

124 FERC ¶ 61,287  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Suedeem G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

MoGas Pipeline LLC

Docket No. CP07-450-000

ORDER ISSUING CERTIFICATE

(Issued September 25, 2008)

1. On September 21, 2007, MoGas Pipeline LLC (MoGas) filed notice of its intent to construct and operate new compression facilities on its system pursuant to its Part 157, subpart F, blanket construction certificate.<sup>1</sup> On November 26, 2007, the Missouri Public Service Commission (MoPSC) and Union Electric Company d/b/a AmerenUE (AmerenUE) filed protests to MoGas' prior notice filing. Those protests were not withdrawn or dismissed. Therefore, consistent with section 157.205(f) of the Commission's regulations, the Commission will review MoGas' filing as a case-specific certificate application.<sup>2</sup> For the reasons discussed below, the Commission is issuing a certificate authorizing MoGas to proceed with its project, subject to conditions.

**I. Background and Proposal**

2. MoGas is an interstate pipeline recently established through the merger of three affiliated pipelines: Missouri Interstate Gas, LLC, an existing interstate pipeline company, and Missouri Gas Company, LLC and Missouri Pipeline Company, LLC, both nonjurisdictional pipelines subject to the jurisdiction of the MoPSC.<sup>3</sup> MoGas' system

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<sup>1</sup> 18 C.F.R. §§ 157.201 et seq. (2008).

<sup>2</sup> *Id.* § 157.205(f).

<sup>3</sup> See *Missouri Interstate Gas, LLC, et al.*, 119 FERC ¶ 61,074 (2007), *order on reh'g and compliance filing*, 122 FERC ¶ 61,136; *order on compliance filing, MoGas Pipeline LLC*, 123 FERC ¶ 61,131, *order on compliance filing*, 123 FERC ¶ 61,236 (2008). Rehearing of the first rehearing order is pending. For the purposes of this order, the applicants for MoGas' original certificate will be referred to jointly as MoGas, even

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extends generally in a southerly direction approximately 208 miles from an interconnection with Panhandle Eastern Pipe Line Company (Panhandle) in Pike County, Missouri, to a terminus at Fort Leonard Wood, in Pulaski County, Missouri. The system also includes 6.6 miles of 12-inch diameter pipeline extending from an interconnection with CenterPoint Energy-Mississippi River Transmission Corporation (MRT) in Madison County, Illinois, to an interconnection with the eastern end of a lateral line of the former Missouri Pipeline Company facilities in the northern suburbs of St. Louis, Missouri.

3. In its prior notice filing, MoGas stated that it is proposing to add compression to its system, which currently has none, at a new Curryville Compressor Station at MoGas' interconnection with Panhandle, in order to create additional capacity to receive and transport natural gas from the Panhandle receipt point to delivery points on the MoGas system. According to MoGas, the proposed compression will increase the capacity of the system to a total of 100,804 Dth/d.<sup>4</sup>

4. MoGas' proposed compression facilities will comprise four used, skid-mounted compressor units that are site-rated at 1,230 horsepower (hp) each, for a total of 4,920 hp. According to its prior notice filing, because the sizing of the existing compressor cylinders does not permit full loading of the engines, the output of the compressors as purchased is limited to 3,120 hp. MoGas has stated that it will install new cylinders that could ultimately increase horsepower utilization of the four units up to 4,920 hp.<sup>5</sup> However, in its December 11, 2007 Answer, MoGas asserts that, after installation of the new cylinders, the maximum pipeline capacity downstream of the Curryville Compressor Station will remain at 101,200 Mcf/d, limited by the downstream pipeline's maximum allowable operating pressure (MAOP). The suction and discharge pressures for the

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though MoGas was not designated as the name for the new pipeline until after the certificate was issued.

<sup>4</sup> In the application, MoGas stated that the capacity would be increased "by up to 100,804". However, by letter of October 1, 2007, MoGas clarified that the capacity of the system would increase up to a *total* level of 100,804 Dth/d. Further, in its December 11, 2007 Motion for Leave to Answer Protests and Answer to Protest (December 11, 2007 Answer), MoGas indicates that the new compressors will allow MoGas to increase receipts from Panhandle up to a total level of 101,200 Mcf/d, and that the maximum pipeline capacity downstream of the Curryville Compressor Station would equal 101,200 Mcf/d.

<sup>5</sup> In its May 29, 2008 Response to Data Requests at Response No. 1, MoGas reported that new compressor cylinders were scheduled for delivery in July 2008.

proposed compressor station are 625 psig and 999 psig, respectively, with 999 psig being the current MAOP of the pipeline located downstream of the compressor station.

5. MoGas states that it has obtained environmental permits for the installation of the new, higher horsepower cylinders and its environmental report in Appendix 2 to the prior notice filing includes analysis of the installation of the new cylinders. MoGas estimates that the project will cost \$6,580,000 and states it will finance the construction from internally-generated funds. In response to a data request issued after the prior notice filing was protested, MoGas provided information regarding the potential rate impact on existing customers if the costs of this project are rolled into its rate base.<sup>6</sup>

6. MoGas asserts that it has designed and will construct the project in a manner that will minimize environmental impacts as demonstrated in the environmental report. That report indicates that the compressor units will be housed in a 60- by 140-foot building and a standby generator will be housed in a 40- by 80-foot auxiliary building. The project area will encompass approximately 40 acres, all of which are owned by MoGas. About 8 acres will be disturbed during construction and approximately 5 acres of land will be utilized for the ongoing operation of the facilities.

7. MoGas maintains that the project is required by the public convenience and necessity because it will enable additional natural gas supplies to be delivered into its mainline and transported through its system to markets in the midwestern and eastern United States. Further, in its December 11, 2007 Answer, MoGas indicated that an open season for the expansion of its system resulted in three precedent agreements for a total of 20,145 Dth/d of additional firm transportation service.<sup>7</sup> MoGas also asserts that the additional compression would benefit existing customers, contending that the delivery pressures from Panhandle have decreased in recent years, which has jeopardized the reliable delivery of contracted volumes of gas.<sup>8</sup> MoGas avers that curtailments have thus far been avoided by flowing gas into its system from the interconnection between MRT and the facilities formerly operated by Missouri Interstate. MoGas notes that it was able

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<sup>6</sup> See MoGas July 8, 2008 Response to Data Requests.

