119 FERC ¶ 61,035
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Northern Natural Gas Company	Docket Nos.	CP06-89-001
WTG Hugoton, LP		CP06-90-001 CP06-91-001 CP06-92-001

ORDER GRANTING REHEARING, GRANTING ABANDONMENT AUTHORITY AND ISSUING CERTIFICATES

(Issued April 10, 2007)

1. On November 27, 2006, Northern Natural Gas Company (Northern) filed a request for reconsideration or, in the alternative, rehearing of the Commission order issued in these dockets on October 26, 2006 (October 26 Order).[1] Also on November 27, 2006, WTG Hugoton, LP (WTG) filed a request for reconsideration of the October 26 Order, and Northern States Power Company (Minnesota) (NSP-M) and Northern States Power Company (Wisconsin) (NSP-W) and CenterPoint Energy Resources Corp., dba CenterPoint Energy Minnesota Gas (Centerpoint Energy) (jointly, NSP/Centerpoint) submitted a joint request for rehearing of the October 26 Order. The October 26 Order denied an application by Northern for authority to abandon by sale to WTG natural gas pipeline facilities located in Kansas and Oklahoma, referred to as the West Hugoton facilities, because Northern and WTG had not demonstrated that firm transportation shippers using the West Hugoton facilities would receive continued service after the abandonment under conditions comparable to what they currently receive from Northern. The October 26 Order therefore dismissed the associated request by WTG for a certificate of public convenience and necessity to acquire, own, and operate the West Hugoton facilities and for blanket construction and transportation certificates pursuant to Subpart F of Part 157 and Subpart G of Part 284, respectively, of the Commission's regulations.

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[1] *Northern Natural Gas Co.*, 117 FERC ¶ 61,117 (2006).

2. As discussed below, Northern and WTG have filed revised tariff sheets and contracts for the majority of the firm capacity on the system and all of the protests to the proposals have been withdrawn. Based on this new evidence, and as conditioned herein, we will approve Northern's abandonment of the facilities by sale to WTG and grant WTG's associated requests for certificate authority.

I. Background and Proposals

3. Northern's Field Area is in Texas, Oklahoma, and Kansas and provides access to supplies from the Hugoton, Anardarko, Permian, and Rocky Mountain supply basins for Northern's Market Area as well as Field Area interconnects. Northern's Field Area facilities located in Kansas and the Oklahoma panhandle have the appearance of a parallelogram, the western-most part of which comprises the West Hugoton facilities, which deliver unprocessed gas to processing plants.

4. Northern proposes to abandon by sale, and WTG requests certificate authorization to acquire, the West Hugoton facilities for a price of approximately $24 million.[2] The West Hugoton facilities comprise approximately 264 miles of 3-inch to 26-inch diameter pipeline and related compression, delivery and receipt points, and appurtenant facilities in Morton, Stevens, Grant, Kearny, Finney, Seward, and Haskell Counties in Kansas, and Texas County in Oklahoma. Northern also proposes to abandon related services.

5. Northern states that it no longer needs to own the West Hugoton facilities as it no longer performs the merchant function the facilities were built to support. Northern asserts that the sale of the facilities will reduce its costs, thereby benefiting its shippers while maintaining supply access, providing additional alternatives for delivery of shippers' gas, and providing for more efficient use of the facilities by WTG. Northern avers that the proposed abandonment will not adversely impact any firm service to existing shippers.

6. Northern also proposes to establish a new Rate Schedule CS-1 to provide a stand-alone compression service for WTG. Northern proposes to utilize existing facilities at its Sublette compressor station to provide the service to WTG and allow seamless transportation service to the Liberal Lateral, which is part of the West Hugoton facilities, just as Northern is able to do now. Northern states that its customers will benefit from the revenue received from WTG for the compression service as well as the recovery of

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[2] WTG does not currently own any interstate natural gas pipeline facilities. However, under the certificate granted herein, WTG will be engaged in the transportation of natural gas subject to the Commission's jurisdiction and become a natural gas company within the meaning of section 2(6) of the NGA.

the fuel used.

7. As noted previously, WTG also requests, in Docket Nos. CP06-91-000 and CP06-92-000, respectively, issuance of blanket construction and transportation certificates pursuant to Subpart F of Part 157 and Subpart G of Part 284 of the Commission's regulations.

II. The October 26 Order

8. In the October 26 Order, the Commission concluded that were the proposal before it approved, it was more than likely that firm transportation customers utilizing capacity on the West Hugoton facilities would pay higher rates for the same service they are currently receiving from Northern. Further, noting that Northern and WTG had not reached agreement with shippers holding the majority of firm capacity rights on the West Hugoton facilities, the Commission found that Northern and WTG had not demonstrated that such shippers would receive continued service on WTG's facilities under conditions that are comparable to what they currently receive from Northern.[3] The order denied Northern's request for abandonment authority and dismissed WTG's requests for certificate authority. As shown below, the applicants have now reached agreement with shippers holding the majority of firm capacity rights on the West Hugoton facilities and it is unlikely that these customers would pay higher transportation rates for the same service they currently are receiving. Further, the transaction will produce additional benefits for Northern's other customers.

III. Filings Subsequent to the October 26 Order

9. In their the November 27, 2006 filings, Northern and WTG did not argue that the Commission's analysis and findings in the October 26 Order were erroneous; rather, they provided new contracts and revised tariff sheets purporting to demonstrate that circumstances have substantially changed since the issuance of the October 26 Order, and the facts now support the proposals. NSP/CenterPoint's filing requests that the cost savings claimed by Northern be recognized in assessing the economic effects of the proposed abandonment.[4]

10. ONEOK Field Services Company (OFS), OXY USA Inc. (OXY USA),[5] and

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[3] *Id*. at P 32.

[4] CenterPoint and the combined NSP companies are Northern's two largest customers.

[5] OXY USA supports the requests for reconsideration or rehearing.

Southwest Kansas Non-profit Utilities (Southwest Kansas) filed answers to the November 27 requests for reconsideration and rehearing. Northern filed an answer to OFS' and Southwest Kansas' answers. While our rules do not generally permit answers to requests for rehearing,[6] we may, for good cause shown, waive a rule.[7] We find good cause to do so in this instance as the answers provide information that assists us in the decision-making process. Further, to the extent that the rehearing requests seek to introduce new facts into the record of this proceeding, the filings are, in essence, new pleadings. Thus, parties are entitled to file answers pursuant to Rule 213(a)(3) of the Commission's Rules of Practice and Procedure. Accordingly, we will accept the answers to the rehearing requests.

11. On November 17, 2006, Aquila, Inc. d/b/a/ Aquila Networks (Aquila) filed a withdrawal of its request for a technical conference and stated it had no objection to the authorizations requested in this proceeding. On November 28, 2006, ExxonMobil Gas & Power Marketing Company, a division of ExxonMobil Corporation (ExxonMobil) withdrew its protest because it had negotiated replacement contracts with Northern and WTG. Also, on November 28, 2006, Anadarko Petroleum Corporation and Anadarko Energy Services Company (Anadarko) filed a withdrawal of its protest. On December 11, 2006, Southwest Kansas filed an answer to the requests for reconsideration and rehearing. On January 24, 2007, Southwest Kansas withdrew its comments filed April 12, 2006, and urged that the transfer of facilities be approved. On January 25, 2007, the Kansas Corporation Commission (KCC) withdrew its opposition to the abandonment. On March 12, 2007, OFS filed a withdrawal of its protests, stating that it had reached a negotiated resolution of its concerns regarding the proposed abandonment.

