

127 FERC ¶ 61,262
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Columbia Gas Transmission Corporation

Docket No. CP07-39-000

ORDER GRANTING ABANDONMENT AUTHORITY AND
MAKING JURISDICTIONAL DETERMINATION

(Issued June 18, 2009)

1. On December 15, 2006, Columbia Gas Transmission Corporation (Columbia) filed an application under section 7(b) of the Natural Gas Act (NGA),¹ as supplemented on May 15, 2007, requesting authority to abandon by sale to Chesapeake Appalachia, L.L.C. (Chesapeake), certain natural gas pipeline and compression facilities in Boone, Putnam, and Lincoln Counties, West Virginia (the Line R System), and authority to abandon the services being provided through those facilities. In addition, Columbia seeks a determination that the facilities perform a gathering function and therefore are exempt from the Commission's jurisdiction pursuant to section 1(b) of the NGA.²
2. For the reasons discussed herein, the Commission finds that the public convenience and necessity permit Columbia's abandonment of the subject facilities. The Commission also finds that the facilities' primary function will be gathering if acquired and operated by Chesapeake as part of its gathering system.

I. Background

3. Columbia is a Delaware corporation and a wholly-owned subsidiary of the Columbia Energy Group, which is wholly owned by NiSource, Inc. Columbia is a natural gas company engaged in the business of transportation and storage of natural gas in interstate commerce, subject to the Commission's jurisdiction. Columbia operates facilities located in the states of Delaware, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia and West Virginia. It provides storage and transportation services under rate schedules and tariffs authorized by the

¹ 15 U.S.C. § 717f (b) (2006).

² 15 U.S.C. § 717(b) (2006).

Commission, on an open-access basis primarily pursuant to blanket certificate authority under Subpart G of Part 284 of the Commission's regulations.³

4. Chesapeake is a limited-liability company organized under the laws of Oklahoma. Chesapeake is engaged in natural gas exploration, production, and gathering in Kentucky and West Virginia, among other states. Chesapeake is not affiliated with Columbia.⁴

II. Proposals

5. Columbia states that it continuously evaluates its pipeline system to better meet the needs of its customers. Columbia further states that the Line R System facilities are no longer an integral part of its transmission system and requests permission to abandon the Line R System, by sale, to Chesapeake.

6. On October 27, 2006, Columbia and Chesapeake executed a Purchase and Sale Agreement that provides for the sale of the Line R System to Chesapeake. Columbia states that the Line R System comprises three lateral lines consisting of approximately 21.69 miles of pipeline, two compressor stations, and related appurtenances. Specifically, the Line R System includes:

- Line R, consisting of approximately 18.82 miles of 10.75-inch diameter pipeline in Boone, Putnam and Lincoln Counties;
- Line RM-1108, consisting of approximately 1.22 miles of two-inch diameter pipeline in Lincoln County;
- Line RM-119, consisting of approximately 1.57 miles of 6-inch diameter pipeline in Lincoln and Putnam Counties;
- Horse Creek compressor station, consisting of a single 800-horsepower (hp) unit in Boone County; and
- Nye compressor station, consisting of two compressor units with a total capacity of 604 hp in Lincoln County.

³ 18 C.F.R. § 284.221 – 284.227 (2008).

⁴ Chesapeake is a successor-in-interest to Columbia Natural Resources, Inc. (CNR), which was Columbia's affiliated non-jurisdictional marketing and production arm.

7. Columbia states that the Line R System was constructed and operated as part of a low-pressure transmission system in West Virginia,⁵ that the facilities have been operated to transport locally produced gas for delivery into Columbia's mainline system, and that Chesapeake owns the majority of the facilities upstream of the Line R System. Columbia contends that the purchase of the facilities by Chesapeake will allow the Line R System to serve as an extension of Chesapeake's existing production and gathering system and deliver the production volumes into Columbia's mainline transmission system.

8. Columbia states that Chesapeake has agreed to provide service to the firm customers receiving service through the Line R System, at the time of closing, on terms and conditions acceptable to both Chesapeake and the customers. With regard to interruptible transportation customers, Columbia states that either party to the interruptible service contracts may cancel the service upon a 30-day written notice. Columbia states that upon receipt of the Commission's approval it will issue the 30-day notice to interruptible customers and modify their contracts to remove the affected points of service.

