

128 FERC ¶ 61,098  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

West Texas LPG Pipeline Limited Partnership

Docket No. IS09-410-000

ORDER ACCEPTING TARIFF SHEET

(Issued July 29, 2009)

1. On June 29, 2009, West Texas LPG Pipeline Limited Partnership (WTP) filed Supplement No. 1 to FERC Tariff No. 52 to be effective July 1, 2009. WTP states that Table 1A of Supplement No. 1 to FERC Tariff No. 52 cancels Table 1 of FERC Tariff No. 52 and thereby cancels the Denton, New Mexico plant listed in Table 1 as a transportation origin point. WTP explains that it filed FERC Tariff No. 52 on May 29, 2009, with a proposed effective date of July 1, 2009, to increase its rates under the Commission's indexing regulations. According to WTP, at the time it filed FERC Tariff No. 52, it did not anticipate that the Denton Plant origin point would be cancelled effective June 18, 2009, by its filing on June 18, 2009, of Supplement No. 1 to FERC Tariff No. 49 (Docket No. IS09-401-000).<sup>1</sup> Therefore, in the instant filing, WTP seeks to cancel the Denton Plant origin point, which is no longer applicable, and to remove the reference to it in FERC Tariff No. 52. WTP requests a waiver under section 6(3) of the Interstate Commerce Act (ICA) to allow the filing to become effective on one day's notice so that shippers will have notice of the change.

2. As discussed below, the Commission accepts Supplement No. 1 to FERC Tariff No. 52 effective July 1, 2009.

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<sup>1</sup> *West Texas LPG Pipeline Limited Partnership*, 128 FERC ¶ 61,066 (2009), which accepted WTP's Supplement No. 1 to FERC Tariff No. 49, effective June 18, 2009, thus cancelling the Denton Plant origin point.

**Motion to Intervene and Protest**

3. Davis Gas Processing, Inc. (Davis) and WTG Gas Marketing, Inc. (WTG) filed a timely motion to intervene and a protest.<sup>2</sup> Davis and WTG state that Davis owns and operates the Denton Plant. They further state that WTG is a marketer engaged in the purchase and sale of natural gas and that it recently arranged for the purchase and sale of natural gas liquids (NGLs) from the Denton Plant. Davis and WTG state that WTG has requested transportation service on the WTP system to complete this transaction.

4. Davis and WTG contend that elimination of the Denton Plant origin point also will have a material adverse effect on other shippers, producers, and marketers. They assert that the immediate cancellation of service from this point is unsupported and improper and that Supplement No. 1 to FERC Tariff No. 52 is unjust and unreasonable. They ask the Commission to reject the tariff sheet.

5. Davis and WTG cite WTP's response to their protest in Docket No. IS09-401-000. They challenge WTP's statement that, while the line has been repaired, it would be too costly to inspect and test the line prior to restoring service on that line. They also dispute WTP's statements concerning the lack of requests for service from the Denton Plant origin point, whether the plant has been in service since December 2007, and whether it delivered "off-spec" product. Davis and WTG insist that currently there are shippers willing to pay published tariff rates. Davis and WTG also maintain that WTP has not satisfied the burden of proving that the proposed change is reasonable and in the public interest.

6. Davis and WTG acknowledge that the Commission lacks jurisdiction over oil pipeline abandonments, but they argue that there is no justification for WTP to seek to impose on its shippers the costs of testing, inspection, and repair of the line. Davis and WTG maintain that cancellation of this origin point appears to be a pretext for charging rates in excess of the existing tariff rates. If the Commission does not reject the tariff sheet, Davis and WTG ask the Commission to suspend the tariff sheet for the full seven-month statutory period and to establish hearing procedures.

**WTP's Response**

7. WTP filed a timely response to the protest as permitted by section 343.3(b) of the Commission's Rules and Regulations.<sup>3</sup> WTP emphasizes that the Commission lacks ICA

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<sup>2</sup> Protesters raise the same objections to cancellation of the Denton Plant origin point that they raised in protest to WTP's filing in Docket No. IS09-401-000.

<sup>3</sup> 18 C.F.R. § 343.3(b) (2008).

jurisdiction over an oil pipeline's complete abandonment of service and cites the Commission's July 17, 2009 order in Docket No. IS09-401-000,<sup>4</sup> which states that the Commission does not have jurisdiction over the cancellation of service on the Tatum Lateral – the same lateral at issue in this proceeding. WTP emphasizes that nothing has changed in the few days since the Commission issued that order and that the same outcome is required in this proceeding because the tariff filings in both proceeding accomplish the same effect.

### **Commission Analysis**

8. The Commission rejects the protest of Davis and WTG in this proceeding. The arguments they raise here amount to a restatement of those they raised in Docket No. IS09-401-000.<sup>5</sup> As the Commission emphasized in its July 17, 2009 Order in Docket No. IS09-401-000, which accepted WTP's Supplement No. 1 to FERC Tariff No. 49, the Commission lacks ICA jurisdiction over complete abandonments of service, as all parties to this proceeding acknowledge. The Commission further stated that the cancellation of service at the Denton Plant results in a discontinuance of transportation service over the Tatum Lateral. As such, the instant filing and the filing in Docket No. IS09-401-000 constitute the complete abandonment of service on the Tatum Lateral, over which the Commission lacks jurisdiction. In the July 17, 2009 Order in Docket No. IS09-401-000, the Commission cited its recent decision in *Rocky Mountain Pipeline System LLC (Rocky Mountain)*,<sup>6</sup> where the Commission discussed at length the ample precedent that confirms its lack of jurisdiction over complete abandonments of service.<sup>7</sup> In the *Rocky Mountain* order, the Commission clearly stated that, in light of its lack of jurisdiction over abandonments, it was unnecessary for it to address other issues presented by the protesting parties.<sup>8</sup> Davis and WTG again ignore this extensive line of precedent and argue that WTP has not justified the cancellation of the Denton Plant origin point. In fact, WTP is not obligated to justify this abandonment, and as in *Rocky Mountain*, the Commission will not address the allegations of Davis and WTG.

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<sup>4</sup> *West Texas LPG Pipeline Limited Partnership*, 128 FERC ¶ 61,066 (2009) (July 17, 2009 Order).

<sup>5</sup> *See West Texas LPG Pipeline Limited Partnership*, 128 FERC ¶ 61,066 (2009).

<sup>6</sup> 126 FERC ¶ 61,301 (2009).

<sup>7</sup> *Id.* P 9-20.

<sup>8</sup> *Id.* P 9.

The Commission orders:

(A) WTP's Supplement No. 1 to FERC Tariff No. 52 is accepted effective July 1, 2009.

(B) In accordance with section 341.14 of the Commission's regulations,<sup>9</sup> waiver of ICA section 6(3) is granted to allow the tariff to become effective on less than 30 days notice.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>9</sup> 18 C.F.R. § 341.14 (2008).