

147 FERC ¶ 61,063
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 23, 2014

In Reply Refer To:
Rockies Express Pipeline LLC
Docket No. RP14-704-000

Rockies Express Pipeline LLC
370 Van Gordon Street
Lakewood, CO 80228

Attention: Robert F. Harrington, Vice President
Regulatory Affairs

Reference: Temporary Waiver Request

Dear Mr. Harrington:

1. On March 31, 2014, Rockies Express Pipeline LLC (REX) filed a request for a temporary limited waiver of three provisions of the General Terms and Conditions (GT&C) of its FERC Gas Tariff, Third Revised Volume No. 1, as well as the Commission's capacity release regulations, to enable it to administer the permanent release of a firm transportation service agreement (FTSA) from Wyoming Interstate Company, L.L.C. (WIC) to Marathon Oil Company (Marathon). For good cause shown, the Commission grants the requested temporary limited waiver, effective upon issuance of this order and for 90 days thereafter.

2. REX states that the Commission authorized it to construct and operate compression facilities to transport on a firm basis an additional 200,000 Dth/day in Zone 1 of its system (Expansion Project). REX states that WIC entered into an FTSA for 200,000 Dth/day at a fixed negotiated rate for a primary term of 10 years (Contract No. 553362).¹ REX states that WIC previously released 120,000 of capacity to Occidental Energy Marketing and has recently agreed to permanently release 40,000 Dth/day to Marathon. REX further states that it received a similar waiver associated with the release of capacity for Marathon.

¹ REX states that by letter order dated November 30, 2009 in Docket No. RP10-133-000, the Commission accepted this FTSA, effective December 9, 2009.

3. In the instant proceeding, REX seeks waiver of GT&C sections 15.5D(3)(i), 15.6, and 33.5. In addition, REX asks the Commission to waive sections 284.8(b)(2) and 284.8(h)(1) of the Commission's regulations. According to REX, these provisions, *inter alia*, limit capacity releases to transactions in which the rate equals the maximum tariff rate. REX asserts that granting the waivers will facilitate the transfer of capacity from WIC to Marathon. REX further states that both parties are aware that the negotiated rate the pre-arranged replacement shippers agree to pay may potentially exceed REX's maximum tariff rate for this service. REX states that upon execution of the replacement negotiated rate agreement with Marathon, WIC will be permanently relieved of liability under the FTSA for the released capacity.

4. Public notice of the filing was issued on April 2, 2014. Interventions and protests were due on or before April 7, 2014, 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.

5. The Commission finds that REX's request for waiver is adequately supported and may be granted, consistent with previous waivers that the Commission has granted to permit permanent release of capacity under similar circumstances.² The Commission only requires a pipeline to allow a permanent capacity release when the pipeline will be financially indifferent to the release.³ Where, as here, the releasing shipper is paying a negotiated rate in excess of the maximum rate, waiver of the maximum rate is necessary to render the pipeline financially indifferent to the release. Therefore, denial of a waiver request in these circumstances would unnecessarily inhibit the use of permanent releases to transfer capacity that the releasing shipper no longer needs to a shipper that does need it. Accordingly, the Commission will grant temporary, limited waiver of its capacity release regulations and of REX's tariff provisions to allow the permanent release of the capacity. Specifically, the Commission grants waiver of 18 C.F.R. section 284.8(b)(2) and 284.8(h)(1) of its regulations, which govern the release of firm capacity and the posting and bidding requirements for capacity release transactions and the prohibition on the release of capacity at a rate above the maximum recourse rate. In addition, the

² *Transcontinental Gas Pipe Line Corp.*, 113 FERC ¶ 61,331 (2005); *Northern Natural Gas Co.*, 117 FERC ¶ 61,354 (2006); *Northern Natural Gas Co.*, 125 FERC ¶ 61,149 (2008); and *Transcontinental Gas Pipe Line Corp.*, 126 FERC ¶ 61,086 (2009).

³ *El Paso Natural Gas Co.*, 61 FERC ¶ 61,333, at 62,311-12 (1992); and *Texas Eastern Transmission Corp.*, 83 FERC ¶ 61,092 (1998).

Commission grants waiver of GT&C sections 15.5D(3)(i), 15.6, and 33.5 to facilitate the permanent release of WIC's capacity to Marathon. The waivers shall be effective as of the date of this order and for 90 days thereafter.

By direction of the Commission.

Kimberly D. Bose,
Secretary.