

167 FERC ¶ 61,145
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, Richard Glick,
and Bernard L. McNamee.

Alliance Pipeline L.P.

Docket No. CP19-34-000

ORDER APPROVING ABANDONMENT

(Issued May 16, 2019)

1. On December 21, 2018, Alliance Pipeline L.P. (Alliance) filed an application under section 7(c) of the Natural Gas Act (NGA),¹ and Part 157 of the Commission's regulations² requesting authorization to amend the certificate of public convenience and necessity for its Tioga Lateral Project, issued on September 20, 2012,³ as amended by order issued on January 17, 2013.⁴ Specifically, Alliance seeks to reduce the certificated capacity of its Tioga Lateral as approved in the January 17 Order. Because Alliance seeks to reduce the certificated capacity of, and thus its firm service obligation on, its Tioga Lateral, we will consider Alliance's proposal as an application for abandonment under section 7(b) of the NGA,⁵ as opposed to an application to amend its certificate under section 7(c).
2. For the reasons discussed below, the Commission finds that Alliance's proposed abandonment is permitted by the public convenience or necessity.

¹ 15 U.S.C. § 717f(c) (2012).

² 18 C.F.R. pt. 157 (2018).

³ *Alliance Pipeline L.P.*, 140 FERC ¶ 61,212 (2012) (September 20 Order).

⁴ *Alliance Pipeline L.P.*, 142 FERC ¶ 62,048 (2013) (January 17 Order).

⁵ Section 7(b) of the NGA requires natural gas companies to receive permission and approval from the Commission prior to abandoning "any portion of its facilities . . . or any service rendered by means of such facilities" 15 U.S.C. § 717f(b).

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I. Background

3. Alliance is a limited partnership duly organized and existing under the laws of the State of Delaware. Alliance is a natural gas company within the meaning of section 2(6) of the NGA,⁶ and currently transports natural gas in interstate commerce through its natural gas transmission system extending from the United States-Canada border in Renville County, North Dakota, southeast through North Dakota, Minnesota, and Iowa, to its terminus in Grundy County, Illinois, near Chicago.

4. The September 20 Order issued Alliance a certificate of public convenience and necessity to construct and operate the Tioga Lateral, which extends approximately 79.3 miles from the tailgate of a gas processing plant near Tioga, North Dakota, to an interconnection with Alliance's mainline near Sherwood, North Dakota. Additionally, Alliance was authorized to construct a 6,000 horsepower (HP) compressor station containing three 2,000 HP electric compressors. The certificated capacity for the Tioga Lateral was 106.5 million cubic feet per day (MMcf/d). The September 20 Order also approved Alliance's proposed initial incremental recourse charge of \$20.1533 per dekatherm (Dth) and usage charge of \$0.0594 per Dth, based on a first-year cost of service of \$28,202,697, and the Tioga Lateral's full certificated capacity of 106.5 MMcf/d. Alliance executed one contract with the Hess Corporation (Hess) for up to 61.5 MMcf/d of firm transportation service on the Tioga Lateral.

5. On November 26, 2012, Alliance filed an application to amend its certificate, proposing to install three 2,650 HP electric compressor units (instead of three 2,000 HP units), thus increasing the certificated capacity of the Tioga Lateral from 106.5 MMcf/d to 126.4 MMcf/d. Alliance also proposed revised initial recourse rates to reflect the increased project costs and increased certificated capacity. Alliance stated that use of the larger compressor units would provide greater flexibility and reliability, as well being the most cost effective approach to compression on the Tioga Lateral on a capital cost per hp basis.⁷ On January 17, 2013, Alliance's amendment was approved.⁸ Alliance placed the Tioga Lateral project into service on September 1, 2013.⁹

⁶ 15 U.S.C. § 717a(6).

⁷ See Alliance's Application for Amendment of Certificate of Public Convenience and Necessity, Docket No. CP13-21-000, at 6 (filed Nov. 26, 2012) (2012 Amendment Application).

⁸ January 17 Order, 142 FERC ¶ 62,048.

⁹ See Alliance's Notice of Commencement of Service, Docket Nos. CP12-50-000 and CP13-21-000 (filed Sept. 6, 2013).

