



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

August 1, 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*

PFD and Deadlines for Exceptions, and Replies

Enclosed are the Proposal for Decision ("PFD"), Proposed Final Order, Examiners' Schedules and Proposed Tariffs issued in this case. Pursuant to Section 1.141 of the Commission's General Rules of Practice and Procedure, these documents are being circulated to each party or its authorized representative. This is only a proposal and is not to be interpreted as a final decision unless an official order adopting the proposal is issued by the Commission.

Under Section 1.142 of the General Rules of Practice and Procedure (16 T.A.C. §1.142), each party has the right to file written *Exceptions* to the PFD. The Examiners seek to post this item for consideration at the Confermec currently scheduled for August 6, 2012. In order to post this item for that Conference the Examiners set the deadline for Exceptions is **4:00 p.m. Friday, August 16, 2013** and Replies to Exceptions are due **4:00 p.m.. Monday, August 26, 2013**. All parties are reminded that pleadings are considered filed only upon actual receipt by the Docket Services Section of the Office of General Counsel (Room 12-130). An original plus **ELEVEN** copies of exceptions should be submitted to the Commission. **PLEASE DO NOT STAPLE. IN ADDITION PARTIES ARE REQUESTED TO PROVIDE THE EXAMINERS WITH A COPY OF ANY FILINGS ON A DISKETTE IN WORD OR WORDPERFECT FORMAT. THE DISKETTE SHOULD BE LABELED WITH THE DOCKET NUMBER, THE TITLE OF THE DOCUMENT, AND THE FORMAT OF THE DOCUMENT.** Notice of consideration of this docket at any current or additional conference will be duly posted with the Secretary of State.

Contact for Additional Information – In accordance with Tex. Gov't Code Ann. §2001.061 (Vernon 2000) and 16 Tex. Admin. Code § 1.6 (1991), 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 the Loretta Howard, at (512) 463-7033.

Sincerely,

Gene Montes
Hearings Examiner
Office of General Counsel

cc: Service List



RAILROAD COMMISSION OF TEXAS

HEARINGS DIVISION

Oil & Gas Docket No. 06-0279915

**RULE 73 APPLICATION FILED BY TGG PIPELINE, LTD TO DISCONNECT AND
CEASE PROVIDING SERVICES TO SABINE OIL & GAS LLC**

APPEARANCES:

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PROCEDURAL HISTORY:

Docket Established:	December 18, 2012
Final Hearing Date:	April 3, 2013
Heard By:	Gene Montes, Hearings Examiner Rose Ruiz, Technical Examiner

Record Closed:	July 31, 2013
PFD Circulation:	August 1, 2013

STATEMENT OF THE CASE

This proceeding was initiated as an *Application to Disconnect Facilities and Cease Providing Services* by TGG Pipeline, Ltd (“TGG”) and relates to a pipeline operated by TGG referred to as the Legacy System. In the initial filing, TGG asserted that 16 *TEX. ADMIN. CODE* §3.73 (“Rule 73”), did not apply. Even if Rule 73 applied, TGG asserted that it had complied with the requirements of the rule. TGG proposed to modify the transportation arrangement with one of the shippers on the system, Sabine Oil & Gas LLC (“Sabine”) pursuant to the terms of two contracts. As a party to the contract, TGG contended that Sabine had consented to any actions, including termination, authorized by those contracts. Rule 73 allows a disconnection pursuant to either consent of the well operator or approval of the Commission. TGG asserted that the contracts represented Sabine’s consent under certain contractual provisions. TGG maintained that it filed this proceeding out of an abundance of caution. Sabine contended that Rule 73 applied and that it had not consented to the proposed modification of transportation service.

This case is a case of first impression as to the applicability of Rule 73. As set forth in detail below, the Examiners find that under the particular facts of this case Rule 73 does not apply. The relevant facts are as follows: (1) the pipeline operator continues to provide transportation service and only seeks a modification of the service provided, (2) the pipeline operator contends that the proposed service modification is contemplated by the contractual terms, and (3) the pipeline operator is willing to redeliver to all points on the pipeline under certain contractual conditions. The Examiners find that under such circumstances Rule 73 does not apply as the issue is not a physical disconnection of service or a discontinuance of service that results in the well operator being shut-in. The Examiners recommend that this case be dismissed as Rule 73 does not apply.

Under the facts of this case it would appear that Sabine’s contention is that the proposed terms and conditions of service are not contemplated by the contract. The appropriate recourse is a proceeding in district court to settle the disputed claim. By obtaining a ruling from this Commission that Rule 73 requires unmodified service under the existing terms of the contract the District Court’s jurisdiction to determine a contractual dispute is set aside.

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PROPOSAL FOR DECISION

1. Procedural History

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 fifteen natural gas wells operated by Sabine Oil & Gas LLC (“Sabine”). Production from those wells is received at ten meters on the Legacy System.¹ TGG contended that Commission approval to modify the redelivery points was not required but filed this proceeding out of an abundance of caution.²

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 16 *TEX. ADMIN. CODE* § 3.73 (“Rule 73”). TGG asserted that it was entitled to cease providing service prior to a ruling by the Commission on the TGG Application.

A hearing on Sabine’s *Request for Continued Service* 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 on Sabine’s *Request for Continued Service* 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 Sabine’s request was held on March 17, 2013. And a ruling was issued on March 20, 2013, requiring that TGG continue providing uninterrupted service under the terms of the existing contracts. No interim appeals were filed.

On April 2, 2013, an amendment to the application was filed by TGG. A hearing on the merits was held on April 3, 2013. TGG presented evidence through the testimony of Gina Travieso, Producer Services Manager for TGG. Sabine presented evidence through the testimony of Jacque Reynolds, Gas Marketing Director of Sabine. Post-hearing briefs were submitted on April 12, 2013. A certified transcript was completed on April 16, 2013.

