

168 FERC ¶ 61,065
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, Richard Glick,
and Bernard L. McNamee.

Columbia Gas Transmission, LLC

Docket No. RP18-1063-001

ORDER DENYING REHEARING

(Issued July 30, 2019)

1. On September 11, 2018, the Director of the Office of Energy Market Regulation issued an unpublished letter order accepting tariff records filed by Columbia Gas Transmission, LLC (Columbia) containing the usage and reservation charges for Rate Schedule FTS-WBX. On October 11, 2018, Washington Gas Light Company (Washington Gas) filed a request for rehearing of the unpublished letter order. For the reasons discussed below, we deny Washington Gas' request for rehearing.

I. Background

2. On December 30, 2015, in Docket No. CP16-38-000, Columbia filed an application for a certificate of public convenience and necessity for approval to construct and operate the WB Xpress Project. The project consisted of 26.2 miles of replacement pipeline and 3.1 miles of new pipeline, along with two new compressor stations and other modifications, in order to provide up to 1,300,000 Dth/d of bi-directional firm transportation service on Columbia's system to markets in western West Virginia and northern Virginia. Columbia did not propose separate eastbound and westbound rates for the project, but instead proposed a single incremental recourse reservation rate of \$0.262 for service across the entire project, which is generally consistent with Columbia's existing general system postage stamp approach to rate derivation. Columbia also indicated that it had executed precedent agreements with Antero Resources Corporation (Antero), Noble Energy, Inc. (Noble), and Washington Gas for service on the project under negotiated rate agreements. No shippers protested the certificate application.

3. The Commission granted Columbia a certificate of public convenience and necessity approving the project on November 17, 2017.¹ In the November 2017 Order, the Commission approved Columbia's proposed recourse rates for the project. These

¹ *Columbia Gas Transmission, LLC*, 161 FERC ¶ 61,200 (2017) (November 2017 Order).

recourse rates included an incremental reservation charge and Columbia's system surcharges and usage rates, excluding the Capital Cost Recovery Mechanism (CCRM) surcharge. The November 2017 Order required Columbia to file the actual tariff records relating to the project, including the negotiated rate agreements for service on the project, 30 to 60 days prior to the placement of the project facilities into service. No shippers sought rehearing of the Commission's approval of the project's recourse rates.

4. On August 17, 2018, in Docket No. RP18-1063-000, Columbia filed tariff records in compliance with the November 2017 Order adding Rate Schedule FTS-WBX incremental recourse rates to its tariff, comprised of a daily reservation charge of \$0.2622 per Dth/d and a usage charge of \$0.0189 per Dth/d. Columbia filed the rates because it determined that a portion of the project facilities, specifically construction of the Elk River Compressor Station, could be placed into service in advance of the remaining project facilities. At the time of the filing, Columbia anticipated that the Elk River Compressor Station would be placed into service on September 18, 2018. Washington Gas intervened, but there were no protests filed in this proceeding. As noted above, the Rate Schedule FTS-WBX rates were accepted in an unpublished letter order issued on September 11, 2018, in Docket No. RP18-1063-000.

5. On October 11, 2018, Washington Gas filed a request for rehearing of the September 11, 2018 unpublished letter order. On November 14, 2018, Columbia filed a motion for leave to answer and answer to Washington Gas' request for rehearing. Rule 713(d)(1) of the Commission's Rules of Practice and Procedure² prohibits an answer to a request for rehearing. Accordingly, we deny Columbia's motion to file an answer and reject its answer.

Washington Gas' Request for Rehearing

6. Washington Gas' request for rehearing contains four specifications of error on the Commission's part. First, Washington Gas asserts that the Commission erred in accepting the filed incremental recourse rate for the WB Xpress Project. Washington Gas contends the Commission should have required Columbia to calculate separate incremental recourse rates, one for eastbound transportation services and one for westbound transportation services. Washington Gas contends that the WB Express Project was two projects that were artificially packaged for purposes of designing a favorable incremental recourse rate.

