

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Tennessee Gas Pipeline Company

Docket No. CP05-42-000

ORDER APPROVING ABANDONMENT
AND ISSUING CERTIFICATE

(Issued June 20, 2005)

1. On December 30, 2004, Tennessee Gas Pipeline Company (Tennessee) filed an application under section 7(b) of the Natural Gas Act (NGA) requesting approval to abandon and remove two 3,500 hp turbines at its Compressor Station 325 near Libertyville, in Sussex County, New Jersey. In addition, Tennessee seeks authorization under NGA section 7(c) to install and operate two new 4,721 hp turbines to replace the abandoned units.
2. We will approve Tennessee's requested abandonment and authorize its installation of new compressor units, for the reasons discussed below. This outcome serves the public interest by enabling Tennessee to operate compressor facilities in compliance with the Clean Air Act Amendments of 1990.

Background

3. In 1985, Tennessee received Commission approval to construct and operate its two existing 3,500 hp turbines at Compressor Station 325.¹ Tennessee states that these units

¹ 32 FERC ¶ 61,228 (1985).

do not comply with current emission limits, despite Tennessee's installation in the 1990s of dry low nitrogen oxide (NO_x) combustors and an oxidation catalyst to control the emissions of NO_x, carbon monoxide (CO), and volatile organic compounds (VOCs).

4. Tennessee observes that the New Jersey Department of Environmental Protection (NJDEP) previously allowed gas compressor turbines to use discrete emission reduction credits under an Open Market Emission Trading (OMET) Program. Tennessee relied on this OMET Program until approximately a year ago, when the NJDEP terminated it. In terminating the trading program, the NJDEP provided users of discrete emission reduction credits time to comply with emission constraints, and by its application here, Tennessee seeks to do so.

5. New Jersey law currently requires a limit of 0.15 lbs NO_x/MMBtu using reasonably available control technology (RACT).² Tennessee avows that the new larger turbines will meet the state's NO_x RACT standards and the federal Clean Air Act requirements.³ Tennessee adds that its proposed turbine removal and replacement is consistent with a proposed settlement among Tennessee, NJDEP, and the United States Environmental Protection Agency (EPA).

² New Jersey Administrative Code, Title 7, Chapter 27, Subpart 19.5, governing the control of NO_x from stationary gas turbines.

³ Tennessee explains that the proposed replacement units are equipped with a SoLoNO_x dry low emissions combustion system designed to meet NO_x emission levels of 25 parts per million on dry volume basis (ppmvd) at 15 percent oxygen. Tennessee expects that the premixing and lean fuel-air conditions of the new units will result in an 85 percent decrease in NO_x emissions, from 0.65 lb/MMBtu to 0.10 lb/MMBtu, potentially reducing the present NO_x emissions from 106 tons per year to less than 20 tons per year. Tennessee notes that while certain types of turbines can be retrofitted to incorporate SoLoNO_x technology, this is not the case with the turbines now in place; further, the manufacturer of the existing turbines has discontinued maintenance and service parts for the existing turbines.

6. Tennessee expects that the proposed replacement of two 3,500 hp turbines with two 4,721 hp turbines will increase its pipeline capacity by approximately 18,000 Dth per day in the vicinity of its Compressor Station 325. Tennessee intends to post and award this additional capacity and to charge transportation rates for service using the additional capacity created by its proposed new compression facilities, consistent with the terms and conditions of its current tariff. Tennessee estimates the cost of the proposed removal and replacement project will be \$4,876,000.

Notice and Interventions

7. Notice of Tennessee's application was published in the *Federal Register* on January 12, 2005.⁴ Timely, unopposed motions to intervene were filed by Atmos Energy Corporation; Consolidated Edison Company of New York (ConEd) jointly with Orange and Rockland Utilities, Inc. (O&R); East Ohio Gas Company, d/b/a Dominion East Ohio, jointly with Peoples Natural Gas Company, d/b/a Dominion Peoples; KeySpan Delivery Companies; and New Jersey Natural Gas Company.⁵

8. In its motion to intervene, ConEd and O&R raise questions regarding the proposed rate and accounting treatment, which we address below.

Discussion

9. Tennessee proposes to modify facilities used for the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission. Therefore, Tennessee's proposal is subject to the requirements of NGA section 7(b), (c), and (e).

10. But for the fact that the proposed compressor units have a higher horsepower than the existing units, this would be a replacement project not subject to our 1999 Policy

⁴ 70 *FR* 2,146 (Jan. 12, 2005).

