

155 FERC ¶ 61,235  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Cheryl A. LaFleur, Tony Clark,  
and Colette D. Honorable.

Williams Field Services – Gulf Coast Company LP

Docket No. CP16-32-000

DECLARATORY ORDER

(Issued June 2, 2016)

1. On December 11, 2015, Williams Field Services – Gulf Coast Company LP (WGC) filed a petition seeking a Commission determination that facilities it plans to construct and operate – metering equipment at an existing offshore platform and a 5.8-mile-long, 12-inch-diameter pipeline from that platform – will be used primarily to gather natural gas, and will therefore be exempt from Commission jurisdiction under section 1(b) of the Natural Gas Act (NGA).<sup>1</sup> For the reasons discussed below, we find WGC’s planned facilities will be performing primarily a gathering function, and will therefore be exempt from our NGA jurisdiction.

**I. Notice and Interventions**

2. Notice of WGC’s petition was published in the *Federal Register* on December 23, 2015. Timely, unopposed motions to intervene were filed by Nexen Petroleum Offshore U.S.A. Inc. and Shell Offshore Inc. (Shell). Shell also submitted comments in support of WGC’s petition.

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<sup>1</sup> 15 U.S.C. § 717(b) (2012) states that the Commission’s jurisdiction “shall not apply” to facilities used for “the production or gathering of natural gas.”

## II. WGC's Petition for a Declaratory Order

3. WGC is a Delaware limited partnership that owns and operates facilities in and along the Gulf of Mexico.<sup>2</sup> WGC states its existing facilities are engaged in gas gathering, and therefore are not subject to the Commission's NGA jurisdiction.

4. WGC intends to lease space on an existing jurisdictional platform operated by Transcontinental Gas Pipe Line Corporation (Transco)<sup>3</sup> in East Main Pass Block 261, located approximately 60 miles south of Mobile, Alabama, in water approximately 300 feet deep. On the platform WGC plans to construct, own, and operate facilities that will include a 16-inch-diameter "riser" pipeline to receive gas from an upstream gathering pipeline and raise the gas to metering, heating, and specification break facilities that WGC will install on the platform. These WGC facilities on the platform will interconnect with Transco's 4B Lateral, which transports gas from the platform to shore,<sup>4</sup> and with a new 5.8-mile-long, 12-inch-diameter pipeline that WGC plans to construct from the platform to a subsea interconnection with an existing jurisdictional pipeline operated by Destin Pipeline Company, L.L.C. (Destin).<sup>5</sup> WGC states it needs to interconnect with both Transco's pipeline and Destin's pipeline, and the lease

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<sup>2</sup> WGC is principally owned by Williams Field Services Enterprises LLC, which in turn is an indirect wholly-owned subsidiary of The Williams Companies, Inc.

<sup>3</sup> Transco is a wholly-owned subsidiary of Williams Partners L.P. The Williams Companies, Inc. owns the general partner of and controlling interests in Williams Partners L.P.

<sup>4</sup> The Commission determined that Transco's platform and 72-mile-long, 24- to 30-inch-diameter 4B Lateral would be performing primarily a jurisdictional transmission function in *Transcontinental Gas PipeLine Corp.*, 81 FERC ¶ 61,104, at 61,382 (1997) (preliminary determination on non-environmental issues), 82 FERC ¶ 61,084 (1998) (order denying reh'g and issuing certificate), *petition for review denied*, *Brooklyn Union Gas Co. v. FERC*, 190 F.3d 369 (5th Cir. 1999) (Transco).

<sup>5</sup> The Commission determined that Destin's pipeline would be performing primarily a jurisdictional transmission function in *Destin Pipeline Co., L.L.C.*, 79 FERC ¶ 61,395 (preliminary determination on non-environmental issues), 81 FERC ¶ 61,211 (1997) (order on reh'g and issuing certificates).

arrangement with Transco to install facilities on its platform will be economically and environmentally preferable to constructing a new platform.<sup>6</sup>

5. WGC's planned facilities will serve to support the Appomattox Development, a project designed to access the Appomattox and Vicksburg oil and gas reserves, located approximately 200 miles southwest of New Orleans, Louisiana, in waters more than 7,500 feet deep.<sup>7</sup> WGC states that Shell will construct a 55-mile-long, 16-inch-diameter pipeline (the Norphlet Pipeline)<sup>8</sup> to transport gas from the production area to the Transco platform. WGC will use its planned facilities on Transco's platform, as described above, to receive gas from Shell's Norphlet Pipeline, then meter it and split it into two streams, one flowing into Transco's existing 4B Lateral Pipeline, the other into WGC's new pipeline. Gas diverted into Transco's 4B Lateral will be transported to the Williams Mobile Bay Processing Plant located onshore in Coden, Alabama. Gas diverted into WGC's new pipeline will be transported to Destin's pipeline, and Destin will transport the gas to the Pascagoula Processing Plant located onshore in Pascagoula, Mississippi.

