

137 FERC ¶ 61,042
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

October 14, 2011

In Reply Refer To:
Sequent Energy Management, L.P.
Nicor Enerchange, L.L.C.
Docket No. RP11-2565-000

Sequent Energy Management, L.P.
c/o AGL Resources, Inc.
1200 Smith Street, Suite 900
Houston, TX 77002

Attention: Dat Tran, Attorney for Sequent Energy Management, L.P.

Reference: Joint Petition for Temporary Waiver of Capacity Release Regulations and Policies

Dear Mr. Tran:

1. On September 14, 2011, Sequent Energy Management, L.P. (Sequent) and Nicor Enerchange, L.L.C. (Enerchange) (collectively Petitioners) filed a request for a temporary waiver of certain capacity release and other Commission rules, regulations and policies (Joint Petition), to facilitate Enerchange's transfer of certain gas transportation and storage service agreements to Sequent upon consummation of a proposed merger of the Petitioners' parent companies.¹ The Petitioners request the waivers to be in effect for a 180-day period from the date of the order granting the requested waivers, as proposed. For the reasons discussed below, and for good cause shown, the Commission grants the requested temporary waivers.

¹ Applicants request waiver of the shipper-must-have-title rule, the prohibitions on buy-sell arrangements and tying arrangements, bidding requirements, restrictions on capacity releases below or above the maximum rate, and any pipeline tariff provisions related thereto.

2. The Petitioners state that on December 7, 2010, AGL Resources and Nicor announced that the Boards of Directors of both companies approved a definitive merger agreement, whereby Nicor would merge into a subsidiary of AGL Resources (Merger). According to Petitioners, on June 14, 2011, shareholders of AGL Resources and Nicor voted to approve the proposed Merger. Petitioners further state that once approved by the Illinois Commerce Commission, the proposed Merger is expected to close in the fourth quarter of 2011.

3. According to the Joint Petition, Sequent is a wholly-owned subsidiary of AGL Resources, Inc. and Enerchange is a subsidiary of Nicor Inc. The Petitioners state that as a result of the Merger, AGL Resources will consolidate the wholesale gas marketing business from the two subsidiary companies into one business entity, Sequent.

4. The Petitioners state that because they contemplate that Sequent will perform the wholesale natural gas marketing functions for the combined merged entity, certain gas purchase and sales agreements and jurisdictional gas transportation and storage agreements² currently held by Enerchange will be assigned to Sequent. Petitioners further state that transfer of these agreements will be accomplished by means of permanent capacity releases in the case of pipeline transportation and storage agreements, or assignment in the case of gas supply and sales agreements.

5. The Petitioners assert that the proposed waivers are needed because, during the process of integrating and transferring referenced agreements from Enerchange to Sequent, Petitioners may inadvertently violate the Commission's capacity release regulations and policies. The Petitioners state that the shipper-must-have-title policy and the buy-sell prohibition may be unintentionally encroached, because it is impossible to seamlessly time the transfer of multiple purchase and sales contracts across several different pipeline systems simultaneously. The Petitioners also state that waiver of the tying prohibition is required to allow for transportation and storage capacity of Enerchange to be released to Sequent in conjunction with its gas purchase and sales contracts. In addition, the Petitioners state that waiver of the capacity bidding requirements and restrictions on capacity releases below or above the applicable maximum tariff rate cap is necessary in order for parties to the Merger and the company shareholders to realize the benefits of the overall integrated merger transaction. Furthermore, the Petitioners assert that approval of the waivers sought herein is critical and that any impact on third-parties, such as pipelines, marketers and retail customers, will be minimal.

² The Petition lists twenty jurisdictional contracts on six pipelines that Enerchange seeks to release to Sequent pursuant to the waiver request.

6. The Petitioners state that once the requested waivers are received, Enerchange will provide notification to the relevant pipelines or storage providers of its intent to release the applicable contracts to Sequent. The Petitioners further submit that they seek waiver of only the pipeline or storage tariff provisions necessary to effectuate the permanent releases of the capacity amounts specified in the relevant contracts. The Petitioners state that it will continue to comply with all other applicable tariff provisions not subject to the waivers sought herein and will provide the Commission notification upon closing of the AGL Resources and Nicor merger transaction. The Petitioners state that granting the requested waivers will minimize potential disruptions of service to its customers.

7. Finally, the Petitioners claim that the merger of AGL Resources and Nicor will create a leader in the natural gas industry, provide greater diversity in both its regulated operations and its unregulated businesses, streamline credit requirements for many of Sequent's and Enerchange's customers, and allow for better coordination of services to its counterparties.

8. Public notice of the filing was issued on September 19, 2011. Interventions and protests were due on or before September 26, 2011, as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2011). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2011), all timely motions to intervene and any 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 this proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

9. The Commission has reviewed the Petitioners' request for waivers and finds that the request is adequately supported and consistent with previous waivers that the Commission has granted under similar circumstances.³ Our actions here are consistent with those decisions where the Commission granted waivers of various capacity release policies and regulations in order to facilitate the transfer of interstate pipeline transportation capacity as part of a larger transaction in which other assets are being transferred as a result of various types of corporate restructurings, including corporate mergers and sales of entire business units.

³ See *Wis. Elec. Power Co.*, 131 FERC ¶ 61,104 (2010); *Constellation NewEnergy – Gas Div., LLC*, 130 FERC ¶ 61,059 (2010); *Sequent Energy Mgmt., L.P., et al.*, 129 ¶ FERC 61,188 (2009); *Macquarie Cook Energy, LLC and Constellation Energy Commodities Group, Inc.*, 126 FERC ¶ 61,160 (2009); *Bear Energy LP*, 123 FERC ¶ 61,219 (2008); *Barclays Bank PLC and UBS AG*, 125 FERC ¶ 61,383 (2008); *Wasatch Energy, LLC and Northwest Pipeline Corp.*, 118 FERC ¶ 61,173 (2007); *Sempra Energy Trading Corp.*, 121 FERC ¶ 61,005 (2007); *Northwest Pipeline Corp. and Duke Energy Trading and Mktg., L.L.C.*, 109 FERC ¶ 61,044 (2004).

10. Therefore, we grant the requested temporary 180-day waiver of our regulations, including waiver of the shipper-must-have-title policy, the prohibition on buy-sell arrangements and tying arrangements, the bidding requirements, and the restrictions on capacity releases below or above the maximum rate.

11. The Commission also grants a limited 180-day waiver of the respective tariff provisions only to the extent necessary to effectuate the permanent releases of capacity amounts specified in the Joint Petition for the eight agreements as described therein. The tariff provisions for which the Petitioners seek waivers apply generally to capacity release requirements and procedures on the respective pipelines for both temporary and permanent releases. We grant waiver of the provisions only as necessary to complete the permanent releases specified in the Joint Petition and not for any other permanent or temporary releases. Petitioners remain obligated to comply with any other applicable provisions of the pipelines' tariffs.

12. The waivers will be in effect for a 180-day period from the date of the order granting the requested waivers. The Petitioners will provide notice to the Commission in this docket of the closing of the AGL Resources and Nicor merger transaction.

By direction of the Commission. Commissioner Spitzer is not participating.

Nathaniel J. Davis, Sr.,
Deputy Secretary.