<sup>7</sup> Subsequently, two of the potential expansion shippers, representing a total of 145 Dth/d, dropped out of the expansion, entering into other contracts with MoGas. Thus, the new compression is now intended to provide a total of 20,000 Dth/d of additional firm service. See MoGas May 29, 2008 Response to Data Request at Response No. 1, item 6.

<sup>8</sup> *Id.* at Response No. 2. See also MoGas July 8, 2008 Response to Data Requests at Response No. 4.

to do this because Laclede Gas Company (Laclede Gas), which holds some of the capacity on other pipelines necessary to flow this gas, has “taken the brunt of any capacity shortage resulting from . . . [Panhandle] delivery pressures.”<sup>9</sup> Thus, in MoGas’ view, other customers of the pipeline have been shielded from realizing how constrained the system actually is.

## II. Interventions

8. Notice of MoGas’ prior notice filing was published in the *Federal Register* on September 27, 2007 (72 Fed. Reg. 56732). AmerenUE and Laclede Gas, customers of MoGas, filed timely, unopposed motions to intervene and the MoPSC filed a timely Notice of Intervention.<sup>10</sup> Laclede Energy Resources (Laclede Energy), also a customer of MoGas and an affiliated marketer of Laclede Gas, filed a motion to intervene out of time. For good cause shown, the Commission will grant the motion to intervene out of time.<sup>11</sup>

9. As noted, the MoPSC and AmerenUE filed protests to the prior notice filing. MoGas, Laclede Energy, and Laclede Gas filed motions for leave to answer the protests. AmerenUE filed an answer in opposition to the motions for leave to answer the protests. AmerenUE contends that the issues, including whether MoGas’ prior notice filing was premature and whether MoGas should have filed to amend its certificate, are clear and the Commission does not require additional information to resolve them. The MoPSC filed a motion for leave to answer and an answer to MoGas’, Laclede Energy’s and Laclede Gas’ answers. The Commission’s Rules of Practice and Procedure do not permit answers to protests or to answers;<sup>12</sup> however, because the answers provide information that will assist us in addressing the issues in this proceeding, we will waive our prohibition against answers and accept them.<sup>13</sup> Thus, we deny AmerenUE’s opposition

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<sup>9</sup>MoGas May 29, 2008 Response to Data Requests at Response No. 5.

<sup>10</sup> Timely unopposed motions to intervene and timely Notices of Intervention are granted by operation of Rule 214 of the Commission’s Rules of Practice and Procedure. 18 C.F.R. § 385.214 (2008).

<sup>11</sup> See 385.214(d) (2008).

<sup>12</sup> See Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2) (2008).

<sup>13</sup> See, e.g., *Dominion Cove Point LNG*, 118 FERC ¶ 61,007 (2007). 18 C.F.R. § 385.213(a)(2) (2008).

to the filing of answers. On July 8, 2008, the MoPSC filed further comments on MoGas' application. The substance of the protests and comments are discussed below.

### **III. Objections to MoGas' Use of the Blanket Certificate Procedures**

#### **A. MoGas' Ability to Utilize Blanket Certificate Procedures**

10. The MoPSC and AmerenUE request that the Commission dismiss MoGas' prior notice filing as legally invalid because, they argue, MoGas' blanket construction certificate was conditional and MoGas had not yet met the two conditions required by the Commission's regulations. Section 157.201(a) of the Commission's regulations states that the blanket program "establishes a procedure whereby an interstate pipeline may obtain a blanket certificate . . . ." <sup>14</sup> The protestors argue that, when it filed its prior notice, MoGas was not an interstate pipeline as defined in the Natural Gas Act (NGA) (a natural gas company is "a person engaged in the transportation of natural gas in interstate commerce....") <sup>15</sup> because it had yet to begin transporting gas in interstate commerce. <sup>16</sup>

11. The protestors argue, in addition, that section 157.204(a) of the Commission's regulations requires MoGas to have rates accepted by the Commission before it can propose construction under its blanket certificate. AmerenUE avers that MoGas' proposed rates were still under review on rehearing and in a compliance proceeding when it filed its prior notice. Therefore, according to AmerenUE, MoGas was not eligible to propose construction under its blanket certificate.

12. In its answer, MoGas takes exception to the protestors' contentions that it is not permitted to apply for a blanket certificate before it begins transporting gas in interstate commerce or that it is not allowed to propose construction under blanket authority until its rates are accepted. MoGas points out that the Commission frequently issues blanket construction certificates at the same time it issues certificates authorizing construction and/or Part 284 transportation <sup>17</sup> and notes that construction under a new pipeline

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<sup>14</sup> 18. C.F.R. § 285.201(a) (2008).

<sup>15</sup> 15 U.S.C. § 717a(6).

<sup>16</sup> We note that on May 30, 2008, in *MoGas Pipeline LLC*, 123 FERC ¶ 61,131 (2008), the Commission accepted MoGas' revised rates effective June 1, 2008, and authorized MoGas to commence service on that date.

<sup>17</sup> *Citing Calhoun LNG, L.P.*, 120 FERC ¶ 61,259, at P 32 (2007) (certificate authorizing construction and Part 284 certificate issued at the same time as Part 157,

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company's blanket certificate has taken place before the company commenced service on the new mainline facilities.<sup>18</sup> MoGas acknowledges that it cannot commence service until it has rates and a tariff in force, but asserts that does not mean it cannot make a prior notice filing before that time. In any event, MoGas notes that the Commission issued it a blanket certificate at the same time it authorized the merger proposal and issued MoGas' Part 284 certificate,<sup>19</sup> and that MoGas accepted those certificates on April 23, 2007. MoGas, citing numerous cases, asserts that once a certificate is accepted, it is effective<sup>20</sup> and, thus, that MoGas became an interstate pipeline upon acceptance of its certificates. MoGas contends that the fact that the Commission was still reviewing its filings in compliance with the certificate order does not undermine the effectiveness of the certificates issued to it.

13. Similarly, Laclede Gas contends that MoGas' prior notice filing was not premature because MoGas accepted the certificates issued to it, including the blanket construction certificate, and it complied fully with the conditions set forth in the certificate order by making a compliance filing within three months. Laclede Gas asserts that nothing in the

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subpart F, certificate); and *Horizon Pipeline Co., L.L.C.*, 96 FERC ¶ 61,053 (2001) (certificate authorizing construction and Part 284 certificate issued at the same time as Part 157, subpart F, certificate).

