

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

CenterPoint Energy Gas Transmission Company

Docket Nos. CP07-41-000
CP06-85-002

ORDER AMENDING CERTIFICATE AND ISSUING CERTIFICATE

(Issued May 17, 2007)

1. On December 15, 2006, CenterPoint Energy Gas Transmission Company (CEGT) filed an application in Docket No. CP06-85-002 to amend a certificate issued in an October 2, 2006 Order,¹ to increase the certificated capacity of Phases I and II of its Line CP by approximately 36,000 Dekatherms per day (Dth/d), to reflect operational changes, and to increase the maximum allowable operating pressure (MAOP) from 1,000 psig to 1,168 psig. CEGT also requests in Docket No. CP07-41-000, authorization for a Phase III expansion of Line CP to install compression that will increase the capacity of Line CP by an additional 280,000 Dth/d.

2. We will amend the certificate issued to CEGT in the October 2, 2006 Order to increase the certificated capacity for Phases I and II of Line CP to recognize operational changes on the line and to provide additional needed capacity to shippers as conditioned below. Further, we will grant CEGT's request for a certificate to undertake the Phase III expansion so that it may increase line capacity in response to market interest subject to conditions. With these authorizations, CEGT's Line CP capacity will increase from 1,237,000 Dth/d to 1,553,000 Dth/d.

¹ The October 2, 2006 Order issued a certificate to CEGT authorizing the construction of a new pipeline project, known as Line CP, consisting of approximately 172 miles of 42-inch diameter pipeline and two new compressor stations designed to receive and transport up to 1,237,000 Dth/d of natural gas. *CenterPoint Energy Gas Transmission Co.*, 117 FERC ¶ 61,003 (2006).

Background

3. The October 2, 2006 Order authorized CEGT to construct, own and operate a new supply pipeline (Line CP) extending from Carthage, Texas in Panola County to the Perryville Hub in Richland Parish, Louisiana. CEGT was also authorized to install new compressor units and appurtenant facilities at two new compressor stations, Panola in Panola County, Texas, and Vernon in Jackson Parish, Louisiana with at total of 41,240 horsepower (hp) of compression. Under Phase I, a single, 10,310 hp compressor would be installed at each station. Under Phase II, a second compressor would be installed at each station to bring the total installed level at each facility to 20,620 hp. The design capacity for Phases I and II is 1,237,000 Dth/d.

4. Line CP is separate from CEGT's existing system and is designed to receive gas from Texas intrastate pipelines in the Carthage Hub area for transportation and delivery to interstate pipelines connected to CEGT at the Perryville Hub. The project is intended to bring growing sources of domestic gas from eastern Texas and northern Louisiana production areas to markets in the Midwest and the Northeast.

5. The October 2, 2006 Order approved CEGT's proposal to provide Line CP services at its existing Part 284 rates. Further, because Line CP would operate separately from CEGT's core system, CEGT was authorized to charge a separate Fuel Use and Lost and Unaccounted for Gas (LUFG) charge. Although CEGT did not request a pre-determination of rolled-in rate treatment for the project costs, the Commission granted such a determination when a supplemental filing submitted by CEGT showed that rolling in project costs and revenues would result in a decrease in overall system rates. CEGT has not yet sought to roll in the costs of the Line CP project.

Description of the Filing

A. Docket No. CP06-85-002

6. CEGT proposes to modify the certificated capacity of Phases I and II of Line CP authorized in the October 2, 2006 Order. CEGT's states that its proposal to increase the design capacity of Phases I and II of Line CP by approximately 36,000 Dth/d stems from the following operational changes on the line. First, the specifications received from the compressor manufacturer indicate that CEGT will be able to operate the units more effectively than originally anticipated. Second, the average temperature of the gas to be delivered into Line CP may be near 90 degrees, which is significantly higher than the 70 degree factor used in the initial design and will result in a capacity reduction. Third, on September 7, 2006, CEGT filed a petition with the Department of Transportation (DOT)

requesting a waiver to operate the line at up to a MAOP of 1,168 psig, representing 80 percent of the pipeline's Specified Minimum Yield Strength (SMYS).² CEGT expects that the DOT will grant this authorization in the first half of 2007. CEGT states that the change in SMYS coupled with a newly determined ability to operate its compression more effectively than originally anticipated would increase the capacity by approximately 66,000 Dth/d, while a significantly higher than anticipated average temperature for gas received into the system would decrease the capacity by approximately 30,000 Dth/d resulting in a net increase of approximately 36,000 Dth/d.