2. Jurisdiction

The Commission has jurisdiction over the applicant, associated affiliates, and the matters at issue in this proceeding pursuant to *NAT. RES. CODE ANN.* §§ 81.061, 111.081, *TEX. UTIL. CODE ANN.* §§101.003, 121.001, & 121.151. The statutes and rules involved in this proceeding include, but are not limited to *NAT. RES. CODE ANN.* §§ 91.702, 111.025, 111.086, 111.091 and 16 *TEX. ADMIN. CODE* Chapter 3 & 7.

¹ The meters are identified by the following numbers: 830, 831, 832, 833, 834, 835, 838, 839, 923, and 924.

² TGG Application, p. 1, p. 8, para 23, & p. 9, para 24.

3. Legal Standard

TGG filed this proceeding pursuant to Rule 73, entitled “*Pipeline Connection; Cancellation; Severance.*” As noted above, TGG asserted that Rule 73 does not apply and TGG is not required to obtain approval for the proposed modification of service provided to Sabine. The issue of the applicability of the rule to the facts of this case is an issue of first impression.

To the extent the Commission determines that Rule 73 applies, Subsection (b) of that rule provides that no pipeline operator shall physically disconnect its facilities from or cease providing pipeline services to any well or lease without first obtaining either (1) written consent of the well or lease operator for the proposed disconnect or termination; or (2) written permission from the Commission.

The Rule provides further that if the well or lease operator declines to provide written consent or objects to the proposed disconnection or cessation of service the pipeline operator shall file an application with the Commission. In determining whether or not to approve a request to physically disconnect from or cease providing service to a well or lease, the Commission may consider relevant factors, including but not limited to the following:

1. Operational integrity of the pipeline facilities;
2. Operational integrity of the equipment on the well or lease;
3. Cost of continued operation of the physical connection or service;
4. Risk to public safety, human health and the environment;
5. Availability of alternative transportation;
6. Protection of correlative rights; and
7. Prevention of waste.

4. Discussion of the Evidence

TGG operates intrastate pipelines within the State of Texas and its P-5 Permit number is 5850984. The TGG pipeline system at issue in this proceeding is the TGG Legacy System (“Legacy System”). The Legacy System is an intrastate gas gathering³ pipeline that is operated as a gas utility and TGG is a common purchaser.⁴ The applicable T-4 Permit number is 04009.⁵

The physical layout of the system is summarized as follows. The system has over 110 miles of pipeline consisting of 12, 16, and 20-inch diameter line.⁶ The Legacy System receives gas production at nearly seventy different delivery points on the Legacy System.⁷ The gas wells that are connected to the system produce primarily from either the Cotton Valley Formation or

³ A gatherer is defined as any pipeline that is authorized to gather or accept oil, gas, or geothermal resource from lease production or storage. *See*, 16 TEX. ADMIN. CODE § 3.79(12). *See also*, Tr. p. 43, ln. 21; p. 78, lns. 4 – 6 & p. 99, lns. 4 – 5.

⁴ TEX. NAT. RES. CODE ANN. § 111.082.

⁵ Form T-4 Permit Application, 09/30/2011. The T-4 Permit application is filed pursuant to 16 TEX. ADMIN. CODE § 3.70.

⁶ Tr. p. 14, ln. 13 – p. 15, ln. 11.

⁷ TGG Ex. 1 & Tr. p. 70, lns. 12 – 17.

the Haynesville Formation.⁸ The wells that are connected to the Legacy System are operated by approximately twenty different producers.⁹ These producers have product shipped on the Legacy System.¹⁰ TGG offers redelivery options to one of four processing plants that are also connected to the pipeline system: DCP Crossroads, CenterPoint Energy Field Services Waskom (“CenerPoint Waskom”), DCP Carthage and Marlin. All transportation on the Legacy System is provided on an interruptible basis.¹¹ TGG transports approximately 120,000 MMBtu per day on the system.¹²

The Legacy System is depicted in Figure 1. As that figure reveals the system is a backbone type¹³ system with a central length of 20-inch pipeline that is generally oriented from west to east. Connected to it are four laterals. The laterals are made up of 12-inch and 16-inch pipeline that are generally oriented from north to south. Figure 1 also describes the flow of natural gas on the system which generally flows from west to east. The northern 12-inch lateral on the western side flows south and then east and is sometimes referred to as the NFR lateral.¹⁴ The far western 12-inch lateral flows from south to north. The northern lateral on the eastern side, sometimes referred to as the North Scottsville lateral,¹⁵ is a 12-inch lateral that flows from north to south. The 16-inch lateral on the east side that flows to the DCP Carthage Plant and Marlin flows from north to south. Depending on nominations, however, a portion of that lateral may flow from south to north.¹⁶

⁸ Tr. pp. 15 – 22.

⁹ Tr. p. 69, lns. 19 – 21.

¹⁰ The producers shall be referred to herein as “shippers” as all shippers on the system appear to be producers.

¹¹ Tr. p. 70, ln. 2.

¹² Tr. p. 70, lns. 6 – 7.

