126 FERC ¶ 61,070
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Acting Chairman;
Suedeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

White Cliffs Pipeline, L.L.C. Docket No. OR08-8-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued January 28, 2009)

1. On February 13, 2008, White Cliffs Pipeline, L.L.C.[1] (White Cliffs) filed a petition for a declaratory order asking the Commission to approve the proposed rate structure and methodology for establishing cost-based initial rates for White Cliffs' planned pipeline system designed to transport Denver Julesburg Basin (D-J Basin) crude oil from Colorado's Wattenberg Field to the market center at Cushing, Oklahoma (Cushing Hub). Suncor Energy Marketing Inc. (SEMI) filed a limited protest, asking the Commission to limit any approval granted White Cliffs to a period of no more than five years and to condition its approval specifically on the facts and assumptions presented in the petition. The Commission grants the requested declaratory order to the extent discussed below.

**<u>Background</u>**

2. White Cliffs states that the Wattenberg Field covers approximately 700,000 acres in Colorado's Front Range. While this field has been a rich source of hydrocarbon production, White Cliffs maintains that the development of oil pipeline infrastructure has not kept pace with production activities in the area. According to White Cliffs, the only market outlets readily available for D-J Basin crude are two local refineries, one of which is operated by Suncor Energy Inc., an affiliate of SEMI, while the other is operated by

[1] White Cliffs states that it is a Delaware Limited Liability Company, which is operated (and more than 99 percent owned) by its manager, SemCrude Pipeline, L.L.C. (SemCrude). According to White Cliffs, SemCrude is a wholly-owned subsidiary of SemGroup, L.P., a provider of midstream energy services. White Cliffs adds that its remaining minority interests are owned equally by Anadarko Wattenberg Company, LLC and Samedan Pipe Line Corporation. One of the two shippers (Committed Shippers) that currently have executed Throughput & Deficiency Agreements (T&D Agreements) with White Cliffs is affiliated with both companies that own minority interests.

Frontier Oil Corporation. White Cliffs explains that, when these refineries are shut down temporarily or change their refining slates, they cannot process the D-J Basin crude, which forces producers to shut in many of the area's wells.

3. White Cliffs proposes to construct a 12-inch, 525-mile pipeline with a single receipt point near Platteville, Colorado, and a single delivery point at the Cushing Hub. White Cliffs asserts that this configuration will allow it to power the system with a single pump station located at the receipt point. According to White Cliffs, the related facilities at the receipt point will include tankage for 100,000 barrels of crude oil to permit aggregation and storage of crude oil trucked to the receipt point for transportation to the Cushing Hub. White Cliffs further states that the pipeline will have the capacity to transport 29,700 barrels per day (bpd). White Cliffs estimates that the pipeline will cost approximately $235 million.

4. White Cliffs states that it held a two-phase open season from February 22, 2007, through March 23, 2007, offering prospective shippers the same terms contained in the T&D Agreements executed by the two original Committed Shippers. White Cliffs explains that it offered prospective shippers the opportunity to become Committed Shippers with three options for five-year term T&D Agreements: (A) quantities of 10,000 bpd at the Committed Shipper rate of $5.20 per barrel, (B) between 5,000 and 10,000 bpd at $5.45 per barrel, or (C) between 1,000 and 5,000 bpd at $5.70 per barrel.[2] However, White Cliffs acknowledges that no additional parties executed T&D Agreements.

5. According to White Cliffs, the two original Committed Shippers have access to slightly more than 56 percent of the total current Wattenberg Field crude oil production. White Cliffs states that it will not guarantee these shippers a specific volume of capacity on the pipeline, but instead will prorate available capacity among all shippers when necessary.

6. White Cliffs maintains that, in earlier proceedings, the Commission provided definitive guidance for similar projects.[3] Therefore, White Cliffs seeks the following rulings:

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[2] White Cliffs' estimated proposed uncommitted rate is $6.81 per barrel.

