

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

Mid-America Pipeline Company, LLC

Docket Nos. IS06-444-000  
IS06-444-001  
IS06-341-000  
IS06-293-000

ORDER ACCEPTING TARIFFS

(Issued July 19, 2006)

1. On May 19, 2006, in Docket No. OR06-293-000, Mid-America Pipeline Company, LLC (MAPL) filed Supplement No. 1 to FERC No. 42 to be effective July 1, 2006. MAPL proposed to establish a new volume incentive program under Item No. 330 (Incentive Program-Demethanized Mix) and to change its capacity allocation procedures in Item No. 128 (Allocation of Demethanized Mix) to include the new volume incentive program.

2. On May 31, 2006, in Docket No. IS06-341-000, MAPL filed Supplement No. 2 to FERC No. 42 and proposed FERC Tariff Nos. 43 and 44 pursuant to the Commission's oil pipeline rate indexing methodology<sup>1</sup> to become effective July 1, 2006.<sup>2</sup> MAPL filed Supplement No. 2 to FERC No. 42 to cancel Supplement No. 1. MAPL made the filing within the 15-day protest period permitted for Supplement No. 1 as provided in 18 C.F.R. § 343.2(a). In addition to canceling Supplement No. 1, Supplement No. 2 brings forward Supplement No. 1's new volume incentive joint rates as well as its update to the capacity allocation rules. Williams Energy Services, LLC and Williams Power Company, Inc. (jointly, Williams) protested and asked the Commission to reject Supplement No. 2 and to consolidate this proceeding with the pending consolidated MAPL rate proceedings in

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<sup>1</sup> 18 C.F.R. § 342.3 (2005).

<sup>2</sup> MAPL's FERC Nos. 43 and 44 went into effect on July 1, 2006, by operation of law. They are not at issue here.

Docket No. IS05-216-000, *et al.*,<sup>3</sup> and Williams' pending complaint in Docket No. OR06-5-000.

3. On June 19, 2006, in Docket No. IS06-444-000, MAPL filed Supplement No. 3 to FERC Tariff No. 42 to be effective July 1, 2006. Supplement No. 3 cancels Supplement No. 2 to FERC No. 42 and extends the open season for the Item No. 330 incentive program from June 19, 2006, to July 6, 2006, to allow shippers additional time to sign-up for the new incentive program. MAPL filed Supplement No. 4 (correction supplement) in Docket No. IS06-444-001 to correct the date in Item No. No. 330 by adding the July 6, 2006 date, which had been inadvertently omitted from one portion of Supplement No. 3. Williams also protested this filing and asked that it be consolidated with pending MAPL proceedings in Docket No. IS05-216-000, *et al.*, and Williams' pending complaint in Docket No. OR06-5-000.

4. For the reasons discussed below, the Commission accepts Supplement No. 3 to FERC No. 42, as corrected by Supplement No. 4 to FERC No. 42, effective July 1, 2006.

### **Background**

5. MAPL's FERC Tariff No. 42 includes general rates under Item No. 210 for Demethanized Mix movements on MAPL's Rocky Mountain System. The movements include origins in Wyoming/Utah (Group 100), Utah/Colorado (Group 101), Utah/Colorado (Group 102), Utah/Colorado (Group 104), Colorado (Group 105), New Mexico (Group 110), and a destination at Hobbs/Gaines, Texas (Group 120). MAPL provides joint rates with its affiliate Seminole Pipeline Company (Seminole) continuing the transportation movement from the origin points listed above to a final destination point on the Gulf Coast at Mont Belvieu, Texas (Group 950 destination point).

6. In addition, MAPL's FERC Tariff No. 42 includes a joint incentive rate (Item No. 310 Incentive Rates – Group 100) for movements of demethanized mix from Group 100 origins to the destination at Mont Belvieu, Texas. Pursuant to the provisions of Item No. 300 Incentive Program – Group 100, the incentive rate was available to a shipper signing a written commitment agreeing to ship all of its product for a period of seven years. The commitment period under the existing volume incentive program ends February 1, 2007. Item No. 128 Allocation of Demethanized Mix of MAPL's tariff describes the manner in which the expansion capacity under this incentive rate program (Expansion Capacity) will be allocated in the event nominations exceed capacity.