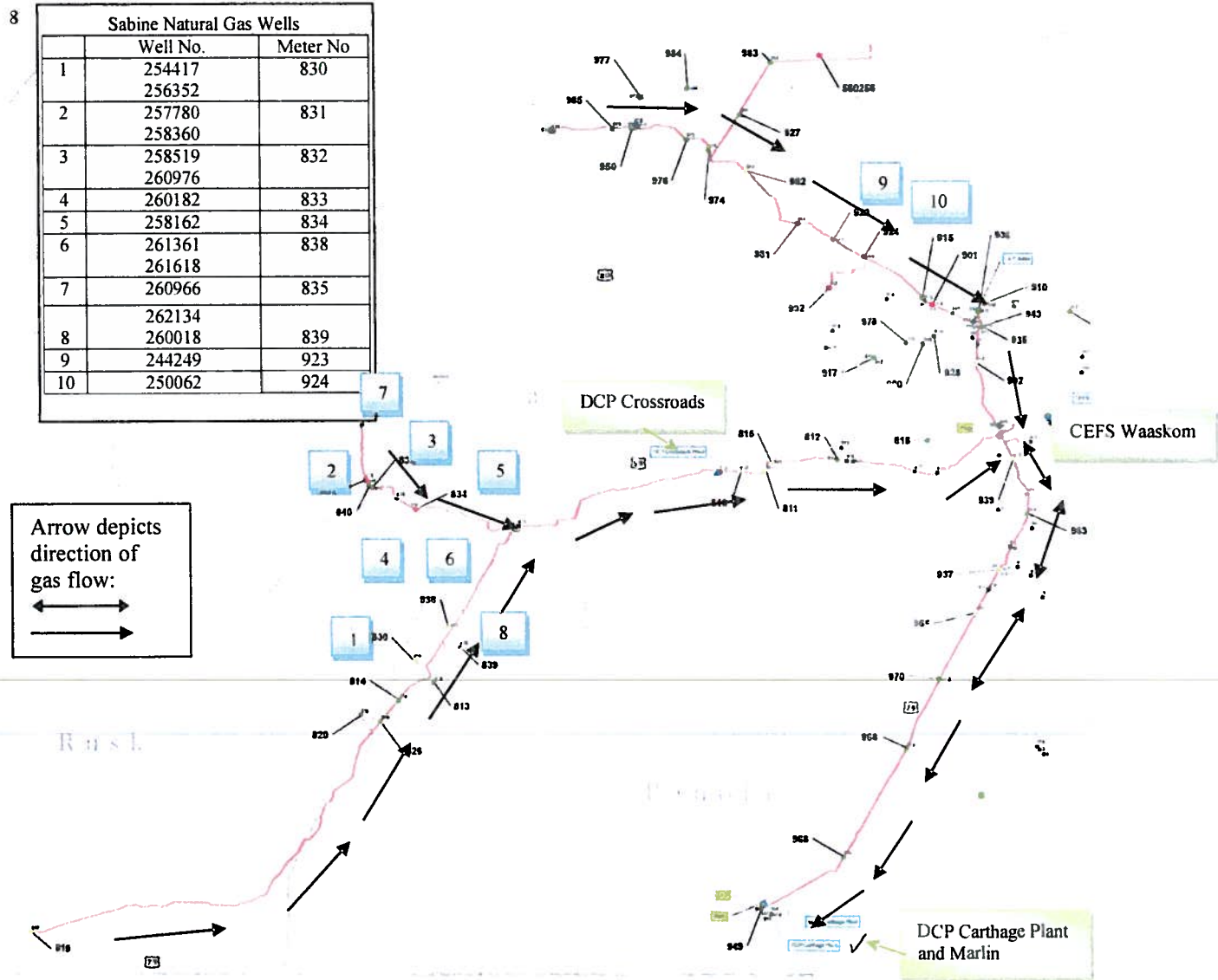
¹³ A “backbone system” is understood to refer to a physical configuration of a gathering system that spreads out over different production areas. Backbone systems have a main trunk that will often have smaller feeder lines into the main – that is referred to as the backbone. Tr. p. 130, lns. 10 – 14.

¹⁴ Tr. p. 151, lns. 2 – 3 & p. 191, lns. 7 – 10.

¹⁵ Tr. p. 147, ln. 11.

¹⁶ Tr. p. 19, ln. 21 – p. 20, ln. 10.

Figure 1
 TGG System, Meters Receiving Natural Gas,¹⁶
 and Processing Plants



¹⁶ See, TGG Ex. 1.

All gas deliveries on the Legacy System are made on an interruptible basis.¹⁸ Except for deliveries made on behalf of one shipper, all natural gas delivered on the Legacy System is delivered as a blended stream and is delivered in equivalent quantities.¹⁹ Otherwise, the contractual relationships on the Legacy System may be summarized as follows. The shippers connected to the Legacy System have contracts with one, or more, of the processors connected to the Legacy System. The shippers who contract with TGG have delivery options to any of four processing plant on the Legacy System. TGG delivers, on behalf of the shippers an equivalent quantity, measured in MMBtus, to the appropriate processor. In other words, TGG receives gas quantities from a shipper at a delivery point on the Legacy System. Rather than redeliver the actual quantities received by TGG from the shipper to one of the processors on the system, TGG redelivers an equivalent quantity to one of the processors on the system.

Generally, as is typical with most natural gas production, the raw gas produced by the various well operators on the Legacy System contains a mix of methane (CH₄),²⁰ heavier hydrocarbons (“NGLs”)²¹ and impurities. The heavier hydrocarbons, or NGLs, include, but are not limited to, ethane (C₂H₆), propane (C₃H₈) and butane (C₄H₁₀).²² The impurities may include, but are not limited to, carbon dioxide (CO₂), hydrogen sulfide (H₂S) and water (H₂O).