9. There is only one delivery point on the Line R System. At this point, Columbia makes deliveries to Mountaineer Gas Company (Mountaineer), a local distribution company (LDC).⁶ Exhibit Z-2 to the application lists the 28 customers served by Mountaineer with gas received at this single delivery point on the Line R System. Although Columbia is requesting approval to abandon service, Chesapeake will continue Columbia's service to Mountaineer.

10. Columbia states that the only change the proposed sale will have on its pooling customers will be that a single new receipt point will be established for the shippers to nominate gas from the production area into their pool, rather than nominating the gas from the individual meters listed in Exhibit Z-3 of the application. Columbia does not anticipate any material change to, or interruption in, the services currently being provided to customers through the subject facilities.⁷

⁵ The facilities were certificated in Docket Nos. G-341 (4 F.P.C. 534 (1944)), G-960 (7 F.P.C. 439 (1948)), CP63-178 (29 F.P.C. 567 (1963)), and CP71-132 (45 F.P.C. 398 (1971)).

⁶ Application at p. 7.

⁷ The customers and associated service contracts for which Columbia seeks abandonment authority are described in Exhibit Z-3 to the application.

11. As noted, Columbia requests a determination that following abandonment, the subject facilities will be considered gathering facilities exempt from jurisdiction by the Commission under section 1(b) of the NGA.

III. Notice and Interventions

12. Notice of Columbia's application was published in the *Federal Register* on December 29, 2006.⁸ ProLiance Energy, LLC; Orange and Rockland Utilities, Inc.; Chesapeake; and Equitable Production Company filed timely, unopposed motions to intervene.⁹ The intervenors do not oppose Columbia's application.

13. The Independent Oil & Gas Association of West Virginia (IOGA), Eastern American Energy Corporation (Eastern American), and Geoex, Inc. (Geoex) filed motions to intervene out of time. The late motions to intervene demonstrated an interest in this proceeding which cannot be adequately represented by any other party. Further, we find that granting the motions will not delay, disrupt, or otherwise prejudice this proceeding or place an additional burden on existing parties. For good cause shown, we will grant the late-filed motions to intervene.¹⁰

14. In its motion to intervene, Geoex protested the application. On February 8, 2007, Columbia and Chesapeake filed a joint answer to Geoex's protest. On March 29, 2007, and October 22, 2007, Geoex supplemented its protest. On November 5, 2007, Columbia and Chesapeake filed a clarification to Geoex's supplements.¹¹ Geoex responded to Columbia's and Chesapeake's responses on November 8, 2007. Although the Commission's Rules of Practice and Procedure do not permit answers to protests or answers to answers, we may for good cause waive this provision.¹² In this instance, we find good cause to accept these answers because they provide information that has

⁸ 71 Fed. Reg. 78,413.

⁹ 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 (2008).

¹⁰ 18 C.F.R. § 385.214(d) (2008). Nytis Exploration Company, LLC, filed a late motion to intervene but later withdrew it, and supports Columbia's application.

¹¹ IOGA filed an answer to Columbia and Chesapeake's joint answer to Geoex's protest, which it subsequently withdrew. IOGA states that it takes no position on any issue raised in this proceeding.

¹² 18 C.F.R. § 385.101(e) (2008).

assisted us in our decision making.¹³ The issues addressed in the protest, supplements, and responses are discussed below.

IV. Discussion

15. Because the facilities Columbia proposes to abandon are used in the transportation of natural gas in interstate commerce subject to the Commission's jurisdiction, the proposed abandonment is subject to the requirements of subsection (b) of section 7 of the NGA.¹⁴

A. Abandonment of Facilities and Services

16. Columbia no longer needs the Line R System to access system supplies since it no longer performs a merchant pipeline function. Moreover, there is no record evidence that the facilities are needed by Columbia to meet its firm service obligations as an open-access transporter. The abandonment will permit Columbia to concentrate its efforts on serving the needs of its transportation customers and avoid the cost of operating and maintaining unneeded facilities. Furthermore, upon acquisition of the Line R System, Chesapeake has advised Columbia that it will continue to provide service for Columbia's existing firm shippers at mutually agreeable terms and conditions, and no current shipper will suffer a loss or diminution of service.¹⁵ No current firm or interruptible shipper on the Line R System has protested the proposed abandonment and sale of the facilities.¹⁶ Thus, Columbia's proposed abandonment of the facilities will not cause abandonment of service to, or have a significant economic impact on, any of Columbia's existing

¹³ 18 C.F.R. § 385.213(a)(2) (2008).

