193 FERC ¶ 61,036
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: David Rosner, Chairman;
Lindsay S. See and Judy W. Chang.

Baltimore Gas and Electric Company
Washington Gas Light Company
v.
Columbia Gas Transmission, LLC

Docket No. RP25-740-000

ORDER ON COMPLAINT

(Issued October 16, 2025)

1. On March 25, 2025, Baltimore Gas and Electric Company (BGE) and Washington Gas Light Company (WGL) (together, Complainants) filed a complaint (Complaint) against Columbia Gas Transmission, LLC (Columbia) pursuant to sections 5, 7, and 16 of the Natural Gas Act (NGA)[1] and Rule 206 of the Commission's Rule of Practice and Procedure.[2]

2. Complainants allege that, from December 14, 2023, until September 17, 2024 (Complaint Period),[3] Columbia: (1) failed to comply with its obligations to provide firm services to Complainants; (2) misinterpreted and misapplied its tariff regarding *force majeure* and reservation charge crediting; and (3) constructively abandoned firm service obligations to Complainants. Complainants seek various determinations and both tariff-based damages in the form of reservation charge credits and non-tariff damages in the form of disgorgement, restitution, and any other equitable remedies.

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[1] 15 U.S.C. §§ 717d, 717f, & 717o.

[2] 18 C.F.R. § 385.206 (2025).

[3] Complaint at 1. Complainants argue that Columbia could have ended the *force majeure* event as of December 14, 2023, the date on which it received approval to return the "middle segment" of Line VB to full service. Instead, Columbia extended the *force majeure* event to facilitate inspections of certain pipeline segments, ending the *force majeure* event on September 5, 2024, and all capacity reductions on September 17, 2024. *See* Complaint Attach. A (Scheerer Aff.) at 11-12; Complaint Attach. B (Gillison Aff.) at 6.

3. We find that Columbia misapplied the Commission's *force majeure* policy as implemented in section 15 of the General Terms and Conditions (GT&C) of its tariff. In addition, upon review of the calculation of reservation charge credits under section 38.2(b) of the GT&C of Columbia's tariff, we conclude that the Complaint Period is beyond the applicable safe harbor, and limit reservation charge credits discussed below to the relatively small number of dates in which Complainants' firm service was actually curtailed. We order Columbia to recalculate reservation charge credits accordingly. Further, we deny Complainants' NGA section 7(b) constructive abandonment claim, and decline jurisdiction on Complainants' non-tariff damage claims, as more fully described in the body of this order.

I. Background

A. Prior to the Complaint Period

4. Columbia and Complainants agree that there are no material facts in dispute in this proceeding.[4] On July 25, 2023, Columbia's Line VB, a 26-inch natural gas pipeline constructed in 1950, ruptured near Strasburg, Virginia (Rupture). Columbia declared a *force majeure* event and announced service disruptions on Line VB.[5]

5. The Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a corrective action order on July 28, 2023, and an amended corrective action order (ACAO) on August 15, 2023,[6] defining the "Affected Pipelines" as Line VB from the Dysart valve setting to the Virginia/Maryland border, as well as Lines VB-5 and VB-Loop from the Dysart valve setting to the Strasburg Compressor Station (CS). The ACAO also defined part of the Affected Pipelines as the "Isolated Segment," specifically, Line VB from valve 3130 at Moo Manor valve setting to valve VB-013 at the Strasburg CS. The ACAO required Columbia to completely shut down the Isolated Segment, reduce pressure to 80% of pre-failure levels on Affected Pipelines, complete a root cause failure analysis (RCFA), submit a remedial work plan, and various other tests, inspections, and reporting requirements specific to these defined pipeline segments.

6. Notably, item 9 of the ACAO required that Columbia address in the final RCFA report "whether the findings and lessons learned are applicable to other locations on

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[4] Columbia April 24 answer at 2; Complainants May 9 answer at 6; Columbia May 27 answer at 2.

[5] Gillison Aff. Ex. 11 (citing Columbia critical notice # 25879926).

[6] Scheerer Aff. Ex. 4.

[Columbia's] pipeline system."[7] Item 10 of the ACAO required that Columbia "[d]etermine if conditions similar to those contributing to the failure on July 25, 2023 are likely to exist elsewhere on the *Affected Pipelines*" and "[c]onduct additional field tests, inspections, assessments, and evaluations to determine whether, and to what extent, the conditions associated with the failure on July 25, 2023, and other failures from the failure history […] or any other integrity threats are present elsewhere on the *Affected Pipelines*."[8] Columbia submitted the remedial work plan and RCFA report to PHMSA on October 25 and 26, 2023, respectively.

7. In the months following the Rupture, Columbia gave several presentations updating its customers on the status of the *force majeure* and related remediation efforts. In September 2023, Columbia first warned of the potential for firm service reductions of up to 15-20% through December 2023, citing ACAO requirements.[9] In November 2023, Columbia announced additional pressure reductions on Lines WB, MB, and portions of Line VB (B-System Lines), some of which were not part of the Affected Pipelines. Columbia's announcement introduced the potential for disruptions upstream of the Affected Pipelines of up to 15% of firm service capacity. Columbia also extended the *force majeure* declaration through the summer of 2024.[10] Columbia also indicated the possibility of utilizing the Lost River CS as an internal constraint point for firm service restrictions due to the upstream pressure reductions on the Line WB portion of the B-System Lines.[11]

8. Beginning on October 14, 2023, Columbia sent various requests to PHMSA for approval to remove the ACAO-mandated pressure restrictions on certain segments of the Affected Pipelines.[12] By December 14, 2023, PHMSA had approved normal operating pressures for all segments, except for the Isolated Segment.[13]

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[7] *Id*.

[8] *Id.* (emphasis in original).

[9] Scheerer Aff. Ex. 3, at 24-27.

[10] Gillison Aff. Ex. 12, at 2.

[11] Scheerer Aff. Ex. 6, at 22.

[12] *See* Scheerer Aff. Ex. 4.

[13] PHMSA granted approvals incrementally; the December 14, 2023 approval was for the middle segment of Line VB.

