

141 FERC ¶ 61,060
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

October 24, 2012

In Reply Refer To:
Questar Overthrust Pipeline Company
Docket No. RP12-1101-000

Questar Overthrust Pipeline Company
c/o Questar Pipeline Company
333 South State Street
P. O. Box 45360
Salt Lake City, UT 84145-0360

Attention: L. Bradley Burton, General Manager
Federal Regulatory Affairs and FERC Compliance Officer

Reference: Request for Limited Waiver

Dear Mr. Burton:

1. On September 27, 2012, Questar Overthrust Pipeline Company (Overthrust) filed a request for a limited waiver of three 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 the permanent release of three transportation service agreements (TSAs) entered into with Wyoming Interstate Company, L.L.C. (WIC) to three prearranged replacement shippers. Overthrust requests that the waiver be granted on or before October 15, 2012 in order to allow the parties to effectuate the capacity release transactions to be effective on November 1, 2012. For good cause shown, the Commission grants the requested temporary waiver, effective upon issuance of this order, and effective for 90 days thereafter.

2. Overthrust states that the three TSAs that WIC is proposing to permanently release provided a portion of the market support for two projects -- the Opal Expansion Project¹ and the Loop Expansion Project.² Overthrust further

¹ *Questar Overthrust Pipeline Co.*, 116 FERC ¶ 61,225 (2006).

² *Questar Overthrust Pipeline Co.*, 132 FERC ¶ 61,191 (2010).

states that to resolve certain day-to-day scheduling issues, WIC has requested waivers from the Commission of two provisions of the GT&C of its tariff and section 284.8 of the Commission's regulations in Docket No. RP12-1018-000. Overthrust states that WIC has identified the potential replacement shippers as Occidental Energy Marketing, Inc. (Occidental), Marathon Oil Company (Marathon), and WPX Energy Inc. (WPX).

3. Specifically, Overthrust requests that the Commission waive tariff sections 6.8 Bidding Periods for Released Capacity and 6.10(d) Bids for Released Capacity in the GT&C of its tariff. In addition, Overthrust requests that the Commission waive sections 284.8(b)(2) and 284.8(h)(1) of the Commission's regulations. Overthrust requests these waivers in order to permit the prearranged permanent capacity releases to be treated similar to prearranged maximum rate releases, which can be implemented without posting for bids from other shippers, and to allow the release to occur even though one release is at a discounted rate and the other two releases are at rates above Overthrust's maximum tariff rate. Overthrust states that the replacement shippers will still be subject to the other terms and conditions of Overthrust's tariff.

4. Public notice of the filing was issued on October 10, 2012. Interventions and protests were due on or before October 12, 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. No protests or adverse comments were filed.

5. The Commission finds that Overthrust's waiver requests are adequately supported and may be granted, consistent with previous waivers that the Commission has granted to permit permanent release of capacity under similar circumstances.³ The Commission only requires a pipeline to allow a permanent capacity release where the pipeline will be financially indifferent to the release.⁴ Where, as here, the releasing shipper is paying a negotiated rate in excess of the maximum rate, waiver of the maximum rate is necessary to render the pipeline financially indifferent to the release. Therefore, denial of a waiver request in

³ *Transcontinental Gas Pipe Line Corp.*, 113 FERC ¶ 61,331 (2005); *Northern Natural Gas Co.*, 117 FERC ¶ 61,354 (2006); *Northern Natural Gas Co.*, 125 FERC ¶ 61,149 (2008); and *Transcontinental Gas Pipe Line Corp.*, 126 FERC ¶ 61,086 (2009).

⁴ *El Paso Natural Gas Co.*, 61 FERC ¶ 61,333, at 62,311-12 (1992); and *Texas Eastern Transmission Corp.*, 83 FERC ¶ 61,092 (1998).

these circumstances would unnecessarily inhibit the use of permanent releases to transfer capacity which the releasing shipper no longer needs to a shipper that does need it.⁵

6. Moreover, as to the permanent release at a discounted rate, the Commission has also recognized that, even in situations where a negotiated rate is currently less than the pipeline's maximum recourse rate, it is possible that the negotiated rate could be above the maximum recourse rate later.⁶ Therefore, the pipeline could conclude that a continuation of the existing negotiated rate is necessary for it to be financially indifferent to a permanent release of a negotiated rate agreement, whether or not the negotiated rate is currently above or below the maximum recourse rate. The Commission has waived its capacity release regulations as necessary to permit permanent releases of negotiated rate agreements in order to avoid unnecessarily inhibiting the use of permanent releases to transfer capacity the releasing shipper no longer needs or wants.

7. Accordingly the Commission will grant temporary, limited waiver of its capacity release regulations, other policies identified above, and Overthrust's tariff provisions to allow the permanent release of the capacity. 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 6.8 and 6.10(d) of Overthrust's tariff that implement the above policies, in order to allow for the permanent release of capacity by WIC to Occidental, Marathon and WPX. 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.

⁵ *Transcontinental Gas Pipe Line Corp.*, 133 FERC ¶ 61,242 (2010).

⁶ *North Baja Pipeline, LLC*, 128 FERC ¶ 61,082, at P 14 (2009).