130 FERC ¶ 61,141
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 25, 2010

In Reply Refer To:
Black Marlin Pipeline Company
Docket No. RP10-312-000

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

Attention: Larry Jensen
Regulatory Affairs Manager

Reference: Petition for Extension of Temporary Exemptions from Tariff Provisions

Dear Mr. Jensen:

1. On January 15, 2010, Black Marlin Pipeline Company (Black Marlin) filed a "Petition for Extension of Temporary Exemptions from Tariff Provisions" seeking an extension of 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 (2008 Exemptions),[1] and extended by the Commission in Docket No. RP09-234-000, effective March 1, 2009 (2009 Exemptions).[2] 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, 2010, and continue for a period of one year.

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

[2] *Black Marlin Pipeline Co.*, 126 FERC ¶ 61,187 (2009).

2. Black Marlin's specific exemption requests fall within three categories. First, Black Marlin requests exemptions to suspend the nomination/scheduling process and how receipts/deliveries are determined so that only actual quantities received and delivered are recognized and invoiced. Accordingly, Black 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 for the same reasons expressed in the preceding set of requested exemptions. 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. In its transmittal, Black Marlin recaps the circumstances leading to it request for the 2008 and 2009 Exemptions. Black Marlin explains that, prior to its request for those exemptions, it had been experiencing ongoing operational stress for several years brought about by a declining customer base, a commensurate decline in transportation volumes and the termination of production activity in certain production blocks attached to its system. Black Marlin states that at the time of its initial request for exemptions it had only one shipper on its system who was flowing approximately 2,000 dekatherms per day. Black Marlin states that the exemptions were necessary to allow Black Marlin to recognize actual gas deliveries rather than scheduled deliveries for monthly transportation activity to eliminate 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 would not accept deliveries otherwise.

4. Black Marlin also explains that, as a result of the low level of production that was coming into the pipeline, sufficient internal pressure could not be generated within the pipe to push gas through the delivery meter on a continuous basis and make a reliable measurement of deliveries. As such, Black Marlin states it could not physically deliver gas on a continuous, daily basis under its current operating conditions and the only way by which it could affect deliveries was to utilize the "batch" process. Under the batch process, internal pressure within the pipe was allowed to build up over a three to four day period to affect a one-day delivery with acceptable measurement accuracy at the delivery point.

5. Black Marlin explains that it continues to experience operational stress due to severely declining volumes. Black Marlin states that it has continued to see a decline in production from its sole shipper, Kinder Morgan, and that average daily deliveries were less than 1,040 dekatherms per day. Black Marlin states that it continues to grapple with

the same operational issues giving rise to the original request for exemptions in its 2008 petition.

6. Black Marlin states that if the Commission grants its requested exemptions, all its stakeholders will benefit from its continued operations, and no shipper or stakeholder should be harmed in any manner by the granting of these exemptions.

7. Public notice of Black Marlin's filing was issued on January 19, 2010. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2009). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2009), all timely filed motions to intervene and any motions 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 this proceeding or place additional burdens on existing parties. No party filed a protest or adverse comments.

8. 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, 2010, 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.

Kimberly D. Bose,
Secretary.

cc: All Parties

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