B. During the Complaint Period

9. After December 14, 2023, Columbia experienced one outage relevant to the Complaint. On January 9, 2024, Columbia warned of potential capacity reductions to as low as 2,550,000 Dekatherms (Dth) (85% of design capacity),[14] starting as early as January 14, 2024, due to forecasted cold weather, increased market demand, and ongoing remediation work on all B-System Lines.[15] On January 12, 2024, Columbia initiated an operational flow order (OFO) for all deliveries of gas through the Lost River CS constraint point. The OFO reiterated that the restriction of firm transportation was due to the ongoing *force majeure* and work done pursuant to the remedial work plan. On January 15, 2024, Columbia implemented restrictions at Lost River CS, reducing capacity to 2,600,000 Dth, continuing through January 22, 2024, with a temporary increase to 2,700,000 Dth on January 18, 2024.[16] In total during the period January 15-22, 2024, "Columbia reduced … firm nominations" by 50,779 Dth for BGE and 263,221 Dth for WGL,[17] and required advance nomination of no-notice services.[18] On January 22, 2024, Columbia lifted the OFO effective that same day.

10. Columbia continued remediation activities on certain segments for several more months, citing its PHMSA obligations. Columbia requested approval to remove the pressure restriction for the Isolated Segment on March 1, 2024, was granted approval by PHMSA on March 21, 2024, and resumed full service on April 4, 2024. On September 5, 2024, Columbia ended its *force majeure* declaration, stating that it anticipated no commercial impact from its remaining remediation work.[19] On April 25, 2025, PHMSA closed the ACAO, confirming Columbia's compliance.[20]

II. Complaint

11. Complainants do not object to Columbia's actions from the time of the Rupture until December 2023, during which Columbia performed testing and repairs on the

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[14] *See* Gillison Aff. Ex. 12, at 1 (citing Columbia critical notice #25890322).

[15] Gillison Aff. Ex. 12, at 1.

[16] Gillison Aff. Ex. 13, at 2 (citing Columbia critical notice # 25891210).

[17] Columbia Answer at 9.

[18] Gillison Aff. Ex. 13, at 2-3.

[19] Gillison Aff. Ex. 13, at 1.

[20] *See* Columbia Supplemental Answer.

pipeline segments comprising the Affected Pipelines and Isolated Segment, as explicitly defined in the ACAO. Rather, Complainants allege that Columbia improperly extended its *force majeure* declaration beyond the scope of the ACAO, resulting in voluntary pressure reductions and inspections on B-System Lines that were not mandated by PHMSA. Specifically, Complainants argue that the PHMSA-required emergency repairs needed to bring the Affected Pipelines back to a fully operational status were complete as of December 2023.[21] Complainants claim that Columbia's subsequent work and inspections constitute scheduled maintenance. By holding the *force majeure* in place for several months thereafter, they argue, Columbia effectively imposed a 15% service reduction on shippers during the ensuing winter.[22]

12. Complainants contend that Columbia misapplied the *force majeure* policy in GT&C section 15 of its tariff by claiming *force majeure* status for maintenance work that was controllable, scheduled, and lacked due diligence.[23] Complainants highlight various statements made by Columbia in its customer update presentations, alleging that such statements prove Columbia performed the winter season work voluntarily. Complainants argue these same actions breached firm service agreements and constituted constructive abandonment of certificated service under NGA section 7(b) without Commission approval, as the restrictions degraded firm transportation and no-notice services for months.[24]

13. Complainants claim damages totaling more than $13,000,000, including costs for peaking contracts to hedge against anticipated restrictions, demand charges for unreliable firm capacity, and costs associated with restricted no-notice services during the January 2024 OFO.[25]

14. Complainants request that the Commission make the following findings and determinations for December 2023 through September 2024:

> (1) Columbia violated its certificate of public convenience and necessity under NGA section 7(b) by partially abandoning service without authorization;

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[21] Complaint at 7, Scheerer Aff. 8, Gillison Aff. 6.

[22] *Id.*

[23] *Id.* at 12-13.

[24] *Id.* at 6, 13-14.

[25] *See* Scheerer Aff. Ex. 1, and Gillison Aff. Ex. 10.

> (2) Columbia violated its tariff by misapplying its *force majeure* provisions and, as a result, Complainants suffered tariff damages;
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> (3) Columbia violated its obligations under each of Complainants' firm service agreements by failing to provide them with their full service entitlements;
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> (4) these violations had a direct and foreseeable impact on Complainants' ability to deliver and receive natural gas supplies, compelling them to purchase additional transportation services and substitute natural gas in the spot market, incurred on behalf of their retail gas customers; and
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> (5) therefore, in order to put Complainants in the position they would have been in had Columbia not deprived Complainants of their contracted-for firm services, Columbia must reimburse Complainants for non-tariff monetary damages in the form of disgorgement, restitution, and any other equitable remedies.[26]

Complainants request alternatively that the Commission set the proceeding for evidentiary hearing.

III. Notice and Responsive Pleadings

15. Notice of the Complaint was issued on March 26, 2025, providing for interventions, protests, and answers to be filed on or before April 24, 2025. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[27] all timely motions to intervene are granted. On April 24, 2025, Antero Resources Corporation (Antero) and EQT Energy, LLC (EQT) each filed comments in support of the Complaint, and Columbia filed an answer to the Complaint (Columbia April 24 Answer). On April 30, 2025, Columbia filed a supplement to its April 24 Answer (Columbia Supplemental Answer). On May 9, 2025, Columbia filed an answer to the comments filed by Antero (Columbia May 9 Answer), and Complainants filed an answer to the Columbia April 24 Answer (Complainants May 9 Answer). On May 27, Columbia filed an answer to the Complainants May 9 Answer (Columbia May 27 Answer). On September 17, 2025, Complainants filed an answer in response to Columbia's response to a data request issued by Commission staff (Complainants September 17 Answer). On September 23, 2025,

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[26] Complaint at 2-3.

[27] 18 C.F.R. § 385.214 (2025).

Columbia filed an answer responding to Complainants September 17 Answer (Columbia September 23 Answer).

16. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure[28] prohibits an answer to an answer unless otherwise ordered by the decisional authority. We accept all answers in this proceeding because they have provided information that assisted us in our decision-making process.

A. Comments by Antero and EQT

17. Antero states that it supports the Complaint, arguing that Columbia misapplied its *force majeure* provisions by treating scheduled maintenance as uncontrollable, violating GT&C section 15 of its tariff and denying immediate reservation charge credits under section 38.2(b). Antero states that it is concerned that Columbia's application of its *force majeure* and reservation charge crediting provisions, if left unchecked, would allow Columbia and other pipelines to violate Commission policy and deprive customers of the reservation charge credits they are rightfully owed when firm service is not provided.[29]

18. EQT echoes Antero's comments, arguing that Columbia's actions were controllable and not *force majeure*, and supporting full reservation charge credits for maintenance-related outages. EQT also argues that NGA section 4 allows pipelines to recover such costs through rate cases, and thus Columbia need not rely on an overly broad reading of *force majeure* to collect costs it deems necessary to safely and efficiently operate its system.[30]

B. Answers of Columbia to the Complaint and Comments

19. In Columbia's April 24 Answer to the Complaint, Columbia asserts that its pressure reductions and inspections on B-System Lines were mandated by the ACAO through the RCFA requirement to evaluate similar conditions system-wide, qualifying as *force majeure* under GT&C section 15.1 of its tariff as "the binding order of any … governmental authority which has been resisted in good faith by all reasonable legal means."[31] Columbia argues that the work was special, one-time testing responsive to the Rupture, and not routine maintenance, citing Commission precedent allowing certain

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[28] 18 C.F.R. § 385.213(a)(2) (2025).

[29] Antero Comments at 3.

[30] EQT Comments at 4-7.

[31] Columbia April 24 Answer at 7.

PHMSA-directed actions as *force majeure*.[32] Columbia contends that firm impacts were limited to seven days in January 2024, and were appropriately remedied with reservation charge credits per GT&C section 38.2(a) of its tariff. Columbia denies Complainants' constructive abandonment claim, citing GT&C section 9.5 of its tariff permitting maintenance and repair-related service restrictions, and argues that Complainants' mitigation costs (e.g., peaking contracts) were voluntary and not compensable beyond reservation charge credits.[33] Columbia requests dismissal with prejudice, asserting no tariff violation or factual disputes warranting a hearing.

20. Columbia's Supplemental Answer adds an April 25, 2025 letter from PHMSA noting Columbia's compliance with the ACAO and marking its closure.

21. In its May 9 Answer, Columbia argues that Antero's comments lack merit as they echo the Complaint without new evidence or direct impact on Antero, and offer no support for Complainants' approximately $13 million damages claim.[34] Columbia reiterates that B-System Lines work was ACAO-mandated, qualifying as *force majeure* under GT&C section 15.1 of its tariff and precedent, and that *force majeure* reservation charge credits were the appropriate remedy.[35]

C. Complainants May 9 Answer to Columbia April 24 Answer

22. In their May 9 Answer, BGE and WGL state that they do not take issue with Columbia's initial *force majeure* declaration and the corresponding disruptions of service on the Affected Pipelines and Isolated Segment in the immediate aftermath of the Rupture. Rather, Complainants argue, at issue is "whether Columbia's decision to go beyond what it was required to do by PHMSA—by way of additional, out-of-scope testing that reduced pressure and thereby reduced firm service to Complainants for several months on end—also constitutes *force majeure*."[36] Complainants dispute Columbia's *force majeure* defense by arguing that the work was voluntarily undertaken

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[32] *Id.* at 3 (citing *TransColorado*, 144 FERC ¶ 61,175, at P 36; *Tex. Gas Transmission, LLC*, 145 FERC ¶ 61,100, at P 33 (2013); *Gulf Crossing Pipeline Co.*, 145 FERC ¶ 61,021, at P 33 (2013) (*Gulf Crossing*); *Gulf S. Pipeline Co.*, 144 FERC ¶ 61,215, at P 32 (2013)).

[33] *Id.* at 14-16 (citing *N. Baja Pipeline, LLC v. FERC*, 483 F.3d 819 (D.C. Cir. 2007) (*N. Baja*); *Nat. Gas Supply Ass'n*, 135 FERC ¶ 61,055 (2011) (*NGSA*)).

[34] Columbia May 9 Answer at 1-2.

[35] *Id.* at 2-4.

[36] Complainants May 9 Answer at 3.

and controllable, with scheduled testing not qualifying as an uncontrollable event under GT&C section 15.1. Complainants state that while it is true that special, one-time testing required by PHMSA may be treated as *force majeure* for which partial reservation charge credits are reasonable recompense, PHMSA did not require Columbia to conduct any such testing on segments beyond the narrowly defined Affected Pipelines and Isolated Segment.[37] Complainants reiterate their claim that Columbia's actions constitute constructive abandonment without Commission approval,[38] and emphasize that their mitigation costs, such as peaking contracts, were necessary due to their obligations to ensure reliable winter service as local distribution companies, and request full compensation beyond reservation charge credits.

D. Columbia May 27 Answer to Complainants May 9 Answer

23. In its May 27 Answer, Columbia posits that Complainants' claims regarding the use of *force majeure* would incentivize pipelines to narrowly interpret ACAO obligations or delay work to avoid liability, posing adverse safety implications.[39] Columbia reiterates that B-System Lines work was ACAO-required via the RCFA's requirement for evaluation of similar conditions, qualifying as *force majeure* under GT&C section 15.1 as binding governmental orders, and that there is Commission precedent for one-time, PHMSA-mandated tests qualifying as *force majeure* events.[40] Columbia denies negligence or lack of diligence under GT&C section 15.2, asserting that its actions were prudent and transparent, with no material facts warranting an evidentiary hearing.[41] Columbia requests that the Commission dismiss the Complaint with prejudice.

