

151 FERC ¶ 61,058
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 20, 2015

In Reply Refer To:
MoGas Pipeline LLC
Docket No. RP09-791-002

MoGas Pipeline LLC
329 Josephville Road
Wentzville, MO 63385

Attention: Cy Zebot
President

Dear Mr. Zebot:

1. On December 19, 2014, MoGas Pipeline LLC (MoGas) filed a two-page cost and revenue study in compliance with the Commission's Letter Order Approving Uncontested Settlement (letter order).¹ As discussed below, the Commission rejects MoGas's cost and revenue study and directs MoGas to refile a new cost and revenue study that meets the requirements set forth in section 154.313 of the Commission's regulations.²

2. In 2006, MoGas filed seeking authority, among other things, to acquire and operate facilities under section 7 of the Natural Gas Act (NGA). In 2007, the Commission accepted MoGas's filing on the condition that MoGas file an NGA general section 4 case within 18 months of commencing service.³ On June 30, 2009, MoGas filed a revised tariff record in this docket that reflected an increase in its rates pursuant to section 4 of the NGA and Part 154 of the Commission's regulations and the Commission's 2007 order. The Commission authorized initial rates for MoGas in Docket

¹ *MoGas Pipeline LLC*, 132 FERC ¶ 61,092 (2010).

² 18 C.F.R. § 154.313 (2014).

³ *Missouri Interstate Gas, LLC*, 119 FERC ¶ 61,074 (2007).

No. CP06-407-000, *et seq.*, pursuant to section 7 of the NGA.⁴ On June 1, 2008, MoGas commenced service as an interstate pipeline subject to the jurisdiction of this Commission.

3. On July 30, 2010, the Commission issued its letter order approving an uncontested settlement (Settlement) in this docket arising out of MoGas's NGA general section 4 rate filing. As relevant here, Article VIII of the Settlement stated that "MoGas shall file with the Commission a complete and verified cost and revenue study no later than December 31, 2014." MoGas filed a study pursuant to Article VIII on December 19, 2014.

4. Public notice of the filing was issued on January 15, 2015. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2014)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2014)), all timely filed motions to intervene and any unopposed motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties.

5. On January 2, 2015, the Missouri Public Service (MoPSC) filed adverse comments. On January 26, 2015, the Missouri Municipals⁵ filed a protest. MoGas filed a motion for leave to answer and answer in response to the filings of MoPSC and the Missouri Municipals (the protestors) on February 6, 2015. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.213(a)(2) (2014)) prohibits answers to protests or answers unless otherwise ordered by the decisional authority. In this case, the Commission will accept MoGas's answer because it assisted the Commission in its decision-making process.

6. MoPSC states that MoGas did not comply with the Settlement requirement for a complete and verified cost and revenue study. MoPSC contends that the limited data contained in MoGas's cost and revenue study defeats the purpose of the Settlement requirement because it prevents the parties from analyzing whether the initial rates continue to be just and reasonable. MoPSC requests that the Commission require MoGas to file a cost and revenue study that complies with section 154.313 of the Commission's Rule and Regulations, 18 C.F.R. § 154.313 (2014), which govern data required for minor rate-change justifications.

⁴ *Missouri Interstate Gas, LLC, et al.*, 119 FERC ¶ 61,074 (2007), *order on reh'g*, 122 FERC ¶ 61,136 (2008).

⁵ The Missouri Municipals consist of the Municipal Gas Commission of Missouri, and the cities of St. James, St. Robert, and Waynesville, Missouri.

7. Similarly, the Missouri Municipals state that the MoGas cost and revenue study is inconsistent with the Settlement and in violation of the Commission's letter order. The Missouri Municipals acknowledge that the Commission's regulations are not mentioned in Article VIII. However, by requiring a "complete" cost and revenue study, the Missouri Municipals represent that the parties intended for MoGas to provide the Commission and the public with substantially more information than would otherwise be available in order to determine if MoGas is overearning. The Missouri Municipals request that the Commission require MoGas to file a cost and revenue study that complies with section 154.312 of the Commission's Rules and Regulations, which govern the full statements and data to support a major rate case. They also request that the Commission assess sanctions or other appropriate action for violating the letter order.

8. In its answer, MoGas argues that the obligation to file a cost and revenue study in Article VIII of the Settlement does not reference a specific obligation, nor does the Settlement include any discussion of the breadth of Article VIII's intent. MoGas claims that its December 19 filing satisfies the "express terms" of Article VIII of the Settlement. It argues that the protesters' request for additional "revenue requirement data" does not appear in the Settlement. MoGas adds that if the protestors had intended to require a specific form of cost and revenue study, that form would have been specified in the Settlement.

9. MoGas claims that Article VIII of the Settlement is unambiguous, and that it has interpreted it correctly.

10. MoGas argues that the cost and revenue study at issue here is a separate requirement, not imposed by the Commission, but agreed to among the parties through the Settlement. Thus, Commission regulations dictating the form of the cost and revenue study is irrelevant. MoGas argues sanctions are unfounded.

11. As discussed below, the Commission finds there is ambiguity in the Settlement with respect to the detail required, and that more data and information are needed to justify continuance of MoGas's existing rates.⁶ The Commission finds that the data under 18 C.F.R. § 154.313 would be adequate to implement the overall intent of the Settlement, namely, that MoGas provide complete and verified data to support continuation of the existing rates. MoGas has merely interpreted the Article VIII provision more narrowly than warranted for the rate justification purposes of the Settlement; therefore, the Commission does not find at this juncture a basis for sanctions as urged by the protesters.

⁶ Parties to a settlement should be clear as to their intent as to provisions of a settlement.

12. Article VIII of the Settlement is silent as to the content of the required cost and revenue study; therefore, the Commission is interpreting the Settlement in a just and reasonable manner, consistent with the Commission's intended purpose in approving the cost and revenue study specified thereunder as part of the overall Settlement package, resolving MoGas's first interstate rate case. The Commission requires a new pipeline system to file a cost and revenue study at the end of the first three years of actual operations to justify its existing rates.⁷ In such a filing the projected units of service should be no lower than those upon which the initial rates are based. The filing must include a cost and revenue study in the form specified in section 154.313 of the Commission's regulations in order to update the cost-of-service data.⁸ MoGas, as a former intrastate pipeline newly converted to interstate service with Settlement rates arising out of its initial NGA rate case, is in an analogous position to a newly constructed and certificated interstate pipeline. Thus, it is reasonable to apply section 154.313 to delineate the breadth of information required to fulfill the requirements of Article VIII of the Settlement.

13. Because MoGas operates a relatively small pipeline offering relatively few services, the Commission interprets the requirements of MoGas to file a "complete and verified" cost and revenue study to be fulfilled by the pipeline filing a cost and revenue study consistent with section 154.313 of the Commission's regulations. Consequently, whatever data MoGas provides must be sufficiently complete and verified so as to justify the continuance of its existing rates.

14. Therefore, the Commission directs MoGas, within 90 days, to file a cost and revenue study through the eTariff portal using a Type of Filing Code 580. The study must include complete and verified cost and revenue data as specified in section 154.313 of the Commission's regulations to update cost of service data.⁹

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁷ See, e.g. *Empire State Pipeline*, 116 FERC ¶ 61,074, at P 133 (2006); *Entrega Gas Pipeline Inc.*, 112 FERC ¶ 61,177, at P 52 (2005).

⁸ 18 C.F.R. § 154.313 (2014).

⁹ *Id.*