

137 FERC ¶ 61,091  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
and Cheryl A. LaFleur.

Northern Natural Gas Company  
Southern Natural Gas Company  
Florida Gas Transmission Company, LLC  
Transcontinental Gas Pipe Line Company, LLC  
Enterprise Field Services, LLC

Docket No. CP10-82-001

ORDER DENYING REHEARING

(Issued October 28, 2011)

1. On April 21, 2011, the Commission denied a request by Northern Natural Gas Company (Northern), Southern Natural Gas Company (Southern), Florida Gas Transmission Company, LLC, Transcontinental Gas Pipe Line Company, LLC, and Enterprise Field Services, LLC (collectively, Applicants) for authorization to abandon their jointly-owned facilities collectively known as the Matagorda Offshore Pipeline System (MOPS) and the services provided on those facilities.<sup>1</sup> Northern (on its own behalf and on behalf of the other joint owners of MOPS), and Southern (separately) filed timely requests for rehearing of the April 21 Order. For the reasons set forth below, we are denying the requests for rehearing.

**Background**

2. MOPS currently consists of approximately 67 miles of jurisdictional and 20 miles of non-jurisdictional pipeline and other facilities located offshore in Texas state and federal waters, and onshore in Refugio and Calhoun Counties, Texas. The jurisdictional portion of the MOPS facilities begins in federal waters offshore Texas at Matagorda Island Block (MAT) 686 and continues downstream to onshore interconnects with other pipelines in Refugio County, Texas. Included in the 67 miles of jurisdictional pipeline is a 10-mile long, 10-inch diameter lateral, wholly-owned by Southern, that connects with the 24-inch diameter MOPS mainline in MAT 665.

---

<sup>1</sup> *Northern Natural Gas Co.*, 135 FERC ¶ 61,048 (2011) (April 21 Order).

3. In support of their proposals to abandon MOPS, the applicants stated that: (1) the MOPS facilities were underutilized and uneconomic to operate; (2) throughput has declined significantly in recent years and is expected to continue to decline because MOPS gas supplies originate from a mature production area experiencing significantly declining production with no prospect for substantial new production; (3) the MOPS facilities have experienced a series of corrosion-related integrity issues resulting in service outages and higher maintenance expenses; and (4) they have made good faith attempts to sell the MOPS facilities to producer/shippers or other third parties, and attempted to negotiate rates that would recover their costs without success.

4. In their protests to the proposed abandonment, shippers on MOPS contended that abandoning the facilities, as Northern proposed, would shut in the natural gas production of numerous small producers in the Gulf of Mexico. They asserted that there are over 60 Bcf of gas reserves connected to the MOPS facilities for which there are no viable transportation alternatives.

5. In the April 21 Order, the Commission explained that in evaluating proposals for abandonment of facilities and service it weighs the claimed benefits of the abandonment against any detriments. The April 21 Order also held that while the Commission is sensitive to the economic realities faced by pipelines, there is a presumption in favor of continued certificated service.

6. The Commission found that the applicants had not adequately supported their contention that the available supply of natural gas is depleted to the extent that the continuance of service over the MOPS facilities is unwarranted, nor did they show that there are readily-accessible transportation alternatives available to current shippers. The Commission also found that the applicants had not shown that MOPS is unsafe to operate, nor had they demonstrated that operational problems have been significantly increased by internal corrosion or that routine procedures have not been successful in preventing corrosion.

7. The Commission acknowledged that absent an increase in revenue, Northern is at risk of operating MOPS with a negative cash flow. The Commission found, however, that there are steps short of abandonment that Northern can take to remedy this situation, explaining that, in the absence of Northern and its shippers agreeing to negotiated rates, the appropriate forum for determining what rates are necessary to recover costs is a Natural Gas Act (NGA) section 4 rate case. The Commission stated that, if, after an appropriate rate for service on MOPS is established, giving full consideration to the costs of operating the facilities and the level of throughput, the MOPS shippers do not value the service sufficiently to take it at that rate, Northern could present that fact in support of a renewed application for abandonment.

