

132 FERC ¶ 61,247
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

In Reply Refer To:
Conectiv Energy Supply, Inc.
Docket No. RP10-1090-000

September 20, 2010

Pepco Energy Services, Inc.
1300 North 17th Street
Arlington, VA 22209

Attention: Peter E. Meier, Senior V.P. and General Counsel

Reference: Request for Limited Waiver, Request for Expedited Action, and Request
for Shortened Notice Period

Dear Mr. Meier:

1. On August 19, 2010, Conectiv Energy Supply, Inc. (CESI) filed a request for a temporary waiver of capacity release and related Commission policies for the limited purpose of facilitating the assignment and permanent release of one Natural Gas Act (NGA) transportation agreement as part of CESI's comprehensive and orderly exit from the power and natural gas business. CESI requests the waivers to be effective from the transaction's closing, which is expected to be on or around October 1, 2010, and for 90 days thereafter. For the reasons discussed below, and for good cause shown, the Commission grants the requested temporary, limited waiver.

2. CESI states that its parent company, Pepco Holdings, Inc., plans to dispose of CESI's entire portfolio of assets and discontinue the business of CESI in an orderly fashion by the end of 2010.¹ CESI states that its only remaining firm interstate natural gas transportation contract is the Columbia Agreement, a single, maximum rate long-term firm natural gas transportation agreement on the system of Columbia Gas Transmission,

¹ As part of this process, CESI has already sought and received authorization to sell the bulk of its other Commission-jurisdictional assets to Calpine Corporation. *See New Development Holdings, LLC, et al.*, 131 FERC ¶ 62,266 (2010); *Calpine Energy Services, L.P., et al.*, 131 FERC ¶ 61,261 (2010).

LLC (Columbia) for 6,000 Dekatherm per day. CESI currently uses the Columbia Agreement to provide natural gas under a Tolling Agreement with Pedricktown Cogeneration, LP (Pedricktown), a natural gas electric generation plant. Under the Tolling Agreement, CESI supplies and delivers natural gas from the Columbia system to a power generating plant owned by Pedricktown. Pedricktown converts the natural gas to electric power, and CESI has title to the resulting electricity, which it markets.

3. CESI proposes to assign and permanently release the Columbia Agreement to whichever entity ultimately acquires CESI's entire interest in the Tolling Agreement. CESI argues that the two agreements should be tied because the Columbia Agreement is the only means by which CESI can deliver natural gas to Pedricktown on a firm basis. CESI states that it has not yet identified the counterparty for the transaction assigning both agreements but is seeking Commission approval in advance so that CESI can close the transaction in a timely and orderly manner. CESI states that it expects to have identified the counterparty and closed the purchase and sale agreement by or around October 1, 2010, as part of CESI's overall goal of discontinuing all of its operations by December 31, 2010. CESI commits to informing the Commission when it identifies the counterparty and effectuates the permanent capacity release.

4. CESI notes that the transfer of the Tolling Agreement and the Columbia Agreement to the same ultimate counterparty as part of a single, integrated transaction may be viewed as contrary to the Commission's prohibition against tying the release of interstate pipeline or storage capacity to an extraneous condition. Accordingly, CESI requests the Commission to grant a temporary waiver of its general policy prohibiting such tying until 90 days after closing of the Transaction. The limited waiver being sought will only be used for the purpose of consummating the Transaction. CESI states that, because the Columbia Agreement is a maximum rate agreement that can be permanently released on a prearranged basis without posting and bidding, CESI is able to limit the waiver requested accordingly. CESI argues that no party is disadvantaged by CESI's advance waiver request, because the chosen successor shipper will in any event be required to meet the credit requirements for the Columbia system.

5. Public notice of CESI's filing was issued on August 23, 2010. CESI requested a shortened notice period and expedited action. Accordingly, interventions and protests were due August 26, 2010. No protests were filed. Pursuant to Rule 214,² all timely 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.

² 18 C.F.R. § 385.214 (2010).

6. The Commission has reviewed CESI's request for waiver and finds that the request is adequately supported. Granting waiver here is consistent with previous Commission decisions that granted waivers of various policies and regulations in order to facilitate the transfer of interstate pipeline transportation capacity as part of a larger transaction in which other assets are being transferred as a result of various types of corporate restructurings, including corporate mergers and sales of entire business units.³ Accordingly, for good cause shown the Commission will grant the requested waiver of the prohibition on tying arrangements for the specific transaction described in CESI's filing. CESI shall provide notice to the Commission in this docket when it identifies the counterparty, sets the closing date, and effectuates the permanent capacity release.

The Commission orders:

(A) The temporary, limited waiver requested by CESI is granted until 90 days following the closing of the transaction, as discussed more fully above.

(B) CESI shall provide notice to the Commission in this docket of the chosen counterparty and the closing date of the transaction.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

³ *E.g., Macquarie Cook Energy, LLC and Constellation Energy Commodities Group, Inc.*, 126 FERC ¶ 61,160 (2009); *Bear Energy LP*, 123 FERC ¶ 61,219 (2008); *Sempra Energy Trading Corp.*, 121 FERC ¶ 61,005 (2007).