

154 FERC ¶ 61,116  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Cheryl A. LaFleur, Tony Clark,  
and Colette D. Honorable.

Columbia Gas Transmission, LLC

Docket No. CP15-495-000

ORDER ISSUING CERTIFICATE AND APPROVING ABANDONMENT

(Issued February 18, 2016)

1. On May 20, 2015, Columbia Gas Transmission, LLC (Columbia or Applicant) filed an application under section 7(b) of the Natural Gas Act (NGA)<sup>1</sup> and Part 157 of the Commission's regulations<sup>2</sup> for approval to abandon by removal and in place a section of its Line 138 system and associated facilities in Fayette and Somerset Counties, Pennsylvania; Preston County, West Virginia; and Garrett County, Maryland (Abandonment Project). Columbia also requests pursuant to NGA section 7(c) a certificate of public convenience and necessity authorizing the construction and operation of a new lateral line for the purpose of maintaining service to a firm transportation customer.

2. As discussed in this order, the Commission grants the requested certificate and abandonment authorizations, subject to the conditions described herein.

**I. Background and Proposal**

3. Columbia,<sup>3</sup> a Delaware limited liability company with its principal place of business in Houston, Texas, is a natural gas pipeline company<sup>4</sup> engaged in the

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<sup>1</sup> 15 U.S.C. § 717f (b) (2012).

<sup>2</sup> 18 C.F.R. pt. 157 (2015).

<sup>3</sup> Columbia is a wholly owned subsidiary of the Columbia Energy Group, which, in turn, is a wholly owned subsidiary of NiSource, Inc.

<sup>4</sup> 15 U.S.C. § 717a(6) (2012).

transportation of natural gas in interstate commerce, subject to the Commission's jurisdiction. Columbia operates approximately 12,000 miles of pipeline facilities located in the states of Delaware, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia.

4. Columbia seeks authority to abandon in place and by removal an approximately 32.8-mile section of Line 138 located in Fayette and Somerset Counties, Pennsylvania; Preston County, West Virginia; and Garrett County, Maryland. Specifically, Columbia requests approval to abandon in place the portion of Line 138 and below ground appurtenances situated between Columbia Engineering Station 84+51 and Columbia Engineering Station 1816+35, including 4-inch-, 6-inch-, 8-inch-, and 16-inch-diameter pipeline within the existing 50-foot-wide right-of-way. In addition, Columbia proposes to abandon by removal approximately 0.18 mile of exposed pipeline, two meter stations, one odorizer, one siphon, five ground valves, and eight mainline valves.

5. Columbia states that this segment of Line 138 should be abandoned due to its age and condition. Columbia states that much of Line 138 consists of pre-1950s era pipeline, with several sections now exposed.<sup>5</sup> Columbia asserts that the age of the pipeline and exposure have resulted in deterioration of the pipeline. According to Columbia, the deterioration has resulted in issues with reliability and increased maintenance costs. Moreover, Columbia predicts that continued operation of this section of Line 138 will require the operating pressure to be reduced such that Columbia will no longer be able to serve its customers. Columbia estimates that the total cost of abandoning the pipeline facilities will be \$14.5 million.

6. In its application, Columbia explained that at that time there were two residential sales taps connected to the portion of Line 138 to be abandoned. Columbia explained that the residential sales tap consumers will be converted to an alternative energy source.<sup>6</sup>

7. Line 138 serves one firm transportation service customer, Columbia Gas of Pennsylvania (CPA). Accordingly, Columbia seeks approval pursuant to NGA section 7(c) for its proposed Lateral Construction Project, involving the construction of an approximate 3,450-foot, 2-inch-diameter lateral extension within the existing 50-foot-wide Line 138 right-of-way in order to maintain service to CPA. The lateral extension

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<sup>5</sup> Columbia states that certain portions of the pipeline were installed in the 1890s.

<sup>6</sup> In its November 18, 2015 data request response, Columbia indicates that it has successfully reached an agreement with one of these consumers, the Camp Sunrise Mountain, regarding its conversion to an alternative energy source. Camp Sunrise filed on February 5, 2016, to withdraw its comments in the proceeding.

within the Line 138 right-of-way will connect Columbia's Line 1804 and Line 10240. Specifically, Columbia proposes to construct: (1) approximately 150 feet of 2-inch-diameter pipe from its Line 1804 and Line 10240 in Somerset County, Pennsylvania, to the Line 138 right-of-way; and (2) an additional 3,300 feet of 2-inch-diameter pipe along the Line 138 right-of-way to the CPA measuring station in Somerset County, Pennsylvania. The Lateral Construction Project will involve construction activities within the existing 50-foot wide Line 138 right-of-way, acquisition of 50 feet of new right-of-way to connecting the rights-of-way of Lines 1804 and 10240, two new isolation valves on Lines 1804 and 10240, and a contractor/staging yard, all located in Somerset County, Pennsylvania.

