

128 FERC ¶ 61,129  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Questar Overthrust Pipeline Company

Docket No. CP09-76-000

ORDER ISSUING CERTIFICATE

(Issued August 3, 2009)

1. On March 5, 2009, Questar Overthrust Pipeline Company (Overthrust) filed an application in Docket No. CP09-76-000 under section 7(c) of the Natural Gas Act (NGA)<sup>1</sup> for a certificate of public convenience and necessity authorizing it to construct and operate additional compression at two sites in Sweetwater County, Wyoming. For the reasons discussed below, we will grant Overthrust's requested authorization.

**I. Background and Proposals**

2. Overthrust, a corporation organized and existing under the laws of Utah, is a natural gas company, as defined in the NGA, engaged in open-access transportation service in Wyoming. Overthrust owns and operates approximately 212 miles of pipeline extending from the Whitney Canyon producing area in Uinta County in southwest Wyoming to an interconnect with Rockies Express Pipeline, LLC (Rockies Express) near Wamsutter, Wyoming.<sup>2</sup> Overthrust also interconnects with Wyoming Interstate Company, Ltd., and Questar Pipeline Company.

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<sup>1</sup> 15 U.S.C. § 717f (c) (2006).

<sup>2</sup> In 2007, the Commission authorized Overthrust to construct a 77.2 mile, 36-inch diameter pipeline expansion from its existing transmission facilities at Kanda, Wyoming eastward to an interconnect with Rockies Express in Wamsutter, Wyoming (Wamsutter Expansion). *Rockies Express Pipeline LLC*, 119 FERC ¶ 61,069 (2007).

**A. Facilities Proposed**

3. Overthrust proposes to expand its existing transmission system by constructing and operating a new compressor station at Point of Rocks and by adding compression at the existing Rock Springs Compression Station. Specifically, Overthrust proposes to construct and operate one Solar Mars 100-16000S compressor, including appurtenant facilities, at Point of Rocks, adjacent to Overthrust's transmission mainline next to County Road 15 in Sweetwater County, Wyoming. In addition, Overthrust proposes to increase the compression horsepower at the Rock Springs compressor station in Sweetwater County, Wyoming, by installing a second Solar Mars 100-16000S compressor and appurtenances. The Solar compressors would both have a maximum ISO horsepower of 16,000.<sup>3</sup> Overthrust also plans to construct a passive-repeater communication site adjacent to Overthrust's existing mainline. The facility would include a 16-foot by 14-foot reflector panel on a 25-foot tall A-frame base.

4. Further, pursuant to section 2.55 of the Commission's regulations, Overthrust contemplates constructing two 150-foot long, 24-inch diameter suction and discharge pipelines, a suction filter separator, a discharge gas cooler and a unit valve skid. Overthrust also proposes to construct approximately 40 feet of 16-inch and 36-inch diameter yard-and-station piping, fittings, and valves to facilitate future expansion. Overthrust states that the total estimated cost of the compression expansion is \$41,832,000.

5. Overthrust states that the proposed expansion would add approximately 32,000 ISO horsepower of compression, creating an additional 300,000 dekatherms per day (Dth/d) of capacity that is needed to move gas from receipt points on the northwest end of Overthrust's system at Opal, Wyoming, to an interconnect with Rockies Express on the east end of Overthrust's system at Wamsutter.

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<sup>3</sup> In its April 29, 2009 response to Question No. 2 of staff's April 8, 2009 data request, Overthrust stated that it did not elect to install waste-heat recovery facilities as part of the project because it is difficult to project if the compressor unit run times (e.g., annual load factor) will support installation of heat recovery facilities. Overthrust notes that current and future operations of compression on its system will be significantly influenced by displacement transactions on its system that may result in low compression utilization rates. Overthrust asserts that it will continue to pursue opportunities with heat recovery power development and explore proposals from third parties regarding waste heat generation opportunities and that waste-heat recovery facilities can be added in the future.

6. As the result of an open season held from February 29 through June 16, 2008, Overthrust states that it entered into a firm transportation service agreement with Encana Marketing (USA) Inc. (Encana) for a total of 300,000 Dth/d of incremental capacity with a 10-year term. Overthrust states that Encana has agreed to pay a negotiated-rate reservation charge of \$3.44091 per Dth/d, which is the already approved Wamsutter Expansion reservation charge, as stated in Overthrust's effective Statement of Rates, Second Revised Volume No. 1-A of its FERC Gas Tarriff.

