

104 FERC ¶ 61,166  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, and Nora Mead Brownell.

Natural Gas Pipeline Company of America

Docket No. CP03-51-000

ORDER ISSUING CERTIFICATE

(Issued July 29, 2003)

1. On February 13, 2003, Natural Gas Pipeline Company of America (Natural) filed an application pursuant to Section 7(c) of the Natural Gas Act (NGA) and Subpart A of Part 157 of the Federal Energy Regulatory Commission's regulations, for a certificate of public convenience and necessity authorizing the construction and operation of six new injection/withdrawal (I/W) wells along with appurtenant facilities, and the conversion and operation of three observation wells to I/W wells at Natural's Sayre Storage Field (Sayre) located in Beckham County, Oklahoma. In this order, the Commission concludes that Natural's proposed construction is in the public interest because the modifications will allow Natural to maintain the current level of storage service to the interstate market on its system.

**I. Background**

2. Natural's gas transmission system consists of the Amarillo mainline, the Gulf Coast mainline, and the A/G line which connects the Amarillo and Gulf Coast mainlines. The Amarillo line extends from gas producing areas in New Mexico, Texas, and Oklahoma to termination points near the Chicago, Illinois metropolitan area. The Gulf Coast line extends from onshore and offshore gas producing areas of Louisiana and Texas to termination points near the Chicago metropolitan area. The A/G line runs from Carter County, Oklahoma to Cass County, Texas. Natural also owns and operates underground storage facilities in Texas, Oklahoma, Iowa, and Illinois.

3. In Docket No. CP64-150, the Commission issued a certificate of public convenience and necessity, authorizing Natural to acquire, develop and operate Sayre, an existing natural gas storage field located in Beckham County, Oklahoma, and to construct and operate such other appurtenant facilities necessary to provide storage service to

customers in interstate commerce (1965 Certificate).<sup>1</sup> At that time the field was a depleted dry gas reservoir being used by Oklahoma Natural Gas Storage Company (Oneok) for intrastate service to customers located entirely within the State of Oklahoma.<sup>2</sup>

4. Pursuant to the 1965 Certificate, Natural acquired the easements, rights, and other property interests in the Sayre field from Oneok through a long-term lease.<sup>3</sup> Under the lease agreement, Oneok retained certain capacity rights in the Sayre field to serve its intrastate customers, and Natural agreed to operate the storage field to provide Oneok access to, and use of, its retained capacity rights. In granting its approval, the Commission characterized this as a “sharing” arrangement under which Natural could operate Sayre for the injection and withdrawal of gas for its account and for that of Oneok. The Commission determined that Oneok’s use of Sayre was not subject to its jurisdiction under the NGA.<sup>4</sup>

5. Sayre has been an important component of Natural’s pipeline system for almost 40 years, and today represents approximately 17 percent of Natural’s system-wide storage capacity.<sup>5</sup> Between 1964 and the present, Natural has received additional authorization in

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<sup>1</sup>Natural Gas Pipeline Company of America, 34 FPC 1258 (1965), reh’g, 35 FPC 189 (1966) (Natural).

<sup>2</sup>Oneok Sayre Storage Company, formerly known as Oklahoma Natural Gas Storage Company, is the successor by assignment to Oklahoma Natural Gas Company. For purposes of this Application, Natural will use “Oneok” to refer to Oklahoma Natural Gas Company, Oklahoma Natural Gas Storage Company, and Oneok Sayre Storage Company unless the specific context dictates otherwise.

<sup>3</sup>The lease was executed in September 1963 with a 40-year term which will expire in September 2003. See Natural, 34 FPC 1258.

<sup>4</sup>34 FPC at 1259, 1263. The Commission consistently addressed the jurisdictional question in subsequent orders, and reaffirmed that this joint use of the Sayre field by Natural and Oneok was not subject to its jurisdiction under the NGA. See 35 FPC 189 (1966); 44 FPC 1597 (1970); 45 FPC 258 (1971).

