

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

October 22, 2014

In Reply Refer To:  
Bill Barrett Corporation and  
Vanguard Operating LLC  
Docket No. RP15-28-000

Lawrence G. Acker, Esq.  
Van Ness Feldman, LLP  
1050 Thomas Jefferson Street, NW  
Washington, DC 20007

Dear Mr. Acker:

1. On October 3, 2014, Bill Barrett Corporation (Barrett) and Vanguard Operating LLC (Vanguard) (jointly, Petitioners) filed a petition (Petition) requesting temporary waivers of the Commission's capacity release regulations and the implementing tariff provisions of Questar Pipeline Company (Questar) and Rockies Express Pipeline LLC (REX) to allow for the orderly implementation of components of purchase and sale agreements that were executed September 30, 2014, by Petitioners for the sale of Barrett's position in its Gibson Gulch natural gas program within the Piceance Basin in Colorado, including the assignment of firm transportation service agreements with both Questar and REX to Vanguard.
2. Petitioners state that they have made interim arrangements to allow Barrett to continue to own the gas to be transported using its capacity on Questar and REX until the capacity is actually assigned to Vanguard. Accordingly, Petitioners seek expedited action on the Petition because the transaction closed on September 30, 2014, and they further request that the waivers be effective for 60 days following the issuance date of the Commission's order. As discussed below, the Commission finds that good cause exists to grant the requested waivers to be effective as of the date of this order and for 60 days thereafter.
3. Petitioners explain that Barrett announced on September 16, 2014, that it had entered into an agreement for the sale of the Gibson Gulch natural gas program to Vanguard effective July 1, 2014. Further, state Petitioners, Vanguard announced that the purchase price of the Gibson Gulch assets was \$525.0 million (subject to normal post-closing commercial adjustments). Petitioners add that the transaction includes

assignment of two firm transportation service agreements, one each with Questar and REX. Petitioners emphasize that no jurisdictional facilities are included in the transaction. In the case of both agreements, Barrett explains that it is authorized to state that if certain tariff provisions of Questar and REX are satisfied, those parties do not object to the requested waivers. Moreover, state Petitioners, they do not seek waiver of the credit requirements of either Questar or REX.

4. Petitioners explain that the transportation service agreement with Questar is for firm transportation of 12,000 Dth/day under Questar's Rate Schedule T-1 at the maximum T-1 SSXP tariff rate and does not include any special conditions or non-conforming language. Petitioners state that the Questar agreement is Contract No. 3173 with an effective date of October 14, 2005, and a primary term expiration date of October 31, 2015. Specifically, continue Petitioners, pursuant to section 6.13 of the General Terms and Conditions (GT&C) of Questar's tariff, Questar will release Barrett from its contract under a permanent release to Vanguard and enter into a replacement contract with Vanguard if it is at the maximum rate and for the full term of the agreement and the replacement shipper meets Questar's creditworthiness requirements.

5. In the case of REX, Petitioners explain the transportation service agreement with REX provides for firm transportation for up to 25,000 Dth/day under REX's Rate Schedule FTS, Contract No. 553075. Petitioners further explain that the contract is a negotiated rate agreement, with non-conforming provisions that are non-discriminatory and not material as accepted by the Commission in an unpublished director letter order in Docket No. RP06-200-051 dated March 18, 2009. Further, continue Petitioners, that agreement was subsequently amended and accepted by the Commission in an unpublished letter order in Docket No. RP10-547-000 dated April 21, 2010.

6. Petitioners explain that REX will release Barrett from its contract pursuant to section 15.17(C) of the GT&C of REX's tariff and will enter into a replacement contract with Vanguard if: (a) the capacity release is permanent and contains no recall or other retention of rights to the capacity by Barrett; (b) adequate and, at minimum, equivalent credit assurances are provided by Vanguard, consistent with the GT&C terms of REX's tariff; and (c) Vanguard agrees, at minimum, to assume as its obligations the equivalent or a higher applicable reservation rate, contract term, and any other conditions applicable to Barrett's firm transportation service agreement.

