UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Southern Star Central
Gas Pipeline, Inc.

Docket No. CP03-352-000

ORDER ISSUING CERTIFICATE

(Issued February 18, 2004)

1. On September 12, 2003, Southern Star Central Gas Pipeline, Inc. (Southern Star)[1] filed an application under Section 7(c) of the Natural Gas Act (NGA) to convert from Natural Gas Policy Act (NGPA) Section 311 authority certain of its pipeline and compression facilities in Missouri. These are Southern Star's last remaining NGPA Section 311 facilities. After conversion, the facilities would be operationally integrated into Southern Star's NGA-jurisdictional interstate transmission system. We find that conversion of these remaining NGPA Section 311 facilities to NGA jurisdiction is in the public interest because it would enable Southern Star to use the facilities on an integrated basis to provide transportation service to additional customers. Accordingly, as discussed below, we will grant Southern Star's request to convert the facilities as required by the public convenience and necessity.

I. Proposal

2. Southern Star requests a Section 7(c) certificate for certain compression facilities and a 192- mile long, 8-inch diameter pipeline extending from the compressor station at Lone Jack, Missouri, to the line's terminus at St. Peters, Missouri.[2] The compression proposed to be converted consists of a 1,400 horsepower unit at the Lone Jack

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[1] Formerly Williams Gas Pipelines Central, Inc. (Williams).

[2] These facilities are described in Williams' prior notice filing in Docket No. CP98-294-000. The facilities include a 10-inch diameter pipeline segment crossing the Missouri River west of the terminus.

Compression Station, a 1,000 horsepower compressor unit at the Concordia Compressor Station,[3] and a 1,400 horsepower unit at the Columbia Compressor Station. These Southern Star pipeline and compression facilities currently provide Section 311 service to Laclede Gas Company (Laclede) at delivery points in the St. Louis, Missouri area, west of St. Peters. These facilities interconnect north of Southern Star's Concordia station with Southern Star's NGA Section 7 facilities that provide additional firm transportation service to all customers.

3. Before 1998, the Lone Jack to St. Peters pipeline was used to transport petroleum products. In 1998, that pipeline and new compression facilities were placed into natural gas service pursuant to Section 311 of the NGPA. Southern Star states that converting these facilities to service under the NGA will permit a more integrated use of its system and enable it to serve new customers. Southern Star also states that the facilities' conversion to service under the NGA would provide a market for capacity release and would enhance supply reliability in the St. Louis area. Finally, Southern Star states that the conversion will not alter its obligation to supply Laclede on the Lone Jack to St. Peters line with 28,000 Dth/d at rates established under the FTS Rate Schedule. The Laclede service agreement has a term of 13 years and expires no later than 2011.

4. The estimated original project cost of the facilities is $13.9 million. Southern Star proposes to roll-in the net book value of approximately $12 million. Southern Star contends that for the first three years of service under the NGA, incremental revenues of $2,979,019 will exceed the incremental cost of service of $2,446,849 by $532,170.[4] In Exhibit P Southern Star projects that rolling the costs of the converted facilities into its NGA rate base will result in rate increases in the market area and rate decreases in the production area. Southern Star contends that the rate decreases in the production area offset rate increases in the market area, resulting in an overall decrease in rates established in Southern Star's predecessor's last general rate proceeding in Docket No. RP95-136-000.[5] Thus, Southern Star asserts that rolling in facility costs will not result in a financial subsidy. Accordingly, Southern Star asks the Commission to determine,

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[3]On July 26, 2000, the Commission issued an order in Docket No. CP00-82-000 authorizing the conversion to NGA Section 7(c) jurisdiction of an 800 horsepower unit at the Concordia Compressor Station and construction of facilities. Williams Gas Pipelines Central, Inc., 92 FERC ¶ 61,063 (2000), <u>reh'g denied</u>, 93 FERC ¶ 61,159 (2000).

[4]Exhibits N (Schedule 1) and P.

[5]Williams Natural Gas Co., 78 FERC ¶ 61,257 (1997) (settlement approved).

pursuant to the Certificate Policy Statement,[6] that the depreciated cost of the facilities may be rolled in with the cost of existing facilities in Southern Star's next general rate case.

II. Interventions

5. The application was noticed in the Federal Register on September 25, 2003 (68 Fed. Reg. 55383), with protests or interventions due by October 16, 2003. Timely, unopposed motions to intervene were filed by Atmos Energy Corp., Duke Energy Trading and Marketing, L.L.C., Laclede, and the Kansas Corporation Commission (Kansas Commission).[7] Kansas Gas Service, a division of ONEOK, Inc., filed a motion to intervene out-of-time. Kansas Gas Service has demonstrated an interest in this proceeding and its late intervention will not delay resolution of the issues or otherwise prejudice other parties. Therefore, for good cause shown, the motion to intervene out-of-time is granted pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure.[8]

6. The Kansas Commission's intervention included comments asserting that it would be unfair to burden Southern Star's customers in Kansas with costs associated with facilities in Missouri that do not directly serve customers in Kansas. The Kansas Commission asks the Commission to convene an informal technical conference before any Commission determination pre-approving rolled-in rate treatment of the facility costs. The Kansas Commission asserts that Southern Star's filing is deficient in that the level of facility costs shown is estimated (not actual), may include cost overruns, does not identify the level of costs to be rolled into a future Section 4 proceeding, and includes a higher depreciation rate and a different capital structure than were used in Southern Star's last general rate proceeding. If the Commission should preliminarily approve a roll in of facility costs, the Kansas Commission asks the Commission to preclude Southern Star from filing in its next general rate proceeding a level of costs greater than that used in the application's roll-in analysis.