¹⁴ 15 U.S.C. § 717f(b) (2006).

¹⁵ As stated above, the single delivery point on the Line R System is used to deliver gas to Mountaineer, an LDC, for 28 of its customers. Columbia states that Chesapeake has agreed to continue to provide this service for Mountaineer. We also note that Exhibit I to Columbia's application is an agreement under which Chesapeake has assumed Columbia's continuing obligations under a settlement agreement dated December 31, 1994, between Mountaineer, Columbia, the Consumer Advocate Division of the Public Service Commission of West Virginia, and the Staff of the Public Service Commission of West Virginia relating to the provision of natural gas services on the Line R System.

¹⁶ The Commission will generally presume that there is no continuity of service issues if no customer of the pipeline protests the abandonment of the facilities. *Northern Natural Gas Co.*, 123 FERC ¶ 61,325 (2008).

customers. For these reasons, we conclude that Columbia has demonstrated that the public convenience and necessity permits the abandonment of the facilities, as described above.¹⁷

B. Geoex's Protest

1. Market Power

17. Geoex is an independent producer operating in West Virginia and Kentucky, but is not a customer of Columbia on the Line R System. In its protest, Geoex contends that this case represents a third “spin-down” of facilities by Columbia to Chesapeake that will not be in the public interest.¹⁸ Geoex maintains that local small producers may be harmed if Chesapeake favors its own production over third-party Appalachian producers and that the proposed abandonment and sale of the Line R System to Chesapeake is part of a pattern that would enable Chesapeake to control, operate, and manipulate gathering capacity in various production areas in northwestern West Virginia and eastern Kentucky.

Commission Conclusion

18. Under section 1(b) of the NGA, our jurisdiction does not extend to facilities used for the production or gathering of natural gas, or to gathering services. The focus of an

¹⁷ In view of the fact that the one delivery point on the Line R System will continue to be used by Chesapeake to deliver gas to Mountaineer, we note that the Commission has long recognized that a gatherer's incidental use of gathering facilities for the delivery of local production to an LDC does not alter the overall non-jurisdictional gathering function of the facilities and does not require certification under section 7 of the NGA. *See, e.g., Columbia Gas Transmission Corp.*, 90 FERC ¶ 61,211, at p. 61,686 (2000); *El Paso Natural Gas Co.*, 72 FERC ¶ 61,220, at p. 62,010 (1995) and *CNG Transmission Corp.*, 69 FERC ¶ 61,363, at p. 62,374 (1994).

¹⁸ In the first case identified by Geoex as not being in the public interest, we authorized Columbia to abandon by sale to CNR its BM-44 facilities in West Virginia. *Columbia Gas Transmission Corp.*, 105 FERC ¶ 61,050 (2003). In the second case, we authorized Columbia to abandon by sale to Chesapeake the Kermit facilities in West Virginia and Kentucky. *Columbia Gas Transmission Corp.*, 116 FERC ¶ 61,191 (2006) (*2006 Columbia Order*). The orders also found that the BM-44 facilities and the Kermit facilities perform a gathering function and are exempt from the Commission's jurisdiction under section 1(b).

NGA section 1(b) inquiry in the context of a reclassification of facilities from jurisdictional to gathering is the primary function of the facilities.¹⁹

19. In a 2007 order,²⁰ we discounted the weight to be attached to market power considerations when determining whether to approve proposals under section 1(b) to reclassify facilities from jurisdictional to gathering. Specifically, in responding to requests that we carefully consider and require mitigation of any potential abuse of market power when we review a proposed reclassification of facilities to gathering, we held that:

[T]hose who suggest that the Commission should first determine, based on market power issues and other public interest concerns, whether it is consistent with the public convenience or necessity to permit a pipeline to reclassify or transfer facilities or services before the Commission actually determines their proper function are putting the proverbial cart before the horse.