B. Docket No. CP07-41-000

7. CEGT also requests authorization for a Phase III expansion of Line CP which will increase capacity by approximately 280,000 Dth/d. In Phase III, CEGT proposes to install, own and operate two new turbine compressor units of 15,000 hp each, one at the new Westdale Compressor Station in Red River Parish, Louisiana and the other at the Panola Station. CEGT proposes to construct the Westdale compressor unit on a newly-acquired lot and in a newly-constructed building. The additional compressor unit at Panola will be constructed within the existing building on the compressor station lot. The estimated cost of the project is \$38.9 million, which will be financed by available funds and/or short term borrowings.

8. CEGT states that parties continued to show interest in Line CP capacity even after it filed its application for Phases I and II of Line CP. Accordingly, CEGT held an open season from April 26 through May 26, 2006, to measure interest in additional capacity. CEGT asserts that numerous shippers have expressed interest in securing capacity on Line CP for terms ranging from five to ten years. CEGT states that it has one executed Precedent Agreement for 60,000 Dth/d and it expects that agreements for a substantial amount, if not all, of the proposed Phase III capacity will be executed in the near future.

9. CEGT proposes to use its existing Part 284 rates as its initial recourse rates for the Phase III expansion, consistent with its rolled-in treatment for its Phases I and II Line CP services, and will also charge fuel rates that were approved for Line CP services in the October 2, 2006 Order.

10. With the combination of the additional Phases I and II operational capacity and the proposed Phase III capacity, and assuming DOT's approval of the line's new SMYS, Line CP's capacity will increase by 316,000 Dth/d, to a total of 1,553,000 Dth/d.

² CEGT's current certificated capacity is based on a 72 percent SMYS. Its waiver petition is in DOT Docket No. PHMSA-2006-25802-1.

11. CEGT requests the Commission to act on its application on an expedited basis so that its compressor units may be placed into service prior to the 2007-08 winter heating season.

Notice and Interventions

12. Notice of CEGT's application was published in the *Federal Register* on December 29, 2006 (71 Fed. Reg. 78,412). One timely notice of intervention was filed by the Arkansas Public Service Commission. Timely notices of intervention are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. §385.214(a)(2)(2007)). No protests were filed.

Discussion

13. Since CEGT's Line CP facilities and services will be used in interstate commerce, and will be subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to the requirements of the Natural Gas Act (NGA) sections 7(c) and (e).

A. The Certificate Policy Statement

14. On September 15, 1999, the Commission issued a Policy Statement³ providing guidance as to how proposals for certificating new construction will be evaluated. Specifically, the Policy Statement explains that the Commission, in deciding whether to authorize the construction of new pipeline facilities, balances the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

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

³*Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC & 61,227 (1999); *order clarifying policy*, 90 FERC & 61,128 (2000); *order clarifying policy*, 92 FERC & 61,094 (2000) (Policy Statement).

and their captive customers, or landowners and communities affected by the route of a new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission then proceed to complete the environmental analysis where other interests are considered.

16. As stated, the threshold requirement is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. CEGT will provide its expansion service under its existing Part 284 rates. Since none of the expansion costs are included in CEGT's currently effective rates, accepting CEGT's proposal to charge those rates as initial rates for the project will not result in subsidization by existing customers. However, as discussed below, CEGT has not demonstrated that it has revenues sufficient to cover the project's costs. Even though CEGT has not specifically sought a predetermination that rolled-in rate treatment is appropriate, CEGT must demonstrate that its system customers will not subsidize the project if it seeks to roll the costs of the expansion into its rates in its next section 4 rate case. Further, since the Commission approved a separate fixed Fuel Use and LUFG charge for Line CP in the October 2, 2006 Order, the additional compression proposed in this application will not increase CEGT's currently effective fuel percentages for existing shippers. Shippers on CEGT's existing core system will continue to pay only the Fuel Use and LUFG charges associated with those facilities and those customers taking service over Line CP will pay the associated costs. Thus no system shippers will subsidize the expansion through their fuel usage.

