

149 FERC ¶ 61,111
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Alpha Crude Connector, LLC

Docket No. OR14-37-001

ORDER GRANTING CLARIFICATION

(Issued November 7, 2014)

1. On July 3, 2014, Alpha Crude Connector, LLC (Alpha) filed a Petition for Declaratory Order (Petition) seeking Commission approval of the overall tariff and rate structure and the proposed apportionment policy for a new crude oil pipeline system (Project) to be located in Eddy and Lea Counties, New Mexico, and Culberson, Loving, Reeves, and Winkler Counties, Texas. Alpha stated that the Project is designed to transport crude oil produced in the northern Delaware Basin in southeastern New Mexico and West Texas to points of interconnection with the Genesis Energy, L.P rail terminal and multiple long-haul pipelines from which the crude oil will be re-delivered to major hubs at Cushing, Oklahoma, and the U.S. Gulf Coast, as well as to at least one refinery in New Mexico.
2. In an order issued October 1, 2014,¹ the Commission granted the rulings requested by Alpha, subject to certain conditions. First, the Commission directed Alpha to seek prior Commission approval if it wished to offer shippers participating in the Second Open Season any terms and conditions of service that differed from the terms and conditions offered during the Initial Open Season. Second, the Commission ordered Alpha to include in its tariff a provision applying electricity charges to all classes of shippers in proportion to the volumes of crude oil they ship. On October 16, 2014, Alpha filed a Motion for Clarification asking the Commission to clarify its intent with respect to the two conditions imposed in the Declaratory Order.
3. As discussed below, the Commission grants the requested clarifications.

Motion for Clarification

4. First, states Alpha, a petition for a second declaratory order should be unnecessary because Alpha stated in its original Petition for Declaratory Order that it would offer the

¹ *Alpha Crude Connector, LLC*, 149 FERC ¶ 61,001 (2014) (Declaratory Order).

same Committed Shipper options in the Second Open Season that it offered in the Initial Open Season, as reflected in the Committed Shipper Agreements, *pro forma* rates tariff and *pro forma* rules and regulations tariff filed in Appendix E to its Petition. Alpha emphasizes that, should it agree in the Second Open Season to alter any terms of service agreed to by Alpha and Committed Shipper(s) in the Initial Open Season, any such changes will be offered to, and voluntarily accepted by, any entity that executed a Committed Shipper Agreement in the Initial Open Season. Alpha maintains that under those circumstances, it will not require the protections afforded by a second declaratory order to justify pursuing the investment and other commitments necessary for the Project.

5. Alpha next argues that no tariff adjustment should be required with respect to electric cost recovery. Alpha states that it explained in the Petition that A-Level and B-Level Committed Shippers would not be required to provide electricity to power gathering pumps at or near their receipt points because they made the largest acreage dedications for the longest terms. According to Alpha, despite the finding in the Declaratory Order that Alpha's various classes of shippers are appropriately distinguished by their financial commitments, acreage or volume commitments, and the length of their contract terms, the Commission directed Alpha to include in its tariff the at-cost, per-barrel electricity charge spread across all barrels shipped and a provision to ensure that Uncommitted Shippers will not subsidize the electricity costs of other shippers.

6. Alpha contends that it should not be required to revise its tariff to reflect this condition because its proposal to require certain acreage dedication Committed Shippers to provide electricity in-kind to power their gathering pumps does not raise concerns regarding shipper-to-shipper subsidies. Alpha explains that C-Level and D-Level acreage dedication Committed Shippers will be responsible for providing electricity to power their own gathering pumps, whereas Alpha will assume the cost of providing electricity to power the gathering pumps of A-Level and B-Level acreage dedication Committed Shippers because those Committed Shippers are assuming the greatest costs and risks by virtue of the length of their contract terms and the size of their acreage dedications. Alpha emphasizes that it will bear the cost of electricity required to power the gathering pumps of the A-Level and B-Level acreage dedication Committed Shippers and that any shippers transporting crude oil on a volumetric basis will not have gathering pumps that require electric power.

Commission Analysis

7. The Commission will grant the two clarifications requested by Alpha. First, the Commission accepts Alpha's assurance that it will offer to Initial Open Season Committed Shippers any new terms or conditions offered to Second Open Season² Committed Shippers so that all Committed Shippers will be afforded the opportunity to

² The Second Open Season ended November 4, 2014.

accept the same terms or conditions without the need for Alpha to file an additional petition for a declaratory order.

8. Additionally, the Commission clarifies that A-Level and B-Level acreage – dedication Committed Shippers will not be required to pay the costs of electricity to power their gathering pumps. Alpha will bear the cost of electricity necessary to power the gathering pumps of those shippers because they have assumed the greatest costs and risks and made the longest-term commitments to the Project. The C- Level and D-Level Committed Shippers will be required to provide electricity to power their own gathering pumps, but this requirement will not apply to any shippers that make volumetric commitments because they will not have gathering pumps that will require power. Alpha points out that it did not propose in its *pro forma* tariffs or elsewhere to impose electricity on any other shippers, so there will be no costs that could possibly be shifted to Uncommitted Shippers.

The Commission orders:

Alpha's Motion for Clarification is granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.