12. Subsequent to issuance of the October 26 Order, WTG entered into a precedent agreement with ExxonMobil for continued service on the West Hugoton facilities. Also, WTG and Northern have made an offer to Duke Energy Field Services (DEFS) and to Seminole Energy Services (Seminole) to continue to provide service to DEFS and Seminole at rates that would keep them economically whole with what they are currently

[6] 18 C.F.R. § 385.213(a)(2), 385.713(d)(1) (2006).

[7] 18 C.F.R. § 385.101(e) (2006).

paying for transportation on Northern.[8] WTG states that negotiations have now been successfully concluded with shippers holding the vast majority of firm capacity on the system. In addition, Northern and WTG attached to their November 27 filings signed offers for transportation service from both Northern and WTG which purportedly provide for continued service to OFS[9] under conditions comparable to its current service. Northern states that there is no adverse economic impact to OFS' transportation service from the proposed abandonment.

13. This order will next reexamine the applications in light of the complete record.

IV. Discussion

A. Northern's Request for Abandonment Approval

14. Since the facilities Northern seeks to abandon are facilities certificated to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, Northern's proposed abandonment requires Commission authorization under NGA section 7(b).[10] Historically, in reviewing a request for abandonment by sale, the Commission has considered: the needs of the two natural gas systems and the public markets they serve, the environmental effects of its decision,[11] the economic effect on the pipelines and their consumers, the presumption in favor of continued service, and the relative diligence of the respective pipelines in providing for adequate natural gas

[8] Northern notes in its November 27, 2006 Request for Reconsideration or, In the Alternative, Rehearing that neither DEFS nor Seminole filed a protest in this proceeding and that Seminole has authorized Northern to represent that Seminole is not opposed to the proposed abandonment.

[9] OFS' affiliates ONEOK Midstream Gas Supply, LLC and ONEOK Energy Services Company, L.P. are the actual holders of capacity on the West Hugoton facilities.

[10] Section 7(b) of the NGA, 15 U.S.C. § 717f(b). No natural-gas company shall abandon all or any portion of its facilities subject to the jurisdiction of the Commission, or any service rendered by means of such facilities, without the permission and approval of the Commission first had and obtained, after due hearing, and a finding by the Commission that the available supply of natural gas is depleted to the extent that the continuance of service is unwarranted, or that the present or future public convenience or necessity permit such abandonment.

[11] The review of this proposal under § 380.4 confirms that this action qualifies as a categorical exclusion under section 380.4(a) (36).

supplies.[12] The Commission also weighs the claimed benefits of the abandonment against any claimed detriments.

15. Northern states that its customers will benefit immediately by the elimination from Northern's rates of the fuel consumed at compressor stations sold to WTG. Northern also claims that its proposal will benefit its customers by reducing operating and maintenance costs as well as the need for future capital expenditures for modifications and replacement of the West Hugoton facilities. In addition, Northern states that its rate base associated with the facilities and the costs associated with the return on investment and associated taxes will also be eliminated from Northern's rates in its next section 4 general rate case proceeding, resulting in rates that are lower than if the facilities were still operated by Northern. Northern indicates that, in any future rate case, the abandonment would cause a reduction in its Field Area rates of 3.9 percent and in Market Area rates of 4 percent.[13]

16. Northern's Field Area has a postage stamp rate design that allows shippers to move their gas from anywhere in the Field Area to Northern's Demarcation point (Demarc), the point that divides Northern's Field Area and Market Area and is a major pooling point for gas supplies on Northern's system, for approximately $0.26 per dth. WTG's filed maximum rate is $0.3064 per dth for service on the west Hugoton system. The October 26 Order notes that the maximum transportation rate for shippers with primary receipt and delivery points on Northern's West Hugoton system would increase by approximately 27.5 percent if they move gas on the Liberal Lateral and 21.5 percent if they use other delivery points on the West Hugoton system and that rate stacking could occur for shippers who continue to flow gas on both systems.[14] However, while the maximum tariff rates filed by WTG are higher than Northern's maximum Field Area rates, WTG has entered into agreements with shippers on the West Hugoton system with rates that are substantially discounted. For example, WTG's two agreements with ExxonMobil have rates increasing annually from $0.14 per dth to $0.22 per dth and from $0.07 per dth to $0.11 per dth, respectively, over an eight-year period as the volume

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[12] *Transcontinental Gas Pipe Line Co. v. FPC*, 488 F.2d 1325 at 1330 (1973), *cert. denied sub nom. Natural Gas Pipeline Co. v. Transcontinental Gas Pipeline Corp.*, 417 U.S. 921 (1974).

[13] Northern's August 18, 2006 data response No. 6.

[14] *Northern Natural Gas Co.*, 117 FERC ¶ 61,117 (2006).

under contract changes.[15] WTG's precedent agreement with OXY USA has rates increasing annually from $0.145/dth to $0.20/dth over a ten-year period as the volume decreases.[16] Further, we believe that, although WTG's proposed maximum rates are somewhat higher than Northern's, competitive pressures in the area result in discounting of services such that shippers on the West Hugoton facilities will not pay more after abandonment. In addition, WTG and Northern have addressed the rate stacking issue by offering discounted rates to shippers that move gas across both systems that will ensure that those shippers will not pay maximum rates on both systems.[17]

17. When the October 26 Order was issued, Northern and WTG had not reached agreement with shippers holding the majority of firm capacity rights on the West Hugoton facilities and the applicants were not able to show that those shippers would ultimately receive continued service on WTG's facilities under conditions that are comparable to what they currently receive from Northern.[18] Now, Northern and WTG have reached such agreements and no firm shipper opposes Commission approval of the applications. Therefore, given the lack of opposition, the Commission determines that the proposed abandonment, on balance, is in the public interest. Accordingly, Northern is granted permission and approval to abandon the West Hugoton facilities by sale to WTG.

B. Proposed Rate Schedule CS-1

18. Northern proposes to provide compression service at its Sublette KS compressor station for WTG in order for WTG to provide seamless transportation service to the Liberal Lateral on the facilities it is purchasing from Northern. Northern can provide compression service for WTG without detriment to its other firm shippers since Northern is retaining sufficient compression at the Sublette compressor station to provide the necessary compression for all of Northern's existing firm transportation customers as

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[15] *See* WTG, "Supplemental Response to Staff Data Request Dated June 29, 2006," November 28, 2006.

[16] *See* WTG, "Response to Staff Data Request Dated June 29, 2006," July 14, 2006.

[17] *See* WTG, "Supplemental Response to Staff Data Request Dated June 29, 2006," November 28, 2006, WTG Hugoton, LP/ExxonMobil Oil Corporation Precedent Agreement, Section 1 (c); WTG Hugoton, LP, "Request for Reconsideration," November 27, 2006, Exhibit B, Northern and WTG's November 17, 2006 letter to DEFS; and Exhibit D, Northern and WTG's September 14, 2006 letter to OFS.

[18] *Northern Natural Gas Co.*, 117 FERC ¶ 61,117 (2006).

well as the firm compression for WTG.

