

146 FERC ¶ 61,035  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

January 22, 2014

In Reply Refer To:  
MarkWest Pipeline Company, L.L.C.  
Docket No. OR14-10-000

John & Hengerer  
1730 Rhode Island Avenue, NW  
Suite 600  
Washington, DC 20036

Attention: Gordon J. Smith, Esq.

Dear Mr. Smith:

1. On November 29, 2013, MarkWest Pipeline Company, L.L.C. (MarkWest) filed a request for temporary waiver of the filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act (ICA) and the Commission's implementing regulations with respect to its natural gas liquids (NGL) pipeline.<sup>1</sup>
2. MarkWest states that it is a wholly-owned subsidiary of MarkWest Energy Partners, L.P. and that its affiliate, MarkWest Energy East Texas Gas Company, L.L.C. (MarkWest East Texas), which also is a wholly-owned subsidiary of MarkWest Energy Partners, L.P., is a midstream services provider that processes natural gas and produces NGLs. MarkWest explains that MarkWest East Texas owns and operates three natural gas processing facilities with an aggregate production capacity of tens of thousands of barrels of NGLs per day, along with hundreds of miles of natural gas gathering pipelines

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<sup>1</sup> See 49 U.S.C. App. §§ 6, 20 (1988). Section 6 requires interstate oil pipelines to file all rates, fares, and charges for transportation on their systems, as well as to file copies of contracts with other common carriers for any such traffic. Section 20 authorizes the Commission to require annual or special reports from carriers subject to the ICA. See also 18 C.F.R. Parts 341, 357 (2013) implementing the filing and reporting requirements of ICA sections 6 and 20.

and appurtenant facilities. MarkWest states that its pipeline moves NGLs from its affiliate's plants in east Texas to an interconnection with West Texas LPG Pipeline Limited Partnership (WTLPG)<sup>2</sup> for further movement in both interstate and intrastate commerce.

3. MarkWest explains that its NGL pipeline consists of approximately 49 miles of six-inch diameter pipeline, which originates east of Carthage Texas, at MarkWest East Texas' Carthage East processing plant. According to MarkWest, the pipeline then runs roughly west for 12 miles, to an interconnection with MarkWest East Texas' Carthage No. 1 and No. 2 processing plants, and then continues west for another 37 miles through Rusk County to its terminus at WTLPG's mainline system in Cherokee County, Texas. MarkWest emphasizes that there are no intermediate pipeline or wellhead interconnects anywhere on its NGL pipeline.<sup>3</sup>

4. Additionally, MarkWest states that the 37-mile western portion of its NGL pipeline was constructed in 2006 to provide an outlet to the WTLPG pipeline system for NGLs produced at MarkWest East Texas' Carthage processing plants, and for further transportation in intrastate commerce to various fractionation facilities located in the Mont Belvieu area. MarkWest states that, until recently, MarkWest East Texas' NGLs have flowed under WTLPG's intrastate tariffs on file with the Railroad Commission of Texas.<sup>4</sup>

5. Further, states MarkWest, on October 31, 2014, WTLPG filed in Docket No. IS14-26-000 to implement a tariff establishing a number of new interstate movements from various New Mexico and Texas origins to the newly-constructed interconnection with the Cajun-Sibon Pipeline in Texas. MarkWest explains that, as an alternative to the fractionation facilities in Mont Belvieu, the Cajun-Sibon Pipeline has the capability of transporting NGLs to various fractionation facilities located in Eunice and Geismar, Louisiana. MarkWest Pipeline maintains that it does not provide third-party transportation service on the NGL line. Rather, it states, the line is, and always has

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<sup>2</sup> MarkWest states that WTLPG, which is a system that extends west into New Mexico, has a number of intrastate and interstate tariffs on file with both the Railroad Commission of Texas and this Commission.

<sup>3</sup> MarkWest states that, near its origin at the Carthage East Plant, its NGL pipeline has access to Panola Pipeline Company, LLC's system, an intrastate liquids pipeline regulated by the Texas Railroad Commission.

<sup>4</sup> West Texas LPG Pipeline Limited Partnership R.R.C. No. 94.

been, used exclusively to transport NGLs owned by its affiliate MarkWest East Texas. MarkWest anticipates that some of the NGL volumes originating at the Carthage plants will be transported on WTLPG under its new FERC tariff, for further transportation to fractionation facilities in Louisiana.

