

141 FERC ¶ 61,059
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

October 24, 2012

In Reply Refer To:
Wyoming Interstate Company,
L.L.C.
Docket No. RP12-1018-000

Wyoming Interstate Company, L.L.C.
PO Box 1087
Colorado Springs, CO 80944

Attention: Francisco Tarin
Director, Regulatory Affairs

Reference: Temporary Waiver Request

Ladies and Gentlemen:

1. On August 31, 2012, Wyoming Interstate Company, L.L.C. (WIC) filed a request for a temporary waiver of two provisions of its General Terms and Conditions (GT&C), as well as the Commission's capacity release regulations at 18 C.F.R. § 284.8, to permit it to enter into pre-arranged permanent release arrangements of certain off-system capacity. WIC requests that the waiver become effective upon the issuance of this order, and that it be permitted as many as 90 days past the effective date of the Commission's order to allow the parties to complete all necessary contractual obligations. For good cause shown, the Commission grants the requested temporary waiver, effective upon issuance of this order.

2. WIC states that it currently holds off-system capacity on Questar Overthrust Pipeline Company (Overthrust) and Rockies Express Pipeline, L.L.C. (REX) on behalf of certain shippers on its system for seamless transportation service.¹ WIC states that in administering the firm

¹ Under WIC's seamless nomination process, a shipper nominates transportation service on WIC, and then WIC enters the nomination on the

transportation agreements (FTSAs) that utilize the off-system capacity on Overthrust, it has encountered unexpected nomination and scheduling issues that have affected the quality and reliability of service received by WIC's shippers. WIC explains the most significant issue relates to Overthrust's capacity allocation process when reductions to nominated quantities are made at Overthrust points. Although Overthrust's allocation procedure is effective for non-seamless shippers, WIC claims this process has created unforeseen complications for an interstate pipeline nominating and scheduling seamless off-system gas transportation transactions on behalf of its shippers. WIC states this issue stems from the fact that WIC's nominations on Overthrust reflect the sum of the gas quantities WIC's shippers have nominated for deliveries at off-system points on Overthrust. However, WIC contends the nomination for service WIC makes on Overthrust does not include this detailed WIC shipper-specific nomination information. WIC states that as a result, when capacity reductions occur at points or paths on Overthrust's system, the corresponding reductions are applied to WIC's nominations on a general level and not to the specific shipper nominations on WIC's system. On the days when Overthrust experiences reductions at points at which WIC is nominating, WIC claims the result has been the creation of imbalances on either the WIC shippers' FTSAs or to WIC's FTSAs with Overthrust.

3. WIC states that it has been actively collaborating with Overthrust to resolve these issues. Based on these ongoing discussions, WIC states both pipelines have agreed that the ideal solution is to permanently release WIC's Overthrust capacity to the respective shippers on whose behalf WIC acquired the off-system capacity. WIC contends the permanent release of off-system capacity to the shippers relying on such capacity will provide them greater flexibility and immediate control of the capacity acquired for their use. WIC states that it has consulted with all of its shippers that contractually rely on off-system capacity to determine their respective interest in permanently acquiring that portion of the capacity that was acquired on their behalf. WIC claims that at the time of this filing, three shippers expressed such an interest for a permanent release of Overthrust capacity from WIC.²

scheduling system of Overthrust or REX, as applicable, to effectuate the delivery of this gas. The shipper can expect delivery of the gas at a point located on Overthrust or REX without the need for the shipper to enter an additional nomination on that pipeline.

² The three shippers who expressed interest in permanently acquiring the off-system capacity are: Occidental Energy Marketing, Inc. (Occidental), Marathon Oil Company (Marathon) and WPX Energy Inc. (WPX).

4. WIC states that two of these shippers, Occidental and Marathon, also rely on REX off-system capacity which WIC acquired on their behalf. WIC states that although it has not encountered nomination and scheduling difficulties on REX as it has on Overthrust, these shippers have expressed interest in also obtaining the REX capacity WIC acquired on their behalf. WIC believes the permanent release of the REX capacity along with the Overthrust capacity to these two shippers will provide them even greater flexibility during the nominations and scheduling of their gas transportation transactions and complete control of that capacity.

5. WIC states that in order to facilitate these releases, it requires waiver of GT&C sections 9.6(a) and 9.13(b) of its tariff and the Commission's capacity release regulations at 18 C.F.R. § 284.8. Specifically, the transportation rate WIC pays Overthrust is less than WIC's mainline maximum recourse rate while the transportation rate paid to REX is greater than WIC's mainline maximum reservation recourse rate. WIC states that since it intends to complete a non-biddable permanent capacity release to the three shippers, the WIC maximum recourse rate requirement stipulated in GT&C Sections 9.6(a) and 9.13(b) must be waived. WIC asserts that the approval of the proposed limited waiver will not adversely affect any similarly situated shippers on its system. Additionally, WIC states that it will also not meet the posting and bidding requirements set forth in the Commission's capacity release rules and policies as set forth in 18 C.F.R. § 284.8. Therefore, WIC also requests temporary and limited waivers of the Commission's capacity release rules in 18 C.F.R. § 284.8, including the posting and bidding requirements and restrictions.