<sup>18</sup> *Citing* Rockies Express Pipeline LLC's (Rockies Express) May 16, 2007 Request for Authorization under a Blanket Certificate in Docket No. CP07-383-000. No order relating to the blanket construction was issued in that proceeding because there were no protests; thus, construction proceeded pursuant to operation of section 157.205(h). Also, Rockies Express (previously Entrega Gas Pipeline Inc.) was issued a blanket construction certificate at the same time it received a certificate to construct facilities and a Part 284 certificate. *See Entrega Gas Pipeline Inc.*, 112 FERC ¶ 61,177, at P 1, and Ordering Paragraph (E) (2005).

<sup>19</sup> *Missouri Interstate Gas, LLC*, 119 FERC ¶ 61,074 (2007), *order on reh'g*, 122 FERC ¶ 61,136 (2008).

<sup>20</sup> *Citing* *Calhoun LNG, L.P.*, 120 FERC ¶ 61,259, at P 32 (2007); *Gulf LNG Energy, LLC*, 118 FERC ¶ 61,128, at P 30 (2007); *Freeport-McMoRan Energy LLC*, 115 FERC ¶ 61,201, at P 38 (2006); *Horizon Pipeline Co. L.L.C.*, 96 FERC ¶ 61,053, at 61,150 (2001); *Shell Gas Pipeline Co.*, 75 FERC ¶ 61,164, at 61,541 (1996); and *Shell Gas Pipeline Co.*, 74 FERC ¶ 61,219, at 61,738 (1996).

certificate order conditioned the blanket certificate on the Commission's acceptance of the revised rates filed in compliance with the order.<sup>21</sup>

### **Response**

14. As MoGas points out, applicants seeking to become interstate pipelines subject to the Commission's jurisdiction routinely request not only NGA section 7(c) authorization to construct or acquire pipeline facilities, but also a Part 284 blanket certificate authorizing open-access transportation of natural gas in interstate commerce and a Part 157 blanket construction certificate. The Commission routinely issues the three authorizations in the same proceeding; it is more administratively efficient to consider all the applications at the same time and there is no reason to delay issuance of the common blanket certificates.<sup>22</sup> Since an applicant becomes an interstate pipeline when it is issued and accepts its initial certificate,<sup>23</sup> there is no bar to a new interstate pipeline filing prior notice of construction under its Part 157 blanket certificate as soon as it accepts the certificate.

15. In MoGas' case, the provision of service under its Part 284 certificate was conditioned upon its revising its rates and tariff consistent with the directions in the certificate order. MoGas made its compliance filing on July 5, 2007, and the Commission issued an order on that filing on February 19, 2008, when it also acted on the rehearing requests of the certificate order which raised issues that had bearing on the compliance filing and the proposed revised rates. However, while MoGas could not commence operation of its system as an interstate pipeline until it had a Commission-

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<sup>21</sup> To the extent the filing could be viewed as premature, Laclede Gas suggests that the absence of a Commission order accepting the compliance filing and the revised rates at the time MoGas made its prior notice filing may have been due to the strenuous opposition expressed by the protestors throughout this proceeding. Thus, it contends that

MoGas should not be faulted for making its prior notice filing before its rates were accepted.

<sup>22</sup> The wording of the Commission's blanket certificate regulations under both Part 157, subpart F and Part 284, subpart G, limits the availability of blanket certificates to "interstate pipelines." However, we note that with rare exception, pipelines are indeed expected to obtain their Part 284 certificates *prior* to commencing service, to insure that their services are performed pursuant to our open-access regulations.

<sup>23</sup> See, e.g., *East Tennessee Natural Gas Co.*, 101 FERC ¶ 61,188 (2002), *order on reh'g and denying stay*, 102 FERC ¶ 61,225, at P 23 (2003).

approved tariff and rates in place, there was no such ban on commencement of construction activities, including activities authorized pursuant to our blanket certificate regulations.

16. We note that this practice of allowing blanket construction to proceed prior to initial operation of a new interstate pipeline system and/or final approval of initial rates does not prejudice any party. The initial system rate ultimately authorized, whether upon rehearing or after review of a compliance filing, will be the recourse rate applicable to any service provided over facilities constructed pursuant to blanket certificate authorization. Accordingly, for the reasons stated, the protests on this issue are denied.

**B. Completeness of MoGas' Application**

17. AmerenUE and the MoPSC also assert that MoGas' prior notice filing does not provide sufficient information to comply with the blanket regulations and should therefore be dismissed. Among other things, AmerenUE states that MoGas did not describe the proposed facilities in detail, indicate the volume of gas required to fuel the compressors, provide estimated costs for the facilities, or state the method of financing. AmerenUE also points out that there is no indication in the filing as to how much capacity will be available once the new compressor cylinders are installed and the compressors can be operated at 4,920 hp.

18. The MoPSC focuses on the lack of detailed cost information needed to determine what effect rolling in the costs of the project will have on existing customers. The MoPSC characterizes MoGas' proposal as a "major undertaking" because the cost of the facilities, when compared to the pipeline's rate base as stated in MoGas' certificate proceeding, might result in a rate increase for existing shippers. The MoPSC notes that while it is possible that the rates will go down if the costs are rolled in, there is not enough information to determine the rate impact. The MoPSC also maintains that there is little data to support the benefits cited by MoGas for existing customers, such as greater system flexibility, enhanced reliability for the services provided, and more options to transport gas to Midwestern and eastern markets. The MoPSC posits that the relative magnitude of this proposal should require more than a generic assertion of benefits.

19. MoGas asserts that its prior notice filing provides all of the information required by the blanket regulations. Further, MoGas disagrees with the MoPSC's characterization of its proposal as a major undertaking, noting that the cost of the project is less than the



limit for non-mainline projects that can be constructed under the blanket regulations' automatic authorization process.<sup>24</sup>

### **Response**

20. The blanket construction program seeks to streamline the process by which pipelines may obtain authorization for a variety of actions subject to the NGA. To promote this goal, the blanket regulations do not require prior notice filings to contain the same level of detail as is required for case-specific applications. Requiring less detail about a blanket certificate project is appropriate because the blanket regulations impose limits on the types and costs of projects that are subject to either the automatic or the prior notice procedures, thereby making it most likely that blanket projects will be routine and raise no major issues. Where concerns arise, however, the prior notice protest process provides a mechanism to bring them to the attention of the staff and the Commission.

