FERC Puts Cloud Over Certain Oil Pipeline Marketing Affiliate Transactions

In an unexpected shake up in the oil pipeline industry, the Federal Energy Regulatory Commission recently declined to approve an oil pipeline's proposal to have its marketing affiliate obtain its pipeline capacity at full price and then resell the space at a discount, a practice that is currently widespread in the industry, according to a report published by **Dorsey & Whitney LLP**.

According to pleadings in *Magellan Midstream Partners, L.P.*, Magellan filed a petition for declaratory order requesting the Commission declare its proposal to establish a marketing affiliate to buy, sell, and ship crude oil on Magellan's pipeline system lawful under the Interstate Commerce Act.

"The proposed marketing affiliate would pay Magellan's shipping rates filed with FERC, even if the affiliate resold the capacity at an economic loss—where the price differential between the origin and destination markets is less than the filed tariff rates. Magellan said that even though the affiliated company would lose money on the transaction, the integrated company would make money overall and would be able to attract more crude oil shippers. Magellan argued that due to the prevalence of these transactions in the oil pipeline industry, it was at a disadvantage in attracting oil pipeline shippers because it could only offer transportation services at its filed tariff rate," according to the article.

FERC's ruling declining to approved the proposal will likely cause oil pipelines to review their current marketing affiliate contracts and will impact how marketing affiliates do business in the future.

Read the article.