

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Gulf South Pipeline Company, LP and  
Prism Gas Systems, Inc.

Docket No. CP04-24-000

ORDER APPROVING ABANDONMENT  
AND DETERMINING JURISDICTIONAL STATUS OF FACILITIES

(Issued March 30, 2004)

1. On December 1, 2003, Gulf South Pipeline Company, LP (Gulf South) and Prism Gas Systems, Inc. (Prism) filed an application pursuant to Sections 1(b) and 7(b) of the Natural Gas Act (NGA). Gulf South seeks Commission approval to abandon by sale to Prism certain pipeline facilities (Panola County Facilities) located primarily in Panola and Harrison Counties, Texas, and the services provided through the facilities. Additionally, applicants request a determination by the Commission that, once abandoned, the Panola County Facilities will be gathering facilities exempt from the Commission's jurisdiction pursuant to Section 1(b) of the NGA.

2. For the reasons discussed below, we find that the proposed abandonment is in the public interest because Gulf South no longer needs the facilities for its operations and abandonment of the facilities will allow Gulf South to focus on its primary business of interstate natural gas transportation and storage without the expense of operating the subject facilities. We also find that, upon transfer to Prism, the Panola County Facilities will primarily perform a gathering function exempt from the Commission's jurisdiction.

**I. Background and Proposal**

3. Gulf South operates approximately 8,000 miles of pipeline facilities extending from south Texas through east Texas, Louisiana, Mississippi, southern Alabama, and western Florida and provides transportation and storage services in interstate commerce. Prism is a non-affiliated natural gas gathering and processing company that owns and operates gathering facilities located in Cass, Harrison, and Marion Counties, Texas, in

Texas state waters, and in Caddo Parish, Louisiana.<sup>1</sup> Prism also owns a 50% interest in and operates the 150 MMcfd Waskom Processing Plant in Harrison County, Texas.<sup>2</sup> Prism intends, after transfer of the Panola County Facilities, to install the facilities necessary to connect the Waskom Plant to both Gulf South and to the Panola County Facilities.

4. Gulf South proposes to abandon, by sale to Prism, the Panola County Facilities consisting of approximately 432 miles of pipelines ranging in size from 1 inch to 20 inches in diameter, two compressor stations, receipt and delivery facilities, and appurtenant auxiliary facilities.<sup>3</sup> As described by Gulf South, the Panola County Facilities gather indigenous, unprocessed gas from hundreds of wells in three local producing regions - the Carthage Field, the Blocker Field, and the Bethany Field – for delivery to the Duke Energy Field Services, Inc. Processing Plant (Duke Plant), located in Panola County.<sup>4</sup> Prism will purchase the facilities for \$15,000,000.<sup>5</sup>

5. Gulf South proposes that any revision to its transmission or gathering rates be addressed in a future Section 4 rate case. Gulf South states that this abandonment will have minimal effect on its existing Zone 1 maximum gathering and transmission rates.

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<sup>1</sup>Prism owns 50% of Panther Interstate Pipeline, LLC, 105 FERC ¶ 61,383 (2003). Panther consists of 26 miles of transmission line used to deliver offshore production to an onshore point of delivery in Louisiana. However, Prism states that Panther's system is remote from the Panola County Facilities and will be operated by separate management and on a completely independent basis.

<sup>2</sup>CenterPoint Energy Gas Processing Company owns the remaining 50% interest in the Waskom Plant.

<sup>3</sup>Exhibit Z-1 of the application provides a detailed description of the pipeline facilities, including their certificate status. Of the total 432 miles of pipeline to be transferred to Prism, 317 miles are currently functionalized as gathering, of which only a small portion were certificated at the time of construction.

<sup>4</sup>The Duke Plant processes the gas stream by removing liquids and other impurities to create "pipeline quality" gas for delivery to Gulf South and other pipelines at the plant's tailgate. The Duke Plant is the center of the Carthage Hub, which is a major market center in east Texas.

<sup>5</sup>The facilities' net book value is \$9,241,558, estimated as of September 30, 2004. Application's Exhibit Y "Accounting Treatment."