[3] White Cliffs cites *Enbridge Pipelines (Southern Lights) LLC*, 121 FERC ¶ 61,310 (2007) (*Enbridge Southern Lights*); *Colonial Pipeline Co*., 116 FERC ¶ 61,078 (2006) (*Colonial*); *Enbridge Energy Company, Inc*., 110 FERC ¶ 61,211 (2005); *Plantation Pipeline Co*., 98 FERC ¶ 61,219 (2002); *Express Pipeline Partnership*, 76 FERC ¶ 61,245 (1996) (*Express*).

A. That the proposed discounted rate structure, with Committed Shipper rates lower than the rates available to uncommitted shippers, will not be deemed unduly discriminatory under the Interstate Commerce Act (ICA);

B. That the proposed revenue crediting methodology for establishing and allocating White Cliffs' cost of service in accordance with the Commission's Opinion No. 154-B[4] will be accepted for purposes of establishing initial cost-based rates pursuant to section 342.2(a) of the Commissions regulations;[5]

C. That the Opinion No. 154-B cost of service underlying White Cliffs' initial cost-based rates may be calculated using (1) its proposed cost-of-capital components; (2) its proposed composite depreciation rates, which result in an aggregate system composite depreciation rate of 3.93 percent; and (3) its proposed test period billing determinants, based on the level of committed throughput at the time the system is placed in service, plus a reasonable projection of uncommitted barrels.

7. White Cliffs admits that its rate design includes 4,000 bpd of uncommitted test period throughput for which it has no contractual or practical assurance at this time. White Cliffs maintains that this will provide a safeguard against potential over-recovery of its costs. White Cliffs also states that, if it obtains additional volume commitments before the pipeline goes into service, it will base the initial rates on billing determinants that include such additional volumes.

8. White Cliffs next states that, once it establishes the systemwide cost of service for the pipeline, it will calculate annual revenues attributable to the T&D Agreements of the Committed Shippers and credit those revenues to the cost of service to determine the level of remaining costs that it will recover from uncommitted shippers. White Cliffs states that it will establish the uncommitted rate at or below that level, consistent with Commission precedent.[6]

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[4] *Williams Pipe Line Company*, Opinion No. 154-B, 31 FERC ¶ 61,377 (1985).

[5] 18 C.F.R. § 342.2(a) (2008).

[6] White Cliffs cites *e.g.*, *Policy for Selective Discounting by Natural Gas Pipelines*, 111 FERC ¶ 61,309 (2005), *order on reh'g*, 113 FERC ¶ 61,173 (2005); *Laclede Pipeline Co*., 114 FERC ¶ 61,335 (2006); *Express Pipeline Partnership*, 77 FERC ¶ 61,188 (1996).

9. White Cliffs explains that it will not issue non-guaranteed debt of its own, but instead will rely on its principal parent, SemCrude, for financing.[7] However, because SemCrude and its corporate parents do not issue publicly-available debt, White Cliffs states that it relied on a proxy group of oil pipelines to derive its capital structure. According to White Cliffs, the average common equity ratio of the proxy pipelines is 51.15 percent, consistent with Commission precedent.[8] White Cliffs further maintains that it calculated the estimated cost of equity capital pursuant to the Commission's standard DCF methodology applied to the proxy companies. White Cliffs states that the actual cost of debt for its ultimate corporate parent is approximately 8.76 percent, but White Cliffs seeks an average cost of debt based on recent average costs associated with Baa corporate bonds, i.e., 6.75 percent.

10. In requesting approval of the imputed 51.15/48.85 percent equity/debt ratio, White Cliffs acknowledges that the Commission previously has declined to approve a specific capital structure in a declaratory order, preferring to wait until a pipeline seeks approval of actual rates.[9] However, White Cliffs emphasizes that its owners will provide all of its financing, so it will not rely on third-party financing that would make its capital structure subject to the outcome of future financial arrangements.

