
Proposal for Decision

Exhibit 1



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

March 20, 2013

TO: All Parties of Record

Re: Oil & Gas Docket No. 06-0279915, Rule 73 Application of TGG Pipeline Ltd to Disconnect Facilities and Cease Providing Pipeline Service

EXAMINERS' LETTER NO. 3 Ruling on Sabine's Request for Continued Service

Introduction

TGG Pipeline, Ltd. ("TGG") filed an Application to Disconnect Facilities and Cease Providing Pipeline Services ("TGG Application") on December 18, 2012. The application relates to the TGG Legacy Pipeline System ("Legacy System") and to the production of sixteen natural gas wells operated by Sabine Oil & Gas LLC ("Sabine"). Production from those wells is received at ten meters on the Legacy System.¹

Sabine, formerly NFR Energy LLC ("NFR"), objected to the application filed by TGG. Additionally, Sabine requested that the Commission issue a ruling requiring TGG to continue to transport all of Sabine's gas to the DCP Carthage Plant ("Request for Continued Service") until such time that the Commission determines, after a hearing, that TGG should be authorized to discontinue service pursuant to Rule 73. TGG asserted that it was entitled to cease providing service prior to a ruling by the Commission on the TGG Application.

Rule 73(b) provides that no pipeline operator shall physically disconnect its facilities from or cease providing pipeline services to any well or lease without first obtaining written consent of the well or lease operator or written permission from the Commission. In order for TGG to be allowed to cease providing delivery to the DCP Carthage Plant, the Commission must find that Rule 73(b) does not apply to the facts of this case.

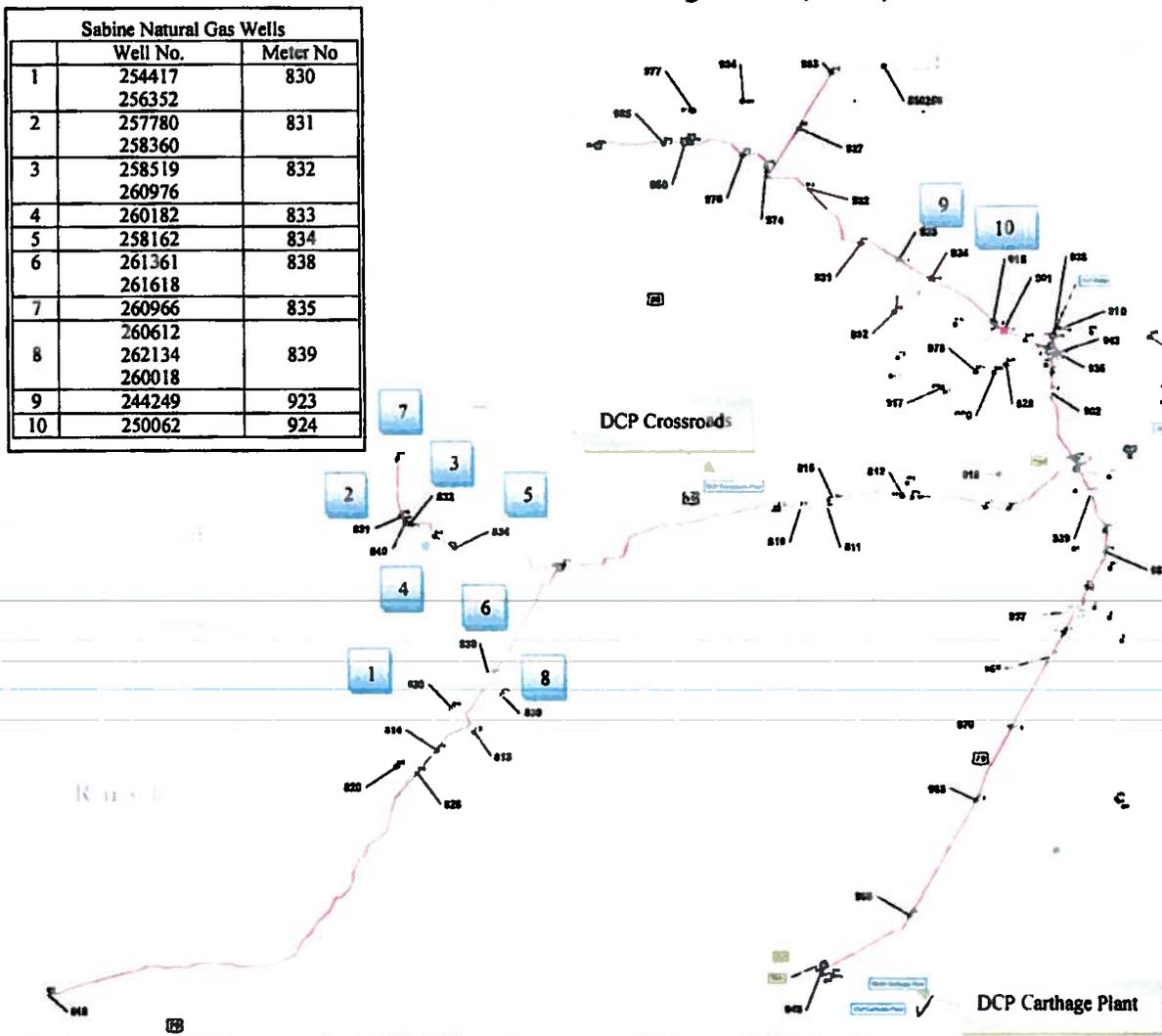
A hearing was initially set for Thursday, February 21, 2013. In order to allow the parties an opportunity to discuss a settlement the parties filed a request, by letter dated February 20, 2013, that the hearing be rescheduled. Accordingly, the hearing was reset for April 3, 2013. On March 8, 2013, the parties notified the Examiners that a settlement had not been achieved. Sabine renewed its request for a ruling on its Request for Continued Service. A hearing on the Sabine's request was held on March 17, 2013.

