

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.

Straight Creek Gathering, L.P.

Docket No. CP06-369-000

ORDER DETERMINING JURISDICTIONAL STATUS OF FACILITIES  
AND ISSUING LIMITED-TERM, LIMITED-JURISDICTION CERTIFICATE

(Issued October 2, 2006)

1. On May 30, 2006, Straight Creek Gathering, LP (Straight Creek) filed a petition for a declaratory order determining that certain facilities it intends to construct in eastern Kentucky will perform a gathering function exempt from the Commission's jurisdiction under section 1(b) of the Natural Gas Act (NGA). Straight Creek also requests a limited-term, limited-jurisdiction certificate to transport interstate gas from Columbia Gas Transmission Company's (Columbia) PM-83 Line until Straight Creek can construct its own gathering lateral line to access gas currently transported on Columbia's pipeline.
2. As discussed below, we find that Straight Creek's facilities will primarily perform a gathering function exempt from the Commission's jurisdiction. The Commission also grants Straight Creek a limited-term, limited-jurisdiction certificate to transport natural gas received from Columbia's PM-83 Line for a period of two years.

**Background and Proposal**

3. Straight Creek states that currently over 60,000 Dth/d of natural gas produced in eastern Kentucky are shut-in for a significant portion of the year. Specifically, Straight Creek states that based on 2004-2005 data, 1700 wells in eastern Kentucky are shut-in and producers in the region experienced 212 shut-in days. It states that shut-in production has resulted in: (1) a substantial reduction in the natural gas resource base in eastern Kentucky that might otherwise be available to the consuming public; (2) substantial loss in wellhead sales revenues for producers, measured in the hundreds of millions of dollars, that might otherwise be used to further develop the resource base; and

(3) additional millions of dollars in lost severance taxes to Kentucky, in lost property taxes to numerous counties in eastern Kentucky, and in lost royalty owner revenue.

4. Atmos Gathering Company, LLC (Atmos), a midstream gathering and processing company, created Straight Creek in order to construct and operate the Straight Creek gathering project.<sup>1</sup> The facilities will consist of a 60-mile, 20-inch diameter backbone pipeline that will interconnect with numerous natural gas receipt points to acquire gas from third party gatherers and independent producers. Straight Creek also intends to construct various 4- to 12-inch laterals or feeder lines off of the proposed backbone pipeline to production fields in Magoffin, Pike, Martin, Lawrence, Elliott, and Johnson counties in eastern Kentucky. The proposed lines will have operating pressures that range from 300-350 psi at the southern end to 75-100 psi at the northern end. The gas collected through the system will be owned by Straight Creek and processed at the Straight Creek Processing Plant to be constructed at the northern terminus of the Straight Creek system.<sup>2</sup> The resulting dry residue gas will be delivered into Tennessee Gas Pipeline Company's (Tennessee) interstate pipeline.

5. Straight Creek expects to construct the facility in two phases. The initial phase will include the 60-mile backbone pipeline, having a capacity of 110,000 Dth/d,<sup>3</sup> and the processing plant. The backbone pipeline will include 11 receipt points with existing laterals of various independent producers and interconnects with Jefferson Gas Gathering Company (Jefferson), Kentucky West Virginia Gas Gathering Company (Kentucky West), and Chesapeake Gathering Company (Chesapeake). Additionally, as part of the initial phase Straight Creek intends to interconnect with Columbia's 12-inch low pressure PM-83 line in the Warco/Maytown area, located at the upstream end of the proposed 60-mile line, to access several independent producers who currently have shut-in reserves because of constraints on Columbia's system. Straight Creek proposes to receive gas through this interconnect with Columbia for a period of up to two years while it constructs laterals in its second phase of construction. Straight Creek acknowledges Columbia's PM-83 line is classified as transmission. However, Straight Creek asks the Commission to find that the connection with Columbia will either serve a non-

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<sup>1</sup> Atmos does not own any jurisdictional interstate gas pipeline facilities.

