

128 FERC ¶ 61,186  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Collbran Valley Gas Gathering, LLC

Docket No. CP09-1-000

ORDER ISSUING CERTIFICATE

(Issued August 25, 2009)

1. On October 1, 2008, Collbran Valley Gas Gathering, LLC (Collbran Valley) filed a request, pursuant to section 7(c) of the Natural Gas Act (NGA), for a limited-jurisdiction certificate authorizing Collbran Valley to transport natural gas through the Anderson Gulch Residue Line solely on behalf of Collbran Valley's owners, and waiver of certain regulatory requirements.

2. This order grants and denies the requests, as discussed below.

**I. Background**

3. Collbran Valley is a limited liability company organized under the laws of the state of Colorado. The Collbran Valley system includes pipeline and processing facilities located in the Piceance Basin, near the towns of Collbran and Mesa in Mesa County, Colorado. These pipeline facilities, which began gas flow in November 2006, include 22 miles of 12- and 16-inch pipeline that gather gas from wellhead receipt points and move it to the Anderson Gulch Plant. Processed, pipeline quality gas moves from the tailgate of the Anderson Gulch Plant into a 9.2-mile long, 16-inch diameter residue pipeline (Anderson Gulch Residue Line). After 1.5 miles, the Anderson Gulch Residue Line interconnects with Rocky Mountain Natural Gas LLC (Rocky Mountain), a Colorado local distribution company and then continues for 7.7 miles to an interconnection with TransColorado Gas Transmission Company LLC (TransColorado).

4. Collbran Valley is owned by DCP Collbran, LLC (DCP Collbran), PXP CV Pipeline LLC (PXP LLC), and Delta Petroleum (Delta), and is operated by DCP Midstream, LP (DCP Midstream). DCP Midstream's affiliate, DCP Midstream Partners,

LP (Partners), indirectly owns DCP Collbran. Partners acquired DCP Collbran in August 2007, as part of the DCP Midstream acquisition of Momentum Energy Group and a concurrent contribution by DCP Midstream of DCP Collbran to Partners.

5. PXP LLC is owned by OXY USA, Inc. (Oxy) and Plains Resources, Inc. (Plains Resources), a wholly-owned, direct subsidiary of Plains Exploration & Production Company (Plains). Oxy and certain subsidiaries of Plains Resources also own natural gas wells connected to the Collbran Valley gathering system. Plains operates the wells and holds gathering agreements and acreage dedications with Collbran Valley. Oxy sells its interest in the gas produced from the wells to Plains. Thus an owner of PXP LLC, Plains, rather than PXP LLC itself, is the legal entity that holds the gathering agreements with Collbran Valley for the Plains and Oxy production. DCP Collbran, PXP LLC, Plains, Oxy, and Delta are referred to collectively as the Collbran Valley Production Owners.

6. The Collbran Valley Production Owners are the only shippers on the Collbran Valley system, including the 9.2-mile long pipeline downstream of the processing plant. The Collbran Valley Production Owners own all of the gas delivered into the upstream gathering facilities. Specifically, the Collbran Valley Production Owners either own the wells producing the gas or purchase the gas from other producers. Collbran Valley states it does not intend to move gas through the Anderson Gulch Residue Line for any shippers other than the Collbran Valley Production Owners.

## **II. Notice and Interventions**

7. Notice of Collbran Valley's application was issued on October 6, 2008, and published in the *Federal Register* on November 7, 2008 (73 Fed. Reg. 66,232). No comments, interventions, or protests were filed.

## **III. Discussion**

8. Collbran Valley requests that the Commission issue a limited-jurisdiction certificate authorizing transportation of gas through the Anderson Gulch Residue Line solely on behalf of the Collbran Valley Production Owners, without payment of any additional charge for such service, and waive otherwise applicable regulatory requirements.

### **A. Request for a Limited-Jurisdiction Certificate**

9. Collbran Valley states that the Anderson Gulch Residue Line would be shorter if the Anderson Gulch Plant had been built, as Collbran Valley alleges it could have been, nearer the interconnection with TransColorado. However, Collbran Valley maintains that due to the rugged terrain, and in order to accommodate local citizens, the plant was constructed where it would not be visible from a nearby highway. Collbran Valley avers

