

170 FERC ¶ 61,057
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

January 27, 2020

In Reply Refer To:
MarkWest Hydrocarbon, L.L.C.
Docket No. OR20-2-000

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Counsel for MarkWest Hydrocarbon, L.L.C.

Reference: Request for Temporary Waiver of the Filing and Reporting Requirements of
Sections 6 and 20 of the Interstate Commerce Act

Dear Ms. Kohlhausen:

1. On October 29, 2019, MarkWest Hydrocarbon, L.L.C. (MarkWest) filed a request for temporary waiver of the tariff filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act (ICA)¹ and Parts 341 and 357 of the Commission's regulations² for the MarkWest Ranger and Appalachia Liquids Pipeline System (the Pipeline). For the reasons discussed below, we grant MarkWest's temporary waiver request.

2. MarkWest states that the Pipeline is comprised of segments ranging from six to eight inches in diameter and connects the Langley natural gas processing plant in Langley, Kentucky and the Kenova natural gas processing plant in Kenova, West Virginia with a natural gas liquids (NGLs) fractionation plant located in Siloam, Kentucky. MarkWest states that the Pipeline extends approximately 104 miles from

¹ 49 U.S.C. app. §§ 6, 20 (1988). Section 6 requires interstate oil pipelines to file all rates, fares, and charges for transportation on their systems, as well as to file copies of their contracts with other common carriers for any such traffic. Section 20 authorizes the Commission to require annual or special reports from carriers subject to the ICA.

² 18 C.F.R. pts. 341 and 357 (2019) (implementing the filing and reporting requirements of ICA sections 6 and 20).

Langley to Kenova and approximately 36 miles from Kenova to Siloam. MarkWest states that the Pipeline can transport up to 400,000 gallons per day of NGLs from Langley to Kenova and up to 570,000 gallons per day of NGLs from Kenova to Siloam. MarkWest owns the Langley and Kenova natural gas processing plants as well as the Siloam fractionation plant. Accordingly, MarkWest states that it has been, and expects to continue to be, the sole shipper on the Pipeline.

3. The criteria to qualify for temporary waiver of the filing and reporting requirements of the Commission's regulations and ICA sections 6 and 20 are as follows: (1) the pipeline (or its 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 waiver request.³ In these cases, the Commission determined that there were no active third-party shipper interests to protect under the ICA, and therefore temporary waivers of sections 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.

4. MarkWest makes the following representations in support of its request: (1) MarkWest or its affiliates will own 100 percent of the NGLs transported on the Pipeline; (2) no third party has requested transportation service on the Pipeline and there have been no third-party requests for access to the Pipeline; (3) no third party is likely to materialize in the future;⁴ and (4) MarkWest is not aware of any opposition to its request for a temporary waiver.

5. Public notice of the filing was issued on October 31, 2019. Interventions and protests were due on or before November 27, 2019. Pursuant to Rule 214 of the Commission's regulations,⁵ all timely motions to intervene and any unopposed motions

³ See *Noble Midstream Servs., LLC*, 152 FERC ¶ 61,147 (2015); *Saddle Butte Pipeline, LLC*, 136 FERC ¶ 61,071 (2011); *Whiting Oil and Gas Corp.*, 131 FERC ¶ 61,263 (2010); *Enbridge Pipelines (NE Texas Liquids) L.P.*, 110 FERC ¶ 61,159 (2005); *Ciniza Pipe Line, Inc.*, 73 FERC ¶ 61,377 (1995); *Hunt Refining Co.*, 70 FERC ¶ 61,035 (1995); *Sinclair Oil Corp.*, 4 FERC ¶ 62,026 (1978).

⁴ MarkWest explains that no third-party interest is likely to materialize in the future because the Pipeline connects processing plants owned by MarkWest to a fractionator owned by MarkWest. MarkWest further explains that the commercial arrangements that MarkWest and/or a MarkWest affiliate have entered into with customers whose NGLs are being processed at these plants require MarkWest to own the NGLs while they are shipped on the Pipeline. Transmittal at 5-6.

⁵ 18 C.F.R. § 385.214 (2019).

to intervene out-of-time filed before the issuance date of this order are granted. Granting late interventions at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. The waiver request is unopposed.

6. Based on the representations provided in the request for waiver, we conclude that MarkWest meets the criteria to receive a temporary waiver, consistent with the Commission's prior rulings.⁶

7. Accordingly, we grant MarkWest's request for temporary waiver of the tariff filing and reporting requirements of ICA sections 6 and 20, and the Commission's implementing regulations, as these requirements relate to the Pipeline, as described above. Because the current waiver is temporary and based solely on the facts presented by MarkWest in its request for waiver, we direct MarkWest to report to the Commission any change in the circumstances on which these waivers are based. Specifically, MarkWest must report any change including, but not limited to, increased accessibility of other pipelines or producers to the Pipeline, changes in the ownership of the NGLs being transported on the Pipeline, and tenders of NGLs or requests for service by any person. Additionally, MarkWest must maintain all books and records for service by any person and in a manner consistent with the Uniform System of Accounts for Oil Pipelines, 18 C.F.R. Part 352. MarkWest must 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.

⁶ It appears that contrary to the requirements of section 6 of the ICA and prior to the instant request for waiver, MarkWest did not have a tariff on file. MarkWest is reminded that it must submit required filings in a timely manner or face possible sanctions by the Commission. *Whiting Oil and Gas Corp.*, 160 FERC ¶ 61,036, at P 7 n.7 (2017).