21. Accordingly, under the prior notice regulations a pipeline is required to file enough information to permit the Commission and interested parties to understand, in broader terms, the nature and type of project that is proposed.<sup>25</sup> However, under section 157.205(c), a prior notice filing may be rejected if it "patently fails to comply with the [filing] provisions" of the blanket regulations. We find that MoGas' prior notice filing, even assuming some omissions, does not constitute a patent failure to comply with the informational requirements.

22. For example, contrary to the MoPSC's assertion, MoGas stated the cost of the proposed compression facilities and indicated that the cost would be financed by internal funds. Additionally, MoGas substantially complied with the informational requirements because it provided a description of the project, flow diagrams, the required cost information, and the appropriate environmental study. For these reasons we will deny the protestors requests to dismiss or deny the prior notice filing on these grounds.

### **C. Segmentation of Applications**

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<sup>24</sup> Under the blanket regulations, certain projects, the costs of which fall below set cost limits, can be constructed without the pipeline providing prior notice. *See* §157.202(b). 18 C.F.R. § 157.2 (2008).

<sup>25</sup> *See* section 157.205(b) (setting out the general contents of a prior notice filing and, providing that where construction is involved, an applicant must file the information required by section 157.208).

23. AmerenUE also contends that MoGas should have filed an amendment to its original certificate application seeking authority to add compression to its system, rather than seeking stand-alone authorization for the instant project. AmerenUE maintains that MoGas is attempting to circumvent the more detailed regulatory requirements associated with a case-specific certificate application. AmerenUE asserts that if the proposal had been considered in conjunction with the original proposal, the Commission could have taken into account the additional capacity to derive initial rates.

24. In response to the protests, MoGas argues that it did not intentionally withhold plans to add compression at the time it filed its certificate application. It points out that it made its prior notice filing over a year after filing its initial certificate application and that given the length of time between the filing of the certificate application and filing of the prior notice, AmerenUE's view that it should have proposed this project as an amendment to the initial application is wrong. MoGas maintains that this project arose in response to the certification of Rockies Express' REX-West project,<sup>26</sup> which will interconnect with Panhandle, MoGas' upstream pipeline. MoGas indicates that it did not hold an open season for this project until three months after it accepted its initial certificate.

### **Response**

25. We find no merit to AmerenUE's assertion that MoGas must have known it was going to propose this specific project when it requested authority to merge the applicants because the possibility of adding compression at some point was mentioned in the application. It is not uncommon for pipelines to refer to the likelihood of more demand developing in the market and the possibility of expanding the pipeline to meet it if that happens. Given the length of time between the filing of MoGas' original application and the filing of the prior notice, it is reasonable to conclude that a reference to adding compression in the application did not constitute the existence at that time of a *bona fide* project.

### **D. Need for Case-Specific Review**

26. The MoPSC argues that there are issues raised by MoGas' prior notice filing that require case-specific review under NGA section 7(c). In particular, the MoPSC is concerned that MoGas' prior notice filing does not include sufficient information to determine whether rolling the costs of MoGas' project into its systemwide rates, as would be presumed for Part 157 blanket certificate construction, would have a disproportionate impact on existing customers' rates. The MoPSC refers to Order No. 686, the most recent rulemaking proceeding that addressed the blanket regulations, wherein the

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<sup>26</sup> See *Rockies Express Pipeline LLC*, 119 FERC ¶ 61,069 (2007).

Commission noted that even though a project met the cost limitations for blanket construction, there could be a significant impact from rolling the costs into existing rates where a pipeline has a relatively modest rate base.<sup>27</sup>

27. MoGas responds that the rate issues raised by the protestors should be resolved in a rate case when MoGas proposes to roll the costs of the project into its systemwide rates. It contends that the blanket program contemplates rate review at that time and not in the context of the prior notice filing, also citing language from Order No. 686.<sup>28</sup> In this regard, MoGas notes that it is obligated to file a rate case within 18 months of its going into service, whereas other pipelines that make prior notice filings are usually not under such an obligation.

28. Laclede Gas and Laclede Energy contend that MoGas' application should be processed as a prior notice filing. Laclede Gas observes that while the Commission in Order No. 686 did contemplate that a protest might be filed to raise a concern about disproportionate rate impacts on existing customers if the costs of a blanket project were rolled into the rate base, this case is not one that warrants the kind of rate scrutiny typical of a case-specific proceeding. It contends that even if the impact was ten percent, as the MoPSC and AmerenUE maintain might be the case, such impact would not be disproportionate.

29. Laclede Gas asserts that the protestors have provided no support for their contentions, noting in particular that the revenues flowing from the project have not been considered. Both Laclede Gas and Laclede Energy stress that MoGas' existing customers will not be harmed if the project is authorized under MoGas' blanket certificate, since MoGas will file a rate case earlier than many pipelines using blanket authorization to construct facilities would, and it will do so even earlier than the three years after commencing operations when most new pipelines have to file cost/revenues studies for review of their initial rates. Laclede Energy notes that MoGas is not proposing to alter its initial rates at this time, so the immediate impact on existing customers will be zero.

30. The MoPSC takes exception to Laclede Gas' assertion that the protestors have not produced evidence that the costs and revenues of the project will have more than a *de minimis* effect on MoGas' system rates. The MoPSC points out that MoGas, not the protestors, has the burden of proof on this issue. Additionally, the MoPSC asserts that

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<sup>27</sup> *Revisions to the Blanket Certificate Regulations and Clarification Regarding Rates*, Order No. 686, FERC Stats. and Regs. ¶ 31,231 at n.24, *order on reh'g and clarification*, Order No. 686-A, FERC Stats. and Regs. ¶ 31,249 (2007).

<sup>28</sup> *Id.*, Order No. 686, at P 40.

Laclede Gas agrees that there could be a significant effect on MoGas' rates if the costs of the project are rolled in, but since the application contains so little cost information, the MoPSC cannot determine whether this is the case. MoPSC states that this is why it filed its protest.

