

125 FERC ¶ 61,263
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.

Wyoming Interstate Company, Ltd.

Docket No. CP08-403-000

ORDER ISSUING CERTIFICATE

(Issued December 4, 2008)

1. On May 20, 2008, Wyoming Interstate Company, Ltd. (WIC) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations for a certificate of public convenience and necessity to construct, own, and operate its Piceance Compression Expansion Project (project). The project, to be completed in two phases, consists of the uprating of an existing compressor at WIC's Greasewood Compressor Station in Rio Blanco County, Colorado; the construction and operation of a new compressor unit, with appurtenances, at the Greasewood Compressor Station; and the construction and operation of the Snake River Compressor Station, a new midpoint compressor station to be located in Moffat County, Colorado. WIC also seeks a pre-determination that it may roll the costs of the new facilities associated with the project into the existing WIC Piceance Lateral incremental reservations rates and approval for an incremental fuel charge related to the proposed facilities.

2. We find that WIC's proposal is in the public interest because it will meet increasing shipper demand for the transportation of natural gas produced in the Piceance Basin in the Rocky Mountain region to downstream markets. Further, based upon the environmental assessment (EA) prepared for WIC's proposal, we find that, with appropriate mitigation, the project is environmentally acceptable. Therefore, we will grant the requested certificate authority as conditioned in this order.

Background and Proposal

3. WIC states that it is a limited partnership formed under the laws of the State of Colorado. According to WIC, the general partner is WIC Holdings Company, L.L.C. and

¹ 15 U.S.C. § 717f(c) (2006).

the limited partner is El Paso Wyoming Gas Supply Company, L.L.C., each of which is a limited liability company organized and existing under the laws of the State of Delaware.

4. WIC is engaged in the business of transporting natural gas in interstate commerce in the States of Utah, Colorado and Wyoming and is a natural gas company within the meaning of section 2(6) of the NGA.² Therefore, WIC is subject to the Commission's jurisdiction. WIC operates as an open-access transporter pursuant to a blanket certificate issued under section 284.221 of the Commission's regulations.³

5. WIC states that current wellhead production from the Piceance Basin is approximately 1.3 billion cubic feet (Bcf) per day, and that it is expected to increase between 1.9 and 2.2 Bcf per day by 2015. This increase in production is the result of an estimated 1,050 to 1,200 new wells being drilled annually.

6. WIC states that it initially responded to Piceance Basin development by requesting certificate authority to construct and operate the Piceance Lateral Expansion Project (Piceance Lateral), which the Commission granted on September 22, 2005.⁴ The Piceance Lateral is approximately 141.7 miles long and 24 inches in diameter with a throughput of up to 350,000 dekatherms (Dth) per day. It connects the Greasewood Hub in Rio Blanco County, Colorado to WIC's mainline and the interstate pipeline system of Colorado Interstate Gas Company (CIG) at Wamsutter in Sweetwater County, Wyoming. WIC operates a 1,650 horsepower (hp) compressor station at the Greasewood Hub, and meter facilities at the Greasewood Hub as well as at Wamsutter. WIC has an incremental recourse rate and incremental fuel, lost, and unaccounted for (FL&U) charges for transportation service on the Piceance Lateral facilities. WIC states that it placed the Piceance Lateral pipeline facilities and the compression facilities into service on March 20 and May 26, 2006, respectively. Williams Power Company (Williams), currently the only firm transportation customer on WIC's Piceance Lateral, has contracted for the full 350,000 Dth per day of capacity.

7. In this proceeding, WIC proposes a compression expansion project to be constructed in two phases. In Phase 1, WIC proposes to uprate an existing compressor at

² 15 U.S.C. § 717a (6) (2006).

³ *Wyoming Interstate Co., Ltd.*, 53 FERC ¶ 61,229 (1990); *order on reh'g*, 57 FERC ¶ 61,328 (1991).

⁴ *Wyoming Interstate Co., Ltd.*, 112 FERC ¶ 61,327 (2005).

the Greasewood Compressor Station by changing the control panel and operating software. This will allow WIC to increase the available horsepower from 1,650 to 2,832 hp, correlating to an additional 50,000 Dth per day of capacity. WIC anticipates that since the uprate does not require any construction or significant material modifications, Phase 1 of the project can be placed in service within 14 days after WIC's receipt of Commission authorization to construct the project.