## **II. Notice and Interventions**

7. Notice of Overthrust's application was published in the *Federal Register* on March 20, 2009 (74 Fed. Reg. 11,926). Timely, unopposed motions to intervene were filed by Encana, Ruby Pipeline LLC, and Wyoming Interstate Company Ltd.<sup>4</sup> Encana filed comments supporting Overthrust's proposal. No protests, motions to intervene in opposition, or adverse comments were filed.

## **III. Discussion**

8. Since Overthrust's proposed facilities will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, Overthrust's proposal is subject to the requirements of subsections (c) and (e) of section 7 of the NGA.<sup>5</sup>

### **A. Application of the Certificate Policy Statement**

9. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for new construction.<sup>6</sup> 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, we balance the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation

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<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 (2008).

<sup>5</sup> 15 U.S.C. § 717f (2006).

<sup>6</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000), *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

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 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. As noted above, the threshold requirement is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers. Overthrust proposes to provide the expansion service under its existing Part 284 Wamsutter Expansion rate. Since none of the proposed costs of the project are included in Overthrust's currently effective rates, accepting Overthrust's proposal to charge this rate as its initial rate for expansion service will not result in subsidization of that service by existing customers.

12. Overthrust proposes to enter into negotiated rate agreements for service using the project's capacity. In certificate proceedings, initial recourse rates are established but no determinations are made regarding specific negotiated rates for proposed services.<sup>7</sup> Consistent with the Alternative Rate Policy Statement<sup>8</sup> and our decision in *NorAm Gas*

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<sup>7</sup> *CenterPoint Energy - Mississippi River Transmission Corp.*, 109 FERC ¶ 61,007, at P 19 (2004); *ANR Pipeline Co.*, 108 FERC ¶ 61,028, at P 21 (2004); *Gulfstream Natural Gas System, LLC*, 105 FERC ¶ 61,052, at P 37 (2003); *Tennessee Gas Pipeline Co.*, 101 FERC ¶ 61,360, at n.19 (2002).

<sup>8</sup> *Alternative to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines, Alternative Rate Policy Statement*, 74 FERC ¶ 61,076 (1996), *reh'g denied*, 75 FERC ¶ 61,066 (1996), *petition for review denied*, *Burlington Resources Oil & Gas Co. v. FERC*, 1998 U.S. App. LEXIS 20697 (D.C. Cir. 1998).

*Transmission Company*,<sup>9</sup> Overthrust is directed to file its negotiated rate contracts, or numbered tariff sheets, not less than thirty days or more than sixty days, prior to the commencement of service, stating for each shipper the negotiated rate, the applicable gas volume to be transported, and an affirmation that the affected service agreement does not deviate in any material respect from the form of service agreement in Overthrust's *pro forma* tariff. Overthrust must also disclose all consideration received that is associated with the agreement. Finally, Overthrust must also maintain separate and identifiable accounts for volumes transported, billing determinants, rate components, surcharges and revenues associated with its negotiated rates in sufficient detail so that they can be identified in Statements G, I, and J in any future section 4 or 5 rate case.

13. Since the expansion is designed to service a new market, existing pipelines and their customers will not be impacted. The new capacity is fully subscribed and does not replace firm transportation service on any other pipeline. Further the proposed expansion of capacity will not have any adverse effect on the applicant's existing shippers or services. Finally, we find that any impacts on landowners and communities near the new facilities will be minimal because the proposed Rock Springs compressor will be installed in an existing building located on property leased from the Bureau of Land Management (BLM). The Point of Rocks Compressor Station will be installed on land owned by Anadarko Land Corporation and the BLM and will impact only about eight acres.

14. We conclude that Overthrust's proposed facilities will enable the company to meet expanded market demand and will facilitate the transportation of Rocky Mountain gas supplies from Opal to Wamsutter. Based on the benefits Overthrust will provide to the market and the lack of any identified adverse impacts on existing customers, other pipelines, landowners, and communities, we find, consistent with the Certificate Policy Statement and section 7 of the NGA, that the public convenience and necessity requires approval of Overthrust's proposals.

