

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Bison Pipeline LLC)	Docket Nos. CP23-543-000
)	
Northern Border Pipeline Company)	CP23-544-000
)	
Wyoming Interstate Company, L.L.C.)	CP23-545-000
Fort Union Gas Gathering, L.L.C.)	

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF
WYOMING INTERSTATE COMPANY, L.L.C. AND
FORT UNION GAS GATHERING, L.L.C.**

Pursuant to 18 C.F.R. § 385.213(a)(3) (2022), Wyoming Interstate Company, L.L.C. (“WIC”) hereby files this Motion for Leave to Answer and Answer (“Answer”) with the Federal Energy Regulatory Commission (“Commission”) in response to the comments filed by the Canadian Association of Petroleum Producers (“CAPP”) in the above-caption proceedings on October 23, 2023 (“Comments”).¹ The CAPP Comments do not establish any basis on which to delay the Commission’s review of the application filed by WIC in Docket No. CP23-545-000 (“Application”),² nor do they provide any factual or legal reasoning on which to deny the authorizations requested in the Application. Accordingly, WIC respectfully request that the Commission proceed with timely processing of Application, and WIC respectfully reiterate its request for a Commission order issuing an order granting the authorizations requested by September 19, 2024.

¹ Canadian Association of Petroleum Producers, Motion to Intervene, Comments and Request for Investigation, Docket Nos. CP23-543-000 et al. (filed Oct. 23, 2023).

² Wyoming Interstate Company, L.L.C. and Fort Union Gas Gathering, L.L.C., Abbreviated Joint Application for a Certificate of Public Convenience and Necessity and Related Authorizations, Docket No. CP23-545-000 (filed Sept. 18, 2023).

I. BACKGROUND

On September 18, 2023, WIC filed an application with the Commission seeking authorization for WIC, under NGA section 7, to lease capacity from each of Northern Border Pipeline Company (“Northern Border”) (the “Northern Border Capacity Lease”), Bison Pipeline LLC (“Bison”) and Fort Union Gas Gathering, L.L.C. (“FUGG”) (together, the “Capacity Leases”). The purpose of the requested authorizations contained in the Application is to rely on existing capacity across four pipeline systems to create a new, seamless transportation path on WIC that will allow shippers to move gas from the Bakken area to an existing interconnection between FUGG and WIC in Converse County, Wyoming (the “FUGG/WIC Interconnect”).

As explained in the Application, WIC solicited shipper interest in firm transportation capacity from receipt points on Northern Border to the FUGG/WIC Interconnect. As a result of this open season, two shippers, Hess Trading Corporation and ONEOK Rockies Midstream, LLC (“ORM”), signed precedent agreements for the 300,000 Dth/day of natural gas transportation capacity that will become available on WIC as a result of the Capacity Leases (the “Bakken xPress Leased Capacity”).

The CAPP Comments set forth a variety of vague and unsubstantiated concerns with respect to the applications filed in the captioned proceedings. This Answer focuses only on the portion of the Comments that is directly related to the Application submitted in Docket No. CP23-545-000.³ CAPP requests the Commission to “conduct a thorough investigation” of the Application. CAPP inquires generically whether “the award of capacity by WIC to Oneok” complies with Commission policy, in light of the affiliate relationship between Northern Border

³ Please see the Motion for Leave to Answer and Answer of Northern Border Pipeline Company filed on November 6, 2023 for additional responses to items raised in the applicable dockets. Northern Border Pipeline Co., Motion for Leave to Answer and Answer, Docket Nos. CP23-543-000 et al. (filed Nov. 6, 2023).

and Oneok.⁴ CAPP also inquires whether the Capacity Leases “comply with other elements of the Commission’s policies, given the disproportionate allocation of costs and revenues between Northern Border’s mainline and expansion components, and between Northern Border, Bison and WIC.”⁵ The Comments neither allege with specificity any possible faults with the Application (which sets forth a detailed explanation of the Capacity Leases, and the applicable Commission precedent that supports their authorization), nor do they reference any Commission precedent, policy, or regulation that would support anything other than the prompt issuance of an order granting the requested authorizations.

II. ANSWER

CAPP does not explain what it means when it requests the Commission to “conduct a thorough investigation” into the facts and circumstances associated with the Application.⁶ There can be no objection to the simple fact that the Commission has an obligation to review the Application and determine whether WIC has demonstrated that the authorizations requested therein comport with Commission precedent and policy. There can also be no objection to the simple fact that the CAPP Comments provide no legal or factual basis on which to conclude that the Commission’s review of the Application should result in anything other than granting the authorizations requested therein.