⁵ 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).

Statement on New Facilities.⁶ However, because the additional horsepower will enable Tennessee to move greater volumes of gas, we treat this as an expansion project which is subject to the criteria set forth in our Policy Statement on New Facilities for determining whether there is a need for a proposed project, balancing the public benefits against potential adverse impacts, and determining whether the proposed project will serve the public interest. 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.

11. There is no opposition to the proposed project, and we find no indication that Tennessee's proposal will have any adverse impact on other competing pipelines or their current customers. Our Policy Statement on New Facilities provides that the cost of facilities designed to maintain and improve existing service and operations and enhance reliability and flexibility for the benefit of all customers is not considered a subsidy.⁷ Here, Tennessee is retiring facilities that no longer comply with air emissions standards, and to the extent the new facilities will serve to sustain existing services, subsidization is not an issue.

12. Tennessee maintains that removing the two existing turbines and installing new turbines should result in minimal ground disturbance, since each turbine is mounted to a skid. Tennessee plans to pull out the two existing turbines skids, mount new units in place of the old, and replace the skids. Because all the proposed activities, other than

⁶ Certification of New Interstate Natural Gas Pipeline Facilities (Policy Statement on New Facilities), 88 FERC ¶ 61,227 (1999), *orders clarifying statement of policy*, 90 FERC ¶ 61,128, 92 FERC ¶ 61,094 (2000), and 92 FERC ¶ 61,094 (2000).

⁷ See 90 FERC ¶ 61,128 at 61,393 (2000).

moving turbines from and to the site, will occur within the boundaries of Tennessee's Compressor Station 325, no additional land is required for the project; thus, the project will have no adverse effect on landowners.

13. We find that the benefits of Tennessee's project will outweigh any potential adverse effects if conducted in accordance with the environmental conditions discussed below. In addition, the proposal will bring NOx emissions at Tennessee's Compressor Station 325 into compliance with the federal Clean Air Act and New Jersey law. Therefore, we find the proposed project to be consistent with our Policy Statement on New Facilities. Accordingly, we will grant Tennessee's request for authorization to abandon, remove, and reinstall turbine units at Compressor Station 325, subject to this order's environmental conditions.

Rates

14. Tennessee indicates that duplicate turbine replacement units were unavailable, and that it selected the most economic available alternative capable of meeting air emission requirements and its customers' needs. The new units, however, will add a total of approximately 2,400 hp to Tennessee's Compressor Station 325, which will in turn increase Tennessee's pipeline capacity in the vicinity by approximately 18,000 Dth per day. Tennessee states that it will post and award this additional capacity in accord with its tariff, which sets forth an applicable maximum rate for any service using the new capacity. We find this approved rate on file to be appropriate as an initial rate for the additional capacity.

15. ConEd and O&R suggest we defer consideration of the treatment of project costs to Tennessee's next NGA section 4 rate case. Costs associated with replacing facilities to comply with regulatory requirements are traditionally recoverable in the same manner as the original facilities. Accordingly, we reach a preliminary determination that, absent a material change in circumstances, any project costs attributable to the maintenance of existing services for existing customers, on the basis of the replacement capacity, will qualify for rolled-in rate treatment when Tennessee makes its next general section 4 rate filing

16. In its December 30, 2004 application, Tennessee states its intention to incorporate the additional 18,000 Dth/d of capacity created by replacing its existing turbines with larger turbines into a future expansion project.⁸ On May 16, 2005, in Docket No. CP05-355-000, Tennessee filed an application for an expansion project. As part of the estimated cost of its proposed expansion, Tennessee includes costs it attributes to the 18,000 Dth/d of capacity it seeks to add to its Compressor Station 325, and calculates a proposed incremental recourse rate for expansion services. Because Tennessee intends to incorporate the additional capacity into its proposed expansion, we find it appropriate to treat the cost attributable to the additional capacity as part of the cost of the proposed expansion. Pending resolution of the costs at issue in a future section 4 proceeding, we direct Tennessee to maintain records sufficient to satisfy the requirements of section 154.309 of our regulations regarding recordkeeping for costs attributable to the 18,000 Dth/d of capacity.⁹

Accounting

17. Of the total estimated project cost of \$4,876,000, Tennessee proposes to capitalize \$4,282,690 and to expense the remaining \$593,310.¹⁰ Gas Plant Instruction No. 10 (GPI No. 10) of the Uniform System of Accounts categorizes all property as either retirement units or as minor items for purposes of determining whether costs related to additions or replacements of property are to be charged to expense or capitalized. Under GPI No. 10, the cost of adding retirement units, with or without replacement, is to be capitalized, while the cost of replacing minor items is to be charged to expense unless a substantial betterment results. GPI No. 10 also requires that when a retirement unit is replaced it shall be retired from gas plant by crediting the gas plant account in which it was included.

