

2. On February 21, 2007, Clear Creek Storage Company, L.L.C. (Clear Creek) filed a request for partial exemption from the Interim Rule. As discussed below, the Commission grants Clear Creek's request.

I. Background

A. Rendezvous

3. Rendezvous states that it is a 20.8 mile, 20-inch diameter natural gas pipeline with a single receipt point near the outlet of the Black Fork processing plant³ in Uinta County, Wyoming and a single delivery point at the interconnection with Kern River's pipeline system in Lincoln County, Wyoming. Rendezvous has transportation service agreements with three shippers for approximately 220,000 Dth per day of firm capacity, and it currently has unsubscribed capacity. Rendezvous estimates that its annual revenues will be less than \$2 million, and the Commission determined that it lacks market power.⁴

4. Rendezvous states that it is wholly owned by QGM, which is wholly owned by Questar Market Resources, Inc. (QMR), which is a subsidiary of Questar Corporation. Rendezvous states that it does not have any employees and that QGM manages the daily operation of its facilities, including contract administration, accounting, business development, planning, gas control and engineering, and scheduling and nomination services. Rendezvous also states that Questar Pipeline Company, an affiliated transmission provider, handles the regulatory affairs, compliance and contract administration activities for Rendezvous.

5. Rendezvous states that QGM does not buy or sell natural gas except in limited quantities to supply the operational needs of its gathering system and does not perform any other marketing activities. Rendezvous states that QGM is not a marketing affiliate under section 358.3(l) of the Commission's regulations. Rendezvous concludes that because QGM is not a marketing affiliate, it may provide services, including the sharing of employees and information, to Rendezvous.

6. Even though the standards of conduct permit Rendezvous to share employees and information with QGM because QGM is not a marketing affiliate, Rendezvous states that QGM (which operates Rendezvous) is not completely physically separate

³ The Black Fork processing plant is wholly owned by Questar Gas Management Company (QGM), a non-jurisdictional gathering affiliate.

⁴ *Citing Rendezvous Gas Services, L.L.C.*, 112 FERC ¶ 61,141, at P 40, *order on reh'g*, 113 FERC ¶ 61,169 (2005).

from other affiliates, Questar Energy Trading (QET) and Questar Exploration Production Company (QEP).

7. Rendezvous states that QET is a marketing company that makes sale for resale and holds transportation capacity on Rendezvous' pipeline making it a marketing affiliate. QEP is an affiliated production company that sells all its gas to QET, but does not hold transportation capacity on any affiliated transmission providers. Therefore, Rendezvous requests a limited waiver to allow it to share facilities with QET and QEP. Rendezvous questions whether QEP is actually a marketing affiliate because the Interim Rule was unclear whether entities that do not conduct transportation transactions with their marketing affiliates is a marketing affiliate.

8. Rendezvous explains that although the information systems of Rendezvous are password protected with access granted only to the QGM employees that operate Rendezvous and that QGM employees have been trained regarding their obligation to not disclose transmission-related information to employees of QGM's marketing affiliates, employees of QEP and QET share office space and interact with employees of QGM regarding gathering systems operations and planning.

9. Rendezvous also states that it shares a senior officer and director, Mr. Charles B. Stanley, with certain marketing affiliates. While Mr. Stanley is not an officer or director of Rendezvous, he is the president and CEO of QMR, QGM, QEP, and QET. Rendezvous states that Mr. Stanley would not be considered a transmission function employee of Rendezvous but would be a marketing function employee of QGM's marketing affiliates, given his duties in planning and directing marketing activities.

