126 FERC ¶ 61,239
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

CenterPoint Energy Gas Transmission Company	Docket Nos.	CP08-441-000
Texas Eastern Transmission, LP		CP08-444-000

ORDER ISSUING CERTIFICATE AND APPROVING ABANDONMENT

(Issued March 19, 2009)

1. On July 17, 2008, CenterPoint Energy Gas Transmission Company (CenterPoint) filed in Docket No. CP08-441-000 an application under section 7(c) of the Natural Gas Act (NGA) for authorization to lease firm capacity from Texas Eastern Transmission, LP (Texas Eastern). In a companion application filed on July 21, 2008, in Docket No. CP08-444-000, Texas Eastern requested authorization under NGA section 7(b) to abandon by lease firm capacity to CenterPoint.

2. For the reasons discussed below, we will grant the requested authorizations, subject to certain conditions.

Background and Proposal

3. CenterPoint is a natural gas company as defined by section 2(6) of the NGA that owns and operates pipeline facilities located in Texas, Louisiana, Mississippi, Arkansas, Kansas, Missouri, Oklahoma, and Tennessee. Texas Eastern is a natural gas company that owns and operates a pipeline system extending from south Texas and offshore Gulf of Mexico to the Mid-Atlantic and Northeast area, including Pennsylvania, New Jersey and New York.

4. CenterPoint and Texas Eastern entered into a lease agreement under which CenterPoint will lease from Texas Eastern 90,000 dekatherms (Dth) per day of firm capacity on Texas Eastern's Sligo Lateral Line 11-G (Sligo Lateral). The Sligo Lateral is located in Bossier and Red River Parishes, in northwestern Louisiana. The Sligo Lateral

is connected to CenterPoint Energy Field Services' (CEFS) Sligo Gas Processing Plant. CEFS, a non-jurisdictional gathering affiliate of CenterPoint, gathers natural gas from the Sligo Field and processes the gas at the Sligo Plant. The proposed lease of capacity on the Sligo Lateral will allow CenterPoint to transport gas from the Sligo Plant to its newly constructed Line CP[1] that extends from Carthage, Texas to the Perryville Hub in Louisiana.[2] At the Perryville Hub, Line CP is connected to pipelines serving Midwest, Northeast, and Southeast markets.

5. The agreement provides that CenterPoint has the right to lease 90,000 Dth per day of capacity on a firm basis – 85,000 Dth per day on a year-round basis and 5,000 Dth per day when operationally feasible on the Sligo Lateral. The primary term of the lease is five years. After the initial five-year term, the lease will continue year to year until one party provides an 18-month notice of termination. Texas Eastern will retain operational control of the Sligo Lateral.

6. CenterPoint will pay Texas Eastern a monthly lease charge of $122,067, plus a unit charge of $0.0472 per Dth per day if it uses more than 85,000 Dth per day of capacity. Texas Eastern will charge CenterPoint for lost and unaccounted-for gas in accordance with Texas Eastern's applicable shrinkage charge filing under section 15.6 of the General Terms and Conditions of its tariff.

7. CenterPoint states that, in the open season for Line CP, it entered into two precedent agreements with Petrohawk Energy Corporation (Petrohawk) – one for 25,000 Dth per day of firm capacity and another for 30,000 Dth per day of firm capacity – and a precedent agreement with Chesapeake Energy Marketing, Inc. (Chesapeake) for 25,000 Dth per day of firm capacity. The service agreements with Petrohawk expire in 2012 and 2013, and the service agreement with Chesapeake expires in 2015. The agreements between CenterPoint and Petrohawk and Chesapeake contemplate that CenterPoint would seek authorization from the Commission to construct facilities, seek authorization to lease capacity on Texas Eastern's Sligo Lateral, or otherwise arrange for a direct connection

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[1] *See CenterPoint Energy Gas Transmission Corp.*, 117 FERC ¶ 61,003 (2006), *order amending certificate*, 119 FERC ¶ 61,138 (2007).

[2] Pursuant to its Part 157 blanket certificate, CenterPoint has installed approximately one mile of 16-inch-diameter pipe (Line CP-5), an 8-inch-diameter ultrasonic meter station, and a 1,680 horsepower compressor unit (the Long Lake Compressor), to connect the Sligo Lateral to Line CP.

between the Sligo Plant and Line CP. The three service agreements are negotiated agreements that have already been approved by the Commission and are currently in effect.

