

141 FERC ¶ 61,058
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

October 23, 2012

In Reply Refer To:
Delek Crude Logistics, LLC
Docket No. OR12-19-000

Delek US Holdings, Inc.
7102 Commerce Way
Brentwood, TN 37027

Attention: Andy Schwarcz
Senior Counsel, Vice President - Finance and Development

Reference: Request for Temporary Waiver of Sections 6 and 20 of the Interstate
Commerce Act and Related Commission Regulations

Ladies and Gentlemen:

1. On June 11, 2012, Delek Crude Logistics, LLC (Delek) filed a request for temporary waiver of the filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act (ICA) and related Parts 341 and 357 of the Commission's regulations¹ with respect to the East Texas Crude Logistics crude oil pipeline system (ETCL System). As discussed in detail below, the Commission grants Delek's request for a temporary waiver.

2. Delek states that its ETCL System consists of two crude oil pipelines located entirely in Eastern Texas. Delek explains that the Nettleton pipeline portion of the ETCL System is a 36-mile pipeline from Nettleton Station to Delek US's Tyler refinery, and the McMurrey pipeline portion of the ETCL System is a 65-mile pipeline system from

¹ See 49 U.S.C. app. §§ 6, 20 (1988) (requiring all interstate oil pipelines to file all rates, fares, and charges for transportation on their systems, to file copies of contracts with other common carriers for any such traffic, and authorizing the Commission to require annual or special reports from carriers subject to the ICA). See also 18 C.F.R. Parts 341, 357 (2012) (implementing the filing and reporting requirements of sections 6 and 20 of the ICA).

La Gloria Station to the Tyler refinery. According to Delek, the ETCL System currently is the sole provider of, and the only pipeline system capable of supplying crude oil transportation to, the Tyler refinery. Delek emphasizes that its affiliate owns all of the crude oil shipped on the ETCL System. However, Delek acknowledges that a portion of the crude oil shipped on that system originates outside of Texas, although it explains that it has not received any third-party requests to provide transportation on the ETCL System and does not anticipate receiving any such requests.

3. Delek contends that the Commission has granted similar requests for temporary waiver of the filing and reporting requirements of its regulations and of sections 6 and 20 of the ICA when four criteria are met.² Delek cites *Agave Energy Co. (Agave)*,³ in which the Commission listed the criteria as follows:

(1) the pipelines (or their affiliates) own 100 percent of the throughput on the line; (2) there is no demonstrated third-party interest in gaining access to or shipping on the line; (3) no such interest is likely to materialize; and (4) there is no opposition to granting the waivers. In these cases, the Commission determined there were no active third-party shipper interests to protect under the ICA, and temporary waivers of the filing and reporting of sections 6 and 20 were therefore warranted.⁴

4. However, the Commission made it clear in *Agave* that it granted such waivers subject to revocation, should the pipelines' circumstances change. It also required the pipelines to keep their books and records in a manner consistent with the Commission's Uniform System of Accounts.

5. Public notice of Delek's petition was issued September 5, 2012, with interventions and protests due as provided in accordance with Rules 211 and 214 of the Commission's regulations.⁵ No interventions or protests were filed.

² See *Jayhawk Pipeline, L.L.C.*, 128 FERC ¶ 61,079 (2009) (*Jayhawk*); *Enbridge Pipelines (NE Texas Liquids) L.P.*, 110 FERC ¶ 61,159 (2005) (*Enbridge*); *Ciniza Pipe Line Inc.*, 73 FERC ¶ 61,377 (1995) (*Ciniza*); *Hunt Refining Co.*, 70 FERC ¶ 61,035 (1995) (*Hunt*); and *Sinclair Oil Corp.*, 4 FERC ¶ 62,026 (1978) (*Sinclair*).

³ 136 FERC ¶ 61,094 (2011).

⁴ *Agave Energy Co.*, 136 FERC ¶ 61,094, at P 5 (2011).

⁵ 18 C.F.R. §§ 385.211 and 385.214 (2012).

6. The Commission concludes that, given the physical characteristics of the facilities and the limited nature of the ETCL System's operations, Delek meets the criteria necessary to qualify for a temporary waiver, consistent with the Commission's rulings in *Agave*, *Jayhawk*, *Enbridge*, *Ciniza*, *Hunt*, and *Sinclair*.

7. Accordingly, the Commission grants Delek a temporary waiver of the filing and reporting requirements of ICA sections 6 and 20 and the Commission's related regulations with respect to Delek's ETCL System. Because these waivers are temporary, and based solely on the facts presented in the petition for waiver, the Commission also directs Delek to report immediately to the Commission any change in the circumstances on which these waivers are based. Specifically, Delek must report any changes including, but not limited to, increased accessibility of other pipelines or refiners to its facilities, changes in the ownership of the facilities, changes in the ownership of the crude being shipped, and shipment tenders or requests for service by any person. Additionally, Delek must maintain all books and records in a manner consistent with the Uniform System of Accounts for Oil Pipelines, 18 C.F.R. Part 352, and make such books and records available to the Commission or its duly authorized agents upon request.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.