

129 FERC ¶ 61,014  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Texas Eastern Transmission, LP

Docket No. CP09-61-000

ORDER ISSUING CERTIFICATE AND APPROVING ABANDONMENT

(Issued October 6, 2009)

1. On February 4, 2009, Texas Eastern Transmission, LP (Texas Eastern) filed an application under sections 7(b) and 7(c) of the Natural Gas Act (NGA) requesting authority to abandon, construct, and operate pipeline facilities at its Kosciusko Compressor Station in Mississippi (the Kosciusko Project). As discussed below, the Commission will grant the requested authorizations, with appropriate conditions.

**I. Background and Proposal**

2. Texas Eastern is a natural gas company as defined by the NGA. Texas Eastern's system extends from Texas, Louisiana, and the offshore Gulf of Mexico region to its principal terminus in the New York City area. The Kosciusko Compressor Station is located on Texas Eastern's Southern mainline near the Town of Kosciusko, in Attala County, Mississippi. Texas Eastern's Southern mainline extends from North of Baton Rouge, Louisiana to Linden, New Jersey.

3. Texas Gas Transmission, LLC (Texas Gas), also a natural gas company, operates the Greenville Lateral, which is a 96.4-mile long, 36-inch diameter pipeline that extends from the Greenville Compressor Station in Washington County, Mississippi to a point near the Town of Kosciusko.<sup>1</sup> The lateral was designed to provide take-away capacity from the Fayetteville Shale production area in north central Arkansas for markets in the

---

<sup>1</sup> In *Texas Gas Transmission, LLC*, 123 FERC ¶ 61,118 (2008), the Commission authorized Texas Gas to construct and operate the Greenville Lateral.

Midwest, Northeast, and Southeast. The Greenville Lateral has a maximum design capacity of 768,000 MMBtu per day.<sup>2</sup>

4. In its application, Texas Eastern requests authorization to reconfigure and upgrade its Kosciusko Compressor Station in order to facilitate the interconnection of Texas Gas' Greenville Lateral and Texas Eastern's Kosciusko Compressor Station. Specifically, Texas Eastern requests authority to construct and operate a Solar Model C452 electric-powered centrifugal compressor; a Convertteam electric motor with 12,500 horsepower (hp); a 1,800-foot long, 30-inch diameter natural gas pipeline header system, including measuring and regulating stations, to interconnect the compressor station with the Greenville Lateral; an electrical substation, valves, piping, and appurtenant facilities; and control/operating upgrades to its existing reciprocating internal compressors. Texas Eastern also proposes to abandon by removal a Westinghouse Model W171RMS natural gas-powered turbine with 12,500 hp, a Cooper-Bessemer compressor that was installed in 1964,<sup>3</sup> and approximately 150 feet of 24-inch diameter pipeline.<sup>4</sup> The proposals will not increase the mainline capacity on Texas Eastern's system.

5. Texas Eastern states that all of the construction associated with the Kosciusko Project will take place within the existing compressor station yard.<sup>5</sup> Texas Eastern also asserts that its proposals will obviate the need for Texas Gas to construct a previously-authorized greenfield compressor station in the Kosciusko area.<sup>6</sup>

6. Texas Eastern states that the proposed construction activities may be completed prior to completion of the proposed abandonment activities and that it may request authorization from the Director of the Office of Energy Projects (OEP) to place the

---

<sup>2</sup> In *Texas Gas Transmission, LLC*, 127 FERC ¶ 61,046 (2009), the Commission authorized Texas Gas to construct and operate compression facilities that would increase the capacity of the Greenville Lateral to 1.0 Bcf per day. These facilities have not yet been placed in service.

<sup>3</sup> The compressor unit was authorized in *Texas Eastern Transmission Corp.*, 28 F.P.C. 1,035, at 1,045 (1962).

<sup>4</sup> Texas Eastern plans to continue to operate 14 reciprocating gas-fired compressor units at Kosciusko totaling 35,000 hp.

