

127 FERC ¶ 61,261
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

Northwest Pipeline GP
Parachute Pipeline LLC

Docket Nos. CP09-66-000
CP09-67-000

ORDER APPROVING ABANDONMENT AND DETERMINING
JURISDICTIONAL STATUS OF FACILITIES

(Issued June 18, 2009)

1. On February 12, 2009, Northwest Pipeline GP (Northwest) filed an application under section 7(b) of the Natural Gas Act (NGA)¹ for authority to abandon its certificate authority to lease from Parachute Pipeline LLC (Parachute) and operate the Parachute Lateral and associated facilities as part of its interstate transmission system. Additionally, Northwest requests permission to abandon the firm and interruptible transportation services rendered on the facilities. On the same date, Parachute, pursuant to Rule 207 of the Commission's regulations,² filed a petition for a declaratory order requesting that the Commission determine that the Parachute Lateral facilities will be gathering and exempt from the Commission's jurisdiction after abandonment by Northwest.

2. As discussed below, the Commission authorizes Northwest to abandon the facilities and services as requested and finds that the facilities will be used to perform a gathering function exempt from the Commission's jurisdiction following that abandonment.

I. Background and Proposal

3. Northwest, a corporation organized and existing under the laws of Delaware, is a natural gas company, as defined in the NGA,³ engaged in the business of open-access transportation. Northwest is a subsidiary of the Williams Companies, Inc.

¹ 15 U.S.C. § 717(b) (2006).

² 18 C.F.R. § 385.207 (2008).

³ See 15 U.S.C. § 717a(6) (2006).

4. Parachute, a Delaware limited liability company, is an affiliate of Northwest and a wholly-owned subsidiary of Williams Field Services Company, LLC (Williams Field Services). Williams Field Services, in turn, is a wholly-owned subsidiary of the Williams Companies. Parachute states that Williams Field Services is one of North America's largest natural gas gathering and processing service providers, owning and/or operating gathering systems and processing plants in Wyoming, Western Colorado, the Four Corners area, and the Gulf of Mexico.

5. Parachute is currently the passive owner of the facilities while Northwest is the certificate holder and operator of the facilities under a lease-back arrangement with Parachute authorized in an order issued on November 15, 2007.⁴ In the November 15, 2007 Order, the Commission noted that the Williams Companies had plans to construct a Willow Creek Processing Plant (Willow Creek plant), a 450,000 Mcf per day CO₂ treating and cryogenic gas processing facility to be located near the Greasewood Hub in Rio Blanco County, Colorado, designed to process gas moving on the Parachute Lateral.⁵ The order also noted that the Williams Companies' ultimate objective was for the Parachute Lateral to be transferred to Williams Fields Services to be operated as a non-jurisdictional gathering facility upon completion of the Willow Creek plant.⁶ The Commission also noted that at that time Northwest would file an abandonment application and that Parachute would file a petition for declaratory order to request non-jurisdictional status for the Parachute Lateral.⁷ The Commission thus anticipated Parachute's petition and Northwest's application when it issued its November 15, 2007 Order.

A. Facilities Proposed to be Abandoned

6. Northwest proposes to abandon the certificate authorizing it to lease and operate the Parachute Lateral. The lateral consists of (i) approximately 37.6 miles of 30-inch diameter pipeline and appurtenant facilities extending from Williams Production RMT Company, Inc.'s (Williams E&P) treating and dew point processing facilities in Garfield County, Colorado to the Greasewood Hub in Rio Blanco County, Colorado; (ii) the Starkey Gulch Receipt meter station at the outlet of Williams E&P dew point facilities in Garfield County, Colorado; (iii) the Oxy U.S.A. receipt tap in Garfield County, Colorado; and (iv) delivery interconnects with Wyoming Interstate Company, Magnolia/White

⁴ See *Northwest Pipeline Corp.*, 121 FERC ¶ 61,158 (2007).

⁵ See *id.* P 4.

⁶ See *id.*

⁷ See *id.* P 5 n.4.

River Hub LLC and Colorado Interstate Gas, all located at the Greasewood Hub in Rio Blanco County, Colorado.⁸ Northwest states that Parachute Lateral was designed and constructed to transport up to 450,000 dekatherms per day (Dth/d) of natural gas from the dew point facilities through the Piceance Basin to the Greasewood Hub.

7. Since placing the Parachute Lateral in service on May 16, 2007, Northwest constructed under its blanket certificate and placed into service its Collins Gulch delivery tap and the Chevron U.S.A. Inc. (Chevron) Skinner Ridge receipt tap and meter station located in Garfield and Rio Blanco Counties, Colorado.⁹ Collectively, the above facilities represent the facilities subject to the abandonment authority requested herein.

