

145 FERC ¶ 61,187
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

December 2, 2013

In Reply Refer To:
Enable Bakken Crude Services, LLC
Docket No. OR14-3-000

Enable Bakken Crude Services, LLC
1111 Louisiana, Suite 1004
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Attention: William E. Wolf, Assistant General Counsel,
Pipelines and Regulatory Affairs

Reference: Waiver of 18 C.F.R. § 342.4(c)

Ladies and Gentlemen:

1. On October 9, 2013, Enable Bakken Crude Services, LLC (Enable Bakken) filed a request for waiver of the requirement in 18 C.F.R. § 342.4(c) (2013)¹ that it submit a verified statement in support of future changes to its committed rates. Enable Bakken submits that good cause exists to grant the waiver because its committed shippers have already agreed contractually to permit Enable Bakken to adjust its committed rates and the Commission previously granted such a waiver under similar circumstances. As discussed below, the Commission grants the waiver requested by Enable Bakken.

¹ Section 342.4(c) states:

A carrier may change a rate without regard to the ceiling level under § 342.3 if the proposed change has been agreed to, in writing, by each person who, on the day of the filing of the proposed rate change, is using the service covered by the rate. A filing pursuant to this section must contain a verified statement by the carrier that the proposed rate change has been agreed to by all current shippers.

2. On October 9, 2013, Enable Bakken filed FERC Tariff No. 1.0.0 to establish initial committed rate for deliveries to Great Northern Gathering and Marketing, LLC's Watford Terminal located in McKenzie County, North Dakota. On August 14, 2013, the Commission issued a Declaratory Order approving the proposed committed rate structure and the principles for calculating the uncommitted rates, but stating that Enable Bakken must still file for waiver of the verified statement requirement when it files the initial tariff.²

3. The committed rate includes a fixed component and a variable component. The fixed component represents the committed shippers' long-term financial support for the capital costs of the pipeline project. Enable Bakken will adjust the fixed component to reflect the project's actual capital costs using the contractual capital variance capital cost adjustment mechanism. The fixed component would then remain fixed over the term of the transportation Service Agreement (TSA). The variable component, which reflects the non-capital costs of the pipeline, changes each year and contains a true-up mechanism. The Commission permitted Enable Bakken to adjust its committed rates under the TSA's contractual terms and conditions applicable to the fixed and variable components.

4. Enable Bakken accordingly now requests waiver of the requirement to submit a verified statement in accordance with 18 C.F.R. § 342.4(c) in support of future committed rate changes, because all of the shippers subject to committed rate changes have already agreed to such changes in writing by executing TSAs.

5. Enable Bakken submits that the Commission has granted such a waiver in similar circumstances where the pipeline proposed to change its committed rates according to contractual principles.³

6. Public notice of the Enable Bakken's filing issued on October 17, 2013, providing for comments on or before October 25, 2013. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), all timely-filed motions to intervene and any unopposed motion 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 motions to intervene or comments were filed.

² *CenterPoint Energy Bakken Crude Services, LLC*, 144 FERC ¶ 61,130, at PP 18-19 (2013) (Declaratory Order).

³ *TransCanada Keystone Pipeline, LP*, 135 FERC ¶ 61,259, at P 8 (2011) (*TransCanada*).

7. For good cause shown the Commission will grant Enable Bakken's requested waiver. Since the Commission already approved the committed rate methodology in the Declaratory Order, we shall not require Enable Bakken to file a verified statement under section 342.4(c) each time it adjusts its committed shipper rates pursuant to the TSAs. Consistent with the waiver granted in *TransCanada* and, as required in *TransCanada*, we direct Enable Bakken to provide an explanation of any changes to the committed rates at the time it submits such changes and include a reference to this order granting the waiver request.

By the direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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