

146 FERC ¶ 61,047
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ONEOK, Inc.
ONE Gas, Inc.

Docket No. CP13-550-000

ONEOK, Inc.
ONE Gas, Inc.

Docket No. RP13-1362-000

ORDER APPROVING ABANDONMENT, ISSUING CERTIFICATES,
AUTHORIZING SUCCESSION TO SERVICE AREA DETERMINATION,
AND GRANTING TEMPORARY WAIVER OF REGULATIONS
AND TARIFF PROVISIONS

(Issued January 29, 2014)

1. On September 27, 2013, ONEOK, Inc. (ONEOK) and ONE Gas, Inc. (ONE Gas) (collectively, Applicants) filed in Docket No. CP13-550-000 a joint application pursuant to sections 7(b), 7(c), and 7(f) of the Natural Gas Act (NGA) and Parts 157 and 284 of the Commission's regulations requesting, *inter alia*, abandonment and certificate authority to implement the transfer of certain natural gas distribution facilities located in Kansas, Oklahoma, and Texas from ONEOK to ONE Gas pursuant to a corporate reorganization. Specifically, the Applicants request authorization for ONEOK to: (a) abandon by transfer to ONE Gas its Part 284 blanket certificate authorization to provide interruptible interstate transportation service and its section 7(c) certificate to provide transportation service on a no-fee gas exchange basis; and (b) transfer to ONE Gas its NGA section 7(f) service area determination. In order to permit ONE Gas to perform, as ONEOK's successor-in-interest, the same services currently provided by ONEOK, the Applicants further request, the issuance to ONE Gas of a Part 284 blanket certificate and a section 7(c) certificate, and the authority for ONE Gas to succeed to ONEOK's section 7(f) service area determination.

2. In addition, in order to effectuate the corporate restructuring, the Applicants request in Docket No. RP13-1362-000, pursuant to Rule 207(a)(5) of the Commission's

Rules of Practice and Procedure,¹ a temporary waiver of certain of the Commission's capacity release regulations, certain tariff provisions of the interstate natural gas pipelines on which ONEOK's distribution operating divisions currently hold transportation capacity, and the Commission's shipper-must-have-title policy. For the reasons discussed below, the Commission grants the requested authorizations and waivers, subject to the conditions discussed herein.

I. Background

3. ONEOK is a diversified energy company incorporated under Oklahoma law.² As is pertinent here, ONEOK provides natural gas distribution service to over two million retail and wholesale customers in Kansas, Texas, and Oklahoma through its operating divisions, Kansas Gas Service (Kansas Gas), Texas Gas Service, and Oklahoma Natural Gas Company.

4. In 1982, and 1989, respectively, the Commission issued to Kansas Power and Light Company (KP&L), a Hinshaw pipeline and Kansas Gas' predecessor, a blanket certificate under Part 284 of the Commission's regulations to transport natural gas in interstate commerce to the same extent that intrastate pipelines are authorized to do so under section 311 of the Natural Gas Policy Act of 1978 (NGPA),³ and a service area determination under section 7(f) of the NGA.⁴ KP&L later became Western Resources, Inc. (Western) as a result of a corporate reorganization.

¹ 18 C.F.R. § 385.207(a)(5) (2013).

² ONEOK is the sole general partner and owner of 41.3 percent of ONEOK Partners, L.P. (ONEOK Partners). ONEOK Partners is engaged in the gathering, processing, storage, and transportation of natural gas and owns a natural gas liquids system in the Mid-Continent and Rocky Mountain regions.

³ *Kansas Power & Light Co.*, 20 FERC ¶ 62,456 (1982). The certificate was issued under section 284.222 of the Commission's regulations, which was later renumbered as the current section 284.224 of the regulations. 18 C.F.R. § 284.224 (2013).

⁴ *Kansas Power & Light Co.*, 47 FERC ¶ 61,331, *reh'g denied*, 48 FERC ¶ 61,208 (1989). Section 7(f) of the NGA authorizes the Commission to designate service areas, within which natural gas companies may enlarge or extend their facilities for the purpose of supplying increased market demands within the designated service area without further authorization. Section 7(f) service area determinations are appropriate where a natural gas company is engaged primarily in the local distribution of natural gas but is subject to the Commission's jurisdictional oversight because its facilities cross state lines. KP&L

(continued...)

