

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Tesoro High Plains Pipeline Company LLC
12-inch Crude Oil Pipeline – McKenzie County
Siting Application

Case No. PU-15-720

RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

February 23rd, 2016

Appearances

Danielle Krause, Attorney at Law, Fredrikson & Byron, P.A., 1133 College Drive, Suite 1000, Bismarck, North Dakota 58501, on behalf of Tesoro High Plains Pipeline Company LLC.

John Schuh, Special Assistant Attorney General, Legal Counsel for Public Service Commission, 600 E. Boulevard Ave., Dept. 408, Bismarck, North Dakota 58505.

Patrick J. Ward, Administrative Law Judge, Office of Administrative Hearings, 316 North Fifth Street, Bismarck, North Dakota 58503, as Substantive Hearing Officer.

Preliminary Statement

On November 5, 2015, Tesoro High Plains Pipeline Company LLC (“Tesoro”), filed with the North Dakota Public Service Commission (“Commission”) a consolidated application for a Certificate of Corridor Compatibility and Route Permit (“Application”) for an approximately 1.4-mile, 12-inch crude oil pipeline and associated facilities in McKenzie County, North Dakota (the “Project”). The Project will transport crude oil between Tesoro’s existing main trunk line and the Targa Resources, Inc. surface site and associated facilities in McKenzie County, North Dakota.

Also on November 5, 2015, in connection with the Application, Tesoro filed an application for waiver of procedures and time schedules established under North Dakota Century Code sections 49-22-07.2, 49-22-08, 49-22-08.1, 49-22-13, and North Dakota Administrative Code chapter 69-06-06 and section 69-06-01-02, requiring separate filings and applications for a certificate of corridor compatibility and a route permit, separate notice of such applications, separate hearings on such applications, and certain time schedules.

On December 16, 2015, the Commission deemed Tesoro’s Application complete and issued a Notice of Filings and Public Hearing (“Notice”) scheduling a hearing for February 11, 2016, at 11:30 a.m. Central Time at Teddy’s Residential Suites, 113 9th Avenue SE, Watford City, North Dakota 58854.

The Notice identified the following issues to be considered with respect to the application for waiver of procedures and time schedules:

1. Are the proposed facilities of such length, design, location, or purpose that they will produce minimal adverse effects and that adherence to applicable 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?

The Notice identified the following issues to be considered with respect to the Application:

1. Will the location and operation of the proposed facilities produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Are the proposed facilities compatible with the environmental preservation and the efficient use of resources?
3. 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?

On February 11, 2016 the hearing was held as scheduled.

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

Findings of Fact

1. Tesoro is a Delaware limited liability company authorized to do business in the State of North Dakota, as evidenced by the corporate papers filed with the Commission on April 1, 2011, in Case No. PU-11-229.

Need for the Facility

2. Tesoro concluded there is a need for the Project because the Project will allow a connection between the Targa surface site and Tesoro's existing mainline. The construction of the Project as an interconnection would have a positive effect on efficient transportation of crude oil and would relieve some of the impacts resulting from trucking the crude oil.
3. The Project will enable Tesoro to more fully utilize its existing pipeline system, increase the storage and transportation capabilities of its system, and provide increased flexibility in transporting Bakken crude oil to Tesoro's Mandan Refinery and other customer outlets for various crude oil producers.

Size, Type, and Preferred Location of Facility

4. The Project will consist of approximately 1.4 miles of 12-inch diameter steel pipeline to be located in McKenzie County, North Dakota.
5. The Project will be constructed between the Targa Resources, Inc. surface site and the existing Tesoro main trunk line.
6. The pipe to be used for the Project will have a wall thickness of 0.375 inches. The maximum operating pressure of the pipeline will be 1,440 pounds per square inch.
7. The maximum design flow rate of the Project will be 75,000 barrels of oil per day.
8. Above-ground facilities will consist of meter and receipt facilities within the Targa facility location, along with associated pigging and automation controls required for operation. Tap and pig receiving equipment will be installed adjacent to Tesoro's existing 12-inch main line.
9. The design, construction, and operation of the pipeline will be in accordance with the United States Department of Transportation ("USDOT") regulations governing the transportation of crude oil, including USDOT regulations as set forth in 49 Code of Federal Regulations Part 195.
10. The total anticipated cost of the Project is approximately \$8.9 million.

