

169 FERC ¶ 61,180  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

December 3, 2019

In Reply Refer To:  
ConocoPhillips Company  
W&T Offshore, Inc.  
Docket No. RP20-200-000

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Attention: Ben Schoene, ConocoPhillips Company  
John Paul Floom and Caelyn A. Palmer, Floom Energy Law PLLC  
Shahid A. Ghauri, Vice President, General Counsel and Corporate Secretary  
W&T Offshore, Inc.

Dear Mr. Schoene, Mr. Floom, Ms. Palmer, and Mr. Ghauri:

1. On November 4, 2019, ConocoPhillips Company (ConocoPhillips) and W&T Offshore, Inc. (W&T Offshore) (collectively, Petitioners) filed a joint petition requesting a limited temporary waiver of the Commission's capacity release regulations and policies and the applicable capacity release tariff provisions of Garden Banks Gas Pipeline, LLC (Garden Banks). Petitioners state they are seeking waiver to allow ConocoPhillips to permanently release and transfer a firm natural gas transportation contract to W&T Offshore, as part of a complex and integrated commercial transaction between ConocoPhillips and W&T Offshore. As discussed below, and for good cause shown, we grant the Petitioners' request for temporary and limited waiver.

2. Petitioners state they entered into an agreement on November 1, 2019, that required ConocoPhillips to sell to W&T Offshore 100 percent of ConocoPhillips' oil and natural gas production interests in the Magnolia Field, which is located in Garden Banks

Blocks 783 and 784 of the Gulf of Mexico Outer Continental Shelf. In addition, as part of the transaction, Petitioners state that ConocoPhillips will permanently release to W&T Offshore the natural gas firm transportation capacity associated with these oil and natural gas production assets, including Contract No. 103156 (Transportation Service Agreement), Contract No. 103157 (Reserve Commitment Agreement) and Contract No. 103158 (NGL Bank Agreement) which Petitioners state that ConocoPhillips holds with Garden Banks as part of its Rate Schedule FT-2 obligations.

3. Petitioners state waiver is requested to allow continued use of the capacity by W&T Offshore to deliver existing and future-developed natural gas production to market. Petitioners state they anticipate the described transaction will be finalized during the fourth quarter of 2019, and therefore request that the Commission issue an order approving the requested waivers on or before December 4, 2019, for a period of 120 days from the date of the Commission's order.

4. Petitioners state the request for limited waiver of the Commission's capacity release regulations and the capacity release provisions of Garden Banks' tariff will only be utilized for the limited purpose of permanently releasing the firm pipeline capacity listed in the subject agreements. Petitioners submit that their request for waiver is similar to waivers previously granted by the Commission permitting the release of capacity under similar circumstances.

5. To facilitate the permanent release of capacity, Petitioners request temporary waiver of the Commission's capacity release regulations and policies set forth in section 284.8 of the Commission's regulations.<sup>1</sup> Specifically, Petitioners request waiver of the Commission's: (a) posting and bidding requirements; (b) shipper-must-have-title rule; (c) prohibition against tying arrangements to permit the capacity to be permanently released; and (d) prohibition against buy/sell arrangements. In addition, Petitioners request any other waiver or authorization deemed necessary to implement the assignment and permanent release of the described transaction. Petitioners also request waiver of the related capacity release tariff provisions of Garden Banks.

6. Public notice of the filing was issued on November 5, 2019. Interventions and protests were due on or before November 12, 2019. Pursuant to Rule 214,<sup>2</sup> 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

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<sup>1</sup> 18 C.F.R. § 284.8 (2019).

<sup>2</sup> 18 C.F.R. § 385.214 (2019).

parties. No adverse comments or protests were filed. The request for waiver is therefore uncontested.

7. We have reviewed the Petitioners' request for waiver and find that the request is adequately supported and appears generally consistent with previous waivers the Commission has granted to permit the release of capacity under similar circumstances.<sup>3</sup> In these cases, the Commission has granted temporary, limited waiver of its capacity release regulations and the relevant tariffs of the affected pipelines involving the transfer of natural gas transportation agreements. We note that the requested waiver here is necessary in order to facilitate a larger, complex transaction involving the assignment and permanent release of capacity between ConocoPhillips and W&T Offshore, whereby W&T Offshore will deliver existing and future-developed natural gas production to market.

8. In addition, we find that Petitioners have provided the information required for approval of such a request for waiver, which includes: (a) identification of the regulations and policies for which waiver is sought; (b) identification of the pipeline service agreements and capacity to be transferred; (c) a description of the overall transaction and its claimed benefits, with sufficient detail to permit the Commission and other interested parties to determine whether granting the requested waiver is in the public interest; and (d) filing the petition as much in advance of the requested date as possible.<sup>4</sup>

9. Accordingly, for good cause shown, we grant Petitioners' request for temporary, limited waiver of the Commission's capacity release regulations and policies, including the: (a) posting and bidding requirements; (b) shipper-must-have-title requirements; and (c) prohibition against buy/sell and tying arrangements. We also grant waiver of the applicable capacity release tariff provisions of Garden Banks.

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<sup>3</sup> See, e.g., *LLOG Bluewater Holdings, L.L.C., et al.*, 168 FERC ¶ 61,216 (2019); *Apache Corporation, Presidio Investment Holdings LLC*, 167 FERC ¶ 61,143 (2019); *PennEnergy Resources, LLC, R. E. Gas Development, LLC*, 165 FERC ¶ 61,037 (2018); *Chesapeake Energy Marketing, L.L.C., EAP Ohio LLC, EAP Holdings LLC*, 164 FERC ¶ 61,227 (2018); *Total Gas & Power North America, Inc.*, 131 FERC ¶ 61,023, at PP 10-12 (2010); *Macquarie Cook Energy, LLC*, 126 FERC ¶ 61,160 (2009).

<sup>4</sup> *Request for Clarification of Policy Regarding Waivers of Applicable Requirements to Facilitate Integrated Transfers of Marketing Businesses*, 127 FERC ¶ 61,106, at P 10 (2009).

10. The grant of waiver is to remain in effect until 120 days from the earlier of the date of this order or the date the capacity release transactions and assignments are completed, and only to the extent necessary to facilitate the described transaction. This grant of waiver will allow the Petitioners to implement the transaction in an orderly and efficient manner.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.