144 FERC ¶ 61,083
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony Clark.

Enterprise Liquids Pipeline LLC Docket No. OR13-24-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued July 31, 2013)

1. On May 29, 2013, Enterprise Liquids Pipeline LLC (Enterprise) filed a Petition for Declaratory Order (Petition) requesting approval of (1) a proposed committed shipper rate structure on Enterprise's new Aegis Pipeline and (2) a proposed prorationing policy for the Aegis Pipeline that provides committed shippers with a volume history equal to the shipper's contract volume. As discussed below, the Commission grants the Petition.

I. Background

2. Enterprise states the Aegis Pipeline is a 270-mile pipeline system designed to offer shippers transportation of purity ethane directly to U.S. Gulf Coast petrochemical plants. Enterprise explains the western portion of the Aegis Pipeline will consist of 108 miles of 20-inch diameter pipeline from Mont Belvieu, Texas, to Lake Charles, Louisiana, and the eastern portion of the Aegis Pipeline will consist of 162 miles of 16-inch pipeline from Lake Charles to Napoleonville, Louisiana. Aegis Pipeline will thus provide additional capacity to transport purity ethane[1] from Mont Belvieu, Texas, to Napoleonville, Louisiana, bringing the ethane directly to petrochemical plants in the U.S. Gulf Coast. Enterprise anticipates the Aegis Pipeline will create 260,000 barrels per day (bpd) of new capacity, and Enterprise projects an in-service date of the second quarter 2014.

3. Enterprise asserts that agreements with committed shippers are necessary to provide financial support for the project. Enterprise states it conducted two open commitment periods and publicized the open seasons in press releases, industry publications, and general circulations. Enterprise conducted the first commitment period from March 12 to April 9, 2012, and conducted a supplemental commitment period from April 15 to May 9, 2012. Enterprise contends all interested parties had an equal right to

[1] Purity ethane results from the processing and fractionating of NGLs and is used in the production of a variety of consumer plastics.

participate and adds that it received sufficient volume commitments to support the project.

4. Enterprise emphasizes that committed shippers are not granted any priority or firm capacity rights. Enterprise states it made no more than 90 percent of the capacity on the Aegis Pipeline available to committed shippers. It reserved the remaining 10 percent of capacity for new shippers. Enterprise states that each committed shipper agreed to a volume commitment for 10-year terms. Enterprise states that any shipper that fails to meet its volume commitment obligations must make a shortfall payment based on its deficient volumes.

II. Requested Holdings

A. Rate Structure

5. Enterprise requests an order declaring its proposed committed shipper rate schedule is just and reasonable. With its Petition, Enterprise provided a *pro forma* tariff which outlines the rate schedule.[2] Enterprise proposes to set general commodity rates from Mont Belvieu, Texas, to Lake Charles, Louisiana, at $1.47 per barrel. For committed shippers, which must have contractually agreed to a 10 year volume commitment, Enterprise proposes the following rate schedule:

Committed Volume Level (bpd)	Rate
60,000 and above	Equal to the rate applicable to a volume commitment of 50,000 to 59,999 Bpd, multiplied by 0.90.
50,000 to 59,999	$0.84 per barrel
5,000 to 49,999	$1.68 per barrel

For contracted volumes of 5,000 to 49,999 bpd as well as for the 50,000 to 59,999 bpd volume level, Enterprise states that, to the extent permitted by applicable law, the rates will not be subject to adjustment by a FERC index multiplier less than 1. For the volume commitment's exceeding 60,000 bpd, Enterprise's pro forma tariff provides:

> [I]f in any year (or partial year) of the Term, the FERC index multiplier is less than one, the reduction resulting from application of that index multiplier shall not be applied and instead shall be carried forward to the next index year and

[2] Enterprise Petition, Attachment B.

multiplied by the index multiplier for that index year. If the product of those two index multipliers is more than or equal to one, it shall be applied to the contract rate. If the product of those two index multipliers is less than one, that product shall be carried forward to the next year and this process shall be repeated.

B. Proration Policy

6. Enterprise also seeks Commission approval of a prorationing policy that allocates available capacity on an historical basis. The Petition proposes to allocate 90 percent of the available capacity to historical shippers and to impute a volume history to each committed shipper based upon that committed shipper's contracted volumes. The other method for determining a shipper's historical-shipper status for proration purposes, Enterprise states, is by determining an historical allocation based on each shipper's actual history of shipments. The remaining 10 percent of the available capacity Enterprise shall then allocate on a pro-rata basis to new shippers.[3]

III. Notice and Interventions

7. Notice of the Petition issued on May 30, 2013. Interventions and protests were due June 17, 2013. Pursuant to Rule 214 and of the Commission's regulations,[4] all timely filed motions to intervene and any unopposed motion 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. The Petition is unopposed.

IV. Discussion

The Commission grants Enterprise's Petition and finds that the proposed rate structure and prorationing proposal are just and reasonable. Consistent with prior decisions by the Commission, Enterprise has sought advance approval for the rates and terms associated with a financially significant infrastructure project in order to obtain regulatory certainty in support of the project. Enterprise's proposal is akin to other tiered rate structures approved by the Commission based upon volume commitments.[5] The Aegis prorationing methodology is also consistent with provisions that the Commission has approved in the

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[3] Enterprise submitted a *pro forma* tariff containing in Item No. 80 the proposed policy. Enterprise Petition, Attachment B.

[4] 18 C.F.R. § 385.214 (2012).

[5] *E.g.*, *Enterprise Liquids Pipeline LLC*, 142 FERC ¶ 61,087, at P 28 (2013); *Shell Pipeline Co. LP*, 141 FERC ¶ 61,017, at PP 8, 20 (2012).

past.[6] All shippers had the opportunity in well-publicized open seasons to take advantage of these proposed terms, and thus there is no issue of undue discrimination or undue preference. Consistent with similar proposals approved by the Commission, new shippers that have made no commitments still have access to at least 10 percent of total capacity on the Aegis Pipeline.[7] In sum, based on the representations made by Enterprise, the Commission finds both the proposed rate and prorationing methodology for Aegis Pipeline just and reasonable, and grants the Petition.

The Commission orders:

The Petition is granted as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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[6] *Enterprise*, 142 FERC ¶ 61,087 at P 28; *Shell*, 141 FERC ¶ 61,017 at P 14.

[7] *Id.* P 27 (2013) (citing *Sunoco Pipeline L.P.*, 139 FERC ¶ 61,259, at PP 9-11 (2012)).