6. WGC explains that the Appomattox Development gas carried by the Norphlet Pipeline will contain more liquids and inerts than either Transco or Destin can individually blend into their gas streams,<sup>9</sup> and more liquids and inerts than either the Mobile Bay or Pascagoula plants can individually process. WGC states that it therefore

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<sup>6</sup> WGC's Petition for Declaratory Order at 8.

<sup>7</sup> WGC estimates the Appomattox and Vicksburg reserves can produce 590 million barrels of crude oil and an estimated 396 billion cubic feet of associated natural gas. The Appomattox field is located in Mississippi Canyon Blocks 348, 391, and 392; the Vicksburg field is in Mississippi Canyon Block 393. Shell and Nexen Petroleum Offshore U.S.A. Inc. own the reserves; Shell will operate the Appomattox Development.

<sup>8</sup> WGC states that it has an option to purchase the Norphlet Pipeline from Shell, and that "it is likely the Norphlet Pipeline and the WGC Lateral will in the future be under [WGC's] common operation and ownership." WGC's Petition for Declaratory Order at 5.

<sup>9</sup> Unprocessed gas streams include natural gas liquids, such as propane and butane, and inert substances, such as carbon dioxide and nitrogen, which can have deleterious effects on pipeline facilities and operations. Pipeline companies' tariffs therefore include provisions limiting the levels of these substances in gas accepted by the pipelines. *See, e.g., Indicated Shippers v. Trunkline Gas Company, LLC*, 105 FERC ¶ 61,394, at P 20 (2003); *Trailblazer Pipeline Company LLC*, 145 FERC ¶ 61,299, at P 24 (2013).

will be necessary to divide the Norphlet volumes. WGC further explains that it plans to meter and divide Norphlet volumes on Transco's jurisdictional platform because metering facilities cannot be operated underwater.

7. Based on the above representations, WGC requests the Commission declare that the primary function of its planned platform and pipeline facilities will be non-jurisdictional gathering.

### **III. Commission Discussion**

8. The NGA provides the Commission with jurisdiction over the transportation and sale for resale of gas in interstate commerce. However, NGA section 1(b) exempts from the Commission's NGA jurisdiction facilities used to produce or gather gas. We find that WGC's planned facilities will serve to gather gas and therefore will be exempt from the Commission's NGA jurisdiction.

9. Because the NGA does not define production or gathering, the Commission has developed a test that takes into account several factors, principally physical and geographic characteristics, to determine the primary function of a facility. No one factor is determinative and not all factors will necessarily apply to all situations. This test, initially described in *Farmland Industries, Inc.*,<sup>10</sup> considers the (1) length and diameter of a pipeline; (2) extension of facilities beyond a central point in a production field; (3) geographic configuration; (4) location of compressors and processing plants; (5) location of wells along all or part of a pipeline; and (5) operating pressure. In addition to these physical factors, we also consider non-physical factors, such as the original purpose and operation of the facility and the general business activity of the facility owner.<sup>11</sup>

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<sup>10</sup> 23 FERC ¶ 61,063 (1983).

<sup>11</sup> In *Jupiter Energy Corp. v. FERC*, 482 F.3d 293 (5th Cir. 2007), the court observed that although non-physical factors can be secondary to physical factors in assessing the primary function of a facility, they cannot be ignored.

10. This test is modified when reviewing facilities located offshore. As recognized in *Amerada Hess Corporation*, operational differences can cause offshore facilities to be larger and longer than those onshore, and the Commission therefore explained that it would “apply a sliding scale which will allow the use of gathering pipelines of increasing lengths and diameters in correlation to the distance from shore and the water depth of the offshore production area.”<sup>12</sup> In *Sea Robin Pipeline Company (Sea Robin)*,<sup>13</sup> the Commission reformulated the test for facilities offshore by (1) adopting an additional factor for systems with a centralized aggregation point; (2) adjusting the weight afforded the ‘behind-the-plant’ criterion so the location of processing plants is not necessarily determinative and can be outweighed by other factors, and; (3) focusing primarily on physical factors. Finally, the Commission adopted a rebuttable presumption that facilities designed to collect gas produced in water 200 meters (656 feet) or more are performing a nonjurisdictional function up to a point of potential connection with the interstate pipeline grid.<sup>14</sup>

