

UNITED STATES OF AMERICA 120 FERC ¶ 62,072
FEDERAL ENERGY REGULATORY COMMISSION

Tuscarora Gas Transmission Company

Docket No. CP07-27-000

ORDER ISSUING CERTIFICATE

(Issued July 24, 2007)

On November 30, 2006, Tuscarora Gas Transmission Company (Tuscarora) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations seeking authorization to construct and operate a new compressor station on its existing interstate pipeline system in Modoc County, California in order to provide up to 40,000 dth per day of firm natural gas transportation service for Sierra Pacific Power Company (Sierra Pacific). As discussed below, Tuscarora's proposal is required by the public convenience and necessity and is granted subject to the conditions imposed herein.

Background/ Proposal

Tuscarora owns and operates an interstate natural gas pipeline system extending southeasterly from an interconnection with the interstate pipeline facilities of Gas Transmission Northwest Corporation (GTN) near Malin, Oregon for approximately 228 miles to its terminus in Storey County, Nevada at the Tracy Power Plant owned by Sierra Pacific. In addition, a 10.5-mile, 20-inch diameter pipeline extends from Tuscarora's mainline at milepost 226.5 to in an interconnection with Paiute Pipeline Company (Paiute). Tuscarora is engaged in the interstate open-access transportation of natural gas pursuant to Part 284 of the Commission's regulations.

Tuscarora states that as a result of an interest by Sierra Pacific in acquiring capacity on its pipeline system, Tuscarora conducted an open season for transportation capacity from July 31, 2006 to August 11, 2006.¹ As a result of the open season, Tuscarora entered into a binding precedent agreement with Sierra Pacific for a maximum transportation volume of 40,000 dth per day, for a term of twenty-two and a half years at

¹ Concurrently with the open season, Tuscarora held a reverse open season to solicit offers from its existing shippers to release all or a portion of their current firm transportation entitlements. Tuscarora did not receive any turnback offers.

Tuscarora's effective Rate Schedule FT rate.² Tuscarora states that Sierra Pacific will use its new capacity entitlement to fuel its 514 megawatt, Tracy Combined Cycle Power Plant which is currently under construction.³

In order to provide the new service for Sierra Pacific, Tuscarora requests authority to construct the new Likely Compressor Station in Modoc County, California. The proposed station will consist of a single 5,731 horsepower gas turbine compressor unit, a compressor building, a control building, a remote valve site, various support buildings for storage and ancillary equipment, and other compressor station appurtenances. In order to transport gas between the Likely Compressor Station and its mainline, Tuscarora proposes to construct parallel 900-foot, 20-inch diameter pipelines from the suction and discharge sides of the proposed compressor station. Tuscarora estimates that the proposed compressor station and piping will cost approximately \$17,419,000. Tuscarora requests that it receive a certificate authorizing the proposed facilities on or before July 31, 2007 in order to meet a February 1, 2008 in-service date.

Tuscarora states that the revenues from the new service for Sierra Pacific will exceed the cost-of-service for the project in each of the first three years of service. Therefore, Tuscarora requests that the Commission make a predetermination that Tuscarora may roll the costs of the facilities into its system rates in its next general NGA section 4 rate case.

Notice, Interventions, and Protests

Public notice of Tuscarora's application was published in the *Federal Register* on December 15, 2006 (71 Fed. Reg. 75,529). Comments, protests, and interventions were due on or before December 29, 2006. Sierra Pacific and Southwest Gas Corporation (Southwest) filed timely motions to intervene. Timely unopposed motions to intervene are automatically granted by operation of Rule 214 of the Commission's regulations.⁴ No protests in opposition were filed. A landowner, Mr. Thomas F. Krauel (Mr. Krauel) filed comments related to environmental aspects of Tuscarora's application. Mr. Krauel's concerns are addressed in the Environmental Assessment (EA) prepared by the Commission staff which is summarized below.

² Tuscarora did not receive any other requests for firm transportation service.

³ Sierra Pacific received final approval to construct the Tracy Combined Cycle Power Plant from the Public Utilities Commission of Nevada (PUCN) on May 3, 2006.

⁴18 C.F.R. § 214 (2003).

Discussion

Certificate Policy Statement

On September 15, 1999, the Commission issued a statement of policy on the certification of new interstate natural gas pipeline facilities (Policy Statement) to provide guidance as to how we will evaluate proposals for certificating new construction.⁵ In this Policy Statement, we 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.

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 location of the new facilities. 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 will we proceed to complete the environmental analysis where other interests are considered.

Tuscarora has met the threshold requirement that its existing customers will not subsidize the proposed project. Exhibit N of Tuscarora's application shows that annual revenues from the proposed new transportation service for Sierra Pacific will exceed the annual cost-of-service of the proposed facilities in each of the first three years of operation. Revenues over the three years will exceed the cost of service by a total of \$8,567,396.⁶ As noted above, Tuscarora has also requested that the Commission make a

⁵*Certification of New Interstate Natural Gas Pipeline Facilities* (Policy Statement), 88 FERC ¶ 61,227 at 61,746 (1999), *order clarifying statement of policy*, 90 FERC ¶ 61,128 (2000), *order further clarifying statement of policy*, 92 FERC ¶ 61,094 (2000).

⁶ See Schedule 1, page 2 of 8, of Exhibit N of Tuscarora's application.

determination that it may roll-in the costs of the proposed expansion into its existing rates in its next general NGA section 4 rate case. Based upon the showing by Tuscarora in Exhibit N of its application it is appropriate to grant Tuscarora's request for rolled-in rate predetermination absent a significant change in the relevant facts and circumstances associated with the project at the time Tuscarora proposes to roll in the subject costs.