## II. Notice, Interventions, and Protests

8. Notice of Columbia's application was published in the *Federal Register* on July 8, 2015.<sup>7</sup> The parties listed in Appendix A of this order filed timely, unopposed motions to intervene.<sup>8</sup>

9. Freda Yoder filed a comment expressing concerns over possible soil contamination associated with gas leakage on an adjoining property and requested that the pipeline should be removed in those areas, rather than being abandoned in place.

10. Gene Reichenbecher, a retail sales customer of CPA directly attached to Columbia's Line 138, filed a comment expressing concerns over possible increases in energy costs he might incur due to the loss of access to the tap on the section of Line 138 to be abandoned.<sup>9</sup>

11. The Commission will address the comments below.

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<sup>7</sup> 80 Fed. Reg. 39,093 (July 8, 2015).

<sup>8</sup> 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(c) (2015).

<sup>9</sup> Mr. Reichenbecher is a retail sales customer of CPA, which, in turn, is a firm transportation service customer of Columbia. CPA is a wholly owned subsidiary of NiSource, Inc.

### III. Discussion

12. Since the subject facilities have been or will be used to transport natural gas in interstate commerce subject to the Commission's jurisdiction, the proposed abandonment, construction and operation of the facilities are subject to the requirements of section (b), (c), and (e) of section 7 of the NGA.<sup>10</sup>

#### A. Abandonment

13. Section 7(b) of the NGA provides that an interstate pipeline company may abandon jurisdictional facilities or services only if the Commission finds the abandonment is permitted by the present or future public convenience or necessity.<sup>11</sup>

14. When considering the criteria for abandonment under section 7(b), two important principles apply: (1) a pipeline which has obtained a certificate of public convenience and necessity to serve a particular market has an obligation, deeply embedded in the law, to continue to serve; and (2) the burden of proof is on the applicant to show that the public convenience or necessity permits abandonment, that is, that the public interest will in no way be disserved by abandonment.<sup>12</sup>

15. The Commission examines abandonment applications on a case-by-case basis.<sup>13</sup> In deciding whether a proposed abandonment is warranted, the Commission considers all relevant factors, but the criteria vary as the circumstances of the abandonment proposal vary. The central focus of a NGA section 7(b) abandonment evaluation is not whether there is any harm to any narrow interest. Rather, the Commission takes a broad view in abandonment proceedings and evaluates proposed abandonment applications against the benefits to the market as a whole.<sup>14</sup>

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<sup>10</sup> 15 U.S.C. § 717f(b), (c), (e) (2012).

<sup>11</sup> 15 U.S.C. § 717f(b) (2012).

<sup>12</sup> See *Michigan Consolidated Gas Co. v. F.P.C.*, 283 F.2d 204, 214 (D.C. Cir. 1960); *Transcontinental Gas Pipe Line Corp. v. F.P.C.*, 488 F.2d 1325, 1328 (D.C. Cir. 1973).

<sup>13</sup> *Transwestern Pipeline Co. L.L.C.*, 140 FERC ¶ 61,147, at P 12 (2012).

<sup>14</sup> See *Southern Natural Gas Co.*, 50 FERC ¶ 61,081, at 61,222 (1990). See also *Consolidated Edison Co. v. FERC*, 823 F.2d 630, 643-644 (D.C. Cir. 1987) ("We agree with FERC that the 'public convenience or necessity' language of the NGA's (continued ...)")

16. Columbia acknowledges that its proposal will affect some local consumers currently receiving gas through the existing system. At the time Columbia filed its application, the section of Line 138 proposed for abandonment contained two residential consumer taps and one tap currently used to provide service for CPA, which will continue to receive firm service through the proposed replacement facilities. Columbia acknowledges that two residential tap consumers will need to be converted to an alternative energy source.