#### **B. Rolled-In Rate Treatment**

15. Overthrust entered into an agreement with Encana for the entire 300,000 Dth/d of incremental capacity to be created by the additional compression at a negotiated rate, which is equal to Overthrust's current maximum recourse rate for firm service. As demonstrated in the table in Corrected Exhibit N,<sup>10</sup> the proposed service will generate revenues of \$12,387,276 in the first year. The total cost of service for the first year is projected to be \$7,699,165. Thus, net revenue will exceed costs by \$4.6 million for Year

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<sup>9</sup> *NorAm Gas Transmission Co.*, 77 FERC ¶ 61,011 (1996).

<sup>10</sup> Overthrust filed Corrected Exhibit N on March 10, 2009.

1. Exhibit N, page 1 of 2, shows that the expansion reservation revenues will continue to exceed the cost of service by over \$4 million annually through Year 3. Therefore, we find that Overthrust can construct and operate the project without subsidies from its existing customers. Although not explicitly requested by Overthrust, a predetermination that Overthrust shall roll the costs of the expansion project into the existing Wamsutter Expansion reservation rates is warranted absent a significant change in circumstance, since the projected revenues from the new compression facilities will exceed projected costs.

16. In its June 17, 2009 Fuel Study Supplement, Overthrust states that due to the reticulated characteristics of the system, installation of the proposed compressor additions will reduce the volume of natural gas that needs to be physically compressed through its Roberson Compressor Station and decrease the horsepower needed to compress volumes at the Rock Springs Compressor Station. Overthrust also notes that under normal operating conditions, fuel use per Dth transported will decrease from 0.85 percent to 0.82 percent once the proposed compression expansion project is placed in service. Because the fuel rate will decrease under normal operating conditions, we find that a predetermination supporting the roll-in of fuel costs associated with the project is also appropriate.

### **C. Environmental Analysis**

17. On December 17, 2008, we issued a Notice of Intent to Prepare an Environmental Assessment (NOI). We received responses to the NOI from the Wyoming Game and Fish Department (Wyoming Game and Fish) and the Wyoming Department of Transportation (Wyoming DOT). The comment from the Wyoming DOT raised no substantive environmental concern.

18. To satisfy the requirements of the National Environmental Policy Act of 1969, our staff prepared an environmental assessment (EA) that was placed in the public record on June 5, 2009. The EA refers to Overthrust's project as the Point of Rocks and Rock Springs Compression Expansion Project. The EA addresses geology and soils; water resources and wetlands; fisheries, vegetation and wildlife; land use; visual resources; threatened and endangered species; cultural resources; air and noise quality; safety and reliability; cumulative impacts; and alternatives. The EA also addresses the substantive issue raised in the scoping comment by Wyoming Game and Fish.

19. In its comments on the NOI, the Wyoming Game and Fish raised a concern pertaining to erosion control and preventing sediment from entering nearby waterways during project construction. The EA discusses the project's potential impact on waterbodies and finds that there will be limited ground disturbance within the existing Rock Springs Compressor Station, which avoids erosion, and/or sedimentation within any

nearby waterbodies. Additionally, the new Point of Rocks Compressor Station is located about 0.20 mile from a waterbody. Overthrust will also adhere to the requirements of its Best Management Practices which incorporate staff's Upland Erosion Control, Revegetation, and Maintenance Plan and Wetland and Waterbody Construction and Mitigation Procedures during construction. Therefore, we conclude that minimal impacts on surface water would be expected as a result of construction or operation of the project.

20. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with Overthrust's application, as supplemented, and the conditions imposed herein, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

21. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. We encourage 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.<sup>11</sup>

22. 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 authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Overthrust in Docket No. CP09-76-000 authorizing it to construct and operate natural gas facilities, as described and conditioned herein, and as more fully described in the application.

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<sup>11</sup> 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).

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned on Overthrust's:

- (1) constructing and making available for service the facilities described herein within 15 months of the date of this order;
- (2) compliance with paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and
- (3) compliance with the environmental conditions listed in the Appendix to this order.

