

131 FERC ¶ 61,263  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

June 24, 2010

In Reply Refer To:  
Whiting Oil and Gas Corporation  
Docket No. OR10-8-000

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Attention: Randall S. Rich, Pierce Atwood LLP  
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Reference: Granting of Temporary Waivers of Sections 6 and 20  
of the Interstate Commerce Act

Ladies and Gentlemen:

1. On February 23, 2010, Whiting Oil and Gas Corporation (Whiting) filed a request for temporary waiver of the filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act (ICA)<sup>1</sup> and Parts 341 and 357 of the Commission's regulations with respect to Whiting's crude oil gathering pipeline in North Dakota.<sup>2</sup> The Commission grants Whiting's request for a temporary waiver, as more fully discussed below.

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<sup>1</sup> Specifically, 49 U.S.C. app. § 6 requires interstate oil pipelines to file all their rates, fares, and charges for transportation on their systems, and also file copies of contracts with other common carriers for any such traffic; and 49 U.S.C. app. § 20 authorizes the Commission to require annual or special reports from carriers subject to the ICA.

<sup>2</sup> On April 6, 2010, Whiting filed supplemental materials to provide additional support for its February 23, 2010 filing.

2. Whiting owns and operates approximately 98 miles of 4-, 6-, and 10-inch diameter crude oil gathering pipelines, in Mountrail County, North Dakota. Originating at various well sites in the Sanish Field, Whiting gathers the crude from these Bakken Formation wells, and processes it at Whiting's Robinson Lake Plant for delivery to Nexen Pipeline USA, Inc.'s (Nexen) tank facilities in Stanley, North Dakota. From its Stanley tank facilities, Nexen ships some of the crude via Enbridge Pipelines (North Dakota) LLC pipeline to interstate markets. Nexen also transports barrels of crude to Rocky Mountain markets by truck.

3. Whiting states the pipeline is not used to transport crude for unaffiliated third party shippers and that it expects to continue the proprietary use of its gathering pipeline system. Further, Whiting does not anticipate any requests for service by unaffiliated third party shippers or requests to connect to the pipeline. Whiting will continue to transfer custody of all crude on the pipeline to Nexen at Stanley, North Dakota.

4. The Commission previously granted temporary requests for waiver of the filing and reporting requirements of sections 6 and 20 of the ICA.<sup>3</sup> The Commission granted these waivers based on the fact that (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 upon 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 therefore, temporary waivers of the section 6 and 20 filing and reporting requirements were warranted. However, the Commission granted the waivers, subject to revocation should circumstances change, and required the pipelines to keep their books and records in a manner consistent with the Commission's Uniform System of Accounts.

5. Whiting's request for waiver is similar to previous requests from pipelines that received waivers of the filing and reporting requirements of ICA sections 6 and 20.<sup>4</sup> Whiting's pipeline segment upstream of its connection with Nexen's tank facilities at Stanley is located entirely within one state and has no intermediate interconnections with other pipelines or refineries. All of the crude oil transported by Whiting is owned by Whiting or its affiliates and no unaffiliated third party has requested or is likely to request

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<sup>3</sup> *Sinclair Oil Corp.*, 4 FERC ¶ 62,026 (1978) (*Sinclair*); *Hunt Refining Co. and East Mississippi Pipeline Co.*, 70 FERC ¶ 61,035 (1995) (*Hunt*); *Ciniza Pipe Line Inc.*, 73 FERC ¶ 61,377 (1995) (*Ciniza*); *Enbridge Pipelines (NE Texas Liquids) L.P.*, 110 FERC ¶ 61,159 (2005) (*Enbridge*); and *Jayhawk Pipeline, L.L.C.*, 128 FERC ¶ 61,079 (2009) (*Jayhawk*).

<sup>4</sup> Waiver of the filing requirements pursuant to sections 6 and 20 of the ICA also includes waiver of Parts 341 and 357 of the Commission regulations, which implement the filing requirements of sections 6 and 20 of the ICA.

transportation service on the pipeline. Finally, there is no opposition to the waiver request.

6. The Commission concludes that, given the physical characteristics of the facilities and the nature of the pipeline's operations, Whiting meets all of the criteria necessary to qualify for a temporary waiver consistent with the Commission's rulings in *Sinclair*, *Hunt*, *Ciniza*, *Enbridge*, and *Jayhawk*. Therefore, the Commission finds it unnecessary to subject Whiting to all of the filing and reporting requirements of the ICA.

7. Accordingly, the Commission grants Whiting a temporary waiver of the filing and reporting requirements of ICA sections 6 and 20 relating to its crude oil gathering pipeline system applicable to movements upstream of its connection with Nexen's tank facilities at Stanley, North Dakota. Because these waivers are temporary, the Commission also directs Whiting to immediately report to the Commission any change in the circumstances on which these waivers are based. Specifically, Whiting must report any changes including, but not limited to (1) increased accessibility of other pipelines or refiners to its facilities; (2) changes in the ownership of the facilities; (3) changes in the ownership of the crude oil shipped; and (4) shipment tenders or requests for service by any person. In addition, Whiting 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.

Kimberly D. Bose,  
Secretary.

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