

129 FERC ¶ 61,284  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Kelly, Marc Spitzer, and Philip D. Moeller.

Crosstex LIG, LLC

Docket No. PR09-19-000

ORDER ON REQUEST FOR CONFIDENTIAL TREATMENT AND  
DIRECTING TO SHOW CAUSE

(Issued December 29, 2009)

1. Crosstex LIG, LLC (CLIG) has filed with the Commission a petition for rate approval pursuant to section 284.123(b)(2) of the Commission's regulations. On June 15, 2009,<sup>1</sup> CLIG submitted for filing public and non-public versions of CLIG's data responses to the Staff's Data Requests in this proceeding, and requested privileged treatment for certain information that CLIG provided pursuant to 18 C.F.R. § 388.112. As discussed below, the Commission is considering releasing certain information for which CLIG has requested privileged treatment, and therefore pursuant to § 388.112(e), is giving the parties an opportunity to comment on the issue.

**Background**

2. CLIG is an intrastate pipeline with facilities located in the State of Louisiana. On March 3, 2009, CLIG filed a petition for rate approval pursuant to section 284.123(b)(2) of the Commission's regulations. CLIG seeks approval of a change from its currently effective system-wide rates to zone rates for transportation service under section 311 of the Natural Gas Policy Act of 1978 (NGPA).<sup>2</sup> CLIG's current system-wide maximum rates consist of a monthly demand charge for firm transportation service of \$7.76 per MMBtu, a usage charge of \$0.0400 per MMBtu, and interruptible and overrun charge of \$0.2950 per MMBtu. CLIG proposes maximum rates for firm transportation service on the North Zone consisting of a monthly demand charge of \$68.3014 per MMBtu, a usage charge of \$0.0100 per MMBtu and interruptible and overrun charges of \$2.2555 per

---

<sup>1</sup> CLIG supplemented its data response on June 19, 2009.

<sup>2</sup> 18 C.F.R. § 284.123(b)(2) (2008).

MMBtu. On the South Zone, CLIG proposes maximum rates for firm transportation service consisting of a monthly demand charge of \$4.2461 per MMBtu, a usage charge of \$0.0007 per MMBtu and interruptible and overrun charges of \$0.1403 per MMBtu.

3. On June 1, 2009, Staff requested that CLIG provide information in addition to that which the pipeline had previously filed. CLIG submitted its data responses on June 15, 2009, as supplemented on June 19, 2009, and requested that certain information remain confidential pursuant to 18 C.F.R. § 388.112.

4. Of particular interest for this order, CLIG requested privileged treatment for the schedules that it provided on June 19 as support for its answer to Staff Request No. 9, and for the spreadsheet that it provided on June 15 as support for its answers to Staff Request Nos. 11 and 21. Staff Request No. 9 concerns CLIG's proposal to roll-in the cost of the Red River Lateral expansion. Staff Request No. 9 asks CLIG to describe whether and how the line integrates with the rest of CLIG's system and provides system-wide benefits, and requests information on its incremental costs and revenues. Staff Request No. 11 concerns the development of the Discount Adjusted Volumes shown in Exhibit 2, Schedule 1 of CLIG's initial filing. Staff Request No. 21 requests basic information on each transaction on CLIG's system.

### **Discussion**

5. In deciding whether to grant requests for privileged treatment of information, we balance the need for public disclosure against the harm that will be caused by the release of the information.<sup>3</sup> Here, there is a clear need for public disclosure of the data supporting CLIG's answers to Staff Request Nos. 9, 11, and 21.

6. All this information is necessary to evaluate CLIG's proposed rates in this proceeding. For example, one of the issues in this proceeding is the roll-in of the costs of CLIG's Red River facilities, which would require a breakdown of the cost and volume information for CLIG's existing system and the newer Red River facilities.<sup>4</sup> Further, the revenues generated from CLIG's transactions with its shippers for jurisdictional service

---

<sup>3</sup> *Bay Gas Storage Company, Ltd.*, 109 FERC ¶ 61,348, at P 9 (2004) (citing *ANR Pipeline Co.*, 65 FERC ¶ 61,280, at 62,305 (1993)).

<sup>4</sup> *See id.* (requiring disclosure of data concerning the roll-in of the costs of Bay Gas's Whistler Spur facilities, which would require a breakdown of the cost and volume information for Bay Gas's existing system and the newer Whistler Spur facilities).

performed pursuant to NGPA section 311 is necessary in designing CLIG's rates.<sup>5</sup> In order to verify whether CLIG's aggregated volumes are correct, it is necessary to review the volumes related to each individual transaction.<sup>6</sup> Also, CLIG proposes an adjustment to its rates based on the revenues it has received from customers receiving discounted rates. In order to evaluate and verify the correctness of this proposal, it is necessary to have more detailed data to verify CLIG's claimed Discount Adjusted Volumes.<sup>7</sup>

7. Aside from the need for public disclosure of this information for purposes of this rate case, Commission policy generally favors disclosure of individual jurisdictional contract information in order to ensure that the pipeline's contracting practices are not unduly discriminatory, and no undue preferences are granted to any customer.<sup>8</sup> Further, in the event that the Commission is to proceed with a final order on CLIG's proposal, disclosure is requisite in order for any interested outside parties to review and fully understand the Commission's reasoning.

8. Given the clear interest in public disclosure of the information at issue here, any request for privileged treatment would have to be supported with specificity, rather than with vague and speculative allegations of competitive harm.<sup>9</sup> Thus far, CLIG has merely made the unsupported assertion that the filings that it seeks to keep privileged include information that is commercially sensitive and confidential. Such a general assertion is not sufficient to support a request for privileged treatment.

---

<sup>5</sup> The Commission will not require CLIG to disclose individual contract information with respect to its contracts for intrastate service, since that service is not subject to our jurisdiction, but is regulated solely by the state. *See id.* P 11.

<sup>6</sup> *See id.* P 9 (requiring public disclosure of the provisions of each of Bay Gas's contracts, in order to verify its claims regarding its proposed rates).

<sup>7</sup> *See id.* P 10 (requiring Bay Gas to disclose rate and term information in order to evaluate and verify the correctness of its discount adjustment proposal).

<sup>8</sup> *Id.* P 11 (citing *Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs*, Order No. 582, FERC Stats. & Regs. ¶ 31,025 (1995), *order on reh'g*, Order No. 582-A, FERC Stats. & Regs. ¶ 31,034 (1996) (concluding that rate information is not generically confidential, privileged, or proprietary, and that such information must be made publicly available)).

<sup>9</sup> *Id.* P 12 (citing *Williston Basin Interstate Pipeline Co.*, 76 FERC ¶ 61,030, at 61,177 (1996) (quoting Order No. 582, FERC Stats. & Regs. ¶ 31,025, at 31,413 (1995))).

9. The Commission is thus considering denying CLIG's request for privileged treatment of information concerning CLIG's responses to Staff Request Nos. 9, 11, and 21. Therefore, in accordance with § 388.112(d), the parties are given 15 days in which to comment in writing on the Commission's intent to release this information. CLIG must support any claim for privileged treatment with specific detail regarding the basis for the request for privilege and the harm that will result from public disclosure, as well as the legal basis for nondisclosure.

The Commission orders:

(A) All parties may submit comments concerning the public disclosure of the redacted information in CLIG's responses to the Staff Request Nos. 9, 11, and 21, within 15 days from the date of the issuance of this order, as discussed in the body of this order.

(B) CLIG is directed to submit a show cause response, within 15 days from the date of the issuance of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.