

151 FERC ¶ 61,200  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

June 4, 2015

In Reply Refer To:  
Western Refining Pipeline, LLC  
Docket No. OR13-14-001

Steptoe & Johnson LLP  
1330 Connecticut Avenue, NW  
Washington, DC 20036-1795

Attention: Steven H. Brose

Dear Mr. Brose:

1. On April 20, 2015, Western Refining Pipeline, LLC (Western),<sup>1</sup> filed a request to amend 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<sup>2</sup> granted by the Commission on February 27, 2013 (2013 Waiver).<sup>3</sup> For the reasons discussed below, the Commission grants Western's waiver amendment request.

2. The 2013 Waiver was issued for Western's 12-inch diameter line (Mason North Line) and two 10-inch feeder lines (Feeder Lines) and related tankage. The Mason North Line extends 19 miles south from Tee Station, New Mexico to Mason Station, Texas where it connects to Kinder Morgan's 450 mile Wink Pipeline. The Feeder Lines are 10-inch diameter gathering lines. One feeder line extends 6.5 miles eastward from a

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<sup>1</sup> Western was formerly known as Western Refining Pipeline Company.

<sup>2</sup> See 49 U.S.C. App. §§ 6, 20 (1988). Section 6 requires interstate oil pipelines to file all rates, fares, and charges for transportation on their systems, as well as to file copies of contracts with other common carriers for any such traffic. Section 20 authorizes the Commission to require annual or special reports from carriers subject to the ICA. See also 18 C.F.R. pts. 341 and 357 (2014) (implementing the filing and reporting requirements of ICA sections 6 and 20).

10,000 barrel tank at Western's 285 Station to a central 30,000 barrel tank at Tee Station. The second feeder line extends approximately 12.2 miles westward from a 10,000 barrel tank at Western's CR-1 Station to the same central 30,000 barrel tank at Tee Station.

3. In the 2013 proceeding, Western explained to the Commission that it owns and operates 100 percent of the facilities described above and that an affiliate would own all throughput on the line. Western maintained that no intermediate origin and destination points on the Mason North Line or the Feeder Lines would exist and no third-party had requested construction of an intermediate connection point with those lines. The Commission granted the waiver, subject to requiring a report of any changed circumstances and maintaining the books and records in accordance with the Uniform System of Accounts for Oil Pipelines (USofA).<sup>4</sup>

4. Western explains that two developments have occurred since the 2013 Waiver was granted. First, Western filed a tariff to establish a new service and rate on the Mason North Line from Tee Station to Mason Station. Due to this change, Western concedes that the 2013 Waiver is invalid as to the Mason North Line and associated central 30,000 barrel tank at Tee Station. The second development involves Western's extension of its feeder system and related tankage facilities. Specifically, Western plans to add a 50,000 barrel tank at CR-1 Station, a 50,000 barrel tank at 285 Station, a 4.7 mile branch line with connecting feeder lines extending from CR-1 Station tankage to various locations in New Mexico, and a 6.1 mile branch line with connecting feeder lines extending from CR-1 Station tankage to various other locations.

5. Western explains no material changes have occurred with respect to the 10-inch Feeder Lines and existing 10,000 barrel tanks at the CR-1 and 285 Stations. Western requests the Commission confirm the 2013 Waiver continues to apply to the 10-inch Feeder Lines and existing 10,000 barrel tanks and that the waiver extend to the planned extension.

6. Public notice of Western's filing was issued April 22, 2015, with interventions and protests due on May 4, 2015. Pursuant to Rule 214 of the Commission's regulations,<sup>5</sup> all timely filed 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 the proceeding or place additional burdens on existing parties. The waiver amendment is unopposed.

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<sup>4</sup> 18 C.F.R. pt.352 (2014).

<sup>5</sup> 18 C.F.R. § 385.214 (2014).

7. The criteria which need to be satisfied to qualify for a temporary waiver of the filing and reporting requirements of the Commission's regulations and sections 6 and 20 of the ICA are as follows.<sup>6</sup> First, the pipeline requesting a temporary waiver (or its affiliates) must own 100 percent of the throughput on the line. Second, there should be no demonstrated third-party interest in gaining access to or shipping upon the line. Third, there should be no likelihood such third-party interest will materialize. Fourth, there is no opposition to granting the waivers.

8. Western states all the crude oil entering and transported through these extensions will be owned by an affiliate of Western. Further, Western contends no intermediate destination points will be constructed, no third-party has requested the construction of an intermediate point interconnection with the extended lines, and that it is not aware of any person likely to request an interconnection. Western maintains that the extension projects are similarly situated to the pipeline facilities for which the Commission has granted waivers in the past. The amendment request is unopposed.

9. Based on the representations provided in the request for amendment, the Commission concludes that Western meets the criteria to receive a temporary waiver for the newly constructed assets, consistent with the Commission's prior rulings.

10. Accordingly, the Commission grants an amendment to Western's temporary ICA waiver, extending the waiver to Western's proposed extensions and confirming the waiver remains valid as to the 10- inch Feeder Lines and existing 10,000 barrel tanks. As conceded by Western, the 2013 Waiver is now invalid as to the Mason North Line and associated central 30,000 barrel tank at Tee Station. Because the current waiver is temporary, and based solely on the facts presented by Western in its request for amendment, the Commission directs Western to continue to report to the Commission any change in the circumstances on which these waivers are based. Specifically, Western must report any change including, but not limited to, increased accessibility of other pipelines or refiners to its facilities, changes in the ownership of the facilities, changes in the ownership of the crude oil being shipped, and shipment tenders of requests

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<sup>6</sup> See *Whiting Oil and Gas Corp.*, 131 FERC ¶ 61,263 (2010); *Cimarron Gathering, L.P.*, 126 FERC ¶ 61,017 (2009); *Enbridge Pipelines (NE Texas Liquids) L.P.*, 117 FERC ¶ 61,046 (2006); *Enbridge Pipelines (NE Texas Liquids) L.P.*, 110 FERC ¶ 61,159 (2005); *Ciniza Pipe Line Inc.*, 73 FERC ¶ 61,377 (1995); *Hunt Refining Co.*, 70 FERC ¶ 61,035 (1995); *Sinclair*, 4 FERC ¶ 62,026 (1978).

for service by any person. Additionally, Western must maintain all books and records for service by any person and in a manner consistent with the USofA. Western must make such books and records available to the Commission or its duly authorized agents upon request.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.