

171 FERC ¶ 61,030
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick, Bernard L. McNamee,
and James P. Danly.

National Fuel Gas Supply Corporation

Docket No. CP20-2-000

ORDER AMENDING AND VACATING, IN PART,
ABANDONMENT AUTHORIZATIONS AND
VACATING, IN PART, CERTIFICATE AUTHORIZATION

(Issued April 16, 2020)

1. On October 2, 2019, National Fuel Gas Supply Corporation (National Fuel) filed an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA),¹ and Part 157 of the Commission's Rules and Regulations² to amend and vacate authorizations associated with National Fuel's existing Queen storage facilities and Line Q, and the Line QP Project, in Forest and Warren Counties, Pennsylvania, granted by the Commission on September 6, 2017, in Docket No. CP16-28-000.³ Specifically, National Fuel requests that the Commission: (1) amend the authorization to abandon by sale the Queen Storage Field, including associated base gas, and the Queen Compressor Station to reflect a new purchaser; (2) vacate the authorization to abandon by sale a 5.5-mile segment of Line Q; and (3) vacate the certificate authorization to construct the new Line QP, in part. As discussed below, the Commission grants National Fuel's requests, subject to certain conditions.

I. Background and Proposal

2. National Fuel, a corporation organized and existing under Pennsylvania law, is a natural gas company as defined by section 2(6) of the NGA. National Fuel provides transportation and natural gas storage services in New York and Pennsylvania.

¹ 15 U.S.C. §§ 717f(b) and (c) (2018).

² 18 C.F.R. pt. 157 (2019).

³ *National Fuel Gas Supply Corp.*, 160 FERC ¶ 61,050 (2017) (September 6, 2017 Order).

3. In the September 6, 2017 Order, the Commission authorized National Fuel to abandon by sale to EmKey Gathering, LLC (EmKey) its: (1) Queen Storage Field, including the field's base gas; (2) Queen Compressor Station, which is used only to withdraw gas from the Queen Storage Field; and (3) a 5.5-mile segment of its Line Q,⁴ extending north from the Queen Compression Station to a point just south of the Allegheny River. National Fuel had sought abandonment of the Queen Storage Field and Compressor Station because they provide only a small percentage of its systemwide storage capacity and deliverability and their continued operation for jurisdictional transportation service would have required significant investment to maintain performance and system integrity and to comply with the U.S. Department of Transportation standards. EmKey intended to incorporate the facilities into its non-jurisdictional gathering system.

4. The Commission also authorized National Fuel to abandon, by removal and in place, 0.18 mile of the remaining portion of Line Q, including two near-parallel segments which cross the Allegheny River.⁵ The integrity of both crossings was compromised and, therefore, the crossings needed to be replaced.

5. In order to continue transportation service to its customers following abandonment of Line Q, National Fuel proposed, and the order authorized, National Fuel to construct and operate the Line QP Project, consisting of approximately five miles of four-inch-diameter plastic pipe, as well as a proposed regulator station and two service taps. Line QP was proposed to start at an existing National Fuel regulator station just north of the Allegheny River in Tidioute Borough, Pennsylvania, cross the Allegheny River to a proposed regulator station and then extend to just west of the Queen Compressor Station, where it would connect to National Fuel's existing pipeline system, as well as to National Fuel Gas Distribution Corporation (National Fuel Distribution).⁶ For the new river crossing, National Fuel proposed to construct two pipelines downstream of the existing river crossings in a single trench: (1) a four-inch-diameter plastic pipe placed inside a six-inch-diameter steel pipeline casing that National Fuel would use to provide jurisdictional service; and (2) a 12-inch-diameter steel pipeline, which would be conveyed to EmKey, and operated as part of its non-jurisdictional

⁴ Line Q is used to move gas to and from the Queen Storage Field, transport gas to National Fuel Gas Distribution Corporation, and receive gas from local producers of gas.

⁵ These segments were six-inch-diameter steel pipelines, one of which was inactive.

