

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 26, 2013

IN RE:

**JOINT PETITION OF TENGASCO PIPELINE
CORPORATION AND GENERAL GAS PIPELINE
LLC FOR APPROVAL OF TRANSFER OF CCN
AND AUTHORITY GRANTED PURSUANT TO
RESOLUTION 2000-092 OF THE CITY OF
KINGSPORT, AS AMENDED**

DOCKET NO.
13-00049

ORDER APPROVING JOINT PETITION

This matter came before Vice Chairman Herbert H. Hilliard, Director Kenneth C. Hill and Director David F. Jones of the Tennessee Regulatory Authority (“TRA” or the “Authority”), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on June 17, 2013 for consideration of the *Joint Petition* filed on March 27, 2013 by Tengasco Pipeline Corporation (“TPC”) and General Gas Pipeline LLC (“General Gas”) (collectively, the “Petitioners”).

BACKGROUND

TPC is a wholly owned subsidiary of TENGASCO, INC., a publicly traded Tennessee Corporation. TPC owns and operates 65 miles of intrastate natural gas pipeline in Eastern Tennessee (the "Pipeline"). TPC holds a Certificate of Public Convenience and Necessity ("CCN") granted by the TRA by Order dated June 21, 1998, and affirmed by an Order dated May 18, 1999, which authorizes TPC to provide certain intrastate gas services in Hancock, Hawkins and Claiborne counties, subject to Tenn. Code Ann. § 7-82-301, *et seq.*¹ In Docket No. 00-00537, the TRA

¹ See *Application of Targasco Pipeline Corporation for a Certificate of Public Convenience and Necessity to Provide Intrastate Natural Gas Services*, Docket No. 98-00156, *Order Granting Certificate of Public Convenience and Necessity*, p. 4 (July 21, 1998) and *Order Affirming July 21, 1998 Order Granting Certificate of Public Convenience and Necessity*, pp. 8-9 (May 18, 1999).

approved, pursuant to Tenn. Code Ann. § 65-4-107, City of Kingsport Resolution No. 2000-0092, as amended. The Authority further determined that TPC met the requirements to construct within the city limits of Kingsport pipeline facilities required to transport natural gas produced in Tennessee to large volume industrial customers, including Eastman Chemical Company, in accordance with Tenn. Code Ann. § 65-28-103.² TPC states that it does not sell natural gas directly to any customer, but rather only transports natural gas produced by Tengasco, Inc. and its subsidiaries.³

General Gas is a Delaware limited liability company qualified to do business in Tennessee. Swan Creek Partners LLC (“Swan Creek Partners”) is the sole member of General Gas. Swan Creek Partners is a Delaware limited liability company qualified to do business in the State of Tennessee. General Gas was formed to acquire the Pipeline assets and operate the Pipeline upon approval by the TRA and consummation of the purchase of the Pipeline assets.⁴

THE JOINT PETITION

In the *Joint Petition*, the Petitioners request approval of the transfer of TPC’s CCN and the authority of TPC to transport gas in Kingsport, Sullivan County, Tennessee, subject to Tenn. Code Ann. § 65-28-103. Pursuant to an Asset Purchase Agreement: (i) Tengasco, Inc. will sell all of its oil and gas producing assets in Tennessee (excluding the Manufactured Methane Corporation) to Swan Creek Partners, the sole owner of General Gas; and (ii) General Gas will purchase the Pipeline and related assets from TPC. The new ownership structure involving Swan Creek Partners and General Gas will mirror the current structure of Tengasco, Inc. and TPC. The sale and transfer of the Pipeline from TPC to General Gas is contingent upon approval of the *Joint Petition* by the Authority.⁵

² See *Joint Application of the City of Kingsport and Tengasco Pipeline Corporation for Approval of City Resolution and City Ordinance*, Docket No. 00-00537, *Initial Order Approving Joint Stipulation, City of Kingsport’s Resolution, as Amended, and Grant of a Privilege or Franchise to Tengasco Pipeline Corporation Pursuant to Tenn. Code Ann. § 65-4-107*, pp. 17-18 (March 7, 2001).

³ *Joint Petition*, p. 2 (March 26, 2013).

⁴ *Id.* at 3-4.