<sup>5</sup>Natural utilizes its storage fields on an aggregated or integrated basis so that all of its certificated storage services are deemed to be provided by all of its fields.

Accordingly, all of Natural’s unbundled storage services and pipeline operations are, to

(continued...)

numerous dockets to further develop the Sayre field, removing, reworking or installing facilities, and taking other actions to assure the efficient operation of the storage field. The certificated maximum total inventory is now 90.4 Bcf, and the current certificated maximum daily deliverability is 400 MMcf.<sup>6</sup>

6. Pursuant to the 1965 Certificate, Natural has recently contracted with Oneok to acquire by purchase all of Oneok's rights, easements, and other property interests in the Sayre field that Natural had initially acquired through the long-term lease.<sup>7</sup> Natural filed its application in this proceeding to effectuate Natural's and Oneok's new agreement.

## II. Proposals

7. Under the original lease agreement, Oneok was obligated to maintain 6.0 Bcf of cushion gas inventory. Pursuant to the new agreement, Oneok proposes to reduce this cushion obligation to 3.0 Bcf. However, Natural will continue to provide Oneok its previous operating parameters of 20 MMcf/d of firm injection and 20 MMcf/d of firm withdrawal rights, but will now do so with an associated 3.0 Bcf of working gas volume and 3.0 Bcf of cushion gas volume provided by Oneok.

8. Natural states that it will continue to provide the same level of firm Nominated Storage Service (NSS) to its interstate customers from Sayre. Natural is not requesting an increase in the certificated total inventory or in the certificated maximum daily deliverability but to maintain Sayre's current level of service to Natural's interstate customers, following Oneok's cushion inventory reduction.

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<sup>5</sup>(...continued)

one degree or another, dependent upon the operation of the Sayre storage field.

<sup>6</sup>Various authorizations affecting Sayre were received in the following Docket Nos.: CP64-150 (32 FPC 1295 and 45 FPC 258), CP71-203 (45 FPC 1055 and 47 FPC 1563), CP72-217 (47 FPC 1564), CP73-222 (50 FPC 532), CP74-254 (52 FPC 348) and CP91-1550 (Prior Notice pursuant to Section 157.205 of the Commission's Regulations, effective 5/7/91).

<sup>7</sup>In the 1965 Certificate, the Commission authorized Natural to "acquire all of the rights, properties, and interest of Storage Company in and to the Sayre underground storage field...". (Ordering Paragraph A, 34 FPC at 1264).

**A. Facilities**

9. There are currently 27 I/W wells and 16 observation wells at Sayre. To provide the current level of deliverability after the reduction of Oneok's cushion inventory,<sup>8</sup> Natural proposes to drill six new I/W wells, convert three observation wells to I/W wells, and install associated piping and related facilities at Sayre.

10. Natural states that its proposal will allow it to continue to provide the same level of firm Nominated Storage Service (NSS) to its interstate customers from Sayre. Natural states that these additional wells will increase Sayre's late season deliverability by approximately 67 MMcf/d, thereby effectively offsetting Oneok's cushion inventory reduction. Natural is not requesting an increase in the certificated total inventory or in the certificated maximum daily deliverability. Rather, the requested increase in the number of I/W wells will maintain Sayre's current level of service to Natural's interstate customers, following Oneok's cushion inventory reduction. Natural projects an in-service date in the summer of 2004 and estimates that the cost of construction will be \$3,349,530.

**B. Rates**

11. Natural does not propose any revision to its current rates as a result of this application. When Natural files its next rate case, it will seek to roll in the costs of the facilities proposed in this proceeding. Natural requests the Commission to defer consideration of the future treatment of these costs, however, until the rate case in which Natural proposes such rolled-in treatment.

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<sup>8</sup>In the 1965 Certificate, the Commission recognized that Oneok's withdrawal of its storage gas was an integral and reasonable part of the agreement between Natural and Oneok to share the Sayre field. At that time, Oneok had approximately 20 Bcf of gas stored at Sayre. In 1999, when Oneok sought the authority to offer NGPA Section 311 interruptible storage service utilizing its retained capacity in Sayre, Oneok indicated that its cushion gas level was 8.870 Bcf. As noted, Natural and Oneok have agreed to a further reduction in the level of cushion gas that Oneok will be required to maintain in Sayre.

