

142 FERC ¶ 61,234  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

March 28, 2013

In Reply Refer To:  
CF Industries Enterprises, Inc.  
CF Industries Nitrogen, LLC  
Docket No. RP13-668-000

CF Industries  
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Suite 400  
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Attention: Michael P. McGrane, Associate General Counsel, CF Industries,  
William B. Conway, Jr. and Gerald L. Richman, Attorneys at Skadden,  
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Reference: Petition for Temporary Waiver of Capacity Release Regulations and  
Policies

Ladies and Gentlemen:

1. On March 1, 2013, CF Industries Enterprises, Inc. and CF Industries Nitrogen, LLC (Petitioners) filed a joint petition for temporary waiver of the Commission's capacity release regulations and policies. Petitioners also seek a temporary and limited waiver of certain gas tariff provisions of Northern Natural Gas Company (Northern Natural) to facilitate a capacity release transaction relating to an internal corporate reorganization. Petitioners request that such waivers remain in effect until the earlier of 60 days following the date of the Commission's order granting waivers, or the date the capacity release transaction is completed. Petitioners also request that the Commission act on this joint petition no later than March 31, 2013. For the reasons discussed below, the Commission grants Petitioners' requested temporary waivers.

2. The Petitioners state that CF Industries Holdings, Inc. (CF Industries), a global leader in fertilizer manufacturing and distribution, in 2010 acquired Terra Industries, Inc. (Terra Industries), another large fertilizer manufacturer. The Petitioners state that Terra Industries was the shipper under a firm natural gas transportation contract with Northern Natural. According to the Petitioners, Terra Industries used the contract to deliver gas to a fertilizer manufacturing facility owned by its indirect, wholly-owned subsidiary, Port Neal Corporation, near Sergeant Bluff, Iowa. The Northern Natural contract provides for the transportation of up to 39,000 Dth per day of natural gas for a term ending October 31, 2013 to the Port Neal facility.

3. The Petitioners state that in 2012, CF Industries began a corporate reorganization as part of integrating Terra Industries into its business. Specifically, according to the Petitioners, Terra Industries and two of its wholly-owned subsidiaries were merged together in a series of transactions and renamed CF Industries Enterprises, Inc. (CF Enterprises). Secondly, the Petitioners state that Port Neal Corporation was merged into a sister affiliate company, Terra Mississippi Nitrogen Inc., which was converted to a limited liability company and renamed CF Industries Nitrogen, LLC (CF Nitrogen).

4. The Petitioners state that CF Enterprises, as the successor to Terra Industries, has become the shipper under the Northern Natural contract by operation of law. The Petitioners submit the instant request in relation to CF Enterprises' proposed assignment of the Northern Natural contract to CF Nitrogen.

5. Specifically, Petitioners request a temporary waiver of the following: (1) the Commission's capacity release regulations set forth in 18 C.F.R. § 284.8 (2012), including the posting and bidding requirements and the prohibition against tying arrangements to the extent applicable; and (2) the provisions of section 47 of the General Terms and Conditions in Northern Natural's FERC Gas Tariff that implement the capacity release regulations and policies. The Petitioners state that Northern Natural supports the requested waivers.

6. Public notice of the joint petition was issued on March 4, 2013. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2012)). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2012), all timely motions to intervene and any unopposed 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 protests or adverse comments were filed.

7. The Commission has reviewed Petitioners' request for temporary waivers and finds that the request is adequately supported and consistent with previous waivers that

the Commission has granted to permit the release of capacity under similar circumstances.<sup>1</sup> Moreover, the approval of the requested temporary waivers is consistent with our decisions in other proceedings where we granted waivers of various policies and regulations relating to the transfer of interstate pipeline transportation capacity to facilitate the transfer of natural gas supply and transportation contracts and other assets as a result of various types of corporate restructurings, including corporate mergers and sales of entire business units.<sup>2</sup>

8. Petitioners have also provided the information required for approval of such waivers: (1) identification of the regulations and policies for which waiver is sought; (2) identification of the pipeline service agreements and capacity to be transferred; and (3) description of the overall transaction and its claimed benefits, with sufficient detail to permit the Commission and other interested parties to determine whether granting the requested waivers is in the public interest.<sup>3</sup>

9. Accordingly, for good cause shown, the Commission grants a temporary, limited waiver of its capacity release regulations, including the prohibitions on buy/sell and tying arrangements, as well as the posting and bidding provisions. In addition, the Commission grants, to the extent necessary, a temporary and limited waiver of the above-referenced provisions of Northern Natural's tariff so as to facilitate the capacity release transaction.

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<sup>1</sup> *Big Sandy Pipeline, LLC*, 141 FERC ¶ 61,151 (2012); *Antero Resources Corp.*, 139 FERC ¶ 61,258 (2012); *Salmon Resources, LTD*, 138 FERC ¶ 61,059 (2012); *Big Sandy Pipeline, LLC*, 136 FERC ¶ 61,130 (2011), *BHP Billiton Petroleum (Fayetteville LLC)*, 135 FERC ¶ 61,088 (2011); *Wisconsin Electric Power Co.*, 131 FERC ¶ 61,104 (2010); *EnergyMark, LLC*, 130 FERC ¶ 61,059 (2010); *Total Gas & Power North America, Inc.*, 131 FERC ¶ 61,023 (2010); *Sequent Energy Mgmt., L.P., et al.*, 129 FERC ¶ 61,188 (2009); *North Baja Pipeline, LLC*, 128 FERC ¶ 61,082 (2009); *Macquarie Cook Energy, LLC*, 126 FERC ¶ 61,160 (2009); *Bear Energy LP*, 123 FERC ¶ 61,219 (2008).

<sup>2</sup> See, e.g., *Macquarie Cook Energy, LLC*, 126 FERC ¶ 61,160 (2009).

<sup>3</sup> *Request for Clarification of Policy Regarding Waivers of Applicable Requirements to Facilitate Integrated Transfers of Marketing Businesses*, 127 FERC ¶ 61,106, at P 10 (2009).

The Commission will allow the waivers to remain in effect until the earlier of 60 days following the date of this order, or the date the capacity release transaction is completed.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.