

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

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

Midship Pipeline Company, LLC

Docket Nos. CP17-458-005

ORDER AMENDING CERTIFICATE

(Issued February 20, 2020)

1. On December 20, 2019, Midship Pipeline Company, LLC (Midship) 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 its certificate of public convenience and necessity issued on August 13, 2018, authorizing Midship to construct and operate a new natural gas pipeline system, the Midcontinent Supply Header Interstate Pipeline Project (MIDSHIP Project).³ Midship proposes to revise its initial base and interim cost-based recourse rates to reflect changes in the cost of construction of the project. For the reasons discussed below, we approve Midship's requested amendment.

I. Background

2. Midship is wholly-owned by Midship Holdings, LLC, which is indirectly owned by Cheniere Energy, Inc. and one or more funds or companies managed or owned by EIG Management Company. Midship is not currently engaged in any natural gas transportation operations. However, upon acceptance of its certificate for the MIDSHIP Project, Midship became a natural gas company within the meaning of section 2(6) of the NGA,⁴ and, as such, is subject to the jurisdiction of the Commission.

3. The Certificate Order authorized Midship to construct and operate the MIDSHIP Project, consisting of: (a) approximately 200 miles of mainline pipeline in Oklahoma; (b) three mainline gas-fired turbine compressor stations and metering and regulation

¹ 15 U.S.C. § 717f(c) (2018).

² 18 C.F.R. pt. 157 (2019).

³ *Midship Pipeline Co., LLC*, 164 FERC ¶ 61,103 (2018) (Certificate Order).

⁴ 15 U.S.C. § 717a(6) (2018).

stations; and (c) appurtenant facilities; and two lateral pipelines.⁵ The Certificate Order also approved Midship's proposed recourse rates, subject to modification, as the initial rates for service on the project. The MIDSHIP Project is designed to provide up to 1,468,800 dekatherms per day⁶ (Dth/d) of firm transportation service from the South Central Oklahoma Oil Province and the Sooner Trend Anadarko Basin Canadian and Kingfisher gas plays in the Anadarko Basin located in Oklahoma to existing natural gas pipelines near Bennington, Oklahoma, for subsequent transport to Gulf Coast and Southeastern markets.

4. On September 6, 2019, the Commission issued an order amending the Certificate Order to authorize Midship to provide up to 1,000,000 Dth/d of interim transportation service on the MIDSHIP Project on an interim basis and approving cost-based interim recourse rates for that service.⁷ To meet shipper requests for interim service at the earliest possible date, Midship stated it will phase construction of authorized facilities, initially constructing all facilities authorized in the Certificate Order and the Reroute Amendment Order except for one compressor unit at each of the three approved compressor stations, which would allow Midship to provide up to 1,112,000 Dth/d of interim transportation service until the three compressor units are completed and placed into service.⁸ The authorized interim recourse rates were based on the applicable cost of service of all facilities approved by the Certificate Order except for three compressor units, and reflected current cost data and an estimate of construction costs at that time. Additionally, the Interim Rate Amendment Order found that Midship is entitled to include an income tax allowance in its cost of service because it has elected to be treated as corporation for income tax purposes.⁹

⁵ On January 25, 2019, the Commission issued an order, in Docket No. CP19-17-000, amending the Certificate Order to reroute 0.8 miles of pipeline in Bryan County, Oklahoma to avoid a sensitive environmental feature and to mitigate stakeholder concerns. *Midship Pipeline Co., LLC*, 166 FERC ¶ 62,039 (2019) (Reroute Amendment Order).

⁶ 1,468,800 Dth/d is the equivalent of 1,440 MMcf/d based on Midship's Application, Base Exhibit N at 3, Footnote 1, which indicates a heat content of 1020 Btu per cubic foot.

⁷ *Midship Pipeline Co., LLC*, 168 FERC ¶ 61,147 (2019) (Interim Rate Amendment Order).

⁸ *Id.* P 5.