When a jurisdictional natural gas company comes before the Commission to request that the function of certificated facilities it owns and operates be deemed non-jurisdictional gathering or production, the starting point for determining whether the subject facilities are performing primarily a gathering or production function under NGA section 1(b) is to consider the physical characteristics of the subject facilities. While the courts have sanctioned giving some weight to non-physical factors when applying the primary function test, non-physical factors are secondary and generally only come into play if application of the physical factors results in a close call. The market power, economic, and historical considerations that some commenters advocate are not physical tests, and therefore cannot be given substantial weight.²¹

20. This case tracks our decision in *Arkla Gathering Service Company (Arkla)*,²² where we held that the existence or absence of competition for gathering in an area is

¹⁹ We note that Georex's description of the abandonment as a "spin-down" is in error. Chesapeake is not an affiliate of Columbia. Therefore, the abandonment of the Line R System is properly called a "spin-off" instead of a "spin-down."

²⁰ See *Criteria for Reassertion of Jurisdiction Over Gathering Services of Natural Gas Company Affiliates*, 112 FERC ¶ 61,292 (2005), *order terminating proceeding and clarifying policy*, 118 FERC ¶ 61,114 (2007).

²¹ 118 FERC ¶ 61,114 at P 88-89.

²² 67 FERC ¶ 61,257, at 61,871 (1994); *order on reh'g*, 69 FERC ¶ 61,280, at 62,088 (1994); *reh'g denied*, 70 FERC ¶ 61,079 (1995); *reconsideration denied*, 71

irrelevant to whether or not we will regulate affiliates or independent gatherers. We concluded that gathering customers must seek recourse under state and federal antitrust laws in instances where anti-competitive behavior on the part of the gatherer arises.²³

21. For these reasons, when determining if the facilities should be reclassified from jurisdictional to gathering, we need not examine whether Chesapeake will exercise market power.

2. Reasserting Jurisdiction over the Kermit facilities

22. Geox maintains that the Commission should reconsider the holdings in the 2006 *Columbia* Order and reassert jurisdiction over the Kermit facilities because of Columbia's factual misrepresentations in that proceeding.

Commission Conclusion

23. As noted above, in the 2006 *Columbia Order*, we authorized Columbia to abandon by sale to Chesapeake the Kermit facilities in Kentucky and West Virginia. The 2006 *Columbia Order* also found that the Kermit facilities were gathering facilities exempt from our jurisdiction.

24. In general, we only consider reasserting jurisdiction where it is determined that the gatherer acted in concert with its jurisdictional pipeline affiliate in connection with the transportation of gas in interstate commerce and in a manner that frustrates our effective regulation of the interstate pipeline.²⁴ As noted previously, Chesapeake is not an affiliate of Columbia. As Columbia and Chesapeake are not affiliated, we find that there is no reason to reassert jurisdiction over the Kermit facilities.

FERC ¶ 61,297 (1995), *aff'd in part and rev'd in part*, *Conoco Inc. v. FERC*, 90 F.3d 536 (D.C. Cir. 1996).

²³ *Arkla*, 69 FERC at 62,088.

²⁴ See *Natural Gas Gathering Services Performed by Interstate Pipelines and Interstate Pipeline Affiliates – Issues Related to Rates and Terms and Conditions of Service*, 65 FERC ¶ 61,136 (1993), *order on reh'g*, 69 FERC ¶ 61,280 (1994), *reh'g denied*, 70 FERC ¶ 61,079, *reconsideration denied*, 71 FERC ¶ 61,297 (1995), *aff'd in part and rev'd in part*, *Conoco, Inc. v. FERC*, 90 F.3d 536 (D.C. Cir. 1996).

