

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Equitrans, L.P.

Docket No. CP04-76-000

ORDER DETERMINING JURISDICTIONAL STATUS OF FACILITIES

(Issued November 23, 2004)

1. On March 1, 2004, Equitrans, L.P. (Equitrans), filed an application under section 7 of the Natural Gas Act (NGA) seeking the necessary authorizations, including any necessary abandonment authority, to refunctionalize certain of its facilities from transmission/storage to gathering. The facilities are located in Armstrong and Green Counties, Pennsylvania, and Braxton, Doddridge, Lewis, Marion and Wetzel Counties, West Virginia.
2. For the reasons discussed below, the Commission is approving the requested refunctionalization and by finding that the facilities' primary function is gathering. However, the Commission will not address the issue of abandonment authority under section 7(b) of the NGA at this time because Equitrans is not seeking to transfer any of the facilities to another entity. The approval of Equitrans' proposal is in the public interest because it clarifies the jurisdictional and rate status of the facilities.

**Background and Proposal**

3. Equitrans is a limited partnership organized and existing under the laws of Pennsylvania and authorized to do business in West Virginia and Pennsylvania. Equitrans is a natural gas company as defined in the NGA, engaged in the business of storing and transporting natural gas in interstate commerce, subject to the jurisdiction of

the Commission. Equitrans also provides gathering services which are exempt from the Commission's jurisdiction under section 1(b) of the NGA.<sup>1</sup>

4. After restructuring its system pursuant to Order No. 636, Equitrans ended its merchant role and its gathering facilities became used primarily to provide open-access gathering services. Equitrans also began the process of unbundling its rates for gathering service from its rates for interstate open-access transportation. Under the Stipulation and Agreement in Docket No. RP97-346-000, *et al.*, Equitrans agreed to fully unbundle its rates for gathering service by a date certain.<sup>2</sup>

5. In late 1999, Equitable Resources, Inc., a limited partner of Equitrans owning a 99 percent interest in the limited partnership, acquired the assets of Carnegie Interstate Pipeline Company (CIPCO), including some of the facilities described herein.<sup>3</sup> At about the same time, Equitrans sought and obtained authority to abandon five of its natural gas gathering systems located in West Virginia and Pennsylvania by transfer to its affiliate, Equitable Field Services, L.L.C. (EFS).<sup>4</sup> Equitrans states that it has subsequently determined that some of its remaining pipeline facilities, including some of the CIPCO

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<sup>1</sup> While the Commission does not have jurisdiction over gathering because of the exemption in section 1(b) of the NGA, it does have jurisdiction over rates charged by interstate pipelines for gathering service under section 4(a) of the NGA because gathering rates are charged "in connection with" jurisdictional transportation. Further, if the facilities were certificated, regardless of their current function, the owner and/or operator of the gathering facilities must seek abandonment authority from the Commission under section 7(b) of the NGA before the facilities can be transferred to another entity.

<sup>2</sup> *Equitrans, L.P.*, 87 FERC ¶ 61,116 (1999).

<sup>3</sup> CIPCO merged into Equitrans on January 1, 2004, pursuant to the Commission's order in *Equitrans, L.P. and CIPCO*, 104 FERC ¶ 61,008 (2003). Gathering services previously provided by CIPCO are now offered by Equitrans under its gathering rates for service in the CIPCO District.

<sup>4</sup> *Equitrans, L.P. and Equitable Field Services, L.L.C.*, 98 FERC ¶ 61,160 (2002) (*Equitrans/EFS*).

facilities, are performing a gathering function and should be refunctionalized from transmission/storage to reflect their current operation.<sup>5</sup>

6. Equitrans is seeking to refunctionalize to gathering five systems, including: (1) approximately 275 miles of low-pressure, predominately small diameter pipeline; (2) 14 compressor engines, located at 8 compressor stations, having a total of 14,395 hp; and (3) various meters and appurtenant facilities. Equitrans contends that all of the subject facilities are primarily used to gather gas from numerous gas wells in Pennsylvania and West Virginia and to transport such gas to Equitrans' interstate transmission facilities or other interstate pipeline transmission facilities.

### **Description of Facilities and Equitrans' Reasons for Refunctionalization**

7. As stated, the subject facilities consist of five systems located in West Virginia and Pennsylvania. Equitrans' description of the facilities and its contentions as to why they should be refunctionalized from gathering to transmission follow.<sup>6</sup>

#### **Crooked Creek Compressor Station – Armstrong County, Pennsylvania**

8. Equitrans proposes to refunctionalize from transmission to gathering its Crooked Creek Compressor Station and the associated downstream Lines H-110, H-113 and H-114. Equitrans states that the Crooked Creek Compressor Station has two compressor engines totaling 500 hp and a dehydration unit dedicated entirely to gathering and dehydrating low-pressure wellhead gas.

9. Gas enters the compressor station at a suction pressure of approximately 2 psig and is discharged into Line H-110 at approximately 35 psig. The gas moves through Line

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<sup>5</sup> At the same time Equitrans filed its request to refunctionalize facilities as gathering in this proceeding, Equitrans filed a rate case in Docket No. RP04-203-000 in which it proposed, among other things, to revise its rates to reflect the refunctionalization of the subject facilities. The orders in this and the rate proceeding in Docket No. RP04-97-000, *et al.*, which includes Docket Nos. RP04-203-001 and -002, are being issued contemporaneously.

<sup>6</sup> The descriptions of the facilities in this order are based on Equitrans' application, numerous responses to data requests and maps filed in this proceeding. In some instances, the clarifications provided in the responses differ from statements in the application regarding the subject facilities. Where there are disparities, the Commission will rely on the responses because they are much more detailed than those in the application.

H-110, then either continues on that line or branches off into the Lines H-113 and H-114, which rejoin Line H-110 downstream. Line H-110 is a 3.5-mile, 16-inch diameter pipeline. Line H-113 is a half-mile, 10-inch diameter segment of pipe, while Line H-114 lateral is a one-mile, mostly 10-inch diameter pipe, with a short 8-inch diameter segment. The gas moving through these lines is then delivered directly into Equitable Gas Company's local distribution system. The maximum allowable operating pressure (MAOP) of Lines H-110, H-113 and H-114 is 43 psig; however, their average operating pressure is 38-40 psig.

10. Equitrans explains in a May 17, 2004 response to a data request that the Crooked Creek Compressor Station and the associated laterals should never have been classified as transmission facilities when they were constructed, and that it cannot find any record suggesting how they came to be classified as transmission. In any event, Equitrans states that the facilities currently function as gathering facilities. According to Equitrans, gas moves from wells over lines already classified as gathering into the Crooked Creek Compressor Station for compression and dehydration and then is discharged at low pressure from the station into Lines H-110, H-113 and H-114. Additional gas moves into these laterals from wells along the lines and then all of the locally produced gas is delivered directly to Equitable Gas Company for local distribution. Equitrans states that neither the compressor station nor these lines are connected to any other interstate or intrastate pipelines. As such, Equitrans maintains, these facilities can be characterized as an isolated gathering system which exists solely to deliver the gas from nearby fields to the local distribution company.

#### **Burnsville Compressor Station – Braxton County, West Virginia**

11. Equitrans proposes to refunctionalize from transmission to gathering its Burnsville Compressor Station and the associated downstream Line H-505, a 2.7-mile, 20-inch diameter pipeline and Line H-503, a 13.7-mile, 16-inch diameter pipeline. One of the three engines being refunctionalized is a 600 hp engine, while the other two engines are 1,350 hp engines. Gas from three EFS gathering fields, known as the Waldeck, Rosedal and Skin creek fields, feed into the suction side of the Burnsville Compressor Station, at pressures ranging from 2 to 30 psig and is discharged at an average operating pressure of 100 psig. Equitrans states that the gathering systems upstream of the Burnsville Compressor Station consist of numerous laterals ranging from 2 to 20 inches in diameter, with numerous natural gas production wells attached. Gas is discharged into Line H-505, which then interconnects with Line H-503. Lines H-505 and 503 have a MAOP of 440 psig, but Equitrans states that their average operating pressure is between 55 and 100 psig. Line H-503 line terminates at the suction side of the Copley Run Compressor Station.

12. In its May 26, 2004 data response, Equitrans explains that gas rich in hydrocarbons flows into the Burnsville Compressor Station and the raw gas flows through Lines H-505 and H-503 and is delivered to compressor Unit 2 and sometimes Unit 3 at the Copley Run Compressor Station. At that station, the rich gas is compressed to pressures between 320 and 400 psig for delivery into Dominion Transmission Inc.'s (Dominion) interstate, wet transmission system for transportation to Dominion's Hastings extraction plant. Thus, according to Equitrans, the Burnsville Compressor Station and Lines H-505 and H-503 perform a gathering function. Additionally, as discussed later herein, Equitrans contends that the Burnsville Compressor Station also functions to reduce pressures on the upstream lines so that gas from marginally producing, low-pressure wells can flow into the gathering lines upstream of the station.

### **Copley Run Compressor Station – Lewis County, West Virginia**

13. Equitrans proposes to refunctionalize from storage to gathering compressor Units 1 and 2 of the six compressor engines at its Copley Run Compressor Station. Equitrans states that compressor Unit 1 is a 2,250 hp engine, while Unit 2 is a 1,350 hp engine.<sup>7</sup> Gas from three EFS gathering fields, known as Delaney, Upshur and Vandalia fields, feeds through lines already functionalized as gathering into the suction side of Unit 1 at an operating pressure ranging from 14 to 18 psig and is discharged at pressures between 320 and 400 psig into Dominion's interstate, wet transmission system for delivery to Dominion's Hastings products extraction plant. Wet gas flows into Unit 2 from Line H-503 at pressures between 55 and 60 psig and discharges at 320-400 psig. As described, this gas first flows through the Burnsville Compressor Station and then through Lines H-505 and H-503 to the suction side of the Copley Run Compressor Station. Equitrans, in its May 26, 2004 data response, explains that Unit 3 at the Copley Run Compressor Station serves a dual purpose: (1) to compress rich, wet gas received from the Burnsville Compressor Station through line H-503; and (2) to act as a backup compressor unit for withdrawals from the Skin Creek and Rhodes storage pools. Units 4, 5 and 6 are utilized strictly for compression associated with the injection and withdrawal of gas to and from storage. Equitrans does not propose to refunctionalize Units 3, 4, 5 and 6, which will continue to perform a transmission function.

14. In its application, Equitrans states that the Copley Run Compressor Station is upstream of an in-path extraction plant located in proximity to the station. However, in its May 17, 2004 data response, Equitrans explains that in 2000 it sold that extraction

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<sup>7</sup> Equitrans' responses to data requests provided specific information about the function of each compressor unit at the Copley Run Compressor Station in order to clarify the more general description of the compressor station in its application.

plant to Dominion Field Services, Inc. (DFS). Then, in April of 2002, Equitrans completed construction on a pipeline from the discharge side of the Copley Run Compressor Station, which allows gas from compressor Units 1, 2 and sometimes 3 to bypass the nearby extraction plant, now owned by DFS. Instead, that gas is delivered into Dominion's wet, interstate transmission system for delivery to Dominion's Hastings products extraction plant. Equitrans characterizes the Copley Run Compressor Station as the central point-in-the field where gas from the upstream gathering fields, including that flowing through the Burnsville Compressor Station, is collected. Further, Equitrans states that Units 1 and 2 at the Copley Run Compressor Station function to keep pressures on the upstream gathering facilities low enough to allow gas to flow from low-pressure wells into the gathering system.

### **West Union Compressor Station – Braxton County, West Virginia**

15. Equitrans is proposing to refunctionalize from transmission to gathering compressor Units 1 and 2 at its West Union Compressor Station. Equitrans states that both of the engines being refunctionalized are 1,080 hp engines. Gas from one EFS gathering field feeds into the suction side of Units 1 and 2 at operating pressures ranging from 2 to 30 psig, with an average pressure of 25 psig. Gas flows out of the discharge side of the West Union Compressor at higher pressures for delivery into Dominion's wet, transmission system for transportation to the Hastings product extraction plant. The compressors have an MAOP of 400 psig. According to Equitrans, Unit 3 at the West Union Compressor Station is used exclusively to support the injections and withdrawals of gas into and out of the Shirley storage pool, which is located in proximity to the station. Gas for storage is received from interconnections between other interstate pipelines and Equitrans' interstate transmission system and flows into (or in the case of withdrawal, out of) Equitrans' Lines H-515 and H-527, which have an MAOP of 600 psig. Equitrans does not propose to refunctionalize Unit 3 or Lines H-515 and H-527.