<sup>2</sup> Straight Creek will own facilities at the Straight Creek Plant, but the cryogenic or refrigeration facilities for natural gas liquids (NGL) extraction will be owned and operated by a third party.

<sup>3</sup> Straight Creek states that capacity could be increased in the future to 225,000 Dth/d through the installation of additional compression.

jurisdictional gathering function, or, in the alternative, Straight Creek requests a limited-term, limited-jurisdiction certificate to provide the downstream service off of Columbia's PM-83 line.

6. During the second phase of construction, Straight Creek states that it will expand its facility with lateral feeder lines, ranging from 4- to 12-inches in diameter to gather gas from existing and new production fields where active leasing and drilling are underway. Also during the second phase, Straight Creek intends to construct laterals to directly access the gas that it will initially receive from producers at the Columbia interconnect.

7. Straight Creek states that it currently has commitments for approximately 70,000 to 88,000 Dth/d for gathering service once the backbone pipeline is constructed. However, it states that based on its discussion with local producers, it may have commitments in excess of the project's initial design capacity once the initial facility is constructed and commences operations.

8. Straight Creek requests the Commission to determine that its proposed facilities will perform primarily a gathering function. It also requests that the Commission act on its petition expeditiously to allow it to construct the gathering facilities to meet the 2007 summer storage injection season. Straight Creek states that meeting this deadline will benefit gas consumers served off of Tennessee's interstate system along with the producing industry in eastern Kentucky by bringing gas resources to the market in an efficient and expeditious manner.

### **Procedural Issues**

9. Notice of the petition was published in the *Federal Register* on June 16, 2006 (71 Fed. Reg. 34,907). Six parties filed timely, unopposed motions to intervene.<sup>4</sup> Numerous comments in support of the project were received from federal and state representatives, trade organizations, local producers and gatherers, and other individuals. Equitrans, L.P. (Equitrans), Columbia, the Kentucky Heritage Council, State Historic Preservation Office (Kentucky SHPO), the U.S Department of Fish and Wildlife Service (FWS), the Kentucky Department of Fish and Wildlife Resources (Kentucky FWR), and the Kentucky Resources Council, Inc. (Kentucky Resources) filed comments raising concerns about the subject facilities.

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<sup>4</sup> They are Chesapeake Appalachian, L.L.C, Columbia, East Kentucky Independent Oil & Gas Ass'n, Equitrans, L.P., Interstate Natural Gas Co., and J.W. Kinzer. Timely, unopposed motions to intervene are granted under § 385.214 of the Commission's regulations.

10. Straight Creek filed separate answers to the comments filed by the governmental agencies and Equitrans. Equitrans filed an answer to Straight Creek's answer. In response, Straight Creek filed a motion to strike or, in the alternative, an answer to Equitrans's answer. Section 385.213(a)(2) of the Commission's regulations does not permit answers to answers. However, we may waive this rule for good cause shown, and we do so in this instance to clarify the issues under consideration. Concerns set forth in the comments and the responses are discussed below.

## **Discussion**

### **A. Primary Function Test**

11. Under NGA section 1(b), the Commission's jurisdiction does not extend to facilities used for the production or gathering of natural gas or to gathering services.<sup>5</sup> Over the years the Commission has developed a number of legal tests to determine which facilities are non-jurisdictional gathering facilities.<sup>6</sup> The Commission presently relies on the modified primary function test, which includes consideration of several physical and geographical factors, including: (1) the length and diameter of the pipelines; (2) the extension of facilities beyond the central point-in-the-field; (3) the facilities' geographic configuration; (4) the location of compressors and processing plants; (5) the location of wells along all or part of the facilities; and (6) the operating pressures of pipelines. The Commission does not consider any one factor to be determinative and recognizes that all factors do not necessarily apply to all situations.<sup>7</sup>

12. In addition to the factors enumerated above, the Commission also weighs any and all other relevant facts and circumstances of a particular case, including non-physical criteria.<sup>8</sup> The Commission also may consider the purpose, location, and operation of facilities, the general business activity of the owner of the facilities, and whether the

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<sup>5</sup> The courts have narrowly construed the NGA section 1(b) exemption to "the physical act of drawing gas from the earth and preparing it for the first stages of distribution." *See, e.g., Transcontinental Gas Pipe Line Corp. v. State Oil & Gas Board*, 474 U.S. 409, 418 (1986) (*quoting Northern Natural Gas Co. v. State Corp. Comm'n of Kansas*, 372 U.S. 84 (1963)).

