

133 FERC ¶ 61,035
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

MoGas Pipeline LLC

Docket No. RP10-720-001

ORDER GRANTING CLARIFICATION AND WAIVER

(Issued October 13, 2010)

1. On July 12, 2010, MoGas Pipeline LLC (MoGas), filed a request for clarification, or in the alternative, rehearing of the Commission's June 16, 2010 order¹ in this proceeding, which granted in part and denied in part MoGas's request for waiver of the index-based capacity release standards and related data sets contained in Version 1.9 of the North American Energy Standards Board (NAESB) standards. MoGas contends that although the June 16 Order purports to grant the requested waiver, it requires MoGas to comply with certain NAESB standards, which effectively negates the waiver. Consequently, MoGas requests clarification that it: (1) is not required to provide for index-based capacity releases exclusively via NAESB's standardized electronic information exchange (Standard 5.3.61), and (2) is not required to support two non-public price index references representative of points on its system (Standard 5.3.65). To the extent the Commission does not grant the requested clarifications, MoGas requests rehearing of the June 16 Order.

The June 16, 2010 Order

2. On May 7, 2010, MoGas filed a request for waiver of NAESB Version 1.9 index-based capacity release standards.² MoGas asserted that it had no shipper requests, and did not anticipate future requests, for index-based pricing for capacity release on its system, and that implementing the NAESB standards associated with index-based releases would result in a substantial burden for MoGas. In the June 16 Order, the

¹ *MoGas Pipeline LLC*, 131 FERC ¶ 61,251 (2010) (June 16 Order).

² *Standards for Business Practices for Interstate Natural Gas Pipelines*, Order No. 587-U, 130 FERC ¶ 62,212 (2010).

Commission found that a limited waiver of the electronic requirements was appropriate. Accordingly, the June 16 Order granted waiver of the index-based capacity release NAESB standards for the electronic data interchange and internet requirements.³ The administrative burden and costs for MoGas, the low probability of a releasing shipper on the MoGas system wanting to utilize index-based pricing, and the commitment of MoGas to provide another mechanism for such pricing, all supported the grant of the waiver. However, to the extent that MoGas had requested waiver of NAESB's business practice standards for index-based capacity release, the Commission held that MoGas had not supported such a request and denied waiver of NAESB's business practices. The June 16 Order also directed MoGas, when it filed its Version 1.9 compliance filing, to amend its tariff to specify procedures for index-based capacity releases on its system to reflect the proposed procedures in its request for waiver.

Request for Clarification, or in the Alternative, Rehearing

3. MoGas contends that although the Commission granted waiver of the NAESB electronic/Internet requirements, its denial of waiver of the business practice standards has the effect of negating that waiver because Standard 5.3.61 requires pipelines to support the upload of index-based capacity releases exclusively through the use of NAESB WGQ EBB/EDM. It explains that EBB/EDM refers to NAESB's standardized electronic information exchange, exactly the type of electronic/Internet requirements for which MoGas sought waiver and the Commission acted to grant. Moreover, MoGas observes that it had previously received waiver of the requirement to provide EDI/EDM and EBB/EDM. Consequently, MoGas contends that it is unclear if it is required to provide for index-based capacity releases exclusively through NAESB's standardized electronic information interchange required by Standard 5.3.61. Accordingly, MoGas requests that the Commission clarify that MoGas is not required to comply with Standard 5.3.61.

4. Second, MoGas takes issue with the Commission's denial of waiver of the requirement that MoGas support at least two non-public price index references that are representative of receipt and delivery points on its system, and to post such references on its website. MoGas argues that by denying it waiver of the business practices standards, the June 16 Order places it in the position of having to comply with this requirement, which it is incapable of doing because there are no representative index references. MoGas argues that it is unreasonable to require it to incur the cost to support non-public price index references that are not representative of points on its system, particularly given the low probability of a shipper wanting to use index-based pricing for capacity release. Consequently, MoGas requests that the Commission clarify that MoGas is not

³ June 16 Order, 131 FERC ¶ 61,251 at P 7.

required to comply with the requirement of Standard 5.3.65 that it support two non-public price index references representative of points on its system.

5. Alternatively, if the Commission does not grant the requested clarifications, MoGas requests rehearing of the Commission's June 16 Order to the extent that it requires MoGas to comply with NAESB Standard 5.3.61, and that portion of Standard 5.3.65 that requires pipelines to support at least two non-public price index references that are representative of points on its system.

Discussion

6. In the June 16 Order, the Commission granted waiver of the index-based capacity release NAESB standards for the electronic data interchange and Internet requirements. The Commission also found good cause to waive the time limit for submitting requests for waiver of NAESB standards. We reaffirm those decisions here.

7. MoGas had not identified the specific standards for which it was seeking waiver in its original request. It now specifies that it is requesting clarification that it is not required to follow Standard 5.3.61, which provides that a pipeline must support the upload of index-based capacity release and bid transactions exclusively via the use of its Internet website. This standard is not a business practice standard, but a requirement to conduct the practice using electronic means. As such, this request is encompassed by the June 16 Order's grant of waiver "for the electronic data interchange and Internet requirements" of the NAESB standards related to index-based releases.⁴ We therefore grant MoGas's request for clarification on this issue.

8. MoGas also requests waiver of Standard 5.3.65, which requires MoGas to support at least two non-public price index references that are representative of receipt and delivery points on its system. MoGas stated in its initial application that it committed to provide another mechanism for such index-based pricing should it be requested.⁵ We clarify the June 16 Order to grant the requested waiver in part.

9. Standard 5.3.65 is a business practice standard that requires a pipeline to support indexed based releases. The purpose of Standard 5.3.65's requirement that the pipeline support two price indices is to ensure that a shipper can use indices without

⁴ June 16 Order, 131 FERC ¶ 61,251 at P 7.

⁵ May 7, 2010 Application, 1, 5.

incurring the additional cost of paying for any licenses that the pipeline may require to process that release.⁶

10. Based on MoGas's contention that there are no representative index references for its pipeline, and that shippers are unlikely to request such releases, we grant MoGas a waiver of the requirement to support at least two non-public price index references until a releasing shipper presents an index-based capacity release. We find it reasonable in these circumstances not to require MoGas to acquire and pay for the licenses necessary to support indices on an ongoing basis.

11. However, as MoGas represented, it will be required to support an index-based release when presented by a releasing shipper. In supporting such a release, MoGas will need to pay whatever licensing costs are necessary to cover its processing of the release.⁷

The Commission orders:

Clarification and waiver are granted as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶ Standard 5.3.65(c) states that "releasing shippers requesting the use of price index references not supported by the [pipeline] will be responsible for providing/maintaining adequate license(s)/subscription(s) for the [pipeline]...."

⁷ MoGas will not have to support more than two indices at any time since any subsequent releasing shippers will be able to avail themselves of the index or indices currently supported by MoGas.