⁹ *Id.* P 14.

5. In the instant filing, Midship indicates that full commercialization of the MIDSHIP Project is ongoing and that 64% of the MIDSHIP Project is committed under long-term firm transportation service agreements to four shippers, each of whom requested service at the earliest date possible. Midship indicates that it intends to commence interim transportation service as early as April 2020. Midship requests authorization to update the cost-based recourse rates for interim and full transportation service approved in the Interim Rate Amendment Order and the Certificate Order to reflect increased costs and updated cost estimates for constructing project facilities.

6. Midship states the updated cost estimates reflect increased costs that can be attributed to several factors, including: (1) extreme weather conditions; (2) delays in construction; (3) contractor related changes; (4) unanticipated foreign pipeline crossings; and (5) scope changes. Specifically, Midship notes that due to unusually heavy rainfall and subsequent flooding across the MIDSHIP Project construction area, Midship was required to expend over \$100 million on excess rain-related items such as extensive sheet piling, additional construction mats in saturated areas, and dewatering equipment to remove persistent standing water. Midship also states that the saturated ground conditions and overflowing creeks resulted in six additional horizontal directional drills being needed at an additional cost of approximately \$30 million. Midship further notes that, in addition to the weather-related cost overruns, it encountered problems related to the number of newly-identified pipeline facilities that were only discovered upon excavation. Midship states that it initially had only identified 240 foreign lines but the number of foreign lines discovered has exceeded 800. Midship states that the process of dealing with these additional, third-party foreign lines has led to cost increases of over \$130 million.

7. Midship filed revised Exhibits K, L, N, and P, which reflect the cost of service underlying the proposed revised interim and base recourse rates, as well as *pro forma* tariff records that set forth: (1) interim recourse rates based on the cost of service of all facilities approved in the Certificate Order and the Reroute Amendment Order with the exception of the three compressor units; and (2) base recourse rates based on the cost of service for the entirety of the MIDSHIP Project. Midship proposes an interim monthly recourse reservation charge of \$17.9175 per Dth and an interim usage charge of \$0.0033 per Dth for firm transportation service (FTS), as well as an interim recourse rate of \$0.5923 per Dth for interruptible transportation service (ITS), authorized overrun service (AOS), and park and loan service (PALS). Midship's proposed interim recourse rates are designed using a total first-year cost of service of \$241,241,512 and annual billing determinants of 13,464,000 Dth.¹⁰ Midship also proposes a base monthly recourse reservation charge of \$14.5752 per Dth and a base usage charge of \$0.0025 per Dth for Rate Schedule FTS, as well as a base recourse rate of \$0.4817 per Dth for Rate Schedules

¹⁰ Midship Application, Interim Exhibit N at 3.

ITS, AOS and PALS. Midship's proposed base recourse rates are designed using a total first-year cost of service of \$256,896,299 and annual billing determinants of 17,625,600 Dth.¹¹ Midship states that the proposed interim and base recourse rates both include a credit of \$200,000 applied to the total cost of service in order to allocate costs to interruptible service.

8. Midship used a straight fixed-variable rate design in allocating costs and designing its updated interim recourse and base rates. The rates for Rate Schedule ITS and authorized overrun service are designed based on a 100% load factor derivative of the Rate Schedule FTS reservation and usage charges. Midship developed its proposed interim and base cost of service using the same cost factors reflected in the Certificate Order, including a 50-50 debt/equity capital structure, a cost of debt of 7.75%, a return on equity of 14.00% and a depreciation rate of 2.50%. Midship estimates that the total cost of construction for the MIDSHIP Project will be: (a) \$1,385,091,149 for facilities required for interim transportation service; and (b) \$1,486,223,962 for all MIDSHIP Project facilities required for full transportation service.¹²

9. Midship submitted in Exhibit P its revised *pro forma* tariff records that reflect the updated interim and base recourse rates. Midship requests it be allowed to file actual tariff records that comply with requirements contained in all orders associated with its application at least 30 days prior to commencement of interstate service, in order to ensure adequate time for submitting all required compliance filings.

