

167 FERC ¶ 61,266
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

CITGO Petroleum Corporation

Docket Nos. OR19-7-000

v.

Colonial Pipeline Company

TransMontaigne Product Services LLC

OR19-8-000

v.

Colonial Pipeline Company

BP Products North America, Inc., Chevron Products
Company, Epsilon Trading, LLC, Phillips 66 Company,
Southwest Airlines Co., Trafigura Trading LLC, TCPU,
Inc., United Aviation Fuels Corporation, and
Valero Marketing and Supply Company

OR19-10-000

v.

Colonial Pipeline Company

ORDER DISMISSING COMPLAINTS

(Issued June 26, 2019)

1. In November 2018, the Commission received three complaints (Complaints) challenging the charges and practices of Colonial Pipeline Company (Colonial) related to product loss allocation (PLA).
2. On November 15, 2018, in Docket No. OR19-7-000, CITGO Petroleum Corporation (CITGO) filed a complaint against Colonial informing the Commission that

Colonial had notified shippers of a transportation-related rate increase to its PLA charges without filing a tariff.¹ CITGO requests that the Commission treat Colonial's rate increase as a tariff filing subject to protest and accept CITGO's filing as a protest of that deemed tariff filing. CITGO further requests that, in response to such a deemed protest, the Commission reject Colonial's rate increase as unlawful, or, in the alternative, suspend the proposed increase for a full seven months and set the matter for hearing.²

3. On November 16, 2018, in Docket No. OR19-8-000, TransMontaigne Product Services LLC (TransMontaigne) filed a separate complaint against Colonial based on a similar description of facts.³ TransMontaigne requests that the Commission issue an order rejecting Colonial's rate increase and directing Colonial to cease and desist from assessing its increased PLA charges to its shippers.⁴

4. On November 30, 2018, in Docket No. OR19-10-000, nine other shippers (Joint Shippers)⁵ filed a complaint against Colonial based on a similar description of facts.⁶ Joint Shippers request that the Commission issue an order prohibiting Colonial from charging the increased PLA charges absent a filing with the Commission.⁷ Alternatively, Joint Shippers request that the Commission issue a show-cause order directing Colonial

¹ CITGO Protest and Complaint Requesting Expedited Consideration Against Colonial Pipeline Company, Docket No. OR19-7-000 (filed Nov. 15, 2018) (CITGO Complaint).

² *Id.* at 4.

³ TransMontaigne Complaint Against Colonial Pipeline Company Requesting Fast Track Processing, Docket No. OR19-8-000 (filed Nov. 16, 2018) (TransMontaigne Complaint).

⁴ *Id.* at 1.

⁵ Joint Shippers include BP Products North America, Inc.; Chevron Products Company, Epsilon Trading, LLC, Phillips 66 Company, Southwest Airlines Co., Trafigura Trading LLC, TCPU, Inc., United Aviation Fuels Corporation, and Valero Marketing and Supply Company.

⁶ Joint Shippers Petition for Enforcement of Interstate Commerce Act and Protest to Colonial Pipeline Company's Unfiled Rate Increase, or, in the Alternative, Complaint Against Colonial and Related Request for Expedited Action, Docket No. OR19-10-000 (filed Nov. 30, 2018) (Joint Shippers Complaint).

⁷ *Id.* at 19.

to explain why it should be allowed to collect its jurisdictional PLA charges without filing them in a tariff.⁸ In any event, Joint Shippers ask that the Commission suspend the proposed increase for a full seven months subject to refund pending resolution of the proceedings in Docket No. OR18-7-000, et al. (Global Complaint Proceeding).⁹

5. As discussed below, CITGO, TransMontaigne, and Joint Shippers (Complainants) raise PLA issues that have already been set for hearing in the Global Complaint Proceeding.¹⁰ Furthermore, Complainants are all parties to the Global Complaint Proceeding. Therefore, we dismiss the Complaints.

