154 FERC ¶ 61,103
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Regency Field Services LLC Docket Nos. CP15-272-000
CP15-272-001

ORDER APPROVING ABANDONMENT AND DISMISSING REQUEST FOR REHEARING AND MOTION TO VACATE CERTIFICATES

(Issued February 18, 2016)

1. On October 15, 2015, the Commission granted Regency Field Services LLC (Regency)[1] certificate authorization under section 7(c) of the Natural Gas Act (NGA) to continue to operate and maintain a 20-inch-diameter, 8.1-mile-long pipeline (the Coyanosa Residue Line) in Pecos County, Texas.[2] On November 16, 2015, Regency sought rehearing of the October 15 Order, arguing that because the Coyanosa Residue Line is attached to and receives gas from a nonjurisdictional processing plant, the pipeline should be viewed as a nonjurisdictional extension of plant operations.[3] On January 13, 2015, Regency submitted a request to vacate the October 15 Order's certificate authorization, or alternatively to permit Regency to abandon the pipeline under NGA section 7(b), based on its stated intent to transfer ownership of the Coyanosa

[1] Note that on November 1, 2015, Regency changed its name to ETC Field Services LLC. However, to maintain consistency with the docket number in this proceeding, this order continues to identify the company as Regency.

[2] *Regency Field Services, LLC*, 153 FERC ¶ 61,054 (2015) (October 15 order). In addition, Regency was issued a blanket certificate pursuant to Part 157, Subpart F, of the Commission's regulations.

[3] Regency's Request for Rehearing and Clarification (November 16, 2015).

Residue Line to a nonjurisdictional intrastate pipeline. We will grant Regency's request to abandon the Coyanosa Residue Line, for the reasons discussed below.

I. Background

2. Regency's Coyanosa Residue Line transports processed gas (also referred to as lean residue gas) from the outlet of a processing plant to four intrastate pipelines – Atmos Pipeline - Texas (at three separate interconnections), Oasis Pipeline LP (Oasis), Enterprise Texas Pipeline LLC, and ONEOK WesTex Transmission, LLC (each with a single interconnection). The Coyanosa Residue Line terminates at an interconnection with El Paso Natural Gas Company, L.L.C. (El Paso), an interstate pipeline. Regency states it acquired the 8.1-mile-long residue line in 2013 as a part of its acquisition of the Coyanosa Gathering System, a system in the Permian Basin that includes approximately 1,258 miles of gathering lines.

3. In the October 15 Order, we concluded that Regency's eight-mile-long pipeline was transporting gas in interstate commerce, and was consequently subject to the Commission's jurisdiction. We found that because the Coyanosa Residue Line was longer than five miles and was delivering gas owned by third parties to an interstate pipeline, it failed the "stub line" test,[4] and thus could not be considered an incidental extension of the nonjurisdictional processing plant.[5] We noted that because the Coyanosa Residue Line delivered gas to El Paso, an interstate pipeline, jurisdictional interstate transportation began when the Coyanosa Residue Line took receipt of pipeline quality gas at the tailgate of the processing plant.

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[4] The "stub line" test was described in *Amerada Hess Corporation*, 67 FERC ¶ 61,254 (1994) and *Superior Offshore Pipeline Company*, 67 FERC ¶ 61,253 (1994), wherein we determined that pipelines more than five miles long carrying lean residue gas from the tailgate of a processing plant are not incidental extensions of gathering operations, but are instead providing transportation, and are thus potentially subject to our NGA jurisdiction.

[5] NGA section 1(b) exempts from the Commission's jurisdiction "facilities used for … the production or gathering of natural gas." Processing plants that remove liquids and impurities from a gas stream, thereby rendering the treated gas compatible with the quality standards of interstate pipelines, are generally viewed as performing a gathering function, and as such are exempt from our NGA jurisdiction.

II. Regency's Request for Rehearing

4. In its request for rehearing, Regency objects to the reasoning and result of the October 15 Order. We will not address the concerns Regency raises in its request for rehearing, as this order's authorization of Regency's abandonment of its Coyanosa Residue Line renders these matters moot.

III. Regency's Request to Vacate its Certificate, or Alternatively, to Grant Abandonment Authorization

5. Rather than operate the Coyanosa Residue Line under the terms of the October 15 Order, Regency proposes to transfer it to Oasis.[6] Oasis would then integrate the residue line into its existing intrastate system, which currently provides both nonjurisdictional intrastate transportation service subject to the regulatory authority of the Texas Railroad Commission and jurisdictional interstate transportation service subject to the Commission's regulatory authority under section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA). Regency states that following the transfer of the Coyanosa Residue Line, Oasis would continue the deliveries that Regency currently provides. Regency adds that it would (1) restructure its current gathering/processing contracts with affected customers to reflect the delivery, by Oasis, of gas at the existing Coyanosa Residue Line interconnection points and (2) reduce the rates under its gathering/processing contracts to offset the new Oasis transportation charges.

6. In anticipation of the transfer of the Coyanosa Residue Line, Regency requests we vacate the October 15 Order's certificate authorization. Regency has yet to accept its certificate authorization, having been granted an extension of time to do so in response to its proposal to transfer the residue line to Oasis.[7] In view of this, Regency believes that vacating its certificate, rather than NGA section 7(b) abandonment of its case-specific and blanket certificates, is the appropriate approach.

