

141 FERC ¶ 61,071
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ConocoPhillips Company

v.

Docket No. RP13-128-000

Texas Eastern Transmission, LP

ORDER DISMISSING COMPLAINT

(Issued October 26, 2012)

1. On October 1, 2012, ConocoPhillips Company (ConocoPhillips) filed a pleading designated as a complaint pursuant to Rule 206 of the Commission's Rules of Practice and Procedure¹ against Texas Eastern Transmission, LP (Texas Eastern). In its filing, ConocoPhillips alleges Texas Eastern's planned route for the Texas Eastern Appalachian to Market Expansion Project (TEAM 2014 Project) would result in unnecessary construction costs and unnecessary disruption of the environment.

2. Texas Eastern's present pipeline splits at Uniontown, Pennsylvania, into a northern path and a southern path which reconnect at Lambertville, New Jersey. ConocoPhillips alleges that as currently planned, Texas Eastern's contemplated TEAM 2014 Project would include expansion of the capacity on the northern path. ConocoPhillips asserts that expansion of the southern path's capacity instead would still meet the needs of the TEAM 2014 Project expansion shippers, but result in lower construction costs and be environmentally preferable. Further, ConocoPhillips would prefer an expansion of capacity on the southern path rather than the northern path, arguing that such a modification to the project would result in Texas Eastern having to accept significantly more turn-back capacity than it agreed to accept as a result of the reverse open-season it held in March 2012.

¹ 18 C.F.R. § 385.206 (2012).

3. Texas Eastern is currently engaged in the Commission's pre-filing process in Docket No. PF12-19-000 for the TEAM 2014 Project.² The goal of the Commission's pre-filing process is to identify and potentially resolve potential issues prior to a prospective applicant's filing an application for certificate authorization for a construction project. To that end, the pre-filing process provides a forum for Commission staff to work with prospective applicants and stakeholders to thoroughly explore issues, including route alternatives and other project modifications, without Commission staff taking any position on the merits of the potential applications.³

4. As ConocoPhillips states, it is Commission policy that prospective applicants hold open-seasons during which shippers may offer to turn back existing reserved capacity to ensure projects proposed to and authorized by the Commission are truly in the public convenience and necessity by promoting the proper sizing of new facilities and avoiding the unnecessary disruption of the environment.⁴ However, as noted above, Texas Eastern's TEAM 2014 Project is still in the pre-filing process in Docket No. PF12-19-000. ConocoPhillips and any other stakeholders that believe modifications to Texas Eastern's contemplated expansion project are needed, especially for environmental reasons, should make their views known in the pre-filing proceeding.⁵ It is impractical

² Texas Eastern filed on July 9, 2012 to request that the Commission's Office of Energy Projects (OEP) initiate the pre-filing process for the TEAM 2014 Project. On July 13, 2012, OEP approved Texas Eastern's request and established Docket No. PF12-19-000 for the pre-filing proceeding.

³ *Regulations Implementing Energy Policy Act of 2005; Pre-Filing Procedures for Review of LNG Terminals and Other Natural Gas Facilities*, FERC Stats. & Regs., Proposed Regulations 2004 - 2007 ¶ 32,586, at P 8 (2005).

⁴ *See, e.g., Pine Prairie Energy Center, LLC*, 137 FERC ¶ 61,060, at P 25 (2011).

⁵ The Commission notes that its pre-filing proceedings frequently result in modifications to prospective applicants' planned routes and other aspects of their projects. *See, e.g., Dominion Transmission, Inc.*, 135 FERC ¶ 61,239, at P 65 (2011) (discussing Dominion Transmission's agreement as a result of pre-filing discussions with landowner to make adjustments to pipeline route to diminish impacts on the landowner's planned housing development on his property); *Ruby Pipeline, L.L.C.*, 131 FERC ¶ 61,007, at P 47 (2010) (discussing Ruby Pipeline's continued development of its project and modifications to the planned pipeline route throughout the pre-filing period to resolve environmental issues); *Transcontinental Gas Pipe Line Corporation*, 110 FERC ¶ 61,115, at PP 24-25 (2005) (discussing the exhaustive search for and consideration of feasible route variations due to significant construction and feasibility constraints, including location of the New Jersey Turnpike and its entrance/exit ramps and proximity

(continued...)

for the Commission to undertake to assess the merits of ConocoPhillips' assertions that expansion of capacity on the southern path on Texas Eastern's system between Uniontown, Pennsylvania, and Lambertville, New Jersey would meet the needs of the TEAM 2014 Project expansion shippers, result in lower construction costs and be environmentally preferable to any Texas Eastern proposal until Texas Eastern actually files an application setting forth its ultimate proposed configuration for the TEAM 2014 Project. If, after completion of the pre-filing process, ConocoPhillips continues to have concerns about the project Texas Eastern ultimately proposes in an application for a certificate, including concerns regarding the appropriateness or sufficiency of any open-seasons Texas Eastern may have conducted, the certificate proceeding will be the appropriate forum for ConocoPhillips to raise those concerns.

5. In view of the above considerations, the Commission finds that ConocoPhillips' complaint and request for an evidentiary, trial-type hearing are premature at this time. Therefore, the Commission will dismiss ConocoPhillips' complaint without prejudice to ConocoPhillips raising issues in any subsequent certificate proceeding addressing the TEAM 2014 Project and deny its request for a full evidentiary hearing. Dismissal of the complaint moots ConocoPhillips' request that the pre-filing proceeding on Texas Eastern's TEAM 2014 Project be suspended pending consideration of the complaint.

The Commission orders:

(A) ConocoPhillips' complaint and request for evidentiary are dismissed.

(B) ConocoPhillips' request for suspension of Texas Eastern's pre-filing proceeding in Docket No. PF12-19-000 is dismissed as moot.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

to residences, businesses and lands preserved under the New Jersey Green Acres Program and Burlington County's Open Space and Farmland Preservation Program).