of not more than \$1,000,000 per day per violation for as long as the violation continues."

¹¹ *Enforcement of Statutes, Orders, Rules, and Regulations*, 113 FERC ¶ 61,068 (2006).

requirement that an open-access pipeline permit a qualifying interconnection is integral to the success of open-access transportation and to maximizing the value of the nation's natural gas pipeline network, both long-standing components of the regulation and operation of the interstate natural gas pipeline system.¹²

13. The Commission relies on entities subject to its jurisdiction complying with its orders. To do otherwise would interfere with the application of regulatory requirements and the operation of the interstate natural gas pipeline system. The Commission therefore considered harm to the orderly administration of the Natural Gas Act in weighing the seriousness of the violation. We also considered the direct participation of Columbia Gulf senior management in delaying an interconnection that had been authorized.

14. The Commission also considered whether there were factors present warranting credit for internal compliance, self-reporting, or cooperation. The first two categories are not applicable here. Columbia Gulf cooperated in the investigation and did take action after the Commission issued the July 20, 2006 Order to permit the interconnection, but the latter occurred only after the Commission specifically directed Columbia Gulf to install the necessary taps.

15. In light of the facts and circumstances, we conclude that the penalty and conditions specified in the Agreement provide a fair and equitable resolution of this matter and are in the public interest.

The Commission orders:

The attached Stipulation and Consent Agreement is hereby approved without modification.

By the Commission.

(S E A L)

Kimberly D. Bose.
Secretary,

¹² *Panhandle Eastern Pipe Line Company*, 91 FERC ¶ 61,037 at 61,140-141 (2000).

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

In re Columbia Gulf Transmission Company)

Docket No. IN07-25-000

STIPULATION AND CONSENT AGREEMENT

I. INTRODUCTION

The Office of Enforcement (Enforcement) of the Federal Energy Regulatory Commission (Commission) and Columbia Gulf Transmission Company (Columbia Gulf) enter into this Stipulation and Consent Agreement (Agreement) to resolve a formal investigation pursuant to section 1b.5 of the Commission's regulations, 18 C.F.R. §1b.5 (2006), directed by the Commission on July 20, 2006,¹ into the issue of whether Columbia Gulf's actions have violated and/or are continuing to violate the Commission's orders in Docket Nos. RP04-215-000, *et. al.*

II. STIPULATED FACTS

Enforcement and Columbia Gulf hereby stipulate and agree to the following:

1. Columbia Gulf and Tennessee Gas Pipeline Company (Tennessee) are joint owners of the Blue Water Project (BWP) in Louisiana and, since 1972, have operated the Blue Water Project under the terms of the Blue Water Project Operating Agreement (BWOA). Under the BWOA, Tennessee operates the eastern portion of the BWP and Columbia Gulf operates the western portion, referred to as the Western Shore Line (WSL). The WSL terminates at the Egan, Louisiana complex, where Columbia Gulf is responsible for deliveries from the WSL to itself, to Tennessee, and to two other interstate natural gas pipelines. Columbia Gulf operates the Egan complex under the BWOA.

2. On October 6, 2003, Tennessee served notice to Columbia Gulf of Tennessee's intent to install a receipt interconnection at Egan. Tennessee stated that the purpose of the interconnection was to deliver gas to the BWP from Tennessee's Muskrat Line.

¹ *Tennessee Gas Pipeline Company v. Columbia Gas Transmission Company*, 116 FERC ¶ 61,065 (2006).

3. Columbia Gulf declined to permit the interconnection, and Tennessee filed a complaint on March 12, 2004, asking the Commission to direct Columbia Gulf to allow installation of a receipt interconnection at Egan.²

4. The Commission set the matter for a full hearing before an Administrative Law Judge (ALJ). Following the hearing, the ALJ issued a decision finding, among other things, that: the Commission's interconnection policy³ applied to Tennessee's request; that Tennessee met the relevant *Panhandle* conditions; that the adverse operational effects on the WSL claimed by Columbia Gulf were not a barrier to the interconnection; and that Tennessee was entitled to an interconnection.⁴ Neither the hearing nor the ALJ decision focused on which party would operate the interconnection.