IV. Discussion

7. We find that abandonment, rather than vacatur, is the appropriate procedural approach. We have previously vacated a certificate prior to a company's commencing

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[6] Oasis is an affiliate of Regency, and as noted above, receives gas from the Coyanosa Residue Line at an existing interconnection.

[7] *See* the November 13, 2015 letter order granting Regency's request for an extension of time until February 12, 2016, and the January 21, 2016 letter order granting Regency's request for a further extension of time until April 1, 2016.

construction,[8] but this is not the case here, as the Coyanosa Residue Line is already in service. In addition, having determined that the residue line is subject to our jurisdiction under NGA section 7, it can only be abandoned subject to section 7(b). The fact that Regency has yet to accept its certificate is irrelevant.[9]

8. Regency cites *Collbran Valley Gas Gathering, LLC* (*Collbran*)[10] as an example of a company that initially sought to vacate a certificate prior to acceptance. However, we note that Collbran subsequently elected to accept its certificate and seek abandonment instead. In *Collbran*, after finding a nine-mile-long existing residue line to be jurisdictional, we issued a certificate.[11] We did not act on Collbran's request to vacate its certificate, but directed Collbran to either abandon its residue line in accordance with NGA section 7(b) or comply with the conditions of the certificate for its residue line. We affirm and follow *Collbran* here, finding that once a facility or service is found to be jurisdictional, it cannot be abandoned absent section 7(b) authorization.

9. NGA section 7(b) states that the abandonment of jurisdictional facilities or services may only be provided when the Commission finds "that the present or future public convenience or necessity permit such abandonment." In deciding whether a proposed abandonment is warranted, the Commission considers all relevant factors, in particular, the continuity of existing services.

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[8] *See, e.g., Leader One Energy, LLC*, 153 FERC ¶ 61,083 (2015), noting the applicant's statements "that the proposed project is no longer 'economically viable,' given significant changes in the gas storage market" and "that it has not commenced any construction activities and that it has no contracts or customers that might be affected by vacating its authorizations."

[9] Under NGA section 7(b), Commission permission and approval is required to abandon "all or any portion of facilities subject to the jurisdiction of the Commission, or any service rendered by means of such facilities." Note that there is no qualification with respect to the acceptance of a certificate; thus, if a facility or service is "subject to the jurisdiction of the Commission," then regardless of its certificate status, or how it is classified for rate purposes or otherwise described, it cannot be abandoned without permission and approval of the Commission.

[10] 129 FERC ¶ 62,172 (2009).

[11] 128 FERC ¶ 61,186 (2009).

10. Regency avers that its proposed transfer to Oasis will not adversely impact services being provided to existing customers that rely on the Coyanosa Residue Line. Regency owns the majority of gas currently carried by the Coyanosa Residue Line and does not anticipate any complexity or delay in commencing restructured service when it, and its existing customers, become customers of Oasis. With respect to the customers Regency currently provides "take in kind" service (for which the customer retains title to the gas while it is being gathered and processed by Regency), Regency "is hopeful that all necessary contract restructuring arrangements will be completed by the transfer date so that those gathering/process customers will also become transportation customers of Oasis."[12] If not, Regency states it "has various interim arrangements available that will allow it to transfer the line to Oasis and continue the customer's service pending effectuation of the restructured contracts."[13]

11. We concur with Regency that the transfer of the Coyanosa Residue Line to Oasis may be effected without any degradation in the services provided by Regency to the customers that currently make use of the pipeline. We note that there are no customer objections to the proposed transfer. Because no facilities would be physically abandoned as a result of the requested transfer of the pipeline, we find Regency's proposal raises no environmental issues. Because Oasis operates as an intrastate pipeline that provides NGPA section 311 interstate transportation services, Oasis may provide service to El Paso without any additional authorization. Given our determination that the proposed abandonment by transfer will not jeopardize the continuity of current gas services or have any adverse environmental impacts, we find the public convenience or necessity permits Regency to abandon the Coyanosa Residue Line and its services by transfer to Oasis.

V. Conclusion

12. For the reasons discussed above, we grant Regency's request to abandon its Coyanosa Residue Line by transfer to Oasis. In view of this abandonment authorization, we dismiss both Regency's motion to vacate its certificate and request for rehearing of the October 15 Order.

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[12] Regency's Request to Vacate Certificates at p. 5-6.

[13] *Id.* at 6. Regency explains such interim arrangements may include Regency offering to purchase a customer's gas prior to its delivery into the residue line, structuring of a "buy/sell" arrangement in compliance with current Commission policy applicable to such service arrangements on intrastate pipelines (*see Capacity Transfers on Intrastate Natural Gas Pipelines*, 133 FERC ¶ 61,065 (2010)), or acting as its customer's agent in managing transportation on Oasis pursuant to the Agency Agreement provision in Oasis's Statement of Operating Conditions. *Id.* n. 2.

13. At a hearing held on February 18, 2016, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application(s), as supplemented, and exhibits thereto, submitted in support of the authorizations sough herein, and upon consideration of the record,

The Commission orders:

(A) Regency is granted permission and approval under NGA section 7(b) to abandon by transfer to Oasis the facilities and services described in this order and more fully described in Regency's certificate and abandonment applications.

(B) Regency shall notify the Commission of the abandonment within 10 days following such abandonment.

(C) Regency's motion to vacate the October 15 Order's certificate authorization is dismissed.

(D) Regency request for rehearing of the October 15 Order is dismissed.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.