7. MAPL's current tariff divides capacity into "Base Capacity (pre-1999 Rocky Mountain expansion capacity) and "Expansion Capacity" (capacity above Base

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<sup>3</sup> *Mid-America Pipeline Company, LLC*, 111 FERC ¶ 61,483 (2005); *Mid-America Pipeline Company, LLC*, 115 FERC ¶ 61,124 (2006).

Capacity). If nominations exceed Base Capacity, such Base Capacity is allocated on a traditional historically-based prorationing policy, with 10 percent of capacity reserved for new shippers. If nominations exceed both Base Capacity and Expansion Capacity, 80 percent of the Expansion Capacity is allocated among shippers that have executed a written commitment pursuant to MAPL's volume incentive program in Item No. 300. The remaining 20 percent of Expansion Capacity will be allocated using the same historical procedures used for the allocation of Base Capacity.

### **MAPL's Proposal**

8. With its current incentive program ending in February 2007, MAPL has proposed a new volume incentive program pursuant to Item No. 330 in order to continue to provide shippers the option of reduced rates and rate certainty in exchange for long-term volume commitments. MAPL proposes to maintain the current rules for allocation of the Expansion Capacity for Item No. No. 300 shippers until that program expires in February 2007, and then to continue to allocate Expansion Capacity to all shippers who execute a new dedication agreement under the new volume incentive program in Item No. 330 using the same 80/20 percent allocation currently effective, as described above. MAPL's proposed new incentive program will be available to Groups 100 through 110 origin shippers, rather than being restricted to shippers from the Group 100 origin, as is currently the case.

### **Protest**

9. As stated above, Williams filed motions to intervene, protests, and requests for consolidation in Docket Nos. IS06-341-000, IS06-444-000, and IS06-444-001. Williams states that it ships approximately 61,000 barrels per day (bpd) of natural gas liquids (NGLs) under the joint MAPL-Seminole incentive rate program. Williams states that it also sells approximately 6,500 bpd of NGLs from two processing plants. Williams explains that these volumes are shipped at a net-back price tied to MAPL's tariff rate for movements from Group 110 to Group 950.

10. Williams asserts that the MAPL Expansion Capacity described in the revised capacity allocation provision is illusory because the expansion of the Rocky Mountain segment was completed in 1999. Williams contends that MAPL cannot claim that this capacity is new Expansion Capacity that will be available to new shippers beginning in February 2007. Instead, Williams claims this Expansion Capacity should be reclassified and rolled into existing Base Capacity to be made available to shippers based on their historical volumes. Williams contends that MAPL's attempt to label and allocate capacity previously made available by the support of those who participated in the current seven-year incentive rate program and awarding this existing capacity to new shippers participating in the new incentive program is unduly discriminatory. Williams also contends that allocation of 80 percent of the capacity attributable to the previous

expansion will confer an undue preference and competitive advantage on shippers enrolling in the new volume incentive program.

11. Williams also requests that the Commission reject any attempt by MAPL and Seminole to adopt a joint rate because Williams contends that movements on the Seminole system occur wholly within the State of Texas. Williams argues that Seminole is an intrastate pipeline and the rates levied by Seminole are outside the jurisdiction of the Commission. Therefore, reasons Williams, joint movements of NGLs on the MAPL and Seminole systems fall outside the rate immunizations afforded by the Commission's Joint Rate Policy.

12. Next, Williams claims that the continued rate differential between Group 105 to Group 950 shippers and Group 110 to Group 950 shippers is unjustified, discriminatory, and unduly preferential. Williams believes that Group 110 shippers using the joint rate from MAPL's Rocky Mountain segment to Seminole's Group 950 destination are favored over the shippers from MAPL's Rocky Mountain segment Group 105 to Seminole Group 950.

13. Williams states that, in Supplement No. 2, as part of the indexing increases in its rates, MAPL increases the rate for demethanized mix from MAPL's Rocky Mountain segment Group 102 to Seminole 950. Williams notes that this increase makes Group 950 rates equal to the rates for the same movements from Groups 100 and 101 to Group 950 for both current incentive rate program shippers and all other shippers. Williams claims that MAPL has provided no support for the elimination of the rate differential between Group 102 and Groups 100 and 101. Williams further notes that this action discriminates against shippers from Group 102 and provides an undue preference and a competitive advantage to shippers at Groups 100 and 101. Williams argues that making rates the same over large distances covered by Groups 100, 101, and 102, but providing a large differential in the rates between Groups 105 and 110, which involve relatively short distances, represents preferential treatment, which MAPL has failed to support.