Most impurities are removed by the shipper as required by contract.²³ TGG also offers a blending service to further address carbon dioxide which may persist in the product of the well operator.²⁴ The processors separate the gas received into its component parts. The methane, which is suitable for residential, commercial and industrial consumption is sold separately from the heavier gaseous hydrocarbons to be processed into NGLs. The NGLs are suitable for industrial and commercial uses. Methane and NGLs are priced differently. After processing, the processors move the components of gas to market.²⁵ As the transporter, TGG’s compensation is based upon total volumes transported not the content of the gas.²⁶

The NGLs contained in natural gas is measured in gallons per Mcf (GPM).²⁷ This is a measure of the gallons of the liquid hydrocarbon components contained in one Mcf of natural gas. The higher the GPM content of the gas, the richer the gas. The GPM content of the natural gas that is delivered to the Legacy System from the various producers varies. Producers that are connected to the Legacy System produce a mix of gas that, relative to each other, ranges from

¹⁸ Tr. p. 69, ln. 25 – p. 70, ln. 2.

¹⁹ Tr. p. 88, lns. 1 – p. 89, ln. 13; p. 101, ln. 25 – p. 102, (TGG has one contract that is for delivery in equivalent quality.), ln. 3; p. 183, lns. 17 – p. 184, ln. 4; p. 192, lns. 17 – 20.

²⁰ Methane is also referred to as “residue gas.”

²¹ NGLs are Natural Gas Liquids.

²² Tr. p. 16, ln. 23 – p. 17, ln. 7 & p. 37, lns. 3 – 9.

²³ TGG Ex. 6, 2009 Contract, Article 7.

²⁴ Tr. p. 18; p. 45, ln. 14 – p. 46, ln. 5.

²⁵ Tr. p. 16, ln. 16 – p. 17, ln 15.

²⁶ Tr. p. 43, lns. 19 – 23; p. 91, lns. 14 – 20; & p. 92, lns. 14 – 16.

²⁷ The GPM content of NGLs are referred to herein simply as “GPM content.”

lean to rich.²⁸ On a relative basis, lean gas contains a lower content of NGLs than rich gas. As previously noted, the Legacy System receives gas that is produced primarily from two formations: The Cotton Valley formation and the Haynesville formation. In general, natural gas production from the Cotton Valley formation is richer than natural gas production from the Haynesville formation.²⁹ The Legacy System receives gas at forty-one delivery points that is richer than the gas received at the remaining delivery points.³⁰

The processor does not receive the actual gas introduced into the system by the shipper with whom the processor contracted. Thus, the natural gas received by a processor who contracted with a particular shipper may not contain the components of raw gas that the shipper delivered into the system in the same proportion. This is because the gas deliveries between shippers and processors are executed by transporting equivalent quantities of a *blended stream*. As previously noted TGG has one exception to this arrangement. Transportation for that single customer is offered on the basis of equivalent quality.³¹

Sabine has fifteen producing gas wells connected to the TGG Legacy System: (1) Hemby Well #3 (254417), (2) Hemby Well #4 (256352), (3) Hope #1 (244249), (4) Woodfin #1H (250062), (5) Carolyn Bell Deep 1H (257780), (6) Carolyn Bell Deep 2H (258360), (7) Rollie Sims Deep 1H (258162), (8) Rollie Sims Deep 2H (260128), (9) Mary Waldron Deep 1H (258519), (10) Mary Waldron Deep 2H (260976), (11) Allen #5 (260966), (12) Foote #3H (261361), (13) Foote #4H (261618), (14) Foote #5H (262134), and (15) Grace Young 2H (260018).³²

TGG has two transportation contracts with Sabine to transport on the Legacy System: (1) the 2009 Contract and (2) the 2010 Contract. The term of the 2009 Contract was from December 1, 2008 to November 30, 2010. The contracts contain an “evergreen” provision that perpetuated the contract from month-to-month until terminated by either party upon thirty (30) days’ advanced written notice to the other party.³³ TGG has provided Sabine notice of its intent to terminate the 2009 Contract.³⁴ The primary term of the 2010 Contract expires September 27, 2015. Both contracts contain provisions related to the interruption of service for operational reasons. Pursuant to the applicable provision of the 2010 Contract, TGG has notified Sabine of

²⁸ In general, natural gas production at other locations may be richer than gas produced from the formations that are the source of natural gas transported on the Legacy System. The key factual point for purposes of the dispute in this case is that the GPM content contained in the natural gas that is delivered to the Legacy System varies.

²⁹ Tr. p. 16, ln. 18 – p. 18, ln. 18; p. 28, lns. 7 – 9; p. 46, lns. 17 – 25; p. 63, ln. 22 – p. 64, ln. 2; & p. 116, lns. 6 – 12. The fact that production from the Haynesville formation is lean is not disputed. Tr. p. 150, lns. 6 – 11. (Ms. Reynolds, who testified on behalf of Sabine conceded that production from the Haynesville formation is “very dry.”)

³⁰ There are approximately 69 delivery points on the Legacy System. TGG has classified approximately 41 as rich, 16 as lean, and 12 are classified as a blend. TGG Ex. 1 & Tr. p. 70, lns. 12 – 18. (If all meters on map were counted we would the specific number of meters may be ascertained.)

³¹ Tr. p. 101, ln. 25 – p. 102, ln. 2, Examiners’ Ex. 1, (The number included in the well identifier is the RRC ID Number.).

³² A sixteenth well is attached to the legacy system, Foote#1 (260612). This well has never produced.

³³ Tr. p. 149, lns. 8 – 10.

