

156 FERC ¶ 61,175  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Colonial Pipeline Company

Docket No. IS16-259-001

ORDER GRANTING CLARIFICATION

(Issued September 13, 2016)

1. On May 19, 2016, the Commission rejected FERC Tariff No. 98.25.0 filed by Colonial Pipeline Company (Colonial) which was, according to Colonial, intended to memorialize certain aspects of Colonial's existing practices relating to the allocation of pipeline capacity and the transfer of shipper volume history.<sup>1</sup> The Commission explained that the filing only proposed to reflect in Colonial's tariff a portion of the pipeline's history transfer practice which itself had "never been reviewed by the Commission."<sup>2</sup> The Commission found that Colonial failed to adequately explain "how its un-reviewed and unapproved history transfer practice is applied, how its application impacts capacity allocation on Colonial's system, and how that practice and, as a result, Colonial's shippers are affected by inclusion in Colonial's tariff of the one isolated provision Colonial seeks to add here."<sup>3</sup>

2. In connection with their protest of Colonial's tariff filing, Tricon Energy Ltd. (Tricon) and Rockbriar Partners Inc. (Rockbriar) filed a complaint regarding Colonial's proposed restrictions on shipper history transfers. The complaint was given a separate docket number, Docket No. OR16-17-000.

3. Prior to Colonial's tariff filing in this proceeding, the Commission convened a technical conference in Docket No. IS16-61-000 to consider Colonial's proposed modifications to its procedures relating to minimum tender requirements and the allocation of pipeline capacity. In a July 1, 2016 order, the Commission rejected

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<sup>1</sup> *Colonial Pipeline Co.*, 155 FERC ¶ 61,187 (2016) (May 19 Order).

<sup>2</sup> *Id.* P 11.

<sup>3</sup> *Id.*

Colonial's proposals, finding them to be "inconsistent with Colonial's common carrier obligation, unjust and unreasonable," and resulting in "undue preference or advantages for large Regular Shippers."<sup>4</sup>

### **The Parties' Filings**

4. On May 23, 2016, Colonial filed an expedited request for clarification or, in the alternative, rehearing of the May 19 Order. Colonial asked the Commission to clarify that the Order did not require the immediate cessation of the pipeline's practice of making a shipper that has transferred its history ineligible to be a "New Shipper" during the period when the transfer is pending, as proposed in FERC Tariff No. 98.25.0. Colonial also sought clarification that the May 19 Order did not require any broader modification of Colonial's existing history transfer process.

5. On May 27, 2016, Tricon, Rockbriar, Concept Petroleum Marketing, LLC and Kelly Energy Logistics Group, LLC (collectively, the Protesting Shippers) filed an answer to Colonial's request for clarification. The Protesting Shippers contested Colonial's interpretation of the May 19 Order and argued that the Commission should affirmatively find that Colonial must immediately, or as soon as practicable, suspend its practice of treating new shippers as regular shippers upon a history transfer by new shippers. On May 31, 2016, Colonial filed a reply to the Protesting Shippers' answer.

6. On July 15, 2016, the Protesting Shippers filed a motion for expedited action on Colonial's request for clarification. In the alternative, the Protesting Shippers asked the Commission to lodge the pleadings relating to Colonial's request for clarification in Docket No. OR16-17-000.

7. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to an answer unless otherwise ordered by the decisional authority. We will accept Colonial's answer because it has provided information that assisted us in our decision-making process.

### **Commission Determination**

8. We grant clarification of the May 19 Order as set forth herein. In the May 19 Order, the Commission rejected Colonial's FERC Tariff No. 98.25.0 because it consisted of "one isolated provision" of a larger history transfer practice that "has never been reviewed by the Commission."<sup>5</sup> The Commission found that Colonial's assertion that the

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<sup>4</sup> *Colonial Pipeline Company*, 156 FERC ¶ 61,001 (2016).

<sup>5</sup> May 19 Order, 155 FERC ¶ 61,187 at P 11.

tariff filing simply memorialized its existing practice “falls far short” of the showing needed to establish that the pipeline’s tariff filing was just and reasonable.<sup>6</sup>

9. In the May 19 Order, the Commission did not rule on the merits of Colonial’s existing history transfer practice. The Commission explained that it would address “substantive issues raised concerning various aspects of Colonial’s history transfer practice, including requiring Colonial to submit its history transfer practice for Commission review” in Docket No. OR16-17-000.<sup>7</sup>

10. Consistent with that determination, in an order issued concurrently in Docket No. OR16-17-000, the Commission has granted the Protesting Shippers’ alternative relief and lodged the following pleadings in Docket No. OR16-17-000: (1) Colonial’s May 23 request for clarification, (2) Protesting Shippers’ May 27 answer, and (3) Colonial’s May 31 reply.<sup>8</sup>

The Commission orders:

Colonial’s request for clarification of the May 19 Order is granted as discussed in the body of this order.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.* See also *Colonial Pipeline Co.*, 156 FERC ¶ 61,001 at P 21 n.10.

<sup>8</sup> *Tricon Energy Ltd. and Rockbriar Partners Inc. v. Colonial Pipeline Company*, 156 FERC 61,176 (2016)