

121 FERC ¶ 61,054
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.

Wyoming Interstate Company, Ltd.

Docket No. CP07-395-000

ORDER ISSUING CERTIFICATE

(Issued October 18, 2007)

1. On June 6, 2007, Wyoming Interstate Company, Ltd. (WIC) filed an application under section 7 of the Natural Gas Act requesting authority to construct and operate a 24,930 horsepower compressor unit at its existing Douglas compressor station in Converse County, Wyoming. We will authorize WIC's proposals, with appropriate conditions, as discussed below.

I. Background

2. WIC, a natural gas company within the meaning of section 2(6) of the Natural Gas Act, is a limited liability partnership formed under the laws of Colorado. WIC Holdings, Inc., the general partner, and Wyoming Gas Supply, Inc., the limited partner, are corporations organized under the laws of Delaware.

3. WIC is currently engaged solely in the interstate transportation of natural gas in Wyoming and Colorado.¹ WIC's Mainline system extends from connections with several interstate pipelines in western Wyoming to its terminus at the Cheyenne Hub in Weld County, Colorado. WIC receives gas along the length of its Mainline system from

¹ At present, WIC is constructing the Kanda lateral which will extend into Utah. *Wyoming Interstate Co., Ltd.*, 119 FERC ¶ 61,251 (2007).

various supply sources and its own supply laterals. At the Cheyenne Hub, WIC connects with several interstate and intrastate pipelines.²

4. WIC's Medicine Bow lateral consists of approximately 155 miles of parallel 36-inch and 24-inch diameter pipelines extending from the Douglas compressor station in Converse County, Wyoming to a connection with the WIC Mainline immediately downstream of WIC's Cheyenne compressor station at the Cheyenne Hub. The Medicine Bow lateral enables shippers to move gas from the Powder River Basin to the Cheyenne Hub for delivery to downstream markets.

II. Proposals

A. Facilities

5. WIC requests authority to construct and operate a 24,930 horsepower gas-driven turbine compressor unit, 200 feet of pipeline, and ancillary facilities at its existing Douglas compressor station (the Medicine Bow Expansion Project).³ The proposed compressor unit is designed to create up to 330,000 dekatherms (Dth) per day of additional capacity on the Medicine Bow lateral.

6. WIC proposes to construct the compressor unit within the previously disturbed 40-acre Douglas compressor station property. WIC will require eight acres of temporary construction workspace on mowed grass and gravel-covered surface for construction and proposes to use approximately 1.3 acres for operation of the compressor unit.

7. WIC estimates that the cost of the proposed compressor unit will be \$32,073,500.

B. Precedent Agreements

8. WIC conducted two open seasons in 2007 in order to solicit interest in capacity for an expansion of the Medicine Bow lateral.⁴ At the conclusion of the open seasons, Anadarko Energy Services Company (Anadarko), Williams Power Company (Williams),

² The pipelines interconnecting with WIC at the Cheyenne Hub are Colorado Interstate Gas Company, Cheyenne Plains Gas Pipeline Company, Public Service Company of Colorado, Trailblazer Pipeline Company, Kinder Morgan Interstate Gas Transmission, LLC, and Rockies Express Pipeline, LLC.

³ The existing Douglas compressor station consists of three natural gas-fired turbine compressor units enclosed within a single steel building.

⁴ The first open season was from February 15 until March 16, 2007. The second open season was from April 26 until May 10, 2007. WIC also sought turn back capacity from existing Medicine Bow lateral shippers but received no expressions of interest.

and Yates Petroleum Corp. (Yates) executed precedent agreements for transportation capacity on the Medicine Bow lateral. Specifically, Anadarko signed a 10-year precedent agreement for a maximum daily quantity (MDQ) of 100,000 Dth per day of transportation capacity in year one, increasing over the course of the first three years of the agreement to an MDQ of 200,000 Dth per day, and decreasing to an MDQ of 150,000 Dth per day commencing on January 1, 2011, through the remaining term of the agreement. Williams executed a 10-year precedent agreement with an initial MDQ of 25,000 Dth per day increasing to an MDQ of 110,000 Dth per day in 2014 and remaining at that level for the life of the agreement. Finally, Yates executed a seven-year precedent agreement for an initial MDQ of 30,000 Dth per day, increasing to an MDQ of 60,000 Dth per day in the third year of its agreement. After the third year, Yates would gradually decrease its MDQ to 30,000 Dth per day in the last year of its agreement.⁵

