

142 FERC ¶ 61,120  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellingshoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony T. Clark.

Northern Natural Gas Company

Docket No. CP12-469-000

ORDER GRANTING ABANDONMENT

(Issued February 21, 2013)

1. On May 30, 2012, Northern Natural Gas Company (Northern) filed an application under section 7(b) of the Natural Gas Act (NGA) seeking authorization to abandon by sale to DKM Enterprises, LLC (DKM) approximately 126 miles of 24-inch diameter pipeline and appurtenant facilities extending through the panhandle areas of Texas and Oklahoma and into south central Kansas (the A-Line facilities). The requested authorization is granted, subject to conditions, as discussed below.

**I. Background and Proposal**

2. Northern is a natural gas company, as defined by section 2(6) of the NGA. Northern owns and operates an interstate gas transportation system consisting of approximately 14,900 miles of pipeline stretching from the Permian Basin of Texas to the Upper Peninsula of Michigan. Northern is authorized to do business in Delaware, Texas, New Mexico, Oklahoma, Kansas, Nebraska, Iowa, Minnesota, Illinois, Michigan, Wisconsin, North Dakota, South Dakota, and Louisiana.

3. Northern's A-Line was commissioned in the 1930s and was constructed, as part of its Field Area System, to transport gas produced from the Anadarko Basin.<sup>1</sup> The A-Line facilities are located in Ochiltree, Hansford, Hutchinson, and Carson Counties in Texas; Beaver County in Oklahoma; and Kiowa and Clark Counties in Kansas.

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<sup>1</sup> The A-Line was issued "grandfathered" certification in 1943. *Northern Natural Gas Co.*, 3 FPC 967 (1943).

4. Northern proposes to abandon by sale to DKM the A-Line facilities, consisting of two segments totaling approximately 126 miles of 24-inch diameter pipeline and appurtenant facilities.<sup>2</sup> DKM intends to reclaim for salvage most of the A-Line facilities it will purchase pursuant to the terms and conditions of a Purchase and Sale Agreement with Northern.<sup>3</sup>

5. Specifically, Northern proposes to abandon the Skellytown to Spearman and the Beaver to Mullinville segments of the A-Line. The Skellytown to Spearman segment is approximately 38 miles long and extends from Northern's abandoned Skellytown Compressor Station in Carson County, Texas to the Spearman Compressor Station in Ochiltree County, Texas. The Beaver to Mullinville segment is approximately 88 miles long and extends from Northern's Beaver Compressor Station in Beaver County, Oklahoma, to the Mullinville Compressor Station in Kiowa County, Kansas. The Beaver to Mullinville segment includes four laterals ranging from 357 feet to 1.9 miles in length and from four to eight inches in diameter.<sup>4</sup>

6. Northern states that the Skellytown to Spearman segment operates at a pressure of 50 pounds per square inch gauge and serves only one farm tap whose owner has provided written consent to the abandonment. Northern further states that the Beaver to Mullinville segment has not been used to provide service for the last several years. The four laterals on the Beaver to Mullinville segment were previously connected to gathering systems that were disconnected from the laterals by their operator.

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<sup>2</sup> DKM is not a natural gas company pursuant to the NGA and is not affiliated with Northern.

<sup>3</sup> Northern's application, Exhibit U. DKM will not reclaim for salvage pipe under roads, waterbodies and wetlands.

<sup>4</sup> In addition to the facilities for which abandonment authority is sought herein, DKM will purchase other A-Line facilities for salvage pursuant to the terms and conditions of the Purchase and Sale Agreement between Northern and DKM. These facilities consist of approximately (1) 4.20 miles of 24-inch-diameter pipeline, extending from the Eagle Rock Cargray Plant in Carson County, Texas to the Skellytown Station, and (2) 1.45 miles of 10-inch-diameter pipeline extending from the Skellytown to Spearman A-Line segment to the Crawford Plant in Carson County, Texas, as well as appurtenant meter run and piping facilities. These facilities were abandoned by Northern in August and September of 2011 pursuant to pregranted abandonment authority, as reflected in Northern's 2011-Annual Blanket Report filed on April 26, 2012, in Docket No. CP12-251-000.

7. Northern indicates that the Skellytown to Spearman segment parallels existing lines along much of its length and the Beaver to Mullinville segment parallels several of Northern's existing pipelines along its entire length, allowing shippers in the area to continue to have access to gas supplies for their markets. Northern asserts that its remaining system will have the capability to meet gas transportation requirements in the Field Area. Northern concludes that abandonment of the A-Line will have no impact on current shippers. In addition, the sale will save approximately \$137,000 per year in operating and maintenance expenses and will eliminate inefficiencies associated with the operation and maintenance of facilities which Northern no longer needs.