5. Subsequently, in 1993, Western sold the western Missouri portion of its gas distribution properties to Southern Union Company, d/b/a Missouri Gas Energy (MGE Southern Union).⁵ After the sale, there were a small number of retail customers of Western in Kansas and Oklahoma being served from the facilities in Missouri that had been sold to MGE Southern Union, and likewise, there were certain MGE Southern Union customers in Missouri being served by Western's facilities in Kansas. Because it was not economically feasible to construct facilities to connect those few customers to the distribution facilities within their states, Western and MGE Southern Union entered into a No-Fee Gas Exchange Agreement to enable the "stranded" customers of each party to continue to receive service from the facilities of the other party which cross the border from the neighboring state.⁶ To effectuate the 1993 No-Fee Gas Exchange Agreement, the Commission issued to both Western and MGE Southern Union section 7(c) limited-jurisdiction certificates, authorizing each party to transport gas on a no-fee exchange basis to the other pursuant to the 1993 Agreement. The Commission also granted Western's request that it partially vacate the section 7(f) service area determination to the extent Western's service area determination was supplanted by the issuance of the certificate.⁷

served retail customers in Kansas, Missouri, and Oklahoma. The Commission granted KPL's request for a determination of two noncontiguous service areas, one comprising the Kansas City, Kansas metropolitan area in Kansas and western Missouri, and the other comprising certain counties to the south in Kansas, western Missouri, and Oklahoma.

⁵ Western also sold its eastern Missouri properties in Palmyra, Missouri to United Cities Gas Company, which properties were physically separate from its western Missouri properties.

⁶ Under this 1993 No-Fee Gas Exchange Agreement, the party whose stranded customers receive the transportation service from the out-of-state facilities must repay the cross-border transportation service volumes to the party providing the service by causing equivalent volumes to be delivered at no fee to an interconnection between the party providing the cross-border service and that party's serving pipeline. *See* Application at Exhibit U.

⁷ *Western Resources, Inc.*, 66 FERC ¶ 61,032 (1994). After the sale, Western no longer owned any facilities in Missouri, and the only portions of its designated service area under the section 7(f) determination in which it would continue to operate on both sides of a state line would be in Cherokee County, Kansas and Ottawa County, Oklahoma.

6. In 1997, ONEOK acquired Western's natural gas assets, and the Commission approved Western's abandonment of its certificate authorizations and the transfer of its service area determination to ONEOK.⁸ Thus, as Western's successor-in-interest, ONEOK currently holds: (1) a Part 284 blanket certificate under section 284.224 of the regulations authorizing it to provide interruptible transportation service through Kansas Gas; (2) a section 7(c) limited-jurisdiction certificate, authorizing it to conduct certain no-fee exchange transactions with Laclede Gas Company (Laclede) under the 1993 No-Fee Gas Exchange Agreement with Laclede's predecessor;⁹ and (3) a section 7(f) service area determination that applies to facilities straddling the state line between Kansas and Oklahoma in Cherokee County, Kansas and Ottawa County, Oklahoma.

II. Proposal

7. ONEOK proposes to divest itself of its retail natural gas distribution business by transferring the assets, liabilities, and operating approvals of its gas distribution business to ONE Gas, a new corporation organized under Oklahoma law, which at the completion of the reorganization, will be an independent, creditworthy, publicly traded corporation.¹⁰ After the reorganization, ONE Gas will be the sole owner and operator of the existing Kansas, Oklahoma, and Texas natural gas utility distribution divisions currently owned by ONEOK, will provide the various corporate and administrative support services to each of the three divisions that are currently being provided by ONEOK, and will continue to serve all customers currently served by ONEOK.¹¹ ONEOK will no longer be involved in the gas distribution business, but will continue as a stand-alone, publicly traded company consisting of the general partner and limited partner interests of ONEOK Partners involved in the wind-down operations for the discontinuance of ONEOK's

⁸ *Western Resources, Inc.*, 81 FERC ¶ 61,123 (1997). Prior to its acquisition of Western's natural gas assets, ONEOK had served customers in Oklahoma through its Oklahoma Natural Gas Company operating division.

