

RECEIVED

MAR 28 2012

March 26, 2012

PUBLIC SERVICE COMMISSION

Via US Mail

Mr. Darrell Nitschke
Executive Director
North Dakota Public
Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

In re: ONEOK Rockies Midstream, L.L.C.
Stateline Natural Gas Liquids Pipeline Project
Williams County
Case No. PU-11-683
Our File No. 72-530-001

Dear Mr. Nitschke:

Please find enclosed the proposed Findings of Fact, Conclusions of Law and Order in the captioned case.

If you have any questions, please let me know.

Very truly yours,



John W. Morrison

lh
enc.

cc: Michael Dailey (*via e-mail*)

27 **PU-11-683** Filed: 3/28/2012 Pages: 14
Proposed Findings of Fact, Conclusions of Law and Order

ONEOK Rockies Midstream, L.L.C.
John Morrison, Crowley Fleck PLLP

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

ONEOK Rockies Midstream, L.L.C.
Stateline to Riverview NGL Pipeline
Williams County
Siting Application

Case No. PU-11-683

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

March __, 2012

Appearances

Appearances: John W. Morrison, Attorney at Law, Crowley Fleck, PLLP, 400 East Broadway, Suite 600, Bismarck, North Dakota 58501, on behalf of the Applicant, ONEOK Rockies Midstream, L.L.C.

Matthew A. Sagsveen, Assistant Attorney General, 600 E. Boulevard, Dept. 125, Bismarck, ND 58505, on behalf of the Public Service Commission.

Patrick Fahn, Director- Compliance and Competitive Markets Division, North Dakota Public Service Commission, 600 East Boulevard, Bismarck, North Dakota 58505

Allen C. Hoberg, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street, Suite 303, Bismarck, North Dakota 58503, as Substantive Hearing Officer.

Preliminary Statement

Under North Dakota Century Code §49-22-07, a utility may not begin construction of a transmission facility in the state without first having obtained a route permit. The facility must be constructed, operated, and maintained in conformity with the permit and any terms, conditions, or modifications of the permit.

On October 21, 2011, ONEOK Rockies Midstream, L.L.C. (“ONEOK”) filed a Letter of Intent with the Public Service Commission (“Commission”). ONEOK proposes to construct

approximately 53 miles of 10.75 inch diameter pipeline, of which approximately 13 miles will be located in Williams County, North Dakota, with the remainder located in Richland County, Montana (the "Pipeline"). The Pipeline is proposed to transport natural gas liquids ("NGLs") from the tailgate of the Stateline 1 and 2 Gas Processing Plants (the "Plants"), near Williston, North Dakota, to a point on the North Dakota/Montana border and then to the Riverview Rail Terminal (the "Terminal") in Richland County, Montana.

On November 23, 2011, the Commission acknowledged ONEOK's Letter of Intent, shortened the waiting period for filing the siting application to thirty days, and assessed a filing fee of \$30,000.00.

On December 22, 2011, ONEOK filed a combined application for a certificate of corridor compatibility and route permit authorizing the construction of the Pipeline. As part of its application, ONEOK requests that the Commission waive the procedures set forth in North Dakota Century Code §§ 49-22-08 and 49-22-08.1 to allow a single consolidated application for a corridor certificate and a route permit for this project. ONEOK further requests that the Commission reduce the minimum width of the corridor for this project, from 1.3 miles, as required by North Dakota Administrative Code § 69-06-04-02, to one mile.

On February 7, 2012, ONEOK filed a supplemental page to the application.

On February 7, 2012 the Commission requested the Director of the Office of Administrative Hearings to appoint an Administrative Law Judge to preside as a substantive hearing officer in this case. On February 9, 2012, Allen C. Hoberg was designated as administrative law judge to conduct the hearing, make recommended findings of fact and conclusions of law, and issue a recommended order.