17. While Columbia has reached agreement with one of the residential sales tap consumers, Columbia has not reached resolution with Mr. Reichenbecher and his three brothers who are the owners of property in Somerset County, Pennsylvania, and customers of CPA, which, in turn, is a customer of Columbia. We note that Mr. Reichenbecher does not receive a jurisdictional service from Columbia; CPA, which is Columbia's firm transportation customer, has not protested these proceedings. Columbia has offered to convert Mr. Reichenbecher to an alternative energy source, but the two sides have not reached resolution. Columbia states that it is continuing negotiations to reach a mutually acceptable agreement with the Reichenbechers. While we hope those negotiations will be successful, the uncertainty regarding their outcome is not grounds for denying an abandonment which we find to be otherwise permitted by the public convenience or necessity.

18. Columbia states that the abandonment will not affect Columbia's market area customers' ability to meet their respective requirements. Columbia also asserts that the abandonment of Line 138 will have no adverse effects on Columbia's firm service requirements or existing firm service obligations.

19. Because of the Lateral Construction Project discussed below, the abandonment of the Line 138 segment as proposed will have no adverse effect on Columbia's ability to meet its jurisdictional customers' firm transportation service requirements or its existing firm transportation service obligations. The abandonment will also not affect Columbia's market area customers' ability to meet their respective requirements, as Columbia will still have in service several larger parallel mainline pipelines (Line 1804 and Line 10240) capable of transporting all firm requirements.

20. We also bear in mind Columbia's concerns about addressing deterioration of the pipeline. The Abandonment Project will allow Columbia to address issues related to their aging infrastructure which could ultimately impact service to their customers. The Abandonment Project will also enable Columbia to reduce its current operating and

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abandonment provision envisions agency policy-making to fit the regulatory climate.”) (citation omitted).

maintenance expenses and avoid costly repairs that could ultimately be reflected in its rates. Columbia represents that operating the specified sections of Line 138 in their current state for the long term would result in a perpetual lowering of operating pressure such that Columbia would eventually no longer be able to meet its existing service obligations. Columbia estimates the cost of replacing the aging pipeline to be prohibitively expensive, approximately \$47.4 million. Alternatively, Columbia estimates that the cost of abandoning the pipeline will total approximately \$14.5 million.

21. Balancing the benefits of the Abandonment Project against the minimal adverse impacts on Columbia's existing customers, we find that Columbia's abandonment is permitted by the public convenience or necessity, as conditioned in this order.

### **B. Certificate Policy Statement**

22. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.<sup>15</sup> The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

23. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the construction of the new facilities. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the

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<sup>15</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

adverse effects on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

24. As stated, the threshold requirement under the Certificate Policy Statement is that the pipeline must be prepared to financially support a project without relying on subsidization from its existing customers. Under Certificate Policy Statement, it is not a subsidy for existing customers to pay for projects designed to replace existing capacity or improve the reliability or flexibility of existing service.<sup>16</sup> As a consequence of abandoning a segment of Line 138, which we have found is permitted by the public convenience or necessity, Columbia must construct the new pipeline facilities to maintain firm service to CPA.

25. Because the Lateral Construction Project is designed to replace existing capacity and improve reliability, the Commission finds that requiring Columbia's existing customers to pay for the costs of the project will not constitute a subsidy under the Certificate Policy Statement, and that Columbia's proposal satisfies the threshold requirement. Further, as explained in the Certificate Policy Statement, when a project such as Columbia's is necessary in order ensure the continued reliability of current services and will not create any expansion capacity for use by new shippers, Commission policy allows all of the costs of the project to be rolled into the pipeline company's generally applicable system rates in a future rate case.<sup>17</sup>

26. Columbia states that the Lateral Construction Project is being constructed solely to maintain service to CPA, an existing firm transportation customer. Thus, the project should not adversely affect any existing services. Since no pipeline companies or their captive customers have filed adverse comments regarding Columbia's proposal, we also find that the Lateral Construction Project will not have adverse impacts on any other pipelines or their customers.

27. The majority of the project will occur on Columbia's existing Line 138 right-of-way. Therefore, we find the replacement project will have minimal adverse economic impacts on landowners or communities.

28. As a result of the Line 138 Abandonment Project, construction of a pipeline from Line 1804 and Line 10240 is necessary in order to maintain service to an existing firm transportation service customer. Balancing the benefit of continuing service to an

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<sup>16</sup> Certificate Policy Statement, 88 FERC ¶ 61,227 at n.12.