<sup>5</sup> Texas Eastern notes that Entergy, the local electric utility, will construct a non-jurisdictional electric transmission line from Entergy's facilities to the Kosciusko Compressor Station.

<sup>6</sup> *Texas Gas Transmission, LLC*, 123 FERC ¶ 61,118 (2008).

proposed facilities into service prior to completing the proposed abandonment activities. Texas Eastern asserts that it will disconnect the compressor unit proposed for abandonment before placing the new facilities into service so that the horsepower of the Kosciusko Compressor Station will not exceed the currently-certificated design horsepower.

7. Texas Eastern did not conduct an open season to gauge interest in the Kosciusko Project, since the proposal is not intended to create any new capacity. Texas Eastern did not execute any new service agreements with existing or new customers.<sup>7</sup>

8. Texas Eastern asserts that the proposed project will benefit its existing shippers by providing access to a major new source of natural gas supply from the Fayetteville Shale formation. In addition, Texas Eastern maintains that with the construction of the Kosciusko Project, its proposed interconnection with Texas Gas' Greenville Lateral will eliminate the need for Texas Gas to construct a new compressor station at Kosciusko, as the Kosciusko Project will meet the flow requirements of the Greenville Lateral. Further, Texas Eastern contends that the proposed compressor unit will replace an outdated unit installed in 1964 and that the new, more reliable and fuel-efficient electric-powered compressor unit will save approximately \$1.5 million annually in fuel costs, assuming a gas price of \$8 per dekatherm (Dth).

9. Texas Eastern proposes to continue to charge its existing system-wide Part 284 recourse rates for transportation service using the Kosciusko Project facilities and states that the Kosciusko Compressor Station interconnection to be constructed with Texas Gas will be available as a secondary receipt point on all of Texas Eastern's firm transportation agreements. Texas Eastern estimates that the construction costs of the proposed facilities will be \$48,728,000.<sup>8</sup> Texas Gas has agreed to reimburse Texas Eastern for \$42 million of the construction costs and to pay Texas Eastern \$398,000 per year for 15 years as a contribution to operation and maintenance expenses.<sup>9</sup> Texas Eastern seeks a determination that it would be appropriate to roll the unreimbursed facility costs into its existing rates in its next general rate proceeding.

---

<sup>7</sup> Texas Eastern's June 19, 2009 Data Response No. 3(a).

<sup>8</sup> Texas Eastern estimates that it will cost \$1 million to remove the facilities proposed to be abandoned.

<sup>9</sup> See Reimbursement, Construction, Ownership and Operation Agreement, section 3.05, in Exhibit I of Texas Eastern's application.

## II. Notice and Interventions

10. Notice of the application was published in the *Federal Register* on February 26, 2009.<sup>10</sup> The Municipal Defense Group (MDG), National Fuel Gas Distribution Corporation, Proliance Energy, LLC, PECO Energy Company, Atmos Energy Marketing LLC, Atmos Energy Corporation, Carolina Power & Light Co. d/b/a Progress Energy Carolinas, Inc., Piedmont Natural Gas Company, Inc. (Piedmont) filed timely, unopposed motions to intervene. In addition, Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., and Philadelphia Gas Works filed a timely, unopposed joint motion to intervene.<sup>11</sup> MGD filed comments to Texas Eastern's proposals.

11. Piedmont's intervention included a protest. Texas Eastern filed an answer to Piedmont's protest. Although the Commission's Rules of Practice and Procedure do not permit answers to protests,<sup>12</sup> we may for good cause waive this provision. In this instance, we find good cause to accept the answer because it provides information that assists us in our decision making.

