

168 FERC ¶ 61,004
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur and Richard Glick.

RH energytrans, LLC

Docket No. CP18-6-001

ORDER AMENDING CERTIFICATE

(Issued July 2, 2019)

1. On April 10, 2019, RH energytrans, LLC (RH energytrans) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations² to amend the certificate of public convenience and necessity issued on December 7, 2018, authorizing RH energytrans to construct and operate a new interstate natural gas pipeline in Crawford and Erie Counties, Pennsylvania, and Ashtabula County, Ohio (Risberg Line Project).³ RH energytrans proposes to revise its initial recourse rates to reflect an updated cost of service for the project and to reflect changes directed by the Commission in the Certificate Order. The Commission approves the requested amendment.

I. Background

2. The Certificate Order authorized RH energytrans to construct and operate the Risberg Line Project to provide up to 55,000 dekatherms (Dth) per day of firm transportation service to markets in northeast Ohio. Specifically, RH energytrans was authorized to acquire and convert certain existing pipeline and compression facilities and to construct additional pipeline, compression, and auxiliary facilities. In the Certificate Order, the Commission reviewed RH energytrans's first-year cost of service and determined that, with certain exceptions, it reflected current Commission policy.

3. The Commission found that RH energytrans's proposal to include the acquired existing pipeline and compressor facilities in rate base at their "fair market value," rather

¹ 15 U.S.C. § 717f(c) (2012).

² 18 C.F.R. pt. 157 (2018).

³ *RH energytrans, LLC*, 165 FERC ¶ 61,218 (2018) (Certificate Order).

than original cost less accumulated depreciation, was contrary to Commission policy. The Commission directed RH energytrans to remove the acquisition adjustment (the amount in excess of the facilities' depreciated original cost) from its ratemaking calculations.⁴

4. In addition, the Commission directed RH energytrans to revise its methodology for calculating its allowance for funds used during construction (AFUDC).⁵ In order to ensure that the amounts of AFUDC are properly capitalized, the Commission required RH energytrans to capitalize the actual costs of borrowed and other funds for construction, not to exceed the amount of debt and equity AFUDC capitalized based on the approved overall rate of return.

5. Lastly, in response to data requests regarding the Tax Cuts and Jobs Act⁶ and the Commission's Revised Policy Statement on Treatment of Income Taxes,⁷ RH energytrans indicated that it would elect to be taxed as a corporation. The Commission determined that it would permit RH energytrans to include an income tax allowance in its cost of service if RH energytrans filed a written statement affirming such when it filed its actual tariff records setting forth the initial rates for service.⁸ The Commission would require RH energytrans to recalculate its rates to remove the proposed income tax allowance and related provisions for accumulated deferred income taxes from its cost of service should it fail to file a written statement before it filed actual tariff records.

II. Proposal

6. RH energytrans states that when it filed the original certificate application, it included a good faith estimate of the Risberg Line Project costs, developed prior to construction and before final contractor pricing had been established. RH energytrans proposes to revise its cost estimates for the construction of the Risberg Line Project to reflect actual contractor pricing and other cost increases due to delay fees and unanticipated construction costs. RH energytrans also revised its construction costs to eliminate the acquisition adjustment associated with the acquired facilities and to modify

⁴ *Id.* PP 40–43.

⁵ *Id.* P 94.

⁶ Pub. L. No. 115-97, 131 Stat. 2054 (2017).

⁷ *Inquiry Regarding the Commission's Policy for Recovery of Income Tax Costs*, 162 FERC ¶ 61,227, *order on reh'g*, 164 FERC ¶ 61,030 (2018) (Revised Policy Statement).

⁸ Certificate Order, 165 FERC ¶ 61,218 at P 46.

its calculation of AFUDC, as required by the Certificate Order. RH energytrans now estimates construction costs of \$94,112,303, an increase from \$87,922,628, proposed in its original application.⁹ In addition, because RH energytrans has elected to be taxed as a partnership, rather than a corporation, it removed its allowance for income taxes and related provisions for accumulated deferred income taxes from its cost of service.

7. The net result of these adjustments is a revised first-year cost of service of \$13,653,378, a decrease from the \$16,078,597 proposed in its original application. RH energytrans does not propose to change any other cost factors used to derive its recourse rates, as approved in the Certificate Order.

