

141 FERC ¶ 61,202
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 10, 2012

In Reply Refer To:
Questar Overthrust Pipeline Company
Docket No. RP13-303-000

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 November 20, 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 a limited waiver of the Commission's capacity release regulations at 18 C.F.R. § 284.8, to permit the permanent release of a transportation service agreement (TSA). Overthrust states that it entered into the TSA with Wyoming Interstate Company, L.L.C. (WIC), which now seeks to release all or portions of the TSA to BP Energy Company (BP). For good cause shown, the Commission grants the requested waiver, effective January 1, 2013.

2. 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.¹ Overthrust requests these waivers (a) to permit the prearranged permanent capacity release to be treated similarly to prearranged maximum rate releases, which can be implemented

¹ 18 C.F.R. §§ 284.8(b)(2) and 284.8(h)(1) (2012).

without posting for bids from other shippers, and (b) to allow the release to occur even though the release is at a rate that is above Overthrust's maximum tariff rate. Overthrust states that the replacement shipper will still be subject to the other terms and conditions of Overthrust's tariff. The waivers sought here are related to other filings in Docket Nos. RP12-1018-000,² RP12-1101-000,³ and RP13-134-000,⁴ where similar waivers were needed to facilitate related transactions.

3. Public notice of the filing was issued on November 21, 2012. Interventions and protests were due on or before December 3, 2012. Pursuant to Rule 214,⁵ 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.

4. 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.⁶ The Commission only requires a pipeline to allow a permanent capacity release where the pipeline will be financially indifferent to the release.⁷ 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 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.⁸

² *Wyoming Interstate Company, L.L.C.*, 141 FERC ¶ 61,059 (2012).

³ *Questar Overthrust Pipeline Co.*, 141 FERC ¶ 61,060 (2012).

⁴ *Rockies Express Pipeline LLC*, 141 FERC ¶ 61,061 (2012).

⁵ 18 C.F.R. § 385.214 (2012).

⁶ *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).

⁷ *El Paso Natural Gas Co.*, 61 FERC ¶ 61,333, at 62,311-12 (1992); *Texas Eastern Transmission Corp.*, 83 FERC ¶ 61,092 (1998).

⁸ *Transcontinental Gas Pipe Line Corp.*, 133 FERC ¶ 61,242 (2010).

5. Moreover, in the case of a 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.⁹ 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 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.

6. Accordingly the Commission will grant 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 waiver of 18 C.F.R. § 284.8 of its regulations, which governs the release of firm capacity and the posting and bidding requirements for capacity release transactions, as well as the prohibition against the release of capacity at a rate above the maximum recourse rate. In addition, the Commission grants 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 BP. The waivers shall remain in effect up to 90 days past the effective date of this letter order to allow the parties to complete all necessary contractual obligations.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁹ *North Baja Pipeline, LLC*, 128 FERC ¶ 61,082, at P 14 (2009).