

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

CenterPoint Energy - Mississippi River
Transmission Corporation

Docket No. CP04-334-000

ORDER APPROVING ABANDONMENT

(Issued October 28, 2004)

1. On May 10, 2004, CenterPoint Energy- Mississippi River Transmission Corporation (Mississippi River) filed an application pursuant to section 7(b) of the Natural Gas Act (NGA) seeking approval to abandon certain pipeline facilities located in northern Louisiana, Arkansas and southern Missouri. We find that the proposed abandonment is in the public interest because the facilities are deteriorated and obsolete, and abandonment of the facilities will ensure the reliability and safety of Mississippi River's system without adversely impacting its ability to meet its service obligations.

I. Background And Proposal

2. Mississippi River, a wholly-owned subsidiary of CenterPoint Energy, Inc. incorporated in Delaware with its principal office in Houston, Texas, is a natural gas company subject to the Commission's jurisdiction. Mississippi River provides firm and interruptible transportation and storage services in Texas, Louisiana, Arkansas, Missouri, and Illinois.

3. Mississippi River's Main Line System consists of three 22 to 24-inch diameter pipelines that run roughly parallel to each other from Mississippi River's compressor station at Perryville, Louisiana to its primary market area in and around St. Louis, Missouri. These facilities are used to transport gas from production fields in the Perryville area in the south to markets in the St. Louis area in the north, and from various receipt points along the pipeline system to storage fields in the Perryville area.

4. Mississippi River proposes to abandon:

- approximately 307 miles of its Main Line No. 1, consisting of 22-inch diameter, 1929-vintage, uncoated, mechanically-coupled pipe extending from the Perryville compressor station to its compressor station at Poplar Bluff, Missouri;
- all above-ground appurtenances at 78 sites located on that portion of the line;
- cross-over pipes located at 23 sites located on that portion of the line;
- a backup interconnection with Natural Gas Pipeline Company of America located in Randolph County, Arkansas;
- six compressor engines and all structures at its Diaz compressor station in Jackson County, Arkansas, except for two small utility sheds; and
- eight compressor engines and all structures at its Sherrill compressor station in Jefferson County, Arkansas.

5. As discussed further below, Mississippi River states that the age and deterioration of the pipe and the obsolescence of the compressor engines require that the facilities be abandoned. Mississippi River states that it will remove all above-ground structures and remove or abandon in place separators, scrubbers, relief valves and piping, except for an 18.3-mile segment extending north from its Glendale compressor station in Arkansas to the City of Pine Bluff Arkansas. That 18.3-mile pipeline, along with the relevant interconnection, will be sold to its affiliate, CenterPoint Energy Gas Transmission Company (CenterPoint), at the facilities' net book value of \$912,333.77. CenterPoint will rely on its Part 157 blanket certificate authority to acquire these facilities and replace the pipe with smaller diameter pipe in the same right-of-way to provide lateral service to Pine Bluff. Aside from minor yard and station piping rework, Mississippi River is not proposing to construct any additional facilities. The total estimated cost of the proposed abandonment project is \$5.6 million.

6. Mississippi River states that it has made certain arrangements with CenterPoint to ensure that Mississippi River's abandonment proposal will not adversely impact Mississippi River's ability to meet its firm service obligations. Prior to Mississippi River's decision to file its current abandonment proposal, Mississippi River and CenterPoint already had an agreement under which CenterPoint has reserved firm downstream capacity on Mississippi River's system. CenterPoint can use this capacity to deliver its shippers' gas volumes into Mississippi River's system either at the pipelines' interconnection near Glendale, Arkansas, for southbound transportation into Mississippi

River's storage facilities, or at the pipelines' interconnection near Olyphant, Arkansas, for northbound transportation to market areas.

7. Mississippi River states that, during a reverse open season, CenterPoint turned back sufficient capacity to ensure that Mississippi River's abandonment proposal will not diminish its ability to meet firm service requirements for southbound transportation into storage. Mississippi River further explains that it has safeguarded its ability to meet its firm market zone delivery obligations by entering into a new agreement for CenterPoint's reservation of firm downstream capacity on Mississippi River's system. While the new agreement allows CenterPoint to nominate that its entire Maximum Daily Quantity (MDQ) of 348,837 Dth/d enter Mississippi River's system at the Glendale interconnection for southbound transportation into storage, the new agreement provides for CenterPoint to receive a discounted transportation rate for agreeing to deliver up to 85,000 Dth/d of its MDQ to the Olyphant interconnection, as needed by Mississippi River to ensure that it has sufficient volumes flowing north to meet its firm service delivery obligations in market areas.