17. Next, we find no adverse impact on existing pipelines in the market or their captive customers because the proposal is for a new incremental service and not intended to replace existing customers' services on any other existing pipeline. The new capacity will transport additional gas supplies to interstate pipeline interconnects at the Perryville Hub, thereby benefiting existing pipelines by maximizing the use of their systems and enhancing service to shippers on those pipelines. We find that the effects on landowners and surrounding communities have been minimized since the no new pipeline right-of-way is needed for this expansion. Further, the Westdale compressor unit will be located in a building on 12 acres of land that has already been acquired and the new unit at the Panola Compressor Station will be placed in a building on the existing site. We also note that no adverse comments by landowners were filed in response to this project.

18. In sum, we find that proposed Line CP expansion is required by the public convenience and necessity since it will provide additional gas supplies to pipelines at the

Perryville Hub. This will give the pipelines access to additional secure onshore domestic gas supplies to meet their downstream customers' demands for diversification of gas supply.

B. Rates

19. CEGT states that it plans to roll the Phase III costs into its existing rates in its next general rate case, consistent with the Commission's approval of rolled-in rate treatment for Phases I and II. In support of its plan, CEGT's application provided a ten-year cost and revenue study and rate impact analysis at Exhibit N. A February 27, 2006 data response contained a revised Exhibit N to reflect the adjustment of the overall cost of the project from \$38.9 million to \$41.5 million for the Phase III compressor units.⁴ In its revised cost and revenue study, CEGT used the cost components underlying its currently effective rates to calculate its cost-of-service for the Phase III expansion. Because CEGT expects to execute the agreements currently under negotiation prior to the Commission order in this proceeding, CEGT included the revenue projected for its executed precedent agreement and the pending contracts in its cost and revenue study. CEGT has executed one precedent agreement for 60,000 Dth/d of the total 316,000 Dth/d increase in capacity proposed in this proceeding.⁵ As a result, CEGT's study shows contract revenue in excess of the project cost for each of the years during the ten-year period.

20. CEGT's revised rate impact analysis shows that a roll in of the Phase III expansion costs would reduce its present maximum monthly reservation recourse rate for firm transportation from \$7.4257 per Dth to \$6.6636 per Dth, and its present maximum recourse rate for small customer transportation from \$0.3099 per Dth to \$0.2758 per Dth, or approximately 10.26 and 11.01 percent, respectively. As in its cost and revenue study, CEGT calculated its rate impact analysis based on the volumes committed under its executed precedent agreement and the agreements pending negotiation.

21. We find CEGT's cost and revenue study and rate impact analysis flawed in two respects. First, CEGT must compare its project costs to the revenues that would be generated if CEGT were charging the maximum recourse rate for all expansion services, regardless of whether the negotiated rate is less than or greater than the applicable recourse rate.⁶ Second, CEGT has executed only one contract for 60,000 Dth/d of the

⁴ See CEGT's February 26, 2007 Data Response at Exhibit K (Revised).

⁵ This includes the additional 36,000 Dth/d increase in capacity we are approving for Phases I and II.

⁶ See, e.g., *Trunkline Gas Co., LLC*, 119 FERC ¶ 61,078 at P 23 (2007).

316,000 Dth/d created by the project. Based on the one executed contract, CEGT will not recover its estimated first year cost of \$7,315,046 for providing service on the Phase III expansion. Specifically, for the ten-year period, the executed agreement will only render approximately \$21,900,000 in total contract revenue compared to \$59,322,522 in total cost-of-service, a \$37.4 million revenue shortfall. Moreover, the revenue under this single contract, even when properly calculated using the maximum recourse rate, will not recover the cost of the project. CEGT will not be allowed to roll in the costs of the expansion in a future rate proceeding unless it is able to demonstrate that rolling in the actual costs will not result in any subsidy of the Phase III expansion costs by CEGT's existing customers.

