

124 FERC ¶ 61,114  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

July 30, 2008

In Reply Refer To:  
Southern Star Central Gas Pipeline, Inc.  
Docket No. RP08-447-000

Southern Star Central Gas Pipeline, Inc.  
4700 Highway 56  
Owensboro, KY 42301

Attention: Tim Thompson  
Staff attorney

Reference: Request for Limited Waiver of Order No. 712

Dear Mr. Thompson:

1. On July 17, 2008, Southern Star Central Gas Pipeline, Inc. (Southern Star) filed a request for a limited waiver of the implementation date for the Commission's Final Rule in *Promotion of a More Efficient Capacity Release Market*, FERC Stats. & Regs. ¶ 31,271 (2008) (Order No. 712). Order No. 712 modified the Commission's regulations concerning capacity release. Among other things, Order No. 712: (1) removed the rate ceiling on capacity releases of one year or less; (2) exempted capacity releases made as part of asset management arrangements (AMAs) or under state-approved retail unbundling programs from the section 284.8 bidding requirements and the prohibition on tying; and (3) permitted releasing shippers to include conditions in a release concerning the sale and/or repurchase of gas in storage. The regulations adopted by Order No. 712 take effect on July 30, 2008. The Commission stated in Order No. 712 that parties may act in accordance with the revised regulations as of that date.<sup>1</sup> Southern Star requests that the Commission grant it waiver of the implementation of Order No. 712 until September 30, 2008. Southern Star states that such waiver is necessary because it cannot

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<sup>1</sup> Order No. 712 allows pipelines 180 days to remove tariff provisions that are inconsistent with the revised regulations.

make the changes in its computerized scheduling system until September 30, 2008, and that it is not practical to make changes in the interim on a manual basis.

2. Southern Star states that it has four computer analysts working to implement the necessary changes to its computer system and that it believes that the changes necessary for the implementation of Order No. 712 can be finalized by September 30, 2008. Southern Star asserts that because capacity releases on its system are currently steeply discounted no party should be harmed by its requested delay in implementation of Order No. 712.

3. Public notice of Southern Star's filing was issued on July 18, 2008. Interventions and protests were due on or before July 29, 2008. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2008)), all timely filed motions to intervene and any 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.

4. On July 28, 2008, a protest was filed by the Marketer Petitioners.<sup>2</sup> On July 29, 2008, the Natural Gas Supply Association (NGSA) filed a protests to the instant filing. These protesters request that the Commission deny the instant request and allow its revised capacity release regulations to take effect on July 30, 2008 on all interstate pipelines. They argue that the pipelines have known that their systems would have to conform to the Commission's regulations since at least November 15, 2007 when the Notice of Proposed Rulemaking was issued that resulted in Order No. 712. They assert that it is too late and highly prejudicial for Southern Star to wait until two weeks before the implementation of Order No. 712 to raise an objection. Moreover, the protesters assert that the claims of the pipelines do not outweigh the broad and important benefits of promptly implementing the revised capacity release rules as scheduled.

5. The protesters do not object to permitting the pipelines additional time to adjust their systems as long as the pipelines permit their shippers to engage in capacity release transactions authorized under the revised rules as of the effective date. For example, the Marketer Petitioners assert that the instant proposal presumably would prevent shippers on their systems from engaging in capacity release transactions authorized under the revised rules during the waiver period and that the pipeline has not actually demonstrated that it cannot, in some manner, accommodate such capacity release transactions. Specifically, they argue that Southern Star has not shown why it cannot, in some fashion,

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<sup>2</sup> The Marketer Petitioners include: Shell Energy North America (US), L.P., ConocoPhillips Company, Chevron U.S.A. Inc., Constellation Energy Commodities Group, Inc., Tenaska Marketing Ventures, Merrill Lynch Commodities, Inc., Nexen Marketing U.S.A. Inc., UBS Energy LLC, and Citigroup Energy Inc.

post information about pre-arranged releases associated with AMAs and other non-biddable releases authorized by the Commission's revised rules. Additionally, Marketer Petitioners assert that Southern Star should be able to accept bids manually or by e-mail for releases not subject to the maximum rate. NGSa also adds that the Commission should provide pipelines with the ability to use transitional mechanisms for a period of time until compliance requirements can be met.

6. The Commission adopted Order No. 712 to enhance competition in the secondary capacity release market and increase shipper gas supply options. Only Southern Star and one other pipeline requested substantial additional time before permitting releasing shippers to make releases pursuant to the revised regulations.<sup>3</sup>

7. The Commission grants Southern Star's request for additional time to program its computers in order to permit capacity releases pursuant to the new rules to take place electronically. However, the Commission is unpersuaded by Southern Star's bare assertion, without explanation, that requiring it to manually comply with the dictates of Order No. 712 is impractical. Particularly given the fact that almost all other interstate pipelines are able to permit shippers to make releases pursuant to the new rules as of the July 30, 2008, effective date, the Commission finds no basis for Southern Star's assertion that it is impractical for it to permit such releases manually or through e-mail. The Commission concludes that firm shippers on Southern Star should have the same ability to obtain the benefits of Order No. 712 upon its effective date as shippers on other pipeline systems. Accordingly, the Commission permits Southern Star to delay its implementation of Order No. 712 on its computer system until September 30, 2008, but requires that Southern Star permit shippers on its system to make releases pursuant to the new rules by other means during the interim period between the July 30 effective date of Order No. 712 and September 30, 2008.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

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<sup>3</sup> In Docket No. RP08-454-000, the Commission will consider a request by Iroquois Gas Transmission System, L.P. to delay implementation until November 1, 2008.