I. Background

6. Colonial operates a pipeline that provides interstate transportation of refined petroleum products from Gulf Coast refineries to destinations throughout the Gulf Coast, Southeast, and Northeast regions of the United States.¹¹

7. On September 20, 2018, the Commission issued the Hearing Order consolidating and setting for hearing four complaints (collectively, Global Complaint) challenging the lawfulness of Colonial's rates and Colonial's practices and charges related to transmix and PLA.¹² In the Global Complaint, the complainants claimed that charges related to transmix and PLA are not stated in Colonial's tariff and appear only in Colonial's shipper manual, which violates the Interstate Commerce Act (ICA)¹³ and Commission policy.¹⁴ The Complainants in the Global Complaint Proceeding claimed that Colonial had failed to justify the charges and had not explained how the charges are derived, how the charges

⁸ *Id.* at 2, 19.

⁹ *Id.* at 2-3.

¹⁰ *Epsilon Trading, LLC v. Colonial Pipeline Co.*, 164 FERC ¶ 61,202 (2018) (Hearing Order).

¹¹ Joint Shippers Complaint at 4; TransMontaigne Complaint at 3; CITGO Complaint at 5.

¹² Hearing Order, 164 FERC ¶ 61,202.

¹³ 49 U.S.C. app. § 1 *et seq.* (1988).

¹⁴ *See* Hearing Order, 164 FERC ¶ 61,202 at P 22.

are assessed, and how the revenue generated is accounted for.¹⁵ They stated that Colonial had never filed with the Commission its PLA charges, which amounted to \$0.14 per barrel on long-haul movements and \$0.04 per barrel on short-haul movements.¹⁶ The Complainants in the Global Complaint Proceeding requested that the Commission direct Colonial to justify its PLA charges and refund portions of the charges found to be unjust and unreasonable.¹⁷ They also sought reparations and/or refunds for all amounts paid in excess of the just and reasonable levels for the PLA and transmix charges.¹⁸

8. In the Hearing Order, the Commission found that the “allegations regarding Colonial’s transmix and product loss practices and charges . . . warrant further investigation at a hearing.”¹⁹ The Commission further stated that, although a pipeline is not required to include in its tariff all details of its operations and Colonial’s tariff and shipper manual contained provisions addressing PLA, it did not appear that Colonial’s PLA charges were stated in its tariff.²⁰ Thus, the Commission found that the omission of those charges from the tariff may be contrary to section 6 of the ICA and section 341.8 of the Commission’s regulations, which require carriers to publish in their tariffs “charges . . . which in any way increase or decrease the amount to be paid on any shipment or which increase or decrease the value of service to the shipper.”²¹

II. Complaints

9. Complainants allege that Colonial attempted to increase its PLA charges without stating those charges in its tariff, explaining how the charges are derived, or providing shippers with an opportunity to evaluate and challenge such charges.²² Specifically, Complainants state that on October 31, 2018, Colonial notified its shippers through an

¹⁵ *Id.*

¹⁶ *Id.* P 23.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* P 50; *see also id.* P 77.

²⁰ *Id.* PP 76-77.

²¹ *Id.* P 76 (quoting 18 C.F.R. § 341.8 (2018)).

²² CITGO Complaint at 1-3; TransMontaigne Complaint at 1; Joint Shippers Complaint at 2.

electronic bulletin posting that it was increasing the per-barrel PLA charge from \$0.04 to \$0.05 for short-haul barrels and from \$0.14 to \$0.18 for long-haul barrels effective December 1, 2018.²³ Complainants state that Colonial never filed a FERC tariff proposing the PLA charge or the rate increases and never justified the PLA charge based on corresponding costs or operational results.²⁴ Joint Shippers assert that Colonial has neither specifically described how the PLA charge operates nor justified the difference in long-haul and short-haul rates.²⁵ Joint Shippers aver that Colonial's proposed increases to its PLA charges will increase the rates Joint Shippers pay for jurisdictional transportation, in the aggregate, by approximately \$7 million annually to the extent their volumes are considered long-haul volumes.²⁶