31. The MoPSC also disagrees with the answering parties' contention that any rate issues can be addressed in MoGas' rate case. The MoPSC proffers that this approach is contrary to Order No. 686, in which the Commission stated that parties should raise concerns about disproportionate rate impacts in a prior notice proceeding. Further, the MoPSC avers that deferring the rate issue to the rate case is inconsistent with the Commission's general certificate policy under which the question of subsidization by existing customers is a threshold factor in deciding whether to issue a certificate. The MoPSC requests that if the Commission decides it is appropriate to defer the rate issue, it should not give MoGas a presumption of rolled-in rate treatment for this project. Denying the presumption would preclude parties that support a different rate treatment from having the NGA section 5 burden of demonstrating that rolling the costs in would not be just and reasonable.

### **Response**

32. The Commission's regulations recognize that, while routine, some blanket certificate projects may raise valid concerns.<sup>29</sup> Thus, the prior notice procedures provide that if a protest is filed and not withdrawn within 30 days of the deadline for filing the protest (or dismissed within 10 days of its filing for not raising a substantive issue and failing to provide any specific rationale for the objection), the request filed by the certificate holder shall be treated as an application for a case-specific section 7 authorization for the proposed activity.<sup>30</sup> MoPSC and AmerenUE filed timely protests to MoGas' prior notice request which were not dismissed and not withdrawn by December 26, 2007. Therefore, as noted above, we are reviewing MoGas' filing as an application for case-specific authorization to construct and operate four compressor units at a new Curryville Compressor Station. In addition, as is discussed below, we are granting a presumption favoring rolled-in rate treatment for the costs related to the new compression.

### **E. Request for Technical Conference**

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<sup>29</sup> See *Transcontinental Gas Pipe Line Corp.*, 98 FERC ¶ 61,094, at 61,288 (2002).

<sup>30</sup> See § 157.205(f) (2008).

33. In the event the Commission does not dismiss MoGas' filing, the MoPSC urges the Commission to institute discovery and hold a technical conference in order to resolve the issues identified by the protestors. The MoPSC maintains that there is insufficient information in the record to allow interested parties to fully analyze whether the project is needed and will provide benefits to existing customers and whether the costs of the project should be rolled into MoGas' rates. Therefore, it requests that the Commission hold a technical conference and allow discovery to adduce more information. The MoPSC attaches to its July 8, 2008 comments on MoGas' response to staff's second data request a list of questions that it believes need to be answered before the issues in this proceeding can be resolved.

34. MoGas contends that the MoPSC's request for discovery should be denied since the issues in this proceeding have not been set for hearing. It states, however, that it is not averse to a technical conference if it will help resolve the issues that have been raised.

### **Response**

35. We will deny the requests for discovery and a technical conference. The Commission's discovery regulations set out in Part 385, subpart D, are intended to apply when issues in a proceeding have been set for a trial-type hearing. In most instances, no issues of material fact are raised in section 7 certificate proceedings that cannot be resolved on the written record. None of the issues raised in this proceeding require a trial-type hearing to resolve them. Further, we find that a technical conference is not necessary. The parties to the proceeding have already supplemented the record through their protests, answers, comments and responses to data requests, such that the Commission has enough information to resolve the issues raised by the parties.

## **IV. Discussion**

36. Since MoGas proposes to construct and operate facilities for the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, its proposal is subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

### **A. Application of Certificate Policy Statement**

37. As a blanket certificate project, MoGas' proposal would not have been evaluated under the standards of the Certificate Policy Statement. However, as noted above, since the protests to MoGas' prior notice filing were not dismissed or withdrawn, we are reviewing its filing as an application for case-specific authorization.

38. On September 15, 1999, the Commission issued a Certificate Policy Statement to provide guidance as to how we will evaluate proposals for certificating new construction.<sup>31</sup> The Certificate Policy Statement establishes 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.

39. Under the Commission's policy, the threshold requirement for 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, on other pipelines in the market and those existing pipelines' captive customers, or landowners and communities affected by the route of the new pipeline. 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 adverse effects on economic interests will the Commission then proceed to complete the environmental analysis where other interests are considered.

40. As described above, MoGas is proposing to construct/install four skid-mounted compressor units, site rated at 1,230 hp each, at a new Curryville Compressor Station. At the time of its initial prior notice filing, MoGas stated that the then-current cylinder sizing would limit the total output of the four compressors to 3,120 hp. It now expects to be able to install the new cylinders prior to operation, thus increasing the installed compression to 4,920 hp. However, MoGas states that "the current design is intended to utilize three of the four compressors units for peak flow and have one unit for standby service."<sup>32</sup> In addition, MoGas avers that 1,824 hp of the added compression is necessary

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<sup>31</sup> *Certification of New Interstate Gas Pipeline Facilities* (Certificate Policy Statement), 88 FERC ¶ 61,227 (1999), *order clarifying statement of policy*, 90 FERC ¶ 61,128 (2000); and *order further clarifying statement of policy*, 92 FERC ¶ 61,094 (2000).

<sup>32</sup> May 29, 2008 Response to Data Request at Response No. 1.

to ensure reliability of existing services; 1,096 hp would be used to provide the additional 20,000 Dth/d of firm service subscribed as a result of its open season. Thus, MoGas contends that rolling in the costs related to the 1,824 hp (63.47 percent of the total, according to its calculations) would not result in a subsidy, regardless of the impact on rates, since the costs would be incurred to maintain and improve the reliability of existing services.<sup>33</sup>

41. The MoPSC questions the need for more pressure on MoGas' system. The MoPSC maintains that the fact that a customer may have been unable to obtain its full contractual requirements on a given day may be the result of other reasons besides low pressure. Moreover, the MoPSC posits that MoGas' responses to the data requests do not resolve the question of whether MoGas has sized its project properly to provide only the capacity needed to meet the requirements delineated by MoGas. The MoPSC points to the fact that the compressor units are site-rated to operate at a higher horsepower than can currently be used, as a practical matter, because of the MAOP of the downstream pipeline. Thus, according to MoPSC, the project may be over-sized.

