UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

ONEOK WesTex Transmission, L.P. Docket No. PR05-7-000

ORDER APPROVING RATE CHANGE

(Issued June 2, 2005)

1. On January 3, 2005, ONEOK WesTex Transmission, L.P. (WesTex), a Hinshaw pipeline, filed a petition seeking Commission authorization to revise its maximum system-wide rates for interruptible transportation service performed under its blanket certificate, issued pursuant to 18 C.F.R. § 284.224 (2004).[1] The Commission approves WesTex's proposed rate change, effective February 1, 2005. This order benefits customers by providing rate certainty.

I. Background

2. On December 27, 2000, the Commission issued WesTex a blanket certificate of public convenience and necessity under section 284.224 of the Commission's rules and regulations,[2] permitting it to provide interstate transportation under the same terms and conditions as intrastate pipelines are authorized to engage in such activity under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).[3] At least some of the service is performed over facilities WesTex purchased from Westar Transmission Company. The Commission amended that certificate on September 23, 2003 to include WesTex's

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[1] WesTex also included proposed revisions to its Statement of Operating Conditions (SOC). On May 23, 2005, WesTex submitted in Docket No. PR05-7-001 a revised SOC (Revised SOC) and request for expedited procedures. WesTex states that it is authorized to represent that the protestors in this proceeding agree that the Revised SOC resolves their concerns regarding WesTex's proposed changed to certain gas quality standards within the SOC filed January 3, 2005. We will address the revised SOC in a subsequent order.

[2] 18 C.F.R. § 284.224 (2004).

[3] *ONEOK WesTex Transmission, Inc.*, 93 FERC ¶ 62,242 (2000).

provision of service over the Palo Duro pipeline system.[4] In the September 23 Order, the Commission required WesTex to file to report costs and revenues for its entire system by January 1, 2005.[5] WesTex states that its January 3, 2005 filing fulfills that commitment. Specifically, WesTex proposes to revise its current maximum system-wide rate for interruptible transportation from $0.2858/mcf inclusive of fuel to a maximum system-wide rate of $0.1832/MMBtu with a separate fuel retention percentage of 1.5082 percent, effective February 1, 2005. WesTex does not offer firm interstate transportation service.

II. <u>Notice, Interventions and Protests</u>

3. Notice of the filing was issued in the *Federal Register* on January 28, 2005, 70 Fed Reg. 5,987 (2005), with interventions, protests and comments due on February 18, 2005. On February 8, 2005, OTC Petroleum filed a protest without a motion to intervene. On February 11, 2005, WesTex filed an answer to OTC Petroleum's protest. On February 18, 2005, Golden Spread Electric Cooperative, Inc. and GS Electric Generating Cooperative, Inc. (Golden Spread and GS) filed a timely motion to intervene and protest and MGI filed a motion to intervene reserving the right to protest later. On March 3, 2005, WesTex filed a request for leave to answer protest and answer, and, on February 22, 2005, Golden Spread and GS filed a joint and several motion for leave to answer and answer to WesTex's answer. On May 6, 2005, MGI filed a supplemental protest.

4. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We note that OTC Petroleum is not a party to this proceeding because it did not file a motion to intervene, see 18 C.F.R. § 385.211(a)(2) (2004), although we will evaluate the merits of its protest. In addition, we will accept MGI's late-filed supplemental protest due to the absence of any prejudice or delay. While Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 213(a)(2) (2004), generally prohibits the filing of answers to protests or answers, we will accept the answers submitted by WesTex and Golden Eagle and GS because they assisted our understanding of the gas quality standard issues raised by the SOC filing.[6] On February 22, 2005, the Commission issued a letter directing WesTex to supply

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[4] *ONEOK WesTex Transmission, Inc.*, 104 FERC ¶ 62,191 (2003) (September 23 Order).

[5] *Id.* at 64,539.

[6] Golden Spread and GSE, as well as MGI, object to certain of WesTex's proposed changes to the gas quality standards in the SOC filed January 3, 2005. We will address these concerns in a subsequent order on the Revised SOC.

additional information to assist resolution of all rate issues in the proceeding. WesTex supplied the requested information on March 15, 2005.