10. Complainants argue that Colonial's purported increases to its PLA charges violate the ICA and Commission regulations. Complainants contend that Colonial's tariff does not include PLA charges and does not explain the basis of the PLA charges or how those charges are calculated, in violation of the ICA.²⁷ Complainants claim that the PLA charges constitute "charges" under section 6(1) of the ICA and that Colonial has violated section 6(3) of the ICA and section 341.8 of the Commission's regulations by increasing those charges without making a tariff filing and providing thirty days' notice to the Commission and the public.²⁸ Complainants argue, moreover, that Colonial has disregarded prior orders in which the Commission found that Colonial's PLA charges and practices may be unlawful.²⁹

²³ CITGO Complaint at 2; TransMontaigne Complaint at 4; Joint Shippers Complaint at 7.

²⁴ Joint Shippers Complaint at 5; TransMontaigne Complaint at 10.

²⁵ Joint Shippers Complaint at 5.

²⁶ *Id.* at 2, 9.

²⁷ *See* CITGO Complaint at 11; TransMontaigne Complaint at 4-5; Joint Shippers Complaint at 5, 7-8, 12, 15.

²⁸ *See* CITGO Complaint at 8-10; TransMontaigne Complaint at 4-5; Joint Shippers Complaint at 10-12.

²⁹ CITGO Complaint at 2 (citing Hearing Order, 164 FERC ¶ 61,202 at PP 76-77; *Sw. Airlines Co. v. Colonial Pipeline Co.*, 147 FERC ¶ 61,024, at PP 35-36 (2014)); Joint Shippers Complaint at 5-7; *see also* TransMontaigne Complaint at 6 (quoting Hearing Order, 164 FERC ¶ 61,202 at PP 76-77).

11. Complainants request that the Commission find Colonial's increases to its PLA charges to be unlawful and prohibit Colonial from implementing any increased PLA charges that it has not filed with the Commission.³⁰

12. In particular, CITGO requests that the Commission treat Colonial's PLA charge increase as a tariff filing subject to protest even though Colonial made no filing with the Commission.³¹ CITGO asks that its pleading be treated as a protest against such a purported tariff filing and requests that the Commission reject the purported tariff filing as unlawful and prohibit Colonial from implementing the increases.³² If the Commission determines that CITGO's challenge to Colonial's PLA rate increases must proceed as a complaint, CITGO requests that the Commission order Colonial to cease and desist from attempting to collect the rate increase and cease filing rate increases through an electronic bulletin.³³ CITGO further requests that the Commission grant reparations and refunds, with interest, for PLA charges that exceed the currently effective rates.³⁴ Alternatively, if the Commission declines to reject Colonial's PLA charge increases, CITGO requests that the Commission set the propriety of the increases for hearing.³⁵

13. TransMontaigne requests that the Commission reject Colonial's purported increase to its PLA charges and order Colonial to cease and desist from assessing the increased PLA charges to its shippers.³⁶ TransMontaigne argues that the ongoing hearing in the Global Complaint Proceeding does not bar the Commission from rejecting the purported PLA charge increases and ordering Colonial to cease and desist from assessing the increased PLA charges to its shippers.³⁷ TransMontaigne states that Colonial had not yet

³⁰ CITGO Complaint at 4, 13; TransMontaigne Complaint at 1, 11-12; Joint Shippers Complaint at 2, 19.

³¹ CITGO Complaint at 4.

³² *Id.* at 4, 13.

³³ *Id.* at 4, 13-14.

³⁴ *Id.* at 4, 14.

³⁵ *Id.*

³⁶ TransMontaigne Complaint at 1, 11-12.