9. WIC states that it will charge the expansion shippers discounted rates. In addition, the precedent agreements permit the shippers, among other things, to unilaterally extend their agreements at the maximum contractual MDQ level for up to five years. If the extension rights are exercised by the shippers at the maximum permitted level, the combined contractual MDQ of the three expansion shippers would increase to 370,000 Dth per day in 2014. WIC states that it would meet its contractual obligations to transport 370,000 Dth per day by using existing capacity from other transportation agreements that expire in 2011.⁶

C. Rate Treatment

10. WIC requests that the Commission make a pre-determination that it may roll the costs of the project into the incremental rates of the existing customers on the Medicine Bow lateral. WIC estimates that the first year cost-of-service for the project will be \$6,910,697, which will decrease to \$5,367,630 by the tenth year. WIC also estimates a revenue shortfall of \$737,465 in the first year of service but, over the next nine years, WIC calculates that revenues will exceed expenses by \$55,321,528.⁷ Thus, WIC asserts that revenues from the expansion shippers will exceed the cost-of-service of the Medicine Bow Expansion Project.

⁵ Table 1, page 7, of WIC's application shows how the MDQs increase and decrease over the terms of the agreements.

⁶ WIC states that it identified two contracts that expire in 2011, which have a combined MDQ of 40,000 Dth per day. WIC asserts that these contracts do not contain a regulatory or contractual right of first refusal.

⁷ See Exhibit N to WIC's application, page 4 of 5.

11. WIC also seeks a predetermination that it may roll the fuel costs associated with the expansion into the existing Medicine Bow lateral incremental fuel rate, beginning with the first fuel filing following the in-service date of the proposed facilities. While acknowledging that it cannot predict at what load factor the new capacity will be used, WIC calculates that existing capacity will continue to be used at historic levels – i.e., 75 percent – while the expansion capacity will be used at a 100 percent load factor.⁸ Under this scenario, WIC estimates that an additional 221,021 Dth per year of fuel would be required to transport the expansion shippers' full contract quantity. WIC estimates the fuel percentage would be 0.27 percent, which is less than the current fuel percentage of 0.31 percent.

III. Interventions

12. Notice of WIC's application was published in the *Federal Register* on June 25, 2007 (72 Fed. Reg. 34,675). Chevron Natural Gas, a division of Chevron U.S.A. Inc. and Yates filed timely, unopposed motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214.⁹ There were no protests to the application.

IV. Discussion

13. 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 are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

A. The Certificate Policy Statement

14. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new construction.¹⁰ 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

⁸ *Id.* page 5 of 5.

⁹ 18 C.F.R. § 385.214(c)(1) (2007).

¹⁰ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

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 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 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.

16. As noted above, the threshold requirement is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Here, WIC demonstrates that revenues from the expansion shippers will exceed the cost-of-service of the proposed compressor unit by approximately \$55 million over the initial 10 years of service. Thus, we conclude that WIC's existing customers will not subsidize the proposed facilities.

17. In addition, there will be no adverse operational impact on WIC's existing customers as a result of the construction, since the proposals are designed to increase capacity on the Medicine Bow lateral. Also, existing pipelines and their customers will not be adversely affected by WIC's proposals because the expansion shippers will use the proposed facilities to bring new gas supplies to market. Finally, we find that any impacts on landowners and communities near the proposed facilities will be minimal, since the proposed compressor unit will be constructed entirely on WIC-owned land at the existing Douglas compressor station. WIC will not need to acquire or condemn any additional property.

