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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Rockies Express Pipeline LLC	)))	**Docket No. CP07-208-000**

RESPONSE OF
ROCKIES EXPRESS PIPELINE LLC

On July 22, 2007, MoGas Pipeline LLC ("MoGas") moved for leave to intervene out of time and filed comments in this proceeding, arguing that Rockies Express Pipeline LLC ("Rockies Express"), the sponsor of the REX-East pipeline, should be required to construct and pay for an interconnect with MoGas. On August 9, 2007, Rockies Express filed an answer ("August 9 Answer") demonstrating that MoGas had failed to provide any basis for requiring Rockies Express to pay for an interconnect. On August 22, 2007, MoGas filed a motion for leave to answer and answer to the August 9 Answer of Rockies Express ("MoGas Answer"), reiterating its request that Rockies Express must "pay for" an interconnect with MoGas.

Rockies Express submits that there is more than enough information already in this proceeding to enable the Commission to quickly dispose of MoGas' claims. Rockies Express hesitates to burden the record further with additional pleadings. If the Commission does not reject MoGas' unauthorized answer, however, Rockies Express requests leave to file this brief response. MoGas' latest pleading reflects a fundamental misunderstanding of the Natural Gas Act ("NGA") and the Commission's policies, and contains numerous and significant erroneous factual assertions and statements. This brief response is necessary to clarify the record and will assist the Commission in making its decision.[1]

I. DISCUSSION

1. Overview of Applicable Commission Policy

MoGas' request for a free interconnect is premised on the assertion that Rockies Express unduly discriminated against MoGas by not including an interconnect with MoGas in the application to construct the REX-East pipeline. MoGas argues further that Rockies Express continues to unduly discriminate by refusing to build, and pay for, an interconnect with MoGas. The arguments of MoGas are based on a misunderstanding and misapplication of two different, but complementary, policies that apply to the development of a new pipeline project such as the REX-East pipeline, and to requests to construct interconnection facilities beyond those proposed in the REX-East pipeline application. Rockies Express first will briefly review these policies, and then address the arguments of MoGas.

The development of a pipeline project requires cooperation between the pipeline sponsor and its potential shippers to determine the correct design of facilities to meet market demand. Under the NGA, the pipeline bears the burden of showing that the project it proposes is required by the present or future public convenience and necessity which, among other things, requires a demonstration by the applicant that the proposed

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[1] Where an answer will help develop a more complete record and clarify the issues, the Commission will waive its procedural regulations and permit answers to answers to be filed. See Transcontinental Gas Pipe Line Corp., 113 FERC ¶ 61,129 (2005). Rockies Express asserts that good cause is shown here to permit this answer.

project, as designed, is needed.[2] As set forth in its August 9 Answer, Rockies Express worked closely with its shippers on the design of the REX-East pipeline, including the identity and location of the delivery points that would be part of the project proposed to the Commission. The proposed REX-East pipeline includes the construction of pipeline interconnection facilities that were the result of a market-driven selection process. The proposed pipeline interconnects reflect, for the most part, interconnections with major interstate pipelines and local distribution companies.

No shipper requested a delivery point to interconnect with MoGas. Nor did Rockies Express identify MoGas as having a sufficiently active market to support an initial interconnect. Therefore, Rockies Express did not seek authorization to construct any interconnecting facilities with MoGas as part of the proposed REX-East pipeline. Rockies Express was under no obligation under the NGA or the Commission's regulations to propose such an interconnect in its application. Moreover, for a new pipeline project like REX-East it would not have been practical or made any economic sense to interconnect with all possible markets and pipelines that were in the vicinity of the proposed REX-East pipeline. Contrary to the assertion of MoGas, an applicant is free to develop, design and propose a new pipeline project that connects to certain delivery points. It is not an "unjustified preference" if the proposed pipeline connects to certain points, but not to others. (MoGas Answer at 6).

As an open access transporter, however, Rockies Express is willing to consider requests to construct additional delivery points beyond those proposed in the application. Such requests are subject to the Commission's pipeline interconnect policy, referred to as

[2] Islander East Pipeline Co., L.L.C., 100 FERC ¶ 61,276 at P50 (2002) ("Commission policy dictates allowing the market to determine which projects are best suited to serve the infrastructure needs of an

the "Panhandle Policy."[3] That policy enables a person desiring access to a pipeline to obtain an interconnection if it can satisfy five (5) conditions. The first condition of the Panhandle Policy is that the requester must agree to bear the costs of the construction of the interconnection.[4] Unlike new pipeline facilities proposed in a certificate application, the Commission does not consider or require evidence of market demand to justify a proposed interconnect with an operating pipeline subject to the Panhandle Policy. Under the Panhandle Policy, the Commission views the question of market demand as "relevant only to the party seeking the interconnection because it will bear the costs of constructing the [interconnect] facilities."[5] The requirements of the Panhandle Policy are included in the provisions of Rockies Express' tariff which requires, among other things, that the requester for an interconnect pay for the facility.[6] Accordingly, Rockies Express is willing to consider the request of MoGas, or of any other person, for an interconnect with the REX-East pipeline if the requester is willing to pay the costs of the interconnect.[7] Rockies Express is not willing to pay for the requested interconnection, nor is Rockies Express required to do so under the Panhandle Policy.