16. Equitrans contends that because gas from Units 1 and 2 is no longer processed at the discharge side of the West Union Station, but at the Hastings plant after it is transported over Dominion's wet, interstate transmission system, Units 1 and 2 should be refunctionalized from transmission to gathering. Its arguments are the same as those urging that the two units at the Copley Run Compressor Station should be refunctionalized from transmission to gathering. Equitrans also suggests that similar to Units 1 and 2 at the Copley Run Compressor Station, Units 1 and 2 at the West Union Compressor Station should be characterized as the central point-in-the-field and, therefore, those units perform primarily a gathering function. Equitrans further explains that Units 1 and 2 serve to hold pressures down on the upstream gathering lines so gas from marginal, low-pressure wells can flow into the gathering system.

### **CIPCO Facilities**

17. Equitrans is proposing to refunctionalize from transmission to gathering the following compressor stations acquired from CIPCO: Toll Gate, Underwood, Hundred and Waynesburg. The Toll Gate, Underwood and Hundred Compressor Stations are located in West Virginia, while the Waynesburg Compressor Station is in Pennsylvania. Equitrans is also proposing to refunctionalize from transmission to gathering the following pipeline segments acquired from CIPCO: M19, M23, M25, M26, M30, M31, M32, M33, M34, M35, M36, M37, M39, M40, M41, M42, M44, M46, M47, M63, M66, M67, M69, M71, M73 and M90. Some of these pipelines are located in West Virginia and some are in Pennsylvania.

18. The Toll Gate Compressor Station, located in Doddridge County, West Virginia, consists of Unit 1, a 300 hp engine, and Unit 2, a 360 hp engine. The design suction and discharge pressures at the Toll Gate Compressor Station are 3 psig and 60 psig, respectively. Gas from several production fields flowing over gathering lines, as well as gas flowing over Lines M-42, M-41, M-40 and M-39, which were functionalized by CIPCO as transmission, enters the suction side of the Toll Gate Compressor Station. The gathering field facilities are made up of laterals ranging from 2 to 10 inches in diameter with numerous natural gas production wells attached. Lines M-42, M-41, M-40 and M-39 are 10-inch diameter pipelines with MAOPs of 40 psig. Together these lines extend 13 miles from the Auburn field compressing station to the suction side of the Toll Gate Compressor Station. The Toll Gate Compressor Station discharges into Line M-37, a one-mile, 12-inch diameter pipeline. Line M-37 connects to Line M-36, a 10-mile, 12-inch diameter pipeline, which in turn connects to Line M-35, an 11-mile, 12-inch diameter pipeline. Finally, Line M-35 connects to Line M-34, a 21-mile, 10-inch diameter line that connects to the suction side of the Hundred Compressor Station. Together, Lines M-37, M-36, M-35 and M-34 run 42 miles from the discharge side of the Toll Gate Compressor Station to the suction side of the Hundred Compressor Station. These lines all have MAOPs of 75 psig.

19. Equitrans asserts that the above-described pipeline segments upstream and downstream of the Toll Gate Compressor Station perform a gathering function because these lines are located upstream of the Holly Hill extraction plant in Greene County, Pennsylvania, operate at pressures lower than 25 psig, are located in a dense production area, and are interconnected with numerous wells.<sup>8</sup> Equitrans also contends that the

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<sup>8</sup> In its May 25, 2004 data response, Equitrans states the number of wells attached to the above-referenced lines are as follows: M-42 – 12; M-41 – 103; M-40 – 30; M-39 – 4; M-37 – 0; M-36 – 8; and M-34 – 11.

diameters of these lines, ranging from 10 to 12 inches, are consistent with facilities found to perform a gathering function, including those gathering lines upstream of the Toll Gate Compressor Station. In its application Equitrans explains that these facilities, as well as other CIPCO facilities it seeks to refunctionalize, are behind a central point-in-the-field, which Equitrans asserts is the Waynesburg Compressor Station located just upstream of the Holly Hill extraction plant. Equitrans explains that in addition to the fact that the Toll Gate Compressor Station is located upstream of a processing plant, it operates at the low suction pressure of 3 psig and discharge pressure of less than 60 psig, which is indicative of field compression used to move gas to the central point-in-the-field for processing.

20. The Hundred Compressor Station is located in Wetzel County, West Virginia and has two compressor engines. Unit 1 is a 320 hp engine and Unit 2 is a 525 hp engine. The design suction and discharge pressures at Hundred Compressor Station are 2 psig and 42 psig, respectively. Gas from several production fields, plus gas from the Toll Gate Compressor Station and the Smithburg field compressing station, the latter already functionalized as gathering, feeds into the suction side of the Hundred Compressor Station. The upstream gathering facilities are made up of numerous segments of pipeline ranging from 2 to 12 inches in diameter. As noted, Lines M-37, M-36, M-35, and M-34, which are downstream of the Toll Gate Compressor Station, have diameters of 10 to 12 inches and MAOPs of 75 psig. Numerous natural gas production wells are attached to all of these lines feeding into the Hundred Compressor Station.<sup>9</sup> Additionally, Equitrans explains, Line M-46, an 11-mile, 10-inch diameter line into which the Smithburg field compressing station discharges is mistakenly shown on the map submitted with the application as originating on the suction side of the Smithburg station. Equitrans indicates that the portion of the line immediately upstream of that station was previously functionalized as gathering.<sup>10</sup> Line M-46 interconnects downstream with Line M-44, a 28-mile, 10-inch diameter line, which connects to the suction side of the Hundred Compressor Station. Lines M-46 and M-44 have MAOPs of 40 psig.<sup>11</sup> Line M-46 also appears to interconnect with Line M-69, described later herein, which is upstream of the Underwood Compressor Station. Equitrans asserts that all of the lines which flow gas into the Hundred Compressor Station should be refunctionalized from transmission to gathering.

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<sup>9</sup> *Id.*

<sup>10</sup> Equitrans' May 25, 2004 response to Staff Question 2-5.

<sup>11</sup> According to Equitrans' May 25, 2004 response, there are 11 and 80 wells attached to Lines M-46 and M-44, respectively.

21. In addition, in a May 25, 2004 response to a data request, Equitrans clarified an error on one of the maps submitted in this proceeding, labeled ELP-6, page 2 of 2. That map shows Equitrans' Lines M-23 and M-25 as transmission lines flowing to the suction side of the Ryerson field compressing station and transmission Line M-26 flowing south from that compressing station into the Hundred Compressor Station. The map also shows Line M-25's origination point in the wrong location. In a previous CIPCO order, the Commission found that the Ryerson compressing station and Line M-26, a 2-mile, 10-inch diameter pipeline with an MAOP of 40 psig, were gathering facilities.<sup>12</sup> Equitrans explains that the actual configuration of these facilities is that the Ryerson compressing station discharges gas into Line M-25, a 5-mile, 10-inch diameter pipeline with an MAOP of 40 psig, at its point of origin. Line M-25 interconnects with Line M-23, a 13-mile, 12-inch diameter pipeline with an MAOP of 40 psig. Line M-23 then flows in a northeasterly direction into Line M-30, a 10-mile, 12-inch diameter pipeline with an MAOP of 40 psig, which flows into the suction side of the Waynesburg Compressor Station. Line M-26, already functionalized as gathering, actually runs north from the discharge side of the Hundred Compressor Station and then interconnects to Line M-23, which, as noted, interconnects with Line M-30.<sup>13</sup>

22. The Hundred Compressor Station discharges into Line M-33, a 5-mile, 12-inch diameter pipeline with a MAOP of between 40 and 75 psig.<sup>14</sup> The May 24, 2004 response to a data request indicates that there are 10 wells attached to Line M-33. Line M-33 interconnects with Line M-32, which in turn interconnects with Line M-71.<sup>15</sup> Line M-71 connects to the discharge side of the Waynesburg Compressor Station. Lines M-32 and M-71 are discussed below.

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<sup>12</sup> *Carnegie Natural Gas Co. and CIPCO*, 69 FERC ¶ 61,364 (1994) (CNG/CIPCO) (system was reorganized to separate the distribution facilities from those used to perform gathering and transmission in connection with interstate operations).

<sup>13</sup> In its May 24, 2004 data response, Equitrans states the number of attached wells as follows: M-23 – 17; M-25 – 3; M-26 – 0; and M-30 – 6.

<sup>14</sup> The May 24, 2004 response to a data request indicates that there are 10 wells attached to Line M-33.

<sup>15</sup> Line 71 appears on map ELP-6, page 2 of 2. However, on the map labeled Staff 1-1, which Equitrans submitted in a May 24, 2004 response to a data request, that line appears to be erroneously designated as Line M-26. Line M-26, as noted, is actually located on the discharge side of the Hundred Compressor Station.

23. As previously noted, gas which is discharged from the Toll Gas Compressor Station into Line M-37 subsequently moves over Lines M-36, M-35 and M-34 to the Hundred Compressor Station. However, Line M-35 also interconnects with Line M-90, a 15-mile, 6- to 10-inch diameter pipeline. Gas moves over Line M-90, then over Line M-69, a one-mile, 8-inch diameter pipeline, then over Line M-66, an 8-mile, 12-inch diameter pipeline, and finally over Line M-63, an 8-mile, 12-inch diameter pipeline, which feeds into the suction side of the Underwood Compressor Station. Lines M-90, M-69, M-66 and M-63 have MAOPs of 40 psig.<sup>16</sup>

24. The Underwood Compressor Station is located in Marion County, West Virginia, and has one compressor unit with a 230 hp engine. The design suction and discharge pressures at the Underwood Compressor Station are 2 psig and 42 psig, respectively. In addition to gas which was compressed at the Tollgate Compressor Station, gas from several production fields feeds into the suction side of the Underwood Compressor. The facilities in these fields, already functionalized as gathering, are made up of numerous laterals ranging from 2 to 12 inches in diameter with wells attached to them. The Underwood Compressor Station discharges into Line M-4, an 18-mile, 12-inch diameter pipeline with an MAOP of 40 psig. Line M-47 interconnects with Line M-32, which in turn interconnects with Line M-71.<sup>17</sup> Line M-71 connects to the suction side of the Waynesburg Compressor Station. Lines M-32 and M-71 are described below.

25. Equitrans concludes that Lines M-90, M-69, M-66 and M-63, which are downstream of the Toll Gate Compressor Station and upstream of the Underwood Compressor Station, should be functionalized as gathering because they are upstream of the Holly Hill processing plant, are located in a dense production area with wells along the lines (as described there are no wells attached to Lines M-69 and M-63), operate at a low pressure of 40 psig, and have diameters ranging from 6 to 12 inches.<sup>18</sup> For the same

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<sup>16</sup> In its May 24, 2004 response to a data request, Equitrans states the number of attached wells as follows: M-90 – 20; M-69 – 0; M-66 – 11; and M-63 – none.

<sup>17</sup> There are six wells attached to Line M-47.

<sup>18</sup> We note that Equitrans included Line M-67, a 2-mile, 2-inch diameter line, as one of the ones it seeks to refunctionalize from transmission to gathering. This line runs through a production area in Lewis County, West Virginia, where there are several gathering lines in a web-like configuration. This gathering system appears to be isolated from the rest of the CIPCO facilities. However, on the map labeled Staff 1-1, submitted in Equitrans' May 24, 2004 data response to Staff Question 1-1, Equitrans shows Line M-67 as already functionalized as gathering. Since it is unclear what the functionalization of that facility is, we will apply the primary function to the line later in this order.

reasons, Equitrans maintains that Lines M-46 and M-44, which are downstream of the Smithburg field compressing station and upstream of either the Hundred or the Underwood Compressor Stations, should be refunctionalized from transmission to gathering. Equitrans asserts that like the Toll Gate Compressor Station, the Hundred and the Underwood Compressor Stations should be functionalized as gathering because both operate at low pressures of 2 psig at the suction side and 42 psig at the discharge side. Further, both compressor stations are upstream of the Holly Hill processing plant.

26. As previously mentioned, gas is discharged from the Hundred Compressor Station into Line M-33, which interconnects with Line M-32, an 11-mile, 12-inch diameter line with an MAOP of 4 psig, which in turn interconnects with Line M-71, a 3-mile, 12-inch diameter pipeline with an MAOP of 40 psig.<sup>19</sup> Line M-71 connects to the suction side of the Waynesburg Compressor Station. Further, gas which has been compressed at the Mt. Morris field compressing station flows in a northwesterly direction over Line M-31, an 11-mile, 10-inch diameter pipeline with an MAOP of 99 psig, which in turn interconnects with Line M-71. In addition, gas moves over Equitrans' Line M-73, a 27-mile, 8-inch diameter pipeline with an MAOP of 99 psig, which extends from the Indian Creek field compressing station to the Waynesburg Compressor Station. Finally, Line M-19, a 14-mile, 16-inch pipeline with an MAOP of 75 psig, carries gas in a northerly direction from upstream lines in a production field that are already classified as gathering to the suction side of the Waynesburg Compressor Station.<sup>20</sup>

27. Equitrans states that all of the subject lines that are downstream of the Hundred or the Underwood Compressor Stations perform a gathering function because they are behind the Holly Hill processing plant, have relatively small diameters ranging from 10 to 12 inches, have numerous wells attached, and operate at low pressures ranging from 40 to 75 psig. These lines include Lines M-33, M-32, M-71, M-19, M-25, M-23, M-30, and M-47.<sup>21</sup> Equitrans also asserts that its Lines M-73, and M-31, which both run from

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<sup>19</sup> According to Equitrans' May 25, 2004 data response, Lines M-32 and M-71 have 11 and 5 wells attached, respectively.

