

161 FERC ¶ 62,145
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Rover Pipeline LLC

Docket No. CP17-464-000

ORDER AMENDING CERTIFICATE

(Issued on November 28, 2017)

On May 17, 2017, Rover Pipeline LLC (Rover) filed a variance request to its certificate of public convenience and necessity issued on February 2, 2017 (February 2 Order)¹ authorizing, among other things, the construction and operation of the Rover Pipeline Project (Project) in Docket No. CP15-93-000. On June 16, 2017, a Notice of Amendment was issued stating that Rover's variance request was being treated as an application to amend the Project under section 7(c) of the Natural Gas Act (NGA)² and Part 157 of the Commission's regulations.³ Specifically, Rover proposes to add a third compressor unit at the certificated Majorsville Compressor Station and to install a new equipment run at the certificated Majorsville Meter Station, both located in Marshall County, West Virginia. This order grants the requested authorizations, subject to certain conditions.

Background and Proposal

Rover, a limited liability company organized and existing under the laws of the State of Delaware, is jointly owned by ET Rover Pipeline, LLC, Traverse Rover LLC, and Traverse Rover II LLC. Rover is a natural gas company as defined in section 2(6) of the NGA.⁴

The February 2 Order, among other things, authorized Rover to construct and operate the Project, which enables Rover to provide 3.25 billion cubic feet per day of natural gas transportation service from the Marcellus and Utica shale supply areas in West Virginia, Pennsylvania, and Ohio, through Ohio, and terminating at an

¹ *Rover Pipeline LLC*, 158 FERC ¶ 61,109 (2017).

² 15 U.S.C. § 717f(c) (2012).

³ 18 C.F.R. Part 157 (2017).

⁴ 15 U.S.C. § 717a(6) (2012).

interconnection with Vector Pipeline, LP in Livingston County, Michigan. On February 3, 2017, Rover accepted the order pursuant to section 157.20(a)⁵ of the Commission's regulations.

After the February 2 Order was issued, Range Resources-Appalachia, LLC (Range Resources), an existing Rover customer, indicated that it wanted to reallocate a portion of its maximum daily quantity to a second primary receipt point at Rover's Majorsville Meter Station. Range Resources stated that the development of a processing plant upstream of the original receipt point had been delayed and would not be available when its facilities related to Rover were scheduled to be placed in service. Range Resources notes that without the second receipt point, all of its contract quantity would be stranded until the upstream processing plant commenced operations.

To effectuate this request, Rover proposes to install a third 3,550 horsepower (hp) natural gas-fired, reciprocating compressor unit at the Majorsville Compressor Station, bringing the total horsepower at the station to 10,650 hp.⁶ Rover also proposes to install a new equipment run at the Majorsville Meter Station. Rover states that this will increase the point capacity of the Majorsville Compressor Station and the Majorsville Meter Station from 300 million cubic feet per day (MMcf/d) to 400 MMcf/d. Rover estimates the cost of the proposed project to be approximately \$12,079,666. Range Resources has signed a negotiated rate contract for the additional volumes.

Rover states that the proposed project would be contained entirely within the previously approved limits of disturbance at each location. There are no new landowners that would be impacted by this request. Rover asserts that the proposed changes will only result in an increase in the Majorsville Compressor Station and Majorsville Meter Station point capacity and will not increase the overall system-wide capacity of the Rover Pipeline.⁷ Rover states that the new capacity is fully subscribed under a negotiated rate with Range Resources. Rover does not propose any changes to its certificated recourse rate.

⁵ 18 C.F.R. § 157.20(a) (2017).

⁶ Rover notes that the proposed compressor unit is identical to the two previously certificated units.

⁷ Although page 1 of the Environmental Assessment (EA), placed into the record on November 1, 2017, states that this proposal will "increase the overall delivery capacity of its project by 100,000 dekatherms per day," the overall system-wide capacity will not change. Only the point capacity at the Majorsville Compressor Station and the Majorsville Meter Station will increase.

Notice and Interventions

Notice of the amendment was published in the *Federal Register* on June 23, 2017 (82 Fed. Reg. 28,648). Rice Energy Marketing LLC; Independent Oil & Gas Association of West Virginia, Inc.; and Range Resources filed timely, unopposed motions to intervene.⁸ No motions to intervene in opposition, adverse comments, or protests were filed.

Findings

At a hearing held on the date of issuance noted above, there were 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.

Certificate Policy Statement

The Commission's Policy Statement provides guidance as to how proposals for certificating new construction will be evaluated.⁹ It provides that a pipeline must financially support a project without relying on subsidization from its existing customers. It also established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. Specifically, the Policy Statement explains that the Commission, in deciding whether to authorize the construction of new pipeline facilities, balances the public benefits against the potential adverse consequences.¹⁰

As stated, the threshold requirement is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. Rover has entered into a negotiated rate agreement for the new capacity created by the proposal and does not propose any changes to its certificated recourse rate. Since a negotiated rate has been agreed upon and the cost of the proposed project is de

⁸ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(c) (2017).

⁹ *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).

¹⁰ Policy Statement, 88 FERC ¶ 61,227 at 61,745.

minus in comparison to the overall cost of the Project, Rover's existing customers will not subsidize the project and the threshold requirement is met.