8. Mississippi River states that it has already taken two of the deteriorated segments of Main Line No. 1 out of service temporarily, pending approval of its abandonment proposal. Mississippi River states that it was still able to fulfill its contractual commitments during the 2003-2004 winter heating season by calling on CenterPoint to increase deliveries at their Olyphant interconnection.

II. Notice, Interventions And Other Pleadings

9. Notice of Mississippi River's application was published in the *Federal Register* on May 24, 2004 (69 Fed. Reg. 29,526). Illinois Power Company, Trigen-St. Louis Energy Corporation, ConocoPhillips (Conoco), Laclede Gas Company (Laclede), and Union Electric Company d/b/a AmerenUE (Ameren) filed timely, unopposed motions to intervene.¹ The Missouri Public Service Commission (Missouri Commission) filed a timely notice of intervention.²

10. The Laclede Group, Inc., Rob Roy Planting Company and Marilyn H. Johnson filed late motions to intervene. The Commission finds that granting these late motions to

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

² A timely notice of intervention by a State Commission is granted by operation of Rule 214(a)(2) of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(a)(2) (2004).

intervene at this stage of the proceeding will not cause undue delay, disruption, or otherwise prejudice or place additional burden on existing parties. Therefore, we will grant these late-filed motions to intervene.

11. Laclede supports Mississippi River's abandonment proposal. Conoco and Ms. Johnson filed comments. Ameren filed a conditional protest and request for a technical conference. The Missouri Commission filed a protest and request for a technical conference. Mississippi River filed a response to Ms. Johnson's comments and an answer to the other comments and protests. Ameren and the Missouri Commission filed responses to Mississippi River's answer, and Laclede filed a reply to those responses. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits answers, responses and replies unless otherwise ordered by the decisional authority.³ We will accept the answers, responses and replies because they have provided information that assisted us in our decision-making process.

12. The Missouri Commission's protest included numerous data requests, to which Mississippi River responded. However, several parties still have concerns that were not resolved by Mississippi River's responses, as discussed below.

III. Discussion

A. Abandonment of Jurisdictional Facilities

13. The pipe in the 307-mile segment of Main Line No. 1 that Mississippi River proposes to abandon was installed in 1929. Along this segment of pipeline are two compression stations. The compression engines at the Diaz station were installed in 1947. The compression engines at the Sherrill station were installed between 1939 and 1968. The age and deterioration of the 307 miles of pipe at issue make maintenance and operation uneconomic. The fact that this 307-mile segment of pipeline is uncoated, mechanically coupled pipe compounds maintenance problems and expense and makes operation of the facilities increasingly unreliable. The compression equipment is obsolete. The age of the compressor engines makes finding replacement parts more difficult and more expensive. In addition, the facilities at issue were not designed to meet current safety and environmental requirements.

14. Further, Mississippi River does not need to incur the expense of replacing the deteriorated facilities at issue in order to meet its service obligations. As discussed above, when Mississippi River takes the subject facilities out of service permanently, CenterPoint will turn back a sufficient amount of its reserved firm downstream capacity on Mississippi River's system to ensure the continued reliability of Mississippi River's firm southbound transportation services to inject gas into storage.

³ 18 C.F.R. § 385.213(a)(2) (2004).

15. Mississippi River also has made arrangements with CenterPoint to ensure the reliability of firm northbound transportation services to market areas. Specifically, as discussed above, Mississippi River and CenterPoint have entered into an agreement under which CenterPoint will receive a discounted transportation rate for its entire MDQ of 348,837 Dth/d in exchange for agreeing to deliver up to 85,000 Dth/d to the Olyphant interconnection, as needed by Mississippi River to ensure that it has sufficient volumes flowing north to meet its firm service delivery obligations in market areas.

