170 FERC ¶ 61,048
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

Medallion Midland Gathering, LLC
Medallion Pipeline Company, LLC

Docket No. OR19-34-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued January 23, 2020)

1. On September 9, 2019, Medallion Midland Gathering, LLC (MMG) and Medallion Pipeline Company, LLC (Medallion) (collectively, Petitioners) filed a petition for declaratory order (Petition) requesting approval of the open season, transportation services agreements, rate structure, and proposed joint tariff service for an expansion of Petitioners' facilities and existing integrated joint crude oil transportation services (Expansion). The Expansion consists of: (1) new pipeline segments extending to individual central tank batteries and; (2) interconnects between the MMG and Medallion system at three major market hubs. We grant the Petition, subject to conditions, as explained below.

I. **Background**

2. Petitioners are carriers providing integrated crude oil transportation service. The current Medallion pipeline system consists of approximately 800 miles of 6-inch diameter and larger crude oil pipeline based in various counties in the Permian Basin.[1] Petitioners state that since Medallion began service, it has undertaken eight expansions,[2] and the Medallion system now includes eight pipeline segments that provide diversified

[1] Petition at 3.

[2] *Medallion Pipeline Co.*, 148 FERC ¶ 61,095 (2014) (*Medallion I*); *Medallion Pipeline Co.*, 150 FERC ¶ 61,156 (2015); *Medallion Pipeline Co.*, 153 FERC ¶ 61,361 (2015); *Medallion Pipeline Co.*, 155 FERC ¶ 61,268 (2016); *Medallion Pipeline Co.*, 157 FERC ¶ 61,075 (2016); *Medallion Pipeline Co.*, 160 FERC ¶ 61,055 (2017); *Medallion Pipeline Co.*, 160 FERC ¶ 61,139 (2017); *Medallion Delaware Express, LLC*, 163 FERC ¶ 61,170 (2018) (*Medallion 2018*). *See also Medallion Pipeline Co.*, 167 FERC ¶ 61,265 (2019) (approving provisions for expansion on six segments).

market access to seven downstream pipelines and interconnections at three major market hubs.[3]

3. Medallion states that continued dialogue with producers and marketers indicates that there is an ongoing need for the construction of additional field gathering facilities to aggregate crude oil production for transportation to downstream markets. Medallion explains that it explored alternative mechanisms to develop and finance the construction of field area facilities to connect and gather crude oil production to certain points in the field. Medallion states that MMG was formed to provide a third-party investment vehicle to develop, construct, and operate the field area facilities.[4]

4. The result of the formation of MMG is that Petitioners agreed to provide integrated crude oil transportation service pursuant to a joint tariff from origin points on MMG, to destination points on an expanded pipeline system.[5] Petitioners state that MMG is constructing a new crude oil gathering system that will connect and aggregate new crude oil production in the Midland Basin for delivery to the Medallion system for transportation to downstream markets.[6]

5. Petitioners plan to provide integrated transportation of crude oil, pursuant to a Joint Tariff, from origin points on the MMG gathering system to the Medallion system's Crane, Colorado City, and Midland Hubs. Medallion's hubs will provide direct access to numerous long-haul pipelines, as well as the Alon refinery.[7] Specifically, Petitioners state that MMG will gather and transport crude oil from various origin points in Glasscock, Howard, Martin, Midland, Reagan, and Upton counties (Designated Counties) for delivery to multiple interconnection points with the Medallion system (Joint Tariff

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[3] Petition at 3.

[4] *Id.* at 5. In the Petition at n.8, Petitioners further explain that MMG is owned indirectly by subsidiaries of Midland Midstream Crude Holdings LLC and Medallion and that Midland Midstream Crude Holdings LLC and Medallion are not affiliates. Petitioners also state that Medallion will serve as the administrator of the Joint Tariff, and Medallion Operating Company, LLC will serve as the administrative operator of MMG.

[5] *Id.*

[6] MMG is owned by Medallion Midland Partners, LLC, which is owned by Midland Midstream Crude Holdings LLC, Midland Midstream Crude LLC, and MDP Holdings, LLC. Medallion will be the administrator of the Joint Tariff.