Study of Preferred Location

11. Tesoro evaluated a one-mile-wide study area centered on the route ("Study Area") for exclusion and avoidance areas, wetlands and waterbodies, wildlife, trees and shrubs, and natural and cultural resources.
12. Field surveys were conducted on a 400-foot-wide area centered on the route ("Survey Area") to inventory any potential resource issues such as wetlands, water bodies, protected species, critical habitats, and/or cultural resources. Additionally, environmental data collected included information on soils, land use, wetlands and waterbody crossings, noxious weeds, and protected species and habitats.
13. Tesoro conducted a Class I cultural resource literature search on the Study Area and a Class III cultural resources field inventory on the Survey Area.
14. The following agencies were contacted by Tesoro regarding the Project: United States Fish and Wildlife Service; North Dakota Game and Fish Department ("NDGFD"); North Dakota Parks and Recreation Department ("NDPRD"); North Dakota State Historic Preservation Office ("SHPO"); North Dakota Department of Health; United States Army Corps of Engineers; North Dakota Aeronautics Commission; North Dakota Department of Vocational Education; North Dakota Highway Department; North Dakota Indian Affairs Commission; North Dakota State Water Commission; North Dakota Pipeline Authority; North Dakota Office of Attorney General;

North Dakota Department of Human Services; North Dakota Department of Commerce; North Dakota Geological Survey; North Dakota Department of Transportation (“NDDOT”); Job Service North Dakota; Division of Community Services; North Dakota Industrial Commission; Federal Aviation Administration; McKenzie County Commission; North Dakota Department of Agriculture; North Dakota Department of Labor; Energy Development Impact Office; Office of the Governor; North Dakota State Land Department; North Dakota State Soil Conservation Committee; United States Department of Defense; and North Dakota Transmission Authority.

15. In a response dated June 30, 2015, the NDPRD indicated that the Project will not affect state park lands managed by the NDPRD or Land and Water Conservation Fund recreation projects coordinated by the NDPRD.

16. In a response dated July 2, 2015, the NDGFD indicated that wetlands are located within the proposed project corridor, and recommended steps be taken to protect wetlands, that no alterations be made to existing drainage patterns, that above-ground appurtenances not be placed in wetland areas, and that unavoidable destruction or degradation of wetland acres be mitigated in kind. The NDGFD further indicated that the Project should not have any significant adverse effects on wildlife or wildlife habitat, including species of concern, provided the recommendations of the NDGFD are implemented where appropriate and disturbed areas are reclaimed to pre-project conditions.

17. In a response dated July 14, 2015, the SHPO concurred with a “No Historic Properties Affected” recommendation for the Project, provided the Project remains as described and mapped in the Class III cultural resource report.

18. In a response dated January 13, 2016, the NDDOT indicated that the Project should have no adverse effect on the NDDOT highways.

Siting Criteria

19. The Commission has established criteria pursuant to North Dakota Century Code Section 49-22-05.1 to guide the Commission in evaluating the suitability of granting 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.

20. Tesoro evaluated the Project for the Exclusion, Avoidance, Selection, and Policy criteria of the Commission.

21. An Exclusion Area may not encompass more than fifty percent of a corridor width unless there is no reasonable alternative. An Exclusion Area must be excluded in the consideration of a route for a transmission facility. A buffer zone of a reasonable width to protect the integrity of an Exclusion Area must be included in the siting of the transmission facility.

22. Designated or registered state parks, historic sites, monuments, historical markers, archaeological sites, and nature preserves are considered to be Exclusion Areas. One

architectural site is located in the Survey Area, but this area is not crossed by the route. The SHPO has issued its concurrence with the proposed route.

23. No other Exclusion Areas are present within the Survey Area.

24. An Avoidance Area is a geographic area that may not be considered in the routing of a transmission facility unless the applicant shows that, under the circumstances, there is no reasonable alternative. In determining whether an Avoidance Area should be designated for a transmission 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.

25. No Avoidance Areas are present within the Survey Area.

26. Wetland surveys and a jurisdictional determination were completed for the proposed route. Wetlands are present within the Survey Area and will be crossed by the route. Tesoro will take steps to protect wetlands and waterbodies, and no permanent impacts to wetlands or waterbodies are anticipated.

