FERC REGULATION OF LIQUIDS PIPELINES – CURRENT RULES AND EMERGING TRENDS

October 14-15, 2014
Hotel ICON
Houston, TX

EUCI is authorized by IACET to offer 1.0 CEUs for the course.
OVERVIEW

This course will provide in-depth, practical coverage of how the Federal Energy Regulatory Commission (FERC) regulates liquids pipelines – crude oil, refined products, and natural gas liquids – and how that regulation impacts pipeline planning, operations and rate-setting. The course will analyze the scope and nature of FERC jurisdiction over liquids pipelines, at both a federal and state level, including a discussion of which activities by liquids pipelines would be subject to regulation.

EUCI’s FERC Regulation of Liquids Pipelines – Current Rules and Emerging Trends course will discuss what obligations liquids pipelines have, how rates are set, which terms of service attract particular FERC and regulatory attention, how to meet FERC’s standards for operating with affiliates, how FERC has recently developed ways of reviewing rates and service terms for new capacity.

The course will show how FERC addresses disputes, as well as approaches to minimizing disputes with shippers, regulatory issues to consider when acquiring a pipeline asset, and areas in which FERC’s policies and regulations are being challenged and may change.

WHO SHOULD ATTEND

• Oil and gas attorneys and legal personnel
• Pipeline, storage, oil and gas engineers
• FERC lawyers, experienced and new
• Energy analysts
• Energy marketers
• Energy financing firms and individuals
• Commodity and energy market individuals
• New employees of pipeline, oil and gas companies
• Regulators and overseers of energy operations and activities
• Individuals seeking a full picture of energy transit

LEARNING OUTCOMES

• Identify FERC regulations that govern transportation of crude oil, petroleum products and natural gas liquids by pipelines
• Identify how FERC regulation developed and how it has been changing
• Distinguish between what FERC regulates and what it does not regulate
• Illustrate how FERC sets rates, and how pipelines structure business planning around FERC’s ratemaking policies
• Analyze the impact of FERC regulations and policies on specific case studies
• Review how FERC’s procedures work: setting rates, evaluating protests and complaints, and handling litigation
• Discuss hot topics and major new trends in liquids pipeline regulation
• Discuss how FERC regulations and policies will continue to affect liquids transportation

Highly valuable course for anyone dealing with FERC matters.”

– Attorney, American Midstream Partners
AGENDA

Tuesday, October 14, 2014

7:30 – 8:00 a.m.  Registration and Continental Breakfast
8:00 a.m. – 5:00 p.m.  Course Timing
12:00 – 1:00 p.m.  Group Luncheon

Industry Overview: Operations and the Scope of Regulation
• Types of liquids – crude oil, refined products, NGLs – and their differing contexts
• Production
• Processing/refining
• Transportation
• History of federal regulation – nutshell version

Jurisdictional Overview – Federal Level
• What commodities does FERC regulate?
  o Scope of the Interstate Commerce Act (“ICA”)
  o What is, and is not, considered “oil”?
  o Overview of key FERC decisions
• Over what liquids movements does the Surface Transportation Board (“STB”) have jurisdiction?

Jurisdictional Overview – State Level
• Interstate versus intrastate transportation
• States may or may not regulate particular liquids
• Dual FERC and state agency regulations: key issues

Detailed Review of FERC’s Jurisdiction
• What does it mean to be a “common carrier” pipeline?
• What constitutes “interstate commerce”?
• What services does FERC regulate?
  o Is everything a pipeline does jurisdictional?
  o Is storage jurisdictional? If sometimes, when?
  o When can a pipeline abandon service without FERC approval?
  o How to determine whether a “gray area” service is jurisdictional
• Case studies
  o Distinguishing common carrier from non-common carrier pipelines
  o Distinguishing interstate from intrastate transportation
Basic Obligations of FERC Regulated Pipelines

- Pipelines must file tariffs specifying rates and terms of service
  - Commodity specifications and “banks”
  - Capacity must be allocated on a not unduly discriminatory basis
  - All rates and terms of service must be “just and reasonable” and not unduly discriminatory or preferential
  - What is meant by “unduly discriminatory” terms of service or practices?
- Pipelines must provide service upon reasonable request – what does this mean for shipper and pipeline connections?
- Pipelines must not disclose shipper information and generally separate pipeline from marketing functions to prevent undue discrimination – how is that implemented?
- Pipelines must file reports at FERC, including the annual Form 6
- Pipelines have other accounting and recordkeeping obligations, among others