⁹ Subsequent to the filing of the instant application, the Commission issued to Laclede a limited-jurisdiction certificate permitting it to succeed to MGE Southern Union's No-Fee Gas Exchange Agreement with ONEOK. See *Southern Union Company, d/b/a Missouri Gas Energy*, 144 FERC ¶ 62,027 (2013) (*MGE Southern Union*).

¹⁰ ONE Gas is presently incorporated with nominal assets as a wholly owned subsidiary of ONEOK, and will remain a subsidiary until the corporate reorganization is complete.

¹¹ The Applicants note that each natural gas distribution business will remain subject to the regulation of the state in which it is located.

energy services business.¹² The Applicants maintain that the reorganization will result in two independent, well-capitalized companies, each of which will be able to pursue more tailored strategies and more efficient capital allocation.¹³

8. The Applicants state that the reorganization will be accomplished via a multi-step process that includes a transaction in which ONEOK will transfer its natural gas distribution assets to ONE Gas, and ultimately concludes with a tax-free dividend of ONE Gas shares to existing ONEOK shareholders.¹⁴ In order to implement the transfer of the local distribution company assets from ONEOK to ONE Gas and permit ONE Gas to become the successor-in-interest to ONEOK's natural gas distribution business, the Applicants request authorization for ONEOK to: (1) abandon its section 284.224 blanket certificate authorization to provide interruptible interstate transportation service through Kansas Gas; (2) abandon its section 7(c) limited-jurisdiction certificate authorizing it to transport natural gas pursuant to the 1993 No-Fee Gas Exchange Agreement with Laclede; and (3) transfer to ONE Gas its NGA section 7(f) service area determination regarding facilities straddling the state line between Kansas and Oklahoma. The Applicants request that these abandonment authorizations become effective upon the closing of the transaction under which ONE Gas becomes the owner of ONEOK's local distribution systems (i.e., upon ONEOK's transfer or "contribution" of assets to ONE Gas).

9. The Applicants also request that ONE Gas be issued the same Part 284 blanket certificate and section 7(c) limited-jurisdiction certificate authorizations currently held by ONEOK, as well as authority for it to succeed to ONEOK's section 7(f) service area

¹² The Applicants state that ONEOK expects the wind down of its natural gas marketing services to be substantially complete by April 2014.

¹³ The Applicants also indicate that after the reorganization, ONE Gas will have a stronger financial position in several respects than that of ONEOK. *See* Application at 8 and Supplemental Exhibit 1 to Application (Affidavit of Chief Financial Officer of ONEOK).

¹⁴ For example, the transfer of gas distribution assets from ONEOK to ONE Gas will not occur until after the Applicants receive: (1) approval by the Kansas Corporation Commission (KCC) of the proposed transfer-of-assets transaction (which approval the KCC issued on December 19, 2013); (2) a favorable ruling by the Internal Revenue Service on the tax-free nature of the transaction; (3) a declaration by the Securities and Exchange Commission (SEC) that the Form 10 Registration of Securities is effective (on January 10, 2014, the SEC declared the Form 10 to be effective); and (4) approval by the New York Stock Exchange to list ONE Gas' stock on the exchange. *See* Application at 7-9 for a more detailed description of the transaction.

determination, to be effective contemporaneous with the abandonments by ONEOK, so that ONE Gas may perform the same services as ONEOK does now.

10. In addition, the Applicants request that: (1) the Commission specifically determine that the section 7(c) certificate authorizing the gas exchange transaction will not affect the non-jurisdictional status of the remainder of the natural gas distribution facilities and operations that ONE Gas will receive pursuant to the reorganization; and (2) the Commission waive the requirements of Part 154 of the Commission's regulations for as long as no fee is charged for the exchange of gas pursuant to the No-Fee Gas Exchange Agreement.