10. Accordingly, Rendezvous requests waiver of the independent functioning and information access and non-disclosure provisions of the Interim Rule so that Mr. Stanley would not have to be separated from the employees and information systems of QGM that operate Rendezvous and so that the QGM employees that operate Rendezvous would not be isolated from interactions with other QGM employees and employees of QGM's marketing affiliates. Rendezvous states that while Mr. Stanley is a marketing function employee, he does not direct the daily operations of the traders. Rendezvous states that to the extent that Mr. Stanley receives transmission information regarding Rendezvous, he will not act as a conduit to QET's traders. Rendezvous claims that Mr. Stanley has always had access to customer information regarding QGM's and RGS's⁵ gathering services, including their deliveries to Rendezvous. Since Rendezvous only has one receipt point and one delivery point, there is no distinction between QGM's delivery volumes to Rendezvous and Rendezvous' delivery volumes to Kern River. As a result, QGM's

⁵ QGM is a member of RGS, a joint venture LLC with Mountain Gas Resources.

marketing affiliates would obtain no competitive advantage or additional non-public transmission information by virtue of Mr. Stanley having access to information regarding Rendezvous' receipt of quantities from QGM or its deliveries to Kern River.

11. Furthermore, Rendezvous argues that complete physical separation of the QGM employees operating Rendezvous would interfere with those employees' ability to operate the gathering systems of QGM and RGS. Rendezvous contends that while employees of QEP and QET may have access to the physical offices of the QGM employees that operate Rendezvous, in practice, Rendezvous' marketing affiliates do not have access to the information and systems of Rendezvous. Complete separation would require Rendezvous to expend substantial resources to hire separate staff and information systems and/or lose the operating efficiencies associated with coordination with the gathering systems of QGM and RGS.

B. Clear Creek

12. Clear Creek states that it is a small storage facility with a single, affiliated customer. In February 2000,⁶ the Commission granted Clear Creek a partial waiver of the standards of conduct based on its small size and lack of employees. The order found that Clear Creek had separated to the maximum extent practicable and allowed Clear Creek to share operating employees with its marketing affiliate and to disclose information received from non-affiliated shippers. Clear Creek states, at that time, that QET, a marketing affiliate, owned 75 percent of Clear Creek, and Montana Power Ventures, Inc. owned the remaining 25 percent. Since then Clear Creek states that QET has obtained the outstanding 25 percent and now is the sole owner of Clear Creek. Furthermore, Clear Creek states that its storage capacity is fully subscribed to QET.

13. Clear Creek states that it does not have any employees and that it shares employees with its affiliate. Specifically, Clear Creek states that: (1) Perry Richards, vice-President of QGM, has overall managerial responsibility for Clear Creek; (2) Jeff Miller, a QEP employee, handles the gas control and scheduling functions; and (3) Mr. Charles Stanley, who is not an officer or director of Clear Creek, but is the CEO of QET and would be considered a marketing function employee of Clear Creek's marketing affiliates. Clear Creek states that Mr. Richards and Mr. Miller will have day to day responsibilities and share office space and information with other employees of QET and QEP. However, Mr. Stanley does not participate in the day to day operations of Clear Creek.

⁶ *Clear Creek Storage Co., L.L.C.*, 90 FERC ¶ 61,143 (2000).

14. Clear Creek requests waiver of the independent functioning and information access and non-disclosure provisions of the Interim Rule so that it does not have to isolate Mr. Stanley from the employees and information systems that are used to operate Clear Creek and that it should not be required to separate the employees that operate Clear Creek from those of QEP and QET. Clear Creek argues that concerns that it might favor its affiliate to the detriment of non-affiliated shippers are greatly diminished or eliminated because it is wholly owned by QET and all of its firm storage capacity is held by QET. Clear Creek points to the following facts to support its request for waiver: (1) its small size; (2) all of its capacity is held by its marketing affiliate; (3) it has a single, affiliated customer; (4) it has no employees; (5) hiring a separate staff and installing separate information systems to manage its operations would not be economically justified; and (6) further separating the employees that operate Clear Creek from those of its marketing affiliates would interfere with their ability to perform their other duties.

II. Notice of Filings

15. Notices of Rendezvous' October 21, 2006 filing and February 21, 2007 filing were published in the *Federal Register*, 71 Fed. Reg. 65,095 (2006) and 72 Fed. Reg. 11,857 (2007), with interventions and protests due on or before November 20, 2006 and March 23, 2007, respectively. None was filed.