6. Public notice of the filing was issued on September 12, 2012. Interventions and protests were due on or before September 17, 2012, as provided by the notice. Pursuant to Rule 214, 18 C.F.R. § 385.214 (2012), all timely 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 stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties.

7. On September 12, 2012, BP Energy Company (BP) filed a motion to intervene for clarification of WIC's filing. BP states that it does not oppose WIC's waiver request, but informs the Commission that WIC has also acquired capacity on Overthrust on BP's behalf. Furthermore, BP states it has had discussions with WIC regarding this capacity, but as of the filing of WIC's waiver request, had not yet reached an understanding regarding BP's acquisition from WIC of BP's portion of the Overthrust capacity. Accordingly, BP requests that the Commission clarify that BP, as a similarly situated shipper, is entitled to receive the same treatment as the three named shippers in WIC's request.

8. On September 14, 2012, WIC filed a clarification of its waiver request. WIC states that its request for waiver was intended solely to address the necessary waiver of WIC's tariff provisions to permit it to enter into non-biddable, permanent releases of off-system capacity with the three named firm WIC shippers mentioned in WIC's filing. WIC did not directly respond to BP's motion for clarification.
9. On September 27, 2012, Commission staff issued a data request requesting additional information from WIC. In general, Commission staff requested that WIC (1) provide all FTSA's WIC held with Overthrust and REX, for WIC's seamless transportation service; (2) provide the total off-system capacity WIC has on Overthrust and REX; (3) state whether WIC maintains off-system capacity for BP on Overthrust; and (4) explain why WIC didn't mention BP's concerns.
10. WIC responded on October 3, 2012.³ In its response, WIC addresses the various concerns raised by BP and Commission staff. For instance, WIC revised Appendix A to list all FTSA's WIC holds with Overthrust and REX. WIC confirms that it holds off-system capacity for BP on Overthrust for seamless transportation service to BP. WIC states that BP was contacted in June 2012 and at that time BP advised that it was not interested in the permanent acquisition of the off-system capacity. However, on September 12, 2012, BP informed WIC that upon further consideration that it wanted to permanently acquire the Overthrust capacity that WIC held on its behalf. WIC contends that it notified BP that pending Commission approval of its WIC's August 31, 2012 filing, it would permanently release BP's Overthrust capacity in the same manner as the other three shippers. WIC explains:

Even though WIC intends to permanently release the Overthrust capacity to BP at a later date than the initial three shippers, the timing difference was solely a function of the date WIC received BP's request. WIC is unconditionally committed to treating all shippers in a not unduly discriminatory basis in accordance with the Commission's policies and regulations; WIC's proposed release of capacity to BP is no exception.

11. Having reviewed WIC's data request response, the Commission finds that WIC's request for waiver is adequately supported and may be granted, consistent with previous waivers that the Commission has granted to permit permanent

³ On October 5, 2012, WIC filed an errata to its October 3 response to correct the effective dates for the contract that WIC holds with REX.

release of capacity under similar circumstances.⁴ WIC has satisfactorily addressed BP's and Commission staff's concerns and is committed to treating BP in a not unduly discriminatory basis in accordance with the Commission's rules and regulations. Accordingly, the Commission will grant temporary, limited waiver of its capacity release regulations, other policies identified above, and WIC's tariff provisions to allow the permanent release of the off-system capacity on the understanding that similarly situated shippers on WIC are entitled to the same treatment. Specifically, the Commission grants limited, temporary waiver of 18 C.F.R. § 284.8 of its regulations, which govern the release of firm capacity and the posting and bidding requirements for capacity release transactions; and the prohibition on the release of capacity at a rate above the maximum recourse rate. In addition, the Commission grants limited, temporary waiver of GT&C sections 9.6(a) and 9.13(b) of WIC's tariff that implement the above policies, in order to allow for the permanent release of off-system capacity. The waivers shall remain in effect up to 90 days past the effective date of the Commission's order to allow the parties to complete all necessary contractual obligations.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁴ *Constellation NewEnergy – Gas Div., LLC*, 130 FERC ¶ 61,059 (2010); *Sequent Energy Mgmt., L.P., et al.*, 129 FERC ¶ 61,188 (2009); *Transcontinental Gas Pipeline Corporation*, 126 FERC ¶ 61,086; *North Baja Pipeline, LLC*, 128 FERC ¶ 61,082 (2009).