

171 FERC ¶ 61,190
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

June 1, 2020

In Reply Refer To:
Valero MKS Logistics, L.L.C.
Docket No. OR20-10-000

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Attn: Steven A. Adducci
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Reference: Request for Temporary Waiver of the Filing and Reporting Requirements
of Sections 6 and 20 of the Interstate Commerce Act

Dear Mr. Adducci:

1. On March 31, 2020, Valero MKS Logistics, L.L.C. (MKS) filed a request for temporary waiver of the tariff filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act (ICA)¹ and Parts 341 and 357 of the Commission's regulations² for MKS's crude and products pipeline systems. For the reasons discussed below, we grant MKS's temporary waiver request.

¹ 49 U.S.C. app. §§ 6, 20 (1988). Section 6 requires interstate oil pipelines to file all rates, fares, and charges for transportation on their systems, as well as to file copies of their contracts with other common carriers for any such traffic. Section 20 authorizes the Commission to require annual or special reports from carriers subject to the ICA.

² See 18 C.F.R. pts. 341 and 357 (2019) (implementing the filing and reporting requirements of ICA sections 6 and 20).

2. MKS is a wholly-owned, indirect subsidiary of Valero Energy Corporation.³ MKS is operated by Valero Partners Operating Co. LLC, which is a wholly-owned, indirect subsidiary of Valero Energy Corporation. Generally, MKS's crude and products pipelines and terminals serve Valero's Memphis Refinery and consist of several assets in Mississippi, Tennessee, and Arkansas.

3. MKS's waiver request concerns two of its systems: (1) the Collierville Crude Pipeline System (Collierville Pipeline) and (2) the Shorthorn Products Pipeline System (Shorthorn Pipeline). According to MKS, the Collierville Pipeline is operated under FERC Tariff Nos. 9.0.0 and 10.10.0 and consists of a 52-mile, 10- to 20-inch bi-directional crude oil pipeline connecting the Collierville Terminal⁴ and the Valero Memphis Refinery.⁵ MKS's Shorthorn Pipeline is operated pursuant to FERC Tariff No. 11.10.0 and consists of the seven-mile, 14-inch West Memphis Shorthorn pipeline that delivers diesel and gasoline produced at the Valero Memphis Refinery to the Valero West Memphis Terminal (both facilities are owned by affiliates of MKS) and a two-mile, 12-inch West Memphis Exxon Lateral pipeline that delivers diesel and gasoline from the Valero West Memphis Terminal and the Valero Memphis Refinery to Exxon's Memphis refined petroleum products terminal.⁶

4. MKS states that since at least 2005, only its affiliate, Valero Marketing and Supply Company (Valero MSC), has shipped crude oil and refined products on the

³ Transmittal at 2.

⁴ The Collierville Terminal is located in Marshall County, Mississippi and consists of three storage tanks with 975,000 barrels of storage capacity which receive crude oil from the Capline, Dakota Access, and Diamond pipelines. *Id.* at 2-3.

⁵ MKS states that it leases from Memphis Light, Gas and Water (Memphis LGW) approximately 13 miles of the Collierville pipeline, extending from the Mississippi state line to the Valero Memphis Refinery. MKS states that under the lease terms, it is the sole operator of and maintains the pipelines and that all pipeline assets revert to Memphis LGW at the termination of the lease. The initial term of the lease along with renewals at MKS's option extend through 2046, and Memphis LGW does not have the right to terminate the lease during the initial or renewal periods of the lease according to MKS. *Id.* at 3.

⁶ *Id.* at 3-4. MKS states that it leases the 14-inch Shorthorn West Memphis pipeline from Memphis LGW under similar terms as those governing the Collierville Pipeline.

various portions of the MKS system.⁷ MKS states that, despite the close proximity of the Valero Memphis Refinery to the various assets of the MKS system, the MKS system is characterized by its location at the intersection of three states (Arkansas, Mississippi, and Tennessee), and portions of the system cross into each of these states. MKS notes that based on the geographic and physical configuration of the overall system, and Valero MSC's intent to ship crude oil from the Collierville Terminal to the Valero Memphis Refinery and refined products between the Valero Memphis Refinery, the Valero West Memphis Terminal, and the Exxon Memphis terminal, MKS believes that transportation on the Shorthorn and Collierville Pipelines is subject to Commission jurisdiction under the ICA.

