



May 14, 2010

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North Dakota Public Service Commission
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Bismarck, ND 58505-0480
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MAY 17 2010

PUBLIC SERVICE COMMISSION

Subject: Robinson Lake Gas Pipeline Operational and Jurisdictional Changes

Mr. Darrell Nitschke,

Whiting Oil and Gas Corporation (Whiting) is submitting this letter to inform you of operational changes, and the de-regulation, of Whiting's six inch gas transmission line in Mountrail County, North Dakota.

Whiting intends to change the gas market from WBI to Pecan's Prairie Rose Pipeline approximately early-July, 2010. This change in sales to Pecan will concur with a change in the level of processing performed at the Robinson Lake Gas Plant. Whiting will process the gas only to a level acceptable for Pecan and not to end-use consumer quality gas. The gas will be processed further downstream to bring it to end-use consumer quality gas. Whiting understands that Pecan has requested and received a jurisdictional determination from the Public Service Commission of their system, which is non-jurisdictional gathering (enclosed).

Additionally, Whiting is going to build a ten inch line that runs north along the current right-of-way and ties in to Pecan. Approximately early-September, 2010, Whiting will switch the gas going from Robinson Lake Gas Plant to Pecan into the ten inch line. Then, Whiting intends to change the gas flow direction of the six inch line and tie it in to the gas gathering system feeding the Robinson Lake Gas Plant.

These upcoming changes have prompted Whiting to request and receive a de-regulation order from the Federal Energy Regulatory Commission on the Robinson Lake Gas Pipeline in an "Order Approving Abandonment" dated March 9, 2010 (enclosed).

Therefore, Whiting is notifying you of the de-regulation of the six-inch gas transmission line effective approximately early-July, 2010. Whiting will notify the Public Service Commission within ten days following the change in market from WBI to Pecan.

*Whiting Petroleum Corporation
and its wholly owned subsidiary
Whiting Oil and Gas Corporation*

1700 Broadway, Suite 2300, Denver, Colorado 80290-2300 Office: 303.837.1661 Fax 303.861.4023

PU-08-843 Filed: 5/17/2010 Pages: 11
Request to suspend use of Corridor Certificate #108
& Route Permit #118

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Whiting Oil and Gas Corporation
Nirnie Tebow, Pipeline Compliance Spec.

Due to this change, Whiting is also requesting to temporarily suspend use of Route Permit #118 and Certificate of Corridor Compatibility #108. Whiting does not wish to abandon the Route Permit and Certificate of Corridor Compatibility at this time in order to keep future operating scenarios open.

Please contact me at (303) 390-4957 or at nicole.tebow@whiting.com if you have any questions.

Sincerely,
Whiting Oil and Gas Corporation

A handwritten signature in black ink, appearing to read "Nicole Tebow". The signature is fluid and cursive, with the first name "Nicole" written in a larger, more prominent script than the last name "Tebow".

Nicole Tebow
Pipeline Compliance Specialist

Enclosures

Cc: Patrick Fahn, North Dakota Public Service Commission

UNITED STATES OF AMERICA 130 FERC ¶ 62,199
FEDERAL ENERGY REGULATORY COMMISSION

Whiting Oil and Gas Corporation

Docket No. CP10-49-000

ORDER APPROVING ABANDONMENT
(March 9, 2010)

On January 29, 2010, Whiting Oil and Gas Corporation (Whiting) filed in Docket No. CP10-49-000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) seeking authorization to abandon its limited jurisdiction certificate under which Whiting was authorized to transport natural gas owned solely by Whiting through the Robinson Lake Residue Line. Whiting also requests that the Commission confirm that, after the abandonment of the limited jurisdiction certificate, the Robinson Lake Residue Line will perform a primary function of gathering and thus be exempt from the Commission's jurisdiction. As discussed below, the requested authorization is required by the public convenience and necessity and is granted subject to certain conditions.

Background and Proposal

Whiting is a corporation organized under the laws of the State of Delaware. Whiting is a producer, gatherer, and processor of natural gas and a producer, gatherer, and common carrier of crude petroleum.

