

160 FERC ¶ 61,093
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

September 20, 2017

In Reply Refer To:
Western Refining Pipeline, LLC
Docket No. OR13-14-002

Steptoe & Johnson LLP
1330 Connecticut Ave., NW
Washington, DC 20036

Attention: Steven H. Brose,
Counsel for Western Refining Pipeline, LLC

Reference: Request for Temporary Waiver of Sections 6 and 20 of the
Interstate Commerce Act

Dear Mr. Brose:

1. On December 16, 2016, Western Refining Pipeline, LLC (Western),¹ filed a request to amend a temporary waiver of the tariff filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act (ICA) and parts 341 and 357 of the Commission's regulations² granted to Western by the Commission on February 27, 2013 (Original Waiver).³ Western further requests the Commission confirm that the temporary

¹ Western was formerly known as Western Refining Pipeline Company.

² See 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 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. See also 18 C.F.R. pts. 341 and 357 (2017) (implementing the filing and reporting requirements of ICA sections 6 and 20).

³ *Western Refining Pipeline Co.*, 142 FERC ¶ 61,152 (2013) (Original Waiver).

waiver granted to Western on June 4, 2015 in the Amended Waiver Order⁴ continues to apply to Western's 10-inch feeder lines and the amended waiver facilities, and to further amend the waiver to apply to Western's New Lines, i.e., Golden Spur 36, Salado Draw 23, Salado Draw 24, the War Hammer Pipeline, the Lindsay Connection, and the CR-1 Loop Pipeline feeder lines. For the reasons discussed below, the Commission grants Western's temporary waiver amendment request.

2. Western states that the Original Waiver was issued for Western's 12-inch diameter line (Mason North Line) and two 10-inch feeder lines (Feeder Lines) and related tankage. The Mason North Line extends 19 miles south from Tee Station, New Mexico to Mason Station, Texas where it connects to Kinder Morgan's 450-mile Wink Pipeline owned by Kinder Morgan Energy Partners L.P.⁵ Western states that the Feeder Lines are 10-inch diameter gathering lines. According to Western, one feeder line extends 6.5 miles eastward from a 10,000 barrel tank at Western's 285 Station to a central 30,000 barrel tank at Tee Station and the second feeder line extends approximately 12.2 miles westward from a 10,000 barrel tank at Western's CR-1 Station to the same central 30,000 barrel tank at Tee Station.

3. Western states that the Commission granted the Original Waiver based on Western's representations that it owned and operated 100 percent of the facilities described above, that there would be no intermediate origin and destination points on the Mason North Line or the 10-inch Feeder Lines, that no third-party had requested the construction of an intermediate connection point with those lines, and that a Western affiliate would own all throughput on the line. Western states that the Commission directed Western to report any changed circumstances and to maintain the books and records in accordance with the Uniform System of Accounts for Oil Pipelines (USofA).

4. Since the Original Waiver was granted, Western explains that two developments occurred. First, Western filed a tariff to establish a new service and rate on the Mason North Line from Tee Station to Mason Station. Due to this change, Western understood that the Original Waiver was invalid as to the Mason North Line and associated central 30,000 barrel tank at Tee Station. The second development involved Western's extension of its feeder system and related tankage facilities. Specifically, Western was in the process of adding a 50,000 barrel tank at CR-1 Station, a 50,000 barrel tank at 285 Station, a 4.7 mile branch line with connecting feeder lines extending from CR-1 Station tankage to various locations in New Mexico, and a 6.1 mile branch line with connecting feeder lines extending from CR-1 Station tankage to various other locations. In the Amended Waiver Order, the Commission granted an amendment to cover

⁴ *Western Refining Pipeline Co.*, 151 FERC ¶ 61,200 (2015) (Amended Waiver Order).

⁵ Transmittal at 2 n.2.

Western's proposed extensions, and confirmed that the waiver remained valid regarding the 10-inch Feeder Lines and existing 10,000 barrel tanks, though it was no longer valid as to the Mason North Line and associated central 30,000 barrel tank at Tee Station.