E. Data Request and Responses

24. On June 20, 2025, Commission staff issued a data request to Columbia and Complainants, seeking various information to assist in the analysis of the Complaint. From Columbia, Commission staff requested: (1) all communications between the pipeline and PHMSA from the period July 24, 2023 to September 18, 2024; (2) a table detailing certain pressure-restriction information on segments within the Affected Pipelines; (3) a table detailing certain pressure-restriction information on segments

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[37] *Id.* at 5-6.

[38] *Id.* at 8.

[39] Columbia May 27 Answer at 5.

[40] *Id.* at 4-5 (citing *TransColorado Gas Transmission Co.*, 144 FERC ¶ 61,175, at P 43 (2013) (*TransColorado*)).

[41] *Id.* at 6.

outside the Affected Pipelines; and (4) schematics for segments within the Affected Pipelines and those outside the Affected Pipelines. From the Complainants, Commission staff requested tables, one for BGE and one for WGL, containing certain information pertaining to restrictions to their contracted-for services.

25. BGE and WGL filed responses to the data request on July 2 and 3, 2025, respectively. Complainants' tables detail the dates on which they incurred restrictions to their contracted-for services, the contract under which such restrictions occurred, the location of the restrictions, and information pertaining to Columbia's advance notice of service restriction and declaration of *force majeure*. Complainants noted broader uncertainty regarding service reliability and Columbia's use of the Lost River CS as a constraint point to restrict flow from west to east on its system.

26. Columbia filed its responses to the data request on July 7, 2025, noting that certain information contained in the responses is not subject to public disclosure, and requested privileged and confidential treatment for such information pursuant to 18 C.F.R. §§ 388.112 and 388.113 of the Commission's regulations. In Complainants September 17 Answer, which was also filed subject to privileged and confidential treatment, Complainants criticize Columbia's response. In the Columbia September 23 Answer, Columbia argues that the Complainants September 17 Answer was tardy and irrelevant.

IV. **<u>Determination</u>**

27. The Complainants request that the Commission make a finding on five points, which comprise three grounds for relief and two categories of damages claims. The three grounds for relief are: (1) constructive abandonment under NGA section 7(b); (2) misapplication of the Commission's *force majeure* policy (as set forth in GT&C section 15 of Columbia's tariff[42]); and (3) violation of the Complainants' service agreements. As discussed below, we determine that (1) constructive abandonment did not occur; (2) Columbia did misapply the Commission's *force majeure* policy as reflected in its tariff; and (3) the service agreement arguments simply restate the *force majeure* arguments and do not form a separate argument.

28. Complainants seek two categories of damages: (a) tariff-based damages in the form of reservation charge credits,[43] and (b) non-tariff damages, including opportunity cost, direct damages, disgorgement, restitution, and other equitable remedies, all of which are non-tariff forms of relief. As discussed below, (a) because we find safe harbor cannot

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[42] *See* Columbia Gas Transmission, LLC, FERC Tariff, Gen. Terms & Conditions, 15. FORCE MAJEURE (0.0.0).

[43] *See* Columbia Gas Transmission, LLC, FERC Tariff, Gen. Terms & Conditions, 38. RESERVATION CHARGE CREDITS (8.0.0).

apply to the Complaint Period, we require Columbia to recalculate its reservation charge credits for those dates in which Complainants experienced actual denial of firm service, and (b) we decline to accept jurisdiction on the question of all other non-tariff damages, as that question is better addressed by state courts.

A. Abandonment

29. "An 'abandonment' within the meaning of [NGA] section 7(b) occurs whenever a natural gas company permanently reduces a significant portion of a particular service."[44] An outage or service reduction that is temporary, even if it lasts several months, does "not constitute abandonment, which 'by definition is a permanent termination of service.'"[45] Complainants acknowledge that Columbia's outages were partial and temporary. Accordingly, we find that Columbia did not constructively abandon its firm service obligations to Complainants; therefore, we deny this ground of the Complaint.

B. *Force Majeure* and Tariff-Based Damages

1. The Commission's *Force Majeure* Policy

30. The Commission defines *force majeure* events as "events that are not only uncontrollable, but also unexpected."[46] While the Commission allows natural gas pipelines to draft their own tariff definitions of *force majeure*, it does not allow material deviation, especially "from the Commission's longstanding policy regarding scheduled maintenance."[47] "The Commission's consistent ruling has been that scheduled maintenance is not a *force majeure* event, and the pipeline must provide full reservation charge credits for scheduled amounts not delivered during periods of scheduled

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[44] *Reynolds Metal Co. v. FPC*, 534 F.2d 379, 384 (D.C. Cir. 1976).

[45] *Peregrine Oil & Gas II, LLC*, 163 FERC ¶ 61,121, at P 14 (2018) (citing *Reynolds Metal Co. v. FPC*, 534 F.2d 379) (quoting *Panhandle E. Pipe Line Co.*, 62 FERC ¶ 61,222, at 62,533 (1993)). *See also id.* P 18 ("Here, by contrast, the outage was caused by an unintentional leak in need of repairs.").

[46] *N. Baja*, 483 F.3d at 823.

[47] *Id.* (cited in, *e.g.*, *Tex. E. Transmission, LP*, 140 FERC ¶ 61,216, at P 53 (2012)).

maintenance."[48] That is because scheduled maintenance outages are expected even if they are not reasonably within the pipeline's control.[49]

31. When maintenance is performed in response to an unexpected event or an emergency government order, however, the distinction between *force majeure* and non-*force majeure* is less obvious. The Commission has addressed this distinction numerous times, most notably in a series of 2013 cases distinguishing "between government actions that satisfy these criteria for treatment as a *force majeure* event and [those] which do not."[50] The 2013 cases addressed tariff filings submitted in response to PHMSA's new pipeline safety and integrity management obligations resulting from the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011, which required each owner and operator of a pipeline to re-test pipeline segments for a one-time reconfirmation of maximum allowable operating pressures pursuant to section 60139 of title 49 of the U.S. Code.[51]

32. In the 2013 cases, the Commission declined to change the definition of *force majeure* but did provide guidance for determining whether government mandates can be treated as *force majeure* events. On the one hand, a non-*force majeure* event may occur from a government authority requiring a pipeline to engage in "regular, periodic maintenance,"[52] because ongoing compliance with government safety regulations is part of the ordinary course of business. On the other hand, "special, one-time tests required by PHMSA because of a specific pipeline failure, which are not part of the pipeline's routine, periodic integrity management program, may qualify as a *force majeure* event."[53] The Commission held that such one-time tests must otherwise meet the rest of the definition of *force majeure*. Thus, the Commission would consider whether "the pipeline

[48] *NGSA*, 135 FERC ¶ 61,055 at P 20 (explaining the Commission's policy on reservation charge crediting), *order on reh'g*, 137 FERC ¶ 61,051 (2011) (citing *Tenn. Gas Pipeline Co*., Opinion No. 406, 76 FERC ¶ 61,022, at 61,086 (1996), *order on reh'g*, Opinion No. 406-A, 80 FERC ¶ 61,070 (1997)); *accord N. Baja*, 483 F.3d at 823.