<sup>20</sup> According to Equitrans' May 25, 2004 response, Lines M-31, M-73 and M-19 have 18, 11 and 2 wells attached to them, respectively.

<sup>21</sup> Again, it should be noted that Equitrans has clarified that Line M-26, already classified as gathering, is downstream of the Hundred Compressor Station and gas flowing through Line M-26 flows through Lines M-25, M-23 and M-30 to the Waynesburg Compressor Station.

production areas to the Waynesburg Compressor Station, perform a gathering function generally for the same reasons.

28. The Waynesburg Compressor Station, located in Greene County, Pennsylvania, has two 1,800 hp compressor engines. The design suction and discharge pressures at this station are 2 psig and 600 psig, respectively. As explained, gas from several production fields, plus gas that has moved through the above-described compressor stations, feeds into the Waynesburg Compressor Station. The Waynesburg Compressor Station discharges gas through the Holly Hill processing plant and into Equitrans' Line M-78, a 20-inch diameter pipeline with an MAOP of 665 psig, which will continue to be functionalized as transmission.<sup>22</sup> Equitrans contends that all of the CIPCO pipeline and compressor facilities that it seeks to refunctionalize, as well as production field facilities already classified as gathering, when viewed together, form a large web-like gathering system behind the Waynesburg Compressor Station, which Equitrans views as the central point-in-the-field. Equitrans urges that the size, location and operational pressures of these facilities are all consistent with facilities found by the Commission to be gathering facilities. According to Equitrans, all of these facilities serve to gather wet gas from a large production area for processing and then delivery into Equitrans' transmission and storage facilities or to other points of delivery on the gathering system for the benefit of Equitable Gas Company's distribution customers.

### **Interventions**

29. Notice of Equitrans' application was published in the *Federal Register* on March 16, 2004, (69 Fed. Reg. 12,308). Timely unopposed motions to intervene were filed by EFS, Equitable Production Company, PSEG Energy Resources & Trade LLC (PSEG), Keyspan Delivery Companies, PECO Energy Company (PECO), Peoples Natural Gas Company d/b/a, Dominion Peoples (Peoples), and Amerada Hess Corporation.<sup>23</sup>

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<sup>22</sup> Line M-78 interconnects with Line M-17, at which point Line M-78 and Line M-17 branch off from each other. Line M-17 then interconnects with Line M-14. All of these lines, downstream of the Waynesburg Compressor Station, are functionalized as transmission and ultimately flow gas into Equitrans' interstate transmission system.

<sup>23</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 (2004). The Commission may grant motions to intervene out of time for good cause shown under Rule 214(d).

30. Equitable Gas Company, the Independent Oil and Gas Association of West Virginia (IOGA), Columbia Gas of Pennsylvania, Inc., and Philadelphia Gas Works filed motions to intervene out-of-time. Since late intervention will not delay this proceeding, prejudice the rights of any party, or place an additional burden on existing parties, for good cause shown, the Commission will grant the motions to intervene out of time.

31. Peoples and PSEG filed comments and IOGA filed a protest. IOGA also filed a supplement to its protest which consists of prepared testimony by an engineer, Mr. Mendal Lane Yoho, in support of IOGA's position that the Commission should not approve Equitrans' refunctionalization proposal.<sup>24</sup> EFS filed an answer to IOGA's protest and Equitrans filed an answer to IOGA's protest and supplement to its protest. Equitrans provided in its answer an affidavit of an engineer, Andrew L. Murphy, who responds to some of the points in IOGA's protest and the supplement. IOGA filed comments on Equitrans' responses to data requests, which we deem to be an answer. Although the Commission's Rules of Practice and Procedure do not permit answers to protests, the Commission finds good cause to waive Rule 213(a) to admit the above-described pleadings in order to ensure a complete and accurate record in this proceeding.<sup>25</sup> The Commission will summarize the parties' comments, protest and answers below, and address them, to the extent necessary, in the discussion section of this order.

### **Comments and Protest**

32. Peoples comments that it is concerned about the refunctionalization of the Waynesburg Compressor Station as a gathering-only facility and the resultant assignment of lost and unaccounted for gas, including the Waynesburg station's compressor fuel, to the gathering function. Peoples asserts that those issues, as well as the proposed functionalization of all facilities upstream of Waynesburg Compressor Station as gathering and the nature of off-system receipts and deliveries on the CIPCO gathering system, deserve careful review and scrutiny.

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<sup>24</sup> On June 7, 2004, IOGA filed a letter requesting the Commission to serve a data request on Equitrans, consisting of questions propounded by IOGA to Equitrans in its own data request. The Commission concludes that the data requests served by the Commission on Equitrans and Equitrans' responses thereto provide an adequate record on which the Commission may reach its determinations in this proceeding. Therefore, it is not necessary to reissue IOGA's data request as a Commission data request.

<sup>25</sup> 18 C.F.R. § 385.213(a)(2) (2004).

33. PSEG comments that it strongly supports Equitrans' unbundling gathering from its storage and transportation services. PSEG urges, however, that Equitrans state why it is not seeking to refunctionalize more of its assets. PSEG states that certain other facilities that perform a gathering function today, but which Equitrans has not proposed to reclassify from transmission to gathering, would continue to enjoy a rate and fuel subsidy from the rest of the pipeline system under Equitrans' proposal.

34. IOGA states that the proposed refunctionalization of transmission and storage facilities to gathering is inconsistent with the public interest because Equitrans, no longer a merchant of gas, will be re-entering the gathering business. IOGA asserts that Equitrans has already sought to fully unbundle gathering from transmission on its system by spinning off gathering facilities to its affiliate, EFS. In IOGA's view, permitting Equitrans to acquire, in essence, new gathering facilities through the proposed refunctionalization is contrary to the Commission's unbundling policy. IOGA points out that the current proposal will create a new tier of gathering facilities located between Equitrans' transmission and storage system and the gathering facilities it sold to its affiliate, EFS, less than two years ago.<sup>26</sup>

35. IOGA contends that multiple, affiliated gathering layers are not in the public interest because the proposal would require Appalachian small producers to bear the cost, either in rates for gathering or in their wellhead netback prices, of two separate gathering charges and two separate fuel retainage charges, in addition to products extraction and transportation. IOGA supports its contention by citing *Louisiana Gas System Inc. and Conoco Inc. v. Panhandle Eastern Corp., and Centana Energy Corp., et al.*, 73 FERC ¶ 61,161 at 61,501 (1995), where the Commission, addressing a proposed chain of intrastate pipelines that would be exempt from NGA jurisdiction under the Natural Gas Policy Act of 1978, stated "we see no regulatory goal to be advanced by expanding our 311 policy to allow a multistate chain of "intrastate" or "Hinshaw" affiliates connected by *de minimis* interstate facilities at state borders." The Commission in that proceeding also recognized that the chain of unregulated pipelines will "give pipeline affiliates a competitive advantage in the transportation of gas . . . [and] subvert the purposes of the NGA and Commission policy." *Id.* at 61,502. IOGA concludes that a similar finding should be made in this proceeding because Equitrans is proposing to set up a chain of gatherers which are exempt from NGA regulation. IOGA asserts that as a result of Equitrans' proposal, the price of gathering gas from the wellhead to the mainline will more than triple.

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<sup>26</sup> *Equitrans/EFS*, 98 FERC ¶ 61,160 (2002).

36. IOGA notes that Equitrans' proposed refunctionalization of the subject CIPCO facilities and its pre-merger facilities is inconsistent with previous Commission findings and positions taken by CIPCO and Equitrans in previous proceedings. For example, IOGA notes that the Commission previously approved a refunctionalization of some of the CIPCO facilities from gathering to transmission at CIPCO's request.<sup>27</sup> In that proceeding, according to IOGA, the Commission viewed the point of first compression as the place where gathering ends and transmission begins. IOGA contends that the CIPCO compressor stations which Equitrans now seeks to designate as gathering were previously functionalized as transmission because they were downstream of the point of first compression. Mr. Yoho in his testimony points out that in CIPCO's restructuring proceeding pursuant to Order No. 636, the Commission recognized that the Holly Hill extraction plant was a straddle plant on CIPCO's mainline facilities at Waynesburg.<sup>28</sup>

37. IOGA also cites to *Equitrans/EFIS*, the spindown proceeding in which the Commission found that the subject compressor stations on Equitrans' pre-merger system were performing a transmission and storage function.<sup>29</sup> IOGA states that nothing has changed since the Commission made this finding.<sup>30</sup> Mr. Yoho contends that the compressor stations are larger than typical Appalachian region gathering compressors because each station has a significant level of horsepower. For example, he notes that the Burnsville Compressor Station's three units total 3,300 hp, the Copley Run Compressor Station's three units total 5850 hp, and the West Union Compressor Station's two units total 2,160 hp.

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<sup>27</sup> *CNG/CIPCO*, 69 FERC ¶ 61,364 (1994).

<sup>28</sup> *Carnegie Natural Gas Company*, 63 FERC ¶ 61,103 (1993).

<sup>29</sup> *Equitrans/EFIS*, 98 FERC ¶ 61,160 at 61,593.

<sup>30</sup> IOGA also points to another proceeding in which Equitrans attempted to refunctionalize the Copley Run Compressor Station from storage to transmission. *Equitrans, L.P.*, 80 FERC ¶ 61,144 (1997). In that proceeding, the Commission rejected Equitrans' proposed refunctionalization, noting that Equitrans would have to demonstrate that the facility was no longer necessary for its certificated function, which was to test and develop the underground storage reservoirs connected to the Copley Run Compressor Station.

38. IOGA also maintains that Equitrans failed to apply the Commission's primary function test with specificity to the subject facilities. IOGA contends that because the extraction plants located at the Copley Run and West Union Compressor Stations are straddle plants on Equitrans' mainline, the fact that these stations are behind those plants does not cause the function of the stations to change from transmission to gathering. IOGA notes that many interstate pipelines have extraction plants located along their transmission lines. IOGA further asserts that the point where gas is first received by Equitrans from several producing areas for delivery into the mainline is behind the Burnsville Compressor Station and that the compression provided there is required to transport the gas downstream to the extraction plant and to markets.

39. In response to Equitrans' argument that there is a central point-in-the-field downstream of the West Union and Copley Run Compressor Stations, IOGA asserts that the Commission has found on numerous occasions that this prong of the primary function test is not determinative in the Appalachian basin given the geography and characteristics of gas operations in that region.<sup>31</sup> In this regard, Mr. Yoho argues that if this prong of the test is of any use, it is because the various compressor stations are each central points-in-the-field. According to IOGA, the Commission found in *Equitrans/EFS* that the lines transferred to EFS did not extend beyond any central point-in-the-field because they are located in production areas behind Equitrans' mainline facilities, *i.e.*, the compressor stations and lines Equitrans seeks to refunctionalize to gathering here.<sup>32</sup>

40. IOGA asserts that because the majority of lines on Appalachian pipeline systems can be characterized as small diameter and low pressure lines, the Commission must look at Equitrans' system as a whole to determine, for example, whether the 20-inch diameter line running from the Burnsville Compressor Station to the Copley Run Compressor Station is transmission as opposed to gathering. Mr. Yoho contends that lines that are less than 10 miles long and less than ten inches diameter are likely to be gathering lines, but that other factors would require consideration because in the Appalachian region, there are transmission lines that are shorter than 10 miles and as small as six inches in diameter. Although IOGA concedes that Equitrans' 20-inch line is crossed by gathering lines along its length, it argues that this line, extending from the discharge side of the Burnsville Compressor Station, can only be viewed as a transmission mainline that takes

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<sup>31</sup> IOGA cites *Equitable Gathering, L.L.C. and Columbia Gas Transmission Corp.*, 101 FERC ¶ 61,132 (2002), and *Mahue Construction Company*, 94 FERC ¶ 61,118 (2001) (*quoting, Columbia Natural Resources, Inc. and Columbia Gas Transmission Corp.*, 79 FERC ¶ 61,038 (1997)).

