113 FERC ¶ 61,270
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Tennessee Gas Pipeline Company   Docket No. CP05-416-000

ORDER ISSUING CERTIFICATE

(Issued December 15, 2005)

1. This order authorizes Tennessee Gas Pipeline Company (Tennessee) to construct approximately 6.23 miles of 24-inch pipeline to extend its existing 30-inch Line 523M-2300, known as the Triple-T Line, to establish an interconnect with Enterprise Products Partners L.P.'s (Enterprise) Anaconda Gathering System (Anaconda System) at Eugene Island Block 371 (EI 371), in federal waters offshore of Louisiana. We find that extending the Triple-T Line will provide Tennessee's system access to new sources of deepwater natural gas and is, therefore, in the public convenience and necessity. However, because Tennessee had failed to show that the project will not be subsidized by existing customers, we will deny its request for a predetermination that it may roll the project costs into its existing rates.

Tennessee's Proposal

2. Tennessee proposes to construct approximately 6.23 miles of 24-inch pipeline that will extend Tennessee's existing 30-inch Triple-T Line, beginning at mile post 523M-2302+0.5 in Eugene Island Block 349, to interconnect with Enterprise's Anaconda System on the EI 371 platform, as well as associated piping and other appurtenant facilities. The new facilities will accommodate up to 200 MMcf/d of natural gas.

3. Tennessee states that the proposed Triple-T extension project will provide it with significantly greater access to deepwater supplies at minimal cost. Specifically, Enterprise has recently secured access to Kerr-McGee's newly discovered Constitution well, located in Green Canyon Block 680 and has constructed facilities to connect

Constitution to its Anaconda System upstream of EI 371.[1] Although the Anaconda System currently connects with ANR Pipeline Company (ANR) at the EI 371 platform, the anticipated gas supplies are expected to exceed ANR's capability to accept all of them. Therefore, Tennessee states that its proposed project will create a second pipeline to take deliveries at EI 371, thus enhancing access to new supplies, enhancing system flow and reliability by providing alternative market options, and providing flexibility of supply options for customers.

4. Tennessee provides the following cost of service estimates. The total estimated cost of the project is approximately $22 million. Of that amount, Tennessee will receive $12.5 million from outside sources ($7.5 million from ANR and $5 million from a non-affiliated third party), leaving Tennessee's net capital cost at $9.5 million. Tennessee estimates an annual cost of service for the project of $1.6 million based upon its net capital cost of $9.5 million. Tennessee uses a depreciation rate of 0.67 percent, a negative salvage rate of 0.25 percent, and a pre-tax rate of return of 15.3 percent, all of which are consistent with the rate factors used in the settlement of Tennessee's last rate case in Docket No. RP95-112.

5. Tennessee is not proposing any new rates or tariff provisions. It states that it will award capacity created by the project in accordance with the terms set forth in its FERC Gas Tariff regarding available capacity. Tennessee will charge transportation rates contained in its tariff for any service using the proposed facilities.

6. Tennessee states that it did not hold an open season related to the project and that there are no new transportation agreements specifically attributable to it. Nevertheless, Tennessee requests rolled-in rate treatment for the proposed facilities because of the enumerated benefits that the project will provide.[2]

7. Tennessee requests the Commission grant the authorizations by December 31, 2005. This will ensure that the project can be constructed and placed into service in time

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[1] Four other new gas well discoveries that will use the Anaconda System are expected to be in production by the middle of 2006. Tennessee's Application at p. 10.

[2] Although Tennessee is filing this application pursuant to section 7(c) of the Natural Gas Act, it believes that, for rate purposes, the project should be evaluated as if certification were being sought under blanket certificate procedures because Tennessee's net capital cost of $9.5 million is well below the current $22 million limit for prior-notice certifications.

to receive initial gas flow from Kerr-McGee's Constitution deepwater discovery which is currently scheduled to begin June 2006.

Notice, Interventions and Protest

8. Notice of Tennessee's application was published in the *Federal Register* on October 3, 2005 (70 *Fed. Reg.* 57586). Timely, unopposed motions to intervene were filed by Atmos Energy Corporation, ConocoPhillips Company, Louisville Gas and Electric Company and jointly by Consolidated Edison Company of New York (Con Edison) and Orange and Rockland Utilities (O & R). Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's regulations.[3]

9. Motions to intervene out-of-time were filed by Rhode Island State Energy Statutory Trust (Trust) and Columbia Gulf Transmission Company (Columbia Gulf). Trust and Columbia Gulf have demonstrated that they have an interest in this proceeding and that their participation will not delay the proceeding or prejudice the rights of any other party. Accordingly, for good cause shown, we will grant the motions to intervene out-of-time.[4]

10. Con Edison and O & R protest Tennessee's request for a predetermination that the costs of the proposed facilities qualify for rolled-in rate treatment. The protest is discussed below.