<sup>6</sup> *See Amerada Hess Corp.*, 52 FERC ¶ 61,268 (1990); and *Farmland Industries, Inc.*, 23 FERC ¶ 61,063 (1983).

<sup>7</sup> *See, e.g., TOMCAT*, 59 FERC ¶ 61,340 at 62,239 (1992).

<sup>8</sup> *Id.* and *Amerada Hess Corp.*, 52 FERC ¶ 61,268 (1990).

jurisdictional determination is consistent with the NGA and the Natural Gas Policy Act of 1978 (NGPA). The United States Court of Appeals for the Fifth Circuit stated in *Sea Robin Pipeline Company*,<sup>9</sup> however, that while non-physical factors, such as the business of the owner or prior certification of facilities, may be relevant considerations for determining the demarcation point between transmission and gathering facilities, these kinds of non-physical factors are secondary to the physical factors.

13. Application of the primary function test criteria to Straight Creek's proposed facilities supports a finding that the primary function will be gathering. When all facilities are constructed, Straight Creek will consist of a 60-mile, 20-inch diameter backbone pipeline and several 4- to 12-inch lateral feeder lines extending off the backbone that will ultimately gather gas from producing fields located throughout eight counties in eastern Kentucky. The Commission has found lines of these and greater lengths and diameters to be consistent with a gathering function.<sup>10</sup> Also, Straight Creek's facility is configured with a larger, longer pipeline connected to smaller feeder lines. The structure will be used to attach local gas production from production fields located along the length of the gathering system.

14. The central point in the field test is based on the idea that gathering involves the collection and movement of natural gas through various lines to a central point where the gas is delivered into a single line for transmission.<sup>11</sup> Any facilities located upstream of the central point are generally considered non-jurisdictional gathering facilities. The central point in the field test is typically used in the absence of a processing plant. Where there is a processing plant, the plant serves as the central point.<sup>12</sup>

15. The Straight Creek plant will contain gas processing facilities that will remove impurities, moisture, and liquids from the raw gas stream for their economic value and

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<sup>9</sup> 127 F.3d 365 at 371 (5<sup>th</sup> Cir. 2003).

<sup>10</sup> See, e.g., *El Paso Natural Gas Co.*, 57 FERC ¶ 61,186 (1991) (a 75-mile pipeline consisting of about 62 miles of 16-inch pipeline and 13 miles of 20-inch pipeline was found to be gathering); and *ANR Pipeline Co.*, 76 FERC ¶ 61,153 (1996) (a 92-mile, 16-inch pipeline was found to be gathering).

<sup>11</sup> *Arkla Gathering Services Co.*, 67 FERC ¶ 61,257 (1994).

<sup>12</sup> See *Minerals, Inc.*, 69 FERC ¶ 61,184, at 61,774 (1994).

prepare the residue gas to satisfy pipeline transmission quality standards.<sup>13</sup>

Historically, the Commission has not exercised jurisdiction over similar processing plants which serve to enhance the value of the gas and increase efficiency of transportation.<sup>14</sup>

Therefore, the Commission finds that the proposed processing plant falls under the production and gathering exemption of NGA section 1(b). Additionally, the Commission has consistently found facilities located upstream of such a processing plant to be non-jurisdictional gathering facilities.<sup>15</sup> Thus, the location of Straight Creek's proposed facilities behind a processing plant strongly supports a finding that the facilities perform a gathering function.