19. Northern will provide the compression service as a stand-alone service under a new Rate Schedule CS-1 and WTG will pay a compression fee that will compensate Northern for the use of the compressor units and the actual fuel used for the compression service. The revenue from the compression service will be credited to Northern's other customers in any future rate case and the fuel recovered from WTG will be credited to Northern's shippers in its annual Fuel Periodic Rate Adjustment (PRA) filings.

20. We will accept Northern's proposed initial rates for its new CS-1 service. Between rate cases the Commission will accept new services and the initial rates for such services if they are designed properly based on the company's currently-approved cost of service. Issues regarding the levels and allocation of costs underlying the rates may be taken up in the pipeline's next rate case. Northern is advised that, if the CS-1 rates as accepted in this order result in an under-recovery of the costs to provide CS-1 service, Northern will be responsible for such under-recovery, and will not be allowed to shift the recovery of CS-1 costs to other customers such that those customers end up subsidizing the costs of providing CS-1 service.[19] In addition, Northern is ordered to credit to Northern's customers any fuel recovered from WTG in its annual PRA filings and to make a tariff filing to adjust any fuel rates affected by the abandonment of facilities to WTG.

21. Northern has also filed a 15-page Compression Services Agreement as its form of service agreement. Many of the provisions of the proposed agreement are addressed in the General Terms and Conditions (GT&C) of Northern's tariff (such as measurement, creditworthiness, and force majeure). The form of service agreements for Northern's other rate schedules are much shorter and principally contain a series of blanks that allow parties to document the contract specific information related to the service. Section 154.110 of the Commission's regulations state that the "form for each service must refer to the service to be rendered and the applicable rate schedule of the tariff; and, provide spaces for insertion of the name of the customer, effective date, expiration date, and term. Spaces may be provided for the insertion of receipt and delivery points, contract quantity, and other specifics of each transaction as appropriate." The additional information contained in the Compression Service Agreement may be redundant (because it is contained in the GT&C) and may create a conflict if it is different from the rate schedule and/or the tariff. It is not clear why Northern has filed such an extensive agreement for its CS-1 Rate Schedule nor has Northern provided any justification why it should have a service agreement that addresses terms and conditions of service that are

[19] *See, e.g., Portland Natural Gas Transmission System*, 106 FERC ¶ 61,289 (2004).

already stated in the GT&C of its tariff. The Commission will require Northern to revise its CS-1 form of service agreement to correspond to the format of its other rate schedules.

C. Future Ratemaking Determination

22. The Northern Municipal Distributors Group and each of its members[20] and the Midwest Region Gas Task Force Association and each of its members,[21] jointly and severally, (NMDG/MRGTF) and NSP/CenterPoint seek confirmation that approval of the applications will not constitute approval of the transactions or prejudge the impact of the abandonment on Northern's rates and that all of the rate-related issues remain open for consideration and determination in the first general section 4 rate case filed by Northern following the abandonment by sale to WTG. Northern states in its April 27, 2006 answer that it agrees that the impact of the abandonment on Northern's rates will be addressed in Northern's next section 4 rate case.[22]

23. We will address the parties' concerns by affirming that the impact of the abandonment on Northern's applicable rates will be addressed when it files its next section 4 rate case.

24. In sum, subsequent to the October 26 Order, the obstacles to the application for abandonment have been removed. Since we are granting the request for abandonment

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[20] NMDG is composed of the following Iowa municipal-distributor customers of Northern: Cascade: Cedar Falls; Coon Rapids; Emmetsburg; Gilmore City; Graettinger; Guthrie Center; Harlan; Hawarden; Lake Park; Manila; Manning; Osage; Preston; Remsen; Rock Rapids; Rolfe; Sabula; Sac City; Sanborn; Sioux Center; Tipton; Waukee; West Bend; Whittemore; and Woodbine.

[21] MRGTF is composed of the following municipal-distributor and local distribution customers of Northern: Austin; Circle Pines; Community Utility Co.; City of Duluth, Minnesota - Duluth Public Utilities; Great Plains Natural Gas Co.; Hibbing; Hutchinson; New Ulm; Northwest Natural Gas Co.; Owatonna; Round Lake; Sheehan's Gas Co., Inc.; Two Harbors; Virginia; Westbrook, Minnesota; Midwest Natural Gas, Inc.; Superior Water Light & Power; St. Croix Valley Natural Gas, Wisconsin, d/b/a St. Croix Gas, Wisconsin; and Watertown, South Dakota.

[22] *See, e.g.*, *Northern Natural Gas Co.*, 115 FERC ¶ 61,112 (2006).

authority for the West Hugoton facilities, we will next examine WTG's requests for certificate authority with respect to those facilities.

D. WTG's Acquisition of the West Hugoton Facilities

25. WTG requests a certificate of public convenience and necessity to acquire, own, and operate the West Hugoton facilities. Since the facilities WTG is purchasing provide transportation of natural gas in interstate commerce, WTG's proposal is subject to the Commission's jurisdiction under section 7(c) of the NGA.[23]

1. Consistency with the Certificate Policy Statement

26. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new construction by establishing criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest.[24] A proposal to acquire facilities with no related construction of facilities, such as in this proceeding, does not educe the Policy Statement's concerns with overbuilding, disruptions of the environment and the exercise of eminent domain.

27. However, the threshold requirement under the Policy Statement, that a pipeline must be prepared to financially support the project without relying on subsidization from its existing customers, is equally applicable to acquisitions. Similarly, whether the applicant has made efforts to eliminate or minimize any adverse effects the proposal might have on the applicant's existing customers and existing pipelines in the market and their captive customers is also relevant to our evaluation.

28. As a new natural gas company, WTG has no current customers who may be affected by the proposal. Thus, there is no subsidization possible. The proposal is consistent with the goals set out in the Certificate Policy Statement, where the threshold requirement is that a pipeline must be prepared to financially support the project without relying on subsidization from its existing customers.[25]

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[23] 15 U.S.C. § 717f(c).

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

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

29. As to WTG, no current transmission service will be affected by the acquisition. As discussed above, we have determined that service on comparable terms will be maintained upon transfer of the facilities to WTG. Northern's current customers that remain on the system will not pay more for transportation service after the abandonment. Northern's other customers will benefit from a reduced rate base without the related operating and maintenance costs.

30. Therefore, the project will not result in adverse operational or economic impacts on existing WTG customers or on any other pipelines or its customers. Based on the benefits the proposed project will provide to the market and the lack of adverse effects on existing customers, other pipelines, landowners, or communities, we find that the public convenience and necessity requires the approval of WTG's proposal to acquire, own, and operate the West Hugoton facilities subject to the conditions described in the order.

2. Initial Rates

31. As discussed below, we find that WTG's proposed initial rates are in the public interest, subject to the modifications and conditions discussed below.

32. WTG's proposed cost-based rates reflect a straight fixed-variable (SFV) rate design. The proposed FT rates are designed based on a net cost of service of $11,844,557, which includes $2,506,668 of return allowance (based on the consolidated capitalization of West Texas Gas Inc. of 32.26 percent long-term debt at a cost of 6.06 percent and 67.74 percent equity at a proposed rate of return of 13 percent) and annual FT reservation billing determinants of 38,659,752 dth based on WTG's projected billing determinants minus 91,000 dth per day for two discounted firm transportation contracts with ExxonMobil. The proposed maximum FT reservation rate is $7.50 per Dth and the proposed maximum commodity rate is $0.0598 per dth. The IT rate is derived at a 100 percent load factor of the FT rate and the proposed maximum IT rate is $0.3064 per dth. Fuel charges are calculated based on historical experience at the compressor stations being purchased from Northern and WTG is proposing to recover any incremental charges assessed by Northern under Rate Schedule CS-1 from those customers requiring such compression. At present, additional compression is needed only by shippers with delivery points on the Liberal Lateral.