11. Applying the primary function test, as modified for facilities offshore, to WGC’s planned facilities, we find that the primary function of WGC’s facilities will be to gather gas. The modest scope of WGC’s project and the absence of compression facilities are consistent with a gathering function.<sup>15</sup> Further, because WGC’s facilities will be offshore, we discount the fact that they will be located upstream of processing, since it is

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<sup>12</sup> 52 FERC ¶ 61,268 (1990), *reh’g denied*, *Panhandle Eastern Pipe Line Company*, 62 FERC ¶ 61,029 (1993).

<sup>13</sup> 71 FERC ¶ 61,351 (1995), *order on reh’g*, 75 FERC ¶ 61,332 (1996), *vacated and remanded sub nom. Sea Robin Pipeline Co. v. FERC*, 127 F. 3d (5th Cir. 1997), *order on remand*, 87 FERC ¶ 61,384 (1999), *reh’g denied*, 92 FERC ¶ 61,072, *order denying stay*, 92 FERC ¶ 61,217 (2000), *aff’d sub nom. ExxonMobil Gas Marketing v. FERC*, 297 F.3d 1071 (D.C. Cir. 2002) (*Sea Robin*).

<sup>14</sup> *Gas Pipeline Facilities and Services on the Outer Continental Shelf-Issues Related to the Commission’s Jurisdiction Under the Natural Gas Act and the Outer Continental Shelf Lands Act*, 74 FERC ¶ 61,222, at 61,756, *order dismissing reh’g*, 75 FERC ¶ 61,291 (1996).

<sup>15</sup> *See, e.g., Tennessee Gas Pipeline Company*, 137 FERC ¶ 61,105, at P 35 (addressing size of facilities) and P 50 (noting lack of compression) (2011).

impractical to place processing plants offshore.<sup>16</sup> The projected operating pressure of WGC's pipeline, 1,200 pounds per square inch gauge (psig), will be a function of wellhead pressures, and as such is not indicative of the pipeline's function.<sup>17</sup> Typically, wells are attached along the length of a gathering pipeline, and no wells will be connected to WGC's pipeline. However, the pipeline will only be 5.8 miles long and 12 inches in diameter, and the Commission has acknowledged that the absence of wells is not necessarily indicative of a jurisdictional transmission function if the facilities at issue are of a relatively small size consistent with a gathering function.<sup>18</sup>

12. Historically, the Commission has recognized three basic gathering pipeline configurations: the web-like system, the backbone system, and a relatively short, small diameter pipe that connects a few wells directly into a transmission system.<sup>19</sup> In *Sea Robin* the Commission recognized a fourth "central aggregation location configuration" that can support a gathering determination for offshore facilities that are upstream of an identifiable central aggregation point.<sup>20</sup> WGC's facilities will become

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<sup>16</sup> See, e.g., *Tennessee Gas Pipeline See Company*, 124 FERC ¶ 61,128, at P 15 (2008); see also *EP Operating Co. v. FERC*, 876 F.2d 46, 49 (5th Cir. 1989), in which the court observed that "[t]he weight of complete processing equipment ... would sink [a] floating rig."

<sup>17</sup> *Tennessee Gas Pipeline Company*, 124 FERC ¶ 61,128 at P 15 (finding 800 to 1,200 psig operating range of a pipeline with no compression facilities indicative of a gathering function since the pressures were consistent with the higher operating pressure of offshore gathering facilities and a function of wellhead pressures, which acted to push gas through the pipeline facilities).

<sup>18</sup> See, e.g., *Transcontinental Gas PipeLine Corp.*, 121 FERC ¶ 61,157, at P 13 (2007) (finding, on remand, that gathering was the primary function of a 10.2-mile-long, 10.75-inch-diameter pipeline and a 3.2-mile-long, 8.625-inch-diameter pipeline were gathering facilities, explaining that the absence of wells is not necessarily indicative of a jurisdictional transmission function if the facilities at issue are of relatively small size consistent with a gathering function).

<sup>19</sup> See, e.g., *Riviera Drilling and Exploration Company v. SG Interests I, Ltd.*, 131 FERC ¶ 61,116, at P 23 (2010).

