

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 24, 2005

In Reply Refer To:
Wyoming Interstate Company, Ltd.
Docket No. RP05-184-000

Wyoming Interstate Company, Ltd.
2 North Nevada Avenue
Colorado Springs, CO 80903

Attention: Mark A. Minich
Senior Counsel

Reference: Petition for Limited Case-Specific Waiver

Dear Mr. Minich:

1. On February 14, 2005, Wyoming Interstate Company, Ltd. (WIC) filed a petition for a limited, case-specific waiver of the Commission's competitive bidding procedures¹ applicable under the capacity release provisions of WIC's tariff. Specifically, WIC proposes that it be allowed to omit these competitive bidding procedures and directly assign ConocoPhillips' 60,000 MBtu/day of firm capacity on WIC's pipeline system to Yates Petroleum Corporation (Yates) and Anadarko Energy Services Company (Anadarko). WIC requests that the Commission consider and grant the requested waiver in an expedited fashion. For the reasons discussed below, the Commission denies WIC's petition. This order benefits the public because it promotes our policy which mandates the competitive bidding process for available capacity to all shippers on a non-discriminatory basis. The Commission will reject the waiver request, as discussed below.

2. WIC requests approval of this waiver to either allow a direct assignment of the transportation capacity to Yates and Anadarko, or to allow a waiver of the competitive bidding requirement under the capacity release procedures in this particular case. WIC states that ConocoPhillips completed the negotiation of a sale of its production acreage, and requested that WIC allow the assignment of this associated transportation capacity to the purchasers of the production acreage. WIC agrees with the assignment of the

¹ 18 C.F.R. § 284.8 (2004).

transportation capacity, but believes that its tariff does not authorize such an assignment outside the capacity release provisions.

3. ConocoPhillips' Firm Transportation Service Agreement is for 60,000 Mbtu/day from a primary point of receipt at Thunder Creek in the Wyoming Powder River Basin to delivery at Dulknife, at the Cheyenne Hub. ConocoPhillips proposes to assign this service agreement to both Yates and Anadarko. WIC's tariff provides that a shipper may assign a transportation service agreement without the pipeline's consent if the transfer is for all of the shipper's natural gas business. WIC's tariff further provides that all capacity releases that are not at the maximum reservation rate, or for terms of less than 30 days, must be posted for competitive bids on the WIC Electronic Bulletin Board. Since ConocoPhillips is not transferring all of its natural gas business, WIC's tariff does not authorize it to directly assign the service agreement. In addition, the service agreement is a negotiated rate agreement at less than the maximum recourse rate, and therefore, the capacity release provisions of the tariff would require a posting of the capacity for competitive bidding.

4. WIC states that ConocoPhillips would like the purchasers of its gas production properties to receive the associated transportation capacity, and therefore, is requesting a limited case-specific waiver allowing ConocoPhillips to directly assign to Yates and Anadarko the transportation capacity it had originally contracted. WIC states that previously, the Commission has granted limited, case-specific waivers of competitive bidding procedures, and it cites *Northwest*² and *North Baja*³ as examples.

5. Public notice of the filing was issued on February 23, 2005, with comments, protests, or motions to intervene due on or before March 4, 2005. No protests were filed. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214. Yates filed a motion to intervene in support of WIC's filing. Duke Energy Trading and Marketing, L.L.C. and Duke Energy Marketing America, L.L.C. filed a motion to intervene.

6. Commission policy on capacity assignments, as reflected in 18 C.F.R. section 284.8 (2004), generally requires that the capacity assignments at less than maximum tariff rates be subject to posting and bidding procedures to ensure that it will be assigned to the shipper who values it most. In support of its proposal, WIC cites to the Commission's findings in *Northwest* and *North Baja*. We note, however, that both the *Northwest* and *North Baja* cases were unique situations not contemplated by the Commission's

² *Northwest Pipeline Corporation*, 109 FERC ¶ 61,044 (2004) (*Northwest*).

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

regulations. In the *Northwest* case, the Commission granted waiver because the shipper was exiting the natural gas marketing business and was attempting to find buyers for all of its gas supply and transportation contracts. In the *North Baja* case, the Commission granted waiver because it facilitated the Mexican government's contracting for liquefied natural gas (LNG) supplies for electric generation in Mexico and avoided the need for new facility construction. In the instant proceeding, no unique circumstance warrants waiving the Commission's regulations or WIC's tariff. WIC has proposed to release capacity in a manner inconsistent with the Commission's rules of capacity release, and WIC has not demonstrated that such a waiver is in the public interest.

7. Therefore, the Commission rejects the request for a limited, case-specific waiver of the competitive bidding procedures at 18 C.F.R. § 284.8 (2004) in order to allow ConocoPhillips to assign firm capacity rights to Yates and Anadarko.

By direction of the Commission.

Linda Mitry,
Deputy Secretary.