With this regulatory background in mind, Rockies Express will address the arguments made by MoGas.

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area").

[3] Panhandle Eastern Pipe Line Co., 91 FERC ¶ 61,037 (2000) ("Panhandle").

[4] Id. at p. 61,141.

[5] Id. at p. 61,143.

[6] See Rockies Express FERC Gas Tariff, Second Revised Volume No. 1, General Terms & Conditions, Section 6, Sheet 125, Docket No. CP06-354 (filed Aug. 1, 2007).

[7] Of course, Rockies Express willingness to construct a requested interconnect depends upon satisfaction of the other criteria of the Panhandle Policy. Specifically, the interconnect must not adversely affect the pipeline's operations, diminish service to existing customers, cause violations of safety or environmental laws or regulations, and violate rights or any other contractual obligations with respect to interconnect facilities. Panhandle at p. 61,141.

2. MoGas' Claims of Undue Discrimination Have No Merit

MoGas claims that Rockies Express is unlawfully discriminating against it in essentially two ways. First, MoGas repeats the assertion that Rockies Express is requiring that MoGas "pay for" its interconnect, while Rockies Express has agreed to "pay for" all of the other pipeline interconnects. Rockies Express responded to this assertion in its August 9 Answer, and no extended discussion is necessary. Rockies Express has not agreed to bear the costs of delivery interconnects along the REX-West and REX-East pipelines. The costs of those interconnects are included in the Rockies Express project economics and the recourse rates which are designed to recover the costs of the project, including the delivery points for which Rockies Express has sought authorization.

Rockies Express was under no obligation to propose a pipeline interconnect to MoGas where no demonstrated market need for the facility was shown. The fact that an interconnect was not proposed as part of the REX East project does not discriminate against MoGas or provide an "unjustified preference and advantage" to the proposed interconnections, as alleged by MoGas. (MoGas Answer at.6).

Rockies Express will consider a request by MoGas for a new interconnect but only if MoGas is willing to pay the costs of the interconnect. The insistence of Rockies Express that MoGas pay for a new interconnect, however, does not constitute undue discrimination. Rockies Express is following the requirements of the Panhandle Policy, and will consider all requests to establish a pipeline interconnect pursuant to that policy.

In fact, by demanding that Rockies Express pay for the interconnect, it is MoGas that is seeking favored treatment. In essence, MoGas is requesting that Rockies Express ignore the Panhandle Policy and unduly discriminate in its favor. There is certainly no basis for affording MoGas such extraordinary and preferential treatment. Moreover, if Rockies Express pays for the interconnect to MoGas, it could be required to provide free interconnects to all similarly situated pipelines.

MoGas also argues that it has been unduly discriminated against because the list of possible interconnects prepared by Rockies Express in the open season did not include MoGas. As discussed in the Rockies Express August 9 Answer, the list of potential interconnects in the open season was not exclusive or final. Shippers were invited to express interest in any points during the open season process so that Rockies Express could identify any other interconnection points that were of interest to shippers. (See the excerpts of the Rockies Express open season announcement appended hereto as Attachment 1). The fact that MoGas was not included among the original list of interconnect points in the open season, therefore, is immaterial and certainly does not constitute undue discrimination.[8] Shippers who participated in the open season were free to request different points than the ones that were listed, including a possible interconnect point with MoGas. No shipper requested a delivery point to interconnect with MoGas. The selection of final interconnect points was driven by the market requirements of shippers as well as Rockies Express's assessment of markets accessible at the delivery points, and involves no undue discrimination.

[8] MoGas asserts that, "having shown that it is the subject of substantial disparate treatment," the burden has shifted to Rockies Express to demonstrate that such discrimination is factually justified. MoGas Answer at 3. MoGas, however, has not made any showing that it is the subject of "substantial disparate treatment." Rockies Express has no burden to disprove MoGas' assertions which have no basis in fact and reflect a fundamental misunderstanding of the Commission's policies and regulations concerning pipeline facilities construction, open access transmission and pipeline interconnect facilities.

