

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

October 17, 2012

In Reply Refer To:  
Delta Energy, LLC,  
DE of Ohio, LLC, and  
Hess Corporation  
Docket No. RP12-1041-000

John & Hengerer  
1730 Rhode Island Avenue, NW, Suite 600  
Washington, DC 20036

Attn: Kevin M. Sweeney, Esquire  
Attorney for Delta Energy, LLC

Reference: Request for Temporary Waiver

Dear Mr. Sweeney:

1. On September 17, 2012, Delta Energy, LLC (Delta Energy), DE of Ohio, LLC (DE Ohio) and Hess Corporation (Hess) (collectively, Petitioners) filed a joint petition for temporary waiver of certain Commission regulations and related policies for capacity release. Petitioners also seek temporary and limited waiver of the specific FERC Gas Tariff provisions of Columbia Gas Transmission, LLC (Columbia Gas) and Dominion Transmission, Inc. (Dominion) governing the service agreements for which Delta Energy is presently listed as the shipper of record. Petitioners request that the waivers be granted no later than October 17, 2012, and be effective for 180 days. For the reasons discussed below and for good cause shown, the Commission grants Petitioners' requested temporary waivers.

2. The Petitioners state that because Delta Energy has decided to no longer engage in the purchase and sale of natural gas, it seeks to transfer all of its gas purchase and sales agreements, as well as the related transportation agreements, to Hess. Accordingly, on September 14, 2012, Delta Energy and Hess executed a purchase and sale agreement (PSA), and conditioned on the closing of the PSA upon securing the requested waivers. Petitioners assert that the PSA is expected to close on November 1, 2012. Petitioners state that upon the completion of the assignment and transfer, all of the jurisdictional contracts under which Delta Energy is currently the shipper will be permanently released to Hess. Finally, Petitioners aver that, given the size and complexity of the assignment

and transfer, they request the waivers be granted for 180 days following the November 1, 2012, closing date the transaction. Petitioners state that they will provide the Commission with: (1) notice of the occurrence of the effective date, (2) notification of any additional jurisdictional service agreements to be transferred, and (3) monthly progress reports following the effective date.

3. Petitioners specifically request temporary waiver of: (1) the capacity release regulations contained in section 284.8 of the Commission's regulations,<sup>1</sup> including posting and bidding requirements and restrictions on capacity releases above or below the maximum rate; (2) other Commission requirements, including the shipper-must-have-title policy, the prohibitions against buy/sell and tying arrangements; and (3) to the extent necessary, the relevant tariff (or Statement of Operating Conditions) provisions of the affected transportation and storage providers, including those specifying the timing of postings. In addition, Petitioners request a temporary waiver for circumstances in which completion of the transfer results in the inadvertent or unavoidable deviation from Commission's policies or regulations. The Petitioners aver that the requested waivers will only be used for the limited purpose of the assignment and transfer and state that the approval of the requested waivers is in the public interest because they will permit the Assignment/Transfer to occur in an orderly and efficient manner without undue disruption to existing and continuing commercial transactions.

4. In support of the requested waivers, Petitioners rely on prior Commission orders granting comparable waivers to facilitate the transfer of an entity's entire wholesale natural gas trading portfolio.<sup>2</sup> Petitioners state that the Commission acknowledged in those cases that the Commission's capacity release regulations were not intended for and suited to complex, integrated transactions.

5. Public notice of the petition was issued on September 18, 2012. Interventions and protests were due on or before September 25, 2012, as provided in section 154.210 of the Commission's regulations.<sup>3</sup> Pursuant to Rule 214 (18 C.F.R. § 385.214 (2012)), all timely filed motions to intervene and any unopposed motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this

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<sup>1</sup> 18 C.F.R. § 284.8 (2012).

<sup>2</sup> Delta Hess Petition at 8-11 (citing *Distrigas of Massachusetts, LLC, GDR SUEZ Gas NA LLC*, 135 FERC ¶ 61,028 (2011) (*Distrigas*); *Sequent Energy Management, L.P., Integrys Energy Services, Inc.*, 129 FERC ¶ 61,188 (2009); *Macquarie Cook Energy, LLC, Constellation Energy Commodities Group, Inc.*, 126 FERC ¶ 61,160 (2009) (*Macquarie*); *Bear Energy LP*, 123 FERC ¶ 61,219 (2008); *Barclays Bank PLC*, 125 FERC ¶ 61,383 (2008)).

<sup>3</sup> 18 C.F.R. § 154.210 (2012).

stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. No adverse comments or protests were filed.

6. The Commission has reviewed Petitioners' request for temporary waivers and finds that the request is adequately supported and consistent with previous temporary waivers granted by the Commission under similar conditions.<sup>4</sup> The Commission has granted temporary waivers of the identified capacity release regulations and policies permitting parties to consummate complex corporate transactions similar to those intended here. Specifically, the approval of the requested temporary waivers are consistent with our decisions in other proceedings where we granted waivers of various policies and regulations relating to the transfer of interstate pipeline transportation capacity to facilitate the transfer of natural gas supply and transportation contracts and other assets as a result of various types of corporate restructurings, including corporate mergers and sales of entire business units.<sup>5</sup> In addition, Petitioners have provided the information required for approval of such waivers: (1) identification of the regulations and policies for which waiver is sought; (2) identification of the pipeline service agreements and capacity to be transferred; and (3) description of the overall transaction and its claimed benefits, with sufficient detail to permit the Commission and other interested parties to determine whether granting the requested waivers are in the public interest.

7. Accordingly, for good cause shown, the Commission grants a limited, temporary waiver of section 284.8 of its regulations, including the bidding and maximum applicable rate requirements, the shipper-must-have-title policy, and the prohibitions on buy/sell and tying arrangements. In addition, the Commission grants, to the extent necessary, temporary and limited waiver of the specific FERC Gas Tariff provisions of Columbia Gas and Dominion governing the service agreements subject to the assignment and transfer under which Delta Energy is presently the shipper of record. This limited waiver is effective for 180 days from the date of this order. Finally, Petitioners shall provide notice to the Commission of the closing date of the PSA.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>4</sup> See, e.g., *Distrigas*, 135 FERC ¶ 61,028.

<sup>5</sup> See, e.g., *Macquarie*, 126 FERC ¶ 61,160.