Also, the proposal will not adversely affect other pipelines or their captive customers because the project is not designed to replace firm transportation service on any other pipeline. Further, no pipelines or their captive customers have protested Rover's proposal. Consequently, there will be no adverse impacts on other pipelines or their captive customers.

Since all construction activities will take place within previously approved limits of disturbance at the Majorsville Compressor Station and Majorsville Meter Station, there is no new impact to landowners. Further, there are no new landowners associated with this project. No property owners have protested the application. Thus, the proposed project will have minimal impacts on landowners and the surrounding communities.

The proposed project will enable Rover to provide an additional 100 MMcf/d of capacity to Range Resources. Based on the benefits the project will provide, the lack of adverse effects on existing customers and other pipelines and their captive customers, and the minimal adverse effects on landowners and surrounding communities, it is found, consistent with the Policy Statement and section 7(c) of the NGA, that the public convenience and necessity requires approval of Rover's proposal, subject to the conditions discussed in this order.

Rates

Range Resources has agreed to pay a negotiated rate for the additional service at Majorsville. Rover must file either the negotiated rate agreement or tariff record setting forth the essential terms of the agreements in accordance with the Alternative Rate Policy Statement¹¹ and the Commission's negotiated rate policies.¹² This filing must be made at least 30 days, but not more than 60 days, before the proposed effective date for the rate.

¹¹ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076, *order granting clarification*, 74 FERC ¶ 61,194 (1996) (Alternative Rate Policy Statement).

¹² *Natural Gas Pipelines Negotiated Rate Policies and Practices; Modification of Negotiated Rate Policy*, 104 FERC ¶ 61,134 (2003), *order on reh'g and clarification*, 114 FERC ¶ 61,042 (2006), *dismissing reh'g and denying clarification*, 114 FERC ¶ 61,304 (2006).

Accounting

An allowance for funds used during construction (AFUDC) is a component part of the cost of constructing Rover's facilities. Gas Plant Instruction 3(17) prescribes a formula for determining the maximum amount of AFUDC that may be capitalized as a component of construction cost. That formula, however, is not applicable here, as it uses prior year book balances and cost rates of borrowed and other capital that either do not exist or could produce inappropriate results for initial construction projects of newly created entities such as Rover. Therefore, to ensure that the amounts of AFUDC are properly capitalized in this project, Rover is required to capitalize the actual costs of borrowed and other funds for construction purposes not to exceed the amount of debt and equity AFUDC that would be capitalized based on the overall rate of return approved.

Environment

On August 4, 2017, the *Notice of Intent to Prepare an Environmental Assessment for the Proposed Majorsville Compressor Station Amendment and Request for Comments on Environmental Issues* (NOI) was issued. The NOI was published in the *Federal Register* on August 10, 2017 (82 Fed. Reg. 37,447) and mailed to interested parties including federal, state, and local government representatives and agencies; environmental and public interest groups; other interested parties, and all affected landowners (as defined in the Commission's regulations) who are within 0.5 mile of the Majorsville Compressor Station. One comment was received in response to the NOI from the U.S. Environmental Protection Agency (EPA).

The primary issues raised during the public scoping process included consideration of project alternatives, purpose and need, land use, water resources, wildlife and threatened and endangered species, air quality and noise, cultural and historic resources, and secondary and cumulative impacts.

To satisfy the requirements of the National Environmental Policy Act of 1969, Commission staff prepared an EA for Rover's proposal. The EA was prepared with the cooperation of the EPA. All of the substantive comments received from the EPA in response to the NOI were addressed in the EA.¹³ The EA was placed into the record on November 1, 2017.

¹³ Because the proposed project involves added compression at a station already evaluated in the July 29, 2016 environmental impact statement (EIS) for the Rover Pipeline Project (Docket No. CP15-93-000), currently under construction, the EA disclosed that many environmental resource areas (i.e., geology, soils, groundwater, wetlands, waterbodies, vegetation, wildlife, federally listed threatened or endangered

(Continued...)

Based on the analysis in the EA, if constructed and operated in accordance with Rover's original application under Docket No. CP15-93-000, its supplements, and amendment application, and in compliance with the environmental conditions in the February 2 Order, approval of this proposal would 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 of facilities approved by this Commission.¹⁴

This action is taken under 18 C.F.R. § 375.308 and it is ordered that:

(A) The February 2 Order is amended, as discussed in the body of this order. In all other respects, the February 2 Order is unchanged.

(B) Rover 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 Commission's regulations.

(C) Rover shall file a written statement affirming that it has executed a firm contract for volumes and service terms equivalent to those in their precedent agreement, prior to the commencement of construction.

species, cultural resources, and reliability and safety) would not be impacted beyond what was already evaluated in the EIS.

¹⁴ 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).

(D) Rover shall file its negotiated rate agreement, or a tariff record describing the essential elements of the agreement, not less than 30 days and not more than 60 days prior to the date the project's facilities go into service.

(E) Rover shall adhere to the accounting and reporting requirements discussed in the body of this order.

(F) Construction of the proposed facilities shall be completed and made available for service within one year from the date of this order, in accordance with section 157.20(b) of the Commission's regulations.

(G) The authority issued in Ordering Paragraph (A) above is conditioned on Rover's compliance with the environmental conditions set forth in the February 2 Order.

(H) Rover 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 notifies Rover. Rover shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(I) 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 C.F.R. § 385.713.

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Document Content(s)

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