[7] Petition at 5.

Interconnects).[8] Petitioners also state that MMG anticipates constructing numerous pipeline segments extending to individual central tank batteries in the Designated Counties.[9] Petitioners explain that as production from the dedicated acreage increases, MMG anticipates constructing additional gathering segments that will extend to the individual central tank batteries in the Designated Counties.[10]

6. Petitioners state that Medallion will implement Joint Tariff Service on the proposed Expansion, which will consist of (1) extension of the Howard Lateral in western Howard and eastern Martin counties; and (2) expansion of the Santa Rita Lateral in eastern Upton and western Reagan counties. Medallion will also construct Joint Tariff Interconnects to receive barrels delivered by MMG.[11]

7. Petitioners held an open season from July 8, 2019 to August 2, 2019 to solicit long-term Transportation Services Agreements (TSA) to support the Expansion and the expanded Joint Tariff (Joint Tariff) service. Petitioners offered to provide approximately 70,000 barrels per day (bpd) of capacity on MMG and Medallion systems for the Joint Tariff Service, consisting of up to 63,000 bpd for committed firm service and at least 7,000 bpd for uncommitted service.[12] Pursuant to the open season, Petitioners sought to subscribe shippers (Committed Shippers) willing to (a) dedicate interest in production from a minimum of 10,000 acres (Acreage Dedication Shipper);[13] or (b) make a minimum volume commitment of 10,000 bpd (Volume Commitment Shipper).[14] Petitioners state that the open season notice was publicized through the issuance of a press release that was widely disseminated.[15]

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[8] *Id.*

[9] *Id.*, Ex. B.

[10] *Id.* at 5.

[11] *Id.*

[12] *Id.* at 7.

[13] *Id.*

[14] *Id.* at 8.

[15] *Id*. at 6-8; *see also* Ex. A. Open Season Press Release (July 8, 2019)

8. Petitioners state that the Expansion on the Medallion and MMG pipeline systems will be constructed gradually, as crude oil production increases.[16] Petitioners state that to the extent new facilities are needed to maintain the required capacity, they will increase the Joint Tariff capacity for both committed and uncommitted shippers by increasing pumping station horsepower, adding drag reducing agents, and expanding Medallion's system along the Joint Tariff route.[17]

II. TSA Terms, Rates, and Prorationing Policy

9. Prospective shippers participating in the open season were given the option of making long-term volume commitments for Joint Tariff service pursuant to an Acreage Dedication TSA or Volume Commitment TSA. The TSAs offered various destination points on the Medallion pipeline and required a minimum contract term of 15 years.[18]

10. The Acreage Dedication TSA requires that a shipper dedicate its existing or subsequently acquired interest in production from a minimum of 10,000 acres for the term of the agreement. Acreage Dedication Shippers are required to submit documentation of the prospective shipper's interest in the dedicated acreage, production data, and estimate of the crude oil expected to be produced. Petitioners use the production data to establish the Acreage Dedication Shipper's estimated peak production over the life of the agreement (Peak Estimate). The Peak Estimate is used to determine the capacity that will be reserved for the Acreage Dedication Shipper. Acreage Dedication Shippers are required to provide the carriers with a shipper forecast every six months that projects crude oil production from the dedicated acreage for the subsequent twenty four (24) month period. The first six months of each shipper forecast establishes the Shipper MDQ for such six month period as established in the TSAs.[19] Petitioners state that the shipper forecast and Peak Estimate are critical components of the Joint Tariff service that enable them to plan their operations and expand their systems as crude oil production and the Shipper MDQ increase. The Acreage Dedication TSA also grants Acreage Dedication Shippers significant destination point optionality over the term

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[16] Petition, Ex. B.

[17] Petition at 5.

[18] *Id*. at 7-8. Petitioners explain in note 9 that committed firm shippers were required to enter an Acreage Dedication TSA or a Volume Commitment TSA with each of Medallion and MMG. Petitioners further explain that any dissimilar terms between the Medallion and the MMG TSAs reflect the different functions that Medallion and MMG provide in tendering the Joint Tariff Service.

