177 FERC ¶ 61,075
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;
James P. Danly, Allison Clements,
and Mark C. Christie.

Southern Star Central Gas Pipeline, Inc. Docket No. RP21-778-000

ORDER ON PAPER HEARING

(Issued October 29, 2021)

1. On April 30, 2021, Southern Star Central Gas Pipeline, Inc. (Southern Star) filed revised tariff records[1] pursuant to section 4 of the Natural Gas Act (NGA)[2] and Part 154 of the Commission's regulations.[3] On May 28, 2021, the Commission accepted and suspended Southern Star's proposed tariff records to be effective November 1, 2021, subject to refund, and established paper hearing procedures to examine Southern Star's proposed variable maximum Winter Storage Inventory requirements (proposal).[4] Interested parties were invited to submit additional comments within 30 days of the issuance of the May 28, 2021 Order and reply comments 15 days thereafter. Based on our examination of the record in this paper hearing proceeding, we deny the motions to strike portions of Southern Star's briefs and reject the proposed tariff records referenced in footnote 1, as discussed more fully below.

I. Background

2. In its April 30, 2021 filing, among other things, Southern Star proposed changes to section 3 of Rate Schedule Firm Storage Service (FSS) establishing Mid-Winter and End of Winter Seasonal maximum Winter Storage Inventory requirements. Southern Star stated that these changes will address gas loss and gas migration on its system by

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[1] Southern Star Central Gas Pipeline, Inc., FERC NGA Gas Tariff, Tariff Provisions, Sheet No. 134, , 4.0.0 and Sheet No. 134A, , 0.0.0.

[2] 15 U.S.C. § 717c.

[3] 18 C.F.R. §§ 154.301 - .315 (2020).

[4] *Southern Star Central Gas Pipeline, Inc.*, 175 FERC ¶ 61,175, at PP 23-24 & ordering para. (C) (2021) (May 28, 2021 Order). The remaining issues in Southern Star's filing were set for hearing procedures before an Administrative Law Judge.

ensuring that the pipeline's storage fields are drawn down methodically each year. The proposal requires that (1) an FSS shipper's storage inventory on January 15 shall not exceed 55% of its Maximum Storage Quantity (MSQ) and (2) an FSS shipper's storage inventory at the end of the winter season shall not exceed 20% of its MSQ. Southern Star proposes an 18-day window to meet this end of season inventory requirement, as it may be satisfied at the beginning of any gas day between March 15 and April 1. Further, it states that inventory balances in excess of the stated limits as of January 15 and April 1 will be retained by Southern Star and credited to the storage fuel and loss under section 13 of the General Terms and Conditions of Southern Star's tariff.[5]

II. Paper Hearing

3. Following the Commission's May 28, 2021 Order, Southern Star, Atmos Energy Corporation (Atmos Energy), the Kansas Corporation Commission (KCC), Spire Missouri, Inc. (Spire Missouri), Consumer-Owned Shippers[6] and Aligned Intervenors,[7] Public Service Company of Colorado (PSCo), and Kansas Gas Service and Oklahoma Natural Gas (together, ONE Gas) submitted initial briefs on June 28, 2021. On July 12, 2021, ONE Gas submitted reply comments and a motion to strike portions of Southern Star's initial brief. Southern Star, KCC, and Consumer-Owned Shippers and Aligned Intervenors submitted reply briefs on July 13, 2021. On August 5, 2021, Indicated Intervenors[8] filed a motion to strike section II and Attachment A of Southern Star's reply brief. Southern Star filed replies to the motions to strike by ONE Gas and Indicated Intervenors on July 27, 2021 and August 20, 2021, respectively.

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[5] The proposed tariff records further provide that, "Southern Star may under its sole discretion and judgement, allow FSS shipper's April 1st inventory balance to exceed 20%. If Southern Star does allow FSS inventory balance to exceed 20% on April 1st, Southern Star will post a waiver of this section on CSI by February 15th stating the maximum percent of MSQ it will allow for the applicable year." Proposed Rate Schedule FSS, section 3(h).

