

128 FERC ¶ 61,209
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 28, 2009

In Reply Refer To:
Discovery Gas Transmission LLC
Docket No. CP03-342-007
Discovery Producer Services LLC
Docket No. CP03-343-004

Discovery Gas Transmission LLC
2800 Post Oak Boulevard
Houston, Texas 77056

Attention: Kevin R. Rehm, Vice President

Discovery Producer Services LLC
2800 Post Oak Boulevard
Houston, Texas 77056

Attention: Daryl Grieger, President

Reference: Amendments to Certificates

Ladies and Gentlemen:

1. On March 17, 2009, Discovery Gas Transmission LLC (Discovery) and Discovery Producer Services LLC (DPS) filed a joint abbreviated application to amend the Certificate of Public Convenience and Necessity granted Discovery and the Limited Jurisdiction Certificate granted DPS (Amended Certificates) in the Commission's Order Approving Abandonment and Issuing Certificates dated May 6, 2004 (May 6 Order).¹ The Commission accepts the Amended Certificates as discussed below.

¹ See *Discovery Gas Transmission LLC, et al.*, 107 FERC ¶ 61,124 (2004) (May 6 Order), *reh'g granted*, 108 FERC ¶ 61,060 (2004) (July 13 Rehearing Order), amended, Unpublished Letter Order, Docket No. CP03-342-006 issued on October 3, 2008.

2. Discovery and DPS state that they seek to amend their respective certificate authorizations to enable Discovery to deliver up to an additional 50,000 Dth per day of natural gas through its Expansion Facilities on a firm basis, in effect converting their existing authority to provide services associated with delivery of 50,000 Dth per day on an interruptible basis.²

3. The May 6 Order authorized: (1) Discovery to acquire, lease or construct and own and operate certain facilities necessary to transport on a firm basis up to 150,000 Dth per day of natural gas through its Expansion Facilities; and, (2) DPS to provide, and Discovery to purchase compression service from DPS' existing units so that Discovery could render up to 150,000 Dt per day of firm transportation service through its Expansion Facilities. DPS is authorized to provide supplemental compression at no cost (other than fuel), if additional compression capacity was available, so that Discovery can offer additional transportation service through its Expansion Facilities on an interruptible basis.³

4. Discovery and DPS' instant certificate application explains that: (1) in the near future, Discovery will be receiving production from new offshore developments at a time when the Expansion Facilities are now nearly fully subscribed; (2) Discovery held discussions with existing and potential shippers and conducted an open season in June 2008; (3) Discovery determined that sufficient interest exists to increase the capacity of its Expansion Facilities to enable Discovery to deliver greater quantities of gas through the Expansion Facilities on a firm basis; (4) Article III of Discovery's Rate Settlement provides that Discovery shall pursue, subject to terms and conditions, certain actions to enhance the market flexibility of its Expansion Facilities; and, (5) this application is

² Citing May 6 Order, 107 FERC ¶ 61,124 at P 7, “depending on the level of available compression services from [DPS], [Discovery may be able to provide] up to an additional 50,000 Mcf per day on an interruptible basis”; and, July 13 Rehearing Order at P 12, “[DPS] may be able to provide an additional 50,000 Dth/day of compression services for Discovery.”

³ In order to cause as little disruption to the environment and local community as possible, the Expansion Facilities were designed to utilize existing facilities as much as possible, including the lease of existing capacity from Texas Eastern, the acquisition of existing unused 16" and 20" local pipelines and the purchase of compression services from DPS utilizing DPS' existing compressor units.

intended to satisfy the near-term needs of Discovery's shippers and is also consistent with Discovery's Rate Settlement.⁴

5. Public notice of Discovery's filing was issued on May 27, 2009, with interventions and protests due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2009). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2009), all timely filed motions to intervene and any motions to intervene out-of-time filed before the date of issuance of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. No adverse comments or protests were filed.

6. Discovery proposes to amend its existing certificate authority to increase firm deliveries on the Expansion Facilities by 50,000 Dth per day to up to 200,000 Dth per day. Discovery and DPS propose to amend their existing Compression Services Agreement in lieu of Discovery installing its own compression equipment and to avoid the time, expense and potential environmental disruption associated with preparing a site and the purchasing and installation of compression equipment. The amended agreement (See Application, Exhibit Z) proposes that DPS will provide the additional compression necessary for Discovery to increase firm deliveries on the Expansion Facilities up to 200,000 Dth per day. In essence, this increased capacity reflects the conversion of Discovery's existing authority to provide 50,000 Dth per day of service on an interruptible basis, to its proposal to provide an additional 50,000 Dth per day of capacity on a firm basis.

7. Discovery is not requesting any changes in rates or any pre-determination of rolled-in cost treatment of the cost of the increased compression services from DPS. DPS will assess Discovery a monthly charge of \$180,758, or approximately 2.97 cents⁵ per Dth plus fuel costs for the 200,000 Dt per day compression service, representing an increase of \$45,190 per month over the current monthly charge for compression service under the existing Compression Services Agreement. In addition, depending on the level of available compression capacity at DPS' processing plant on any day, DPS will

⁴ Discovery's existing rates for service through its Mainline Facilities, Expansion Facilities and Gathering Facilities were established through settlement in Docket No. RP08-70 as approved by Commission order dated February 5, 2008 (Rate Settlement), *See Discovery Gas Transmission LLC*, 122 FERC ¶ 61,099 (2008). In addition, as part of the Rate Settlement (at p. 10) Discovery agreed not to seek to change its rates prior to January 1, 2013.