8. As Phase 2 of the project, WIC proposes to install and operate a second compressor, with appurtenances, at the Greasewood Compressor Station and to construct and operate the Snake River Compressor Station. WIC states that the second compressor unit at the Greasewood Compressor Station, which will be installed within the existing WIC property, will be a Solar Centaur 40 turbine engine capable of generating a maximum of 2,832 hp. WIC also proposes to construct and operate the Snake River Compressor Station at approximately milepost 54.3 on the Piceance Lateral in Moffat County, Colorado. The Snake River Compressor Station will comprise two Solar Taurus 70 turbines capable of generating a maximum of 13,664 hp. According to WIC, Phase 2 compression expansion correlates to an additional 179,500 Dth per day. WIC states that the Snake River Compressor Station will require approximately 20 acres for construction and operation on land leased from the State of Colorado. WIC anticipates that Phase 2 of the project will be completed by October 1, 2009. The total capital cost for the project is estimated to be \$61.6 million.

9. WIC proposes to roll the facility costs of both Phase 1 and Phase 2 of the expansion project into the existing Piceance Lateral facilities. WIC states that the revenue derived from the service agreements associated with the project, exclusive of fuel, exceeds the cost of service of the project in Year 1, and every year thereafter. Based on this, WIC proposes that the costs of Phase 1 and Phase 2 facilities be rolled into its Piceance Lateral incremental reservation rate. However, WIC proposes to implement a new Piceance Lateral incremental fuel charge to be associated with service utilizing the proposed facilities.

10. WIC states that it held an open season between October 9 and November 2, 2007 (later extended through November 20, 2007, to accommodate an amended open-season posting). WIC states that its original open season contemplated compression and a looping expansion of its Piceance Lateral. However, in an effort to move forward with the expansion as quickly as possible, WIC asserts that it decided to remove the looping expansion as an option for this open season and propose only a compression-related expansion, therefore limiting additional available capacity to 230,000 Dth per day. In its revised open season, WIC stated that it would consider a separate open season for acceptable bids submitted above the 230,000 Dth per day. Subsequently, WIC states that it held an open season from February 18 through April 4, 2008, but that it received

insufficient bids from that open season to justify an additional expansion. WIC states that it awarded Williams and Antero Resources Piceance Corporation (Antero) the expansion capacity based on a rounded pro rata allocation of their bid capacity. According to WIC, Williams will transport 190,000 Dth per day and Antero will transport 40,000 Dth per day, both for 11 years.

11. WIC states that the precedent agreement executed with Williams provides for a Maximum Delivery Quantity (MDQ) of 190,000 Dth per day with a primary receipt point at Greasewood, Colorado and a primary delivery point at Opal, Wyoming. WIC asserts that it acquired off-system capacity from Questar Overthrust Pipeline Company (Overthrust) to enable WIC to transport natural gas from WIC's westernmost point at Kanda to delivery points in the vicinity of Opal on the Overthrust system. WIC states that Williams will pay WIC's Piceance Lateral incremental reservation rate for service on the Piceance Lateral and WIC's mainline transport rate for service from Wamsutter to Opal. WIC asserts that the mainline transportation rate Williams will pay WIC includes the cost of the Overthrust system capacity that WIC has acquired.

12. WIC states that the precedent agreement executed with Antero provides for an MDQ of 40,000 Dth per day with a primary receipt point at Meeker, Colorado and a primary delivery point at Opal. WIC asserts that in order to provide transportation service from Meeker to the Greasewood Compressor Station it acquired off-system capacity on the White River Hub in Rio Blanco County, Colorado to connect the Meeker Hub with Greasewood.⁵ WIC asserts that the White River Hub facilities are scheduled to be placed in service by November 2008.⁶ WIC states that Antero's rates will include WIC's Piceance Lateral incremental reservation rate for service from the White River Hub to Wamsutter and WIC's mainline transportation rate for service from Wamsutter to Opal. WIC states that it will pay the cost of White River Hub capacity and that Antero's mainline transportation rate will include the cost of the Overthrust capacity incurred by WIC.

