

155 FERC ¶ 61,225
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Saddlehorn Pipeline Company, LLC

Docket No. OR16-13-000

ORDER ON PETITION FOR DECLARATORY ORDER

(Issued June 1, 2016)

1. On March 22, 2016, Saddlehorn Pipeline Company, LLC (Saddlehorn) filed a petition for declaratory order (Petition) requesting that the Commission (a) approve the results of a supplemental open season conducted from December 2015 to January 2016 (Supplemental Open Season) and (b) reaffirm the regulatory assurances provided in an earlier order.¹ In addition, on April 29, 2016, Saddlehorn filed an amendment to the Petition (Amendment) requesting that the Commission (c) permit Saddlehorn to clarify its line fill provisions in Item 180 of its Rules and Regulations Tariff and (d) declare that regulatory assurances provided by the Commission in its 2015 Declaratory Order are not affected by the changes to Item 180. Saddlehorn reports that the additional assurances are needed to reflect the restructuring of the original Saddlehorn project into an undivided joint interest (UJI) pipeline with Grand Mesa Pipeline, LLC (Grand Mesa) and the related requests by its anchor shippers to adjust their commitment levels in light of lower production expectations. Specifically, Saddlehorn proposes to combine its original proposal into a new 340,000 barrels per day (bpd) interstate pipeline project that will transport crude oil from the Denver-Julesburg (D-J) Basin in Colorado to Cushing, Oklahoma (UJI pipeline). In light of the Amendment filed, Saddlehorn requests action on this Petition by June 1, 2016, instead of the May 2, 2016 date requested in its Petition.
2. The Commission grants the rulings requested by Saddlehorn, as discussed below.

¹ *Saddlehorn Pipeline Co., LLC*, 153 FERC ¶ 61,067 (2015) (2015 Declaratory Order) (approving rates and service terms for anchor shippers and terms for sale of remaining capacity and expansion capacity).

Background

3. Saddlehorn previously received Commission approval for the proposed tariff and overall rate structure and terms of service for the Saddlehorn pipeline in Docket No. OR15-37-000.² The original project was an approximately 538-mile, 20-inch diameter, new crude oil pipeline designed to transport at least 190,000 bpd of crude oil from the D-J Basin region near Platteville, Colorado to the Cushing, Oklahoma crude oil hub for delivery to connecting carriers.

4. Subsequently, in November 2015, Saddlehorn entered into an agreement to combine its pipeline project with that of Grand Mesa, to develop the UJI pipeline.³ Saddlehorn notes that, with the decline in crude oil prices throughout 2015, production for the D-J Basin is projected to be lower than anticipated when the original Saddlehorn pipeline project was developed. Saddlehorn states the D-J Basin production has declined from a high of 331,000 bpd in August 2015 to approximately 300,000 bpd.⁴ Additionally, crude oil prices have been lower. Saddlehorn states the D-J Basin producers' plans are for production to remain relatively flat through 2017.

5. Saddlehorn states that, in light of the lower projections, Saddlehorn and Grand Mesa entered into discussions regarding a possible undivided joint interest pipeline combining their separate pipeline projects from the D-J Basin to Cushing. The companies determined that creating a UJI pipeline would be commercially beneficial to Saddlehorn, Grand Mesa, and shippers. Specifically, Saddlehorn notes that shippers will benefit from having access to two competing pipelines to deliver crude oil from multiple origins in the D-J Basin to Cushing. Saddlehorn and Grand Mesa will share the construction and capital costs for the pipeline, as well as operational costs. Saddlehorn states that with the UJI structure, pipeline capacity will be better aligned with current projected D-J Basin production, while allowing for future growth when market conditions improve.

6. Saddlehorn explains that the UJI pipeline will begin at a junction near Grand Mesa pipeline's Lucerne, Colorado origin, located approximately 20 miles north of Saddlehorn's Platteville, Colorado origin and 30 miles south of Saddlehorn's Carr,

² *Id.*

³ Grand Mesa, owned by NGL Energy Partners LP, filed a separate petition for declaratory order in Docket No. OR16-12-000.

⁴ The 2015 Petition reported production of 260,000 bpd, with projections for 400,000 - 500,000 bpd in five to ten years. 2015 Declaratory Order, 153 FERC ¶ 61,067 at P 8.