¹ The meters are identified by number as follows: 830, 831, 832, 833, 834, 835, 838, 839, 923, and 924.

The Legacy Pipeline System

The TGG system at issue in this proceeding is the TGG Legacy System. The Legacy System is connected to four processing plants. The system has over 110 miles of pipeline consisting of 12, 16, and 20-inch diameter line. Sabine asserted that TGG delivers all of Sabine's gas to the DCP Carthage Plant.² Figure 1 below provides a representation of the system, the relative location of the meters, and identifies the impacted wells.

Figure 1
TGG System (Red), Meters Receiving Sabine Production (Blue),³ and DCP Crossroads & DCP Carthage Plants (Green)



² Objection of Sabine to Application of TGG Pipeline, Ltd to Disconnect Facilities and Cease Providing Pipeline Services and Urgent Request for Order Requiring TGG to Continue to Provide Transportation Service to Current Delivery Point Pending the Outcome of the Instant Proceeding (“Sabine’s Objection and Request Ruling”) p. 3.

³ The approximate locations of the meters are identified by the blue numbered boxes.

Applicability of Rule 73

TGG argued that it may cease delivery of Sabine's production to the DCP Carthage Plant prior to the issuance of a Final Order in this proceeding. TGG asserted that continued service to the DCP Crossroads Plant would be provided. Thus, TGG concluded that it would not disconnect or cease providing service to Sabine as long as service is provided to a different plant on the Legacy System.

All parties to this proceeding agree that TGG may cease providing service prior to issuance of a Final Order only if Rule 73 does not apply. The language in Rule 73 is unequivocal:

No pipeline operator shall physically disconnect its facilities from or cease providing pipeline services to any well or lease without first obtaining [approval from the well operator or the Commission].

TGG argued that it does not propose disconnecting the facilities from the Legacy System. As long as service is provided to the DCP Crossroads Plant TGG will not cease providing pipeline services. Therefore, TGG concluded, Rule 73 does not apply.

Based upon the pleadings, the service provided to Sabine by TGG is pursuant to two contracts identified as (1) the *2009 Agreement* and (2) the *2010 Agreement*. Furthermore, it is undisputed that either some of Sabine's production is actually delivered to the DCP Carthage Plant or an "Equivalent Quantity" of Sabine's production is delivered to the DCP Carthage Plant by TGG. Whether any of Sabine's actual production arrives at the DCP Carthage Plant is disputed.

