

151 FERC ¶ 61,007
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
Norman C. Bay, and Colette D. Honorable.

ANR Pipeline Company

Docket No. CP15-21-000

ORDER GRANTING ABANDONMENT AND ISSUING CERTIFICATE

(Issued April 2, 2015)

1. On December 1, 2014, ANR Pipeline Company (ANR) filed an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations, requesting authorization to abandon, construct, and operate compressor and appurtenant facilities at its existing LaGrange Compressor Station in LaGrange County, Indiana (LaGrange Horsepower Replacement Project).
2. For the reasons discussed below, the Commission will grant the requested authorizations, subject to certain conditions.

I. Background and Proposal

3. ANR is a corporation organized and existing under the laws of the State of Delaware and is a natural gas company, as defined by section 2(6) of the NGA.² It is engaged in the business of transporting and storing natural gas in interstate commerce. ANR operates approximately 9,400 miles of interstate pipeline, extending from Texas and Oklahoma, as well as southern Louisiana, to points in Wisconsin and Michigan.

¹ 15 U.S.C. §§ 717f(b) and 717f(c) (2012).

² 15 U.S.C. § 717a(6) (2012).

4. ANR proposes to abandon a 12,000 horsepower (hp) reciprocating unit (the Z330 Unit) at its LaGrange Compressor Station in LaGrange County, Indiana,³ and replace it with a new 13,220 hp (ISO rated) Solar Mars 100 turbine unit and appurtenant facilities. ANR states that the Z330 Unit was installed in 1973, is outdated, and must be replaced in order for ANR to maintain and ensure system reliability to its customers. ANR states that the appurtenant facilities to be installed include, but are not limited to, a suction pipe, filter separator, turbine-compressor, gas cooler, discharge piping, vent silencer, yard piping, and compressor and control buildings.

5. ANR proposes to install the new compressor unit in a new building located entirely on its property immediately adjacent to the existing LaGrange Compressor Station. ANR avers that the new building is necessary because the proposed compressor unit cannot be installed in the existing building without major demolition and redesign of the existing building. ANR states that the LaGrange Compressor Station's fencing will be extended to incorporate the new building into the existing station yard. ANR estimates that the cost of the LaGrange Horsepower Replacement Project will be \$43,373,000.

6. ANR states that while the new Solar Mars 100 unit is ISO rated at 13,220 hp, it will modify the unit to operate at the site rating of 12,000 hp. ANR contends that it selected the Solar Mars 100 unit to standardize unit type across the "ANR fleet of compressor engines." ANR asserts that its proposals will not result in an increase in certificated horsepower or pipeline capacity, nor will it result in a reduction or abandonment of service, capacity, or horsepower.

7. ANR also requests that the Commission make a predetermination that it may roll the costs of the LaGrange Horsepower Replacement Project into its existing system rates in its next general NGA section 4 rate proceeding.

II. Notice and Interventions

8. Notice of ANR's application was published in the *Federal Register* on December 22, 2014 (79 Fed. Reg. 76,313). The parties listed in Appendix A filed timely, unopposed motions to intervene.⁴ No party protested ANR's application.

³ The LaGrange Compressor Station is located along ANR's 22-inch diameter Mainline 504 and its 24-inch diameter Loop Line 504-1. See Exhibit F to ANR's application.

⁴ 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 (2014).

III. Discussion

9. Because the facilities to be abandoned, constructed, and operated are used to transport natural gas in interstate commerce subject to the Commission's jurisdiction, 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.⁵

The Abandonment Proposal

10. ANR proposes to abandon the existing compressor unit and replace it with a new compressor unit that will be operated at equivalent capacity but is more efficient. As explained by ANR, there will be no diminution in the level or quality of service to existing customers. Thus, the Commission finds that the proposed abandonment is permitted by the public convenience or necessity.

The Certificate Proposal

A. Application of the Certificate Policy Statement

11. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.⁶ It establishes 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 natural gas 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.

12. 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

⁵ 15 U.S.C. §§ 717f(b), 717f(c), and 717f(e) (2012).

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

have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the construction. 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.

13. 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. The Certificate Policy Statement provides that it is not a subsidy for existing customers to pay for projects designed to improve existing service or the reliability of that service.⁷ The LaGrange Horsepower Replacement Project will replace an out-of-date compressor unit with a new unit that will provide greater reliability. Under these circumstances, the Commission finds that it is appropriate to allow ANR to recover the project's costs from existing customers.

14. The Commission finds that the proposal will not degrade service to ANR's existing customers. Further, other pipelines and their customers will not be adversely affected because the proposed project is not designed to replace existing service on other pipelines. In addition, no other pipeline has protested the application.

15. All of the proposed facilities will be constructed on ANR's property adjacent to the existing fence line of the LaGrange Compressor Station. Thus, the Commission finds that ANR has designed the proposed project to minimize adverse impacts on landowners and communities.

16. Based on the benefits the project will provide to ANR's customers, the lack of adverse effects on customers, other pipelines and their captive customers, and landowners and surrounding communities, the Commission finds, consistent with the Certificate Policy Statement and section 7 of the NGA, that the public convenience and necessity requires approval of ANR's proposal, subject to the conditions discussed below.

B. Rates

17. There will be no additional increment of service associated with the proposed LaGrange Horsepower Compressor Station Project; therefore, there is no need to establish initial recourse rates applicable to such service. ANR requests that the

⁷ *Certificate Policy Statement*, 88 FERC ¶ 61,227 at n.12.