7. To facilitate the permanent prearranged release of capacity to Vanguard, the Petitioners request waivers of the following Commission regulations and policies as well as related tariff provisions and other waivers deemed necessary. Specifically, the Petitioners seek waiver of: (a) the Commission's prohibition on private brokering of

capacity;<sup>1</sup> (b) the shipper-must have title policy;<sup>2</sup> (c) the Commission's pronouncements proscribing buy-sell transactions which correspond to the shipper-must-have-title policy;<sup>3</sup> (d) the Commission prohibition against tying the release of capacity to other consideration, as explained in Order No. 636-A;<sup>4</sup> (e) the maximum rate restrictions of 18 C.F.R. § 284.8(b)(2) (2014); (f) prior notice filings under 18 C.F.R. § 284.8(d) (2014);<sup>5</sup> (g) the requirement of 18 C.F.R. § 284.8(e) (2014) that affected pipelines allocate capacity to a bidder offering a higher rate; and (h) the capacity release provisions of Questar's tariff (GT&C section 6) and REX's tariff (GT&C section 15).

8. Petitioners state that the Commission has granted numerous waivers in circumstances substantially similar to those presented in the Petition.<sup>6</sup> Petitioners also

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<sup>1</sup> Petitioners cite *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations; Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 636-A, FERC Stats. & Regs., Regulations Preambles January 1991 – June 1996 ¶ 30,950, at 30,554 (1992) (Order No. 636-A).

<sup>2</sup> Petitioners cite *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637, FERC Stats. & Regs., Regulations Preambles July 1996 – December 2000 ¶ 31,091, at 31,300 (2000) and as embodied in REX's tariff (*see, e.g.*, section 22 of the GT&C) and Questar's tariff (*see, e.g.*, section 18 of the GT&C).

<sup>3</sup> Petitioners cite, *e.g.*, *El Paso Natural Gas Co.*, 59 FERC ¶ 61,031, *reh'g denied*, 60 FERC ¶ 61,117 (1992).

<sup>4</sup> *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under Part 284 of the Commission's Regulations, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, Order No. 636-A, FERC Stats. & Regs., Regulations Preambles January 1991 – June 1996 ¶ 30,950, at 30,559 (1992).

<sup>5</sup> To the extent necessary, Petitioners also request that the Commission accept the Petition as satisfactory notice in lieu of prior notice being posted by both REX and Questar.

<sup>6</sup> Petitioners cite, *e.g.*, *Rocky Mountain Natural Gas LLC & SourceGas Distribution LLC*, 146 FERC ¶ 61,045 (2014); *ONEOK, Inc. & ONE Gas, Inc.*, 146 FERC ¶ 61,047 (2014); *Tallgrass Interstate Gas Transmission, LLC*, 146 FERC ¶ 61,048 (2014); *Gavilon, LLC & Tenaska Mktg. Ventures*, 146 FERC ¶ 61,219 (2014); *Noble Energy, Inc. & Foundation Energy Mgmt., LLC*, 146 FERC ¶ 61,227 (2014); *Eni Petroleum US LLC & Eni USA Gas Mktg. LLC*, 147 FERC ¶ 61,007 (2014);

(continued...)

point out that such waivers generally were effective for terms of 90 to 180 days following the date of the orders or the closings of the pertinent transactions. Here, the Petitioners request a period of 60 days after the issuance of the Commission's order.

9. Public notice of the filing was issued on October 6, 2014. Interventions and protests were due on or before October 10, 2014, as provided by the notice. Pursuant to Rule 214,<sup>7</sup> 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. The Petition is unopposed.

10. 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, including those cited by Petitioners. 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 Questar's and REX's tariffs as necessary to facilitate a permanent prearranged capacity release as part of Barrett's deal with Vanguard.<sup>8</sup> Granting these waivers will assist the Petitioners in completing the transfer in an orderly and efficient manner and ensuring that both Questar and REX are financially indifferent to the transaction. Petitioners are not

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*Wyoming Interstate Co. L.L.C.*, 147 FERC ¶ 61,062 (2014); *Rockies Express Pipeline LLC*, 147 FERC ¶ 61,063 (2014); *GeoMet, Inc. & ARP Mountaineer Production, LLC*, 147 FERC ¶ 61,083 (2014).

<sup>7</sup> 18 C.F.R. § 385.214 (2014).

<sup>8</sup> It is unnecessary to grant the waiver of the Commission's prohibition on "private brokering of capacity" requested by the Petitioners. While the Commission is waiving certain requirements of its capacity release regulations in 18 C.F.R. § 284.8, the permanent releases at issue here will nevertheless take place pursuant to those regulations and not as a private brokering of capacity outside of the capacity release regulations.

seeking waiver of the credit requirements of either REX or Questar. The waivers will be effective from the date of this order and thereafter for 60 days, as requested by Petitioners.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.