### **Response**

14. MAPL responds that Williams' challenge is brought primarily as a competitor and not as a shipper. MAPL asserts that Williams is building its own pipeline that will compete directly with MAPL's Rocky Mountain System. Specifically, MAPL states that Williams and its affiliate, ONEOK, Inc., are developing a new pipeline, the Overland Pass Pipeline, which will transport NGLs from Wyoming to storage facilities in Kansas. MAPL also claims that Williams seeks to drive up MAPL's rates (by delaying rate increases) and generally frustrating MAPL's attempt to sign up new shippers.

15. MAPL contends that it is not taking capacity from participants in the current seven-year incentive program and awarding this capacity both to shippers who did not

participate in the current seven-year program and to new shippers participating in the new volume incentive program. MAPL explains that it intends to maintain the current expansion allocation rules for Item No. 300 shippers until the program expires on February 1, 2007, and then continue to allocate Expansion Capacity to all participants in the new Item No. 330 program. MAPL contends that the current volume incentive shippers will not experience discrimination under the new policy because both historical and new shippers will have an equal opportunity to participate in the new volume incentive program.

16. MAPL argues that its capacity allocation rules are proper. MAPL contends that the Expansion Capacity to be allocated (once the current incentive program expires) includes more than just the capacity brought on-line by the 1999 expansion. MAPL explains that the pre-1999 Base Capacity amounted to 185,000 bpd. MAPL further states that the 1999 expansion added approximately 40,000 bpd. MAPL states that it is constructing an additional expansion that will add approximately 50,000 bpd of capacity by August 2007. Thus, concludes MAPL, the majority of the Expansion Capacity to be offered under the proposed allocation policy did not exist when the current seven-year volume commitment period began. MAPL concludes that the capacity allocation issue should not be consolidated with the ongoing rate cases, as this is a distinct issue that can be dealt with expeditiously on its own facts.

17. MAPL next addresses Williams' claim that Seminole cannot participate in a joint rate arrangement with MAPL because Seminole is an intrastate pipeline. MAPL points out that it has a history of joint rates with Seminole. MAPL also emphasizes that Seminole's FERC No. 3 Tariff is on file with the Commission and that a substantial portion of the product moved on Seminole originates outside the State of Texas.

18. MAPL does not deny that there is a difference between Group 105 and Group 110 rates, but MAPL maintains that the differential is not discriminatory. MAPL emphasizes that Williams' claim is not appropriate as a protest because those rates have not changed. Further MAPL notes that the Commission already has rejected Williams' challenge to the rate differential between the Groups.<sup>4</sup> MAPL also points out that the new volume incentive joint rates are discounts below the applicable ceiling rates. MAPL submits that there is no requirement that an oil pipeline's rates be designed on a strictly distance-related basis or any other type of fully-allocated cost methodology.<sup>5</sup>

19. MAPL further contends that adjusting the joint rates for movements from Group 102 to Group 950 so that they are equal to the joint rates from Group 100 and 101 to

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<sup>4</sup> *Mid-America Pipeline Company, LLC*, 115 FERC ¶ 61,258 at P 16 (2006).

<sup>5</sup> *Williams Pipe Line Co.*, 84 FERC ¶ 61,022 at 61,103 (1998).

Group 950 is not discriminatory. According to MAPL, Williams' challenge here should be rejected for the same reason that the Commission rejected discrimination arguments with respect to the volume incentive rates initially filed in Tariff No. 42.<sup>6</sup> Because the 304 cents-per-barrel joint rate from Group 102 to Group 950 is well below the sum of the two local rates (353.07 cents per barrel), MAPL emphasizes that the joint rate is below the applicable ceiling level, and it is acceptable on that basis alone.

