

129 FERC ¶ 61,135
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Florida Gas Transmission Company, LLC

Docket No. CP09-461-000

ORDER APPROVING ABANDONMENT

(Issued November 19, 2009)

1. On September 3, 2009, Florida Gas Transmission Company, LLC (Florida Gas) filed an application under section 7(b) of the Natural Gas Act (NGA) for authority to abandon its obligation to provide transportation service using its ownership interests in certain facilities located offshore Texas and extending onshore to Refugio County, Texas. As discussed below, we will grant the requested abandonment authorization effective as of the issuance of this order.

I. Background and Proposal

2. Florida Gas is a natural gas company within the meaning of the NGA engaged in the transportation of natural gas in interstate commerce. Florida Gas receives natural gas from suppliers in the Gulf Coast areas of Texas, Louisiana, Mississippi, Alabama, Florida, and the Offshore Federal Domain and transports the gas along its interstate pipeline system.

3. Florida Gas proposes to abandon its transportation service obligation associated with the Matagorda Offshore Pipeline System (MOPS) facilities located offshore Texas and further onshore to interconnections in Refugio County, Texas, in which Florida Gas has a partial ownership interest. The MOPS facilities were constructed for the purpose of transporting natural gas from various producers' offshore production facilities for ultimate delivery to the interstate grid.¹ The MOPS facilities were constructed in three phases during 1980 and 1981. Phases I and II extend from Matagorda Island Block 686

¹ See *Northern Natural Gas Co.*, 12 FERC ¶ 61,053 (1980) (authorizing MOPS Phases I and II); *Transcontinental Gas Pipe Line Corp.*, 16 FERC ¶ 61,257 (1981) (authorizing MOPS Phase III); *Southern Natural Gas Co.*, 18 FERC ¶ 62,547 (1982) (authorizing Florida Gas to participate in MOPS Phase III).

to Matagorda Island Block 665, offshore Texas, and extend onshore to interconnections near Tivoli, Refugio County, Texas. Phase III extends from Mustang Island Block 758 to Matagorda Island Block 686 where it interconnects with the Phase I and Phase II pipeline facilities.

4. Florida Gas states that it is not the operator, nor the majority owner, of the MOPS facilities. Phases I and II are jointly owned by Florida Gas (13.44 percent), Southern Natural Gas Company (Southern) (18.56 percent), and Northern Natural Gas Company (Northern) (68 percent). Phase III consists of a pipeline and receipt facilities jointly owned by Florida Gas (6.0606 percent of the pipeline and 20 percent of the receipt facilities), Transcontinental Gas Pipe Line, LLC (37.8787 percent of the pipeline only), Green Canyon/Gulf Terra (10.6061 percent of the pipeline and 35 percent of the receipt facilities), and Northern (45.4546 percent of the pipeline and 45 percent of the receipt facilities).

5. Florida Gas maintains that production of natural gas has declined in the MOPS area and the volumes being transported using Florida Gas's capacity has also declined. Although it had four shippers with receipt points on the MOPS pipeline facilities in 2007, Florida Gas states, it currently has no shippers on the facilities and has not transported gas on them since April 2007. Thus, states Florida Gas, its proposal will not result in abandonment of service to, or have a significant impact on, any of its existing customers. Florida Gas maintains that any transportation service being provided by the other joint interest owner pipelines will not be affected by Florida Gas's proposal.

6. Florida Gas states that, in accordance with the terms of the MOPS facilities' owners' Construction and Operating Agreement, it notified Northern and Southern of its intent to sell all of its ownership interest in Phases I and II of the MOPS facilities. Neither Northern nor Southern were interested in purchasing Florida Gas's interest. Therefore, Florida Gas notified them effective October 1, 2007, that it would discontinue using its Phase I and Phase II capacity. Effective December 31, 2007, Florida Gas notified Northern and Southern that it would discontinue use of the Phase III facilities.

7. Florida Gas states that it is not requesting authority to abandon the MOPS facilities, only services through the facilities. Florida Gas states that all MOPS facilities will remain available to the other owners and their shippers for service. Florida Gas asserts that it will file for authorization to abandon its portion of the facilities at such time as the other interest owners file to abandon theirs.

8. Specifically, Florida Gas proposes to abandon its transportation service obligation on the following facilities:

(1) 18 miles of 24-inch diameter and .5 miles of 12-inch diameter pipeline from Matagorda Island Block 665 to Houston Pipeline Company's (HPL) Panther Reef Pipeline in San Antonio Bay;

(2) 5 miles of 24-inch diameter pipeline from Matagorda Island Block 686 to Matagorda Island Block 665 and 22 miles of 24-inch diameter pipeline from the terminus of Phase I to interconnections with HPL and Florida Gas's systems in Refugio County, Texas; and

(3) 16.7 miles of 24-inch diameter pipeline from Mustang Island Block 758 to Matagorda Island Block 686

II. Notice and Interventions

9. Notice of Florida Gas's application was published in the *Federal Register* on September 15, 2009 (74 FR 48247) with comments due on September 21, 2009. Anglo Suisse Texas Offshore Partners, LLC, Apache Corporation, Chevron USA Inc., ConocoPhillips Company, Florida Cities, Medco Energi US LLC, and Northern Natural Gas Company filed timely, unopposed motions to intervene.² Southern Natural Gas Company filed a late motion to intervene. The Commission finds that granting the motion to intervene out of time will not delay, disrupt, or otherwise prejudice this proceeding, or place an additional burden on existing parties. Therefore, for good cause shown, we will grant the motion.³ The MOPS Shippers filed a protest to Florida Gas's application.⁴ Florida Gas filed an answer in response. While the Commission's regulations do not permit the filing of answers to protests, the Commission will accept the answer because it provides additional information which aids in our decision-making process.⁵

10. The MOPS Shippers argue that Florida Gas's abandonment filing is premature and provides only a partial picture of the circumstances surrounding the MOPS operations, considering the public announcements by the other MOPS owners, Southern and Northern, of their intent to also seek abandonment of their respective interests in the MOPS facilities in the fourth quarter of 2009. The MOPS Shippers note that this has not yet occurred and may not occur. The MOPS Shippers state that there are ongoing negotiations with Northern, as operator of the MOPS system, in an effort to determine if

² Timely unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214 (2009).