16. Operating pressures on the Straight Creek facilities will range from 300-350 psi on the southern end to 75-100 psi on the northern end feeding into the Straight Creek plant. These pressures are sufficient to allow the local producers to access Straight Creek's facilities and are not inconsistent with a gathering function. The Straight Creek plant will have a minimum of 7,000-8,000 horsepower to maintain sufficient operating pressure so dry residue gas can be delivered into Tennessee's interstate pipeline, which operates at a pressure of approximately 650-700 psi for most of the year. The Commission has found that field compression is needed to facilitate the gathering and processing of gas and pressures within this range are indicative of a gathering function.<sup>16</sup>

17. The location of wells along the Straight Creek systems is also indicative of a gathering function. Straight Creek plans to gather gas either directly or indirectly from producing fields located throughout eight counties in eastern Kentucky. Straight Creek will establish feeder lines to particular fields or receipt points with local gatherers and producer field lines. The Commission finds the schematic layout of the Straight Creek system is characteristic of a gathering system.

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<sup>13</sup> Completion of construction and operation of the plant will coincide with completion of the 60-mile backbone pipeline. See Straight Creek's July 28, 2006 response to Staff data request, question 2.

<sup>14</sup> *Texas Eastern Gas Transmission Corp.*, 43 FERC ¶ 61,044 (1998).

<sup>15</sup> *Williams Natural Gas Co.*, 71 FERC ¶ 61,115 at 61,375 (1995); *Southern Natural Gas Co.*, 72 FERC ¶ 61,109 at 61,572 (1995); *Northern Natural Gas Co.*, 69 FERC ¶ 61,264 at 62,015 (1994).

<sup>16</sup> *Gulf South Pipeline Co.*, 106 FERC ¶ 61,232 (2004).

18. Atmos, Straight Creek's parent company, is in the business of gathering and processing gas, owns no jurisdictional interstate gas pipeline facilities, and formed Straight Creek for the purpose of constructing and operating the gathering system. The Commission recognizes the need for an expanded infrastructure in eastern Kentucky to unlock the multiple producers' currently shut-in gas. The comments submitted by the federal and state representatives and local producers demonstrate a strong support for the need for the Straight Creek facilities. Lastly, providing additional supplies of gas to the public and promoting competition within the area of the proposed facilities are consistent with the NGA and the NGPA.

19. Equitrans contends that the Straight Creek project is a functional replica of its Big Sandy project.<sup>17</sup> It states that both projects comprise new pipeline, compression, and related facilities for the purpose of alleviating current curtailments of natural gas in the eastern Kentucky basin. Equitrans alleges that Straight Creek is attempting to create the façade of a web-like gathering facility through its phasing proposal to beat Equitrans to the market. Further, Equitrans believes Straight Creek may not complete the second phase of the proposed construction. Equitrans notes that if the second phase is not built, Straight Creek's current primary function analysis, which assumes both phases will be completed, is meaningless. Equitrans states that Straight Creek should provide evidence showing that both phases of the proposed facilities will be constructed. In the alternative, Equitrans believes that the 60-mile backbone pipeline should be certificated as transmission, leaving Straight Creek with the option to seek refunctionalization after the completion of all the facilities.

20. The 60-mile, 20-inch backbone pipeline that will be constructed during the initial phase of Straight Creek's project is a low-pressure pipeline that will interconnect at numerous points along its entire length with third-party gatherers<sup>18</sup> and existing lines

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<sup>17</sup> In Docket No. CP06-275-000, Equitrans proposes to construct and operate approximately 69.9 miles of 20-inch diameter pipeline that will essentially run parallel to Straight Creek's facilities. Equitrans' application is currently pending before the Commission.