5. According to Western, no material changes have occurred regarding the Feeder Lines or any of the facilities to which the Amended Waiver Order applies. However, Western states that it is now in the process of adding certain new facilities in the areas around Western Gathering No. 1 and Western Gathering No. 2 (New Lines), including the following:

- A 1,487-foot, 4-inch diameter feeder line connecting to the Golden Spur feeder line in New Mexico near North Mason oil field which ultimately connects to Western Gathering No. 1 (Golden Spur 36);
- A 2-mile, 6-inch diameter extension of a feeder line connecting to Western Gathering No. 2 (Salado Draw 23);
- A 1-mile, 6-inch diameter feeder line connecting to Salado Draw 23 which ultimately connects to Western Gathering No. 2 (Salado Draw 24);
- A 0.75-mile, 6-inch diameter extension of Salado Draw 24 connecting the Salado 24 central facility to the War Hammer central facility (War Hammer Pipeline);
- A 2.5-mile, 6-inch diameter extension of Western Gathering No. 1 that extends into Loving, Texas (Lindsay Connection); and
- A 3.7-mile, 12-inch diameter feeder line that runs east from CR-1 Station parallel to Western Gathering No. 2 and continues south to the Battle Axe central facility with a 0.75-mile, 6-inch diameter extension connecting to the Salado Draw 23 line (CR-1 Loop Pipeline).

Western states that Golden Spur 36, Salado Draw 23, Salado Draw 24, the War Hammer Pipeline, the Lindsay Connection, and the CR-1 Loop Pipeline feeder lines are all in the advanced stages of development and are expected to be placed in service by no later than the first half of 2017. Western states that there will be no intermediate destination points on the New Lines and that no third party has requested the construction of an intermediate point interconnection with any of the New Lines. Lastly, Western adds that all of the crude oil entering and transported through the New Lines will be owned by an affiliate of Western.

6. The criteria to qualify for temporary waiver of the filing and reporting requirements of the Commission's regulations and ICA sections 6 and 20 are as follows: (1) the pipelines (or their affiliates) own 100 percent 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.⁶ In these cases, the Commission determined that there were no active third-party shipper interests to protect under the ICA, and therefore temporary waivers 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. Western states that all the crude oil entering and transported through these extensions will be owned by an affiliate of Western. Further, Western contends that no intermediate destination points will be constructed, no third party has requested the construction of an intermediate point interconnection with the extended lines, it is not aware of any third party requesting construction of an intermediate point interconnection with the extended lines, and it is not aware of any parties likely to request an interconnection. Western maintains that the extension projects are similarly situated to the pipeline facilities for which the Commission has granted waivers in the past. It states that the amendment is unopposed and no material changes have occurred with respect to the 10-inch Feeder Lines and existing 10,000 barrel tanks at the CR-1 and 285 Stations. Western requests that the Commission confirm that the Original Waiver continues to apply to the 10-inch Feeder Lines and existing 10,000 barrel tanks and that the waiver extends to the planned extension.

8. Public notice of the filing was issued on January 5, 2017. Interventions and protests were due on or before January 19, 2017, as provided in section 154.210 of the Commission's regulations.⁷ Pursuant to Rule 214,⁸ 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. No protests or adverse comments were filed.

⁶ See *Noble Midstream Svcs., 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., and East Mississippi Pipeline Co.*, 70 FERC ¶ 61,035 (1995); *Sinclair Oil Corp.*, 4 FERC ¶ 62,026 (1978).

⁷ 18 C.F.R. § 154.210 (2017).

⁸ *Id.* § 385.214.

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

10. Accordingly, the Commission grants an amendment to Western's temporary ICA waiver, extending the waiver to Western's proposed New Lines and confirming that the waiver remains valid as to the 10-inch Feeder Lines and existing 10,000 barrel tanks. As earlier recognized by Western, the Original Waiver no longer applies to the Mason North Line and associated central 30,000 barrel tank at Tee Station.

11. Because the current waiver is temporary, and based solely on the facts presented by Western in its request for amendment, the Commission directs Western to continue to report to the Commission any change in the circumstances on which these waivers are based. Specifically, Western must report any change including, but not limited to: (1) increased accessibility of other pipelines or refiners to its facilities; (2) changes in the ownership of the facilities; (3) changes in the ownership of the crude oil being shipped; and (4) shipment tenders of service by any person. Additionally, Western must maintain all books and records for service by any person and in a manner consistent with the USofA, 18 C.F.R. part 352. Western must make such books and records available to the Commission or its duly authorized agents upon request.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.