

that its primary function is jurisdictional transmission service, not NGA-exempt gathering.

3. On rehearing, Jupiter and Williams, jointly with Transco, introduced for the first time the fact Jupiter's system is upstream of facilities that the Commission found to be gathering facilities in Transco's spin-down proceeding. The petitioners argued that Jupiter's facilities therefore also must be gathering facilities. Based on application of its primary function test, however, the Commission affirmed its finding that Jupiter's facilities are jurisdictional transmission facilities, not exempt gathering facilities.

4. Regarding the anomalous finding in Transco's spin-down proceeding, the Commission pointed out that the record in that proceeding included no information indicating that there were jurisdictional upstream facilities being operated by Jupiter at the time. The petitioners argued that the Commission must find that Jupiter's facilities are gathering facilities because it had previously found that Transco's downstream facilities are gathering facilities. As noted by the Commission in its November 20, 2003 Order in Jupiter's proceeding, however, "if anything, the analysis should be reversed. The presence of upstream transmission facilities determines the classification of downstream facilities, not the opposite."³

5. Based on the developments in Jupiter's proceeding, it appears that the previous gathering determination for Transco's downstream facilities was made on the basis of incomplete information. Also, there may be other upstream jurisdictional facilities that Transco did not identify in its spin-down proceeding, potentially affecting the Commission's findings regarding other Transco facilities.

6. In the August 31, 2001 Order approving Transco's transfer of the facilities found to be gathering facilities, the Commission directed Transco to file notifications of each abandonment. Transco has not filed any notifications.

7. In view of the above considerations the Commission is directing Transco and Williams (1) to show cause why the Commission should not find that the facilities downstream of Jupiter's system should be classified as jurisdictional transmission facilities; and (2) to identify any other previously unidentified jurisdictional facilities that are upstream of facilities found to be gathering facilities in this proceeding.

³ Jupiter Energy Corporation, 105 FERC ¶ 61,243 at n. 8.

The Commission orders:

Transco and Williams are directed to show cause under section 5 of the Natural Gas Act within 60 days from the date of this order why the facilities downstream of Jupiter's facilities should not be found to be jurisdictional facilities, and to identify any other previously unidentified jurisdictional facilities that are upstream of facilities found to be gathering facilities in this proceeding.

By the Commission. Commissioner Brownell dissenting with a separate statement attached.

(S E A L)

Linda Mitry,
Acting Secretary.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Transcontinental Gas Pipe Line Corporation

Docket No. CP01-368-004

Williams Gas Processing-Gulf Coast Company, LP

Docket No. CP01-369-002

(Issued May 6, 2004)

Nora Mead BROWNELL, Commissioner *dissenting*:

1. This order is an outgrowth of Jupiter Energy Corporation, 106 FERC ¶ 61,170 (2004), in which the Commission ruled that Jupiter's system provides jurisdictional transmission service, not NGA-exempt gathering. In light of that determination, the Commission is now led to investigate facilities downstream of the Jupiter system that were previously determined to be gathering. I dissented from Jupiter and, thus, see no need to reopen a determination that was made three years ago and has already been through the judicial appeal process.

Nora Mead Brownell