11. The Applicants state that through its three local distribution companies, ONEOK currently has firm capacity rights on twelve interstate pipelines. The Applicants request that the Commission grant a temporary waiver of: (a) certain of its capacity release regulations and the associated capacity release tariff provisions of the relevant interstate pipelines; (b) the Commission's shipper-must-have-title policy and the associated interstate pipeline tariff provisions implementing that policy; and (c) the interstate pipelines' tariff provisions requiring a successor-in-interest to the pipeline contracts to succeed to the rights and obligations under those contracts and the pipelines' tariffs (successor-in-interest provisions). The Applicants ask that the waivers take effect on the closing of the transaction transferring the local distribution assets from ONEOK to ONE Gas, for a period of six months. The Applicants assert that the requested waivers are required to allow completion of planning and implementation of the corporate restructuring until such time as ONE Gas is actually established as ONEOK's successor-in-interest to its upstream pipeline contracts at the conclusion of the reorganization process, as discussed *infra*.

III. Notice and Interventions

12. Public notice of the application was published in the *Federal Register* on October 8, 2013 (78 Fed. Reg. 61,954). Colorado Interstate Gas Co., LLC, Wyoming Interstate Co., LLC, Cheyenne Plains Gas Pipeline Co., LLC, El Paso Natural Gas Co., LLC, El Paso Electric Co., Laclede, and Panhandle Eastern Pipe Line Co. filed timely unopposed motions to intervene.¹⁵ Timely, unopposed motions are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.¹⁶ Laclede also filed comments with its motion to intervene in support of the requested authorizations. No protests or comments in opposition to the proposals were filed.

¹⁵ Panhandle Eastern Pipe Line Co. moved to intervene only in Docket No. RP13-1362-000.

¹⁶ 18 C.F.R. § 385.214 (2013).

IV. Discussion

A. Section 7(c) Certificate for Service Under No-Fee Gas Exchange Agreement

13. As noted above, in 1994 the Commission issued to both ONEOK's predecessor, Western, and MGE Southern Union section 7(c) limited-jurisdiction certificates authorizing the parties to provide service to certain of the other's customers under their 1993 No-Fee Gas Exchange Agreement. Under that agreement, MGE Southern Union agreed to provide service to certain Western retail customers in Kansas and Oklahoma from MGE Southern Union's facilities in Missouri, and Western agreed to provide service to certain MGE Southern Union retail customers in Missouri from ONEOK's facilities in Kansas. This cross-border provision of service is subject to the Commission's jurisdiction, and thus section 7(c) certificate authority was necessary to effectuate the 1993 Agreement. Subsequently, the Commission authorized Western and MGE Southern Union to abandon their certificates and issued certificates to their successors, ONEOK and Laclede, to continue to provide service to certain of the other's customers under the 1993 No-Fee Gas Exchange Agreement.

14. Due to ONEOK's proposed corporate reorganization, ONEOK requests authority to abandon by transfer to ONE Gas its section 7(c) limited jurisdiction certificate and ONE Gas requests limited-jurisdiction certificate authority to provide service in ONEOK's place under the No-Fee Gas Exchange Agreement with Laclede. Under ONEOK's planned reorganization, ONE Gas will be the sole owner of the Kansas and Oklahoma distribution systems currently owned by ONEOK, and ONEOK will no longer be involved in the gas distribution business. The proposed abandonment involves no physical changes to the facilities subject to the 1993 No-Fee Gas Exchange Agreement or their removal from service. There will be no discontinuation of service resulting from the proposed abandonment, as ONE Gas will continue to provide any service that may be required under the No-Fee Gas Exchange Agreement. Thus, the Commission finds that the proposed abandonment of ONEOK's section 7(c) limited-jurisdiction certificate authority is required by the public convenience or necessity.

15. The Applicants state that while Laclede is currently providing service under the No-Fee Gas Exchange Agreement to eleven of ONEOK's customers in Oklahoma and four of ONEOK's customers in Kansas,¹⁷ ONEOK is not providing any service to

¹⁷ Under the no-fee agreement, the eleven ONEOK customers in Ottawa and Delaware Counties, Oklahoma received a total of 3,683 Mcf in 2012, and the four customers in Wyandotte County, Kansas received a total of 5,726 Mcf in 2012. ONEOK delivered equivalent volumes of gas to Laclede at no fee. Applicants' October 15, 2013 Data Response, Questions 1 and 2.