³ 18 C.F.R. § 385.214(d) (2009).

⁴ The MOPS Shippers include Anglo Suisse Texas Offshore Partners, LLC, Apache Corporation, and Medco Energi US LLC.

⁵ 18 C.F.R. § 385.213 (2009).

an agreement can be reached regarding the future of the MOPS facilities. We will address the protest below.

III. Discussion

11. Because Florida Gas proposes to abandon its service of transporting natural gas in interstate commerce subject to the jurisdiction of the Commission, the proposed abandonment is subject to the requirements of section 7(b) of the NGA.⁶

12. Section 7(b) provides that the abandonment of natural gas facilities or services can only be granted “after due hearing, and a finding by the Commission . . . that the present or future public convenience or necessity permit such abandonment.”⁷ Continuity and stability of existing service are the primary considerations in assessing the public convenience and necessity of a permanent cessation of service under section 7(b) of the NGA.⁸

13. In their protest, the MOPS Shippers note that Florida Gas claims the proposed abandonment would have no impact on transportation provided by the other MOPS joint interest owners. However, they assert, Florida Gas is aware of Northern and Southern’s intention to abandon the MOPS facilities in the fourth quarter of 2009 and they contend that Florida Gas’s filing is part of a strategy which will lead to the abandonment of all of the MOPS facilities. The MOPS Shippers state that they are captive to, and dependent on, the MOPS system to transport their natural gas to shore and that the abandonment of the MOPS facilities would result in their gas being shut-in. The MOPS Shippers note that they are in ongoing negotiations with Northern, the operator of the MOPS system, to determine if an agreement can be reached regarding the future of the MOPS facilities. The MOPS Shippers ask the Commission to reject Florida Gas’s abandonment request to afford the necessary time for the negotiations with Northern to take place. In the alternative, they ask the Commission to hold this proceeding in abeyance.

14. The most pertinent issues in determining whether Florida Gas’s proposed service abandonment is in the public convenience and necessity are the impact of the abandonment of service on Florida Gas’s customers, those customers’ current utilization

⁶ 15 U.S.C. § 717f(b) (2006).

⁷*Id.*

⁸ *KN Energy Inc.*, 69 FERC ¶ 61,377, at 62,428 (1994). *See also Gulf Oil v. FERC*, 575 F.2d 67, 69-70 (3d Cir. 1978); *Farmland Industries, Inc. v. Kansas-Nebraska Natural Gas Co.*, 349 F.Supp. 670, 680-81 (D.C. Neb. 1972), *aff’d* 486 F.2d 315 (3d Cir. 1973).

rate of Florida Gas's MOPS facilities, and the existence of any continuation of service issues for the current shippers using Florida Gas's capacity on the MOPS facilities.⁹ Florida Gas currently has no customers using its MOPS capacity and has had no customer receiving service through the facilities since April 2007. Thus, the proposed abandonment of service will have no impact on Florida Gas's customers because there are none. The utilization rate of Florida Gas's capacity in the MOPS facilities has dropped to zero, and there are no continuation of service issues involved in Florida Gas's proposed abandonment since there are no customers currently receiving or wanting service. We note that no Florida Gas shipper protested the abandonment proposal. Therefore, we find that Florida Gas's abandonment of services on its capacity in the MOPS facilities is in the public convenience and necessity.

15. The MOPS Shippers' protest of the abandonment is without merit because, as Florida Gas points out, they are not shippers of Florida Gas, do not use Florida Gas's capacity on the MOPS facilities, and have never had a contract for firm or interruptible service with Florida Gas with respect to its capacity on the MOPS facilities. The Commission does not generally take into account protests to proposed abandonments of services or facilities by parties that are not affected customers of the pipeline requesting the abandonment.

16. Further, Florida Gas's abandonment of service will have no adverse effect on the ability of the MOPS Shippers to obtain capacity to transport their gas to market or on the amount of capacity available to the MOPS Shippers, or any other potential shipper through Northern and Southern's capacity in the MOPS facilities. As to the MOPS Shippers' concern regarding future transportation service on the MOPS facilities, if Northern and Southern file applications to abandon their MOPS services, the Commission will consider the effect on shippers and other appropriate criteria at that time in determining whether the abandonment is in the public convenience and necessity.

17. Florida Gas's abandonment of service qualifies under section 380.4(a)(29) of the Commission's regulations as a categorical exclusion from the need for environmental review.¹⁰

18. At a hearing held on November 19, 2009, the Commission on its own motion, received and made a part of the record in this proceeding all evidence, including the application, submitted in this proceeding and upon consideration of the record,

⁹ See *Southern Natural Gas Co.*, 126 FERC ¶ 61,246, at P 30 (2009).

¹⁰ 18 C.F.R. § 380.4(a)(29) (2009).

The Commission orders:

(A) Florida Gas is granted authority to abandon its service obligation on the MOPS facilities.

(B) Florida Gas shall notify the Commission within 10 days of the date of abandonment of the facilities.

(C) The MOPS Shippers' protest is denied.

(D) Southern's motion to intervene out of time is granted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.