

159 FERC ¶ 62,202
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Gulf South Pipeline Company, LP

Docket No. CP17-62-000

ORDER AMENDING CERTIFICATE

(May 24, 2017)

On February 22, 2017, Gulf South Pipeline Company, LP (Gulf South) 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 by the Commission on June 20, 2016 (Certificate Order)³ authorizing the construction and operation of the Coastal Bend Header Project (CBH Project).

Specifically, Gulf South is proposing to increase the horsepower (hp) from 15,748 hp to 20,482 hp at the Magasco Compressor Station (CS) in Sabine County, Texas to accommodate an increase in No-Notice Service (NNS) volumes on its system. This order grants the requested authorization as discussed and conditioned below.

Background and Proposal

Gulf South, a limited partnership formed under Delaware law, is a natural gas company as defined by section 2(6) of the NGA⁴ and is subject to the Commission's jurisdiction. It owns and operates approximately 7,240 miles of pipeline facilities extending from Texas through Louisiana, Mississippi, Alabama, and Florida.

As certificated, the CBH Project, is designed to enable Gulf South to provide up to 1.42 Billion cubic feet (Bcf) per day of additional capacity from Index 129 and other receipt points on Gulf South's System to Freeport LNG Development, LP's existing Stratton Ridge interconnection near the Town of Clute, Brazoria County, Texas.

¹ 15 U.S.C. § 717f(c) (2012).

² 18 C.F.R. pt. 157 (2016).

³ *Gulf South Pipeline Company, LP*, 155 FERC ¶ 61,287 (2016).

⁴ *See* 15 U.S.C. § 717a(6) (2012).

In addition, Gulf South also received authorization for additional compression on its existing Index 129 system (Legacy System Expansion), designed to enable Gulf South to provide up to 1.4 Bcf per day of capacity from various supply sources to a new interconnection between Index 129 and the Coastal Bend Header Pipeline. The new capacity on Index 129 will be divided into two parts: 700 million cubic feet (MMcf) per day will be provided as southbound capacity on the northern portion of Gulf South's Index 129 and 700 MMcf per day will be provided as northbound capacity on the southern portion of Index 129. On June 21, 2016, Gulf South accepted the order pursuant to Section 157.20(a) of the Commission's Regulations.

In its amendment application, Gulf South states that on September 25, 2015, it filed a Stipulation and Agreement of Settlement in its recent rate case, in Docket No. RP15-65-000 (Settlement), which was approved by the Commission on December 18, 2015.⁵ As part of the Settlement, Rate Schedule NNS customers extended the term of their contracts through the end of the Settlement moratorium subject to certain maximum daily quantity modifications provided for as part of the Settlement. Effective as of April 1, 2016, as part of this provision of the Settlement, CenterPoint Energy Resources Corp. (CenterPoint) reduced and rebalanced its firm NNS contract requirements consistent with the Settlement. This balancing included increased contractual requirements in Texas and decreased contractual requirements in Louisiana and Mississippi on Gulf South's System.

The overall rebalancing of CenterPoint's contract resulted in additional NNS contractual commitments of approximately 23.5 MMcf per day on Gulf South's Index 129 pipeline from north central Louisiana leading into southeast Texas. Based upon its current existing firm commitment, Gulf South was able to provide this capacity increase with existing Legacy System capacity, however, Gulf South has determined that once the full CBH Project is placed into service,⁶ the approximately 23.5 MMcf per day of additional capacity utilized by CenterPoint's rebalanced firm NNS requirements cannot be hydraulically maintained.

To accommodate the additional capacity, Gulf South requests that the Commission amend the certificate of public convenience and necessity granted in the Certificate Order and authorize Gulf South to (i) install a gas-fired Solar Titan 130 turbine compressor unit in place of the currently certificated gas-fired Solar Mars 100 turbine compressor unit and (ii) modify the emergency generator from an 800 brake-horsepower (bhp) unit to a 691 bhp unit at the Magasco CS, located in Sabine County, Texas. Due to the proposed

⁵ *Gulf South Pipeline Company, LP*, 153 FERC ¶ 61,326 (2015).

⁶ The precedent agreements require the Project to be in service as early as April 1, 2018. *Gulf South Pipeline Company, LP*, 155 FERC ¶ 61,287 (2016).

increase in size of the compressor unit, the horsepower provided from the Magasco CS will increase from 15,748 hp to 20,482 hp. Gulf South states that this amendment will not require any additional workspace or land disturbance beyond what has been approved by the Commission in the Certificate Order.

Gulf South proposes no change in its initial recourse rates for the CBH Project as a result of the amendment application. Gulf South states that the proposed modifications at the Magasco CS will result in a *de minimis* increase in the overall cost of the CBH Project and on its cost of service. Gulf South further states that the proposed amendment will increase the estimated total cost of the Magasco CS by approximately \$3 million. This amounts to an approximate 0.4% increase in the total cost of the CBH Project. Due to the *de minimis* impact on rates and on system-wide fuel retention associated with the new unit, Gulf South continues to request rolled in rate treatment for the Legacy System Expansion Facilities and continues to propose to utilize its existing system-wide fixed retainage rate to recover the fuel and lost and unaccounted-for gas associated with providing expansion service on the Legacy Facilities.