Gulf South further states that, of the approximately 49 Bcf of current annual throughput associated with the Panola County Facilities, only 4.7 Bcf moved at maximum rates during the past 12 months.<sup>6</sup>

6. In conjunction with the sale, Gulf South proposes to abandon the firm and interruptible transportation and gathering services being provided to customers with receipt and/or delivery points located on the Panola County Facilities. Gulf South contends that neither abandonment of the services nor abandonment of the facilities will adversely affect Gulf South's existing customers, stating that producers will not lose their ability to utilize Gulf South's pooling service, nor will transportation customers lose the ability to access east Texas gas supplies. Applicants state that Prism has reached an agreement in principle or is in the process of negotiating an agreement in principle with each customer utilizing Gulf South's gathering and/or transportation services on the Panola County Facilities in order to provide them uninterrupted service at competitive rates.

7. Gulf South states that the Panola County Facilities are currently, and have been historically, used to gather wellhead gas in the region for processing. Gulf South states that, upon transfer to Prism, the facilities will continue to be used in the same manner. Gulf South explains that between the 1920's and the 1980's it constructed or acquired numerous gathering systems in order to secure wellhead supplies to satisfy its merchant obligations. During that time Gulf South also constructed pipeline facilities that were functionalized as transmission for ratemaking purposes that connected the gathering systems to processing plants such as the Duke Plant. Gulf South further explains that, since the adoption of Order No. 636, its need to own and operate such "wet" pipeline facilities to provide system supply is diminished greatly, as Gulf South no longer provides a merchant service. Additionally, Gulf South states that its ability to compete with non-regulated entities to attach wellhead supplies has been dramatically reduced.

8. Gulf South contends that granting the proposed abandonment will allow Gulf South to focus on providing its core interstate transmission and storage services without being burdened with owning and operating these gathering assets, while Prism's flexibility will allow it to provide services more economically and efficiently than can be provided by Gulf South.

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<sup>6</sup>Gulf South states that currently approximately 96% of the Rate Schedule NNS volumes, 89% of Rate Schedule FTS volumes, and over 90% of its ITS volumes are discounted.

## II. Notice, Interventions, and Protest

9. Notice of the application of Gulf South and Prism was published in the Federal Register on December 17, 2003 (68 Fed. Reg. 70,236). The City of Vicksburg, Willmut Gas Company, United Municipal Distributors Group,<sup>7</sup> CenterPoint Energy Entex, Atmos Energy Corporation - Louisiana Division, BP America Production Company and BP Energy Company (collectively BP), and Duke Energy Field Services, LP (Duke Energy) filed timely, unopposed motions to intervene.<sup>8</sup>

10. BP, a producer in the area served by the Panola County Facilities, supports the proposal. BP believes that the proposal will result in improved efficiencies and enhanced opportunities for producers and shippers.

11. Duke Energy, owner and operator of the Duke Plant, filed a protest. Prism filed an answer to Duke Energy's protest. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR § 385.213(a)(2) (2004), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Prism's answer because it has provided information that assisted us in our decision-making process.

12. Duke Energy states that it has processing agreements with producers connected to the Panola County Facilities, many of which are long term, that dedicate their entire production to the Duke Plant for processing. Duke Energy avers that it has received no assurances that this dedicated production will continue to be delivered to the Duke Plant after the proposed abandonment. Duke Energy requests that the Commission reject the filing or require modifications providing that those volumes dedicated to the Duke Plant can be assured of processing consistent with the intent of the parties, as evidenced by the dedication agreements.

13. Prism maintains that there is no legitimate basis for Duke Energy's protest. Prism states that, following its acquisition of the subject facilities, producer/shippers currently connected to the Panola County Facilities will continue to have their gas transported by

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<sup>7</sup>Utilities Board of the City of Atmore, Alabama; Utilities Board of the City of Bay Minette, Alabama; City of Brewton, Alabama; Town of Century, Florida; Utilities Board of the Town of Citronelle, Alabama; City of Fairhope, Alabama; Utilities Board of the City of Foley, Alabama; Okaloosa Gas District, Florida; City of Pensacola, Florida; and South Alabama Gas District, Alabama.

<sup>8</sup>Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214.

Prism to the Duke Plant, should they so desire. Prism further states that, as noted in the application, Prism has negotiated with shippers who utilize the Panola County Facilities to insure continued uninterrupted service after abandonment at an effective gathering rate no higher than the gathering rate charges by Gulf South. Whether producers will continue to elect to have their gas processed at the Duke Plant is solely within the discretion of those producer/shippers, subject to the terms of any contractual commitments the producers may have with Duke Energy. Prism states that it is up to Duke Energy, not Prism and not the Commission, to enforce the terms of private, non-jurisdictional processing agreements.

### **III. Discussion**

14. Since certificated facilities and services are involved, the proposed abandonment is subject to the Commission's jurisdiction and the requirements of Section 7(b) of the NGA.

