

148 FERC ¶ 61,235
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

Revisions to Page 700 of FERC Form No. 6

Docket No. RM12-18-001

ORDER NO. 783-A

ORDER ON REHEARING

(Issued September 26, 2014)

1. On August 19, 2013, the Association of Oil Pipelines (AOPL), the Liquids Shippers Group (Liquids Shippers¹), and Joint Shippers² filed requests for rehearing of Order No. 783, which amends Page 700, Annual Cost of Service Based Analysis Schedule, of FERC Form No. 6 (Form 6), the Annual Report of Oil Pipeline Companies.³ As discussed below, the Commission denies rehearing.

I. Background

2. On July 18, 2013, the Commission issued Order No. 783, a Final Rule that modified the reporting requirements of Page 700. The Commission implemented the changes to Page 700 in order to facilitate the calculation of an oil pipeline's actual rate of

¹ The Liquid Shippers Group includes Anadarko Energy Services Company, Apache Corporation, ConocoPhillips Company, Devon Gas Services, L.P., Encana Marketing (USA) Inc., Marathon Oil Company, Murphy Exploration & Production Company-USA, and Noble Energy, Inc.

² Joint Shippers consist of Valero Marketing and Supply Company (Valero), Airlines for America, and the National Propane Gas Association (A4A/NPGA).

³ *Revisions to Page 700 of FERC Form No. 6*, Order No. 783, 144 FERC ¶ 61,049 (2013) (Final Rule). The Final Rule followed a Notice of Proposed Rulemaking which was issued in September 2012. *Revisions to Page 700 of FERC Form No. 6*, FERC Stats. & Regs. ¶ 32,692 (2012) (NOPR).

return on equity (Actual ROE Percentage) for preliminary screening purposes. The modifications to Page 700 require pipelines to report on Page 700 additional information regarding rate base, rate of return, return on rate base, and income taxes.

3. In the Final Rule, the Commission also adopted a formula for calculating an Actual ROE Percentage based upon Page 700 data. Under the Actual ROE Percentage formula, the Actual ROE Percentage is derived by dividing the “actual return on equity” by the “equity component of the Trended Original Cost Rate Base.” The “actual return on equity” (i.e. the numerator of the Actual ROE Percentage formula) consists of the sum of: (a) the return on equity embedded in a pipeline’s Page 700 Total Cost of Service (line 7b); (b) the difference, adjusted for taxes, between a pipeline’s Total Interstate Operating Revenues (Line 10) and a pipeline’s Total Cost of Service (Line 9); and (c) the current year’s contribution to Net Deferred Earnings, which is calculated by multiplying the equity portion of the Trended Original Cost Rate Base (line 5d) by the current year’s Department of Labor’s consumer price index for all urban areas (CPI-U). The “equity component of the Trended Original Cost Rate Base” (i.e. the denominator of the Actual ROE Percentage formula) consists of the Trended Original Cost Rate Base (line 5d) multiplied by the equity component of capital structure (line 6b).

II. Rehearing Requests and Answer

4. On August 19, 2013, the Liquids Shippers, Joint Shippers, and AOPL filed requests for rehearing.⁴ On September 4, 2013, AOPL filed a motion for leave to answer and answer to Joint Shippers’ rehearing request. The Commission’s rules generally do not permit answers to rehearing requests.⁵ However, because AOPL’s answer assists the Commission’s decision-making process, the Commission finds good cause to waive the prohibition against answers to rehearing requests.⁶ Accordingly, AOPL’s answer is accepted.

⁴ We note that of the members of the Liquid Shippers Group, only ConocoPhillips Company filed comments following the NOPR.

⁵ 18 C.F.R. § 385.213(a)(2) (2014).

⁶ *Id.* See, e.g., *Gulf Shore Energy Partners, LP*, 144 FERC ¶ 61,115, at P 10 (2013); *ANR Pipeline Co.*, 143 FERC ¶ 61, 225, at P 12 (2013).

III. Issues Raised on Rehearing

A. Line 6b – Rate of Return – Adjusted Capital Structure Ratio for Stockholders' Equity

1. AOPL's Rehearing Request

5. AOPL seeks clarification regarding the calculation of Line 6b on the revised Page 700. AOPL agrees with the Final Rule's explanation that the equity ratio on line 6b should be calculated in a manner consistent with Opinion No. 351-A.⁷ However, AOPL states that the Final Rule labeled line 6(b) as "Stockholder's Equity" based upon the name of Account 797 in the Uniform System of Accounts.⁸ AOPL seeks confirmation that the use of the term "Stockholder's Equity" was for labeling purposes only. AOPL expresses concern that it may be unable to reconcile the ratemaking policies in Opinion No. 351-A with the accounting principles used in Account 797.