16. This arrangement assumes that CenterPoint will have sufficient flexibility to divert its shippers' southbound storage supplies, when necessary, to ensure that Mississippi River will be able to make market deliveries for all of its shippers at times when Mississippi River is constrained from transporting enough gas directly from storage to satisfy its storage customers' nominations. To the extent CenterPoint's diversion of southbound storage supplies avoids the necessity of withdrawing gas from storage on a given day, equivalent volumes will be available for withdrawal from storage at later times.

17. The Missouri Commission emphasizes that Mississippi River's agreement with CenterPoint does not guarantee that CenterPoint will always be able to deliver sufficient volumes at the Olyphant interconnection to make up for capacity lost as the result of the proposed abandonment. Rather, the Missouri Commission points out, the agreement provides an incentive, through a discounted transportation rate, for CenterPoint to deliver sufficient volumes at the Olyphant interconnection.

18. The Missouri Commission argues that in the event Mississippi River needs CenterPoint to provide a certain quantity of gas at Olyphant at a time when the market price for gas has spiked, the agreement actually provides an incentive for CenterPoint *not* to increase deliveries to the Olyphant. The only penalty under the agreement when CenterPoint does not deliver the requested volumes at the Olyphant interconnection is that it will have to pay the regular, as opposed to the discounted, rate for service the next month for its firm downstream capacity on Mississippi River's system. The Missouri Commission asserts that CenterPoint therefore may evaluate whether the "market price for its gas (at the time it is given notice by [Mississippi River]), will generate more than enough revenue to allow it to 'take a hit' by losing its discount with [Mississippi River] the following month."⁴

19. If we correctly understand the Missouri Commission's argument, it is based on the assumption that the gas to be delivered by CenterPoint at Olyphant will be gas owned by CenterPoint. This is an incorrect assumption. The gas delivered by CenterPoint at

⁴ The Missouri Commission's June 25, 2004 response at p. 5.

Olyphant will be gas owned by shippers on CenterPoint's system. Thus, spikes in gas prices should in no way influence CenterPoint's willingness to transport gas to Olyphant.

20. A spike in gas prices could, in limited circumstances, provide an incentive for the owner of gas to want to put the gas in storage rather than market it immediately. But fluctuations in commodity prices can provide such an incentive for a shipper only to the extent it does not have an immediate need for the gas itself or, in the case of a shipper who will not be the end user, only to the extent that its contractual commitments are sufficiently flexible that it can delay tendering the gas.

21. Thus, the Missouri Commission's argument is only plausible with respect to spot market gas. There is no evidence that CenterPoint's load so heavily reflects spot market purchases that they could impede its ability to make 85,000 Dth/d available at Olyphant, especially considering CenterPoint's MDQ is 348,837 Dth/d.

22. Further, Mississippi River states that, pending approving of its abandonment proposal, it has already taken two of the deteriorated segments of Main Line No. 1 out of service temporarily. This action effectively made the capacity of the subject 307-mile segment of Main Line No. 1 unavailable during the 2003-2004 winter heating season. However, Mississippi River was still able to fulfill its contractual commitments during the 2003-2004 winter heating season by calling on CenterPoint to increase deliveries at their Olyphant interconnection. Mississippi River has been continuing to meet its service obligations through its new agreement with CenterPoint since May 1, 2004.

B. Gas Purchases by Mississippi River to Make Up Shortfalls

23. In any instances where deliveries at Olyphant are not sufficient, Mississippi River states that it will rely on its authority pursuant to section 9 of its tariff's General Terms and Conditions (GT&C) to purchase system management gas as needed to support its service obligations to its existing customers. Mississippi River further points out that its tariff does not contain any provision to charge customers for system management gas. Mississippi River also states that, in the event it purchases gas to make up for inadequate receipts at Olyphant, the costs associated with such gas purchases will not be charged and/or flowed through to customers.⁵

24. The Missouri Commission points out that while section 9 of Mississippi River's GT&C authorizes it to purchase system management gas, section 9 does not explicitly require that Mississippi River purchase gas volumes that may be necessary to make up for shortfalls at Olyphant. The Missouri Commission requests that Mississippi River be

⁵ Mississippi River's June 16, 2004 answer at pp. 10-11.

required to revise section 9 of its tariff so that it will be required to purchase any volumes necessary to meet this contingency.

