

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**ONEOK Rockies Midstream, L.L.C.
12-inch Cherry Creek Lateral Pipeline
McKenzie & Williams Counties – Siting Application**

Case No. PU-17-483

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

April __, 2018

Appearances

Commissioners Randy Christmann, Julie Fedorchak, and Brian Kroshus.

Wade C. Mann and Casey A. Furey, Attorneys at Law, Crowley Fleck, PLLP, 100 West Broadway, Suite 250, Bismarck, North Dakota 58502, on behalf of ONEOK Rockies Midstream, L.L.C.

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

Patrick Ward, Administrative Law Judge, Office of Administrative Hearings, 2911 North 14th Street-Suite 303, Bismarck, North Dakota 58503, as Procedural Hearing Officer.

Preliminary Statement

On December 14, 2017, ONEOK Rockies Midstream, L.L.C. (“ONEOK”), filed with the North Dakota Public Service Commission (“Commission”), a consolidated application (“Application”) for a Certificate of Corridor Compatibility and Route Permit concerning the conversion to a transmission line of an approximately 45-mile, 12-inch existing natural gas gathering pipeline, and associated facilities, with origin at ONEOK’s existing Lonesome Creek Plant in McKenzie, North Dakota, and a terminus at ONEOK’s existing Stateline Plant in Williams County, North Dakota (“Project”).

Also on December 14, 2017, ONEOK filed an application for waiver of procedures and time schedules established under North Dakota Century Code sections 49-22-16(2)(d), 49-22.1-05, 49-22.1-10, 49-22.1-06, 49-22.1-07, 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 January 9, 2018, through January 12, 2018, ONEOK filed supplemental information with respect to the Application.

On January 11, 2018, the Commission issued a Notification of Application pursuant to North Dakota Century Code section 49-22-16(2)(d).

On January 31, 2018, the Commission deemed ONEOK's applications complete and issued a Notice of Filings and Public Hearing scheduling a hearing for March 6, 2018, at 9:00 a.m. Central Time at the Ernie French Center, North Dakota State University Williston Research Extension Center, 14120 Hwy. 2, Williston, North Dakota 58801.

Due to severe weather and dangerous travel conditions, the Commission postponed the hearing.

On March 14, 2018, the Commission issued a Notice of Rescheduled Hearing ("Notice"), rescheduling the hearing for April 12, 2018, at 9:00 a.m. Central Time at the Ernie French Center, North Dakota State University Williston Research Extension Center, 14120 Hwy. 2, Williston, North Dakota 58801.

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 facility produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota?
2. Is the proposed facility compatible with the environmental preservation and the efficient use of resources?
3. Will the proposed facility location 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 April 12, 2018, the hearing was held as scheduled.

On April 20, 2018, through April ____, 2018, ONEOK filed Late-Filed Exhibits 17-24.

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. ONEOK has been authorized to do business in the State of North Dakota, as evidenced by the Certificate of Good Standing filed with the Commission on January 10, 2018, Docket No. 8.

Size, Type, and Preferred Location of Facility

2. The Project consists of approximately 45 miles of existing natural gas gathering pipeline located in McKenzie and Williams Counties, North Dakota. The Project includes approximately 38 miles of the Stateline to Rawson gathering pipeline constructed in 2011 and 2012, and approximately 6 miles of gathering pipeline extending from ONEOK's Lonesome Creek Plant to Rawson Junction constructed in 2012. The Project also includes six existing block valves.

3. ONEOK proposes to install remote actuators at two existing block valves north and south of the Missouri River in McKenzie and Williams Counties.

4. ONEOK proposes to convert the existing natural gas gathering pipeline to a natural gas liquids ("NGLs") transmission pipeline. Natural gas collected from oil and gas fields would be delivered to ONEOK's existing Lonesome Creek Gas Plant (PU-14-218), located in McKenzie County, for processing. NGLs produced at the Lonesome Creek Gas Plant would be transported in the converted pipeline to ONEOK's Stateline Gas Plant (PU-10-666) and delivered into ONEOK Bakken Pipeline, L.L.C.'s NGL transmission line.

5. The Project utilizes a 12-inch diameter steel pipeline with a 0.219-inch to 0.25-inch wall thickness. In certain areas, such as road bores and creek bores, the pipe has a wall thickness of 0.312-inches. The proposed Project is capable of transporting up to 50,000 barrels of NGLs per day.

