152 FERC ¶ 61,243
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

September 29, 2015

In Reply Refer To:
Excelerate Gas Marketing,
Limited Partnership
and Excelerate Energy
Limited Partnership
Docket No. RP15-1247-000

Stuntz, Davis & Staffier
555 Twelfth Street, NW Suite 630
Washington, DC 20004

Attention: John R. Staffier

Dear Mr. Staffier:

1. On September 1, 2015, Excelerate Gas Marketing, Limited Partnership (EGM) and Excelerate Energy Limited Partnership (EELP) (collectively, Petitioners) filed a joint petition (Joint Petition) requesting a limited temporary waiver of the Commission's capacity release regulations and policies, and certain tariff provisions, for the limited purpose of facilitating a transaction relating to an internal corporate reorganization scheduled to occur in early October, 2015. Petitioners request that the Commission act on this request for waiver no later than September 30, 2015 and that such waiver remain in effect for 90 days. For the reasons discussed below, and for good cause shown, the Commission grants the request for limited temporary waiver.

2. Petitioners state that they are seeking waiver of the Commission's capacity release regulations and the related tariff provisions of Algonquin Gas Transmission LLC (Algonquin) in order to permanently transfer their firm service agreements and negotiated rate agreements with Algonquin, without posting or bidding, to their affiliates Kaiser NEG Lateral, LLC (Kaiser Lateral) and Kaiser NEG Onshore, LLC (Kaiser Onshore).[1]

[1] Petitioners state that Mr. George B. Kaiser owns indirect majority interests in each EGM, EELP, Kaiser Lateral and Kaiser Onshore.

Petitioners state that because each of these entities is part of the same corporate family, the credit arrangements supporting the capacity will not be affected by the proposed transfers. Petitioners further state that Algonquin does not object to the transfers or to the instant Joint Petition.

3. Petitioners explain that the Algonquin capacity held by the Petitioners is part of the "Northeast Gateway Lateral Project,"[2] which allowed Algonquin to deliver re-gasified liquefied natural gas (LNG) from an offshore LNG port. According to Petitioners, the port is owned by Northeast Gateway Energy Bridge, Limited Partnership (Northeast Gateway), which they state is also an affiliate of the parties involved in the instant proceeding. To permit the delivery of the gas onshore, Petitioners explain that Algonquin constructed a new pipeline lateral as part of the Northeast Gateway Lateral Project and that Petitioners, EGM and EELP, each hold a service agreement and a negotiated rate agreement with Algonquin for the related capacity.[3] Petitioners explain that, due to changes in the U.S. gas market, the Algonquin capacity agreements now held by Petitioners are currently generating substantial financial losses and are limiting their ability to obtain financing on favorable terms.

4. Petitioners state that the capacity transfers at issue here are part of a corporate reorganization which is designed to, among other things, enhance the ability of the Petitioners and their subsidiaries to obtain financing for future operations and growth. Petitioners assert that the requested transfer to their affiliates of the service and related negotiated rate agreements is necessary in order to alleviate the financial loss Petitioners are currently experiencing from the Algonquin capacity agreements, which Petitioners expect will continue into the foreseeable future. To eliminate this financial burden, while simultaneously ensuring that Petitioners' obligations to Algonquin will be fully satisfied, Petitioners seek to transfer their Algonquin capacity to their affiliates, Kaiser Lateral and Kaiser Onshore.[4] Because the parties are members of the same corporate family,

[2] *See Algonquin Gas Transmission, LLC*, 118 FERC ¶ 61,222 (2007).

[3] Petitioners state that the service agreement between Algonquin and EGM is listed as Contract #510414-RI, along with related negotiated rate agreements. *See Algonquin Gas Transmission, LLC*, Docket No. RP00-70-019 (Aug. 4, 2008) (unpublished letter order). They state that the service agreement between Algonquin and EELP is listed as Contract #510510-RI, along with related negotiated rate agreements. *See Algonquin Gas Transmission, LLC*, Docket No. RP14-1244-000 (Oct. 6, 2014) (unpublished letter order).

[4] Petitioners state that Kaiser Lateral and Kaiser Onshore are newly formed single-purpose entities, and transferring the Algonquin capacity to them will free Petitioners from the associated losses.

Petitioners submit that their affiliates will continue the same high quality credit arrangements that Petitioners currently provide Algonquin, thereby protecting Algonquin's interest. In addition, Petitioners state that the transfer will also preserve the project structure that was envisioned when the Algonquin lateral was certificated in 2007. Petitioners state that because Kaiser Lateral and Kaiser Onshore will hold the capacity connecting their affiliate Northeast Gateway's offshore port with the interstate grid, re-gasified LNG delivered to the port in the future will continue to have access to the interstate market.

5. In order to implement the reorganization described above, Petitioners request a temporary waiver of the following: (a) the capacity release posting and bidding requirements of the Commission's regulations; (b) the prohibition on the release of capacity above the maximum recourse rate; (c) the prohibition against tying, to the extent applicable; (d) the related provisions of section 14 of Algonquin's FERC Gas Tariff to the extent necessary to effectuate the proposed transfer; and (e) any other waiver of authorizations deemed necessary by the Commission to permit the permanent transfer of the agreements to Kaiser Lateral and Kaiser Onshore by assignment and novation.

6. Petitioners state that granting the requested waivers will facilitate the orderly and efficient transfer of Petitioners' service agreements and related negotiated rate agreements, and that the waivers are consistent with those previously granted by the Commission. Because the corporate reorganization is scheduled to occur in early October 2015, Petitioners request that the Commission issue an order granting the waivers on or before September 30, 2015. Although Petitioners expect the transfers to be completed promptly following an order granting the waivers, to insure against any unanticipated delays, Petitioners request that the waivers continue in effect for 90 days following issuance of the Commission's order.

7. Public notice of this filing was issued on September 2, 2015 with interventions and protests due on or before September 8, 2015.[5] Pursuant to Rule 214,[6] all timely motions to intervene and any 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.

[5] Petitioners requested a shortened comment period, which the Commission granted.

[6] 18 C.F.R. § 385.214 (2015).

8. The Commission has reviewed the Petitioners' request for temporary waiver 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,[7] particularly when the release is the result of various types of corporate restructurings. We also find that Petitioners have provided the information required for approval of such waivers, which includes: (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.[8]

9. The grant of the requested waiver will facilitate a transaction that will mitigate Petitioners' financial losses while fulfilling Petitioners' obligations to Algonquin and preserving the original structure of the subject project. Accordingly, for good cause shown, the Commission grants Petitioners' request for temporary, limited waiver of its capacity release regulations, including the prohibitions on buy/sell and tying arrangements, as well as the posting and bidding provisions and shipper-must-have-title requirements, as necessary to complete the transactions discussed above. In addition, the Commission grants, only to the extent necessary, a temporary and limited waiver of the above-referenced provisions of Algonquin's tariff so as to facilitate the capacity release

[7] *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).

[8] *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).

transaction. Further, consistent with Petitioner's request, the Commission will allow the waivers to remain in effect for a period of 90 days following the issuance of this order.

By direction of the Commission.

Kimberly D. Bose,
Secretary.