13. WIC asserts that neither the Overthrust nor the White River Hub off-system capacity arrangement entail any fuel charges. However, WIC states that the FL&U charges assessed by Overthrust and White River Hub as part of the off-system capacity

⁵ WIC acquired capacity from Overthrust and White River pursuant to the off-system capacity provisions of Article 6 of its tariff.

⁶ See *White River Hub*, 124 FERC ¶ 61,132 (2008).

arrangements will be charged to WIC. WIC asserts that those FL&U charges will be incorporated into WIC's future FL&U filings.

14. According to WIC, since the proposed expansion will be commissioned in two phases, WIC pro-rated Williams' and Antero's capacity during Phase 1 based on the incremental capacity created. WIC asserts that since the Phase 1 Greasewood compressor uprate will generate an incremental 50,000 Dth per day of capacity, it awarded a pro rata allocation of 40,000 Dth per day to Williams and the remaining 10,000 Dth per day to Antero during the initial phase of the project. WIC states that the quantities will increase to the full contract levels upon the completion of Phase 2 of the project. The contract rate and forecasted revenues are presented in the table below.

	MDQ (Dth/day)	Contract Rate	Contract Revenue (Annual)
Phase 1			
Antero	10,000	\$ 0.1729	\$ 631,085.00
Williams	40,000	\$ 0.1729	\$ 2,524,340.00
		Total	\$ 3,155,425.00
Phase 2			
Antero	40,000	\$ 0.1729	\$ 2,524,340.00
Williams	190,000	\$ 0.1729	\$ 11,990,615.00
		Total	\$ 14,514,955.00

WIC states that the total cost of service, exclusive of FL&U costs, for Phase 1 would be \$69,478, and the total cost of service for Phase 2 would initially be \$12,965,857, decreasing each year afterwards.

Notice, Interventions and Protests

15. Notice of WIC's application was published in the *Federal Register* on June 4, 2008 (73 Fed. Reg. 31,858). Williams Gas Marketing, Inc. and Chevron Natural Gas filed timely, unopposed motions to intervene.⁷ No protests, motions to intervene in opposition, or adverse comments were filed.

⁷ 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 (2008).

Discussion

16. Since the application pertains to facilities used for the transportation of natural gas in interstate commerce, WIC's proposal is subject to the Commission's jurisdiction and the requirements of subsections (c) and (e) of section 7 of the NGA.⁸

A. Application of the Certificate Policy Statement

17. The Commission's September 15, 1999 statement of policy on the Certification of New Interstate Natural Gas Pipeline Facilities provides guidance as to how it will evaluate proposals for certificating new construction.⁹ The Certificate 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 Certificate Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances 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, and the avoidance of the unnecessary exercise of eminent domain or other disruptions of the environment.

18. 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 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.

⁸ 15 U.S.C. §§ 717f(c), (e) (2006).

⁹ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,277 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000); *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

19. WIC's proposal to charge the existing Piceance Lateral incremental rate is appropriate. As discussed below, revenues from the proposed expansion project exceed its costs. Therefore, existing shippers will not subsidize the expansion facilities. The proposed facilities have been designed to transport a new source of gas. Therefore, WIC's proposal will not replace any firm transportation service on any other existing pipeline and thus will not adversely impact other pipelines or their customers. Further, the proposed facilities have been designed in a manner to minimize the impact on landowners and the environment. The only new land required for the project is leased from the State of Colorado for the Snake River Compressor Station. Moreover, no landowners have protested or filed comments on WIC's proposal. On balance, the benefits of WIC's proposal outweigh any potential adverse impacts. Therefore, we will approve WIC's proposal.

B. Rate Treatment

20. WIC seeks authorization to roll the facility costs of both Phase 1 and Phase 2 of the project into the existing rates for service on the Piceance Lateral facilities. WIC states that, excluding fuel costs, the revenue derived from the new service agreement exceeds the cost of service in Year 1 and in every year thereafter. Therefore, according to WIC, such rolled-in rate treatment will not result in a subsidization of the compression facilities by existing shippers.