⁶ As part of the purchase and sale agreement between National Fuel and EmKey, EmKey was to reimburse National Fuel for approximately 81% of the cost of construction of Line QP.

gathering system.⁷ The Commission noted that the construction of the additional 12-inch-diameter pipeline crossing of the Allegheny River was not subject to Commission authorization.⁸

6. However, in July 2018, in the face of uncertainty regarding the EmKey transaction, National Fuel filed a variance request and request for a notice to proceed with construction that modified the proposal for the jurisdictional, four-inch-diameter plastic river crossing pipeline, proposing instead to construct a six-inch diameter steel pipeline, in addition to the 12-inch-diameter steel pipeline.⁹ As previously proposed, both pipelines would be laid in a single trench downstream of the existing crossing. In addition, while the six-inch-diameter pipeline would be tied to Line Q and placed in service, National Fuel stated that the 12-inch-diameter pipeline would be available to National Fuel for jurisdictional use as a back-up to the other line,¹⁰ unless and until a transaction were to occur with EmKey or another third party.¹¹ On August 6, 2018, National Fuel was authorized to commence construction of the six-inch-diameter steel

⁷ The 6-inch-diameter steel casing holding the proposed 4-inch diameter plastic pipe would be attached to 12-inch-diameter steel pipeline. *See* National Fuel's March 22, 2016 Data Response and May 31, 2016 Supplemental Data Response to Question 4 of Staff's March 2, 2016 Data Request in Docket No. CP16-28-000. *See also*, National Fuel's November 13, 2017 Implementation Plan at Appendix A (final alignment sheets).

⁸ September 6, 2017 Order, 160 FERC ¶ 61,050 at P 9 n.3.

⁹ *See* National Fuel's July 10, 2018 Request for Notice to Proceed with Construction of River Crossing and July 12, 2018 Variance Request for Additional Temporary Workspace in Docket No. CP16-28-000. On July 24, 2018, National Fuel supplemented these requests. *See* July 24, 2018 *Response to Informal Data Request, Supplement to Request for Notice to Proceed and Request for Variance*, at 2-3.

¹⁰ National Fuel stated that it would seek an amendment to reflect any change from its application and the September 6, 2017 Order.

¹¹ In that event, stated National Fuel, it would install a four-inch-diameter plastic line and connect it to the six-inch-diameter steel crossing on the south side of the Allegheny River or insert a four-inch plastic pipe through the six-inch steel crossing and tie the four-inch-diameter plastic pipeline into the existing station north of the Allegheny River. It also would tie the section of Line Q south of the Allegheny River into the 12-inch-diameter crossing and turn it over to EmKey. National Fuel's July 24, 2018 *Response to Informal Data Request, Supplement to Request for Notice to Proceed and Request for Variance*, at 2-3.

river crossing pipeline¹² and in September 2018, National Fuel constructed both the six-inch- and 12-inch-diameter steel pipeline river crossings. The six-inch-diameter pipeline was placed into service as an integrity replacement, while the 12-inch-diameter pipeline was capped at both ends.

7. Subsequent to the construction of both river crossing lines, National Fuel and EmKey terminated their agreement for the sale and purchase of the facilities subject to the abandonment authorization. National Fuel states that on September 17, 2019, it entered into a new agreement with Catalyst Energy, Inc. (Catalyst). National Fuel states that Catalyst will purchase the Queen Storage Field, the associated base gas in the field, and the Queen Compressor Station.¹³ However, Catalyst is not purchasing the 5.5-mile segment of Line Q; rather, National Fuel will retain that segment of Line Q for continued use in providing service to its customers.¹⁴

8. Therefore, National Fuel requests that the Commission amend its abandonment authorization to allow it to abandon the Queen Storage Field, including its associated base gas, and the Queen Compressor Station by sale to Catalyst, instead of to EmKey. In addition, National Fuel is requesting that the Commission vacate its authorization to abandon Line Q, except for the river crossing segments.¹⁵

¹² See August 6, 2018 Letter Order of Gas Branch 3 Chief of the Division of Gas – Environment and Engineering of the Commission’s Office of Energy Projects.

