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Shippers Request More Transparency in FERC Form No. 6

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Mona Tandon, Brian O'Neill, Shippen Howe, and Emily Pitlick

The Liquids Shippers Group, Airlines for America, and the National Propane Gas Association ("Joint Petitioners") filed a petition for rulemaking ("Petition") on April 20, 2015, requesting that the Federal Energy Regulatory Commission ("FERC" or "Commission") issue a Notice of Proposed Rulemaking ("NOPR") to revise Page 700 of FERC's Form No. 6, the Annual Report of Oil Pipeline Companies, to further enhance pipeline financial reporting transparency. The Joint Petitioners contend that the financial reporting requirements applicable to crude oil and petroleum product pipelines should be revised because of recent changes in market dynamics and recent changes in pipeline ownership. Specifically, they request that the Commission require pipelines that file a single Form No. 6 for both crude oil and petroleum products, or have multiple established and recognized segments, to file separate Page 700s for each individual commodity, system, or segment. In addition, the Joint Petitioners ask the Commission to require pipeline companies to make their Page 700 work papers available to interested parties upon request. Pending revisions to Page 700, the Joint Protestors request FERC to clarify that a legitimate complaint or protest against a pipeline's rates will be set for hearing in order to give the complainant/protestor an opportunity to obtain, through discovery, the information it needs to complete its case in chief.

According to the Joint Protestors, the record levels of domestic oil and liquids production have fueled a demand for new and reconfigured pipeline infrastructure, which has led to changes in pipeline ownership and market dynamics. They state that, while historically many pipelines were owned and operated by integrated entities, today that is significantly less true. The Joint Protestors claim that pipeline operators and shippers had a better working relationship to resolve rate-related issues in the past than they do now. In addition, they claim that when shippers file complaints based on publicly-available data in Form No. 6, the carrier invariably argues that the complaint should be dismissed because the shipper failed to provide sufficient information regarding the alleged over-recovery to satisfy its initial burden of proof. Thus, the Joint Protestors conclude that there is greater opportunity and incentive for jurisdictional pipelines to charge excessive rates, and that the Commission should be doing more to ensure that the rates charged by oil and petroleum product pipelines are just and reasonable. Therefore, the Joint Protestors seek greater financial reporting transparency to provide shippers the data necessary to meaningfully evaluate the reasonableness of rates and determine whether any challenges to the rates are warranted.

IMPACTS

The Commission adopted Form No. 6 in 1982 and created Page 700 in 1994 to provide basic information for review of crude oil and products pipeline rates. FERC previously has considered, and has made, numerous changes to Form No. 6 and Page 700, including changes enacted in 2012 to make it easier to calculate a pipeline's actual rate of return on equity. However, in these rulemaking proceedings the Commission has rejected shippers' demands that more detailed information and underlying assumptions be provided with Page 700 allegedly to provide a better tool for monitoring pipeline rates. The Commission has consistently emphasized the limited purposes of Page 700 – that Page 700 is a basic screening tool, and its intended purpose is not to determine whether a pipeline's rates are just and reasonable.

There is no statutorily imposed deadline for FERC to respond to the Joint Petitioners and issue a decision on their request. If the Joint Petitioners' request is granted, it could add significant reporting burdens on oil and product pipeline companies, necessitate a change in the manner in which pipeline companies manage internal records and accounting information, and result in an increase in the number of oil and petroleum product pipeline rate cases. Van Ness Feldman will continue to follow this docket.

For more information

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