Whiting owns and operates a natural gas gathering system and a gas processing plant, known as the Robinson Lake Gas Plant (Robinson Lake Plant), located entirely in Mountrail County, North Dakota. The Robinson Lake Facilities include approximately 125 miles of 4-, 6-, 8-, 10-, and 12-inch diameter pipe that gathers low pressure gas from receipt points at or near the wellhead and move such gas to the Robinson Lake Plant. Currently, the Robinson Lake Plant processes the approximately 1,700 Btu per cubic foot (Btu/cf) wet gas stream by compressing and chilling the gas stream to minus 30 degrees Fahrenheit to remove liquefiable hydrocarbons and produce a merchantable natural gas product of 1,200 Btu/cf. The pipeline quality residue gas is delivered from the tailgate of the Robinson Lake Plant through the Robinson Lake Residue Line, which consists of 17 miles of 6-inch diameter pipeline, to an interconnection with Williston Basin Interstate Pipeline Company (Williston Basin). Williston Basin requires gas it receives to be of pipeline quality. The Robinson Lake Plant takes wet gas from the field at ten pounds per square inch gauge (psig) and dry gas is delivered to Williston Basin at 700 psig. Processing produces a Y Grade natural gas liquid product that is shipped to local fractionation facilities where it is fractionated into propane, butane, and gasoline. As required by the Commission's limited jurisdiction certificate order, the owners of the Robinson Lake Facilities currently utilize the Robinson Lake Residue Line solely to move pipeline quality residue gas.

On February 17, 2009, the Commission issued an order in Docket No. CP09-14-000¹ granting Whiting a limited jurisdiction certificate to transport natural gas gathered behind the Robinson Lake Plant through the Robinson Lake Residue Line. The limited jurisdiction certificate was required because the Robinson Lake Residue Line extends farther than five miles downstream of the Robinson Lake Plant and thus could not qualify as a stub-line extension of the Robinson Lake Facilities.

Specifically, Whiting seeks authorization to abandon its limited jurisdiction certificate and requests that the Commission confirm that the Robinson Lake Residue Line will perform the function of gathering and thus exempt from the Commission's jurisdiction. Whiting plans to change the operation of the Robinson Lake Plant from a plant that removes most liquid and liquefiable hydrocarbons from the gas stream to deliver pipeline quality, dry residue gas with a Btu value of approximately 1,200 Btu/cf to a stabilizer plant that only partially processes the gas stream (to meet Alliance Pipeline, L.P.'s requirements) and deliver a dense phase, high-Btu, wet gas stream with a maximum Btu content of approximately 1,536 Btu/cf into the Robinson Lake Residue Line. Whiting states that this change will be accomplished by compressing and chilling the wet gas stream in the Robinson Lake Plant to partially process the inlet gas stream. Whiting asserts that that residue gas stream will be a high pressure (2,000 psig) dense phase vapor in which gas and liquids are indistinguishable. Whiting states that this stream does not meet interstate pipeline quality standards and will require further processing before it can be sold and consumed.

Whiting states that the Robinson Lake Facilities are located a short distance from the Prairie Rose gathering line owned by Pecan Pipeline (North Dakota) Inc. (Pecan). The Prairie Rose line is a 75-mile, 12-inch diameter pipeline running from Pecan's gathering system near Stanley, North Dakota to an interconnection with Alliance Pipeline, L.P.'s (Alliance), near Towner, North Dakota. Whiting asserts that Alliance transports the wet gas stream received from the Prairie Rose interconnect to a processing complex owned by Aux Sable Liquid Products, L.P. (the Aux Sable Plant), near Chicago, Illinois. Whiting states that the Commission recently determined that the Prairie Rose line has a primary function of gathering in large part because it will carry only dense phase, high-Btu, unprocessed gas.² Whiting asserts that with the reconfiguration of the Robinson Lake Plant, the Robinson Lake Residue Line would deliver such gas to Prairie Rose.

