

20110201 0920 FERC EDF (UNOFFICIAL) 02/01/2011

134 FERC ¶ 61,077
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 1, 2011

In Reply Refer To:
Sinclair Pipeline Company, L.L.C.
Sinclair Transportation Company
Docket No. OR10-10-000

Melvin Goldstein
Matthew A. Corcoran
Goldstein & Associates, P.C.
1757 P Street NW
Washington, DC 20036

Attention: Melvin Goldstein
Matthew A. Corcoran

Reference: Temporary Waiver of Sections 6 and 20
of the Interstate Commerce Act

Ladies and Gentlemen:

1. On March 25, 2010, Sinclair Pipeline Company, LLC (Sinclair Pipeline) and Sinclair Transportation Co. (Sinclair Transportation) filed a request for temporary waiver of the tariff filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act (ICA).¹ Parts 341 and 357 of the Commission's regulations implement these filing and reporting requirements. On November 10, 2010, Sinclair Pipeline and Sinclair Transportation filed an amendment to their request for waiver to further clarify their March 25, 2010 request.

¹ Specifically, 49 U.S.C. app. § 6 requires interstate oil pipelines to file all their rates, fares, and charges for transportation on their systems, and also file copies of contracts with other common carriers for any such traffic; and 49 U.S.C. app. § 20 authorizes the Commission to require annual or special reports from carriers subject to the ICA.

2. Sinclair Pipeline and Sinclair Transportation state they are both affiliates of Sinclair Oil Corporation (Sinclair Oil), which owns two refineries in Wyoming. Sinclair Pipeline leases pipeline capacity to facilitate the transportation of refined petroleum products owned by Sinclair Oil. Sinclair Transportation operates crude pipelines in Wyoming and refined products pipelines in Wyoming, Colorado, Missouri, and Iowa, including a pipeline that transports refined products from Reed Junction, KS, to its terminals in Missouri and Iowa.

3. Sinclair Pipeline requests waiver for movements made pursuant to capacity lease agreements it entered into with Magellan Pipeline Company, L.P. (Magellan), while Sinclair Transportation's waiver request covers movements on its own pipelines.

4. According to Sinclair Pipeline, it uses leased capacity from Magellan to transport petroleum products on sections of pipeline which run from Tulsa, OK to Olathe, KS and from Olathe to Reed Junction, KS. Sinclair Pipeline states it also uses leased capacity to transport petroleum products from Tulsa, OK to the Magellan pipeline connection at Riverside, KS, and from Riverside to a Sinclair Transportation terminal at Argentine, KS. Sinclair Pipeline states these transportation movements are currently covered under Sinclair Pipeline's Supplement No. 7 to FERC Tariff No. 13 and if the Commission grants the exemption it would cancel FERC Tariff No. 13, which includes Supplement No. 7.² All of the movements Sinclair Pipeline makes on Magellan pipelines are made pursuant to capacity lease agreements. Sinclair Pipeline states it has never been asked by any other shipper to transport products for a third party under its leased capacity, and that sufficient space exists in the Magellan pipeline to permit service under Magellan's common carrier tariff for any other shipper.

5. Sinclair Transportation requests temporary waiver for its Reed Junction, KS to Carrollton, MO pipeline segment, including its pipeline from the Carrollton terminal to another terminal it owns at Ft. Madison, IA. Regarding the Reed Junction to Carrollton segment, Sinclair Transportation states the only destination is the Sinclair Transportation terminal and that Sinclair Oil has been the only shipper on this segment. Regarding the Carrollton to Ft. Madison segment, Sinclair Transportation states the Carrollton terminal is the only origin and the Ft. Madison terminal, the only destination. Sinclair Transportation adds that Sinclair Oil has been the only shipper on this segment of pipeline. Finally, Sinclair Transportation states that it is highly unlikely that a third party will request transportation on these segments because the pipeline routes are not being used by any shipper other than a Sinclair Oil affiliate and are incapable of receiving or delivering products to any company other than a Sinclair Oil affiliate.