³⁴ TGG Ex. 7.

its intent to restrict Sabine's nominations to those points of delivery physically accepting a gas composition which most resembles that of the gas delivered by Sabine to TGG's points of receipt. Namely, TGG provided notice of its intent to cease delivery of equivalent quantities to DCP Carthage for operational reasons.³⁵

Sabine began using the TGG Legacy System to transport its production in 2009.³⁶ TGG first approached Sabine in December of 2008 and initiated negotiations for the 2009 Contract.³⁷ Those negotiations involved the two wells operated by Sabine. TGG subsequently approached Sabine to expand transportation services to Sabine's new production on the west side of the Legacy System under that contract. Before the end of the primary term of the 2009 Contract, TGG was providing gathering and transportation service for the following eleven wells: (1) Hemby Well #3 (254417), (2) Hemby Well #4 (256352), (3) Hope #1 (244249), (4) Woodfin #1H (250062), (5) Carolyn Bell Deep 1H (257780), (6) Carolyn Bell Deep 2H (258360), (7) Rollie Sims Deep 1H (258162), (8) Rollie Sims Deep 2H (260128), (9) Mary Waldron Deep 1H (258519), (10) Mary Waldron Deep 2H (260976), and (11) Allen #5 (260966). Negotiations for the 2010 Contract expanded to include four additional wells: (1) Foote #3H (261361), (2) Foote #4H (261618), (3) Foote #5H (262134), and (4) Grace Young 2H (260018).

Except for production from the Hope #1 (244249) and Allen #5 (260966) all of Sabine's production is from the Haynesville Shale formation.³⁸ Those two wells produce from the Cotton Valley.³⁹ Thus, the vast majority of Sabine's production is considered lean natural gas relative to the other producers on the system.⁴⁰ Sabine delivers its production at ten distinct delivery points. Only two delivery points receive what TGG has classified as rich gas. Thus, of the forty-one delivery points that TGG has classified as receiving rich gas, only two receive gas that is produced by Sabine.

TGG delivers all of Sabine's gas to the DCP Carthage Plant.⁴¹ Sabine has a contract with DCP Carthage to process the natural gas that ends in June, 2013.⁴² Residue gas that is processed by Sabine at DCP Carthage is later sold by Sabine, at the tailgate of the DCP Carthage plant, to a natural gas purchaser. Sabine has a contract through October 31, 2013 for the sale of residue gas that is processed at DCP Carthage.⁴³ The NGLs are sold to the processor. The most prevalent NGL components that arrive at DCP Carthage are ethane and propane. At times ethane makes

³⁵ TGG Ex. 9.

³⁶ Tr. p. 115, ln. 21 – p. 116, ln. 8

³⁷ Tr. P. 146, lns. 16 – p.

³⁸ Tr. p. 172, lns. 7 – 9.

³⁹ The Hope #1 actually is a commingled well and produces from the Haynesville, Bosier, and Cotton Valley formations. Tr. p. 148, lns. 12 – 15.

⁴⁰ Tr. p. 27, ln. 21 – p. 28, ln. 6.

⁴¹ 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.

⁴² Tr. p. 173, lns. 6 – 7 & p. 173, lns. 13 – 24.

⁴³ Tr. p. 172, lns. 19 – 22.

up about 52% of the total NGL components and propane makes up about 25% of the NGL components.⁴⁴

Sabine's daily transportation on the system approximates 12,000 to 14,000 MMBtu per day.⁴⁵ Thus, it represents approximately 10% to 12% of the transportation volumes on the Legacy System. The majority of Sabine's production is from the thirteen wells operated by Sabine that are located on the western side of the Legacy System. The two wells on the eastern side, located on the 12-inch lateral on the north-eastern side of the system, the North Scottsville Lateral, produce a smaller quantity of gas relative to the other thirteen wells. These two wells account for less than 10% of Sabine's average daily deliveries onto the Legacy System.⁴⁶

Sabine's product, however, most likely does not physically arrive at the DCP Carthage redelivery point. TGG's witness explained that if another shipper nominates deliveries to the DCP Crossroads plant, then that production will likely leave the pipeline system at that point. Any of Sabine's production that does not leave the system at the DCP Crossroads plant, will likely leave the system at the CenterPoint Waskom plant if another shipper nominates deliveries there. Similarly, any of Sabine's production from either the Hope #1 or Woodfin #1 well that enters the Legacy System on the northern 12-inch lateral will likely leave the system at the CenterPoint Waskom plant if another shipper nominates deliveries there.⁴⁷

The GPM content of the gas that is delivered into the system by Sabine is lower than the GPM content of the equivalent quantities of gas that are redelivered to the DCP Carthage plant.⁴⁸ This fact is undisputed. Ms. Travieso, who testified on behalf of TGG stated that she had no doubt that Sabine was being paid on the NGL production of other producers delivered to DCP Carthage.⁴⁹ Ms. Reynolds, who testified on behalf of Sabine, agreed that the GPM content at DCP Carthage is higher than the GPM content of Sabine's gas that is delivered into the Legacy System.⁵⁰ Ms. Reynolds stated further as follows:

The GPM of Sabine's gas is different than the GPM of the gas that goes into the inlet of DCP's plant. And Sabine is paid the – based upon the inlet GPM at Sabine – at DCP's plant.⁵¹

Thus, Sabine does not dispute that Sabine is credited for larger volumes of NGLs than what Sabine delivers into the Legacy System.⁵²

⁴⁴ Tr. p. 181, lns. 12 – p. 182, ln 2.

⁴⁵ Tr. p. 128, lns. 23 – 24.

⁴⁶ Tr. p. 25, lns. 1 – 13.

⁴⁷ Tr. p. 22, ln. 13 – p. 26, ln 11.

⁴⁸ Tr. p. 30 – 42.

⁴⁹ Tr. p. 28, ln. 14 – p. 42, ln. 25, p. 122, ln. 10 – p. 123, ln. 16.

⁵⁰ Tr. p. 201, ln. 19 – p. 207, ln. 6 & p. 218, ln. 8 -

⁵¹ Tr. p. 205, lns. 1 – 4.

⁵² Tr. p. 219, lns. 9 – 18.