(C) Overthrust shall notify the Commission's environmental staff by telephone, e-mail, and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Overthrust. Overthrust shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

(D) There will be a presumption of rolled-in rate treatment for the expansion costs in Overthrust's next section 4 general rate proceeding, absent a significant change in circumstances.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

## APPENDIX

### Environmental Conditions

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

1. Overthrust 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 environmental assessment (EA), unless modified by the Commission Order. Overthrust must:
  - a. request any modification 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 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 delegated 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 the Commission 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**, Overthrust shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the EI'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. 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**, Overthrust 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 all facilities approved by the Commission Order. All requests for modifications of environmental conditions of the Commission Order or site-specific clearances

must be written and must reference locations designated on these alignment maps/sheets.

Overthrust's exercise of eminent domain authority granted under NGA section 7(h) in any condemnation proceedings related to this Order must be consistent with these authorized facilities and locations. Overthrust's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipeline to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Overthrust 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 existing 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 of OEP **before construction in or near that area.**

This requirement does not apply to extra workspace allowed by the *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 affect sensitive environmental areas.
6. Within 60 days of the acceptance of this certificate and before construction begins, Overthrust shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Overthrust must file revisions to the plan as schedules change. The plan shall identify:

- a. how Overthrust 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 the Commission Order;
  - b. how Overthrust will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
  - c. the number of EIs assigned per site, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
  - e. the training and instructions Overthrust will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
  - f. the company personnel (if known) and specific portion of Overthrust's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) Overthrust will follow if noncompliance occurs; and
  - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - (1) the completion of all required surveys and reports;
    - (2) the mitigation training of onsite personnel;
    - (3) the start of construction; and
    - (4) the start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, Overthrust shall file updated status reports with the Secretary on a **monthly** basis **until all construction and restoration activities are complete**. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on Overthrust's efforts to obtain the necessary federal authorizations;
  - b. the current construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
  - c. a listing of all problems encountered and each instance of noncompliance observed by the EIs during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);

- d. a description of the corrective actions implemented in response to all instances of noncompliance, and their cost;
  - e. the effectiveness of all corrective actions implemented;
  - f. a description of any landowner/resident complaints which may relate to compliance with the requirements of the Commission Order, and the measures taken to satisfy their concerns; and
  - g. copies of any correspondence received by Overthrust from other federal, state, or local permitting agencies concerning instances of noncompliance, and Overthrust's response.
8. Overthrust must receive written authorization from the Director of OEP **before commencing service** from the new compressor at each compressor station. Such authorization will only be granted following a determination that rehabilitation and restoration of the areas of project-related disturbance are proceeding satisfactorily.
9. **Within 30 days of placing the certificated facilities in service**, Overthrust shall file an affirmative statement with the Secretary, certified by a senior company official:
- a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
  - b. identifying which of the certificate conditions Overthrust has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
10. Overthrust shall not begin construction of facilities or use of staging, storage, or temporary work areas and new or to-be-improved access roads **until**:
- a. Overthrust files the Wyoming State Historic Preservation Office's (SHPO) comments on the cultural resources survey report with the Secretary;
  - b. Overthrust files the BLM's and SHPO's comments regarding the passive repeater site with the Secretary; and
  - c. the Director of OEP reviews and approves all reports and notifies Overthrust in writing that it may proceed.

All material filed with the Commission containing **location, character, and ownership** information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: **“CONTAINS PRIVILEGED INFORMATION—DO NOT RELEASE.”**

11. Overthrust shall file a noise survey with the Secretary **no later than 60 days** after placing the Point of Rocks Compressor Station in service. If the noise attributable to the operation of all of the equipment at the Point of Rocks Compressor Station at full load exceeds a day-night noise level ( $L_{dn}$ ) of 55 decibels on the A-weighted scale (dBA) at any nearby noise-sensitive areas (NSA), Overthrust shall file a report on what changes are needed and shall install additional noise controls to meet the level **within one year** of the in-service date. Overthrust shall confirm compliance with the above requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.
  
12. Overthrust shall conduct a noise survey at the Rock Springs Compressor Station to verify that the noise from all the equipment operated at full capacity does not exceed the previously-existing noise level that is above an  $L_{dn}$  of 55 dBA at the nearby NSA. The results of this noise survey shall be filed with the Secretary **no later than 60 days** after placing the modified station in service. If this noise level is exceeded, Overthrust shall, **within one year** of the in-service date, implement additional noise control measures to reduce the operating noise level at the NSA to or below the previously-existing noise level. Overthrust shall confirm compliance with this requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.