Whiting states that in order to make such deliveries, either Whiting or Pecan would construct a 6-mile, 12-inch diameter pipeline from a point near the terminus of the Robinson Lake Residue Line to the Prairie Rose line. Whiting asserts that it would deliver a dense phase, high Btu gas stream to Prairie Rose, which would then move

¹ See *Whiting Oil and Gas Corporation*, 126 FERC ¶ 61,119 (2009).

² See *Pecan Pipeline (North Dakota) Inc.*, 126 FERC ¶ 61,015 (2009).

through the Prairie Rose gathering line to Alliance and the Aux Sable Plant for processing. Whiting states that the gas flowing in the Robinson Lake Residue Line would no longer meet Williston Basin's quality specifications and, accordingly, no gas will be delivered to Williston Basin. Whiting asserts that the Robinson Lake Residue Line will be valved off from Williston Basin at the interconnect.

Notice and Intervention

The application was noticed by publication in the *Federal Register* on February 8, 2010 (75 Fed. Reg. 6,193), with comments, protests, and interventions due on or before, February 16, 2010. Pecan filed an untimely motion to intervene and comments. Pecan has demonstrated an interest in this proceeding and has shown good cause for intervening out of time. Pecan's untimely motion will not delay, disrupt, or otherwise prejudice this proceeding and is therefore granted.³ No motions to intervene in opposition, adverse comments or protests were filed.

Findings

At a hearing held on the date of issuance noted above, there was received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein.

The Commission has, over the years, developed a number of legal tests to determine which facilities are non-jurisdictional gathering facilities and which facilities are jurisdictional transmission facilities.⁴ The Commission relies on the modified "primary function test," which includes consideration of several physical and geographic factors, including: (1) the length and diameter of the line, (2) the extension of the facility beyond the central point in the field, (3) the facility's geographic configuration, (4) the location of compressors and processing plants, (5) the location of wells along all or part of the facility, and (6) the operating pressure of the line. In addition, the Commission also considers the purpose, location, and operation of the facility, the general business activity of the owner of the facility, and whether the jurisdictional determination is consistent with the NGA and the Natural Gas Policy Act. The Commission does not consider any one factor to be determinative and recognizes that all factors do not necessarily apply to all situations.⁵ In addition to the factors enumerated above, the Commission also weighs any and all other relevant facts and circumstances of a

³ 18 CFR § 385.214(d) (2009).

⁴ See *Amerada Hess Corporation*, 52 FERC ¶ 61,268 (1990) and *Farmland Industries, Inc.*, 23 FERC ¶ 61,063 (1983).

⁵ See, e.g., *TOMCAT*, 59 FERC ¶ 61,340 at 62,239 (1992).

particular case, including non-physical criteria.⁶

Applying these criteria to the facilities being reconfigured by Whiting, it is apparent that upon completion, the Robinson Lake Facilities will have the characteristics of a gathering facility. The subject facilities consist of approximately 17 miles of 6-inch pipeline. Since the length is relatively short and 6-inch diameter pipeline is relatively small, the subject piping is within the range of other pipeline facilities that the Commission has found to serve a gathering function. The central point in the field could be considered the Robinson Lake Plant or Pecan's Stanley oil condensate recovery plant at the upstream end of Pecan. However, here, as in the Pecan's case, the central point in the field factor "has little applicability in the unusual circumstances of this case, where the subject facilities will be used to transport a dense phase, natural gas/NGLs stream."⁷

Although gathering is typically indicated by a web-type or backbone and spine configuration, the presence of longer pipelines connected to such smaller feeder lines also is indicative of a gathering function.⁸ Moreover, location within a single state may be a geographic factor relevant to a gathering determination.⁹ As the case with Pecan, Whiting will be moving only a non-pipeline quality, dense phase stream and the Robinson Lake Residue Line is located only in the State of North Dakota, which is not inconsistent of a gathering function.

