

154 FERC ¶ 61,221
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 18, 2016

In Reply Refer To:
WPX Energy Holdings, LLC
WPX Energy Marketing, LLC
WPX Energy Rocky Mountain, LLC
Terra Energy Partners LLC
Docket No. RP16-615-000

Ann E. Lane
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Dear Ms. Lane:

1. On February 18, 2016, WPX Energy Holdings, LLC (WPXH), WPX Energy Marketing, LLC, (WPXM), WPX Energy Rocky Mountain, LLC (WPX Rocky Mountain) (jointly WPX), and Terra Energy Partners LLC (Terra Energy) (collectively, Applicants) filed a joint petition for waiver of portions of section 284.8 of the Commission's regulations,¹ as well as the Commission's "shipper-must-have-title" policy and its prohibition against tying arrangements (Petition).² Applicants also request waiver of related sections of the General Terms and Conditions (GT&C) of the FERC Gas Tariffs of White River Hub, LLC (White River Hub) and Northwest Pipeline LLC (Northwest Pipeline). Applicants request that the waivers be effective for a temporary, 120-day period or until the consummation of Terra Energy's acquisition of WPX Rocky Mountain and its associated Piceance Basin production (Proposed Transaction). Last, Applicants ask that the Commission issue an order granting the requested waivers by March 20, 2016. As discussed below and for good cause shown, the Commission grants the requested waivers.

¹ 18 C.F.R. § 284.8 (2015).

² Petition at 8-9.

2. Applicants state that the proposed waivers will allow for the orderly transfer of various ownership interests. Applicants have entered into a Membership Interest Purchase Agreement (MIPA), dated February 8, 2016, under which Terra Energy has agreed to (i) acquire 100 percent of the membership interests in WPX Rocky Mountain from WPXH; (ii) indirectly acquire the rights, title, and interest in WPX Rocky Mountain Piceance Basin production assets held by WPX Rocky Mountain; and (iii) indirectly acquire WPXM's contracts with White River Hub and Northwest Pipeline for firm transportation capacity.³ The capacity on Northwest Pipeline and White River Hub currently allows for the transportation to market of WPX Rocky Mountain's production from the Piceance Basin.

3. Applicants state that the Proposed Transaction is expected to close on or about April 8, 2016. However, the MIPA provides for a transition services arrangement, whereby WPX will continue to purchase the supplies of its former subsidiary in the Piceance Basin until June 30, 2016. Applicants state that the requested temporary waivers of the Commission's policies and regulations are necessary in order to effectuate the permanent release of the firm transportation capacity on White River Hub, and the temporary release of the firm transportation capacity on Northwest Pipeline from WPXM to WPX Rocky Mountain (and thereby to Terra Energy indirectly), within the time frames and closing date specified in the Proposed Transaction.

4. Applicants submit that the requested waivers are consistent with waivers previously granted by the Commission in recognition that relief is appropriate to permit the release of capacity in circumstances such as corporate restructurings, mergers, and sales of business assets.⁴ Further, they contend, the requested waivers are in the public interest because they will allow Terra Energy to continue development of WPX Rocky Mountain's Piceance Basin assets without interruption through the completion of the Proposed Transaction. Applicants state that WPX will redeploy the sales proceeds

³ Petition at 2.

⁴ Application at 3 n.1 (citing, among other cases, *Anadarko Energy Serv. Co. and Moriah Powder River, LLC*, 153 FERC ¶ 61,124 (2015) (allowing waiver for temporary capacity release transaction tied to sale of production assets); *Washington Gas Light Co.; Energy Corp. of America*, 152 FERC ¶ 61,159 (2015) (allowing waiver for temporary and permanent releases of capacity on multiple pipelines as part of a complex transaction); *WPX Energy Marketing, LLC*, 151 FERC ¶ 61,164 (2015) (granting waiver of capacity release rules for permanent release of capacity as part of complex commercial transaction); *WPX Energy Appalachia, LLC*, 150 FERC ¶ 61,013 (2015); *GeoMet, Inc.*, 147 FERC ¶ 61,083 (2014) (allowing waiver where "ARP will acquire all, or substantially all, of GeoMet's coal bed methane natural gas production assets in West Virginia and Virginia.")).

capital for other exploration and development activities that will provide increased domestic supplies of energy.

5. According to Applicants, firm transportation capacity of 400,000 Dth per day under the White River Hub Agreement will be permanently released and assigned to WPX Rocky Mountain, while 100,000 Dth per day of the firm transportation capacity to be released under the Northwest Pipeline Agreement will be temporarily released and assigned to WPX Rocky Mountain for the remainder of the contract term at the maximum recourse rate.⁵

6. Public notice of the filing was issued on February 22, 2016. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁶ Pursuant to Rule 214,⁷ 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. No protests or adverse comments were filed.

7. Having reviewed Applicants' request for waiver, the Commission finds that good cause exists to grant a limited, one-time waiver of the capacity release regulations, prohibition on tying arrangements, "shipper-must-have-title" policy and applicable sections of the GT&Cs of White River Hub and Northwest Pipeline. Applicants have 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; 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.⁸

8. Applicants' request appears generally consistent with previous waivers that the Commission has granted to permit the release of capacity under similar circumstances.⁹

⁵ The White River Hub Agreement is Contract No. 4083 and the Northwest Pipeline Agreement is Contract No. 138172.

⁶ 18 C.F.R. § 154.210.

⁷ 18 C.F.R. § 385.214.

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).

⁹ *E.g.*, *Big Sandy Pipeline, LLC*, 141 FERC ¶ 61,151 (2012); *EnergyMark, LLC*, 130 FERC ¶ 61,059 (2010); *Total Gas & Power North America, Inc.*, 131 FERC ¶ 61,023

Elements of the proposed release that support granting the requested waivers are that the release at issue will permit the subject capacity to continue to be used for the same purpose for which the company originally purchased it, that the waiver is “both limited in scope and temporary in time frame,”¹⁰ and that the transaction will be conducted in a manner that does not harm any third parties. Moreover, no party has objected to the requested waivers.

9. Accordingly, the Commission grants the requested waivers of the Commission’s capacity release regulations (specifically, sections 284.8(b)(2), 284.8(d), and 284.8(e)), prohibition on tying arrangements, “shipper-must-have-title” policy, and applicable sections of the GT&Cs of White River Hub and Northwest Pipeline. The limited waivers are effective until the permanent release and temporary release and assignments of the Proposed Transaction have been consummated, but no more than 120 days from the date of this order. Further, the requested waivers are granted only as necessary to complete the transactions specified in this Petition, and not for any other permanent or temporary releases. Applicants remain obligated to comply with any other applicable provisions of the pipelines’ tariffs.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

(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).

¹⁰ *Distrigas of Mass. LLC*, 135 FERC ¶ 61,028, at P 19 (2011).