Ms. Travieso testified that the fact that Sabine is paid on a blended stream has impacted the operations of the pipeline. Other customers who have rich Cotton Valley Gas perceive that they have been harmed. As a result some customers have left the system and others have threatened litigation. Additionally, Ms. Travieso asserted that the business model that results from paying Sabine on a blended stream makes it difficult to attract new transportation contracts.⁵³ Ms. Travieso asserted that it impacts the viability of TGG's Legacy System.

In order to more accurately identify the deliveries of gas into the Legacy System and assure that every shipper is compensated for the full value of the product delivered, TGG proposed a component balancing arrangement that would be applicable to all shippers and all processors ("Component Balancing Agreement"). Essentially, TGG proposed that there be a reconciliation process to assure that shippers were accurately compensated for the product they delivered into the system.

TGG approached all shippers on the system and, with the exception of Sabine, all shippers were in favor of a component balancing mechanism. This includes shippers of lean gas on the system.⁵⁴ Sabine is not the only lean producer whose production is delivered to DCP Carthage based upon equivalent quantities.⁵⁵ Nevertheless, TGG's witness testified that all processors were supportive of the component balancing agreement.⁵⁶ Further, TGG hosted a town hall meeting that was conducted at the Railroad Commission for all shippers on the system and attached plants to discuss a component balancing agreement. All shippers except for Sabine were in favor of an agreement that would true up or reconcile the liquids that they produce.⁵⁷ Sabine has not reached an agreement with TGG although Sabine and TGG have been in negotiations over a component balancing agreement since June of 2012.⁵⁸

The proposed Component Balancing Agreement would require all processors to track the natural gas received by (1) quantity of gas in MMBtus, or its heat content, and (2) volume of in Mcf. The processor would also have to calculate the composition of gas tracking the residue gas, methane, and the NGLs. Conversely, TGG would provide to each processor information related to gas that is redelivered to the processor for each shipper that delivers gas to the processor's delivery point. That information would include the quantity of gas in MMBtus, volume in Mcf, and the GPM content of the shipper's gas. The processor would use that information to settle

⁵³ Tr. p. 46, lns. 13 – 25.

⁵⁴ Tr. p. 123, ln. 20 – p. 124, ln. 4.

⁵⁵ Tr. p. 187, lns. 4 – 17.

⁵⁶ Tr. p. 47, ln. 11 – p. 53, ln. 20 & Tr. p. 76, ln. 20 – p. 77, ln. 1; Tr. p. 103, ln. 18 – p. 106, ln. 14

⁵⁷ Tr. p. 50, ln. 24 – p. 51, ln. 9 & TGG Ex. 5 Letters from various shippers in support of component balancing agreement: BP American Production Company, Endeavor Pipeline, Inc. & Valence Operating Co.

⁵⁸ Tr. p. 49, lns. 22 – 24, p. 226, ln. 12 – p. 228, ln. 20 & TGGT Ex. 4, Electronic Transmission from TGGT to Sabine transmitting proposed Component Balancing Agreement.

with the shippers.⁵⁹ The Component Balancing Agreement also contained provisions intended to address imbalances.⁶⁰

Without Sabine's participation, TGG is unable to implement a component balancing agreement or NGL allocation on a system-wide basis.⁶¹ As an alternative to the Component Balancing Agreement, TGG proposed that the service provided to Sabine under the transportation agreement be modified. Namely, TGG proposed that Sabine's gas delivered to the Legacy System would be redelivered to either DCP Crossroads or Waskom. TGG contended that while this was an imperfect solution to the GPM allocation, restricting Sabine's nominations to DCP Crossroads and Waskom would greatly improve the problem of diluting the GPM content of the relatively richer gas.

Sabine's nominations received at those processing plants would closely match the NGLs from the producer's own production.⁶² In fact, the GPM content of gas delivered to DCP Crossroads Plant and the CenterPoint Waskom is lower than the GPM content at DCP Carthage.⁶³ In other words, the gas quality that would arrive at the those plants would "be in line with the production that Sabine is putting into the system."⁶⁴ The processing plant at Waskom already employs an allocation process in calculating compensation provided to shippers that takes into account the GPM content at the inlet. Therefore, Waskom attempts to match the compensation to the GPM content of the shipper's product.⁶⁵ Thus, TGG concluded that limiting Sabine's delivery to DCP Crossroads and Waskom would minimize the dilution problem caused by the lower GPM content of the production from Sabine.

5. Applicability of Rule 73.

a. Introduction

TGG argued that Rule 73 did not apply because it was not terminating service. As originally filed, TGG asserted that it would continue to provide transportation service for production from wells operated by Sabine to other points on the pipeline system. Specifically, TGG would continue to provide service to DCP Crossroads. TGG ultimately amended its complaint. In the amended complaint TGG indicated that it would continue to provide service to DCP Crossroads *and* Waskom. As is evident, TGG would, of course, continue to provide transportation to DCP Carthage pursuant to a Component Balancing Agreement administered by TGG or a third-party.

⁵⁹ TGG Ex. 1, Component Balancing Agreement, Article I, pp. 2 – 3.

⁶⁰ TGG Ex. 4, Component Balancing Agreement, Articles II & 3, pp. 4 – 6.

⁶¹ Tr. p. 121, lns. 16 – p. 122, ln. 9.

⁶² Tr. p. 53, ln. 21 – p. 56, ln. 3.

⁶³ Tr. p. 71, ln. 14 – p. 71, ln. 25.

⁶⁴ Tr. p. 54, lns. 16 – 20 & Tr. p. 129, lns. 15 – 25.

⁶⁵ Tr. p. 27, lns. 12 – 20 & p. 55, lns. 5 – 14; p. 106, ln. 18 – p. 108, ln. 11; p. 124, ln. 22 – p. 125, ln. 12; & p. 125, ln. 18 – p. 126, ln. 15.