C. Precedent Agreements

22. CEGT states that all of the agreements for new Line CP capacity constitute negotiated rate agreements subject to the Commission's review pursuant to the Commission's Rate Policy,⁷ CEGT's approved negotiated rate authority,⁸ and the Stipulation approved by the Commission in Docket No. IN03-11-001, in a March 4, 2004 Order.⁹ Pursuant to the Stipulation in Docket No. IN03-11-001¹⁰ and its tariff,¹¹ CEGT is required to file with the Commission all negotiated rate contracts (rather than statements of negotiated rates) by the earlier of (1) two business days following the contract execution, or (2) the day of execution if the gas is expected to flow within two days of contract execution; provided that no such contract is required to be filed earlier than 60 days prior to the date service is to commence under the contract. CEGT must also disclose all consideration linked to the agreements, and maintain separate and

⁷ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines*, 74 FERC ¶ 61,076 (1996); *order on clarification*, 74 FERC ¶ 61,194 (1996); and *order on rehearing*, 75 FERC ¶ 61,024 (1996); as modified in *Natural Gas Pipeline Negotiated Rate Policies and Practices*, 104 FERC ¶ 61,134 (2003).

⁸ *NorAm Gas Transmission Co.*, 75 FERC ¶ 61,091 (1996), *order on reh'g*, *NorAm*, 77 FERC ¶ 61,001 (1996) (NorAm was CEGT's predecessor).

⁹ *CenterPoint Energy Gas Transmission Co.*, 106 FERC ¶ 61,214 (2004).

¹⁰ *CenterPoint*, 106 FERC ¶ 61,214 at P 9(A).

¹¹ *CenterPoint Energy Gas Transmission Co.*, FERC Gas Tariff, Sixth Revised Vol. No. 1, First Revised Sheet No. 455.

identifiable accounts for volumes transported, billing determinants, rate components, surcharges and revenues associated with its negotiated rates in sufficient detail so that they can be identified in Statements G, I and J in any future NGA section 4 or 5 rate case.

D. Engineering Analysis

23. The Commission reviewed and analyzed the capability and operational information provided in CEGT's application supporting the proposed Line CP Phase I and II upgrade amendments and Phase III expansions. Our analyses confirms that CEGT's facilities can provide the proposed 1,553,000 Dth/d of transportation service. However, this determination assumes DOT approval of CEGT's waiver request to operate Line CP at 80 percent of SMYS. Accordingly, before Phase III operations commence, CEGT shall file a copy of DOT's waiver with the Commission.

E. Accounting Analysis

24. CEGT is a wholly-owned subsidiary and does not issue debt or equity on a stand-alone basis. CEGT states that the estimated cost of the project is \$41.3 million, which will be financed by available funds and/or short-term borrowings. CEGT proposes to exclude the equity component in the calculation of its Allowance for Funds Used During Construction (AFUDC) rates. Commission policy in cases where a subsidiary does not issue long-term debt, and does not provide its own financing, is to require the subsidiary to use the actual capital structure of the entity that does the financing for the regulated pipeline.¹² CEGT is directed to utilize the formula established in Order No. 561¹³ to calculate the maximum allowable AFUDC rate based on the actual capital structure of its parent company, CenterPoint Energy Resources Company. CEGT may elect to utilize its proposed AFUDC rate provided that it is less than the maximum rate determined under the formula prescribed.

¹² See, e.g., *Transcontinental Gas Pipe Line Corp.*, 84 FERC ¶ 61,084 (1998), *Louisiana Gas Co.*, 31 FERC ¶ 61,377 (1985), *Louisiana Intrastate Gas Corp.*, 52 FERC ¶ 61,297 (1990).

¹³ *Amendments to Uniform System of Accounts for Public Utilities and Licensees and For Natural Gas Companies to Provide for the Determination of Rate for Computing the Allowance for Funds Used During Construction and Revisions of Certain Schedule Pages of FPC Reports*, Docket No. RM75-27, 57 FPC 608 (1977).

F. Environmental Analysis

25. On January 10, 2007, we issued a Notice of Intent to Prepare an Environmental Assessment for CEGT's proposed Line CP expansion and Request for Comments on Environmental Issues (NOI). We received two comment letters in response to the NOI. The U. S. Fish and Wildlife Service and the Louisiana, Department of Wildlife and Fisheries responded that no federally-listed or state-listed rare, threatened or endangered species would be affected by the proposed Project.