<sup>32</sup> *Equitrans/EFS*, 98 FERC ¶ 61,160 (2002).

the gas that has already been gathered to markets to the north. IOGA also maintains that Equitrans' business is a relevant factor to consider in this proceeding and that since Equitrans exited the gathering business when it spun down its gathering facilities to EFS, it is now in the business of transporting and storing gas in interstate commerce. Since it did not transfer the facilities at issue here to EFS and, instead, operated them for its transmission business, the facilities should remain functionalized as transmission.

### Answers

41. In its answer, EFS responds to what it characterizes as an "erroneous allegation" by IOGA regarding a recent increase in EFS' gathering rates. In its protest, IOGA asserts that EFS "unilaterally breached" a provision from the settlement of Equitrans' rate case in Docket No. RP97-346-000, which became effective on May 1, 1999. Article IV, section 4, paragraph A, of that settlement provided that for a period of two years after Equitrans spun down gathering facilities on its system to EFS, EFS would charge Equitrans' former customers the same gathering rate that Equitrans had been charging.<sup>33</sup> IOGA also contends that EFS never provided its shippers with a default contract for continued gathering service, as it represented it would in the proceeding in which Equitrans spun down the gathering facilities to EFS.<sup>34</sup> IOGA contends that in light of this situation, further spindowns to EFS would not be in the public interest because gathering rates would certainly increase.

42. EFS states that in *Equitrans/EFS*, the Commission explained that in light of a recent case decided in the United States Court of Appeals for the District of Columbia Circuit, it did not have authority to impose rate conditions on the non-jurisdictional purchasers of facilities found to perform a gathering function because the Commission does not have jurisdiction over such facilities under section 1(b) of the NGA.<sup>35</sup> Accordingly, EFS points out, the Commission did not condition the spindown on EFS' agreement to abide by the provision of Equitrans' rate settlement, which required continuity of service for two years after EFS' purchase date. Nevertheless, EFS explains that in the spindown proceeding, it voluntarily agreed to provide for continuity of gathering service for Equitrans' former gathering customers by providing the service under the same rates that Equitrans charged for gathering for two years after the purchase of the facilities. EFS states that although it was not bound by the rate settlement, this

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<sup>33</sup> *Equitrans, L.P.*, 87 FERC ¶ 61,116 (1999).

<sup>34</sup> *Equitrans/EFS*, 98 FERC ¶ 61,160 (2002).

<sup>35</sup> *Id.* at 61,591 (citing *Conoco Inc. v. FERC*, 90 F.3d 536 (D.C.Cir. 1996)).

voluntary agreement to provide continuity of service was the same as that contemplated by the Equitrans rate settlement. EFS maintains that since the sale was completed on March 19, 2002, it was free to change the gathering rates effective March 20, 2002. In fact, EFS notes, it did propose to raise its rates, effective April 1, 2004, in a proceeding pending before the West Virginia Public Service Commission (W.Va.PSC). The W.Va.PSC approved the rates, subject to refund.<sup>36</sup>

43. In its answer, Equitrans focuses on IOGA's contention that the pipelines Equitrans seeks to reclassify from transmission to gathering are too long and too large for gathering facilities, especially in the Appalachian region where pipelines tend to be smaller. Through the affidavit of Andrew L. Murphy, an engineer, which is part of Equitrans' answer, Equitrans presents a chart demonstrating that pipelines of the same length and diameter of some of the facilities at issue in this proceeding have been found to be gathering, even in the Appalachian region. Equitrans contends that a key indicator that a line performs a gathering function is low operating pressures, and that all of the lines at issue operate at low pressures.

44. Mr. Murphy also addresses IOGA's contention that the compressor stations on Equitrans' pre-merger system proposed for refunctionalization are operationally different from compressors normally considered to perform a gathering function, which Mr. Yoho asserts is to pump gas from individual or small groups of wells. While Mr. Murphy agrees that some gathering compressors perform this function, he also points out that Mr. Yoho states that gathering compressors can also function to reduce pressure on an upstream pipeline. Mr. Murphy contends that this is precisely the purpose of the compressor stations that are the subject of this proceeding. He explains that under current operating conditions, the Burnsville Compressor Station's three compressors operate to reduce pressure on three upstream gathering systems that feed into the suction side of the Burnsville Compressor Station. Mr. Murphy contends that Units 1 and 2 of the Copley Run Compressor Station operate in a similar manner, as do Units 1 and 2 of the West Union Compressor Station.

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<sup>36</sup> EFS states that it offered a default contract embodying the continuity of service provisions to IOGA for its approval on behalf of its members, but that IOGA did not execute it. EFS also points out that even if it was bound by Equitrans' rate settlement to provide continuity of service, that obligation would have expired by the terms of the agreement, which provided that the latest termination date for the continuity of service obligation would be July 31, 2003 and EFS proposed to raise the gathering rates 8 months after that date.

45. According to Mr. Murphy, if these compressors did not hold the pressure down, gas could not flow from the wells in the production fields. Mr. Murphy states that a study of what would happen if Unit 2 of the Copley Run Compressor Station was removed from service illustrates that the three compressor stations (Copley Run, Burnsville and West Union) perform a gathering function.<sup>37</sup> He emphasizes that shutting down the subject compressor units would have no effect on Equitrans' storage or transmission operations.

46. Equitrans also maintains that the CIPCO facilities fit the physical description of gathering facilities and Mr. Murphy explains that the Hundred, Toll Gate, Underwood and Waynesburg Compressor Stations function to allow lower pressure gas to flow to a products extraction plant. Equitrans stresses that CIPCO's functionalization of those facilities as transmission does not preclude a finding that the facilities, in fact, perform a gathering function. Mr. Murphy states that he performed an independent analysis of the various CIPCO facilities and determined that the ones described herein should be classified as gathering.

47. Equitrans contends that IOGA has mistakenly urged the Commission to consider factors other than the physical characteristics of the facilities when determining the function of the subject facilities. Equitrans points to IOGA's positions that the facilities should not be refunctionalized because: (1) gathering rates may increase, causing marginal wells to go out of production; (2) once declared gathering, the facilities will no longer be subject to the Department of Transportation's pipeline safety regulations; (3) the facilities should be functionalized as transmission because Equitrans' business is natural gas transmission, not gathering; and (4) the facilities were/are certificated

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<sup>37</sup> Specifically, Mr. Murphy states that with the Copley Run Compressor Station's Unit 2 out of service, the Burnsville Compressor Station, upstream from the Copley Run Compressor Station, would have to provide between 320 and 400 psig of pressure at the terminus of Line H-503 (which is the last segment of the line running between the Burnsville and Copley Run Compressor Stations) in order for gas to be delivered into Dominion's wet, interstate transmission system. However, Mr. Murphy points out, the Burnsville Compressor Station only has an MAOP of 350 psig and the compressors would eventually shut down if they operated at or near the MAOP for any length of time. If that were to occur, producers would have to free flow gas into Line H-505 (upstream of Line H-503) against 350 psig of pressure instead of the 20 psig of pressure they currently flow against. Mr. Murphy contends the wells could not produce under this scenario so production would be shut in behind the Burnsville Compressor Station. He makes the same case for scenarios in which Unit 1 of the Copley Run Compressor Station and Units 1 and 2 of the West Union Compressor Station were out of operation.

facilities. Equitrans states that in *Sea Robin Co. v. FERC*,<sup>38</sup> the United States Court of Appeals for the Fifth Circuit held that reliance on factors such as the company's business purpose, ownership or prior certification is inappropriate since the primary function test is a physical one.

48. In its August 31, 2004 comments on Equitrans' responses to data requests, IOGA states that the large scale maps submitted by Equitrans in response to Staff Question 1-1 show that both the Equitrans' pre-merger system and the acquired CIPCO facilities are classic Appalachian transmission systems, with well-developed gathering systems behind the compressor stations and larger diameter lines downstream of those stations. IOGA asserts that the 6 to 20-inch diameter lines (Lines H-505 and H-503) extending from the Burnsville to the Copley Run Compressor Stations have MAOPs of 440/540 which is about the same as the MAOP of lines downstream of the latter station that Equitrans intends to maintain as transmission lines. IOGA also emphasizes that there are no wells on Lines H-505 and H-503.

49. IOGA asserts that Units 1 and 2 at the Copley Run Compressor Station must be viewed as transmission because gas compressed by those units is delivered into Dominion's interstate system, processed at Dominion's Hastings extraction plant, and then is delivered back to Equitrans via interconnections with other interstate pipelines. IOGA characterizes these transactions as exchange arrangements and contends that if one party to an exchange, Dominion in this case, is a jurisdictional entity, then the other partner, Equitrans, must likewise be jurisdictional and any facilities it uses to participate in the exchange must be categorized as transmission.<sup>39</sup> IOGA makes the same argument regarding the units at the West Union Compressor Station. IOGA also contends that Equitrans' pre-merger compressor stations at issue are used to effectuate displacement on Equitrans' transmission system through the exchanges with Dominion and that such displacement has the effect of increasing mainline capacity. IOGA argues this fact is another reason why the subject compressor stations perform a transmission function.<sup>40</sup>

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<sup>38</sup> 127 F.3d 365 (5<sup>th</sup> Cir. 2003) (*Sea Robin*).

<sup>39</sup> IOGA cites *National Fuel Gas Distribution Corp.*, 94 FERC ¶ 61,136 (2001) in support of its contention that the compressor units at the Copley Run and West Union Compressor Stations continue by virtue of the exchange to perform a jurisdictional transmission function.

<sup>40</sup> IOGA also questions whether Equitrans has been moving gas off of the CIPCO facilities into Dominion's system because in Mr. Murphy's testimony attached to Equitrans' application in this proceeding, it is stated that the CIPCO compressor stations  
(continued)

50. IOGA in its comments reiterates its position that Equitrans has not persuasively applied the primary function test to any of the subject facilities because of a lack of specificity. It also observes that Equitrans' assertion in the merger proceeding that it was acquiring CIPCO to foster cost savings for the overall system is questionable in light of the significant rate increases Equitrans is proposing in its pending rate proceeding in Docket No. RP04-203-000. IOGA contends that Line M-26, which Equitrans explains was functionalized as gathering in *CNG/CIPCO*, the reorganization proceeding, should be refunctionalized as transmission, notwithstanding Equitrans' response to Staff Question 2-4 wherein Equitrans explains that Line M-26 has been mistakenly labeled on a map in this proceeding as a transmission line. IOGA argues that Equitrans' explanation in response to Staff Question 2-5 tends to support IOGA's contention that Line-M-46 should remain functionalized as transmission. In its response, Equitrans explains that the map showing a portion of line M-46 upstream of the Smithburg field compressing station as transmission is incorrect and that Line M-46 actually begins on the discharge side of that station. Further, IOGA argues that most of the CIPCO lines Equitrans seeks to refunctionalize have more customers attached to them than wells, indicating that their function should remain transmission.<sup>41</sup> IOGA asserts that since the physical characteristics of the CIPCO facilities have not changed since Equitrans acquired them, there is no reason to refunctionalize them.

51. IOGA asserts that Equitrans' response to Staff Question 2-7, explaining that it is only seeking to refunctionalize two units at the Copley Run Compressor Station, actually reveals on the accompanying schematic that there are valves on Units 2 and 3 that would allow gas coming from the Burnsville Compressor Station to move into Equitrans' nearby storage facility. IOGA notes that the diagram attached to the application also shows piping at the Copley Run Compressor Station that would allow unprocessed gas to move directly into Equitrans' transmission Line H-518. IOGA contends that these facts support its contention that all of the units at the Copley Run Compressor Station should remain

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are upstream of both the Holly Hill extraction plant and the Hastings extraction plant, the latter of which is located off of Dominion's interstate system. According to IOGA, if the Holly Hill plant has been taken out of service and all processing of gas coming from the CIPCO facilities now occurs at the Hastings plant, the CIPCO compressor stations, like the Copley Run and West Union Compressor Stations, cannot be viewed as "behind a processing plant" because Dominion's interstate system intervenes between the subject facilities and the processing plant.

<sup>41</sup> IOGA cites *Nornew Energy Supply, Inc. and Norse Pipeline, L.L.C.*, 104 FERC ¶ 61,177 at 61,659 n. 12 (2003), for the proposition that the delivery of gas directly to consumers is not normally associated with gathering but transmission.

functionalized as transmission. Similarly, IOGA asserts that where Equitrans' Line H-527 interconnects with Dominion's Line TL-433 there are valves which would allow gas gathered by EFS upstream of the West Union Compressor Station to enter Equitrans' Line H-527 if the valves are open. Gas flowing on that line would go into storage, according to IOGA, negating Equitrans' contention that the gas flowing through Units 1 and 2 at the West Union Compressor Station does not move into either Equitrans' jurisdictional storage or transmission facilities. Additionally, IOGA states that there is no behind-the-plant issue regarding the Burnsville or Copley Run Compressor Stations because Dominion's system is an interstate one. Thus, IOGA contends the purpose of Units 1 and 2 at the Copley Run Compressor Station and all the units at the Burnsville Compressor Station are for the purpose of moving gas into Dominion's interstate system at a point far downstream of where gathering performed by Equitrans' affiliate, EFS, ends.

