

130 FERC ¶ 61,161  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

North Baja Pipeline, LLC

Docket Nos. CP08-152-002  
RP10-365-000

ORDER AMENDING CERTIFICATE

(March 5, 2010)

1. On September 2, 2008, the Commission issued an order in Docket No. CP08-152-000, granting North Baja Pipeline, LLC (North Baja) certificate authorization under section 7(c) of the Natural Gas Act (NGA)<sup>1</sup> to construct and operate its Yuma Lateral Pipeline Project (Yuma Lateral).<sup>2</sup> On February 4, 2010, North Baja (i) filed an application in Docket No. CP08-152-002 to amend its certificate authorization under NGA section 7(c) to revise the initial recourse rates applicable to service on the Yuma Lateral to reflect increases in the actual costs of construction and (ii) submitted a tariff sheet in Docket No. RP10-365-000 to include the revised recourse rates applicable to the Yuma Lateral and to place the Yuma Lateral into service.

2. We will amend North Baja's certificate authorization, as requested, and accept the tariff sheet for filing, as described below.

**I. Background**

3. The Yuma Lateral project consists of: (i) a new interconnection with Gasoducto Bajanorte, S. de R.L. de C.V. (Gasoducto Bajanorte) at the United States/Mexico border

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<sup>1</sup> 15 U.S.C. § 717f(c) (2006).

<sup>2</sup> *North Baja Pipeline., LLC*, 124 FERC ¶ 61,217 (2008) (September 2 Order).

near Yuma, Arizona;<sup>3</sup> (ii) a 3.27-mile, 12-inch diameter pipeline extending from the new interconnection with Gasoducto Bajanorte to the proposed Yucca Power Plant; and (iii) the Yuma #1 Delivery Meter Station and Pig Receiver located at the terminus of the Yuma Lateral to serve Arizona Public Service Company's Yucca Power Plant. North Baja expects to complete construction and place the Yuma Lateral in service in early March 2010.

4. The September 2 Order found that North Baja did not propose to provide transportation service on an interruptible basis for the Yuma Lateral.<sup>4</sup> Therefore, the Commission directed North Baja to submit a compliance filing to provide for interruptible transportation service on the Yuma Lateral in accordance with section 284.9 of the Commission's regulations.<sup>5</sup> The September 2 Order also directed North Baja to file tariff sheets to either establish a representative level of costs to be allocated to interruptible transportation services on the Yuma Lateral, and revise its rates accordingly, or the pipeline should provide for a credit of 100 percent of the interruptible revenues, net of variable costs, to firm and interruptible customers.<sup>6</sup> Finally, the order directed North Baja to file actual tariff sheets between 30 and 60 days prior to placing the Yuma Lateral facilities into service.<sup>7</sup>

## **II. Proposal**

### **A. Revised Initial Rates**

5. North Baja states that the current estimated total cost for the Yuma Lateral project is \$14,739,390,<sup>8</sup> an increase of \$6,205,476 over North Baja's original cost estimates. North Baja states that the increase in cost estimates is primarily due to project schedule delays resulting from right-of-way permitting restrictions and additional requirements

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<sup>3</sup> Gasoducto Bajanorte is a pipeline owned by Sempra Energy and located in northern Mexico. North Baja is the United States portion of the international North Baja/Gasoducto Bajanorte Pipeline. North Baja states that Gasoducto Bajanorte will construct a 3.14-mile extension of its pipeline to interconnect with North Baja's Yuma Lateral.

<sup>4</sup> September 2 Order at P 15.

<sup>5</sup> 18 C.F.R. § 284.9 (2009).

<sup>6</sup> *Id.* P 16.

<sup>7</sup> September 2 Order at P 15.

<sup>8</sup> See North Baja's Exhibit K, in Docket No. CP08-152-002.

from the Bureau of Reclamation. According to North Baja, the Bureau of Reclamation required construction of the pipeline with a minimum of eight feet of cover, relocation of the centerline alignment, and compliance with the designation of an adjacent railway as historic.

6. North Baja filed revised Exhibits K, N, and P based on the higher construction cost estimates, providing details about the cost of facilities, overall cost of service, rate derivation, and pro-forma tariff revisions. North Baja states that the revised cost of service for the Yuma Lateral is \$2,982,309.<sup>9</sup> North Baja proposes to revise the Rate Schedule FTS-1 Lateral Rate Schedule firm recourse reservation rate to \$2.99760<sup>10</sup> per dekatherm (Dth) of capacity and Rate Schedule ITS-1 Lateral Rate Schedule interruptible transportation usage rate to \$0.09855 per Dth. North Baja notes that the capacity currently subscribed on the Yuma Lateral is under a negotiated rate agreement that includes a fixed rate and is unaffected by the proposed change in the initial recourse rate.<sup>11</sup>

### **B. Interruptible Service on the Yuma Lateral**

7. North Baja requests that it be granted certificate approval to offer interruptible service on the Yuma Lateral. North Baja states it is revising its initial recourse rate for firm service to reflect an allocation of costs to interruptible service and is establishing an initial recourse rate for interruptible service equal to the 100 percent load factor equivalent of the rate for firm service.

