

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Kinder Morgan Interstate Gas Transmission LLC  
Northern Natural Gas Company

Docket No. CP06-418-000

ORDER DISMISSING PETITION AND TERMINATING PROCEEDING

(Issued December 26, 2006)

1. On July 10, 2006, Kinder Morgan Interstate Gas Transmission LLC (Kinder Morgan) and Northern Natural Gas Company (Northern Natural) jointly submitted a petition to the Commission for a temporary waiver of sections 157.202(b)(2)(ii)(A), (B), and (C) of the Commission's regulations. These sections preclude employing Part 157, subpart F, blanket certificate authority for construction of a mainline, an extension of a mainline, and any activity that alters the capacity of a mainline from the facilities eligible for construction under a Part 157 blanket certificate. Petitioners urge that the constraints imposed by these regulations be waived to enable them to construct mainline facilities under blanket certificate authority in order to bring natural gas to fuel new ethanol production plants.<sup>1</sup>

2. As discussed below, the Commission finds this petition for waiver to be moot following the October 19, 2006 Final Rule in Docket No. RM06-7-000, which amends Part 157 to permit companies to employ blanket certificate authority to undertake a

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<sup>1</sup> Petitioners stress the goal to develop renewable energy resources expressed in section 1501 of the Energy Policy Act of 2005 (EPAAct 2005), Pub L. No. 109-58, 119 Stat. 594, 1067, 68 (2005) (to be codified at 42 U.S.C. § 7545).

greater range of activities under Part 157, subpart F, including the construction of new, and expansion of existing, mainline facilities.<sup>2</sup>

### **Notice, Interventions, and Comments**

3. Notice of Kinder Morgan's and Northern Natural's joint petition for waiver was published in the *Federal Register* on July 13, 2006.<sup>3</sup> The Iowa Utilities Board, BP America Production Company, BP Energy Company and BP Canada Energy Marketing Corporation, Southern Star Central Gas Pipeline, Inc., and the Interstate Natural Gas Association of America submitted timely motions to intervene in support of the petition for waiver.<sup>4</sup> AG Processing Inc., a Cooperative submitted a motion to intervene out of time, which we will grant, finding that doing so will not cause undue delay or disruption, or place an undue burden on or otherwise prejudice existing parties.<sup>5</sup> In addition, the Governors' Ethanol Coalition, the American Coalition for Ethanol, the Nebraska Ethanol Board, Fagen Inc., and U.S. Energy submitted comments in support of the requested waiver.

### **Discussion**

4. Kinder Morgan submitted comments in the Commission's recent rulemaking proceeding in Docket No. RM06-7-000 to enlarge the scope and scale of activities that holders of Part 157 blanket certificates may undertake. Kinder Morgan's comments in that proceeding sought revision of the Part 157 regulations to permit the extension or expansion of mainlines in order to bring natural gas to fuel new ethanol production plants. The Commission considered Kinder Morgan's description of prospective mainline projects, and determined that if the blanket certificate regulations were revised as proposed, Kinder Morgan would be able to rely on its Part 157 blanket certificate to construct and operate its described mainline facilities, provided projects do not exceed

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<sup>2</sup> *Revisions to the Blanket Certificate Regulations and Clarification Regarding Rates*, Order No. 686, 71 Fed. Reg. 63,680 (October 31, 2006); FERC Stats. & Regs. ¶ 31,231 (2006).

<sup>3</sup> 71 Fed. Reg. 41,791.

<sup>4</sup> Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(a)(3) (2006).

<sup>5</sup> See 18 C.F.R. § 385.214(d) (2006).

the blanket program's applicable cost limits.<sup>6</sup> The Commission affirmed this finding in issuing its Final Rule, observing that enlarging the blanket certificate program renders moot Kinder Morgan's and Northern Natural's joint petition for a waiver in this proceeding of the blanket certificate program's exclusion of mainline facilities.<sup>7</sup> Accordingly, in light of the expansion of blanket certificate authority to include mainline facilities, the joint petition is dismissed as moot.

The Commission orders:

Kinder Morgan's and Northern Natural's petition for waiver is hereby dismissed and this proceeding is terminated.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>6</sup> See 71 Fed. Reg. 36,276, 36,283 (June 26, 2006); FERC Stats. & Regs. ¶ 32,606, P 54 (2006) (Notice of Proposed Rulemaking).

<sup>7</sup> 71 Fed. Reg. 63,680, 63,682-83 (October 31, 2006) and FERC Stats. & Regs. ¶ 31,231, P 16 (2006). See section 157.210 concerning mainline natural gas facilities.