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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Chapter I

Review of FERC Form Nos. 6 and 6-Q

Docket No. RM07-9-000

(December 18, 2008)

AGENCY: Federal Energy Regulatory Commission

ACTION: Notice Terminating Proceeding

SUMMARY: The Federal Energy Regulatory Commission is terminating its notice of inquiry regarding the need for changes or revisions to the Commission's reporting requirements. This notice specifically addresses FERC Form Nos. 6 (Annual Report of Oil Pipeline Companies) and 6-Q (Quarterly Report of Oil Pipeline Companies).

EFFECTIVE DATE: [insert date of publication in the Federal Register].

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SUPPLEMENTARY INFORMATION:

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Review of FERC Form Nos. 6 and 6-Q

Docket No. RM07-9-000

NOTICE TERMINATING PROCEEDING

(December 18, 2008)

1. On February 15, 2007, the Commission issued a Notice of Inquiry (NOI) in this proceeding, seeking comments from filers and users of various financial forms, including FERC Form Nos. 6 (Annual Report of Oil Pipeline Companies) and 6-Q (Quarterly Report of Oil Pipeline Companies), addressing whether the forms should be modified.¹ The FERC Form No. 6 contains data such as a balance sheet, cost-of-service information, income statement, and statement of cash flow for oil pipeline companies. Similarly, the FERC Form No. 6-Q contains the same type of information but for each of the first three quarters of each year. Interested parties filed comments addressing possible modifications to the forms, and on July 18, 2007, the Commission's Staff conducted a public workshop to discuss the topic.

¹ Assessment of Information Requirements for FERC Financial Forms, FERC Stats. & Regs. ¶ 35,554(2007).

2. As discussed below, the Commission will not modify FERC Form Nos. 6 and 6-Q at this time. Accordingly, the Commission is terminating Docket No. RM07-9-000.²

Summary of Significant Comments

3. The Association of Oil Pipelines (AOPL), Shell Pipeline Company L.P., Enbridge, Inc., Plains Pipeline L.P., and Magellan Pipeline Company LLC (collectively, Carriers) argued for few if any changes to FERC Form No. 6. In contrast, the Air Transport Association of America, Inc., the Society for the Preservation of Oil Pipeline Shippers, Anadarko Petroleum Corporation, Crowley Energy Consulting and Tesoro Refining & Marketing Company (collectively, Shippers) sought significant changes to the information required by FERC Form No. 6.

4. The Carriers argue that the Commission has analyzed and either revised or affirmed the form repeatedly since 1994, most recently in 2006,³ finding that it satisfies applicable ratemaking requirements and provides the information necessary for shippers to challenge the oil pipelines' rates. The Carriers emphasize that oil pipelines are

² Following the issuance of the NOI, the Commission issued a Notice of Proposed Rulemaking addressing FERC Form Nos. 2, 2-A, and 3-Q. On March 21, 2008, the Commission issued Order No. 710 revising these forms. Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines, Order No. 710, 73 Fed. Reg. 19389 (April 10, 2008), FERC Stats & Regs. ¶ 31,267 (2008) order on reh'g, Order No. 710-A, 123 FERC ¶ 61,278 (2008). Additionally, on September 19, 2008, the Commission issued Order No. 715 revising FERC Form Nos. 1, 1-F, and 3-Q. Revisions to Forms, Statements and Reporting Requirements for Electric Utilities and Licensees, Order No. 715, 73 Fed. Reg. 58720 (October 7, 2008), FERC Stats. & Regs. ¶ 31,277 (2008). This order addresses the sole remaining aspect of the NOI: the financial forms relating to oil pipeline companies.

³ Five-Year Review of Oil Pipeline Pricing Index, 114 FERC ¶ 61,293 (2006).

required to file extensive information, including total annual cost of service, operating revenues, and throughput in barrels and barrel-miles. In the Carriers' view, this information is adequate to permit shippers to compare the level of an oil pipeline's cost of service with their rates, and to compare the shippers' own changes in rates to changes in average barrel-mile rates.

5. The Shippers contend that FERC Form No. 6 does not provide an adequate basis for supporting complaints regarding oil pipeline rates, and thus it impedes the Commission's statutory duty to monitor cost-based rates, analyze costs of different services and classes of assets, and compare costs across lines of business. In particular, Shippers argue that the current reporting system is not useful in an environment where certain oil pipelines may own several pipeline systems. At a minimum, assert Shippers, each oil pipeline reporting financial and rate data on more than one pipeline system (or more than one segment of a pipeline system) should be required to segregate cost and revenue information for each system.⁴ Shippers maintain that this would facilitate examinations of possible cross-subsidies. Shippers further argue that oil pipelines should file workpapers that fully support the data reported on FERC Form No. 6, including cost-of-service calculations.

⁴ FERC Form No. 6 reflects aggregated data. AOPL contends that providing cost-of-service and revenue information for each segment would be an undue burden because the oil pipeline companies do not break down costs by segment, and they would be forced to estimate amounts that they do not track separately.