<sup>18</sup> Straight Creek states that the third-party gatherers are Kentucky West, an affiliate of Equitrans, Jefferson Gas, and Chesapeake. Equitrans contends that Kentucky West does not allow interconnects with its gathering system. Therefore, it states that Straight Creek will not be able access gas off of Kentucky West's gathering system. Producers, with shut-in volumes of gas, attached to Kentucky West state that they would like to access the Straight Creek facilities through the Kentucky West facilities and are working with state officials to require Kentucky West to provide open access service on

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owned by various independent producers.<sup>19</sup> Straight Creek states that it has commitments of approximately 70,000 to 88,000 Dth/d for receipt at eleven different interconnections along the 60-mile backbone pipeline for when it commences service on the initial facilities. Straight Creek also states that it is in negotiation with other producers in eastern Kentucky who have shown interest regarding integrating with the Straight Creek system and expect further commitments for when it commences service.<sup>20</sup> All receipts of gas into the backbone pipeline will be processed in the Straight Creek plant before being delivered into Tennessee's interstate pipeline.<sup>21</sup> Thus, we find that the 60-mile backbone pipeline will perform a gathering function regardless of whether the second phase feeder lines are constructed.

21. Moreover, we do not find that Straight Creek's pipeline is the functional equivalent of Equitrans' Big Sandy project. Although the two pipelines will be similar in length and diameter, Equitrans' Big Sandy will operate at much higher pressures, up to 1,200 psig in contrast to operating pressures of up to 350 psig on Straight Creek's pipeline.<sup>22</sup> Because it will operate at a higher pressure, the Big Sandy pipeline is

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its facilities. Whether Kentucky West's facilities will interconnect with Straight Creek's proposed facilities is not determinative of our decision here since Straight Creek will receive gathered gas from other entities at various receipt points along the length of its pipeline.

<sup>19</sup> Included in Straight Creek's answer were affidavits from various producers who support the proposed Straight Creek system and have signed Memorandums of Understanding to deliver volumes of gas into the Straight Creek system along the 60-mile backbone prior to the construction of the laterals during the second phase. Specifically, Memorandums of Understanding were signed with Metgasco, J.D. Carty Resources, Blue Flame Energy Corp., and PJC, L.L.C.

<sup>20</sup> For example, in its affidavit, J.D. Carty Resources states that it will have interconnections along the length of the Straight Creek pipeline and that it intends to continue to develop its gathering system to integrate into Straight Creek's system.

<sup>21</sup> While the gas Straight Creek will receive from Columbia is processed gas, it will be commingled with unprocessed gas and will need further processing to meet Tennessee's Btu content tariff limits. Moreover, we are issuing Straight Creek a limited-term, limited-jurisdiction certificate to transport these volumes.

<sup>22</sup> Equitrans contends that a minimum of 55 percent of Straight Creek's initial flow will consist of processed gas from Columbia on a high pressure basis. We disagree. Straight Creek has initial commitments of up to 88,000 Dth/d. Of that, only 20,000 Dth/d

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incapable of accepting raw gas deliveries into its pipeline from low pressure gathering lines as Straight Creek proposes to do. Moreover, Equitrans will be accepting and transporting gas that is processed to pipeline quality prior to entering the Big Sandy pipeline while Straight Creek will accept unprocessed gas.

22. Several governmental agencies filed comments concerning Straight Creek's request for a declaratory order. The Kentucky SHPO states that Straight Creek should hire a professional archaeologist to conduct an archaeological survey of all undisturbed segments of the proposed pipeline route to determine if there are any sites eligible for listing in the National Register of Historic Places. FWS and Kentucky FWR identify certain federally-listed species that may be impacted by the project. The FWS believes further informal consultation under section 7(a)(2) of the Endangered Species Act is warranted in order to avoid and minimize impacts to federally listed species. Kentucky FWR requests that the Commission prepare an environmental assessment to address any potential impacts. Kentucky Resources requests that the Commission communicate with the Kentucky agencies and U.S. Department of Transportation to assure that there are no gaps in regulation of the environmental and safety impacts associated with the proposed pipeline.

