

123 FERC ¶ 61,083
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Mardi Gras Midstream, L.L.C.
Mardi Gras Pipeline, L.L.C.

Docket Nos. CP08-79-000
CP08-80-000

ORDER APPROVING ABANDONMENT AND ISSUING
CERTIFICATE OF LIMITED JURISDICTION

(Issued April 25, 2008)

1. On February 27, 2008, in Docket No. CP08-79-000, Mardi Gras Midstream, L.L.C. (Mardi Gras Midstream), filed an application under section 7(c) of the Natural Gas Act (NGA)¹ for a limited jurisdiction certificate to succeed Mardi Gras Pipeline, L.L.C. (Mardi Gras) in providing service to Temple-Inland Corporation (Temple-Inland). Temple-Inland is currently Mardi Gras' sole interstate transportation customer. Mardi Gras Midstream has entered into an agreement to acquire the non-jurisdictional gathering system of Mardi Gras, an unaffiliated company. Upon acquiring the gathering facilities currently owned by Mardi Gras, Mardi Gras Midstream will continue to operate the facilities for the same non-jurisdictional gathering purpose. In Docket No. CP08-80-000, Mardi Gras filed an application pursuant to NGA section 7(b) for authority to abandon its service to Temple-Inland.² As discussed below, the requested authorizations are granted subject to certain conditions.

Background and Proposal

2. Mardi Gras owns and operates a 92.3-mile long, relatively low-pressure pipeline with diameters that range from 6 5/8 to 8 5/8-inches. The pipeline originates in Mississippi and terminates at a paper mill complex owned by Temple-Inland in Bogalusa, Louisiana (Bogalusa Plant). Mardi Gras purchased the pipeline from Temple-Inland in

¹ 15 U.S.C. 717f(c) (2000).

² 15 U.S.C. 717f(b) (2000).

May 2005.³ The total capacity of the line is approximately 30,000 MMBtu/d. Currently, only 24 miles of the pipeline are in operation, while the rest of the system is idle. Mardi Gras uses this active 24 miles of pipeline for the following purposes: (1) to gather gas on behalf of a local producer and deliver it to Crosstex Energy, Inc. (Crosstex), an intrastate pipeline in Mississippi, through a segment of the line that is disconnected from the rest of Mardi Gras' system; (2) to gather small amounts of gas (approximately 100 MMBtu/d), which it purchases from a single producer in Washington Parish, Louisiana and sells directly to Temple-Inland at the Bogalusa Plant; and (3) to deliver gas from Crosstex to the Bogalusa Plant pursuant to its certificate of limited jurisdiction.⁴

3. Mardi Gras Midstream seeks a limited jurisdiction certificate to allow it to operate as a non-jurisdictional gathering company while continuing to provide a minimal volume of service to Temple-Inland's Bogalusa Plant. Mardi Gras Midstream states that it entered into a Second Supplemental Conveyance Agreement (Agreement) with Temple-Inland on February 20, 2008, under which Mardi Gras Midstream agrees to continue the transportation of gas currently provided by Mardi Gras to Temple-Inland's Bogalusa Plant. The Agreement with Temple-Inland maintains the existing term of the transportation service for Temple-Inland at the previously specified usage rate of \$0.05 per MMBtu and establishes a capacity reservation limit of 4,000 Btu/d for Temple-Inland.

4. Mardi Gras Midstream requests waiver of the accounting, rate filing, rate reporting, and other requirements generally imposed on jurisdictional interstate pipelines by the Commission's regulations. Mardi Gras Midstream also requests such waivers as may be necessary to allow it to use its Agreement with Temple-Inland, along with the underlying Supplemental Conveyance Agreement and accompanying Deed with Special Mortgage, as the tariff for the service authorized under the NGA. These agreements are all included in Exhibit P, for which Mardi Gras requests privileged treatment pursuant to section 388.112(a)(1) of the Commission's regulations. Mardi Gras Midstream states that these documents contain sensitive commercial information, the disclosure of which could expose both companies to potential business risk.

5. Mardi Gras has agreed to sell its gathering facilities to Mardi Gras Midstream. Therefore, on February 27, 2008, in Docket No. CP08-80-000, Mardi Gras filed an

³ On August 22, 2006, the Director of the Commission's Office of Energy Projects issued a certificate of limited jurisdiction under NGA section 7(c) to permit Mardi Gras to provide transportation service for Temple-Inland's Bogalusa Plant without subjecting its gathering facilities and services to the Commission's jurisdiction. *Mardi Gras Pipeline, L.L.C.*, 116 FERC ¶ 62,152 (2006).

⁴ *Id.*

application pursuant to NGA section 7(b) for authority to abandon its service to Temple-Inland, which will receive service following the abandonment from Mardi Gras Midstream under its requested limited jurisdiction certificate.