A. WIC’s Award of Bakken xPress Leased Capacity to ORM Is Consistent with the WIC Tariff and Commission Policy

As they relate to the Application, the CAPP Comments first question how the award of capacity by WIC to ORM comports with Commission policy in light of the affiliate relationship between (i) ORM—a shipper that has signed a precedent agreement with WIC for a portion of the

⁴ Comments at 6. WIC assumes the generic reference to Oneok is a reference to ORM.

⁵ *Id.* at 7.

⁶ *Id.* at 6.

Bakken xPress Leased Capacity—and (ii) Northern Border—one of the lessors under the Capacity Leases that is seeking to lease capacity on its system to WIC. To be clear, Northern Border did not award capacity to ORM. Rather, Northern Border leased capacity to WIC, which is not affiliated with Northern Border or ORM. The Commission has explained that, once capacity is acquired pursuant to a lease, “the lessee in essence owns that capacity and the capacity is subject to the lessee’s tariff. The leased capacity is allocated for use by the lessee’s customers. The lessor, while it may remain the operator of the pipeline system, *no longer has any rights to use the leased capacity.*”⁷ Once WIC acquires capacity through the capacity lease with Northern Border, WIC’s allocation of that capacity is subject to the terms of WIC’s tariff and Commission policy that is applicable to the allocation of transportation capacity by natural gas pipelines.

The CAPP Comments point to no possible violation of WIC’s tariff or Commission policy in connection with WIC’s award of capacity to ORM through a transparent open season that made the capacity available to all interested market participants.⁸ CAPP does not, and could not, point to any deficiencies associated with that open season. In sum, there is no substance to CAPP’s insinuation that WIC’s award of capacity to ORM reflects improper affiliate preference or otherwise violates Commission policy.

B. The WIC’s Proposed Rate Treatment of the Capacity Leases Is Consistent with Commission Policy

The CAPP Comments second question whether the Capacity Leases “comply with other elements of the Commission’s policies, given the disproportionate allocation of costs and revenues between Northern Border’s mainline and expansion components, and between Northern Border, Bison, and WIC.”⁹ It is unclear to WIC what elements of the Commission’s policies CAPP is

⁷ *Midcontinent Express Pipeline LLC*, 124 FERC ¶ 61,089, at P 30 (2008) (emphasis added).

⁸ Application at 2-3.

⁹ Comments at 7.

concerned may not be satisfied by the Application. With respect to WIC, the Application sets forth how the proposed rate treatment associated with the authorizations requested in the Application are appropriate and consistent with Commission policy. Most importantly, “the Capacity Leases enable WIC to serve additional markets at less cost than if WIC had constructed its own facilities to transport the quantities that will be transported on the Bakken xPress Leased Capacity.”¹⁰ The associated lease fees are appropriate and consistent with Commission precedent¹¹ because WIC is incurring significantly less costs than it would if it endeavored to build a greenfield project to serve the exact same market need.¹² Further, WIC will not be passing any costs of its capacity lease to existing customers.¹³ Accordingly, the Application proposes rate treatment associated with the Capacity Leases that is consistent with Commission policy.

III. MOTION FOR LEAVE TO ANSWER

Although the Commission’s regulations do not permit answers to protests unless otherwise ordered by the decisional authority, the Commission may permit an answer for good cause shown.¹⁴ The Commission has explained that it may accept answers where the answer aids in the decision-making process.¹⁵ WIC provides the foregoing information to clarify the propriety of their requested authorizations in the Application and to aid the Commission in its decision making process. In the interest of ensuring a complete and accurate record to assist the Commission’s decision-making process, WIC respectfully request that the Commission grant this motion for leave to answer.

¹⁰ Application at 15.

¹¹ See, e.g., *National Fuel Gas Supply Corp.*, 172 FERC ¶ 61,039, at P 51 (2020).

¹² Application at 12-13.

¹³ *Id.* at 14-15.

¹⁴ 18 C.F.R. § 213(a)(2).

¹⁵ See, e.g., *Transcontinental Gas Pipe Line Corp.*, 175 FERC ¶ 61,260, at P 18 (2021).

IV. CONCLUSION

For the foregoing reasons, WIC respectfully reiterates its request that the Commission issue an order approving the authorizations requested in the Application.

Respectfully submitted,

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Dated: November 13, 2023

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010, I hereby certify that I have this day served a copy of the foregoing on all persons designated on the official service list compiled by the Secretary in these proceedings.

Dated at Houston, Texas this 13th day of November, 2023.

/s/ Tony Sala

Tony Sala

Wyoming Interstate Company, L.L.C