⁵ (\$180,758 per month x 12 months) / (200,000 Dt per day x 365).

compress more than the 200,000 Dt per day for no additional charge except for fuel needed to run the compression equipment, allowing Discovery to offer additional transportation service through its Expansion Facilities on an interruptible basis.

8. In addition to increasing the level of compression service offered to Discovery, DPS also seeks the ability to use any combination of its compression equipment to satisfy its obligations under the Compression Services Agreement, as amended. In the certificate application, in Docket Nos. CP03-342 and CP03-343, DPS explained that it operated four 1,500 horsepower (HP) compressors. DPS contends that, since that time, it has re-configured an existing 1,500 HP compressor used for refrigerant purposes to natural gas service, resulting in the availability of five 1,500 HP gas compressors. Some of these compressors boost the pressure of the gas gathered by DPS as needed to enter the Larose processing plant. The other compressors work in conjunction with the three larger gas turbine compressors at the processing plant, as needed, to boost the pressure of gas being processed and delivered to the outlet of the Larose processing plant.

9. DPS states that based on its operating history at its Larose plant since the Expansion Facilities were placed into service almost four years ago, it has determined that it can satisfy Discovery's request for up to 200,000 Dth per day of compression service on a firm basis more economically and efficiently by operating its compression equipment without limitation to specific compressors. Therefore, DPS proposes utilizing any combination of its compressor units to provide the compression service to Discovery. Such combination of compressor units will be dictated by the needs of DPS relative to the operation of the Larose processing plant and its gathering facilities, Discovery's compression needs and DPS' desire to use its compressors in the most efficient manner.

10. DPS's activities are primarily in support of nonjurisdictional services. Its provision of compression to Discovery is ancillary to DPS' primary non-jurisdictional activity. DPS states that its request to amend its existing limited jurisdiction certificate is consistent with prior Commission orders granting limited jurisdiction certificates authorizing the use of certain facilities for both jurisdictional and non-jurisdictional services, especially where, as here, such jurisdictional use is incidental to the primary non-jurisdictional use.⁶ Accordingly, DPS seeks to amend its Limited Jurisdiction Certificate to allow DPS to provide the requested level of compression service to

⁶ *Citing Columbia Gas Transmission Corporation*, 125 FERC ¶ 61,343, at P 17 (2008); *Gulf Crossing Pipeline Company, LLC*, 123 FERC ¶ 61,100, at P 129 (2008); *Columbia Gas Transmission Corporation*, 119 FERC ¶ 61,080, at P 29 (2007); *Mardi Gras Pipeline, L.L.C.*, 116 FERC ¶ 62, 152 (2006) (Staff order under delegated authority).

Discovery, utilizing any combination of its compressors, while continuing to (1) allow DPS to use the compressors also as part of its gathering and processing operations not subject to the Commission's jurisdiction; (2) ensure that the Commission will assert jurisdiction only over the Compression Services Agreement, as amended; and, (3) waive all filing and reporting requirements and any annual charges that might otherwise apply to DPS as a result of providing the incremental compression services to Discovery.⁷

11. Discovery and DPS state: (1) they do not propose to construct any new facilities and, therefore, there will be no environmental impact in connection with the authorizations they seek; (2) approval of their proposal will not be a major federal action significantly affecting the quality of the human environment; and, (3) the authorizations they seek are required by the public convenience and necessity and consistent with the Commission's Certificate Policy Statement⁸ and Discovery's Rate Settlement.

12. On September 15, 1999, the Commission issued a statement of policy on the certification of new interstate natural gas pipeline facilities (Certificate Policy Statement) to provide guidance as to how we will evaluate proposals for certificating new construction. In this Certificate Policy Statement we established a 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 on New Facilities explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances public benefits against 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, the avoidance of unnecessary disruptions to the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

13. 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

⁷ Citing *Columbia Gas Transmission Corporation*, 90 FERC ¶ 61,211 (2000); *Continental Natural Gas Company*, 83 FERC ¶ 61,065 (1998) and *Lawrenceburg Gas Company*, 74 FERC ¶ 61,306 (1996).

⁸ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999); *Order Clarifying Statement of Policy*, 90 FERC ¶ 61,128 (2000); and *Order Further Clarifying Statement of Policy*, 92 FERC ¶ 61,094 (2000) (collectively, the Certificate Policy Statement).

applicant has made efforts to eliminate any adverse effects the project might have on the applicant's existing customers.

14. The Commission also considers potential impacts of the proposed project on other pipelines in the market, those existing pipeline's captive customers, and landowners and communities affected by the route of the new pipeline. If residual adverse effects on those 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 of the proposal outweigh the adverse effects on other economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

15. The proposal of Discovery and DPS does not require any capital investment in order to provide for conversion of their existing authority for 50,000 Dth per day of service on an interruptible basis to service on a firm basis. In addition, Discovery does not seek to change its rates, nor does it request a pre-determination of rolled-in rate treatment. Discovery anticipates that the revenues received from the increased deliveries as a result of the requested authorizations will offset the incremental fee associated with the acquisition of increased compression services. In addition, Discovery assumes the risk of recovering the costs associated with the incremental compression services and, therefore, its existing customers will not subsidize any costs associated with the proposed expanded firm delivery service. Finally, the authorizations requested will have no effect on the environment, landowners or communities because no construction of facilities is involved.

16. Accordingly, we find the requested authorizations set forth in the amendments are required by the public convenience and necessity and are consistent with the Commission's Certificate Policy Statement. Further, the certificates issued to Discovery and DPS are amended as described herein, and more fully in the amendments. Discovery and DPS must comply with all applicable Commission regulations, particularly Parts 154 and 157.

By direction of the Commission.

Kimberly D. Bose,
Secretary.