[19] *Id.*, Ex. B.

of the TSA, with the shipper entitled to deliver 100 percent of its Shipper MDQ to the Crane Hub, Midland Hub, and the Colorado City Hub.[20]

11. The open season also offered prospective shippers the opportunity to enter into long-term Volume Commitment TSAs that provide prospective Volume Commitment Shippers with the option of committing to a minimum volume of 10,000 bpd (Committed Volume) for transportation on Petitioners' pipeline systems. Volume Commitment Shippers are subject to throughput and deficiency payment obligations, and they have the option to ramp up their Committed Volumes over a two-year period as set forth in the Volume Commitment TSA. Prospective Volume Commitment Shippers will be required to allocate their Committed Volumes among the Joint Tariff destination points with the aggregate Joint Tariff destination point quantity not exceeding the Volume Commitment Shipper's Committed Volume.[21]

12. Petitioners offered a tiered Joint Service Rate Structure, in which committed firm shipper rates (i) vary based on the destination point where the barrels are delivered; and (ii) decrease as the committed firm shippers increase their Committed Volumes or Dedicated Acreage under the applicable TSA. Petitioners explain that the committed firm rate is structured to be an incentive rate, with three tiers of decreasing rates as the committed volume or acreage increases.[22] If committed firm shippers pledge sufficient Committed Volumes or Dedicated Acreage during the open season to reach a particular rate tier, then the shipper will have its monthly shipments invoiced on a pro rata basis across the applicable three rate tiers. Additionally, Petitioners state that if firm shippers increase their Dedicated Acreage after the open season, and the addition causes the shipper to exceed the shipper's existing rate tier, then the barrels from the additional acreage will ship at the lower cost rate tier.[23]

13. Petitioners explain that volumes subject to the Joint Tariff firm rate will not be prorationed under normal operating circumstances, up to the Shipper MDQ or the Committed Volume as set forth in the TSAs. Committed Shippers will have the right to nominate incremental volumes above their Shipper MDQ or Committed Volume, subject to the availability of capacity at the volume incentive rate. Such incremental volumes

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[20] Petition at 7-8; *see also* Ex. B.

[21] *Id.* at 8; *see also* Ex. B.

[22] *Id.* at 16-17.

[23] *Id.* at 9.

will not be eligible for firm service. Petitioners commit to setting aside 10 percent of the Joint Tariff's required capacity for uncommitted shippers at all times.[24]

14. Petitioners state that they received a binding commitment from a Committed Shipper during the open season sufficient to move forward with the Expansion as proposed. The Committed Shipper is an affiliate of MMG and Medallion,[25] and it executed the sole TSA for Committed Service on the Expansion.[26]

III. Requested Rulings

15. Petitioners request an order confirming the following are just and reasonable under the Interstate Commerce Act (ICA), fully consistent with Commission policy, and will be upheld during the term of the TSAs:

a. The open season for the Joint Tariff Service followed Commission guidelines, was appropriately conducted, and provides the appropriate basis for Commission approval of the committed firm service offered;

b. Petitioners may offer and allocate up to 90 percent of the Joint Project capacity to committed firm shippers executing TSAs for committed firm service while reserving at least 10 percent of the Joint Project capacity for uncommitted service available to shippers that have made no contractual commitment;

c. Petitioners may provide firm service on the Joint Project facilities and may implement the committed firm rates and rate structure offered during the Open Season, as provided in the TSAs and the pro forma rates and charges tariff, whether for committed firm service or uncommitted service;

d. The Joint Tariff rates, tiered rate structure, and invoicing mechanism provided in the pro forma joint rates tariff and the TSAs are consistent with the ICA and Commission policy;

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[24] *Id.*

[25] *Id*. at 10 (Petitioners contend in note 11 that the Commission has previously issued declaratory orders when the only committed shipper is an affiliate of the pipeline, citing *Stakeholder Midstream Crude Oil Pipeline LLC*, 160 FERC ¶ 61,010, at P 4 (2017)).