On February 17, 2012, the Commission found that the application of ONEOK was complete and issued a Notice of Filings and Notice of Hearing for a public hearing for March 23, 2011, at 10:00 a.m. CDT at the Williston City Hall, 22 East Broadway, Williston, North Dakota, 58801. The issues to be considered in this matter include:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects such that adherence to the procedures and time schedules may be waived?
2. Is it appropriate for the Commission to waive any procedures and time schedules as requested in the application?
3. Will the location, construction, and operation of the proposed facilities produce minimal adverse affects on the environment, natural resources, and upon the welfare of the citizens of North Dakota?
4. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
5. Will the proposed facility locations minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion?

Having allowed all interested persons an opportunity to be heard and having heard, reviewed and considered all testimony and evidence presented, the Commission makes the following:

Findings of Fact

1. ONEOK is a Delaware limited liability company with its principal place of business located at 100 W. 5th Street, Tulsa, Oklahoma.
2. ONEOK is in the process of constructing the Plant and also operates the Terminal.
3. As a by-product of processing natural gas at the Plant, NGLs will be available at the tailgate of the Plant. ONEOK proposes to construct a new 10.75-inch line approximately 13 miles from the Plant to a point on the North Dakota/Montana border and then on to the Terminal, a total distance of 53 miles, to transport the NGLs to a location where they can be shipped by railcar. The capacity of the Pipeline will be approximately 61,000 barrels per day. The proposed route was chosen to collocate the Pipeline route between two fixed assets within existing corridors to the extent possible, and approximately 2.5 miles of the 13 miles located within North Dakota parallels an existing pipeline route.
4. The Pipeline will provide firm, reliable service for 61,000 barrels of NGLs per day from the Plants to the Terminal. The Terminal allows the NGLs to be shipped by rail to end users until 2013 when a new pipeline will be constructed to ship product from the Terminal. Without a means of transporting the NGLs to market, the Plants, which have already been sited by the Commission and are currently being constructed, would either be unable to operate or would be required to operate at significantly reduced volumes.
5. Alternatives to construction of the Pipeline consist of trucking or shipping the NGLs by rail to the Terminal. Trucking the 61,000 barrels which can be carried in the Pipeline would require approximately 270 trucks per day to be loaded at the Plants, driven to the Terminal, and unloaded at the Terminal. This level of trucking activity would result in

unacceptable wear and tear of infrastructure, would unduly burden area residents, and would render the operation of the Plants susceptible to interruption as a result of inclement weather, road repairs, and load restrictions. There is not sufficient space in the vicinity of the Plants to construct a rail loading rack, and the construction of a rail spur and loading rack to connect the Plants to the Terminal would result in a significantly greater environmental burden than the Pipeline.

6. The Pipeline will contain block valves, including 3 located in North Dakota, which will allow for segments of the Pipeline to be segregated for inspection and maintenance as well as in the event of a system failure. There will be a single pumping station for the Pipeline which will be located at the Plants. A supervisory control and data acquisition (“SCADA”) system will report pipeline operations and facilitate early response to any breach or failure of the Pipeline. ONEOK has personnel available at locations along the entire route to respond to any conditions 24 hours a day, seven days a week.
8. During construction, ONEOK will generally require a construction corridor of 100 feet. All construction work will occur within the construction corridor. After completion of construction, the right of way will be reduced to 50 feet.
9. The design, construction, and operation of the Pipeline will conform to the Department of Transportation regulations contained in 49 CFR Part 195-Transportation of Hazardous Liquids by Pipeline. To the extent a response plan is required by 49 CFR Part 194 – Response Plans for Onshore Pipelines, ONEOK will file the applicable response plan.
11. The workforce required to construct the Pipeline peak at approximately 100 personnel of which 10 percent could be local hires. Those workers will have a significant positive

impact on the local economy. After construction is complete, the project will add to the tax base of McKenzie County.

