FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 20, 2005

In Reply Refer To:
North Baja Pipeline, LLC
Docket No. RP05-339-000

North Baja Pipeline, LLC
1400 SW 5th Avenue, Suite 900
Portland, OR 97201

Attention: John A. Roscher
Director, Rates & Regulatory Affairs

Reference: Joint Petition for Limited Case-Specific Waiver

Dear Mr. Fink:

1. On May 10, 2005, North Baja Pipeline, LLC (North Baja) filed jointly with Termoelectrica de Mexicali, S. de R.L. de C.V. (TDM) and Sempra Energy LNG Marketing Corp. (Sempra) (jointly, Petitioners) a petition for a limited case-specific waiver of the Commission's competitive bidding procedures[1] applicable under the capacity release provisions of North Baja's tariff. Specifically, Petitioners propose that they be allowed to omit these competitive bidding procedures and directly assign TDM's firm capacity and its negotiated rate contract to Sempra. The Commission will grant the request for a limited, case-specific waiver, as discussed below. This order benefits the public by facilitating the development of infrastructure in the Southwest United States, facilitating the importation of regasified liquefied natural gas (LNG) into the United States and promoting cross-border energy trade with Mexico.

2. On October 14, 2004, in Docket No. RP05-25-000, North Baja submitted a tariff filing with the Commission to, *inter alia*, add a new paragraph to its General Terms and Conditions that would allow original shippers on the North Baja system to reverse the primary direction of flow under their contracts and grant those shippers a one-time right to permanently assign all or a portion of their long-term firm negotiated rate agreements to creditworthy third parties. In Docket No. RP05-25-000, the Commission initially found that North Baja had not adequately supported this proposal to permanently assign

[1] 18 C.F.R. § 284.8 (2004).

negotiated rate agreements without undergoing a competitive bidding process,[2] but ultimately approved a case-specific waiver of the Commission's competitive bidding procedures for MGI Supply Ltd. (MGI) and North Baja in Docket No. RP05-85-000.[3]

3. On February 17, 2005, North Baja filed two additional, related petitions for limited, case-specific waivers, virtually identical to the instant petition, in order to allow Energia Azteca S.X. de R.L. de C.V. (EAX) and Energia de Baja California, S. de R.L. de C.V (EBC) to assign portions of their respective negotiated-rate contracts to their affiliate, Coral Energy Resources, L.P. (Coral). On April 22, 2005, the Commission granted the requested limited waivers.[4]

4. In the instant filing, Petitioners request the Commission to grant a similar limited waiver that will encourage an increase of imports of LNG and development of the necessary infrastructure to bring that energy supply to the North American market. Petitioners also state that the subject waiver would be consistent with the waiver MGI and North Baja obtained in Docket No. RP05-85-000,[5] and the waivers EAX, EBC, Coral and North Baja obtained in Docket Nos. RP05-190-000 and RP05-191-00,[6] since this will also facilitate the future transportation of LNG, to be received at one or more terminals located on the coast of Baja California, Mexico, to electricity generation units located nearby. Petitioners also state that this request for waiver likely represents the fourth and final request for a limited case-specific waiver to complete North Baja's capacity rationalization program to allow original shippers an opportunity to rationalize capacity by assigning their existing, long-term negotiated rate contracts to entities engaged in developing LNG resources for the importation of natural gas to serve energy needs in the Southwest United States.

5. Petitioners have agreed to a capacity assignment that allows Sempra to receive the capacity on the North Baja pipeline, which will no longer be needed by TDM, through capacity assignment. Since the anticipated daily fuel requirements of TDM's generation facilities would be generally less than the full downstream deliverability from any of the proposed Baja California LNG import terminals, it is planned that excess natural gas will be made available from this supply for export to markets in the Southwest United States, including California. Petitioners state that TDM previously reached an agreement with

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[2] *North Baja Pipeline, LLC*, 109 FERC ¶ 61,159 (2004).

[3] *North Baja Pipeline, LLC*, 109 FERC ¶ 61,269 (2004).

[4] *North Baja Pipeline, LLC*, 111 FERC ¶ 61,119 (2004).

[5] *North Baja Pipeline, LLC*, 109 FERC ¶ 61,269 (2004).

[6] *North Baja Pipeline, LLC*, 111 FERC ¶ 61,119 (2004).

North Baja to reverse the path of its capacity once LNG-sourced gas service commences. North Baja, by reversing the line flow in its pipeline and freeing up capacity no longer needed by TDM, will be able to transport this natural gas on behalf of Sempra, from the point of import at the U.S.-Mexican border to markets in the Southwest United States.

6. Public notice of Petitioners' filing was issued on May 13, 2004. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2004)). No protests were filed. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2004)), all timely filed motions to intervene and any 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 the proceeding or place additional burdens on existing parties.

7. Commission policy on capacity assignments, as reflected in 18 C.F.R. § 284.8 (2004), generally requires that the capacity be subject to posting and bidding procedures to ensure that it be assigned to the shipper who values it most. In this case, the proposed capacity assignment will occur at the levelized rate originally negotiated with North Baja. The Commission finds that this specific proposal, by giving financial certainty to TDM, Sempra, and North Baja, will facilitate the importation of natural gas from LNG terminals in Baja California, Mexico into the United States. Furthermore, a waiver would also reduce pipeline construction that would otherwise be required.[7] Additionally, the waiver will facilitate the development of energy infrastructure in the Southwest United States.[8] Finally, the waiver would be consistent with the November 5, 2004 Letter of Intent between Chairman Wood and the Chairman of the Comision Reguladora de Energia to promote cross-border energy trade with Mexico.[9] Therefore, the Commission grants the Petitioners' request for a limited, case-specific waiver of the competitive

[7] *See* Joint Petition at 6.

[8] *See* Joint Petition at 7.

[9] *See* Joint Petition at 8 n.15 (citing *Letter of Intent Between the Secretariat of Energy of the United Mexican States and the Federal Energy Regulatory Commission of the United States of America*, Nov. 5, 2004).

bidding procedures at 18 C.F.R. § 284.8 (2004) in order to allow TDM to assign firm capacity rights to Sempra pursuant to the transaction arrangements described in the filing.

By direction of the Commission.

Linda Mitry,
Deputy Secretary.