12. UGI Distribution Companies and Public Service Electric and Gas Energy Resources & Trade LLC filed untimely motions to intervene. The parties filing untimely motions to intervene have demonstrated an interest in this proceeding and have shown good cause for intervening out of time. Further, the untimely motions will not delay, disrupt, or otherwise prejudice this proceeding. Thus, we will grant the untimely motions to intervene.<sup>13</sup>

## III. Discussion

13. Because Texas Eastern proposes facilities for the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, the abandonment, construction, and operation of the facilities are subject to the requirements of subsections (b), (c), and (e) of section 7 of the NGA.

---

<sup>10</sup> 74 FR 8785 (2009).

<sup>11</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(c) (2009).

<sup>12</sup> 18 C.F.R. § 385.213(a)(2) (2009).

<sup>13</sup> 18 C.F.R. § 385.214(d) (2009).

**A. Application of the Policy Statement**

14. The Certificate Policy Statement provides guidance as to how the Commission will evaluate proposals for certificating new construction.<sup>14</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, the Commission balances the public benefits against the potential adverse consequences. The Commission's 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 of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

15. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to support the project financially 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, 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 on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

16. As stated, the threshold requirement is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. However, the Certificate Policy Statement also provides that increasing the rates of existing customers to pay for the costs of projects designed to improve their service, such as projects that replace existing capacity, improve reliability, or provide additional flexibility, does not constitute a subsidy.<sup>15</sup>

17. In its protest, Piedmont questions Texas Eastern's claim that the project will benefit existing customers, since the capacity of the pipeline will remain the same and the

---

<sup>14</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

<sup>15</sup> Certificate Policy Statement, 88 FERC ¶ 61,227 at 61,747 n.12.

new gas supply will simply offset or duplicate existing supplies utilized to serve existing shippers. Moreover, Piedmont asserts that Texas Eastern has failed to document the extent of any increased downtime, maintenance usage, or increased operation and maintenance costs associated with the facilities to be abandoned. Rather than benefiting existing Texas Eastern customers, Piedmont asserts that the Kosciusko Project benefits Texas Gas and its customers because it permits Texas Gas to avoid construction of a separate compressor station at Kosciusko.

18. In response, Texas Eastern contends that open-access pipelines should be permitted to make capital investments that benefit existing shippers and add long-term value to the system, even if the project does not involve new shippers. Texas Eastern asserts that attaching new supplies to the system benefits shippers and the markets they serve, particularly as historical sources of supply deplete over time. Texas Eastern states that the Fayetteville Shale gas flowing into Texas Gas' system is a new source of supply that can also serve as an alternative if existing supplies in the Gulf of Mexico become unavailable due to a hurricane or another unforeseen circumstance.

19. We find that the Kosciusko Project is a reasonable proposal for replacing the existing capacity on Texas Eastern's system that will be lost as a result of the proposed abandonment of the existing 12,500 hp compressor at the Kosciusko Compressor Station. As noted, the compressor Texas Eastern seeks to abandon was installed in 1964<sup>16</sup> and is outdated. Kosciusko serves as a hub on Texas Eastern's system, with existing interconnections to Southern Natural Gas Company and Gulf South Pipeline Company, LP, in addition to the proposed interconnection with Texas Gas. The Commission believes that a unit of such an age, in such a location, is increasingly likely to present operation and maintenance issues. In addition, replacing the existing compressor with an electrically-driven compressor can be expected to enhance fuel-efficiency on Texas Eastern's system. Thus viewing the Kosciusko Project as a capacity replacement project, the Commission finds that the threshold no-subsidy requirement of the Certificate Policy Statement has been met.

20. The Kosciusko Project will have no adverse operational effects on Texas Eastern's existing customers. Rather, the proposal will provide access to a new natural gas supply source. Also, the Kosciusko Project will not have an adverse impact on existing pipelines or their customers, since the project is designed to facilitate an interconnection with Texas Gas' Greenville Lateral, providing additional flexibility to interstate shippers. Further, the construction will take place entirely within the existing Kosciusko Compressor Station yard on acreage that Texas Eastern owns. Thus, there will be minimal impact on landowners and surrounding communities. Based on the benefits the Kosciusko Project will provide and the lack of any identifiable adverse impacts on

---

<sup>16</sup> Texas Eastern Data Response No. 10 (filed May 1, 2009).