25. Geox claims that Columbia made factual misrepresentations in its pleadings concerning the Kermit facilities involved in the *2006 Columbia Order*. Specifically, Geox contends that land records in Lawrence County, Kentucky show that Chesapeake was given property rights in Columbia facilities north of the Walbridge compressor station contrary to the abandonment authorized in the *2006 Columbia Order* which concerned facilities south of Walbridge compressor station. Geox contends that this potentially enables Chesapeake to control access to facilities that are crucial to small independent producers. In response, Columbia contends that Geox is factually incorrect since Columbia still owns the pipeline facilities north of Walbridge and only sold Chesapeake the gathering facilities south of Walbridge, as authorized by the *2006 Columbia Order*.²⁵

26. The allegations about factual misrepresentations raised by Geox do not involve any facilities at issue in this proceeding. Rather, they involve the Kermit facilities in the *2006 Columbia Order*. This is not the proper proceeding to discuss issues concerning the abandonment of the Kermit facilities. For these reasons, we will not address Geox's concerns relating to the Kermit facilities here.

3. Right-of-First-Refusal

27. Geox contends that Columbia and Chesapeake entered into an unduly discriminatory contractual agreement that gave Chesapeake an exclusive right-of-first refusal to purchase facilities that Columbia proposed to abandon in production areas to the detriment of local independent producers.

Commission Conclusion

28. The agreement between Columbia and Chesapeake provides that in the event that Columbia desires to sell the Kenova or Boldman gathering facilities, Chesapeake shall have the right-of-first refusal to purchase those facilities on the same terms and conditions that Columbia would have received from a bona fide third-party purchaser.²⁶ The Kenova or Boldman gathering facilities are not part of the Line R System and are not the subject of Columbia's proposed abandonment herein.²⁷ Thus, an examination of the right-of-first refusal agreement is not relevant to a decision in this proceeding.

²⁵ Columbia's December 21, 2007 data request No. 3.

²⁶ Columbia's December 21, 2007 data response No. 1.

²⁷ The Kenova and Boldman gathering facilities were also not part of the Kermit facilities abandoned in the *2006 Columbia Order*.

4. Technical Conference

29. Geox requests a technical conference to determine if Columbia's proposals are in the public interest.

30. The written record, consisting of the application, protest, answers, and supplements by Columbia and Geox, amply demonstrates that Columbia's proposals are in the public interest. Specifically, the record shows that the facilities are not needed by Columbia to perform its transmission service, that Chesapeake will continue to provide service for firm shippers, and that no current shippers have protested the proposed abandonment. Thus, we find that it would be unnecessary to hold a technical conference in this proceeding. For these reasons, we will deny Geox's request.

C. The Function of the Line R System

31. Under section 1(b) of the NGA, our jurisdiction does not extend to facilities used for the production and gathering of natural gas or to gathering services. To determine a facility's jurisdictional status, we apply the modified "primary function test," which includes consideration of several physical and geographical factors, including: (1) the length and diameter of pipeline(s); (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 the wells along all or part of the facility; and (6) the operating pressure of the pipeline(s).

32. We also consider the purpose, location, and operation of the facilities, the general business activities of the buyer or operator, and whether the jurisdictional determination is consistent with the NGA and the Natural Gas Policy Act.²⁸ We do not consider any one factor to be determinative and recognize that all factors will not necessarily apply to all situations.²⁹ We also weigh any and all other relevant facts and circumstances of a particular case, including non-physical factors.³⁰

33. After applying the criteria discussed above, we find that the Line R System will serve a gathering function after the sale and transfer.³¹

²⁸ *EP Operating Co. v. FERC*, 876 F.2d 46, 48 (5th Cir. 1989).

²⁹ *TOMCAT*, 59 FERC ¶ 61,340, at p. 62,239 (1992).

³⁰ *Id.* and *Amerada Hess Corp.*, 52 FERC ¶ 61,268 (1990).

³¹ We note that the primary function of facilities may change from jurisdictional transmission to gathering when they are removed from an interstate pipeline's system and become a stand-alone system or part of a gatherer's system. Because Columbia does not

1. Physical Factors

(a) The Diameter and Lengths of the Lines

34. The lengths and diameters of the subject facilities are not inconsistent with those of other facilities that the Commission has determined to be gathering facilities. The Line R System includes approximately 21.69 miles of pipe in segments of 18.82 miles of 10.75-inch diameter, 1.33 miles of two-inch diameter, and 1.57 miles of six-inch diameter pipe. In *Equitrans*, which considered facilities also located in the Appalachian region, the length of pipeline that was refunctionalized to gathering was approximately 275 miles with the longest line being 28 miles.³² The diameter of the pipeline ranged between 2- and 20-inches with the majority being 10- and 12-inches. Thus, the subject pipelines are neither longer or of larger diameter than the pipelines refunctionalized as gathering in *Equitrans*.