[49] *N. Baja*, 483 F.3d at 823 (quoted in, *e.g.*, *Gulf Crossing*, 145 FERC ¶ 61,021 at P 3; *Gulf S. Pipeline Co.*, 144 FERC ¶ 61,215 at P 3; *Tex. Gas Transmission, LLC*, 145 FERC ¶ 61,100, at P 3 (2013)).

[50] *Gulf Crossing*, 145 FERC ¶ 61,021 at P 32.

[51] *Gulf S. Pipeline Co.*, 141 FERC ¶ 61,224, at P 40 (2012).

[52] *TransColorado*, 144 FERC ¶ 61,175 at P 43 (citing, *e.g.*, *Algonquin Gas Transmission, LLC*, 153 FERC ¶ 61,038, at P 103 (2015)).

[53] *Id.*

could have less discretion concerning the timing of such special tests," and whether the associated costs to the pipeline would "generally not be recurring costs," of the sort recovered in rate cases.[54] On the particular question of PHMSA requirements under section 60139(c) in the 2013 cases, the Commission concluded that such re-testing generally would not be *force majeure*.[55]

33. Columbia's *force majeure* tariff provision, GT&C section 15.1, states: "The term *force majeure* means an event that creates an inability to serve that could not be prevented or overcome by the due diligence of the party claiming *force majeure*." The tariff then provides a long illustrative list, which includes "the binding order of any … governmental authority which has been resisted in good faith by all reasonable legal means."[56] Thus, applying the guidance from the Commission's precedent, we interpret Columbia's tariff as follows. Maintenance (government-ordered or self-imposed) is *force majeure* if the inability to serve "could not be prevented or overcome"; that is, if both the scheduled date and location of maintenance are outside Columbia's control.[57] Likewise, any maintenance (government-ordered or self-imposed) for which Columbia controls the schedule or location is not *force majeure*, because Columbia could have prevented the outage from occurring on a particular date and location if need be.

34. We thus turn to whether Columbia's service restrictions during the Complaint Period were compulsory (*force majeure*) or discretionary (non-*force majeure*).

2. Columbia's Application of *Force Majeure* During the Complaint Period

35. Complainants acknowledge that the Rupture and ACAO-mandated actions on the Affected Pipelines and Isolated Segment constituted *force majeure* under GT&C section 15.1 of Columbia's tariff.[58] However, they allege that after December 2023,

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[54] *Id.*

[55] The Commission nevertheless allowed "partial reservation charge crediting, for a transitional period of two years." *Id*. P 45.

[56] Columbia Gas Transmission, LLC, FERC Tariff, Gen. Terms & Conditions, 15. FORCE MAJEURE (0.0.0).

[57] *Gulf Crossing*, 145 FERC ¶ 61,021 at P 21 (one factor distinguishing whether maintenance could be deemed *force majeure* is if "the pipeline [has] less discretion … concerning the timing and location"); *TransColorado*, 144 FERC ¶ 61,175 at P 41 (same); *Gulf S. Pipeline Co.*, 141 FERC ¶ 61,224 at P 21 (same).

[58] Complainants May 9 Answer at 3.

Columbia's pressure reductions and inspections on segments beyond those specifically listed in the ACAO were not an "obligation … to PHMSA," but were "elected."[59]

36. The ACAO required Columbia to complete an RCFA and self-evaluate whether its findings and lessons learned applied to other system locations. Columbia submitted its RCFA to PHMSA on October 26, 2023, identifying similar conditions on B-System Lines and prompting Columbia to conduct pressure reductions and in-line inspections as "prudent" measures.[60] However, we conclude that the ACAO's definitions of Affected Pipelines and Isolated Segment unambiguously exclude Lines WB and MB. Further, Item 9 of the ACAO directing Columbia to evaluate applicability does not mandate immediate testing on non-specified segments; thus, we find that Columbia had discretion over the time and manner of testing beyond the Affected Pipelines and Isolated Segment. Columbia's November 14, 2023, customer update presentation confirms that restrictions on the Isolated Segment had "minimal capacity impact"[61] and that Lost River CS restrictions were driven by "pressure reductions on the WB System upstream."[62] Furthermore, Columbia reported restrictions at Lost River CS during January 15-22, 2024, with advance *force majeure* invocation, but Columbia's privileged submissions in response to the data request do not provide evidence that PHMSA specified timing, or mandated anything more than evaluations for the restricted lines.

37. As explained above, *force majeure* requires both an uncontrollable and unexpected event. Scheduled testing, even if prudent, is controllable and does not qualify as a *force majeure* event.[63] Columbia's cited precedents address tariff revisions allowing one-time PHMSA tests as *force majeure* but do not extend to discretionary expansions beyond explicit PHMSA directives.[64] Accordingly, given the facts as presented, we conclude

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[59] Complaint at 6; *see also* Complainants May 9 Answer at 6-7.

[60] Columbia April 24 Answer at 8.

[61] Scheerer Aff. Ex. 6, at 18.

[62] *Id.* at 22.

[63] *Carlsbad Gateway, LLC*, 178 FERC ¶ 61,053, at P 26 (2022); *First ECA Midstream LLC*, 155 FERC ¶ 61,222, at P 37 (2016).