[6] Consumer-Owned Shippers are comprised of the City Utilities of Springfield, Missouri; Kansas Municipal Gas Agency; Midwest Energy, Inc.; Missouri Joint Municipal Electric Utility Commission; and National Public Gas Agency.

[7] Aligned Intervenors are comprised of Coffeyville Resources Refining & Marketing, LLC; East Kansas Agri-Energy, LLC; Kansas Ethanol LLC; and Show Me Ethanol.

[8] Indicated Intervenors are comprised of KCC, ONE Gas, Atmos Energy, Consumer-Owned Shippers, PSCo, and Spire Missouri.

4. In its initial brief, Southern Star provides a more detailed explanation of its proposal and argues that its proposed progressive maximum Winter Storage Inventory requirements will consistently reduce average storage field pressure and, in turn, reduce gas loss and storage gas migration which will reduce fuel costs to shippers over time.[9] Southern Star states that it has presented testimony and evidence in support of its proposal, noting witness Charles McConnell's testimony, that when customers leave large amounts of gas in storage, the average working gas percentage (and therefore the average field pressure) is higher, resulting in higher levels of storage losses.[10] Witness McConnell explained that higher average pressures in the field for extended periods of time increases the potential for gas migration because it inhibits appropriate gas cycling through the storage field.[11] He also presented historical evidence from 2011 to the first quarter of 2021 demonstrating how customers have left large volumes of gas in storage beyond the end of the withdrawal season and how this has resulted in higher levels of gas loss and gas migration.[12] Southern Star contends that the proposed maximum Winter Storage Inventory requirement is intended to address the gas loss and gas migration issue and deter shippers from acting in a manner that harms the system while affording shippers the flexibility needed to meet their winter needs.[13] Southern Star argues that no parties rebutted its evidence concerning the problem that results from customers leaving gas in storage.

5. In their briefs, the intervenors raised concerns regarding Southern Star's proposed variable maximum Winter Storage Inventory requirements, which include (a) a lack of evidence supporting the proposal,[14] (b) cost and revenue impacts such as additional costs to shippers unable to use storage as it was historically used,[15] (c) the proposed timing of

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[9] Southern Star Initial Br. at 1.

[10] *Id*. at 5 & n.9 (citing Attachment B, Testimony of Charles McConnell, Ex. SSC-0030 at 2-3 (McConnell Test.)).

[11] Southern Star Initial Br. at 5.

[12] *Id*.

[13] *Id*. at 1.

[14] Spire Missouri Initial Br. at 3-4; PSCo Initial Br. at 10-11; Consumer-Owned Shippers and Aligned Intervenors Initial Br. at 7-9; ONE Gas Initial Br. at 3; ONE Gas Initial Br., Testimony of Matt Robbins at 8 (Robbins Test.); KCC Initial Br. at 3-8; KCC Reply Br. at 6; Consumer-Owned Shippers and Aligned Intervenors Reply Br. at 4-5.

[15] Consumer-Owned Shippers and Aligned Intervenors Initial Br. at 10; ONE Gas Initial Br. at 10-12; Robbins Test. at 10.

Southern Star's penalty provisions, (d) system reliability and stability concerns,[16] (e) application of a maximum daily transportation quantity formula for Rate Schedule FSS shippers,[17] (f) the potential of driving firm shippers to higher priced services and hinderance of shippers' ability to reliably meet customers' requirements in extreme weather conditions,[18] (g) potential discrimination between Rate Schedule FSS and FS1 shippers,[19] and (h) proposals and alternatives for a more flexible approach to storage inventory limitations.[20]

6. Intervenors claim that Southern Star failed to demonstrate that customers' current storage inventory practices are causing operational issues or provide evidence supporting the specific inventory limitations in this proposal.[21] Spire Missouri claims there is no evidence of how much lower gas losses might be from the storage facilities of Southern Star if the proposed variable maximum Winter Storage Inventory requirements are approved or fact-based analysis of historical fuel cost impacts. Spire Missouri also claims there is no evidence of how much gas migration has occurred from Southern Star's storage facilities, and no analysis to support the specific maximum Winter Storage Inventory requirement dates or the proposed maximum storage inventory percentages.[22] Similarly, Consumer-Owned Shippers and Aligned Intervenors emphasize that a nexus does not exist between the problem Southern Star describes and the tariff changes it

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[16] ONE Gas Initial Br. at 5.