Texas Eastern's existing customers, other pipelines and their customers, and minimal impacts on landowners and communities, the Commission finds, consistent with the Certificate Policy Statement and section 7 of the NGA, that Texas Eastern's proposals are required by the public convenience and necessity.

**B. Abandonment**

21. Texas Eastern requests authorization to abandon by removal the existing natural gas-powered turbine and compressor at its Kosciusko Compressor Station which it alleges is out-dated, inefficient, and at the end of its useful life. The fuel used to power the existing unit is projected to be more expensive than the electricity needed to power the proposed new electric compressor. Accordingly, the Commission finds that approval of the requested abandonment is in the public interest.

**C. Request for Rolled-in Pricing Determination**

22. Texas Eastern requests a predetermination that it may roll the \$6.7 million of Kosciusko Project costs not reimbursed by Texas Gas into its existing rates in its next general rate proceeding, on the basis that its existing shippers will benefit from the proposed project.

23. As noted above, Piedmont argues that Texas Eastern has failed to substantiate its claim that increased maintenance costs and reliability concerns associated with its existing compressor justify its replacement in the interest of existing shippers. Piedmont asserts that the proper forum for determining whether the costs of the project should be rolled into Texas Eastern's rates is Texas Eastern's next rate case, where its customers will have the opportunity to request all data necessary to evaluate the proposal.

24. MDG questions Texas Eastern's assertion that future operating costs of the reconfigured Kosciusko Compressor Station will decline by approximately \$1.5 million. MDG believes the purported savings are overstated because Texas Eastern's fuel cost projection assumes a price of \$8 per Dth, rather than today's price which is below \$4 per Dth. In response, Texas Eastern maintains that even at a current \$4 per Dth gas cost, existing shippers still would benefit from a \$750,000 per year estimated fuel savings.

**D. Commission Response**

25. As noted above, the Certificate Policy Statement provides that increasing the rates of current customers for a project designed to replace existing capacity does not constitute a subsidy<sup>17</sup> As also noted above, the Kosciusko Project will not result in any

---

<sup>17</sup> See Certificate Policy Statement, 88 FERC ¶ 61,227 at n. 12.

additional capacity being added to Texas Eastern's system; thus, as a practical matter, there is no incremental service to which the unreimbursed costs of the project can be assigned. Thus, consistent with policy and precedent,<sup>18</sup> the Commission will grant Texas Eastern's request for a predetermination authorizing it to roll the unreimbursed costs of the Kosciusko Project into its next NGA section 4 rate case. In that rate proceeding parties will have the opportunity, as indicated by Piedmont, to request all data necessary to evaluate the level of costs proposed to be rolled in for reasonableness.

#### **E. Environment**

26. On April 3, 2009, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI). No comments were received in response to the NOI.

27. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA), the Commission prepared an environmental assessment (EA) for Texas Eastern's proposal that was placed into the public record on May 20, 2009. The EA addresses potential impacts to geology and soils, water resources, vegetation, wildlife, threatened and endangered species, cultural resources, land use, air and noise quality, reliability and safety, cumulative impacts, and alternatives.

28. In connection with the Kosciusko Project, approximately 10.75 acres would be disturbed within the existing Kosciusko Compressor Station. The proposed project would not require the use of new pipeline right-of-way.

29. The primary noise source associated with the Kosciusko Project would be the addition of the new compressor unit to the existing Kosciusko Compressor Station. The EA concludes that the addition of the new compressor to the existing station would contribute less than one decibel on the A-weighted scale (dBA) to the existing noise levels and would not be noticeable at the nearby noise sensitive areas (NSAs). Environmental Condition No. 7 requires Texas Eastern to conduct additional noise surveys to ensure that noise at all NSAs would continue to be below the Commission's requirement of 55 dBA  $L_{dn}$ .