52. IOGA contends that in addressing Equitrans' filing to comply with Order No. 637, the Commission noted that Equitrans had described its system as a web-like system with receipt and delivery points dispersed throughout the area in which it operates and as a system that does not have distinct market and production areas like most long-line pipelines.<sup>42</sup> IOGA indicates that in that proceeding, Equitrans also described its system as multi-directional and one on which displacement is used to accomplish most firm deliveries.<sup>43</sup> IOGA also cites to a 1983 order in which Equitable Gas Company was authorized to replace compressors at the Burnsville Compressor Station which had been used since 1916 to pump locally produced gas into the transmission system of Equitable Gas Company's predecessor.<sup>44</sup>

### **Discussion**

53. 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" or to gathering services.<sup>45</sup>

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<sup>42</sup> *Equitrans, L.P.*, 99 FERC ¶ 61,210, P 21-23 (2002).

<sup>43</sup> *Id.*

<sup>44</sup> *Citing, Equitable Gas Company*, 24 FERC ¶ 61,310 at 61,666 (1983).

<sup>45</sup> The courts have narrowly construed the NGA section 1(b) exemption to apply 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 Corporation Commission of Kansas*, 372 U.S. 84 (1963)).

The Commission has, over the years, developed a number of legal tests to determine which facilities are non-jurisdictional gathering facilities and which are jurisdictional transmission facilities.<sup>46</sup> The Commission presently relies on the modified "primary function test," which includes consideration of several physical and geographic 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.

54. 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 jurisdictional determination is consistent with the NGA and the Natural Gas Policy Act of 1978. However, in *Sea Robin*,<sup>47</sup> which involved application of the primary function test to offshore facilities, the United States Court of Appeals for the Fifth Circuit noted that 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, but that these types of factors are secondary to the physical factors. The Commission does not consider any one factor to be determinative and recognizes that all factors do not necessarily apply to all situations.<sup>48</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>49</sup>

55. Equitrans historically operated its system in order to perform bundled services. For that purpose, the pipeline was involved in the purchasing and aggregating of gas supplies and transporting those supplies for sale to local distribution companies. Since

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<sup>46</sup> See *Amerada Hess Corp.*, 52 FERC ¶61,268 (1990); and *Farmland Industries, Inc.*, 23 FERC ¶61,063 (1983) (*Farmland*).

<sup>47</sup> 127 F.3d 365 (5<sup>th</sup> Cir. 2003) (holding that the Commission must consider all factors of the primary function or *Farmland* test, so that it does not, in effect, use only one factor as a litmus test when determining whether facilities perform a gathering and transmission function). In the Commission's order on remand in *Sea Robin Pipeline Company*, 87 FERC ¶ 61,384 (1999), the Commission reformulated certain aspects of how it applies the primary function test offshore, but those modifications are not relevant here where the facilities are located onshore.

<sup>48</sup> See, e.g., *TOMCAT*, 59 FERC ¶61,340 at 62,239 (1992).

<sup>49</sup> *Id.* and *Amerada Hess Corp.*, 52 FERC ¶61,268 (1990).

the restructuring of the natural gas industry, however, Equitrans provides an array of unbundled services to a variety of customers. Its principal role is as a transporter of natural gas. Since it is no longer a merchant of gas and no longer requires extensive gathering facilities to provide gas sales, it has spun down gathering facilities to its affiliate, EFS. In this proceeding, Equitrans is seeking to refunctionalize facilities from transmission to gathering, but is not proposing here to transfer them to another owner.

### **Preliminary Issues**

56. Before applying the primary function test to the physical characteristics of the subject facilities, the Commission will address some of the issues raised by IOGA regarding non-physical factors that the Commission could consider. IOGA contends that it is inconsistent with the public interest to allow Equitrans to go back into the gathering business after exiting it by previously spinning down facilities to EFS. According to IOGA, in the spindown proceeding, Equitrans' justification for transferring the gathering facilities to EFS was that it no longer had a merchant function. Since it still does not have a merchant function, IOGA concludes that Equitrans, as a transmission company, has no valid reason for entering the gathering business. IOGA suggests that the motive for Equitrans' proposal is to create a series of affiliated gatherers between the wellhead and interstate transmission system, which in turn, it asserts, will increase the rates producers must pay to get their gas to market. IOGA emphasizes that the subject facilities have all been certificated by the Commission and the function of some of the facilities has been analyzed by the Commission in previous Equitrans and CIPCO cases.

57. The Commission mandated the unbundling of services and rates on interstate pipeline systems pursuant to the restructuring of the natural gas industry initiated by Order No. 636. In connection with this, most interstate pipelines moved out of the gas sales business and became transportation-only pipelines. As a result, many pipelines that still retained gathering facilities, previously used to support the merchant function, spun off those facilities to either an affiliate or other non-jurisdictional entity. While the Commission approved many such spinoffs, it has not required interstate pipelines to sell their gathering assets. Rather, if a pipeline has such assets, any gathering services must be provided pursuant to separately stated gathering rates approved by the Commission. The Commission may reach an interstate pipeline's gathering rates under section 4 of the NGA because such rates are "in connection" with rates for jurisdictional services. Commission policy provides that shippers using gathering service pay for it and transportation and gathering services cannot subsidize each other. Therefore, although it is atypical for a pipeline to go back into the gathering business after exiting it, there is no Commission policy that would prevent a pipeline from doing so.

58. In the immediate future, Equitrans intends to operate any facilities found to be gathering in this proceeding under separately calculated rates for that service.<sup>50</sup> With regard to the CIPCO facilities, Equitrans states that it has not yet made any arrangements to spin off any more gathering facilities because of the time constraints it was under to file the required rate case. Thus, it seeks in this proceeding only to refunctionalize certain facilities and not to transfer them to another party. Equitrans explains in responses to data requests that various circumstances have changed on its system which justify the functionalization of certain facilities, including some CIPCO facilities, from transmission to gathering. We will consider Equitrans' explanations when applying the primary function test to the facilities.

59. The fact that the subject facilities were certificated by the Commission is not a bar to a pipeline's seeking to refunctionalize them to gathering. Prior to the Commission's open access policies requiring unbundling of pipeline services, there was no need, as a practical matter, to review pipelines' applications for certificate authority to ascertain whether the proposed facilities included gathering facilities. Thus, in many instances, gathering facilities were constructed under certificate authority and the costs associated with those facilities were part of the rate base of the pipeline's sales rates. Later, many of those facilities were found by the Commission to perform a gathering function. Additionally, circumstances may change how the facilities are operated. Of more relevance is the fact that in three relatively recent proceedings, the Commission had occasion to describe many of the facilities as performing a transmission function.<sup>51</sup>

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<sup>50</sup> Equitrans proposed gathering rates for these facilities in Docket No. RP04-203-000, which were accepted and suspended until September 1, 2004, provided that the Commission approved the proposed refunctionalizations of the subject facilities in this proceeding by August 31, 2004, the end of the suspension period in the rate proceeding. Since this did not occur, the proposed rates did not go into effect. However, the order in Docket Nos. RP04-97-000, *et al.*, which is being issued contemporaneously with the instant order, finds that Equitrans may make a limited section 4 filing in another docket to reflect the refunctionalizations approved in this proceeding.

<sup>51</sup> See *CNG/CIPCO*, 69 FERC ¶ 61,364 (1994) (CIPCO was created to operate the facilities specified as transmission and Carnegie Natural Gas Company transferred those facilities to CIPCO); *Equitrans, L.P.*, 80 FERC ¶ 61,144 (1997) (Commission stated that if Equitrans wants to refunctionalize the Copley Run Compressor Station, Equitrans must demonstrate that the facilities were no longer necessary for their certificated purpose); and *Equitrans/EFS*, 98 FERC ¶ 61,160 (2002) (Equitrans spun down certain gathering facilities to EFS, but did not seek to refunctionalize as gathering some of the facilities at issue in this proceeding).

60. Regarding the CIPCO facilities, the Commission made a jurisdictional determination that some of the facilities were transmission at CIPCO's request. Equitrans does not assert that the physical operation or function of those facilities has necessarily changed. Rather, Equitrans contends that as the new owner of the facilities, it is appropriate for it to make an independent review of how the facilities operate and to determine for itself which facilities are performing a gathering function now that they are integrated into Equitrans' system. Although such review could have occurred at the time that Equitrans' filed for certificate authority to merge with CIPCO or in the context of the spindown approved in *Equitrans/EFS* after the merger, the fact Equitrans did not do so at those times does not prevent Equitrans from making its case now regarding the function of the facilities. Indeed, at any time an interstate pipeline concludes that its jurisdictional transmission rates include gathering costs, it is incumbent upon the pipeline to seek refunctionalization of those costs to separately stated gathering rates. Further, the Commission recognizes that the acquisition and operation of facilities by a new owner may present changed circumstances sufficient to justify a review of the function of facilities.

61. IOGA also contends that the Commission must consider the effect that refunctionalizing the Equitrans pre-merger facilities from transmission to gathering will have on the rates producers pay for gathering services.<sup>52</sup> IOGA suggests that EFS has raised the gathering rates it charges in violation of a prior agreement not to do so. IOGA apparently views this as evidence that if additional facilities are found to be exempt from the Commission's rate jurisdiction, producers will necessarily pay higher gathering rates. IOGA argues that such a result is against the public interest. First, the Commission observes that the rates EFS currently charges for gathering on other facilities acquired from Equitrans' have no bearing on the proper functionalization of Equitrans' facilities. Regardless of policy considerations, the Commission's jurisdictional determinations must be consistent with the actual function of the subject facilities. Thus, whether EFS honored its agreement to provide continuity of service for two years after it acquired those facilities, as it contends it did, cannot provide the basis for the Commission's

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<sup>52</sup> IOGA cites *CNG Transmission Corp.*, 46 FERC ¶ 61,284, 61,838 (1989), in support of this contention. The holding in that rate case is not applicable since it involved the allocation of gathering costs in the pre-Order No. 636 environment when pipelines were still offering bundled sales, which included gathering and interstate transportation service, as well as transportation-only service. In the current regulatory environment, where rates for services are fully unbundled, only those shippers who receive a service are required to pay for it and the impact on other shippers is not relevant to rate design.

determination of whether the subject facilities are exempt gathering facilities under section 1(b) of the NGA. EFS explains that its new rates for gathering are before the W.Va.PSC, which has held that EFS may charge the rates, subject to refund, pending further review by the W.Va.PSC. We also note that IOGA has filed a petition with the W.Va.PSC challenging EFS' newly proposed gathering rates. FERC is not the proper forum for determining what gathering rates EFS may charge and whether EFS has violated any agreements regarding such rates. In the order in Docket Nos. RP04-97-001, *et al.*, which is being issued in conjunction with this order, the Commission points out that issues related to the latter issue should be deferred to the state courts.

62. Second, regarding the rates which Equitrans may charge for services using gathering facilities it stills owns and operates, the proper forum to address that issue is in a rate proceeding. As noted, Equitrans' proposed new gathering rates in Docket No. RP04-203-000 which reflected the refunctionalizations requested in the instant proceeding. There, Equitrans had proposed usage-based rates for interruptible gathering service, which is the only gathering service it proposes to provide.<sup>53</sup> However, those rates did not go into effect because the jurisdictional determinations in this proceeding were not made before August 31, 2004. Thus, any gathering rate Equitrans seeks to charge which reflects the refunctionalization of facilities in this proceeding, will have to be reviewed in another rate proceeding. Any concerns about such rates may be raised in that rate proceeding.

63. In any event, as explained in *Sea Robin*, the Commission's primary function test consists of several physical factors which must be given more substantial weight than any non-physical factors the Commission may consider. The factors IOGA points to, including Equitrans' current ownership of transmission facilities and its business as a transporter of gas, the prior certification of the facilities, and the possible effect of refunctionalization on the rates shippers may pay for gathering service, are such non-physical factors and, to the extent they apply here, will be given less weight than the physical factors.