25. We do not agree that system management gas would include gas purchased by Mississippi River to ensure adequate deliveries. Thus, section 9 of Mississippi River's GT&C does not authorize such purchases. However, Mississippi River has indicated that it will purchase any necessary volumes of gas that are needed to make up for shortfalls in any instance that CenterPoint fails to deliver sufficient volumes to Olyphant. Mississippi River has further stated that it will not seek to recover the costs associated with such gas purchases from its shippers. With this understanding, we have no objection to Mississippi River's committing to purchase gas when needed to ensure that it will be able to meet its firm service obligations.

C. Open Season

26. Prior to entering into its agreement with CenterPoint for increased deliveries at Olyphant, Mississippi River had entered into three-year agreements with four shippers for the reservation of 19,636 Dth/d of firm capacity. This was viewed at the time as temporary capacity. Mississippi River explains that because of the agreement for increased deliveries at Olyphant, there was no longer a need to characterize this capacity as temporary. Thus, as the existing agreements for the capacity expired, Mississippi River conducted open seasons for the capacity on a long-term basis.⁶ Conoco, Ameren and the Missouri Commission question whether the open seasons for bids on capacity offerings totaling 19,636 Dth/d on Main Line Nos. 2 and 3 were conducted in a non-discriminatory manner in accordance with the requirements of Mississippi River's governing tariff provisions.

27. Mississippi River posted a prearranged agreement with CenterPoint Energy Gas Services for some of the available capacity under a firm service agreement with a 2-year contract term. The posting provided for an open season that lasted 7 days (10 a.m. March 16, 2004 to 5 p.m. March 22, 2004). This period covered 5 business days, which met the requirements in section 5.9(4) of Mississippi River's GT&C governing capacity offerings for terms greater than 365 days. Laclede submitted a competitive bid which CenterPoint Energy Gas Services declined to match. Laclede was awarded the capacity.

28. Mississippi River posted a 1-year prearranged agreement with Laclede for other capacity for 3 days (10 a.m. March 17, 2004 to 5 p.m. March 19, 2004). This period included 3 business days, which met the requirements of section 5.9(3) of Mississippi River's GT&C governing capacity offerings for terms for more than 92 days but not greater 365 days. CenterPoint Energy Gas Services submitted a competitive bid. Laclede matched the bid and therefore was awarded the capacity.

⁶ *Id.* at pp. 5-8.

29. Mississippi River's reverse open season requesting the turn back of capacity was held for 5 business days. CenterPoint was the only shipper that offered to turn back capacity. It turned back sufficient capacity to ensure that Mississippi River's abandonment proposal will not jeopardize its ability to meet its service obligations to inject gas into storage. Mississippi River's tariff does not specifically address reverse open season posting procedures. However, a 5-business day posting is consistent with the provisions in other pipelines' tariffs relating to reverse open seasons. Moreover, no party has indicated that it might have turned back capacity if the open season had been conducted differently.

30. While the issues raised relating to the open seasons are not material in determining whether Mississippi River's proposal to abandon deteriorated facilities is in the public interest, our review of the record in this proceeding indicates that Mississippi River conducted the open seasons at issue consistent with its tariff provisions. Further pursuit of issues relating to the open seasons would be more appropriately raised in a complaint proceeding.

D. Landowner Request for Removal of Pipeline

31. Ms. Johnson, a landowner, requests, on behalf of herself and her brothers and sisters, that Mississippi River remove the abandoned Main Line No. 1 pipe from her family's property and relinquish all claim to the rights-of-way for that property. Mississippi River states that it is abandoning only one of three parallel pipelines in the easement that crosses the property and does not plan to abandon that easement. Mississippi River states that it desires to abandon the pipe in place to avoid any disturbance. Mississippi River indicates, however, that it is willing to remove the portion of Main Line No. 1 that is on the Johnson property, and that Ms. Johnson may contact the company if she still wants the Main Line No. 1 pipe removed. We note that since Mississippi River's Main Line Nos. 2 and 3 remain in the easement, it would be impracticable for Mississippi River to abandon the easement.

E. Accounting and Rates

32. Mississippi River's proposed accounting is in accordance with Gas Plant Instruction No. 5 and the requirements of the Commission's Uniform System of Accounts. Mississippi River must file its actual accounting entries related to the sale of facilities within six months of the sale as required by paragraph B of the instructions to Account 102, Gas Plant Purchased or Sold. The impact of the abandonment on Mississippi River's rates will be addressed when it files its next section 4 rate case.

