

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

April 5, 2019

IN RE:)	
)	
ESG PIPELINE (JC), LLC PETITION TO)	DOCKET NO.
ABANDON SERVICE AND SURRENDER)	18-00121
CERTIFICATE OF CONVENIENCE AND)	
NECESSITY)	

**ORDER GRANTING PETITION OF ESG PIPELINE (JC), LLC TO ABANDON AND
SURRENDER CERTIFICATE**

This matter came before Chair Robin L. Morrison, Commissioner David F. Jones, and Commissioner John Hie of the Tennessee Public Utility Commission (“Commission” or “TPUC”) at the regularly scheduled Commission Conference held on January 22, 2019, for consideration of the *Petition of ESG Pipeline (JC), LLC to Abandon Service and Surrender Certificate* (“Petition”) filed by ESG Pipeline (JC), LLC (“ESG-JC” or “Company”) with the Commission on November 27, 2018.

BACKGROUND AND PETITION

In TPUC Docket No. 05-00244, ESG-JC was granted a certificate of convenience and necessity (“CCN”) to construct and operate a four mile long pipeline to distribute processed methane gas from a landfill in Johnson City, Tennessee, to a single industrial customer, Mountain Home Energy Center, LLC (“Mountain Home”).¹ On November 27, 2018, the Company filed a petition with the Commission requesting that it be allowed to abandon its methane gas distribution

¹ *In Re: Application of ESG Pipeline (JC), LLC for a Certificate of Convenience and Necessity to Operate a Processed Methane Gas Distribution System in Johnson City, TN*, TPUC Docket No. 05-00244, *Order Granting Certificate of Convenience and Necessity*, p. 1 (April 19, 2006).

pipeline and surrender its CCN. Both ESG-JC and the pipeline's sole customer, Mountain Home, are subsidiaries of Energy Systems Group, LLC ("ESG").²

The Company states it had hoped to expand its operations and distribute methane gas to as many as four industrial customers, but due to low natural gas prices it has become uneconomical to produce, process and sell methane gas.³ Furthermore, the Company states that it never added other customers to the pipeline and that no methane gas has flowed through the pipeline for over a year. For these reasons, ESG decided to terminate the existing contract between ESG-JC and Mountain Home and surrender the CCN held by ESG-JC; accordingly, the Company asserts there is no longer a public need for the pipeline.⁴ On behalf of the Company, Mr. Mike Nasiatka, asserts the pipeline is no longer being used and there is no public need for such service.⁵

Finally, the Company asserts it has taken steps to decommission the pipeline in accordance with federal safety rules, including 49 C.F.R. § 192.727 and 192.629, and provided notice to the Gas Pipeline Safety Division of the Commission.⁶ The Commission's Gas Pipeline Safety Division filed a copy of Inspection Evaluation #18-522 documenting an inspection of the pipeline on December 27, 2018.⁷ The inspection indicated the Company has complied with the relevant safety requirements associated with abandonment of a pipeline.⁸

THE HEARING

The Hearing on the *Petition* was held before the voting panel assigned to this docket on January 22, 2019, as noticed by the Commission on January 11, 2019. Participating in the Hearing were:

² *Petition of ESG Pipeline (JC), LLC to Abandon Service and Surrender Certificate*, p. 1 (November 27, 2018).

³ Mike Nasiatka, Pre-Filed Direct Testimony, p. 2 (November 27, 2018).

⁴ *Id.*

⁵ Mike Nasiatka, Pre-Filed Direct Testimony, pp. 1-2 (November 27, 2018).

⁶ *Petition*, p. 2; Exhibit C (November 27, 2018).

⁷ Natural Gas Safety Inspection Evaluation #18-522 (January 18, 2019).

⁸ *Id.*

ESG-JC Pipeline, LLC – Henry Walker, Esq., Bradley Arant Boult Cummings, LLP,
1600 Division Street, Suite 700, Nashville, Tennessee 37203.

Mr. Mike Nasiatka provided sworn testimony telephonically, having been previously authorized to participate in the hearing by phone by the Hearing Officer.⁹ The public was invited to provide comment. No one sought recognition to speak other than the parties to the docket.

FINDINGS AND CONCLUSIONS

ESG-LC's *Petition to Abandon and Surrender Certificate* was filed pursuant to Tenn. Code Ann. § 65-4-114 which provides:

The commission has the power, after hearing, upon notice, by order in writing, to require every public utility, as defined in § 65-4-101, to:

- (1) Furnish safe, adequate, and proper service and to keep and maintain its property and equipment in such condition as to enable it to do so; and
- (2) Establish, construct, maintain, and operate any reasonable extension of its existing facilities where, in the judgement of the commission, such extension is reasonable and practicable, and will furnish sufficient business to justify the construction, operation, and maintenance of the same, and when financial condition of the public utility affected reasonably warrants the original expenditure required in making such extension, **or to abandon any service when, in the judgment of the commission, the public welfare no longer requires the same. (emphasis added)**

Based upon the evidentiary record, the hearing panel found that a public need no longer exists for ESG-JC's gas pipeline, and that the pipeline has been shuttered in compliance with all safety requirements. Therefore, the panel voted unanimously that ESG-JC's petition to abandon its methane gas distribution pipeline in Johnson City, Tennessee and surrender its certificate of convenience and necessity be granted.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of ESG Pipeline (JC), LLC to Abandon Service and Surrender Certificate* filed on November 27, 2018 is granted.

⁹ Order Granting Electronic Participation in Hearing, (January 11, 2019).

2. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen (15) days from the date of this Order.

3. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

Chair Robin L. Morrison, Commissioner David F. Jones, and Commissioner John Hie concur.

ATTEST:



Earl R. Taylor, Executive Director