

133 FERC ¶ 61,147
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

CenterPoint Energy Gas Transmission Company

Docket No. CP10-78-000

ORDER APPROVING ABANDONMENT

(Issued November 18, 2010)

1. On March 5, 2010, CenterPoint Energy Gas Transmission Company (CenterPoint) filed an application under section 7(b) of the Natural Gas Act (NGA) requesting authorization to abandon its Line L, consisting of approximately 90.7 miles of predominately 18-inch diameter pipeline located in Hot Spring, Clark, Nevada, and Columbia Counties, Arkansas.¹ The Commission will authorize CenterPoint's abandonment proposal, as discussed below.

I. Background and Proposal

2. CenterPoint is a corporation organized and existing under the laws of the State of Delaware. CenterPoint is a wholly-owned indirect subsidiary of CenterPoint Energy, Incorporated. CenterPoint is a natural gas company within the meaning of the NGA and provides open-access transmission services. CenterPoint, on behalf of various shippers, transports and delivers gas to local distribution companies, to industrial customers for their own use, and to third-party pipeline interconnects located in Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas.

3. Line L was constructed in 1942 as an intrastate pipeline to provide natural gas supplies to two aluminum plants owned by the U.S. Government Defense Plant Corporation immediately following the start of World War II. In 1946, CenterPoint integrated Line L into its general pipeline system. Line L historically functioned as a low pressure natural gas supply lateral delivering natural gas service to industrial customers and to CenterPoint Energy Resources Corporation, d/b/a CenterPoint Energy Arkansas

¹ Line L also has short segments of 10-inch and 20-inch diameter pipeline.

Gas (Arkansas Gas), a distribution affiliate of CenterPoint, in the Pine Bluff and Little Rock areas of Arkansas.

4. CenterPoint states that as a result of new pipeline safety regulations implemented by the U.S. Department of Transportation and increased operation and maintenance (O&M) costs due to age and deterioration, it has been evaluating the usefulness of Line L. In 2006, CenterPoint installed delivery taps on its Line S, a 20-inch diameter pipeline that parallels Line L, to provide secondary feeds to all customers located on Line L.² CenterPoint states that after over 12 months of inactivity, it abandoned the delivery taps on Line L.³ CenterPoint states it has continued to monitor Line L to ensure that its use or replacement was not necessary.⁴ Line L has now been inactive for more than three years. Thus, CenterPoint asserts that Line L is not needed to provide service to its customers.

5. Specifically, CenterPoint proposes to abandon, by removal, two segments of Line L, comprising approximately 0.8 mile, that are not located within or adjacent to easements associated with other active CenterPoint pipelines. CenterPoint proposes to abandon, in place, the remaining 89.9 miles of pipeline, which is collocated within the easements for CenterPoint's Line S and Line S-3-S. CenterPoint states that all above ground facilities will be removed and junked. CenterPoint asserts that Line L will be cut and capped at each end to isolate it from CenterPoint's system.

II. Interventions

6. Notice of CenterPoint's application was published in the *Federal Register* on March 22, 2010 (75 Fed. Reg. 13,525). No motions to intervene were filed. Cindy Duckworth and W. Allen Nipper filed adverse comments which are addressed in the Environmental Analysis section of this order.

III. Discussion

7. Since the facilities CenterPoint proposes to abandon are used to transport natural gas in interstate commerce, the proposal is subject to the jurisdiction of the Commission and the requirements of section 7(b) of the NGA.

² These delivery taps were installed under CenterPoint's blanket certificate authorization pursuant to section 157.211 of the Commission's regulations, and were reported in Docket No. CP07-202-000 (Item T-4).

³ These delivery taps were abandoned pursuant to section 157.216(a) of the Commission's regulations and reported in Docket No. CP09-210-000 (Item A-1).

⁴ CenterPoint estimates that the cost to replace Line L is approximately \$110 million, whereas the cost to abandon Line L is \$1.7 million.

8. As indicated by CenterPoint's application, Line L has been inactive for more than three years and is no longer needed to provide service to CenterPoint's customers. Thus, we find that the proposed abandonment will have no adverse impact on current shippers or service on CenterPoint's mainline system. Abandonment will enable CenterPoint to avoid costs associated with repairing an old pipeline and the ongoing maintenance costs associated with the pipeline. In view of these considerations, the Commission finds that CenterPoint's abandonment proposal is permitted by the public convenience or necessity.

A. Accounting

9. CenterPoint proposes to account for the abandonment of its Line L facilities by debiting Account 108, Accumulated Provision for Depreciation of Gas Utility Plant, and Account 111,⁵ Accumulated Provision for Amortization and Depletion of Gas Utility Plant, and crediting Account 101, Gas Plant in Service. CenterPoint also proposes to record removal costs of \$1.66 million by debiting Account 108, and crediting Account 232, Accounts Payable. To remove deferred income taxes associated with Line L, CenterPoint proposes to debit Account 282, Accumulated Deferred Income Taxes – Other Property, and credit Account 411.1, Provision for Deferred Income Taxes – Credit, Utility Operating Income, for \$133,129. Finally, CenterPoint proposes to debit Account 409.1, Income Taxes, Utility Operating Income, and credit Account 236, Taxes Accrued, for \$133,129.