[26] *Id.* at 9-10.

e. The TSAs, including the provisions detailing phased construction, additional acreage dedications, additional origin points, the index rate adjustment mechanism, and assignment rights, are consistent with the ICA and Commission policy;

f. The TSAs will be honored and the TSA provisions will be upheld and will govern the transportation services provided to a committed firm shipper during the term of the TSAs;

g. The committed firm rates may be filed as settlement rates and may be granted a waiver of the verified statement requirement of section 342.4(c) of the Commission's regulations; and

h. The open season provisions that permit the Petitioners to enter into TSAs after the open season, under the same terms set forth in the Open Season Notice, are consistent with the ICA and Commission policy.

IV. Public Notice, Intervention, Protests, and Comments

16. Notice of the Petition was issued on September 11, 2019, providing for motions to intervene, comments and protests to be filed on or before October 9, 2019. Pursuant to Rule 214 of the Commission's regulations, all timely filed motions to intervene and any unopposed motions to intervene out-of-time filed before the issuance date of this order are granted.[27] No motions to intervene, comments, or protests were filed. The Petition is therefore unopposed.

IV. Discussion

A. The Requested Rulings

17. Based on representations made in the Petition,[28] we grant the rulings requested by Petitioners, subject to the conditions set forth below.

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[27] 18 C.F.R. § 385.214 (2019).

[28] In cases where the TSA offered in the open season is not included with the petition, the declarations granted by the Commission are necessarily based on the petition's characterizations of the TSA provisions as set forth in the petition, and not from any independent assessment of the TSA terms.

18. We find that the open season appropriately followed Commission guidelines and offered all interested parties an equal opportunity to become Committed Shippers.[29] As described, the open season appears to have been widely advertised and afforded all potentially interested shippers an opportunity to become Committed Shippers.

19. Petitioners have reserved at least 10 percent of the Expansion capacity for Uncommitted Shippers with the remaining 90 percent of capacity available for the Committed Shipper. This is supported by Commission precedent, consistent with a fully transparent open season process available to all potential committed shippers.[30]

20. We confirm that Petitioners may provide firm service on the Joint Project facilities, as provided in the TSA and the *pro forma* rates and charges tariff, for both committed firm service and uncommitted service.

21. We find that the TSAs, including the provisions detailing phased construction,[31] additional acreage dedication,[32] additional origin points,[33] the index rate adjustment mechanism[34] and assignment rights,[35] are consistent with the ICA and Commission policy.

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[29] *Shell Pipeline Co. LP*, 146 FERC ¶ 61,051, at P 21 (2014).

[30] *Sunoco Pipeline L.P.*, 139 FERC ¶ 61,259, at P 14 (2012); *CCPS Transp., LLC*, 121 FERC ¶ 61,253, at P 17 n.33 (2007).

[31] *Medallion 2018* 163 FERC ¶ 61,170 at P 19.

[32] *Oryx So. Del. Oil Gath. and Transp. LLC*, 154 FERC ¶ 61,065, at P 20 (2016); *EPIC Crude Pipeline, LP*, 167 FERC ¶ 61,026, at P 22 (2019).

[33] *Sunoco Pipeline L.P*, 149 FERC ¶ 61,191 at PP 24, 27 (2014) (permitting carrier to add more origin and destination points at its sole discretion since it will "aid in meeting the demand for transportation from these production areas"); *Stakeholder Midstream*, 160 FERC ¶ 61,010 at P 19 (approving TSA provision allowing committed shippers to designate future origin and destination points under the TSA).

[34] *CCPS Transp.*, 121 FERC ¶ 61,253 at PP 21-22; *Saddlehorn Pipeline Co., LLC*, 153 FERC ¶ 61,067, at P 34 (2015) (*Saddlehorn 2015*).

[35] *BridgeTex Pipeline Co.*, LLC 156 FERC ¶ 61,121, at P 18 (2016); *Saddlehorn 2015*, 153 FERC ¶ 61,067, at P 34.

