

156 FERC ¶ 61,094  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

August 4, 2016

In Reply Refer To:  
Atmos Pipeline - Texas  
Docket No. PR16-58-000

Atmos Pipeline - Texas  
PO Box 650205  
Dallas, TX 75265-0205

Attention: Kevin C. Frank

Dear Mr. Frank:

1. On June 6, 2016, Atmos Pipeline - Texas (APT) filed, pursuant to sections 284.123(g)(9)(ii) and 284.123(b)(1) of the Commission's regulations,<sup>1</sup> a report stating that the rate APT charges for Natural Gas Policy Act of 1978 (NGPA) section 311<sup>2</sup> service has not changed during the past five years. APT's report is accepted, subject to the conditions and guidelines outlined below.

2. Public notice of the filing was issued on June 8, 2016. Interventions and protests were due on or before June 27, 2016. Pursuant to Rule 214,<sup>3</sup> all timely filed motions to intervene and any unopposed 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. No protests or adverse comments were filed.

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<sup>1</sup> 18 C.F.R. §§ 284.123(g)(9)(ii) & 284.123(b)(1) (2015).

<sup>2</sup> 15 U.S.C. § 3372.

<sup>3</sup> 18 C.F.R. § 385.214 (2015).

3. Order No. 781<sup>4</sup> revised section 284.123 of the Commission's regulations (section 284.123) to add a new subsection (g), to include optional notice procedures that intrastate pipelines may elect to use when filing revised rates for NGPA section 311 service. Order No. 781 also modified the Commission's policy, established in Order No. 735,<sup>5</sup> requiring NGPA section 311 pipelines to file a new application for rate approval with the Commission every five years under section 284.123. Instead of filing an application for rate approval, pipelines using state-approved rate elections can meet the five-year review requirement by certifying that those state-approved rates are unchanged and thus continue to meet the requirements of section 284.123(b)(1) (State Rate Certification). In *Lobo*,<sup>6</sup> the Commission laid out the procedural and filing requirements for making a State Rate Certification. The Commission stated that "[p]ipelines may make a State Rate Certification filing through the eTariff portal using a TOFC [Type of Filing Code] 1260 or make an eFiling."<sup>7</sup>

4. In Order No. 714<sup>8</sup> the Commission directed all NGPA section 311 and Hinshaw pipelines to file a baseline Statement of Operating Conditions (SOC) and to make all subsequent SOC and SOC-related filings electronically using eTariff.<sup>9</sup> In *Narragansett*,<sup>10</sup> the Commission directed all Hinshaw pipelines to file cost and throughput studies through the eTariff portal.<sup>11</sup> Currently, nearly all filings made pursuant to

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<sup>4</sup> *Revisions to Procedural Regulations Governing Transportation by Intrastate Pipelines*, Order No. 781, 144 FERC ¶ 61,034, at PP 56-64 (2013).

<sup>5</sup> *Contract Reporting Requirements of Intrastate Natural Gas Companies*, Order No. 735, FERC Stats. & Regs. ¶ 31,310, at P 92, *order on reh'g*, Order No. 735-A, FERC Stats. & Regs. ¶ 31,318 (2010); *see also Hattiesburg Industrial Gas Sales, L.L.C.*, 134 FERC ¶ 61,236 (2011) (imposing a five-year rate review requirement on the pipeline).

<sup>6</sup> *Lobo Pipeline Co. L.P.*, 145 FERC ¶ 61,168, at P 5 (2013) (*Lobo*).

<sup>7</sup> *Id.* P 5.

<sup>8</sup> *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (cross-referenced at 124 FERC ¶ 61,270 (2008)) (Order No. 714).

<sup>9</sup> *Electronic Tariff Filings*, Order Establishing Baseline Filing Schedule Starting April 1, 2010, 130 FERC ¶ 61,228, at P 7 (2010).

<sup>10</sup> *The Narragansett Electric Co.*, 155 FERC ¶ 61,159, at n.15 (2016).

<sup>11</sup> *Id.* n.13.

section 284.123<sup>12</sup> are made as an eFiling through the eTariff portal, rather than as an eFiling.

5. Consistent with the procedures enumerated in *Lobo*, we clarify that going forward all NGPA section 311 and Hinshaw pipelines filing State Rate Certifications must do so through the eTariff Portal.<sup>13</sup> With this clarification, all filings by NGPA section 311 and Hinshaw pipelines must be made via the eTariff Portal and not simply through eFiling. By simplifying the business process for the industry and Commission, this procedural clarification should more efficiently serve the public.

6. In this docket, APT stated it was filing pursuant to section 284.123(g)(9)(ii)<sup>14</sup> of the Commission's regulations, but APT failed to file in eTariff. Although the Commission will accept the substance of this filing, we clarify that going forward all NGPA section 311 and Hinshaw pipelines future filings made pursuant to section 284.123(g) must be made through the eTariff portal using the proper Type of Filing Code. As we stated in Order No. 714, the treatment of a filing depends on the metadata code selected by the filer, not on the text of the transmittal letter.<sup>15</sup>

7. The Office of the Secretary will issue a Notice of Changes to eTariff Part 284 Type of Filing Codes within 30 days of this order. Simultaneously with the notice, the Commission's website will be updated to include a table with Type of Filing Codes that contains more detailed descriptions of each code for Program K or NGPA section 311 and Hinshaw pipelines.<sup>16</sup>

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<sup>12</sup> 18 C.F.R. § 284.123 (2015).

<sup>13</sup> State Rate Certification filings should be submitted through the eTariff portal using either a Type of Filing Code of 1280 for filing pursuant to the optional filing procedures under section 284.123(g)(9)(ii) or Type of Filing Code 1260 for a filing pursuant to section 284.123(b). These filings do not require filing a tariff record and must be associated with the filing in the docket that the state rate election was approved. The filing should be done in the manner recommended in the Commission's eTariff guidelines located at: <http://www.ferc.gov/docs-filing/etariff/implementation-guide.pdf>.

<sup>14</sup> 18 C.F.R. § 284.123(g)(9)(ii) (2015).

<sup>15</sup> *Electronic Tariff Filings*, 130 FERC ¶ 61,047, at P 5 (2010) (any discrepancy between the description of the filing in the transmittal letter (or other pleading) and the Type of Filing code chosen will be resolved in favor of the Type of Filing code). See also *Sea Robin Pipeline Co., LLC*, 135 FERC ¶ 61,278, at P 18 (2011).

<sup>16</sup> <http://www.ferc.gov/industries/gas/gen-info/intrastate-trans.asp>.

8. We accept APT's State Rate Certification. Because we have clarified a previously potentially unclear procedure, we do not require APT to re-file its State Rate Certification. Going forward, the Commission shall reject any filings made under section 284.123 via eFiling, but not through the eTariff portal, as improperly filed. APT, if its rate remains unchanged during the five-year period ending June 6, 2021, must either: make a filing in eTariff to certify that its rate has not changed and that it continues to meet the requirements of section 284.123(b)(1) on the same basis on which it was approved; or file a new petition for rate approval under section 284.123. If the state-approved rate is changed at any time, APT must file within 30 days a new rate application pursuant to section 284.123.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

Document Content(s)

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