33. WTG states that it may offer negotiated rates as an option pursuant to section 46 of the General Terms and Conditions (GT&C) of its *pro forma* tariff. For negotiated rate transactions, WTG agrees to maintain separate and identifiable accounts for any quantities of gas transported at negotiated rates, billing determinants, rate components, surcharges, and revenues associated with the transactions so they may be identified in any future rate cases. Prior to the commencement of the service, WTG will file with the Commission either the negotiated rate contracts or numbered tariff sheets stating the

name of the shipper, the negotiated rate, the applicable receipt and delivery points, and the quantity of gas to be transported.

a. Rate Base Issue - Working Capital

34. WTG proposes to include in its rate base a cash working capital allowance of $1,058,761 based on the actual materials and supplies inventory balance as of December 3, 2005. Section 154.306 of the Commission's regulations states that any natural gas company that files an application for a change in a tariff under this part, "may not receive a cash working capital adjustment to its rate base unless the company . . . demonstrates, with a fully developed and reliable lead-lag study, a net revenue receipt lag or a net expense payment lag." Since WTG has not provided the required lead-lag study to support the cash working capital allowance, we conclude WTG's working capital allowance for its facilities should be reduced to zero. This action is consistent with our approach in previous certificate proceedings.[26] After WTG commences service and is able to perform a lead-lag study supporting its request for cash working capital, it may then initiate an NGA section 4 rate filing to recover such costs. We will require WTG to eliminate the proposed cash working capital component from its rate base.

b. Cost of Service Issues – Return on Equity

35. WTG proposes a rate of return on equity (ROE) of 13.0 percent. WTG's April 27, 2006 answer states a 13.0 percent ROE is well within the initial rates of return recently approved by the Commission in NGA section 7 proceedings for other new pipeline entities.[27] WTG states that these projects were generally fully subscribed under long-term firm service agreements. By contrast, only about 35 percent of the capacity of the West Hugoton facilities is currently subscribed under long-term firm service agreements, making this project more risky. In addition, WTG operates in a limited geographic area experiencing declining reserves and deliverability. Therefore, under these circumstances WTG believes the proposed 13.0 percent ROE is reasonable and consistent with applicable Commission precedent.

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[26] *See, e.g., Empire State Pipeline and Empire Pipeline, Inc.*, 116 FERC ¶ 61,074 (2006); *Gulfstream Natural Gas System, LLC*, 91 FERC ¶ 61,119 (2000); *Dauphin Island Gathering Partners,* 82 FERC ¶ 61,136 (1998).

[27] *See Corpus Christi LNG, L.P. and Cheniere Corpus Christi Pipeline Co*. (Cheniere), 111 FERC ¶ 61,081 (2005) (14 percent ROE); *Columbia Gas Transmission Corporation and Hardy Storage Co.* (Hardy Storage), 113 FERC ¶ 61,118 (2005) (14 percent ROE); *Dominion South Pipeline Co., L.P.*, 113 FERC ¶ 61,064 (2005) (14 percent ROE).

36. While the Commission has traditionally provided returns of 14 percent to new greenfield pipeline projects, WTG is not constructing new pipeline facilities but is acquiring facilities that are already in service and have been operating for many years. WTG has not provided a DCF analysis or any evidence in support of their requested 13.0 percent ROE, other than providing references to returns the Commission has approved for new pipelines. Therefore, since WTG has more in common with existing pipelines than with the greenfield pipeline projects that have received returns of 14 percent the Commission believes it is more appropriate to use the most recent ROE approved in a litigated section 4 rate case in determining WTG's ROE.[28] In *Kern River Gas Transmission*,[29] the Commission adopted a ROE of 11.20 percent. The Commission determined that the proxy group proposed by staff, consisting of four companies: Kinder Morgan, Inc., Equitable Resources, Inc., National Fuel Gas Company, and Questar, was appropriate and adopted the DCF analysis supported by staff which stated that the DCF returns for the proxy group ranged from 8.94 percent to 13.62 percent with a median of 10.70 percent and a midpoint of 11.28 percent.

37. In addition to the fact that WTG is not constructing new pipeline facilities, the Commission also notes that WTG's capital structure consists of a relatively thick equity ratio (67.74 percent equity and 32.26 percent debt). When the Commission found that a 14 percent rate of return on equity was reasonable for Cheniere and Hardy Storage as new pipeline and storage entities, we took into account Cheniere's 50 percent equity/50 percent debt capital structure and Hardy Storage's 30 percent equity/70 percent debt capital structure.[30] However, the Commission has approved equity returns that are lower than 14 percent to reflect the fact that a pipeline's capital structure has a relatively thick equity ratio[31] or approved a return of 14 percent but required the applicant to design its rates based on a capital structure comprising at least 50 percent debt.[32] Therefore, the Commission believes that an ROE of 11.20 percent is appropriate for WTG and WTG will be required to recalculate its rates accordingly.

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[28] *See, e.g., Petal Gas Storage, L.L.C.*, 106 FERC ¶ 61,325 at P 30 (2004).

[29] *Kern River Gas Transmission Co.*, Opinion No. 486, 117 FERC ¶ 61,077 (2006).

[30] *Cheniere*, ¶ 61,081 at P 33; *Hardy Storage*, ¶ 61,118 at P 46.

[31] *See, e.g., Entrega Gas Pipeline, Inc.*, 113 FERC ¶ 61,327 (2005) (12 percent ROE with 65 percent equity ratio for a new 328-mile pipeline).

[32] *Ingleside Energy Center, LLC*, 112 FERC ¶ 61,101 at P 32 (2005).

c. Rate Design

1. Billing Determinants

38. WTG's FT rates are designed based on reservation billing determinants of 105,917 dth per day. This total is determined by reducing 2005 throughput (221,641 dth per day) over the first three years of operation by 7.4 percent per year (reflecting a 9 percent annual decline in production offset by new production of 5,000 dth per day) and by reducing throughput by 91,000 dth per day to reflect the long-term discount agreements with ExxonMobil.[33]

39. In certain circumstances the Commission has permitted pipelines to base their rates on billing determinants other than the annual physical capacity of the pipeline. In *Crossroads Pipeline Co.*,[34] the Commission stated that the policy of requiring rates to be designed on actual capacity was also intended to deter pipelines from oversizing facilities in order to over-recover costs. In that case, the Commission found that there was no possibility of overbuilding, since the Crossroads facilities were already built[35] and therefore permitted the pipeline to base its rates on projected demand for capacity rather than actual physical capacity. Further, the Commission noted that over-recovery of costs could be addressed when the pipeline filed its required cost and revenue study pursuant to section 4 of the NGA.

40. The Commission finds that the circumstances of this case also warrant departure from the Commission's general policy of requiring a pipeline to base its rates on actual capacity. The WTG facilities have been in-service for years so there is no danger that WTG will overbuild and this order will require WTG to submit a cost and revenue study under section 4 of the NGA at the end of its first three years of operation to justify its recourse rates. If that study indicates that WTG's annual sale of firm capacity exceeds the rate design level, the Commission can exercise its authority under section 5 of the NGA to remedy the situation.

