

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

CenterPoint Energy Gas Transmission  
Company

Docket No. CP05-3-000

ORDER ISSUING CERTIFICATE

(Issued May 27, 2005)

1. On October 6, 2004, CenterPoint Energy Gas Transmission Company (CenterPoint) filed an application in Docket No. CP05-3-000, pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations to construct, own, and operate certain mainline compression facilities and appurtenances located in Caddo, Hughes, and Grady Counties, Oklahoma. This order, granting the requested authorization, is in the public interest because it will allow additional volumes of Rocky Mountain gas to be transported eastward to markets across the applicant's system.

**Background and Proposal**

2. CenterPoint proposes to install two compressor units and appurtenant facilities at its new Hinton and Allen Compressor Stations, and one additional compressor unit and appurtenant facilities at its existing Amber Compressor Station, in order to provide a firm transportation service to ONEOK Energy Services Company, L.P. (ONEOK). These facilities, constituting the "Line AD Expansion Project" because they will be located along CenterPoint's Line AD in Oklahoma, will serve to increase Line AD capacity in order to receive Rocky Mountain gas supplies for transportation west to east across CenterPoint's system. CenterPoint states that, in addition to enabling it to provide this new transportation service to ONEOK, the project will enhance system flexibility and reliability.

3. CenterPoint states it will provide this new firm transportation service pursuant to Part 284, subpart G, of the Commission's regulations, and proposes to charge ONEOK a discounted Part 284 rate. To the extent required, CenterPoint requests Commission approval of the precedent agreement between CenterPoint and ONEOK. CenterPoint

also seeks a pre-determination for rolled-in rate treatment of the costs of the project, stating that the additional compression would decrease the unit cost of service for existing customers.

4. Specifically, CenterPoint proposes to install a total of 28,265 horsepower (hp) of new compression on Line AD as follows: 13,220 hp at Allen Compressor Station; 10,310 hp at Hinton Compressor Station, and 4,735 hp at Amber Compressor Station. The Hinton and Allen Compressor Stations are to be located in Caddo and Hughes County, Oklahoma, respectively, while the Amber Compressor Station is located in Grady County, Oklahoma. CenterPoint states the project has two purposes: (1) to create sufficient new capacity to provide additional firm transportation to ONEOK, and (2) to provide additional transportation deliverability, flexibility and reliability to its system.

5. CenterPoint states the additional compression will increase the capacity on Line AD by approximately 112,900 Dth per day. CenterPoint states it has executed a ten-year precedent agreement with ONEOK for 100,000 Dth per day (90 percent of the expansion capacity), contingent upon facilities being installed by November 1, 2005. CenterPoint states it will not be able to provide this firm service without the proposed system enhancements. CenterPoint states the 12,900 Dth per day of additional unsubscribed capacity created by the construction of the proposed compression will allow CenterPoint to provide service to potential future markets on its system. CenterPoint estimates the total construction costs at \$31.9 million.

### **Notice and Interventions**

6. Public notice of CenterPoint's application in Docket No. CP05-3-000 was published in the *Federal Register* on October 21, 2004 (69 *Fed. Reg.* 618111). Comments were due on or before November 4, 2004. Timely, unopposed motions to intervene were filed by the Arkansas Public Service Commission, the City of Winfield, Kansas, and Laclede Gas Company.<sup>1</sup> No other motions to intervene, comments or protests have been filed in response to the notice of the application's filing.

### **Discussion**

7. Since CenterPoint's application pertains to facilities for the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, the proposal is subject to the requirements of subsections (b) and (c) of section 7 of the NGA.

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<sup>1</sup> Timely, unopposed motions to intervene are allowed by operation of Rule 214(c) of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214(c) (2004)).

8. On September 15, 1999, we issued a policy statement to provide guidance on how we would evaluate proposals for new gas facilities.<sup>2</sup> In this policy statement (Certificate Policy Statement), we establish criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. We explain that in deciding whether to authorize the construction of major new pipeline facilities, we balance public benefits against 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 to the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

9. Under our policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared financially to support the project without relying on subsidization from the existing customers.<sup>3</sup> 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. We also consider potential impacts of the proposed project on other pipelines in the market, on those existing pipelines' captive customers, and on landowners and communities affected by the location of the new facility. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we 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 we then proceed to complete the environmental analysis where other interests are considered.