30. 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

---

<sup>18</sup> See, e.g., *Columbia Gas Transmission Corp.*, 122 FERC ¶ 61,021, at P 32 (2008) and *Florida Gas Transmission Co.*, 115 FERC ¶ 61,140 (2006).

local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>19</sup>

31. Based on the discussion in the EA, the Commission concludes that if the Kosciusko Project is constructed and operated in accordance with Texas Eastern's application, approval of the proposed project would not constitute a major federal action significantly affecting the quality of the human environment.

32. 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, as supplemented, 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 Texas Eastern to construct and operate the Kosciusko Project, as described more fully in the application and in the body of this order.

(B) The authorization in the above paragraph is conditioned on Texas Eastern's:

(1) complying with the environmental conditions set forth in the appendix to this order and all regulations under the NGA including, but not limited to, Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and

(2) constructing and making available for service the facilities described herein, within two years of the date of this order.

(C) Texas Eastern's request to abandon facilities by removal at the Kosciusko Compressor Station, as more fully described in the body of this order and the application, is granted.

(D) Texas Eastern's request for a pre-determination favoring roll-in rate treatment for the unreimbursed costs of the Kosciusko Project in Texas Eastern's next NGA section 4 rate case is granted, absent a significant change in circumstances.

---

<sup>19</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).

(E) Texas Eastern shall notify the Commission within 10 days of the effective date of the abandonment approved in Ordering Paragraph (C).

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

(G) The motions to intervene out-of time filed by UGI Distribution Companies and PSEG Energy Resources & Trade LLC are granted.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

## Appendix

This authorization is subject to the following environmental conditions:

1. Texas Eastern shall follow the construction procedures and mitigation measures described in its applications and supplements (including responses to staff data requests), and as identified in the EA, unless modified by this Order. Texas Eastern 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 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 Kosciusko 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, abandonment, and operation.
3. **Prior to any construction**, Texas Eastern 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 inspector'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. **Within 60 days of the acceptance of this certificate and before construction** begins, Texas Eastern shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Texas Eastern must file revisions to the plan as schedules change. The plan shall identify:
  - a. how Texas Eastern 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;
- b. the training and instructions Texas Eastern will give to all personnel involved with construction; and
  - c. a Gantt or PERT chart (or similar project scheduling diagram) and dates for the start and completion of the project.
5. Texas Eastern shall file updated status reports with the Secretary on a **monthly basis until all construction, abandonment, and restoration activities are complete**. On request, these status reports shall also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on Texas Eastern's efforts to obtain the necessary federal authorizations;
  - b. the current construction status of each activity and work planned for the following reporting period;
  - c. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector(s) 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. 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 resident complaints which may relate to compliance with the requirements of this Order, and the measures taken to satisfy their concerns; and
  - g. copies of any correspondence received by Texas Eastern from other federal, state or local permitting agencies concerning instances of noncompliance, and Texas Eastern's response.
6. Texas Eastern 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 right-of-way is proceeding satisfactorily.
7. Texas Eastern shall conduct a noise survey at the Kosciusko Compressor Station to verify that the noise from the entire station, including the new compressor unit, operated at full capacity does not exceed the previously existing noise levels that are at or above an  $L_{dn}$  of 55 dBA at the nearby NSAs. If the noise surveys show that the noise from all the equipment at the Kosciusko Compressor Station operated at full capacity exceeds the previously existing noise levels that are at or

above an  $L_{dn}$  of 55 dBA at a nearby NSA, Texas Eastern shall, **within one year** of the in-service date, implement additional noise control measures to reduce the operating noise level at the NSAs to or below the previously existing noise level. In addition, if the noise attributable to the operation of the new compressor unit at the station at full load exceeds an  $L_{dn}$  of 55 dBA at any nearby NSA, Texas Eastern shall install additional noise controls to meet that level **within one year** of the in-service date. Texas Eastern 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.