



PROCESS
GAS
CONSUMERS
GROUP

Volume 3
Issue 7
October 17, 2016

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RECENT REGULATORY ACTIVITY

Environmental Groups Lobby Congress for Natural Gas Act Reforms: In September, over 180 nonprofits submitted letters and comments to members of various congressional energy committees, requesting reforms to the Natural Gas Act (“NGA”). The environmental groups generally allege that FERC’s review of infrastructure projects under the NGA fails to consider the long-term consequences of fracking and climate change and fails to properly conduct the level of environmental review required by the National Environmental Policy Act. Despite the calls for reform, we are not aware of any proposed bills that would amend the NGA.

Atlantic Coast Pipeline In Service Date Postponed to 2019: Dominion Resources announced on September 21, 2016 that the target in-service date for the Atlantic Coast Pipeline has been changed from November 2018 to sometime in late 2019. Dominion cited its retention of a new construction firm and the need for extra time to complete a proper environmental review as the reasons for the delay. The planned pipeline has been heavily criticized and opposed by environmental groups and landowners and Dominion has revised the proposed route on several occasions to alleviate concerns expressed by the National Park Service and the National Forest Service.

FERC Approved Tuscarora Gas & Columbia Gulf Transmission Section 5 Settlements: On September 22, 2016, FERC approved the settlements in two of the four Section 5 Commission investigations initiated in 2016 as to whether certain pipelines were substantially over-recovering their cost of service. Specifically, the Commission approved the settlements in the proceedings related to Tuscarora Gas Transmission and Columbia Gulf Transmission. FERC’s other two Section 5 rate cases – Empire and Iroquois – also have proposed settlements and are awaiting approval by the Commission. The Tuscarora Gas order can be obtained [here](#) and the Columbia Gulf Transmission order can be obtained [here](#).

FERC Office of Enforcement Files Reply Brief in Total Gas & Power Market Manipulation Proceeding: On September 23, 2016, FERC’s Office of Enforcement filed a Reply to Total Gas & Power North America’s answer to FERC’s show cause order. Total’s answer responded to the allegations in the show cause order that it violated section 4A of the NGA by engaging in a scheme to manipulate the price of natural gas at four locations in the southwest United States between 2009 – 2012 and proposed penalties of over \$200,000,000. Total first defended itself by making a filing in federal court, arguing that FERC lacked jurisdiction to adjudicate whether a

violation of the NGA occurred. In July, a federal court confirmed FERC's authority to proceed with its market manipulation case against Total. Next, Total filed an answer with the Commission, disagreeing with the factual and legal assertions made by the Office of Enforcement. In its September 23rd reply, the Office of Enforcement described in detail the trades it believes constitute market manipulation and requested (i) that the Commission schedule an evidentiary hearing before an administrative law judge to resolve certain disputed factual issues, and (ii) that the Commission also make a ruling without an evidentiary hearing that Total engaged in market manipulation based on the "overwhelming evidence" already presented.

D.C. Circuit Convenes Extended Oral Arguments Regarding EPA's Clean Power Plan: On September 27, 2016, the United States Court of Appeals for the D.C. Circuit heard oral argument regarding claims that the EPA's Clean Power Plan is unconstitutional. Sitting *en banc*, the entire D.C. Circuit agreed to an extended oral argument schedule that allowed for several hours' worth of argument by both opponents of the Clean Power Plan, EPA and other government attorneys, and multiple intervenors. There is no timeline for when the court may issue a decision.

New Natural Gas Pipeline Proposed in North Dakota and Minnesota: On September 30, 2016, WBI Energy commenced the pre-filing review procedures at FERC for its planned Valley Expansion Project, which is proposed to include 40,000 Dth/d of new capacity in eastern North Dakota and western Minnesota. The proposed pipeline would run from WBI Energy's existing pipeline near Mapleton, North Dakota to a proposed interconnection with the Viking Gas Transmission pipeline near Felton, Minnesota. The pre-filing docket is FERC Docket No. PF16-10 and WBI Energy indicated in its initial filing that it has a projected in-service date of November 2018.

FERC Authorizes Rate Increase for Algonquin Incremental Market Project: On October 6, 2016, FERC authorized a rate increase requested by Algonquin Gas Transmission for its Algonquin Incremental Market Project. The project is an expansion to Algonquin's pipeline system in New York, Connecticut, Rhode Island, and Massachusetts. Algonquin had previously obtained FERC approval for the project and for initial rates of \$42.5738/Dt. The October 6th order, however, authorizes an increased initial rate of \$48.507/Dt. The order cited increased construction costs as justifying the increase to the planned initial rate. (FERC Docket No. CP14-96.) According to Algonquin's filings, the increased rates will not impact project shippers because they have already signed negotiated rate agreements, however, potential new customers would pay the higher rates. To obtain a copy of the order, click [here](#).

FERC Schedules Technical Conference Regarding Southern Star Tariff Changes Affecting Gas Processing: On October 7, 2016, FERC scheduled a technical conference to address a Southern Star pipeline tariff filing. On September 9th, Southern Star filed proposed tariff changes that would change the gas quality provisions in the tariff and included new transportation agreements. The tariff filing and new agreements were a response to the bankruptcy of Linn Operating, a company that operated a natural gas processing plant in Southwestern Kansas that is upstream of the Southern Star pipeline. Under the terms of the Linn Operating bankruptcy reorganization, the processing plant will cease operations. Under Southern Star's proposed tariff filing, it would change its gas quality provisions in order to receive unprocessed gas and deliver it to a different processing facility. Freedom Pipeline, an intrastate pipeline in Kansas, and Atmos Energy

Marketing, both protested the tariff filing. In FERC's order, it stated that the issues raised by the tariff filing require a technical conference to examine the engineering and operational issues. The technical conference is currently scheduled for March 9, 2017. To obtain a copy of the order, click [here](#).

RECENT PGC ACTIVITY

On September 21, 2016, PGC held its annual members meeting at the law offices of DLA Piper in Washington D.C. PGC members also conducted meetings at FERC with FERC Chairman Norman Bay and FERC Commissioner Colette Honorable. At each of these meetings, PGC discussed with the FERC leadership ongoing issues affecting natural gas transportation, Section 5 reform activity, and various issues affecting PGC members. Specifically, PGC provided Chairman Bay and Commissioner Honorable with industrial end use customers' perspectives regarding FERC's investigation of pipeline rates and concerns regarding protests affecting the ability to build new pipeline infrastructure. PGC also informed the Commissioners of the proactive approach taken by PGC to participate in court cases challenging pipeline permits to ensure that all permit denials are based on legitimate permit criteria and not political issues regarding opposition to fossil fuels, etc.

ON THE HORIZON

- We are cancelling our monthly call that was previously scheduled for October 21, 2016. The next call will occur on November 18, 2016. Please use dial in: 1-888-472-4293; and passcode: 7021111#.
- PGC's next board meeting will be on December 6, 2016 in Chicago.

CONTACT INFORMATION

If you have any questions, please contact Andrea Chambers at 202-799-4130 or via e-mail [here](#).