8. In conjunction with the proposed lease, the parties have entered into a transportation agreement under which CenterPoint will provide Texas Eastern with 30,000 Dth per day of firm transportation service on the CenterPoint system in order to ensure that Texas Eastern has the necessary capacity to meet its transportation service obligations to its existing shippers and replicate the capacity currently available on the Sligo Lateral. Texas Eastern states that the actual throughput of the Sligo Lateral over the past few years has been significantly below 30,000 Dth per day. Specifically, Texas Eastern states that average throughput on the Sligo Lateral during the 12 months ending April 30, 2008 was 4,874 Dth per day and average throughput during the 36 months ending April 30, 2008 was 7,604 Dth per day.[3] CenterPoint states that it will charge Texas Eastern a negotiated rate for its firm transportation service that will be filed with the Commission.

9. CenterPoint states that the lease proposal herein is part of its strategy to attach new gas supplies to its system. CenterPoint contends that the leased capacity, along with the compression from the Long Lake Compressor, will enable it to transport gas from the Sligo Field to Line CP without installing duplicative facilities.[4] The parties point out that the Sligo Lateral is currently underused. Texas Eastern states that its existing firm shippers will not be adversely affected by the lease because the transportation agreement will enable it to meet its service obligations to its customers and replicate the capacity currently available on its Sligo Lateral.[5]

Notice and Interventions

10. Notice of CenterPoint's and Texas Eastern's applications was published in the *Federal Register* on April 14, 2008 (73 Fed. Reg. 44,711). The Arkansas Public Service

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[3] Texas Eastern's application at 4 and its October 14, 2008 response to a staff data request.

[4] CenterPoint does not propose any changes to its tariff.

[5] Texas Eastern's December 12, 2008 response to a staff date request.

Commission filed a timely notice of intervention.[6] Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc. and Atmos Energy Corporation filed untimely motions to intervene. We will grant the late motions to intervene, as we find that to do so will not delay, disrupt or otherwise prejudice these proceedings. No comments or protests were filed.

Discussion

11. Since CenterPoint and Texas Eastern propose a lease agreement for the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, CenterPoint's and Texas Eastern's proposals are subject to the requirements of subsections (b), (c), and (e) of section 7 of the NGA.

Certificate Policy Statement

12. We shall consider CenterPoint's proposal to lease capacity on Texas Eastern's Sligo Lateral under the provisions of our Certificate Policy Statement.[7] In a situation where an applicant proposes to lease facilities that have already been certificated and constructed by another pipeline, as is the case here, the Certificate Policy Statement's concerns with disruptions of the environment and the exercise of eminent domain are not implicated.

13. 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 equally as applicable to a pipeline's lease of capacity on existing facilities as it is to the construction of new facilities. 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.

14. As stated, the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. In this case, CenterPoint has already executed agreements with Petrohawk and Chesapeake for service on

[6] Timely notices of intervention by state commissions are granted by operation of Rule 214(a)(2) of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(a)(2) (2008).

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

CenterPoint's existing facilities. CenterPoint's agreements with Petrohawk and Chesapeake would not provide incremental revenue associated with transportation on the leased capacity. Therefore, to ensure there will be no subsidization by other CenterPoint shippers, CenterPoint will not be authorized to roll the costs associated with the lease into its system rates in a future rate case unless it is able to demonstrate, at that time, that such rate treatment will not result in subsidization of the expansion capacity by existing customers.

15. There will be no degradation of service to CenterPoint's existing customers as a result of this proposal. Rather, the lease will provide CenterPoint's customers with direct access to the Sligo Field without the necessity of constructing a pipeline that duplicates Texas Eastern's facilities. In addition, the payments CenterPoint will make to Texas Eastern under the lease are less than Texas Eastern's generally applicable maximum firm transportation rates. Specifically, each month, CenterPoint will pay a lease charge of $122,067, plus a unit charge of $0.0472 per Dth per day if it uses more than 85,000 Dth per day of capacity, which is less than the monthly charge of $164,050 and unit charge of $0.0635 per Dth per day that CenterPoint would pay under Texas Eastern's maximum tariff rates. Thus, under the lease, CenterPoint will pay a lower rate to Texas Eastern than if it procured firm transportation service from Texas Eastern at its maximum rate.

16. Finally, CenterPoint states that shippers using the lease capacity will be charged the Line CP Fuel Use and Lost and Unaccounted for Gas (LUFG) rates and CenterPoint will include the Texas Eastern LUFG charge and the Long Lake Compressor fuel in its Line CP Fuel Use and LUFG calculations. As noted above, however, CenterPoint's transportation agreements will not provide any incremental revenue to recover costs associated with the leased capacity. Therefore, the Commission will require CenterPoint to recover the Texas Eastern LUFG charge and Long Lake Compressor fuel costs from only those shippers using the lease capacity. Accordingly, CenterPoint is directed to file tariff sheets to clearly reflect that the Texas Eastern LUFG charges and the Long Lake Compressor fuel costs should only be recovered from shippers that use the lease capacity.[8] As conditioned, the proposed lease will not have any adverse impact on CenterPoint's existing customers.