12. North Dakota Administrative Code Chapter 69-06-08 sets forth certain criteria to guide the Commission in evaluating the suitability of granting an application for a certificate of corridor compatibility and route permit. The criteria as set forth in North Dakota Administrative Code Section 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria and Policy Criteria. A transmission facility route must not be sited within an Exclusion Area. A transmission facility route must not be sited within an Avoidance Area unless the applicant demonstrates that under the circumstances there are no reasonable alternatives. In determining whether an Avoidance Area shall be designated for a facility, the Commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative routes. In accordance with the Commission's Selection Criteria, a transmission route shall be approved if it is demonstrated that no significant adverse impacts will result from the location, construction, and maintenance of the transmission facility. In accordance with the Commission's Policy Criteria, preference may be given to an applicant demonstrating certain benefits of the transmission facility.
13. ONEOK evaluated a one-mile wide corridor centered on the proposed route for the exclusion, avoidance, selection and policy criteria of the Commission.

Historic, Scenic, Archeological and Paleontological Sites and Areas

14. ONEOK conducted Class I and Class III surveys of the corridor which identified 3 previously recorded cultural resources and 17 newly recorded cultural resources within the corridor. To mitigate any impact to these resources, ONEOK proposed a plan which will avoid any of these resources so that no further mitigation is required. The plan has been approved by the State Historic Preservation Officer.
15. There are no designated or registered national parks, national memorial parks, national historic sites or landmarks, national natural landmarks, national monuments, national wilderness areas, or designated or registered state parks, state historic sites, state historical markers, or state nature preserves within the proposed corridor.
16. There are no national historic districts; national wildlife areas; national wild, scenic or recreational rivers; national wildlife refuges; national grasslands or designated or registered state wild, scenic or recreational rivers; state game refuges; state game management areas; state forests; state forest management lands; or state grasslands within the proposed corridor.

Vegetation and Wildlife

17. ONEOK, through its consultants, conducted investigations to determine the potential impact of the pipeline upon vegetation and plant species, including obtaining information and input from the North Dakota Game and Fish Department, the United States Fish and Wildlife Service, and the North Dakota Parks and Recreation Department. Botany and wildlife surveys were conducted along the entire proposed route.

18. There are no areas critical to the lifestages of threatened or endangered animal or plant species or areas where animal or plant species that are unique or rare to North Dakota would be irreversibly damaged.
19. The United States Fish and Wildlife Service (“Service”) recommended that ONEOK blade the entire construction right-of-way to remove potential habitat for migratory birds. ONEOK’s expert witness testified that in the past, the Bismarck Office of the Service has recognized that mowing the right-of-way was a sufficient means of habitat manipulation to prevent migratory bird nesting and that mowing would cause less erosion and other adverse environmental impacts.
20. Any impact on vegetation and wildlife from construction of the pipeline will be temporary.

Other Exclusion and Avoidance Criteria

21. The Pipeline is not located within 500 feet of any residence, school or place of business.
22. The Pipeline will not affect any reservoirs or municipal water supplies or water sources for organized rural water districts.

Woodlands and Wetlands

23. The Pipeline will cross eight forested upland and shrubland areas. ONEOK will minimize the clearing of any wooded areas and will comply with the Commission’s Tree and Shrub Mitigation Specifications.
24. The proposed pipeline will not cross any water bodies but three wetlands are located within the 100 foot wide construction corridor. ONEOK will implement appropriate

mitigation at these locations including avoidance through workspace modification, horizontal directional drilling or the use of construction mats and other best management practices.

Other Selection Criteria

25. Agricultural and pasture land is located along the route and approximately 27% of the 388 acres which will be temporarily impacted by construction is cultivated land. Construction impacts will be temporary and landowners will be compensated for such impacts. After construction, agricultural lands will be returned to preconstruction uses.
26. Any impact to family farm operations associated with construction of the Pipeline will be temporary.
27. Any impact the pipeline's construction activities will have on surface drainage and groundwater flow patterns will be temporary.
28. Other than temporary noise associated with construction and the short-term visual effects resulting from construction, the project will not have any impact on noise sensitive land uses or visual effects on the adjacent area.
30. No extractive or storage resources have been identified which will be affected by the project.
31. North Dakota Century Code Chapter 49-23, the One-Call Excavation Notice System, sets forth requirements for excavators as well as operators of underground facilities for the avoidance of damage to underground facilities including requirements that excavators contact the one-call notification center and provide an excavation or location notice at least 48 hours before beginning any excavation, and that the excavator notify the operator

as soon as reasonably possible if any damage occurs to an underground facility or its protective covering. The Commission believes that ONEOK should notify the Commission as soon as reasonably possible of such damage to an underground facility during construction conducted under permit issued in this proceeding. A permit granted under North Dakota Century Code Chapter 49-22-is subject to suspension or revocation, after hearing, for failure to comply with the requirements of North Dakota Century Code Chapter 49-23.