22. We find that the TSAs will be honored and the TSA provisions will be upheld for committed firm shippers during the term of the TSA.[36]

23. We find the provision allowing Petitioners to enter into contracts for Committed Service under the same terms set forth in the open season notice is consistent with the ICA and Commission policy.[37]

B. Applicability of Proxy Rate, Tiered Rates, and Initial Rate Regulations

1. Petitioner's Argument

24. Petitioners assert that their proposed joint tariff structure is permissible according to Commission policy. Petitioners explain that Commission precedent provides that a joint rate is just and reasonable "if it does not exceed the sum of the local rates."[38] Petitioners state that the proposed Joint Tariff rate structure includes two rate classes for joint tariff service: uncommitted rates and committed firm rates. Petitioners point out that Medallion has existing local rates for uncommitted and committed firm service on its system, and that MMG will have a local rate for uncommitted service applicable to the new joint tariff origin points that will be effective prior to the joint tariff going into effect. However, Petitioners also state that MMG will not have a local committed firm rate because it will not offer committed firm service under its local tariff.[39] Petitioners explain that Medallion will therefore utilize the MMG local uncommitted rate as a proxy for the local committed firm rate by increasing the local uncommitted rate by $0.01.

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[36] *Enbridge Pipelines (S. Lights), LLC*, 122 FERC ¶ 61,170, at P 13 (2008).

[37] *Oryx So. Del.*, 154 FERC ¶ 61,065 at P 21 (both committed and uncommitted shippers may secure additional capacity following the open season pursuant to the terms outlined in the open season and the TSA in order to permit the pipeline to be appropriately sized and provided that 10 percent of capacity remains available for uncommitted shippers); *Monarch Oil Pipeline, LLC*, 151 FERC ¶ 61,150, at P 31 (2015) ("The Commission also finds Monarch . . . may continue to commit capacity to participants, so long as all shippers are offered the same terms and conditions, and reasonable access to Monarch is reserved for Committed Shippers").

[38] Petition at 15 (citing *Medallion 2018*, 163 FERC ¶ 61,170 at P 18 and *Big West Oil Co. v. Frontier Pipeline Co.*, 119 FERC ¶ 61,249, at P 5 (2007)).

[39] *Id.* at 15 (citing *Medallion 2018*, 163 FERC ¶ 61,170 at PP 17-18). In note 25 of the Petition, MMG also states that it reserves the right to later propose local committed firm rates under the joint tariff.

Petitioners state that by adding $0.01 to the uncommitted rate, this proxy rate will yield a Joint Tariff Service rate that is consistent with Commission Policy.[40]

25. Petitioners also seek approval for the joint tariff tiered rate structure in which committed firm shipper rates (i) vary based on the destination point where barrels are delivered, and (ii) decrease as the committed firm shippers increase their committed volumes or dedicated acreage under the applicable TSA. Petitioners state that this discounted volume incentive rate is consistent with Commission precedent and that Petitioners' proposed rate structure is a variation of several rate structures previously authorized by the Commission.[41] Petitioners also contend that the Commission has readily authorized rate structures permitting lower rates for acreage dedication, volume, and term commitments so long as the opportunity to enter into such commitments was open and available to all interested parties.[42]

26. Petitioners request that the Commission approve the proposal to file rates for uncommitted and committed firm service as settlement rates. Petitioners contend that this request is appropriate under section 342.4(c) of the Commission's regulations and that the Commission has consistently found joint rates to be settlement rates rather than initial rates for new service under section 342.2 of the Commission's regulations.[43]

2. Commission Determination

27. We disagree that the proposed joint tariff structure should be treated as a change of existing rates under 18 C.F.R. § 342.4(c) instead of an initial rate for new service under 18 C.F.R. § 342.2.

28. Each new open season for newly created capacity establishes a new committed service requiring a new initial rate.[44] This applies whether the service is on one pipeline

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[40] *Id.* at 15-16 (citing *EPIC Crude Pipeline*, 167 FERC ¶ 61,026, at P 27).

[41] *Id.* (citing *Bayou Bridge Pipeline, LLC,* 153 FERC ¶ 61,322, at PP 19, 28 (2015); *Panola Pipeline Co., LLC*, 151 FERC ¶ 61,140, at P 20 (2015) (approving tariff rate structures that provide different rates for committed shippers)).

