152 FERC ¶ 61,021
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ANR Pipeline Company Docket No. CP14-514-001

ORDER DENYING REHEARING

(Issued July 7, 2015)

1. On January 2, 2015, ANR Pipeline Company (ANR) filed a request for rehearing or, in the alternative, clarification of the order issued in *ANR Pipeline Company*.[1] The 2014 Order, among other things, denied ANR's request for a predetermination that it may roll the fuel reimbursement costs into its system fuel tracker mechanism and required ANR to charge a separate incremental fuel rate for the project. For the reasons discussed below, the Commission will deny ANR's request for rehearing.

Background

2. The Lebanon Lateral consists of 37.8 miles of 30-inch-diameter pipeline, extending from ANR's 30-inch-diameter Southeast Mainline at Sulphur Springs, Indiana, to the Glen Karn meter station near Glen Karn, Ohio, and 60.7 miles of 36-inch-diameter pipeline extending from the Glen Karn meter station to the lateral's terminus near Lebanon, in Warren County, Ohio. ANR owns the segment of the Lebanon Lateral from its Southeast Mainline to the Glen Karn meter station and shares ownership of the remaining segment of the line with Texas Eastern Transmission LP.

3. The 2014 Order authorized ANR to construct and operate a compressor unit at its existing Sulphur Springs Compressor Station on the Lebanon Lateral north of Sulphur Springs, Indiana. The project was designed to make possible an additional 133,643 dekatherms per day of firm reverse-flow transportation service within the existing capacity on ANR's Lebanon Lateral from the Glen Karn meter station to the Sulphur Springs Compressor Station. CNX Gas Company (CNX) and

[1] 149 FERC ¶ 61,197 (2014 Order).

Rice Drilling B, LLC (Rice Drilling) signed precedent agreements for all of the capacity of the proposed project.

4. ANR's existing rate structure is based on seven zones and rates depending on where gas is received and delivered. ANR proposed and the Commission approved ANR's proposal to use its existing Rate Schedule FTS-1 Zone 3 reservation rate as the initial recourse rate for the new service. The 2014 Order also granted ANR's request for a predetermination supporting rolled-in rate treatment of project costs based on ANR's estimate that project revenues of approximately $29 million during the first three years of operation would exceed estimated project costs of $21 million in the same period, thus supporting ANR's conclusion that rolling in project costs would lower ANR's recourse rates. However, the 2014 Order denied ANR's proposal to recover any compressor fuel and lost and unaccounted for (L&U) volumes associated with the new capacity through its system-wide fuel retention rate, and required that ANR separately identify the incremental fuel associated with the project and charge an incremental fuel rate for the project.

ANR's Request for Rehearing or Clarification

5. ANR contends that the Commission improperly compared ANR's illustrative incremental fuel rate of 0.97 percent for the project to ANR's existing Zone 3 fuel rate of 0.65 percent and concluded that rolling in the higher project fuel costs would shift costs to existing customers. ANR asserts that this is an "apples to oranges" comparison because the fuel rates were not calculated on an equivalent basis. ANR states that its illustrative incremental fuel rate of 0.97 percent is based on a hypothetical 100 percent load factor assumption, while the existing Zone 3 fuel rate of 0.65 percent is based upon the lower known and measurable load factor usage that occurred in 2013. Moreover, in contrast to the illustrative fuel rate which contains no true-up, ANR states that the Zone 3 fuel rate incorporates a true-up mechanism that reflects prior period over-collections, resulting in an even lower Zone 3 fuel rate than would have existed otherwise.

6. ANR asserts that a more valid comparison would be to place existing system usage and project usage on a level playing field by calculating both based upon the higher load factor usage expected when the project is in service; such a calculation would result in a Zone 3 fuel rate of 1.25 percent, which is greater than the illustrative incremental fuel rate of 0.97 percent.[2] In the alternative, ANR contends that the Commission could calculate project fuel usage based on the lower known and measurable load factor that was used to derive the Zone 3 fuel rate, resulting in an illustrative incremental fuel rate of

[2] ANR August 28, 2014 data response at Attachment B.

0.62 percent, which is less than the existing Zone 3 rate of 0.74 percent.[3] In both cases, where an "apples to apples" comparison is made, ANR states that the incremental fuel rate will be lower than the existing Zone 3 fuel rate, demonstrating that existing shippers would not subsidize service to new customers using project service, thus supporting a pre-determination of rolled-in rate treatment for project fuel.

7. We disagree. The Commission relied upon the illustrative fuel rate provided by ANR in its response to staff's data request to determine whether a subsidy would occur. The fact that calculating the rates in differing manners can lead to different conclusions only highlights the uncertainty surrounding the central question of whether allowing ANR to roll the fuel costs associated with the Sulphur Springs Compressor Project into its system fuel rates would result in subsidization of project fuel costs by existing customers. In the face of such uncertainty, the Commission will stand by its decision not to allow rolled-in treatment for the fuel costs, outside of a general section 4 rate case.