## **II. Notice and Interventions**

8. Notice of Northern's application was published in the *Federal Register* on June 15, 2012.<sup>5</sup> Exelon Corporation filed a timely, unopposed motion to intervene.<sup>6</sup> In addition, several landowners filed environmental comments which are addressed in the environmental assessment. Northern filed a response to the comments.

## **III. Discussion**

9. Because Northern seeks to abandon facilities used for the transportation of natural gas in interstate commerce subject to the Commission's jurisdiction, the proposal is subject to the requirements of section 7(b) of the NGA.<sup>7</sup>

### **Abandonment**

10. Section 7(b) of the NGA allows an interstate pipeline company to abandon jurisdictional facilities or services only if the abandonment is permitted by the "present or future public convenience and necessity." We examine abandonment applications on a case-by-case basis. In deciding whether a proposed abandonment is warranted, we consider all relevant factors, but the criteria vary as the circumstances of the abandonment proposal vary.

11. When a pipeline company proposes to abandon facilities that will reduce the amount of service that it is able to provide, continuity and stability of existing

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<sup>5</sup> 77 Fed. Reg. 35,958.

<sup>6</sup> 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(d) (2012).

<sup>7</sup> 15 U.S.C. § 717f(b) (2006).

services are the primary considerations in assessing whether the public convenience and necessity permit an abandonment that will take the subject facilities and the capacity represented by those facilities permanently out of service.<sup>8</sup> If the Commission finds that a pipeline's proposed abandonment of particular facilities will not jeopardize continuity of existing natural gas transportation services, it will defer to the pipeline's own business judgment.<sup>9</sup>

12. We recognize that the two segments of the A-Line will no longer be available for gas transportation service if Northern sells them to DKM for salvage. However, the Skellytown to Spearman and the Beaver to Mullinville segments of the A-Line have not been used in several years, except that the Skellytown to Spearman segment provides service to one farm tap whose owner has agreed to its abandonment. Thus, there is no continuity of service issue in this proceeding. In addition, Northern has other pipeline facilities in the area with available capacity in the event that additional service is requested.<sup>10</sup>

13. We find that abandonment of Northern's A-Line will not impair Northern's ability to serve its customers. In addition, there is no evidence that the abandonment would leave Northern without the capacity to meet any anticipated demand for transportation service in the Field Area. Finally, the abandonment will reduce operation and maintenance expenses. Thus, we find that the abandonment of the A-Line, as conditioned in this order, is required by the public convenience or necessity.

### **Environment**

14. On June 25, 2012, the Commission issued a Notice of Intent to Prepare an Environmental Assessment (NOI). The NOI was mailed to interested parties

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<sup>8</sup> See, e.g., *El Paso Natural Gas Company*, 136 FERC ¶ 61,180, at P 22 (2011) (authorizing El Paso to abandon compression facilities to reduce amount of excess capacity on its system).

<sup>9</sup> See, e.g., *Transwestern Pipeline Co., L.L.C.*, 140 FERC ¶ 61,147, at P13 (2012) (citing *Trunkline Gas Co.* 94 FERC ¶ 61,381, at 62,420 (2001)).

<sup>10</sup> One commenter raised the concern that Northern's reduction of infrastructure in the area could result in the shut-in of production. Northern's September 21, 2012 Data Response No. 2(c) states that the Beaver to Mullinville segment is located adjacent to three parallel lines having a total capacity of 975 MMcf/d, while their average utilization for the previous five years was only 369 MMcf/d.

including federal, state, and local officials; agency representatives; Native American tribes; and affected property owners.

15. We received comments in response to the NOI from the U.S. Fish and Wildlife Service, Kansas Ecological Services Field Office (USFWS), Kansas Historical Society (KHS), Kansas Department of Health and Environment (KDHE), Texas Commission on Environmental Quality (TCEQ), and seven landowners and/or their representatives, including Jonas and James Cater. The primary issues raised concern impacts on protected wildlife species and migratory birds; cultural resources; the National Discharge Elimination System and air permitting requirements; the impacts of pipeline salvage including best management practices to control runoff, erosion, dust, and restoration; naturally occurring radioactive materials in the salvaged pipeline; staying within the easement boundaries and retention of the easement by Northern; and loss of gas service to the Caters.

16. To satisfy the requirements of the National Environmental Policy Act of 1969, our staff prepared an environmental assessment (EA) for Northern's proposal. The analysis in the EA addresses water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, cultural resources, safety, and alternatives. All substantive comments received in response to the NOI were addressed in the EA.