[64] In *TransColorado*, the Commission specified that "special, one-time tests required to be conducted within a short period of time" could be *force majeure*, but other actions "within the pipeline's control including when performed in compliance with governmental orders" would not be *force majeure*. 144 FERC ¶ 61,175 at P 43. Columbia's actions outside the Affected Pipelines and Isolated Segment fall into the latter category and therefore are not *force majeure*. In *Gulf Crossing*, the Commission emphasized that *force majeure* depends on the pipeline having "less discretion

that Columbia misapplied *force majeure* in two ways during the periods in question: (1) for its work on B-System Lines that PHMSA did not deem to be "Affected Pipelines," and (2) for service restrictions that continued after PHMSA authorized full service to be restored. Under Columbia's tariff, the remedy for this misapplication is to award the Complainants the reservation charge credits due during a non-*force majeure* outage consistent with Commission policy.[65]

3. Reservation Charge Crediting

38. The Commission has stated that "the purpose of the reservation charge crediting policy is to define those narrow circumstances in which a pipeline may demand payment despite failing to provide service."[66] The Commission established a reservation charge crediting policy, and it "expects all pipelines to maintain tariffs that conform."[67] Natural gas shippers pay two fees for firm transportation service on an interstate natural gas pipeline: the usage charge (covering the capacity actually used), and the reservation charge (covering the capacity set aside in advance).[68] When there is a partial interruption of service, the usage charge, by definition, drops; when there is a total interruption, the shipper pays no usage charge. Absent the reservation charge crediting policy, however, the shipper might be forced to continue paying the full reservation charge despite receiving reduced service or no service at all.[69]

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concerning the timing of such special tests." 145 FERC ¶ 61,021 at P 33. Columbia did not demonstrate that PHMSA controlled the timing of its testing from December 2023 onward.

[65] *See* Columbia Gas Transmission, LLC, Baseline Tariffs, Gen. Terms & Conditions, Reservation Charge Credits (8.0.0).

[66] *Tex. E. Transmission, LP*, 178 FERC ¶ 61,135, at P 5 (2022) (affirming 176 FERC ¶ 61,138 (2021)).

[67] *NGSA*, 135 FERC ¶ 61,055 at P 12.

[68] *See, e.g.,* Columbia Gas Transmission, LLC, Baseline Tariffs, Rate Schedules, Rate Schedule FTS (5.0.0).

[69] *N. Baja Pipeline, LLC v. FERC*, 483 F.3d 819, 820 (D.C. Cir. 2007) (citing *Pipeline Serv. Obligations & Revisions to Reguls. Governing Self-Implementing Transp.; & Regulation of Nat. Gas Pipelines After Partial Wellhead Decontrol,* Order No. 636, 57 Fed. Reg. 13267-02, 13281 (Apr. 8, 1992), *on reh'g,* Order No. 636-A, 57 Fed.Reg. 36128-01, 36,171 (Aug. 3, 1992)).

39. The Commission's reservation charge crediting policy distinguishes between *force majeure* and non-*force majeure* outages. If a pipeline fails to provide primary firm service for any reason other than *force majeure*, the pipeline must fully credit the reservation charge back to the shipper (minus any amounts successfully delivered despite the service failure).[70] Because scheduled maintenance is never *force majeure*, pipelines must award full credits.[71] Columbia's tariff GT&C section 38.2(b) adopts this policy, requiring full credits for non-*force majeure* interruptions.

40. The Commission has explained that *force majeure* outages, being unexpected and uncontrollable events, are not the fault of the pipeline; therefore, the Commission allows the pipeline to shift some of the financial burden onto its shippers.[72] One risk-sharing method,[73] which Columbia uses, is the safe harbor method, "where reservation charges must be credited in full to the shippers after a short grace period when no credit is due the shipper (i.e., 10 days or less)."[74] Thus, during a *force majeure* outage, under this method the pipeline must start paying out full reservation charge credits after 10 days of failure to provide service.[75]

41. The Commission has determined that if pipelines choose the full 10-day safe harbor period, they may not use any other technique to shift any further risk onto primary

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[70] *NGSA*, 135 FERC ¶ 61,055 at P 19 (citing *Petal Gas Storage, L.L.C.*, 126 FERC ¶ 61,199, at P 25 (2009); *Entrega Gas Pipeline LLC*, 114 FERC ¶ 61,326, at P 13 (2006); *Tenn. Gas Pipeline Co*., Opinion No. 406, 76 FERC ¶ 61,022, at 61,086 (1996), *order on reh'g*, Opinion No. 406-A, 80 FERC ¶ 61,070 (1997)).

[71] *Id*. PP 20-23 (citing *Tenn. Gas Pipeline Co.*, 76 FERC at 61,086; *All. Pipeline L.P.*, 84 FERC ¶ 61,239 (1998); *Fla. Gas Transmission Co.*, 105 FERC ¶ 61,171, at P 34 (2003); *El Paso Nat. Gas Co.*, 105 FERC ¶ 61,262 (2003); *N. Baja*, 483 F.3d at 823).

[72] *Algonquin Gas Transmission, LLC*, 153 FERC ¶ 61,038, at P 2 (2015) (citing *Tenn. Pipeline Co*., Opinion No. 406, 76 FERC ¶ 61,022 (1996), *order on reh'g*, Opinion No. 406-A, 80 FERC ¶ 61,070 (1997)).

[73] Pipelines are permitted to use other methods that can be demonstrated to be just and reasonable, for example by being more generous than the safe harbor method. *Transcon. Gas Pipe Line Co.*, 175 FERC ¶ 61,085, at P 15 (2021).

[74] *Id*. P 17 (citing *Nat. Gas Pipeline Co. of Am.*, 106 FERC ¶ 61,310, at PP 20-24, *order on reh'g*, 108 FERC ¶ 61,170, at PP 10-11 (2004)).