³⁷ *Id.* at 6.

attempted to increase its PLA charges when the Global Complaint Proceeding began.³⁸ According to TransMontaigne, the purported PLA charge increases represent an independent and separate action that the Commission should summarily reject as patently unlawful.³⁹ TransMontaigne claims that allowing Colonial to collect the increased PLA charges subject to refund pending resolution of the Global Complaint Proceeding would not adequately protect TransMontaigne, its customers, or ultimate consumers, who would bear the cost of the increased PLA charges.⁴⁰ TransMontaigne states that, if the Commission orders Colonial to refund the increased PLA charges in the future, those refunds would not inure to consumers.⁴¹ TransMontaigne therefore asserts that the Commission should immediately reject Colonial's purported PLA charge increases, notwithstanding the fact that related issues pertaining to Colonial's PLA charges are currently pending in the Global Complaint Proceeding.⁴²

14. Joint Shippers acknowledge that in the Hearing Order, the Commission established a hearing to evaluate the justness and reasonableness of Colonial's PLA charges and the appropriate treatment of the PLA charges.⁴³ In light of these decisions, Joint Shippers state that it would be inequitable to allow Colonial not only to continue collecting the PLA charge, but also to increase it without following the ICA's rate and tariff filing requirements.⁴⁴ Joint Shippers request that the Commission order Colonial to cease collecting the PLA charges or any increase thereto until Colonial has properly filed the charges with the Commission and justified their level and related increase.⁴⁵ In the alternative, Joint Shippers request that the Commission issue an order directing Colonial to show cause as to why it did not file its proposed PLA charge increase with the Commission.⁴⁶ To the extent the Commission allows the PLA charge increase to become

³⁸ *Id.* at 6-7.

³⁹ *Id.* at 7.

⁴⁰ *Id.* at 7-8.

⁴¹ *Id.* at 8.

⁴² *See id.* at 8-10.

⁴³ Joint Shippers Complaint at 13.

⁴⁴ *Id.* at 13-14.

⁴⁵ *Id.* at 2.

⁴⁶ *Id.* at 2, 19.

effective, Joint Shippers request that the Commission suspend the increase for seven months and hold the increase subject to refund pending the resolution of the complaint in the Global Complaint Proceeding.⁴⁷

III. Public Notices and Interventions

15. Notice of the CITGO Complaint in Docket No. OR19-7-000 was issued on November 15, 2018, providing for answers, protests, and interventions to be filed on or before December 5, 2018. World Fuel Services, Inc., and George E. Warren Corporation filed motions to intervene.

16. Notice of the TransMontaigne Complaint in Docket No. OR19-8-000 was issued on November 20, 2018, providing for answers, protests, and interventions to be filed on or before December 6, 2018. World Fuel Services, Inc., and George E. Warren Corporation filed motions to intervene.

17. Notice of the Joint Shippers Complaint in Docket No. OR19-10-000 was issued on December 3, 2018, providing for answers, protests, and interventions to be filed on or before December 31, 2018. No interventions were filed.

IV. Colonial's Answers

18. Colonial filed answers to all three Complaints, in which it raised arguments similar to those it raised in response to the Global Complaint.⁴⁸

19. Colonial argues that the Complaints should be dismissed because the Complaints seek to litigate issues that are already being addressed in the hearing on the Global Complaint.⁴⁹ Colonial further argues that the parties' rights would not be affected by

⁴⁷ *Id.* at 2-3, 19.

⁴⁸ Colonial, Answer, Docket No. OR19-7-000 (filed Dec. 6, 2018) (Colonial Answer to CITGO); Colonial, Answer, Docket No. OR19-8-000 (filed Dec. 6, 2018) (Colonial Answer to TransMontaigne); Colonial, Answer, Docket No. OR19-10-000 (filed Dec. 28, 2018) (Colonial Answer to Joint Shippers).

