

149 FERC ¶ 61,101
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Sierrita Gas Pipeline, LLC

Dockets Nos. CP13-73-001
CP13-74-001

ORDER GRANTING CLARIFICATION
AND DISMISSING ALTERNATIVE REQUEST FOR REHEARING

(Issued November 5, 2014)

1. On June 6, 2014, the Commission issued an order granting Sierrita Gas Pipeline, LLC (Sierrita) authorization to construct and operate 60.9 miles of pipeline, referred to as the Sierrita Pipeline Project, from Tucson, Arizona, to the international boundary between the United States and Mexico to transport natural gas being exported to Mexico.¹ On July 7, 2014, Sierrita filed a request for clarification or, in the alternative, rehearing, that: (1) Sierrita is not required to post purchases of operational gas for bidding purposes; (2) Sierrita is not required to credit to its shippers revenues from the sale of operational gas; and (3) Sierrita's proposed revision to its tariff language addressing *force majeure* events complies with the Commission's requirement in the June 6 Order.
2. This order grants the clarifications requested by Sierrita and dismisses the alternative request for rehearing as moot.

I. Background

3. The June 6 Order approved Sierrita's proposed Sierrita Pipeline Project, which will be capable of transporting up to 200,846 dekatherms (Dth) per day, from a tie-in with El Paso Natural Gas Company, LLC's existing South Mainline System near Tucson, Arizona, to Sierrita's planned border-crossing facilities at the United States-Mexico border in Sasabe, Arizona. The June 6 Order also approved Sierrita's initial recourse

¹ *Sierrita Gas Pipeline LLC*, 147 FERC ¶ 61,192 (2014) (June 6 Order).

rates for transportation services and its *pro forma* tariff, while directing Sierrita to make certain revisions to its rates and tariff.² As relevant here, the June 6 Order directed Sierrita: (1) to make several revisions to the proposed language of Section 27 of its tariff's General Terms and Conditions (GT&C) relating to purchases and sales of operational gas by Sierrita; and (2) to revise its tariff's definition of *force majeure* in GT&C Section 11.3(a) to be consistent with Commission policy.

II. Sierrita's Request for Clarification and Discussion

4. In explaining that Commission policy requires that pipeline tariffs include provisions addressing their purchases and sales of natural gas for operational purposes, the June 6 Order stated that these requirements include "(d) posting and bidding procedures for the *purchase* and sale of gas for operational purposes."³

5. In its request for clarification, Sierrita emphasizes that the Commission has consistently found that its posting requirement for bidding purposes only applies to pipelines' sales of operational gas volumes, and not to their purchases of operational gas.⁴ Sierrita requests clarification that the June 6 Order did not intend to impose a requirement that Sierrita post or solicit bids on its Electronic Bulletin Board (EBB) before it makes purchases of gas for operational purposes.

6. Sierrita is correct that the Commission has held that only excess operational gas that a pipeline seeks to sell must be posted for bidding on its EBBs, to allow shippers the opportunity to compete for those volumes.⁵ Commission precedent does not require pipelines to post requests on their EBBs when they need to purchase gas for operational purchases.⁶ Thus, we grant the requested clarification: Sierrita is not required to post gas purchase requests.

² 18 C.F.R. pt. 284 (2014).

³ June 6 Order, 147 FERC ¶ 61,192 at P 50 (*emphasis added*).

⁴ Request for Rehearing at 5, citing, *inter alia*, *Ruby Pipeline, L.L.C.*, 144 FERC ¶ 61,118, at P 7 (2013) (*Ruby*).

⁵ See *Colorado Interstate Gas Co.*, 111 FERC ¶ 61,216, at PP 15-16 (2005) (*Colorado*); *Dominion Transmission, Inc.*, 106 FERC ¶ 61,029, at P 17 (2004); see also *Ruby*, 144 FERC ¶ 61,118 at P 7; *Texas Gas Transmission, LLC*, 139 FERC ¶ 61,126, at P 19 (2012) (*Texas Gas*).

⁶ See *Ruby*, 144 FERC ¶ 61,118 at P 7. See also *Wyoming Interstate Co. Ltd.*, 111 FERC ¶ 61,215, at P 29 (2005) (*Wyoming*); *Colorado*, 111 FERC ¶ 61,216 at P 15.

