

128 FERC ¶ 61,152
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Williston Basin Interstate Pipeline Company

Docket No. CP09-409-000

ORDER ISSUING CERTIFICATE

(Issued August 11, 2009)

1. On May 12, 2009, Williston Basin Interstate Pipeline Company (Williston) filed an application, under section 7(c) of the Natural Gas Act (NGA),¹ for authority to acquire up to 13.4 Bcf of natural gas to be used as cushion gas² for its Elk Basin Storage Reservoir (Elk Basin), an underground natural gas storage facility in Park County, Wyoming and Carbon County, Montana. Williston seeks the authority in order to provide the required pressure to meet its contractual storage service commitments.

2. For the reasons discussed below, the Commission will grant Williston's proposal, subject to conditions.

I. Background

3. Williston, a corporation organized and existing under the laws of the State of Delaware, is authorized to conduct business in Montana, North Dakota, South Dakota, and Wyoming. Williston is a natural gas company, with approximately

¹ 15 U.S.C. §§ 717–717z (2009).

² Cushion gas is the gas needed as a permanent inventory to maintain enough reservoir pressure to enable all of the working gas to be withdrawn from an underground storage reservoir. Cushion gas is typically composed of both native gas (gas that has never been withdrawn from the ground) and base gas (gas that has already been produced and is injected into the storage reservoir during the development of the storage facility).

3,700 miles of pipeline facilities, engaged in the gathering, transportation, and storage of natural gas. In addition to Elk Basin, Williston operates underground storage reservoirs in the Cedar Creek (Baker) Field in Montana and the Billy Creek Field in Wyoming to serve its natural gas system.

4. Elk Basin was originally certificated as a natural gas storage reservoir in 1949. In 1985, the Commission authorized Williston to acquire and operate the field and to perform transportation and sales services.³ The Commission approved Williston's application to drill additional storage wells and increase firm deliverability at the site in 1993.⁴ In 2006, data collected by Williston indicated significantly less pressure in the reservoir than would be historically expected based on the volume of gas injected. These results led Williston to believe Howell Petroleum Corporation's (Howell)⁵ production wells, which at that time were located outside the certificated boundaries of the field, were taking natural gas from Williston's storage field. Williston states that it has pursued litigation against Howell in Wyoming state court to recover damages for these losses. To compensate for the reduction in storage field pressure resulting from the loss of gas, Williston has undertaken several projects over the last few years. Specifically, in 2006, the Director of the Office of Energy Projects authorized Williston to operate two natural gas compressors during the 2006–2007 winter season, or until a permanent solution to the lower pressure was found.⁶ In October 2007, Williston leased, under its blanket certificate authority, 4.0 Bcf of natural gas to act as cushion gas for the 2007–2008 winter season. In 2008, the Commission authorized Williston to temporarily lease approximately 5.0 Bcf of natural gas to act as cushion gas to provide further pressure support for the 2008–2009 winter storage withdrawal season.⁷ Most recently, in 2009, the Commission

³ *Williston Basin Interstate Pipeline Co.*, 30 FERC ¶ 61,143 (1985).

⁴ *Williston Basin Interstate Pipeline Co.*, 64 FERC ¶ 61,311 (1993).

⁵ Howell Petroleum Corporation (Howell), a subsidiary of Anadarko Petroleum Corporation (Anadarko), is engaged in oil and gas exploration and production. Howell owns the mineral rights to acreage which, until April 16, 2009, were outside the surface boundaries of Elk Basin as well as below the vertical boundaries of the storage facility.

⁶ *Williston Basin Interstate Pipeline Co.*, 117 FERC ¶ 62,017 (2006).

⁷ *Williston Basin Interstate Pipeline Co.*, 125 FERC ¶ 61,117 (2008).

approved Williston's request to expand its certificated boundary and to add a buffer zone to Elk Basin.⁸

II. Proposal

5. Williston seeks certificate authority to acquire up to 13.4 Bcf of natural gas to replenish cushion gas supplies that have been lost in Elk Basin. This action will ensure that Williston can fulfill its firm storage contractual obligations to its customers. Williston states that it will purchase this gas in an open bidding process and in quantities and at times dependent upon factors such as market prices for natural gas and Williston's ability to inject the gas while having the least amount of disruption to storage usage by its customers.