⁴⁹ Colonial Answer to CITGO at 2; Colonial Answer to TransMontaigne at 2; Colonial Answer to Joint Shippers at 2.

dismissal of the Complaints⁵⁰ because “the ICA provides for reparations”⁵¹ and, if the Commission determines in the Global Complaint Proceeding that any part of the PLA charges is unjust and unreasonable, it could order Colonial to pay reparations for the difference between the PLA charges in effect while the Global Complaint Proceeding is pending and the PLA charges ultimately determined to be just and reasonable.⁵² Colonial argues that initiating a separate administrative hearing to resolve the issues raised is unnecessary and would be duplicative and a waste of administrative resources.⁵³ Colonial also states that Commission precedent prohibits the filing of successive complaints that seek to re-litigate the same issue absent new evidence or changed circumstances.⁵⁴ Alternatively, Colonial states that if the Complaints are not dismissed, they should be set for hearing and consolidated with the Global Complaint.⁵⁵

20. Colonial explains that its actions that Complainants challenge were administrative procedures required by its filed and effective rules and regulations tariff.⁵⁶ Colonial states that it would have been in violation of its tariff if it did not perform a periodic evaluation of its PLA charges, adjust the PLA charges to reflect its actual experience, and

⁵⁰ Colonial Answer to CITGO at 2; Colonial Answer to TransMontaigne at 2; Colonial Answer to Joint Shippers at 2, 5.

⁵¹ Colonial Answer to Joint Shippers at 12; *see also* Colonial Answer to CITGO at 7-8; Colonial Answer to TransMontaigne at 9.

⁵² Colonial Answer to Joint Shippers at 12 (citing 49 U.S.C. app. §§ 13(1), 16(1) (1988)); Colonial Answer to CITGO at 5 n.5, 8; Colonial Answer to TransMontaigne at 4 n.3, 9.

⁵³ Colonial Answer to CITGO at 2, 5; Colonial Answer to TransMontaigne at 2, 4; Colonial Answer to Joint Shippers at 2, 4.

⁵⁴ Colonial Answer to CITGO at 4 (citing *S. Co. Servs., Inc. v. Midcontinent Indep. Sys. Operator, Inc.*, 153 FERC ¶ 61,026, at P 77 (2015); *Cal. ex rel. Brown v. Powerex Corp.*, 135 FERC ¶ 61,178, at P 71 (2011)); Colonial Answer to TransMontaigne at 4; Colonial Answer to Joint Shippers at 4-5.

⁵⁵ Colonial Answer to CITGO at 11; Colonial Answer to TransMontaigne at 8; Colonial Answer to Joint Shippers at 16.

⁵⁶ Colonial Answer to CITGO at 6; Colonial Answer to TransMontaigne at 5-6; Colonial Answer to Joint Shippers at 6.

notify its shippers of the adjustments via electronic bulletin as it did.⁵⁷ Colonial places the level of its PLA charges in historical context with a table showing that long-haul PLA charges have ranged from \$0.25 to \$0.14 per barrel since December 1, 2014, and short-haul PLA charges have ranged from \$0.06 to \$0.04 over the same period.⁵⁸

Effective Date	Long Haul/bbl	Short Haul/bbl
December 1, 2014	\$0.25	\$0.06
June 1, 2016	\$0.21	\$0.06
September 1, 2016	\$0.17	\$0.04
January 1, 2017	\$0.14	\$0.04
December 1, 2018	\$0.18	\$0.05

21. Colonial also argues that TransMontaigne's and Joint Shippers' requests for summary rejection of the PLA charge increases, as well as Joint Shippers' request for a show cause order, are unwarranted.⁵⁹ Colonial asserts that summary disposition of issues relating to Colonial's PLA charges is inappropriate because the Commission has already determined in the Hearing Order that there are material facts in dispute regarding Colonial's PLA charges and practices.⁶⁰ Colonial also contends that TransMontaigne's request for interim rate relief is unwarranted because the Commission has indicated in natural gas pipeline rate cases that it does not favor interim rate reductions.⁶¹

V. Complainants' Answers

22. On December 11, 2018, CITGO filed an answer to Colonial's answer in Docket No. OR19-7-000. CITGO refutes Colonial's claim that the Commission should dismiss

⁵⁷ Colonial Answer to CITGO at 6; Colonial Answer to TransMontaigne at 5-6; Colonial Answer to Joint Shippers at 6.

⁵⁸ Colonial Answer to CITGO at 6-7; Colonial Answer to TransMontaigne at 6-7; Colonial Answer to Joint Shippers at 6-7.