11. According to White Cliffs, it faces significant financial and business risk because it depends on a single mature supply source, faces competition from regional refineries, and depends on the five-year throughput commitments of only two shippers for its financial underpinning. For that reason, White Cliffs seeks a nominal equity return (ROE) of 14 percent (11.1 percent real), which it claims is consistent with ROEs typically authorized by the Commission for "greenfield" pipelines and proposed new pipelines that will depend on a single source of supply.[10] Moreover, continues White Cliffs, this

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[7] After White Cliffs filed the instant petition for a declaratory order, SemCrude has filed for bankruptcy in the U.S. Bankruptcy Court for the District of Delaware. *In Re SemCrude, L.P., et al., Debtors, Chapter 11, Case No. 08-11525 (BLS), Jointly Administered.*

[8] White Cliffs cites, *e.g.*, *Laclede Pipeline Co*., 114 FERC ¶ 61,335 (2006); *Corpus Christi LNG, Cheniere Corpus Christi Pipeline Co*., 111 FERC ¶ 61,081 (2005).

[9] White Cliffs cites *Enbridge Pipelines (Southern Lights) LLC*, 121 FERC ¶ 61,310 (2007).

[10] White Cliffs cites *Express Pipeline Partnership*, 76 FERC ¶ 61,245, at 62,253 (1996).

proposed ROE is consistent with returns authorized for existing oil pipelines because the Commission has recognized that oil pipelines generally are more risky than natural gas pipelines.[11]

12. White Cliffs proposes depreciation rates calculated by asset class, which in the aggregate result in a straightline system composite depreciation rate of 3.93 percent. White Cliffs explains that it predicated its analysis on the physical lives of the pipeline's assets, as well as on the economic life of the D-J Basin oil reserves.

13. White Cliffs asks the Commission not to penalize it for sizing its pipeline to capture operational efficiencies so that it can provide the Committed Shippers a margin of protection against prorationing. White Cliffs explains that, while it could have chosen a smaller diameter pipeline, that choice would have required additional pumping facilities, which would have increased expenses, especially for fuel and power consumption. White Cliffs points out that its projected 4,000 bpd of uncommitted volumes, combined with its committed volumes, would allow it to achieve an annual load factor of slightly more than 80 percent. Therefore, White Cliffs proposes to design its rates using billing determinants based on 24,000 bpd, although it acknowledges that the Commission previously ruled that an oil pipeline should design its rates using the entire initial design capacity of the pipeline as billing determinants.[12] However, White Cliffs also claims that its proposal contains better safeguards and should not be compared with the Enbridge Spearhead proposal.

**<u>Notice, Interventions, Comments, Protest, and Answer</u>**

14. Notice of White Cliffs' filing was issued on February 19, 2008, with interventions, protests, and comments due March 4, 2008. Kerr-McGee Oil & Gas Onshore, LP intervened in support of the construction of additional capacity to transport volumes from the D-J Basin. SEMI intervened and filed a limited protest. White Cliffs filed an answer to SEMI's protest.

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[11] White Cliffs cites *Texas Refining and Marketing Inc. v. SFPP, L.P.*, 117 FERC ¶ 61,285, at P 30 (2006) (approving nominal equity returns of 14.18 percent (11.65 percent real) and 13.63 percent (10.31 percent real) for two test years); *Ingleside Energy Center, LLC*, 112 FERC ¶ 61,101, at P 33 (2005) (approving 14-percent equity return); *SFPP, L.P.*, 86 FERC ¶ 61,022, at 61,099-102 (1999) (approving 14.27-percent equity return and observing that gas pipelines evidenced consistently less risk than appropriate for an oil pipeline); *Williams Natural Gas Co*., 86 FERC ¶ 61,232, at 61,680 (1999) (recognizing that a pipeline's short-term contracts with many of its shippers could suggest a higher than average business risk).

[12] White Cliffs cites *Enbridge Energy Company, Inc*., 110 FERC ¶ 61,211, at P 46 (2005).