3. Rockies Express Did Not Favor Its Affiliates

MoGas' related argument that Rockies Express has engaged in undue discrimination by favoring its affiliates is also completely without merit. MoGas claims that Rockies Express granted "preferential and advantageous treatment" to pipeline affiliates since three of the twenty-five interconnects proposed in the REX-West and REX-East pipelines are with pipeline affiliates of Rockies Express. (MoGas Answer, p. 3). According to MoGas, this is "preferential and advantageous" treatment because Rockies Express has agreed to "pay for" the interconnects, but is requiring that MoGas, which is not affiliated with Rockies Express, pay for its interconnect. Since Rockies Express has not agreed to "pay for" the interconnects that are part of the proposed REX-West or REX-East projects, MoGas' affiliate preference argument falls of its own weight.

Nonetheless, MoGas argues that it is "significant" that a delivery interconnect with affiliate Natural Gas Pipeline Company of America ("Natural") is proposed for the REX-East pipeline (MoGas Answer at 3-4). The fact that Natural is one of the 20 pipeline interconnects proposed in the REX-East pipeline is not evidence of affiliate abuse. The purpose of the Rockies Express pipeline is to transport large volumes of natural gas out of the Rocky Mountain region to major markets in the Midwest and East. It is entirely reasonable that REX-East shippers valued the REX-East pipeline interconnect with Natural which provides the downstream capability to deliver gas to large markets in the Midwest. In fact, it would be "significant" and surprising, if not completely inexplicable, if the REX-East pipeline did not include an interconnect with Natural.

4. MoGas and Natural Are Not Similarly Situated

To buttress its argument of affiliate preference, MoGas attempts to argue that it and Natural are similarly situated pipelines and should be treated in the same way. (See MoGas Answer at 3-4). In the first place, MoGas is not in the same situation as Natural or any of the other interconnecting pipelines that are part of the REX-East pipeline. The pipeline interconnection points for the REX-East pipeline resulted from an open season and a market-driven selection process which involved discussions with the REX-East shippers. It cannot be overemphasized that no shipper expressed any interest in an interconnect with MoGas, and there was no reason – legal or otherwise – for Rockies Express to propose an interconnect with MoGas.

In any event, it is ludicrous for MoGas to contend that it is similarly situated with Natural. MoGas is a 12-inch pipeline that serves the St. Louis market. Based on MoGas's filed documents, its pipeline currently has a capacity of approximately 85,000 Dth/d in Zone 1 of its system.[9] By contrast, Natural has three pipelines at its interconnect location with REX-East that have a total capacity of up to 1,659,000 Dth/d through two 30-inch lines and a 36-inch line, respectively.

Further, MoGas states that its requested interconnect point with the REX-East pipeline is "immediately downstream" of the proposed interconnect point between Rockies Express and Natural. (MoGas Answer at 4). That is not true. The interconnect point between the Rockies Express pipeline and Natural is 150 miles away from the interconnect point requested by MoGas. MoGas also asserts that the two pipelines

[9] See July 6, 2006 filing by MoGas in Docket No. CP06-407-000. For comparison purposes, therefore, MoGas is more "similarly situated" to Missouri Gas Energy, a Division of Southern Union Co. (12-inch line in Clinton Cty., MO), Southern Star Central Pipeline, Inc. (16-inch line in Buchanan Cty., MO) and

(Natural and MoGas) serve the same market. They do not. The Natural line, from its interconnect with Rockies Express, delivers into a line that serves Chicago and points in Wisconsin and Northwest Indiana. The Natural mainlines do not serve the St. Louis market directly. However, Natural does have a lateral in Illinois which ends nine miles east of the Mississippi river where it delivers gas to what was previously known as an Illinois Power pipeline which subsequently was purchased by Ameren and serves power plants in Illinois, south and east of St. Louis. MoGas, on the other hand, primarily delivers gas to local LDCs LaClede and Ameren, and other small end users in or west of St. Louis, Missouri. The claim by MoGas that Rockies Express chose only its affiliated pipeline, Natural, over MoGas and that the two pipelines serve the same market is plainly incorrect.

Southwest Gas Storage Co.(22-inch line in Morgan Cty., IL). These latter pipelines, like MoGas, were not included as interconnects in the initial design of the Rockies Express pipeline.

II.
CONCLUSION

MoGas has failed to demonstrate that Rockies Express has taken any actions that unduly discriminate against MoGas. MoGas has also failed to provide any reason for the Commission to interfere with the discussions that currently are taking place about a possible interconnect between MoGas and the REX-East pipeline. There is no basis for requiring Rockies Express to pay the costs of the interconnect, nor is that required under the Commission's Panhandle Policy.