### **Subsidies**

10. As discussed more completely below, CenterPoint has provided evidence showing that its proposal will not be subsidized by CenterPoint's existing customers. Rather, CenterPoint shows that projected revenues from the proposal will exceed projected costs. Specifically, revenues over a ten-year period will exceed the project's costs of service by approximately \$23 million. Indeed, rolling in the costs of the proposal will decrease existing rates slightly. No party has stated otherwise or offered evidence in opposition to CenterPoint's proposal. We find that CenterPoint has met the threshold requirement of showing that it is prepared to support the project without relying on subsidization from its existing customers.

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<sup>2</sup>*Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC **&61,227** (1999), *orders clarifying statement of policy*, 90 FERC **&61,128** and 92 FERC **&61,094** (2000), *order further clarifying statement of policy*, 92 FERC **&61,094** (2000).

<sup>3</sup> See 88 FERC **&61,227** at 61,746 (1999).

### **Adverse Impacts**

11. Once the threshold test has been met, the Certificate Policy Statement requires consideration of adverse effects on existing customers of CenterPoint, existing pipelines and their customers and on affected landowners and communities.<sup>4</sup> CenterPoint states that no adverse impacts result from the proposal upon other pipelines, their customers, or landowners. No pipeline submitted a protest regarding its interests or the interests of its customers.

12. The Commission next considers whether there will be adverse effects of an economic nature on landowners or the communities surrounding a potential compressor station location. The new Allen and Hinton Compressor Stations will be on land purchased by CenterPoint and their locations have been selected to allow the most efficient use of the stations.

13. In their comments in response to the NOI, David and Kathleen Harrington contend that the location of the Allen Compressor Station would devalue their property, which they state they intend to subdivide for residential development. However, the property is currently undeveloped and there is no specific plan in the public record for proposed development in the future. As discussed below, any direct environmental impacts on the Harrington's property can be mitigated. Thus, we find the proposal meets the requirements of the Certificate Policy Statement concerning affected landowners.

14. The additional compression provided by the proposal will increase the capacity on Line AD by approximately 112,000 Dth per day, thus allowing for the new firm transportation without degrading any existing customers' services. Also, this expansion project is not designed to serve or capture any customer of an existing pipeline. In addition, this project will facilitate the receipt of Rocky Mountain gas supplies from existing interconnections, allowing for deliveries eastward across CenterPoint's system.

15. CenterPoint has demonstrated a need for the project, through the precedent agreement with ONEOK, and that the project will enhance CenterPoint's deliverability, flexibility and reliability to the benefit of all its existing customers. As is the Commission's practice, the certificate issued herein is conditioned on CenterPoint's having executed a contract for the level of service and the terms of service represented in the precedent agreement before commencing construction. The record shows that the benefits discussed above will be obtained by CenterPoint and its customers, and the record supports the finding that the proposed construction is in accord with the Commission's Certificate Policy Statement and is thus required by the public convenience and necessity.

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<sup>4</sup> *Policy Statement*, 88 FERC ¶ 61,227 at 61,745.

**Rate Issues**

16. CenterPoint proposes to charge ONEOK a discounted Part 284 rate for service under the ten-year transportation agreement.<sup>5</sup> Pursuant to Paragraph 6 of the precedent agreement, ONEOK will execute a Transportation Service Agreement under which CenterPoint will charge the shipper a discounted rate achieved by discounting CenterPoint's then-effective applicable maximum tariff rates to a level which yields a unit rate of \$0.20 per Dth when calculated on an assumed 100 percent load factor basis of the shipper's contract demand.<sup>6</sup>

17. In Exhibit N of the application, CenterPoint estimates total revenue from the project over a ten-year period of \$72.8 million. This amount comprises revenue from two sources: (1) projected revenue of approximately \$65.7 million from the ONEOK contract, using a contract demand of 100,000 Dth/d and assuming a unit rate of \$0.18 per Dth, and (2) short-term firm revenue of \$7.1 million from unsubscribed capacity, using a contract demand of 12,900 Dth/d and assuming a unit rate of \$0.15 per Dth. Thus, the \$72.8 million in total revenue reflects a total contract demand equal to the 112,900 Dth/d capacity of the expansion, a discounted rate of \$0.18 under the ONEOK contract, and assumes that CenterPoint will sell the 12,900 Dth per day of unsubscribed capacity at a discounted rate of \$0.15.

18. In Exhibit N, CenterPoint also calculates a ten-year cost of service for the proposed facilities of approximately \$50 million. Subtracting \$50 million from the \$72.8 million results in revenues exceeding costs for the project by \$22.8 million.<sup>7</sup> Further, CenterPoint states that rolling in the proposed project's cost-of-service will have a minor impact on its existing rates, resulting in a decrease of its existing 100 percent load factor rate of approximately 2.66 percent, and lowering existing rates from \$0.2528 per Dth to \$0.2461 per Dth, as reflected in Exhibit N. CenterPoint also states that the new compression will not increase its overall system fuel-use percentages.