² On December 7, 2010, Sinclair Pipeline filed its electronic baseline tariff, in which FERC Tariff No. 14 cancelled FERC Tariff No. 13. Thus, the movements subject to Sinclair Pipeline's waiver request are now covered under FERC Tariff No. 14.

6. The Commission previously granted temporary requests for waiver of the filing and reporting requirements of sections 6 and 20 of the ICA.³ The Commission granted these waivers based on the fact that (1) the pipelines (or their affiliates) own 100 percent of the throughput on the line; (2) there is no demonstrated third-party interest in gaining access to or shipping upon the line; (3) no such interest is likely to materialize; and (4) there is no opposition to granting the waivers. In these cases, the Commission determined there were no active third-party shipper interests to protect under the ICA, and therefore, temporary waivers of the section 6 and 20 filing and reporting requirements were warranted. However, the Commission granted the waivers, subject to revocation should circumstances change, and required the pipelines to keep their books and records in a manner consistent with the Commission's Uniform System of Accounts.

7. Under the facts presented by Sinclair Pipeline, no third party has requested transportation service on the leased segments of pipeline. No third party has requested service on the Tulsa to Reed Junction segment of Sinclair Pipeline's capacity lease, and there exists sufficient space on Magellan's portion of the pipeline for any third party to receive transportation service. Similarly, there have been no requests for service on Sinclair Pipeline's leased capacity from Tulsa to Argentine. Further, such a request for transportation service on the Tulsa to Argentine segment is unlikely, given that the final destination of this segment is a Sinclair Transportation-owned terminal. Lastly, there is no opposition from any third party to the waiver request.

8. Similarly, there have been no requests for transportation service on the pipeline segments owned by Sinclair Transportation. Sinclair Oil is the only shipper on this pipeline, there is no evidence that any third party interest in shipping on this pipeline exists, and there is no opposition to this waiver request.

9. The Commission concludes that, given the physical characteristics of the facilities and the limited nature of the movement of the pipeline operations, Sinclair Pipeline and Sinclair Transportation meet the criteria necessary to qualify for a temporary waiver consistent with the Commission's rulings in *Sinclair*, *Hunt*, *Ciniza*, *Enbridge*, and *Jayhawk*.

10. Accordingly, the Commission grants Sinclair Pipeline and Sinclair Transportation a temporary waiver of the filing and reporting requirements of ICA sections 6 and 20 relating to the pipeline segments described above. Sinclair Pipeline may file to cancel

³ *Sinclair Oil Corp.*, 4 FERC ¶ 62,026 (1978) (*Sinclair*); *Hunt Refining Co. and East Mississippi Pipeline Co.*, 70 FERC ¶ 61,035 (1995) (*Hunt*); *Ciniza Pipe Line Inc.*, 73 FERC ¶ 61,377 (1995) (*Ciniza*); *Enbridge Pipelines (NE Texas Liquids) L.P.*, 110 FERC ¶ 61,159 (2005) (*Enbridge*); and *Jayhawk Pipeline, L.L.C.*, 128 FERC ¶ 61,079 (2009) (*Jayhawk*).

FERC Tariff No. 14. Because these waivers are temporary, the Commission also directs Sinclair Pipeline and Sinclair Transportation to immediately report to the Commission any change in the circumstances on which these waivers are based. Specifically, Sinclair Pipeline and Sinclair Transportation must report any changes including, but not limited to (1) increased accessibility of other pipelines or refiners to its facilities; (2) changes in the ownership of the facilities; (3) changes in the ownership of the crude oil shipped; and (4) shipment tenders or requests for service by any person. In addition, Sinclair Pipeline and Sinclair Transportation must maintain all books and records in a manner consistent with the Uniform System of Accounts for Oil Pipelines, 18 C.F.R. Part 352 (2010), and make such books and records available to the Commission or its duly authorized agents upon request.

By direction of the Commission.

Kimberly D. Bose,
Secretary.