23. As stated, Straight Creek's proposed facilities will perform a gathering function and thus will be exempt from the Commission's jurisdiction. Therefore, the Commission does not have regulatory authority to enforce the governmental agencies' concerns. However, we note that even as a non-jurisdictional facility, Straight Creek must comply with all applicable federal, state, and local environmental laws and regulations.<sup>23</sup>

24. Columbia states that, based on favorable responses to recent open seasons for a planned expansion of its system to connect to the southern end of Equitrans' Big Sandy project, it anticipates submitting an application to the Commission requesting

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will be received off of Columbia's system. Operating pressures on the Straight Creek facilities will range from 300-350 psi on the southern end to 75-100 psi on the northern end. There is no compression located along any of the Straight Creek facilities, which means that the systems operating pressures are a function of the wellhead pressures. The wellhead pressures act to push the gas through the facility, which is typical of a gathering function, unlike compression, which is typical of a transmission function. *See Transcontinental Gas Pipeline Corp.*, 97 FERC ¶ 61,298 at 62,400 (2001).

<sup>23</sup> In its answer, Straight Creek states that it has already begun consultations with the Kentucky SHPO and that it intends to consult with the other agencies and adopt procedures to address their concerns.

authorization to construct the necessary facilities. It contends that, to the extent Straight Creek's second phase anticipates accessing the same gas supplies Columbia accesses today and expects to access as a result of expanding its facilities in the area, certain of Straight Creek's laterals may not be required to relieve the current capacity bottleneck. Columbia states that the Commission should be sensitive to the potential overlap of the proposals so as to avoid any duplicative construction or unnecessary environmental disturbance.<sup>24</sup> Since we have found that Straight Creek's planned facilities will be exempt from the Commission's jurisdiction, the construction of the facilities is not subject to Commission review. Any concerns Columbia may have concerning the construction of these facilities should be raised in any appropriate state or local proceeding.

**B. Limited-term, Limited-Jurisdiction Certificate**

25. Straight Creek contends Columbia's PM-83 line functions as a gathering pipeline and not a transmission pipeline. Therefore, it concludes that its interconnection with Columbia should not impact its non-jurisdictional status. Alternatively, it requests that if the Commission finds the proposed interconnection is jurisdictional, it should issue Straight Creek a limited-jurisdiction certificate for a term of two years, by which time Straight Creek would have completed the construction of its lateral facilities to access that gas directly.

26. Even though we find that Straight Creek's facilities will provide primarily a gathering function, the transportation of gas received from Columbia will constitute the transportation of gas in interstate commerce subject to the Commission's jurisdiction under NGA section 7.<sup>25</sup>

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<sup>24</sup> Columbia states that its planned expansion calls for looping existing facilities that will have limited environmental impact.

<sup>25</sup> While the Commission generally functionalize facilities located downstream of transmission facilities as transmission, *See Tarpon Transmission Co.*, 60 FERC ¶ 61,041 (1992), *order denying reh'g disclaiming jurisdiction, and deferring action*, 61 FERC ¶ 61,249 (1992), *order on reconsideration and determining jurisdictional status of facilities*, 78 FERC ¶ 61,278 (1997), it will issue limited-jurisdiction certificates to gathering companies that perform jurisdictional services when it determines it is in the public interest to do so. *Cf. Columbia Gas Transmission Corp.*, 90 FERC ¶ 61,211 (2000) (issuing a limited-jurisdiction certificate to a gatherer to provide interstate service to serve existing customers).

27. Most producers in eastern Kentucky have traditionally used Columbia's PM-83 line to transport their gas to market. The East Kentucky Independent Oil & Gas Association (East Kentucky IOGA) states that in June 2004, Columbia notified the local producers that due to capacity constraints, interruptible transportation of their gas would be discontinued until further notice.<sup>26</sup> It states that hundreds of gas wells were shut-in by numerous producers and that the shut-in continued until November 2004 when Columbia began allowing interruptible transportation to once again flow. East Kentucky IOGA asserts that the shut-in order was reinstated by Columbia in May 2005 through November 2005. In 2006, Columbia issued the shut-in order in March. East Kentucky states that due to these shut-ins and constraints there are currently more than 1,700 natural gas wells shut-in in eastern Kentucky. East Kentucky IOGA estimates that the shut-ins caused by constraints on Columbia's system amount to approximately \$150,732,000 in lost revenues.

