165 FERC ¶ 61,216
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

December 7, 2018

In Reply Refer To:
Lucid Energy Delaware, LLC and
EOG Resources, Inc.
Docket No. RP19-255-000

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Attention: Douglas F. John, Attorney and Randall S. Rich, Attorney

Dear Mr. John and Mr. Rich:

1. On November 7, 2018, Lucid Energy Delaware, LLC (Lucid) and EOG Resources, Inc. (EOG) filed a petition for limited, temporary waivers of the Commission's regulations and policies, and related provisions in the FERC Gas Tariff of Natural Gas Pipeline Company of America LLC (Natural). Lucid and EOG request the waivers to enable Lucid to implement a larger integrated transaction by entering into a prearranged permanent capacity release to EOG of a portion of Lucid's firm jurisdictional natural gas transportation rights on Natural. Lucid and EOG request that the Commission issue an order granting the requested waivers no later than December 7, 2018. Lucid and EOG submit that timely approval is necessary to enable the parties to complete the integrated transaction in advance of the expected commencement of service to EOG on January 1, 2019. As discussed below and for good cause shown, the Commission grants the requested waivers.

2. Lucid is engaged in, among other things, the construction and operation of midstream facilities for the gathering and processing of natural gas in the State of New Mexico. Lucid is a shipper on a number of interstate pipelines regulated by the

Commission. EOG produces natural gas and crude oil in the U.S., Canada and select other international areas, including natural gas from its wells behind Lucid's Red Hills processing plant in Lea County, New Mexico.

3. Lucid has entered into a long-term negotiated rate agreement for firm service on Natural's Lockridge Lateral, which is part of Natural's Amarillo Line (the Agreement). The Agreement provides that the firm service commences January 1, 2019 and continues through September 30, 2028. Service under the Agreement will initially extend from a newly-completed point of interconnection with Natural at the tailgate of Lucid's Red Hills processing plant in Lea County, New Mexico to a point of interconnection on Natural's Lockridge Lateral between Natural and Oasis Pipe Line Company (Oasis) in Ward County, Texas (referred to as the Oasis/NGPL Delivery Point). The Agreement is structured to set Lucid's firm maximum daily quantity (MDQ) entitlement at a level that ramps up during the early years of the Agreement, in order to track projected increases in the residue stream from the Red Hills plant as production is added upstream of the plant. Commencing with an MDQ of 200,000 Dth/d on January 1, 2019, the Agreement provides for a series of escalations, culminating in an MDQ of 500,000 Dth/d on April 1, 2021. The negotiated rate under the Agreement is fixed at a level below Natural's otherwise applicable maximum recourse rate for service under the System Wide Option.

4. Under the terms of the processing agreements, Lucid has entered into with certain producers behind its Red Hill plant, including EOG, each producer is entitled to retain in-kind ownership of its production. In turn, Lucid has committed to assist these producers electing to do so with downstream transportation arrangements, which, on interstate pipelines, may take the form of temporary or permanent releases of capacity controlled by Lucid in accordance with section 284.8 of the Commission's regulations.

5. EOG has elected to exercise its take-in-kind right, as a result of which Lucid and EOG have agreed to the permanent release of a portion of Lucid's capacity rights under the Agreement with Natural. Under the terms of the permanent release, subject to the receipt of the waiver requested herein and other conditions precedent, Lucid will enter into a permanent release with EOG for 40,000 Dth/day on January 1, 2019 at Lucid's negotiated rates. The capacity at issue in this petition is a critical component of that larger integrated take-in kind transaction.

6. Lucid and EOG request that the Commission grant temporary waivers of (1) the Commission's capacity release posting and bidding requirements;[1] (2) the prohibition against tying arrangements; (3) the shipper-must-have-title rule; (4) the prohibition on buy/sell transactions; (5) any of the provisions of Natural's FERC Gas Tariff that implement these regulations and policies; and (6) any other policies, rules, regulations, or

[1] 18 C.F.R. § 284.8 (2018).

tariff provisions the Commission deems necessary to permit Lucid to release the specified portion of its capacity under the Agreement, and thereby allow EOG to ship its gas on Natural. Lucid and EOG request waiver of the relevant provisions of Natural's FERC Gas Tariff to allow EOG to be the designated replacement shipper pursuant to a new negotiated rate firm transportation service agreement under Natural's Rate Schedule FTS.

7. Public notice of the filing was issued on November 8, 2018. Interventions and protests were due by November 14, 2018. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2018)), 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 intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. No protests or adverse comments were filed. The request for waiver is therefore uncontested.

8. The Commission has reviewed the petition and finds that the request is adequately supported and consistent with previous waiver requests that the Commission has granted to permit the release of capacity under similar circumstances.[2] Specifically, the Commission finds that Lucid and EOG have appropriately provided the information required for approval of such waivers by (1) identifying the regulations and policies for which waiver is sought; (2) identifying the pipeline service agreements and capacity to be transferred; (3) describing 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 (4) filing the petition as much in advance of the requested date as possible.[3]

9. Accordingly, for good cause shown, the Commission grants Lucid's and EOG's joint request for temporary, limited waiver of the Commission's capacity release regulations and policies as specified above, and of the related provisions of Natural's tariff, so that Lucid and EOG can complete their transaction in an orderly and efficient manner within their time constraints. The temporary, limited waivers requested by Lucid and EOG are granted, and as requested by the joint petitioners, shall be effective on the date that the larger integrated transaction is completed, which is anticipated to occur

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[2] *See, e.g., Kerr McGee Energy Services Corporation*, 139 FERC ¶ 61,175 (2012); *Salmon Resources*, 138 FERC ¶ 61,059 (2012); *Wisconsin Electric Power Co.*, 131 FERC ¶ 61,104 (2010); *EnergyMark, LLC*, 130 FERC ¶ 61,059 (2010); *Sequent Energy Management, L.P.*, 129 FERC ¶ 61,188 (2009); *Macquarie Cook Energy, LLC*, 126 FERC ¶ 61,160 (2009); *Bear Energy LP*, 123 FERC ¶ 61,219 (2008).

[3] *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).

January 1, 2019, and shall continue for 120 days thereafter, to allow resolution of any transitional issues involving the subject capacity.

By direction of the Commission. Commissioner McIntyre is not voting on this letter order.

Nathaniel J. Davis, Sr.,
Deputy Secretary.