### **C. Justification for Proposals**

12. Natural states that the new wells are necessary to maintain Sayre's current level of service. Natural states that these new facilities will not alter the current certificated levels, which are 90.4 Bcf of total inventory, and 400 MMcf/day maximum deliverability.

13. Natural has recently contracted with Oneok to acquire by purchase all of Oneok's rights, easements, and other property interests in the Sayre field that Natural had initially acquired through the long-term lease. Natural states that it will now interact directly with the ranchers, farmers and other landowners who have granted easements. Consistent with the framework embodied in the original lease agreement, and as approved by the Commission, Natural will continue to operate the Sayre field to provide Oneok access to, and use of, its retained storage capacity rights. Thus, the new agreement maintains the cooperative utilization and operation that both pipeline companies rely on to provide services to their respective markets.<sup>9</sup> The consolidation of operating and ownership interests in Sayre will provide for the unified management and administration of the storage reservoir.

14. Natural contends that existing customers will not subsidize the project because rates for existing customers will not be increased. Further, it states that there will not be any degradation of service, that there will be no adverse effect on other existing pipelines or their customers, and that there will be little effect on landowners and communities.

### **III. Interventions**

15. Notice of Natural's application was published in the Federal Register on March 3, 2003, 68 Fed. Reg. 10,001(2003). BP America Production Company, Nicor Gas, Western Gas Resources, Inc. and Virginia Power Energy Marketing, Inc., filed timely motions to intervene. Peoples Gas Light and Coke Company and North Shore Gas Company filed motions to intervene out of time in the proceeding. VPEM and Western filed an untimely joint request to establish a technical conference to investigate Natural's operations of

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<sup>9</sup>When the Commission certificated Natural's acquisition and operation of the Sayre field, Oneok was using the field exclusively to provide intrastate services to its Oklahoma customers. In Oneok Gas Storage LLC, Oneok Sayre Storage Co., 90 FERC ¶ 61,283 (2000), the Commission authorized Oneok to also provide interruptible storage services at market-based rates under Section 311 of the Natural Gas Policy Act of 1978 (NGPA) utilizing its retained capacity in the Sayre field.

Sayre and the impact of the proposed changes on Natural's storage customers. The untimely motions have demonstrated an interest in this proceeding and have shown good cause for seeking to intervene out of time. Further, the untimely motions will not delay, disrupt, or otherwise prejudice this proceeding. Thus, we will grant the untimely motions to intervene and the untimely joint request by VPEM and Western.

16. Natural filed an answer to VPEM's and Western's request for a technical conference. Answers to protests are not permitted under our rules.<sup>10</sup> Nevertheless, we will accept Natural's answer in order to have a more complete record in this proceeding. The issues raised in the joint request and answers are discussed below.

#### **IV. Discussion**

17. Since the proposed facilities will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, the construction and operation of the facilities is subject to the requirements of Subsections (c) and (e) of Section 7 of the Natural Gas Act.

##### **A. Certificate Policy Statement**

18. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new construction.<sup>11</sup> The Certificate 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 Certificate Policy Statement explained that in deciding whether to authorize the construction of major new pipeline facilities, we balance 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.

19. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on

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<sup>10</sup>18 C.F.R. § 385.213(a)(2) (2002).

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

subsidization from its 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 the new pipeline. 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 proceed to complete the environmental analysis where other interests are considered.