¹³ Catalyst represents in a September 27, 2018 verified statement that it is acquiring only the Queen Storage Field and its associated facilities, which will be used to produce and sell the base gas in the storage reservoir, and that the acquisition of the Queen Storage Field will not alter the primary function of Catalyst’s non-jurisdictional natural gas gathering system. Application of National Fuel at Exhibit Z-1.

¹⁴ National Fuel states that it intends to disconnect and cap a short section of interconnection pipeline from the southern end of Line Q into the Queen Compressor Station, and that Catalyst is evaluating whether it will deliver gas from its gathering system into National Fuel through a future interconnect at this location or through an existing interconnection between Catalyst’s gathering system and Line Q slightly further to the north.

¹⁵ National Fuel is retaining all of Line Q, with the exception of the original Line Q Allegheny River Crossing, which has already been abandoned (in place and by removal) and replaced, and a small section of Line Q on the south side of the river connecting Line Q with the abandoned river crossing.

9. Since National Fuel is retaining Line Q, it has no need to construct Line QP, which was intended to replace the abandoned Line Q. Consequently, National Fuel requests that the Commission vacate its certificate authorization to construct the Line QP facilities, except the authorization for the six-inch river crossing pipeline that has been constructed and connected to Line Q. In addition, National Fuel states that it will retain the second Allegheny River crossing pipeline (the 12-inch diameter steel pipeline) which was intended to be sold to EmKey.¹⁶

II. Public Notice and Interventions

10. Notice of National Fuel's application was published in the *Federal Register* on October 17, 2019.¹⁷ National Fuel Distribution and Equinor Natural Gas LLC filed timely motions to intervene. Timely, unopposed motions to intervene are granted automatically by operation of Rule 214 of the Commission's Rules of Practice and Procedure.¹⁸ No protests or adverse comments were filed.

III. Discussion

11. Because National Fuel's application pertains to facilities used for the transportation of natural gas 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 NGA.¹⁹ Additionally, National Fuel's proposed amendment, in part, and vacation, in part, of the authorization to abandon such facilities is subject to subsection (b) of section 7 of the NGA.²⁰

12. As stated above, National Fuel and EmKey have terminated their agreement for the sale and purchase of the Queen Storage Field, associated base gas, the Queen Compressor Station, and the 5.5-mile segment of Line Q. National Fuel has entered into an agreement with a new purchaser, Catalyst, who will buy the Queen Storage Field, associated base gas, and the Queen Compressor Station. Therefore, National Fuel

¹⁶ While not differentiating between the two lines, National Fuel generally stated "... National Fuel constructed the Allegheny River crossing during September, 2018, which will now remain part of National Fuel's system." Application of National Fuel at 3.

¹⁷ 84 Fed. Reg. 55,572 (Oct. 17, 2019).

¹⁸ 18 C.F.R. § 385.214(c)(1) (2019).

¹⁹ 15 U.S.C. §§ 717f(c) and (e).

²⁰ 15 U.S.C. § 717f(b).

requests that the Commission amend the abandonment authorization granted in the September 6, 2017 Order to permit it to abandon these facilities by sale to Catalyst, rather than to EmKey.

13. The Commission will grant National Fuel's request. The Commission found in the September 6, 2017 Order that National Fuel's abandonment of these facilities would not result in a disruption of service to any customer and was permitted by the public convenience or necessity. Changing the identity of the purchaser does not alter these findings. Moreover, although under the authorization permitting abandonment of the facilities by sale to EmKey, service to National Fuel's existing customers would have been maintained through the construction of Line QP, under National Fuel's revised proposal to sell only the storage facilities to Catalyst, National Fuel is retaining its existing Line Q, which currently provides service to National Fuel Distribution and is used by four local producers. Therefore, there will still be no adverse impact to the current provision of service to National Fuel's customers. Accordingly, National Fuel is authorized to abandon the Queen storage facilities by sale to Catalyst.

