

153 FERC ¶ 61,133
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

MoGas Pipeline LLC

Docket No. RP09-791-003

ORDER ON REHEARING

(Issued November 2, 2015)

1. On April 20, 2015, the Commission issued an order¹ directing MoGas Pipeline LLC (MoGas) to submit a complete and verified cost and revenue study containing the data specified in section 154.313 of the Commission's regulations.² On May 20, 2015, MoGas sought rehearing of the April 20 Order. On July 17, 2015, MoGas made a compliance filing to provide the data required by the April 20 Order. The compliance filing was unopposed, assigned Docket No. RP15-1123-000, and accepted by the Commission. MoGas's rehearing request is thus dismissed as moot.³

I. Background

2. In 2006, MoGas sought to reorganize and operate facilities as an interstate pipeline under section 7 of the Natural Gas Act (NGA). The Commission granted MoGas's requested authorizations, on the condition that MoGas file an NGA section 4 general rate case within 18 months of commencing service.⁴ MoGas commenced service as an interstate pipeline on June 1, 2008. On June 30, 2009, MoGas filed the NGA section 4 general rate case required by the Commission's certificate order.

¹ *MoGas Pipeline, LLC*, 151 FERC ¶ 61,058 (2015) (April 20 Order).

² 18 C.F.R. § 154.313 (2015).

³ On August 31, 2015, the compliance filing was accepted by delegated letter order in Docket No. RP15-1123-000.

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

3. On July 30, 2010, the Commission approved an uncontested settlement (Settlement) of MoGas's rate case.⁵ 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 cost and revenue study on December 19, 2014, which was protested by the Missouri Public Service Commission (MoPSC) and certain Missouri Municipals,⁶ as insufficient and inconsistent with the intent of the Settlement.

4. The April 20 Order held the Settlement was silent as to the precise content of the required cost and revenue study, but agreed with the protesters that MoGas needed to provide more data in its study. The April 20 Order further held that the data required under 18 C.F.R. § 154.313 (2015) would be sufficient to fulfill the Settlement's cost-and-revenue-study requirement.

II. Rehearing Request and Compliance Filing

5. Article VIII of the Settlement provided that "MoGas shall file with the Commission a complete and verified cost and revenue study no later than December 31, 2014." On rehearing MoGas essentially argues that this language is unambiguous, requires only a "simple" cost and revenue study, and that the April 20 Order improperly interpreted this language to require more information than what MoGas originally proffered.⁷

6. Additionally, MoGas contends this interpretation amounted to a "modification" of the Settlement in violation of the *Mobile-Sierra* doctrine, because it could not have found that the public interest justified such a change.⁸

7. Finally, assuming for the sake of argument the Settlement language was ambiguous, MoGas argues extrinsic evidence would not support the April 20 Order's findings, and faults the Commission's interpretation as a misapplication of extrinsic evidence of the intent of the parties with respect to the Settlement language.⁹

⁵ *MoGas Pipeline LLC*, 132 FERC ¶ 61,092 (2010).

⁶ The Missouri Municipals consist of the Municipal Gas Commission of Missouri, and the Cities of St. James, St. Robert, and Waynesville, Missouri.

⁷ Rehearing Request at 9-11.

⁸ *Id.* at 12-13.

⁹ *Id.* at 14.

III. Discussion

8. As noted above, on July 17, 2015, MoGas fully complied with the cost and revenue study obligation under the Settlement as parsed by the April 20 Order. Because MoGas stated with its compliance filing that its compliance filing was without prejudice to its request for rehearing, the Commission briefly addresses below the points raised on rehearing, as they would have been absent the acceptance of the compliance filing.

9. Had the contents-of-the-study issue not become moot, MoGas's rehearing request would still fail on the merits as the language concerning the cost and revenue study was sufficiently ambiguous, such that the Commission's interpretation of the cost and revenue study requirement was a reasonable one. As a result, *Mobile-Sierra* was not implicated as there was no "modification" of the Settlement. In any event, the Commission may always require information and data from a jurisdictional company on reasonable grounds, and it had adequate grounds for forming its judgment in the April 20 Order to apply the information requirements suitable to a relatively small pipeline offering few services, and uniquely situated in that it was recently reorganized from an intrastate to an interstate natural gas company. Therefore, the additional data and information were reasonably required of MoGas in the April 20 Order, and this did not contravene, misinterpret, or improperly modify the Settlement.

10. In conclusion, given that MoGas has filed (and the Commission has accepted) a cost and revenue study that contains sufficient and satisfactory data as sought by the April 20 Order, the Commission finds the dispute over the sufficiency of the cost and revenue study has become moot, as have the rehearing arguments concerning that dispute.¹⁰

¹⁰ Clearly, no further process is needed at this juncture to ascertain from extrinsic evidence the intent of the parties with respect to the breadth and contents of the cost and revenue study.

The Commission orders:

MoGas's request for rehearing is dismissed as moot, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.