

145 FERC ¶ 61,196
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

UGI Penn Natural Gas, Inc.

Docket No. CP13-518-000

ORDER ISSUING CERTIFICATE
AND GRANTING WAIVER

(Issued December 5, 2013)

1. On July 8, 2013, UGI Penn Natural Gas, Inc. (UGI Penn), a local distribution company (LDC) and Hinshaw pipeline, filed an application under section 7(c) of the Natural Gas Act (NGA) and section 284.224 of the Commission's regulations for a limited jurisdiction blanket certificate to transport gas in interstate commerce.¹ UGI Penn also requests waiver of sections 284.123(b) and 284.224(c)(7) of the Commission's regulations in order to defer filing the required rate election and statement of operating conditions until UGI Penn has received a limited jurisdiction blanket certificate that defines the services it will be authorized to provide. For the reasons discussed below, the requested certificate authority and waiver is granted subject to the conditions discussed herein.

Background and Proposal

2. UGI Penn is a state-regulated LDC that distributes and sells natural gas to residential, commercial and industrial consumers under rates, terms and conditions set by the Pennsylvania Public Utility Commission (Pennsylvania Commission). UGI Penn serves approximately 160,000 customers in 13 counties in central and northeastern Pennsylvania, including the cities of Scranton, Wilkes-Barre and Williamsport. UGI Penn's facilities are interconnected with the interstate pipeline systems of Tennessee Gas Pipeline Company (Tennessee Gas), Transcontinental Gas Pipe Line Corporation (Transco), and Columbia Gas Transmission Corporation (Columbia), the distribution system of UGI Central Penn Gas, Inc., and local gas gathering facilities.

¹ 18 C.F.R. § 284.224 (2013). Section 284.224 authorizes LDCs and Hinshaw pipelines to perform the same types of transactions that intrastate pipelines are authorized to perform under section 311 of the Natural Gas Policy Act (NGPA) and subparts C and D of Part 284 of the Commission's regulations.

3. UGI Penn states that part of its service territory is located over shale formations containing natural gas that is actively being produced or could be developed. Therefore, UGI Penn states, it will have opportunities to receive quantities of this locally-produced gas and, to the extent those quantities exceed its local distribution requirements, to transport the gas to the interstate pipeline systems of Tennessee Gas, Transco, and/or Columbia. Since such gas would be consumed outside of Pennsylvania, UGI Penn requests limited certificate authority to provide such transportation service in interstate commerce. UGI Penn expects that the initial transportation service would be provided on behalf of local producers and/or marketers seeking access to the interstate pipeline system and markets.

Notice and Interventions

4. Notice of UGI Penn's application was published in the *Federal Register* on July 19, 2013 (78 Fed. Reg. 43,195). Stephen V. Simko (Mr. Simko) and Luzerne County Citizens for Clean Air (Clean Air Citizens) filed timely motions to intervene protesting UGI Penn's application.²

5. On August 2, 2013, UGI Penn filed an answer to the protests. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits answers to protests and answers unless otherwise ordered by the decisional authority. We will accept UGI Penn's answer because it has provided information that assisted us in our decision-making process.

Discussion

6. Section 284.224 of the Commission's regulations provides for an LDC or Hinshaw pipeline exempt from the Commission's jurisdiction pursuant to section 1(c) of the NGA to apply for a blanket certificate to sell and transport gas in interstate commerce in the same manner that intrastate pipelines are authorized to engage in such activities under section 311 of the Natural Gas Policy Act (NGPA) and Subparts C and D of Part 284 of the Commission's regulations. Under this blanket certificate, the LDC or Hinshaw may sell or transport gas that will be consumed in another state without jeopardizing its otherwise non-jurisdictional status under the NGA.³

7. UGI Penn qualifies as an LDC under the NGPA because it is a "person, other than any interstate pipeline or any intrastate pipeline, engaged in the transportation, or local distribution, of natural gas and the sale of natural gas for ultimate consumption."⁴ UGI

² Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. See 18 C.F.R. § 385.214 (2013).

