

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

WBI Energy Transmission, Inc.) **Docket Nos. CP20-52-000**
) **CP20-52-001**

**MOTION TO INTERVENE OUT OF TIME
AND COMMENTS OF HESS TRADING CORPORATION**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. § 385.212 (2020), Hess Trading Corporation (“HTC”) hereby submits this motion to intervene out of time and comments in the above-captioned proceeding.

I. MOTION TO INTERVENE OUT OF TIME

In support of its motion, HTC states the following:

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HTC has a direct interest in the subject proceeding as a designated Anchor Shipper on WBI Energy Transmission’s (“WBI”) North Bakken Expansion Project (the “Project”). HTC has a substantial interest in, and will be directly affected by,

the outcome of this proceeding. No other party can adequately represent HTC's interests. Given HTC's unique interests in this proceeding, granting its motion to intervene out of time is in the public interest.

HTC requests to intervene out-of-time due to the current delay in the Commission's granting of a Certificate for the Project. WBI initiated this proceeding on February 14, 2020, when it filed an application to construct, modify, operate, and maintain natural gas transmission facilities associated with the Project in North Dakota.¹ WBI later amended this filing on July 28, 2020, to propose reduced capacity for the Project.² WBI requested that the Commission issue a Certificate for the Project in February or March 2021, but the Certificate has not yet issued as of the date of this filing. On March 19, 2021, WBI submitted a letter requesting expedited action due to the Project's impending in-service date of November 1, 2021.³ Because HTC is an Anchor Shipper on the Project, and the in-service date of the Project is upcoming on November 1, 2021, HTC seeks to intervene during this critical stage of the proceedings.

Under Rule 214(d) of the Commission's Rules of Practice and Procedure, in reviewing whether to grant a late-filed motion to intervene, the Commission

¹ See "Abbreviated Application for a Certificate of Public Convenience and Necessity," *WBI Energy Transmission, Inc.*, FERC Docket No. CP20-52 (July 28, 2020).

² See "Amended Application for the North Bakken Expansion Project," *WBI Energy Transmission, Inc.*, FERC Docket No. CP20-52 (July 28, 2020).

³ See "Request for Expedited Action on the North Bakken Expansion Project," *WBI Energy Transmission, Inc.*, FERC Docket No. CP20-52, et al. (March 19, 2021) ("Request for Expedited Action").

will consider whether:

- (i) The movant had good cause for failing to file the motion within the time prescribed;
- (ii) Any disruption of the proceeding might result from permitting intervention;
- (iii) The movant's interest is not adequately represented by other parties in the proceeding;
- (iv) Any prejudice to, or additional burdens upon the existing parties might result from permitting the intervention; and
- (v) The motion conforms to the requirements of Rule 214(b).

Good cause exists for the Commission to grant this motion to intervene out of time in accordance with Rule 214(d), 18 C.F.R. § 385.214(d).

First, as described above, HTC has good cause to intervene due to the delay in granting the Certificate, which directly affects HTC's role as an Anchor Shipper on the Project. WBI's recent Request for Expedited Action demonstrates the significance of the outcome of proceedings at this late stage. If the Certificate had been granted at WBI's requested time of February or March 2021, HTC would have no need to seek late intervention.⁴ However, due to the upcoming in-service date of

⁴ See "Order of the Chief Judge Granting Late Interventions," *Midcontinent Independent Systems Operator, Inc.*, FERC Docket No. ER21-530-000 (Feb. 26, 2021) (emphasis added), where the Commission granted late intervention to a party who "did not intervene initially because it had no objection to [the filing] . . . [o]nly after FERC set the matter for hearing and settlement procedures were adopted was there a likelihood that a different allocation might be considered that could impact the [intervening party's] interests[.]"

November 1, 2021, HTC believes there is good cause to grant late intervention so that it may provide comments in support of granting the Certificate expeditiously.

Second, the current proceedings will not be disrupted by granting this motion to intervene. HTC will accept the record as it stands to date and HTC will not seek to expand the proceeding beyond the certificate application

Third, HTC's interest cannot be adequately represented by other parties in the proceeding. As an Anchor Shipper, HTC has a unique interest in the outcome of this proceeding due to the upcoming in-service date that cannot be adequately represented by other Anchor Shippers or non-Anchor Shipper parties.

Fourth, there will be no prejudice or additional burden to the existing party, WBI, in permitting HTC's intervention. As noted above, HTC will accept the record as it stands and will not request any broadening of the issues in this proceeding. Further, HTC discussed this intervention with the only other party, WBI, and it does not oppose this motion to intervene out of time.

Finally, HTC certifies that this "untimely motion to intervene [will] not be a basis for delaying or deferring any procedural schedule established prior to the grant of [this] motion."⁵ In fact, HTC is requesting the Commission to issue an order as soon as possible, without further delay.

Given the above, HTC requests that the Commission grant this motion to intervene out of time, and grant HTC full rights as a party to this proceeding.

⁵ 18 C.F.R. § 385.214(d)(2) (2020).

II. LIMITED COMMENTS IN SUPPORT OF GRANTING CERTIFICATE

HTC supports WBI's Request for Expedited Action because the Project will be an important development to reduce the flaring of natural gas in the Bakken production basin. Recently, the Tioga Gas Plant, which is directly connected to the WBI system, completed an expansion of its natural gas processing capability. HTC uses the Tioga Gas Plant to process its natural gas before flowing onto the WBI system. HTC signed on as an Anchor Shipper for the Project to provide HTC with additional takeaway capacity from the Tioga Gas Plant following the expansion of natural gas processing capabilities.

As noted in WBI's Request for Expedited Action, the North Dakota Industrial Commission has implemented limits on natural gas flaring in North Dakota, with the current flaring limit set at nine percent. While HTC's production affiliate's operations in North Dakota currently meet the nine percent flaring limit, the Tioga Gas Plant expansion, should allow for HTC's production affiliate to reduce production flaring to levels well below the nine percent limit. Additionally, the expansion of the Tioga Gas Plant will allow other third parties whose gas is processed at the Tioga Gas Plant to reduce their flaring in the basin as well. HTC and its affiliates are committed to environmental progress and to reducing flaring at its production sites. The Project, as well as the Tioga Gas Plant expansion, will allow for HTC and its affiliates to continue to meet both of these commitments.

For the foregoing reasons, HTC respectfully requests that the Commission

approve the Certificate for the Project at or before the April Commission meeting so that WBI can more easily achieve its projected in-service date of November 1, 2021 and HTC can utilize the increased processing capability of the Tioga Gas Plant expansion to reduce flaring in the Bakken production basin.

Respectfully submitted,

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Dated: April 5, 2021

**Attorneys for
Hess Trading Corporation**

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 document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Arlington, Virginia, this 5th day of April, 2021.

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