BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking Regarding Depreciation Reporting and Capital Planning for Crude Oil, Gasoline, or Petroleum Products Transportation Pipelines 52 Pa. Code Chapter 73	: : : : :	Docket No. L-2019-3010270

COMMENTS OF
Laurel Pipe Line Company, L.P.

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

I. INTRODUCTION

By Notice of Proposed Rulemaking Order (the "NOPR") entered June 13, 2019, the Pennsylvania Public Utility Commission ("Commission") requested comments from interested persons regarding proposed amendments to the Commission's regulations at 52 Pa. Code §§ 73.1, 73.3, 73.5, and 73.7 providing for annual depreciation reporting, service life study reporting, and capital investment reporting. In the NOPR, the Commission proposed to require crude oil, gasoline, and petroleum products transportation pipeline (*i.e.* "hazardous liquids pipeline") public utilities to file the reports required under these regulations. Pursuant to the NOPR, Laurel Pipe Line Company, L.P. ("Laurel") submits these comments. Laurel appreciates this opportunity to comment and respond to the questions raised by the Commission in the NOPR.

II. COMMENTS ON NOTICE OF PROPOSED RULEMAKING

In the following sections, Laurel provides its comments on proposals contained in the NOPR. Laurel has organized its comments to respond to the three types of reports that the

NOPR proposes to require hazardous liquid pipeline public utilities to file: (1) annual depreciation reports under Section 73.3, 52 Pa. Code § 73.3; (2) service life study reports under Section 73.5, 52 Pa. Code § 73.5; and (3) capital investment plan reports under Section 73.7, 52 Pa. Code § 73.7.

Laurel generally notes that these additional reporting requirements will increase regulatory compliance costs for hazardous liquids pipelines, without apparent benefit to consumers or the industry. In addition, Laurel would propose that, should the reports ultimately be required, the frequency at which certain of the requested reports are required by the Commission should be consistent with analogous federal reporting requirements.

A. ANNUAL DEPRECIATION REPORTS

Laurel refers to the Commission's proposed amendments to existing regulations at 52 Pa. Code § 73.3, contained in the NOPR. Hazardous liquids pipelines are not currently required to prepare and submit depreciation reports to the Commission on an annual basis. Therefore, Laurel submits that this additional reporting requirement will require hazardous liquids pipelines to incur additional costs. It is unclear how these additional reports would be used by the Commission, and thus the benefit of the proposed change is not apparent.

B. SERVICE LIFE STUDY REPORTS

Laurel next refers to the proposed amendments to Section 73.5 of the Commission's regulations, 52 Pa. Pa. Code § 73.5, contained in the NOPR. As hazardous liquids pipelines are not currently required to prepare and submit service life studies to the Commission, Laurel notes that this additional reporting requirement will require hazardous liquids pipelines to incur additional costs. Further, Laurel questions the usefulness of these reports to the Commission and strongly opposes any suggestion that a pipeline's useful life is limited by its number of years in service. Laurel respectfully requests the Commission consider current The Pipeline and Hazardous Materials Safety Administration's ("PHMSA") regulation and integrity programs put in place to ensure the safety in the operation and maintenance of our liquids pipelines and their long-lived reputation. Age should not be used to determine a pipeline's viability. Instead the integrity management (IM) program that has been regulated under PHMSA's Integrity Management requirements should be used as the basis to determine a pipeline's viability.

In addition, Laurel questions the need to perform a service life study every five (5) years. Instead, consistent with existing federal requirements under the Federal Energy Regulatory Commission's ("FERC") regulations, Laurel would propose that service life studies be completed at the direction of the Commission or "When a carrier believes any rate prescribed by the Commission is no longer applicable." *See* 18 C.F.R. § 352, Instruction 1-8(b)(2). By allowing hazardous liquids pipelines to complete these studies "as needed," consistent with existing federal requirements, certain of the additional costs associated with complying with this proposed amendment would be avoided.

C. CAPITAL INVESTMENT PLAN REPORTS

With respect to the proposed amendment to require hazardous liquids pipelines to submit capital investment plan reports every five (5) years under 52 Pa. Code § 73.7, Laurel submits the following.

First, Laurel submits that the proposed amendment should clarify the manner in which capital incurred for projects that cross state lines should be reported. Petroleum products pipeline projects regularly include interstate and intrastate aspects, *i.e.* origins and destinations that can be used for intrastate service or interstate service. However, the regulation as drafted does not clarify how such projects should be included in a report. Further guidance under the Section 73.2 Definitions, which outlines the report criteria for joint projects (providing both inter and intrastate transportation services), may be needed to address how joint projects are addressed by the report.

Second, in the NOPR, the Commission indicated that Chapter 73 was adopted, in part, because the Commission determined "regular reporting of a public utility's depreciation practices and capital planning is necessary to determine whether a public utility will be capable of providing safe, efficient, and adequate service currently and in the future." *See* NOPR, p. 2 (citing *See* 38 Pa.B. 4685 (Sept. 17, 1994); *Rulemaking Re Public Utility Depreciation Practices and Capital Planning*, Docket L-00920062 (Order entered July 22, 1994)). In this regard, as the Commission does not have jurisdiction over the rates charged for interstate service, submits that the Commission should clarify how it will use information related to interstate service, if such information is to be included in the reports.

Finally, Laurel notes that capital investment planning for hazardous liquids pipelines will involve commercially sensitive data regarding pipelines' potential business strategy. While Laurel understands that such information may be submitted to the Commission under seal and afforded non-public treatment, it is important to recognize hazardous liquids pipelines are regulated as common carriers rather than public utilities at the federal level. Under this mode of regulation, "[m]any constraints commonly associated with utility-type regulation...were not imposed on oil pipelines." *Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992*, 65 F.E.R.C. ¶ 61,109 (Oct. 22, 1993). Courts have interpreted this as reflecting a Congressional intent to allow market forces "freer play" within the industry, than for other common carriers or for public utilities. Laurel submits that, by considering requiring hazardous liquids pipelines to disclose commercially and competitively sensitive information regarding capital investment strategies, the Commission's proposed amendments may conflict with the market forces driving the hazardous liquids pipelines industry. This would be especially true if the Commission were to require hazardous liquids pipelines to include information related to interstate service projects to be included in a Section 73.7 capital investment plan.

III. CONCLUSION

For all of the reasons stated above, Laurel Pipe Line Company, L.P. submits these comments regarding the proposed amendments to the Pennsylvania Public Utility Commission's regulations at Chapter 73, 52 Pa. Code §§ 73.1 *et seq.*, as detailed in the Notice of Proposed Rulemaking.

Respectfully submitted,

LAUREL PIPE LINE COMPANY, L.P.
By: MainLine L.P., its general partner
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