26. Our staff prepared an EA for CEGT's proposal. The EA addresses geology and soils, land use and aesthetics, vegetation and wildlife, threatened and endangered species, cultural resources, air quality, noise and alternatives. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with CEGT's application, supplements received December 18, 2006, and the environmental conditions set forth in Appendix A to this order, approval of the proposal would not constitute a major federal action significantly affecting the quality of the human environment.

27. 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.¹⁴

28. CEGT shall notify the Commission's environmental staff by telephone, e-mail or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies CEGT. CEGT shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

Conclusion

29. For the reasons discussed above, and with the conditions imposed by this order, the Commission concludes that the certificate authorization requested by CEGT is required by the public convenience and necessity.

¹⁴See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Comm'n*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

30. At hearing held on May 17, 2007, the Commission on its own motion, received and made a part of the record all evidence, including the application, amendment, and exhibits thereto, submitted in this proceeding and upon consideration of the record,

The Commission orders:

(A) The certificate issued to CEGT on October 2, 2006, in Docket No. CP05-85-000, is amended to authorize the increase of certificated capacity for Phases I and II of Line CP by approximately 36,000 Dth/d, subject to DOT granting CEGT's request for waiver.

(B) A certificate of public convenience and necessity is issued to CEGT in Docket No. CP07-41-000, pursuant to section 7(c) of the Natural Gas Act authorizing CEGT to construct, own and operate the natural gas facilities, as described and conditioned herein, and as more fully described in the application.

(C) The certificate authority issued in Ordering Paragraph (B) is conditioned, as discussed in this order, and on the following:

- 1) CEGT completing the authorized construction and making the facilities available for service within two years of this order in accordance with section 157.20(b) of the Commission's regulations;
- 2) CEGT complying with paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and,
- 3) CEGT's compliance with the environmental conditions listed in the appendix to this order.

(D) CEGT shall notify the Commission's environmental staff by telephone, e-mail or facsimile of any environmental non-compliance identified by other federal, state or local agencies on the same day that such agency notifies CEGT. CEGT shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(E) CEGT must execute firm contracts equal to the level of service and in accordance with the terms of service represented in its precedent agreements prior to the commencement of construction.

(F) CEGT must file all negotiated rate contracts to comply with its tariff and the Stipulation approved in Docket No. IN03-11-001.

(G) If CEGT files in the future to revise its rates in an NGA section 4 filing to roll in the Phase III costs, CEGT must demonstrate that rolling in the actual costs will not result in any subsidy of the expansion costs by CEGT's existing customers.

(H) CEGT shall file a copy of DOT's approval of CEGT's request for waiver of the 80 percent SMYS before initiating project operations.

(I) CEGT shall follow the accounting requirements discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix A

Environmental Conditions

1. CEGT shall follow the construction procedures and mitigation measures described in its application and as identified in the environmental assessment (EA), unless modified by this Order. CEGT 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 activities associated with 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 construction, CEGT shall file with the Secretary, for review and written approval by the Director of OEP, site-specific Spill Prevention, Control and Countermeasures (SPCC) Plans to govern handling, containment, and cleanup of hazardous materials during construction of the proposed Project.
4. Prior to construction of the Westdale Compressor Station, CEGT shall consult with the U.S. Fish and Wildlife Service regarding the need for pre-construction migratory bird nest surveys and file copies of all correspondences and any resulting surveys with the Secretary.
5. CEGT shall file a noise survey with the Secretary no later than 60 days after placing the Westdale Compressor Station in service. If the noise attributable to the operation of all of the equipment at the Westdale Compressor Station at full load exceeds an L_{dn} of 55 dBA at any nearby NSAs, CEGT shall file a report on what changes are needed and shall install the additional noise controls to meet the level within 1 year of the in-

service date. CEGT shall confirm compliance with the above requirement by filing a second noise survey with the Secretary no later than 60 days after it installs the additional noise controls.

6. CEGT shall file a noise survey with the Secretary no later than 60 days after placing the authorized unit(s) at the Panola Compressor Station in service. If the noise attributable to the operation of the station at full load exceeds an L_{dn} of 55 dBA at any nearby NSAs, CEGT shall install additional noise controls to meet that level within 1 year of the in-service date. CEGT 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.