[75] *NGSA*, 135 FERC ¶ 61,055 at P 17 (citing *Tex. E. Transmission Co*., 62 FERC ¶ 61,015 (1993); *Nat. Gas Pipeline Co. of Am.*, 106 FERC ¶ 61,310 at PP 20-24, *order on reh'g*, 108 FERC ¶ 61,170 at PP 10-11).

firm shippers; rather, the pipeline must award them full reservation charge credits.[76] Thus, in specific circumstances, the Commission has imposed further "safeguards against … [a] disincentive" to provide reliable firm service.[77] For example, during a total outage, the pipeline may not compel shippers "to submit nominations that they do not reasonably expect the pipeline to honor."[78]

42. We conclude that every claimed *force majeure* event raised in the Complaint originates from a single event: the Rupture on July 25, 2023. Thus, we find that even where Columbia correctly applied our *force majeure* policy, the 10-day safe harbor period ended as of August 4, 2023. Complainants seek compensation for the period of December 2023 through September 2024, which began well after this date; this corresponds only to the period in which Columbia reduced pressures to facilitate testing of pipeline segments beyond the Affected Pipelines and Isolated Segment. Thus, we find that safe harbor does not apply to the Complaint Period and shippers must be fully credited for any outages, either *force majeure* or non-*force majeure*.

43. The next step in calculating reservation charge credits is to distinguish between the *threat* of outages, which existed for the entire Complaint Period, and *actual* outages. This step narrows Columbia's liability to reservation charges corresponding with actual reductions in service. The Commission only requires a pipeline to award reservation charge credits "for the amount of primary firm service they nominated for scheduling which the pipeline failed to deliver."[79] In other words, under Commission policy, the mere threat of reduced service does not obligate the pipeline to issue reservation charge credits. If shippers reasonably expect at least partial service, and do in fact receive all nominated service, there is no crediting obligation. During such periods, Columbia "should be allowed an opportunity to perform before having to provide reservation charge credits when a partial outage occurs but [Columbia] can still meet some of its firm service obligations."[80]

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[76] *Id*. P 18 (citing *N. Baja*, 483 F.3d at 822), P 24 (citing *Rockies Express Pipeline LLC*, 116 FERC ¶ 61,272, at P 63 (2006)).

[77] *Tex. E. Transmission, LP*, 178 FERC ¶ 61,135 at PP 5, 50-51.

[78] *Transcon. Gas Pipe Line Co.*, 175 FERC ¶ 61,085, at P 19 (2021) (citing *Rover Pipeline LLC*, 172 FERC ¶ 61,103, at P 9 (2020)).

[79] *N. Nat. Gas Co.*, 137 FERC ¶ 61,202, at P 30 (2011). *See also id.* P 35 (an outage on a segment is different from an outage to a shipper); *S. Nat. Gas Co.*, 137 FERC ¶ 61,050, at P 30 (2011) (directing pipeline to award credits, with no tolerance for partial outages to a shipper).

[80] *Tex. E. Transmission, LP*, 179 FERC ¶ 61,201, at P 19 (2022). By contrast, shippers may receive reservation charge credits if they have advance notice that they will

44. Here, although Columbia had pressure restrictions in place for almost two years, it appears that for most of the Complaint Period, Columbia both promised and provided service. Consistent with Commission policy, reservation charge credits are due only when Columbia not only announced pressure reductions but also curtailed Complainants' firm service.[81]

45. The record does not specify precisely when service was curtailed, on which segments, and for which customers with sufficient detail to recalculate reservation charges. Consequently, from the record currently before us, we cannot determine whether Columbia correctly calculated the credits due for the Complaint Period. Accordingly, Columbia is directed to submit, within 60 days of this order, detailed workpapers recalculating reservation charge credits owed to Complainants under GT&C section 38.2(b) of its tariff for the curtailments during the Complaint Period. Given that Columbia provided advance notice of capacity restrictions, the non-*force majeure* average usage quantity methodology specified in GT&C section 38.2(b)(ii) should be used. Columbia's submission must include the supporting data used to derive the non-*force majeure* average usage quantity for both BGE and WGL, as well as supporting data from the January 2024 OFO period. Columbia is further directed to submit a compliance report to the Commission within 60 days thereafter, detailing reservation charge credits issued and any disputes under GT&C section 38.6.

C. <u>Service Agreements</u>

46. Complainants assert that their service agreements provide additional grounds for relief separate from Columbia's tariff. However, Complainants do not provide any clauses in the service agreements that would raise an independent ground for relief. Complainants' jurisdictional service agreements with Columbia merely incorporate the GT&C of Columbia's tariff by reference, as is required by the Commission's policy limiting non-conforming service agreements.[82] Complainants' arguments regarding violations of their service agreements are merely a repetition of their arguments regarding violations of the *force majeure* policy contained in Columbia's tariff. These arguments

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receive no service at all. *Transcon. Gas Pipe Line Co.*, 175 FERC ¶ 61,085, at P 19 (2021) (citing *Rover Pipeline LLC*, 172 FERC ¶ 61,103, at P 9 (2020)).

[81] As noted below, we do not take a position on whether Complainants may be due non-tariff damages for the period in which they cannot collect reservation charge credits.

[82] *See generally Columbia Gas Transmission Corp.*, 97 FERC ¶ 61,221 (2001) (discussing the prohibition on service agreements containing terms and conditions that materially deviate from the tariff).

do not form a separate ground for relief before the Commission. Therefore, we dismiss this ground of the Complaint as moot.

D. Non-Tariff Damages

47. Under the NGA, the Commission can award disgorgement[83] and/or refunds to parties injured by unjust and unreasonable rates.[84] The Commission's reservation charge crediting policy, discussed above, is one type of allowable remedy, which ensures that pipelines cannot collect revenue for certain failures to provide service.[85]

48. However, the Commission is unable to grant the remaining damages Complainants seek. Each of these types of damage is a type that (1) the Supreme Court has found that the Commission lacks the authority to direct under the NGA,[86] (2) is payable not to parties but to the United States government,[87] or (3) the Commission refers to trial courts because the NGA lacks explicit statutory language explaining how to set damages.[88]

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[83] "[U]nder section 5, the Commission clearly has authority to order disgorgement of profits associated with an illegally charged rate, i.e., a rate other than the rate on file or in violation of a Commission rule, order, regulation, or tariff on file." *Amends. to Codes of Conduct for Unbundled Sales Serv. & for Persons Holding Blanket Mktg. Certificates*, Order No. 673, 114 FERC ¶ 61,166, at P 38 (2006) (citing, *inter alia*, *Transcon. Gas Pipe Line Corp. v. FERC*, 998 F.2d 1313, 1320 (5th Cir. 1993)).