8. ANR also contends that the Commission failed to take into consideration the integrated nature of its project and the benefits to all customers from this project. Specifically, ANR asserts that the increased compression created by this project would improve system reliability and provide greater service security for all customers, and that decreased system fuel use resulting from increased transportation via displacement on the existing system will benefit all customers. ANR further submits that Commission policy does not favor incremental rate treatment where new facilities are integrated with existing facilities and the new facilities will be used to provide service to existing customers.[4]

9. We recently addressed and rejected the same argument in *Southeast Supply Header, LLC (SESH).*[5] In that case, SESH proposed to increase the capacity of its mainline by having an interconnecting pipeline deliver gas to SESH at a higher pressure. During SESH's open season, two customers entered into precedent agreements with SESH to use the increased capacity. The Commission approved SESH's proposals, but denied SESH's proposal to recover via its system fuel tracker mechanism the fuel it would provide to the interconnecting pipeline to support the pressure boost. The *SESH* order found that recovery of fuel in the system-wide fuel reimbursement rate would result in an increase in that rate, and that the increase would constitute subsidization of the fuel costs associated with the expansion service by SESH's existing mainline shippers. On

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[3] ANR January 2, 2015 rehearing request at Attachment A.

[4] *Citing Gulf South Pipeline Co., LP (Gulf South)*, 120 FERC ¶ 61,291 (2007), *order on reh'g*, 122 FERC ¶ 61,162 (2008).

[5] 148 FERC ¶ 61,121 (2014), *order on reh'g*, 151 FERC ¶ 61,032 (2015).

rehearing, in response to SESH's arguments that its proposals would provide operational benefits to its existing customers such that requiring them to pay increased fuel costs associated with the project should not be considered subsidization, the Commission stated:

> It may be true, as it is for most pipeline projects, that existing customers might experience some increased level of flexibility or reliability as a result of this project. However, this project is not being proposed to improve the service of existing customers. For pipeline projects such as SESH's, the purpose of which is to expand capacity of the existing system to serve new load, our policy requires there be no subsidization from existing customers.[6]

10. Here, as in *SESH*, ANR proposed to increase the capacity of its system to serve new load and not to improve the service of existing customers. In such cases, as stated in *SESH*, our policy requires that there be no subsidization from existing customers.[7] In addition, the *Gulf South* case cited by ANR is inapposite. The primary significance of the finding in *Gulf South* that the proposed expansion facilities would be integrated with the existing system was that it precluded approval of Gulf South's proposal to charge project shippers an incremental rate for service on the expansion facilities, plus the system rates for service on the existing system ("incremental plus" pricing). The Commission rejected the proposal, explaining that it does not permit such pricing where the new facilities were integrated with the existing system.[8] The issue of incremental plus pricing is not raised by ANR's proposal. The Commission rejected Gulf South's proposal to charge an incremental fuel rate because it initially found that properly calculated incremental rates would be lower than the generally applicable rates, and thus rejected Gulf South's proposal to charge incremental rates as initial rates for its expansion service.[9] As discussed above, it is not clear here that allowing recovery of project fuel costs through the system fuel retention rate will not result in subsidization of the project by existing shippers.

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[6] *SESH*, 151 FERC ¶ 61,032 at P 13.

[7] *Id.*

[8] *Gulf South*, 120 FERC ¶ 61,291 at P 25.

[9] *Id.* at P 32. While the Commission reconsidered its ruling regarding Gulf South's proposed incremental recourse rates on rehearing and ultimately approved such rates after it was shown that the incremental rate would actually be higher than the existing system rate, the Commission did not revisit its ruling regarding fuel rates. *See Gulf South*, 122 FERC ¶ 61,162 at P 17.

11. ANR further asserts that the integrated nature of the project makes it difficult, if not impossible, for it to implement an incremental fuel rate for service on the capacity created by the project. ANR requests that if rehearing is denied, the Commission clarify how ANR should develop and implement an incremental fuel rate for service on facilities that are integrated with ANR's system. ANR states that the project facilities will be used for service both to the shippers who subscribed to project capacity and to its existing shippers. ANR claims that if it separately assigns fuel to the project shippers, there is a risk that those shippers will subsidize service to existing shippers using the project facilities paying the Zone 3 fuel rate.

12. As demonstrated by the *Gulf South* case cited by ANR, it is not unusual to have incremental rates for expansion services utilizing integrated facilities. The Commission finds that ANR can develop an incremental fuel rate (in-kind) for service using the new Sulphur Springs compressor unit without cross subsidization. The initial incremental fuel rate would be developed by dividing the projected fuel usage of the new Sulphur Springs compressor unit by the incremental capacity created by the project and charged to those shippers subscribing to the new capacity. As shown in Attachment B to ANR's August 28, 2014 data response to Question No. 2, projected fuel usage of 1,300 MMcf/d divided by the incremental capacity created by the project of 13,641 MMcf/d results in an initial incremental fuel rate of 0.97 percent. Subsequent annual fuel adjustment filings would reflect an incremental Sulphur Springs fuel rate and a fuel adjustment pursuant to Section 6.34 of ANR's General Terms and Conditions.

<u>The Commission orders</u>:

ANR's request for rehearing is denied.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.