18. WIC's proposals will enable it to deliver additional quantities of gas from the Powder River Basin on its Medicine Bow lateral. The additional capacity created by the proposed compressor station is fully subscribed as shown by the precedent agreements. In addition, WIC's existing customers will not subsidize the proposals. Further, there will be no degradation of service to WIC's existing customers, no adverse effects on existing pipelines or their customers, and minimal impacts on landowners and neighboring communities. For these reasons, we find, consistent with the Certificate Policy Statement and section 7(c) of the Natural Gas Act, that the public convenience and necessity requires approval of the Medicine Bow Expansion Project.

B. Rolled-In Rate and Fuel Treatment

19. As stated above, we find that WIC can construct and operate the Medicine Bow Expansion Project without subsidies from its existing customers, since revenues will exceed the cost-of-service over the initial 10 years that the project is in service. Thus, we will grant the request for a predetermination supporting rolled-in rate treatment for the project costs in WIC's next rate case, absent a significant change in circumstances forming a basis for this presumption.

20. In its application, WIC evaluates how the assumed level of increase in throughput would impact historic fuel use when the project is in service and determines that an additional 221,021 Dth per year of fuel would be required to transport the expansion shippers' full contract quantity. Though it is unlikely that expansion shippers will use their contracts at a 100 percent load factor, WIC contends that this assumption shows a fuel rate of 0.27 percent, which is below WIC's current Medicine Bow fuel charge of 0.31 percent. We agree with WIC's calculations and find that the Medicine Bow incremental fuel charge will be lower as a result of the project. Based on these considerations, we will approve rolled-in treatment for the fuel costs, beginning with the first fuel filing following the in-service date of the proposed facility.¹¹

C. Environmental Analysis

21. On July 11, 2007, we issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI). We prepared an Environmental Assessment (EA) that addresses water resources, vegetation and wildlife, threatened and endangered species, land use, geologic resources, soils, cultural resources, air quality, noise, reliability and safety, and project alternatives.¹²

22. In response to the NOI, we received a comment letter from Lowell and Katherine Rasmussen that raised concerns about noise from blow downs. The EA addressed this issue, stating that WIC will install a blow-down unit for the proposed compressor to evacuate natural gas from the equipment in case of emergency, accident, or maintenance. The EA also stated that noise from un-silenced emergency or maintenance blow downs can exceed 100 decibels on the A-weighted scale (dBA) at 50 feet, but that WIC agreed to ensure that noise from the blow-down unit does not exceed a day-night sound level

¹¹ See, e.g., *Wyoming Interstate Company, Ltd.*, 119 FERC ¶ 61,251, at P 26-27 (2007).

¹² We issued the EA on September 13, 2007.

(Ldn) of 55 dBA at noise sensitive areas (NSAs).¹³ We believe that this should alleviate the Rasmussen's concerns.

23. The Rasmussens' letter also addressed air quality. The addition of a single compressor unit within the existing station will contribute only a negligible amount of air emissions, considering that one compressor and two processing stations are next to the Douglas compressor station site.¹⁴ The EA concludes that the proposals will not have a significant impact on the local air quality and we concur.

24. The Rasmussens' letter raised the issue of "poor roads." WIC will add a short access road for the project. WIC will repair any damage to public roads caused by the construction. Traffic on nearby existing roads will not be affected by the small number of vehicles accessing the compressor station during construction.

25. The Rasmussens assert that the Oregon Trail has been affected. The proposed compressor unit will not affect the Oregon Trail, given that the trail is nine miles southeast of the project's site.

26. The Rasmussens are concerned about visual impacts. The proposed compressor unit poses little additional visual impact to the surrounding area, since the unit will be constructed on the site of an existing compressor station close to other compressor and processing stations. In addition, WIC plans to reduce the visual impact of the facility by painting it to be consistent with the Bureau of Land Management's standard environmental colors specific to the area.

27. The Rasmussens are concerned about safety. As stated in the EA, interstate natural gas pipeline facilities must be designed, constructed, operated, and maintained in accordance with the Department of Transportation's (DOT) Minimum Safety Standards.¹⁵ These regulations address natural gas pipeline safety issues and prescribe the minimum standards for operating and maintaining pipeline facilities. The regulations also require a pipeline operator to establish a written emergency plan that includes procedures to minimize hazards in a pipeline emergency. These standards, along with advances in pipeline manufacture, minimize the potential for accidental gas leakage or other system failure.