Notice and Interventions

Notice of Gulf South amendment application was published in the *Federal Register* on March 7, 2017.⁷ A Notice Extending Comment Date was issued on March 28, 2017⁸ to give interested parties who were not on the original landowner list an opportunity to comment. The comment due date was extended from March 22, 2017 to April 12, 2017. Atmos Energy Corporation, Osaka Gas Trading & Export LLC, Trans Louisiana Gas Pipeline, and the United Municipal Distributors Group⁹ filed timely motions to intervene.¹⁰ No motions opposing Gulf South's proposals were filed.

⁷ 82 Fed. Reg. 12,814 (2017).

⁸ 82 Fed. Reg. 15,353 (2017).

⁹ The United Municipal Distributors Group consists of the following municipal-distributor customers of Gulf South: City of Brewton, Alabama; Town of Century, Florida; Utilities Board of the Town of Citronelle, Alabama; City of Fairhope, Alabama; Utilities Board of the City of Foley, Alabama; North Baldwin Utilities, Alabama; Okaloosa Gas District, Florida; City of Pascagoula, Mississippi; City of Pensacola, Florida; and South Alabama Gas District, Alabama.

¹⁰ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's regulations. 18 C.F.R. § 385.214(a)(3) (2016).

Findings

At a hearing held on the date of issuance noted above, there was received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein.

The Certificate Order, as conditioned, found that Gulf South's proposal was consistent with the criteria in the Commission's Certificate Policy Statement¹¹ and was in the public convenience and necessity. Gulf South's proposed amendment does not alter this finding. This amendment will result in a more efficient use of the pipeline facilities currently under construction with minimal additional environmental impacts. Accordingly, this order approves Gulf South's proposed amendment to its certificate of public convenience and necessity issued on June 20, 2016.

Rates

Rolled-in Rate Determination

Gulf South states the proposed modifications will result in additional costs incurred on the Legacy System in order to create the Legacy System capacity needed for the CBH Project. Gulf South states that costs will have a *de minimis* impact on the project rates and continues to request a preliminary determination that it may roll the additional costs associated with the amendment application into Gulf South's system-wide rates in its next NGA general section 4 rate proceeding. In considering a request for rolled-in rate treatment, a pipeline must demonstrate that rolling in the costs associated with the construction and operation of new facilities into system rates will not result in existing customers subsidizing the expansion. In general, this means that a pipeline must show that the revenues to be generated by an expansion project will exceed the costs of the project.¹² For purposes of making a determination in a certificate proceeding about whether it would be appropriate to roll the costs of a project into the pipeline's system rates in a future NGA general section 4 rate proceeding, the Commission compares the cost of the project to the revenues generated using actual contract volumes and the

¹¹ *Certification of New Interstate Natural Gas Pipeline Facilities* (Policy Statement) 88 FERC ¶ 61,227 (1999), *order clarifying statement of policy*, 90 FERC ¶ 61,128 (2000), *order further clarifying statement of policy*, 92 FERC ¶ 61,094 (2000).

¹² *See, e.g., Rockies Express Pipeline LLC*, 150 FERC ¶ 61,161, at P 23 (2015).

maximum recourse rate (or the actual negotiated rate if the negotiated rate is lower than the maximum recourse rate).¹³

As stated in the Certificate Order, the four Foundation Shippers on the Legacy System Expansion have agreed to pay negotiated rates for the 20-year primary term of service using the entire project capacity. Because the negotiated rates are lower than the maximum recourse rates for Gulf South's firm transportation service, project revenues are to be calculated using the lower negotiated rates, as Gulf South has done.¹⁴ In Exhibit N to the amendment application, Gulf South shows that over a 10-year period, the revenues associated with the Foundation Shippers will still exceed the cost of service on the Legacy System Expansion by \$32,016,019, despite a net loss in year one.¹⁵ Because Gulf South's rate case settlement in Docket No. RP15-65-000 bars Gulf South from filing new rates to be effective before May 1, 2023,¹⁶ which is five years after the project's anticipated in-service date of April 1, 2018, the annual revenues of the Legacy System Expansion will exceed the annual cost-of-service by the time that Gulf South is able to file a new rate case. Therefore, Gulf South's request for a pre-determination of rolled-in rate treatment for the Legacy System Expansion in its next NGA general section 4 rate proceeding is approved, absent any significant change in material circumstances.

Fuel

Due to a *de minimis* impact on system-wide fuel retention associated with the modified facilities, Gulf South continues to propose to use its existing system fuel retainage percentage to recover the associated fuel and lost and unaccounted for gas on the Legacy System Expansion. Gulf South's application shows that the Project will result

¹³ See *Tenn. Gas Pipeline Co., L.L.C.*, 144 FERC ¶ 61,219, at P 22 (2013).

