

132 FERC ¶ 61,259
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 23, 2010

In Reply Refer To:
Bear Paw Energy, LLC
Docket No. OR10-17-000

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Attention: Joseph W. Miller, ONEOK Partners
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Reference: Granting of Temporary Waivers of Sections 6 and 20
of the Interstate Commerce Act

Ladies and Gentlemen:

1. On July 12, 2010, Bear Paw Energy, LLC (Bear Paw) filed a request for temporary waiver of the filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act (ICA)¹ and Parts 341 and 357 of the Commission's regulations with respect to an existing natural gas liquids (NGL) pipeline² and a planned NGL

¹ Specifically, 49 U.S.C. app. § 6 requires interstate oil pipelines to file all their rates, fares, and charges for transportation on their systems, and also file copies of contracts with other common carriers for any such traffic; and 49 U.S.C. app. § 20 authorizes the Commission to require annual or special reports from carriers subject to the ICA.

² Bear Paw's existing pipeline is a 4.5-inch diameter NGL line which transports propane and butane from its Grasslands Plant in McKenzie County, North Dakota to its Riverview Rail Terminal in Richland County, Montana.

pipeline.³ The Commission grants Bear Paw's request for a temporary waiver, as more fully discussed below.

2. Bear Paw states the physical characteristics of the existing NGL line and the proposed line are such that each warrants a waiver of the reporting requirements of Parts 341 and 357 of the Commission's regulations. The existing line has no pumping stations and obtains its pressure from injections at the Grasslands Plant. Bear Paw explains that the only receipt point for the existing line is at the Grasslands Plant and the only delivery point is at the Riverview Rail Terminal. Bear Paw further explains that the existing line does not connect to any other facilities such as pipelines, gathering systems, or gas processing plants. Bear Paw operates the pipeline as an integrated part of its Grasslands Plant and has not received any requests to provide transportation over the line, nor held itself out to provide such transportation. Bear Paw states that it fractionates and owns all of the products that the line transports.

3. Bear Paw states that it intends to build a second gas processing plant besides the Grasslands Plant named the Garden Creek Plant. Bear Paw will also build an NGL line connecting the Garden Creek Plant with the Riverview Rail Terminal. Bear Paw will operate the new NGL line in a similar fashion as the existing line. Bear Paw's new NGL line will not interconnect with other pipelines and construction of the line will not enable Bear Paw to provide service to another party on the new or existing line.

4. The Commission previously granted temporary requests for waiver of the filing and reporting requirements of sections 6 and 20 of the ICA.⁴ The Commission granted these waivers based on the fact that: (1) the pipelines (or their affiliates) own 100 percent of the throughput on the line; (2) there is no demonstrated third-party interest in gaining access to or shipping upon the line; (3) no such interest is likely to materialize; and, (4) there is no opposition to granting the waivers. In these cases, the Commission determined there were no active third-party shipper interests to protect under the ICA, and therefore, temporary waivers of the section 6 and 20 filing and reporting requirements were warranted. However, the Commission granted the waivers, subject to

³ Bear Paw's planned pipeline will transport "Y grade" NGLs, which are not fractionated into discrete products. The line will connect the Riverview Rail Terminal with a new facility northeast of Watford City, North Dakota. Bear Paw projects completing the project by the end of 2011.

⁴ *Sinclair Oil Corp.*, 4 FERC ¶ 62,026 (1978) (*Sinclair*); *Hunt Refining Co. and East Mississippi Pipeline Co.*, 70 FERC ¶ 61,035 (1995) (*Hunt*); *Ciniza Pipe Line Inc.*, 73 FERC ¶ 61,377 (1995) (*Ciniza*); *Enbridge Pipelines (NE Texas Liquids) L.P.*, 110 FERC ¶ 61,159 (2005) (*Enbridge*); and *Jayhawk Pipeline, L.L.C.*, 128 FERC ¶ 61,079 (2009) (*Jayhawk*).

revocation should circumstances change, and required the pipelines to keep their books and records in a manner consistent with the Commission's Uniform System of Accounts.

5. Bear Paw's request is similar to previous requests granted by the Commission.⁵ Bear Paw's two pipelines do not and will not interconnect with any other pipeline or refinery. All of the NGLs Bear Paw will transport are owned by Bear Paw and no third party has requested service or is likely to request service on either the existing line or the planned line. Finally, there is no opposition to the waiver request.

6. The Commission concludes that, given the physical characteristics of the facilities and the limited nature of the movement of the pipeline operations, Bear Paw meets all of the criteria necessary to qualify for a temporary waiver consistent with the Commission's rulings in *Sinclair*, *Hunt*, *Ciniza*, *Enbridge*, and *Jayhawk*.

7. Accordingly, the Commission grants Bear Paw a temporary waiver of the filing and reporting requirements of ICA sections 6 and 20 relating to its existing and proposed NGL lines as described above. Because these waivers are temporary, the Commission also directs Bear Paw to immediately report to the Commission any change in the circumstances on which these waivers are based. Specifically, Bear Paw must report any changes including, but not limited to: (1) increased accessibility of other pipelines or refiners to its facilities; (2) changes in the ownership of the facilities; (3) changes in the ownership of the crude oil shipped; and, (4) shipment tenders or requests for service by any person. In addition, Bear Paw must maintain all books and records in a manner consistent with the Uniform System of Accounts for Oil Pipelines, 18 C.F.R. Part 352, and make such books and records available to the Commission or its duly authorized agents upon request.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁵ Waiver of the filing requirements pursuant to sections 6 and 20 of the ICA also includes waiver of Parts 341 and 357 of the Commission regulations, which implement the filing requirements of sections 6 and 20 of the ICA.