

149 FERC ¶ 61,202  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

December 4, 2014

In Reply Refer To:  
Chesapeake Energy Marketing, Inc. and  
Southwestern Energy Services Company  
Docket No. RP15-145-000

Chesapeake Energy Marketing, Inc.  
Mayer Brown LLP  
1999 K Street, NW  
Washington, DC 20006-1101

Attention: David I. Bloom

Dear Mr. Bloom:

1. On November 3, 2014, Chesapeake Energy Marketing, Inc. (CEMI) and Southwestern Energy Services Company (SESC) (collectively, Petitioners) filed a joint petition requesting a limited waiver of the Commission's capacity release regulations and policies, waiver of the applicable tariff capacity release provisions of certain pipelines as well as any other waivers or authorizations necessary to effectuate a permanent release and assignment of specific portions of certain firm transportation contracts held by CEMI (Joint Petition). Petitioners request a shortened comment period of ten days and expedited issuance of an order granting the Joint Petition no later than 30 days after filing so that they may complete the releases and related transactions during December 2014. For the reasons discussed below, and for good cause shown, the Commission grants the requested limited waivers.

2. Petitioners state that, pursuant to a Purchase and Sale Agreement reached on October 16, 2014, a wholly-owned subsidiary of Chesapeake Energy Corporation, the parent of CEMI, sold 413,000 net acres in northern West Virginia and southern Pennsylvania to a wholly-owned subsidiary of Southwestern Energy Company, the parent of SESC (the Transaction). Petitioners state that the acreage includes significant production of natural gas, natural gas liquids and condensate, including production in the

Marcellus and Utica shale formations. Petitioners state that an integral part of the Transaction is the transfer of firm transportation contracts on Columbia Gas Transmission, LLC (Columbia Gas) and Dominion Transmission, Inc. (Dominion), which CEMI currently uses to transport the referenced production, to SESC.<sup>1</sup> According to the Petitioners, SESC will then use the assigned capacity to market production it has purchased from its affiliates. Petitioners state that the contracts with Columbia Gas are subject to Columbia Gas' maximum recourse rate and are included in the Joint Petition out of an abundance of caution, due to the Commission's prohibition on tying arrangements when capacity is released.<sup>2</sup> Further, Petitioners assert that the contract with Dominion is subject to a negotiated rate and is not currently equal to the applicable maximum recourse rates. Petitioners state that, over the term of the Assigned Contracts, the rates may be less than or greater than the then-effective maximum recourse rates. Finally, Petitioners assert that the negotiated rates are also subject to specified adjustments that may cause them to fluctuate during their respective remaining terms.

3. To facilitate the permanent prearranged release and assignment of specified portions of the Assigned Contracts as part of the Purchase and Sales Agreement, Petitioners request a limited, case-specific waiver of the Commission's capacity release regulations and policies, the applicable capacity release provisions in Dominion's tariff, and any other waivers or authorizations deemed necessary by the Commission. Specifically, Petitioners request that the Commission grant all waivers and authorizations necessary for: (1) the permanent release of the Assigned Contracts, without bidding;<sup>3</sup> (2) a waiver of prohibition on the release of capacity above the maximum recourse rate;<sup>4</sup> (3) a 90-day waiver of the prohibition on buy/sell arrangements; and (4) a waiver of the prohibition of tying the release of capacity to other transactions.

4. Petitioners assert that granting the requested waivers requested herein is in the public interest because granting the requested waivers will facilitate the continued production of the transferred properties in the Marcellus Shale and SESC will have the firm transportation rights necessary to move their production to markets. Petitioners also assert that the Assigned Capacity cannot be separated from the overall Transaction, and the Transaction cannot be fully effectuated without the transfer of the Assigned Capacity.

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<sup>1</sup> According to Petitioners the contracts at issue are Columbia Gas Contract Nos. 19035, 153620, 23421, 18295, and 18296 and Dominion Contract No. 200587.

<sup>2</sup> Petitioners contend that, because the contracts with Columbia Gas are maximum rate contracts, waiver of Columbia Gas' tariff is not required.

<sup>3</sup> 18 C.F.R. § 284.8(e) (2014).

<sup>4</sup> 18 C.F.R. § 284.8(b)(2) (2014).

Lastly, Petitioners state that granting the requested waivers will allow the Transaction to be fully consummated.

5. Public notice of the joint petition was issued on November 4, 2014. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.<sup>5</sup> Pursuant to Rule 214,<sup>6</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. No protests or adverse comments were filed.

6. The Commission has reviewed the Petitioners' request for temporary waivers and finds that the request is adequately supported and consistent with previous waivers the Commission has granted to permit the release of capacity under similar circumstances.<sup>7</sup> Petitioners have also provided the information required for approval of such waivers, specifically, (1) identification of the regulations and policies for which waiver is sought, (2) identification of the pipeline service agreements and capacity to be transferred, and (3) a description of the overall transaction and its claimed benefits, with sufficient detail to permit the Commission and other interested parties to determine whether granting the requested waivers is in the public interest.<sup>8</sup>

7. Accordingly, for good cause shown, the Commission grants Petitioners' request for temporary, limited waiver of its capacity release regulations, including the prohibition on buy/sell arrangements, the posting and bidding provisions and shipper-must-have-title requirements. In addition, the Commission grants, to the extent necessary, a temporary

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<sup>5</sup> 18 C.F.R. § 154.210 (2014).

<sup>6</sup> 18 C.F.R. § 385.214 (2014).

<sup>7</sup> See, e.g., *Big Sandy Pipeline, LLC*, 141 FERC ¶ 61,151 (2012); *Antero Resources Corp.*, 139 FERC ¶ 61,258 (2012); *Salmon Resources, LTD*, 138 FERC ¶ 61,059 (2012); *Big Sandy Pipeline, LLC*, 136 FERC ¶ 61,130 (2011); *BHP Billiton Petroleum (Fayetteville) LLC*, 135 FERC ¶ 61,088 (2011); *Wisconsin Electric Power Co.*, 131 FERC ¶ 61,104 (2010); *EnergyMark, LLC*, 130 FERC ¶ 61,059 (2010); *Total Gas & Power North America, Inc.*, 131 FERC ¶ 61,023 (2010); *Sequent Energy Mgmt., L.P., et al.*, 129 FERC ¶ 61,188 (2009); *North Baja Pipeline, LLC*, 128 FERC ¶ 61,082 (2009); *Macquarie Cook Energy, LLC*, 126 FERC ¶ 61,160 (2009); *Bear Energy LP*, 123 FERC ¶ 61,219 (2008).

<sup>8</sup> *Request for Clarification of Policy Regarding Waivers of Applicable Requirements to Facilitate Integrated Transfers of Marketing Businesses*, 127 FERC ¶ 61,106, at P 10 (2009).

and limited waiver of the applicable capacity release provisions in Dominion's tariff so as to facilitate the capacity release transaction. The Commission will allow the waivers to remain in effect for a 90-day period following issuance of this order.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.