27. In accordance with the Commission's Selection Criteria, a transmission facility route shall be approved if it is demonstrated that any significant adverse effects that will result from the location, construction, and maintenance of the transmission facility will be at an acceptable minimum or managed and maintained at an acceptable minimum. Tesoro has analyzed the impacts of the Project in relation to all of the relevant Selection Criteria. The Project will have no significant adverse effects on the Commission's Selection Criteria.

28. In accordance with the Commission's Policy Criteria, preference may be given to an application demonstrating certain benefits of the transmission facility. Tesoro has analyzed the relevant policy criteria and has committed to: designing, constructing, and operating the pipeline in accordance with all applicable federal, state, and local laws and regulations; energy conservation through the facility's location, process, and design; training and utilizing available labor in the state; constructing the Project to take advantage of economies of scale; achieving capacity in the most minimally intrusive and most efficient way possible; and coordinating with state and local officials. Tesoro submitted evidence to demonstrate its commitment to maximize the benefits of the proposed transmission facility to the extent possible so as to meet the Policy Criteria.

Measures to Minimize Impact

29. Tesoro has agreed to a number of steps to mitigate the impact of the Project, as indicated by the executed Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications, which is incorporated by reference and attached to this Order.

30. Tesoro testified that a supervisory control and data acquisition system ("SCADA") will be installed as part of the Project. Operations will be continuously monitored by a control center in San Antonio, Texas, which will have the ability to remotely shut down the Project.

31. Tesoro testified that trained emergency response personnel, along with spill response equipment, will be located in Watford City, North Dakota.

32. Tesoro testified that it participates in the North Dakota One-Call Excavation System.

33. Tesoro testified that all landowner easements needed for construction of the Project have been obtained.

34. The design, construction, and operation of the Project will be in accordance with the United State Department of Transportation regulations governing the transportation of crude oil, including U.S. Department of Transportation regulations as set forth in 49 C.F.R. Part 195.

From the foregoing Findings of Fact, the Hearing Officer now makes the following:

Conclusions of Law

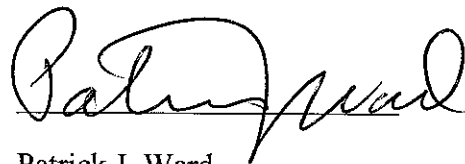
1. The Commission has jurisdiction over Tesoro and the subject matter of the Application under Chapter 49-22 of the North Dakota Century Code.
2. Tesoro is a utility as defined in Section 49-22-03(13) of the North Dakota Century Code.
3. The Project is a transmission facility as defined in North Dakota Century Code Section 49-22-03(12).
4. The location, construction, and operation of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota.
5. The location, construction, and operation of the Project are compatible with environmental preservation and the efficient use of resources.
6. The Project 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 Project is of such design and location that it will produce minimal adverse effects, as defined under Section 49-22-07.2 of the North Dakota Century Code.
8. The Project is of such design and location that it will produce minimal adverse effects, and, therefore, it is appropriate for the Commission to waive those certain procedures and time schedules as requested in the waiver application under North Dakota Century Code Section 49-22-07.2 and North Dakota Administrative Code Chapter 69-06-06.

From the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer now issues the following:

Recommended Order

1. Tesoro's application for a waiver of procedures and time schedules is granted.
2. Certificate of Corridor Compatibility No. ___ is issued to Tesoro High Plains Pipeline Company LLC, designating a corridor for the construction, operation, and maintenance of approximately 1.4 miles of 12-inch diameter crude oil pipeline and associated facilities in McKenzie County, North Dakota. The Corridor will consist of a 400-foot-wide corridor centered on the pipeline route as surveyed.
3. Route Permit No. ____ is issued to Tesoro High Plains Pipeline Company LLC designating a route for the construction, operation, and maintenance of approximately 1.4 miles of 12-inch diameter crude oil pipeline and associated facilities in McKenzie County, North Dakota. For purposes of the Permit, the designated route is the proposed route depicted in Appendix A-3 of the Consolidated Application.
4. The February 9, 2016, Certification Relating to Order Provisions – Transmission Facility Siting ("Certification"), with accompanying Tree and Shrub Mitigation Specifications, is incorporated by reference and attached to this Order.
5. To the extent that there are any conflicts or inconsistencies between Tesoro's Applications in this proceeding and the Certification, the Certification provisions control.

Dated at Bismarck, North Dakota this 23rd day of February 2016.



Patrick J. Ward
Administrative Law Judge
Office of Administrative Hearings