2. Commission's Determination

6. The Commission denies AOPL's requested clarification regarding line 6b as unnecessary. As AOPL observes, the Commission explained in the Final Rule that the value on line 6b should be calculated consistent with Opinion No. 351-A.⁹ As was apparent in the Final Rule, the use of the term "Stockholder's Equity" in line 6(b) was for labeling purposes only.¹⁰ Consequently, the Final Rule does not require the value on line 6b to correspond to the sums in Account 797.

B. Net Deferred Earnings

1. AOPL's Rehearing Request

7. AOPL objects that the Final Rule improperly included the current year's contribution to Deferred Earnings in the numerator of the Actual ROE Percentage formula. AOPL states that under the Commission's Trended Original Cost methodology, the current year's Deferred Earnings are not recovered in the current year's cost of

⁷ AOPL Rehearing at 8 (citing Final Rule, 144 FERC ¶ 61,049 at P 16).

⁸ *Id.* (citing Final Rule, 144 FERC ¶ 61,049 at P 15).

⁹ Final Rule, 144 FERC ¶ 61,049 at P 16 (citing *ARCO Pipe Line Co.*, Opinion No. 351-A, 53 FERC ¶ 61,398 (1990)).

¹⁰ *Id.* PP 15-17.

service and thus should not be treated as a part of the Actual ROE Percentage in the current year. Rather, AOPL states that the current year's Deferred Earnings are: (a) included among Net Deferred Earnings; and (b) amortized in the cost of service for recovery in future periods, not the current period.¹¹ Additionally, AOPL asserts there is no assurance that the pipeline will collect the amortized Deferred Earnings in the future periods.

8. AOPL argues that the presence of the current year's Deferred Earnings in the numerator of the Actual ROE Percentage formula leads to inaccurate results. For instance, AOPL states that if a pipeline's revenue reported on Line 10 of Page 700 equals its cost of service on Line 9, the pipeline has achieved its "allowed return" and the Actual ROE Percentage should equal the allowed return. However, AOPL claims that due to the inclusion of the current year's Deferred Earnings in the Actual ROE Percentage formula, the Actual ROE Percentage would exceed the "allowed return" by the current year's Deferred Earnings.

9. Accordingly, AOPL urges the Commission to grant rehearing and hold that "Net Deferred Earnings (item (c) in the formula described in paragraph 29 of the Final Rule) are not included in the calculation of an Actual ROE Percentage except to the extent associated revenues are actually recovered during the rate period in question."¹²

2. Commission Determination

10. The Commission denies rehearing and affirms the inclusion of the current year's Deferred Earnings (i.e. the current year's inflationary equity return) in the numerator of the Actual ROE Percentage formula. As an initial matter, the Commission emphasizes that the Trended Original Cost Methodology allows a pipeline to recover both the real and, via Deferred Earnings, the inflationary component of its equity return.¹³ Accordingly, in order to provide a meaningful portrayal of a pipeline's Actual ROE

¹¹ Specifically, the current year's Deferred Earnings are added to the Accumulated Deferred Earnings to be amortized over the remaining life of the asset. The difference between Accumulated Deferred Earnings and the cumulative amortization of this account is referred to as Net Deferred Earnings.

¹² AOPL Rehearing at 15.

¹³ *Williams Pipe Line Co.*, Opinion No. 154-B, 31 FERC ¶ 61,377, at 61,834, *order on reh'g*, Opinion No. 154-C, 33 FERC ¶ 61,327 (1985).

Percentage, the Actual ROE Percentage formula must fully reflect both the real and the inflationary component of a pipeline's equity return.¹⁴

11. Consistent with the need to recognize the inflationary component of a pipeline's equity return, the Final Rule's Actual ROE Percentage formula properly included the current year's Deferred Earnings in the numerator of the Actual ROE Percentage formula. Under the Commission's Trended Original Cost ratemaking policy, the current year's inflationary component of its equity return (i.e. the current year's Deferred Earnings) is recovered via amortization in the cost of service over subsequent years. Because this right to future recoveries is obtained in the current year, the Commission's Actual ROE Percentage formula recognizes the current year's Deferred Earnings as part of the current year's Actual ROE Percentage.¹⁵ Although AOPL argues the current year's Deferred Earnings may not actually be recovered in future years, such a scenario only occurs if the pipeline's future rates are insufficient to cover its cost of service.¹⁶

¹⁴ In arguing that the Actual ROE Percentage formula should not reflect the current year's Deferred Earnings, AOPL states that the Commission's methodology would lead to an Actual ROE Percentage which exceeds a pipeline's "allowed return," even when the pipeline's revenues equal the pipeline's costs. AOPL doesn't specify how it would calculate this "allowed return." However, to the extent that AOPL is equating the "allowed return" with the rate of return reported on line 6d of Page 700, the equity return reported on line 6d is only the current year's real equity return and AOPL's argument disregards the recovery of the inflationary component of return under the Commission's Trended Original Cost methodology.