16. Notice of Clear Creek's filing was published in the *Federal Register*, 72 Fed. Reg. 11,855 (2007), with interventions and protests due on or before March 23, 2007. None was filed.

III. Discussion

A. Rendezvous

17. On January 9, 2007, the Commission issued the Interim Rule promulgating interim standards of conduct regulations that govern relationships between natural gas transmission providers and their marketing affiliates. The Commission issued the Interim Rule in response to the decision of the United States Court of Appeals for the District of Columbia concerning the Standards of Conduct for Transmission Providers under Order No. 2004.⁷ The purpose of the Interim Rule was to repromulgate the standards of conduct not challenged in the *National Fuel* appeal in the interim while the Commission considered how to respond to the court's decision on a permanent basis.

⁷ See *National Fuel*, 468 F.3d 833-34.

18. Subsequently, the Commission clarified that under the Interim Rule, the standards of conduct for natural gas transmission providers apply only to transmission providers that are affiliated with a marketing or brokering entity that conducts transportation transactions on such natural gas transmission provider's pipeline.⁸ Based on the Rendezvous' pleading, it appears that QEP is not a marketing affiliate.

19. Based on statements in Rendezvous' pleadings concerning its small size, limited operations, and lack of staff, the Commission grants Rendezvous a partial waiver from the requirements under the Interim Rule.⁹ Specifically, the Commission is waiving the obligation to comply with the independent functioning requirement of section 358.4(a), and is waiving the information access and non-disclosure provisions of section 358.5(a) and (b)(1), (2) and (3). Rendezvous must notify the Commission if there is any change in circumstances in its operations that might affect its waiver. Additionally, as this is only a waiver as it applies under the Interim Rule, this finding will be subject to the final rule on the standards of conduct.

B. Clear Creek

20. Based on statements in Clear Creek's pleadings concerning its small size, lack of staff and limited number of employees, the Commission grants Clear Creek a partial waiver from the requirements under the interim standards of conduct.¹⁰ Specifically, the Commission is waiving the obligation to comply with the independent functioning requirement of section 358.4(a), and is waiving the information access and non-disclosure provisions of section 358.5(a) and (b)(1), (2) and (3). Clear Creek must notify the Commission if there is any change in circumstances in its operations that might affect its waiver. Additionally, as this

⁸ Interim Rule, FERC Stats. & Regs. ¶ 31,237 at P 13 and 17.

⁹ *See, e.g., Jupiter Energy Corporation*, 115 FERC ¶ 61,317, at P 64 (2006) (finding that Discovery Gas Transmission, LLC's 30-inch, 105-mile transmission line qualifies for waiver of the independent functioning requirement and the information access and non-disclosure provisions of the standards of conduct under Order No. 2004 because of its small size, lack of staff and limited operations); *American Transmission Company L.L.C.*, 109 FERC ¶ 61,082, at P 44, 68 (2004) (granting partial waiver of the standards of conduct to SCG Pipeline, Inc., a 31-mile interstate pipeline with no employees and to Venice Gathering System, L.L.C., a 253-mile interstate pipeline with a single delivery point and no employees, because of these pipelines' small size, lack of staff, and limited operations).

¹⁰ *See Bear Creek Storage Co.*, 108 FERC ¶ 61,011, at P 20 (2004) (granting Hampshire Gas Company, a storage facility that provides storage service solely to its local distribution company, a partial waiver from the standards of conduct because of its small size and limited operations).

waiver is being granted under the Interim Rule, this finding will be subject to the final rule on the standards of conduct to the extent that it might be different from the Interim Rule.

The Commission orders:

(A) The Commission hereby grants Rendezvous' request for partial waiver of the Interim Rule, as discussed in the body of this order.

(B) The Commission hereby grants Clear Creek's request for partial waiver of the Interim Rule, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.
Acting Deputy Secretary.