

150 FERC ¶ 61,174
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
Norman C. Bay, and Colette D. Honorable.

RGP Marketing LLC

Docket No. OR15-12-000

ORDER ON PETITION FOR TEMPORARY WAIVER

(Issued March 6, 2015)

1. On January 22, 2015, RGP Marketing LLC (RGP) filed a request for a temporary waiver of the tariff filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act (ICA) and Parts 341 and 357 of the Commission's regulations with respect to the JAL Pipeline owned and operated by RGP and its affiliate. For the reasons discussed below, the Commission grants the temporary waiver.

Background

2. RGP is a wholly-owned subsidiary of Regency Energy Partners LP (Regency).¹ RGP owns a 34-mile, 6-inch interstate natural gas liquids pipeline, the JAL Pipeline, which extends from New Mexico into Texas.

3. The JAL Pipeline commences at the JAL Processing Plant, owned by RGP's affiliate, Regency Field Services LLC (RFS), in Lea County, New Mexico and extends to its terminus at an interconnect with Chaparral Pipeline Company, LLC (Chaparral) in Ector County, Texas. The JAL Pipeline also connects with the Lone Star NGL Pipeline LLC (Lone Star) in Andrews County, Texas, 9.1 miles from the terminus interconnect with Chaparral. No other natural gas processing facilities or pipelines are interconnected with the JAL Pipeline. To the best of RGP's knowledge, the JAL Pipeline has been in service as a natural gas liquids pipeline since May 1993 when it was acquired by Richardson Products Company from Meridian Oil Hydrocarbons, Inc.

¹ RGP states that Regency, through its operating subsidiaries, specializes in the gathering and processing, contract compression, contract treating, transportation, fractionation, storage, and sale of natural gas and natural gas liquids, water gathering and disposal, and the gathering, transportation and terminaling of crude oil and condensate.

4. The JAL Pipeline is operated by RGP's affiliate, RFS. The natural gas liquids transported on the JAL Pipeline are a function of the production of wet gas (i.e., natural gas with appreciable entrained liquids) upstream of the JAL Processing Plant. Pursuant to contract, RGP states that nearly all natural gas liquids transported on the JAL Pipeline are 100 percent owned by RGP. The only exception is when RFS, RGP's affiliate, delivers "in-kind" natural gas liquids to third-party producers at the interconnection points of the JAL Pipeline with Chaparral and Lone Star. Under such an arrangement, RFS purchases natural gas from third-party producers at the wellhead, and, rather than cash consideration for the purchased gas, producers accept "in-kind" natural gas liquids extracted from the natural gas stream at the JAL Processing Plant. RFS has title to the natural gas liquids and the "in-kind" transfers occur at the JAL Pipeline interconnections with Lone Star and Chaparral.

5. RGP states that under most arrangements, RFS sells the natural gas liquids extracted at the JAL Processing Plant to RGP at the plant outlet prior to entering the JAL Pipeline. RGP then transports the natural gas liquids on the JAL Pipeline to the interconnected pipelines, Chaparral and Lone Star, for ultimate delivery at Mont Belvieu, Texas. RFS either (1) purchases natural gas production at the wellhead and retains title to all such natural gas and associated natural gas liquids extracted at the JAL Processing Plant or (2) gathers and processes the natural gas production of third-party producers at the JAL Processing Plant and RFS takes title to 100 percent of the natural gas liquids extracted from the producer's stream of natural gas at the outlet of the JAL Processing Plant. RGP will sometimes sell the purchased natural gas liquids to third-parties as the natural gas liquids leave the JAL Pipeline and enter into the interconnected lines of Chaparral or Lone Star. RGP owns and has title to 100 percent of the natural gas liquids transported on the JAL Pipeline in such arrangements.

6. When Regency regulatory personnel identified that the JAL Pipeline was engaged in interstate transportation of natural gas liquids across the New Mexico/Texas border, they began researching the history of the JAL Pipeline to determine if, under a former name and owner, the JAL Pipeline had sought waiver of the Commission's tariff and reporting requirements or previously had tariffs on file with applicable regulatory agencies. No information was uncovered. Regency also understands that prior owners considered the JAL Pipeline a private line not subject to federal regulation. Following the acquisition of the JAL Pipeline by Regency, no third party-natural gas liquids have been or are expected to be transported on the line. Rather, all natural gas liquids that have been transported on the JAL Pipeline and that are expected to be transported in the future are 100 percent owned by RGP or its affiliate, RFS. To ensure compliance with the Commission's regulations, RGP is submitting an application seeking temporary waiver of the tariff filing and reporting requirements of sections 6 and 20 of the ICA and the Commission's related regulations. RGP acknowledges that if the Commission grants the waiver request, the temporary waiver would be subject to RGP's continuing obligation to report any material change in facts and to maintain books and records

consistent with the recordkeeping requirements set forth in Parts 352 and 356 of the Commission's regulations.