Colorado origin, and continue to the Cushing destination. The initial capacity of the UJI pipeline will be approximately 340,000 bpd with Saddlehorn owning 190,000 bpd of capacity and Grand Mesa owning 150,000 bpd of capacity. Saddlehorn states it has the option to expand the capacity of the UJI pipeline from 340,000 bpd to over 450,000 bpd, and all of such expansion capacity would be owned by Saddlehorn. Saddlehorn will own the origin points at Platteville and Carr, as well as the pipeline segment from Carr to Lucerne. Grand Mesa will own the origin points at Lucerne and Riverside, Colorado, as well as the pipeline segment from Riverside to Lucerne.

7. Saddlehorn notes each carrier may add additional origins in Weld County, Colorado to its respective tariff to serve the future needs of D-J shippers. Additionally, Magellan Pipeline Company, LP (Magellan) is serving as construction manager and operator for the UJI pipeline and assets separately owned by Saddlehorn. Saddlehorn states that pipeline installation began in October 2015 from Platteville to Cushing, and Saddlehorn expects to begin its service on such segment in mid-2016 as originally planned, with service from Carr to Platteville expected to commence by the end of 2016.

8. Saddlehorn states that it and Grand Mesa will each be responsible for operating its respective portion of the UJI pipeline as a common carrier, including commercial activities, shipper relations, Transportation Service Agreements (TSA), tariff rates and structures, and all Commission filings for its respective portion of the UJI pipeline. Saddlehorn will continue to own and make available to its shippers at least 1,000,000 barrels of tankage at both Platteville and Cushing, as described in the 2015 Petition. Once the UJI pipeline is placed into service, Saddlehorn and Grand Mesa will share the operating costs based on their proportionate ownership interests and throughput.

9. In connection with Saddlehorn and Grand Mesa's entry into the UJI agreement, the Anchor Shippers on Saddlehorn requested the opportunity to adjust the commitment levels in their Original TSAs to reflect subsequent changes to their D-J Basin production profiles. To facilitate the requested changes to the commitment levels in the Original TSAs, Saddlehorn initiated the Supplemental Open Season to offer the revised terms to all shippers, in addition to the Anchor Shippers from the Initial Open Season. The Supplemental Open Season began on December 9, 2015 and continued through January 7, 2016.

10. As in the Initial Open Season, 40 percent of capacity in the Supplemental Open Season was set aside for uncommitted volumes, of which 10 percent would be available for "spot shippers." Notice of the Supplemental Open Season was published on Magellan's website, reported in the trade press, and Magellan launched its own marketing efforts, which included direct contact with potential shippers. Interested parties were required to execute a confidentiality agreement and were provided a document outlining the open season process and describing the proposed rates and terms and service conditions in the form of transportation services agreement.

11. In the 2015 Petition, Saddlehorn described in detail and sought Commission approval for the proposed tariff and overall rate structure and terms of service set forth in the Original TSAs signed by Anchor Shippers in the Initial Open Season. The terms of the Original TSAs approved by the Commission were largely unchanged in the Supplemental Open Season. No changes were made to the proposed Rules and Regulations tariff attached to the 2015 Petition, including the prorationing policy. The only material changes to the terms of the Original TSAs approved by the Commission in the 2015 Declaratory Order were to the volume commitment levels required to receive the Saddlehorn tariff rates described in the 2015 Petition. The volume commitment levels were restructured and reduced in the aggregate.

12. Three volume tiers continue to be available to committed shippers, consistent with the Original TSAs as described in the 2015 Petition. Tiers 1 and 2 continue to provide for firm capacity and Tier 3 continues to provide for non-firm capacity. The commitment levels for Tiers 1 and 2 have changed to more closely correspond to the current and expected production profile of the D-J Basin, with a built-in gradual ramp-up each year, allowing shippers to commit to different volumes during contract year 1 compared to contract years 2-5, so long as the commitment will increase in contract years 2-5.