<sup>17</sup> *Id.* See *Kern River Gas Transmission Co.*, 153 FERC ¶ 61,302, at P 12 (2015).

existing firm service customer against the minimal adverse impacts, we find that the Lateral Construction Projected is required by public convenience and necessity.

**C. Environmental Analysis**

29. The Commission issued a notice of intent to prepare an environmental assessment and request for comments on environmental issues (NOI) on June 30, 2015. The NOI was published in the Federal Register<sup>18</sup> and mailed to interested parties including federal, state, and local officials; elected officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners.

30. We received comments during the public scoping process in response to the NOI from the Pennsylvania Department of Environmental Protection (Pennsylvania DEP) and one affected property owner. The primary issues raised during the scoping period were certification/permitting requirements and potential soil contamination from the proposed abandonment.

31. To satisfy the requirements of the National Environmental Policy Act (NEPA), our staff prepared an environmental assessment (EA) for the Abandonment Project and Lateral Construction Project. The analysis in the EA addresses geology, soils, water resources, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, cultural resources, air quality, noise, safety, cumulative impacts and alternatives. All substantive environmental comments received in response to the NOI were addressed in the EA. The EA was placed into the public record on September 17, 2015.

32. The Pennsylvania DEP submitted general comments regarding permits that Columbia would be required to obtain, such as permits for dust control and waste disposal. Table 1 of the EA lists the permits that Columbia would be required to obtain for the Project, including permits from the Pennsylvania DEP. The EA addressed the Pennsylvania DEP's general comments regarding dust control and waste disposal.

33. As stated in the EA, we received a comment from Ms. Freda Yoder who, noting there had been reports of gas leakage on an adjoining property, expressed concern regarding potential subsurface soil contamination. Ms. Yoder asked Columbia to confirm the absence of pipeline leakage in areas of the project where it is to be abandoned in place. Methane, the primary component of natural gas, is buoyant at atmospheric

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<sup>18</sup> 80 Fed. Reg. 39,093 (July 8, 2015).

temperatures. Thus, to the extent there has been any past leakage of natural gas from the facilities to be abandoned, such leakage would have been localized and of minimal risk to the surrounding environment, as the gas would have dissipated into the atmosphere. Once the facilities have been abandoned from use, there will be no potential for future gas leakage.

34. Based on the analysis in the EA, we conclude that if abandoned, constructed, and operated in accordance with Columbia's application and supplements, and in compliance with the environmental conditions in the appendix to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

35. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>19</sup>

#### **D. Conclusion**

36. At a hearing held on February 18, 2016, 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 submitted, and upon consideration of the record,

The Commission orders:

(A) Permission and approval of the proposed abandonment by Columbia is granted, as more fully described in the application and in the body of this order.

(B) A certificate of public convenience and necessity is issued to Columbia authorizing the construction of the facilities as described and conditioned herein, and as more fully described in the application.

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<sup>19</sup> See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 243 (D.C. Cir. 2013) (holding state and local regulation is preempted by the NGA to the extent they conflict with federal regulation, or would delay the construction and operation of facilities approved by the Commission); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(C) The certificate authorized in Ordering Paragraph (A) above is conditioned on:

- (1) Columbia's completing authorized construction of the proposed facilities and making them available for service within one year of the date of this order pursuant to section 157.20(b) of the Commission's regulations;
- (2) Columbia's compliance with all applicable Commission regulations including paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;
- (3) Columbia's compliance with the environmental conditions listed in the appendix to this order.

(D) Columbia shall notify the Commission within 10 days of the date(s) of its abandonment(s) of facilities as authorized by this order.

(E) Columbia is granted a pre-determination supporting rolled-in rate treatment for the costs of the project in its future general NGA section 4 rate proceeding, as more fully discussed herein, barring a significant material change in circumstances.

(F) Columbia shall notify the Commission's environmental staff by telephone, e-mail, and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Columbia. Columbia shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**Appendix A**

**Timely Intervenors**

Atmos Energy Marketing LLC

Camp Sunrise Mountain

Duke Energy Kentucky, Inc.

Exelon Corporation, Inc.

Independent Oil & Gas Association of West Virginia, Inc.

National Fuel Gas Distribution Corporation

National Grid Gas Delivery Companies

New Jersey Natural Gas Company

NJR Energy Services Company

Piedmont Natural Gas Company, Inc.

PSEG Energy Resources & Trade LLC

Public Service Company of North Carolina

UGI Distribution Companies