[17] Spire Missouri Initial Br. Aff. of Justin Powers (Powers Aff.) at 8; Robbins Test. at 10-11.

[18] Spire Missouri Initial Br. at 5; Powers Aff. at 8-9.

[19] PSCo Initial Br. at 11-12; PSCo Initial Br. at 12-13; ONE Gas Initial Br. at 4-5; Robbins Test. at 1-2.

[20] PSCo Initial Br. at 14-18; Robbins Test. at 10, 12-13. Because we reject Southern Star's filing for the reasons discussed herein, we do not address various additional issues raised in the comments and briefs. To the extent a matter raised by the intervenors is not discussed, we have reviewed the matter and determined that it does not require an alternative result.

[21] Spire Missouri Initial Br. at 3-4; PSCo Initial Br. at 10; Consumer-Owned Shippers and Aligned Intervenors Initial Br. at 7-9; KCC Initial Br. at 3-8; KCC Reply Br. at 6; Consumer-Owned Shippers and Aligned Intervenors Reply Br. at 3-5.

[22] Spire Missouri Initial Br. at 2-3.

proposes.[23] Moreover, they state that even if a nexus does exist, there is no evidence to establish the impact of customers' storage usage on the gas losses or the gas migration, or the actual field pressure levels that the pipeline contends are necessary to minimize the losses.[24]

7. Similarly, ONE Gas claims that Southern Star's filing lacks evidence that Southern Star's utilization of FSS storage has changed in a manner that results in increased gas migration.[25] ONE Gas asserts that Southern Star's existing storage fuel and loss surcharge percentage has been unchanged for the last 3 years, and ONE Gas alleges that this demonstrates both that the operation of the storage system and the amount of gas lost has been relatively stable and that the fuel loss mechanism is fully recovering the costs of any such fuel loss.[26]

8. KCC points out that Southern Star's aggregated data does not address circumstances where Local Distribution Companies are required to serve peak loads in times of extreme weather events, as demonstrated with Winter Storm Uri in February 2021. KCC states its concern that Southern Star's Operational Flow Orders issued for February 11 through February 19, 2021 as a result of Winter Storm Uri, run counter to Southern Star's proposal that all gas over 55% of the MSQ on January 15 of each year should be withdrawn to maintain reliability.[27]

9. In reply, Southern Star contends that its proposal is not reliant on evidence from the last few years but rather looks at historical evidence of shipper storage withdrawal activity and losses from 2011 to the present.[28] Southern Star references witness McConnell's testimony to explain that when customers leave large amounts of gas in storage, the result is higher levels of storage losses and increased potential for gas migration. Last, Southern Star argues that it is not required to wait until storage losses exceed the tolerance band, resulting in excess losses and necessitating changes to the

[23] Consumer-Owned Shippers and Aligned Intervenors Reply Br. at 4.

[24] *Id.* at 5.

[25] ONE Gas Initial Br. at 3.

[26] *Id*.

[27] KCC Reply Br. at 6.