¹⁵ We further note that the unamortized current year's Deferred Earnings are added to the Net Deferred Earnings which are, in turn, included in the pipeline's equity component of capital structure. While the current year's deferred earnings are being amortized in subsequent years, the pipeline earns a return upon the unamortized portion which remains in Net Deferred Earnings. If the entirety of the current year's deferred earnings had not been viewed as earnings in the current period to equity, then there would be no basis for: (a) using them to increase the equity component of capital structure; or (b) permitting a return on the unamortized portion of the current year's Deferred Earnings.

¹⁶ If a pipeline is recovering revenues equaling (or exceeding) its Trended Original Cost cost of service, then by definition, these revenues are sufficient to cover the amortization of its Accumulated Deferred Earnings. Although a pipeline is never guaranteed full recovery of any of its costs, if the pipeline is not recovering its cost of service, the pipeline may seek to increase its rates by filing a cost-of-service rate case.

12. The Commission also rejects as untimely AOPL's proposed alternative for addressing the inflationary component of return reflected in the current year's Deferred Earnings. In its rehearing request, AOPL states:

AOPL respectfully requests that the Commission grant rehearing by providing that Net Deferred Earnings (item (c) in the formula described in paragraph 29 of the Final Rule) are not included in the calculation of an Actual ROE except to the extent associated revenues are actually recovered during the rate period in question.¹⁷

In its comments following the NOPR, AOPL objected to the inclusion of current year's Deferred Earnings in the numerator of the Actual ROE Percentage formula.¹⁸ However, AOPL's comments following the NOPR did not advance any alternative proposal for incorporating any portion of the inflationary component of equity return (i.e. Deferred Earnings) into the numerator of the Actual ROE Percentage formula. AOPL has only raised this alternative proposal on rehearing. AOPL had a full opportunity for comment following the NOPR, and AOPL is not permitted, at this stage, to disrupt the administrative process by introducing a new proposed modification to the Final Rule.¹⁹

13. Furthermore, even if we were to consider the substance of AOPL's proposal, it would be rejected because it has not been pled with sufficient specificity for the Commission to evaluate whether it is just and reasonable. Based upon AOPL's rehearing request, the Commission cannot discern whether AOPL proposes to place in the numerator of the Actual ROE Percentage formula: (i) revenues related to "Net Deferred Earnings"; or (ii) a portion of revenues related to the current year's Deferred Earnings which is "item (c)" of the Actual ROE Percentage formula. Such confusion arises because AOPL's Rehearing incorrectly treats "Net Deferred Earnings" and the "current year's Deferred Earnings" as synonyms despite the different meanings of these terms.²⁰

¹⁷ AOPL Rehearing at 15.

¹⁸ AOPL Initial Comments at 20 n.37.

¹⁹ As a rule, we reject requests for rehearing that raise a novel issue, unless we find that the issue could not have been previously presented, e.g., claims based on information that only recently became available or concerns prompted by a change in material circumstances. *E.g., Tennessee Gas Pipeline Co., L.L.C.*, 142 FERC ¶ 61,025, at P 38 (2013) (citations omitted).

²⁰ *E.g.* AOPL Rehearing at 14 (stating that the Final Rule included "Net Deferred Earnings in the numerator of the Actual ROE formula..." when the numerator of the Actual ROE Percentage formula actually contained the "current year's Deferred Earnings."). As explained previously, the current year's Deferred Earnings consist of the
(continued...)

In addition, AOPL does not specify how it proposes to calculate the “associated revenues” to be used in an Actual ROE Percentage formula using Page 700 or other data. Thus, in addition to being procedurally untimely, AOPL’s proposal is so ambiguous that it cannot be properly evaluated by the Commission.²¹ Accordingly, the Commission denies rehearing regarding the Final Rule’s placement of current year’s Deferred Earnings in the numerator of the Actual ROE Percentage formula.

