

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)	
WEST BAY EXPLORATION COMPANY for)	
authority to construct and operate the State)	Case No. U-11445
Filer #1-20 Pipeline in Manistee County.)	
_____)	

At the May 11, 1999 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

ORDER

On July 1, 1997, West Bay Exploration Company (West Bay) filed an application, pursuant to 1929 PA 9, as amended, MCL 483.101 et seq.; MSA 22.1311 et seq., (Act 9) seeking a certificate of public convenience and necessity to construct and operate the State Filer #1-10 Pipeline in Filer Township, Manistee County. The proposed pipeline would consist of two parts. The first would be a flowline transporting sour gas¹ from the State Filer #1-10 Well to a natural gas treatment plant, and the second would be a salesline transporting sweetened gas from that plant to a point of interconnection with an existing gas transmission line owned by Michigan Consolidated Gas Company (Mich Con).

¹Sour gas is natural gas containing hydrogen sulfide (H₂S). Before sour gas can be used safely, the H₂S must be removed at a treatment plant through a process called "sweetening."

West Bay proposed building the gas treatment plant either adjacent to the Morton Salt Company's brine extraction wells in Section 24 or at an abandoned drop forge site in Section 19, both in Filer Township. West Bay had acquired the rights to use either parcel for its sweetening plant. However, the application indicated that it was unclear which site the local zoning authority would ultimately authorize West Bay to use. West Bay's application therefore requested approval of both routes, referred to as the Filer 19 and Filer 24 routes, despite the fact that it would construct its pipeline over only one of the routes.

Following contested case proceedings involving West Bay, Filer Charter Township (the Township), the Commission Staff, and others², the Commission issued an order in this docket on May 15, 1998 granting West Bay authority to construct and operate the proposed pipeline over either of those two routes. That grant of authority was conditioned upon West Bay's submission of an acceptable operation and maintenance plan and emergency operating procedures.

On February 19, 1999, West Bay filed an application (the February 19 application) seeking approval of an amendment to the pipeline's route. Specifically, West Bay sought to change slightly the proposed location of the gas treatment plant (and, correspondingly, the flowline and salesline connecting to the plant) for the Filer 19 route. The February 19 application indicated that the new site for the gas treatment plant and the revised portion of the pipeline's route would be located exclusively on property owned by Packaging Corporation of America, as successor to Tenneco Packaging, Inc. (collectively, PCA). It further indicated that the requested change in the pipeline's route (1) arises from the potential applicability of a June 1998 amendment to the Township's

²In addition to the three formal parties, several members of the public provided statements of position in accordance with Rule 207 of the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17207.

regulations regarding the operation of gas pipelines and West Bay's continuing efforts to place the treatment plant in the most acceptable location in the township, (2) lengthens the proposed pipeline by approximately 1,200 feet, (3) increases projected construction costs by \$31,450, and (4) results in the pipeline and treatment plant being located further away from populated areas.

On March 22, 1999, the Commission issued an order stating that although the February 19 application was presented as a request for ex parte approval of a pipeline, it more accurately constituted a request for modification of a Commission order pursuant to Section 24 of 1909 PA 300, MCL 462.24; MSA 22.43. As a result, the Commission concluded, all other parties to the contested case proceeding must be given notice of West Bay's application and provided at least 10 days to respond. The Commission therefore ordered West Bay to "(1) serve a copy of its February 19, 1999 application (along with all supporting documentation) on each of the parties to this case and (2) notify those parties of the right to file responses within 10 days following their receipt of the application." March 22, 1999 order in Case No. U-11445, p. 2.

On April 14, 1999, the Township filed a response in opposition to the February 19 application. Based on its belief that all gas transported through the proposed pipeline would now be sold to PCA, the Township argues that the Commission lacks jurisdiction to approve West Bay's request. On April 21, 1999, West Bay filed a reply in which it contends that the Township's opposition is based on various mistakes of fact. Finally, on April 29 and May 5, 1999, the Township submitted numerous documents that it claims support its arguments regarding lack of jurisdiction.

The Commission finds that the parties' filings raise several issues of fact that must be resolved before action can be taken on West Bay's February 19 application. The Commission therefore concludes that it should reopen the record and allow the parties to present additional evidence and argument regarding those issues.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1929 PA 9, as amended, MCL 483.101 et seq.; MSA 22.1311 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1) et seq.; 1969 PA 165, as amended, MCL 483.151 et seq.; MSA 22.1332(1) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.

b. The record should be reopened to receive additional evidence and argument from the parties regarding West Bay's request to amend the route of its previously approved State Filer #1-10 Pipeline.

THEREFORE, IT IS ORDERED that:

A. The record should be reopened in this case to receive additional evidence and argument regarding whether the Commission should modify its May 15, 1998 order to allow West Bay Exploration Company to construct and operate the State Filer #1-10 Pipeline along the revised Filer 19 route described in the documents attached to the February 19, 1999 application.

B. A prehearing conference will be held in the Commission's offices located at 6545 Mercantile Way, Lansing, Michigan at 9:00 a.m. on Thursday, June 3, 1999, at which time the Administrative Law Judge assigned to this case shall establish a further schedule for completion of these reopened proceedings.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner, abstaining.

By its action of May 11, 1999.

/s/ Dorothy Wideman
Its Executive Secretary

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner, abstaining.

By its action of May 11, 1999.

Its Executive Secretary

In the matter of the application of)
WEST BAY EXPLORATION COMPANY for)
authority to construct and operate the State)
Filer #1-20 Pipeline in Manistee County.)
_____)

Case No. U-11445

Suggested Minute:

“Adopt and issue order dated May 11, 1999 reopening the record to receive additional evidence and argument regarding West Bay Exploration Company’s request to amend the route of its previously approved State Filer #1-10 Pipeline, as set forth in the order.”