151 FERC ¶ 61,032
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Southeast Supply Header, LLC Docket No. CP14-87-001

ORDER DENYING REHEARING

(Issued April 16, 2015)

1. On September 12, 2014, Southeast Supply Header, LLC (SESH) filed a request for clarification or, in the alternative, rehearing of the order issued in *Southeast Supply Header, LLC*.[1] The 2014 Order, among other things, denied SESH's request for a pre-determination that it may roll the fuel reimbursement costs into its system fuel tracker mechanism. For the reasons discussed below, the Commission will deny SESH's request for rehearing.

Background

2. The 2014 Order authorized SESH, among other things, to increase the design capacity of its mainline between Delhi, Louisiana, and Coden, Alabama, to provide an additional 45,000 dekatherms per day (Dth/d) of firm transportation service.[2] In order to increase the design capacity of SESH's mainline, Enable Gas Transmission, LLC (Enable) agreed to deliver gas at a pressure of not less than 830 pounds per square inch gauge from its Line CP into SESH's system at SESH's existing Delhi Compressor

[1] 148 FERC ¶ 61,121 (2014) (2014 Order).

[2] The authorization increased SESH's share of mainline capability to approximately 1,070,000 Dth/d on a firm basis. The pipeline is jointly owned by SESH and Southern Natural Gas Company, L.L.C. (SNG). Before the expansion granted in the 2014 Order, SESH's share of capacity on the mainline was 66.67 percent and SNG's share was 33.33 percent. The 2014 Order increased SESH's share of mainline capability to approximately 1,070,000 Dth/d on a firm basis. Thus, after the expansion, SESH's share of the capacity increased to 68.15 percent.

Station. The delivery pressure will be made available by Enable's existing facilities. Neither SESH nor Enable proposed to construct new facilities in connection with the authorization to increase the design capacity of the mainline.[3]

3. In consideration for Enable's use of existing compression facilities on its system to increase the capacity of SESH's mainline, SESH agreed to provide Enable with 1,300 Dth/d of natural gas for Enable to use in its system operations (fuel reimbursement). SESH proposed to recover this fuel through its fuel tracker mechanism.

4. The 2014 Order approved SESH's proposal to use its currently-effective monthly reservation rate under Rate Schedule FTS as the initial recourse reservation rate for firm transportation service using the newly-created capacity on the mainline, finding there would be no subsidization of the service by SESH's existing customers. The 2014 Order, however, denied SESH's request to recover via its system fuel tracker mechanism the 1,300 Dth/d of fuel it provided to Enable. The 2014 Order found that under SESH's proposal the system-wide fuel reimbursement percentage would increase from 1.27 percent to 1.32 percent (i.e., an increase of 0.05 percent),[4] and that such an increase would constitute subsidization of the fuel costs associated with the expansion by SESH's existing mainline shippers. As a result, the 2014 Order required SESH to file an incremental fuel reimbursement percentage with the Commission at least 30 days, but not less than 60 days, prior to the in-service date for the 45,000 Dth/d of increased mainline expansion capability, to ensure that only the expansion shippers who use the capacity will pay costs associated with it.

<u>Request for Rehearing</u>

5. SESH states that the only cost attributable to the increase in mainline capacity is the cost of fuel reimbursement to Enable. SESH contends that the annual incremental transportation revenue of $8,891,100[5] associated with the expansion service exceeds the

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[3] Southern Company Services, Inc. executed a precedent agreement with SESH for 25,000 Dth/d of firm transportation service at negotiated rates for a primary term of 10 years.

[4] *See* SESH April 28, 2014 Data Response, Attachment B.

[5] SESH calculates the annual incremental transportation revenue as follows: 45,000 Dth/d x $16.4650 maximum firm recourse rate x 12 months = $8,891,100.

annual increased fuel costs of $1,293,560.[6] SESH further contends that the $4,939,500[7] in revenues from the firm transportation service for Southern Company Services, Inc. (Southern Company) will by itself more than offset annual increased fuel costs. SESH concludes that "the cost of fuel must be included in the rolled in analysis because it is an element of the shipper's transportation expense"[8] and that existing customers will not subsidize the project if the cost of fuel is rolled into and recovered through SESH's system-wide fuel tracker mechanism. SESH asserts that its proposal satisfies the Commission's requirements for qualifying for a predetermination of rolled-in pricing.