customers of Laclede.¹⁸ Thus, at the present time, the deliveries of gas under the No-Fee Gas Exchange Agreement are only going one way, that is, to customers of ONEOK from Laclede's facilities. However, the No-Fee Gas Exchange Agreement is still in effect and specifically provides for the possibility of new customers being added to the facilities of either company in its capacity as the receiver of cross-border service.¹⁹ Therefore, while ONEOK is not presently providing service to any customers of Laclede, ONE Gas, in the future, could be called upon to provide service under the agreement to any new customers Laclede is able to add to the agreement. Thus, the Commission finds it to be in the public convenience and necessity to issue to ONE Gas, as ONEOK's successor-in-interest, a section 7(c) limited-jurisdiction certificate authorizing it to provide service pursuant to the No-Fee Gas Exchange Agreement, effective upon the closing of the transaction transferring the local distribution assets from ONEOK to ONE Gas.

16. In the prior orders related to the no-fee exchange service, the Commission determined that the certificate holders would not have their non-jurisdictional facilities and operations made subject to the Commission's jurisdiction by virtue of participation in the certificated exchange.²⁰ There is no evidence that there has been any material change in circumstances with the respect to the nature or use of the facilities since the previous authorizations were approved by the Commission that would affect their jurisdictional status. Thus, in accord with those prior orders, the Commission confirms that the certificate issued to ONE Gas will not affect the non-jurisdictional status of ONE Gas' gas distribution facilities and the remainder of the operations it will take over from ONEOK.

¹⁸ The original customers of MGE Southern Union who received gas deliveries under the No-Fee Gas Exchange Agreement ceased to be customers of MGE Southern Union a number of years ago. *See MGE Southern Union*, 144 FERC ¶ 62,027 (2013).

¹⁹ *See* October 20, 1993 No-Fee Gas Exchange Agreement Between Western Resources, Inc. and Southern Union Company d/b/a Missouri Gas Energy, Article VII (New Customers/Additional Facilities). Sections 7.01 and 7.02 set forth the process and procedure for adding new customers or making changes in the facilities subject to the agreement. Section 7.03 provides that when new customers are attached to the facilities encompassed by the agreement, such customers become affected customers subject to the agreement, and the agreement's Appendix A listing the affected customers becomes amended to include such customers.

²⁰ *See, Western Resources, et al.*, 66 FERC ¶ 61,032 (1994); *Western Resources, et al.*, 81 FERC ¶ 61,123 (1997); and *MGE Southern Union*, 144 FERC ¶ 62,027 (2013).

17. In addition, the Commission, in the prior orders noted above, waived the requirements of Part 154 of the Commission's regulations relating to the filing of rate schedules and tariffs as long as no fee would be charged in connection with the exchange service. The Commission finds it unnecessary here, as well, to subject ONE Gas to all of the regulatory requirements applicable to natural gas pipeline companies since, with the limited exception of the authorized exchange service, it will function as a local retail gas distributor through the three operating divisions it receives from ONEOK. Thus, the Commission waives the requirements of Part 154 of its regulations for as long as no fee is charged for the exchange service.

B. Part 284 Blanket Certificate

18. ONEOK, through its Kansas Gas operating division, holds a blanket certificate under section 284.224 to transport natural gas in interstate commerce to the same extent that intrastate pipelines are authorized to do under section 311 of the NGPA. ONEOK proposes to abandon its section 284.224 blanket certificate and ONE Gas requests that the Commission issue it a section 284.224 blanket certificate. The Applicants state that, no later than 30 days following the closing of the reorganization, ONE Gas will file a Notice of Name Change to revise the rate election and baseline Statement of Operating Conditions required by section 284.123 of the Commission's regulations²¹ and approved in Docket No. PR11-118-000.²²

19. Following the reorganization, ONE Gas will be the sole owner of the Kansas Gas distribution system currently owned by ONEOK, and ONEOK will no longer be involved in the gas distribution business. No change in rates for service under the blanket certificate is proposed and ONE Gas will serve the market and customers presently served by ONEOK. Therefore, the Commission finds that it is in the public convenience or necessity to grant abandonment of ONEOK's section 284.224 blanket certificate, and to issue ONE Gas a corresponding section 284.224 blanket certificate to continue service as ONEOK's successor, effective upon the closing of the transaction transferring the assets from ONEOK to ONE Gas. The Commission will require ONE Gas to file a name change to the Statement of Operating Conditions.