¹⁴ The additional costs associated with the amendment application increase the project cost from \$142 million to \$145 million and would have no impact on the Commission's approval of Gulf South's use of system rates for the Legacy System Expansion.

¹⁵ Exhibit N – Legacy at 1. Gulf South estimates that the Legacy System Expansion will incur an operating loss of \$873,280 during the first year of operation. Transportation revenues will exceed costs in Year 2 by \$20,279, in Year 3 by \$1,061,950 and in Year 4 by \$2,030,396.

¹⁶ *Gulf South Pipeline Co., LP*, 153 FERC ¶ 61,326 (2015).

in a decrease in Gulf South's overall system fuel rate. Therefore, Gulf South's use of its system-wide fuel rate for the Legacy System Expansion is approved.

Environmental Analysis

On March 1, 2017, the Commission issued a Notice of Intent to Prepare a Supplement Environmental Assessment for the Amended Coastal Bend Header Project and Request for Comments on Environmental Issues (Amendment NOI). The Amendment NOI was mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners within one-half mile of the Magasco CS. On March 22, 2017, the Commission issued a letter including a copy of the Amendment NOI to landowners within a one-half mile radius of the Magasco CS that were inadvertently omitted from the mail list on the Amendment NOI issued on March 1, 2017. The Commission extended the comment period on the Amendment NOI to April 21, 2017.

On March 28, 2017, the Commission received one comment letter from the Texas Parks and Wildlife Department (TPWD). The TPWD stated it has no concerns or comments regarding the proposed Gulf South amendment as there would be no change in land requirements for the project. The TPWD provided a recommendation to review previous TPWD correspondence and consider the recommendations provided as they remain applicable to the project. In addition, on May 15, 2017, Gulf South filed a letter on the amendment application from the Comanche Nation Historic Preservation Office dated May 12, 2017 indicating it had no concerns. No new issues were identified that were not already addressed in the original Environmental Assessment (EA) and Order in Docket No. CP15-517-000.

To satisfy the requirements of the National Environmental Policy Act (NEPA), Commission staff prepared a supplemental environmental assessment (Supplemental EA) for Gulf South's amendment. The analysis in the Supplemental EA addresses air quality, noise, polychlorinated biphenyls, and alternatives. The Supplemental EA concludes that the amended project would not change the analysis and conclusions in the original EA and Certificate Order in Docket No. CP15-517-000 regarding geology, soils, water resources, wetlands, fisheries, wildlife, vegetation, land use, visual resources, cumulative impacts, and reliability and safety. The Supplemental EA was placed into the public record on May 16, 2017.

Based on the analysis in the EA, it is concluded that if constructed and operated in accordance with Gulf South's application, and in compliance with the environmental conditions in the appendix to this Order, approval of this proposal will not constitute a major federal action significantly affecting the quality of the human environment.

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/replacement of facilities approved by this Commission.¹⁷

This action is taken under 18 CFR § 375.308 and it is ordered that:

- (A) Gulf South's request to amend its certificate of public convenience and necessity issued by the Commission on June 20, 2016 is granted, subject to the conditions described herein. In all other respects, the Certificate Order is unchanged.
- (B) Gulf South shall comply with all applicable Commission regulations under the NGA, particularly the general terms and conditions set forth in paragraphs (a), (b), (c), (e), and (f) of section 157.20 of the regulations.
- (C) Gulf South's request for a predetermination supporting rolled-in rate treatment for the Legacy System Expansion's costs in its next general section 4 rate proceeding is granted, absent a significant change in material circumstances.
- (D) Construction of the proposed facilities shall be completed and made available for service within two years from the date of this order, in accordance with section 157.20(b) of the Commission's regulations.
- (E) Gulf South 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

¹⁷ See 15 U.S.C. § 717r(d) (state or federal agency's failure to act on a permit considered to be inconsistent with Federal law); see also *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293, 310 (1988) (state regulation that interferes with FERC's regulatory authority over the transportation of natural gas is preempted) and *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 245 (D.C. Cir. 2013) (noting that state and local regulation is preempted by the NGA to the extent it conflicts with federal regulation, or would delay the construction and operation of facilities approved by the Commission).

notifies Gulf South. Gulf South shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

- (F) The authority issued in Ordering Paragraph (A) above is conditioned on Gulf South's compliance with the environmental conditions set forth in the appendix to this order.
- (G) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order pursuant to 18 CFR § 385.713.

Pamela J. Boudreau
Acting Director
Division of Pipeline Certificates
Office of Energy Projects

Appendix

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

1. Gulf South shall follow the construction procedures and mitigation measures described in its application and as identified in the EA, unless modified by this Order. Gulf South must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - 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 this 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. Gulf South shall continue to comply with environmental conditions set forth in Appendix B of the June 20, 2016 Order in Docket No. CP15-517-000.

Document Content(s)

CP17-62-000.DOCX.....1-9