17. The USFWS commented that federally-listed species may be in the project area, and that the EA should consider migratory bird nesting activity in Kansas. The EA addresses impacts on federally-listed species, migratory birds, and the prairie chicken. The EA concludes that no habitat exists to support threatened or endangered species near the A-Line, and that there would be no effect on federally-listed species or their habitat.<sup>11</sup> Similarly, the EA concludes that based on the activities to be conducted by Northern, the project would not result in population-level impacts or significant measurable negative impacts on migratory birds or the prairie chicken.<sup>12</sup>

18. The KHS commented that it does not anticipate any effects on cultural resources to result from the removal of an existing pipeline within its original easement. The Kansas, Oklahoma, and Texas State Historic Preservation Officers

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<sup>11</sup> EA at page 17. The USFWS Ecological Services Field Office, Arlington, Texas; USFWS Oklahoma Ecological Field Services Field Office, Tulsa, Oklahoma; and the USFWS Kansas Ecological Field Office, Manhattan, Kansas, concurred with this conclusion.

<sup>12</sup> *Id.*, at page 18.

found that no properties listed in or eligible for listing in the National Register of Historic Places would be affected by the proposed abandonment. The EA concurred.<sup>13</sup>

19. The TCEQ commented that the project components in Texas would be within an area that is currently unclassified or in attainment of National Ambient Air Quality Standards for all six criteria pollutants. Thus, the TCEQ stated that an analysis of the proposed project's general conformity with regional air quality standards under the Clean Air Act is not required.<sup>14</sup> Further, the TCEQ stated that any demolition, construction, rehabilitation, or repair activities are likely to produce dust and particulate emissions, but they would not pose a significant impact on air quality standards.

20. Most of the comments related to the salvage activities that would be conducted by DKM, including the use of best management practices to control runoff, erosion, and dust. The EA describes how DKM would conduct the salvage activities, and how it would restore disturbed areas, including how it would repair utilities, fences, and private roads damaged by salvaging operations.<sup>15</sup> DKM is obligated to conduct salvage activities in a manner consistent with the requirements of the Purchase and Sale Agreement between Northern and DKM, which includes working within the right-of-way, use of best management practices, topsoil segregation, repair of roads and fences, and compliance with all appropriate environmental permits.

21. Included in the Purchase and Sale Agreement are provisions requiring that DKM follow certain procedures to minimize environmental impacts as part of the removal and reclamation of the subject facilities,<sup>16</sup> and requiring DKM to restore

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<sup>13</sup> The EA at page 8.

<sup>14</sup> The General Conformity Rule, codified at 40 C.F.R. Part 51, Subpart W and Part 93, requires that a general conformity determination must be conducted by the lead federal agency if a federal action's construction and operational activities is likely to result in generating direct and indirect emissions that would exceed the conformity threshold (de minimus) levels of the pollutants for which an air basin is in nonattainment or maintenance. Since the project area in the present case is mostly in attainment areas, this action does not trigger the general conformity requirements.

<sup>15</sup> EA at page 20.

<sup>16</sup> Article 4.3, Purchase and Sale Agreement, Exhibit U.

land affected by the removal to its pre-abandonment condition.<sup>17</sup> Additionally, Northern will have an environmental inspector (EI) on site to oversee the removal of the facilities and to monitor DKM's compliance with all local, state, and federal regulations, including the environmental conditions imposed herein.<sup>18</sup> The EI would ensure that DKM stays within the right-of-way and adheres to the environmental requirements, including restoration of the right-of-way. The EI, in addition to monitoring environmental compliance, would monitor operations to identify potentially contaminated soils by visual inspection for stained soils, groundwater sheen, or open trenches with suspect odors. The EA states that if suspect soils are encountered, the soil would be tested for contaminated materials pursuant to the Purchase and Sale Agreement. Any soils found to be contaminated would be managed according to appropriate environmental procedures and disposed of at a facility licensed by the State of Texas, Oklahoma, or Kansas, as applicable.<sup>19</sup>

22. One commenter was concerned about naturally occurring radioactive materials on the salvaged pipeline. Pursuant to the requirements of the Purchase and Sale Agreement, DKM would have representative samples of the pipeline tested for naturally occurring radioactive materials.<sup>20</sup> As stated in the EA, if an unacceptable level of naturally occurring radioactive materials is detected, DKM would mark, segregate, enclose, transport, and store the contaminated material pending remediation or disposal pursuant to appropriate state regulations.<sup>21</sup>

23. Jonas and Jamie Cater expressed concern that they would lose gas service. In its response to the Caters' comments, Northern states that it mistakenly included some landowners not affected by the project on the mailing list to receive notice of the proposed sale. This mistaken notice was sent to the Caters. Northern states that it followed up with a letter to those landowners explaining the error and notifying them that their property and gas service is not impacted by the proposed sale to DKM. The Caters will not be affected by the project and there will be no impact on their gas service.

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<sup>17</sup> *Id.*, at Article 4.4.

<sup>18</sup> *Id.*, at Article 4.4(d); *see also* EA at page 21.