10. CenterPoint's proposed accounting journal entries related to the abandonment of Line L are consistent with Gas Plant Instruction No. 10.⁶ To the extent CenterPoint receives salvage proceeds from the removal of the utility plant, such amounts must be recorded as a credit to Account 108. Additionally, CenterPoint should accrue current income taxes in Account 236 for the estimated amount of future taxes payable as a result of the abandonment.

B. Environmental Analysis

11. On April 2, 2010, the Commission issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Line L Abandonment Project and Request for Comments on Environmental Issues (NOI). The NOI was mailed to interested parties including affected landowners; Indian tribes; individuals and organizations having a potential interest in the project; federal, state, and local agencies; elected officials; local libraries; and newspapers.

⁵ Amounts charged to Account 111 relate to intangible plant recorded in Account 303, Miscellaneous Intangible Plant.

⁶ 18 C.F.R. Part 201 (2010).

12. We received comments in response to the NOI from the Arkansas Department of Environmental Quality (Arkansas DEQ), the Chickasaw Nation, Cindy Duckworth (an affected landowner), and W. Allen Nipper (an individual). The primary issues raised in the comments concerned potential environmental impacts from pipeline abandonment activities, the ownership of the Line L easement after the Line L pipeline is abandoned, inspections performed during abandonment activities, permitting requirements, and the potential discovery of culturally-significant material or remains.

13. To satisfy the requirements of the National Environmental Policy Act,⁷ our staff prepared an environmental assessment (EA) for CenterPoint's proposal. The EA was placed into the public record on October 12, 2010. The analysis in the EA addresses geology, soils, water resources and fisheries, vegetation, wetlands, wildlife, threatened and endangered species, cultural resources, land use, recreation and aesthetics, air quality, noise, and alternatives. All substantive comments received in response to the NOI were addressed in the EA.

14. The Arkansas DEQ commented that the proposed project appears to be environmentally sound and in compliance with state and federal laws, and that CenterPoint should comply with stormwater construction permit requirements for all disturbances in excess of one acre in size. However, as stated in the EA, Arkansas DEQ subsequently informed CenterPoint that no stormwater construction permit would be required for the proposed project.

15. The Chickasaw Nation stated that it has no comments on the proposed project, but that the Chickasaw Nation should be notified immediately should project activities generate "environmentally detrimental effects" or unearth any culturally significant material or remains.

16. Ms. Cindy Duckworth, a landowner, requested that: the Line L easement be released back to the landowners where the pipeline will be removed or abandoned in place; the Commission and/or Arkansas DEQ have a representative on-site during abandonment activities; and, that CenterPoint remain within its existing right-of-way during abandonment activities. The EA addressed Ms. Duckworth's comments by explaining that CenterPoint proposes to retain the easement and continue to use the easement for transportation of natural gas. Specifically, with respect to the 89.9 miles of Line L pipeline to be abandoned in place and which is collocated within the easements for CenterPoint's Line S and Line S-3-S, CenterPoint will continue to operate pipelines S and S-3-S within the existing Line L easement. Therefore, abandoning Line L will not affect CenterPoint's continued need for its easement in conjunction with the operation of

⁷ 42 U.S.C. § 4331 *et seq.* (2006).

Lines S and S-3-S.⁸ The Commission will perform periodic inspections of the abandonment activities to ensure compliance with the *Upland Erosion Control, Revegetation, and Maintenance Plan* (Plan) and all remaining environmental terms and conditions of this order. All abandonment workspaces will be confined to the existing Line L easement associated with Lines L, S, and S-3-S. The portions of Line L pipeline abandoned by removal will require the full 30-foot-wide Line L right-of-way for construction activities.

17. Mr. Nipper, who is not an “affected landowner” as defined in the Commission’s regulations,⁹ expressed concerns about: the potential for the pipelines to be improperly capped during the abandonment process; potential hazardous liquids draining from cut pipe; returning the Line L easement to affected landowners; revegetation needs; and CenterPoint’s proposal to confine pipe removal activities to within its existing 30-foot-wide right-of-way. As stated in the EA, the abandoned pipeline will be cut, capped, and grouted at road and railway crossings. CenterPoint will collect and sample any free liquids encountered at locations where the pipeline will be cut, capped and grouted, or removed. CenterPoint will also test the pipe coatings and handle and dispose of any hazardous materials at these locations in accordance with CenterPoint’s Spill Prevention, Control and Countermeasure Plan and state and federal regulations. CenterPoint will revegetate disturbed areas of the Line L easement in accordance with the Commission’s Plan and per CenterPoint’s commitments as described in the EA. Mr. Nipper’s concern

⁸ As to the easement associated with the two segments of Line L, comprising approximately 0.8 mile, which are not collocated with Lines S and S-3-S, we note that the issue of whether or not the easement would revert to the present landowner upon abandonment of the pipeline is likely governed by the relevant right-of-way purchase agreements.