6. MarkWest explains that the Commission has, in certain circumstances, granted interstate pipelines temporary waivers of the tariff filing and reporting requirements of the ICA.<sup>5</sup> MarkWest asserts that the Commission has granted these waivers to pipelines that, while not technically qualifying for an outright exemption from the ICA under the “private carrier” doctrine,<sup>6</sup> nevertheless qualify for less-stringent regulation by the Commission because (i) they (or their affiliates) own 100 percent of the throughput on the line, (ii) there is no demonstrated third-party interest in gaining access to or shipping on the line, (iii) no such interest is likely to materialize, and (iv) there is no opposition to granting the waivers.<sup>7</sup>

7. Moreover, continues MarkWest, in such circumstances, the Commission has determined that there is no active third-party interest to protect under the ICA and that a temporary waiver of the ICA sections 6 and 20 filing and reporting requirements is warranted. However, MarkWest acknowledges that such waivers are for indefinite periods of time, subject to revocation should circumstances change, and the pipelines that are granted these waivers must maintain their books and records in accordance with the Commission’s Uniform System of Accounts.

8. MarkWest argues that its NGL pipeline likewise qualifies for a temporary waiver under the Commission’s Special Permissions policy:

- The MarkWest NGL pipeline is used for the purpose of moving NGLs produced in an affiliate’s processing plants, and 100 percent of these NGLs are owned by that affiliate.
- The MarkWest NGL pipeline has no intermediate interconnections between its origin and destination points, and no person has requested that MarkWest construct such an interconnection.

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<sup>5</sup> MarkWest cites, *e.g.*, *Sinclair Oil Corp.*, 4 FERC ¶ 62,026 (1978); *Hunt Refining Co.*, 70 FERC ¶ 61,035 (1995); *Ciniza Pipe Line Inc.*, 73 FERC ¶ 61,377 (1995); *Enbridge Pipelines (NE Texas Liquids) L.P.*, 110 FERC ¶ 61,159 (2005); *Enbridge Pipelines (NE Texas Liquids) L.P.*, 117 FERC ¶ 61,046 (2006).

<sup>6</sup> *See The Pipe Line Cases*, 234 U.S. 548 (1914).

<sup>7</sup> *See, e.g., Ciniza Pipe Line, Inc.*, 73 FERC ¶ 61,377, at 62,173 (1995).

- No third-party has requested that MarkWest provide transportation service or otherwise provide access to its NGL pipeline.
- MarkWest is unaware of any third-party interest in gaining access to its NGL pipeline, and, in MarkWest's current best judgment, it is unlikely that any such interest will materialize.

9. Therefore, MarkWest requests that the Commission grant it a temporary waiver of the tariff filing and reporting requirements of ICA sections 6 and 20 and the Commission's implementing regulations, subject to MarkWest's continuing obligation to (i) maintain its books and records consistent with the Commission's Parts 352 and 356 record-keeping regulations and (ii) report promptly any change in a material fact presented in the instant request.

10. Public notice of MarkWest's filing was issued December 12, 2013, with interventions and protests due as provided in accordance with Rules 211 and 214 of the Commission's regulations.<sup>8</sup> No interventions or protests were filed.

11. The Commission concludes that, given the physical characteristics of MarkWest's NGL pipeline and the limited nature of the pipeline's operations, MarkWest meets the criteria necessary to qualify for temporary waiver consistent with Commission precedent.<sup>9</sup>

12. Accordingly, the Commission grants MarkWest temporary waiver of the filing and reporting requirements of ICA sections 6 and 20 and the Commission's related regulations with respect to its pipeline. Because this waiver is temporary and based solely on the facts presented in the request for waiver, the Commission directs MarkWest to report immediately to the Commission any change in the circumstances on which this waiver is based. Specifically, MarkWest must report any changes including, but not limited to (i) increased accessibility of other pipelines or refiners to the subject pipeline, (ii) changes in the ownership of the pipeline, (iii) changes in the ownership of the petroleum products shipped, and (iv) shipment tenders or requests for service by any person. In addition, MarkWest must maintain all books and records in a manner

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<sup>8</sup> 18 C.F.R. §§ 385.211 and 385.214 (2013).

<sup>9</sup> See, e.g., ONEOK Rockies Midstream, L.L.C., 138 FERC ¶ 61,133 (2012); Sinclair Pipeline Company, L.L.C., 134 FERC ¶ 61,077 (2011); Enbridge Pipelines (NE Texas Liquids) L.P., 117 FERC ¶ 61,046 (2006).

consistent with the Uniform System of Accounts for Oil Pipelines<sup>10</sup> and make such books and records available to the Commission or its duly authorized agents upon request.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>10</sup> 18 C.F.R. Part 352 (2013).