²¹ 18 C.F.R. § 284.123 (2013).

²² Application at 19. *See Kansas Gas Service, a division of ONEOK, Inc.*, December 7, 2011 Letter Order issued by Commission's Director of the Division of Pipeline Regulation. In 2011, in Docket No. PR11-118-000, Kansas Gas belatedly filed a rate petition to correct its failure to file a rate election and baseline Statement of Operating Conditions for the interruptible transportation it had been providing under its Rate Schedule ITt for interstate shippers since 2002. The above-cited letter order approved an uncontested settlement that resolved all issues in Docket No. PR11-118-000.

C. Section 7(f) Service Area

20. In 1997, the Commission granted ONEOK's request to be the successor-in-interest to Western's section 7(f) service area determination. This section 7(f) service area is comprised of cross-border facilities located in Cherokee County, Kansas and Ottawa County, Oklahoma. ONEOK's Kansas Gas division serves the section 7(f) service area.

21. ONEOK's corporate reorganization necessitates the transfer to ONE Gas of ONEOK's section 7(f) service area determination in order that ONE Gas may continue to provide the service now provided by ONEOK to its customers located in the service area. ONE Gas will continue to own the facilities that cross the Kansas and Oklahoma border, and there is no evidence of or proposal for material changes in the facilities or operations. Thus, the Commission finds that, effective upon the closing of the transaction transferring the local distribution assets from ONEOK to ONE Gas, the facilities and area now comprising ONEOK's section 7(f) service area will constitute an identical section 7(f) service area for ONE Gas.

D. Waiver of Commission Regulations and Pipeline Tariff Provisions

22. The corporate reorganization and divestiture of ONEOK's natural gas distribution business to ONE Gas will result in ONE Gas providing local distribution service and certificated services. That will require not only the transfer of ONEOK's assets, liabilities, and operating approvals to ONE Gas, but also the transfer or assignment to ONE Gas of the firm transportation service agreements ONEOK holds with upstream interstate pipelines, as well as ONEOK's gas supply contracts. The Applicants state that through its three local distribution companies, ONEOK currently has firm transportation capacity rights on twelve interstate natural gas pipelines.²³ The Applicants assert that each pipeline company's tariff contains a "successor-in-interest" provision requiring a successor-in-interest to either party to the contract to succeed to the obligations, as well as the rights, of the transportation contracts. The Applicants further assert that ONEOK has notified each of the pipeline companies that ONE Gas will be ONEOK's successor-in-interest and will succeed to the rights and obligations under the relevant transportation service agreements and tariffs.

23. As explained by the Applicants in their application and October 15, 2013 data responses, the reorganization process involves numerous steps of uncertain timing and the coordination of many events. The Applicants state that only at the conclusion of the reorganization process, after the distribution of the stock of ONE Gas to ONEOK's shareholders, will ONE Gas be spun off from ONEOK. In order to assure the smooth and

²³ See Application at 15. The Applicants provide information regarding the various transportation service agreements in Exhibit U of its filing.

timely implementation of the reorganization, the Applicants intend to transfer the various physical, financial, and personnel assets of ONEOK to ONE Gas and assign all of the transportation agreements and gas supply contracts from ONEOK to ONE Gas before ONE Gas is spun off from ONEOK, i.e., while it is still a wholly owned subsidiary of ONEOK.²⁴

24. To facilitate the transfer of ONEOK's transportation capacity and service agreements to ONE Gas, particularly before ONE Gas becomes a stand-alone, publicly traded company at the end of the reorganization process, the Applicants request temporary waivers of: (1) the Commission's capacity release regulations and pipeline tariff provisions implementing those regulations; (2) the shipper-must-have-title policy and the pipeline tariff provisions implementing that policy; and (3) the pipelines' successor-in-interest tariff provisions. The Applicants request that the waivers become effective upon the transfer of assets to ONE Gas and remain in effect for six months.