6. SESH also claims that the projected increase in its system-wide fuel rate, from 1.27 to 1.32 percent, if it is allowed to recover fuel reimbursed to Enable through its fuel tracker mechanism is "exceptionally small." SESH further claims that the effects of this small increase are negligible in comparison not only to the revenues generated by its proposals, but also in comparison to the additional system service capability, which it claims will benefit existing customers. Specifically, SESH contends that the pressure increase: (1) will provide an additional source of mainline compression for SESH (in addition to that provided by the three existing compressor stations on the mainline;[9]

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[6] SESH calculates the annual increased fuel costs as follows: 886 Dth/d x $4.00 gas x 365 days = $1,293,560. In its April 28, 2014 response to staff's April 7, 2014 data request, data response No. 5, Attachment B footnote 1, SESH used 867 Dth/d as SESH's allocation of the 1,300 Dth/d of the fuel reimbursement to Enable, based on SESH's 66.67 percentage of capacity in the jointly-owned pipeline with Southern Natural Gas Company, LLC prior to the 45,000 Dth/d expansion. After the expansion authorized in the 2014 Order, SESH's allocation of the 1,300 Dth/d is 886 Dth/d based on SESH's increased 68.15 percentage of capacity in the jointly-owned pipeline (1,070,000 Dth/d divided by 1,570,000 Dth/d).

[7] SESH calculates the revenues from the firm transportation service for Southern Company as follows: 25,000 Dth/d x $16.4650 maximum firm recourse rate x 12 months = $4,939,500. SESH states that consistent with Commission precedent, this calculation assumes the recourse rate applies to Southern Company's firm service agreement. SESH further states that even assuming Southern Company's lower negotiated rate, which has been filed with the Commission, the annual revenues for Southern Company's firm service agreement (25,000 Dth/d x $0.2979 per Dth/d x 365 days = $2,718,338), are more than double the increase in fuel costs.

[8] *See* SESH Request for Rehearing at 7.

[9] The three compressor stations are Delhi, Gwinville, and Lucedale.

(2) will, in effect, serve as additional compression to allow SESH to transport gas that otherwise it would not be able to schedule to flow on the system, mitigating the extent of reductions in scheduled flows and curtailment of flowing gas; and (3) will allow SESH under some operating conditions to decrease the use of horsepower at the Delhi Compressor Station, resulting in a reduction in system-wide fuel use reflected in its annual fuel tracker filing.

7. In light of the above system-wide benefits, the small increase in the system fuel rate, the lack of opposition from any party, and the excess of incremental revenues over costs from the expansion, SESH concludes that the Commission should clarify that rolling in the fuel costs associated with the expansion will not result in subsidization of the project by existing customers. Alternatively, for the reasons discussed above, SESH requests that the Commission should grant rehearing.

Commission Determination

8. Under the Commission's Certificate Policy Statement, the threshold requirement for a pipeline proposing a new project is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers.[10] If the pipeline demonstrates that revenues from the proposed project are expected to exceed the project's cost of service, such that its existing customers will not be burdened by higher rates, we will grant the pipeline's request for a predetermination of rolled-in rate treatment for the cost of the project, absent a material change in circumstances. We make this determination in the certificate proceeding to provide certainty regarding the potential economic impacts of a project before it goes forward.[11]

9. SESH asserts that "the cost of fuel must be included in the rolled in analysis because it is an element of the shipper's transportation expense." In support of its position, SESH cites two cases – *Kern River Gas Transmission Company*[12] and *Maritimes & Northeast Pipeline, L.L.C.*[13] In *Kern River*, the Commission granted Kern

[10] *See Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

[11] *See, e.g.*, *Tennessee Gas Pipeline Co., L.L.C.*, 140 FERC ¶ 61,120, at P 19 (2012).

[12] 96 FERC ¶ 61,137, at 61,582 (2001) (*Kern River*).

[13] 118 FERC ¶ 61,137, at P 31 (2007) (*Maritimes*).

River authorization, among other things, to roll the costs of the proposed project into its system rates based on an analysis that the benefits of the roll-in exceeded the costs of the increased fuel requirements. The Commission however required Kern River, in future compliance filings, to show the net benefits and if, during any year the fuel costs exceeded the incremental revenues, Kern River was required to allocate the excess portion of fuel costs to its expansion shippers.[14] In *Maritimes*, the Commission granted Maritimes authorization to roll the costs of the proposed project into its system rates in a future rate proceeding because revenues exceeded costs.[15] However, because Maritimes' application did not provide any information about the possible impact on fuel costs, and because an increase in fuel costs could offset any potential transportation decrease generated by rolling in the cost of the project, the Commission directed Maritimes to file an analysis to demonstrate the impact the project would have on system fuel and whether the changes in fuel use combined with the decrease in base transportation rates would adversely affect Maritimes' existing shippers.[16] SESH contends that in these cases the Commission recognized that fuel costs might increase, but nevertheless allowed those costs to be rolled in as long as, in the future, fuel costs did not increase enough to offset the projects' overall net benefit to customers.