The Robinson Lake Plant is located upstream of processing and serves to prepare raw gas for processing, serving a gathering function. The Robinson Lake Residue Line is not directly connected to wells or gathering laterals along its length. However, the absence of wells is not determinative to a line that will nevertheless serve a gathering function. While lower pressure is typical of gathering, the Robinson Lake Residue Line will operate at a pressure up to 2,000 psig in order to ensure that liquids remain in the dense phase gas stream and to meet the delivery pressure into Prairie Rose. Yet, the Commission has found that if the purpose of operating the pipeline at a high pressure is not to transport pipeline quality gas, but to maintain the dense phase state, as is the case here, then the pressure is consistent with a gathering function.¹⁰

⁶ See, e.g., *Id.* and *Amerada Hess Corporation*, 52 FERC ¶ 61,268 (1990).

⁷ 126 FERC ¶ 61,015.

⁸ *Id.* See also *EXCO Resources, Inc. and TGG Pipeline Ltd.*, 119 FERC ¶ 61,121 at P 14 (2007).

⁹ *Id.* See also *Northwest Pipeline GP and Parachute Pipeline LLC*, 127 FERC ¶ 61,261 at P 20 (2009), *Southern Star Central Gas Pipeline, Inc.*, 116 FERC ¶ 61,288 at P 36 (2006), *Columbia Gas Transmission Corporation*, 116 FERC ¶ 61,191 at P 31 (2006).

¹⁰ *Id.*

The Commission also considers the business activities of the owner in applying the primary function test. Whiting is a non-jurisdictional oil and natural gas producer and gatherer. Whiting is not a natural gas company as defined in the NGA and does not operate interstate natural gas pipelines other than the current operation of the Robinson Lake Residue Line subject to the limited jurisdiction certificate. Upon abandonment, the Robinson Lake Facilities will be operated as part of its non-jurisdictional gathering activities.

In sum, Whiting plans to change the operation of the Robinson Lake Plant from a plant that removes most liquid and liquefiable hydrocarbons from the gas stream to deliver pipeline quality, dry residue gas to a stabilizer plant that only partially processes the gas stream and delivers a dense phase, high-Btu, wet gas stream with into the Robinson Lake Residue Line. This stream does not meet interstate pipeline quality and will require further processing before it can be sold and consumed. Upon reconfiguration and abandonment, the Robinson Lake Residue Line will perform a gathering function and will be exempt from the Commission's jurisdiction under section 1(b) of the NGA.

This action is taken under 18 CFR § 375.308 and it is ordered that:

- (A) Whiting is granted permission and approval under NGA section 7(b) to abandon its limited jurisdiction certificate as described in this order and more specifically in the application.
- (B) Whiting is granted confirmation that the Robinson Lake Residue Line will perform a gathering function upon abandonment.
- (C) Pecan's motion to intervene out of time is granted.
- (D) Whiting shall notify the Commission within 10 days of the date of abandonment of the facilities described above.
- (E) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order pursuant to 18 CFR § 385.713.

Michael J. McGehee
Director
Division of Pipeline Certificates
Office of Energy Projects



Public Service Commission

State of North Dakota

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December 31, 2008

Lawrence Bender
Fredrikson & Byron, P.A.
200 North Third Street, Suite 150
Bismarck, ND 58501-3879

RE: Case No. PU-08-831
Pecan Pipeline (North Dakota) Inc.
Natural Gas Pipeline Extension – Mountrail County
Jurisdictional Determination

Dear Mr. Bender:

Thank you for your letter dated October 14, 2008. The Commission has asked me to respond to your request on behalf of Pecan Pipeline (North Dakota), Inc., (Pecan) for a jurisdictional determination regarding siting an extension of a gas gathering facility from Palermo, North Dakota to Alliance Pipeline Interconnect near Towner, North Dakota.