C. Alternatives to the Actual ROE Percentage Formula

1. AOPL’s Rehearing Request

14. On rehearing, AOPL asserts the Commission should hold that the Actual ROE Percentage formula does “not provide the single - - much less mandatory - - approach for demonstrating a Form 6 respondent’s Actual ROE.”²² AOPL contends that concerns remain regarding the methodology and assumptions embedded within the Actual ROE Percentage formula. AOPL further states that the Actual ROE Percentage formula raises complicated issues that require consideration of the specific circumstances of the individual pipeline. Also, noting that the Actual ROE Percentage formula will only be used as a preliminary screen, AOPL asserts that the Commission should permit entities to advance alternative Actual ROE Percentage calculations.

current year’s inflationary component of its equity return. The current year’s Deferred Earnings are added to the Accumulated Deferred Earnings to be amortized over the remaining life of the asset. The difference between Accumulated Deferred Earnings and the cumulative amortization of this account is referred to as Net Deferred Earnings.

²¹ To the extent that AOPL proposes that the numerator of the Actual ROE Percentage formula only include the portion of current year’s Deferred Earnings which are recovered in the cost of service (via amortization) for that same year, AOPL’s proposal systematically understates a pipeline’s Actual ROE Percentage. Under the Opinion No. 154-B methodology, a pipeline includes half year amortization of the current year’s Deferred Earnings in its cost of service. For example, assuming a 35 year remaining life, the cost of service includes 1.43 percent of the current year’s Deferred Earnings (or one half of 2.86 percent). If this is the correct interpretation of AOPL’s proposal, it disregards the majority of current year’s Deferred Earnings which will continue to be amortized in the cost of service over subsequent years.

²² AOPL Rehearing at 10.

2. Commission Determination

15. The Commission denies AOPL's rehearing request that the Commission permit parties to advocate alternatives to the Final Rule's Actual ROE Percentage formula during the preliminary screening stage. Permitting entities to present alternative methodologies for calculating the Actual ROE Percentage would unnecessarily complicate the preliminary screening process, which is merely to consider whether the Commission should proceed with further investigation. Furthermore, AOPL's rehearing only asked the Commission to reconsider two specific issues related to the Actual ROE Percentage formula, i.e. issues related to: (a) the current year's Deferred Earnings; and (b) the Stockholder's equity reported on Line 6b of Page 700. The Commission has addressed both of those issues in this order. As AOPL recognizes, the Actual ROE Percentage formula does not change the Commission's ratemaking policies which would apply in any ensuing investigation, including a fully litigated cost-of-service rate case.²³ The Actual ROE Percentage formula adopted in the Final Rule is sufficient for its limited use as a factor which may be considered in an initial evaluation of a pipeline's rates.

D. Treatment of Accounts 230-260

1. Shippers' Rehearing Request

16. Joint Shippers assert the Final Rule inadequately addressed comments proposing to amend Page 700 reporting requirements to specify that the "Total Interstate Operating Revenues" on line 10 of Page 700 must include the jurisdictional portion of the revenues from Oil Allowance Revenue (Account 230), Storage and Demurrage Revenue (Account 240), Rental Revenue (Account 250), and Incidental Revenue (Account 260). Joint Shippers state the Final Rule erred in its determination that the issues involving treatment of the jurisdictional revenues in Accounts 230-260 were outside the scope of the proceeding or could be addressed in individual pipeline filings.²⁴ Rather, Joint Shippers explain the Actual ROE Percentage formula relies upon the reporting of accurate and complete jurisdictional revenues on line 10 of Page 700. Thus, Joint Shippers explain that exclusion of jurisdictional revenues in Accounts 230-260 from the revenues reported on line 10 of page 700 would distort the results of the Commission's Actual ROE Percentage formula.

²³ *Id.* at 12 (citing Final Rule, 144 FERC ¶ 61,049 at PP 37-38). Much like the Page 700 itself, the Actual ROE Percentage formula is merely designed to be a preliminary screening tool.

²⁴ Joint Shippers Rehearing at 7-8 (citing *American Gas Ass'n v. FERC*, 593 F.3d 14 (D.C. Cir. 2010)).