### **Jurisdictional Findings**

64. As explained, Equitrans has divided the facilities it proposes to refunctionalize into five categories. The first set includes the Crooked Creek Compressor Station and three lines downstream of it, designated as lines H-110, H-113 and H-114. Equitrans does not allege that circumstances have changed regarding the operation of these facilities. Rather, Equitrans explains that the facilities have always and do now perform a

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<sup>53</sup> See *Equitrans, L.P.*, 106 FERC ¶ 61,340 at P 6 (2004).

gathering function. However, Equitrans states that it cannot find any record of why the facilities were classified as transmission in the first place.

65. Applying the primary function test to the Crooked Creek Compressor Station, to the extent the factors apply, the Commission finds that, on balance, the compressor station may be viewed as performing a gathering function. The station is not located beyond any apparent central point-in-the-field, although arguably a compressor station itself could be so designated. It is, however, located downstream of a large web-like system of lines already classified as gathering. The gas that is compressed at the station is wet, raw gas that receives no treatment or processing other than dehydration at the compressor station. Further, the compressor station operates at relatively low pressures gas enters at the suction side at 2 psig and is discharged at 35 psig.<sup>54</sup>

66. The gas flowing through the Crooked Creek Compressor Station is ultimately delivered to a local distribution company at a nearby delivery point and no other treatment or products extraction occurs before the gas reaches the delivery point. Additionally, on the lines downstream of the compressor station, which Equitrans also seeks to refunctionalize, there are no interconnections with any other part of Equitrans' interstate system, any intrastate facilities or other interstate facilities. Thus, the Crooked Creek Compressor Station and the downstream lines form an isolated system in a production area. These characteristics are typical of field compressors which operate to assist the movement of gathered gas out of the production area or, in some instances, to maintain a lower pressure on the gathering lines to facilitate the flow of gas from low pressure wells.

67. A finding that the Crooked Creek Compressor Station performs a gathering function is not inconsistent with the jurisdictional determinations in *Equitrans/EFS*, the spindown proceeding. In the order in there, the Crooked Creek Compressor Station is

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<sup>54</sup> In this regard, we note that on Equitrans most recent Form 567 filed with the Commission, which we incorporate by reference, the suction and discharge pressures at the Crooked Creek Compressor Station are significantly lower than at other compressor stations Equitrans has functionalized as performing a transmission function. For example, the Sleepy Hollow and the Pennview Compressor Stations have suction pressures of 700 psig and 475 psig and discharge pressures of 1030 psig and 1000 psig, respectively. Also the volumes which flow through the Crooked Creek Compressor Station, 5,700 Mcf/d, are considerably less than the volumes of 44,300 Mcf/d and 42,500 Mcf/d, respectively, at the Sleepy Hollow and Pennview Compressor Stations. The Sleepy Hollow and Pennview Compressor Stations have a total of 12,000 hp and 2,400 hp, respectively, compared with the 550 hp at the Crooked Creek Compressor Station.

referred to because Equitrans was proposing to transfer lines upstream of the station to EFS and was seeking a determination that such facilities performed a gathering function. The order notes that the upstream lines connect to the Crooked Creek Compressor Station and that the station was to be retained by Equitrans as part of its transmission system.<sup>55</sup> The Commission, however, did not perform an independent analysis of whether the Crooked Creek Compressor Station itself could be viewed as performing a gathering function.

68. Before confirming our conclusion that the characteristics of this compressor station are consistent with a gathering function, we will apply the primary function test to the lines downstream of it, keeping in mind that the lines upstream have already been functionalized as gathering and no longer are operated by Equitrans. Lines H-110, H-113 and H-114 have diameters of 16, 10, and 8-10 inches, respectively. The lines are 3.5 miles, a half mile and 1 mile long, respectively. Gas discharged from the Crooked Creek Compressor Station moves either entirely over line H-110 for 3.5 miles to Equitable Gas Company's delivery point or moves about 2 miles over line H-110, then over the 1.5 miles of the combined lengths of lines H-113 and H-114, and then back over line H-110 to the delivery point of the local distribution company. The MAOP of these lines is 43 psig. While these lines are relatively small and short and operate at low pressure, we note that it is not uncommon in the Appalachian region for mainline transmission facilities to consist of 16-inch diameter pipe. However, we note that in *Equitrans/EFS*, the Commission found that lines upstream of the Crooked Creek Compressor Station with a diameter of 20-inches and/or a length of 11.1 miles on Equitrans' system, nevertheless, performed a gathering function.<sup>56</sup> Thus, the 16-inch diameter of line H-110 does not necessarily indicate a transmission function for that line.

69. Regarding the geographical configuration and location, the lines are located downstream of a compressor station, which in some cases could mean that the station was a central point-in-the-field. We do not think that is the case here, however, because gas gathered upstream of the compressor station is commingled with gas coming from wells along Lines H-110, H-113 and H-114 and none of the gas has been processed.<sup>57</sup>

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<sup>55</sup> *Equitrans/EFS*, 98 FERC ¶ 61,160 at 61,587 n.1.

<sup>56</sup> *Equitrans/EFS*, 98 FERC at 61, 587.

<sup>57</sup> IOGA contends in its August 31, 2004 comments that there are no wells attached to Lines H-110, H-113, and H-114. However, Mr. Murphy states in his testimony that he has shown on the map labeled ELP-2, page 2 of 2, the location of production wells. See Equitrans' March 1, 2004 Application, Murphy Testimony at 13 of

Although the downstream lines do not form a web as do many of the gathering lines behind the compressor station, Line H-110 is consistent with a spine-like system that is sized to accommodate not only the gas from the wells attached to them, but also production gathered on the numerous lines upstream of the Crooked Creek Compressor Station. Lines H-113 and H-114 effectively loop Line H-110 for a short distance and allow for the collection of additional gas. Larger and longer lines upstream of the Crooked Creek Compressor Station were found to form a backbone or spine-like configuration. The conclusion that the physical characteristics of the lines and compressor station described above are consistent with a gathering function is reinforced by the fact that the facilities are isolated from the rest of Equitrans' interstate system. The overall function of these facilities is to facilitate the movement of gas through a production area to the delivery point of the local distribution company which is also located in the same production area. The raw gas does not appear to even enter the stream of interstate gas.

70. The Commission believes that the next three groups of facilities that Equitrans seeks to refunctionalize should be analyzed together because they are related. These include the Copley Run Compressor Station, the Burnsville Compressor Station, and Lines H-505 and H-503. These lines, running between the Burnsville and Copley Run Compressor Stations, are the lines that IOGA notes in particular as having characteristics indicative of transmission, primarily because there are no wells attached to them.<sup>58</sup>

71. The Copley Run Compressor Station consists of six compressor units, two of which Equitrans seeks to refunctionalize as gathering. Units 1 and 2 operate at 2,250 hp and 1,350 hp, respectively. Units 4, 5 and 6 are used to support Equitrans' interstate storage facilities which are near the compressor station. Unit 3 is sometimes used as a backup compressor for storage operations and at other times to compress wet gas delivered from Line H-503. Gas from three production fields is transported over lines already functionalized as gathering to the suction side of Unit 1 at pressures of 14 to 18 psig, and gas from the Burnsville Compressor Station, moving over Lines H-505 and H-503, enters the suction side of Unit 2 at pressures of 55 to 60 psig. Gas is discharged from Units 1 and 2 at pressures ranging from 320 to 400 psig. After compression, that gas enters Dominion's interstate, wet transmission system and is transported to the Hastings extraction plant for processing.

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46. That map clearly shows wells along these lines and at least six interconnections with gathering lines.

<sup>58</sup> IOGA's August 31, 2004 Comments at 2.

72. The Burnsville Compressor Station has three compressor engines, one with 600 hp and two with 1,350 hp engines. The MAOP of the station is 350 psig. Gas from a web-like system of lines already functionalized as gathering flows into the suction side of the Burnsville Compressor Station at 2 to 30 psig, is compressed there, and then is discharged at 100 psig into Equitrans' 2.7-mile long Line H-505, which connects to the 13.7-mile long Line H-503. Both lines consist of 20-inch diameter pipe and operate at pressures between 75 and 100 psig.

73. With regard to the geographical location of the Copley Run and Burnsville Compressor Stations, they are both downstream of numerous gathering fields and lines previously functionalized as gathering, except for Lines H-505 and 503 which are currently functionalized as transmission. The stations are upstream of and, therefore, behind the Hastings extraction plant located on Dominion's interstate, wet transmission system. However, we note, that when Equitrans previously functionalized these compressor stations as transmission, they were located behind a different extraction plant located at the discharge side of the Copley Run Compressor Station where gas gathered upstream of the compressor stations, as well as gas flowing over Lines H-505 and 503, was processed. That processed gas was then delivered into either Equitrans' jurisdictional storage facilities or into its transmission lines. For the latter reason, Equitrans considered that the stations primarily performed a transmission function. Thus, the "behind the plant" factor of the primary function test is not as helpful in analyzing whether the compressor stations should now be functionalized as gathering because these facilities were previously and still are located behind a processing plant, albeit, not the same one. What has changed is the location of the processing plant, which is now further downstream on Dominion's system. Thus, as discussed in more detail later, the unprocessed gas now flowing through the Burnsville Compressor Station and Units 1 and 2 of Copley Run Compressor Station no longer enters either Equitrans' storage facilities or transmission lines at the discharge side of the Copley Run Compressor Station. Nevertheless, it is true that both compressor stations compress wet, unprocessed gas and are located in production areas, which are factors consistent with compressor stations functionalized as gathering.

74. The Commission finds that the pressures at which these stations operate are not inconsistent with a gathering function and are, in fact, lower than that at many of Equitrans' compressor stations which are currently classified as transmission. For example, as we explained regarding the Crooked Creek Compressor Station, information from Equitrans' most recent Form 567 indicates that the Sleepy Hollow and Pennview Compressor Stations operate at suction pressures of 700 psig and 475 psig, respectively, and discharge pressures of 1,030 psig and 1,000, respectively. As noted, the units at issue at the Copley Run Compressor Station and all the units at the Burnsville Compressor Station, all currently functionalized as transmission, operate at suction pressures as low as

2-50 psig and 2-30 psig, respectively, and discharge pressures of 385 psig and 70-250 psig, respectively.<sup>59</sup> Further, the location of the stations in production areas and the fact that wet, unprocessed gas is processed at these stations, weighs in favor of finding that the Burnsville Compressor Station and Units 1 and 2 of the Copley Run Compressor Station perform a gathering function.

75. IOGA contends that the Commission already found that the function of the Copley Run and Burnsville Compressor Stations is transmission. This is not the case. In *Equitrans/EFS*, the spindown proceeding, the Commission focused on various pipeline segments that Equitrans asserted should be classified as gathering and which it proposed to transfer to EFS. In describing these lines, the Commission noted the locations of both the Burnsville and Copley Run Compressor Stations and the fact that both would be retained by Equitrans as part of its transmission system.<sup>60</sup> Since Equitrans was not proposing to refunctionalize these compressor stations, the Commission did not do an independent analysis of their function. The Commission, however, noted that Equitrans had asserted that various compressor stations to which the refunctionalized lines were attached were used to compress gas for its interstate storage operations. Therefore, these compressor stations could not be functionalized as gathering, as PECO Energy Company urged in the spindown proceeding.<sup>61</sup> Based on that assertion, the Commission agreed that the compressor stations, which included the Burnsville and Copley Run Compressor Stations, performed a storage function. Also, we observe that in the spindown proceeding, the characteristics of Lines H-505 and H-503, which connect the Burnsville and Copley Run Compressor Stations, were not analyzed by the Commission.

76. However, in an earlier Equitrans rate proceeding, wherein the pipeline attempted to refunctionalize the Copley Run Compressor Station from storage to transmission, the Commission found that the station had originally been certificated to test and develop

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<sup>59</sup> Form 567 indicates that the compressor stations used primarily to support storage operations, such as the Hartson, Pratt, Rogersville, Logansport, Curtisville and Comet Compressor Stations, all operate at higher suction pressures (250-400 psig) than those of Units 1 and 2 at the Copley Run Compressor Station and all the units at the Burnsville Compressor Stations. The discharge pressures of these other compressor stations used for storage range from 1,000 to 1,030 psig, which is significantly higher than the discharge pressures of Units 1 and 2 at the Copley Run Compressor Station (385 psig) and the Burnsville Compressor Station (70-250 psig).

<sup>60</sup> See *Equitrans/EFS*, 98 FERC at 61,589 n.5 and 61,590 n.6.