(b) Extension of the Facility beyond the Central Point in the Field

35. We have previously stated that “given the geography, and the characteristics of gas operations in the Appalachian region, we do not consider the central-point-in-the-field test a reliable indicator of the primary function of the facilities.”³³ The Line R System is in a large production field in the Appalachian region. Thus, it does not lend itself to analysis under the central-point-in-the-field test for purposes of considering how it will function if acquired by Chesapeake and operated as part of its system.

(c) Location of Wells Along all or Part of the Lines of the Facility and the Geographic Configuration of the Facility

36. The fact that the Line R System is in a production field where new wells continue to be developed and is configured to form a “back-bone-type” structure is consistent with

need the subject facilities to meet its firm service obligations and we find above that the public convenience and necessity permit it to abandon the subject facilities, there is no need to reach the question of how the facilities are currently functioning as part of Columbia’s system. Therefore, while Columbia requests a determination that the subject facilities are gathering facilities, our analysis is confined to how the facilities will operate if acquired and operated by Chesapeake as part of its system.

³² *Equitrans, L.P.* 109 FERC ¶ 61,209 (2004), *reh’g denied*, 111 FERC ¶ 61,091 (2005) (*Equitrans*).

³³ *Columbia Natural Resources, Inc.*, 79 FERC ¶ 61,038 (1997).

a gathering function. An Oil and Gas Field Map prepared by the state of West Virginia demonstrates that the Line R System is in a historical producing region.³⁴ Currently, gas enters the Line R System through Chesapeake's gathering systems at the Horse Creek and Nye compressor stations. At Horse Creek, gas is delivered from 288 Chesapeake wells and 24 third-party receipt meters that are attached to Chesapeake's gathering facilities. At Nye, gas is delivered from 131 Chesapeake wells and 39 third-party receipt meters that are attached to Chesapeake's gathering system. In addition to the wells and meters attached directly to the Nye gathering facilities, gas volumes may be delivered through Nye into the Line R System from Chesapeake's Hubball gathering system.

(d) **Location of Compressor and Processing Plants**

37. The location of compressors and processing plants also is consistent with a gathering function. The Horse Creek and Nye compressor stations provide the first compression of relatively low-pressure gas received from upstream producers. Horse Creek's suction pressures have ranged between 12 and 25 psig and its discharge pressures have ranged between 175 and 284 psig. Nye's suction pressures have ranged between 10 and 30 psig and its discharge pressures have ranged between 150 and 220 psig. These pressures are consistent with a field gathering function.³⁵ In addition, the Horse Creek compressor station consists of one, 800 hp compressor unit and the Nye compressor station consists of two, 302 hp compressor units, which are within the range of compression that was refunctionalized as gathering in *Equitrans*.³⁶ Moreover, there are no processing plants upstream of the Line R System.

(e) **The Operating Pressure of the Lines**

38. The Line R System pipelines have maximum operating pressures of between 40 psig and 310 psig, which are consistent with a gathering function.³⁷

³⁴ Exhibit Z-4 to the application.

³⁵ See *Amerada Hess, et al.*, 52 FERC ¶ 61,268 (1990).

³⁶ 109 FERC ¶ 61,209 (eight compressor units ranging from 230 to 3,600 hp were refunctionalized as gathering).

³⁷ See *Associated Natural Gas, Inc.*, 71 FERC ¶ 61,048, at 61,187 (1995) (line pressures ranging from 20 to 600 psi were determined to be consistent with a gathering function).

2. Other Factors

39. As discussed above, while non-physical factors cannot be given such weight that they would lead to a jurisdictional determination at odds with the physical characteristics of the subject facilities, the Commission also considers non-physical factors, such as the purpose, location, and operation of the facilities, the general business activities of the buyer or operator, and whether the jurisdictional determination is consistent with the NGA and the Natural Gas Policy Act.