6. The pipeline has a maximum operating pressure of 1,440 pounds per square inch and complies with the applicable portions of Code of Federal Regulations Title 49 Part 195 hazardous liquids pipeline safety standards.

7. The estimated cost of the Project, including the proposed conversion and previously incurred costs associated with initial construction, is approximately \$31 million dollars.

Study of Preferred Location

8. ONEOK studied a minimum 150-foot-wide corridor centered on the Project route ("Corridor"). Studies included cultural and natural resource filed surveys and/or desktop surveys.

9. ONEOK conducted a Class I Cultural Resource Literature Search of a 1-mile wide evaluation corridor centered on the Project route.

10. ONEOK conducted a Class III Cultural Resource Inventory for a majority of the Corridor. Class III cultural resource surveys were conducted on a 50-foot-wide corridor for the areas

identified in Late-Filed Exhibit 21. Cultural resource monitoring was conducted for the construction right-of-way on USACE land.

11. The following agencies provided comments regarding the Project: U.S. Army Corps of Engineers (“USACE”); U.S. Department of Defense; U.S. Department of Agriculture; North Dakota State Historical Preservation Office (“NDSHPO”); North Dakota Department of Parks and Recreation; North Dakota Department of Trust Lands; North Dakota Department of Health; North Dakota Geological Society; North Dakota State Water Commission; North Dakota Game and Fish Department; and, McKenzie County Weed Board.

Siting Criteria

12. The Commission has developed criteria pursuant to North Dakota Century Code section 49-22-05.1 to guide the site, corridor, and route suitability evaluation and designation process. The criteria, as set forth in North Dakota Administrative Code 69-06-08-02 are classified as Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

13. ONEOK evaluated the Project Corridor and route regarding the Exclusion Areas, Avoidance Areas, Selection Criteria, and Policy Criteria.

14. An Exclusion Area may be located within a corridor, but at no given point may such an area or areas encompass more than fifty percent of the corridor unless there is no reasonable alternative.

15. State registered archeological sites are an Exclusion Area. The Project crosses the Buford-Trenton Irrigation Trench District, a cultural resource on record with the NDSHPO. ONEOK testified that during the archaeological monitoring effort, the irrigation trenches were found to already be impacted by their continued use and maintenance.

16. Areas critical to the life stages of threatened or endangered animal or plant species are an Exclusion Area. The Project crosses United States Fish and Wild Life Service designated critical habitat for piping plover located along the Missouri River. The Project avoided direct impacts to this Exclusion Area by the use of horizontal directional drilling (HDD) during installation.

17. ONEOK’s surveys did not record any other known Exclusion Areas within the Project’s Corridor.

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

19. Designated or registered state wildlife management areas are an Avoidance Area. The Project crosses the North Dakota Game and Fish Trenton and Lewis & Clark Wildlife Management

Areas that surround the Missouri River. ONEOK testified that impacts to these areas were avoided by the use of HDD when the pipeline was installed.

20. ONEOK testified that the Application noted other historical resources, not designated as Exclusion Areas, where the pipeline intersects cultural resources. ONEOK further testified that these historical resources are not eligible for listing on the National Register of Historic Places.

21. Areas which are geologically unstable are an Avoidance Area. The Project crosses two landslide deposit areas based on North Dakota Geological Survey data. ONEOK testified that the route was chosen to collocate with an existing utility line corridor and best management practices set forth in its Storm Water Pollution Prevention Plan were implemented in any areas of instability.

22. Areas within five hundred feet of a residence, school, or place of business are an Avoidance Area. ONEOK testified that it identified thirty-seven occupied structures within five hundred feet of the pipeline. ONEOK has obtained waivers for all of these structures and has filed copies with the Commission. *See* Hearing Exhibit 14, Docket No. 64.

23. Reservoirs and municipal water supplies and water sources for organized rural water districts are Avoidance Areas. The pipeline crosses the Missouri River which the USACE has classified as part of the Lake Sakakawea Reservoir and is within the Williston Wellhead Protection Area that is a part of the Western Area Water Supply Authority (“WAWSA”). The pipeline was installed 118 feet beneath the bed of the Missouri River with HDD and ONEOK testified that it is almost six river miles upstream of WAWSA’s water intake structures. ONEOK further testified that ground disturbance from the installation of the automated valve actuators is not expected to have an impact on groundwater.