[42] *Id.* at 17 (citing *TransCanada Keystone Pipeline, LP*, 125 FERC ¶ 61,025, at P 22 (2008); *Sunoco Pipeline LP,* 150 FERC ¶ 61,172, at P 28 (2015)).

[43] *Id.* at 19 (citing *Medallion 2018*, 163 FERC ¶ 61,170, at P 17*).*

[44] *EnLink NGL Pipeline, LP*, 167 FERC ¶ 61,024, at P 18 n.22 (2019) ("While it appears EnLink offered the same committed rates for service on the Expansion Project's capacity as are already in effect for the Base System Committed Shipper, EnLink should

or, as is the case here, two pipelines. As described in the Petition, the instant TSA for committed service applies to new capacity and resulted from a new open season held from July 8, 2019 to August 2, 2019.

29. Further, a joint rate is treated as a rate change, as opposed to an initial rate, only if the joint rate is based upon pre-existing local rates on file for the same services.[45] Petitioners concede there is no firm service on MMG for the optional monthly firm service rate.[46] Although Petitioners argue that a proxy can be developed for the firm rate on MMG,[47] the fact remains that no such firm service is available in MMG's tariff.[48] Accordingly, the joint firm rate proposed by this Petition is for a new service.

30. Similarly, regarding the discounted volume incentive rate, the Commission has approved as a rate change joint rates that are below the sum of the underlying local uncommitted rates. However, these approvals applied to service that, aside from the discounted rate, was the same as the underlying uncommitted local rates.[49] Here, the joint tariff committed service is a new service that materially differs from the service provided by the underlying uncommitted local rates on Medallion and MMG. These differences include the Committed Shipper's option to use firm service on a monthly basis and the determination of volumes using an acreage dedication. Neither option is available for shippers using the uncommitted local rates.[50] Moreover, in order to obtain

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comply with 18 C.F.R. § 342.2 concurrent with its filing to amend its tariff to reflect the 2018 open season and additional Committed Shippers on the Expansion Capacity.").

[45] *See Belle Fourche Pipeline Co.*, 156 FERC ¶ 61,063, at P 27 (2016); *see also id.* P 29 ("While a joint rate itself may be a 'new' rate, it is not an 'initial rate for new service' when the underlying local services are not new. The Commission has consistently held that while the overall rates may differ between joint rates and the underlying local rates, the service provided is the same."); *Texaco Pipeline Inc.*, 72 FERC ¶ 61,313, at 62,310-11 (1995) (treating the joint rate proposal as a rate change under section 342.3(a) so long as it is less than the rates on file with the Commission).

[46] Petition at 14-15 n.24.

[47] *Id.*

[48] Firm service is not the same as uncommitted service currently available on Delaware Express. *CCPS Transp.*, 121 FERC ¶ 61,253 at P 19 (stating "premium rate firm shippers are not similarly situated with the pipeline's non-firm shippers").

[49] *Belle Fourche*, 156 FERC ¶ 61,063 at P 27.

[50] We further note that the Commission has only treated a joint rate as a rate

the discount rate, shippers must make a long-term volume commitment that is not required for shippers using the uncommitted local rate.[51]

31. We are also not persuaded by Petitioners' reliance upon *Medallion 2018*. In *Medallion 2018,* the Commission granted Petitioners' request to treat similarly structured committed rates for a joint movement "as settlement rates pursuant to 18 C.F.R. § 342.4(c)."[52] However, as the Commission recently reaffirmed in *Targa* and other decisions, pipelines must comply with the Commission's initial rate regulations under section 342.2 even if subsequent rate changes may be treated as settlement rates under section 342.4(c).[53] To the extent *Medallion 2018* could be construed otherwise, it was inconsistent with the Commission's subsequent holding in *Targa*.[54]

32. Furthermore, *Medallion 2018* did not directly address the arguments advanced in that proceeding, claiming that the committed rate was derived from the pre-existing local rates as discussed above. Rather, the Commission's statement in *Medallion 2018* that "the request to treat the committed rates as settlement rates [is] consistent with Commission precedent" [55] relied upon the Commission's pre-*Targa* precedent involving committed rates. Accordingly, the Commission in *Medallion 2018* did not reach

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change under the Commission's indexing regulations in section 343.3 where the joint rate was below the combined ceiling levels of the underlying local rates. *E.g.*, *Belle Fourche*, 156 FERC ¶ 61,063 at P 27. The Commission has not previously approved such a settlement as a rate change under section 342.4(c), particularly where the settlement includes terms that are different than those included in the underlying service.

