

136 FERC ¶ 61,094  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

August 10, 2011

In Reply Refer To:  
Agave Energy Company  
Docket No. OR11-17-000

Gordon J. Smith  
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Attention: Gordon J. Smith  
Counsel for Agave Energy Company

Reference: Request for Temporary Waiver of Tariff and Filing Requirements for Red Hills Line

Ladies and Gentlemen:

1. On June 24, 2011, Agave Energy Company (Agave) 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 its Red Hills Liquids Pipeline (Red Hills Line), which is currently under construction. For good cause shown, the Commission grants Agave's request for temporary waiver, as more fully discussed below.

2. Agave is a natural gas and liquids pipeline company that currently operates two small intrastate pipelines with a cumulative length of less than 10 miles. Agave is incorporated under the laws of New Mexico and authorized to do business in the State of

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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.

New Mexico. Agave is currently in the process of constructing the Red Hills Line, which will move liquids in interstate commerce.

3. Agave states the Red Hills Line is an 8" line approximately 27.5 miles in length, originating at Agave's Red Hills Plant in Lea County, New Mexico, and running in a northeasterly direction to its destination point, an interconnection with Chevron's West Texas Pipeline near Eunice, New Mexico. Agave states there are no intermediate points of the line and no third-party requested the construction of an interconnection with the line.
4. Agave states it will use the Red Hill Line exclusively to transport liquids gathered into and processed at its Red Hills Plant to an interstate products line owned and operated by Chevron West Texas Pipeline Company. Agave states it will own all of the liquids transported on the Red Hills Line. Agave also explains that it is on schedule to complete construction of the Red Hills Line and Plant by March 1, 2012, but unforeseen delays may extend the completion date to July 1, 2012.
5. The Commission previously granted requests for temporary waiver of the filing and reporting requirements of sections 6 and 20 of the ICA.<sup>2</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 on 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 temporary waivers of the filing and reporting requirements of sections 6 and 20 were therefore 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.
6. Agave'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>3</sup> Agave's Red Hills Line has no intermediate interconnections with other pipelines or refineries between the Red Hills Plant and the interconnection with Chevron's West

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<sup>2</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 *Whiting Oil and Gas Corp.* 131 FERC ¶ 61,263 (2010).

<sup>3</sup> Waiver of the filing requirements pursuant to sections 6 and 20 of the ICA includes waiver of Parts 341 and 357 of the Commission regulations, which implement the filing requirements of sections 6 and 20 of the ICA.

Texas Pipeline. Agave will own all of the products transported on the Red Hills Line and no unaffiliated third party has requested or is likely to request transportation service on the line. Finally, there is no opposition from any third party to the waiver request.

7. The Commission concludes that, given the physical characteristics of the facilities and the nature of the pipeline's operations, Agave meets the criteria necessary to qualify for a temporary waiver consistent with the Commission's rulings in *Sinclair*, *Hunt*, *Ciniza*, *Enbridge*, and *Whiting Oil and Gas Corp.*

8. Accordingly, the Commission grants Agave a temporary waiver of the filing and reporting requirements of ICA sections 6 and 20 relating to its Red Hills Line. Because these waivers are temporary, the Commission also directs Agave to immediately report to the Commission any change in the circumstances on which these waivers are based. Specifically, Agave 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, Agave 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 (2011), 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.