¹³ See WIC's August 30, 2007 answer to a data request at question 6.

¹⁴ Ft. Union Gathering LLC operates an amine plant west of WIC's Douglas compressor station, Kinder Morgan Inc. operates a compressor station east of the Douglas station, and Thunder Creek Gas Services operates an amine plant and compressor station north of the Douglas station.

¹⁵ 49 C.F.R. Part 192.

28. The facilities associated with WIC's proposals must be designed, constructed, operated, and maintained in accordance with the DOT's standards, including provisions for written emergency plans. The existing operation and emergency plan for WIC's compressor station includes regular monitoring and procedures for identifying an emergency event and establishing communication with local fire, police, and public officials. WIC also has a continuing education program to enable customers, the public, government officials, and those engaged in excavation activities to recognize a pipeline emergency and to report it to the appropriate public officials. In addition, WIC will provide appropriate training to local emergency service personnel before the proposed facilities are placed in service.

29. The DOT's regulations are intended to ensure adequate protection for the public and to prevent natural gas facility accidents and failures. Our regulations require that a certificate holder design, install, inspect, test, construct, operate, replace, and maintain its facilities in accordance with these federal safety standards. For these reasons, we agree with the EA's conclusion that the proposed facilities will be constructed and operated in a safe manner.

30. Based on the analysis in the EA and the supplements filed on June 18, July 12, and August 6, 7, 8, and 30, 2007, we conclude that approval of the proposed project would not constitute a major federal action significantly affecting the quality of the human environment, if WIC constructs the facilities in accordance with its application and supplements and the mitigation measures listed below.

31. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. We encourage 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.¹⁶

32. WIC shall notify our 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 WIC. WIC shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

33. At a hearing held on October 18, 2007, the Commission, on its own motion, received and made a part of the record in this proceeding all evidence, including the

¹⁶ See, 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).

application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing WIC to construct and operate a compressor unit at its Douglas compressor station in Converse County, Wyoming, as more fully described in the order and the application.

(B) The certificate issued herein is conditioned on WIC's compliance with all of the applicable regulations under the Natural Gas Act, particularly the general terms and conditions set forth in Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157. 20.

(C) WIC shall execute firm service agreements equal to the level of service represented in its precedent agreements prior to commencing construction.

(D) WIC may roll the costs of its proposals into its Medicine Bow lateral rates in its next general Natural Gas Act section 4 rate proceeding, provided that there are no material changes in the relevant facts and circumstances associated with the proposals at the time it seeks to roll in the costs.

(E) WIC may roll in the fuel costs associated with the proposed expansion, provided that there are no material changes in the relevant facts and circumstances associated with the proposals at the time it seeks to roll in the costs.

(F) The certificate issued herein is conditioned upon WIC's compliance with the environmental conditions set forth in the appendix to this order.

(G) WIC shall notify our 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 WIC. WIC shall file written confirmation of such notification with the Secretary within 24 hours.

(H) The facilities authorized in this order shall be constructed and made available for service within one year of the date of the order in this proceeding.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

Environmental Conditions for the Medicine Bow Expansion Project

1. WIC shall follow the construction procedures and mitigation measures described in its application and as identified in the EA, unless modified by this order. WIC must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the 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. **Prior to any construction**, WIC shall file an affirmative statement with the Secretary, certified by senior company officials, 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. WIC shall not use the alternative measures proposed in Sections VIII.A.1 and VIII.A.2 of its Upland Erosion Control Revegetation and Maintenance Plan. WIC shall follow the Commission staff's measures in Sections VIII.A.1 and VIII.A.2 to monitor revegetation success after the first and second growing seasons.
5. WIC shall file a noise survey with the Secretary no later than 60 days after placing the compressor unit in service. If the noise attributable to the operation of the authorized unit at full load exceeds an Ldn of 55 dBA at any nearby NSAs, WIC shall install additional noise controls to meet that level within one year of the in-service date. WIC shall confirm compliance with the Ldn 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.