Discussion

11. On September 15, 1999, the Commission issued a Policy Statement[5] providing guidance as to how we will evaluate proposals for certificating new construction. The Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Policy Statement explains that in deciding whether to authorize the construction of new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement

[3] 18 C.F.R. § 385.214(a)(3) (2005).

[4] 18 C.F.R. §385.214(d) (2005).

[5] *Certification of New Interstate Natural Gas Pipeline Facilities (Policy Statement)*, 88 FERC ¶ 61,227 (1999); *Order Clarifying Statement of Policy*, 90 FERC ¶ 61,128 (2000); *Order Further Clarifying Statement of Policy*, 92 FERC ¶ 61,094 (2000).

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.

12. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from the 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 a new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission 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 the Commission then proceed to complete the environmental analysis where other interests are considered.

13. As discussed below, since we are not granting Tennessee's request for preapproval to roll in the costs of this project, existing customers will not subsidize the new facilities. Accordingly, the threshold requirement of the Policy Statement is met.

14. Next, the project should not adversely affect Tennessee's existing customers, or other pipelines and their customers. Instead, the project should enhance service to existing customers by giving them additional supply options. The project will not adversely affect existing pipelines and their customers since it is not intended to replace the service on any existing pipeline.

15. Because the project is offshore within federal waters, this project will not adversely affect landowners or surrounding communities.

16. We find that the public benefits of this project outweigh any residual adverse impacts on existing customers or existing pipelines. The project will enable Tennessee's customers to access additional sources of natural gas with minimal new facilities. It will give offshore producers another connection to the interstate pipeline grid. For these reasons, we find that the Triple-T Extension Project is in the public convenience and necessity.

17. We turn to Tennessee's request for pre-approval to roll the costs of this project into its existing rates. Con Edison and O & R argue that rolling in the costs of the Triple-T extension project could result in subsidization by existing customers. We agree. Tennessee has not presented any evidence showing that the projected revenues derived

from the project will exceed the costs. Tennessee did not hold an open season for the capacity related to the project and has not secured transportation agreements or commitments for the project capacity. In fact, Tennessee has not made a projection or given any indication of how much gas will flow from the Anaconda Gathering System or how much of that gas will be available to Tennessee's system. Finally, Tennessee has presented no evidence regarding the value to existing customers of the increased access to additional gas supplies as compared to the potential additional costs to those customers. Therefore, under these circumstances, we cannot presume that existing customers will not subsidize the new construction and we deny Tennessee's request for pre-approval of rolled-in rate treatment for these facilities.[6] Our finding here does not preclude Tennessee demonstrating in a rate case that the facility costs can be rolled into system-wide rates without subsidization by existing customers. However, Tennessee will bear the burden of proof of demonstrating that rolled-in rate treatment is justified.

18. Finally, no environmental assessment or environmental impact statement has been prepared for this project because it is entirely located in offshore, federal waters and qualifies for categorical exclusion from such review under sections 380.4(a)(33) and (34) of the Commission regulations.[7]

<u>The Commission orders</u>:

(A) A certificate of public convenience and necessity is issued to Tennessee, in Docket No. CP05-416-000, authorizing the construction of the Triple-T extension project, as described in this order and in Tennessee's application.

(B) Tennessee shall complete the construction and place the facilities described herein into operation, within one year of the final order in this proceeding, pursuant to section 157.20(b) of the Commission's regulations.

(C) Tennessee is authorized to charge its existing Part 284 transportation rates for services using the new facilities.

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[6] *See Eastern Shore Natural Gas Company*, 111 FERC ¶ 61,479 (2005)(certificating new facilities that provide existing customers benefits but denies request for roll in of costs absent showing that existing customers will not subsidize expansion shippers).

[7] 18 C.F.R. §380.4(a)(33), (34) (2005).

(D) The certificate issued in Ordering Paragraph (A) is conditioned on Tennessee's compliance with all applicable Commission regulations under the Natural Gas Act, particularly Parts 154 and 157.20(a),(c),(e) and (f).

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.