B. Services Proposed to be Abandoned

8. In addition, Northwest proposes to terminate all firm and interruptible transportation service it renders on the facilities. Northwest currently holds only two transportation service agreements (one firm and one interruptible) under which it provides service on the facilities pursuant to its Rate Schedules TFL-1 and TIL-1.¹⁰ Northwest's TFL-1 firm transportation agreement is with Williams Gas Marketing, Inc.¹¹ for the entire 450,000 Dth/d of capacity on the facilities for a fifteen-year term. Williams Gas Marketing has consented to Northwest's intent to abandon its certificate authority to operate the facilities.¹² Northwest's TIL-1 interruptible transportation agreement is with Chevron but Chevron has not yet transported gas under this agreement.

9. Upon approval of the abandonment of the facilities, Northwest states that it will remove (i) the rates applicable to the facilities from its Statement of Rates; (ii) the Williams Gas Marketing transportation service agreement from the list of non-conforming agreements and from the list of negotiated rate agreements in its tariff; and (iii) the fuel use factors applicable to the facilities from its Statement of Fuel Use Requirement Factors for Reimbursement of Fuel Use.

⁸ See *Northwest Pipeline Corp.*, 116 FERC ¶ 61,151 (2006).

⁹ Northwest's blanket certificate authority was issued in Docket No. CP82-433-000. See *Northwest Pipeline Corp.*, 20 FERC ¶ 62,412 (1982).

¹⁰ See Exhibit W of Northwest's Application.

¹¹ Williams Gas Marketing was formerly Williams Power Company, Inc. and is a subsidiary of the Williams Companies and an affiliate of Northwest.

¹² See Exhibit U of Northwest's Application.

C. Proposed Operation of the Parachute Lateral After the Willow Creek Processing Plant Becomes Operational

10. As previously discussed, Williams Field Services plans to construct and operate a Willow Creek plant near the Greasewood Hub in Rio Blanco County, Colorado.¹³ Once the Willow Creek plant is operational in July 2009, Parachute and Northwest state that the Parachute Lateral's primary function will change from transmission to gathering. They state that the Willow Creek plant is intended to treat and process natural gas from new development areas in the Piceance Basin and maximize natural gas liquids extraction from gas moving on the Parachute Lateral. They state that Williams E&P's dew point processing facilities will not be able to ensure pipeline quality gas for all production due to the expected growth of production in the area and will not be located at a place where it is effective or practical to collect additional gas. As a result of the more modern and effective Willow Creek plant, Williams E&P's dew point facilities will become pre-processing or field facilities, used to remove a minimal cut of liquids or minimal treatment of gas to ease the movement of gas up the steep terrain to the Willow Creek plant. These changes, Northwest and Parachute contend, will make the Parachute Lateral a necessary component of Williams Field Services' gathering and processing infrastructure in the Piceance Basin. Therefore, Parachute requests that the Commission issue an order declaring that the facilities will function as gathering and that they will be exempt from the Commission's jurisdiction.

II. Notices, Interventions and Protests

11. Notice of Northwest's application and Parachute's petition were published in the *Federal Register* on March 3, 2009 (74 Fed. Reg. 9234) with comments, protests, and interventions due on or before March 17, 2009. Southwest Gas Corporation filed a timely, unopposed motion to intervene.¹⁴ No protests or comments were filed.

¹³ Parachute states that Williams Field Services had planned to locate the processing plant closer to the Greasewood Hub and the downstream end of the Parachute Lateral but the terrain in the Piceance Basin limited the amount of suitable land for constructing and operating a processing plant.

¹⁴ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. *See* 18 C.F.R. § 385.214 (2008).

III. Discussion

A. Northwest's Request for Abandonment of Jurisdictional Facilities and Services

12. Since the lease of the facilities and the services Northwest proposes to abandon involve transportation of natural gas in interstate commerce, the proposal is subject to the jurisdiction of the Commission and the requirements of NGA section 7(b).

13. As discussed above, Northwest states that the Parachute Lateral's primary function will change from interstate gas transportation to gathering once the Willow Creek plant becomes operational in July 2009. Northwest also proposes to terminate all firm and interruptible transportation services rendered on the facilities. Since the existing customer on the facilities has already consented to the abandonment, there is no issue as to adverse impacts on customers associated with the proposed abandonment and transfer. Moreover, no shipper has objected to the abandonment of the facilities. Therefore, the Commission finds that the facilities are no longer needed by Northwest and that Northwest's request to abandon the facilities and related services is permitted by the public convenience and necessity.