17. Joint Shippers state that some pipelines are not including any Account 230-260 revenues in the jurisdictional revenues reported on Line 10 of Page 700. Joint Shippers add that recent protests to pipeline index rate increases have called attention to the failure by pipelines to include jurisdictional revenues in Accounts 230-260 among the jurisdictional revenues reported on Page 700.²⁵ Although Joint Shippers concede some revenues reported in Accounts 230-260 may be non-jurisdictional, Joint Shippers state that a portion of the revenues recorded in Accounts 230-260 likely relate to jurisdictional service and should be included on line 10 of Page 700. Joint Shippers emphasize Page 700 must reflect all of a carrier's jurisdictional revenues.²⁶

18. Explaining why they believe Accounts 230-260 likely contain jurisdictional revenues, Joint Shippers state the Allowance for Oil Revenue in Account 230 consists of the revenue collected from the loss allowance included in a pipeline's FERC tariff. Joint Shippers emphasize the amount collected in a pipeline's loss allowance is a part of the shipper's costs for moving jurisdictional throughput on the pipeline.

19. Regarding Account 240, Joint Shippers state this account includes revenues generated by the pipeline's FERC tariff storage rates. The Joint Shippers elaborate that pipelines must include in their tariff jurisdictional storage rates.²⁷ Joint Shippers add that to the extent a pipeline has included its storage facilities in the jurisdictional rate base reported on Page 700, the revenue obtained from these facilities must also be included in the revenues reported on line 10 of Page 700 to avoid a mismatching of data.

20. Joint Shippers state that Account 250 contains revenue associated with the rental of carrier property, potentially including revenues obtained from the leasing and renting of property incorporated into the rate base reported on Page 700 and used to calculate the Page 700 total cost of service. Joint Shippers explain that Account 260 may include penalty revenues. Joint Shippers state that to the extent such penalty revenue was

²⁵ *Id.* at 21-24 (citing *Plains Pipeline, L.P.*, 139 FERC ¶ 61,265, at PP 7 & 14 (2012) (*Plains*); and *NuStar Logistics, L.P.*, 140 FERC ¶ 61,107, at PP 4 & 9 (2012) (*NuStar*)).

²⁶ *Id.* at 13 (citing *Revisions to and Electronic Filing of the FERC Form 6 and Related Uniform Systems of Accounts*, Order No. 620, FERC Stats. & Regs. ¶ 31,115 (2000), *order on reh'g*, Order No. 620-A, 94 FERC ¶ 61,130, at 61,498 (2001); *Revision to Form No. 6*, Order No. 767, FERC Stats. & Regs. ¶ 31,335, at P19 (2012) (cross-referenced at 140 FERC ¶ 61,218)).

²⁷ Joint Shippers Rehearing at 16 (citing *Lakehead Pipe Line Co., L.P.*, Opinion No. 397, 71 FERC ¶ 61,338, at 62,325 (1995), *reh'g denied*, Opinion No. 397-A, 75 FERC ¶ 61,181, at 61,601 (1996)).

obtained pursuant to a FERC jurisdictional tariff and FERC jurisdictional service, there is no reasonable basis for excluding these penalty revenues from the jurisdictional revenues reported on Page 700.

21. Joint Shippers also urge the Commission to grant rehearing and to adopt modifications to Page 301, which would require pipelines to identify separately any non-jurisdictional revenues in Accounts 230-260 and to explain why these revenues are not jurisdictional. Joint Shippers claim pipelines already make a similar division between jurisdictional and non-jurisdictional transportation revenues in Accounts 200-220. Joint Shippers claim that making a similar distinction for revenues in Accounts 230-260 will facilitate review of a pipeline's reported revenues on Page 700.

2. AOPL's Answer

22. AOPL claims that the revenues in Accounts 230-260 are not "transportation" revenues, and, thus, AOPL states the revenues found in Accounts 230-260 do not relate to the cost of service elements addressed on Page 700 or transportation tariff rates.²⁸ AOPL states two Commission decisions not to investigate index rate adjustment filings recently rejected Joint Shippers' position for the inclusion of revenues from Accounts 230-260 in the revenues reported on Page 700.²⁹

23. Regarding the revenues in Account 230, AOPL acknowledges these revenues result from the pipeline's FERC tariff oil loss allowance. However, AOPL states that the loss allowance is typically placed in a tariff's rules and regulations, rather than the rate sections. AOPL states that operational loss factors and the fluctuating price of the commodity both affect the revenues in Account 230. Accordingly, AOPL claims there is no ratemaking nexus between the loss allowance provisions and the cost calculations based upon Page 700 data.³⁰

24. Discussing storage and demurrage under Account 240, AOPL states that only storage which is necessary or integral to transportation is jurisdictional under the Interstate Commerce Act. However, AOPL affirms revenues from jurisdictional storage facilities must be included in the revenues reported on line 10 of Page 700.³¹ Regarding demurrage, AOPL states demurrage includes penalty elements that are unrelated to

²⁸ *Id.* at 4.