### **1. Subsidization**

20. The Policy Statement notes that projects designated to improve service for existing customers, by replacing existing capacity, improving reliability, or providing flexibility, are for the benefit of customers.<sup>12</sup> The Commission has found that increasing the rates of the existing customers to pay for these kinds of improvements is not a subsidy and the costs of such projects are permitted to be rolled-in.<sup>13</sup> The purpose of the proposed project is to provide continued reliable service from the Sayre field to Natural's customers while continuing to meet the legitimate intrastate needs of Oneok. The new wells will increase Sayre late season deliverability, which will offset Oneok's reduced cushion gas inventory, and provide the same level of deliverability. Thus, Natural's existing customers will not be disadvantaged by the restructuring of the Sayre Field. Since the project will continue to provide existing service and improved reliability through the increased late season deliverability, and will benefit all of Natural's customers, there is no financial subsidy. While Natural did not seek an up-front determination on the future rate treatment of the project costs, we nevertheless find that, since the project will provide systemwide benefits, the related costs should be rolled into Natural's rates.

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<sup>12</sup>Certification of New Interstate Natural Gas Pipeline Facilities; Statement of Policy, 88 FERC ¶61,227 (1999), Order Clarifying Statement of Policy, 90 FERC ¶ 61,128 (2000).

<sup>13</sup>See, e.g., Texas Eastern Transmission Corp., 95 FERC ¶ 62,031 (2000); Columbia Gulf Transmission Co., 93 FERC ¶ 62,156 (2000); Texas Gas Transmission Corp., 90 FERC ¶ 62,190 (2000).

## **2. Balancing the Benefits and the Burdens**

21. Pursuant to the Policy Statement, the Commission evaluates the project by balancing the evidence of the project's public benefits against the residual adverse effects. In compliance with the Policy Statement, Natural has structured the project to eliminate or minimize any adverse effect the project may have. With respect to Natural's existing shippers, the project will have no current impact on their rates. Any future impact on current rates will be minimal, given the low cost of the proposed facilities in comparison to Natural's other storage facilities. Nor will they suffer any degradation of service. As discussed previously, the proposed facilities are in fact necessary to maintain current levels of service and existing operational flexibility. There will be no adverse effect on any other existing pipeline company or its customers. No existing pipeline or capacity is being by-passed, for example, by the facilities proposed here. Natural will continue to receive gas from the same sources and deliver it to the same interconnecting pipelines.

22. There will be little or no effect on landowners and communities. Only minimal new pipeline right-of-way is proposed in this project to connect to new I/W well surface locations to adjacent existing laterals. No existing pipeline right-of-way is proposed to be widened. The additional wells will be located within the boundaries of the existing field.

## **3. Policy Statement Conclusion**

23. For the reasons set forth herein, we find that the benefits of Natural's proposal will outweigh any potential adverse effects and will be consistent with the Certificate Policy Statement and Section 7 of the Natural Gas Act. Thus, we conclude that the public convenience and necessity require the granting of the requested authorization to Natural.

### **B. Engineering**

24. The Commission performed a detailed analysis of the data submitted by Natural in its application and data request response. Staff analysis has shown that Natural has been operating the Sayre field within its certificated limits as established by the Commission, including its maximum pressure and maximum inventory. The wells to be constructed and converted are located in the center of the Sayre field. Analysis of the submitted data results in our concluding that the additional nine wells, six new wells and three converted wells, will increase late season deliverability and should not result in an increase in inventory if operated correctly.

### **C. Environmental Analysis**

25. Our staff prepared an environmental assessment (EA) for Natural's proposal. The EA addresses geology, water bodies, wetlands, vegetation, wildlife, land use, soils, water resources, federally listed threatened and endangered species, cultural resources, and alternatives. Based on the discussion in the EA, we conclude that if constructed in accordance with Natural's application and supplement filed on May 27, 2003, approval of this proposal would not constitute a major Federal action significantly affecting the quality of the human environment.

26. Any state or local permits issued with respect to the jurisdictional facility 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.<sup>14</sup>

### **D. Request for Technical Conference**

27. VPEM and Western<sup>15</sup> request a technical conference to investigate the impact of Natural's proposal on its existing storage customers, the terms of Natural's storage agreement with Oneok, and whether Oneok has priority over Natural's customers or some other special arrangement for transportation over Natural's system. While acknowledging that Natural's storage service scheduling and operation comply with Natural's tariff, VPEM and Western believe that it is impossible for a shipper to acquire a single transportation path to be used for all the shipper's storage injections and withdrawal needs. They express concern that the proposed changes may not aid but may aggravate this problem.

