

144 FERC ¶ 62,027
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Southern Union Company,
d/b/a Missouri Gas Energy
and
Laclede Gas Company

Docket No. CP13-497-000

ORDER APPROVING ABANDONMENT AND ISSUING
LIMITED JURISDICTION CERTIFICATE

(July 12, 2013)

On June 12, 2013, Southern Union Company, d/b/a Missouri Gas Energy (MGE Southern Union), and Laclede Gas Company (Laclede), collectively referred to as Applicants, filed a joint application under sections 7(b) and 7(c) of the Natural Gas Act (NGA) requesting: (1) authorization for MGE Southern Union to abandon its limited jurisdiction certificate to provide transportation on a no-fee gas exchange basis utilizing its facilities located in Missouri to serve the needs of a small number of retail customers located in Kansas and Oklahoma; and (2) issuance of a limited jurisdiction certificate to Laclede to continue to provide the same no-fee exchange service utilizing the same facilities. In addition, Laclede requests: (1) a determination that the limited jurisdiction certificate will not affect the non-jurisdictional status of the remainder of its facilities and operations; and (2) a waiver of the requirements of Part 154 of the Commission's regulations for as long as no fee is charged by Laclede for the exchange service. For the reasons set forth below, MGE Southern Union's requested abandonment authorization is granted and Laclede is issued a limited jurisdiction certificate. In addition, Laclede's requests for a determination that its non-jurisdictional status will not be affected and that the requirements of Part 154 be waived for as long as no fee is charged are granted.

Background and Proposal

MGE Southern Union, a division of Southern Union Company, is a public utility providing retail natural gas service to customers in several western Missouri counties. Laclede, a wholly owned subsidiary of The Laclede Group, Inc., is a public utility providing retail natural gas service to customers in certain eastern Missouri counties.

On December 14, 2012, Southern Union Company, Laclede, and The Laclede Group entered into a purchase and sale agreement whereby Southern Union Company will transfer to Laclede all of its MGE Southern Union liabilities, assets, and operating approvals. Applicants state that the transaction is subject to certain conditions including approval of the Missouri Public Service Commission (MPSC) whose decision is

contemplated to be made effective no later than August 31, 2013. Applicants intend to close the transaction as soon as practicable after all consents and approvals have been obtained. Upon its acquisition of the assets of MGE Southern Union, Laclede will provide retail natural gas service in the area of Missouri presently served by MGE Southern Union and will continue to be subject to the jurisdiction of the MPSC. However, as discussed below certain deliveries currently made by MGE Southern Union and that will prospectively be made by Laclede are subject to the Commission's jurisdiction. Thus, Applicants request that the authorizations be effective upon the closing of the acquisition of the assets of MGE Southern Union by Laclede.

On January 12, 1994, the Commission issued an order granting limited jurisdiction certificates to Western Resources, Inc. (Western Resources) and MGE Southern Union authorizing a no-fee, displacement exchange of natural gas (January 1994 Order).¹ Effective January 31, 1994, Western Resources' facilities in Missouri were transferred to MGE Southern Union, leaving certain customers without direct connections to supplies sourced from within the states in which they are located. The limited jurisdiction certificates were necessary after the transfer of facilities to allow natural gas to continue to be provided, pursuant to a No-Fee Gas Exchange Agreement between Western Resources and MGE Southern Union,² to serve: (1) a small number of MGE Southern Union retail customers located in the western Missouri counties of Jasper and Jackson from Western Resources' supply in Kansas; and (2) a small number of Western Resources' retail customers in Wyandotte County, Kansas and in Delaware and Ottawa Counties, Oklahoma from MGE Southern Union's supply in Missouri. At that time, Western Resources estimated the cost of constructing the facilities necessary to serve each of these customers with gas supplied from within the state in which each customer is located to be in excess of \$5.5 million.

On October 30, 1997, the Commission issued an order that, among other things, granted Western Resources abandonment of its limited jurisdiction certificate authorization and issued ONEOK, Inc. (ONEOK), as successor to Western Resources' gas business in Kansas and Oklahoma, a limited jurisdiction certificate authorizing the transportation of gas between ONEOK and MGE Southern Union on a no-fee exchange basis (October 1997 Order).³ At the present time, Applicants state, a limited number of ONEOK's retail customers located in Wyandotte County, Kansas and Delaware and Ottawa Counties, Oklahoma continue to receive a supply of gas through MGE Southern

¹ *Western Resources, Inc., et al.*, 66 FERC ¶ 61,032 (1994).

² The No-Fee Gas Exchange Agreement is provided as Exhibit Q to the application.

³ *Western Resources, Inc., et al.*, 81 FERC ¶ 61,123 (1997).

Union's facilities in Missouri. MGE Southern Union states that the Kansas and Oklahoma customers of ONEOK served under their No-Fee Gas Exchange Agreement are not physically connected to other ONEOK facilities in Kansas and Oklahoma and that MGE Southern Union has been informed by ONEOK that there is no practical or economical alternative to serve these customers except through MGE Southern Union's facilities in Missouri.

MGE Southern Union states that its customers who originally received gas deliveries under the No-Fee Gas Exchange Agreement ceased to be customers of MGE Southern Union a number of years ago. Thus, at the present time, the deliveries of gas under the No-Fee Gas Exchange Agreement are only going to customers of ONEOK. The volumes delivered by MGE Southern Union to serve ONEOK's customers are repaid pursuant to the balancing provisions of the No-Fee Gas Exchange Agreement, Section 3.04 and Article VI, which provide for ONEOK to cause such volumes to be delivered to MGE Southern Union at an interconnection between MGE Southern Union and its serving pipeline.