²⁹ *Id.* at 3 (citing *Plains*, 139 FERC ¶ 61,265; *NuStar*, 140 FERC ¶ 61,107).

³⁰ *Id.* at 4-5.

³¹ *Id.* at 6.

pipeline costs. AOPL states Joint Shippers failed to explain why the widely varying revenues in Account 250 (rental revenue) and Account 260 (incidental revenue), which include such things as rental of pipeline segments or recovery of pre-payments on non-jurisdictional transactions, should be included on Page 700.³²

25. AOPL also argues against requiring more detail on page 301.³³ AOPL states that this result would be the antithesis of the “simplified screen” envisioned by the Commission’s indexing rules.³⁴ AOPL further claims the Final Rule properly rejected Valero’s proposal as outside the scope of this proceeding. AOPL states that longstanding instructions on Page 700 explain how the revenues recorded on line 10 should be reported, and that the NOPR did not propose to change those instructions. AOPL also argues that two recent decisions by the Commission confirmed that data on Page 700 does not properly include revenues in Accounts 230-260.³⁵ AOPL adds that the data currently reported on Page 301 contains data related to Accounts 230-260, and that, as the Joint Shippers’ analysis demonstrates, is sufficient for the purpose of analyzing this data.

3. Commission Determination

26. The Commission denies Joint Shippers’ rehearing request. The Commission recognizes that accurate reporting of jurisdictional revenues on line 10 affects the results of the Actual ROE Percentage formula. However, as explained below, the existing reporting requirements on Page 700 sufficiently address Joint Shippers’ concerns by requiring pipelines to include jurisdictional revenues from Accounts 230-260 among the jurisdictional revenues reported on line 10 of Page 700.³⁶

³² *Id.*

³³ *Id.* at 7.

³⁴ *Id.*

³⁵ AOPL Rehearing at 3 (citing *Plains Pipeline, L.P.*, 139 FERC ¶ 61,265, at PP 7 & 14 (2012); and *NuStar Logistics, L.P.*, 140 FERC ¶ 61,107, at PP 4 & 9 (2012)).

³⁶ In addition, we note that on rehearing, the Joint Shippers include new data and analysis which was not presented in their comments following the NOPR. *See* Joint Shipper Rehearing at 24-26, Appendix A. Consistent with our policy against considering new evidence which is only presented for the first time on rehearing, we reject the new data analysis in Joint Shippers’ Rehearing Request. *See Potomac-Appalachian Transmission Highline, L.L.C.*, 133 FERC ¶ 61,152, at P 15 (2010) (stating “[t]he Commission generally will not consider new evidence on rehearing, as we cannot resolve

(continued...)

27. Under the current reporting requirements on Page 700, pipelines must report all jurisdictional revenues in Accounts 200-260 on line 10 of Page 700. The instructions on Page 700 state that the pipeline should include “total interstate operating revenue, as reported on Page 301....” The “operating revenues” reported on page 301 include Accounts 200-260.³⁷ As AOPL concedes, those revenues related to jurisdictional storage reported in Account 240 should be incorporated into the revenues reported on line 10 of Page 700.³⁸ The instructions similarly apply to Accounts 230, 250, and 260. Consistent with the existing reporting requirements for Page 700, any FERC jurisdictional revenues in Accounts 230-260 (as well as those in Accounts 200-220) must be reflected in the revenues on line 10 of Page 700.³⁹

28. These instructions are consistent with the intended use of Page 700. As the Commission has explained, “[t]he cost-of-service and revenue data reported on [P]age 700 [are] the cost of service and revenues related to FERC jurisdictional services.”⁴⁰ A Page 700 which fails to include all jurisdictional revenues on line 10 undermines Page 700’s intended purpose by distorting the comparison between a pipeline’s jurisdictional revenues and its jurisdictional costs.

issues finally and with any efficiency if parties attempt to have us chase a moving target.”) (citations omitted).

³⁷ The Commission’s Uniform System of Accounts also identifies Accounts 200-260 as Operating Revenues. 18 C.F.R. pt. 352 (listing Accounts 200-260 under “Operating Revenues”).

³⁸ AOPL Rehearing at 6.

³⁹ As the parties have stated, the Commission’s Form No. 6 filing software includes a warning when the data filed on line 10 of Page 700 does not equal the total interstate revenues in Accounts 200-220 in the lower table on Page 301. *E.g.* Joint Shippers Initial Comments at Attachment A, Exhibit 5. However, as the warning message makes clear, such a warning does not establish that the reported data is incorrect. *Id.* Rather, parties are merely encouraged to review the warnings to resolve any potential errors. *Id.* Accordingly, the presence of such a warning does not excuse pipelines from complying with the instructions on Page 700, which direct pipelines to report all jurisdictional revenues in Accounts 200-260 on line 10 of Page 700.