### **Discussion**

20. On May 19, 2006, in Docket No. IS06-293-000, MAPL filed Supplement No. 1 to its FERC Tariff No. 42 proposing changes to Item No. 128 and adding a new Item No. 330. MAPL requested an effective date of July 1, 2006. However, before Supplement No. 1 became effective, MAPL filed Supplement No. 2 to FERC No. 42, and before Supplement No. 2 became effective, MAPL filed Supplement No. 3 to FERC Tariff No. 42.<sup>7</sup>

21. Section 341.13(a) of the Commission's regulations<sup>8</sup> provides that a proposed tariff publication that is not yet effective may be withdrawn at any time by notice to the Commission in the form of a letter to the Secretary of the Commission. Because MAPL has attempted to cancel one supplement before it becomes effective by filing another supplement with identical information, the Commission is treating the cancellations as withdrawals. Because the proposed tariff changes listed in Item No. 128 were brought forward in Supplement No. 3 (Docket No. IS06-444-000), the protest in response to Supplement No. 2 (Docket No. IS06-341-000) will be addressed in response to the Docket No. IS06-444-000 filing.

22. The Commission finds that MAPL has adequately answered and clarified the concerns raised by Williams. In addition, MAPL's FERC Tariff No. 42, which already has been accepted by the Commission, includes reduced rates for MAPL's Rocky Mountain System. Here the joint rate and the incentive program joint rate are at the same level, and because both are below allowed ceiling levels, they are acceptable on that basis alone. Therefore, the Commission has no basis for concluding in this proceeding that such rates are unjust and unreasonable.

23. The Commission has determined that MAPL's new Item No. 330 Incentive Program is not discriminatory as Williams claims. All shippers, both current and new, will be equally eligible to participate in the new volume incentive program. Further, the

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<sup>6</sup> *Mid-America Pipeline Company, LLC*, 115 FERC ¶ 61,258 at P 16 (2006).

<sup>7</sup> As stated above, Supplement No. 4 is merely a correction supplement.

<sup>8</sup> 18 C.F.R. § 341.13(a) (2005).

program offers all shippers the same low rates that Williams is receiving under the existing volume incentive program, which expires January 31, 2007. MAPL is entitled to offer incentive rates tied to volume and term requirements under its new program, as it has chosen to do. Further, MAPL has chosen to apply the same capacity allocation methodology applicable to the Expansion Capacity under the new program that it has applied to the existing program in which Williams participates.

24. Additionally, MAPL has increased Expansion Capacity under the new program, and this increased capacity will be allocated on the same 80/20-percent basis as the original Expansion Capacity. The total Expansion Capacity to be available in August 2007 under the new program is estimated to be approximately 90,000 bpd, which includes the current Expansion Capacity of 40,000 bpd. The 1999 capacity accounted for only approximately 12 percent of total capacity (80% x 40,000 Expansion Capacity) compared with 225,000 bpd total system-wide capacity. Approximately 25 percent of total capacity will be available under the new incentive program (80% x 90,000 bpd Expansion Capacity) compared with 275,000 bpd total system-wide capacity. Non-volume incentive shippers will be eligible to ship on approximately 75 percent of the line. Thus, neither historical shippers nor new shippers will be denied access even if they do not sign long-term volume dedications.

25. Moreover, the Commission finds that other issues raised by Williams are outside the scope of this proceeding, such as Williams' allegation that Seminole is an intrastate pipeline that should not be involved in a joint rate movement with MAPL. Seminole has a tariff on file with the Commission, and it has a history of joint rate movements across its system. This rate filing is not the appropriate forum in which to challenge the alleged "intrastate" character of Seminole's rates. The Commission points out, however, that it is the nature of a transportation movement, not the location of a pipeline, which determines whether the movement is interstate or intrastate. If a movement originates in one state and ends in another state, it is in interstate commerce.<sup>9</sup>

26. Finally, the Commission already has ruled that Williams' protest relating to the rate differentials among the rate Groups has no merit.<sup>10</sup> The proposed rates do not change the differential, and they are below the applicable ceiling levels. Given the discussion above, the Commission will not consolidate the instant proceeding with the ongoing proceedings in Docket No. IS05-216-000, *et al.*, or Williams' complaint in Docket No. OR06-5-000.

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<sup>9</sup> 49 U.S.C. App. § 1(1) (1988)

<sup>10</sup> *Mid-America Pipeline Company, LLC*, 115 FERC ¶ 61,258 at P 16 (2006).

The Commission orders:

Supplement No. 3 to FERC Tariff No. 42, as corrected by Supplement No. 4 to FERC Tariff No. 42, is accepted to be effective July 1, 2006.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.