19. We have analyzed the proposal using a slightly different and more conservative approach to calculate projected revenues. Using only the 100,000 Dth per day contract demand level of ONEOK and the proposed \$0.20 unit rate reflected in the precedent agreement, we have calculated projected revenues of \$73 million. Subtracting the \$50

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<sup>5</sup> CenterPoint provides the September 4, 2004, precedent agreement between CenterPoint and ONEOK as Exhibit I of its application.

<sup>6</sup> The maximum rate for firm transportation rate under the tariff consists of a reservation charge of \$7.4257 and a commodity charge of \$0.0087, which equates to a 100 percent load factor rate of \$0.2528.

<sup>7</sup> In addition, CenterPoint calculates that in each year of the ten-year contract, revenues exceed the cost of service.

million ten-year cost of service from \$73 million results in revenues exceeding costs for the project by approximately \$23 million.<sup>8</sup>

20. The estimated total revenues from the discounted-rate contract with ONEOK will exceed the estimated ten-year cost of service for the proposed facilities. They will also exceed the cost of service in each year of the ten-year contract. Further, the addition of the new compression will not increase CenterPoint's fuel percentages. As noted above, because the revenues generated by the project will exceed the estimated costs, we find that there is no risk of subsidization by CenterPoint's existing shippers. Therefore, CenterPoint has demonstrated that rolled-in pricing would not result in a subsidy from existing customers and that a rate decrease should result when the cost of the facilities are rolled into CenterPoint's existing rates. Consistent with the Policy Statement, CenterPoint may roll in the costs of the expansion in its next rate case, absent a material change in circumstances.

### **Environment**

21. On November 1, 2004, a Notice of Intent to Prepare an Environmental Assessment for the Proposed Line AD Expansion Project and Request for Comments on Environmental Issues (NOI) was issued. Responses to the NOI were received from Mr. Larry Early, Mr. Raymond Paul Early, and Mr. Bill Nelson, expressing various concerns about the existing Amber Compressor Station. As discussed above, Mr. and Mrs. David Harrington commented on the proposed Allen Compressor Station. Two information requests for detailed maps of the project were made by Mr. Art Muller, Citizen of the Potawatomi Nation, and by the Caddo County Courthouse. Letters were also received from the US Fish and Wildlife Service (USFWS), the Oklahoma Historical Society (OHS), and the Bureau of Indian Affairs (BIA); all substantive comments were addressed in the environmental assessment (EA).

22. An EA was prepared for CenterPoint's proposal. The EA addresses land use, soils, water resources, wildlife, threatened and endangered species, cultural resources, and air and noise quality. The EA was mailed out for comment on April 5, 2005, with comments due by May 6, 2005. No comments were filed in response to the EA.

23. Environmental Condition 9 limits noise emissions from all authorized compressor stations, including the Allen Compressor Station in the vicinity of the Harrington's property. This condition is sufficient to mitigate any negative impact to the current use of the property. In addition, the Director of OEP had delegated authority under Environmental Condition 2 to design and require the implementation of additional

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<sup>8</sup> In addition, similar to CenterPoint's results, in each year of the ten-year contract revenues exceed the cost of service.

mitigation measures in the future, if warranted, to assure continued compliance with the intent of the environmental conditions of this order.

24. Based on the discussion in the EA, if constructed and operated in accordance with CenterPoint's application filed October 6, 2004, CenterPoint's responses to staff's data requests, and the environmental mitigation measures recommended in the EA, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

25. 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 or operation of facilities approved by this Commission.<sup>9</sup> CenterPoint shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies CenterPoint. CenterPoint shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

26. At a hearing held on May 25, 2005, 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 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 is issued to CenterPoint authorizing it to construct, own, operate, and maintain natural gas facilities, as described and conditioned herein, and as more fully described in the application.

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned on the following:

1. CenterPoint shall complete the authorized construction within one year of this order (section 157.20(b));

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<sup>9</sup> See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

2. CenterPoint shall comply with paragraphs (a), (c), (e), and (f) of Section 157.20 of the Commission's regulation; and
3. CenterPoint shall comply with the environmental conditions listed in Appendix A to this order.

(C) CenterPoint shall notify the Commission's environmental staff by telephone and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies CenterPoint. CenterPoint shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(D) CenterPoint shall execute a contract equal to the level of service and terms of service represented in the precedent agreement prior to commencing construction.