Applicants state that the authorizations requested originate from a need to serve a small number of stranded customers. They further state that, other than a decrease in the number of customers served, there are no material changes from previous authorizations approved by the Commission: granting abandonment; issuing limited jurisdiction certificates; determining that the non-jurisdictional status of the remainder of the applicants' facilities and operations would not be affected; and waiving the requirements of Part 154 of the Commission's regulations for as long as the applicants do not charge a fee for the exchange. Thus, Applicants request such authorizations herein to allow Laclede to succeed MGE Southern Union in transporting gas to provide service to ONEOK's stranded customers.

Notice and Interventions

Notice of the application was published in the *Federal Register* on June 20, 2013 (78 Fed. Reg. 37,213). ONEOK filed a timely motion to intervene. Timely, unopposed motions are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214 (2012)). No other interventions, comments or protests were filed.

ONEOK comments in support of the application, explaining that its divisions – Kansas Gas Service and Oklahoma Natural Gas – are engaged in the local distribution of natural gas in Kansas and Oklahoma, respectively. ONEOK states that it continues to require the no-fee gas exchange to provide service to a few customers in Kansas and

Oklahoma located near the Missouri border.⁴ Because of the locations of the stranded customers and the small volumes involved, ONEOK avers that it is not economically feasible for it to serve these customers by constructing direct connections to its Kansas and Oklahoma distribution facilities.

ONEOK states that its Kansas customers are located in a portion of Kansas City, Kansas that is east of the Kansas River but west of the border with Missouri, such that ONEOK would need to construct an uneconomic distribution pipeline under the Kansas River to serve them. ONEOK further states that its customers in Oklahoma are located in rural areas remote from ONEOK's distribution facilities but near MGE Southern Union's facilities in the nearby towns of Seneca and South West City, Missouri from which they can be served more efficiently than if ONEOK built connecting distribution lines.

Environmental

Environmental review of this proposal confirms that this action does not involve the environment. No facilities are proposed to be physically constructed or abandoned in this application. The proposal merely seeks authority necessary to continue to provide service to stranded customers.

Findings

At a hearing held on the date above, there was received and made part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein.

As discussed above, the Commission has ruled on requests for identical authorizations related to this specific no-fee exchange service in prior orders. The Commission in the January 1994 Order issued MGE Southern Union a limited jurisdiction certificate to serve certain customers in Kansas and Oklahoma from supplies connected to its Missouri facilities pursuant to a No-Fee Gas Exchange Agreement. In the October 1997 Order, the Commission granted Western Resources abandonment of its limited jurisdiction certificate while granting ONEOK a corresponding limited jurisdiction certificate to step into Western Resources' shoes and continue service to certain customers in Missouri from supplies connected to its Kansas facilities pursuant to the No-Fee Gas Exchange Agreement. In both prior orders, the Commission determined that the limited jurisdiction certificate holder would not have the remainder of its non-jurisdictional facilities and operations made subject to the Commission's jurisdiction and,

⁴ ONEOK notes that the gas volumes for the stranded Kansas customers totaled 8,876 Mcf in 2011 and 5,726 Mcf in 2012. The gas volumes for the stranded Oklahoma customers totaled 4,708 Mcf in 2011 and 3,683 Mcf in 2012.

further, waived the requirements of Part 154 of the Commission's regulations for as long as no fee is charged for the exchange service. There is no evidence of any material change in circumstances since the previous authorizations were approved by the Commission. However, it is noted that the total volumes involved in the no-fee exchange service to the Kansas and Oklahoma customers have declined to less than 10,000 Mcf for the entire year of 2012 while service to the Missouri customers has ceased.

An agreement is pending whereby Laclede will acquire MGE Southern Union's assets. Applicants request the necessary authorizations, as granted in prior orders, to allow Laclede to step into MGE Southern Union's shoes with respect to providing the no-fee exchange service. ONEOK maintains that service to its stranded customers in Kansas and Oklahoma cannot continue to be provided economically except pursuant to the No-Fee Gas Exchange Agreement to which Laclede seeks to succeed. Further, the volumes involved in the no-fee exchange service are very small.

For the above reasons, abandonment by MGE Southern Union of its limited jurisdiction certificate authorization and issuance to Laclede of a corresponding limited jurisdiction certificate are required by the public convenience and necessity. In addition, it is not in the public interest to subject Laclede to all of the regulatory requirements applicable to conventional natural gas pipeline companies since, absent this transaction, it is a local retail distributor subject to state regulation. Thus, it is determined that issuance to Laclede of a limited jurisdiction certificate for the above described purpose will not affect its otherwise non-jurisdictional status as long as no fee is charged by Laclede for the exchange service. Further, Laclede's request for waiver of the requirements under Part 154 of the Commission's regulations is granted.

This action is taken under 18 CFR § 375.308 and it is ordered that:

(A) Permission for and approval of abandonment of MGE Southern Union's limited jurisdiction certificate authorization, as more fully described in this order and in the application, is granted.

(B) MGE Southern Union shall notify the Commission within 10 days of the abandonment.

(C) A limited jurisdiction certificate of public convenience and necessity is issued to Laclede authorizing Laclede to transport interstate gas on a no-fee exchange basis to serve certain customers of ONEOK located in Kansas and Oklahoma, as more fully described in this order and in the application.

(D) Laclede's request for waiver of the requirements of Part 154 of the Commission's regulations, as described in the order and in the application, is granted, so long as no fee is charged for the exchange service.

(E) The limited jurisdiction certificate issued in Ordering Paragraph (C) above is conditioned upon Laclede's compliance with all applicable Commission regulations and in particular with subsections (a) and (e) of section 157.20 of the Commission's regulations.

(F) The authorizations granted herein are conditioned upon implementation within one year of the date of this order.

(G) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order pursuant to 18 CFR § 385.713.

Michael J. McGehee
Director
Division of Pipeline Certificates
Office of Energy Projects