<sup>61</sup> *Id.* at 61,593.

underground storage reservoirs. The Commission stated that in order to refunctionalize the compressor station, Equitrans would have to demonstrate that the facility was no longer necessary for its certificated function.<sup>62</sup> We note that in Equitrans' May 26, 2004 response to Staff Question 2-7, Equitrans states that the compressors referred to in that rate proceeding were Units 5 and 6, not Units 1 and 2. The certificate issued to Equitrans for Units 5 and 6 were for the purpose of testing and developing underground storage reservoirs.<sup>63</sup>

77. As described earlier in this order, Equitrans does maintain that part of the purpose of Units 1 and 2 at the Copley Run Compressor Station has changed. Equitrans explains that at one time all of the gas moving through these units, as well as through the other units in the station, ultimately went into the Skin Creek and Rhodes storage wells located proximate to the station or into Equitrans' transmission system. Gas that was delivered from the Burnsville Compressor Station and from gathering lines upstream of the Copley Run Compressor Station was routed through a small extraction plant for processing which was located on the discharge side of the compressor station. Thus, some of the compression provided by the Copley Run Compressor Station was to boost the pressure so the gas could be delivered to the extraction plant, while other compression related to the injection and withdrawal of gas for storage. For these reasons, Equitrans viewed the function of all the compressor engines at the Copley Run Compressor Station as performing a jurisdictional function, *i.e.*, storage or transmission.

78. Approximately two years ago, however, Equitrans reconfigured the piping on the discharge side of the Copley Run Compressor Station so that gas coming in on lines upstream of the station would bypass the extraction plant which is now owned by Dominion Field Services. Instead, the wet, unprocessed gas coming into compressor Units 1 and 2 of the Copley Run Compressor Station is delivered into Dominion's interstate, wet transmission system on the discharge side. As noted, that gas is processed later at Dominion Field Services' Hastings product extraction plant which is a straddle plant. All gas going into storage is transported to the Copley Run Compressor Station from upstream interconnections with other interstate pipelines and is not gas gathered upstream of the Copley Run or the Burnsville Compressor Stations, and none of the gas flows through Lines H-505 and H-503. Because the purpose of Units 1 and 2 no longer relates to Equitrans' storage operations, Equitrans urges that their primary function has

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<sup>62</sup> *Equitrans, L.P.*, 80 FERC ¶ 61,144 (1997).

<sup>63</sup> *Equitrans, Inc.*, 63 FERC ¶ 61,070 (1993) (certificating 2 units at the station which already had 4 units certificated in *Equitable Gas Co.*, 12 FERC ¶ 61,310 (1980)).

changed and the gas that flows through them is no longer flowing as part of its downstream, integrated transmission/storage system.<sup>64</sup>

79. Equitrans does not claim that a similar change in operations occurred at the Burnsville Compressor Station. Rather, Equitrans explains that both the Copley Run and Burnsville Compressor Stations currently perform another function that is related to gathering and production and that this function has become their primary one.<sup>65</sup> Specifically, Equitrans asserts that both the Burnsville Compressor Station and Units 1 and 2 of the Copley Run Compressor Station function to keep or hold the pressure in the lines upstream of those stations at a lower level. This is necessary because many wells in Appalachian production areas have been depleted to a large extent and produce at low pressure.<sup>66</sup> Therefore, gas from these wells cannot enter the gathering lines if the pressure in those lines is greater than the pressure at which the wells produce. It is unclear whether the subject compressor stations always performed this function or whether they began to do so only as the wells became depleted.

80. IOGA contends that the appropriate place where gathering ends and transmission begins should be after the point of first compression, as was the case in the proceeding in which the function of many of CIPCO's facilities was delineated.<sup>67</sup> However, in that

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<sup>64</sup> Equitrans' May 17, 2004 response to Staff Questions 1 and 2.

<sup>65</sup> Equitrans doesn't explain why the Burnsville Compressor Station wasn't functionalized as gathering earlier since Equitrans has indicated that it never performed a function related to storage. Equitrans' May 25, 2004 response to Staff Question 2-10. However, the function of the Copley Run Compressor Station is related to that of the Burnsville Compressor Station because if the function of the latter is found to be transmission, then the Copley Run Compressor Station and the Equitrans' lines upstream of that station cannot be refunctionalized as gathering. Given this relationship, it is appropriate to analyze the functions of both compressor stations regardless of whether specific changed circumstances have been cited regarding the operation of the Burnsville station. We also observe, in connection with the Burnsville analysis, that due to depletion of wells, the function of facilities in the Appalachian region sometimes change over time, as explained by Mr. Yoho. IOGA's May 7, 2004 Supplement to Protest, Yoho Affidavit at 18.

<sup>66</sup> Mr. Yoho, in his affidavit, notes that these marginal, lower producing wells can nevertheless continue to produce if the costs of production remain economical. IOGA's May 7, 2004 Supplement to Protest, Yoho's Affidavit at 5.

<sup>67</sup> *CNG/CIPCO*, 69 FERC ¶ 61,364 (1994).

proceeding, the Commission specifically stated that this demarcation point was appropriate “under the circumstances of . . . [that] case . . . .”<sup>68</sup> In this proceeding, however, the record reflects that even if there is no field compression on lines and wells upstream of the Burnsville Compressor Station, which IOGA posits is the place of first compression, that station now operates in a manner which is directly related to the gathering/production function. Specifically, as Mr. Murphy has explained, the three compressors at this station “operate to reduce pressure on the three upstream gathering systems that feed into the suction side of the Burnsville Compressor Station.”<sup>69</sup> This function is consistent with the stated function of at least one of the field compressors transferred to EFS in the spindown proceeding.<sup>70</sup> Moreover, IOGA concedes that:

[if] the control scheme for a compressor station depends upon specific conditions existing on the upstream pipeline, such a gathering compressor with operations controlled to hold or minimize pressure on the upstream pipeline, then that compressor station would more likely be a part of, and have the same function as its upstream pipeline.<sup>71</sup>

Therefore, the Commission finds that the point of first compression approach should not apply in this case with regard to the function of the Burnsville Compressor Station.

81. IOGA suggests that the central point-in-the field factor is not particularly relevant in the Appalachian region because the production fields cover large areas and some customers or markets are located in or near the production areas. Nevertheless, it contends that if this factor were to be applied in this proceeding, then there would be several such points.<sup>72</sup> IOGA asserts that the Burnsville Compressor Station would be such a central point-in-the-field if it is the site of first compression. However, as described above, the Burnsville Compressor Station performs a function related to gathering even if there are no compression facilities behind it. Accordingly, the Commission concludes that the Burnsville Compressor Station should be refunctionalized as gathering. Further, because Units 1 and 2 at the Copley Run Compressor Station have

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<sup>68</sup> *Id.* at 62,384.

<sup>69</sup> Equitrans’ May 24, 2004 Answer, Murphy Affidavit at 5.

<sup>70</sup> *Equitrans/EFS*, 98 FERC at 61,587 (the Atwood compressor is described as assisting in lowering field operating pressures).

<sup>71</sup> IOGA’s May 7, 2004 Supplement to Protest, Yoho’s Affidavit at 17.

<sup>72</sup> IOGA’s May 7, 2004 Supplement to Protest, Yoho Affidavit at 8-9.

been shown to perform a similar function related to gathering, it also should be functionalized as gathering.

82. IOGA contends that the purpose of Units 1 and 2 at the Copley Run Compressor Station must be transmission because Equitrans describes an exchange of gas between it and Dominion in response to Staff Questions 1-2 and 3-1. Specifically, in those responses, Equitrans state that gas flowing through those units is delivered into Dominion's wet, interstate transmission system, is processed at the Hastings extraction plant and remains in Dominion's system. Equitrans explains that Dominion delivers an equivalent amount of gas back to Equitrans via interstate interconnections with Equitrans' system. According to IOGA, if one part of an exchange constitutes jurisdictional transportation, then the other part of the exchange must also be considered jurisdictional transportation.<sup>73</sup> IOGA contends that Units 1 and 2 at the West Union Compressor Station should be classified as transmission for the same reason.

83. The information presented by IOGA is insufficient to conclude that gas compressed by Units 1 and 2 of the Copley Run Compressor Station or the West Union Compressor Station is involved in a jurisdictional exchange. In any event, based on the facts as described by IOGA, neither side of an exchange occurs at Units 1 and 2 of either station. Rather, one side of the exchange occurs on Dominion's system and the other side of the exchange occurs on Equitrans' downstream transmission facilities. Thus, the facts presented by IOGA are not similar to those involved in the cited *National Fuel* proceeding. In that proceeding, the Commission determined that new facilities being constructed by a gathering company to serve a municipal utility were jurisdictional because they would deliver local production that would displace interstate supplies purchased by the municipality and transported on an interstate pipeline.<sup>74</sup>

84. IOGA also cites Equitrans' Order No. 637 proceeding wherein Equitrans described its system as web-like with receipt and delivery points throughout its area of operations, and as having no distinct production and market areas.<sup>75</sup> IOGA further emphasizes that in the Order No. 637 proceeding, Equitrans described its system as one in which most firm deliveries are made by displacement. However, this description of Equitrans' system does not dictate a particular finding with regard to where gathering

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<sup>73</sup> IOGA cites *National Fuel Gas Distribution Corp.*, 94 FERC ¶ 61,136 at 61,520 (2002)(*National Fuel*).

<sup>74</sup> *Id.* at 61,517.

<sup>75</sup> *Equitrans, L.P.*, 99 FERC ¶ 61,210 at P 21-23 (2002).

ends and transmission begins. That description merely highlights the fact that on an Appalachian system like Equitrans', it is more difficult to discern the demarcation point between gathering and transmission than it would be on systems where there are distinct production and market areas.<sup>76</sup> Thus, Equitrans' previous descriptions of its system can be generally accurate, but of little or no use in determining the primary function of particular facilities such as Units 1 and 2 of the Copley Run and West Union Stations.

85. Turning to the function of the Lines H-505 and H-503 downstream of the Burnsville Compressor Station, which Equitrans also seeks to refunctionalize from transmission to gathering, we note that in *Equitrans/EFS*, the Commission found that a significant number of generally smaller and shorter lines performed a gathering function and would continue to do so when EFS acquired and operated them. However, among the facilities found to perform a gathering function was large segments of pipe with 16- and 20-inch diameters and segments as long as 18.6 and 25 miles.<sup>77</sup> Lines H-505 and 503 are 20- and 16-inch diameter pipelines, respectively, and the combined length of both lines is approximately 16.5 miles.

86. In terms of the geographical configuration of the lines that feed into the Burnsville Compressor Station, the Commission found in *Equitrans/EFS* that lines from the Burnsville, Flatwoods and Hawks Nest sections of the West Virginia South production area which fed into the Burnsville station formed backbones, one of which was 16.2 miles long, as opposed to web-like systems. The maps showing the area around the Burnsville Compressor Station and immediately upstream of the Copley Run Compressor Station reflect that Line H-505 is, in effect, looped by a line functionalized as gathering and other long, spine-like lines exist all along Line H-503, though these lines do not follow the exact same route. Thus, the fact that Lines H-505 and H-503 together form a long backbone or spine is not inconsistent with a finding that these lines perform a

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<sup>76</sup> IOGA also asserts that there are valves on some of the piping downstream of the discharge sides of the Copley Run and West Union Compressor Stations. IOGA argues that Units 1 and 2 of the Copley Run and West Union stations are jurisdictional because the valves make it possible for gas gathered upstream of those stations to flow into Equitrans' jurisdictional storage facilities or into its transmission system. However, IOGA has not presented any evidence to suggest that these valves are open or that the facilities on the discharge sides of those compressor stations are being, or will be, operated in such a manner. Therefore, we do not reach what the jurisdictional implications would be if the facilities were so operated.

<sup>77</sup> *Equitrans/EFS*, 98 FERC at 61,587 (Crooked Creek section), and at 61,588 (the F-1157 section and F-1155 section).

gathering function given the number of spine-like configurations in the area that are already functionalized as gathering.

87. IOGA makes much of the fact that there are no wells currently attached to Lines H-505 and H-503. However, the Commission has held that no one factor is determinative when applying the primary function test to facilities.<sup>78</sup> Rather, the Commission considers all of the relevant factors in a particular case. Here, when all of the physical characteristics of these lines are considered, on balance, the Commission concludes that these lines may be viewed as performing a gathering function. Specifically, the relatively low pressure at which Lines H-505 and H-503 operate, the fact that the lines' diameters and combined length are similar to other lines in the vicinity which are already functionalized as gathering, the line's geographical configuration, including their backbone or spine-like form and location a production area where gas is gathered by similar lines are all consistent with a finding that these lines perform a gathering function. Additionally, the lines connect two compressor stations which have been found herein to perform a gathering function.