41. Exhibit I of WTG's application shows a decrease of approximately 6.9 percent in system deliveries from 2004 to 2005. In addition, WTG's July 14, 2006 data response provided a reserve study by petroleum and environmental engineering consultants

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[33] WTG also reduced the cost of service by the expected revenue stream associated with the ExxonMobil contracts in order to reflect the discounted transportation.

[34] *Crossroads Pipeline Co.*, 73 FERC ¶ 61,138 (1995).

[35] Crossroads converted an oil pipeline to natural gas service.

Joe C. Neal & Associates that provides production decline rates for wells in the counties where the WTG Hugoton system is located. Based on the results of the study, WTG projects that production will decline annually by 9.0 percent over the next three years and that this will be offset by new production of 5,000 dth per day, yielding a net reduction of 7.4 percent. The Commission believes that this information is sufficient for WTG to use in determining its initial rate design volumes.

2. **Fuel Rates**

42. WTG states that its fuel charges are calculated based on historical experience at the compressor stations being purchased from Northern and reported in Northern's recent fuel reimbursement percentage filing in Docket No. RP06-204.[36] WTG has also sought to distinguish between high and low pressure receipt points to insure that shippers who do not need additional compression are not forced to subsidize those that do.

43. The Commission believes WTG's attempt to distinguish between high and low pressure receipt points and to use the fuel percentages from Northern's recent fuel reimbursement filing is appropriate. However, it is not clear from looking at WTG's tariff sheet No. 5 how a shipper is able to identify which "fuel zone" its receipt point is located in. Footnotes 3 and 4 on sheet No. 5 provide the POI numbers for the high and low pressure receipt points but do not provide a reference for the applicable "fuel zone." We will require WTG to identify the applicable fuel zone for each POI number in its compliance filing.

3. **Fuel Waiver**

44. OXY USA suggests that WTG implement a non-discriminatory waiver of fuel when it is demonstrated that a transaction does not require the use of compressors or consumption of fuel in other gas handling equipment. These transactions would be placed on WTG's electronic bulletin board to ensure a non-discriminatory application. OXY USA states that this will not create a subsidy because the waiver will only be allowed when fuel is not consumed and the Commission has previously allowed waivers under similar circumstances.[37]

45. WTG states in its April 27, 2006 answer that it does not object to OXY USA's proposal but notes that, if a forward-haul is required, compression is generally needed and fuel usage charges are appropriate.

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[36] *Northern Natural Gas Co*., 114 FERC ¶ 61,332 (2006).

[37] *CNG Transmission Corp.*, 64 FERC ¶ 61,303 at 63,222 (1993).

46. We will require WTG to add appropriate tariff language that implements a non-discriminatory waiver of fuel when it is demonstrated that a transaction does not require the use of compressors or consumption of fuel in other gas handling equipment in its compliance filing.

4. Negotiated Rates

47. WTG's *pro forma* tariff includes a provision at GT&C section 46 that would allow WTG to enter into negotiated rate agreements consistent with Commission policy. WTG indicates it will file with the Commission either the negotiated rate contracts or numbered tariff sheets for each negotiated rate agreement that includes a detailed description of the essential elements of the agreement. It also states it will maintain separate records for all revenues associated with negotiated rate agreements and maintain and provide separately identified and totaled volume, billing determinant, rate or surcharge component, and revenue accounting information for its negotiated rate arrangements in any general or limited rate change filing that it makes.

48. We will accept the proposed tariff language in section 46 concerning negotiated rate provisions. In certificate proceedings we establish initial recourse rates, but do not make determinations regarding specific negotiated rates for proposed services.[38] In order to comply with the Alternative Rate Policy Statement[39] and our decision in *NorAm Gas Transmission Company,*[40] we will direct WTG to file any negotiated rate contracts or numbered tariff sheets not less than 30 days or more than 60 days prior to the commencement of service, stating for each shipper the negotiated rate, the applicable gas volume to be transported, and an affirmation that the affected service agreements do not deviate in any material respect from the form of service agreement in its *pro forma* tariff. WTG must also disclose all consideration received that is associated with the agreement.

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[38] *See, e.g., CenterPoint Energy – Mississippi River Transmission Corp*., 109 FERC ¶ 61,007 at P 19 (2004); *ANR Pipeline Co*., 108 FERC ¶ 61,028 at P 21 (2004); *Gulfstream Natural Gas System, LLC*, 105 FERC ¶ 61,052 at P 37 (2003); *Tennessee Gas Pipeline Co*., 101 FERC ¶ 61,360 at n. 19 (2002).

[39] *Alternative to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines, Alternative Rate Policy Statement*, 74 FERC ¶ 61,076 (1996), *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996), *reh'g denied*, 75 FERC ¶ 61,066 (1996); *petition for review denied*, *Burlington Resources Oil & Gas Co. v. FERC*, Nos. 96-1160, et al., U.S. App. Lexis 20697 (D.C. Cir. July 20, 1998).

[40] *NorAm Gas Transmission Co.*, 77 FERC ¶ 61,011 (1996).

Finally, WTG must also maintain separate and 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 section 4 or 5 rate case.

5. Rate Changes and Three-Year Filing Requirement

49. Consistent with Commission precedent, the Commission will require WTG to file a cost and revenue study at the end of its first three years of operation to justify its existing cost-based firm and interruptible recourse rates.[41] In its filing, the projected units of service should be no lower than those upon which WTG's approved initial rates are based. The filing must include a cost and revenue study in the form specified in section 154.313 of the regulations to update cost of service data. After reviewing the data, we will determine whether to exercise our authority under NGA section 5 to establish just and reasonable rates. In the alternative, in lieu of this filing, WTG may make an NGA section 4 filing to propose alternative rates to be effective no later than three years after the commencement date of its operations.

d. Pro Forma Tariff Issues

50. WTG proposes to provide both firm and interruptible service under the *pro forma* FERC Gas Tariff filed with its application. The terms and conditions of the tariff are designed to conform to the requirements of Order Nos. 636[42] and 637[43], as well as the

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[41] *See, e.g., Empire State Pipeline and Empire Pipeline, Inc.*, 116 FERC ¶ 61,074 at P 133 (2006); *Entrega Gas Pipeline Inc*., 112 FERC ¶ 61,177 at P 52 (2005).

[42] *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Wellhead Decontrol, Order No. 636*, FERC Stats. & Regs. [Reg. Preambles] ¶ 30,939, *reh'g, Order No. 636-A*, FERC Stat. & Regs. [Reg. Preambles] ¶ 30,950, *reh'g, Order No. 636-B*, 61 FERC ¶ 61,272 (1992), *remand in part, sub nom. United Gas Distributors v. FERC*, No. 95-1186 (1996), *order on remand* 78 FERC ¶ 61,186 (1997), *order on voluntary remand*, 83 FERC ¶ 61,210 (1998).