³ See *Michigan Consolidated Gas Co.*, 64 FERC ¶ 61,037 (1993).

⁴ NGPA, 15 U.S.C. § 3301(17) (2006).

Penn also satisfies the Hinshaw criteria in section 1(c) for NGA-exempt status because (1) it receives all of its natural gas supplies at points within Pennsylvania; (2) the gas is consumed in Pennsylvania; and (3) its rates and services are subject to regulation by a state commission. UGI Penn meets the requirements of section 284.224 and, accordingly, its proposal is in the public convenience and necessity.

8. An application for a section 284.224 blanket certificate is required to include a “statement of the methodology to be used in calculating rates for services to be rendered.”⁵ UGI Penn requests a waiver of this requirement in order to defer such filings until it has received the requested certificate. We will grant the requested waiver subject to UGI Penn making the required filings within 30 days of this order’s issuance date.

Environment

9. Mr. Simko asserts that granting the application will promote more drilling, which, he contends, will adversely affect his health, property values and the environment. Clean Air Citizens argues that UGI Penn is trying to process gas in an agricultural zone, which, it claims, is contrary to local zoning laws and would adversely affect the community’s health, safety, property values, and quality of life. UGI Penn responds that Clean Air Citizens’s concerns relate, not to this proceeding, but to an ongoing proceeding before the Pennsylvania Commission.

10. Matters relating to drilling permits and local zoning regulations are beyond the scope of this proceeding. The blanket certificate we are issuing to UGI Penn under section 284.224 only authorizes transportation services, which will be provided over the company’s non-jurisdictional local distribution system. No jurisdictional construction is being proposed or authorized.

11. Environmental review of this proposal under section 380.4 of the Commission’s regulations confirms that this action qualifies for a categorical exclusion under section 380.4(a)(22).

The Commission orders:

(A) A blanket certificate of limited jurisdiction is issued pursuant to section 284.224 of the Commission’s regulations authorizing UGI Penn to engage in the transportation of natural gas that is subject to the Commission’s jurisdiction under the Natural Gas Act to the same extent and in the same manner that intrastate pipelines are

⁵ 18 C.F.R. § 284.224(c)(7) (2013). A company proposing to provide service pursuant to section 284.224 may either (1) submit proposed rates to the Commission for approval or (2) elect to use the rates in one of its transportation rate schedules for non-jurisdictional service on file with the appropriate state regulatory agency covering comparable service.

authorized to engage in such activity by subparts C and D of the Commission's regulations.

(B) The certificate issued by Ordering Paragraph (A) above and the rights granted thereunder are conditioned on UGI Penn's compliance with all applicable Commission regulations under the Natural Gas Act and the terms and conditions set forth in sections 157.20(a) and (e) and 284.224 of the Commission's regulations.

(C) The requested waiver is granted, subject to UGI Penn, within 30 days of this order's issuance, making a filing that (1) states its rate election pursuant section 284.123 of the Commission's regulations and (2) includes a baseline statement of operating conditions (SOC), along with a stand-alone "statement of their interstate service rates," in accordance with the authorization granted herein and the regulations adopted in Order No. 714⁶ requiring that tariff and tariff-related filings be made electronically.⁷ UGI Penn must make all subsequent SOC and SOC-related filings electronically using eTariff.⁸

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶ *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276, at P 85 (2008) (cross-referenced at 124 FERC ¶ 61,270).

⁷ UGI Penn should use Type of Filing Code 990 if using a stated rate or 820 if using a cost base rate when filing its baseline SOC. UGI Penn may use Type of Filing Code 1330 for a state rate or 1320 for a cost based rate if using the optional notice procedures approved in Order No. 781, Revisions to Procedural Regulations Governing Transportation by Interstate Pipelines, Order No. 781, 78 FR 45850 (July 30, 2013), FERC Stats. & Regs. ¶ 31,248 (2013) (crossed-referenced at 144 FERC ¶ 61,034 (2013)).

⁸ *Electronic Tariff Filings, Order Establishing Baseline Filing Schedule Starting April 1, 2010*, 130 FERC ¶ 61,228, at P 7 (2010).