Tuscarora's proposal will not adversely impact its existing customers; in fact, the additional compression will provide additional flexibility and reliability to these customers and will provide additional opportunities for interruptible service when Sierra Pacific does not utilize its capacity. There also will not be any adverse impacts on other pipelines and their captive customers as the proposed service will be used to provide new services to Sierra Pacific's Tracy Combined Cycle Power Plant. Tuscarora has also made efforts to minimize impacts on landowners and communities by locating the Likely Compressor Station on land owned by Tuscarora with the nearest residence approximately 3,500 feet from the site and the nearest town approximately 3.5 miles away.

As previously noted Tuscarora's proposed expansion can proceed without subsidies from its existing customers and will not adversely affect other pipelines or their customers. Further, Tuscarora has made efforts to minimize impacts on landowners and communities. The expansion will provide the necessary fuel supply for Sierra Pacific's power plant which is expected to go into service in 2008. Therefore, based on the benefits of Tuscarora's expansion project and the lack of any identified adverse effect on existing customers, other pipelines, or landowners, and consistent with the Policy Statement and section 7 of the NGA, approval of Tuscarora's expansion is in the public convenience and necessity.

Environmental Analysis

On January 25, 2007, a Notice of Intent to Prepare an Environmental Assessment for the Proposed Tuscarora 2008 Expansion Project, and Request for Comments on Environmental Issues (NOI) was issued. No comments on the NOI were received.

An EA was prepared for Tuscarora's proposal. The EA addresses geology, mineral resources, soils, water resources, vegetation, wildlife, federally listed threatened and endangered species, land use, cultural resources, air quality, noise quality, and alternatives. Based on the discussion in the EA, we conclude that if constructed in accordance with Tuscarora's application, approval of this proposal would not constitute a major Federal action significantly affecting the quality of the human environment.

As noted above, Mr. Krauel filed comments in response to the notice of application related to environmental aspects of Tuscarora's application including noise from the compressor station, and the lighting and aesthetic impacts of the Likely Compressor Station on the landscape. Environmental Condition No. 9 to this order ensures that noise from the proposed compressor station will not exceed the FERC noise criterion at Mr. Krauel's home. In addition, the EA discusses the procedures that Tuscarora will undertake to minimize both visual and lighting impacts at the Likely Compressor Station.

Any state or local permits issued with respect to the jurisdictional facilities authorized herein 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 application of state or local laws, may prohibit or unreasonably delay the construction of facilities approved by this Commission.⁷ Tuscarora shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other Federal, state, or local agencies on the same day that such agency notifies Tuscarora. Tuscarora shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

This action is taken under 18 CFR § 375.308, and it is ordered that:

(A) A certificate of public convenience and necessity is issued authorizing the construction and operation of the proposed facilities, as more fully described in the application, supplements, and in this order.

(B) The facilities shall be completed and available for service within one year of the date of the order, pursuant to Section 157.20(b) of the Commission's Regulations.

(C) Certificate authority is conditioned upon compliance with all applicable Commission regulations under the NGA, particularly the general terms and conditions set forth in paragraphs (a), (c), (e), and (f) of Section 157.20 of the regulations.

⁷See, 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).

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(D) The authorization granted herein is subject to compliance with the specific environmental conditions in Appendix A. Further, Tuscarora shall notify the Commission's environmental staff by telephone and/or facsimile of any environmental noncompliance identified by other Federal, state, or local agencies on the same day that such agency notifies Tuscarora. Tuscarora shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(E) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order pursuant to 18 CFR § 385.713.

Berne L. Mosley
Director
Division of Pipeline Certificates
Office of Energy Projects

Appendix A

Environmental Conditions

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

1. Tuscarora shall follow the construction procedures and mitigation measures described in its application and supplements and as identified in the EA, unless modified by this Order. Tuscarora must:
 - a. request any modifications to these procedures, measures, or conditions in a filing with the Secretary;
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection that the original measure; and
 - d. receive approval in writing from the Director of the OEP before using that modification.
2. The Director of OEP has delegated authority to take whatever steps are necessary to insure the protection of all environmental resources during construction and operation 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 construction, Tuscarora 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 inspectors' 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. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. As soon as they are available, and before the start of construction, Tuscarora shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for the facility approved by this Order. All requests for modifications of

environmental conditions of this Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

5. Tuscarora shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the excising land use/cover type, and documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director OEP before construction in or near that area.

This requirement does not apply to extra workspace allowed by the FERC's *Upland Erosion Control, Revegetation, and Maintenance Plan*, minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities, and
 - d. agreements with individual landowners that affect other landowners or could adversely affect sensitive environmental areas.
6. Within 60 days of the acceptance of this certificate and before construction begins, Tuscarora shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how Tuscarora will implement the mitigation measures required by this Order. Tuscarora must file revisions to the plan as schedules change.
 7. Tuscarora must receive written authorization from the Director of OEP before commencing service from the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the ROW is proceeding satisfactorily.

8. Prior to construction, Tuscarora must file with the Secretary for review by OEP staff, copies of completed survey reports for the greater sandhill crane, bald eagle and Swainsen's hawk. Tuscarora should also file copies of correspondence with resources agencies and any proposed avoidance, minimization, or mitigation measures.

9. Tuscarora shall file a noise survey with the Secretary no later than 60 days after placing the Compressor Station in service. If the noise attributable to the operation of the facility at full load exceeds an Ldn of 55 dBA at any nearby NSAs, Tuscarora must install additional noise controls to meet that level within 1 year of the in-service date. Tuscarora should confirm compliance with the Ldn of 55 dBA requirement by filing a second noise survey with the Secretary no later than 60 days after it installs the additional noise controls.