After considering your filings, the staff memorandum, and research, and discussing the matter at an informal hearing and at a work session, the Commission has concluded that the proposed extension is not subject to the Energy and Transmission Facility Siting Act (Siting Act). North Dakota Century Code section 49-22-07 prohibits a utility from beginning construction of a transmission facility without first obtaining a certificate of site compatibility from the Commission. North Dakota Century Code Section 49-22-03(12)(b) defines transmission facility as:

b. A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas, liquid hydrocarbons, liquid hydrocarbon products, or carbon dioxide. This subdivision does not apply to an oil or gas pipeline gathering system. For purposes of this chapter, a gathering system includes the pipelines and associated facilities used to collect oil from the lease site to the first pipeline storage site where pressure is

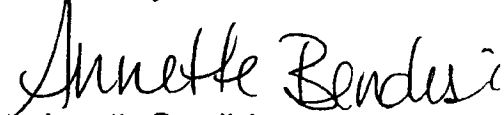
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Letter re. Jurisdictional Determination with attached
Concurring Opinion from Commissioner Cramer

increased for further transport, or pipelines and associated facilities used to collect gas from the well to the gas processing facility.

The Commission has concluded that the facility described in your letter does not meet the definition of transmission facility in the Siting Act.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Annette Bendish". The signature is written in a cursive style with a large initial 'A'.

Annette Bendish
Staff Counsel

CONCURRING OPINION
Commissioner Kevin Cramer

December 31, 2008

Pecan Pipeline (North Dakota), Inc.
Natural Gas Pipeline Extension – Mountrail County
Jurisdictional Determination

Case No. PU-08-831

In October of this year, following a meeting between PSC staff and representatives of Pecan Pipeline ND Inc., PSC staff received a letter requesting a determination of non-jurisdiction relative to plans by the company to construct and install additional pipelines in Mountrail, Ward and McHenry Counties. Specifically Pecan, a wholly owned subsidiary of EOG Resources proposes a 75 mile extension of its current natural gas gathering operations performed in conjunction with oil and gas development in the Parshall-Bakken Pool.

ND law clearly requires the PSC to issue a route permit and corridor certificate for intrastate natural gas *transmission lines*. It exempts natural gas *gathering lines* from our siting authority. So the question as to our authority in the Prairie Rose Pipeline which is the name given to this particular project, is does this 75 miles of 12 inch pipe constitute a transmission line or a gathering line.

The most compelling standard for me in answering the question relates to the quality of the gas being delivered. Although the gas collected at the well is raw gas and then processed to the degree necessary to move it down stream to the Alliance Interstate Pipeline, it is still largely raw gas. The processing facility currently operated at Palermo where this extension begins is being mothballed and replaced by a condensate recovery unit which I believe constitutes an “*associated facility*”, and not a processing facility.

Although staff argument that the proposed condensate facility does process the gas beyond raw gas has merit, the removal of some impurities does not make the gas suitable for end use.

The question not answered in law is how much processing triggers the siting standard? Absent a clear definition of processing in law I believe we have to give consideration to the ordinary sense of the words used and the context in which they are used. The words “*processed gas*” used by industry refer to pipeline quality gas such as currently comes out of the Palermo facility.


There is no statute language I could find that draws a distinction between different degrees of processing. If any processing creates “*processed gas*” then there is several hundred miles of jurisdictional pipelines that have not been sited by the PSC in western ND.

Had the ND legislature wanted all pipelines from the well to the market to be sited they would have said so. Instead they drew a distinction between gathering and transmission.

The ND Industrial Commission also weighed in on our decision. Although the letter from the pipeline authority urging us to find in favor of Pecan is irrelevant to our legal responsibility, it is worth noting that the attorney general of the state sits on the governing board which authorized the letter. I can't imagine he would encourage us to break the law.

I am pleased that EOG and other companies are investing in facilities to capture and transport the rich natural gas reserves coming out of western ND rather than flaring it off. The demand for gas is increasing in our nation while the supply is finite. Currently EOG flares off 21 mcf of gas every day which could be shipped to Chicago for processing via the Prairie Rose Pipeline and the Alliance Pipeline. This will preserve a precious natural resource while providing more wealth for our citizens and revenue for our state.

The urgency of production is not the primary concern of the PSC, rather orderly and safe development is. I believe the law supports a decision of non-jurisdiction in this case.



Kevin Cramer, Commissioner