Practical Impact of Regulation on Transactions with Affiliates

Overview of Ratemaking

- How to set initial rates
  - Unaffiliated third-party shipper
  - Cost of service
  - Declaratory order/agreements
- Methods of changing existing rates
  - Indexing
    - How indexing works
    - Protests and complaints against indexed rates
  - Cost-of-service rates
    - Major elements of cost of service
  - Market-based rates
    - Standards
    - Procedures
  - Settlement rates
AGENDA

Tuesday, October 14, 2014 (Continued)

Rate Design: How the Overall Cost of Service is Reflected in Rates

- Billing determinants (or volume)
  - How to project volumes for an existing pipeline? For new pipelines?
- Allocating cost over multiple systems, segments and movements
  - Allocating costs between operating segments
  - Distance-based rates
  - Postage stamp rates and alternatives
- Impact of competition on rate setting
  - The conceptual problem with “fully allocated costs” in a competitive industry
  - “Differential pricing” -- the theoretical ideal
  - Revenue crediting and iterative discounting
- Other factors

Wednesday, October 15, 2014

7:30 – 8:00 a.m.     Continental Breakfast
8:00 a.m. – 12:30 p.m. Course Timing

How FERC Addresses Disputes

- Typical sources of dispute – rates, connections, service, quality
- How disputes arise – FERC hot line, complaints, protests
- FERC litigation—nature, timing and cost
- Pathways to Settlement
- Case studies: two paths in resolving a protest—settlement and litigation

Acquisition Due Diligence—a Regulatory Perspective

- State regulated assets
- FERC regulated assets
- Major issues for acquiring companies
  - How will the asset be valued? Original cost vs. acquisition cost
  - Does the acquired pipeline have “grandfathered rates”?
  - Documentation issues: acquiring full property records
  - Past regulatory history
AGENDA

Wednesday, October 15, 2014 (Continued)

Developing Rates for New Pipelines and Expansion Capacity on Existing Pipelines
- Development of the “declaratory order” approach to obtaining regulatory certainty for new capacity
- Benefits and limits to declaratory orders
  - Assurance that contracts will govern contract shipper rates
  - “Firm capacity” rights and current standards
  - Effect in the event of later protests/complaints
- “Open season” without a declaratory order
- Case study: steps in planning and implementing rates and terms for a new pipeline

Major Pending Policy and Regulatory Developments and Uncertainties
- Contract Rates: Continued Challenges
  - Seaway, Colonial proceedings
- Cost-Based Rates: Shippers continue to allege a need or more scrutiny of pipeline earnings, based on Form 6 Page 700 and “over-earnings”
  - FERC rulemaking proceeding on Form 6, Docket No. IS12-18
- Indexed rates: Looming 2015 review of the current “PPI-FG +2.65%” standard
- Market-Based Rates: Pending cases raise questions as to FERC standards for market power, as well as how to challenge market power
  - Enterprise TEPPCo, Seaway, Buckeye proceedings
- Future course of FERC regulation
  - Emphasis on infrastructure development
  - Potentially greater shipper activism
  - Need for careful planning and greater reliance on agreed-upon rates where possible
INSTRUCTORS

**Amy Hoff** / Partner / Caldwell Boudreaux Lefler PLLC

Amy’s principal areas of practice are federal and state regulation of crude oil and refined petroleum products pipelines, with a focus on regulatory litigation. Amy has represented clients in complex rate litigation proceedings before the Federal Energy Regulatory Commission (FERC) and various state agencies, and has served as in-house counsel for the pipeline division of a major integrated energy company. She is well versed in pipeline operational issues, and advises clients on operational and contracting issues as well as regulatory compliance and tariff issues.