5. Columbia Gulf filed exceptions to the ALJ's decision. The Commission affirmed the ALJ's decision on July 25, 2005, and directed Columbia Gulf "to allow the construction and operation of the receipt point requested at Egan, Louisiana, by Tennessee, as soon as operationally possible."⁵

6. On August 17, 2005, Columbia Gulf sought rehearing of the July 25, 2005 Order on its merits and requested that the Commission stay any obligations imposed on Columbia Gulf. Columbia Gulf also sought clarification that Columbia Gulf, as operator of the Egan complex under the BWOA, would continue as the operator of the Egan complex and that Tennessee would not be the operator of the new receipt meter at Egan. Columbia Gulf did not seek clarification concerning the Commission's decision that Tennessee could construct the proposed interconnection. On September 2, 2005, Tennessee filed a response, arguing that the stay and clarification requested should be denied, stating that Tennessee would install the new receipt point on its own property located outside and adjacent to the Egan complex, and asserting that Tennessee would construct and operate the new receipt meter.

² Docket No. RP04-215-000.

³ *Panhandle Eastern Pipe Line Company*, 91 FERC ¶ 61,037 (2000) (*Panhandle*).

⁴ *Tennessee Gas Pipeline Company v. Columbia Gulf Transmission Company*, 110 FERC ¶ 63,041 (2005).

⁵ *Tennessee Gas Pipeline Company v. Columbia Gulf Transmission Company*, 112 FERC ¶ 61,118 at Ordering Paragraph (A) (2005) (July 25, 2005 Order).

7. On November 22, 2005, the Commission denied Columbia Gulf's request for rehearing and stay in its entirety.⁶ In the November 22, 2005 Order, the Commission, with respect to the fifth standard of *Panhandle*, noted that either party to the BWOA may obtain a new receipt point on the BWP "as may be selected" by the party, without stated restriction. *Id.* at P 48. Regarding Columbia Gulf's request for clarification that it, and not Tennessee, would operate the new receipt meter at Egan, the Commission stated that it "confirms that the July 25 Order, which construes the Operating Agreement as allowing the remedy sought by Tennessee, made no modifications to the Operating Agreement." *Id.* at P 54.

8. Although Columbia Gulf recognized that Tennessee was permitted to construct the interconnection facilities, Columbia Gulf interpreted the November 22, 2005 Order as granting its clarification request as it related to operation of the interconnection.

9. Beginning in January 2006 there was an exchange of approximately eight letters between the officer of Columbia Gulf responsible for pipeline interconnections and Tennessee. In the letters Columbia Gulf told Tennessee that Columbia Gulf would both construct and operate all of the facilities in Tennessee's proposed interconnection and that Tennessee would have to enter into a separate interconnection agreement.

10. On March 2, 2006, Columbia Gulf filed a status report with the Commission stating that Tennessee and Columbia Gulf remained at odds regarding the interconnection and that Tennessee insisted that Tennessee would operate the interconnection. Columbia Gulf did not request Commission action in the status report. Also in March 2006, Columbia Gulf informally contacted the Commission's Alternative Dispute Resolution (ADR) staff. ADR staff contacted Tennessee and then informed Columbia Gulf that Tennessee was not amenable to mediation. On March 31, 2006, Tennessee filed a request for a declaratory order, asserting that it is entitled to construct and operate the interconnection, that Columbia Gulf must provide taps for Tennessee's interconnection facilities, and that no separate interconnection agreement can be required.⁷ Columbia Gulf filed an answer in opposition to Tennessee's request for a declaratory order which stated, *inter alia*, that Columbia Gulf is the operator of the WSL and Egan complex and therefore should be the operator of the new interconnection. Columbia Gulf also asserted that an interconnection agreement is needed.

⁶ *Tennessee Gas Pipeline Company v. Columbia Gulf Transmission Company*, 113 FERC ¶ 61,200 (2005) (November 22, 2005 Order).