8. In light of these adjustments, RH energytrans proposes to revise its initial recourse reservation rate for firm transportation service under Rate Schedule FTS and its initial recourse rate for interruptible transportation service under Rate Schedule ITS.¹⁰ RH energytrans proposes to decrease its maximum reservation charge from \$0.7819 per Dth per day to \$0.6635 per Dth per day. RH energytrans's maximum daily reservation charge reflects a straight fixed-variable cost classification and rate design, a revised first-year cost of service of \$13,320,310,¹¹ and annual reservation design determinants of 20,075,000.¹²

⁹ The adjustments to gas plant includes cost reductions for the elimination of the acquisition adjustment (\$10,355,249), engineering (\$446,948), survey (\$265,600), and materials (\$531,216) and cost increases for final contract negotiations and delay fees (\$9,408,757), environmental and safety and wetland measures (\$3,807,250), AFUDC (\$447,371), and other construction cost increases and contingency (\$4,125,310), for a net increase of \$6,189,675. See RH energytrans April 30, 2019 Data Response.

¹⁰ RH energytrans proposes no change to its \$0.0120 per Dth usage charge for firm service under Rate Schedule FTS or to its one percent initial rate for fuel and lost and unaccounted-for gas.

¹¹ To ensure compliance with the Commission's policy requiring new pipelines to allocate costs to interruptible services or credit revenues generated by these services to maximum rate shippers, RH energytrans allocated two percent, or \$273,068, of its cost of service to interruptible services. See, e.g., *Transcontinental Gas Pipe Line Corp.*, 78 FERC ¶ 61,057, at 61,209–10 (1997). RH energytrans also classified \$60,000 as variable costs to be recovered in the usage charge.

¹² RH energytrans based the annual reservation design determinants on the project's daily design capacity of 55,000 Dth per day multiplied by 365.

9. For interruptible service under Rate Schedule ITS and authorized overrun service, RH energytrans proposes to decrease the maximum rate from \$0.7939 per Dth to \$0.6755 per Dth based on the 100 percent load factor equivalent of its firm rate.

III. Notice, Interventions, and Comments

10. Notice of RH energytrans's application was published in the *Federal Register* on April 11, 2019, with interventions and comments due by May 1, 2019.¹³ No motions to intervene or comments were filed.

IV. Discussion

11. Because revising the initial recourse rates requires amending the authorization issued in the Certificate Order, RH energytrans's requests are subject to the Commission's jurisdiction and the requirements of NGA sections 7(c) and (e).¹⁴

12. The Certificate Order approved the Risberg Line Project in accordance with the Commission's Certificate Policy Statement¹⁵ and found that the project would not result in subsidization from existing customers. The order further found that RH energytrans's proposal was required by the public convenience and necessity. RH energytrans's proposal to revise its initial recourse rates does not alter this finding.

13. In this proceeding, RH energytrans filed amended Exhibits K, N, and P to support its revised cost of service for the Risberg Line Project. RH energytrans has provided satisfactory explanations for the increased construction costs, and no prospective customers on RH energytrans's system have protested the revised construction costs. In addition, the Commission finds that RH energytrans's elimination of its acquisition adjustment, adjustment to its AFUDC calculation, and elimination of its allowance for income taxes and related provisions for accumulated deferred income taxes satisfy the conditions of the Certificate Order.

14. For these reasons, the Commission will approve RH energytrans's proposed revised initial rates for firm and interruptible transportation service under Rate Schedules FTS and ITS for the Risberg Line Project.

¹³ 84 Fed. Reg. 16,010 (2019).

¹⁴ 15 U.S.C. § 717f(c), (e).

¹⁵ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

15. RH energytrans is directed to file actual tariff records to implement the initial rates for the Risberg Line Project as approved in the Certificate Order and amended herein no less than 30 days prior to the date of commencement of interstate service consistent with Part 154 of the Commission's regulations.

16. This order does not authorize any additional construction beyond what was authorized by the Certificate Order. Accordingly, the Commission's action herein qualifies for the categorical exclusion from the need for environmental review set forth in section 380.4(a)(27) of the Commission's regulations.¹⁶

17. 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 and upon consideration of the record,

The Commission orders:

(A) RH energytrans's request to amend the Certificate Order is granted, as discussed in this order. In all other respects, the Certificate Order is unchanged.

(B) Revised initial rates for Rate Schedule FTS and ITS are approved, as discussed in the body of this order.

(C) RH energytrans shall file actual tariff records to implement the initial rates for the Risberg Line Project as approved in the Certificate Order and amended herein no less than 30 days prior to the date of commencement of interstate service, as discussed in the body of this order.

By the Commission. Commissioner McNamee is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.

¹⁶ 18 C.F.R. § 380.4(a)(27) (2018).