⁸ Tennessee's Application, at 8, n. 3 (December 30, 2004).

⁹ See, e.g., *Dominion Transmission, Inc. and Texas Eastern Transmission, L.P.*, 104 FERC ¶ 61,267 at P 73 (2003).

¹⁰ See Tennessee's Application's Revised Exhibit K, submitted as Data Response No. 1 (April 11, 2005).

18. Since Tennessee is replacing a retirement unit, we will require Tennessee to follow the accounting requirements contained in GPI No. 10 related to replacing a retirement unit. Thus, Tennessee must capitalize all of the estimated project cost of \$4,876,000 related to the replacement. In addition, Tennessee must retire the turbines that are being replaced from gas plant in service.

Environment

19. On January 26, 2005, the Commission issued a Notice of Intent (NOI) to prepare an Environmental Assessment (EA) for Tennessee's proposal to remove and reinstall facilities at its Compressor Station.¹¹ The Commission received one comment from the U.S. Fish and Wildlife Services (USFWS).

20. Commission staff prepared an EA for Tennessee's proposal. The EA addresses threatened and endangered species, cultural resources, air quality, noise, and alternatives. Based on the discussion in the EA, the Commission concludes that if constructed and operated in accordance with Tennessee's application, as supplemented, and the conditions specified below, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

21. The USFWS states that there is a known occurrence of the federally threatened bog turtle within 0.3 mile of the project site. However, the USFWS does not anticipate any adverse effects to this species, since all construction activities will take place within previously disturbed, graveled areas inside the fenced compressor station yard. We concur; the project as proposed should not result in any adverse impacts on either state listed threatened species or state species of concern. However, any modification to the proposal will require additional Commission approval.

22. Tennessee shall follow the construction procedures and mitigation measures described in its application, as supplemented. Tennessee must:

¹¹ 70 FR 5,998 (February 4, 2005).

- 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.
23. The Director of OEP has the 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.
24. Consistent with the condition on the certificates issued for similar projects,¹² Tennessee shall file a noise survey with the Secretary **no later than 60 days** after placing the modified Compressor Station 325 in service. If the noise attributable to the operation of the modified station at full load exceeds an L_{dn} of 55 dBA at any nearby noise-sensitive area, Tennessee shall install additional noise controls to meet that level **within 1 year** of the in-service date. Tennessee shall 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.

¹²See, e.g., 98 FERC & 61,027 at p. 61,079 (2002); 102 FERC ¶ 61,305 (2003); and 106 FERC ¶ 61,319 (2004).

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.¹³

26. Tennessee 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 Tennessee. Tennessee shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

27. At a hearing held on June 15, 2005, there was received and made a part of the record in this proceeding all filed evidence, including the application, as supplemented, and exhibits thereto, and after consideration thereof,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Tennessee under NGA section 7(c), authorizing the installation and operation of two turbine units at Tennessee's Compressor Station 325 in Sussex County, New Jersey, as described herein and in the application.

(B) Abandonment approval is granted to Tennessee under NGA section 7(b), permitting the abandonment and removal of two turbine units at Tennessee's Compressor Station 325 in Sussex County, New Jersey, as described herein and in the application.

¹³See, 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).

(C) The authorization and approval in Ordering Paragraphs (A) and (B) is conditioned on the following:

(1) Tennessee's constructing and making available for service the facilities described herein within two years of the final order in this proceeding, pursuant to paragraph (b) of section 157.20 of the Commission's regulations;

(2) Tennessee's compliance with all regulations under the NGA including, but not limited to, paragraphs (a), (c)(1), (c)(2), (c)(3), (e) and (f) of section 157.20 of Part 157 of the Commission's regulations and the environmental conditions in this order; and

(3) Tennessee's notifying the Commission within 10 days of the date of the abandonment of its turbine units.

(D) Tennessee shall comply with the environmental conditions set forth in paragraphs 22-26 of this order.

(E) Tennessee is required to follow GPI No. 10 in accounting for the replacement of the retired units.

(F) Tennessee shall maintain records to satisfy the requirements of section 154.309 of the Commission's regulations for costs attributable to the 18,000 Dth/d of capacity.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.