10. We agree with SESH that the impact of the project on the pipeline's fuel usage must be a component of the Commission's analysis of whether existing shippers are subsidizing an expansion. We disagree, however, that this analysis must be combined with the analysis on the impact of the proposed project on the reservation rate into one analysis to determine whether subsidization will occur. While the *Kern River* and *Maritimes* orders combined the rate and fuel analyses, these orders are not reflective of the Commission's policy as it exists today. Our current policy is to address fuel costs in a separate analyses and it is common for a project such as SESH's to qualify for rolled-in rate treatment with regards to the reservation rate but to have a separate fuel surcharge assessed if the project increases the pipeline's system fuel rate.[17] One of the main reasons for separating these two analyses is that combining the two would require a

[14] *Kern River*, 96 FERC at 61,582.

[15] *Maritimes*, 118 FERC ¶ 61,137 at PP 26, 31, and 32.

[16] *Id.* P 32.

[17] *See, e.g., ETC Tiger Pipeline, LLC*, 134 FERC ¶ 61,084 (2011); *Wyoming Interstate Co., Ltd.*, 130 FERC ¶ 61,251 (2010); *Rockies Express Pipeline LLC*, 128 FERC ¶ 61,036 (2009); *El Paso Natural Gas Co.*, 104 FERC ¶ 61,303 (2004).

monetization of the impact of the project on the pipeline's increased fuel requirements and some future projection of the price of natural gas. For example, while SESH estimates project fuel costs of $1,293,560, that estimate is based on gas prices of $4.00/Dth. If gas prices were to increase significantly, to $8.00/Dth for example, fuel costs would double to $2,587,120, or only $131,218 less than the revenue from SESH's contract with Southern Company. Conducting an analysis that relies on assuming a future fuel price is inherently subject to error, unlike the analysis for other project costs, where the projections of project revenues and cost of service are much less subject to variation. Thus, we now keep these analyses separate and look at the fuel impact of an expansion solely in terms of whether the added compression will increase the pipeline's overall fuel rate.[18] As most pipelines' fuel rates are calculated on the basis of volumes consumed (as is SESH's fuel retention rate), there is no need to estimate the appropriate cost of gas.

11. In addition, the customers affected by the two sets of costs may be different. Rolling in the non-fuel expansion costs directly impacts firm transportation customers paying a reservation charge. Fuel costs, however, are borne by all shippers transporting gas on the system, whether they are using firm or interruptible service. Since those subject to a company's fuel charge almost always a broader group of shippers than those firm transportation customers subject to a company's reservation charge, it is not appropriate to combine our analysis of the two sets of costs.

12. Finally, the timing of any impact related to the two sets of costs may be significantly different. Adjustments to fuel trackers are periodic and predictable, whereas general rate cases are not. While, in this case, for example, it is predictable that SESH's fuel rate will increase in its next fuel tracker filing, which is often made on an annual or semi-annual basis, the timing of the benefits that will result from rolling in the project's incremental revenues is not at all predictable, since the pipeline is under no obligation to file a rate case; in fact, receipt of the incremental revenues associated with the project may actually permit the pipeline to delay the filing of its next general section 4 rate case.

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[18] *See, e.g., PG&E Gas Transmission Northwest Corp.*, 96 FERC ¶ 61,194, *reh'g denied*, 97 FERC ¶ 61,101 (2001) (where the Commission analyzed the rate and fuel components separately and granted rolled-in rate treatment for the non-fuel costs of a proposed expansion but required the applicant to design a surcharge to ensure that expansion shippers are subject to an incremental fuel surcharge for increased fuel costs as a result of the expansion.).

13. SESH also contends that the pressure increase on its mainline will provide a variety of operational benefits to its existing customers, such that requiring them to pay the increased fuel costs associated with the project should not be considered subsidization. It may be true, as it is for most pipeline construction projects, that existing customers might experience some increased level of flexibility or reliability as a result of this project. However, this project is not being proposed to improve the service of existing customers. For pipeline projects such as SESH's, the purpose of which is to expand capacity of the existing system to serve new load, our policy requires there be no subsidization from existing customers. We find that without some type of incremental fuel surcharge, SESH's existing customers will experience increased fuel rates and that increase would constitute subsidization of the expansion shipper's fuel requirements by existing shippers.

14. Accordingly, for the reasons discussed above, we will deny SESH's request for rehearing of our denial of a predetermination of rolled-in rate treatment for fuel for the project. This finding is without prejudice to SESH proposing and fully supporting rolled-in treatment in a future NGA general section 4 rate case.

The Commission orders:

SESH's request for rehearing is denied for the reasons discussed herein.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.