⁷ Docket No. RP06-297-000.

11. On July 20, 2006, the Commission granted Tennessee's request for a Declaratory Order.⁸ The Commission stated that its prior orders had resolved the issues of operational control, that Tennessee had the right to select its location outside the Egan complex to build and operate the upstream facilities, and that Columbia Gulf must provide the requested taps into the BWP pipelines operated by Columbia Gulf. *Id.* at P 28-30, 35. Finally, the Commission initiated the investigation that is the subject of this Agreement. *Id.* at 31 and Ordering Paragraph (C).

12. In August 2006 and early September 2006, Columbia Gulf and Tennessee discussed whether the taps would be installed inside or outside of the Egan complex. The location of the taps was resolved on September 8, 2006, and Columbia Gulf constructed the taps in time for the interconnection to be placed into service on October 1, 2006. The interconnection, which has been named Acadia, has been in service since that date. Columbia Gulf continues to operate the WSL and the Egan complex under the BWOA, and Tennessee operates the new Acadia interconnection, which can deliver up to 400,000 Mcf/d into the WSL adjacent to the Egan complex.

13. On August 21, 2006, Columbia Gulf sought clarification and rehearing of the July 20, 2006 Order, challenging the Commission's conclusion that Tennessee could operate the interconnection. The Commission denied rehearing.⁹ On December 29, 2006, Columbia Gulf sought review.¹⁰

III. ALLEGED VIOLATION

Enforcement alleges that:

14. Columbia Gulf failed to comply with the Commission's direction by creating unwarranted obstacles to Tennessee's interconnection plans and by not meaningfully working with Tennessee to allow the interconnection. More specifically, the Commission had directed Columbia Gulf to allow the new interconnection as soon as operationally possible. Columbia Gulf violated the Commission's November 22, 2005 Order by insisting that Columbia Gulf would design and construct the interconnection, and that Tennessee had to sign a separate interconnection agreement to that effect. The

⁸ *Tennessee Gas Pipeline Company v. Columbia Gulf Transmission Company*, 116 FERC ¶ 61,065, at P 4, 28-29 (2006) (July 20, 2006 Order).

⁹ *Tennessee Gas Pipeline Company v. Columbia Gulf Transmission Company*, 117 FERC ¶ 61,147 (2006).

¹⁰ *Columbia Gulf Transmission Company v. Federal Energy Regulatory Commission*, D.C. Cir. No. 06-1425 (filed December 29, 2006).

Commission had ruled that Tennessee was allowed to construct the interconnection at a location of its choosing, and Tennessee had designed the facilities and had selected a location outside of Columbia Gulf's Egan complex. Columbia Gulf did not seek clarification of the Commission's determination that Tennessee could construct the interconnection.

15. Columbia Gulf's conduct resulted in a substantial delay until October 2006 in placing the interconnection into service. Columbia Gulf's actions unreasonably delayed an interconnection that had been authorized and which Columbia Gulf had been directed to allow, and thus undermined the Commission's open-access program.

IV. COLUMBIA GULF RESPONSE

Columbia Gulf states that:

16. Columbia Gulf neither admits nor denies that any action or inaction by Columbia Gulf in connection with the Acadia interconnection constitutes a violation of law or of the Commission's statutes, regulations, orders, and/or policies. However, to avoid extended litigation and in the interest of resolving any dispute between Enforcement and Columbia Gulf without further proceedings, Columbia Gulf has agreed to the Remedies, Sanctions and Conditions set forth below.

V. REMEDIES, SANCTIONS AND CONDITIONS

17. Columbia Gulf shall pay a civil penalty of \$2,000,000 (\$2 million) to the United States Treasury, by wire transfer, within ten days of the Effective Date of this Agreement, as defined in paragraph 18 below.

18. Within ten days of the Effective Date of this Agreement, Columbia Gulf shall file a motion to dismiss, with prejudice, its Petition for Review in *Columbia Gulf Transmission Company v. Federal Energy Regulatory Commission*, D.C. Cir. No. 06-1425.