5. With respect to WesTex's proposed rate change, OTC Petroleum, a natural gas producer, essentially objects that the netback price it receives for the sale of its gas will be reduced. OTC Petroleum argues that the rate changes will "affect the shippers who can least afford it," that "[p]ipelines should not be rewarded for overpaying for assets after acquiring them from predecessors," and that each time the old Westar system traded hands, OTC Petroleum has been "taken advantage of by the ripping apart and the severing of gathering lines from the interruptible transportation services resulting in rate increases." In its answer, WesTex argues that OTC Petroleum has not properly intervened in this proceeding. WesTex states that it proposes to lower its maximum rate and add a separate fuel rate, that WesTex did not overpay for assets, but rather obtained its assets in an arms' length transaction and, due to discounting, WesTex is "significantly under earning its cost of service." In addition, WesTex asserts that OTC Petroleum appears to be making an inappropriate collateral attack on the Commission's orders issuing WesTex a blanket certificate.

III. Discussion

6. We approve WesTex's proposed rate change as fair and equitable, as discussed below.

7. The rate base as proposed in WesTex's January 3, 2005 filing includes Gross Plant, Accumulated Depreciation, Depletion and Amortization, and Accumulated Deferred Income Taxes for the pipeline facilities. Our review indicates that WesTex has adequately supported all rate base items. The total directly assigned transportation rate base for the facilities is $96,224,553. The Commission has reviewed WesTex's cost of service and the responses to staff data requests, and finds WesTex's proposed Operation & Maintenance expense to be reasonable. The O&M expense includes an allocation of Corporate Administrative & General (A&G) expenses using the Commission approved Distragas Method.[7] In its rate petition, WesTex also proposes annual depreciation expenses that are calculated by multiplying the depreciation rate by the total depreciable plant. Our review indicates that the proposed depreciation rates represent approximately a 50-year depreciable life for system facilities. We find the proposed facilities' service life is reasonable and consistent with recent Commission orders addressing depreciation issues.[8] Additionally, our review of the other cost of service elements in WesTex's

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[7] *Distrigas of MA Corporation*, 41 FERC ¶ 61,205 (1985).

[8] For example, in *AES Ocean Express, LLC*, 105 FERC ¶ 61,030 (2003), the Commission accepted the company's proposal to use a 25-year life for supporting depreciation expense in its cost of service proposal.

submittal, including taxes and a 9.02 percent overall rate of return with an 11.75 percent return on equity, indicates they are reasonable. WesTex's proposed total cost of service of $28,790,804 is fair and equitable, and, therefore, accepted. WesTex's designed its proposed interruptible transportation rate by dividing its cost of service by the billing determinants. We find this approach to be acceptable. The billing units have been adequately supported and, accordingly, we will use WesTex's proposed determinants in this proceeding. In sum, the computed maximum rate for interruptible transportation-only service performed on WesTex of $0.1832 is fair and equitable and, therefore, approved.

8. The Commission also accepts WesTex's proposed fuel rate of a fixed 1.5082% for the term of these rates, which, in this petition has been unbundled from the interruptible transportation rate.[9] The fuel rate reflects the actual fuel lost and used during the twelve month test period ending September 30, 2004. The percentage is calculated by dividing total line losses and use of 2,370,550 Dth by actual test period deliveries of 157,173,597 Dth.[10] Accordingly, because we find WesTex's proposed rate to be fair and equitable, we will deny OTC Petroleum's protest.

9. Furthermore, to ensure that the rates we approve in this order remain fair and equitable, the Commission will require WesTex to make a triennial informational filing demonstrating cost, revenue and throughput information on January 3, 2008.[11]

The Commission orders:

(A) WesTex's proposed rate change is approved, effective February 1, 2005, consistent with the body of this order.

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[9] It is well-established that the Commission permits recovery of fuel use on an in-kind basis. *See, e.g., Transcontinental Gas Pipeline Corp.*, 71 FERC ¶ 61,213 at 61,781 (1995).

[10] *See* Schedule G-a of WesTex's January 3, 2005 petition.

[11] *See Consumers Energy Co.*, 94 FERC ¶ 61, 287 (2001).

(B) WesTex must file with the Commission an updated cost and revenue study on January 3, 2008.

By the Commission. Commissioner Brownell dissenting in part with a separate statement attached.

(S E A L)

Linda Mitry,
Deputy Secretary.

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(Issued June 2, 2005)

Nora Mead BROWNELL, Commissioner *dissenting in part*:

I would not impose a triennial rate approval requirement for the reasons set forth in Green Canyon Pipe Line Company, L.P., 98 FERC ¶ 61,041 (2002).

Nora Mead Brownell