**Elizabeth Kohlhausen** / Partner / Caldwell Boudreaux Lefler PLLC

Elizabeth focuses her practice on the federal and state regulation of crude oil, natural gas liquids and refined petroleum products pipelines. She is well-versed in the development of liquids pipeline projects and regularly advises clients on regulatory matters affecting their development. She has extensive experience in preparing documentation related to these types of projects, including Transportation Services Agreements, tariffs, and prorationing policies, and she has also prepared and filed multiple Petitions for Declaratory Orders with FERC in support of these types of projects. In addition, Elizabeth has also represented clients in a number of complex rate litigation proceedings before FERC and state regulatory agencies. She also has significant experience counseling clients on operational issues and liquid pipeline tariff modifications.

**Dean Lefler** / Partner / Caldwell Boudreaux Lefler PLLC

Dean Lefler advises crude oil and liquids pipeline clients in various regulatory matters and represents them in matters before the Federal Energy Regulatory Commission (FERC) and state agencies. Dean has also advised clients on project documents for international and domestic energy projects and transactions.

Dean provides regulatory advice to several crude oil and liquids pipeline clients. He has represented clients in rate proceedings before the FERC and the Regulatory Commission of Alaska (RCA), including complaint proceedings brought to challenge existing rates, protests to cost-of-service rate filings, protests challenging the prudence of pipeline expenses, and challenges to the reasonableness of quality bank methodologies.

**Deborah Repman** / Counsel / Caldwell Boudreaux Lefler PLLC

Debbie’s principal area of practice is regulatory compliance with federal and state law governing the transportation of crude oil, petroleum products and natural gas liquids by pipeline. Debbie has experience in administrative litigation before both the Federal Energy Regulatory Commission (FERC) and the California Public Utilities Commission, including complaint proceedings that challenge a pipeline’s existing rates and protests to cost-of-service rate filings. As part of this work, Debbie has managed discovery matters related to such litigation and assisted in the preparation of pre-filed testimony and pre-hearing/post-hearing briefs.

Debbie also has experience in drafting and filing liquids pipeline tariffs with the FERC and State agencies. She has also worked extensively in drafting petitions for declaratory orders before the FERC seeking approval of a pipeline’s proposed term and rate structure, as well as assisting with the drafting of open season notices, transportation services agreements and throughput and deficiency agreements.
INSTRUCTIONAL METHODS

Case studies, PowerPoint presentations and classroom discussion will be used.

REQUIREMENTS FOR SUCCESSFUL COMPLETION OF PROGRAM

Participants must sign in/out each day and be in attendance for the entirety of the course to be eligible for continuing education credit.

IACET CREDITS

EUCI has been accredited as an Authorized Provider by the International Association for Continuing Education and Training (IACET). In obtaining this accreditation, the (organization name) has demonstrated that it complies with the ANSI/IACET Standard which is recognized internationally as a standard of good practice. As a result of their Authorized Provider status, (organization name) is authorized to offer IACET CEUs for its programs that qualify under the ANSI/IACET Standard.

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EVENT LOCATION

A room block has been reserved at the Hotel ICON, 220 Main, Houston, TX 77002, for the nights of October 13-15, 2014. Room rates are $219, plus applicable tax. Call 1-713-224-4266 for reservations and mention the EUCI course to get the group rate. The cutoff date to receive the group rate is September 13, 2014, but as there are a limited number of rooms available at this rate, the room block may close sooner. Please make your reservations early.

PROCEEDINGS

The proceedings of the course will be published, and one copy will be distributed to each registrant at the course.
Please register the following


How did you hear about this event? (direct e-mail, colleague, speaker(s), etc.)

Print Name ___________________________________________________________________________ Job Title ____________________________

Company ___________________________________________________________________________

What name do you prefer on your name badge? ___________________________________________________________________________

Address ___________________________________________________________________________

City ___________________________ State/Province _______________ Zip/Postal Code _______________ Country ___________________________________________________________________________

Telephone ___________________________________________________________________________ Email ____________________________

List any dietary or accessibility needs here

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Security Code (last 3 digits on the back of Visa and MC or 4 digits on front of AmEx)

OR Enclosed is a check for $ _____________ to cover ___________ registrations.

All cancellations received on or before September 12, 2014, will be subject to a US $195 processing fee. Written cancellations received after this date will create a credit of the tuition (less processing fee) good toward any other EUCI event or publication. This credit will be good for six months. In case of event cancellation, EUCI’s liability is limited to refund of the event registration fee only. For more information regarding administrative policies, such as complaints and refunds, please contact our offices at (201) 871-0474.