88. As explained, we give less weight to the fact that the lines move wet, unprocessed gas. Nevertheless, this fact does support the conclusion that the lines perform a gathering function. We also do not think that the location of the lines downstream of a central point-in-the-field is particularly helpful here since, as observed above, this factor is not usually relevant in the Appalachian producing region.<sup>79</sup>

89. Equitrans also seeks to refunctionalize Units 1 and 2 at the West Union Compressor Station from transmission to gathering. Gas flowing in EFS' upstream gathering lines feeds into the suction sides of these units at an average of 25 psig and can be discharged at a pressure as high as 400 psig. The gas is discharged into Dominion's wet, interstate transmission system. Equitrans explains that the piping in the yard at the West Union Compressor Station was reconfigured to bypass a small extraction plant located at that site formerly used to process gas flowing from the compressor station. This occurred for the same reason it did at the Copley Run Compressor station: in order

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<sup>78</sup> *TOMCAT*, 52 FERC ¶ 61,340 at 62,239 (1992).

<sup>79</sup> See, e.g., *Mahue Construction Company*, 94 FERC ¶ 61,118 (2001), quoting, *Columbia Natural Resources Inc. and Columbia Gas Transmission Corp.*, 79 FERC ¶ 61,038 at 61,168 (1997) (the Commission stated that it did not consider the central point-in-the-field to be a reliable factor when applying the primary function test to facilities located in the Appalachian region).

to have the gas processed at the Hastings extraction plant off of Dominion's interstate wet transmission system.

90. Equitrans states that as is the case at the Copley Run Compressor Station, the compressor units at the West Union Compressor Station also function to reduce the pressure on the upstream lines so that gas can flow out of low pressure wells into the gathering lines. Once the gas enters Units 1 and 2, it is compressed to a higher pressure to facilitate entry into Dominion's wet transmission system. Unit 3 at the West Union Compressor Station is used exclusively for injections and withdrawals of gas to and from the Shirley Storage Pool, located in proximity to the station. No gas moving through Units 1 and 2 goes into that storage pool. Under these circumstances and for the reasons discussed with regard to the function of the Copley Run Compressor Station, the Commission finds that the West Union Compressor Station can properly be functionalized as performing a gathering function.

91. The last facilities Equitrans seeks to refunctionalize are the ones acquired from CIPCO as a result of the merger of the two companies. As explained, Equitrans does not contend that the physical function of the facilities it wishes to refunctionalize has changed. Rather, it maintains that as the new owner of the CIPCO system it should be able to review the function of all of the facilities regardless of how they were previously functionalized by CIPCO. We have stated that such a review is not unreasonable. This conclusion is consistent with the Commission's finding that the reorganization of Carnegie Natural Gas Company (Carnegie) in compliance with Order No. 636 was a sufficient reason for Carnegie to propose refunctionalizations of facilities from gathering to transmission and transmission to gathering, even though the physical characteristics and configurations of the facilities had not changed.<sup>80</sup> In the reorganization proceeding, CIPCO proposed to apply its business model to Carnegie's assets which CIPCO was acquiring.

92. The Commission has also explained that in the reorganization proceeding in 1994, Carnegie reviewed its system and characterized as gathering all compressor stations that provided the first compression for gas produced behind those stations as well as all lines upstream of those stations. The Commission held that this was a reasonable approach even though all of the facilities to be functionalized as gathering were behind the Holly Hill processing plant. Equitrans, however, believes the location of these facilities behind that processing plant should be given more significant weight.

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<sup>80</sup> *CNG/CIPCO*, 69 FERC ¶ 61,364 (1994).

93. Further, Equitrans contends that if one views the acquired CIPCO facilities as a whole, it is reasonable to select the discharge side of the Waynesburg Compressor Station as the point where gathering ends. Equitrans argues that all of the CIPCO facilities behind this point are small diameter pipelines that operate at low pressures and look like a typical web-like gathering system. Equitrans asserts these lines operate to move gathered gas through the various production fields to the Waynesburg Compressor Station where the gas is compressed to a pressure necessary for the gas to enter the Holly Hill extraction plant.

94. In reviewing the characteristics of the lines that Carnegie sought to refunctionalize as transmission in CNG/CIPCO, the Commission acknowledged that the lines operated at moderately low pressures, were relatively small in diameter and short in length, and had wells along portions of the lines, but it agreed with Carnegie that many of its other transmission lines had similar characteristics because the pipeline's system was a low pressure system. The Commission acquiesced to CIPCO's view that the locations of these facilities upstream of the Waynesburg Compressor Station, which discharges into the Holly Hill extraction plant, was not dispositive of their function. Rather, the Commission agreed that "in the overall operational scheme of Carnegie's interstate pipeline system"<sup>81</sup> and in the "context of . . . [the system's] historical use,"<sup>82</sup> the lines downstream of compressor stations providing the first compression of gas were part of the interstate operations. Carnegie had contended that such single line segments of pipe "functioned to transport natural gas away from discreet production areas and gathering systems to facilities currently functionalized as interstate transmission lines."<sup>83</sup> We note that although the order analyzes the characteristics of lines that were proposed for refunctionalization as transmission, the order did not specifically analyze the characteristics of the various compressor stations that were on these lines. The functionalization of those compressor stations appears not to have been at issue because they were not providing the "first" compression of gas.

95. Here, Equitrans proposes to integrate the CIPCO facilities into its own system; therefore, its view of their function must be considered in light of Equitrans' functionalization and operations of its pre-merger facilities. As we have explained regarding Equitrans' pre-merger system, certain facilities considered to perform a gathering function have already been spun down to Equitrans' affiliate, EFS. In this

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<sup>81</sup> *Id.* at 62,383.

<sup>82</sup> *Id.* at 62,384.

<sup>83</sup> *Id.* at 62,383.

proceeding, additional facilities have been refunctionalized from transmission to gathering. The refunctionalized facilities in this proceeding and the ones previously transferred to EFS include compressor stations operating at low suction and discharge pressures and lines that are relatively short and small. Those lines also operate at low pressures and most have wells attached to them.

96. Equitrans' proposal to refunctionalize all of the CIPCO facilities upstream of the discharge side of the Waynesburg Compressor Station as gathering is consistent with the approach Equitrans has taken regarding the functionalization of its pre-merger facilities here and in Equitrans/EFS, the spindown proceeding. The CIPCO lines, like the ones Equitrans has already refunctionalized, are small, relatively short and operate at low pressures. The CIPCO lines also carry wet, unprocessed gas as do the Equitrans lines refunctionalized from transmission to gathering in this proceeding.

97. The CIPCO compressor stations operate at low suction and discharge pressures, except for the Waynesburg Compressor Station, similar to Equitrans' compressor stations refunctionalized in the instant proceeding. The Waynesburg Compressor Station operates at higher pressures in order to compress gas up to about 600 psig so it can enter the Holly Hill extraction plant. In this regard, one of the functions of Units 1 and 2 at the Copley Run and West Union Compressor Stations, as noted, is to boost the pressure of the wet gas so that it can enter Dominion's wet, interstate transmission system for processing downstream on that system. The Commission has held that compressors which operate to boost the pressure of gas so that it can enter a processing plant or transmission system may properly be viewed as the last step in gathering or production.<sup>84</sup> The CIPCO compressor stations, unlike the compressors at the Burnsville, Copley Run and West Union Compressor Stations which have been refunctionalized as gathering, however, do not primarily function to reduce pressures on the upstream lines because the whole CIPCO system operates at such low pressures that gas from low pressure wells can flow into CIPCO's pipelines. Rather, the Toll Gate, Hundred, and Underwood Compressor Stations function to move the low pressure wet gas along the lines until the gas reaches the Waynesburg Compressor Station where it can be compressed to significantly higher pressures for processing.

98. IOGA in its August 31, 2004 comments suggests that the Commission mistakenly refunctionalized Line M-26 from transmission to gathering in *CNG/CIPCO* and contends that the Commission should address the error here. As explained earlier, Equitrans in its response to a data response clarified the locations and functions of Lines M-23 and M-25, as well as indicated that the representation of Line M-26 as transmission on an earlier

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<sup>84</sup> See, e.g., *El Paso Natural Gas Co.*, 82 FERC ¶ 61,337 at 62,336 (1998).

map was labeled incorrectly. Line M-26, extending from the discharge side of the Hundred Compressor Station, was appropriately functionalized as gathering in the *CNG/CIPCO* proceeding and, in any event, is consistent with our findings in this proceeding that the CIPCO compressor stations should be refunctionalized as gathering.

99. IOGA also maintains that Lines M-63, M-67 and M-69 have no wells attached to them, as shown in Equitrans' response to Staff Question 2-3; therefore, IOGA asserts these lines should not be functionalized as gathering.<sup>85</sup> As we stated with regard to Equitrans' Lines H-505 and H-503, which have no wells attached, the Commission does not rely on only one factor to determine the function of facilities. Here, the fact that these lines do not have wells attached to them does not bar them from being classified as gathering. All have the same characteristics of lines already found to perform a gathering function in this proceeding. Moreover, lines upstream and downstream of Lines M-63 and M-69 have wells connected to them, so these lines form links between gathering lines.

100. Line M-67 was identified in Equitrans' application and shown on the map labeled ELP-6, page 2 of 2, as one Equitrans had proposed to refunctionalize from transmission to gathering. Equitrans also included Line M-67 in its response to Staff Question 2-3 relating to the number of wells on the lines; however, Line M-67 is not labeled on the map submitted in response to Staff Question 1-1. On this map it is shown as a line already classified as gathering. If Line M-67 is not functionalized as gathering, we conclude that it should be. It is right in the midst of web-like lines that are functionalized as gathering and its physical characteristics are similar to other lines on the CIPCO system which we have found perform a gathering function, *i.e.*, it has a 12-diameter, is only 2 miles long, and has an MAOP of 40 psig. Additionally, this line is not listed in Equitrans' response to Staff Question 2-6, which lists the number of customers located on each line proposed for refunctionalization. Further, the maps do not show interconnections to any CIPCO transmission lines or any intrastate or interstate pipelines, nor does there appear to be any compressor stations located nearby. Thus, Line M-67 appears to be part of a gathering system that is isolated from the rest of CIPCO's system. To the extent this line connects to an interstate or intrastate pipeline, it is reasonable to conclude that the point at which gathering ends is when gas flowing over Line M-67 is delivered into another company's lines.<sup>86</sup>

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<sup>85</sup> We note that IOGA inadvertently identified Line M-69 as M-68 in its comments.

<sup>86</sup> In its comments, IOGA also states that Line M-46, which is downstream of the Smithburg field compressing station, should remain functionalized as transmission

101. On Equitrans' system, which now includes the CIPCO facilities, all compressors and lines that are functionalized as gathering will compress or move wet, unprocessed gas. The point of demarcation between gathering and transmission will be the discharge side of the compressor units/stations which discharge at pressures high enough to allow gas to enter processing or transmission facilities.<sup>87</sup> The lines in which the Holly Hill extraction plant discharges will continue to function as transmission and will interconnect with Equitrans' transmission lines. The fact that the lines downstream of the Holly Hill extraction plant operate at MAOPs significantly higher than the lines behind the Waynesburg Compressor Station as well as the fact that the Waynesburg Compressor Station discharges at significantly higher pressures than the upstream compressor stations reinforces our conclusion that the discharge side of the Waynesburg station is a reasonable and appropriate place to separate gathering and transmission now that the CIPCO facilities are integrated with the Equitrans system.

### **Conclusion**

102. For all of the reasons discussed herein, the Commission approves Equitrans' proposal to refunctionalize from transmission to gathering facilities on both its pre-merger system and on the former CIPCO system, as more particularly described herein.

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because it is downstream of first compression. However, as we have explained above, we do not think that Equitrans must adopt that point as the demarcation between gathering and transmission and that its proposal to view the demarcation point as downstream of the Waynesburg Compression Station is reasonable and consistent with the way it has classified gathering and transmission on its pre-merger system.

<sup>87</sup> IOGA comments that Line M-20, functionalized as transmission, but not located downstream of the Waynesburg Compressor Station and the Holly Hill processing plant, has physical and operational characteristics similar to lines Equitrans seeks to refunctionalize as gathering and runs through a producing area with many gathering lines crossing it. In its September 22, 2004 data response, Equitrans states that Line M-20 is not attached to any wells or gathering lines, is rarely used, and is being evaluated for possible abandonment. In view of these considerations, we find that it is premature to analyze the function of this line. However, if Equitrans determines that Line M-20 has continued usefulness, its functionalization must be consistent with its use. Thus, if Line M-20 is not abandoned and gathering is its primary function, it will be necessary for Equitrans to seek refunctionalization in a timely manner.

The Commission orders:

(A) Equitrans' proposal to refunctionalize various facilities from transmission to gathering, as more particularly described herein, is approved.

(B) IOGA's protest is denied for the reasons discussed herein.

(C) The motions to intervene out of time and the answers filed in this proceeding are granted and accepted, respectively.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.