

155 FERC ¶ 61,032
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 15, 2016

In Reply Refer To:
Shell Energy North America (US), L.P.
BG Energy Merchants, LLC
Docket No. RP16-699-000

Charles H. Shoneman
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Dear Mr. Shoneman:

1. On March 1, 2016, as supplemented on March 14, 2016, Shell Energy North America (US), L.P. (Shell Energy) and BG Energy Merchants, LLC (BG Energy) (together, Petitioners) filed a joint petition (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 and buy/sell arrangements to enable BG Energy to transfer, via a permanent capacity release, its natural gas transportation and storage capacity and associated natural gas inventory to Shell Energy or its affiliates as part of an integrated transaction.² Petitioners state that granting the requested waivers will facilitate BG Energy's exit from the wholesale natural gas marketing business, as well as expedite the consolidation of the businesses of BG Energy and Shell Energy. Petitioners also request waiver of related sections of the General

¹ 18 C.F.R. § 284.8 (2015).

² Petition at 7.

Terms and Conditions (GT&C) of the tariff records of numerous pipelines³ and any other Commission regulation or policy or pipeline tariff provision deemed necessary to accomplish the permanent release of the subject pipeline capacity. Petitioners request that the waivers be effective for a temporary period of 120 days following a Commission order granting the requested waivers and that the Commission issue an order on or before April 15, 2016. As discussed below and for good cause shown, the Commission grants the requested temporary waivers.

2. According to the Petitioners, on February 15, 2016, Royal Dutch Shell plc completed its purchase of BG Group plc. The Petitioners maintain that, as a result of this purchase, BG Energy will transfer to Shell Energy or its affiliates substantially all of BG Energy's assets for the purchase, sale, and transport of natural gas. Furthermore, Petitioners state that the combination of the companies means that Shell Energy or its affiliates will succeed to BG Energy's rights under its numerous jurisdictional natural gas transportation and storage agreements. BG Energy states that it intends to release the pipeline capacity under the agreements by means of permanent capacity releases in accordance with the tariff provisions of each transportation or storage provider.⁴

3. Petitioners submit that the requested waivers are consistent with waivers previously granted by the Commission in recognition that the requested relief is appropriate to permit the release of capacity in circumstances such as corporate

³ The pipeline companies are: Algonquin Gas Transmission, LLC, ANR Pipeline Company, Dominion Carolina Gas Transmission, LLC, Elba Express Company, L.L.C., ETC Tiger Pipeline, LLC, Florida Gas Transmission Company, LLC, Gulf South Pipeline Company, LP, Midcontinent Express Pipeline LLC, Natural Gas Pipeline Company of America LLC, Southern Natural Gas Company, L.L.C., Stagecoach Pipeline & Storage Company LLC, Texas Eastern Transmission, LP, Tennessee Gas Pipeline Company, L.L.C., Transcontinental Gas Pipe Line Company, LLC, Trunkline Gas Company, LLC, Boardwalk Storage Company, LLC, and Dominion Transmission, Inc.

⁴ Petitioners identify the specific contracts being transferred in Attachment A to the Petition. According to the Petitioners, BG Energy will also transfer to Shell Energy several service agreements with non-jurisdictional natural gas transportation and storage service providers, some of which provide such services in interstate commerce pursuant to limited Commission authorization under either section 311 of the Natural Gas Policy Act, as amended, or section 284.224 of the Commission's regulations. Petitioners revised Attachment A in a March 14, 2016 filing.

restructurings, mergers, and sales of business assets.⁵ Petitioners contend that the permanent release of the capacity from BG Energy to Shell Energy is one aspect of a complex, integrated transaction that cannot be effectively accomplished if divided into standalone transactions subject to the posting and bidding requirements set forth in the Commission's regulations.⁶ Petitions assert that the permanent releases will ensure that the public interest is served by allowing natural gas to continue to be marketed throughout the United States, while also preserving existing commercial relationships and marketing structures.⁷

4. Public notice of the filing was issued on March 2, 2016. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁸ Pursuant to Rule 214,⁹ 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.

5. The Commission has reviewed Petitioners' request for temporary waiver and finds that the request is adequately supported and consistent with previous waiver requests that the Commission has granted to permit the release of capacity under similar

⁵ Petition at 3 n.5 (citing, among other cases, *Gavilon, LLC*, 146 FERC ¶ 61,219 (2014) (granting in part the requested waivers to permit permanent capacity releases as part of larger transactions necessary to exit the natural gas marketing business); *Virginia Power Energy Marketing, Inc.*, 145 FERC ¶ 61,066 (2013); *Direct Energy Business, LLC et al.*, 144 FERC ¶ 61,231 (2013); *ProLiance Energy, LLC*, 144 FERC ¶ 61,037 (2013); *EnergyMark, LLC and Constellation NewEnergy - Gas Div., LLC*, 130 FERC ¶ 61,059 (2010); and *Sequent Energy Mgmt., L.P.*, 129 FERC ¶ 61,188 (2009).

⁶ Petition at 9.

⁷ *Id.* at 10.

⁸ 18 C.F.R. § 154.210 (2015).

⁹ 18 C.F.R. § 385.214 (2015).

circumstances.¹⁰ Specifically, we find that Petitioners have provided the information required for approval of such waivers, which includes: (a) identification of the regulations and policies for which waiver is sought; (b) identification of the pipeline service agreements and capacity to be transferred; and (c) 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 waiver is in the public interest.¹¹ In addition, elements of the proposed release that support granting the requested waivers are that: (a) 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; (b) the waiver is “both limited in scope and temporary in time frame;”¹² and (c) the transaction will be conducted in a manner that does not harm any third parties. Moreover, no party has objected to the requested waivers.

6. Accordingly, for good cause shown, the Commission grants the Petitioners’ request for temporary, limited waiver of the Commission’s capacity release regulations in section 284.8, the prohibition on tying and buy/sell arrangements, the “shipper-must-have-title” policy, and applicable sections of the GT&Cs of the noted pipeline tariffs. The limited waivers are effective for 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 release of capacity.

¹⁰ See, e.g., *J.P. Morgan Ventures Energy Corp.*, 148 FERC ¶ 61,010 (2014); *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 and Constellation NewEnergy – Gas Division, 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).

¹¹ *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).

¹² *Distrigas of Mass. LLC*, 135 FERC ¶ 61,028, at P 19 (2011).

Petitioners remain obligated to comply with any other applicable provisions of the noted pipelines' tariffs.

By direction of the Commission.

Kimberly D. Bose,
Secretary.