### **Rehearing Requests**

8. Southern contends that the Commission erred in finding that there is a presumption under the NGA favoring continuation of transportation service by a certificated pipeline. Southern states that, while there was such a presumption in the past, the Commission has recognized in a recent proceeding that an application by an interstate pipeline to abandon transportation or storage service today under the Commission's open-access policies "generally does not raise the same concerns" as in the past.<sup>2</sup> Southern argues that open-access transportation has made MOPS less economically viable, and this should be more closely examined in the context of determining whether or not the proposed abandonment is appropriate.

9. Northern contends that in denying the request for abandonment the Commission did not give appropriate consideration to the evidence of low and declining throughput on MOPS, and based its decision on wholly speculative and unsupported estimates of what could be produced in the future. Noting that current throughput on MOPS is only approximately six percent of design capacity, Northern asserts that the Commission did not provide any rational explanation for its requirement that Northern continue service. Northern questions shippers' claims regarding the volume of future reserves, and contends that, even if they exist, there is no assurance that these reserves would actually be produced or connected to MOPS. Northern states that the number of new wells and the amount of new production are both too small to compensate for the decline in production from existing wells, and that several platforms with reserves already attached have been abandoned in recent years. Northern states that evidence of current low throughput, the past decline in throughput, and the forecasted decline in future production demonstrate that abandonment is warranted.

10. Southern adds that even if the MOPS shippers were able to produce the 60 Bcf of additional reserves that they estimate, this volume would equate to a deliverability rate of just under 17,000 Dth a day over the next 10 years, a utilization rate of only four percent of the MOPS design capacity. Southern questions the Commission's suggestion that MOPS shippers might have been reluctant to invest in new production because of uncertainty of continued service, contending that from 2003 to 2008 when gas prices were considerably higher than at the present time, and before the subject of abandonment was raised, the MOPS shippers did not develop significant new reserves to attach to MOPS. From this, Southern concludes that the reluctance to add new production is more likely the result of rapidly declining recoverable reserves, making additional investment uneconomical.

11. Northern also claims that the Commission ignored what it calls the MOPS shippers' total lack of commitment to the MOPS facilities since the shippers have entered into no firm contracts for transportation service on MOPS or otherwise pledged

---

<sup>2</sup> *Transcontinental Gas Pipe Line Co.*, 134 FERC ¶ 61,238 (2011) (*Transco*).

themselves to any level of throughput on the facilities. The fact that shippers will make no commitment to MOPS, Northern asserts, by itself demonstrates that the Commission should have authorized their abandonment. Southern asserts that, instead of entering into firm transportation contracts under which MOPS has the assurance of recovering its costs, the MOPS shippers prefer to pay for service on an interruptible basis, thus paying interruptible rates rather than demand charges, because there is no risk of a shortage of capacity.

12. Northern alleges that the Commission erred in not giving appropriate weight to Northern's contention that new pipeline facilities could be constructed to existing pipelines as a partial alternative to continuing a service on MOPS. The Commission, it says, should have conducted a cost analysis comparing the costs of maintaining the aging MOPS with the costs of constructing new pipeline facilities. In any event, Northern asserts, the Commission unreasonably focused on the gas volumes that will have no transportation alternative to MOPS in the event the facilities are abandoned rather than the volumes that will be able to be connected to other systems for transportation. Northern contends that it was not reasonable for the Commission to require that it continue to operate facilities for such a small percentage of the overall design capacity of MOPS. Northern notes that producers abandon wells before they are totally depleted, asserting that Apache Corporation (Apache) recently decommissioned a platform which had remaining proven reserves.

13. Northern contends that the Commission has inappropriately disregarded the risks of a corrosion-related leak or rupture on MOPS. The Commission, it asserts, appears to suggest that abandonment will be appropriate only after MOPS experiences a possibly serious event instead of recognizing that Northern's abandonment request is a proactive step to avoid unnecessary expense and potential harmful environmental consequences from such damage to its pipeline. Northern claims that the Commission has not properly balanced this risk against the existing low gas flows over the pipeline system. The Commission, it contends, has provided no guidance concerning when an operation would become so costly and risky that abandonment would be authorized. Southern asserts that the applicants presented ample evidence to show that operational problems on MOPS have been significantly increased by internal corrosion.