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[6] Certification of New Interstate Natural Gas Pipeline Facilities, 88 FERC ¶ 61,227 at 61,746 (1999), order on clarification, 90 FERC ¶ 61,128 (2000); order on further clarification, 92 FERC ¶ 61,094 (2000).

[7] Timely unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.

[8] 18 CFR §385.214(d).

7. On October 20, 2003, Southern Star filed an answer.[9] Southern Star explains that its roll-in analysis incorporates the original estimated facility costs, previously reflected in its March 20, 1998 filing in Docket No. CP98-294-000, as depreciated, less any cost overruns. Southern Star states that the depreciated original cost of facilities will be included in its future general rate filing. Southern Star states that its roll-in analysis uses the correct depreciation rate for Transmission Plant of 2.30 per cent[10] and the pipeline's own capital structure[11] as approved in the general rate settlement in Docket No. RP95-136-000.

III. Discussion

8. Since the facilities that Southern Star proposes to convert to NGA jurisdiction will be used to transport natural gas in interstate commerce, the conversion and operation of the facilities are subject to requirements of NGA Sections 7(c) and 7(e).

9. On September 15, 1999, the Commission issued its Certificate Policy Statement in Docket No. PL99-3-000 regarding the certification and pricing of new pipeline construction projects.[12] The Certificate Policy Statement was subsequently interpreted to include applications for certificates to acquire existing facilities as well.[13] In this case, the applicant seeks a certificate to operate existing facilities that are not currently subject to the Natural Gas Act. In our judgment, similar considerations should apply. Accordingly, we will review Southern Star's application under the provisions of the Policy Statement.

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[9]We will waive Rule 213 of the Commission's Rules of Practice and Procedure to make Southern Star's answer part of the record in this proceeding, since it provides information that clarifies the issues and aids us in our decision making. 18 CFR § 385.213.

[10]Settlement (filed November 27, 1996), Article V, Section D and Appendix B.

[11]Settlement (filed November 27, 1996), Article I, Paragraph 1 and Appendix A.

[12]Certification of New Interstate Natural Gas Pipeline Facilities, 88 FERC ¶ 61,227 at 61,746 (1999), Order Clarifying Policy Statement, 90 FERC ¶ 61,128 (2000); Order Further Clarifying Policy Statement, 92 FERC ¶ 61,094 (2000).

[13] See Equitrans, L.P. and Three Rivers Pipeline Co., 91 FERC ¶61,041 (2000).

10. The Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Policy Statement explains that in deciding whether to authorize major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

11. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from the existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of a new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission then proceed to complete the environmental analysis where other interests are considered.

12. Southern Star has failed to demonstrate that its project, as proposed, would not be subsidized by existing customers. Specifically, Southern Star has not adequately supported its proposal to charge a rolled-in rate for service over the facilities to be converted. According to its application, rolling the costs of the converted facilities into Southern Star's rate base would increase six of Southern Star's market area rates. While Southern Star contends there would be an offsetting decrease in other rates applicable to transportation mainly in its production area, Southern Star has not demonstrated that the existing customers whose rates would increase would either also benefit from the production area rate decreases or experience some other benefit from the conversion commensurate with the rate increase. Accordingly, we will approve Southern Star's proposal to convert the requested facilities to NGA jurisdiction, but we will deny Southern Star's request for a preliminary finding for rolled-in rate treatment. We will require Southern Star to provide service over the facilities at an initial incremental rate

equal to its current FTS rate. This is without prejudice to Southern Star's proposing rolled-in rate treatment in a future rate proceeding, if it can demonstrate that there will be no subsidization by existing customers.[14]

13. Conversion of the subject facilities to NGA jurisdiction is in the public interest as additional capacity will be added to the interstate pipeline grid. Southern Star's proposal will not have an adverse impact on other pipelines or their captive customers, since most of the gas will be delivered to Laclede, the only existing customer on the line. Since no new construction is proposed, there will be no environmental consequences from the conversion. For the reasons stated, we find that the benefits of the proposal will outweigh any potential adverse effects and that the proposal is required by the public convenience and necessity and consistent with the Certificate Policy Statement.

14. This order rejects Southern Star's proposal to roll-in facility costs. Accordingly, there is no need to establish an informal technical conference to address the Kansas Commission's concerns.

15. At a hearing held on February 11, 2004 the Commission on its own motion received and made part of the record all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission Orders:

(A) A certificate of public convenience and necessity under Section 7(c) of the Natural Gas Act is issued to Southern Star to operate its existing pipeline and compression facilities extending from Lone Jack to St. Peters, Missouri.

(B) Southern Star shall comply with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a) and (e) of Section 157.20.

(C) Southern Star's request for preapproval for rolled-in rate treatment is denied, without prejudice to Southern Star's proposing rolled-in treatment in a future rate proceeding where it can demonstrate that there is no potential of subsidization from existing customers.

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[14] See Iroquois Gas Transmission, 95 FERC ¶61,335 (2001).

(D) Southern Star shall charge an incremental rate equal to its currently effective, generally applicable Part 284 transportation rates as initial rates for services using the facilities certificated in this proceeding.

(E) Kansas Gas Service's motion to intervene out of time is granted.

By the Commission

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Magalie R. Salas,
Secretary.