

112 FERC ¶ 61,291
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Northern Natural Gas Company

Docket No. CP05-55-000

ORDER ISSUING CERTIFICATE

(Issued September 15, 2005)

1. On January 25, 2005, Northern Natural Gas Company (Northern) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations requesting a certificate of public convenience and necessity allowing it to construct, own, and operate two withdrawal wells and associated facilities at its underground Cunningham Storage Field in Pratt and Kingman Counties, Kansas. Northern states that the proposed facilities are necessary because they will allow it to control and recapture gas that studies have indicated is migrating away from the storage field.

2. For the reasons discussed below, we will grant the requested authorization.

Background and Proposal

3. Northern is a natural gas company engaged in the transportation of natural gas in interstate commerce pursuant to the NGA. Northern is a Delaware corporation having its principal place of business in Omaha, Nebraska. It is authorized to do business in the states of Delaware, Texas, New Mexico, Oklahoma, Kansas, Nebraska, Iowa, Minnesota, Illinois, Michigan, Wisconsin, North Dakota, South Dakota, and Louisiana.

4. Northern currently operates 77 wells including 50 injection/withdrawal wells, 26 observation wells, one water disposal well, approximately 22 miles of gathering lines, and a compressor station at the Cunningham Storage Field. Northern conducted gas sampling analysis, pressure and flow testing, and seismic work within the boundaries of this storage field and states that test found that storage gas is migrating away from the field.

5. In this application, Northern requests authority to construct facilities that will

prevent this migration. Specifically, Northern proposes to drill two withdrawal wells and install a 200-horsepower electric compressor unit at the existing compressor station. The two withdrawal wells will be placed within the storage field in the most likely migration path of gas to the northwest of the field. Northern proposes to connect these new wells to the existing pipeline infrastructure with approximately 4,263 feet of 4-inch diameter pipe from the new well pads to the existing compressor station.¹ Northern states that all of the proposed facilities will operate within the parameters of the certificated storage field.

6. Northern estimates that the total cost of this project will be \$3,490,000, which it will finance with internally generated funds. Northern does not propose to modify its existing tariff, implement any new rates or services, or change any existing rates or services in this proceeding.

Notice and Interventions

7. Notice of Northern's application was published in the Federal Register on February 8, 2005 (70 Fed. Reg. 6642). Timely unopposed motions to intervene were filed by Simco Energy Gas Company and Aquila, Inc. d/b/a Aquila Networks² Kenneth A. and Marilyn S. Glenn (the Glenns) and Herbert and Marvin Park (the Parks) filed comments objecting to Northern's proposal, Northern filed answers to the comments. We will discuss the comments and answers below.

Discussion

8. Since the proposed facilities will be used for the storage of natural gas in interstate commerce subject to the jurisdiction of the Commission, the construction and operation of these facilities is subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

Certificate Policy Statement

9. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new construction.³ It established criteria for determining

¹ Northern plans to install associated valves and piping pursuant to section 2.55(a)(2)(ii) of the Commission's regulations.

² Timely unopposed motions to intervene are granted pursuant to Rule 214.

³ *Certification of New Interstate Natural Gas Pipeline Facilities* (Certificate Policy Statement), 88 FERC ¶ 61,227 (1999), *order clarifying statement of policy*, 190 FERC ¶ 61,128, *order further clarifying statement of policy*, 92 FERC ¶ 61,094

whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explained that in deciding whether to authorize the construction of major new pipeline facilities, we balance the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

10. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will we proceed to complete the environmental analysis where other interests are considered.

11. We find that Northern has satisfied the threshold no subsidy requirement. The Policy Statement notes that projects designed to improve service for existing customers by replacing existing capacity, improving reliability, or providing flexibility are for the benefit of existing customers. Increasing the rates of existing customers to pay for these kinds of improvements is not a subsidy and the costs of such projects are permitted to be rolled-in.⁴ Since the proposed project will be used to recapture gas moving from the Cunningham field and will serve to maintain performance and reliability of Northern's storage field operations to the benefit of its existing customers, we find that it is appropriate to permit Northern to roll in the project costs as part of its storage function cost of service in the context of any subsequent general section 4 rate proceeding absent any material change in circumstances.