[43] *Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services, Order No. 637*, III FERC Stats. & Regs. [Regs. Preambles] ¶ 31,091, *order on reh'g, Order No. 637-A*, III FERC Stats. & Regs. [Regs. Preambles] ¶ 31,099, *reh'g denied, Order No. 637-B*, 92 FERC ¶ 61,062 (2000), *aff'd in part and denied in part, Interstate Natural Gas Ass'n v. FERC*, 285 F.3d 18 (D.C. Cir. 2002), *review denied, American Gas Ass'n. v. FERC*, 428 F.3d 255 (D.C. Cir. 2005).

latest standards of the North American Energy Standards Board (NAESB), adopted by the Commission in Order No. 587-S.[44] WTG will have a fully functional internet website with EDI/EDM capabilities for informational and transactional communications with all shippers.

51. To facilitate and simplify the transition for Northern's existing customers to service provided by WTG, WTG's *pro forma* tariff conforms closely to Northern's currently-effective tariff. According to WTG, the nomination procedures, measurement, billing and payment, force majeure, electronic communications, capacity release, creditworthiness, service agreements and many other terms of its proposed tariff are virtually identical to the terms of Northern's tariff, minimizing any potential disruptions of service, conflicts, or inconsistencies in tariff terms at downstream interconnects. Provisions in Northern's tariff that are inapplicable to WTG's operations have been removed.

1. <u>Rate Schedule FT</u>

52. The Commission notes that section 4.3 of WTG's FT Rate Schedule states that FT agreements with a term "for one year or less shall not be eligible for the Right of First Refusal process". Section 284.221(d)(2) of the Commission's regulations provides a right of first refusal for maximum rate contracts with a term of one year or more. We will require WTG to change its tariff to provide the right of first refusal to shippers with contracts with terms of one year.

2. <u>Section 2 - NAESB Standards</u>

53. WTG's *pro forma* tariff incorporates some of the NAESB standards by reference and includes some of the standards in the text of the tariff. Some of the standards have been included verbatim while others have, according to WTG, minor deviations from the NAESB language. WTG has complied with the bulk of the standards. However, we will require changes to several standards as described below. In addition, on July 18, 2006, WTG filed new tariff sheets to address some of the missing NAESB standards it had identified in its July 14, 2006 data response. The Commission will approve the changes and require WTG to include them in its tariff when making its compliance filing.

54. NAESB standard 2.3.41 includes the requirement that Transportation Service Providers provide the ability to post and trade imbalances. WTG has not included the

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[44] *See Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587-S, 111 FERC ¶ 61,203 (2005), *errata*, 70 Fed. Reg. (June 28, 2005).

ability for shippers to post and trade imbalances in section 28 of its GT&C and the Commission will require it to do so.

55. WTG has elected not to include the NAESB capacity release timeline verbatim in its tariff and standard 5.3.2 as implemented by WTG currently extends from GT&C section 40.4 through section 40.6. NAESB standard 5.3.2 provides a clear, concise timeline of when capacity release offers should be posted for each type of release, when offers should be made, when an award will be posted and when a contract will be issued. As currently implemented by WTG, a shipper must read through several pages of the tariff to establish the applicable timeline and to determine which rules apply to each release. Standard 5.3.2 is an integral part of a pipeline's nomination and capacity release program and sets forth events that are critical to its system operations and the Commission has required pipelines to include it in their tariffs verbatim.[45] The Commission does not believe that WTG's implementation provides shippers with a clear understanding of the capacity release timeline and will require WTG to revise section 40 of its tariff to incorporate standard 5.3.2 verbatim.

56. Standards 5.3.34 and 5.3.35 require Transportation Service Providers to provide parties with notification of intraday bumps, operational flow orders and other critical notices through the party's choice of Electronic Notice Delivery Mechanism(s). WTG's implementation of the standard in GT&C section 24.12(b) provides parties with notification only for bumping. We will require WTG to change this to also include notification for operational flow orders and other critical notices.

57. Finally, since standards 4.3.21 and 4.3.63 have been deleted by NAESB, we will require WTG to remove these items from its tariff.

3. <u>Sections 19 and 25 - Service Priority and Allocation of Capacity</u>

58. WTG states in its April 27, 2006 answer that, in an effort to simplify the overly-complex capacity allocation procedures in Northern's tariff, WTG modeled section 19 of its GT&C after the Commission-approved tariff of Missouri Interstate Gas, LLC. Given the Commission's acceptance of Missouri Interstate's capacity allocation methodology, it is clear that firm capacity may be allocated either by contract date or pro-rata consistent with the requirement for non-discriminatory treatment of firm shippers. Although WTG believes its proposal satisfies the Commission's rules, it states it will have no objection to any other non-discriminatory allocation methodology ordered by the Commission.

[45] *See Honeoye Storage Corp.*, 103 FERC ¶ 61,366 (2003); *Riverside Pipeline Co.*, 78 FERC ¶ 61,245 (1997).

59. On June 28, 2006, Missouri Interstate filed an application with the Commission to integrate its system with two intrastate pipelines and to provide service as a combined entity as Missouri Gas Company, Inc.[46] Missouri Gas' proposed tariff will prioritize service and interruption for firm services based on contract path and interruptible services based on the rate paid. Such an allocation process more accurately reflects the Commission's policies in Order Nos. 636 and 637 and should provide shippers with greater certainty. Therefore, the Commission will require WTG to develop priority of service, allocation and curtailment provisions that prioritize service for firm services based on contract path and interruptible services based on the rate paid.

4. __Sections 19 and 25 - Curtailment__

60. OXY USA asserts that WTG's proposed tariff includes several provisions in which it improperly claims the ability to limit service due to certain conditions. For example, GT&C section 19.2 grants WTG the "right to reasonably limit service and/or reduce receipts or deliveries of natural gas (1) to permit maintenance, repair, overhaul, replacement, or construction of pipelines, compressors, metering, regulating, and other facilities and equipment" and GT&C section 25.2(a) allows the curtailment of gas receipts for "any operational consideration reasonably determined by WTG." OXY USA asserts that the Commission should ensure that, in the event WTG fails to meet its obligations to provide firm service, shippers receive full credit of their demand charges.

61. OXY USA also proposes to delete the following provision from WTG's proposed section 19.2 (2), which provides WTG the right to reasonably limit service "to assure the availability of capacity for receipts or deliveries equitably under WTG's Rate Schedule FT in cases where natural gas does not conform to the quality specifications contained in the Tariff." According to OXY USA this provision will not require WTG to curtail interruptible transportation before firm transportation and will allow WTG, through the use of the term "equitably," broad discretion to curtail receipts and deliveries based upon its own determination instead of relying on the curtailment provisions of its transportation contracts and FERC Tariff.

62. In its April 27, 2006 answer, WTG states that consistent with the Commission's order in *Entrega Gas Pipeline LLC,* [47] WTG will agree to a full reservation charge credit

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[46] *See, Missouri Interstate Gas, LLC, Missouri Gas Company, LLC, and Missouri Pipeline Company, LLC,* Abbreviated Application for Certificates of Public Convenience and Necessity and Abandonment Authorization, in Docket No. CP06-407-000, filed June 28, 2006.

[47] *Entrega Gas Pipeline LLC,* 114 FERC ¶ 61,326 (2006).

for all scheduled gas not delivered due to a non-force majeure event on the pipeline, starting at Day 1. For a force majeure event on the pipeline, WTG will offer full reservation charge credits after a grace period of 10 days. With regards to OXY USA's request, WTG states section 19.2 of its proposed GT&C is identical to Northern's section 19(A)(4) and no change is required to conform to Commission policy.