(E) CenterPoint may roll the costs of the facilities proposed in its application and approved by this order into its system-wide cost of service in its next NGA section 4 rate proceeding, unless there has been a material change from the present facts and circumstances.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.

## Appendix A

As recommended in the EA, this authorization includes the following conditions:

1. CenterPoint should follow the construction procedures and mitigation measures described in its application and supplements including responses to staff data requests as identified in the EA, unless modified by this order. CenterPoint must:
  - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission;
  - 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.
  
3. Within 60 days of the acceptance of this certificate and before construction begins, CenterPoint shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how CenterPoint will implement the mitigation measures required by this Order. CenterPoint must file revisions to the plan as schedules change. The plan shall identify:
  - a. how CenterPoint will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
  - b. the number of environmental inspectors assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - c. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;

- d. the training and instructions CenterPoint will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change).
  - e. the company personnel (if known) and specific portion of CenterPoint's organization having responsibility for compliance;
  - f. the procedures (including use of contract penalties) CenterPoint will follow if noncompliance occurs; and
  - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - (1) the completion of all required surveys and reports;
    - (2) the mitigation training of onsite personnel;
    - (3) the start of construction; and
    - (4) the start and completion of restoration.
4. CenterPoint shall employ at least one environmental inspector per construction spread. The environmental inspector(s) shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by this Order and other grants, permits, certificates, or other authorizing documents;
  - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract and any other authorizing document;
  - c. empowered to order correction of acts that violate the environmental conditions of this Order, and any other authorizing document;
  - d. responsible for documenting compliance with the environmental conditions of this Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
  - e. responsible for maintaining biweekly status reports.
5. CenterPoint shall file updated status reports prepared by the head environmental inspector with the Secretary on a biweekly basis until all construction and restoration activities are complete. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. the current construction status of each compressor station, work planned for the following reporting period, and any schedule changes;
  - b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector(s) during reporting period (both for the conditions imposed by the

- Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
- c. corrective actions implemented in response to all instances of noncompliance, and their cost;
  - d. the effectiveness of all corrective actions implemented;
  - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this Order, and the measures taken to satisfy their concerns; and
  - f. copies of any correspondence received by CenterPoint from other federal state or local permitting agencies concerning instances of noncompliance, and CenterPoint's response.
6. **Prior to any construction**, CenterPoint shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
7. CenterPoint shall develop and implement an environmental complaint resolution procedure. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the project and restoration of the ROW. **Prior to construction**, CenterPoint shall mail the complaint procedures to each landowner within 1/2-mile of the project.
- a. In its letter to affected landowners, CenterPoint shall:
    - (1) provide a local contact that the landowners should call first with their concerns; the letter should indicate how soon a landowner should expect a response;
    - (2) instruct the landowners that, if they are not satisfied with the response, they should call CenterPoint's Hotline; the letter should indicate how soon to expect a response; and
    - (3) instruct the landowners that, if they are still not satisfied with the response from CenterPoint's Hotline, they should contact the Commission's Enforcement Hotline at (888) 889-8030.
  - b. In addition, CenterPoint shall include in its biweekly status report a copy of a table that contains the following information for each problem/concern:

- (1) the date of the call;
  - (2) the identification number from the certificated alignment sheets of the affected property;
  - (3) the description of the problem/concern; and
  - (4) an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.
8. CenterPoint shall not begin construction of the Allen Compressor Station **until**:
  - a. the staff receives comments from the FWS regarding potential impacts of the proposed action on the American Burying Beetle;
  - b. the staff completes consultation with the FWS; and
  - c. CenterPoint has received written notification from the Director of OEP that construction or use of mitigation may begin.
9. CenterPoint shall file a noise survey with the Secretary no later than 60 days after placing the authorized compressor units at the Hinton, Allen and Amber Compressor Stations in service. If the noise attributable to the operation of the facility at full load exceeds an  $L_{dn}$  of 55 dBA at any nearby NSAs, CenterPoint should install additional noise controls to meet that level within 1 year of the in-service date. CenterPoint should confirm compliance with the  $L_{dn}$  of 55 dBA requirement by filing a second noise survey with the Secretary no later than 60 days after it installs the additional noise controls.
10. Prior to construction CenterPoint shall consult with the landowner and remedy the current runoff damage at the Amber Compressor Station with appropriate erosion and sedimentation control measures.
11. CenterPoint shall consult with Mr. Nelson and the Oklahoma DEQ regarding Mr. Nelson's alleged adverse health effects from the Amber Compressor Station emissions, and implement appropriate mitigation measures as necessary to remedy the problem, if substantiated.