42. Both Laclede Energy and Laclede Gas, in their answers to the protests, confirm MoGas' position that this project is needed to meet Laclede Energy's incremental requirements and to assure system reliability by allowing for receipt of contract volumes when Panhandle's delivery pressure is too low to maintain necessary pressure at the terminus of the system. Laclede Energy and Laclede Gas also place the need for additional capacity on MoGas in the context of various factors affecting the St. Louis market, noting, for example, that all of the pipelines that serve the greater St. Louis market, including areas in Illinois, are capacity-constrained, while the market for natural gas is growing. Laclede Energy states that it is aware that a number of retail customers are served by secondary or interruptible capacity. Therefore, it contends that any additional capacity the project may provide for additional customers will enhance the reliability of service for customers who depend on recallable capacity in the St. Louis market.

43. We have reviewed the operational data filed by MoGas in response to staff's requests and find that its assessment that an additional 1,824 hp of compression is necessary to ensure the reliability of existing services, given the variability of delivery pressures from Panhandle, is reasonable. Accordingly, we find that rolling in the costs associated with this increment of compression would not result in a subsidy by existing customers. However, we find that the MoGas has improperly calculated the associated

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<sup>33</sup> *Id.* at Response No. 4.

costs. As is discussed in more detail below, the correct percentage of project costs associated with the compression necessary to ensure reliability is 37.1 percent.<sup>34</sup>

44. As a blanket certificate project, the recourse rate for any service utilizing the new construction would be MoGas' existing system rate. In its May 29, 2008 Response to Data Request, MoGas indicated that the shipper for the 20,000 Dth/d would pay the recourse rate. However, in its July 8, 2008 filing, MoGas indicates that the precedent agreement with its shipper provides for a rate reduction in April 2009. The precedent agreement itself indicates the shipper has elected to pay a negotiated rate.

45. On July 8, 2008, MoGas submitted an Exhibit N in response to a staff data request, which purports to show that the revenues from the additional 20,000 Dth/d of service will exceed the cost of service associated with the 1,096 hp which would be used to provide additional services (37.53 percent of the total, as calculated by MoGas) over a three-year period. If this is the case, the project could proceed without subsidy from existing shippers and MoGas would be entitled to a presumption favoring rolled-in rate treatment for the costs in its upcoming section 4 rate case.

46. More specifically, MoGas' Exhibit N shows the total cost of service for the compression addition to be \$1,340,517. Applying 37.53 percent to that total results in costs of service for the first three years of \$503,096, \$487,086, and \$466,393. MoGas then calculates revenues for the first three years of \$1,421,645, \$1,095,000, and \$1,095,000. Since the projected revenues exceed the projected costs of service, MoGas contends that the project presumptively qualifies for rolled-in rate treatment.

47. While MoPSC and AmerenUE raised concerns in their protests that the magnitude of the proposed construction on MoGas' relatively small system might result in a disproportionate impact on existing customers,<sup>35</sup> no party has challenged the estimated costs of service or revenues as calculated by MoGas in its Exhibit N. However, the Commission does have some concerns about MoGas' analysis. MoGas is proposing to install 4,920 hp of additional compression and states that three of the units (3,690 hp) would be in operation at any given time for peak flow; however, for purposes of analyzing the impact rolling in costs would have on existing customers, it has allocated the total cost of the compression based on the ratio of horsepower needed to provide the additional 20,000 Dth/d of service to horsepower needed to ensure reliability and to provide the new service (1,096 hp/2,920 hp or 37.53 percent). We believe that for

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<sup>34</sup> 1,824 hp/4,920 hp or 37.1 percent.

<sup>35</sup> In its protest the MoPSC estimates the proposed project represents a 16 percent increase in MoGas' system capacity and a 10 percent increase to its existing rate base.



purposes of our subsidy analysis, it is more appropriate to allocate the total costs of the compression based on the ratio of horsepower needed for additional service *and* the additional horsepower being installed above the level currently needed by either the additional or existing services (1,096 hp + 2,000 hp) to the total being installed (3,096 hp/4,920 hp or 62.9 percent). Using this allocation methodology, over the first three years of operation, the total cost of service associated with 62.9 percent of the compression costs would be \$2,476,842.<sup>36</sup>

48. For purposes of calculating revenues related to the 20,000 Dth/d of subscribed capacity, MoGas used the rates in its precedent agreement with the shipper. However, while the rate for the first 15 months of service equals the maximum recourse rate filed by MoGas in its July 5, 2007 compliance filing to the certificate order, that rate exceeds the maximum recourse rate ultimately authorized by the Commission. Therefore, we have recalculated revenues for three years of service, using MoGas' Commission-authorized maximum recourse rate of \$5.873, because the rate appears to be negotiated and MoGas will be at risk for any revenue shortfall in its next rate case. Comparing revenue at the recourse rates to the cost of service associated with the project facilities results in total incremental revenues of \$4,228,560 for three years of service, or \$1,751,718 of revenues in excess of costs. We also note that Exhibit P, submitted in MoGas' July 8, 2008 filing, indicates that rolling the costs associated with all of the additional compression into system rates would result in a rate reduction for existing customers. Accordingly, we find that MoGas' proposal satisfies the threshold requirement of the policy statement and that the project can go forward without subsidies from existing customers.

49. Having determined that there will be no subsidy by existing customers, the Commission will consider whether there will be any residual adverse effects on existing customers, competing pipelines and their captive customers, or on landowners and communities in the vicinity of the proposed project. A review of the engineering data filed by MoGas shows that the proposed compression project will not adversely affect the existing customers' service. In fact, as discussed above, it will improve the reliability of existing service. Moreover, the 20,000 Dth/d of additional service that MoGas seeks to provide represents incremental volumes and not gas that was already being transported by a competing pipeline. Therefore, there will be no adverse impact from MoGas' project

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<sup>36</sup> The estimated cost of service for year one was calculated by allocating 62.9 percent of the project's costs, as stated in Exhibit N to MoGas' July 8, 2008 data response, to the expansion. For years two and three, the year one cost of service was reduced by \$16,010 and \$20,693, respectively, to reflect the reduction in the return allowance and income taxes.

on competing pipelines or their customers. Finally, MoGas has demonstrated that it will construct its project on property it already owns such that no new right-of-way will be required. There have been no comments filed suggesting nearby communities or landowners will be adversely affected by the project.