13. For Tier 1, the new commitment level is as follows: 20,000 bpd in year 1; 40,000 bpd in year 2; 45,000 bpd in years 3-4; and 50,000 bpd in year 5. The prior commitment level for Tier 1 was 45,000 bpd in each of the five commitment years, although Tier 1 shippers had the option to select the Tier 2 commitment level of 25,000 bpd in year 1 only. For Tier 2, the new commitment level is as follows: 20,000 bpd in years 1-2; 25,000 bpd in years 3-4; and 30,000 bpd in year 5. The prior commitment level for Tier 2 was 25,000 bpd in each of the five commitment years. Tier 3 remains unchanged from the 2015 Petition proposal at a commitment level of 10,000 bpd in each of years 1 through 5.

14. Saddlehorn notes that modification of the tier commitment levels required changes to Exhibit C of the Original TSAs, which provided for Initial Tariff Rates, to reflect the revised tier levels. While the committed rates and proposed uncommitted rates are unchanged, each rate applicable to an available volume level over 10,000 bpd is now provided at a volume level 5,000 bpd lower than that described in the 2015 Petition during contract years 1 and 2. The volume levels for contract years 3 and 4 remain the same. During contract year 5, each rate applicable to an available volume level over 10,000 bpd is now provided at a volume level 5,000 bpd higher than that provided in the 2015 Petition. The relationships among rates are unchanged in the revised Exhibit C.

15. Saddlehorn states that committed rates paid by shippers electing firm service still vary depending on the commitment tier. Shippers making a relatively larger firm volume commitment continue to pay a lower committed rate than shippers making a relatively smaller firm volume commitment; however, they continue to pay a premium committed rate relative to the uncommitted rate for the same volume tier for the barrels they ship

pursuant to their volume commitment. Shippers electing non-firm service continue to receive a discounted committed rate relative to the uncommitted rate for the same volume tier for the barrels they ship pursuant to their volume commitment. Discounts for uncommitted volumes shipped in excess of commitments continue to be provided. Both committed and uncommitted shippers receive discounts as they meet certain uncommitted volume thresholds. Committed shippers with relatively larger volume commitments receive greater discounts for uncommitted barrels shipped in excess of their commitments than both committed shippers with relatively smaller volume commitments and uncommitted shippers.

16. Finally, Saddlehorn's April 29, 2016 Amendment revises its tariff to detail the methodology for determining the line fill apportionment between each carrier's respective systems within the UJI pipeline.⁵ The clarified tariff provides generally that the joint pipeline operator will determine the line fill apportionment for each owner's pipeline system and the owners will cause their shippers to provide the line fill in accordance with the operator's instructions.

Requested Rulings

17. Saddlehorn requests the following rulings:
- A. Saddlehorn appropriately allowed the Anchor Shippers to adjust their volume commitment levels to reflect changes to the D-J Basin production profile and properly made those volume commitment levels available to all potential shippers in the Supplemental Open Season.
 - B. The regulatory assurances provided by the Commission in its 2015 Declaratory Order are not affected by the Supplemental Open Season or by the volume commitment level changes to the Original TSAs, and they apply equally to the Supplemental Open Season TSA.
 - C. Saddlehorn may include the clarification to Item 180 (line fill) in its Rules and Regulations Tariff.
 - D. The regulatory assurances provided by the Commission in its 2015 Declaratory Order are not affected by the clarification to Item 180.

⁵ See Amendment at 4-5 (providing clarifying revisions to Item 180 of the proposed Saddlehorn Rules and Regulations Tariff).

Saddlehorn's Arguments

18. Saddlehorn states that it agreed to restructure and reduce in the aggregate the volume commitment levels in the Original TSAs so that the volume commitment levels would more closely correspond to the current expected production profile of the D-J Basin, which has changed due to the decline in crude oil prices since the time when the original Saddlehorn project was initially developed. Saddlehorn states that it promptly commenced the Supplemental Open Season to ensure that every potential shipper on the Saddlehorn pipeline, in addition to the Anchor Shippers, had an equal opportunity to consider whether to enter into the Supplemental Open Season TSA at the modified volume commitment levels.

19. Saddlehorn identifies a proceeding where the Commission recently issued a declaratory order under similar circumstances, approving limited modifications requested by committed shippers to a Commission-approved TSA.⁶ There, the Commission found that the pipeline had appropriately allowed the TSA modifications sought by committed shippers, the new terms had been offered to all shippers in an open, fair, and non-discriminatory fashion, and the regulatory assurances provided when the original declaratory order was issued remained effective, and were not affected by the supplemental open season or the modifications to the original TSA.

