

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeem G. Kelly.

Jupiter Energy Corporation

Docket No. CP03-11-004

ORDER ON REMAND AFFIRMING JURISDICTIONAL DETERMINATION

(Issued June 28, 2005)

1. On April 12, 2005, the United States Court of Appeals for the Fifth Circuit vacated and remanded the Commission's orders in this proceeding finding that two pipelines owned and operated by Jupiter Energy Corporation (Jupiter) perform a transmission function rather than a gathering function, and are thereby subject to the Commission's jurisdiction under section 1(b) of the Natural Gas Act (NGA).<sup>1</sup> In the remanded orders, we relied on our jurisdictional determination in denying Jupiter's requests for rescission of its NGA certificates and authority to abandon its rate schedules and certificated services as a predicate to transferring its facilities to its parent company, Unocal Oil Company of California (Unocal).<sup>2</sup>
2. Jupiter's natural gas pipeline facilities extend from offshore Texas to a sub-sea interconnect with Transcontinental Gas Pipe Line Corporation (Transco) and a shoreline interconnect with Tennessee Gas Pipeline Company (Tennessee). The facilities at issue in this proceeding include (1) a 10.2-mile long, 10 3/4-inch diameter line that receives gas from Unocal's Platform 39A and transports it to Tennessee's shoreline interconnect, (2) a 3.2-mile long, 8 5/8-inch diameter line that receives gas from Platform 39A and transports it to Transco's sub-sea interconnect, and (3) separation and dehydration facilities located 22 miles downstream of Tennessee's shoreline interconnect.
3. Unocal's compressors on Platform 39A bring the gas from low-level well pressures up to line pressures. There are no wells or other sources of gas feeding into Jupiter's facilities beyond that point. Accordingly, we determined that gas aggregation is complete once the gas reaches Platform 39A; after that point, Jupiter's two pipelines move the gas to Tennessee's and Transco's systems without collecting any additional

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<sup>1</sup> *Jupiter Energy Corporation v. FERC*, 407 F.3d 346 (5<sup>th</sup> Cir. 2005).

<sup>2</sup> *Jupiter Energy Corporation*, 103 FERC ¶ 61,184 (2003), *reh'g denied*, 105 FERC ¶ 61,243 (2003), *reh'g denied*, 106 FERC ¶ 61,170 (2004).

gas. Since there is no additional gas being collected downstream of Platform 39A, we concluded that this is the point where gathering ends and transmission begins. Therefore, the Commission found the primary function of Jupiter's facilities, which are located downstream of Platform 39A, is transmission.<sup>3</sup>

4. In its petition for review, Jupiter reiterated its argument that its facilities must be gathering facilities because they are located upstream of facilities owned by Transco that the Commission had previously found to be gathering facilities.<sup>4</sup> The court agreed with Jupiter's argument that the Commission's decision was flawed by the inconsistency of having the point where gathering ends and transportation begins located upstream of another pipeline's facilities that the Commission had found to be gathering facilities. Pending remand proceedings before the Commission, the court declined to address Jupiter's other arguments.<sup>5</sup>

5. On April 19, 2005, the Commission issued an order in Docket No. CP01-368-004, *et al.*, vacating its previous gathering determination regarding Transco's facilities downstream of the interconnection with Jupiter's system. In a contemporaneous order in Docket No. CP01-368-005, *et al.*, the Commission is affirming its finding that Transco's downstream facilities are transmission facilities subject to the Commission's NGA jurisdiction.<sup>6</sup> Therefore, the inconsistency identified by the court no longer exists, and the Commission affirms its jurisdictional determination in this proceeding.

By the Commission. Commissioner Brownell dissenting in part with a separate statement attached.

( S E A L )

Linda Mitry,  
Deputy Secretary.

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<sup>3</sup> *Id.*

<sup>4</sup> *See Transcontinental Gas Pipe Line Corporation*, 96 FERC ¶ 61,246, *order on reh'g*, 97 FERC ¶ 61,298 (2001), *affirmed*, *Williams Gas Processing – Gulf Coast Company LP v. FERC*, 331 F.3d 1011 (D.C. Cir. 2004).

<sup>5</sup> *Jupiter Energy Corporation v. FERC*, slip op. at p. 8.

<sup>6</sup> *Transcontinental Gas Pipe Line Corporation*, 111 FERC ¶ 61,090 (2005).

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BROWNELL, Commissioner, dissenting:

I dissent for the reasons set forth in Jupiter Energy Corporation, 105 FERC ¶ 61,243 (2003).

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Nora Mead Brownell  
Commissioner