14. Under the new transaction with Catalyst, Catalyst will not be purchasing the 5.5-mile segment of Line Q. Accordingly, National Fuel requests that the Commission vacate the previously granted authority for it to abandon by sale the 5.5-mile segment of Line Q. National Fuel intends to retain Line Q and continue to use it to deliver gas to National Fuel Distribution and to transport the local production in the area. The Commission grants National Fuel's request and vacates the authorization granted in the September 6, 2017 Order.

15. Given that National Fuel is no longer abandoning Line Q, but retaining it to continue to provide service to National Fuel Distribution and to transport local production gas, the construction of new Line QP, except for the already constructed river crossing, is unnecessary. Thus, National Fuel requests that the Commission vacate, in part, the certificate authorization to construct and operate Line QP that was granted by the September 6, 2017 Order.

16. The Commission grants National Fuel's request and vacates, in part, the certificate authorization to construct and operate the five-mile segment of Line QP. The construction of this segment of Line QP is no longer necessary because National Fuel will continue to operate other facilities (Line Q) that would have been replaced by the additional facilities and there will be no impacts on National Fuel's customers, existing pipelines, or landowners.

17. Finally, as indicated above, National Fuel has constructed two river crossing pipelines: (1) the six-inch-diameter steel-coated pipeline that is now connected to Line Q that was certificated as a part of Line QP; and (2) the 12-inch-diameter steel pipeline that National Fuel had intended to convey to EmKey for EmKey to operate as part of its non-jurisdictional gathering system. As stated above, the 12-inch-diameter pipeline was

not certificated by the Commission, nor subject to its jurisdiction.²¹ Given this, and the fact that National Fuel has provided no information justifying its need for a second, jurisdictional Allegheny River crossing pipeline, National Fuel must obtain authorization to utilize this pipeline prior to using it to provide jurisdictional service (or reflecting any of the costs relating to the facility in its jurisdictional rates).

18. In addition, because National Fuel does not propose any new facilities or changes to the operational capabilities of its system, the Commission finds that the requested vacation of certificate authority will result in no environmental impacts.²²

The Commission orders:

(A) The authorization issued to National Fuel in the September 6, 2017 Order in Docket No. CP16-28-000 to abandon the Queen Storage Field, associated base gas, and the Queen Compressor Station by sale to EmKey is amended to authorize the abandonment of the facilities by sale to Catalyst, as described in this order and in the application.

(B) The authorization issued to National Fuel in the September 6, 2017 Order to abandon by the 5.5-mile segment of Line Q by sale to EmKey is vacated, as discussed herein.

(C) The certificate authorization issued to National Fuel in the September 6, 2017 Order to construct Line QP and the associated facilities is vacated, in part, as described herein.

²¹ See *supra* note 8. We note that in its application, National Fuel refers to the 12-inch line as “a spare.” Application of National Fuel at 4. National Fuel also references the July 24, 2018 filing in Docket No. CP16-28-000, wherein it stated “Until a transaction with Emkey, or another third-party the 12-inch pipeline will be jurisdictional and available to National Fuel for its use as a back up to the other line in the crossing.” See National Fuel’s July 24, 2018 *Response to Informal Data Request, Supplement to Request for Notice to Proceed and Request for Variance* in Docket No. CP16-28-000, at 3.

²² See 18 C.F.R. § 380.4(a)(27) (2019) (stating that neither an environmental assessment nor an environmental impact statement will be prepared for the “[s]ale, exchange, and transportation of natural gas under sections 4, 5, and 7 of the Natural Gas Act that require no construction of facilities”).

(D) All other requirements and conditions of the Commission's prior orders in Docket No. CP16-28-000 authorizing the abandonment and construction and operation of facilities remain in effect.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.