

157 FERC ¶ 61,221
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

December 20, 2016

In Reply Refer To:
Tesoro Great Plains Gathering &
Marketing LLC
Docket No. OR17-1-000

Goldstein & Associates, P.C.
1757 P Street, NW
Washington, DC 20036

Attn: Melvin Goldstein,
Attorney for Tesoro Great Plains Gathering & Marketing LLC

Reference: Request for Temporary Waiver of Sections 6 and 20 of the Interstate
Commerce Act

Dear Mr. Goldstein:

1. On November 2, 2016, Tesoro Great Plains Gathering & Marketing LLC (Tesoro Great Plains) 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 and parts 341 and 357 of the Commission's regulations² for its Hidden Bench Pipeline. For the reasons discussed below, the Commission grants Tesoro Great Plains' temporary waiver request.

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 their 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.

² See 18 C.F.R. pts. 341 and 357 (2016) (implementing the filing and reporting requirements of ICA sections 6 and 20).

2. Tesoro Great Plains states that in early 2016 it acquired Great Northern Gathering & Marketing LLC (Great Northern) and changed Great Northern's name to Tesoro Great Plains Gathering & Marketing LLC.³ It explains that with the acquisition of Great Northern, Tesoro Great Plains acquired the Hidden Bench Pipeline, BakkenLink Pipeline, LLC (an affiliate of Great Northern) and the capacity lease agreement established in 2013 between Great Northern and BakkenLink to lease capacity on the BakkenLink Pipeline for deliveries from Stark County and McKenzie County to the Fryburg Terminal in Billings County, North Dakota.

3. Tesoro Great Plains states that the Hidden Bench Pipeline transports crude petroleum from wells in McKenzie County, North Dakota to Watford City Terminal, McKenzie County, North Dakota where it is then transported onward to further destinations on the BakkenLink Pipeline in accordance with the Tesoro Great Plains and/or BakkenLink tariffs on file with the Commission. Tesoro Great Plains states that it purchases all the crude oil produced in the wells connected to the Hidden Bench System pursuant to a long-term contract entered into before the pipeline was built. Tesoro Great Plains further states that the Hidden Bench Pipeline has always transported only crude oil owned by Great Northern, now Tesoro Great Plains.⁴ According to Tesoro Great Plains, construction on the Hidden Bench Pipeline was completed in 2015 and it has since operated as a gathering crude oil pipeline for the crude oil sold under the contract referenced above. Last, Tesoro Great Plains states that it owns and holds title to 100 percent of the throughput on the Hidden Bench System.⁵

4. The criteria to qualify for temporary waiver of the filing and reporting requirements of the Commission's regulations and ICA sections 6 and 20 are as follows: (1) the pipelines (or their affiliates) own 100 percent of the throughput on the line; (2) there is no demonstrated third-party interest in gaining access to or shipping on the line; (3) no such interest is likely to materialize; and (4) there is no opposition to granting the waiver request.⁶ In these cases, the Commission determined that there were no active third-party shipper interests to protect under the ICA, and therefore temporary

³ Transmittal at 2.

⁴ *Id.* at 3.

⁵ *Id.* at 2.

⁶ See *Noble Midstream Svcs., LLC*, 152 FERC ¶ 61,147 (2015); *Saddle Butte Pipeline, LLC*, 136 FERC ¶ 61,071 (2011); *Whiting Oil and Gas Corp.*, 131 FERC ¶ 61,263 (2010); *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 Oil Corp.*, 4 FERC ¶ 62,026 (1978).

waivers of sections 6 and 20 filing and reporting requirements were warranted. However, the Commission granted the waivers subject to revocation should circumstances change, and required the pipelines to keep their books and records in a manner consistent with the Commission's Uniform System of Accounts.

5. Tesoro Great Plains makes the following representations: (1) it owns or will own all of the crude oil to be transported on the Hidden Bench Pipeline; (2) no third party has requested transportation services on the pipeline; (3) it does not believe that there will be any opposition to this waiver request; and (4) no third party is likely to request transportation on this pipeline.⁷ It reiterates that Tesoro Great Plains purchases all of the crude oil that is transported from the wells connected to its pipeline to Watford City pursuant to a long-term sales contract entered into prior to the Hidden Bench Pipeline being built and further explains that all of the wells are subject to this agreement. Tesoro Great Plains contends that the oil and gas leases in the area adjoining the pipeline are dedicated to the long-term sales contract. It maintains that there are no undedicated wells nearby that could be connected to the Hidden Bench Pipeline without additional construction by Tesoro Great Plains.

6. Public notice of the filing was issued on November 9, 2016. Interventions and protests were due on or before November 23, 2016, as provided in section 154.210 of the Commission's regulations.⁸ Pursuant to Rule 214,⁹ all timely motions to intervene and any unopposed motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late interventions 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. Based on the representations provided in the request for waiver, the Commission concludes that Tesoro Great Plains meets the criteria to receive a temporary waiver, consistent with the Commission's prior rulings.

8. Accordingly, the Commission grants and Tesoro Great Plains' request for temporary ICA waiver, as to the Hidden Bench Pipeline. Since the current waiver is temporary, and based solely on the facts presented by Tesoro Great Plains in its request for waiver, the Commission directs Tesoro Great Plains to continue to report to the Commission any change in the circumstances on which these waivers are based.

⁷ Transmittal at 4.

⁸ 18 C.F.R. § 154.210 (2016).

⁹ *Id.* § 385.214.

Specifically, Tesoro Great Plains must report any change including, but not limited to: (1) increased accessibility of other pipelines or refiners to its facilities; (2) changes in the ownership of the facilities; (3) changes in the ownership of the crude oil being shipped; and (4) shipment tenders of requests for service by any person. Additionally, Tesoro Great Plains 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, 18 C.F.R. pt. 352. Tesoro Great Plains 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.