

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Enogex Inc.

Docket Nos. PR04-15-000
PR04-16-000

ORDER EXTENDING TIME FOR ACTION

(Issued February 23, 2005)

1. This order addresses a petition for rate approval and a revised lower fuel factor filed by Enogex Inc. (Enogex).¹ On January 25, 2005, all the active parties² (the Joint Parties) filed a motion requesting that the Commission extend the time for action by 90 days in order to facilitate a settlement of the issues in this proceeding. As discussed below, the Commission extends the time for action on Enogex's petition for rate approval and revised lower fuel factor. This order is in the public interest because it promotes the Commission's goal of encouraging settlements.

Enogex's Filings

2. On September 30, 2004, Enogex filed a petition for rate approval pursuant to section 284.123(b)(2) of the Commission's regulations and section 311(a)(2) of the Natural Gas Policy Act (NGPA) for interruptible transportation service on its system. Enogex proposes to unbundle its gathering and transmission facilities and increase its

¹ Enogex is an intrastate pipeline with facilities in the State of Oklahoma.

² The signatories of the joint motion are: Enogex; Oklahoma Independent Petroleum Association (OIPA); Unimark LLC (Unimark); Marathon Oil Company (Marathon); ConocoPhillips Company (ConocoPhillips); Dominion Oklahoma Texas Exploration and Production, Inc. (Dominion); Seminole Energy Services, LLC (Seminole); BP America Production Company and BP Energy Company (BP); ChevronTexaco Exploration and Production Company (ChevronTexaco); State of Oklahoma Governor's Office (Governor's Office); Apache Corporation (Apache); Chesapeake Energy Marketing, Inc.; and Cimarex Energy Company.

previously approved rate of \$0.19 per MMBtu to a maximum system-wide transportation rate of \$0.3117 per MMBtu, effective January 1, 2005. On September 29, 2004, Enogex also filed a revised lower fuel factor for the last quarter of 2004, as calculated pursuant to the formulas in Enogex's filed fuel tracker. Enogex proposes to unbundle its fuel between gathering and transmission. The impact in the instant filing is a reduction of its previously approved 1.35 percent for Fuel Year 2004 to 0.45 percent for the fourth quarter 2004, effective October 1, 2004.

Public Notice

3. Notice of Enogex's fuel tracker filing was issued on October 4, 2004, with interventions and protests due on or before October 18, 2004. BP, ChevronTexaco and Seminole filed motions to intervene. Unimark filed a motion to intervene and protest. Questar Exploration and Production Company (Questar), Marathon, Dominion and OIPA filed motions to intervene out-of-time. Notice of Enogex's petition for rate approval was issued on October 19, 2004, with interventions and protests due on or before November 2, 2004. BP, ConocoPhillips, OIPA, Dominion, Questar and the Oklahoma Corporation Commission filed motions to intervene. Scissortail Energy, LLC; Seminole; Unimark; ChevronTexaco; and Apache filed motions to intervene and protest. Marathon and the Governor's Office filed motions to intervene out-of-time. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214 (2004)), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted for both the fuel tracker proceeding and the rate approval proceeding. Granting late intervention at this state of the proceeding will not disrupt the proceeding or place additional burdens on existing parties.

Discussion

4. Section 284.123(b)(2)(ii) provides that 150 days after the date on which the Commission receives an application, the rate proposed in the application will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for providing similar transportation service, unless within 150 days the Commission either extends the time for action, or institutes a proceeding in which all interested parties will be afforded an opportunity for written comments and for the oral presentation of views, data and arguments.³

5. The 150-day period for review of Enogex's rates will expire on February 25, 2005. Joint Parties state in their motion that through discovery and discussions they have begun to resolve the various issues. However, Joint Parties state that, due to the many

³ 18 C.F.R. § 284.123(b)(2)(ii)(2004).

complications arising from the application such as unbundling, acquisition premiums, new capacity allocation procedures and increased rates, it is doubtful that a resolution can be finalized prior to February 25, 2005. Accordingly, Joint Parties request that the Commission extend the time for action on its revised fuel factor and petition for rate approval for a period of 90 days or until May 26, 2005.

6. Given the Joint Parties' request for an extension of time to facilitate settlement, and the Commission's preference for settlements, the Commission finds good cause exists to extend the 150-day period and grants the Joint Parties' request. The Commission will therefore extend the time for action until it can make a determination whether Enogex's rates are fair and equitable. Consistent with the Joint Parties' motion, the Commission requires that Enogex file a progress report with the Commission within 90 days of this order. Within 120 days of the date this order issues, Commission Staff will report to the Commission on the status of settlement negotiations.

The Commission orders:

Pursuant to the Commission's authority under section 311 of the NGPA and section 284.123(b)(2)(ii) of the Commission's regulations, time for action on Enogex's revised fuel factor and petition for rate approval is extended until the Commission can make a determination whether Enogex's rates are fair and equitable or until it determines that formal proceedings are necessary.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.