Interventions

6. Public notice of the applications in Docket Nos. CP08-79-000 and CP08-80-000 was issued on March 3, 2008, and published in the *Federal Register* on March 7, 2008,⁵ with comments, protests, or motions to intervene due on or before March 14, 2008.⁶ No protests or adverse comments were filed.

Discussion

7. On August 22, 2006, the Director of the Office of Energy Projects (OEP) issued an order finding that the primary function of Mardi Gras' facilities is gathering,⁷ thereby exempting the facilities from Commission jurisdiction pursuant to NGA section 1(b). Neither Mardi Gras nor Mardi Gras Midstream identified any changed circumstance that would require the Commission to reevaluate the status of these facilities. Therefore, the Commission finds the primary function of the facilities will remain gathering under the ownership of Mardi Gras Midstream.

8. Under its Agreement with Temple-Inland, Mardi Gras Midstream will continue the transportation service presently provided by Mardi Gras for the Bogalusa Plant. The OEP Director's August 22, 2006 order: (1) issued Mardi Gras a limited-jurisdiction certificate to allow the service to continue; (2) granted Mardi Gras' request for waivers of the accounting, rate filing, rate reporting, and other requirements generally imposed by the Commission's regulations; and (3) allowed Mardi Gras to file its agreement with Temple-Inland as the rate schedule for the limited service authorized.⁸ The Commission finds that the circumstances supporting these findings still exist, the only change being the change in service provider from Mardi Gras to Mardi Gras Midstream. Therefore, Mardi Gras Midstream is granted: (1) a limited-jurisdiction certificate to serve the Bogalusa Plant; (2) waivers of the accounting, rate filing, rate reporting, and other filing requirements generally required for an NGA section 7(c) certificate, subject to Mardi Gras Midstream filing to comply with any subsequent general rulemaking requirement as the Commission may direct; and (3) authority to file the Temple-Inland agreement as the rate schedule for service to the Bogalusa Plant.

⁵ 73 Fed. Reg. 12408.

⁶ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007).

⁷ *Mardi Gras Pipeline, L.L.C.*, 116 FERC ¶ 62,152 (2006).

⁸ *Id.*

9. Mardi Gras Midstream also requests waiver of the requirement to file publicly its contracts with Temple-Inland, while at the same time proposing that those contracts serve as its tariff for the jurisdictional service to the Bogalusa Plant. Mardi Gras Midstream has indicated its willingness to make the rates provided for in those contracts public but requests that the actual contract specifying those rates be given confidential treatment. NGA section 4(c) requires that a pipeline's schedules showing the rates, terms, and conditions of its jurisdictional service be public, together with contracts affecting those rates and service.⁹ Therefore, Mardi Gras Midstream is required to file, within 15 days of the issuance of this order, a public version of its contracts with Temple-Inland showing the applicable rates and terms and conditions of the jurisdictional transportation service.

10. Mardi Gras requests permission to abandon its service obligation to Temple-Inland's Bogalusa Plant in conjunction with Mardi Gras Midstream's request for a limited jurisdiction certificate to continue the service. As Mardi Gras proposes to abandon only its jurisdictional service obligation, and NGA section 7(b) abandonment authority is not necessary for Mardi Gras' transfer of the non-jurisdictional gathering facilities to Mardi Gras Midstream, no environmental impact is involved. Section 380.4(a)(27) of the Commission's regulations provides a categorical exclusion from the need for preparation of an environmental assessment, since the authorization of Mardi Gras Midstream's service for Temple-Inland involves no construction of facilities.¹⁰ The Commission finds that the public convenience and necessity permits the abandonment of Mardi Gras' jurisdictional service to Temple-Inland, and therefore the abandonment authority is granted. In conjunction with the abandonment, the Commission authorizes the cancellation of Mardi Gras' rate schedule for service to Temple-Inland.

11. The Commission on its own motion, received and made a part of the record all evidence, including the application (s), as supplemented, and exhibits thereto, submitted in this proceeding and upon consideration of the record,

The Commission orders:

(A) Mardi Gras Midstream is issued a certificate of limited jurisdiction under NGA section 7(c) to succeed Mardi Gras in providing service to Temple-Inland, the authorization for which does not affect the non-jurisdictional status of the facilities to be transferred by Mardi Gras to Mardi Gras Midstream or any other operation in which Mardi Gras Midstream is engaged.

(B) Mardi Gras Midstream is directed to file, within 15 days of this order, a public version of the Agreement with Temple-Inland showing the applicable rates and terms and conditions of service, as discussed above.

⁹ 15 U.S.C. § 717c(c) (2000).

¹⁰ 18 C.F.R. § 380.4(a)(27) (2007).

(C) Mardi Gras is granted authority to abandon its service to Temple-Inland under section 7(b) of the NGA.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.