

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION BY TEXAS-OHIO PIPELINE, )	
INC. FOR APPROVAL OF CONSTRUCTION )	CASE NO. 90-273
AND STATUS AS AN INTRASTATE PIPELINE )	
AND TRANSPORTING UTILITY )	

O R D E R

On September 10, 1990, Texas-Ohio Pipeline, Inc. ("Texas-Ohio") submitted an application requesting that the Commission designate Texas-Ohio's proposed project as an intra-state pipeline and transporting utility pursuant to Administrative Case No. 297.<sup>1</sup> During its review of the application, Commission Staff also determined that a Certificate of Convenience and Necessity must be granted prior to Texas-Ohio beginning construction of its pipeline, pursuant to KRS 278.020 and 807 KAR 5:001, Section 9(2).

In its application, Texas-Ohio proposes to transport natural gas pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978, Pub. L. No. 95-621, transportation under the jurisdiction of the Federal Energy Regulatory Commission ("FERC"). In compliance with FERC requirements for Section 311(a)(2) transportation, Texas-Ohio states that it will file an application with the FERC

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<sup>1</sup> Administrative Case No. 297, An Investigation of the Impact of Federal Policy on Natural Gas to Kentucky Consumers and Suppliers, Orders dated May 29, 1987 and on rehearing October 23, 1987.

for approval of rates<sup>2</sup> prior to initiating service and will submit an operating status report 30 days after initiation of service. Texas-Ohio further states that it will send copies of all such FERC filings to this Commission. Texas-Ohio's application includes a proposed tariff which sets out rates for interruptible and firm transportation service. The interruptible rates are flexible while the firm rates have fixed demand and commodity charges. The interruptible rates proposed do not comply with the requirements in Administrative Case No. 297 in that a fixed interruptible rate is not offered.

Texas-Ohio's proposed pipeline will be located five miles northeast of Lancaster, Garrard County, Kentucky, and will consist of approximately 400 feet of 10-inch steel pipe with protective coating. According to Texas-Ohio, the design, construction, and operation of the pipeline and supporting facilities will comply with all applicable safety regulations of the United States Department of Transportation (49 CFR Part 192, Federal Pipeline Safety Regulations) and this Commission (807 KAR 5:022, Gas Pipeline Safety). Commission Staff has reviewed Texas-Ohio's plans and specifications for the design, construction, and operation of the pipeline and supporting facilities and has determined that they are in compliance with the gas safety regulations referenced herein.

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<sup>2</sup> Regarding rates for Section 311(a)(2) transportation, FERC regulations Section 284.123 allow an intrastate pipeline to use rates in its transportation rate schedule which are on file with the appropriate state regulatory agency.

The pipeline will serve as an interconnect between two existing interstate gas transmission pipelines which pass through Garrard County: Texas Eastern Transmission Corporation ("TETCO") and Tennessee Gas Pipeline Company ("TGP"), respectively. Texas-Ohio's application included correspondence from TETCO and TGP which indicates each has entered into an interconnection and reimbursement agreement with Texas-Ohio.

On October 19, 1990, Texas-Ohio supplemented its application by filing additional information regarding the identification and location of personnel responsible for maintenance of the pipeline and supporting facilities. Also included were copies of two gas purchase agreements between Texas-Ohio and Kentucky customers: Liberty Municipal Natural Gas, a municipally-owned local distribution utility in Casey County, Kentucky; and Mesa Food Production, Inc., a natural gas end-user located in Jefferson County, Kentucky. Liberty currently purchases its gas from TETCO and is served directly from a TETCO transmission pipeline.

After consideration of the record in this proceeding and being otherwise sufficiently advised, the Commission hereby finds that:

1. Texas-Ohio proposes to construct an intrastate pipeline in Garrard County, Kentucky, which will serve as an interconnection between TETCO and TGP, each an interstate gas transmission pipeline. The purpose of the pipeline is to provide gas transportation service to industrial and utility customers in Kentucky and other customers north of the interconnection and not located in Kentucky.

2. The gas transportation service which Texas-Ohio proposes to provide to Kentucky customers will be made pursuant to Section 311(a)(2) of the Natural Gas Policy Act and under the jurisdiction of the FERC. Section 311(a)(2) applies to the transportation of natural gas by an intrastate pipeline on behalf of an interstate pipeline or any local distribution company served by an interstate pipeline.

3. Texas-Ohio has submitted copies of two gas purchase agreements with Kentucky customers: Liberty Municipal Natural Gas in Liberty, Kentucky, a local distribution company currently served by TETCO; and Mesa Food Production in Jefferson County, Kentucky.

4. Texas-Ohio has submitted a proposed tariff which provides flexible interruptible and fixed firm transportation rates. Texas-Ohio should resubmit its tariff within 30 days of the date of this Order to include: a fixed interruptible transportation rate, terms and conditions for services offered, a statement that such services are available to customers in Kentucky, and a curtailment plan. The fixed interruptible rate and curtailment plan should comply with requirements set forth in Administrative Case No. 297.

5. Based upon the nature of its proposed service to Kentucky customers, Texas-Ohio should be designated an intrastate pipeline operating as a transporting utility pursuant to the Commission's Order in Administrative Case No. 297.

6. Based upon the plans and specifications submitted by Texas-Ohio for its proposed pipeline and supporting facilities,

the design, construction, and operation will comply with gas safety regulations 807 KAR 5:022.

7. Texas-Ohio should be granted a Certificate of Convenience and Necessity for the construction of its pipeline as specified in its application in this proceeding.

IT IS THEREFORE ORDERED that:

1. A Certificate of Convenience and Necessity be and it hereby is granted to Texas-Ohio for the construction of its pipeline as described herein. Texas-Ohio shall file with the Commission a construction schedule no later than 30 days prior to the start of construction.

2. Texas-Ohio shall be considered an intrastate pipeline operating as a transporting utility in the Commonwealth of Kentucky.

3. Within 30 days of the date of this Order, Texas-Ohio shall refile its tariff with the information stated herein in Finding 4 of this Order.

Done at Frankfort, Kentucky, this 19th day of November, 1990.

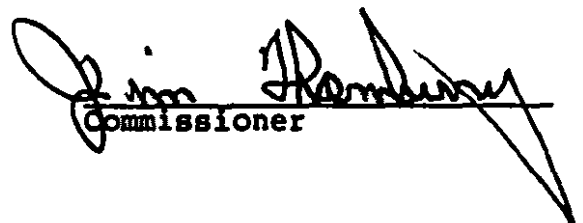
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