28. The Commission finds that it is in the public convenience and necessity to issue Straight Creek a limited-jurisdiction certificate for a period of two years to provide transportation service from an interconnect with Columbia to alleviate the current capacity constraints in eastern Kentucky. Because of the limited scope of jurisdictional activities anticipated and because Straight Creek's primary function is the non-jurisdictional gathering of natural gas, the Commission will issue a certificate of limited jurisdiction to authorize Straight Creek to perform these limited activities without the full panoply of NGA rate and service obligations. Under such a certificate, jurisdiction extends only to the specific activity authorized, and the gatherer remains non-jurisdictional with respect to its remaining non-jurisdictional gathering operations.<sup>27</sup> Accordingly, this order grants Straight Creek the requisite authority to transport gas received at the interconnect with Columbia's PM-83 line on its gathering facilities for a period of two years as described in the record and above.

29. In previous orders granting limited jurisdiction certificates to otherwise non-jurisdictional companies engaged in relatively minor jurisdictional activities, the Commission has not subjected the companies to the regulatory requirements applicable to conventional natural gas companies.<sup>28</sup> Accordingly, we find that the public interest

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<sup>26</sup> East Kentucky IOGA's motion to intervene at 6.

<sup>27</sup> See, e.g., *Columbia Gas Transmission Corp.*, 106 FERC ¶ 61,297 at P 37 (2004); *Western Gas Resources*, 85 FERC ¶61,087 (1998).

<sup>28</sup> See *Columbia Gas Transmission Corp.*, 106 FERC ¶ 61,297 at P 38 (2004) and 90 FERC ¶ 61,211 at 61,686 (2000).

would not be served by subjecting Straight Creek to the filing and accounting requirements applicable to interstate pipeline companies and these requirements are waived.

30. Equitrans contends that Straight Creek's request for a limited-jurisdiction certificate is procedurally flawed because Straight Creek has not filed an application under NGA section 7. Equitrans argues Straight Creek is seeking a certificate of public convenience and necessity which requires the sponsor thereof to file an application for such certificate. Equitrans notes that the application should include an environmental report in accordance with the National Environmental Policy Act and Commission regulations.

31. We disagree. The Commission is issuing a limited-jurisdiction certificate to Straight Creek to provide a jurisdictional transportation service. Since we have determined that the facilities that will provide transportation service under the limited-jurisdiction certificate will perform primarily a gathering function, we have no jurisdiction over the construction of those facilities. Since Straight Creek's proposal involves only a jurisdictional transportation service with no construction of jurisdictional facilities, the proposal is categorically excluded from NEPA analysis<sup>29</sup> and there is thus no requirement that Straight Creek file an environmental report as Equitrans suggests. Further, since Straight Creek's interconnection with Columbia's system will be constructed by Columbia under its blanket certificate or by Straight Creek under state law, no environmental review of the interconnection is required in this proceeding.

32. The Commission, on its own motion, received and made a part of the record all evidence, including the petition, supplements, and exhibits thereto, submitted in support of the authorization sought in this proceeding were made part of the record and upon consideration of the record,

The Commission Orders:

(A) Straight Creek's request for a determination that the facilities it intends to construct will perform a gathering function exempt from the Commission's jurisdiction under NGA section 1(b) is granted.

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<sup>29</sup> See 18 C.F.R. § 380.4(a)(27) (2006).

(B) A limited-jurisdiction certificate of public convenience and necessity is granted to Straight Creek to transport interstate gas received at Columbia's PM-83 line for a period of two years, and waiver of the Commission's filing and accounting requirements is granted, as discussed in the body of this order.

(C) All filings are accepted into the record.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.