144 FERC ¶ 61,154
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 26, 2013

In Reply Refer To:
ProLiance Energy, LLC
Docket No. RP13-1042-001

Baker Botts L.L.P.
Attention: Gregory S. Wagner
1299 Pennsylvania Avenue, NW
Washington, DC 20004-2400

Dear Mr. Wagner:

1. On August 9, 2013, ProLiance Energy, LLC (ProLiance) filed a petition to amend the temporary waivers of the Commission's capacity release regulations and policies and the necessary pipeline tariff provisions granted by the Commission's July 30, 2013 order in Docket No. RP13-1042-000[1] to provide that the contracts included in the original petition in Docket No. RP13-1042-000 may be assigned, rather than transferred via a permanent release of the capacity associated with such contracts. ProLiance states that assignment would alleviate administrative difficulties that may be caused by use of the capacity release process. ProLiance requests that the Commission amend the temporary waivers to permit ProLiance to assign the contracts directly to its affiliates: either (i) Indiana Gas Company, Inc. (IGC) or (ii) The City of Indianapolis, by and through its Board of Directors for Utilities of the Department of Public Utilities, as Successor Trustee of a Public Charitable Trust (Citizens Gas) and (together with IGC, the "Utilities" and individually the "Utility").

2. The July 30 Order granted ProLiance's request for a temporary waiver of the following: (1) the Commission's capacity release rules set forth in section 284.8 of the Commission's regulations, including the posting and bidding requirements; (2) restrictions on capacity releases at negotiated rates currently in excess of the applicable pipeline's maximum rate, or which may become so in the future; (3) the

[1] *See ProLiance Energy*, *LLC*, 144 FERC ¶ 61,075 (2013) (July 30, Order).

Commission's shipper-must-have-title policy; (4) the prohibition against buy/sell arrangements; and (5) the prohibition against tying arrangements. The Commission found that the requested waivers were consistent with waivers granted by the Commission in the past "to facilitate other complex, integrated transactions where an entity exited the natural gas marketing business and the required transactions involved the transfer of contracts and other assets as the result of corporate restructuring, including mergers and sales of entire business units."[2]

3. ProLiance states that, although the July 30 Order granted ProLiance a waiver of all necessary regulations, policies and tariff provisions necessary to permit it to permanently release its capacity to the Utilities, Panhandle Eastern Pipe Line Company, LP (Panhandle) has informed ProLiance that these releases will create substantial administrative difficulties and that the temporary capacity release waivers will not permit the direct assignment of the contracts from ProLiance to the Utilities without further Commission authorization. ProLiance is a natural gas marketer serving customers throughout the Midwest, primarily in the States of Indiana, Ohio, and Illinois. ProLiance asserts that the requested amendments to the waivers are necessary to permit ProLiance to exit the natural gas marketing business in a prompt and orderly manner.

4. In its July 2, 2013 petition for temporary waiver of the Commission's capacity release regulations in Docket No. RP13-1042-000 (July 2 Petition), ProLiance listed, among other things, twelve transportation and storage contracts with Panhandle (Panhandle Contracts). ProLiance explained that it would transfer via a permanent release its jurisdictional natural gas transportation and storage capacity (Transferred Capacity), as applicable, to the Utilities. ProLiance states that the Panhandle Contracts are seasonal contracts that have maximum daily quantities (MDQs) that vary throughout the term of the contract and may have various rates associated therewith. ProLiance explains that, after the filing of the July 2 Petition, ProLiance and Panhandle engaged in discussions on how to effectuate the transfer via a permanent release of the Transferred Capacity upon the issuance of a Commission waiver. ProLiance asserts that Panhandle explained that, due to the operation of its Messenger system, a permanent release of a seasonal contract with multiple MDQs and varying rates would produce a separate contract for each distinct portion of the season, capacity and rate. ProLiance states, for instance, that the permanent release of the capacity under Panhandle Contract No. 15334 would produce 44 new contracts. ProLiance asserts that the magnitude of new contracts that would result from the permanent release of the Transferred Capacity underlying the twelve Panhandle Contracts would produce a costly and unnecessary administrative quagmire for all parties.

[2] July 30 Order, 144 FERC ¶ 61,075 at P 6.

5. To avoid this issue, ProLiance proposes to directly assign its transportation agreements to the respective Utility rather than transfer the Transferred Capacity via permanent release. ProLiance asserts that the July 2 Petition did not specifically request waiver of any applicable regulations or pipeline tariff provisions to enable ProLiance to assign its transportation agreements in such a manner. Accordingly, to permit ProLiance to exit the natural gas marketing business in a prompt and orderly manner, ProLiance requests that the temporary waivers granted in the July 30 Order be amended to expressly grant ProLiance the option to directly assign its transportation agreements addressed in the July 30 Order to the respective Utility.

6. For the reasons set forth in the July 2 Petition and the July 30 Order, ProLiance submits that granting an amendment to the waivers issued by the Commission in this proceeding is consistent with the public interest, as it will permit ProLiance to exit the natural gas marketing business in an orderly fashion. ProLiance asserts that extending the scope of the waivers to expressly cover the option to assign its transportation agreements will permit ProLiance to transfer those agreements directly to the applicable Utility as necessary to avoid unnecessary and costly administrative issues for all parties. Further, ProLiance has been authorized to state that neither the Utilities nor Panhandle object to ProLiance's request to include the assignment of the Panhandle Contracts within the scope of the waivers granted by the July 30 Order. ProLiance requests that the Commission take expedited action to issue an order granting the requested amendments on or before August 26, 2013, to allow for ProLiance's expeditious exit from the natural gas marketing business.

7. Public notice of the instant filing was issued on August 9, 2013, providing a comment date of August 16, 2013. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2013)), all timely filed 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 the proceeding or place additional burdens on existing parties. No protests or comments were filed.

8. In its petition for amendment of the temporary waivers granted in the July 30 Order, ProLiance has requested, and argued in support of, amending the temporary waivers of the Commission's capacity release rules and policies, as well as the necessary provisions of the affected pipelines' tariffs, to permit ProLiance to directly assign its contracts to the respective Utility rather than transfer the Transferred Capacity via permanent release so that it may exit the natural gas marketing business. In order to facilitate an orderly transition of the Transferred Capacity, the Commission finds good cause to grant the requested amendments of the temporary waivers of the Commission's capacity release rules and policies, as well as the necessary provisions of the affected pipelines' tariffs, to permit ProLiance to directly assign its contracts to the respective Utility rather than transfer the Transferred Capacity via permanent release. The temporary waiver amendments granted herein will expire on the same date that the

temporary waivers granted in the July 30 Order expire. As we noted in the July 30 Order, the waivers granted herein are similar to those the Commission has previously granted to facilitate other complex, integrated transactions where an entity exited the natural gas marketing business and the required transactions involved the transfer of contracts and other assets as the result of corporate restructuring, including mergers and sales of entire business units.[3] Accordingly, for good cause shown, and in the absence of any objection, the ProLiance petition is granted.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[3] *Id.*