(2000).

⁴ See 88 FERC ¶ 61,227 at 61,746 (1999).

12. The new withdrawal wells will be used only to recapture gas that is presently migrating beyond the boundaries of the storage field. Therefore, the proposed wells will maintain the performance and reliability of Northern's storage field to the benefit of its customers who will experience no degradation in service. Since the project will not change the nature or level of service to be provided by Northern, the proposal will not adversely affect existing pipelines in the market and their captive customers. Additionally, no storage company in Northern's market area protested this application. Thus, we conclude that Northern's storage proposal will have no adverse impact on its customers or on existing pipelines or their captive customers.

13. Northern will construct the proposed withdrawal wells and new compressor unit within the Cunningham Storage Field and will not enlarge the existing field. All of the land on which this field is located is currently leased by Northern. No eminent domain proceedings will be required to construct the new wells. Thus we find that any impacts on landowners and communities near the storage field will be minimal.

14. Northern's proposal will enable it to maintain the performance and reliability of its existing Cunningham Storage Field operations and reduce the potential for storage gas to move beyond pool boundaries. We also find no identified adverse effect on existing customers, other pipelines, landowners, or communities. For these reasons, we find, consistent with the Certificate Policy Statement and section 7(c) of the NGA, that the public convenience and necessity requires approval of Northern's proposal.

Comments

15. One landowner, the Glens, with whom Northern has held a lease since 1975, raise issues related to the amount Northern pays for the use of their land which they believe is not commensurate with 2005 land values. Such compensation issues are a contractual matter between the parties. To the extent the Glens seeks additional compensation under an existing agreement, the remedy lies in the court with the appropriate jurisdiction.

16. The Glens also contend that Northern has caused the gas to migrate from the Cunningham field because it operates the storage field above the native operating pressure. In its answer, Northern states that in 1996 it received authorization from both the Commission and the state regulatory body, the Kansas Corporation Commission, to increase the reservoir pressure from the original certificated pressure to 1695 pounds-per-square-inch gauge (psig).⁵ Northern states that, in preparation for this application, it

⁵ See *Northern Natural Gas*, 77 FERC ¶ 61,069 (1996).

reviewed area well information and encountered no evidence of problems related to operating pressures.

17. In the 1996 proceeding, we found that 1695 psig was the appropriate pressure for Northern's storage field. The field has been operated at that pressure since that time. Since the Glens provided no evidence to support their claims, we find that their assertions are without merit.

18. The Parks own land unrelated to Northern's Cunningham Storage Field⁶ and have two producing oil and gas wells on their property. They claim that Northern's proposed wells are designed to pull gas away from the producing wells on their land. The Parks provide no technical data to support their claims.

19. An analysis of the data provided by Northern indicates that there is no basis for the Parks' claim that Northern's proposed withdrawal wells will adversely affect the production from the wells on their property. The proposed wells will be installed and operated only within Northern's existing certificated storage field boundaries and each is located more than a mile from the Parks' wells.⁷ Given the distance of the Parks' wells from the storage reserves and the fact that the storage operating pressures are higher than the Parks' producing wells, we find that there is no basis for the Parks' claim that Northern's proposed withdrawal wells will adversely affect the production from the wells on their property.

Engineering

20. Geological and engineering data provided by Northern demonstrate that the original gas reservoir boundary has expanded. The data also show that the present storage wells and related facilities cannot effectively and efficiently withdraw the migrated storage gas. Therefore, the new wells and related facilities are needed to provide additional operational capability to withdraw migrated gas even when the storage

⁶ The Parks' land is located in section 14, Township 27, Range 11 West in Pratt County, Kansas

⁷ One of Northern's proposed wells will be located in Section 19, Township 27, Range 10 West, in Kingman County, Kansas, and the other will be located in Section 24, Township 27, Range 11 West, in Pratt County, Kansas. The well proposed to be located in Section 19 is approximately 8,400 feet (1.6 miles) away from the Parks' closest well; the well proposed to be located in Section 24 is approximately 6,700 feet (1.3 miles) from the Parks' closest well.