⁴⁰ *Revisions to and Electronic Filing of the FERC Form No. 6 and Related Uniform Systems of Accounts*, Order No. 620-A, 94 FERC ¶ 61,130, at 61,498 (2001).

29. Contrary to the arguments advanced by AOPL, the Commission's decisions in *Plains*⁴¹ and *NuStar*⁴² do not alter the requirement that line 10 on Page 700 must incorporate all jurisdictional revenues in Accounts 200-260. The *Plains* and *NuStar* proceedings involved pipelines' annual indexing rate filings, which are evaluated using the percentage comparison test. Regardless of the arguments raised by the protests and the pipeline's responses in those proceedings, the percentage comparison test does not involve consideration of the change in revenues reported on line 10 of Page 700.⁴³ Thus, the Commission's decision not to conduct an investigation of the index rate filings in the *Plains* and *NuStar* proceedings is unrelated to whether or not those pipelines properly reported revenues on line 10 of Page 700.⁴⁴

30. The Commission also denies Joint Shippers' rehearing urging the Commission to reconsider its rejection of proposals modify Page 301 in order to require pipelines: (a) to breakout jurisdictional and/or non-jurisdictional data for Accounts 230-260 on Page 301; and (b) to provide a justification for why any revenue in Accounts 230-260 is not considered jurisdictional. The NOPR's purpose was to increase the data available on Page 700 "to facilitate the calculation of an oil pipeline's actual rate of return on equity

⁴¹ *Plains*, 139 FERC ¶ 61,265 at PP 14-15.

⁴² *NuStar*, 140 FERC ¶ 61,107 at P 9.

⁴³ In evaluating protests to an index filing, the Commission conducts a limited inquiry based upon the percentage comparison test, which compares (a) the annual change reported on Page 700, Line 9, Total Cost of Service, with (b) the pipeline's proposed change in rates. *E.g. NuStar*, 140 FERC ¶ 61,107 at P 7 (citations omitted).

⁴⁴ Given the limited nature of the Commissions' review of a protested index rate filing, the Commission's discussion in *NuStar* and *Plains* related to Accounts 230-260 was minimal. In *Plains*, the Commission stated that any deficiencies alleged in the pipeline's reported Page 700 data were not sufficient to reject to the proposed index increase. *Plains*, 139 FERC ¶ 61,265 at PP 14-15. While emphasizing that the pipeline had satisfied the percentage comparison test, the Commission in *NuStar* stated without elaboration that "The Commission is not persuaded by Valero's argument that NuStar should be required to file a revised Form No. 6 and Page 700." *NuStar*, 140 FERC ¶ 61,107 at P 9. These isolated Commission statements must be understood in the context of the Commission's limited review of a protested index filing pursuant to the percentage comparison test. No party filed a complaint which could have prompted a broader inquiry related to the Page 700 data reported by either pipeline. *NuStar*, 140 FERC ¶ 61,107, at n.8.

... for preliminary screening purposes.”⁴⁵ The proposal to add data to Page 301 is outside the scope of this proceeding. As discussed above, pipelines must completely and accurately report all jurisdictional revenues in Accounts 200-260 on line 10 of Page 700. Thus, for the purposes of calculating the Actual ROE Percentage formula, Joint Shippers’ proposed additional reporting requirements on Page 301 are unnecessary. Joint Shippers rely upon *American Gas Ass’n v. FERC*, 593 F.3d 14 (D.C. Cir. 2010), but in that proceeding, the Commission broadly sought to “provide pipeline customers, state commissions, and the public the information they need to assess the justness and reasonableness of pipeline rates.”⁴⁶ In contrast, this proceeding was limited to the calculation of an Actual ROE and the Joint Shippers’ proposal to add additional information to Page 301 is neither necessary for the Actual ROE calculation nor an alternative to the Commission’s Actual ROE proposal. Thus, we reject Joint Shippers’ arguments related to requiring additional information on Page 301 as beyond the limited scope of this proceeding and deny rehearing.

