

141 FERC ¶ 61,189  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony T. Clark.

Merit Energy Company

Docket No. CP12-480-000

ORDER DETERMINING JURISDICITONAL STATUS OF FACILITIES

(Issued December 4, 2012)

1. On June 27, 2012, Merit Energy Company (Merit) filed a petition for a declaratory order, requesting that the Commission determine that its proposed pipeline, which will consist of one new 4-mile segment and one existing 10-mile segment, is a non-jurisdictional straddle plant inlet pipeline, exempt from the Commission's jurisdiction pursuant to section 1(b) of the Natural Gas Act (NGA).<sup>1</sup> For the reasons discussed below, the Commission finds that the proposed inlet pipeline will be exempt from the Commission's jurisdiction.

**I. Background**

2. Merit is natural gas producer and processor, and owner of the Painter Processing Plant, located in Uinta County, Wyoming. The Painter Plant is a non-jurisdictional straddle plant that is designed to extract nitrogen and hydrocarbon condensate including liquids and liquefiabiles out of the gas stream. The Painter Plant is located downstream of the Carter Creek Processing Plant, owned by Chevron U.S.A. Inc. (Chevron), where gas is partially processed and then delivered into a 10-mile interstate pipeline owned by Columbia Gulf Transmission Company (Columbia Gulf). The Columbia Gulf pipeline connects to another 19-mile interstate pipeline owned by Questar Pipeline Company (Questar). The Questar pipeline then delivers the gas into the Painter Plant for additional processing of the hydrocarbon liquids and liquefiabiles that cannot be processed at the upstream Carter Creek Plant. After processing, the Painter Plant delivers the residue gas into the interstate pipeline systems of Kern River Gas Transmission Company and Northwest Pipeline GP.

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<sup>1</sup> 15 U.S.C. 717(b) (2006).

## II. Request for Jurisdictional Determination

3. In its petition, Merit requests the Commission find that a new 4-mile, 10.75-inch diameter pipeline segment, when constructed between the Columbia Gulf pipeline, and Merit's existing 10-mile, 10.75-inch diameter, currently unused pipeline upstream of the Painter Plant, would together constitute a non-jurisdictional straddle plant inlet pipeline. Including both segments, the proposed inlet pipeline is 14-miles long. The inlet pipeline would receive gas from the Columbia Gulf pipeline and would feed into the Painter Plant. Merit states that the purpose of the inlet pipeline is to facilitate the non-jurisdictional processing of natural gas for the purpose of extracting hydrocarbon liquids for profit.

4. Merit asserts that the proposed construction would ensure the long-term economic benefit that Merit and Chevron receive with the additional processing at the Painter Plant. Merit states that the gas that is currently transported from the Carter Creek Plant to the Painter Plant contains a higher concentration of liquefiable hydrocarbons (primarily ethane and propane) than most of the gas that is typically transported on transmission pipelines. Merit anticipates that in the near future, as gas volumes from the Carter Creek Plant decline, the Carter Creek gas will be comingled with typical transmission quality gas on the 19-mile Questar pipeline, which would reduce the economic benefit of the additional processing at the Painter Plant, because the blended gas stream would have a reduced liquefiable hydrocarbon content.

## III. Interventions

5. Notice of Merit's petition was published in the *Federal Register* on July 12, 2012.<sup>2</sup> A timely, unopposed motion to intervene was filed by Chevron. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.<sup>3</sup>

## IV. Discussion

6. The purpose of constructing the new 4-mile pipeline segment and returning the existing 10-mile pipeline to service is to provide a path for natural gas that contains hydrocarbon liquids that were not extracted in the Carter Creek Plant to flow from Columbia Gulf's pipeline direct to the Painter Plant. This delivery path would be in lieu of the current path from Columbia Gulf through the Questar pipeline to the Painter Plant.

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<sup>2</sup> 77 Fed. Reg. 41,184.

<sup>3</sup> 18 C.F.R. § 385.214(c) (2012).

7. Under section 1(b) of the NGA, the Commission has jurisdiction to regulate the transportation of natural gas in interstate commerce and any natural gas company engaged in such transportation. At the same time, section 1(b) exempts from Commission jurisdiction the “production or gathering of gas.” In addition, the Commission has long held that processing plants are not jurisdictional under the NGA where the plant’s function is the removal of hydrocarbon liquids from the raw gas stream for their economic value,<sup>4</sup> i.e., the processing plant is not necessary to make the gas fit for pipeline transportation.<sup>5</sup> Likewise, the Commission has found that the associated inlet pipeline is non-jurisdictional because its function is “wholly incidental to the extraction of hydrocarbons.”<sup>6</sup>

8. The Painter Plant’s primary purpose is to extract hydrocarbon liquids for their economic value and to remove nitrogen. The Painter Plant is a straddle plant, in that it is on or adjacent to an interstate pipeline, receives gas from the interstate pipeline, processes the gas by removing hydrocarbon liquids for their economic value, and returns the gas stream to an interstate pipeline for continued transportation. The Commission has found that straddle plants are non-jurisdictional facilities under the NGA.<sup>7</sup> The proposed inlet pipeline will deliver gas from the Columbia Gulf pipeline to the Painter Plant complex. Therefore, the inlet pipeline will be an integral part of the straddle plant itself because it functions as an incidental extension of the plant complex’s operations, and, as such, the Commission finds that it will be a non-jurisdictional facility under section 1(b) of the NGA.<sup>8</sup>

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<sup>4</sup> See, e.g., *Texas Eastern Gas Transmission Corp.*, 43 FERC ¶ 61,044, at 61,129 (1988).

<sup>5</sup> *Chipeta Processing LLC*, 140 FERC ¶ 61,041 (2012) (and cases cited therein).

<sup>6</sup> See *Texas Gas Transmission Corp.*, 69 FERC ¶ 61,187, at 61,780-81 (1994).

<sup>7</sup> *KN Wattenburg Transmission Limited Liability Co.*, 90 FERC ¶ 61,322, at 62,081 (2000).

<sup>8</sup> No environmental impact would be involved with the approval of this project. The determination of whether the facilities qualify as non-jurisdictional is an administrative decision.

The Commission orders:

Merit's 14-mile long straddle plant inlet pipeline will be exempt from the Commission's jurisdiction pursuant to NGA section 1(b).

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.