

152 FERC ¶ 61,239
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Saddle Butte Rockies Midstream, LLC

Docket No. OR15-34-000

ORDER GRANTING REQUEST FOR WAIVER

(Issued September 29, 2015)

1. On August 7, 2015, Saddle Butte Rockies Midstream, LLC (Saddle Butte) filed a request for temporary waiver of the tariff filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act (ICA)¹ for its Rangeview Gathering System (Gathering System). Saddle Butte requests Commission action on its request by September 30, 2015, to prepare for its in-service date of October 1, 2015. For the reasons discussed below, the Commission grants the request for waiver.

Background

2. Saddle Butte is a wholly-owned subsidiary of Saddle Butte Pipeline II, LLC, which was established in 2008. Saddle Butte owns the Gathering System, which is a new project in Colorado that will transport crude oil from well pads to one of three interconnections with interstate pipelines (Saddlehorn Pipeline Company, LLC, White Cliffs Pipeline, LLC, or Grand Mesa Pipeline, LLC) for further interstate commerce. Saddle Butte explains the Gathering System may also deliver crude oil to a terminal and storage facility (Milton Terminal). Saddle Butte contends there are no other intermediate connections with pipelines or truck receiving facilities.

¹ 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, 357 (2015) implementing the filing and reporting requirements of ICA sections 6 and 20.

3. At the commencement of service, the Gathering System is expected to extend 29 miles with the capacity of 20,000 barrels per day. The Gathering System will have many short, gathering-type segments ranging from 4 to 10 inches in diameter. Saddle Butte expects the system to connect to additional well pads, growing to approximately 69 miles by December 31, 2015.

4. Saddle Butte explains the Gathering System will be exclusively used to transport crude petroleum, owned 100 percent by Saddle Butte. Crude oil will originate at the wells directly connected to the pipeline. Saddle Butte will purchase the crude oil at the well head and retain title to and own the crude oil while it is in the Gathering System, and will be the sole shipper on the Gathering System. Upon delivery of the crude oil at the destination points, Saddle Butte will sell the crude oil to the designee of the third party producer from which it originally purchased the crude oil. At the destination points, the crude oil will be transported to destinations outside of Colorado via interstate pipelines.

5. Saddle Butte contends it has satisfied the Commission's criteria for granting a temporary waiver. Specifically, Saddle Butte argues that it will unambiguously own 100 percent of the production to be transported and that no third party has requested transportation service on the Gathering System. Saddle Butte also states that no likely third-party interest will materialize since the producer that owns the wells has expressed no interest in shipping on the Gathering System. Saddle Butte attributes the producer's lack of interest to Colorado law, which would allow favorable royalty payments to the producer under the arrangement.² Saddle Butte also contends it is not aware of opposition to its waiver request.

Public Notice and Interventions

6. Public notice of Saddle Butte's filing was issued August 11, 2015, with interventions and protests due on August 21, 2015. Pursuant to Rule 214 of the Commission's regulations,³ 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 request is unopposed.

² Saddle Butte Request for Waiver at Exhibit A, P 3.

³ 18 C.F.R. § 385.214 (2015).

Commission Analysis

7. The criteria 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.⁴ 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. The Commission finds that Saddle Butte has satisfied the criteria necessary to receive a temporary waiver. Saddle Butte will have unambiguous ownership of the production to be transported, taking title at the well head for the duration of time the commodity is in the Gathering System. Further, no third party interest has requested access on the pipeline, there is no third party interest on the pipeline, and it is unlikely that a third-party interest will materialize because the producer whose wells are directly connected to the pipeline has indicated to Saddle Butte that it has no interest in shipping on the pipeline. No parties filed opposition to the waiver.

9. Based on the representations provided in the request for waiver, the Commission concludes that Saddle Butte meets the criteria to receive a temporary waiver, consistent with the Commission's prior rulings.

10. Accordingly, the Commission grants Saddle Butte's request for temporary ICA waiver for the Gathering System. Since the current waiver is temporary, and based solely on the facts presented by Saddle Butte in its request for waiver, the Commission directs Saddle Butte to continue to report to the Commission any change in the circumstances on which these waivers are based. Specifically, Saddle Butte 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 for service by any person. Additionally, Saddle Butte must maintain all books and records for service by any person and in a manner consistent with the Uniform System of Accounts for Oil Pipelines,

⁴ 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. and East Mississippi Pipeline Co.*, 70 FERC ¶ 61,035 (1995); *Sinclair Oil Corp.*, 4 FERC ¶ 62,026 (1978).

18 C.F.R. Part 352. Saddle Butte must make such books and records available to the Commission or its duly authorized agents upon request.

The Commission orders:

The request for waiver is granted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.