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[8] Since the Long Lake compression facilities were installed pursuant to CenterPoint's blanket certificate, CenterPoint proposes to roll the costs of these facilities into the rates for Line CP. Customers on Line CP, however, will not benefit from the compression facilities because the compression facilities will be used to provide service to shippers using the Sligo Lateral leased capacity. Accordingly, we note that the presumption of rolled-in rate treatment for the Long Lake Compressor may be rebutted in future rate proceedings.

17. The proposal herein will enable Texas Eastern to lease underused capacity on the Sligo Lateral to CenterPoint without subsidization from Texas Eastern's existing customers. The only compression necessary for the lease capacity will be provided by CenterPoint's Long Lake Compressor and CenterPoint and its shippers will be responsible for the fuel used at that compressor. Texas Eastern will charge CenterPoint for LUFG in accordance with the Applicable Shrinkage Adjustment in its Gas Tariff. Moreover, the rates that Texas Eastern will pay to CenterPoint for transportation service will be less than the lease payments CenterPoint will pay to Texas Eastern. Thus, the proposed lease will not adversely affect Texas Eastern or its existing customers. Finally, there is no evidence in the record that the proposals herein will have any adverse effect on other existing pipelines or their captive customers.

18. The proposed lease will enable CenterPoint's customers to access gas supplies from the Sligo Field and transport the gas to the Perryville Hub and connections with pipelines that serve Midwest, Northeast, and Southeast markets. The lease will enable CenterPoint to avoid the construction of duplicative facilities. In addition, CenterPoint's customers will not subsidize the proposals. Further, there will be no degradation of service to CenterPoint's existing customers. Texas Eastern's corresponding abandonment of capacity under section 7(b) of the NGA will not have any adverse effects on its customers. Finally, there is no evidence that the proposals herein will have any adverse effect on other existing pipelines or their captive customers. For these reasons, we find, consistent with the Certificate Policy Statement and sections 7(c) and 7(b) of the NGA, that the public convenience and necessity requires approval of the proposals herein.

Accounting

19. We will require Texas Eastern to treat the capacity lease as an operating lease for accounting purposes. Thus, as in prior cases,[9] we will require Texas Eastern to record the monthly receipts in Account 489.2, *Revenues from Transportation of Gas of Others Through Transmission Facilities.*[10]

20. CenterPoint proposes to record the lease payments it will make to Texas Eastern in Account 860, *Rents*, and the revenue collected for providing transportation services to

[9] *See Millennium Pipeline Co., L.P.*, 97 FERC ¶ 61,292 (2001) and *Trunkline Gas Co.*, 80 FERC ¶ 61,356 (1997).

[10] Further, during the term of the lease with CenterPoint, if Texas Eastern files a section 4 rate case, we will not allow Texas Eastern to reflect in its system rates any of the costs (i.e., the fully-allocated cost of service) associated with the leased capacity.

Texas Eastern in Account 489.2, *Revenues from Transportation of Gas of Others Through Transmission Facilities.* CenterPoint's recording of the revenue received to Account 489.2 is consistent with previous orders.[11] CenterPoint's proposal to record the lease payments in Account 860, however, conflicts with the accounting treatment the Commission has prescribed in previous orders related to capacity leases.[12] Consistent with Commission requirements, CenterPoint must record the costs incurred under the capacity lease in Account 858, *Transmission and Compression of Gas by Others*.

21. At a hearing held on March 19, 2009, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including and applications and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

<u>The Commission orders</u>:

(A) In Docket No. CP08-441-000, a certificate of public convenience and necessity is issued to CenterPoint authorizing it to lease capacity on Texas Eastern's Sligo Lateral, as described and conditioned herein and as more fully described in the application.

(B) In Docket No. CP08-444-000, authorization is granted to Texas Eastern to abandon by lease to CenterPoint capacity on the Sligo Lateral, as more described in the body of this order and in the application.

(C) The untimely motions to intervene are granted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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[11] *See Midwestern Gas Transmission Co.*, 73 FERC ¶ 61,320 (1995) and *Colorado Interstate Gas Co.*, 76 FERC ¶ 61,291 (1996).

[12] *Id.*