24. ONEOK’s surveys did not identify any other known Avoidance Areas within the Project Corridor.

25. The Commission’s Selection Criteria is set forth in North Dakota Administrative Code section 69-06-08-02(3). A corridor or route shall be approved only if it is determined that any significant adverse effects that will result from the location, construction and operation of the facility as they relate to the selection criteria will be at an acceptable minimum, or will be managed and maintained at an acceptable minimum. ONEOK analyzed the effects that may result from the location, construction, and operation of the Project to determine that no significant adverse effects will result.

26. The Commission’s Policy Criteria is set forth in North Dakota Administrative Code section 69-06-08-02(4). The Commission may give preference to an applicant demonstrating certain benefits from the proposed transmission facility. ONEOK has committed to maximizing the benefits that result from implementing the policies and practices applicable to the Project.

Measures to Minimize Impact

27. ONEOK has made representations and covenants as indicated by the Certification Relating to Order Provisions – Transmission Facility Siting, with accompanying Tree and Shrub Mitigation Specifications. *See* Hearing Exhibit 2, Docket No. 52.
28. The conversion of the gathering pipeline will minimize environmental disturbance by utilizing existing infrastructure, including access roads, utilities, gathering systems, and delivery and take away pipeline.
29. ONEOK will obtain any necessary permits from the USACE and the North Dakota State Water Commission prior to operating the pipeline as a transmission line.
30. The portion of the pipeline that crosses the Missouri River was bored to a depth of 118 feet below river bottom.
31. ONEOK will obtain any necessary easements and licenses prior to operating the pipeline as a transmission line.
32. ONEOK testified that it will comply with all applicable safety laws and standards.
33. ONEOK will utilize the North Dakota One Call system during construction.

From the foregoing Findings of Fact the Commission makes the following Conclusions of Law:

Conclusions of Law

1. The Commission has jurisdiction over the applicant, ONEOK Rockies Midstream, L.L.C., and over the subject matter of the Application under North Dakota Century Code chapter 49-22.1.
2. ONEOK is a utility as defined in North Dakota Century Code section 49-22.1-01(12).
3. Upon conversion, the Project is a transmission facility as defined in North Dakota Century Code section 49-22.1-01(7).
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 is compatible with the 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. It is appropriate for the Commission to waive those certain procedures and times schedules as requested in the waiver application under North Dakota Century Code section 49-22.1-05 and North Dakota Administrative Code chapter 69-06-06.

From the foregoing Findings of Fact and Conclusions of Law, the Commission makes the following order:

Order

The Commission orders:

1. ONEOK Rockies Midstream, L.L.C.'s application for a waiver of procedures and time schedules is granted.
2. Certificate of Site Compatibility No. ___ is issued to ONEOK Rockies Midstream, L.L.C., designating a corridor for the construction, operation, and maintenance of approximately 45 miles of 12-inch diameter natural gas liquids pipeline and associated facilities in Williams and McKenzie Counties, North Dakota. For purposes of the Certificate, the designated corridor consists of a 150-foot wide area centered on the designated route.
3. Route Permit No. ___ is issued to ONEOK Rockies Midstream, L.L.C., designating a route for the construction, operation, and maintenance of approximately 45 miles of 12-inch diameter natural gas liquids pipeline and associated facilities in Williams and McKenzie Counties, North Dakota. For purposes of the Permit, the designated route is the route of the existing gathering line as depicted in Hearing Exhibit No. 15.
4. The Certification Relating to Order Provisions – Energy Conversion Facility Siting with attached Tree and Shrub Mitigation Specifications executed April 11, 2018, is incorporated by reference and attached to this Order.
5. To the extent there are any conflicts or inconsistencies between ONEOK's Application and the Certification, the Certification provisions control.
6. ONEOK shall obtain all other necessary licenses and permits prior to commencing construction on such portion of the Project for which the license and/or permit is required, and shall provide copies to the Commission.
7. If a spill by ONEOK requires notification to any other state or federal agency, ONEOK will also inform the Commission of such spill within 24 hours of occurrence by leaving a message at the Commission's Toll Free Number, with a follow-up email to the Commission's Executive Secretary.
8. ONEOK is required to comply with all applicable laws, rules, and/or regulations in the event it desires to construct another or a different transmission pipeline than was specified in the Application within the corridor designated in this proceeding.

PUBLIC SERVICE COMMISSION

**Julie Fedorchak
Commissioner**

**Randy Christmann
Chairman**

**Brian Kroshus
Commissioner**