[28] Southern Star Reply Br. at 3 & n.8.

applicable fuel and loss percentage, before it implements measures to ensure that operational problems do not develop.[29]

10. In the July 12, 2021 motion to strike, ONE Gas argues that portions of Southern Star's initial brief are highly prejudicial and burdensome at this stage of the proceedings, misleading in their current form and should have been included in witness McConnell's direct testimony. ONE Gas states that some of witness McConnell's statements are unsupported and therefore cannot satisfy the pipeline's burden of demonstrating the appropriateness of the proposed tariff change.[30]

11. Indicated Intervenors' August 5, 2021 motion to strike section II and Attachment A of Southern Star's reply brief argues that the May 28, 2021 Order directed that briefs be based on the existing record. Indicated Intervenors state that, in contravention of that directive, Southern Star introduced new data in Attachment A and arguments based upon that data in section II to provide support for its proposed revisions that are highly prejudicial to the parties that have no opportunity to respond.[31] In addition, they point out that Southern Star's NGA section 4 filing failed to mention the impact of its proposed revision on shippers' ability to meet their obligations during extreme weather events including Winter Storm Uri. Last, Indicated Intervenors state that section II and Attachment A confuse the record because they analyze aggregate data that Local Distribution Companies do not rely on to serve their loads.[32]

12. In its responses to Indicated Intervenors' and ONE Gas' motions to strike, Southern Star argues that Commission precedent shows a strong interest in the development of a complete record upon which to base its decision and that the information it provided is relevant.[33]

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[29] Southern Star Reply Br. at 4 & n.10 (citing *Colorado Interstate Gas Co.*, 120 FERC ¶ 61,021, at P 24 (2007) (finding that the Commission favors implementation of incentives before serious conditions develop that would affect a pipeline's operations); *Columbia Gas Transmission Corp.*, 119 FERC ¶ 61,267, at PP 26-27 (2007) (*Columbia Gas*)).

[30] ONE Gas July 21, 2021 Motion to Strike at 1-3.

[31] Indicated Intervenors August 5, 2021 Motion to Strike at 1-2 (citing 18 C.F.R. § 385.509(a)) (2020).

[32] *Id*. at 7.

[33] Southern Star July 27, 2021 Answer to Motion to Strike; Southern Star August 20, 2021 Answer to Motion to Strike.

III. Discussion

13. We first address the motions to strike. The May 28, 2021 Order invited parties to file additional comments within 30 days to brief "issues raised by Southern Star's Winter Storage Inventory proposal" in light of the existing record and pleadings. Issues to be addressed *include, but are not limited to*, financial impact, reliability concerns and the evidentiary need for the proposed maximum Winter Storage Inventory requirements."[34] Commission precedent is clear that motions to strike are not favored and the movant has a heavy burden to show that the matters sought to be omitted have "no possible relationship to the controversy, may confuse the issues, or otherwise prejudice a party."[35] The information central to the motions to strike addresses concerns raised by the intervenors regarding Winter Storm Uri and the proposal's effects on reliability in extreme weather events. This information is relevant to the consideration of the proposal. The Commission has also stated that a complete record upon which it can base its decision is the preferred approach in administrative proceedings.[36] Contrary to intervenors' comments and consistent with the requirements of Rule 509(a),[37] we find that the information provided is relevant, material and, not unduly repetitious. Therefore, we deny the motions to strike and allow the subject portions of Southern Star's initial and reply briefs into the record.

14. However, in considering the record in this paper hearing proceeding, including the parties' initial and reply briefs, we find that Southern Star has insufficiently supported the proposed maximum Winter Storage Inventory requirements and has not shown that the proposal corresponds to the gas loss and storage gas migration issues it alleges. Therefore, we reject the tariff records referenced in footnote 1 without prejudice, as discussed below.

15. Southern Star has not demonstrated the nexus between gas loss or migration and its proposed maximum Winter Storage Inventory requirements. Exhibit 31 shows the relationship over 10 years between annual gas loss and the average annual working gas percentage. However, Exhibit 31 data are based upon annual working gas averages and do not demonstrate how much gas loss is attributable to the working gas levels during the January 15 – April 1 time frame.[38] Although Exhibit 32 shows several years when the

[34] May 28, 2021 Order, 175 FERC ¶ 61,175 at PP 23-24 (emphasis added).