6. Once Williston acquires sufficient cushion gas volumes, Williston states that it will terminate its lease(s) for the two leased natural gas compressor units, which are currently being used to provide deliverability and to compensate for reduced storage field pressure.⁹ Williston does not propose to change any previously certificated parameters of Elk Basin, or change the previously certificated level of cushion gas in Elk Basin.

III. Interventions

7. Notice of Williston's application was published in the *Federal Register* on May 26, 2009 (74 Fed. Reg. 24,837). Howell and the Anadarko Energy Services Company (Anadarko)¹⁰ jointly filed a motion to intervene and protest.¹¹ Williston

⁸ *Williston Basin Interstate Pipeline Co.*, 127 FERC ¶ 61,045 (2009).

⁹ Section 7(b) of the NGA will require Williston to seek authority to abandon its leased compressor units pursuant to 18 C.F.R. § 157.18 (2009).

¹⁰ Anadarko is a shipper on Williston under both interruptible transportation agreements and storage service agreements.

¹¹ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214 (2009).

filed an answer to Howell and Anadarko's joint intervention and protest.¹² Subsequently, pursuant to 18 C.F.R. § 385.216, Howell and Anadarko withdrew their intervention and protest.¹³ In the withdrawal filing, Howell and Anadarko stated that the parties have settled and resolved all issues related to Elk Basin, and the Wyoming state court litigation.

IV. Discussion

8. Since the proposal herein involves facilities certificated for natural gas service in interstate commerce subject to the jurisdiction of the Commission, the proposal is subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

A. Certificate Policy Statement

9. The Certificate Policy Statement provides guidance as to how the Commission 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.¹⁵ A proposal to acquire natural gas with no related construction of facilities, such as in this proceeding, does not educe the Certificate Policy Statement's concerns with overbuilding, disruptions of the environment, and the exercise of eminent domain.

10. However, the threshold requirement under the Certificate Policy Statement, that a pipeline must be prepared to financially support the project without relying on subsidization from its existing customers, is relevant to this situation. In this case, Williston's proposal is designed to improve existing service for existing

¹² Williston's Answer (June 8, 2009). Answers to protests are not allowed under our rules, but this rule may be waived for good cause shown. We find good cause to do so here because admitting the answers will not cause undue delay or unfairly prejudice any party. 18 C.F.R. § 385.213(a)(2) (2009), and 18 C.F.R. § 385.101(e) (2009).

¹³ Notice of Withdrawal (July 8, 2009). Howell and Anadarko's notice of withdrawal of their protest was unopposed and therefore became effective on July 23, 2009, pursuant to Rule 385.216 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.216 (2009).

¹⁵ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000), *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

customers. The Certificate Policy Statement provides that increasing the rates of existing customers to pay for projects designed solely to improve reliability or flexibility of service for the existing customers is not a subsidy.¹⁶ Since the proposed gas acquisition is necessary to ensure the integrity of Elk Basin and maintain field deliverability, all to the benefit of Williston's existing customers, it is appropriate to permit Williston to roll in the reasonable level of project costs in its next section 4 rate proceeding.

11. The proposed acquisition involves no new service, no new customers, no degradation of service to Williston's existing customers, and no adverse physical impact on the storage assets. The proposal will benefit Williston's existing customers by ensuring the continued operation and reliability of storage service offered by Williston at currently certificated levels. Since no new service is being offered and the proposal affects only Williston's system, there will be no adverse impacts on other pipelines or their customers. Nor will the proposed project have a significant adverse impact on landowners or surrounding communities, since Williston does not propose to construct any facilities. In view of the lack of adverse effects on existing customers, other pipelines, and nearby landowners, and communities, the Commission finds, pursuant to the Certificate Policy Statement and section 7 of the NGA, that the public convenience and necessity require the approval of the cushion gas acquisition.