[84] 18 C.F.R. § 154.501 (2025) (detailing refund obligation under NGA).

[85] *See generally Columbia Gas Transmission Corp.*, 85 FERC ¶ 61,437, at 62,642 n.18 (1998) ("Several general types of remedies are allowed under the NGA.").

[86] *S. Union Gas Co. v. FERC*, 725 F.2d 99, 102 (10th Cir. 1984) ("The Supreme Court has held that the Commission is not empowered to order that payments be made to one injured as damages. The Court has also ruled that the Commission cannot issue reparation orders.") (citing *Mont.-Dakota Utils. Co. v. Nw. Pub. Serv. Co.*, 341 U.S. 246 (1951); *FPC v. Hope Nat. Gas Co.*, 320 U.S. 591 (1944)).

[87] 18 C.F.R. § 385.1602(e) (2025) ("The current inflation-adjusted civil monetary penalties provided by law within the jurisdiction of the Commission are: 15 U.S.C. 717t-1, Natural Gas Act: $1,584,648 per violation, per day.")

[88] Complainants quote *Union Pac. Fuels, Inc. v. S. Cal.*, 76 FERC ¶ 61,300, at 62,498 (1998): "The Commission's discretionary power is at its zenith when fashioning an equitable remedy like restitution." However, this quote comes from a dissent. The majority opinion, by contrast, explicitly refused to "order the requested refunds." *Id.* at 62,496. *See also CAlifornians for Renewable Energy, Inc. v. Williams Nw. Pipeline*,

49. Complainants do not cite any case law explaining how the Commission can set damages under the NGA. Further, Complainants do not cite any case law showing that the Commission has ever awarded these types of damages in response to any sort of pipeline outage. Moreover, the Commission's discretion to award damages logically "includes the discretion not to order remedies for past violations in appropriate circumstances."[89]

50. However, we also reject Columbia's argument that we should prohibit Complainants from any relief other than reservation charge credits. While the Commission does require reservation charge crediting as a remedy for maintenance, it has not specified that this must be the exclusive remedy, as Columbia suggests.[90] In particular, we have not prohibited non-tariff damages that may be available outside the Commission. As the Commission has previously held, matters of contract damages are appropriately addressed by state courts.[91] Thus, we decline to find, as Columbia argues, that granting damages in the form of reservation charge credits under Columbia's tariff necessarily precludes granting damages under any other theory of breach of contract.

51. Commission precedent provides that, "[a]bsent any [relevant] language on liability in the tariff, the liability of parties is determined by the courts."[92] The only relevant tariff language on liability for damages that the parties cite is on *force majeure* matters, and is silent on non-*force majeure* matters. The first sentence of GT&C section 15.1, states: "Neither Transporter nor Shipper shall be liable to the other for any damages occurring

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133 FERC ¶ 61,194, at P 26 (2010) (denying a complaint for damages because nothing in the NGA authorizes imposing damages).

[89] *Columbia Gas Transmission Corp.*, 85 FERC ¶ at 62,642 (citing *Towns of Concord v. FERC*, 955 F.2d 67, 72-76 (D.C. Cir. 1992)).

[90] *Compare N. Baja*, 483 F.3d at 823 *with* Columbia April 24 Answer at 15 & n.33; *compare NGSA*, 135 FERC ¶ 61,055 *with* Columbia May 27 Answer at 6 & n.16.

[91] *E.g.*, *Nw. Pipeline Corp.*, 99 FERC ¶ 61,365, at P 47 (2002) ("However, property values and damages are not issues adjudicated by this Commission. In the event Northwest and landowners are unable to reach agreement, these matters may be resolved in state court."); *LSP-Cottage Grove, L.P.*, 111 FERC ¶ 61,108, at P 45 (2005) ("Damages and other contractual remedies are a matter of state law. Thus, if Northern Natural desires to seek such relief, it must bring a suit in state court."); *O'Connor & Hewitt, Ltd. v. Energy Transfer Partners*, 122 FERC ¶ 61,103, at P 18 (2008) ("While the Commission has authority to order disgorgement of unjust profits and to assess civil penalties, it does not have the authority to award damages to aggrieved persons.")

[92] *Transcon. Gas Pipe Line Co.*, 160 FERC ¶ 61,039, at P 10 (2017).

because of *force majeure*." As explained above, the Complaint Period includes times and segments for which *force majeure* did not apply, so this provision would not apply to such times and segments. Therefore, for those periods where we find that there was not a valid *force majeure* declaration, the liability of parties should be determined by the courts.

52. Furthermore, the sort of non-tariff damages that Complainants requested are generally outside of our statutory authority altogether, as explained above.[93] We conclude that state courts are a more appropriate forum for disputes among the parties regarding non-tariff contract damages.[94] Therefore, we dismiss the remaining grounds of the Complaint to allow the Complainants to seek relief in state court.

<u>The Commission orders</u>:

(A) The Complaint is hereby granted in part, denied in part, and dismissed in part, as discussed in the body of this order.

(B) Columbia is hereby directed to submit a compliance filing calculating reservation charge credits owed to Complainants, as specified in the body of this order.

By the Commission.

(S E A L)

Carlos D. Clay,
Deputy Secretary.

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[93] *See Owens-Corning Fiberglas Corp. v Transcon. Pipe Line Corp.*, 49 FERC ¶ 61,282, 62,064 (1989) (finding "no appropriate relief available within the scope of our authority"); *see also BG Energy Merchs., LLC v. Crosstex LIG, LLC*, 136 FERC ¶ 61,098, at PP 45-46 (2011) (distinguishing between Commission's strong interest in tariffs and weak interest in bilateral agreements).

[94] *E.g.*, *Questar Pipeline Co.*, 140 FERC ¶ 61,040 at P 64 (finding the appropriate forum for complaint to be the state court system).