Request for Temporary Waiver

7. RGP states that the Commission has granted interstate oil pipeline temporary waivers of the tariff filing and reporting requirements of sections 6 and 20 of the ICA when such pipelines were not exempt from the ICA under the private carrier doctrine and where the circumstances showed that the filing and reporting requirements of the ICA were not necessary to protect the interests of an unaffiliated shipper. RGP asserts that there are no third-party interests to protect in this instance and therefore it is appropriate to grant the requested waiver. RGP states that where the subject pipeline (or leased or owned portion of the subject pipeline) does not provide transportation service to third-party shippers, and there is no expectation that it will do so in the future, the Commission has found there is no third-party interest to protect.²

8. RGP submits that the Commission has granted temporary waivers where the pipeline has shown that (1) the pipeline or its affiliates own 100 percent of the throughput on the line; (2) there is no demonstrated third-party interest in gaining access to or shipping on the line; (3) no such interest is likely to materialize; and (4) there is no opposition to granting the requested waivers.³

9. RGP contends that the JAL Pipeline meets the Commission's criteria for granting a temporary waiver. Given RGP's experience with the JAL Pipeline, it asserts it is highly unlikely that any unaffiliated party will seek or request service involving the JAL Pipeline. RGP states that RGP or its affiliate own 100 percent of the natural gas liquid throughput on the JAL Pipeline. RGP states that since RGP has owned the JAL Pipeline, no unaffiliated party has sought transportation service on the pipeline, and there have been no third-party request for access. RGP submits that because the origin point of the JAL Pipeline is the outlet of its affiliated processing plant, where its affiliate owns and has title to all natural gas liquids extracted from the processed natural gas, no third-party interest is likely to materialize because the JAL Pipeline serves as a link from the processing plant to the desired interconnections with Chaparral and Lone Star to downstream locations. RGP states there are no other receipt points on the pipeline; nor

² Citing *Hunt Refining Co. and East Mississippi Pipeline Co.*, 70 FERC ¶ 61,035, at 61,113 (1995) and *Ciniza Pipe Line Inc.*, 73 FERC ¶ 61,377, at 62,173 (1995).

³ Citing, e.g., *Enbridge Pipelines (NE Texas Liquids) L.P.*, 110 FERC ¶ 61,159 (2005) and *Whiting Oil and Gas Corp.*, 131 FERC ¶ 61,263 (2010).

are there any other natural gas liquids processing plants interconnected with the pipeline. Finally, RGP does not anticipate any opposition to its request for temporary waiver.

10. RGP agrees that it will report any material changes to the facts set forth in the request that may alter the Commission's determination, including, but not limited to, (1) increased accessibility of other pipelines or natural gas liquids processors, (2) changes in ownership of the JAL Pipeline or the JAL Processing Plant, (3) changes in ownership of the natural gas liquids transported on the JAL Pipeline, and (4) tenders of natural gas liquids or requests for service on the JAL Pipeline. RGP affirms that it will maintain its books and records in accordance with the requirements of the Commission's Uniform System of Accounts for Oil Pipelines and make such books and records available to the Commission or its authorized agents upon request.

Discussion

11. The Commission grants RGP's request for temporary waiver of the tariff filing and reporting requirements of sections 6 and 20 of the ICA and the associated Commission regulations. RGP has adequately demonstrated in its pleading that (1) RGP or its affiliates own 100 percent of the throughput on the line; (2) there is no demonstrated third-party interest in gaining access to or shipping on the line; (3) no such interest is likely to materialize. In addition, since no protests or adverse comments were filed, RGP satisfies the fourth part of the waiver test: there is no opposition to granting the requested waivers. Finally, as RGP has recognized in its request, should circumstances change so that the pipeline may not satisfy all the conditions for a waiver of sections 6 and 20 of the ICA, it should promptly report such changes to the Commission so that the Commission can determine whether the temporary waiver should be revoked.

The Commission orders:

RGP's request for a temporary waiver of sections 6 and 20 of the ICA and the associated Commission regulations is granted as discussed above.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.