B. Parachute's Petition for Gathering Determination

14. In addition to Northwest's application to abandon its certificate authority, Parachute petitions the Commission to conclude that the facilities will perform a gathering function and will not be subject to the jurisdiction of the Commission under the NGA once the Parachute Lateral is abandoned.

15. The Commission's jurisdiction under NGA section 1(b) does not extend to facilities used for "the production or gathering of natural gas."¹⁵ Because the NGA does not define gathering, the Commission has developed a legal test known as the primary function test to determine whether facilities are non-jurisdictional gathering facilities. The test includes consideration of physical and geographic factors including: (1) the length and diameter of the pipeline, (2) the extension of the facility beyond the central point in the field, (3) the facility's geographic configuration, (4) the location of compressors and processing plants, (5) the location of wells along all or part of the facility, and (6) the operating pressure of the pipeline.¹⁶

¹⁵ 15 U.S.C. § 717(b) (2006).

¹⁶ See *Tenn. Gas Pipeline Co.*, 124 FERC ¶ 61,128 (2008); see also *Amerada Hess Corp.*, 52 FERC ¶ 61,268 (1990) (modified the primary function test originally formulated in *Farmland Industries, Inc.*, 23 FERC ¶ 61,063 (1983)).

16. 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.¹⁷ The Commission also considers the purpose, location and operation of the facility, the general business activity of the owner of the facility, and whether the jurisdictional determination is consistent with the NGA and the Natural Gas Policy Act of 1978, Pub. L. No. 95-621, 92 Stat. 3350 (codified as amended at 15 U.S.C. §§ 3301-3432 (2006)).¹⁸ The Commission does not consider any one factor to be determinative and recognizes that all factors do not necessarily apply to all situations.¹⁹

17. As discussed below, application of the primary function test criteria to the Parachute Lateral facilities supports a finding that the primary function of the facilities will be gathering once the Willow Creek plant begins operating as described in the application.

C. Application of the Primary Function Test

1. Length and Diameter of the Pipeline

18. The Parachute Lateral consists of 37.6 miles of 30-inch diameter pipeline. The diameter of the Parachute Lateral, while larger than many gathering pipelines, is a function of the uniquely steep terrain in Garfield and Rio Blanco Counties, Colorado. Parachute states that because of the steep terrain, it is more prudent and cost-effective to initially construct a larger pipeline rather than repeat the difficult construction process in the future. The Commission has recognized that pipelines with similar lengths and diameters as the Parachute Lateral are not inconsistent with a gathering function.²⁰ Thus, the Commission finds that the length and diameter of the pipeline is not inconsistent with a gathering function.

¹⁷ See, e.g., *SWEPI LP*, 126 FERC ¶ 61,098 (2009); *Eagle Rock DeSoto Pipeline, L.P.*, 126 FERC ¶ 61,092 (2009); see also *Sea Robin Pipeline Co.*, 127 F.3d 365, 371 (5th Cir. 1997) (explaining the weight of non-physical criteria).

¹⁸ See, e.g., *Southern Natural Gas Co.*, 126 FERC ¶ 61,236 (2009); *Equitrans, LP*, 98 FERC ¶ 61,160 (2002).

¹⁹ See, e.g., *Pecan Pipeline (N.D.), Inc.*, 126 FERC ¶ 61,015 (2009); *Columbia Gas Transmission Corp.*, 125 FERC ¶ 61,343 (2008).

²⁰ See, e.g., *Eagle Rock DeSoto Pipeline*, 126 FERC ¶ 61,092 at P 11 (finding that 123 miles of 8- and 10-inch pipeline performed a gathering function); *Columbia Gas Transmission Corp.*, 79 FERC ¶ 61,045, at 61,210 (1997) (finding that 34.1 miles of 26-inch pipeline was gathering).

2. Central Point in the Field

19. The Commission also looks to the extension of facilities beyond the central point in the field. The central point in the field test is based on the idea that gathering involves the collection and movement of natural gas through various smaller lines to a central point where gas is delivered into a single large line for transmission.²¹ Any facilities located upstream of the central point are generally considered non-jurisdictional gathering facilities. The central point in the field test is typically used in the absence of a processing plant. Where there is a processing plant, the plant serves as the central point.

20. Here, the central point would be the Willow Creek plant at the downstream end of the Parachute Lateral. The Williams E&P dew point processing facilities upstream to the Parachute Lateral will become pre-processing or field facilities, used to remove a minimal cut of liquids or for minimal treatment of CO₂. Additionally, the Commission has consistently found facilities located upstream of such a processing plant to be non-jurisdictional gathering facilities.²² Thus, the location of the Parachute Lateral behind the processing plant strongly supports a finding that the facilities perform a gathering function. The Commission finds that the Willow Creek plant, at the downstream end of the Parachute Lateral, serves as the central point.