14. Northern asserts that the Commission's suggestion that the applicants file an NGA section 4 rate case does not resolve the uneconomic operation of MOPS. Northern alleges that, because MOPS throughput is constantly declining, the Commission is, in effect, requiring it to engage in a series of time-consuming and expensive rate proceedings, unless the Commission, in view of the unique situation of MOPS, would consider a limited, rather than a system-wide, rate proceeding focused on MOPS.<sup>3</sup>

---

<sup>3</sup> Northern has separately stated rates applicable to service on the MOPS facilities. Northern's FERC NGA Gas Tariff, Gas Tariffs, Sheet No. 51, Currently Effective Rates TFX and LFT, 2.0.0 and Sheet No. 52, Currently Effective Rates TI, 1.0.0.

15. Southern contends that filing a section 4 rate case is not an appropriate or efficient mechanism for addressing the trend toward negative cash flow operation that the applicants have experienced. With respect to its interest in MOPS, Southern asserts that the MOPS costs are part of Southern's total transmission cost of service and are not segregated for rate design purposes from Southern's other transmission costs. Southern contends that the Commission's finding that Southern's customers are not impacted by the cost of the MOPS facilities and do not subsidize the cost of the MOPS facilities is not correct. Southern asserts that mainline Southern customers, not only the MOPS shippers, are absorbing the deficiency in recovery of Southern's operating costs of MOPS, as Southern's existing rates are not designed to segregate recovery for the MOPS facilities. Southern contends that, if Southern's costs were segregated and the rates designed to apply to MOPS transportation only, the transportation rate would increase by over 900 percent. Because it is unclear that the MOPS shippers would pay such increased rates, Southern asserts that requiring applicants to file a rate case to establish segregated rates in order to support a new application for abandonment would be an exercise in futility.

### **Commission Response**

16. The courts have explained that, in considering the criteria for abandonment under section 7(b), two important principles apply: (1) a pipeline which has obtained a certificate of public convenience and necessity to serve a particular market has an obligation, deeply embedded in the law, to continue to serve; and (2) the burden of proof is on the applicant to show that the public convenience or necessity permits abandonment, that is, that the public interest will in no way be disserved by abandonment.<sup>4</sup>

17. Southern contends that the Commission has determined that the presumption in favor of continued service no longer has validity under the Commission's open-access policies. The *Transco* case relied on by Southern for this proposition, however, is inapposite to the situation before us here. In *Transco*, Atlanta Gas Light Company (Atlanta Gas) asserted that Transco should not be allowed to abandon case-specific storage service at the expiration of the contract term unless it overcame the presumption of continued service. We explained that, as a consequence of the Commission's unbundling requirements and other open-access policies, customers are no longer dependent on interstate pipelines to find and secure gas supplies and can now utilize an open-access interstate transportation grid to access a large number of different supply sources. Under these circumstances, we stated that an application by an interstate pipeline to abandon unbundled transportation or storage services today "generally" does not raise the same concerns as applications to abandon bundled sales services did in the

---

<sup>4</sup> See *Michigan Consolidated Gas Co. v. FPC*, 283 F.2d 204, 214 (D.C. Cir. 1960). See also *Transcontinental Gas Pipe Line Corp. v. FPC* 488 F.2d 1325, 1328 (D.C. Cir. 1973).

past when the regulatory scheme at the time worked to maintain customers' dependence on their current providers of bundled sales service.<sup>5</sup> We thus found Atlanta Gas's reliance on the presumption of continued service to be misplaced under the facts of the case because Atlanta Gas had numerous alternatives to secure comparable storage service from other entities.

18. Here, on the other hand, the facts are different. Unlike the situation in *Transco*, where Atlanta Gas had numerous alternatives to secure comparable service, we found in this proceeding that the MOPS shippers do not have reasonable transportation alternatives available. Specifically, we found that while two shippers could possibly construct pipeline facilities to access alternative transportation for production currently transported on MOPS, there was no demonstration that the alternative would be cost-effective. Further, there was no suggestion that there would be any alternative transportation for approximately 30 to 40 percent of the volumes currently flowing on MOPS. As we explained in *Transco*, the "factors that the Commission must evaluate in order to determine the overall public interest are dictated by needs and demands at the time the abandonment authorization is sought . . ." <sup>6</sup> Thus, we find that under these circumstances the presumption in favor of continued interstate service retains its validity as an important factor to be considered in evaluation of this abandonment proposal.