<sup>19</sup> EA at page 21.

<sup>20</sup> Purchase and Sale Agreement, Exhibit U, at Article 4.3

<sup>21</sup> EA at page 21.

24. The EA was issued for a 30-day comment period and placed into the public record on October 31, 2012. The Commission received comments on the EA from two commenters. The KHS restated its earlier comment that that cultural resource impacts resulting from removal of an existing pipeline within its original easement would be unlikely.

25. The Kansas Department of Wildlife, Parks and Tourism (KDWPT) comments that the project would not involve the removal of any pipe under roadways, waterbodies, or wetlands, but KDWPT states that it might impact native prairie rangeland, cropland, and industrial areas. KDWPT states that all cleanup should include backfilling and reseeding following the recommendations of the Natural Resource Conservation Service (NRCS) and/or landowner recommendations.

26. KDWPT recommends the replanting of all disturbed native rangeland sites with NRCS recommended grass/forb species. The EA states that reseeding would be done in accordance with NRCS recommendations per the Commission's Upland Erosion Control, Revegetation, and Maintenance Plan,<sup>22</sup> which requires applicants to obtain written recommendations for seeding requirements from local soil conservation authorities, landowners, or land management agencies. Replanting of disturbed areas will be performed with recommended native grasses and seeds.

27. KDWPT also recommends that the removal of riparian vegetation, as well as clearing and excavation of stream banks, beds, and approaches, be minimized. It also states that prior to any work within waterbodies and wetlands, KDWPT should be consulted regarding the need for additional state permits arising from unanticipated impacts.

28. The EA explains that Northern's activities related to the project would not impact wetlands or waterbodies, as no activities would be conducted within wetlands or waterbodies.<sup>23</sup> The existing pipeline would be left in place under waterbodies and wetlands and that DKM would not install any equipment bridges.<sup>24</sup>

29. Based on the analysis in the EA, we conclude that if abandoned in accordance with Northern's application and supplements, including the Purchase

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<sup>22</sup> EA at pages 8 and 14.

<sup>23</sup> EA at page 10.

<sup>24</sup> EA at page 23.

and Sale Agreement, and in compliance with the environmental conditions in the appendix to this Order,<sup>25</sup> our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

30. At a hearing held on February 21, 2013, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application(s), as supplemented, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) Northern is granted permission and approval to abandon the A-Line facilities, as described in this Order and in the application.

(B) Northern shall notify the Commission of the effective date of abandonment within 10 days thereof. Northern shall complete the authorized abandonment within two years from the date of this Order.

(C) Northern shall comply with the environmental conditions set forth in the appendix to this Order.

(D) Northern 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 Northern. Northern shall file written confirmation of such notification with the Commission Secretary within 24 hours.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>25</sup> The Commission notes while DKM is not subject to the Commission's jurisdiction, the Commission has the authority to require that Northern monitor and ensure DKM's compliance with the environmental and remedial provisions of the Purchase and Sale Agreement and the environmental conditions in the appendix to this Order.

## Appendix

### Environmental Conditions

1. Northern shall follow the abandonment procedures and mitigation measures described in their application and supplements (including responses to staff data requests), and as identified in the EA, unless modified by this Order. Northern 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 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 activities associated with abandonment of the project.
3. **Prior to abandoning the facilities**, Northern shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, the environmental inspector (EI) and contractor personnel will be informed of the EI'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 salvage and restoration activities.
4. **Within 30 days of abandoning the facilities**, Northern shall file an affirmative statement with the Secretary, certified by a senior company official:

- a. that the facilities have been abandoned in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
  - b. identifying which of the conditions Northern has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
5. **Within 60 days of this Order and before abandonment activities begin,** Northern must file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Northern must file revisions to the plan as schedules change. The plan shall identify:
- a. how Northern will implement the abandonment procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by this Order;
  - b. how Northern 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 Northern 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 Northern's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) Northern will follow if noncompliance occurs; and
  - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - (1) the completion of all required surveys and reports;
    - (2) the environmental compliance training of onsite personnel;
    - (3) the start of abandonment/salvage activities; and
    - (4) the start and completion of restoration.

6. Beginning with the filing of its Implementation Plan, Northern shall file updated status reports with the Secretary on a bi-weekly basis until all abandonment 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 Northern's efforts to obtain the necessary federal authorizations;
  - b. the abandonment status of the project, work planned for the following reporting period, and any schedule changes for work in 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; and
  - f. copies of any correspondence received by Northern from other federal, state, or local permitting agencies concerning instances of noncompliance, and Northern's response.
  
7. **Prior to receiving written authorization from the Director of OEP to commence abandonment activities**, Northern shall file with the Secretary documentation that they have received all authorizations required under federal law (or evidence of waiver thereof).