63. WTG also states that it will comply with the Commission's policy with regard to reservation charge credits where there are service interruptions due to force majeure and non-force majeure events and the Commission will require it to do so. The Commission notes that the tariff provision in GT&C section 25.2(a) referenced by OXY USA specifically relates to the curtailment of interruptible throughput and the reservation charge crediting provisions are not applicable.

64. The Commission does not agree with OXY USA's interpretation of WTG's proposed section 19.2 (2). This section provides WTG with the ability to limit service to those gas supplies that may not meet its gas quality provisions. These provisions are clearly stated in GT&C section 37 and it is these tariff provisions and these provisions only that WTG should use in determining whether it will limit service due to gas quality issues. In addition, Section 19.2 does not address the priorities WTG will use in allocating capacity, but addresses issues that may arise that require it to reduce the overall amount of capacity or its ability to transport a party's gas supply.

5. <u>Section 22 - Requests for Transportation Service</u>

65. GT&C section 22.3 states that once WTG has determined that a shipper's offer is the best bid, it will send the shipper a service agreement for execution. However, it is not clear from the provisions in section 22 whether WTG intends to post capacity that is available for bid and whether shippers will submit requests for capacity as needed. WTG is ordered to address in its compliance filing the process WTG will use for making shippers aware of capacity that is available, whether WTG plans to post capacity for bid on its electronic bulletin board system and, if so, what tariff provisions it intends to use to govern the posting of such capacity.

6. <u>Section 25 - Operational Balancing Agreements</u>

66. OXY USA questions whether any receipt point imbalances applicable to a shipper at a point covered by an operational balancing agreement (OBA) should be applicable to the operator (unless WTG maintains flow control equipment) and proposes that the term "will be applicable to operator" in the last sentence of GT&C section 25.2(e) be changed to "may be applicable to operator". OXY USA states this is the case on Northern's system today and that moving away from this practice by WTG would be a radical change. OXY USA also proposes additional tariff language to WTG's section 25.2(e) that would allow both WTG and operators under OBAs to properly value imbalances

based on market prices and states that operators on the West Hugoton facilities are currently subject to this provision through Northern's tariff and placing it in WTG's tariff will maintain a consistent manner to value imbalances on the facilities.

67. WTG opposes OXY USA's suggested changes in its April 27, 2006 answer. It states that its proposed language is taken directly from section 29(e) of Northern's tariff.

68. Section 284.12(b)(2)(i) of the Commission's regulations requires pipelines to enter into OBAs at all points of interconnection between its system and the system of another interstate or intrastate pipeline and WTG is reminded that it must comply with this regulation when in service. While WTG is correct that the language in its section 25.2(e) is taken directly from Northern's tariff, it has only taken several sentences from Northern's tariff so as to change the meaning of the language. For example, the last sentence of WTG's section 25.2(e) that requires any receipt point imbalance to be applicable to the operator is mandatory under WTG's tariff, however, under Northern's tariff that may occur under certain conditions. In its compliance filing WTG is ordered to address why it has elected to incorporate some of Northern's tariff with regards to OBAs and why it has elected not to incorporate other provisions.

7. <u>Sections 27 and 45 - Crediting of Penalty Revenues</u>

69. WTG states, in its July 14 data response, that GT&C section 27.5, which allows WTG to retain affiliate penalties between rate cases, was inadvertently taken from a Northern tariff sheet that is no longer in effect and that it has no objection to revising its tariff to reflect current Commission policy that penalties be credited back to shippers. WTG states that no representative levels of penalty revenues are currently included in WTG's rates and that the language in its section 45.1, which limits the amount of penalties credited to "penalty revenues collected that exceed the representative level of penalty revenue reflected in the design of the currently effective base tariff rates,"- is taken verbatim from section 57(1)(a) of Northern's currently effective tariff. WTG agrees that if no representative level of penalty revenues is included in the design of WTG's rates this language could be deleted. WTG also proposed a new section 45.1 in its July 14, 2006 data response that provides credits only to non-offending shippers, using procedures it states are currently in effect on Panhandle Eastern.

70. The Commission will require WTG to revise its tariff so that section 27.5 reflects current Commission policy that penalty revenues are to be credited back to shippers, not deferred and credited to customers in a subsequent rate case. The Commission finds that the changes made by WTG to section 45.1 adequately address the problems with WTG's initial section 45.1.

8. Section 28 - Monthly Gas Imbalance Index Price

71. OXY USA suggests that Panhandle Eastern's TX-Okla Index represents a more accurate view of natural gas prices in the Hugoton Basin and should be the sole determinate of WTG's Imbalance Index Price, rather than averaging the Panhandle TX-Okla Index and the El Paso Permian Basin Index as WTG proposes. OXY USA states that El Paso's Permian Basin Index is more indicative of a Permian Basin/West Texas price than what WTG could be expected to pay on its system for gas in Kansas.

72. WTG states in its April 27, 2006 answer that GT&C section 28.3 was designed to track the imbalance cash-out provisions of WTG's agreements with Northern, which use Northern's Average Field Area Monthly Index Price, which is based on the average of the five average weekly prices at Panhandle Eastern Tx-Okla and El Paso Permian Basin. WTG is concerned that any differences between the cash-out price it pays Northern for imbalances and the cash-out price its shippers pay could lead to gaming and system operational problems. WTG states that shippers will not be harmed by cashing-out imbalances at the same rate that WTG pays to resolve imbalances with Northern.

73. In its July 14, 2006 data response, WTG states it is not opposed to using the alternative index price proposed by OXY USA if Northern is agreeable to revising the index in the Compression Agreement to match these alternative proposals. On November 27, 2006, Northern submitted a revised *pro forma* tariff sheet providing that, for imbalances related to the proposed CS-1 compression service for WTG, the "Imbalance Index Price" shall only include "mid-continent" index prices. The Commission understands this to refer to the Panhandle Eastern TX-Okla Index. Therefore, in its compliance filing Northern must clearly state that it will use that index for this calculation. In addition, in its compliance filing WTG is required to remove the El Paso Permian Basin index from section 28.3 of its tariff.

74. On November 19, 2004, the Commission issued its Order Regarding Future Monitoring of Voluntary Price Formation, Use of Price Indices in Jurisdictional Tariffs, and Closing Certain Tariff Dockets,[48] which determined that price indices in interstate pipeline tariffs must provide the volume and number of transactions upon which the index value is based and must meet at least one of four criteria defined in the order. In their compliance filings, WTG and Northern must address how each of their proposed index prices complies with the Commission's policy in this area.

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[48] 109 FERC ¶ 61,184 (2004).

9. Section 40 - Capacity Release

75. Proposed GT&C section 40.7(a) of WTG's tariff includes a waiver of the maximum rate ceiling for certain capacity release transactions. Commission regulations do not permit any capacity releases above the maximum rate.[49] WTG agreed in its April 27, 2006 answer to revise its tariff to address the waiver of the maximum rate ceiling for capacity release transactions. WTG is ordered to remove the tariff provision in section 40.7(a) that would allow for capacity releases above the maximum rate.

10. Section 44 - Pooling

76. On November 27, 2006, WTG filed *pro forma* tariff sheets that reflected an expansion of their pooling provisions. The Commission approves the tariff sheets describing WTG's pooling provisions as filed.

11. Section 37 - Processing

77. OXY USA states that WTG should implement a wider variety of processing options for its shippers and proposes to add language to GT&C section 37.3(e) stating "WTG may permit processing by displacement."