⁵⁹ Colonial Answer to TransMontaigne at 7-9; Colonial Answer to Joint Shippers at 8-12.

⁶⁰ Colonial Answer to TransMontaigne at 7-8; Colonial Answer to Joint Shippers at 11.

⁶¹ Colonial Answer to TransMontaigne at 8-9 (citing *Pub. Serv. Comm'n of N.Y. v. Nat'l Fuel Gas Supply Corp.*, 115 FERC ¶ 61,299 (2006), *order on reh'g*, 115 FERC ¶ 61,368 (2006); *Panhandle Complainants v. Sw. Gas Storage Co.*, 120 FERC ¶ 61,207, at PP 20, 24 (2007)).

the Complaints because of the pending hearing in the Global Complaint Proceeding, arguing that the Commission routinely adjudicates rate increases in separate proceedings from the underlying rates.⁶² CITGO further states that Colonial overlooks that the Complaints raise new allegations regarding the purported PLA charge increases that were not present in the Global Complaint.⁶³ CITGO contends, moreover, that Colonial cannot justify its violations of the ICA by claiming that its actions were required by its tariff.⁶⁴

23. On December 12, 2018, TransMontaigne filed a motion for leave to answer and answer to Colonial's answer in Docket No. OR19-8-000. Like CITGO, TransMontaigne disputes Colonial's argument that the TransMontaigne Complaint raises the same issues already set for hearing in the Global Complaint Proceeding and argues that, while the issues may be related, they are not the same.⁶⁵ TransMontaigne also responds to Colonial's argument that interim rate relief is not appropriate in this case.⁶⁶

24. On January 15, 2019, Joint Shippers filed a motion for leave to respond and response to Colonial's answer in Docket No. OR19-10-000. Joint Shippers also contend that the Global Complaint did not raise the issue of whether Colonial's increases to its PLA charges without a tariff filing violates the ICA and Commission regulations.⁶⁷ They claim that a decision on this narrow legal issue "should not affect" the Global Complaint Proceeding.⁶⁸ Joint Shippers echo CITGO's contention that Colonial cannot justify its unlawful actions by stating that those actions were required by its tariff.⁶⁹ Finally, Joint Shippers reiterate and elaborate upon their contention that the Commission should summarily reject Colonial's purported increases to its PLA charges.⁷⁰

⁶² CITGO Answer at 4-5.

⁶³ *Id.* at 5.

⁶⁴ *Id.* at 6.

⁶⁵ TransMontaigne Answer at 2-3.

⁶⁶ *Id.* at 3.

⁶⁷ Joint Shippers Answer at 4-5.

⁶⁸ *Id.* at 5.

⁶⁹ *Id.* at 8.

⁷⁰ *Id.* at 9-10.

VI. Discussion

A. Procedural Matters

25. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), all unopposed and timely filed motions to intervene and any unopposed motions to intervene out of time filed before the issuance date of this order are granted. Rule 213 of the Commission's Rules of Practice and Procedure⁷¹ prohibits answers to answers unless otherwise ordered by the decisional authority. We accept the answers because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

26. As an initial matter, we find that CITGO's and Joint Shippers' initial pleadings in Docket Nos. OR19-7-000 and OR19-10-000, respectively, are properly treated as complaints, rather than protests. Rule 211 of the Commission's Rules of Practice and Procedure provides that "[a]ny person may file a protest to object to any application, complaint, petition order to show cause, notice of tariff or rate examination, or tariff or rate filing."⁷² However, Colonial has made no tariff or rate filing to implement the purported changes to its PLA charges that TransMontaigne and Joint Shippers describe in their pleadings. Accordingly, because TransMontaigne's and Joint Shipper's pleadings are not responding to a tariff or rate filing submitted to the Commission, we conclude that their pleadings are appropriately treated as complaints.