15. SEMI states that it is an active crude oil marketer and trader in the region including the D-J Basin and that it has rights to substantial storage capacity in the Cushing Hub area. SEMI does not oppose approval of White Cliffs' discounted term rate structure or the proposal to set uncommitted rates at a level higher than the term rates, but as a potential uncommitted shipper, SEMI seeks the Commission's assurance that the proposed uncommitted rates will be just and reasonable. SEMI further asks the Commission to limit any authorization to five years, consistent with the terms of the T&D Agreements, and to condition any approval of White Cliffs' petition on the specific facts and assumptions presented in the petition. In particular, SEMI fears that the proposed pipeline may expand far beyond the small initial capacity stated in the petition and draw on crude oil supplies from other sources.

16. SEMI cites a press release issued by an engineering company employed by White Cliffs, which suggests that the ultimate intended capacity of the pipeline vastly exceeds the level projected in the petition, i.e., a 72,000 bpd system with four pump stations.[13] SEMI contends that it is unlikely that White Cliffs would construct a 12-inch greenfield pipeline as a 525-mile link between a major producing area and a major market hub to transport only 29,700 bpd. Moreover, SEMI questions the scope and duration of the two Committed Shipper contracts, observing that such contracts normally are for 15-year terms.

17. SEMI next disputes White Cliffs' claims that it cannot offer Committed Shippers protection against prorationing and its reliance on that as justification for constructing an oversized pipeline, while designing rates based on a throughput smaller than its capacity. On the contrary, asserts SEMI, it is legal to offer term shippers a priority in prorationing firm capacity.[14]

18. While it generally supports use of the DCF methodology, SEMI challenges White Cliffs' requested ROE on the following grounds: (A) the requested ROE is unsupported, (B) it may be premature for a ruling on ROE,[15] and (C) White Cliffs' claim that the project's high risk justifies its proposed higher ROE relies on the brief terms of the T&D Agreements and White Cliffs' dependence on a single supply source.

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[13] SEMI cites Motion to Intervene and Limited Protest of Suncor Energy Marketing Inc. (March 4, 2008) Attachment C, ENGlobal Press Release.

[14] SEMI cites, *e.g.*, *Mid-America Pipeline Co*., 116 FERC ¶ 61,040 (2006) (*Mid-America*); *Enbridge Pipelines (North Dakota) LLC*, 120 FERC ¶ 61,025 (2007); *CCPS Transportation, LLC*, 121 FERC ¶ 61,253 (2007) (*CCPS*).

[15] SEMI points out that, in *Enbridge Pipelines (Southern Lights) LLC,* 121 FERC ¶ 61,310 (2007), the Commission deferred resolution of that issue to the time when the pipeline filed its actual uncommitted rates.

19. Finally, SEMI cautions the Commission that it should not accept White Cliffs' proposed depreciation rate conditioned on the exclusive use of D-J Basin supplies. SEMI does not protest the request to use a 26-year remaining life span for depreciation purposes at this time. However, SEMI reiterates that White Cliffs may change both the capacity and sources of supply for the proposed pipeline, and any substantial change in the petroleum source would undermine the basis for the depreciation rate sought in this petition.

20. In its answer, White Cliffs emphasizes that it intends to construct and operate the pipeline system described in its petition. White Cliffs points out that SEMI is an affiliate of the owner of one of the two refineries that purchase most of the Wattenberg Field crude oil production and that SEMI has not sought a transportation agreement with White Cliffs.

21. White Cliffs challenges the conditions requested by SEMI. White Cliffs asserts that it continues to pursue every potential throughput opportunity. According to White Cliffs, it based its decisions regarding size, capacity, and rate design of the pipeline on operational, economic, and practical considerations. White Cliffs acknowledges that it could expand the system to provide greater delivery capacity, but states that, if it expands its system to accept deliveries from other sources, it will make a new filing to determine the continued validity of the Commission's rulings in this case concerning ROE, throughput, and depreciation.

22. White Cliffs explains that it agreed to build a modest buffer of excess capacity to provide some assurance to the Committed Shippers, who were concerned about White Cliffs' inability to guarantee firm capacity in exchange for their financial and throughput commitments. White Cliffs clarifies that its prorationing methodology will favor historical system users in allocating capacity during periods of shortage, but that it will not completely shield them from prorationing during all periods of system constraint.