3. Geographic Configuration

21. Parachute states that the Parachute Lateral is developing into a typical spine and lateral configuration, with a central spine that collects unprocessed gas from wells and production areas. Parachute also states that the collection is currently primarily from wells and production pipelines on the upstream end of the Parachute Lateral, but more laterals will be constructed and directly connected to the Parachute Lateral as wells are developed in the production areas along the length of the Parachute Lateral. The Commission has previously found that spine-type geographic configuration is not inconsistent with a gathering function.²³ In addition, the Commission has also found that the location of a system within a single state may be a geographic factor relevant to a

²¹ See generally *Barnes Transportation Co., Inc.*, 18 F.P.C. 369 (1957) (establishing the “central point in the field” test).

²² See, e.g., *Straight Creek Gathering, L.P.*, 117 FERC ¶ 61,005, at P 15 (2006); *Williams Natural Gas Co.*, 71 FERC ¶ 61,115, at 61,375 (1995).

²³ See, e.g., *EXCO Resources, Inc.*, 119 FERC ¶ 61,121, at P 14 (2007); *Straight Creek Gathering*, 117 FERC ¶ 61,005 at P 13, 20.

gathering determination.²⁴ The Parachute Lateral here is located within Colorado. Thus, the Commission finds that the geographic configuration of the Parachute Lateral is consistent with a gathering function.

4. The Location of Compressors and Processing Plants

22. The Parachute Lateral is located almost entirely upstream of the Willow Creek plant. Parachute states that the Parachute Lateral will deliver non-pipeline quality gas to the inlet of the Willow Creek plant for CO₂ removal and liquids extraction and subsequent delivery of pipeline quality gas into the interstate pipeline grid. Moreover, as the Piceance Basin continues to be developed, more production is expected to be directly connected to the Parachute Lateral downstream of Williams E&P's dew point facilities, resulting in additional volumes of "wet" and untreated gas in the line and an even greater need for treating and processing at the Willow Creek plant. Thus, the Commission finds that the processing of "wet" gas to remove impurities, moisture, and liquid to bring the gas up to pipeline quality standards for delivery to an interstate gas pipeline is characteristic of a gathering function.²⁵ Furthermore, there is no compression located on the Parachute Lateral, which is consistent with a gathering function.²⁶

23. Parachute states that the only portion of the Parachute Lateral located downstream of the Willow Creek plant is a 4.99-mile (26,352 feet) line which serves to deliver processed, pipeline quality gas from the Willow Creek plant to the Greasewood Hub. The Commission generally finds that facilities located beyond a processing plant are jurisdictional transmission facilities. Depending on the length of facilities downstream of a plant owned by the behind-the-plant gatherer in relationship to the size of gathering facilities behind the plant, the downstream facilities may be considered exempt because they are an incidental extension of plant operations or of the behind-the-plant gathering system.²⁷ Here, the 4.99-mile line is a relatively short "stub" when compared to the 37.6 mile length of the lateral upstream of the Willow Creek plant. The stub performs primarily a gathering function as it acts as an expansion and extension of gathering facilities upstream of the plant, and serves as a pipeline interconnect at the tailgate of the Willow Creek plant. Accordingly, the Commission finds that the 4.99 line is a stub exempt from the Commission's jurisdiction.

²⁴ See, e.g., *EXCO Resources*, 119 FERC ¶ 61,121 at P 14.

²⁵ See, e.g., *id.* at P 16; *Straight Creek Gathering*, 117 FERC ¶ 61,005 at P 15; *El Paso Natural Gas Co.*, 116 FERC ¶ 62,081, at 64,274 (2006).

²⁶ See, e.g., *CenterPoint Energy Gas Transmission Co.*, 119 FERC ¶ 61,193, at 64,510 (2007); *TCP Gathering Co.*, 92 FERC ¶ 62,068, at 64,079 (2000).

²⁷ See *Superior Offshore Pipeline Co.*, 67 FERC ¶ 61,253, at 61,834-35 (1994).