28. In its answer, Natural contends that there is no need for a technical conference. Natural first notes that Oneok is not a storage customer of Natural and has no priority over Natural's storage customers. Natural states that Oneok will retain access to the

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<sup>14</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).

<sup>15</sup>Western is a marketer and shipper on Natural's system. According to Natural, VPEM is not a storage customer and holds no storage service on either leg of its system.

capacity at Sayre that it owns and uses to provide services to its customers as before. Natural reiterates that service to its existing customers will not be affected in any way.

29. We will deny VPEM and WGR's request for a technical conference. VPEM and WGR are concerned with Natural's scheduling transportation on its system for storage injections and withdrawals. However, they acknowledge that Natural's current operation and scheduling of storage service at Sayre complies with Natural's tariff. To the extent VPEM and WGR have concerns with respect to Natural's tariff, they are beyond the scope of this certificate proceeding. We have concluded in this proceeding that Natural's proposal will have no negative impact on service to Natural's existing storage customers and in fact have found that Natural's proposal will increase late season deliverability. Since VPEM and WGR do not object to any specific aspect of Natural's application, we find that there is no need for a technical conference.

30. At a hearing held on July 23, 2003, the Commission, on its own motion, received and made a part of the record all evidence, including the application and exhibits thereto, submitted in this proceeding, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Natural authorizing it to construct and operate six new injection/withdrawal wells, along with appurtenant facilities, and convert three observation wells to injection/withdrawal wells in its Sayre Storage Field, as described herein.

(B) The certificate issued in Paragraph (A) is subject to the following conditions:

- (1) Natural shall comply with Part 157 of the regulations, especially paragraphs (a), (c), (e), and (f) of Section 157.20.
- (2) Natural's facilities must be constructed and made available for service within one year of the date of this order, pursuant to paragraph (b) of Section 157.20 of the regulations.
- (3) Natural shall comply with the environmental conditions included in the Appendix to this order.

(C) Natural 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 Natural. Natural shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(D) The operation of Natural's Sayre Storage Field is subject to the following conditions:

- (1) The maximum inventory of natural gas stored in the Sayre Storage Field shall not exceed 90.4 Bcf at 14.73 psia and 60 degrees Fahrenheit, the working gas capacity shall not exceed 51.1 Bcf, and the maximum bottom hole storage pressure shall not exceed 1,020 psia.
- (2) The Sayre Storage Field shall be operated in such manner as to prevent/minimize gas loss or migration.
- (3) Natural shall file with the Secretary of the Commission copies of any well logs, including Neutron logs, Gamma Ray logs, Cement bond and caliper logs, and any well tests including drill stem tests and back pressure tests for any well drilled or converted in conjunction with this project.

(E) The request for a technical conference is denied.

(F) The late motions to intervene are granted.

By the Commission.

( S E A L )

Linda Mitry,  
Acting Secretary.

## APPENDIX

### Environmental Conditions

1. Natural shall follow the construction procedures and mitigation measures described in its application (including responses to staff's data request) and as identified in the environmental assessment, unless modified by this Order. Natural 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. Natural shall defer construction and use of facilities and staging, storage, and temporary work areas and new or to-be-improved access roads associated with Well 4 **until**:
  - a. Natural files with the Secretary a cultural resource survey report for the area of denied access at Well 4, any required treatment plan, and the Oklahoma State Historic Preservation Office's and Oklahoma Archeological Survey's comments on the report and any plan; and
  - b. the Director of OEP reviews and approves all reports and plans and notifies Natural in writing that it may proceed.

All material filed with the Commission containing **location, character, and ownership** information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: "**CONTAINS PRIVILEGED INFORMATION--DO NOT RELEASE.**"