⁹ “Affected landowners” includes owners of property interests, as noted in the most recent county/city tax records as receiving the tax notice whose property: (i) is directly affected (i.e., crossed or used) by the proposed activity, including all facility sites (including compressor stations, well sites, and all above-ground facilities), rights-of-way, access roads, pipe and contractor yards, and temporary workspace; (ii) abuts either side of an existing right-of-way or facility site owned in fee by any utility company, or abuts the edge of a proposed facility site or right-of-way which runs along a property line in the area in which the facilities would be constructed, or contains a residence within 50 feet of the proposed construction work area; (iii) is within one-half mile of proposed compressors or their enclosures or LNG facilities; or (iv) is within the area of proposed new storage fields or proposed expansions of storage fields, including any applicable buffer zone. 18 CFR § 157.6(d) (2) (2010).

regarding return of the easement to affected landowners is discussed in the preceding paragraph.

18. Based on the analysis in the EA, we conclude that if abandonment of the Line L pipeline is conducted in accordance with CenterPoint's application and supplements, and in compliance with the environmental conditions in the appendix to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

19. At a hearing held on November 18, 2010, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) CenterPoint is granted permission and approval under NGA section 7(b) to abandon Line L and appurtenances, as described in this order and in CenterPoint's application.

(B) CenterPoint shall notify the Commission of the effective date of abandonment within 10 days thereof.

(C) CenterPoint shall adhere to the accounting requirements as discussed in the body of this order.

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

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

As recommended in the EA, this authorization includes the following condition(s):

1. CenterPoint shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the environmental assessment (EA), unless modified by the Order. CenterPoint 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 activities associated with abandonment of the project. This authority shall allow:
 - a. the modification of conditions of the 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 construction, CenterPoint shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, Environmental Inspectors (EI) and contractor personnel will be informed of the EIs' 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. CenterPoint 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, 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 construction in or near that area.

This requirement does not apply to extra workspace allowed by the *Upland Erosion Control, Revegetation, and Maintenance Plan* and/or 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. Within 60 days of the Order and before abandonment activities begin, CenterPoint shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. CenterPoint must file revisions to the plan as schedules change. The plan shall identify:
- a. how CenterPoint will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;
 - b. how CenterPoint will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - c. the number of EIs assigned, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instructions CenterPoint will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change),

- f. the company personnel (if known) and specific portion of CenterPoint's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) CenterPoint will follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - i. the completion of all required surveys and reports;
 - ii. the environmental compliance training of onsite personnel;
 - iii. the start of construction; and
 - iv. the start and completion of restoration.
6. CenterPoint shall employ at least one EI. The EI shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the 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 (see condition 5 above) and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
 - d. a full-time position, separate from all other activity inspectors;
 - e. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - f. responsible for maintaining status reports.
7. Beginning with the filing of its Implementation Plan, CenterPoint shall file updated status reports with the Secretary on a biweekly basis until all construction and restoration activities are complete. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on CenterPoint's efforts to obtain any necessary federal authorizations;
 - b. the construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally-sensitive areas;
 - c. a listing of all problems encountered and each instance of noncompliance observed by the EI(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);

- d. a description of the corrective actions implemented in response to all instances of noncompliance, and their cost;
 - e. the effectiveness of all corrective actions implemented;
 - f. a description of any landowner/resident complaints which may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and
 - g. copies of any correspondence received by CenterPoint from other federal, state, or local permitting agencies concerning instances of noncompliance, and CenterPoint's response.
8. **Prior to receiving written authorization from the Director of OEP to commence project abandonment activities**, CenterPoint shall file with the Secretary documentation that it has received all authorizations required under federal law (or evidence of waiver thereof).
 9. CenterPoint **shall not begin** project abandonment activities and/or use of staging, storage, or temporary work areas and new or to-be-improved access roads **until** CenterPoint files with the Secretary (1) documentation that it provided the State Historic Preservation Officer (SHPO) with its Plan for Unanticipated Discovery of Cultural Resources and Human Remains (Discovery Plan) and historical pipeline report, and (2) any SHPO comments on the Discovery Plan and historical pipeline report.
 10. **Prior to commencing abandonment activities**, CenterPoint shall file with the Secretary information identifying all residences within 50 feet from the edge of proposed construction workspaces. For any proposed construction workspaces within 25 feet of residences, CenterPoint shall provide site-specific construction plans approved by the affected landowner.
 11. **Prior to commencing abandonment activities**, CenterPoint shall file with the Secretary documentation of completed consultation with the Arkansas Game and Fish Commission regarding abandonment workspaces located within the Big Timber Leased Lands Wildlife Management Area.