Sabine maintained that by discontinuing the provision of transportation of equivalent quantities to DCP Carthage, TGG was, in fact, discontinuing service. Accordingly, as noted above, Sabine requested a ruling be issued requiring TGG to continue providing service until such time that the Commission determines, after a hearing, that TGG should be authorized to discontinue service pursuant to Rule 73. A hearing was held on Sabine's motion on February 21, 2013, and a ruling was issued on March 20, 2013.⁶⁶

b. Rule 73 and its Administrative History

Rule 73 provides that no pipeline operator shall physically disconnect its facilities from or cease providing pipeline services to any well or lease without first obtaining either (1) written consent of the well or lease operator for the proposed disconnect or termination; or (2) written permission from the Commission. Thus, it applies to situations where a pipeline operator seeks to physically disconnect its facilities or cease providing pipeline services.

The substance of Rule 73(a) was initially adopted prior to 1920. As initially adopted, the rule was identified as Rule 28. The rule did not impose any limitations regarding the disconnection of a well from a pipeline. The rule imposed a duty on the pipeline operator prior to connecting any well to its pipeline system. Namely, the rule required that the pipeline operator not connect any oil and gas well without first being provided a certificate from the Commission that the well operator is in compliance with oil and gas conservation laws of the State. The substance of the original rule, Rule 28, is similar to the substance Subsection (a) of current Rule 73 and is set forth below:

Rule 28 – Pipe Line Companies – Connection with Oil or Gas Wells. – Pipe line companies shall not connect with oil or gas wells until the owners or operators thereof shall furnish a certificate from the Railroad Commission of Texas that the conservation laws of the State have been complied with; provided, this rule shall not prevent the temporary connection with any well or wells in order to take care of production and prevent waste until opportunity shall have been given the owner or operator of said well to secure certificate showing compliance with the conservation laws of the State.⁶⁷

The statutory basis of the rule appears to have been the 1919 *Conservation of Oil and Gas Resources Act*.⁶⁸ Rule 28 paralleled closely the language of Article 5 of that act:

Owners or operators of gas wells shall, before connecting with any oil or gas pipe lines, secure from the Railroad Commission a certificate showing compliance with oil and gas conservation laws of the State and conservation orders of the

⁶⁶ The Interim Rule is attached to this Proposal for Decision as PFD Exhibit 1.

⁶⁷ Oil and Gas Conservation Rules and Regulations for the Conservation of Crude Oil and Natural Gas, Oil and Gas Circular No. 16-B, Railroad Commission of Texas (July 1, 1920), Rule 28.

⁶⁸ *Conservation of the Oil and Gas Resources of the State; Defining "Waste" and Empowering the Railroad Commission to Make and Enforce Regulations with Reference to Same*, Acts 1919, 36th Leg., p. 285, ch. 155, art 5.

Railroad Commission. *Pipe line companies shall not connect with oil or gas wells until the owners or operators thereof shall furnish certificates from the Railroad Commission that the conservation laws of the State have been complied with, provided this Act shall not prevent a temporary connection with any well or wells in order to take care of production and prevent waste until opportunity shall have been given the owner or operator of said well to secure certificate showing compliance with the conservation laws of the State.*⁶⁹

By 1934, Rule 28 was revised and a sentence was added that imposed a limitation on pipeline operators prior to disconnecting a well. The new sentence read as follows:

No pipe line shall disconnect from any well or lease except upon the order of the Railroad Commission of Texas without first securing the permission so to do from the Commission or without the consent of the owner or his duly authorized agent.⁷⁰

The statutory authority for this change appears to have been legislation enacted in 1931 related to pipelines.⁷¹ That legislation included the following language:

No common carrier by pipe line within this State shall hereafter abandon any of its connections or lines except under authority of a permit granted by the Railroad Commission, or with written consent of the owner or duly authorized agent of the wells to which connections are made.

The Rule does not appear to have been modified until 1967. In 1967, the rule was renumbered as Rule 73.⁷² The rule clarified that the well operator was to provide a Form SW-1, the predecessor to the current P-4 *Certificate of Compliance and Transportation Authority (Certificate of Compliance)*, to the pipeline operator. The Commission added a new subsection (B) to reflect the language adopted by the 44th Legislative Session in 1935.⁷³ The requirement precluding disconnection without approval from the operator or the Commission, however, was not modified further.

When the Texas Administrative Code was initially published in 1976, Rule 73 was relocated at 16 *TEX. ADMIN. CODE* § 3.68. In 2003, the rule was moved from 16 *TEX. ADMIN. CODE* § 3.68 to 16 *TEX. ADMIN. CODE* § 3.73. At this time, the requirement precluding disconnection without written consent of the well operator or the approval of the Commission

⁶⁹ Id (Emphasis added).

⁷⁰ Oil and Gas Conservation Rules and Regulations for the Conservation of Crude Oil and Natural Gas, Oil and Gas Circular No. 16-B, Railroad Commission of Texas (May 15, 1934), Rule 28.

⁷¹ Acts 1931, 42nd Leg, p. 58, ch. 28, § 6a. Currently codified at *TEX. NAT. RES. CODE ANN.* § 111.025 and made applicable to natural gas pipelines through the operation of Rule 73.

⁷² Texas Oil and Gas Statewide Rule Book, R.W. Byram & Co. (March, 1965).