23. Citing *Mid-America*,[16] White Cliffs maintains that the Commission allowed the carrier to reserve an increment of expansion capacity for volume incentive shippers that dedicated their production to the pipeline for a seven-year term, but in that instance, 75 percent of the pipeline's total capacity was available to committed and uncommitted shippers alike. Likewise, continues White Cliffs, in *CCPS*,[17] the Commission originally accepted an increment of expansion capacity for committed firm shippers, observing that 84 percent of total system capacity would remain available to both committed firm and

[16] 116 FERC ¶ 61,040, at P 24 (2006).

[17] 121 FERC ¶ 61,253, at P 15, 17 (2007); *reh'g denied*, 122 FERC ¶ 61,123 (2008).

uncommitted non-firm shippers. However, continues White Cliffs, the Commission ultimately modified that proposal and required the pipeline to afford all pipeline shippers access to an even larger percentage of total system capacity.

24. White Cliffs also challenges the assertion that its projected volume is unsupported and offers no safeguards against overrecovery. White Cliffs states that it submitted a sworn affidavit expressly conditioning its throughput projection on its pledge to revise the projection to include any additional throughput commitments it may obtain prior to placing the system in service.

25. Finally, White Cliffs contends that SEMI does not explain why the proposed ROE is unsupported. White Cliffs reiterates that its project is much riskier than the average oil pipeline, and it also points out that, in at least one case, the Commission authorized a specific ROE in advance of an actual tariff filing.[18]

## Discussion

26. The Commission recognizes the value of issuing a declaratory order to provide oil pipelines definitive guidance concerning ratemaking issues.[19] Consistent with its approach in earlier cases, the Commission grants the requested declaratory order as discussed below.

### A. Committed Shipper Rates

27. White Cliffs proposes a discounted committed rate structure similar to that approved by the Commission in *Express.*[20] Express sought a declaratory order confirming that its proposed rates and rate structure were lawful and would be accepted when Express filed its tariffs before commencing service. Express held an open season offering discounted rates to shippers that executed throughput agreements for terms of 5, 10, or 15 years, explaining that the rates for uncommitted shippers would be higher than those offered to committed shippers. The Commission found that the proposed rate structure of Express did not violate the undue discrimination or undue preference provisions of the ICA because such rates were made available to all interested shippers and reflected relevant differences among term shippers, and between committed and

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[18] White Cliffs cites *Express Pipeline Partnership*, 76 FERC ¶ 61,245, at 62,253 (1996).

[19] *Id.*, *order on reh'g*, 77 FERC ¶ 61,188 (1996).

[20] 76 FERC ¶ 61,245, *order on reh'g,* 77 FERC ¶ 61,188 (1996). *See also Plantation Pipe Line Co.*, 98 FERC ¶ 61,219 (2002); *Enbridge Energy Company, Inc.*, 110 FERC ¶ 61,211 (2005).

uncommitted shippers. On rehearing, the Commission affirmed its approval of the proposed term rate structure because the proposed rates were "reasonable and generally in the range of those used in other oil pipeline proceedings, and were consistent with Commission policy."[21]

28. In the instant case, White Cliffs proposes to construct a pipeline to improve the ability of D-J Basin producers to move their crude oil to a major market hub. The funding assured by shippers committing their volumes for specific terms will provide the revenue and planning assurances necessary for White Cliffs to construct the pipeline. White Cliffs conducted a transparent two-phase open season for its capacity between February 22, 2007, and March 23, 2007, during which all potential shippers had an equal opportunity to commit their volumes by signing T&D Agreements. Such agreements offered rates of $5.20 to $5.70 per barrel to shippers willing to commit volumes of 5,000 bpd or more for five years. White Cliffs' proposed committed rates reflect relevant differences between the obligations of the Committed Shippers and those of the uncommitted shippers. The primary difference, of course, is that uncommitted shippers may choose whether to ship crude oil in any month; therefore, they have the maximum flexibility without providing the financial assurances and obligations assumed by Committed Shippers. As it did in *Express*, the Commission finds this rate structure to be lawful.[22] Additionally, because White Cliffs currently has executed T&D Agreements with the two original Committed Shippers, the Commission accepts White Cliffs' $5.20 per-barrel Committed Shipper rate as a non-protested, agreed-upon rate.