Respectfully submitted,

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ATTACHMENT 1

ROCKIES EXPRESS PIPELINE LLC
OPEN SEASON PROCEDURES
FOR NEW INTERSTATE NATURAL GAS PIPELINE CAPACITY

Rockies Express Pipeline LLC ("Rockies Express" or "Transporter"), a Delaware limited liability company being jointly developed and owned by Kinder Morgan Energy Partners, L.P. ("KMP") and Sempra Pipelines & Storage ("Sempra"), will conduct a binding Open Season for new interstate natural gas pipeline capacity, beginning at 8:00 a.m. CT on Wednesday, November 9, 2005 and ending on Monday, December 19, 2005 at 5:00 p.m. CT.

This Open Season is being held to solicit the submission and execution of binding Precedent Agreements (the form of which is attached hereto) for firm interstate natural gas transportation service on the Rockies Express Pipeline Project ("Rockies Express"). Rockies Express may, upon 5 business day's notice and in its sole discretion, at any time during this Open Season, extend the closing date of this Open Season, shorten or terminate this Open Season, or modify the parameters of this Open Season to more specifically define the project. Interested parties are encouraged to submit Precedent Agreements at their earliest convenience during this Open Season.

<u>Customer Meetings</u>

Rockies Express will be hosting two customer meetings to provide information to potential shippers about its new project. The customer meetings will not only provide Rockies Express with the venue to introduce and explain the nature of its project, but these meetings will also facilitate discussions and the exchange of information between potential LDC or end-use customers located in the Midwest and Eastern regions of the U.S., with Rocky Mountain gas producers and gas aggregators. Rockies Express intends to provide an overview of the project at the meeting, and there will be an open forum setting for producers and aggregators to distribute materials to prospective market customers. These customer meetings are planned as follows:

November 15, 2005	8:00 a.m. – 5:00 p.m.	Chicago, IL
November 17, 2005	8:00 a.m. – 5:00 p.m.	New York City, NY

Registration for these meetings is required for all participants. Parties may attend one or both meetings. Parties interested in attending the Rockies Express customer meetings should contact Mr. Frank Strong at (630) 691-3790 for all the details.

<u>Description of the Proposed Rockies Express Pipeline Project</u>

The Rockies Express Pipeline Project is being developed with plans to construct and/or acquire and operate certain facilities that will create long-haul, firm transportation takeaway capacity out of the natural gas supply areas located in the Rocky Mountain producing areas of Wyoming and Colorado. The planned interstate pipeline facilities are to be developed in three Certificate Segments, and will traverse to the east, through eight states, providing capability to of their intent to exercise this one-time ROFR, consistent with the notice provisions of the ROFR provisions of the FERC Gas Tariff applicable to Rockies Express.

Contents of Precedent Agreements and Guidance

During the Open Season, any party interested in contracting for firm transportation service to be provided from the Rockies Express system must execute and return the attached Precedent Agreement. The Precedent Agreement must include the following information:

- Indication of whether the party intends to pay the Maximum Applicable Tariff Recourse Reservation Rate or a Negotiated Reservation Rate, along with the election of such indicated rate(s).

- Requested Maximum Daily Quantity ("MDQ"), exclusive of Fuel and Lost and Unaccounted for Gas ("FL&U"), of not less than 1,000 Dth per day.

- Requested Primary Term of not less than 10 years from the date that the last Certificate Segment is placed in service.

- Requested Primary Receipt and Delivery Points from the list attached to the Precedent Agreement. If more than one receipt and/or delivery point, or combination of points, is selected, the MDQ, exclusive of FL&U, for each point or combination of points, must be specified. If a party desires a receipt point and/or delivery point that is not already listed in the Precedent Agreement, the party should specify such desired points in the space provided and should indicate whether or not the stated service request is contingent upon Rockies Express's accommodation of such other Receipt and/or Delivery Points. Rockies Express will evaluate the cost of any such request and will inform the party whether, in its sole discretion, it can accommodate such requested receipt and/or delivery point(s), and will advise the party as to any additional cost responsibility. Rockies Express may accept or reject, in whole or in part, any Precedent Agreement which contains such contingencies.