20. Saddlehorn states that the terms and conditions approved by the Commission in the 2015 Declaratory Order are the identical terms and conditions set forth in the Supplemental Open Season TSA with the one exception of the modification to the volume commitment levels required to receive the Saddlehorn rates, as described above. Saddlehorn states that in all other respects the exact provisions that the Commission reviewed and approved in the 2015 Declaratory Order are contained in the Supplemental Open Season TSAs.

21. Saddlehorn requests the Commission find the regulatory assurances provided in the 2015 Declaratory Order are not affected by the Supplemental Open Season or by the volume commitment level changes to the Original TSAs, as they apply equally to the Supplemental Open Season TSAs.

22. Saddlehorn states that the purpose of the clarification to Item 180 is to expressly include in Item 180 provisions that are consistent with those agreed to between and among Saddlehorn, Grand Mesa, and the pipeline operator in the UJI pipeline agreements. Saddlehorn explains the Item 180 clarification is in the public interest because it more accurately describes and expressly notifies shippers of the method by which line fill obligations will be determined and allocated on the UJI pipeline, and

⁶ See *NuStar Logistics, LP*, 152 FERC ¶ 61,100 (2015).

confirms that all such determinations and allocations will be accomplished in a fair and equitable manner.

23. Saddlehorn requests the Commission approve the Item 180 clarification for inclusion in the tariff and confirm that the assurances provided in the 2015 Declaratory Order are not affected by the clarification.

Public Notice, Interventions, Protests, and Comments

24. Notice of the Petition was issued on March 22, 2016, providing for motions to intervene, comments and protests to be filed on or before April 15, 2016. Notice of the Amendment was issued on May 5, 2016 with comments and protests to be filed on or before May 11, 2016. Pursuant to Rule 214 of the Commission's regulations,⁷ all timely filed 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 the proceeding or place additional burdens on existing parties. The Petition is unopposed, as is the Amendment.

Commission Determination

25. Based on the representations in the Petition and Amendment, the Commission will grant the rulings requested by Saddlehorn.

26. The Commission finds that the restructured volume commitment levels are limited modifications as requested by committed shippers to a TSA that the Commission has previously approved, and that the process used to modify the Original TSAs is consistent with precedent. The Commission notes the adjustment was made for the benefit of shippers, so the volume commitment levels would more closely correspond to the expected production profile of the D-J Basin.

27. The clarification to the line fill provisions appears appropriate to reflect the operation of an undivided joint interest pipeline.

28. Saddlehorn's Supplemental Open Season appears to have been offered to all shippers in an open, fair and non-discriminatory fashion. Further, the Commission confirms that the regulatory assurances provided in the 2015 Declaratory Order remain effective and will not be affected by the clarified line fill provisions, Supplemental Open Season or the modifications to the Original TSAs. The Commission has in several instances granted petitions for declaratory order involving oil pipeline supplemental open seasons that occur after the Commission has approved a

⁷ 18 C.F.R. § 385.214 (2015).

prior petition for declaratory order for a project.⁸ The Commission has found that terms and conditions that are unchanged from and previously approved in the context of the prior open season should be approved in the context of the supplemental open season.⁹

29. In conclusion, the Commission finds the Petition consistent with precedent and unopposed. Accordingly, based upon the facts and representations made by Saddlehorn, the Commission confirms and approves the rulings concerning the UJI pipeline, as requested in the Petition and Amendment.

The Commission orders:

Saddlehorn's petition for declaratory order (as amended) is granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁸ See, e.g., *Enterprise TE Products Pipeline Co.*, 153 FERC ¶ 61,197 (2015) (*Enterprise*); *Hiland Crude, LLC*, 148 FERC ¶ 61,228 (2014); *Sunoco Pipeline, L.P.*, 149 FERC ¶ 61,191 (2014).

⁹ See, e.g., *Enterprise*, 153 FERC ¶ 61,197 at P 19 (“The historical proration policy proposed by Enterprise TE has already been approved by the Commission for the initial capacity for the initial pipeline and there appears to be no reason why it should not apply here as well.”).

Document Content(s)

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