[35] *La. Pub. Serv. Comm'n*, 163 FERC ¶ 61,117, at P 74 (2018).

[36] *Id*.

[37] 18 C.F.R. § 385.509(a).

[38] Data showing gas loss versus working gas for the January 15-April 1 period, would have helped substantiate Southern Star's proposal. While we recognize as a

average percentage of working gas in all fields was above 55% at the start of January 15 and over 20% on March 15, Southern Star fails to support the 55% and 20% threshold limits proposed to address the alleged gas loss and gas migration issues.[39] Moreover, Southern Star does not explain at what pressure levels (per field and average pressure for all fields) gas loss in the storage field becomes significant and how this corresponds to the working gas percentage.

16. Although Southern Star may impose penalties to deter shipper actions before serious conditions develop that would impair the pipeline's operations,[40] the Commission requires that proposed penalties must correspond to the behavior they seek to eliminate.[41] Moreover, Southern Star's proposal does not allege a critical operational issue or an immediate threat to reliable service.[42]

17. Accordingly, we reject Southern Star's proposed variable maximum Winter Storage Inventory requirements as unsupported. We make no findings as to whether Southern Star's proposed variable maximum Winter Storage Inventory requirements could be justified by additional evidence in a future NGA section 4 tariff filing.

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general matter that elevated working gas percentages can correspond to greater gas loss and migration (McConnell Test. at 3), Southern Star has proposed specific threshold limits that should be based upon specific data on its system.

[39] The difference between gas loss under normal working gas percentage drawdowns compared to elevated working gas percentage drawdowns would have been useful data to support Southern Star's proposal.

[40] Southern Star Reply Br. at 4 & n.10 (citing *Colorado Interstate Gas Co.*, 120 FERC ¶ 61,021 at P 24 (finding that the Commission favors implementation of incentives before serious conditions develop that would affect a pipeline's operations); *Columbia Gas*, 119 FERC ¶ 61,267 at PP 26-27).

[41] *Colorado Interstate Gas Co.*, 120 FERC ¶ 61,021 at P 23.

[42] We note that Southern Star's reliance upon *Columbia Gas* is misplaced. The conditions alleged by Southern Star here can be distinguished from those in *Columbia Gas* where the proposed penalty applied to critical scheduling periods, the pipeline had less operational control over its system, and the shippers' conduct potentially threatened pipeline system operations. Further, unlike Southern Star, in *Columbia Gas* the pipeline also demonstrated that the penalties on the system were intended to deter conduct already precluded by the tariff and which strained the system. *Columbia Gas*, 119 FERC ¶ 61,267 at PP 25-27.

<u>The Commission orders</u>:

Southern Star's proposed variable maximum Winter Storage Inventory requirements are hereby rejected, as described in the body of this order.

By the Commission. Commissioner Danly is concurring with a separate statement attached.

(S E A L)

Debbie-Anne A. Reese,
Deputy Secretary.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Southern Star Central Gas Pipeline, Inc. Docket No. RP21-778-000

(Issued October 29, 2021)

DANLY, Commissioner, *concurring in the result*:

1. I concur with today's order and agree that the Commission should reject Southern Star Central Gas Pipeline, Inc.'s variable maximum Winter Storage Inventory requirements as unsupported. In today's order, the Commission notes information[1] that could potentially assist in substantiating such a proposal under section 4 of the Natural Gas Act[2] in a future submission.

2. I write to point out that the Commission already held a paper hearing and could have solicited any or all of this information during that process. Alternatively, the Commission could have simply issued a data request. In my view, either would have provided a more efficient means by which to consider the proposal than to reject without prejudice.

For these reasons, I respectfully concur.

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James P. Danly
Commissioner

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[1] *See S. Star Cent. Gas Pipeline, Inc.*, 177 FERC ¶ 61,075, at P 15 nn.38-39 (2021).

[2] 15 U.S.C. § 717c.