21. As demonstrated in the table in paragraph 14 above, revenues will exceed the cost of service during both phases of the project. Therefore, we find that WIC can construct and operate the project without subsidies from its existing customers. Thus, we will grant the request for a predetermination that WIC may roll the costs of the expansion project into the existing WIC Piceance Lateral incremental reservation rates absent any material change in circumstances.

22. WIC also seeks authorization to collect an incremental fuel charge for service associated with both phases of the project. Under WIC's proposal, expansion shippers using the Piceance Lateral facilities will pay a different fuel charge than existing shippers, reflecting two separate fuel charges.¹⁰

¹⁰ WIC states that the fuel percentage for existing shippers is 0.01 percent, the fuel percentage on the Phase I facilities will be 0.67 percent, and that the fuel percentage for Phase 2 facilities will be 1.44 percent.

23. In order to ensure that existing Greasewood shippers do not subsidize expansion shippers' fuel costs, in its annual fuel filing upon completion of the Phase I facilities, WIC proposes to allocate 87.5 percent (350,000 Dth out of a total 400,000 Dth) of throughput on the Piceance Lateral to the existing fuel percentage, while the remaining 12.5 percent (50,000 Dth) will be allocated to the new expansion fuel percentage. The Phase 1 fuel percentage will be 0.67 percent.

24. In its annual fuel filing upon completion of the Phase II facilities, WIC states that, 60 percent (350,000 Dth out of a total 580,000 Dth) of throughput will be allocated to the existing fuel percentage while 40 percent (230,000 Dth out of a total 580,000 Dth) will be allocated to the expansion fuel percentage. WIC estimates that the fuel percentage, based on maximum operations,¹¹ for Phase II will be 1.44 percent.

25. Since the project is largely a compression-based expansion, the required fuel usage will increase substantially. As a result, we find that an incremental expansion fuel rate allocated to the expansion customers is appropriate. Therefore we approve WIC's proposed incremental fuel rate.

C. Environmental Assessment

26. On June 20, 2008, we issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Piceance Compression Expansion Project and Request for Comments on Environmental Issues (NOI). We received comments on the NOI from the Colorado Department of Public Health and Environment (Colorado DPHE), the Colorado Department of Natural Resources, Division of Wildlife (Colorado DOW) and the Northern Cheyenne Tribe, Tribal Historic Preservation Office (Northern Cheyenne Tribe). Staff addressed all substantive comments in the EA prepared for WIC's proposal.

27. The Colorado DPHE expresses concern about emissions from the Greasewood Compressor Station and other nearby oil and gas activities. The Colorado DPHE recommends that the Commission and cooperating agencies contribute technical expertise and/or financial resources, to install, operate and maintain an air quality monitoring station in the Greasewood area. On August 5, 2008, WIC addressed the Colorado DPHE's concern by agreeing to fund the installation of an air monitoring station and the operational expenses of the station for one year.

¹¹ Maximum operations presumes that the full contract quantity of the expansion shippers will be transported and the project facilities will be fully utilized throughout the year.

28. The Colorado DOW states that it is concerned about the wildlife species, their habitats, and impacts to native vegetation. One of the Colorado DOW's greatest concerns is the potential impacts of the project's proposed expansion of compression on sage grouse in Moffat and Rio Blanco Counties, Colorado. The EA addresses the potential impacts of the proposed project for sage grouse and recommends additional mitigation to minimize impacts on this species.

29. The Northern Cheyenne Tribe states that it has no issue with the proposed project and indicated that there are no properties of religious and cultural significance to the Northern Cheyenne Tribe in the proposed construction area.

30. The EA addresses geology and soils; water resources and wetlands; vegetation, wildlife, and fisheries; endangered and threatened species; land use; cultural resources; air quality and noise; and alternatives. On October 31, 2008, the EA was placed in the public record.

31. On November 5, 2008, WIC filed comments on the EA seeking a clarification of environmental recommendation No. 9 of the EA, which would require that WIC file a Sage Grouse Impact Minimization Plan prior to any project construction.