Commission Analysis

6. In Order No. 561, the Commission responded to Congress' direction that the Commission "promulgate new regulations to provide a simplified and generally applicable ratemaking methodology for oil pipelines, and to streamline procedures in oil pipeline proceedings."⁵ The Commission's regulations evidence this light-handed regulation in part by encouraging the settlement of disputes in oil pipeline rate matters.⁶ Order No. 561 also established price caps for oil pipeline rates and instituted an annual indexing process for rates tied to the Producer Price Index for Finished Goods minus one percent.

7. The Commission has reviewed the comments addressing possible changes to FERC Form Nos. 6 and 6-Q. These forms provide cost and revenue data that are intended to be a screening tool used to assess on an ongoing basis the justness and reasonableness of an oil pipeline's rates. The information provided is not intended to be at the level of detail necessary to litigate a case. Rather, the information need only be of sufficient detail for a complainant to make a *prima facie* case that existing rates are not

⁵ Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992, Order No. 561, FERC Stats. & Regs. ¶ 30,985, at 30,940 (1993), order on reh'g, Order No. 561-A, FERC Stats. & Regs. ¶ 31,000 (1994), aff'd, Association of Oil Pipe Lines v. FERC, 83 F.23d 1424 (D.C. Cir. 1996).

⁶ 18 CFR 343.5.

just and reasonable.⁷ Indeed, the information provided in FERC Form No. 6 has been adequate to allow shippers over the last 10 years to file numerous complaints challenging rates.⁸ Further, in a recent five-year review of the oil pipeline pricing index, the Commission's Staff was able to track industry cost changes by using data from the Annual Cost of Service Based Analysis Schedule.⁹

8. Additionally, the Commission has through various orders already revised FERC Form No. 6 to make carrier costs more transparent. For example, the Commission added the page 700, Annual Cost of Service Based Analysis Schedule, which includes the filer's operating and maintenance expenses, depreciation expense, AFUDC depreciation, amortization of deferred earnings, rate base, rate of return, income tax allowances, total cost of service, total operating revenues, and throughput in barrels and barrel-miles for

⁷ Cost-of-Service Reporting and Filing Requirements for Oil Pipelines, Order No. 571, FERC Stats. & Regs. ¶ 31,006, at 31,168-69 (1994), aff'd, Association of Oil Pipe Lines v. FERC, 83 F.23d 1424 (D.C. Cir. 1996).

⁸ See SFPP, L.P., 63 FERC ¶ 61,014 (1993); Texaco Refining and Marketing, Inc. v. SFPP, LP, 86 FERC ¶ 61,035 (1999); ARCO Products Co. v. SFPP, L.P., 91 FERC ¶ 61,142 (2000); ARCO a subsidiary of BP America, Inc. v. Calnev Pipe Line, L.L.C., 97 FERC ¶ 61,057 (2001); Chevron Products Co. v. SFPP, L.P., 114 FERC ¶ 61,133 (2006); Williams Energy Services, LLC v. Mid-America Pipeline Company, LLC, 116 FERC ¶ 61,175 (2006). In setting these cases for hearing, the Commission based its finding on an analysis of the entire carrier system.

⁹ Five-Year Review of Oil Pricing Index, 114 FERC ¶ 61,293 (2006).

the end of the current and previous calendar years.¹⁰ In Order No. 571, moreover, the Commission rejected requests that the data reported on the Annual Cost of Service Based Analysis Schedule include separate cost of service information for each individual system, and explained that the schedule was not intended to require a pipeline to demonstrate with precision its cost-of-service attributed to each individual system it operates.¹¹ In this regard, Shippers did not provide sufficient justification for the Commission to further modify the requirements of FERC Form Nos. 6 and 6-Q.

9. The Commission recognizes that FERC Form No. 6 contains only enough information for a threshold determination of whether the existing rates are just and reasonable. However, the Commission concludes that FERC Form Nos. 6 and 6-Q continue to provide sufficient information to allow shippers to file a complaint requesting a determination of the justness and reasonableness of a pipeline's rates. Accordingly, the Commission concludes that no changes to FERC Form Nos. 6 and 6-Q are warranted at this time, and the Commission terminates Docket No. RM07-9-000.

¹⁰ See Order No. 571, FERC Stats. & Regs. ¶ 31,006; Revisions to and Electronic Filing of the FERC Form No. 6 and Related Uniform Systems of Account, Order No. 620, FERC Stats. & Regs. ¶ 31,115 (2000), order on reh'g, Order No. 620-A, 94 FERC ¶ 61,130 (2001).

¹¹ Order No. 571, FERC Stats. & Regs. ¶ 31,006, at 31,168-69. Accord Five-Year Review of Oil Pricing Index, 114 FERC ¶ 61,293, at P 51-52 (2006). See also Order No. 620, FERC Stats. & Regs. ¶ 31,115, at 31,958-59 (“Consistent with our decision in Order No. 571, the Commission denies suggestions by shippers that pipelines be required to file separate cost of service information for each individual system and additional information specifying debt and equity components.”)

The Commission orders:

Docket No. RM07-9-000 is hereby terminated, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.