

145 FERC ¶ 61,177
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 26, 2013

In Reply Refer To:
PDC Energy, Inc.
Alliance Petroleum Corporation
Docket No. RP14-154-000

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Dear Mr. Krieger and Ms. Owen:

1. On November 5, 2013, PDC Energy, Inc. (PDC) and Alliance Petroleum Corporation (Alliance) (jointly, the Petitioners) filed a Joint Petition requesting temporary waivers of the Commission's capacity release regulations and certain other Commission policies for the limited purpose of facilitating a permanent prearranged capacity release as part of PDC's deal to sell its Pennsylvania and West Virginia production assets to Alliance. The Petitioners request that such waivers be effective immediately upon issuance of a Commission order, so that "the Parties' Transaction ... [may] close prior to the end of 2013."¹ For the reasons discussed below, and for good cause shown, the Commission grants the requested limited waivers.

¹ Request for waiver at 8.

2. The Petitioners state that on October 8, 2013, they entered into a Purchase and Sales Agreement under which Alliance acquired from PDC for approximately \$18.8 million substantially all of PDC's shallow natural gas production assets in 31 counties located in Pennsylvania and West Virginia. The Petitioners state that assets sold under the Purchase and Sales Agreement include the oil and gas leases described in the Purchase and Sale Agreement, approximately 3,500 shallow natural gas wells located on those lands, and all of the contracts to which PDC is a party relating to the subject assets. Relevant to the instant request for waiver, the referenced contracts include a negotiated rate agreement between PDC and Dominion Transmission, Inc. (Dominion) as part of Dominion's Appalachian Gateway Project.² The Petitioners state that they have been authorized by Dominion to state that Dominion supports, or does not oppose, this Joint Petition.

3. To facilitate the permanent prearranged release of capacity as part of the Purchase and Sales Agreement, the Petitioners request waivers of certain Commission regulations and policies as well as related tariff provisions and other waivers deemed necessary. Specifically, the Petitioners request waiver of: (1) the Commission's prohibition against tying arrangements; (2) the applicable maximum rate provisions set forth in sections 284.8(b)(2) and 284.8(h)(1)(iii) of the Commission's regulations; (3) the notification for bidding provisions set forth in section 284.8(d); (4) the bidding provisions set forth in section 284.8(e); (5) the posting and bidding provisions set forth in the General Terms and Conditions of Dominion's tariff; (6) the Commission's shipper-must-have-title policy; and (7) the Commission's prohibition against buy-sell arrangements.

4. The Petitioners argue that allowing the limited waivers requested herein is in the public interest. They argue that the waivers will facilitate the development of natural gas production areas in West Virginia and Pennsylvania by providing Alliance with the assurance and ability to produce and transport the natural gas production that is the subject of the transaction through Dominion's pipeline infrastructure to market. They argue that the transaction and waivers will also facilitate PDC's effort to redeploy capital obtained from the transaction into new production areas, furthering PDC's effort to identify and develop sources of natural gas throughout the United States, including emerging natural gas shale plays. The Petitioners claim that the limited waivers requested will allow the parties to finalize the transaction by confirming the economic underpinnings of the underlying transaction agreements, specifically Alliance's permanent assumption of Dominion's and PDC's negotiated rate, and Dominion's release of PDC's associated obligations to Dominion under the negotiated rate agreement. The Petitioners further argue that granting the requested waivers is in the public interest

² See generally *Dominion Transmission, Inc.*, 135 FERC ¶ 61,239 (2011).

because they will allow for the orderly transition of PDC's production assets located in West Virginia and Pennsylvania PDC to Alliance. They contend that granting the requested waivers would be consistent with waivers previously granted by the Commission under similar circumstances,³ as well as waivers granted to facilitate the permanent release of transportation capacity subject to negotiated rate agreements.⁴

5. The Petitioners request that the Commission act on the waiver requests by December 1, 2013 and that the waivers become effective upon the issuance of the order to allow them to close the transaction prior to end of 2013.

6. Public notice of the filing was issued on November 6, 2013. Interventions and protests were due on or before November 12, 2013, as provided by the notice. Pursuant to Rule 214, 18 C.F.R. § 385.214 (2013), 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 the Petitioners' request for waivers and finds that the request is adequately supported and consistent with previous waivers that the Commission has granted to permit the prearranged permanent release of capacity under similar circumstances.⁵ Accordingly, the Commission will grant temporary, limited waiver of its capacity release regulations, other policies as identified above, as well as the posting and bidding provisions set forth in Dominion's tariff for the limited purpose of facilitating a permanent prearranged capacity release as part of PDC's deal to sell its

³ The Petitioners state that this case "is like the situation in *Total* involving a sale of interests in production properties along with integrally related, firm, negotiated-rate pipeline capacity and the need to transfer that capacity to the purchaser of those properties, while rendering the pipeline – here [Dominion] – financially indifferent to the permanent release." Request for Waiver at n.12 (citing *Total Gas & Power North America, Inc., et al.*, 131 FERC ¶ 61,023 (2010) (*Total*)).

⁴ Request for Waiver at 6 (citing *Transcontinental Gas Pipe Line Corp.*, 126 FERC ¶ 61,086, at PP 7-8 (2009) (*Transco*)).

⁵ *E.g.*, *Transco*, 126 FERC ¶ 61,086; *Total*, 131 FERC ¶ 61,023.

production assets to Alliance. Granting these waivers will allow the Petitioners to execute their Purchase and Sales Agreement and transfer the assets in an orderly and efficient manner. It will also ensure uninterrupted access to natural gas in West Virginia and Pennsylvania. The Commission will allow the waivers to enter into effect on the date that this order issues, and remain in effect until December 31, 2013, as requested.

By direction of the Commission.

Kimberly D. Bose,
Secretary.