Commission make a predetermination that it may roll the costs associated with the project into its existing system rates in its next general NGA section 4 rate proceeding, absent a change in circumstances. As noted above, the Certificate Policy Statement recognizes that it does not constitute a subsidy for existing customers to pay the costs of a project designed to improve reliability of existing services.⁸ Here, the new compressor unit and appurtenant facilities will ensure greater reliability of service for ANR's existing customers. Thus, the Commission will grant ANR's request for a predetermination that the costs of the project may be rolled into ANR's rates in its next section 4 general rate case, absent a significant change in circumstances.

C. Environmental Analysis

18. To satisfy the requirements of the National Environmental Policy Act of 1969, Commission staff prepared an environmental assessment (EA) for ANR's proposal. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives. The EA was placed into the public record on March 11, 2015.

19. Based on the analysis in the EA, the Commission concludes that if constructed and operated in accordance with ANR's application, as supplemented, and in compliance with the environmental conditions in Appendix B to this order, approval of this project would not constitute a major federal action significantly affecting the quality of the human environment.

20. 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 local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.⁹

⁸ *Certificate Policy Statement*, 88 FERC ¶ 61,227 at n.12. See, e.g., *Southeast Supply Header, LLC*, 148 FERC ¶ 61,120, at P 22 (2014).

⁹ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Comm'n*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

21. 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, and all comments submitted, and upon the consideration of the record,

The Commission orders:

(A) ANR is granted authority under NGA section 7(b) to abandon the Z330 Unit and related appurtenant facilities at the LaGrange Compressor Station, as more fully described above and in the application.

(B) A certificate of public convenience and necessity is issued authorizing ANR to construct and operate compressor and appurtenant facilities, as described and conditioned herein and as more fully described in the application.

(C) The certificate authority granted in Ordering Paragraph (B) is conditioned on ANR:

(1) completing the authorized construction of the proposed facilities and making them available for service within one year of the issuance of this order pursuant to section 157.20(b) of the Commission's regulations.

(2) complying with all applicable Commission regulations under the NGA including, but not limited to, Parts 154 and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations.

(3) complying with the environmental conditions in Appendix B to this order.

(D) ANR's request for a predetermination supporting rolled-in rate treatment for the costs associated with the LaGrange Horsepower Replacement Project in ANR's next general NGA section 4 rate proceeding is granted, barring a significant change in circumstances, as discussed in the body of the order.

(E) ANR 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 ANR. ANR shall file

written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A

Interventions

Atmos Energy Marketing, LLC

DTE Gas Company

Indiana Gas Company, Inc. (d/b/a Vectren Energy Delivery of Indiana, Inc.)

Integrus Gas Group (Michigan Gas Utilities Corporation, North Shore Gas Company,
The Peoples Gas Light and Coke Company, and Wisconsin Public Service Corporation)

Northern Illinois Gas Company (d/b/a Nicor Gas Company)

Appendix B
Environmental Conditions

As recommended in the environmental assessment (EA), this authorization includes the following conditions:

1. ANR Pipeline Company (ANR) 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 EA, unless modified by the Order. ANR must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission;
 - 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 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**, ANR shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), 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 location 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**, ANR 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 the facility approved by the Order. All requests for modifications of

environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

5. ANR 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, 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* and/or 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 the authorization and before construction begins**, ANR shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. ANR must file revisions to the plan as schedules change. The plan shall identify:
 - a. how ANR 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 Order;
 - b. how ANR 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, 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 location and dates of the environmental compliance training and instructions ANR 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 ANR's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) ANR will follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (i) the completion of all required surveys and reports;
 - (ii) the environmental compliance training of onsite personnel;
 - (iii) the start of construction; and
 - (iv) the start and completion of restoration.
7. ANR shall employ at least one EI during construction. The EI shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the Order and other grants, permits, certificates, or other authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
 - d. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - e. responsible for maintaining status reports.
8. Beginning with the filing of its Implementation Plan, ANR 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 ANR's efforts to obtain the necessary federal authorizations;

- b. the 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 EI(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. 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 Order, and the measures taken to satisfy their concerns; and
 - g. copies of any correspondence received by ANR from other federal, state, or local permitting agencies concerning instances of noncompliance, and ANR's response.
9. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, ANR shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. **Within 30 days of placing the authorized facilities in service**, ANR shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed and abandoned in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the conditions in the Order ANR 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.
11. ANR shall conduct noise surveys at the LaGrange Compressor Station to verify that the noise from all the equipment operated at full power load does not exceed the existing noise levels above a day-night sound level (Ldn) of 55 decibels on the A-weighted scale (dBA) at the nearby noise sensitive areas (NSAs). The results of the noise surveys shall be filed with the Secretary **no later than 60 days** after placing the new compressor unit in service. If a full load condition noise survey is not possible, ANR shall provide an interim survey at the maximum possible horsepower load and provide the full load survey **within six months**. If the noise attributable to the operation of the modified compressor station at full or interim

power load conditions exceeds existing noise levels at any nearby NSAs that are currently at or above an Ldn of 55 dBA, or exceeds an Ldn of 55 dBA at any nearby NSAs that are currently below 55 dBA Ldn, ANR shall file a report on what changes are needed and shall install the additional noise controls to meet the level **within one year** of the in-service date. ANR 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.