32. North Dakota Century Code § 49-22-07.2 authorizes the Commission to waive procedures, time schedules, and public hearings otherwise required by the Siting Act, when the Commission finds that a proposed facility is of such length, design, location or purpose that it will produce minimal adverse effects.
33. The anticipated cost of the proposed pipeline is \$6,000,000.

From the foregoing Findings of Fact, the Commission now makes its:

Conclusions of Law

1. The Commission has jurisdiction over the applicant, ONEOK, and over the subject matter of this application under North Dakota Century Code Chapter 49-22.
2. ONEOK is a utility as defined in North Dakota Century Code Section 49-22-03(13).
3. The pipeline proposed by ONEOK is a transmission facility as defined in North Dakota Century Code Section 49-22-03(12).
4. The location, construction, and operation of the proposed pipeline will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.

5. The proposed pipeline corridor and route are compatible with the environmental preservation and the efficient use of resources.
6. The proposed pipeline corridor and route will minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.
7. The proposed project is of such design and location that it will produce minimal adverse effects, as defined under North Dakota Century Code Section 49-22-07.2.

From the foregoing Findings of Fact and Conclusions of Law, the Commission now makes its:

Order

The Commission orders:

1. ONEOK's application for waiver of procedures and time schedules is granted.
2. ONEOK is issued Certificate of Corridor Compatibility for a Transmission Facility Corridor No. ____ and Route Permit for Construction of a Transmission Facility No. ____ to construct the 13 -mile 10.75-inch diameter pipeline. The route that is approved for this purpose is the route identified on Appendix B to the Application which was marked as Exhibit 1 at the hearing.
3. ONEOK shall obtain approval from the Commission or Commission staff prior to any changes or deviations to the pipeline route.
4. The Certificate of Compatibility for a Transmission Facility Corridor No. ____ and Route Permit for Construction of a Transmission Facility No. ____ are effective for the life of

the Pipeline, but are subject to modification by order of the Commission if deemed necessary to further protect the public or the environment.

5. ONEOK shall comply with all the rules and regulations of all other agencies having jurisdiction over any phase of the proposed project. Prior to commencing construction of any phase of the proposed project, ONEOK shall obtain all other necessary licenses and permits for construction of such phase, and provide copies to the Commission prior to construction of each phase.
6. ONEOK shall conduct a preconstruction conference to be held prior to the commencement of any construction. The conference must include a ONEOK representative, ONEOK's construction supervisor, and Commission staff, to ensure that ONEOK fully understands the conditions set forth in this order.
7. ONEOK shall comply with the Certification Relating to Order Provisions – Pipeline Siting filed in this proceeding and attached hereto.
8. ONEOK shall notify the Commission as soon as reasonably possible if any damage, as defined by North Dakota Century Code Chapter 49-23, occurs to underground facilities during construction conducted under the certificate issued in this proceeding. In the event of any damage to underground facilities, ONEOK shall suspend construction in the vicinity of the damage until compliance with One-Call Excavation Notice System requirements under North Dakota Century Code Chapter 49-23 has been determined and clearance to proceed has been given by the Commission.
9. The route permit is subject to suspension or revocation and may, after hearing, be suspended or revoked for failure to comply with the Commission's order, requirements of

the One-Call Excavation Notice System under North Dakota Century Code Chapter 49-23, the conditions and criteria of the permit or subsequent modification, or failure to comply with applicable statutes or rules, regulations, standards, and permits of other state or federal agencies.

Dated this ___ day of April, 2012.

PUBLIC SERVICE COMMISSION

Tony Clark
Commissioner

Kevin Cramer
Commissioner

Brian P. Kalk
Commissioner