7. Next, Sierrita seeks clarification or, in the alternative, rehearing of the June 6 Order's statement that Commission policy requires that a pipeline's tariff language addressing purchases and sales of operational gas include "(e) a commitment to filing an annual report of sales and purchases and revenues derived from the sale of gas, and the *crediting* of revenues to shippers."⁷ Sierrita requests that the Commission grant clarification, similar to its clarification in *ANR Pipeline Company*,⁸ that this statement in the June 6 Order was not intended to impose a requirement that Sierrita credit to its shippers its revenues from its sales of operational gas, and that a pipeline's annual report of its sales of excess operational gas only needs to include information regarding the crediting of revenues from such sales if such crediting is required by the pipeline's tariff.

8. We grant the requested clarification. As Sierrita states, its proposed tariff did not include a mechanism to credit any revenues from its sales of operational gas, and our June 6 Order did not direct Sierrita to revise its tariff to require that it credit its shippers with any revenues from sales of operational gas. If Sierrita's tariff is revised in the future to provide for the crediting of some or all of its revenues from sales of excess operational gas, its tariff also will need to be revised at that time to explain how such crediting will be implemented.⁹

9. Finally, Sierrita seeks clarification or, in the alternative, rehearing of the June 6 Order's requirement that it revise the proposed definition of *force majeure* in GT&C section 11.3(a)¹⁰ of its tariff consistent with Commission policy, as set forth in *TransColorado Gas Transmission Company (TransColorado)*,¹¹ by limiting the events encompassed by the definition of unanticipated matters outside Sierrita's control.¹² The Commission determined the statements in proposed GT&C Section 11.3(a) regarding "compliance with any court order, law, regulation or ordinance promulgated by any

⁷ June 6 Order, 147 FERC ¶ 61,192 at P 50 (*emphasis added*).

⁸ See *ANR Pipeline Company*, 111 FERC ¶ 61,290, at P19 (2005) (*ANR*).

⁹ See, e.g., *Texas Gas*, 139 FERC ¶ 61,126 at P 19 and Ordering Paragraph (B) (directing Texas Gas to revise tariff provisions relating to sales of operational gas to reflect its agreement during the proceeding to credit revenues from certain sales of operational gas).

¹⁰ June 6 Order, 147 FERC ¶ 61,192 at P 89.

¹¹ 144 FERC ¶ 61,175 (2013).

¹² June 6 Order, 147 FERC ¶ 61,192 at P 89 (citing *TransColorado*, 144 FERC ¶ 61,175).

governmental authority having jurisdiction...” and “testing (as required by governmental authority)” are overbroad and include matters that might not be *force majeure* events.¹³

10. Sierrita requests clarification that it complies with the June 6 Order’s direction by filing to modify its tariff’s *force majeure* definition in GT&C Section 11.3(a) to include language identical to that approved in *TransColorado*.¹⁴ Specifically, Sierrita proposes to add: “An event associated with compliance with any court order, law, regulation or ordinance promulgated by any governmental authority having jurisdiction, either federal, Indian, state or local, civil or military and/or the necessity for testing (as required by governmental authority or as deemed necessary for safe operation by the testing party) shall be considered a force majeure event only when the event is outside Sierrita’s control.”¹⁵

11. We grant Sierrita’s request for clarification that its proposal to file revised tariff records to modify its *force majeure* definition consistent with the language approved in *TransColorado* will comply with our June 6 Order.

The Commission orders:

Sierrita’s July 7, 2014, request for clarification of the June 6 Order is granted as discussed in the body of this order. Sierrita’s alternative request for rehearing is dismissed as moot.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹³ June 6 Order, 147 FERC ¶ 61,192 at PP 88-89.

¹⁴ See *TransColorado*, 144 FERC ¶ 61,175 at PP 34-35.

¹⁵ In Docket No. RP14-1195-000, Sierrita filed revised *force majeure* language, the same language it proposes on rehearing, modifying the tariff’s *force majeure* definition in GT&C Section 11.3. The Commission approved this revision on October 8, 2014. See *Sierrita Gas Pipeline LLC*, 149 FERC ¶ 61,021 (2014).