8. North Baja states that for initial rate purposes it is allocating approximately \$60,000 of the costs of the Yuma Lateral to interruptible service, which equates to approximately two percent of the cost of service for the Yuma Lateral. North Baja notes that the Commission previously accepted this allocation methodology and percentage in allocating for interruptible capacity on North Baja's mainline.<sup>12</sup> North Baja argues this

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<sup>9</sup> See North Baja's Exhibit N, in Docket No. CP08-152-002.

<sup>10</sup> North Baja previously proposed a Rate Schedule FTS-1 Lateral Rate Schedule firm recourse reservation rate of \$1.78954 per dekatherm (*see* September 2 Order at P 13).

<sup>11</sup> On February 4, 2010, in Docket No RP10-362-000, North Baja submitted a FTS-1 Lateral Rate Schedule negotiated rate agreement with Arizona Public Service Company for a term of 15 years and a maximum daily quantity of 66,250 Dth per day.

<sup>12</sup> North Baja cites *North Baja Pipeline, LLC*, Preliminary Determination on Non-Environmental Issues, 95 FERC ¶ 61,259 (2001); Order Issuing Certificates, NGA Section 3 Authority and Presidential Permit, 98 FERC ¶ 61,020 (2002).

allocation is appropriate given that it does not anticipate that there will be demand for interruptible service on the Yuma Lateral in the near term.

### **C. Tariff Sheet**

9. In Docket No. RP10-365-000, North Baja submits a revised tariff sheet<sup>13</sup> to comply with the September 2 Order<sup>14</sup> and place the Yuma Lateral facilities into service. North Baja states that its revised tariff sheet incorporates its proposed incremental LAT-1 service under Rate Schedule FTS-1 and Rate Schedule ITS-1 to become effective March 6, 2010.

### **III. Public Notice**

10. Notice of North Baja's request to amend its certificate authority to revise its initial NGA section 7(c) rates was published in the *Federal Register* on February 24, 2010.<sup>15</sup> Notice of North Baja's filing of its revised tariff sheet was published in the *Federal Register* on March 4, 2010.<sup>16</sup> No motions to intervene, protests, or other comments were filed in either docket.

### **IV. Discussion**

11. Because revising the initial incremental cost-based recourse rates requires amending the authorization issued in the September 2 Order, North Baja's request is subject to the jurisdiction of the Commission and the requirements of NGA sections 7(c) and (e).<sup>17</sup>

12. Based on our review of North Baja's representations in its February 4, 2010 certificate amendment application, the Commission finds that the proposed increase in costs for the Yuma Lateral is primarily attributable to higher than anticipated construction costs. North Baja proposes to revise its initial incremental firm recourse rate due to the rising costs associated with constructing the pipeline project. No party has protested the proposed level of the increase.

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<sup>13</sup> Eighth Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1.

<sup>14</sup> September 2 Order at P 15.

<sup>15</sup> 75 Fed. Reg. 8321 (2010).

<sup>16</sup> 75 Fed. Reg. 9888 (2010).

<sup>17</sup> 15 U.S.C. §§ 717f(c), (e) (2006).

13. The September 2 Order found that the Yuma Lateral Project satisfied the requirements of the Commission's Certificate Policy Statement addressing new facilities.<sup>18</sup> In particular, the Commission found that North Baja met the Certificate Policy Statement's threshold requirement that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers because North Baja proposed incremental rates for the Yuma Lateral.<sup>19</sup>

14. The revisions proposed by North Baja do not change the incremental rate structure. Therefore, the revised cost of facilities and the revised initial recourse rates do not change our finding in the September 2 Order that the pipeline's existing customers will not subsidize the project. The Commission finds that the public convenience and necessity requires approval of North Baja's proposed amendment to its certificate to increase its initial recourse rates for services using the Yuma Lateral.

15. The Commission finds that North Baja's proposal to provide interruptible service on the Yuma Lateral, pursuant to Rate Schedule ITS-1, complies with the directive of the September 2 Order.<sup>20</sup> In addition, we find that North Baja's proposal to allocate approximately \$60,000 of the costs of the Yuma Lateral for interruptible service also complies with the directives of the September 2 Order.<sup>21</sup>

16. We accept North Baja's proposed tariff sheet, which incorporates the incremental LAT-1 service under Rate Schedule FTS-1 and Rate Schedule ITS-1 and places the Yuma Lateral facilities into service, to become effective the later of March 6, 2010, or the actual date the Yuma Lateral facilities are placed into service. North Baja must notify the Commission of the exact date that the tariff sheets should be placed into effect.

17. The Commission on its own motion, received and made a part of the record all evidence, including the application, and exhibits thereto, submitted in this proceeding. Upon consideration of this record,

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<sup>18</sup> *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).

<sup>19</sup> September 2 Order at P 10.

<sup>20</sup> September 2 Order at P 15.

<sup>21</sup> September 2 Order at P 16.

The Commission orders:

(A) North Baja's certificate of public convenience and necessity is amended to authorize the revised initial incremental recourse rates, subject to the qualifications and modifications required by the September 2 Order, as more fully described in this order.

(B) North Baja has complied with the requirements of the September 2 Order.

(C) The Commission accepts North Baja's Eighth Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1, effective the later of March 6, 2010, or the actual date the Yuma Lateral facilities are placed into service.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.