

168 FERC ¶ 61,143  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Richard Glick and Bernard L. McNamee.

B&W Pipeline, LLC

Docket No. PR17-54-002

ORDER DISMISSING REQUEST FOR REHEARING

(Issued September 4, 2019)

1. On August 9, 2019, Navitas KY NG, LLC (Navitas) filed a request for rehearing of a July 11, 2019 delegated order<sup>1</sup> that accepted B&W Pipeline, LLC's (B&W) unopposed Statement of Operating Conditions (SOC), which was identical to the *pro forma* SOC filed as part of the unopposed Stipulation and Agreement (Settlement) that the Commission approved on May 17, 2019.<sup>2</sup> We dismiss the request for rehearing as procedurally barred, but *sua sponte* clarify the underlying orders.

2. The underlying orders in this proceeding were issued pursuant to the Natural Gas Policy Act of 1978 (NGPA). NPGA § 506(a)(2) only allows the Commission to consider requests for rehearing from persons who are already party to the proceeding.<sup>3</sup> Rule 713(b) of the Commission's regulations contains the same limitation.<sup>4</sup> Any person seeking to intervene to become a party must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedure.<sup>5</sup> At no point during the

---

<sup>1</sup> *B&W Pipeline, LLC*, Docket No. PR17-54-001 (July 11, 2019) (delegated order).

<sup>2</sup> *B&W Pipeline, LLC*, Docket No. PR17-54-000 (May 17, 2019) (delegated order).

<sup>3</sup> 15 USC 3416 (a)(2) (2012).

<sup>4</sup> 18 C.F.R. § 385.713(b) (2019).

<sup>5</sup> 18 C.F.R. § 385.214(a)(3).

two years that this docket was open – during which time the Commission issued three notices inviting interventions<sup>6</sup> – did Navitas seek to intervene.

3. Navitas' request for rehearing does present one misapprehension of law that warrants a *sua sponte* clarification. Navitas argues that by accepting B&W's filing, the Commission "effectively removes Navitas' [Local Distribution Company] status," under section 7(f) of the Natural Gas Act, "and subjects Navitas to FERC regulation and a FERC-imposed rate scheme obtained by a third party (B&W Pipeline, LLC)."<sup>7</sup> This is incorrect. A Statement of Operating Conditions regulates the pipeline, not the shipper. Navitas is only subject to B&W's SOC to the extent that it wishes to ship natural gas in interstate commerce via B&W's facilities. Entities that have Local Distribution Company status under section 7(f) of the Natural Gas Act do not risk their section 7(f) status by becoming shippers, nor do they risk their section 7(f) status by any action that the Commission may take towards an unrelated pipeline's settlement filings.

The Commission orders:

The request for rehearing is dismissed.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

---

<sup>6</sup> Docket No. PR17-54-000, Combined Notice of Filings, July 19, 2017 and Combined Notice of Filings, March 27, 2019. Docket No. PR17-54-001, Combined Notice of Filings, June 11, 2019.

<sup>7</sup> Request for Rehearing at 3.