that, had the plant been located without such accommodations, the Anderson Gulch Residue Line would have qualified as a non-jurisdictional stub line extension under the policy adopted by the Commission in *Superior Offshore Pipeline Company*.<sup>1</sup> Collbran Valley acknowledges that the Commission has determined that, in the absence of countervailing factors, pipeline facilities located downstream of a processing plant may be considered exempt from NGA regulation only when they are incidental extensions of the processing plant or of the behind-the-plant gathering system.<sup>2</sup> Collbran Valley further acknowledges that pipeline facilities that meet this test are normally relatively short (less than five miles long) stub pipelines beginning at the tailgate of the processing plant that act to connect the tailgate of the plant with a transmission system. However, while Collbran Valley admits that the subject Anderson Gulch Residue Line falls outside the “stub line” exception, it argues that the upstream location of the processing plant does not change the function of its entire system, including the 9.2-mile long pipeline downstream of the processing plant, which is to gather and process gas and deliver the gas to an interstate pipeline. In view of these considerations, Collbran Valley requests a limited-jurisdiction certificate for its Anderson Gulch Residue Pipeline.

10. We find that Collbran Valley’s continued operation<sup>3</sup> of the Anderson Gulch Residue Line is required by the public convenience and necessity because it provides direct connections between the production area upstream of the Anderson Gulch Plant and Rocky Mountain’s local distribution system and TransColorado’s interstate pipeline system. Therefore, we will grant a certificate for the Anderson Gulch Residue Line. However, the certificate will not be one of limited jurisdiction. Collbran Valley is correct that the Commission has, in the past, granted limited-jurisdiction certificates for other plant residue lines that are too long to be viewed as stub lines incidental to the upstream gathering operations. However, in those cases the entities that owned the residue lines at issue also owned all of the gas that was transported over the residue lines and the

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<sup>1</sup> 67 FERC ¶ 61,253 (1994). For a more recent case applying the same criteria see *Atlas Pipeline Mid-Continent WestTex, LLC*, 125 FERC ¶ 62,198 (2008).

<sup>2</sup> The Commission has developed a number of legal tests to determine which facilities are non-jurisdictional gathering facilities and which facilities are jurisdictional transmission facilities. See *Amerada Hess Corp.*, 52 FERC ¶ 61,268 (1990) and *Farmland Industries, Inc.*, 23 FERC ¶ 61,063 (1983).

<sup>3</sup> Collbran Valley’s application indicates that it has been operating the Anderson Gulch Residue Line since November 2006.

upstream gathering facilities that delivered gas to the processing plants.<sup>4</sup> In this case, Collbran Valley does not own the gas that is transported over its Anderson Gulch Residue Line. Rather, it uses the pipeline to transport gas owned by its owners and other affiliates.<sup>5</sup> Thus, contrary to Collbran Valley's assertion, its use of the Anderson Gulch Residue Line does not "fit squarely"<sup>6</sup> within the Commission's policy of granting certificates of limited jurisdiction for plant residue lines that are owned by otherwise non-jurisdictional gatherers and used by those gatherers to only transport gas they have gathered and own themselves.<sup>7</sup>

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<sup>4</sup> See *Western Gas Resources, Inc.*, 119 FERC ¶ 61,308, at P 15 (2007), citing *Western Gas Resources, Inc.*, 85 FERC ¶ 61,087 (1998) and *Continental Natural Gas Co.*, 83 FERC ¶ 61,065 (1998) as additional cases where the Commission has granted limited-jurisdiction certificates for residue lines downstream from processing plants where the owners transport only their own gas.

<sup>5</sup> See *Rendezvous Gas Services, L.L.C. (Rendezvous)*, 112 FERC ¶ 61,141 (2005), *reh'g denied*, 113 FERC ¶ 61,169 (2005). In *Rendezvous* the Commission found that a proposed 20.8-mile long pipeline downstream of gathering facilities and a processing plant was too long to qualify as a stub line incidental to the upstream gathering. Therefore, the Commission found that the proposed pipeline and all services over the pipeline, including Rendezvous' transportation of its own gas, would be subject to the Commission's full jurisdiction. 112 FERC ¶ 61,141 at P 25. Further, because Rendezvous proposed to use the pipeline to transport gas not only for itself but also for its two parent companies (i.e., third-party entities), the Commission conditioned the certificate authorizing construction and operation of the pipeline on Rendezvous' offering open-access service. *Id.* Hence, the certificate granted by the Commission for the plant residue line was not one of limited jurisdiction. However, the Commission clarified that its assertion of full jurisdiction over the plant residue line did not affect the non-jurisdictional status of the upstream processing plant and gathering facilities. *Id.*

<sup>6</sup> See Collbran Valley's October 1, 2008 application at p. 5.

