

139 FERC ¶ 61,070
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 25, 2012

In Reply Refer To:
Big Sandy Pipeline, LLC
EQT Energy, LLC
EQT Corporation
Docket No. RP12-581-000

Big Sandy Pipeline, LLC
5400 Westheimer Court
Houston, Texas 77056-5310

Attention: Jennifer R. Rinker, Senior Counsel for Big Sandy Pipeline, LLC

Reference: Temporary Waiver Request

Ladies and Gentlemen:

1. On March 30, 2012, Big Sandy Pipeline, LLC (Big Sandy), EQT Energy, LLC (EQT Energy), and EQT Corporation (collectively, the Petitioners) filed a request for temporary waiver of section 284.8(b) through (e) of the Commission's capacity release regulations to facilitate the transfer of a long-term, negotiated rate transportation service agreement on Big Sandy's system currently held by EQT Corporation. The Petitioners also request temporary waiver of the applicable provisions of Big Sandy's tariff implementing the capacity release regulations, as necessary to implement the capacity release transaction. The Petitioners request the waiver become effective April 25, 2012, and continue for the earlier of 60 days following the date of the Commission's order or the date on which the capacity release transactions are completed.¹ For the reasons discussed below, and for good cause shown, we grant the requested waivers.

2. The transactions at issue here arise out of EQT Corporation's sale of Big Sandy to Spectra Energy Partners, LP (Spectra Energy) in 2011. Before that sale, EQT Corporation's wholly owned subsidiary, EQT Energy, had two long-term negotiated rate transportation service agreements for service under Big Sandy's Rate Schedule FTS.

¹ The Petitioners state that they intend to complete the capacity release transaction on May 1, 2012.

Both agreements had negotiated rates in excess of Big Sandy's maximum FTS rate of \$17.2724 per Dth of MDQ per month. EQT Energy has continued as a significant shipper on Big Sandy after the sale. However, the Purchase and Sale Agreement between EQT Corporation and Spectra required that EQT Corporation, as the parent company of EQT Energy, become the primary guarantor of EQT Energy's payments for service on Big Sandy. In order to carry out this requirement, EQT Energy permanently released its negotiated rate agreements to EQT Corporation contemporaneously with Big Sandy's sale to Spectra. EQT Corporation simultaneously released the capacity back to EQT Energy on a temporary basis for the period from June 1, 2011 through April 30, 2012. On June 10, 2011, the Commission granted waiver of its capacity release regulations to permit the parties to implement these capacity releases consistent with the Purchase and Sale Agreement.²

3. The instant petition requests waiver of the capacity release regulations and Big Sandy's waiver in order to permit EQT Corporation to continue its temporary release to EQT Energy of its negotiated rate transportation service agreement with Big Sandy dated June 1, 2011, as amended, under Big Sandy's Rate Schedule FTS (Agreement). The Agreement allots a Maximum Daily Quantity (MDQ) of 35,821 dekatherms (Dth) per day at a negotiated, above-maximum-rate Reservation Charge of \$19.7830 per Dth of MDQ per month from January 1, 2012 through December 31, 2027. The temporary release would be for the remaining term of EQT Corporation's Agreement. Because of the temporary nature of the release, EQT Corporation would retain its service agreement with Big Sandy, making EQT Corporation financially responsible for the capacity in the event of default by EQT Energy as required by the Purchase and Sale Agreement. The extension of temporary release would also permit EQT Energy to continue to ship the gas it owns and markets using the subject capacity on Big Sandy, consistent with the shipper-must-have title-policy.

4. As noted, the Petitioners request that the Commission waive sections 284.8(b) through (e) of its regulations, which concern the standards for capacity release. In particular, the Petitioners intend to treat the temporary release as if it were a prearranged maximum rate release transaction, which section 284.8(h)(1)(iii) allows to be implemented without posting for bids, even though the Agreement is for a rate in excess of Big Sandy's maximum tariff rate. In particular, section 284.8(e) details posting and bidding requirements, and section 284.8(b)(2) states that the rate charged on released capacity may not exceed the maximum rate. Further, the Petitioners request waiver of the two sections of the General Terms and Conditions (GT&C) of Big Sandy's tariff that implement those capacity release regulations: sections 6.22.6[b][ii]³ and 6.22.7[a][iii],

² *Big Sandy Pipeline, et al., LLC*, 135 FERC ¶ 61,225 (2012).

³ Section 22.6[b][ii] states, "competitive bidding is not required for a prearranged release if the capacity release is for more than one year and the Replacement Customer agrees to pay Big Sandy's maximum tariff rate applicable to the service type being released."

respectively.⁴ The Petitioners argue that the Commission has previously granted such waivers under similar circumstances.

5. Public notice of the filing was issued on April 2, 2012. Interventions and protests were due April 9, 2012. Pursuant to Rule 214,⁵ all timely filed motions to intervene and any unopposed motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

6. The Commission finds waiver of the applicable maximum rate ceiling is reasonable in this instance. The temporary release at issue will permit the subject capacity to continue to be used for the same purpose for which EQT Energy originally purchased it – to transport natural gas produced by subsidiaries of EQT Corporation in southeastern Kentucky and surrounding areas. At the same time the temporary nature of the release is necessary so that EQT Corporation can continue to provide the credit support to Spectra required by the Purchase and Sale Agreement between them. In addition, all parties (releasing shipper, replacement shipper, and pipeline) agree to the transaction. No third party has protested the waiver request. Finally, there is no need to post this release for third parties to submit higher bids because the Commission would not waive the applicable maximum rate to permit a long-term release at a rate in excess of the negotiated rate the releasing shipper, EQT Corporation is currently paying.

7. Finding good cause, the Commission grants a temporary waiver of section 284.8 (b) through (e) of the Commission's regulations and the provisions in Big Sandy's tariff enforcing those regulations. The grant of waiver is limited to facilitating the release discussed in this order. As requested, the waiver is effective immediately, and will expire upon the earlier of 60 days following the date of the Commission's order or the date on which the capacity release transactions are completed.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁴ Section 22.7[a][iii] states that if a capacity release is for a term longer than one year, "the rate may not exceed the maximum tariff rate for the applicable service set forth in Big Sandy's FERC Gas Tariff, as may be changed from time to time."

⁵ 18 C.F.R. § 385.214 (2011).