B. Environmental Analysis

12. The Commission's staff prepared an environmental assessment (EA) of this project which was placed in the public record in Docket No. CP09-409-000 on June 26, 2009. The EA confirms that no environmental impact would result from the approval of this proposal. Under these circumstances, the Commission finds that approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

C. Engineering

13. The Commission's staff evaluated Williston's proposal and concluded that the requested acquisition of up to 13.4 Bcf of gas to replace the gas lost from the Elk Basin is reasonable and technically sound. Elk Basin has been in operation as a storage field for 60 years. Prior to the operation of the Howell wells, the field exhibited the predictable, reliable operating characteristics consistent with a closed contained system. As part of its boundary expansion project approved in 2009,

¹⁶ See Certificate Policy Statement, 88 FERC ¶ 61,227, at 61,746, n.12 (1999).

Williston filed a hysteresis curve of gas in the reservoir showing the straight line behavior from 1949 until 2001. In that filing, Williston also included a hysteresis curve for 2002 through 2007, which showed the distinct characteristic behavior of gas loss or migration. The amount of gas loss, as of the April 2007 pressure test, is estimated to be approximately 8 Bcf. Williston states the Howell wells continued to produce gas until September 30, 2008, when they were shut-in. Williston did not file an updated hysteresis curve with this application to enable staff to make a more up-to-date estimate of the total gas loss after the shut-in of the production wells. However, staff believes that the rate of gas loss per year follows the rate established by the previous hysteresis curve, and estimates the total amount of gas loss to be approximately 13 Bcf, which correlates with Williston's request to acquire up to 13.4 Bcf of gas.

14. Williston does not seek to change any of the certificated parameters of the Elk Basin, including certificated capacity or deliverability. The proposed acquisition of gas will restore the cushion gas and the corresponding pressure support lost due to the Howell production activities, and will ensure the continued operation and reliability of the storage services offered by Williston.

D. Accounting

15. It is unclear from the information provided by Williston whether Williston's proposed accounting for the gas lost, subsequent replenishment, and/or recovery from any insurance or litigation proceeds complies in all respects with the Commission's Uniform System of Accounts. Accordingly, the Commission requires Williston to submit a compliance filing detailing its proposed final journal entries for all aspects of the transaction. This filing should include the recording of the gas lost, the replenishment of gas, and the recovery of any insurance or litigation proceeds within 30 days after the entire consummation of the purchase of the natural gas to replenish Elk Basin. Further, the filing should also provide a complete explanation of the basis for the proposed accounting with reference to applicable Commission accounting regulations, and/or relevant accounting standards of the Financial Accounting Standard Board. In sum, the filing must be of such detail as to show the complete transaction and all accounts affected.

16. The Commission, on its own motion, received and made a part of the record in this proceeding, all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Williston authorizing it to acquire up to 13.4 Bcf of natural gas to be used as cushion gas at Elk Basin, as described above and more fully in the application.

(B) The certificate authorization is conditioned on Williston's acceptance of such authority in accordance with section 157.20(a) of the regulations.

(C) Williston is not to exceed its certificated total capacity of 63.2 Bcf at a maximum shut-in reservoir pressure of 1,027 psig measured at the wellhead.

(D) Williston shall file with the Commission semiannual reports (to coincide with the termination of the injection and withdrawal cycles) containing the following information (volumes shall be stated at 14.73 psia and 60 degrees Fahrenheit, and pressures shall be stated in psia):

(1) The daily volumes of natural gas injected into and withdrawn from the Elk Basin.

(2) The volume of natural gas in Elk Basin at the end of the reporting period.

(3) The maximum daily injection and withdrawal rates experienced during the reporting period, and also the average working pressure on such maximum days taken at a central measuring point where the total volume injected or withdrawn is measured.

(4) Reports shall continue to be filed semiannually until the storage inventory volume and pressure have reached or closely approximate the maximum permitted in the Commission's order. Thereafter, the reports shall continue on a semiannual basis for a period of one year.

(E) Williston must submit a compliance filing detailing its proposed final journal entries to account for all aspects of the transaction related to the purchase of natural gas volumes with the Commission within 30 days after the entire consummation of the purchase of the natural gas to replenish Elk Basin. The

filing must provide a complete explanation of the proposed accounting, and be of such detail as to show the complete transaction and all accounts affected.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.