II. Proposal

6. Alliance proposes to restate the certificated capacity of the Tioga Lateral as 96 MMcf/d. Alliance asserts that this reduction from the current certificated capacity of 126.4 MMcf/d would accurately reflect the existing firm capacity of the Tioga Lateral's installed facilities. Alliance is seeking only to reduce the certificated capacity of the Tioga Lateral; Alliance does not propose any construction or changes to Alliance's rates or tariff, and no additional costs will be incurred. Alliance states that the existing facilities and capacity made available by such facilities are sufficient to satisfy all of Alliance's existing firm transportation contracts.

III. Notice, Comments, and Interventions

7. Notice of Alliance's application was issued on January 7, 2019. Interventions and protests were due January 28, 2019. Northern Illinois Gas Company d/b/a Nicor Gas Company, BP Canada Energy Marketing Corporation, and Hess all filed timely motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.¹⁰

8. On January 28, 2019, Indicated Shippers (consisting of BP Canada Energy Marketing Corporation and Hess) filed comments questioning Alliance's justification for its proposal. Specifically, Indicated Shippers state that nothing in Alliance's 2018 amendment application or 2013 Construction Affirmation Statement¹¹ indicate that Alliance has not installed the authorized 7,950 HP of compression, or that the Tioga Lateral could not support the 126,400 Mcf/d certificated capacity authorized in the January 17 Order.¹² Indicated Shippers request that the Commission require Alliance to further explain and justify why Alliance now seeks to reduce the certificated capacity of its Tioga Lateral Project below the level originally approved in the September 20 Order. Indicated Shippers further note that by decreasing the certificated capacity of the Tioga Lateral, Alliance will thereby be reducing the billing determinants used to establish its incremental rates.

9. On February 7, 2019, Alliance filed a response to Indicated Shippers' comment (February 7 Answer). Alliance states that all facilities approved in the 2012 and 2013

¹⁰ 18 C.F.R. § 385.214(c) (2018).

¹¹ See Alliance's Construction Affirmation Statement, Docket Nos. CP12-50-000 and CP13-21-000 (filed Sept. 20, 2013).

¹² See Indicated Shippers' Comments, Docket Nos. CP19-34-000, et al. (filed Jan. 28, 2019).

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Orders were constructed and placed into service on September 1, 2013. However, Alliance further states that because contracted capacity on the Tioga Lateral is only 61.5 MMcf/d, it did not install all of the auxiliary facilities that it otherwise would have,¹³ and references hydraulic flow models that demonstrate a certificated capacity of 96.0 MMcf/d on the Tioga Lateral.¹⁴ Alliance also emphasizes that no changes would be made to transportation rates on the Tioga Lateral as a result of the amendment.

10. On March 13, 2019, Indicated Shippers filed a motion for leave to answer and answer to Alliance's February 7 Answer and February 26, 2019 data response (March 13 Answer). Indicated Shippers request that the Commission require Alliance to explain why it installed auxiliary facilities only capable of supporting the 61.5 MMcf/d of currently subscribed capacity, as opposed to the 126.4 MMcf/d of certificated capacity on the Tioga Lateral facilities. In addition, Indicated Shippers request that should the Commission approve Alliance's request, the Commission make an express finding that the approval does not preclude Indicated Shippers from raising concerns regarding Alliance's proposal, including the capacity, costs, and rates, in a future NGA section 4 or 5 rate proceeding.

11. On March 18, 2019, Alliance filed a motion for leave to answer and answer to Indicated Shippers' March 13 Answer (March 18 Answer). Referencing its February 7 Answer and February 26, 2019 data response, Alliance explains that the auxiliary facilities were optimized to support Alliance's contracted firm service requirements. In addition, Alliance reiterates that the costs of the auxiliary facilities and the incremental recourse rate for service on the Tioga Lateral are not at issue in this proceeding.