32. WIC contends that this mitigation plan does not need to be finalized before the Phase 1 portion of the project because Phase 1 only entails a software upgrade to an existing compressor unit at the Greasewood Compressor Station. The Phase 1 software upgrade will uprate the compressor unit's horsepower from 1,650 to 2,832 hp and does not involve the construction of any additional equipment or ground disturbing activities. In the EA, Commission staff finds that because of the current ambient noise impacts from the facilities in the already heavily industrialized area around the Greasewood facility, they do not anticipate any additional impacts to sage grouse. Because the Phase 1 modification would create only negligible changes in noise levels at the existing location, we will clarify that the EA's environmental recommendation No. 9 does not apply to the Phase 1 horsepower uprate at the existing Greasewood Compressor Station. We will also apply this logic to clarify that the EA's environmental recommendations No. 4 (initial implementation plan) and No. 7 (water resources for dust abatement measures) only apply to the Phase 2 facilities.

33. We note that there are two environmental recommendations in the EA, Nos. 9 and 10, that would require WIC to develop mitigation plans to reduce potential impact on the sage grouse. To facilitate compliance, we will combine these recommendations into one environmental condition No. 9, attached to this order.

34. Based on this discussion and the discussion in the EA, we conclude that if constructed and operated in accordance with WIC's application and supplements, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

35. 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 or operation of facilities approved by this Commission.¹²

D. Conclusion

36. The Commission on its own motion, received and made a part of the record all evidence, including the application, and exhibits thereto, submitted in this proceeding, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to WIC authorizing it to construct, own, operate, and maintain natural gas facilities, as described and conditioned herein, and as more fully described in the application.

(B) WIC's facilities shall be constructed and made available for service within one year of the date of the order in this proceeding.

(C) WIC shall comply with paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations.

(D) WIC's request for a predetermination of rolled-in rate treatment for the proposal is granted absent any material change in circumstances.

¹² See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Comm'n*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(E) WIC's request for approval of its proposed incremental expansion fuel rate is granted.

(F) WIC 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 WIC. WIC shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(G) The certificate issued in Ordering Paragraph (A) is conditioned on WIC's compliance with the environmental conditions set forth in the Appendix to this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

Environmental Mitigation Measures

1. WIC shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA unless modified by this order. WIC 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 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 any construction, WIC shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel would be informed of the environmental inspector's authority and have been or would be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.
4. **Within 60 days of the acceptance of this certificate and before construction begins on the Phase 2 facilities**, WIC shall file an initial Implementation Plan with the Secretary for the review and written approval by the Director of OEP. WIC must file revisions to the plan as schedules change. The plan shall identify how WIC will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by this order.

5. WIC shall employ at least one environmental inspector for the project. The environmental inspector(s) shall be:
 - a. responsible for monitoring and ensuring compliance with all mitigation measures required by this order and other grants, permits, certificates, or other authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of this order, and any other authorizing document;
 - d. responsible for documenting compliance with the environmental conditions of this order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - e. responsible for maintaining status reports.
6. WIC must receive written authorization from the Director of the OEP **before commencing service from the project**. Such authorization would only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
7. **Prior to construction of the Phase 2 facilities**, WIC shall identify the source of water that would be used for dust abatement measures for the review and written approval of the Director of OEP.
8. **Prior to construction of the Snake River Compressor Station**, WIC shall file with the Secretary for the review and written approval by the Director of OEP, a Sagebrush Habitat Impact Minimization Plan developed in consultation with the Colorado DOW.
9. **Prior to construction of the Phase 2 facilities**, WIC shall file with the Secretary for the review and written approval by the Director of OEP, a Sage Grouse Impact Minimization Plan based on measures described in the Colorado Greater Sage-grouse Conservation Plan and developed in consultation with the Colorado DOW and the U.S. Fish and Wildlife Service. This plan shall also include a noise mitigation plan for the Snake River Compressor Station.
10. WIC shall make all reasonable efforts to ensure its predicted noise levels from the Snake River and Greasewood Compressor Stations are not exceeded at the NSAs and file noise surveys with the Secretary **no later than 60 days** after placing the new or modified Compressor Stations in service. If the noise attributable to the operation of

the Compressor Stations exceed 55 dBA L_{dn} at any NSA, WIC shall file a report on what changes are needed and should install additional noise controls to meet the level **within 1 year** of the in-service date. WIC shall confirm compliance with these requirements by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.