19. Clearly, throughput on the MOPS has been declining and is now a small percentage of the total capacity for which the facilities were originally designed. Just as clearly, however, while smaller than in years past, there is still a significant volume of gas being transported through MOPS. While Southern asserts that, if large reserves existed in this area of the Gulf of Mexico, the MOPS shippers would have stepped up production when gas prices were higher, this is speculation only. There could be any number of reasons why the MOPS shippers did not engage in more aggressive drilling activities during this period. The fact remains that the MOPS shippers continue to drill new wells and estimate that there are still substantial deposits of gas to be produced for which they expect to need transportation for a number of years to come. We affirm our conclusion in the April 21 Order that applicants have not adequately supported their contention that the available supply of natural gas is depleted to the extent that the continuance of service over the MOPS facilities is unwarranted.

20. While acknowledging that there are no direct connections to other pipelines that the MOPS shippers may currently use as alternatives to MOPS, Northern continues to insist that the MOPS shippers, or at least some of them, can construct their own pipelines to assertedly nearby facilities of other pipelines for transportation to shore. Northern suggests that it could be less expensive to construct new lines than to maintain the older MOPS facilities and faults the Commission for not conducting an analysis of which

---

<sup>5</sup> *Transco*, 134 FERC ¶ 61,238 at P 38.

<sup>6</sup> *Id.* P 39.

approach would be more cost-effective. The record does not contain sufficient information on which to base the suggested analysis, and such a study would require so much speculation as to design, engineering, and other issues to render it of questionable validity and an unwise use of administrative resources.

21. While applicants raise the possibility of leaks or ruptures from internal pipeline corrosion on MOPS, the April 21 Order found that applicants had not shown that they were unable to control corrosion through routine procedures or otherwise alleged that the MOPS is unsafe to operate. Applicants have presented no evidence here on rehearing that they are unable to control corrosion. Their concern appears primarily to be the expense of corrosion prevention through pigging operations, and is thus an economic, not a safety issue. Should applicants become unable to maintain the safety of particular pipelines, abandonment would be granted on that basis.<sup>7</sup>

22. We are not persuaded that the fact that the MOPS shippers have not entered into firm contracts for future service calls for a different conclusion. Northern and Southern want the MOPS shippers to commit themselves to a specific level of service. Southern suggests that firm transportation contracts by the MOPS shippers at existing rates would assure the recovery of the MOPS costs; Northern, while desiring the MOPS shippers to obligate themselves to a level of service, states that the real problem is the decline of gas reserves available for transportation. The MOPS shippers do not have firm contracts because there is always sufficient capacity for their use. We are not suggesting, however, that all the MOPS shippers should not pay their fair shares of the operating and maintenance costs of MOPS as long as they want to ensure the continued availability of those facilities. If, as Northern contends, the present rate structure of MOPS will result in an underrecovery of costs, as we explained in our April 21 Order, if interruptible throughput declines any further, or will result in existing non-MOPS customers paying additional costs as Southern contends, the NGA provides for the filing of a rate case under section 4 to adjust the rates to provide for cost recovery. Southern contends that filing a rate case is not an appropriate or efficient mechanism for addressing the trend toward negative cash flow. Northern adds that section 4 cases are time consuming and expensive, and not appropriate for unique situations as here. Whether to pursue a section 4 proceeding, however, is a business decision left by the NGA to the interstate pipeline. The decision to employ the section 4 mechanism involves different

---

<sup>7</sup>See, Docket No. CP11-139-000, where Southern recently abandoned under blanket certificate authority a supply lateral that was part of the instant MOPS abandonment proceeding on the basis that it was no longer able to address internal corrosion issues because it was no longer able to pig or inject chemical inhibitors as the result of cessation of production from an Apache production platform. Permission for the abandonment was granted May 25, 2011 through the Commission's prior notice procedures, effective when the service and operating agreements terminated on September 1, 2011.

considerations on the part of the pipeline than the considerations employed by the Commission in determining whether the public convenience and necessity permits abandonment of services and facilities under section 7(b). A pipeline's business decision not to initiate a rate proceeding is thus a separate question from abandonment.