78. OXY USA also avers that WTG's tariff should have a mechanism for providing notice to WTG that a shipper wishes to retain its processing rights. OXY USA suggests that the notification procedures regarding processing contained within Northern's tariff be retained by WTG.[50] OXY USA states that this will provide for consistent and continuous operational standards that shippers will recognize as control is transferred and will allow WTG to more easily implement processing choices.

79. WTG states that they have no objection to OXY USA's suggestion that section 37.3 be modified to provide notice by shippers who retain their processing rights. The Commission will require WTG to modify section 37.3 to include a mechanism for providing notice to WTG that a shipper wishes to retain its processing rights.

80. WTG's tariff provides shippers with the option to retain the right to process gas tendered to WTG, and to enter into a separate processing arrangement with a plant

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[49] 18 C.F.R § 284.8(e) and (h)(1) (2006).

[50] Northern Natural Gas Company, FERC Gas Tariff, Fifth Revised Volume No. 1, General Terms and Conditions, Section 44, Third Revised Sheet No. 282.

operator. However, it does not appear to provide additional provisions that guarantee that a shipper that elects to have its gas processed will receive the value of the liquids that have been processed from the processing plant. Northern's tariff, in contrast, provides shippers with the ability to enter into a processing agreement with a plant operator and then provides the following language:

> *in the event a Shipper or its designee elects to retain the right to process gas tendered to Northern, a Shipper or its designee which has contracted with any processing plant will be entitled to an agreed-upon share of plant products, revenue or other consideration, as the case may be, attributable to gas processed at a processing plant in accordance with the allocation methodology agreed to under subparagraph (a)*[51]

81. Northern's tariff states that under subparagraph (a) the shipper may directly contract with the processing plant for processing and the shipper and the processing plant will agree to an allocation methodology for determining the plant products attributable to the shipper and that allocation methodology will be provided to Northern.

82. WTG's GT&C section 37 does not appear to have a process in place to allow those shippers that elect to process gas to retain the value of the various liquid components of the gas stream. As written, it appears that shippers that elect to process gas are only provided rights to the value of the commingled gas stream. In its compliance filing, WTG must address how a shipper that enters into a separate processing arrangement is able to retain the value of the liquids in its gas stream and how its tariff provisions assure that will be the case. In addition, similar to Northern's tariff, WTG's section 37 provides WTG the ability to process gas delivered by a shipper that has not elected to retain its processing rights. However, Northern's tariff requires that it credit the revenues it receives for products extracted from gas that is processed but for which no party has elected to retain the right to process or from gas that is processed from a party that elected to retain the right to process but which had no agreement for processing with a plant. In its compliance filing WTG must explain why it should not be required to credit the revenue it receives from gas that is processed by WTG that is delivered by a shipper that has not elected to retain its processing rights.

E. <u>Part 157 Subpart F Blanket Construction Certificate</u>

83. WTG requests a Part 157, Subpart F blanket construction certificate, which is generally applicable to all interstate pipelines. Part 157, Subpart F blanket certificates

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[51] Northern Natural Gas Company, FERC Gas Tariff, Fifth Revised Volume No. 1, General Terms and Conditions, Section 44, Third Revised Sheet No. 281.

accord natural gas pipelines certain automatic NGA section 7 facility and service authorizations and allow them to make several types of simplified prior notice requests for certain minimal section 7 facility and service authorizations. Because WTG will become an interstate pipeline with the issuance of a certificate to construct and operate pipeline facilities, we will also issue the requested Part 157, Subpart F, blanket certificate to WTG.

F. Part 284 Subpart G Blanket Transportation Certificate

84. WTG requests a Part 284, Subpart G blanket transportation certificate, which is generally applicable to all interstate pipelines. Part 284, Subpart G blanket certificates provide natural gas pipelines certain automatic NGA section 7 natural gas transportation authorizations for individual customers under the terms of its contract and tariff. Because WTG will become an interstate pipeline with the issuance of a certificate to operate the proposed facilities, and because a Part 284, Subpart G blanket certificate is required for WTG to offer transportation services, the Commission will issue the requested Part 284 certificate authority to WTG.

G. Environmental Review

85. The Commission staff independently evaluated environmental information submitted by the applicants and concluded that these actions qualify as categorical exclusions under the Commission's regulations.[52]

IV. Conclusion

86. For the reasons discussed above, and with the conditions imposed by this order, the Commission concludes that the authorizations requested herein are in the public convenience and necessity.

87. The Commission, on its own motion, received and made a part of the record in these proceedings all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

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[52] The abandonment authority qualifies as a categorical exclusion pursuant to 18 C.F.R. § 380.4(a)(31) (2006). Certificate authority under Part 157, Subpart F qualifies as a categorical exclusion pursuant to 18 C.F.R. § 380.4(a)(21) (2006). Certificate authority under Part 284, Subpart G qualifies as a categorical exclusion pursuant to 18 C.F.R. § 380.4(a)(22) (2006).

<u>The Commission orders</u>:

(A) In Docket No. CP06-89-001, the request by Northern for abandonment authority is granted and the request by Northern to establish a new Rate Schedule CS-1 is approved, subject to the conditions described herein.

(B) In Docket No. CP06-90-001, a certificate of public convenience and necessity is issued to WTG authorizing WTG to acquire, own, and operate the West Hugoton facilities, subject to the conditions described herein.

(C) WTG's acquisition of the subject facilities granted by Ordering Paragraph (B) shall be completed and the facilities made available for service within 12 months from the date of this order in accordance with section 157.20(b) of the Commission's regulations.

(D) In Docket No. CP06-91-001, a blanket construction certificate under Subpart F of Part 157 of the Commission's regulations is issued to WTG.

(E) In Docket No. CP06-92-001, a blanket transportation certificate under Subpart G of Part 284 of the Commission's regulations is issued to WTG.

(F) The certificates issued in Ordering Paragraphs (B), (D) and (E) are conditioned upon WTG's compliance with all applicable Commission regulations under the Natural Gas Act, particularly the general terms and conditions set forth in Parts 154, 157 and 284, and paragraphs (a), (d), (e) and (f) of section 157.20 of the regulations.

(G) WTG and Northern must each submit actual tariff sheets that comply with the requirements contained in the body of this order no less than 60 days or more than 90 days prior to the commencement of interstate service.

(H) WTG shall revise its recourse rates in accordance with the discussion in the body of this order and file the rates and work papers supporting the revised recourse rates in conjunction with the filing of tariff sheets required in Ordering Paragraph (G).

(I) At the end of its first three years of operation, WTG must make a filing to justify its existing cost-based firm and interruptible recourse rates. In its filing, the projected units of service should be no lower than those upon which WTG's approved initial rates are based. The cost and revenue study must be in the form specified in section 154.313 of the Commission's regulations to update cost-of-service data. In the alternative, in lieu of such filing, WTG may make an NGA section 4 filing to propose alternative rates to be effective no later than three years after the in-service date for its proposed facilities.

(J) Upon the close of the asset sale Northern shall file to revise its Field Area fuel rates to reflect the abandonment of the compressor units to WTG.

(K) Northern shall notify the Commission within 10 days of the date of abandonment of the facilities.

(L) Northern must file its actual accounting entries within six months of the sale as required by paragraph B of the instructions to Account 102, Gas Plant Purchased or Sold.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.