

165 FERC ¶ 61,231  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

December 14, 2018

In Reply Refer To:  
EOG Resources, Inc.  
EOG Y Resources, Inc.  
EOG A Resources, Inc.  
EOG M Resources, Inc.  
Docket No. RP19-295-000

Pierce Atwood LLP  
1875 K Street, NW  
Suite 700  
Washington, DC 20006

Attention: Randall S. Rich  
Counsel for EOG Resources, Inc., EOG Y Resources, Inc.,  
EOG A Resources, Inc., and EOG M Resources, Inc.

Dear Mr. Rich:

1. On November 15, 2018, EOG Resources, Inc. (EOG), EOG Y Resources, Inc. (EOG Y), EOG A Resources, Inc. (EOG A), and EOG M Resources, Inc. (EOG M) (jointly, Petitioners) filed a petition (Petition) for temporary waiver of the Commission's capacity release regulations and policies, as well as any applicable capacity release provisions of the FERC gas tariff of Rockies Express Pipeline LLC (REX), to permit EOG Y, EOG A, and EOG M to permanently release and assign firm transportation agreements, purchase and sale agreements, gathering and processing agreements, or other contractual agreements to EOG. Petitioners state that the waivers are necessary to facilitate a transaction in which EOG, the parent company, will merge its affiliates EOG Y, EOG A, and EOG M into EOG. Petitioners request that the Commission issue an order by December 14, 2018, and ask that the waiver be effective for 120 days starting with the date the merger closes. As discussed below, and for good cause shown, the Commission grants the requested waivers.

2. Public notice of the Petition was issued on November 16, 2018, and comments were due on November 23, 2018. Pursuant to Rule 214,<sup>1</sup> all timely filed motions to

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<sup>1</sup> 18 C.F.R. § 385.214 (2018).

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 parties. No adverse comments or protests were filed.

3. Petitioners state that on January 1, 2019, a transaction is expected to close, in which EOG will merge with EOG Y, EOG A, and EOG M and after which, EOG Y, EOG A, and EOG M will cease to exist. Petitioners state they may not be able to contemporaneously transfer pipeline capacity and all other agreements because some require third party consent. Petitioners state that temporary waiver is required to avoid inadvertent violation of the Commission's capacity release regulations, the shipper-must-have-title policy, and the prohibition on buy/sell transactions.

4. Petitioners state that, as part of the transaction, they seek to release and assign pipeline transportation agreements and capacity held by EOG Y on REX's system.<sup>2</sup> The transportation and capacity being transferred from EOG Y to EOG pursuant to the transaction are the following: (1) REX Contract No. 553083 for 28,000 Dth/day of firm service through November 11, 2019<sup>3</sup>; and (2) REX Contract No. 553128 for 15,000 Dth/day of firm service through November 11, 2019.<sup>4</sup> Petitioners state that the interstate capacity is used to transport natural gas they produce and sell to customers.

5. To facilitate the permanent release of capacity to EOG, Petitioners request temporary and limited waiver of the Commission's regulations and policies, including: (a) the prohibition against the tying of pipeline transportation capacity to any extraneous condition; (b) the shipper-must-have-title rule; (c) the prohibition of buy-sell transactions; and (d) the Commission's capacity release regulations, including the posting and bidding requirements as well as sections 284.8(b)(2), 284.8(d), and 284.8(e), which prohibit payment in excess of the applicable maximum rate for replacement shippers, require notice of offers to release or purchase capacity, and require capacity allocation to the highest bidder respectively. In addition, to the extent necessary, Petitioners seek waiver

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<sup>2</sup> Petitioners state that neither EOG A nor EOG M hold any firm interstate transportation capacity.

<sup>3</sup> Petition at 2.

<sup>4</sup> *Id.*

of any tariff provision set forth in REX's tariff related to capacity release.<sup>5</sup> Petitioners state they are authorized to represent that REX does not oppose the requested waivers.<sup>6</sup>

6. 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.<sup>7</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. In addition, the Commission finds that Petitioners have provided the information required for approval of such 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>8</sup>

7. Accordingly, for good cause shown, the Commission grants Petitioners' request for temporary, limited waiver of the Commission's capacity release regulations, including the posting and bidding requirements and sections 284.8(b)(2), 284.8(d) and 284.8(e), as well as the Commission's policies on the prohibition against tying, buy/sell arrangements, and the shipper-must-have-title rule. To the extent necessary, the Commission also grants the requested waiver of the applicable capacity release tariff

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<sup>5</sup> Rockies Express Pipeline LLC, FERC NGA Gas Tariff, Tariffs, [CAPACITY RELEASE, Section 15 - Capacity Release, 5.0.0](#)

<sup>6</sup> Petition at 6.

<sup>7</sup> 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).

<sup>8</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).

provisions of REX. The Commission will allow the waivers to be in effect for 120 days starting on the date the transaction closes, as requested.

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

Nathaniel J. Davis, Sr.,  
Deputy Secretary.