

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.

Northern Natural Gas Company	Docket No. CP06-39-001
Duke Energy Field Services, LP	Docket No. CP06-40-001
Duke Energy Field Services, LP	Docket No. CP06-44-001

ORDER GRANTING REQUEST FOR CLARIFICATION
AND DISMISSING, AS MOOT, ALTERNATIVE REQUEST FOR REHEARING

(Issued November 7, 2006)

1. On October 10, 2006, Duke Energy Field Services, LP (Duke) filed a request for clarification or, alternatively, rehearing of the Commission's September 8, 2006 Order denying the application by Northern Natural Gas Company (Northern Natural) in Docket No. CP06-39-000 for authority to abandon certain facilities by transfer to Duke, and denying Duke's petition in Docket No. CP06-40-000 for a declaratory order finding that, upon transfer to Duke, the facilities would be gathering facilities exempt from the Commission's jurisdiction pursuant to section 1(b) of the Natural Gas Act (NGA).¹

2. The subject facilities, known as the Beaver Wet System, include approximately 419 miles of pipeline with diameters ranging from 2- to 30-inches, receipt and delivery points, compressor units located along the length of the pipelines, and other appurtenant facilities located in Moore, Hutchinson, Hansford, and Ochiltree Counties, Texas; Dewey, Woodward, Ellis, Beaver, and Harper Counties, Oklahoma; and Clark and Kiowa Counties, Kansas. The Commission denied Duke's requested declaratory order based on its finding that the facilities, when viewed as a whole, are used to provide jurisdictional natural gas transmission services, not non-jurisdictional gathering services. This

¹ *Northern Natural Gas Company*, 116 FERC ¶ 61,238 (2006).

determination eliminated the predicate for Northern Natural's application for authority to abandon the facilities.²

3. Duke requests that the Commission clarify that its jurisdictional determination applies only to the Beaver Wet System as a whole under the circumstances that were presented in the filings in this proceeding and does not constitute a finding as to any individual segments or subsets of facilities in the Beaver Wet System that could be the subject of a future filing by Northern Natural for abandonment authority. If the Commission intended its jurisdictional determination to preclude a future jurisdictional analysis of discrete segments or facilities in the Beaver Wet System, Duke requests rehearing of that determination.

4. The Commission's jurisdictional determination was based on its findings regarding the physical characteristics of the facilities included in the Beaver Wet System and how it functions as part of Northern Natural's interstate transmission system. The Commission specifically stated that its determination was based on its consideration of the Beaver Wet System's facilities "when viewed as a whole".³ Therefore, the Commission will grant Duke's request for clarification that the Commission's September 8 order is not intended to prejudge any future filing which would narrow consideration to specific facilities in the Beaver Wet System. However, if Northern Natural does file such an application, the Commission emphasizes that a grant of abandonment authority with respect to any particular facilities cannot be based solely on a finding that gathering would be the primary function of the facilities if they were integrated with Duke's gathering system; it will also be necessary for the Commission's inquiry to take into account how the specific facilities are operating as part of Northern Natural's system. If the facilities are serving a jurisdictional transmission function on Northern Natural's system, a grant of abandonment authority will also depend on a Commission finding in accordance with section 7(b) of the NGA that the public convenience and necessity nevertheless permit Northern Natural's abandonment of the facilities.

The Commission orders:

(A) Duke's request for clarification is granted.

² In Docket No. CP06-44-000, Duke filed for a limited-term, limited-jurisdiction certificate to use some of the subject facilities to transport gas to an affiliate's processing plant pending approval of Northern Natural's application for authority to abandon the facilities by sale to Duke. The Commission's other actions in the September 8 Order rendered this request moot. *Id.* at P 54.

³ *Id.* at PP 3 and 46

(B) Duke's alternative request for rehearing is dismissed as moot.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.