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field is inactive.

21. The proposed withdrawal wells will be located in a small anticlinal structure that serves as a collection area located within the present certificated boundary, but outside of the original gas producing area. Thus, with the addition of the new wells, Northern can continue operating the storage field without further expansion.

22. We find that Northern's geological, engineering and storage operational data clearly show evidence of gas migration from the Cunningham Field and support the need for additional wells within the present certificated boundary to recapture this gas. The construction and operation of the proposed facilities should enable Northern to control and recover storage gas, and assure the integrity of the storage field while maintaining operational flexibility.

Environment

23. An environmental assessment (EA) was prepared for Northern's proposal. The EA addresses geology and soils, water resources and wetlands, vegetation, wildlife, threatened and endangered species, land use, cultural resources and air and noise quality.

24. Based on the discussion in the EA, we conclude that, if constructed in accordance with Northern's proposal, approval of the project would not constitute a major federal action significantly affecting the quality of the human environment. Any state or local permits issued with respect to the jurisdictional facilities authorized in this order must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through the application of state or local laws, may prohibit or unreasonably delay the construction of facilities approved by this Commission.⁸

25. Northern shall notify the Commission's environmental staff by telephone and/or facsimile of any environmental non-compliance identified by other Federal, State, or local agencies on the same day that such agency notifies Northern. Northern shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

⁸ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

26. At a hearing held on September 15, 2005 the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity pursuant to NGA sections 7(c) and (e) is issued to Northern authorizing it to construct two storage withdrawal wells and appurtenant facilities at its Cunningham Storage Field, as conditioned herein and as more fully described in Northern's application and the body of this order.

(B) The proposed storage withdrawal wells will be used only for the withdrawal of gas.

(C) Northern shall comply with the environmental conditions in the Appendix attached to this order.

(D) Northern shall notify the Commission's environmental staff by telephone and/or facsimile of any environmental non-compliance identified by other Federal, State, or local agencies on the same day that such agency notifies Northern. Northern shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

APPENDIX

As recommended in the EA, this authorization includes the following conditions:

1. Northern shall follow the construction procedures and mitigation measures described in its application and responses to staff data requests and as identified in the environmental assessment, unless modified by this order. Northern must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegation authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction activities associated with abandonment of the project. This authority shall allow:
 - a. the modification of conditions of this order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. Prior to any construction, Northern shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.
4. Northern, with the exception of road and other pipeline crossings, shall restrict its construction rights-of-way widths to 100 feet for the combined installation of the 3-inch and 4-inch diameter pipelines (liquid and gas pipelines 19-14) and 75 feet for the individual installation of the 3-inch and 4-inch diameter pipelines (liquid and gas pipelines 24-42). For any areas where Northern believes extra right-of-way width would be required, Northern may file with the Secretary of the

Commission for the review and written approval of the Director of the Office of Energy Projects a site-specific request for any additional right-of-way width.

5. If the perceptible water flow is found in the identified intermittent swale at the time of construction, Northern shall implement the FERC staff's Wetland and Water body Construction and Mitigation Procedures.
6. Northern shall file a noise survey with the Secretary no later than 60 days after placing the authorized unit at the Cunningham Compressor Station in service. If the noise attributable to the operation of the modified compressor station at full load exceeds an L_{dn} of 55 dBA at any nearby NSAs, Northern shall install additional noise controls to meet that level within 1 year of the in-service date. Northern shall also confirm compliance with the L_{dn} of 55 dBA requirement by filing a second noise survey with the Secretary no later than 60 days after it installs the additional noise control.