25. The Applicants state that the specific capacity release regulations and pipeline tariff provisions for which they are requesting waiver are the posting and bidding regulations and the provisions prohibiting tying arrangements, i.e., sections 284.8(c), (d), (e), and (f) of the Commission's regulations.²⁵ The Applicants maintain that the posting and bidding regulations and tariff provisions are designed to foster non-discriminatory access to capacity in the secondary market, and that these goals are inconsistent with a corporate restructuring and reorganization, which by its nature transfers bundles of assets together. The Applicants contend that the application of those restrictions would inhibit the assignment of the transportation contracts from ONEOK to ONE Gas.

26. The Applicants state that they are seeking a waiver of the Commission's shipper-must-have-title policy and the pipeline tariff provisions implementing that policy because the transfer of the transportation service agreements and the gas supply agreements to

²⁴ As the Applicants expect that the Commission will have issued the requested abandonment and certificate authorizations before the transfer of assets and assignment of contracts, the Applicants anticipate that ONE Gas will begin providing service under the new certificates and commencing transportation under the assigned pipeline contracts while it is still a wholly owned subsidiary of ONEOK, before it is the actual successor-in-interest to the contracts under the pipelines' successor-in-interest tariff provisions. *See* Applicants' October 15, 2013 Data Response to Question 4.

²⁵ The Applicants identify sections 284. 8(c), (d), (e), and (f) of the Commission's regulations as those for which waiver is requested. 18 C.F.R. §§ 284.8(c), (d), (e) and (f) (2013). Applicants' October 15, 2013 Data Response to Question 6.

ONE Gas may not occur with precise simultaneity²⁶ or, if there is a match, securing the required consents to both transactions may not match temporarily. The Applicants seek to avoid an unintentional technical violation of the shipper-must-have-title policy and tariff provisions by seeking a limited waiver.

27. The Applicants also request waiver of the pipelines' successor-in-interest tariff provisions to the extent these provisions only permit ONE Gas to succeed to the rights and obligations of ONEOK once ONE Gas becomes an independent corporate entity.²⁷ Without the waivers, the Applicants contend that these provisions could interfere with the transfer of the service agreements to ONE Gas, and ONE Gas' commencement of transportation under the agreements (once it receives ONEOK assets), while ONE Gas is still a subsidiary of ONEOK.

28. The Commission has granted similar waivers of policies and regulations concerning the transfer of interstate pipeline transportation capacity in order to facilitate the assignment of natural gas transportation and supply contracts as part of a larger transaction in which other assets are also being transferred as a result of various types of corporate restructurings, including corporate mergers and sales of entire business units.²⁸ The waivers requested here will enable ONEOK to assign its upstream pipeline transportation service agreements and supply contracts to ONE Gas without problems or delay once the gas distribution assets have been transferred to ONE Gas and will thereby ensure uninterrupted access to natural gas for customers of ONEOK after ONE Gas takes ownership of the local distribution business. In addition, the Commission notes that none of the upstream pipelines with whom ONEOK has contracts for capacity objects to the proposed waiver. Thus, the Commission grants temporary waiver of the capacity release regulations in Sections 284.8 of the Commission's regulations, the shipper-must-have-title policy, the prohibitions on buy-sell arrangements and tying arrangements, and the restrictions on capacity releases below or above the maximum rate. The Commission also grants temporary waiver of the affected pipelines' successor-in-interest tariff provisions, in order that ONE Gas be deemed the successor-in-interest to all, or

²⁶ *Id.*

²⁷ See Applicants' October 15, 2013 Data Response to Question 6.

²⁸ See, e.g., *Atmos Energy Corp.*, 140 FERC ¶ 61,073 (2012); *Iberdrola Renewables, Inc.*, 138 FERC ¶ 61,201 (2012); *Societe Generale Energy Corp.*, 138 FERC ¶ 61,137 (2012); *Duke Energy Ohio, Inc., et al.*, 134 FERC ¶ 61,230 (2011); *EnergyMark, LLC and Constellation NewEnergy – Gas Division, LLC*, 130 FERC ¶ 61,059 (2010); and *Macquarie Cook Energy, LLC and Constellation Energy Commodities Group, Inc.*, 126 FERC ¶ 61,160 (2009).

substantially all, of the natural gas business that ONEOK conducted under the firm transportation service agreements identified in Exhibit U upon the transfer of assets from ONEOK to ONE Gas, as requested by the Applicants.