### B. Uncommitted Shipper Rate

29. While White Cliffs does not seek approval of a specific cost of service or a rate applicable to barrels not yet subject to a term T&D Agreement, it does seek assurance that it will be permitted to employ its proposed methodology for calculating its cost of service and designing its initial rates at the time it places the pipeline into service. White Cliffs further proposes to use its projected annual throughput based on the 20,000 bpd currently subject to T&D Agreements for purposes of designing its initial rates, conditioned on its agreement that, if it obtains any additional throughput commitments prior to the in-service date of the pipeline, it will design its initial rates on that basis.

30. White Cliffs also proposes to add the 4,000 bpd of uncommitted throughput to the Committed Shipper throughput when it projects its annual throughput. White Cliffs contends that this is necessary to afford prorationing assurance to the original Committed Shippers and any others it may obtain, although it asserts that the T&D Agreements recognize that its pipeline will be an interstate common carrier and that it cannot

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[21] *Express Pipeline Partnership*, 77 FERC ¶ 61,188, at 61,756 (1996).

[22] *See Express Pipeline Partnership*, 76 FERC ¶ 61,245, at 61,253-54 (1996).

guarantee that any Committed Shippers will have space for their committed volumes at all times if the system is oversubscribed. White Cliffs asks the Commission to accept its cost-of-service calculation as consistent with Opinion No. 154-B and the Commission's cost-of-service regulations.

31. White Cliffs did not use the pipeline's design capacity (29,700 bpd) to establish its projected uncommitted rates. Instead, it used the 24,000 bpd described above, contending that this constitutes 80 percent of the pipeline's annual capacity. The Commission generally requires the use of actual design capacity for initial rates on a pipeline, with the pipeline placed at risk for the costs of unsubscribed capacity.[23] The Commission made an exception to this policy in the case of *Crossroads Pipeline Co*. (*Crossroads*),[24] in which the pipeline filed an application to acquire an oil pipeline and convert it to a pipeline for transportation of natural gas in the interstate market. The Commission concluded that it was appropriate to use projected throughput in light of safeguards against over recovery implemented by Crossroads.[25] In the instant case, however, White Cliffs proposes no safeguards against the over-recovery that could result from using its projected volumes rather than the pipeline's total design capacity in calculating the uncommitted shipper rate.

32. White Cliffs attempts to justify its proposed uncommitted rate on the basis that the throughput billing determinants for uncommitted shippers will include the 4,000 barrels reserved to provide Committed Shippers some assurance with respect to prorationing. White Cliffs also argues that its proposed pipeline involves considerable financial risk. The Commission finds no basis for deviating from its general policy requiring the use of design capacity to calculate White Cliffs' rates. Accordingly, the Commission will require White Cliffs to use the 29,700 bpd design capacity in designing its rates. This design capacity throughput volume and White Cliffs' total proposed cost of service of $47,953,000 would yield a rate of $4.42 per barrel,[26] which is considerably lower than the $6.81 per barrel calculated under White Cliffs' proposed method.[27] Absent some

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[23] *See, e.g*., *Enbridge Pipelines (Southern Lights) LLC*, 122 FERC ¶ 61,170, at P 10 (2008).

[24] 73 FERC ¶ 61,138 (1995).

[25] Crossroads agreed to file a major section 4 rate proceeding if its annual firm demand level exceeded its rate design level. *Id.* at 61,396.

[26] $47,953,000 / (29,700 bpd x 365 days per year) = $4.42 per barrel.