(a) Purpose, Location, and Operation of the Facility

40. While the Line R System was originally certificated and constructed for the purpose of obtaining gas supplies to meet Columbia's merchant sales obligations, Columbia no longer serves primarily as a merchant of gas, but as a transporter. Thus, the facilities are no longer needed to serve their original purpose. More relevantly, however, there is no evidence that Columbia needs the facilities to meet its firm transportation service obligations. Upon acquisition by Chesapeake, the facilities will be used to aggregate local production. Thus, Chesapeake will use the facilities to perform a gathering function.

(b) General Business Activity of the Owner of the Facility

41. Chesapeake, which seeks to acquire the Line R System, is an oil and natural gas exploration and production company, engaged in the development and management of natural gas wells and associated facilities. Chesapeake owns and operates extensive non-jurisdictional gathering pipelines for the benefit of Chesapeake and third party producers. Chesapeake does not presently render any interstate natural gas transportation services subject to the Commission's jurisdiction and does not own or operate any jurisdictional facilities. Chesapeake will add the Line R System to its existing assets and operate the facilities as gathering facilities.

(c) Whether the Jurisdictional Determination is Consistent with the Objectives of the NGA and the NGPA

42. The proposed abandonment of the Line R System is a continuation of Columbia's program to redefine its pipeline system to better meet the needs of its customers. The facilities proposed for sale are no longer needed to support Columbia's role as a merchant or to meet its firm service obligations as a transporter. The proposed abandonment will reduce Columbia's current operating and maintenance expenses, as well as eliminate the need for future capital expenditures for repair or replacement of the facilities. Thus, the proposed abandonment will allow Columbia to concentrate efforts on its mainline transmission system and service. Chesapeake has stated that it will continue to gather local production and deliver that gas to Columbia's mainline system.

D. Accounting

43. For accounting purposes, Columbia proposes to clear the sale of the facilities through Account 102, Gas Plant Purchased or Sold, and remove the original cost and related accumulated depreciation from its books, consistent with Gas Plant Instruction No. 5, Paragraph F.³⁸ In accordance with the requirements of the Uniform System of Accounts, Columbia must file its final journal entries to clear Account 102 no later than six months after the completion of the transaction.³⁹ The filing must provide a complete explanation of the proposed accounting and must be of sufficient detail to show the complete transaction and all accounts affected.

E. Environmental Analysis

44. The Commission staff conducted an environmental review of the proposed abandonment. Since Columbia does not propose the addition or removal of any facility in connection with this proposal, the proposal qualifies as a categorical exclusion under section 380.4(a)(31) of the Commission's Regulations.⁴⁰

V. Conclusion

45. For the reasons stated above, we find that the Line R System, once acquired by Chesapeake and operated in the manner described herein, will perform a gathering function and will be exempt from our jurisdiction under section 1(b) of the NGA. We also find that the proposed abandonment and sale of the facilities pursuant to section 7(b) of the NGA are permitted by the public convenience and necessity.

46. At a 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,

³⁸ 18 C.F.R. Part 201, Gas Plant Instruction No. 5, Gas Plant Purchased or Sold (2008).

³⁹ 18 C.F.R. Part 201, Account 102, Gas Plant Purchased or Sold (2008).

⁴⁰ 18 C.F.R. § 380.4(a)(31) (2008).

The Commission orders:

(A) Permission for and approval of the abandonment by Columbia of the facilities and services described in this order and in Columbia's application are granted.

(B) Upon acquisition and operation by Chesapeake, the primary function of the facilities described in this order and in the application will be gathering, and the facilities will be exempt from Commission regulation under NGA section 1(b).

(C) Columbia shall notify the Commission within ten days of the date of its abandonment of the Line R System.

(D) Columbia shall submit its actual accounting entries to clear Account No. 102, Gas Plant Purchased or Sold, within six months of the date the assets are sold as required by the Uniform System of Accounts.

(E) The motions of IOGA, Eastern American, and Geox to intervene out of-time are granted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.