~~TGG's discontinuance of delivering an Equivalent Quantity of Sabine's production to the DCP Carthage Plant is encompassed by Rule 73. The service is a pipeline service. The rule requires agreement from the well operator or prior approval from the Commission prior to a decision to "cease providing pipeline services to any well." TGG's decision to cease delivering an Equivalent Quantity to the DCP Carthage Plant is a decision to cease providing pipeline services to a well.~~

Furthermore, it is not clear from the pleadings that TGG's decision is not also a physical disconnection. In the application, TGG equivocated regarding actual delivery of any of Sabine's production to the DCP Carthage Plant:

NFR's gas *typically* does not flow in a southerly direction towards the DCP Carthage processing plant. Thus, while NFR may nominate 100 Btu's of wellhead gas for shipment to DCP Carthage, NFR's 100 Btu's of wellhead gas *typically* does not actually reach DCP Carthage. NFR's 100 Btu's of wellhead gas *typically* flows to DCP Crossroads or Waskom. *If any of NFR's gas actually reaches DCP Carthage*, it is delivered along with production from BP, Centerpoint and others.⁴

⁴ TGG Application, para 5 (Emphasis added).

Due to the procedural posture of the case and the nature of the requested ruling, any factual issue raised in the pleadings must be determined in favor of Sabine. Thus, for purposes of this ruling it is assumed that failure to deliver gas to the DCP Carthage Plant is a physical disconnection from delivery to that plant. Furthermore, it is not clear from the pleading where production received from meter 923 and 924 flows. It would appear, based upon the pleadings and the arguments of counsel, that if TGG limited its service to delivery to the DCP Crossroads Plant, production received at those meters would be disconnected because the production cannot physically flow to the DCP Crossroads Plant. Thus, Rule 73 applies because, based upon the pleading, TGG's Application appears to be a request to physically disconnect a portion of Sabine's production from the DCP Carthage Plant.

Conclusion

In conclusion, the Examiner finds that based upon the pleadings in this case, Rule 73 applies and TGG may not cease providing service to the DCP Carthage Plant until either Sabine agrees or the Commission issues an order. Accordingly, Sabine's request is hereby **GRANTED** and TGG is directed to continue providing service until a Final Order is issued in this case.

The Examiners emphasize that this is not a ruling based upon an evidentiary hearing. TGG's pleadings appear to have established a *prima facie* basis for disconnection pursuant to Rule 73. First, TGG argued that, in effect, the contractual terms amount to written consent by Sabine. An issue that may, or may not, be within the jurisdiction of the Commission to determine as it is a subject of contract interpretation. Undoubtedly, the issue of the Commission's jurisdiction to determine that question is a subject for briefing by the parties. Second, TGG has raised issues that are specifically referenced in Rule 73(c)(4). That rule sets out factors to be considered by the Commission in determining whether or not to approve a request to physically disconnect from or cease providing service to a well or lease. Those issues are squarely within the jurisdiction of this Commission. TGG has raised issues regarding the operational integrity of the pipeline facilities, equipment, and the cost of continued operation of the physical connection or services if it continues to receive and deliver Sabine's natural gas production to the DCP Carthage Plant. TGG has specifically pointed to the availability of alternatives on the Legacy System and has argued that continued service to Sabine may result in waste or damage rights of others on the system. It is anticipated that these factual issues will be addressed at the hearing to be held on April 3, 2013.

Contact for Additional Information – In accordance with Tex. Gov't Code Ann. §2001.061 and 16 Tex. Admin. Code § 1.6, ex parte communications with the Hearings Examiners and Commissioners are prohibited. Any persons or entities desiring additional information may contact the Commission by writing to Colin Lineberry at the Railroad Commission of Texas, 1701 North Congress Avenue, P. O. Box 12967, Capitol Station, Austin, Texas 78711-2967, or by calling Mr. Lineberry at (512) 463-7033. Any persons or entities having clerical questions, such as questions regarding the number of copies of filings, the service list or reviewing the record, may contact, Loretta Howard, at (512) 463-7033.

Sincerely,

Gene Montes
Hearing Examiner

cc: Service List

SERVICE LIST
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Application to Disconnect Facilities and Cease Providing Pipeline Services
Examiner: Gene Montes

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