50. Based upon the benefits that MoGas' proposal will provide both its existing and additional customers, and the absence of any identified adverse effects on existing customers, other pipelines, landowners, or communities, we find that approval of MoGas' proposal is required by the public convenience and necessity.

### **B. Other Rate Issues**

51. We are authorizing MoGas' applicable existing system rate as the maximum recourse rate for service using the authorized compression facilities. We are also granting MoGas a presumption favoring rolled-in rate treatment for costs of both the increment of compression we have found necessary to ensure reliability of existing service and that associated with the provision of additional service (including the excess compression being installed as part of the project). However, as noted above, MoGas has entered into a precedent agreement with a single shipper to provide 20,000 Dth/d of firm service at negotiated rates. In certificate proceedings, the Commission establishes initial recourse rates but does not make determinations regarding specific negotiated rates for proposed services.<sup>37</sup> In order to comply with the Alternative Rate Policy Statement<sup>38</sup> and our decision in *NorAm Gas Transmission Company*,<sup>39</sup> if any customer for the incremental capacity will pay a negotiated rate for any part of its service, we direct MoGas to file any negotiated rate contracts, or numbered tariff sheets, not less than 30 days or more than 60 days, prior to the commencement of service, stating for each shipper the negotiated

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<sup>37</sup> *CenterPoint Energy – Mississippi River Transmission Corp.*, 109 FERC ¶ 61,007, at P 19 (2004); *ANR Pipeline Co.*, 108 FERC ¶ 61,028, at P 21 (2004); *Gulfstream Natural Gas System, LLC*, 105 FERC ¶ 61,052, at P 37 (2003); *Tennessee Gas Pipeline Co.*, 101 FERC ¶ 61,360, at n.19 (2002).

<sup>38</sup> *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipeline; Regulation of Negotiated Transportation Services of Natural Gas Pipelines (Alternative Rate Policy Statement)*, 74 FERC ¶ 61,076 (1996), *order granting clarification*, 74 FERC ¶ 61,194, *order denying reh'g and clarification*, 75 FERC ¶ 61,024 (1996), *reh'g denied*, 75 FERC ¶ 61,066 (1996), *petition for review denied*, *Burlington Resources Oil & Gas Co. v. FERC*, Nos. 96-1160, *et al.*, U.S. App. Lexis 20697 (D.C. Cir. July 20, 1998).

<sup>39</sup> 77 FERC ¶ 61,011 (1996).

rate, the applicable gas volume to be transported, and an affirmation that the affected service agreement does not deviate in any material respect from the form of service agreement in MoGas' pro forma tariff. MoGas must also disclose all consideration received that is associated with the agreement. Finally, MoGas must also maintain separate and identifiable accounts for volumes transported, billing determinants, rate components, surcharges and revenues associated with any negotiated rates in sufficient detail so that they can be identified in Statements G, I, and J in any future section 4 or 5 rate case.

52. In addition, to the extent MoGas charges negotiated rates for the additional services, it will bear the risk associated with any revenue shortfall. When it files in the future under section 4 of the NGA to recover the costs associated with the expansion project, the project costs will be compared to the revenues that would be generated if MoGas were charging the maximum recourse rate for all expansion services under contract, regardless of whether the rate charged is higher or lower than the recourse rate. That is why we used MoGas' existing maximum recourse rate to determine whether the revenues associated with its proposed additional service would exceed costs.<sup>40</sup>

53. Finally, both the Commission's and MoGas' cost/revenue analyses reflect the premise that there will be 15 months of service under the agreement with its customer before rates are reduced, as set forth in the precedent agreement. We note, however, that the precedent agreement contemplated service beginning January 1, 2008. Due to the protests and MoGas' delay in filing requested information, it is unlikely that service will begin prior to October 2008. We do not know how this will effect the term of service under the precedent agreement. However, if, for whatever reason, MoGas is unable to secure the revenues projected in our analysis, that might constitute a significant change in circumstances that would eliminate the presumption favoring roll-in rates granted in this order.

54. Although we are, in effect, ultimately denying the protests filed to MoGas' prior notice filing, we are not following our standard practice of authorizing the project under MoGas' blanket certificate. We find that case-specific authorization is appropriate in this case since, as described above, we have modified MoGas' proposed allocation of costs between the increment of compression required to ensure reliability of existing services and that required to meet incremental service requirements.

### **C. Operational Issues**

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<sup>40</sup> See *Trunkline Gas Company, LLC*, 119 FERC ¶ 61,078 (2007); *Natural Gas Pipeline Company of America*, 111 FERC ¶ 62,236, at 64,518 (2005); *Southern Natural Gas Company*, 113 FERC ¶ 61,199, at n.20 (2005).

## **1. Used Compressors**

55. The MoPSC and AmerenUE question the reliability of the used compressors that MoGas proposes to install. AmerenUE proposes that the Commission require MoGas to amend its tariff to provide a lower quality of service for the new customer such that if the compressors fail, the new customer's service would be curtailed first.

56. MoGas argues that the protestors provide no support for their concern about the reliability of the used compressor units and points out that these same compressor engines are still being manufactured and are hardly vintage facilities. It also states that the compressors have not been used for a great length of time and that the accumulated run time is equivalent to only 2.7 years. Laclede Energy dismisses the protestors' concerns about whether the used compressors will compromise service for existing customers on MoGas' system. In particular, it opposes AmerenUE's suggestion that the Commission impose a lower quality of service on the expansion capacity.

### **Response**

57. The Commission finds that the MoPSC's and AmerenUE's have presented no support for their allegations regarding the reliability of the compressor units MoGas proposes to install. As a general matter, interstate pipelines consist of facilities of different vintages and, as Laclede Energy points out, customers on a pipeline are not treated differently based upon the age of the facilities they primarily use. We have found above that there is no evidence that the proposed project, including the use of used compressors, will adversely affect existing customers. MoGas is obligated to stand ready to provide its certificated levels of service. Should it ever be shown that MoGas is unable to do so, the Commission will take appropriate action.

## **2. Effect of Project on Receipts for MRT**

58. The MoPSC also questions whether the increased pressure at MoGas' interconnection with Panhandle would adversely affect the ability of gas to flow into MoGas' system from MRT. The MoPSC states it understands that a reduction in pressure on MoGas, not an increase, was necessary to receive that gas. In this regard, the MoPSC also avers that MoGas' application does not provide sufficient information to assess what the effect of the new compression will be on system pressures, nor other operational data needed in order to understand how the new capacity on MoGas' system can be utilized if Panhandle's upstream system is fully subscribed.