29. The waivers granted herein are effective upon the closing of the transfer of the gas distribution assets from ONEOK to ONE Gas, and will remain in effect for six months.²⁹ In addition, the Applicants may use the waivers only for the limited purpose of facilitating and completing the corporate reorganization described in their application. The Commission will continue to evaluate waiver requests on a case-by-case basis and will grant any necessary waivers based on a balancing of the facts and circumstances in each case with the purposes underlying particular regulations and policies.³⁰

E. Environmental Review

30. Environmental review of the proposals herein under Part 380 of the Commission's regulations confirms that the proposals would have no environmental impact, since no facilities are proposed to be constructed or abandoned in this application.

31. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, as supplemented, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) Permission for and approval of ONEOK's proposed abandonment of its certificate authorizations and the transfer of its NGA section 7(f) service area determination, as described herein and in the application, as supplemented, are granted.

(B) ONEOK shall notify the Commission within 10 days of the abandonment.

²⁹ The Applicants must notify the Commission of the closing date of the transaction in which ONEOK's assets are transferred, or contributed, to ONE Gas.

³⁰ See *Request for Clarification of Policy Regarding Waivers of Applicable Requirements to Facilitate Integrated Transfers of Marketing Businesses*, 127 FERC ¶ 61,106, at P 10 (2009).

(C) A limited-jurisdiction certificate of public convenience and necessity under NGA section 7(c) is issued to ONE Gas, authorizing the transportation of gas between ONE Gas and Laclede on a no-fee exchange basis, as more fully described herein and in the application, as supplemented.

(D) The Commission's Part 154 filing requirements are waived for ONE Gas, for as long as no fee is charged for the above-authorized exchanges.

(E) The certificate issued in Ordering Paragraph (C) above is conditioned upon ONE Gas' compliance with all applicable Commission regulations and in particular with subsections (a) and (e) of section 157.20 of the Commission's regulations. The limited-jurisdiction certificate will not affect the non-jurisdictional status of the remainder of ONE Gas' gas distribution facilities and operations received from ONEOK.

(F) A blanket certificate of public convenience and necessity is issued under section 284.224 of the Commission's regulations authorizing ONE Gas to engage in the transportation of natural gas that is subject to the Commission's NGA jurisdiction to the same extent and in the same manner that intrastate pipelines are authorized to engage in such activity by subparts C and D of Part 284 of the Commission's regulations.

(G) The certificate issued in Ordering Paragraph (F) above, and the rights granted thereunder, are conditioned upon ONE Gas' compliance with all applicable Commission regulations under the NGA and in particular with the general terms and conditions set forth in subsections (a) and (e) of section 157.20 of the Commission's regulations. Further, the authorization granted herein is also subject to all the terms and conditions in section 284.224 of the Commission's regulations.

(H) Within 30 days of the date of this order, ONE Gas must file a Notice of Name Change related to ONEOK's existing Statement of Operating Conditions. ONE Gas is reminded that it must make all subsequent Statement of Operating Conditions and Statement of Operating Conditions-related filings electronically using eTariff.³¹

(I) ONE Gas' acquisition and use of ONEOK's section 7(f) service area determination is approved, as discussed in the body of this order.

(J) Temporary, six-month waivers, as discussed in the body of this order, are granted of the Commission's capacity release regulations in section 284.8 and the upstream pipeline tariff provisions implementing those regulations, the shipper-must-have-title policy and the pipeline tariff provisions implementing that policy, the

³¹ *Electric Tariff Filings*, 130 FERC ¶ 61,228, at P 7 (2010) (Order Establishing Baseline Filing Schedule Starting April 1, 2010).

prohibitions on buy-sell and tying arrangements, the restrictions on capacity releases below or above the maximum rate, and the pipelines' successor-in-interest tariff provisions.

(K) The authorizations granted above and in the body of this order, including the abandonment and certificate authorizations and the grant of waivers in Ordering Paragraph (J), are effective upon the closing of the transaction transferring the subject local distribution assets from ONEOK to ONE Gas.

(L) ONE Gas must report to the Commission the closing date of the transfer of assets from ONEOK to ONE Gas within 10 days of the date of the closing.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.