

126 FERC ¶ 61,187
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 27, 2009

In Reply Refer To:
Black Marlin Pipeline Company
Docket No. RP09-234-000

Black Marlin Pipeline Company
2800 Post Oak Blvd
Houston, TX 77056

Attention: Larry Jensen
Regulatory Affairs Manager

Reference: Petition for Temporary Exemptions from Tariff Provisions

Dear Mr. Jensen:

1. On January 13, 2009, Black Marlin Pipeline Company (Black Marlin) filed a “Petition for Temporary Exemptions from Tariff Provisions” seeking temporary exemptions, for up to one year, from various parts of its FERC Gas Tariff, First Revised Volume No. 1, and any commensurate exemptions from Commission orders or policies upon which such tariff provisions are formulated, so that it can continue to provide some level of service while minimizing any extraneous costs to its stakeholders. Black Marlin’s filing seeks a renewal of certain exemptions that were initially granted by the Commission in Docket No. RP08-271-000, effective March 1, 2008, by order issued March 31, 2008.¹ Black Marlin states that it seeks renewal of such exemptions rather than modifying its tariff because it hopes to resolve many of its operational issues rather than make permanent tariff changes. Black Marlin requests the Commission grant the temporary exemptions to be effective March 1, 2009, and continue for a period of one year.

2. Black Marlin’s specific exemption requests fall within three categories. First, Black Marlin requests exemptions to suspend the nomination/scheduling process, including the determination of receipts/deliveries under that process so that Black Marlin recognizes and invoices only the actual quantities received and delivered. As such, Black

¹ *Black Marlin Pipeline Co.*, 122 FERC ¶ 61,300 (2008).

Marlin requests exemptions from sections 9 and 12 of Rate Schedule FTS, sections 7 and 10 of Rate Schedule ITS, and section 9 of its General Terms and Conditions (GT&C). Second, Black Marlin requests exemptions from the NAESB Nominations Related Standards listed in section 1.7(b)(ii) and Flowing Gas Related Standards in section 1.7(b)(iii) of its GT&C. Third, Black Marlin requests exemptions to its imbalance resolution procedures in sections 21.2 and 21.3 of its GT&C in recognition of the necessity to batch deliveries to the Kinder Morgan (KM) delivery point and minimize any residual month-end imbalance cashouts with the shipper at an average index price for the month in lieu of the “high/low” value as contained in the tariff.

3. Black Marlin explains that it continues to experience operational stress due to severely declining volumes. It currently has only one shipper on its system receiving interruptible service, and it has not received any requests for transportation service associated with new production or any new developmental activity in the vicinity of its system. Black Marlin states that because of the low production volume, it cannot physically deliver gas on a continuous daily basis. With the current flow rate representing only 0.9 percent of system capacity, the internal pressure of its system is not sufficient to push through the delivery meter on a continuous basis and return reliable measurement. The only means by which Black Marlin can effect delivery is to use a batch process with gas deliveries every 3-4 days.

4. Black Marlin further states that the requested exemptions are necessary so that it can recognize only actual gas deliveries rather than scheduled deliveries for monthly transportation activity. This eliminates the financial impact of having to cash-out imbalances at the end of the month with its sole customer and the OBA party (Kinder Morgan) at the delivery point, which will not accept deliveries otherwise. Finally, Black Marlin is requesting an exemption to its cash-out provisions for any residual imbalances that may be realized due to prior period adjustments or other actions unforeseen at the time of its filing.

5. Black Marlin states that if the Commission grants its requested exemptions, all its stakeholders will benefit from its continued operations, and that it is not aware of any shipper or stakeholder that will be harmed in any manner by the granting of these exemptions.

6. Notice of Black Marlin’s filing was published in the *Federal Register*, 74 Fed. Reg. 5835 (2009), with interventions and protests due on or before February 3, 2009. No interventions or protests were filed.

7. For good cause shown, we grant Black Marlin’s proposed petition for temporary exemptions from sections 9 and 12 of Rate Schedule FTS, sections 7 and 10 of Rate Schedule ITS, and sections 1.7(b)(ii) and (iii), 9, 21.2 and 21.3 of its GT&C to be

effective March 1, 2009, and continue for a period of one year, as proposed. These exemptions will allow Black Marlin to continue to provide some level of service while minimizing its costs as it attempts to find long term solutions to its operational issues.

By direction of the Commission. Commissioner Kelliher is not participating.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

cc: All Parties

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