59. Laclede Energy asserts that it subscribed to the expansion project fully expecting to be able to have gas delivered from Panhandle. It states that it has considerable experience with the Panhandle system and will be able to use released or underused capacity on Panhandle at all times except for a few periods of high demand. However, it explains, during those times, it can still transport gas to the Panhandle/MoGas

interconnection point through backhauls from storage sources in Michigan and other sources on Panhandle. Thus, Laclede Energy posits that it can supply the incremental gas associated with the expansion at all times to the St. Louis market.

### **Response**

60. The MoPSC's concern that the increased pressure created by the new compression at the Panhandle interconnect would adversely affect MoGas' ability to receive gas into its system from MRT is speculative and without merit. The purpose of the compression, as proposed, is to allow additional gas volumes from Panhandle to be delivered into the MoGas' system at pressures that have been decreasing in recent years. The compressor station would re-pressurize the gas stream, both with or without the expansion volumes, to ensure that system design delivery pressures will be maintained throughout the MoGas system. Without the increase in system pressures provided by the additional compression, pressures downstream of Winfield could be inadequate to maintain MoGas' contractual delivery obligation to its shippers. To the extent pressures from Panhandle are adequate at any given time to maintain design operating pressures along the MoGas system, the compression may not be utilized.

61. When the compression is utilized to re-pressurize the gas supplies received from Panhandle, the downstream system pressures at the MRT interconnect may increase. However, the extent of the increase in pressure at the MRT interconnect will be dependent upon MoGas' shippers' daily nominations of gas supplies as well as the interconnect pressures with Panhandle. The MoPSC has not provided any studies or alternative proposals to allow additional gas supplies into the MoGas system countering the operational and design information included by MoGas in this proceeding. The Commission agrees that the pressure at the MRT interconnect may increase; however, there is no information or studies provided by the parties in this proceeding that clearly supports MoPSC's claim that this project will adversely affect the ability to receive gas from MRT. Further, we find it unlikely that a shipper would subscribe to capacity that it cannot actually access.

### **V. Environmental Review**

62. On November 17, 2008, the Commission's environmental staff filed in the public record comments on MoGas' proposal. Those comments reflect the staff's environmental review of the project. The comments explained that with the exception of about 0.3 acres of deciduous trees on the west edge of the compressor station site, the construction for the project would occur on fallow agricultural land on the eastern portion of a 40.4-acre site owned by MoGas. The review found that only about 8.07 acres would be temporarily disturbed during construction, and 5.06 acres would be permanently disturbed during operation of the compression facilities. Further, staff observed that all construction would occur within a fenced area and the site would be accessed using existing secondary roads that required no road improvements.

63. With regard to air quality, the environmental review concluded the baseline concentration of criteria pollutants related to the project will be sufficiently below National Ambient Air Quality Standards, such that no precautions beyond standard state permitting are required to protect the air quality of the area. The results of MoGas' noise survey indicate that if the noise of the compressor engines are mitigated appropriately with silencers that will be included as part of the emission control system, there would be no noise impacts at nearby noise-sensitive areas

64. The environmental review also concluded that the project would have no effect on mineral resources; wetlands and other water resources; wilderness areas; residential areas; federally-owned lands; national or state wild or scenic rivers; national trails, nature preserves, remnant prairies, and registered natural landmarks; Native American religious sites and reservations; or coastal zone management areas. Moreover, due to the limited extent of the construction-related activities, the project would have no significant impact on soils, wildlife, and visual resources. The comments also note that the Commission's environmental staff concurs with the findings of the U.S. Fish and Wildlife Service that no federally-listed species or designated critical habitat exist within the project area and of the Missouri Department of Natural Resources State Historic Preservation Office that no historic properties would be affected by the project.

65. Additionally, the comments note that MoGas would construct, operate, and maintain the proposed compressor station in accordance with the requirements of the U.S. Department of Transportation's pipeline safety regulations,<sup>41</sup> and all other applicable local, state, and federal regulations and codes. Further, the project site would be restored consistent with the Commission's Upland Erosion Control, Revegetation, and Maintenance Plan.

66. The Commission adopts the findings of staff's environmental review and concludes that if the project is constructed, operated, and maintained as described by MoGas in its prior notice filing and outlined in staff's comments, our approval of this project will not have a significant impact on the quality of the human environment.

67. We also note that 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

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<sup>41</sup> 49 C.F.R. Part 192 (2008).

local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>42</sup>

### **Conclusion**

68. For all of the reasons discussed above, we are issuing a certificate of public convenience and necessity under section 7(c) of the NGA authorizing MoGas to construct and operate its proposed Curryville Compressor Station. We are also authorizing MoGas to charge its applicable existing system rate as the initial recourse rate for services provided utilizing the additional capacity resulting from the compression. MoGas is granted a predetermination that the costs associated with the Curryville Compressor Station may be rolled into existing rates in a future section 4 rate proceeding, absent a material change in circumstances.

69. The Commission on its own motion received and made a part of the record all evidence, including the application, and exhibits thereto, submitted in relation to the authorization sought herein. Upon consideration of the record,

#### **The Commission orders:**

(A) A certificate of public convenience and necessity is issued in Docket No. CP07-450-000 authorizing MoGas to construct and operate the Curryville Compressor Station, as described more fully in the order, application, and responses to data requests.

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned on MoGas' completing construction of the authorized facilities and making them available for service within one year from the date of this order.

(C) The certificate authorization issued in Ordering Paragraph (A) is conditioned on MoGas' compliance with all applicable provisions of the NGA and the Commission's regulations including, but not limited to, Part 154, Part 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the regulations.

(D) The motions to intervene out-of-time, and for leave to file answers to protests and answers to answers are granted.

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<sup>42</sup>See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

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

(F) When MoGas files under section 4 of the NGA to recover the costs associated with the project authorized herein, there shall be a presumption of rolled-in rate treatment for such costs, absent a showing of a material change in circumstances.

(G) MoGas shall file its negotiated rate agreement not less than 30 days and no more than 60 days prior to the commencement of service.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.