VI. TERMS

19. The "Effective Date" of this Agreement shall be the date on which the Commission issues an order approving this Agreement without material modification. When effective, this Agreement shall resolve the matters specifically addressed herein with respect to Columbia Gulf and any affiliated entity, its agents, officers, directors and employees, both past and present, and any successor in interest to Columbia Gulf.

20. Columbia Gulf consents to the use of this Agreement in this proceeding and in any other proceeding before the Commission or to which the Commission is a party for

purposes of assessing the factors set forth in the October 20, 2005 Policy Statement on Enforcement,¹¹ including whether Columbia Gulf has a history of violations; provided, however, that Columbia Gulf does not consent to the use of this Agreement as the sole basis for any other proceeding brought by the Commission, nor does Columbia Gulf consent to the use of this Agreement by any other party in any other proceeding.

21. Commission approval of this Agreement without material modification shall release Columbia Gulf, its agents, officers, directors, and employees, both past and present, from, and forever bar the Commission from bringing against Columbia Gulf, its agents, officers, directors, and employees, both past and present, any and all administrative or civil claims arising out of, related to, or connected with the matters specifically addressed in this Agreement.

22. Failure to make a timely civil penalty payment, or to comply with any other provision of this Agreement, shall be deemed a violation of a final order of the Commission issued pursuant to the Natural Gas Act (NGA), and may subject Columbia Gulf to additional action under the enforcement and penalty provisions of the NGA.

23. If Columbia Gulf does not make the civil penalty payment above by the time agreed to by the parties, interest payable to the United States Treasury will begin to accrue pursuant to the Commission's regulations at 18 C.F.R. § 35.19(a)(2)(iii) from the date that payment is due, in addition to the penalty specified above.

24. Columbia Gulf shall not seek to, and shall take no action to, pass through to ratepayers any part of the \$2 million civil penalty.

25. The signatories to the Agreement agree that they enter into the Agreement voluntarily and that, other than the recitations set forth herein, no tender, offer or promise of any kind by any member, employee, officer, director, agent or representative of Enforcement or Columbia Gulf, its agents, officers, directors, and employees, both past and present, has been made to induce the signatories or any other party to enter into the Agreement.

26. Unless the Commission issues an order approving the Agreement in its entirety and without material modification, the Agreement shall be null and void and of no effect whatsoever, and neither Enforcement nor Columbia Gulf shall be bound by any provision or term of the Agreement, unless otherwise agreed to in writing by Enforcement and Columbia Gulf.

¹¹ *Enforcement of Statutes, Orders, Rules, and Regulations*, 113 FERC ¶ 61,068 (2005).

27. In connection with the payment of the civil penalty provided for herein, Columbia Gulf agrees that the Commission's order approving the Agreement without material modification shall be a final and unappealable order assessing a civil penalty under section 22(a) of the NGA, 15 U.S.C. § 717t-1(a) (2005). Columbia Gulf waives findings of fact and conclusions of law, rehearing of any Commission order approving the Agreement without material modification, and judicial review by any court of any Commission order approving the Agreement without material modification.

28. Each of the undersigned warrants that he or she is an authorized representative of the entity designated, is authorized to bind such entity and accepts the Agreement on the entity's behalf.

29. The undersigned representative of Columbia Gulf affirms that he has read the Agreement, that all of the matters stipulated to in Article II of the Agreement are true and correct to the best of his knowledge, information and belief, and that he understands that the Agreement is entered into by Enforcement in express reliance on these representations.

30. The Agreement may be signed in counterparts.

31. This Agreement is executed in duplicate, each of which so executed shall be deemed to be an original.

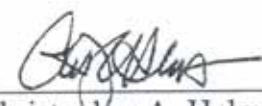
Agreed to and accepted:



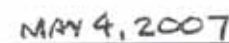
Susan J. Court, Director
Office of Enforcement
Federal Energy Regulatory Commission



Date



Christopher A. Helms
President
Columbia Gulf Transmission Company



Date