[27] Although a maximum rate applicable to uncommitted shipper volumes cannot be calculated until construction is complete and final system costs have been determined, the pro forma cost of service based on current estimated costs indicates a maximum uncommitted shipper rate of $6.81 per barrel. While White Cliffs intends to maintain an

effective safeguard against over-recovery such as that proposed in *Crossroads*, the Commission will not depart from its general policy. White Cliffs did not propose any such safeguard.

### C. <u>Nominal Equity Return</u>

33. White Cliffs states that it calculated the ROE in accordance with the Commission's standard DCF methodology applied to six oil pipeline proxy companies. White Cliffs employed these proxy companies in determining its capital structure and consistent with its assessment of the relative risk of its proposed pipeline.

34. In Opinion No. 154-B, the Commission stated that "the equity rate of return should be determined on a case-specific basis with reference to the risks and corresponding cost of capital associated with the oil pipeline whose rates are in issue."[28] White Cliffs argues that the risks of its proposed pipeline warrant a nominal 14-percent ROE when compared to recent Commission decisions relating to greenfield pipelines and other proposed pipelines that depended on a single source of supply.[29] Based on the risk study provided by White Cliffs, the Commission finds that the requested ROE is at the high end of the range, while the midpoint of the study's range is 12.9 percent.[30]

35. The Commission finds that a number of cases discuss factors that might appear to support White Cliffs' request for an ROE at the upper end of the zone of reasonableness.[31] Nevertheless, the Commission is not persuaded by the information

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uncommitted volume rate above the $5.20 per-barrel rate applicable to committed shipper volumes, the precise rate that will apply to uncommitted shipper volumes has not yet been determined. Petition for Declaratory Order of White Cliffs Pipeline, L.L.C., February 13, 2008, Appendix D (Affidavit of Erik G. Wetmore on Behalf of White Cliffs Pipeline, L.L.C.).

[28] *Williams Pipe Line Co.*, 31 FERC ¶ 61,377, at 61,836 (1985).

[29] *Citing Northern Natural Gas Co., WTG Hugoton, LP*, 119 FERC ¶ 61,035, at P 36 (2007) ("[T]he Commission has traditionally provided returns of 14 percent to new greenfield pipeline projects. . . ."); *Chenier Creole Trail Pipeline*, 111 FERC ¶ 61,081, at P 33) (2005) (approving 14-percent equity return for a new pipeline dependent on a single supply source).

[30] Petition for Declaratory Order of White Cliffs Pipeline, L.L.C., February 13, 2008, Appendix F (Affidavit of Charles E. Olson on Behalf of White Cliffs Pipeline, L.L.C.).

[31] *Colonial Pipeline Co.*, 116 FERC ¶ 61,078, at P 59 (2006); *Enbridge Energy (Southern Lights) LLC*, 121 FERC ¶ 61,310, at P 18 (2007).

available at this juncture that White Cliffs has provided adequate support for the requested 14-percent ROE. Accordingly, as it did in *Colonial* and *Enbridge Southern Lights*, the Commission declines to approve a specific ROE in this declaratory order. Rather, White Cliffs must propose and fully support the ROE it believes is necessary when it files to implement its actual rates.

**D. Depreciation**

36. The remaining life of White Cliffs' proposed pipeline depends largely on the available crude oil reserves of the D-J Basin and the Wattenberg Field. White Cliffs would be a newly-constructed pipeline and would have no accumulated reserve for depreciation. Therefore, the proposed composite depreciation rate of 3.93 percent indicates an estimated remaining life of White Cliffs' pipeline system assets of approximately 25.5 years. As White Cliffs points out, there are significant oil reserves in the 700,000 acres of the Wattenberg Field. Forecasting beyond 25 years would be speculative at this time, and accordingly, the 25.5-year estimated remaining life of supply is a reasonable estimate for the Wattenberg Field and White Cliffs' pipeline system assets.

The Commission orders:

White Cliffs' petition for a declaratory order is granted to the extent described in the body of this order and based on the representations in its petition and answer.

By the Commission. Commissioner Kelliher is not participating.

( S E A L )

Nathaniel J. Davis, Sr.,
Deputy Secretary.