<sup>20</sup> *Sea Robin*, 87 FERC at 62,431. In adopting the central aggregation point factor for consideration in the offshore context, the Commission recognized the limited utility of the primary function test's "behind-the-plant" factor when assessing offshore facilities

(continued...)

part of the geographic configuration for which Transco's jurisdictional platform in East Main Pass Block 261 serves as the central aggregation point for gas delivered by five upstream gathering pipelines into Transco's 72-mile-long 4B Lateral that begins at the platform and transports gas to shore.<sup>21</sup> As discussed above, facilities downstream of an identified central aggregation point are presumed to be jurisdictional transmission facilities. Further, even if Transco's platform did not constitute a central aggregation point, Transco's platform and 4B Lateral are jurisdictional facilities,<sup>22</sup> and facilities located downstream of jurisdictional facilities are presumed to be jurisdictional.<sup>23</sup>

13. However, a finding of jurisdiction based on the identification of a central aggregation point or downstream location assumes the downstream facilities will be receiving gas from the jurisdictional upstream facilities. While WGC plans to place metering and pipeline facilities on Transco's platform, WGC states that the only gas entering any of its facilities will be the gas received from the new Norphlet Pipeline, a

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as it is impractical to place processing plants offshore. The Commission concluded that "in cases in which a pipeline system is configured to deliver gas collected from upstream wells to a centralized location through several relatively small diameter lines for aggregation for further delivery onshore through a single larger diameter pipeline, that centralized aggregation location will be considered to be analogous to the central-point-in-the-field in the onshore context and will be given weight in identifying the demarcation point between gathering and transportation on [offshore] pipeline systems." *Id.* at 62,425-26. The Commission recognized that some offshore systems include numerous production platforms where gas from upstream pipelines is aggregated and pipelines transport the gas from those platforms to a single platform where all of the gas enters into a large diameter trunkline that goes to shore. When assessing these systems, the platform furthest downstream is the central aggregation point with significance in determining the jurisdictional demarcation between gathering and transmission. *Id.* at 62,431.

<sup>21</sup> As noted above, the Commission applied the primary function test and found that Transco's East Main Pass Block 261 platform and 4B Lateral would be jurisdictional and certificated construction of the facilities prior to adoption of the central aggregation point factor in the *Sea Robin* proceeding. *Transco*, 81 FERC at 61,382.

<sup>22</sup> *Id.*

<sup>23</sup> *See, e.g., Transcontinental Gas PipeLine Corp.*, 124 FERC ¶ 61,040, at P 4 (2008), stating that the "presence of upstream transmission facilities determines the classification of downstream facilities, not the opposite."

pipeline that will qualify as a non-jurisdictional gathering facility.<sup>24</sup> Thus, WGC's facilities will not commingle any gas that has already moved through jurisdictional metering, compression, or pipeline facilities. Further, WGC has explained that its reason for constructing 5.68 miles of pipeline from Transco's platform to Destin's pipeline is because the gas delivered by the Norphlet Pipeline will contain more liquids and inerts than either Transco's 4B Lateral or Destin's pipeline can individually blend into their gas streams, and more liquids and inerts than can be processed by either of the onshore plants that receive the gas transported by Transco's and Destin's pipelines.

14. In view of the above considerations, WGC's planned facilities will not receive gas that has been transported by Transco's facilities and will not function as downstream facilities in relation to Transco's facilities. Thus, the jurisdictional status of Transco's facilities is not an impediment to our finding, based on WGC's representations as discussed above, that the facilities WGC intends to construct, own, and operate will be non-jurisdictional gathering facilities.<sup>25</sup>

15. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, and exhibits thereto, and all comments and upon consideration of the record,

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<sup>24</sup> While Transco's platform in East Main Pass Block 261 is located in water approximately 300 feet deep, the 55-mile-long Norphlet Pipeline will begin in water more than 7,500 feet deep, and is therefore presumed to be a gathering pipeline. *See* note 14. *See also Enbridge Offshore Facilities, LLC*, 150 FERC ¶ 61,103, at P 19 (2015), clarifying that "while the rebuttable presumption of an exempt gathering function only applies to a deep-water pipeline up to the first point of potential interconnection with existing jurisdictional transmission facilities, it must be a *feasible* point of potential interconnection, taking into account the purposes for which the pipeline will be used and operated."

<sup>25</sup> In reaching our finding that WGC's planned facilities will not be jurisdictional, we have taken into account the fact that WGC's general business activity is non-jurisdictional gathering and it is not engaged in any jurisdictional activities. *See* note 11.

The Commission orders:

WGC's petition for declaratory order is granted based on the finding herein that WGC's planned platform and pipeline facilities will be used primarily to gather natural gas, and therefore will be exempt from Commission jurisdiction under section 1(b) of the Natural Gas Act.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.