27. We find that the issues that Complainants raise regarding Colonial's PLA charges and practices are closely related to the PLA issues set for hearing in the Global Complaint Proceeding, to which Complainants are parties. Therefore, as Complainants observe,⁷³ the justness and reasonableness of Colonial's PLA charges and practices

⁷¹ 18 C.F.R. § 385.213(a)(2) (2018).

⁷² 18 C.F.R. § 385.211(a)(1) (2018).

⁷³ See Joint Shippers Complaint at 7 (citing Hearing Order, 164 FERC ¶ 61,202 at P 77) (noting that, in the Global Complaint Proceeding, "the Commission exercised its jurisdiction over the PLA Charge along with the other rate components by setting for hearing all the issues raised by Complainants, including the overall reasonableness of the PLA Charge."); see also *id.* at 13 ("[T]he Commission is currently exercising jurisdiction over the PLA Charge in Docket No. OR18-7 *et al.*"); CITGO Complaint at 3 (citing Hearing Order, 164 FERC ¶ 61,202 at P 76) ("[T]he Commission found that Colonial's practice of stating its PLA rates within its Shipper Manual may violate the ICA [and]

are already the subject of an ongoing hearing. Complainants and Colonial may fully explore the justness and reasonableness of Colonial's PLA charges and practices in that proceeding.

28. We disagree with Complainants' argument that the PLA rate increase is not already before us in the Global Complaint Proceeding. Colonial's PLA rates and practices, including the question of whether Colonial publishing the PLA charges in its shipper manual rather than directly in its tariff may violate section 6 of the ICA, were set for hearing in the Global Complaint Proceeding.⁷⁴ While the additional facts raised here regarding the PLA rate increase provide useful insight and additional framework for fully exploring the PLA issues in the Global Complaint Proceeding, they do not constitute so distinct a question as to require adjudication in a separate proceeding.

29. In sum, the Commission has already set all aspects of the justness and reasonableness of Colonial's PLA practices and charges for hearing in the Global Complaint Proceeding. Complainants are parties to that proceeding and may fully explore Colonial's PLA practices and charges in that hearing. The rights of the parties will not be affected by dismissal of the Complaints because the Commission retains the authority to order reparations in the Global Complaint Proceeding.⁷⁵ We decline to address the particular issues on the basis of the pleadings in the instant dockets when Complainants and Colonial have already been given the opportunity to conduct discovery and develop an evidentiary record on these matters at hearing in the Global Complaint Proceeding.⁷⁶ Furthermore, establishing a separate hearing to address the issues raised in the Complaints would be duplicative of the hearing in the Global Complaint Proceeding and result in an inefficient use of Commission and participant resources.

established [an] evidentiary hearing to ensure that Colonial's PLA rates and practices are just and reasonable.”).

⁷⁴ See Hearing Order, 164 FERC ¶ 61,202 at PP 22-23, 76-77.

⁷⁵ 49 U.S.C. app. § 16(1) (1988).

⁷⁶ See *Fla. Mun. Power Agency v. FERC*, 315 F.3d 362, 366 (D.C. Cir. 2003) (“Administrative agencies enjoy broad discretion to manage their own dockets.”) (citation and quotation marks omitted); *Cal. ex rel. Brown v. Powerex Corp.*, 135 FERC ¶ 61,178 at P 71 (citing *Mobil Oil Expl. & Producing Se. Inc. v. United Distrib. Cos.*, 498 U.S. 211, 230-31 (1991)); *Fla. Mun. Power Agency v. FERC*, 315 F.3d 362, 366) (declining to open new complaint proceeding to address issues already being addressed in ongoing Commission proceeding and noting that “[t]he Commission controls its own dockets and has substantial discretion to manage its proceedings.”).

30. We therefore dismiss the Complaints because the particular issues raised therein have already been set for hearing in the Global Complaint Proceeding and Complainants may fully explore these and any other issues related to Colonial's PLA charges and practices in that proceeding.

The Commission orders:

The complaints in Docket Nos. OR19-7-000, OR19-8-000, and OR19-10-000 are hereby dismissed as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.