#### **A. Abandonment of Jurisdictional Facilities**

15. Gulf South no longer performs a merchant function and, thus, no longer needs to own and operate the Panola County Facilities to access system supplies. The abandonment will allow Gulf South to focus on providing interstate transmission and storage services without the burden of owning and operating these gathering assets.

16. Further, Gulf South is unable to purchase gas, develop the specific non-tariff based services, or provide the ancillary services, such as dehydration, that producers desire. Gulf South states that its ability to take out-of-specification gas is limited because of its tariff requirements and its obligation to deliver pipeline quality gas to end users. Gulf South states that this limitation resulted in a drop in volumes on the Panola County Facilities during the last ten years, while competing, non-jurisdictional systems' volumes increased dramatically.

17. Prism plans to offer producers a single agreement that covers both gathering to and processing at the Waskom Plant, and will negotiate with Duke Energy to make the same service available at the Duke Plant. Currently, under Gulf South's ownership, producers must enter into a gathering and/or transportation agreement in addition to other agreements for gas processing services. Prism's ownership of the Panola County Facilities could also result in increased production from the region. For example, the applicants state that the Blocker Field production is currently underutilized because of Gulf South's inability to take out-of-specification gas. Following Prism's acquisition, the facilities will not be subject to Gulf South's tariff based limitation. Prism also intends to expand the Panola County Facilities' ability to offer saltwater handling and condensate

handling and disposal. The applicants state that, in the Bethany Field, negotiations are underway with producers for Prism to add compression and looping in order to accommodate pressures of less than 50 psig at the wellhead, which would increase production. Producers in the Carthage Field have also indicated the need for a lower pressure gathering service, which is being evaluated by Prism.

18. None of the customers receiving service on the Panola County Facilities have protested the application for abandonment. As noted, Prism is negotiating agreements with the customers to provide uninterrupted service to the Duke Processing Plant at competitive rates. Regarding Duke Energy's protest, we note that whether producers will continue to elect to have their gas processed at the Duke Processing Plant is solely within the discretion of those producer/shippers, subject to the terms of any contractual commitments the producers may have with Duke Energy; it is not within the Commission's jurisdiction to enforce the terms of private processing agreements. Accordingly, we find that Gulf South's proposal to abandon the Panola County Facilities and related services is permitted by the public convenience and necessity.

**B. Jurisdictional Status of the Panola County Facilities**

19. Under Section 1(b) of the NGA, the Commission's jurisdiction does not extend to facilities used for the production or gathering of natural gas. The Commission has, over the years, developed a number of legal tests to determine which facilities are non-jurisdictional gathering facilities and which facilities are jurisdictional transmission facilities.<sup>9</sup> The Commission relies on the modified "primary function test," which includes consideration of several physical and geographic factors, including: (1) the length and diameter of the line, (2) the extension of the facility beyond the central point in the field, (3) the facility's geographic configuration, (4) the location of compressors and processing plants, (5) the location of wells along all or part of the facility, and (6) the operating pressure of the line.<sup>10</sup>

20. In addition, the Commission also considers the purpose, location, and operation of the facility, the general business activity of the owner of the facility, and whether the jurisdictional determination is consistent with the NGA and the Natural Gas Policy Act.

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<sup>9</sup>See *Amerada Hess Corporation*, 52 FERC ¶ 61,268 (1990) and *Farmland Industries, Inc.*, 23 FERC ¶ 61,063 (1983).

<sup>10</sup>The Commission has further modified the primary function test as applied to facilities located offshore; these modifications are immaterial here, since all the facilities at issue are located onshore in Texas and Louisiana.

The Commission does not consider any one factor to be determinative and recognizes that all factors do not necessarily apply to all situations.<sup>11</sup> 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>12</sup>

21. The Panola County Facilities currently functionalized by Gulf South as gathering for ratemaking purposes consist of: (1) approximately 317 miles of pipeline ranging from 1 inch to 20 inches in diameter, of which only 60 miles are 10 inches in diameter or greater; and (2) the 9,400 horsepower Carthage No. 1 Compressor Station, a field compressor with an inlet pressure of 330 psig and a discharge pressure of 780 psig. A small portion of the functionalized gathering lines are located in Louisiana.<sup>13</sup> Although some gathered gas moves from Louisiana into Texas, this fact in itself does not keep the facilities from being declared to be gathering.<sup>14</sup>

22. The Panola County Facilities currently functionalized by Gulf South as transmission for ratemaking purposes, all located in Texas, consist of: (1) approximately 115 miles of 8-inch to 20-inch diameter pipelines, of which 21 miles are 20-inch and 8 miles are 18-inch; and (2) the 8,000 horsepower Latex Compressor Station, a field compressor with an inlet pressure of 210 psig and a discharge pressure of 400 psig.