5. MKS represents that crude oil is received on the Collierville Pipeline and is only delivered to the Valero Memphis Refinery, to be consumed in the refinery's production of refined petroleum products.⁸ MKS states that it does not foresee a reason for another shipper to make these movements. MKS also states that given its experience with its pipeline system as well as its configuration, it is highly unlikely that an unaffiliated party will seek or request service involving any portion of the MKS system. MKS notes all interstate petroleum product movements on the MKS system originate at Valero-affiliated facilities (Memphis Refinery or the West Memphis Terminal) and all terminate at either the Valero West Memphis Terminal or the Exxon Memphis terminal. MKS states that Valero MSC has title to all petroleum products shipped on these routes and contends that there is no foreseeable reason for another shipper to make these movements. Further, MKS asserts there are no shippers who have expressed interest in making any of these petroleum product movements.

6. The criteria to qualify for temporary waiver of the filing and reporting requirements of the Commission's regulations implementing ICA sections 6 and 20 are as follows: (1) the pipeline (or its affiliates) own 100% of the throughput on the line; (2) there is no demonstrated third-party interest in gaining access to or shipping on the line; (3) no such interest is likely to materialize; and (4) there is no opposition to granting the waiver request.⁹ In these cases, the Commission determined that there were no active third-party shipper interests to protect under the ICA, and therefore temporary waivers

⁷ *Id.* at 6.

⁸ *Id.*

⁹ See *Noble Midstream Servs., LLC*, 152 FERC ¶ 61,147 (2015); *Saddle Butte Pipeline, LLC*, 136 FERC ¶ 61,071 (2011); *Whiting Oil and Gas Corp.*, 131 FERC ¶ 61,263 (2010); *Enbridge Pipelines (NE Texas Liquids) L.P.*, 110 FERC ¶ 61,159 (2005); *Ciniza Pipe Line, Inc.*, 73 FERC ¶ 61,377 (1995); *Hunt Refining Co.*, 70 FERC ¶ 61,035 (1995); *Sinclair Oil Corp.*, 4 FERC ¶ 62,026 (1978).

of sections 6 and 20 filing and reporting requirements were warranted. However, the Commission granted the waivers subject to revocation should circumstances change and required the pipelines to keep their books and records in a manner consistent with the Commission's Uniform System of Accounts.

7. MKS makes the following representations in support of its request: (1) no unaffiliated party has ever requested to ship on the MKS system; (2) there are no shippers who have expressed interest in making any of these petroleum products movement; (3) it is highly unlikely that an unaffiliated party will seek or request service involving any portion of the MKS system given its configuration; and (4) MKS does not anticipate that there will be any opposition to this waiver request.

8. Public notice of the filing was issued on April 7, 2020. Interventions and protests were due on or before May 1, 2020. Pursuant to Rule 214 of the Commission's regulations,¹⁰ all timely motions to intervene and any unopposed motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late interventions at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. The waiver request is unopposed.

9. Based on the representations provided in the request for waiver, we conclude that MKS meets the criteria to receive a temporary waiver, consistent with the Commission's prior rulings.

10. Accordingly, we grant MKS's request for temporary waiver of the tariff filing and reporting requirements of ICA sections 6 and 20, and the Commission's implementing regulations, as these requirements relate to its Collierville and Shorthorn Pipelines, as described above. Because the current waiver is temporary and based solely on the facts presented by MKS in its request for waiver, we direct MKS to report to the Commission any change in the circumstances on which these waivers are based. Specifically, MKS must report any change including, but not limited to, increased accessibility of other pipelines or refiners to the subject facilities, changes in the ownership of the facilities, changes in the ownership of the crude oil or petroleum products shipped, and shipment tenders or requests for service by any person. Additionally, MKS must maintain all books and records for service by any person and in a manner consistent with the Uniform

System of Accounts for Oil Pipelines, 18 C.F.R. Part 352 (2019). MKS must make such books and records available to the Commission or its duly authorized agents upon request.

¹⁰ 18 C.F.R. § 385.214 (2019).

By direction of the Commission.

Kimberly D. Bose,
Secretary.