MARKET AND SERVICE CONSIDERATIONS IN THE CERTIFICATE PROCESS AT THE FEDERAL ENERGY REGULATORY COMMISSION

by Bob Nelson

The views expressed here are those of the author alone and do not necessarily represent the views of the Commission or any member thereof.

Proposed pipeline projects that are designed to transport natural gas will require certificates of public convenience and necessity. This paper will present market and service considerations in the decision-making process for these pipeline projects.

These projects are all structured within a general framework. Generally, the pipeline will be owned by a new corporate entity and will provide transportation services only for one or more established interstate pipelines. The pipeline will not own the natural gas which is transported nor engage in any sales services. The interstate pipelines whose natural gas is being transported will receive the natural gas into their systems and use the natural gas, along with other sources of supply, to satisfy their market requirements. Typically, the pipeline will be financed on a separate, or stand alone, basis which is conventionally known as "project financing".

Now a key issue in determining whether a proposed pipeline should be certificated by the Commission is the question of need for the pipeline. Resolution of this issue affects the basic certificate decision and the related environmental review process, and it is in this area that, I believe, a broader framework for analysis should be utilized.

All too often, the presentation on this issue begins and ends with a simple syllogism. Interstate pipelines are curtailing natural gas requirements in their markets. The natural gas which the interstate pipelines will receive as a result of this project exceeds natural gas requirements which are not being served. Therefore, the pipeline is needed.

Left unsaid in this analysis is the problem that the "requirements" which will be served with natural gas from the proposed pipeline are ones which may have made arrangements to burn fuels other than natural gas and, thus, may have no great desire to be served with natural gas. Moreover, the notion that the new gas supply, which is often significant, will quickly generate a market equal to that supply out of unfilled requirements is itself suspect when one considers that the delivered cost of this supply to the market will likely substantially increase the rates to be charged by the interstate pipeline. When one also considers the related fact that the sales market for natural gas is already largely demand constrained, the case for certificating new pipelines based on a showing of need for the gas would appear to be somewhat questionable.

On the other hand, the above discussion is itself rather narrow and needs to be significantly leavened with other considerations. Certificating a pipeline which opens up a new area of natural gas supply gives the interstate pipeline recipient of the natural gas very important flexibility. That interstate pipeline can avoid curtailment, provide greater security of supply for market development, and, perhaps most importantly, operate its system to minimize purchased gas costs, which will increasingly dwarf transportation costs. Electric utilities and, more recently, natural gas distribution companies have precisely this flexibility now. As we approach the time when natural gas wellhead prices will be deregulated, this flexibility will become more important for interstate pipelines; and there is no reason why this flexibility should not be available. In short, it may be far better to err on the side of certificating new pipelines in an environment where determinations concerning the need for the pipeline are subject to substantial future uncertainty.

There is one other aspect of the typical new pipeline proposal that the commission has been examining in the certificate process. Persons who receive certificates from the Commission do not become common carriers. However, Congress has provided a mechanism in Section 7(a) of the Natural Gas Act whereby the person who receives a certificate may, under certain conditions, be required to connect its facilities to the facilities of a municipality and sell natural gas to that community.,

In the situation where the transporting pipeline does not own any of the

(see FERC, pg. 28)

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move on to that right of way has increased considerably.

"In the early days, you needed only one permit from the Federal Power Commission. If you had to cross a railroad or a state road, you had to get permission from the owner of the railroad or the state," said Brisley. But when Columbia built an 82-mile line in the 1970s to move gas from a liquefied natural gas terminal at Cover Point, Md., Brisley said, "We had to get 142 permits."

Even though technology has brought about changes in the way natural gas pipelines are constructed, the purpose today is the same as it was when the first lines were built in the 1800s. The work that once was done with picks and shovels and is now done with bulldozers and tractors helps provide a dependable system for moving an energy source from where it is produced to where it is needed.

Sideboom tractors have replaced lifting poles for moving the pipeline into the ditch.

FERC (cont. from pg. 23)

natural gas which it transports, the ability of municipalities to obtain natural gas service under Section 7(a) of the Natural Gas Act may be limited or non-existent. Because persons who receive certificates from the Commission may exercise eminent domain authority under the Natural Gas Act along the pipeline right-of-way, the potential inability of communities which are near the pipeline to obtain natural gas service from that pipeline appears to be a highly questionable result as a matter of policy. The result is one that may need to be remedied through the exercise of the Commission's conditioning authority.

Lately, the Commission has taken some steps to add flexibility. Not everything a government agency does requires an application filing and the command control framework and delay that that system may entail. Moreover, once you deal with projects through applications, you're limited to adding or subtracting procedural steps to the process. As an alternative to this method of regulating, you can institute programs which set up the parameters or conditions within which companies can proceed with certain projects without prior goverment approval. Also, within the application process applicants have the flexibility not to file certain information required by our regulations where the information just isn't applicable to their proposal.

Pipelines have a continuing need to construct facilities in order to connect new sources of natural gas supply into their mainline systems and they often need to do this expeditiously. Now the Commission determined, where $20,000,000 or less of these facilities are to be constructed during a given year, that the effect on rates would be minimal; and, where each single onshore project would cost $2,500,000 or less, the effect on the environment would likely be limited. So the Commission decided to issue blanket certificates to companies to construct these facilities within the $20,000,000 and $2,500,000 limits. This allows an interstate pipeline company to construct these facilities without prior government approval.

With this program, more planning and operational flexibility has been given to the company. You've specified those projects where the public interest impact is not significant. You've left to the application process those larger projects which require an application; and you've freed up your staff and the company's staff to work on these more important applications. You've reduced public and private regulatory expense. You've increased the gas supply of interstate pipelines. We simply have to inject more flexibility into the decision-making process, consider innovative alternatives to the present system, and provide incentives for good operations and management judgment. Blanket certificates and conditional exemptions are ways to do this without sacrificing the benefits of the regulatory process. In short, we are rethinking the decision-making process in government. It's going to be required of us all.

Director Bud Storm and President Dave Erickson show the 25th Anniversary cake that was enjoyed by everyone who attended Tri-State Chapter 20's festive celebration.