IV. Discussion

12. As Alliance proposes to restate the certificated capacity of a certificated facility, thus abandoning its obligation to provide an increment of interstate natural gas

¹³ Alliance states that the auxiliary facilities include the inlet scrubber, inlet gas meter, process gas coolers, discharge gas filter/coalescer, static mixer, slug catcher and line heater. See Alliance's Response to Commission Staff's February 14, 2019 Data Request, Docket No. CP19-34-000 (filed Feb. 26, 2019) (February 26 Data Response).

¹⁴ Alliance states that Enbridge Inc., which has provided operational services to Alliance since 2018, has run hydraulic flow models of all the as-constructed facilities. See Alliance's March 13 Answer at 3.

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transportation service, subject to the Commission's jurisdiction, the proposal is subject to the requirements of section 7(b)¹⁵ of the NGA.

13. Section 7(b) of the NGA allows an interstate pipeline to abandon jurisdictional facilities or services only if the abandonment is permitted by the "present or future public convenience or necessity."¹⁶ The Commission examines abandonment applications on a case-by-case basis. In deciding whether abandonment is warranted, the Commission considers all relevant factors, but the criteria will vary as the circumstances of the abandonment proposal vary.

14. When a pipeline proposes to abandon an obligation to provide service, the continuity and stability of its existing services are the primary consideration in assessing whether the public convenience or necessity permit the abandonment.¹⁷ If the Commission finds that a pipeline's proposed abandonment will not jeopardize continuity of existing gas transportation services, it will defer to the pipeline's business judgment.

15. Alliance states that its proposal will not result in the disruption of service to Hess, currently the only firm shipper on the Tioga Lateral. Alliance states that the certificated capacity of all installed facilities on the Tioga Lateral, including the pipeline, compression facilities, and auxiliary facilities, is 96 MMcf/d, and therefore it can continue to meet Hess's 61.5 MMcf/d of subscribed firm service, and in fact has additional firm capacity available on the Tioga Lateral.¹⁸

16. We have evaluated Alliance's hydraulic models and other supporting information, and have confirmed that the Tioga Lateral's current certificated capacity is 96.0 MMcf/d.¹⁹ Because Alliance only has firm contracts for 61.5 MMcf/d on the Tioga Lateral, we find that reducing the Tioga Lateral's certificated capacity from 126.4 MMcf/d to 96.0 MMcf/d will not adversely impact Alliance's ability to maintain its existing contractual obligations to its existing customers. Alliance's proposed restatement will more accurately reflect the Tioga Lateral's certificated capacity and will

¹⁵ 15 U.S.C. § 717f(b).

¹⁶ *Id.*

¹⁷ *El Paso Natural Gas Co.*, 136 FERC ¶ 61,180, at P 22 (2011).

¹⁸ See Alliance's February 7 Response at 4, and Alliance's February 26, 2019 Response to Commission Staff's February 14, 2019 Engineering Data Request.

¹⁹ Contrary to Indicated Shippers' assertion, the scope of the Tioga Lateral was reduced to support 96 MMcf/d, not just the 61.5 MMcf/d of subscribed capacity.

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not result in the degradation of service. In view of these considerations, we find that the public convenience and necessity permits Alliance's proposed abandonment of a portion of its service obligation on the Tioga Lateral, and Alliance's certificate of public convenience and necessity is amended accordingly.²⁰

17. Our finding here is limited to amending the certificated capacity of Alliance's Tioga Lateral. Any rate issues associated with this decision, including issues related to the costs and billing determinants appropriate for use in setting future rates for service on the Tioga Lateral, may be raised by concerned parties in Alliance's next rate proceeding.

18. On January 8, 2019, Commission staff issued an environmental assessment determining that no environmental impacts would occur as a result of Alliance's proposed abandonment.

19. At a hearing held on May 16, 2019, 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, and all comments, and upon consideration of the record,

The Commission orders:

Alliance's request to restate the certificated design capacity on its Tioga Lateral, as described in this order and in the application and supplements, is granted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

²⁰ While Alliance failed to install facilities that would have enabled it to provide service utilizing the full 126.4 MMcf/d of certificated capacity for the Tioga Lateral, it appears that Alliance was able to satisfy all requests for service and to meet all of its firm contractual obligations on the Tioga Lateral. Therefore, we will not refer this matter to the Office of Enforcement.