

145 FERC ¶ 61,079
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

October 29, 2013

In Reply Refer To:
Rendezvous Gas Pipeline
Company, LLC
Docket No. RP13-150-000

Andrews Kurth LLP
1350 I Street, NW
Suite 1100
Washington, DC 20005

Attention: Kenneth L. Wiseman

Reference: Revised Market Power Analysis

Ladies and Gentlemen:

1. On October 10, 2012, Rendezvous Gas Pipeline Company, LLC (Rendezvous)¹ filed a notification of a change in its market power analysis due to a planned increase in its capacity and requests that the Commission renew its authorization to charge market-based rates for its transportation services. The Commission accepts Rendezvous' revised market power analysis and authorizes Rendezvous to continue to charge market-based rates for its transportation services.
2. The Commission order issuing Rendezvous' certificate authority² conditioned that certificate authorization³ on Rendezvous timely reporting to the Commission any changes

¹ Formerly Rendezvous Gas Services, L.L.C.

² *Rendezvous Gas Services, L.L.C.*, 112 FERC ¶ 61,141 (2005) (July 27, 2005 Order), *reh'g denied*, 113 FERC ¶ 61,169 (2005).

³ The July 27, 2005 Order authorized Rendezvous to construct and operate a 20.8-mile, 20-inch diameter pipeline to transport natural gas from the outlet of the

(continued...)

in status that would require a reexamination of its market power and its market-based rate authority, including: (1) Rendezvous increasing its capacity; (2) Rendezvous acquiring additional transportation facilities or additional capacity; (3) an affiliate providing transportation services in the same market area or acquiring another interest that can link facilities to the market area; or (4) Rendezvous or an affiliate acquiring an interest in or being acquired by an interstate pipeline. The Commission also required Rendezvous to file an updated market power analysis within five years of the date of the July 27, 2005 Order and every five years thereafter.

3. On July 16, 2010, Rendezvous filed its five-year updated market power analysis required by the July 27, 2005 Order. On October 29, 2010, the Commission issued an order⁴ accepting the five-year updated market power analysis and removing the five-year filing requirement, subject to Rendezvous notifying the Commission within ten days of acquiring knowledge of significant changes in its market power status.

4. Rendezvous states that, from August 31, 2012 through September 28, 2012, it held an open season to gauge market interest in additional transportation capacity on its system due to the installation of a 10-inch Ultrasonic meter at its interconnection with Kern River Gas Transmission Company (Kern River). After the conclusion of the open season, Rendezvous determined that interest in the project was sufficient for it to proceed with the project. Rendezvous asserts that the new meter will increase its capacity by approximately 150,000 dekatherms per day (Dth/day), from 300,000 Dth/day to 450,000 Dth/day.

5. Rendezvous argues that no significant changes will occur in its market power status as a result of adding the new meter and requests that the Commission renew its authorization to charge market-based rates for its transportation services. Rendezvous asserts that the market power analysis demonstrates that the increase in capacity will not change the Commission's earlier findings that Rendezvous does not possess market power.

6. Rendezvous states it is owned by QEP Field Services Company (QEP) and that, because Questar Corporation spun-off Rendezvous and another affiliate in 2010, Rendezvous' market shares and concentration are determined on a stand-alone basis.

Blacks Fork natural gas processing plant in Uinta County, Wyoming, to an interconnection with facilities of Kern River Gas Transmission Company in the Opal Hub area of Lincoln County, Wyoming, and to charge market-based rates.

⁴ 133 FERC ¶ 61,109 (2010) (October 29, 2010 Order).

Rendezvous used the same relevant geographic market⁵ for the market power analysis in the instant filing that it used in the 2005 and 2010 market power analyses. Rendezvous' updated market power analysis generates a market share of 6.9 percent and a Herfindahl-Hirschman Index (HHI) of 1,490 for the relevant origin market and a market share of 5.1 percent and an HHI of 1,422 for the relevant destination market. Rendezvous asserts that its market shares are small and that its HHI levels are well below the 1800 threshold that the Commission uses as an indicator of possible market concerns. Rendezvous states that its low market share and HHI levels in its origin and destination markets demonstrate that it lacks market power, even with the additional capacity created by the installation of the new meter.

