

149 FERC ¶ 61,289
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 31, 2014

In Reply Refer To:
Apache Corporation
Tapstone Energy, LLC
Docket No. RP15-209-000

Stephen Williams
Apache Corporation
2000 Post Oak Boulevard
Suite 1000
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Tapstone Energy, LLC
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Dear Messrs. Williams and Costello:

1. On November 25, 2014, Apache Corporation (Apache) and Tapstone Energy, LLC (Tapstone) (jointly, Petitioners) filed a joint petition for a temporary waiver (Joint Petition) of the Commission's capacity release regulations and policies, related pipeline tariff provisions, and such authorizations as deemed necessary, to enable Apache to transfer its jurisdictional natural gas transportation capacity related to certain natural gas production assets to Tapstone. Petitioners request issuance of an order on this Joint Petition no later than December 31, 2014, and request that such waivers be effective immediately upon issuance of a Commission Order and remain in effect until the earlier of 90 days following the closure of the asset purchase transaction or the date of the completion of the capacity release transactions. For the reasons discussed below and for good cause shown, the Commission grants the requested temporary waivers.

2. Petitioners state that they have entered into a Purchase and Sale Agreement (Agreement), in which Apache will transfer to Tapstone ownership of production assets in the Stiles Ranch field located in Wheeler County, Texas, the Verden field located in Caddo and Grady Counties, Oklahoma, and the Mocane Laverne field located in Beaver, Harper and Ellis Counties, Oklahoma.

3. As part of the Agreement, Apache will transfer several transportation capacity agreements related to these producing assets to Tapstone, including (1) 23,000 Dth per day of capacity under a firm pooling transportation agreement with ANR Pipeline Company (ANR), (2) 26,000 Dth per day of capacity under a firm transportation agreement with Natural Gas Pipeline Company of America LLC (NGPL), and (3) 4,000 Dth per day of capacity under another firm transportation agreement with NGPL (together, the Firm Service Agreements). The Petitioners state that the temporary waivers requested herein are necessary in order to allow implementation of their asset purchase transaction and to allow the orderly transfer of capacity under the firm agreements utilized in the transportation of the production. Petitioners state that the asset exchange under the Agreement is scheduled to close on December 31, 2014. Therefore, they request Commission action as expeditiously as possible, but in no event later than December 31, 2014.

4. To facilitate the release of these transportation contracts, Petitioners request waiver of certain Commission regulations and policies, as well as related capacity release provisions in pipeline tariffs and such authorizations deemed necessary to facilitate the Agreement. Specifically, Petitioners request waiver of the Commission's (1) prohibition against tying, to the extent applicable; (2) capacity release posting and bidding requirements and recourse rate and relevant tariff provisions;¹ and (3) shipper-must-have-title policy and prohibition on buy/sell arrangements.

5. Petitioners state that they will utilize the temporary waivers requested in this Joint Petition only for the limited purpose of completing the permanent transfer of the capacity as contemplated by the exchange transaction. Petitioners state that the waivers will allow Apache to implement an orderly transition of substantially all of its production assets in the fields to Tapstone without any interruption of the flow of production to market. Petitioners state that they have contacted all of the affected pipelines and none have expressed opposition to the Joint Petition. As a result, Petitioners state that granting the requested waivers is in the public interest and the Joint Petition satisfies the Commission's procedural requirements for such requests for waiver of capacity release regulations and related requirements, to enable such transfers of capacity as part of a larger exchange of entire integrated business units.²

¹ Petitioners specifically request a temporary waiver from 18 C.F.R. §§ 284.8(b)(2), 284.8(d), 284.8(e) and 284.8(h)(1)(iii) (2014).

² Application at 7 (citing *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)).

6. Public notice of the Joint Petition was issued on November 26, 2014. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.³ Pursuant to Rule 214,⁴ 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.

7. The Commission has reviewed the Joint Petition and finds that the waiver request is adequately supported and consistent with previous temporary waivers that the Commission has granted to permit the release of capacity under similar circumstances,⁵ particularly when the transfers are a result of various types of corporate restructurings, including corporate mergers, and sales of entire business units.

8. Petitioners have also provided the information required for approval of such waivers: (1) identification of the regulations and policies for which waiver is sought; (2) identification of the pipeline service agreements and capacity to be transferred;⁶ and (3) 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.⁷

³ 18 C.F.R. § 154.210 (2014).

⁴ 18 C.F.R. § 385.214 (2014).

⁵ 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).

⁶ The contracts subject to the waiver are Contract Nos. 121419 (ANR), 141955 (NGPL), and 141530 (NGPL).

⁷ *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).

9. Accordingly, for good cause shown, the Commission grants Petitioners' request for temporary, limited waiver of its capacity release regulations, including prohibitions on buy/sell and tying arrangements, as well as the posting and bidding provisions and shipper-must-have-title requirements. In addition, the Commission grants, to the extent necessary, a temporary and limited waiver of related provisions in the FERC gas tariffs of NGPL and ANR so as to facilitate the exchange transaction. The Commission will allow the waivers to remain in effect until the earlier of the 90-day period following the closing date of the Agreement or the date of the closing of capacity release transactions and assignments described herein.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.