F. Environment

33. On June 30, 2004, we issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Mississippi River Main Line No. 1 Abandonment Project and Request for Comments on Environmental Issues (NOI). We received responses to the NOI from the National Park Service and the Fish and Wildlife Service, and the Arkansas Department of Environmental Quality advised that they had no comment.

34. The National Park Service expressed concern about potential effects on the Trail of Tears National Historic Trail. However, after abandonment of Main Line No. 1, the existing right-of-way will continue to be maintained as a pipeline right-of-way for the adjacent Main Line Nos. 2 and 3 which will remain in service. Further, almost all of the abandoned portion of Main Line No. 1 will remain in place. Thus, the Commission's approval of this abandonment proposal will result in minimal ground disturbance in previously disturbed areas and no permanent change to the landscape. The Fish and Wildlife Service said that it would consult on threatened and endangered species effects, and subsequently made a no effect determination. The Fish and Wildlife Service also proposed measures to minimize any effects of abandonment on its Bald Knob Wildlife Refuge, which Mississippi River agreed to implement.

35. We also received comments from David L. Whittington, Mike Hulen, David L. Pake, William Chester Anders, J.M. Barrett Trust, and Marilyn Johnson. Five of the commenters wanted any abandoned pipe removed from their property and two of them wanted the easement to revert back to them. Mississippi River agreed to remove pipe as requested by landowners, but will retain its easement in order to access its other active lines. Two landowners wanted to know when removal would be done, and Mississippi River answered. These landowners also had questions about compensation. Several landowners also were concerned about the safety of removing pipe. The pipe will be purged of gas and removal would pose no significant hazards. Our staff addressed all substantive comments in the environmental assessment (EA).

36. Our staff prepared an environmental assessment (EA) for Mississippi River's proposal. The EA addresses geology, mineral resources, soil erosion and compaction, fisheries, threatened and endangered species, cultural resources, water resources, wetlands, land use, agricultural and residential impacts, air quality and noise, and alternatives. The EA concludes that if constructed in accordance with Mississippi River's application and supplemental filing of July 12, 2004, and with the conditions in the Appendix to this 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.

37. The Commission encourages cooperation between interstate pipelines and local authorities. This does not mean, however, that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the replacement of facilities approved by this Commission.⁷ Mississippi River 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 Mississippi River. Mississippi River shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

G. Requests for Technical Conference

38. Ameren and the Missouri Commission request that the Commission convene a technical conference in this proceeding. The Commission's review of the record evidence in this proceeding indicates that the record is adequate to make the necessary findings. Accordingly, the requests for a technical conference will be denied.

H. Conclusion

39. At a hearing held on October 27, 2004, the Commission on its own motion received and made a part of the record in these proceedings all evidence submitted, and after consideration of the record,

The Commission orders:

(A) Mississippi River is granted permission and approval under NGA section 7(b) to abandon the subject facilities as described in this order and more specifically in the application.

(B) Mississippi River shall notify the Commission within 10 days of the date of the abandonment of facilities.

(C) Mississippi River is instructed to file its actual accounting entries clearing Account 102 within six months of the sale of facilities.

(D) Mississippi River 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 Mississippi

⁷See, 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).

River. Mississippi River shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(E) The late interventions by the Laclede, Rob Roy Planting Company and Marilyn H. Johnson are granted.

(F) The answers, responses and replies filed by Mississippi River, Ameren, the Missouri Commission and Laclede are accepted, as discussed herein.

(G) The protests and request for technical conference are denied.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

APPENDIX

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

1. Mississippi River shall follow the procedures and mitigation measures described in its application and supplements and as identified in the environmental assessment, unless modified by this Order. Mississippi River 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 delegation authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and activities associated with abandonment 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. Prior to any removal activity, Mississippi River 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.
4. Mississippi River shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, and documentation of

landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP before work begins in or near that area.

This requirement does not apply to minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
5. Mississippi River shall employ at least one environmental inspector. The environmental inspector (EI) shall be:
- a. responsible for monitoring and ensuring compliance with all mitigative 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 status reports.