E. Segmentation and Workpapers

1. Liquid Shippers’ Rehearing Request

31. On rehearing, the Liquid Shippers state the Commission improperly failed to consider proposals to require oil pipelines: (a) to provide the workpapers supporting Page 700 to any interested parties upon request; and (b) to file separate Page 700 data for each segment of the pipeline. The Liquid Shippers claim that these proposals were within the scope of the NOPR because the NOPR invited comments regarding whether the proposed modifications to Page 700 were “sufficient” to satisfy the goals of the NOPR.⁴⁷ Liquid Shippers also contend these proposals were consistent with the NOPR’s invitation for “comments on the matters and issues proposed in this notice to be

⁴⁵ NOPR, FERC Stats. & Regs. ¶ 32,692 at P 1; P 6 (stating “To provide *the data necessary to calculate the actual return on equity*, Page 700 must be modified to include additional information related to rate base, rate of return, return on rate base, and income taxes.”); P 17 (under the heading “conclusion,” stating that “the proposed modifications will facilitate the calculation of the actual rate of return on equity based upon Page 700 data.”).

⁴⁶ *American Gas Ass’n*, 593 F.3d at 17 (citing *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines, Notice of Proposed Rulemaking*, FERC Stats. & Regs. ¶ 32,623 (2007)) (internal quotations omitted).

⁴⁷ Liquid Shippers Rehearing at 4 (quoting NOPR, FERC Stats. & Regs. ¶ 32,692 at P 16).

adopted, including any related matters or alternative proposals that commenters may wish to discuss.”⁴⁸

2. Commission Determination

32. The Commission denies Liquid Shippers’ rehearing because the Final Rule properly rejected the proposals related to segmentation and workpapers as beyond the scope of the NOPR. The NOPR’s purpose was to increase the data available on Page 700 in order “to facilitate the calculation of an oil pipeline’s actual rate of return on equity ... for preliminary screening purposes.”⁴⁹ The NOPR narrowly solicited comment as to whether the “proposed changes herein are sufficient”⁵⁰ for this goal and requested comment regarding “related matters or alternative proposals.....”⁵¹

33. In contrast, Liquid Shippers’ request for segmented data is neither a claim that the new data added to Page 700 is “insufficient” to calculate a pipeline’s Actual ROE Percentage nor is it an “alternative” methodology for calculating this Actual ROE Percentage. The NOPR made no reference to segmented data, and the Liquid Shippers have not demonstrated that segmented data is necessary for the application of the Actual ROE Percentage formula.⁵² Similarly, the pipeline’s workpapers are not necessary for a

⁴⁸ *Id.* (quoting NOPR, FERC Stats. & Regs. ¶ 32,692 at P 28).

⁴⁹ NOPR, FERC Stats. & Regs. ¶ 32,692 at P 1; P 5 (stating “The Commission proposes to modify Page 700 *to more easily enable the calculation of a pipeline’s actual rate of return on equity* consistent with the rulemaking principles embodied in Opinion 154-B, et al.”) (emphasis added); P 6 (stating “To provide *the data necessary to calculate the actual return on equity*, Page 700 must be modified to include additional information related to rate base, rate of return, return on rate base, and income taxes.”); P 16 (“Prior to this proposal, any attempt to estimate an oil pipeline’s actual return on equity required assumptions regarding several cost of service components....”); P 17 (under the heading “conclusion,” stating that “the proposed modifications will facilitate the calculation of the actual rate of return on equity based upon Page 700 data.”).

⁵⁰ *Id.* P 16.

⁵¹ *Id.* P 28.

⁵² As to the Liquid Shippers’ claim that it is “difficult, if not impossible” to evaluate pipeline rates without segmented data, we note that since the inception of this rulemaking proceeding, multiple shippers have filed complaints against pipelines using existing Page 700. *See, e.g., HollyFrontier Refining & Marketing LLC v. Osage Pipe Line Co., LLC*, 141 FERC ¶ 61,153 (2012); *Delta Air Lines, Inc., et al. v. Buckeye Pipe Line Co., L.P.*, 142 FERC ¶ 61,141 (2013); *Southwest Airlines Co. and United Airlines*, (continued...)

shipper's use of the Actual ROE Percentage formula, which is based solely upon Page 700 data. Thus, the Final Rule appropriately declined to consider the proposals related to segmentation and workpapers given the "limited nature" of this rulemaking proceeding.⁵³

The Commission orders:

The requests for rehearing and clarification of Order No. 783 are hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Inc. v. Colonial Pipeline Co., 147 FERC ¶ 61,024 (2014); and *Guttman Energy, Inc., et al. v. Buckeye Pipe Line Co., L.P.*, 147 FERC ¶ 61,088 (2014).

⁵³ Final Rule, 144 FERC ¶ 61,049 at P 45.