[51] *E.g.*, *Express Pipeline P'ship*, 76 FERC ¶ 61,245, at 62,254 (1996) (explaining that "[t]erm shippers are not similarly situated with uncommitted shippers because in any given month, uncommitted shippers may choose to ship on Express or not").

[52] *Medallion 2018*, 163 FERC ¶ 61,170 at P 13. *See also id.* P 17 (citing *Shell*, 146 FERC ¶ 61,051 at PP 13, 21 (approving committed rates as settlement rates pursuant to 18 C.F.R. § 324.4(c))).

[53] *Targa NGL Pipeline Co. LLC*, 166 FERC ¶ 61,179, at P 20 (2019).

[54] *Id.*; *Magellan Pipeline Co., L.P.*, 166 FERC ¶ 61,18,1 at P 34 (2019); *Sunoco Pipeline LP*, 167 FERC ¶ 61,159, at P 14 (2019); *Enterprise TE Prod. Pipeline Co., LLC*, 166 FERC ¶ 61,180, at P 11 (2019)

[55] *Medallion 2018*, 163 FERC ¶ 61,170 at P 17 (citing *Shell*, 146 FERC ¶ 61,051, which involved the Commission's committed rate policy generally and did not involve joint rates).

Petitioners' additional arguments that the rate could be justified under section 342.4(c) as a joint rate.[56] *Medallion 2018* does not establish Commission precedent regarding joint rate issues.[57] Therefore, we find that the Commission's initial rate regulations in section 342.2 apply to Petitioner's proposed rate structure.

33. Accordingly, we grant Petitioners' requested rulings subject to Petitioners providing, at the time the tariff is filed, (1) a sworn affidavit that the rate is agreed to by at least one non-affiliated shipper who intends to use the service in accordance with 18 C.F.R. § 342.2(b) or (2) cost, revenue, and throughput data supporting the rate as required by part 346 of the Commission's regulations, in accordance with 18 C.F.R. § 342.2(a).[58] Any subsequent rate adjustments pursuant to the TSA will be treated as settlement rates under 18 C.F.R. § 342.4(c).

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[56] Moreover, in *Plantation*, when the Commission directly addressed a joint rate tariff filing involving committed service, the Commission specified that the pipeline needed to comply with the initial rate regulations. *Plantation Pipe Line Co*., 98 FERC ¶ 61,219, at 61,866-67 (2002) ("What we are approving here is Plantation's joint rate *methodology* . . . However, the Commission cannot make a finding that the proposed joint rates are just and reasonable at this time. In order to provide the proposed joint service . . . , Plantation or its proposed affiliated pipeline must submit a joint tariff including joint rates that will be applicable . . . At that time, the Commission can determine whether the joint rates are just and reasonable. . .." (emphasis added)).

[57] Subsequent to the *Medallion 2018* order, tariffs and joint tariffs implementing the services and rates were filed by Medallion Delaware Express in Docket No. IS18-661 on July 1, 2018, and Medallion Pipeline Company LLC in Docket No. IS18-664 on July 11, 2018. These tariffs became effective by operation of law without a Commission order, and thus, do not establish Commission policy. *Gas Transmission Northwest Corp. v. FERC*, 504 F.3d 1318, 1320 (2007) (explaining "[the Commission]'s acceptance of a pipeline's tariff sheets does not turn every provision of the tariff into 'policy' or 'precedent'").

[58] In the instant case, Petitioners have stated that the only committed shipper is an affiliate of Medallion Delaware Express. Based on the representations in the Petition, Petitioners would be unable to meet the requirements of section 342.2(b) upon filing the initial rates and instead would be required to file the data required under section 342.2(a). *Targa*, 166 FERC ¶ 61,179 at P 21.

The Commission orders:

Petitioners' requested rulings are granted, subject to conditions, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.