

145 FERC ¶ 61,168
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 25, 2013

In Reply Refer To:
Lobo Pipeline Company L.P.
Docket No. PR13-65-000

Lobo Pipeline Company L.P.
600 N Dairy Ashford St.
Houston, TX 77079-1100

Attention: Tony Dotson, Director,
Pipeline Asset Management

Dear Mr. Dotson:

1. On September 30, 2013, Lobo Pipeline Company L.P. (Lobo) filed pursuant to sections 284.123(g)(9)(ii) and 284.123(b)(1)¹ a report stating that the rate Lobo charges for NGPA section 311 service has not changed during the past five years. Lobo's report is accepted, subject to the conditions and guidelines outlined below.

2. Recently, Order No. 781² revised section 284.123 of the Commission's regulations to add optional notice procedures which intrastate pipelines may elect to use when filing revised rates for NGPA section 311 service. Those optional procedures are set forth in section 284.123(g). Order No. 781 also modified the Commission's policy, established in Order No. 735, requiring NGPA section 311 pipelines to file a new application for rate approval under section 284.123 with the Commission every five years, even if they are using a state-approved rate.³ Order No. 781 permits section 311 pipelines using

¹ 18 C.F.R. §§ 284.123(g)(9)(ii) and 284.123(b)(1) (2013).

² *Revisions to Procedural Regulations Governing Transportation by Intrastate Pipelines*, Order No. 781, 144 FERC ¶ 61,034, at PP 56-64 (2013), also available at 78 Fed. Reg. 45850 (July 30, 2013).

³ *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 Hattiesburg Industrial Gas Sales, L.L.C. in an order approving Hattiesburg's multiple revisions to its SOC).

state-approved rate elections to 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) of the Commission's regulations (State Rate Certification), instead of filing an application for rate approval. However, Order No. 781 requires that, if the state-approved rate used for the rate election is changed at any time, the pipeline must file a new application for rate approval pursuant to section 284.123(b) or (g) for its interstate rates not later than 30 days after the changed rate becomes effective.

3. Order No. 781 stated that the Commission would "implement the new optional filing procedures 30 days from the date of [the Office of Management and Budget's] approval of this Final Rule. The Secretary of the Commission will issue a revised list of Type of Filing Codes [TOFCs] to pipelines for filings made pursuant to paragraph (g)...."⁴ OMB approved the Final Rule on September 30, 2013 and on October 11, 2013, the Commission issued a Notice containing the TOFCs necessary to file pursuant to section 284.123(g) of the Commission's regulations; however, the TOFCs were not effective until November 12, 2013.⁵

4. Lobo filed its report, or State Rate Certification, through the Commission's eFiling portal rather than through eTariff on September 30, 2013, the day OMB approved Order No. 781. That was 30 days before the date Order No. 781 stated the Commission would implement the new optional notice procedures and before the Commission's business procedures necessary for accepting these filings was effective. Therefore, the Commission will not process Lobo's filing pursuant to the optional notice procedures in section 284.123(g).

5. Lobo could have filed a State Rate Certification pursuant to section 284.123(b)(1) subject to the Commission's traditional processes, or waited for the optional procedures to become effective, and filed using the applicable TOFC through eTariff. However, the Commission will accept, subject to the conditions described below, Lobo's report as consistent with the current Commission five-year rate review policy established in Order No. 781, which is applicable to all rate filings made under section 284.123, whether under section 284.123(b)(1) or 284.123(g). In addition, the Commission determines that in order to support State Rate Certification filings, pipelines must include in that filing: (1) a copy of the currently effective state rate schedule or link to the state rate schedule on the state regulatory agency or company's website; (2) file a copy of the state agency's order approving the state rate schedule and rate, or link to the order on the state regulatory agency's website; and (3) identify the FERC Docket Number of the proceeding in which the state rate pursuant to the rate election was made. Pipelines may make a State Rate Certification filing through the eTariff portal using a TOFC 1260 or

⁴ *Id.* P 89.

⁵ Notice of Changes to eTariff Party 284 Type of Filing Codes, *Revisions to Procedural Regulations Governing Transportation by Intrastate Pipelines*, Docket No. RM12-17-000, *Electronic Tariff Filings*, Docket No. RM01-5-000, Issued October 11, 2013.

make an eFiling. Therefore, within 15 days of the date of this order, Lobo must make a filing containing the information in items (1) through (3) above.

6. Lastly, subject to review of the above information to be filed by Lobo, the Commission accepts Lobo's rate certification subject to the condition that: (1) if its rate remains unchanged during a five-year period from September 30, 2013, Lobo must either make a filing on or before September 30, 2018, 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, Lobo must file within 30 days a new rate application pursuant to section 284.123(b). Lobo may file at any time to change its rate under section 284.123.

7. Within 15 days of the issuance of this order, Lobo must file the above documents or links, along with a revised Statement of Operation Conditions (SOC) that incorporates a stand-alone "statement of their interstate service rates"⁶ that includes all rates and charges. Additionally, Lobo is directed to update its SOC so that the information is current.⁷

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁶ *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276; 124 FERC ¶ 61,270, at P 85 (2008) (Order No. 714).

⁷ Lobo's current SOC contains several outdated company references.