5. Location of Wells

24. The location of wells along the length of a pipeline is indicative of gathering.²⁸ The Commission has previously held that the location of a facility in a production area surrounded by other gathering lines supports a non-jurisdictional finding.²⁹ Parachute states that there are currently approximately 2,000 Williams E&P-operated wells that flow into the Parachute Lateral via Williams E&P gathering pipelines upstream of the Williams E&P dew point control facilities. The area around the Parachute Lateral is a developing production area and Parachute expects to connect substantial additional wells, including Williams E&P's Trail Ridge production, which currently includes approximately 100 wells with potentially 1,800 additional well locations. Parachute also plans to attract production from other producers who are expected to develop wells in the area and specifically from the many leases that are in areas along the Parachute Lateral. Therefore, the Commission finds the additional wells that will be attached along the length of the pipeline and the location of the facilities in producing fields is consistent with a gathering function.³⁰

6. Operating Pressure of the Pipeline

25. The Parachute Lateral's operating pressures will range from approximately 900 psig to nearly 1,470 psig. Parachute states that the pressures are a result of the limited ability to develop facilities in steep terrain and the need to maximize throughput while minimizing the facilities' footprint through the production areas. In fact, Parachute states that from the upstream end of the Parachute Lateral to the Willow Creek plant the elevation rises from 5,400 to 8,700 feet along Trail Ridge and then descends to an elevation of 6,400 feet at the Willow Creek plant. Therefore, Parachute's higher operating pressures are not inconsistent with a gathering function, especially where there are circumstances that create the necessity for higher pressures.³¹

²⁸ See *EXCO Resources*, 119 FERC ¶ 61,121 at P 17.

²⁹ See, e.g., *El Paso Natural Gas Co.*, 116 FERC ¶ 62,081 at 64,275; *Southern Star Central Gas Pipeline, Inc.*, 116 FERC ¶ 61,288, at P 33 (2006).

³⁰ See *Columbia Gas Transmission Corp.*, 124 FERC ¶ 61,230, at P 31 (2008).

³¹ See, e.g., *Pecan Pipeline*, 126 FERC ¶ 61,015, at P 16 (2009) (operating pressures of 1,750 psig necessary to ensure the NGL's do not drop out); *ANR Pipeline Co.*, 76 FERC ¶ 61,153, at 61,914 (1996) (pressures of 780 to 1,050 psig resulting from higher wellhead pressures in the field and operating pressures of interconnected third-party gathering systems); *El Paso Natural Gas Co.*, 72 FERC ¶ 61,220, at 62,012 (1995) (gathering system pressures in the Anadarko Basin ranging from 300 to 1,000 psig resulting from high pressure reservoirs).

7. Additional Considerations

26. The Parachute Lateral runs through the Piceance Basin, an active, developing production area. Upon operation of the Willow Creek plant, Parachute states that it will deliver non-pipeline quality gas to the inlet of the Willow Creek plant for CO₂ removal and liquids extraction and subsequent delivery of pipeline quality gas into the interstate pipeline grid. Along the route of Parachute Lateral, Parachute asserts that there are numerous production fields, some in early stages of development, some expected to be developed, which will be able to directly feed additional non-pipeline quality gas into the Parachute Lateral. Therefore, Parachute's purpose, location and operation of facilities are also consistent with classification as performing a non-jurisdictional gathering function.³²

27. Among the non-physical factors considered by the Commission under the primary function analysis is the general business activity of the owner of the facilities Parachute's immediate parent company, Williams Field Services, is a midstream company that has been in the gathering and processing business for decades and owns and/or operates gathering facilities in several areas of the country, including the Gulf Coast, the Four Corners area and Wyoming. Parachute is not a natural gas company as defined by the NGA and does not transport natural gas in interstate commerce or engage in any other NGA-jurisdictional business activities. Therefore, Parachute's general business is also consistent with classification as performing a non-jurisdictional gathering function.³³

28. Thus, the Commission finds that the subject facilities will be part of Parachute's gathering and processing system and that Parachute will retain its status as a natural gas processor and the subject facilities will not be subject to the Commission's jurisdiction under section 1(b) of the NGA.

29. At the hearing held on June 18, 2009, the Commission on its own motion, received and made part of the record all evidence, including the application, as supplemented, and exhibits thereto, submitted in this proceeding and upon consideration of the record,

The Commission orders:

(A) Permission for and approval of the abandonment by Northwest of the subject lease of facilities and services, as described above and in the application, is granted.

³² See, e.g., *DCP Midstream*, 123 FERC ¶ 61,237, at P 43-45 (2008).

³³ See, e.g., *Quicksilver Resources*, 122 FERC ¶ 61,115, at P 22 (2008).

(B) Northwest shall notify the Commission within ten days of the date of the abandonment of its certificate authority.

(C) Upon Northwest abandonment of its certificate authority, the subject facilities will be processing and gathering facilities exempt from the Commission's jurisdiction pursuant to NGA section 1(b).

(D) Northwest shall comply with Part 154 of the Commission's regulations.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.