23. The pipelines currently functionalized as transmission connect the Bethany Field's gathering facilities to the Latex Compressor Station. The Latex Station draws down the pressure on the upstream facilities aiding the flow of wellhead gas into the system. The Latex Station delivers the gas downstream where it is commingled with unprocessed gas production from the Blocker Field and transported through pipeline facilities currently functionalized as transmission. The unprocessed Bethany and Blocker gas stream continues to flow downstream through pipeline facilities, functionalized as transmission, which also collect unprocessed wellhead gas from gathering facilities in the Carthage Field. Commingled unprocessed gas from the Bethany, Blocker, and Carthage Fields is

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<sup>11</sup>See, e.g., TOMCAT, 59 FERC ¶ 61,340 at 62,239 (1992).

<sup>12</sup>See, e.g., *id.* and Amerada Hess Corporation, 52 FERC ¶ 61,268 (1990).

<sup>13</sup> Of the lines located outside Panola County, 40 miles are located in Harrison County and a small amount are located in Shelby County, Texas (1.25 miles), Caddo Parish, Louisiana (2.22 miles), and Desoto Parish, Louisiana (4.49 miles).

<sup>14</sup> Columbia Gas Transmission Corp., 85 FERC ¶ 61,191 (1998), *reh'g denied*, 86 FERC ¶ 61,137 (1999).

delivered to the Duke Plant at a low pressure inlet or is delivered to the Carthage No. 1 Compressor Station which boosts the pressure of the unprocessed gas stream for delivery to the high pressure inlet of the Duke Plant. Gulf South and other pipelines receive pipeline quality gas into their systems at the tailgate of the Duke Plant. All of the facilities proposed for abandonment are upstream of the Duke Plant and, when connected to Prism's existing facilities, will also be located behind the Waskom Plant.

24. The Commission has recognized that whether facilities extend beyond a central point in a field has "little significance" where processing plants exist and the subject facilities are located upstream of the processing plants in one large production area, as is the case here.<sup>15</sup> The Commission has found that the location of pipeline facilities behind a processing plant "strongly supports a finding that they are gathering."<sup>16</sup> Where compression facilities were located upstream of processing facilities and served to "prepare raw gas for processing", as is the case here, the Commission has concluded that such compression facilities have a gathering function.<sup>17</sup>

25. Of the pipelines currently functionalized as transmission, the length of the lines reflects the distance between the three production areas and the Duke Plant. No segment of uniform diameter is greater than 27 miles in length and most segments are less than 10 miles in length. The relatively large diameters, up to 20 inches, are indicative of the large volumes of wellhead gas historically gathered through these lines. We have found lines of these and greater lengths and diameters to be consistent with a gathering function.<sup>18</sup>

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<sup>15</sup>Columbia Gas Transmission Corp., 79 FERC ¶ 61,045 at 61,210 (1997); Bitter Creek Pipelines, LLC, 94 FERC ¶ 61,391 at 62,470 (2001) (subject facilities clearly were in the central portion of a producing region surrounded by and connected to wells and gathering lines).

<sup>16</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>17</sup>Williams Field Services Group, Inc. v. El Paso Natural Gas Co., 89 FERC ¶ 61,161 (1999) (75,610 horsepower of compression found to be gathering).

<sup>18</sup>CNG Transmission Corp., 86 FERC ¶ 61,138 at 61,486 (1999), order on reh'g, 90 FERC ¶ 61,290 (2000) (24-inch pipeline facilities were gathering); Columbia Gas Transmission Corp., 79 FERC ¶ 61,045 at 61,210 (1997) (34.1 miles of 26-inch pipeline was gathering).