<sup>7</sup> Although we have found that the certificate for Collbran Valley's Anderson Gulch Residue Line should not be a certificate of limited jurisdiction, we clarify that our jurisdiction over this facility in no way jeopardizes the non-jurisdictional status of Collbran Valley's upstream processing plant or its gathering facilities and operations.

**B. Waiver of Regulatory Requirements**

11. Collbran Valley does not request a Part 284 blanket certificate and requests waiver of open-access requirements generally. Collbran Valley seeks to continue its current practice of transporting gas solely on behalf of the Collbran Valley Production Owners, without payment of any additional charge for such service.<sup>8</sup>

12. Specifically, Collbran Valley requests waiver of the Commission's rate schedule and tariff filing requirements under Part 154 of the Commission's regulations, as no charge for transportation is proposed, and waiver of accounting and reporting requirements under Parts 158, 201 (including the Uniform System of Accounts), 225, 250, and 260 (including Form 2) of the Commission's regulations, as these requirements are inappropriate for the limited service proposed. Additionally, Collbran Valley requests confirmation that the following provisions of Part 284 of the Commission's regulations are limited to open-access transporters and do not apply to the Anderson Gulch Residue Line: sections 284.4 (Reporting), 284.7 (Firm Transportation Service), 284.8 (Capacity Release), 284.9 (Interruptible Transportation), 284.10 (Rates), 284.12 (Standards for Business Practices), 284.13 (Reporting), and Subpart G.

13. We will deny the request for waiver of the Commission's open-access and tariff requirements. Although in some circumstances the Commission has waived such requirements to allow otherwise non-jurisdictional companies to operate jurisdictional facilities on a proprietary basis, those cases typically involved pipelines constructed by entities to supply gas only for their own end use or processing plant residue lines owned by gatherer/processors and used to transport only their own gas and not gas owned by third parties.<sup>9</sup> Thus, the situations in those cases did not raise discrimination issues or impede the Commission's efforts to effectuate a fair and efficient market through the application of its open-access regulations.

14. As discussed above, Collbran Valley is already providing jurisdictional transportation for third-parties. Under these circumstances, granting Collbran Valley's

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<sup>8</sup> Collbran Valley proposes to continue to recover its costs as it does now through the gathering agreements with the Collbran Valley Production Owners.

<sup>9</sup> See *Western Gas Resources, Inc.*, 119 FERC ¶ 61,308, at P 15 (2007), *Western Gas Resources, Inc.*, 85 FERC ¶ 61,087 (1998) and *Continental Natural Gas Co.*, 83 FERC ¶ 61,065 (1998). For a more extensive discussion on this issue, see *Rendezvous, L.L.C.*, 112 FERC ¶ 61,141 (2005), *reh'g denied*, 113 FERC ¶ 61,169 (2005).

requested waiver would create precedent that would subvert the Commission's open-access policies and NGA requirements. Therefore, compliance with the Commission's open-access and tariff requirements is necessary to ensure that service is provided in a non-discriminatory manner. Collbran Valley will have to comply with all applicable regulations and establish initial rates and file tariff sheets and rate schedules for the services being provided on the Anderson Gulch Residue Line. However, we do not believe it would be in the public interest to interrupt Collbran Valley's delivery of supplies to Rocky Mountain's local distribution system and TransColorado's interstate system. Therefore, we will not order Collbran Valley to cease operations pending its obtaining a blanket certificate under Subpart G of Part 284 of the Commission's regulations, having initial rates approved, and having appropriate tariff provisions and rate schedules on file.<sup>10</sup>

15. Since Collbran Valley's Anderson Gulch Residue Line is its only jurisdictional facility, and it is a small pipeline with only one receipt point and two delivery points, the Commission grants Collbran Valley's request for waiver of the provisions of section 284.12 of the Commission's regulations requiring pipelines to maintain and operate an interactive web site (EDI standards).<sup>11</sup> For the same reasons, the Commission will also grant waiver of the conditions in section 284.12 of the Commission's regulations requiring compliance with NAESB standards relating to the electronic posting of information and use of the internet for pertinent business practice and electronic communications (EDM standards). The waiver of interactive web site and NAESB standards will remain in effect only until a shipper receiving service on the Anderson Gulch Residue Line requests that Collbran Valley implement such standards. Upon receiving such a request, Collbran Valley must implement an interactive web site and EDI/EDM standards in accordance with NAESB standards within 180 days of the request.