7. Rendezvous asserts that other factors considered by the Commission in its July 27 Certificate Order to support its finding that Rendezvous lacks market power have not changed. Rendezvous notes that the July 27, 2005 Order found that there are low entry barriers for good alternatives to Rendezvous, stating that the cost of replication of Rendezvous is far less than the minimum investment allowed under a blanket certificate for interstate pipelines and that market entry to compete with Rendezvous might occur at even lower cost through expanded compression or added looping on competing interstate/intrastate pipelines.⁶ Rendezvous asserts those findings continue to be valid. It further points out that, since the July 27, 2005 Order issued, natural gas export capacity from the Rockies has nearly doubled, from 5,400,000 Dth/day in 2005 to 10,400,000 Dth/day in 2011.

8. Rendezvous states it faces ongoing competition. The pipeline contends it faces competition from local production. It also states it faces challenges from interstate and intrastate pipelines used in the market power analysis that are subject to cost-of-service regulation, which limits Rendezvous' ability to raise prices.⁷

9. Rendezvous asserts that its market share, origin and destination market HHI results and low barriers to entry for competing alternatives support a finding that it lacks market power.

10. Public notice of Rendezvous' filing was issued on October 11, 2012. Interventions and protests were due as provided in section 154.210 of the Commission's

⁵ Sublette, Sweetwater, Uinta and Lincoln counties in Southwest Wyoming.

⁶ July 27, 2005 Order, 112 FERC ¶ 61,141 at P 38.

⁷ Price regulation limits the ability of competing alternative pipelines to raise their prices, which in turn limits Rendezvous' ability to raise prices above competitive levels.

regulations (18 C.F.R. § 154.210 (2013)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2013)), 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 the proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

11. The Commission accepts Rendezvous' updated market power analysis and authorizes Rendezvous to continue market-based rates for its transportation services. Rendezvous is no longer affiliated with entities owning transportation facilities in the relevant geographic market. Further, Rendezvous' low market shares and market concentration levels demonstrate that it lacks market power. A low HHI (generally less than 1,800) indicates that sellers are less likely to be able to exert market power because customers have sufficiently diverse alternatives in the relevant market.⁸ While a low HHI suggests a lack of market power, a high HHI (generally greater than 1,800) requires closer scrutiny to make a determination about a seller's ability to exert market power.⁹ Rendezvous' HHI levels of market concentration are well below the 1,800 threshold level, which demonstrates that it will not be able to exercise market power in the relevant market area even after it adds the new meter which will increase its capacity by 150,000 Dth/day. Furthermore, Rendezvous' market share of 6.9 percent at the origin market and 5.1 percent at the destination market are small, which supports a finding that Rendezvous will lack market power. In addition, barriers to entry are likely to continue to be low in the relevant market. Finally, Rendezvous' proposal for market-based rates is unopposed. Rendezvous is directed to continue to notify the Commission within ten days of acquiring knowledge of significant changes occurring in its market power status.

12. Significant changes include, but are not limited to: (1) Rendezvous expanding its capacity beyond that authorized in this order; (2) Rendezvous acquiring additional transportation facilities or additional capacity; (3) an affiliate providing transportation services in the same market area; and (4) Rendezvous or an affiliate acquiring an interest in or being acquired by an interstate pipeline. The notification must include a detailed description of the new facilities and their relationship to Rendezvous. Failure to timely file a change in circumstance report or failure to comply with the reporting requirements would constitute a violation of the Commission's regulations.

⁸ See *Rate Regulation of Certain Natural Gas Storage Facilities*, Order No. 678, FERC Stats. & Regs. ¶ 31,220, at P 55 (2006) (noting that the Commission is not changing the 1,800 HHI threshold level).

⁹ See *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines*, 74 FERC ¶ 61,076, at 61,235 (1996).

13. The Commission continues to reserve the right to require Rendezvous to file a market power analysis at any time.¹⁰

14. Further, the Commission grants Rendezvous' requested waiver of 18 C.F.R. § 385.203(b)(3), to permit Rendezvous to designate more than two persons for service in this proceeding.

15. Finally, although the Commission waived certain cost related filing requirements in the July 27, 2005 Order,¹¹ those waivers do not extend to the Annual Charge Assessment (ACA).¹² Therefore, Rendezvous is required to file page 520 of Form No. 2A, reporting the gas volume information which is the basis for imposing an ACA charge.¹³

By direction of the Commission.

Kimberly D. Bose,
Secretary.

¹⁰ See *Liberty Gas Storage LLC*, 113 FERC ¶ 61,247, at P 51 (2005).

¹¹ See P 48.

¹² See *BGS Kimball Gas Storage, LLC*, 117 FERC ¶ 61,122, at P 49 (2006).

¹³ See *Chestnut Ridge Storage, LLC*, 128 FERC ¶ 61,210, at P 45 (2009); *Arlington*, 125 FERC ¶ 61,306 at P 71.