II. Notice, Interventions, and Responsive Pleadings

10. Notice of Midship's amendment application was published in the *Federal Register* on January 6, 2020, with comments and interventions due by January 10, 2020.¹³ No comments or motions to intervene were filed.

¹¹ Midship Application, Base Exhibit N at 3.

¹² Midship's previous estimates for the cost of construction for the MIDSHIP Project were: (1) \$971,314,277 for facilities required for interim service, which was approved in the Interim Rate Amendment Order; and (2) \$1,025,219,819 for facilities required for full transportation service, which was approved in the Certificate Order.

¹³ 84 Fed. Reg. 20,872 (2019).

III. Discussion

11. Because Midship's application pertains to facilities for natural gas services in interstate commerce subject to the jurisdiction of the Commission, the proposal is subject to the requirements of subsections (c) and (e) of section 7 of the NGA.¹⁴

12. Midship filed amended Exhibits K, L, N, and P to support its revised cost of service, for both the base and interim rates, and has provided a detailed description of the events that occurred that resulted in the increased construction costs. Midship's revised Exhibit K reflects known costs at this stage of construction and provides a more accurate estimate of total project costs. The Commission has reviewed all the information submitted in the amendment application, and concludes that Midship's proposed cost of service, cost allocation, and rate design used to develop the revised interim and base recourse rates generally comply with Commission policy. No party has protested the proposed level of the cost increase.

13. Furthermore, in the Certificate Order, the Commission found that the MIDSHIP Project satisfied the requirements of the Commission's Certificate Policy Statement¹⁵ addressing new facilities, and determined that the project is required by the public convenience and necessity.¹⁶ In particular, the Commission found that Midship met the Certificate Policy Statement's threshold requirement that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers because as a new company with no existing shippers there is no potential for subsidization on Midship's system or degradation of service to existing customers.¹⁷ Midship's proposal to revise its interim and base recourse rates does not alter this finding.¹⁸

¹⁴ 15 U.S.C. §§ 717f(c), (e) (2018).

¹⁵ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227, *corrected*, 89 FERC ¶ 61,040 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

¹⁶ Certificate Order, 164 FERC ¶ 61,103 at P 23.

¹⁷ *Id.* P 19.

¹⁸ On January 17, 2020, Commission staff issued an Environmental Assessment Report finding that Midship's proposal qualifies as a categorical exclusion under section 380.4(a)(27) of the Commission's regulations, 18 C.F.R. § 380.4(a)(27) (2019), because no construction is involved.

14. The Commission therefore approves Midship's revised initial interim and base recourse rates for firm and interruptible transportation service, authorized overrun service and park and loan service under Rate Schedules FTS, ITS, AOS and PALS for the MIDSHIP Project, as set forth in Midship's amendment application.

15. We also grant waiver of Ordering Paragraph (D) of the Certificate Order which required Midship to file actual tariff records at least 60 days prior to the commencement of interstate service consistent with Part 154 of the Commission's regulations. That requirement was originally included in the Certificate Order to provide a sufficient rate review period to determine if Midship was eligible for a separate income tax allowance. That issue was resolved in the Interim Rate Amendment Order; therefore, a 60-day filing requirement is no longer required. Midship must file tariff records at least 30 days prior to the commencement of interstate service.

16. At a hearing held on February 20, 2020, 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) Midship's request to amend the Certificate Order and the Interim Rate Amendment Order is granted, as described herein.

(B) Midship is granted waiver of Ordering Paragraph (D) of the Certificate Order, as described in the body of this order.

(C) Midship's revised initial interim and base recourse rates for Rate Schedules FTS, ITS, AOS and PALS are approved, as discussed in the body of this order. Midship must file actual tariff records no less than 30 days prior to the commencement of interstate service.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.