- Indication of election of transportation service, by Certificate Segment. Preference will be afforded to prospective Shippers which submit Precedent Agreements that contain elections for service over <u>all three</u> planned Certificate Segments of the Rockies Express Project. To the extent that parties submit Precedent Agreements in response to this Open Season which contains elections of service over <u>less than</u> all three Certificate Segments of this project, such Precedent Agreements shall be considered non-conforming and will be accommodated only at the sole discretion of Rockies Express. Rockies Express intends to

RECEIPT AND DELIVERY POINTS (List of 40 – continuing to next page)

Point #	Point	R/D	Interconnecting Entity	Description	Certificate Segment	Direct	Elect by marking X
			Primary Points				
1	Primary	R	Wyoming Interstate Company	Laramie County, WY	1	(1)	
2	Primary	R	Entrega Gas Pipeline	Cheyenne Hub, CO	1	(2)	
3	Primary	R	Colorado Interstate Gas	Cheyenne Hub, CO	1	(1)	
4	Primary	R	Wyoming Interstate Company	Cheyenne Hub, CO	1	(1)	
5	Primary	R	Kinder Morgan Interstate Gas	Cheyenne Hub, CO	1	(1)	
6	Primary	R	Cheyenne Plains Gas Pipeline	Cheyenne Hub, CO	1	(1)	
7	Primary	R	Public Service of Colorado	Cheyenne Hub, CO	1	(1)	
8	Primary	R	Trailblazer Pipeline	Cheyenne Hub, CO	1	(1)	
9	Primary	D	Kinder Morgan Interstate Gas	Kimball County, NE	1	(2)	
10	Primary	D	Natural Gas Pipeline Company of America	Jefferson County, NE	1	(2)	
11	Primary	D	Northern Natural Gas	Jefferson County, NE	1	(2)	
12	Primary	D	ANR Pipeline Company	Brown County, KS	1	(2)	
13	Primary	D	Panhandle Eastern Pipe Line Company, LP	Audrain County, MO	1	(2)	
14	Primary	D	Natural Gas Pipeline Company of America	Moultrie County, IL	2	(2)	
15	Primary	D	Panhandle Eastern Pipe Line Company, LP	Douglas County, IL	2	(2)	
16	Primary	D	Trunkline Gas Company	Douglas County, IL	2	(2)	
17	Primary	D	Midwestern Gas Transmission Company	Edgar County, IL	2	(2)	
18	Primary	D	Texas Gas Transmission	Parke County, IN	2	(2)	
19	Primary	D	Panhandle Eastern Pipe Line Company, LP	Putnam County, IN	2	(2)	
20	Primary	D	ANR Pipeline Company	Shelby County, IN	2	(2)	
21	Primary	D	Columbia Gas Transmission	Lebanon Hub, OH	2	(2)	
22	Primary	D	Dominion Transmission, Inc.	Lebanon Hub, OH	2	(2)	
23	Primary	D	Texas Eastern Transmission Company	Lebanon Hub, OH	2	(2)	
24	Primary	D	Texas Gas Transmission	Lebanon Hub, OH	2	(2)	

25	Primary	D	Columbia Gas Transmission Corp.	Fairfield County, OH	3	(2)	
26	Primary	D	Tennessee Gas Pipeline	Muskingum County, OH	3	(2)	
27	Primary	D	Dominion Transmission, Inc.	Clarington Hub, OH	3	(2)	
28	Primary	D	Dominion East Ohio Gas	Clarington Hub, OH	3	(2)	
29	Primary	D	Texas Eastern Transmission Company	Clarington Hub, OH	3	(2)	

Secondary Points – may be designated by Shippers as Primary, and upon evaluation by Transporter, may be accepted as Primary; *Transporter will provide notice of such designation of any points listed below*

30	Secondary	D	Kansas Gas Service Co.	NE KS	1	
31	Secondary	D	Kansas Gas Service Co.	MO (Kansas City)	1	
32	Secondary	D	Missouri Gas Energy	MO (Kansas City)	1	
33	Secondary	D	Central Illinois Public Service Co.	West IL	2	
34	Secondary	D	Central Illinois Public Service Co.	Near Decatur, IL	2	
35	Secondary	D	Illinois Power Co.	Near Decatur, IL	2	
36	Secondary	D	Citizens Gas & Coke Utility	Indianapolis, IN	2	
37	Secondary	D	Ohio Valley Gas Corp.	West OH	2	
38	Secondary	D	Vectren.	Dayton, OH	2	
39	Secondary	D	Cincinnati Gas & Electric	Cincinnati, OH	2	
40	Secondary	D	Columbia Gas of Ohio, Inc	Columbus, OH	3	

(1) Compression may be required to cause delivery into Rockies Express. An incremental fee may be required to provide the compression service, as determined necessary by Transporter.
(2) Direct access with no additional compression required.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Federal Energy Regulatory Commission in this proceeding.

Dated this 6th day of September 2007.

Barbara Deathe

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