16. The Commission also grants Collbran Valley's request for waiver of the provisions in section 284.8 of the Commission's regulations which require the electronic posting of information relating to shippers' releases of capacity. This waiver will remain in effect until a shipper requests that capacity release information be posted on an interactive web site in accordance with NAESB standards. Upon receipt of such a

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<sup>10</sup> Collbran Valley might also want to file an application for a blanket certificate under Subpart F of Part 157 of the Commission's regulations, authorizing it to perform certain construction activities and operations.

<sup>11</sup> See *Pinnacle Pipeline Co.*, 105 FERC ¶ 61,051, at P 50 (2003).

request, Collbran Valley shall implement an interactive web site in accordance with NAESB within 180 days of the request.

17. Finally, the Commission will require Collbran Valley to maintain sufficient records consistent with the Uniform System of Accounts should the Commission require Collbran Valley to produce these reports in the future.

### **C. Timeliness of Application for Authorization and the Environment**

18. The Anderson Gulch Residue Line was originally constructed by Collbran Valley in “late 2006” and has been in service since November 2006. Since we have determined here that the Anderson Gulch Residue Line does not satisfy the criteria to be excluded from Commission jurisdiction as a “stub line,” it appears that the construction and initial operation of the facility without prior authorization from this Commission was in violation of section 7(c) of the NGA. The Commission does not take violations of the NGA lightly and we will not hesitate to impose sanctions against violators in appropriate situations. However, we do not find the circumstances here suggest the need for additional investigation or punitive action at this time.

19. At the time the pipeline was constructed, MEG Colorado Gas Service, LLC (Colorado Gas Service), one of the then-members of Collbran Valley, was the manager/operator of the facility. Momentum Energy Group was the parent of MEG Colorado Gas Service. As indicated above, DCP Midstream, the current operator of Collbran Valley, acquired Momentum Energy Group in August 2007 and Collbran Valley, under its new ownership, filed the instant application for a certificate in October 2008.

20. Collbran Valley is not proposing to construct any additional facilities in conjunction with its request for authority to operate the Anderson Gulch Residue Line. Therefore, our action in this order is categorically excluded under section 380.4(a) (27) of our regulations from the requirement to prepare an environmental assessment or environmental impact statement.<sup>12</sup> However, in response to a request from staff, Collbran Valley provided the following information concerning the construction of the facility. When the Anderson Gulch Residue Line was constructed in 2006, easements were acquired through negotiations with seventeen private landowners. Prior to commencing construction, Colorado Gas Service had several environmental surveys conducted by a qualified environmental contractor. The surveys included a wetlands evaluation, a threatened and endangered species survey, and a historical and cultural

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<sup>12</sup> 18 C.F.R. § 380.4(a)(27) (2009).

reservation review. A summary of the results of these surveys was conveyed to the U.S. Army Corp of Engineers (USACE) on March 23, 2006. Collbran Valley obtained requisite permits for construction of the Anderson Gulch Residue Line from the USACE, the Colorado Department of Public Health and Environment, the Mesa County Department of Planning and Economic Development, the Colorado Department of Transportation, and the Mesa County Transportation Department. Further, in conjunction with its instant application, Collbran Valley has reviewed the Commission staff's Upland Erosion Control, Revegetation, and Maintenance Plan and agrees to adopt the entirety of the Plan as it relates to future Collbran Valley activities. Our review of the record does not indicate the need to impose any additional requirements.

21. The Commission on its own motion, received and made a part of the record all evidence, including the application, as supplemented, and exhibits thereto, submitted in this proceeding and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Collbran Valley pursuant to section 7(c) of the NGA and Part 157 of the Commission's regulations to operate the Anderson Gulch Residue Line.

(B) The certificate issued in Ordering Paragraph (A) above is conditioned upon Collbran Valley's compliance with paragraphs (a), (e) and (f) of section 157.20 of the Commission's regulations.

(C) Collbran Valley's requests for waiver of certain filing, reporting, accounting and compliance requirements of the Commission's regulations are granted, in part, and denied, in part, as discussed in the order.

(D) Collbran Valley shall file, within 60 days of the date of this order, applications for a blanket certificate under Subpart G of Part 284 of the Commission's regulations to provide open-access transportation, initial rates under section 7 of the NGA, and *pro forma* tariff provisions and rate schedules for the services over the Anderson Gulch Residue Line.

(E) The finding that the Anderson Gulch Residue Line is an NGA jurisdictional facility and the requirement that such facility be operated on an open-access basis do not affect the non-jurisdictional status of Collbran Valley's processing plant and upstream gathering facilities.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.