7. Second, Washington Gas argues that the Commission erred by accepting the filed incremental recourse rate because the filing of one, rather than two, recourse rates under these facts violates the principles of the Commission's negotiated rate policy.

² 18 C.F.R. § 385.713 (d)(1)(2018).

8. Third, Washington Gas contends that the Commission erred by accepting the filed incremental recourse rate because it represents an attempt by Columbia to avoid or “end run” the Commission’s Certificate Policy that requires that “low cost” expansion capacity must be sold at the system rolled-in recourse rate.

9. Fourth, Washington Gas asserts that the Commission erred by accepting the filed incremental recourse rate that would allow the pipeline to avoid including westbound transportation billing determinants in its calculation of the CCRM surcharge contrary to the intent of the Modernization Settlements.³

10. Washington Gas states that because of its need for eastbound transportation service, it has no interest in delaying the in-service date of the WB Express Project. Washington Gas also states that it does not seek to undo its own negotiated rate, a rate it believes to be reasonable under the circumstances. Washington Gas asserts, however, that steps should be taken by the Commission to send a clear signal that pipelines must be fully transparent in their expansion offerings and in their calculation of incremental recourse rates where they properly apply. Washington Gas urges the Commission to take steps to assure that pipelines can continue to use the negotiated rate policy to further pipeline expansions and at the same time check the inherent market power of incumbent pipelines.

II. Discussion

11. In its August 17, 2018 filing in this proceeding, Columbia submitted tariff records for Rate Schedule FTS-WBX in accordance with the November 2017 Order approving Columbia’s proposed incremental reservation charge and requiring Columbia to file actual tariff records setting the recourse rates as the system usage charge and project incremental recourse reservation charges at least 30 days, but no more than 60 days, prior to the date the project facilities go into service.⁴ Columbia made the filing because it anticipated placing the Elk River Compressor Station into service in advance of the other project facilities. Therefore, the only issue to be addressed in the proceeding is whether Columbia complied with the requirements of the November 2017 Order.⁵ Washington

³ *Columbia Gas Transmission, LLC*, 142 FERC ¶ 61,062 (2013) and 154 FERC ¶ 61,208 (2016).

⁴ *Columbia Gas Transmission, LLC*, 161 FERC ¶ 61,200 at PP 29, 32, and 33, and Ordering Paragraph F (2017).

⁵ *See, e.g., East Tennessee Natural Gas Company*, 108 FERC ¶ 61,135, at P 9 (2004) (“The only issue in a compliance filing proceeding is whether the company has complied with the directives of the Commission’s prior order.”), *order on reh’g*, 110 FERC ¶ 61,060 (2005); and *SFPP, L.P.*, Opinion No. 533-A, 137 FERC ¶ 61,220,

Gas did not protest the compliance filing in the instant docket and has not presented any arguments indicating that Columbia did not comply with the requirements of the November 2017 Order. We thus affirm that Columbia has complied with the directives of the November 2017 Order, and find that Washington Gas has failed to identify any error in the unpublished letter order.⁶

12. Rather, at this late juncture, Washington Gas has raised numerous issues challenging the incremental rate and the scope and design of the expansion project for which the November 2017 Order granted a certificate. Washington Gas did not protest the original certificate application and did not seek rehearing of the November 2017 Order. We find that Washington Gas raises arguments that are a collateral attack on the approval of the Rate Schedule FTS-WBX rates in the November 2017 Order. Accordingly, Washington Gas' request for rehearing is denied.

The Commission orders:

Washington Gas' October 11, 2018 request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

at P 8 (2011) (refusing to address arguments made in response to compliance filing that should have been made in a rehearing request), *order on reh'g*, Opinion No. 511-B, 150 FERC ¶ 61,096 (2015), *remanded*, *United Airlines, Inc. v. FERC*, 827 F.3d 122 (D.C. Cir. 2016).

⁶ 18 C.F.R. § 385.713(c)(1) (2018).