

110 FERC ¶61,159
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 15, 2005

In Reply Refer To:
Letter Order Pursuant to
Enbridge Pipelines
(NE Texas Liquids) L.P.
Docket No. OR05-6-000

Enbridge Pipelines (NE Texas Liquids) L.P.
1100 Louisiana, Suite 3300
Houston, TX 77002

Attention: Gordon J. Smith, Counsel for
Enbridge Pipelines (NE Texas Liquids) L.P.

Reference: Granting of Temporary Waivers of Sections 6 and 20 of the Interstate
Commerce Act

Ladies and Gentlemen:

1. Enbridge Pipelines (NE Texas Liquids) L.P. (Enbridge) currently operates a single interstate pipeline that moves various liquids from Myrtle Springs, Texas, to an Amoco Interconnect in Van Zandt County, Texas, under its effective FERC Tariff No. 3. Enbridge requests a temporary waiver of the filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act (ICA) with respect to its new Zybach liquids pipeline now under construction (Zybach Line). Enbridge contends that under the Commission's "Special Permissions" policy, the Commission has, in certain circumstances, granted interstate pipelines temporary waivers of the aforementioned sections of the ICA. The Commission grants Enbridge's temporary request for waiver of the filing and reporting requirements of sections 6 and 20 of the ICA, as more fully discussed below. Our temporary waiver serves the public interest because it reduces Enbridge's burden to comply with filing and reporting requirements that are currently unnecessary for the Zybach Line, but protects shippers against any change in circumstances.

2. Enbridge is currently constructing a second liquids pipeline to transport the products from one of its new processing plants (the Zybach Plant) to downstream markets. The Zybach Line is a 19-mile, 6-inch pipeline, originating at Enbridge's Zybach Plant in Wheeler County, Texas, and running northwesterly to its destination at an interconnection with an interstate products line owned and operated by Koch Pipeline

Company, L.P. in Hemphill County, Texas, for further movement in interstate commerce. Enbridge states that there are no intermediate points on the Zybach Line, and that no third-party has requested the construction of an interconnection with the pipeline.

3. Enbridge claims it will use the Zybach Line exclusively to transport liquids, gathered into and processed at its new Zybach Plant. Enbridge states that its affiliate, DuFour Petroleum, L.P., will own all the liquids purchased at the plant's tailgate and moved to downstream markets via the Zybach Line.
4. Enbridge states that both the Zybach Line and processing plant are almost finished and it anticipates completing construction and testing no later than February 15, 2005. Enbridge states that February 15 is the planned in-service date for the Zybach Line. Enbridge requests that the Commission consider and grant the waivers on an expedited basis to permit Enbridge to meet the February 15 target in-service date.
5. No interventions or protests to Enbridge's proposal were received.
6. The Commission has granted temporary requests for waiver of the filing and reporting requirements of sections 6 and 20 of the ICA.¹ The Commission previously granted these waivers to pipelines based on the fact that: (i) they (or an affiliate) own 100 percent of the throughput on the line; (ii) there is no demonstrated third-party interest in gaining access to or shipping upon the line; (iii) no such interest is likely to materialize; and, (iv) there is no opposition to granting the waivers. In these cases, the Commission determined that there was no active third-party shipper interest to protect under the ICA, and therefore, a temporary waiver of the section 6 and 20 filing and reporting requirements was 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. As described below, Enbridge's new Zybach Line is similarly situated to the pipelines that received waivers from the Commission's filing and reporting requirements of sections 6 and 20 of the ICA:

- i. The Zybach Line is a relatively small diameter, short pipeline, located entirely within one state.

¹*Sinclair Oil Corp.*, 4 FERC ¶ 62,026 (1978) (*Sinclair*); *Hunt Refining Co. and East Mississippi Pipeline Co.*, 70 FERC ¶ 61,035 (1995) (*Hunt*); and *Ciniza Pipe Line Inc.*, 73 FERC ¶ 61,377 (1995) (*Ciniza*).

ii. The Zybach Line was constructed for the express purpose of moving the output of an Enbridge-owned processing plant to market, and 100 percent of the Zybach Line's throughput is owned by an affiliate, who, in turn, has purchased that product from producers at the wellhead.

iii. The Zybach Line has no intermediate interconnections between its origin and destination point, no carriers are located near the pipeline, and no person has requested that Enbridge construct such an interconnection.

iv. No third-party has requested Enbridge to provide transportation service or otherwise provide access to the Zybach Line, and it appears unlikely that any third party would request transportation service on the Zybach Line.

8. The Commission concludes that given the physical characteristics of the facilities and the limited nature of the Zybach pipeline operations, Enbridge's Zybach Line meets all of the criteria necessary to qualify for a temporary waiver consistent with the Commission's rulings in *Sinclair*, *Hunt*, and *Ciniza*. Therefore, we believe it is unnecessary to subject Enbridge to all of the filing and reporting requirements of the ICA.

9. The Commission grants Enbridge a temporary waiver of the filing and reporting requirements of sections 6 and 20 of the ICA relating to its Zybach Line. Because these waivers are temporary, we also direct Enbridge to immediately report to the Commission any change in the circumstances which the Commission found to warrant the waivers. Specifically, Enbridge must report any changes 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 oil or by-products being shipped; and, (4) shipment tenders or requests for service by any person. In addition, Enbridge must maintain all books and records in a manner consistent with the Uniform System of Accounts for Oil Pipelines, 18 C.F.R. Part 352, and make such books and records available to the Commission or its duly authorized agents upon request.

By direction of the Commission.

Linda Mitry,
Deputy Secretary.