23. While Southern also contends that its mainline customers are subsidizing the cost of its MOPS facilities, as its rates are not designed to segregate those costs to a separate charge, Southern provided no documentation here or in its last rate proceeding in 2010 as to the total revenue requirement or the components underlying those rates.<sup>8</sup> MOPS costs are not tracked in Southern's mainline rates, so it is not possible to determine whether they are in fact included in the rates. Moreover, pursuant to a rate moratorium in the settlement agreement, Southern's stated mainline rates are not subject to change any earlier than September 1, 2012.<sup>9</sup> Thus, any increased underrecoveries from the MOPS system would not pass through to the mainline customers any more than the decreased operation and maintenance costs Southern will enjoy from the Commission's permitting Southern to abandon the MOPS facilities at issue in Docket No. CP11-139-000 would pass through to those mainline customers.<sup>10</sup> We do not address here Southern's contention that a segregated rate applicable only to MOPS services may result in no shippers willing to pay the rates because we do not know what that rate would be, but we do believe that there is significant evidence that the service and facility may no longer be required by the public convenience or necessity, if there are no shippers willing to pay the just and reasonable rate for a service.

24. Northern suggests that a section 4 filing limited to MOPS, instead of a system-wide rate proceeding, could resolve the rate situation in an acceptable manner. We do not believe that a limited section 4 proceeding would be appropriate. We require overall cost-of-service and revenue data in rate proceedings because applicants must demonstrate that, even in situations such as this one, where Northern would not likely request to change the rates for other services, costs have been properly identified and allocated to those services' rates with respect to which changes are proposed. Examples of such costs include labor and administrative overhead. These costs are often allocated using variables such as gross plant. Neither the parties to the proceeding nor the Commission can determine whether the allocation variables or the allocated costs are just and reasonable without the complete data required by the Commission's regulations.<sup>11</sup>

---

<sup>8</sup> Settlement filed October 5, 2009; approved at *Southern Natural Gas Co.*, 130 FERC ¶ 61,004 (2010) (Settlement).

<sup>9</sup> Article IV.A.1 of the Settlement.

<sup>10</sup> See note 6.

<sup>11</sup> *Equitrans, L.P.*, 105 FERC ¶ 61,407, at P 17 (2003); *Williston Basin Interstate Pipeline Co.*, 55 FERC ¶ 61,340, at 62,008 (1991); *National Fuel Gas Supply Corp.*,

25. In conclusion, the April 21 Order explained that the evaluation of a proposal by a natural gas company to abandon certificated facilities requires us to balance the claimed benefits of the proposed abandonment to the pipeline against any detriments to shippers or the general public. We conducted just such an analysis in the April 21 Order and concluded that the applicants had not satisfied their burden of demonstrating that any benefits to them from abandoning MOPS would outweigh the potential detriments to shippers and the public from loss of MOPS service, particularly the possibility, exacerbated by the fact that there are no readily-accessible transportation alternatives to MOPS, that if MOPS is abandoned, known and as yet undiscovered reserves could be precluded from development as part of the nation's gas supply resource.<sup>12</sup> As discussed above, we have reviewed our findings in light of the arguments raised by Northern and Southern in their requests for rehearing and continue to believe that the circumstances of this proceeding do not warrant abandonment at this time. The requests for rehearing are denied.

The Commission orders:

Southern's and Northern's requests for rehearing are denied.

By the Commission. Commissioner Spitzer is not participating.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

---

69 FERC ¶ 61,253, at 61,653 (1994); *CNG Transmission Corp.*, 80 FERC ¶ 61,137, at 61,502 (1997), *rehearing denied*, 81 FERC ¶ 61,031, at 61,165-66 (1997).

<sup>12</sup> April 21 Order, 135 FERC ¶ 61,048 at P 37-38.