⁵ *Id.*

Upon consummation of the asset purchase, General Gas will have three sources of natural gas for transport: (i) the producing wells of Swan Creek Partners to be acquired from Tengasco, Inc.; (ii) the landfill recovery operation of Manufactured Methane Corporation, which will remain a subsidiary of Tengasco; and (iii) back feed gas from East Tennessee Natural Gas. General Gas has committed in the Asset Purchase Agreement to continue to transport the gas of Manufactured Methane Corporation until closure of the Carter Valley Landfill (estimated to be in 2041) and up to 15 years thereafter.⁶

The Petitioners also filed City of Kingsport Resolution No. 2013-154, adopted on April 2, 2013, in which the City of Kingsport ratified the transfer to General Gas of the authority granted to TPC in City of Kingsport Resolution No. 2000-092, as amended by the Joint Stipulation approved by the TRA in Docket No. 00-00537.⁷

STANDARD OF REVIEW

The following statutes provide guidance for review and evaluation of the *Joint Petition*. Tenn. Code Ann. § 65-4-201 requires a public utility to obtain a CCN from the Authority and provides:

No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system, or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate; provided, however, that this section shall not be construed to require any public utility to obtain a certificate for an extension in or about a municipality or territory where it shall theretofore have lawfully commenced operations, or for an extension into territory, whether within or without a municipality, contiguous to its route, plant, line, or system, and not theretofore receiving service of a like character from another public utility, or for substitute or additional facilities in or to territory already served by it.

⁶ *Id.*

⁷ See *City of Kingsport Resolution No. 2013-154* (May 11, 2013).

Tenn. Code Ann. § 65-4-113(a) requires a public utility to obtain TRA approval to transfer its authority to provide utility service and reads:

No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

Tenn. Code Ann. § 65-4-113(b) provides the standards which the TRA shall consider in evaluating a petition for transfer of authority and states:

Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and the capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. The authority shall approve the transfer after consideration of all the factors and upon finding that such transfer furthers the public interest.

With regard to the franchise authority granted to TPC by the City of Kingsport, Tenn. Code Ann. § 65-4-107 provides:

No privilege or franchise hereafter granted to any public utility by the state of Tennessee or by any political subdivision of the state shall be valid until approved by the authority, such approval to be given when, after hearing, the authority determines that such privilege or franchise is necessary and proper for the public convenience and properly conserves the public interest, and the authority shall have power, if it so approves, to impose such conditions as to construction, equipment, maintenance, service or operation as the public convenience and interest may reasonably require; provided, however, that nothing contained in this chapter shall be construed as applying to the laying of sidings, sidetracks, or switchouts, by any public utility, and it shall not be necessary for any such public utility to obtain a certificate of convenience from the authority for such purpose.

FINDINGS AND CONCLUSIONS

The Authority issued a *Notice of Hearing* on June 7, 2013. On June 17, 2013, a Hearing was held before the voting panel at a regularly scheduled Authority Conference. Appearing for General Gas was D. Billye Sanders, Esq. Cary V. Sorenson, Esq. was also present representing TPC. William Wayne Coverdale, CEO of General Gas, testified before the panel. No person sought intervention or presented comment prior to or during the Hearing.

Thereafter, based upon the testimony and the administrative record as a whole, the panel found that General Gas met the statutory requirements of Tenn. Code Ann. § 65-4-201, in that General Gas has the necessary financial, managerial and technical ability to operate a public utility and that the transfer of the CCN, pursuant to Tenn. Code Ann. § 65-4-113, is in the public interest. The panel further found that the franchise agreement set forth in Resolution No. 2013-154 of the City of Kingsport, adopted on April 2, 2013, is necessary and proper for the public convenience and conserves the public interest. Based upon these findings, the panel voted unanimously to approve the *Joint Petition* and the City of Kingsport Resolution No. 2013-154.

IT IS THEREFORE ORDERED THAT:

1. The *Joint Petition* filed on March 27, 2013 by Tensasco Pipeline Corporation and General Gas Pipeline LLC is approved.
2. City of Kingsport Resolution No. 2013-154, adopted on April 2, 2013, is approved.

Vice Chairman Herbert H. Hilliard, Director Kenneth C. Hill and Director David F. Jones concur.

ATTEST:



Earl R. Taylor, Executive Director