26. There are hundreds of natural gas wells connected all along the Panola County Facilities, including the large diameter, long lines. The presence of gas wells along pipeline facilities has been found to be indicative of gathering functions.<sup>19</sup> The dominant configurations for the facilities are web-like, like the Carthage Field facilities, and backbone-type, exhibited by the larger, longer lines that traverse the Blocker and Bethany Fields and connect them to the two compressor stations, the Carthage Field facilities and the Duke Plant. The Commission has found such configurations to be indicative of a gathering function.<sup>20</sup>

27. The line pressure behind the Latex compressor Station is approximately 210 psig, the pressure at the low pressure inlet to the Duke Plant is 350 psig, and producers in the region have requested reductions in line pressures to accommodate the gathering of additional low pressure gas. These pressures are indicative of a gathering function. In this case, field compression is used to facilitate the gathering and processing of gas. While the Carthage No. 1 Compressor Station delivers gas to the high pressure inlet of the Duke Plant at 780 psig, the Commission has found that when compression and higher pipeline pressures are necessary to transport wet gas to processing plants, they are not inconsistent with a gathering function.<sup>21</sup>

28. Based on the application of the above test, we find that the primary function of the Panola County Facilities is to gather natural gas, and that the facilities will continue to perform this function upon transfer to Prism and integration with its existing non-jurisdictional gathering and processing business.

### **C. NGA Section 4 Filing**

29. The Commission has found that NGA Section 4 requires an interstate pipeline that has been using facilities to provide service under gathering rate schedules to make a tariff filing to obtain approval prior to transferring the gathering facilities to another party, regardless of whether its gathering facilities are certificated.<sup>22</sup> The established

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<sup>19</sup>Columbia Gas Transmission Corp., 79 FERC ¶ 61,045 (1997).

<sup>20</sup>Arkla Gathering Services Co., 67 FERC ¶ 61,257 at 61,868 (1994), order on reh'g, 69 FERC ¶ 61,280 (1994).

<sup>21</sup>Williams v. El Paso 89 FERC ¶ 61,161 (1999), order deny'g reh'g, 91 FERC ¶ 61,077 (2000).

<sup>22</sup>Mississippi River Transmission Corp., 80 FERC ¶ 61,294 (1997); ANR Pipeline Company, 76 FERC ¶ 61,153 (1996).

procedures require that an NGA Section 4 filing be made within 30 days prior to the effective date of the transfer and should include the following information: (1) a statement showing the reasons for the termination; (2) a list of the contracts to be terminated, identifying by contract number and showing the proposed termination date and the affected shippers to whom the notice has been mailed; and (3) a list of shippers, if any, that have entered into contracts with Prism. Accordingly, we will require Gulf South to make an NGA Section 4 filing, containing the required data, within the specified time period.

**D. Accounting and Rates**

30. Gulf South proposes to account for the sale of the facilities as the disposition of an operating unit or system and recognize a gain of \$5,758,442 in Account No. 421.1, Gain on Disposition of Property. Gulf South's proposed accounting is in accordance with Gas Plant Instruction No. 5 and the requirements of the Commission's Uniform System of Accounts. Gulf South must file its actual accounting entries within six months of the sale as required by paragraph B of the instructions to Account 102, Gas Plant Purchased or Sold. The impact on Gulf South's applicable rates will be addressed when it files its next Section 4 rate case.

**E. Environment**

31. Environmental review of this proposal under Section 380.4(b) confirms that this action qualifies as a categorical exclusion under Section 380.4(a)(27) pertaining to abandonment of service, and Section 380.4(a)(31), pertaining to abandonment of facilities by sale. The determination that the subject facilities will be exempt from the Commission's jurisdiction is an administrative decision.

**F. Conclusion**

32. At hearing held on March 24, 2004, the Commission on its own motion received and made a part of the record in these proceedings all evidence submitted, including the applications and petitions and exhibits supporting the approvals sought, and after consideration of the record,

The Commission orders:

(A) Gulf South is granted permission and approval under NGA Section 7(b) to abandon the Panola County Facilities by sale to Prism and to abandon Gulf South's jurisdictional services provided by them, as described in this order and more specifically in the application.

(B) Upon acquisition by Prism, the Panola County Facilities will be gathering facilities exempt from the Commission's jurisdiction pursuant to NGA Section 1(b).

(C) Gulf South shall notify the Commission within 10 days of the date of abandonment of the facilities described above.

(D) Gulf South is instructed to file its actual accounting entries clearing Account 102 within six months of the sale.

(E) Gulf South is instructed to make a NGA Section 4 filing for approval to terminate its gathering services at least 30 days prior to the effective date of the transfer of the Panola County Facilities. The filing must include the information required in the body of this order.

(F) Duke Energy's protest is denied.

(G) Prism's answer is accepted.

By the Commission.

( S E A L )

Linda Mitry,  
Acting Secretary.