⁷³ See, Acts 1935, 44th Leg., p. 180, ch. 76, § 11.

was modified further and a new subsection (b) was created isolating all prerequisites to disconnection. The provision is set forth below:

(b) No pipeline operator shall physically disconnect its facilities from or *cease providing pipeline services* to any well or lease without first obtaining:

- (1) written consent of the well or lease operator for the proposed disconnect or termination; or
- (2) written permission from the Commission. This section does not apply to temporary suspensions of service authorized under other rules in this title or attributable to maintenance, safety, or product quality issues.⁷⁴

It is at this juncture that the following clause appeared in the rule: “cease providing pipeline services.” In the preamble the Commission explained that the process established in the rules was “intended to apply to circumstances in which the pipeline operator desired a permanent cessation of service, whether by physical disconnection or otherwise.” Thus, it appears that the language was not intended to extend the prior scope of the rule which was limited by its statutory source to the discontinuance or abandonment of any connection.

As is evident from a review of the administrative history, Rule 73 has existed for several decades. There have, however, been few cases filed under the rule. This observation was made in a proceeding conducted in 1995 (“*Valero Rule 73 Case – 1995*”).⁷⁵ In *Valero Rule 73 Case – 1995*, Valero had argued that Rule 73(a) did not apply because it did not “disconnect” the complainants; it merely suspended service by closing the valve between its pipeline and the complainants’ wells.⁷⁶ It appears that the language added to the rule, “cease providing pipeline services,” was intended to capture that scenario.

The Examiners have identified nine cases that resulted in a hearing related to Rule 73. In each case the issue evaluated was whether the pipeline operator’s actions terminated all service to the well and shut-in the operator.⁷⁷

1. Tex. R.R. Comm’n, *Hearing on the Motion of Bobby G. Redd and Carolyn Linder Pursuant to Statewide Rule 73 to Determine if Arco Oil & Gas Co. has Abandoned its Connection with the Lena Gaines and E. L. Walker Leases in the East Texas Field, Gregg County, Texas*, Docket No. 6E-94,647 (Final Order October 22, 1990);

⁷⁴ 16 TEX. ADMIN. CODE § 3.73(b) (Emphasis added).

⁷⁵ Tex. R.R. Comm’n, *Commission-Called Hearing to Show Cause Why Valero Transmission, L.P. Should Not be Found in Violation of Statewide Rule 73 and the Common Purchaser Act Regarding its 20" Pipeline Between Kelsey and Falfurrias, Brooks County, Texas*, Docket No. 04-0207250 (Final Order August 29, 1995) (“*Valero Rule 73 Case – 1995*”). Proposal for Decision, p. 9.

⁷⁶ *Id.*

⁷⁷ Copies of the Proposal for Decisions and orders are attached as Proposal for Decision Exhibit 2.

2. Tex. R.R. Comm'n, *Application of Citgo Pipeline Pursuant to Statewide Rule 73 to Disconnect Wells and /or Leases on the Comanche Gathering System, Pecos and Ward Counties, Texas*, Docket No. 8-95,979 (Final Order August 5, 1991);
3. Tex. R.R. Comm'n, *Commission Called Hearing on the Complaint of Go-Energy Company Against Union Carbide Corporation and Seadrift Pipeline Corporation Alleging Discriminatory Practices in the Purchase and Transportation of Gas, Richie (4150) and Richie (4400) Fields, Goliad County, Texas*, Docket No. 02-0204130 (Proposal for Decision March 8, 1994);⁷⁸
4. Tex. R.R. Comm'n, *American Petrofina Pipe Line Company's and Highland NGL Pipeline Company's Joint Application for Permission to Discontinue Service Pursuant to Statewide Rule 73, Various Counties, Texas*, Docket No. 08-0208730 (Final Order July 18, 1995);
5. Tex. R.R. Comm'n, *Commission-Called Hearing to Show Cause Why Valero Transmission, L.P. Should Not be Found in Violation of Statewide Rule 73 and the Common Purchaser Act Regarding its 20" Pipeline Between Kelsey and Falfurrias, Brooks County, Texas*, Docket No. 04-0207250 (Final Order August 29, 1995)
6. Tex. R.R. Comm'n, *Commission-Called Proceeding to Give D-S Pipe Line Corporation an Opportunity to Appear and Show Cause Why it Should not be Found in Violation of Statewide Rule 73 as to its Texas Plains Panhandle Gathering System, Carson, Gray, Hutchison, and Wheeler Counties*, Docket No. 10-0207681 (Final Order August 29, 1995);
7. Tex. R.R. Comm'n, *Commission-Called Hearing on the Complaint of Mark IV Operating, Inc. to Give Valero Transmission, L.P., an Opportunity to Appear and Show Cause why it Should not be Found in Violation of Statewide Rule 73 as to its 16" Pipeline in Wilson County, Texas*, Docket No. 01-0208194 (Final Order December 12, 1995);
8. Tex. R.R. Comm'n, *Application of MidCon Texas Pipeline Corp. Pursuant to Statewide Rule 73 to Disconnect its Index 61 Pipeline, Polk, Hardin, and Jefferson Counties*, Docket No. 03-0210393 (Final Order, January 23, 1996);
9. Tex. R.R. Comm'n, *The Application of Warren Petroleum Company, LP Pursuant to Statewide Rule 73 to Disconnect the J.R. Lindley, E. McKinney Lease, Well No. 1 and E. McKinney "A" Lease, Well No. 1, Young County Regular (Gas) Field, Young County, Texas*, Docket No. 09-0218876 (Final Order July 14, 1998);

In each of these cases the Commission considered the disconnection of service or discontinuance of service in the context of wells that would potentially be shut-in and would no longer receive only service from the pipeline operator.

⁷⁸ Proceeding settled after *Proposal for Decision* was issued but before case was presented at Conference.

The Examiners are not aware of any other contested cases in which a hearing was held after 1998. The only other Rule 73 proceeding is a case currently pending before the Commission: Oil & Gas Docket No. 03-0281477, *Complaint Filed by F.I.G. Energy, LLC., and the Application of Eagle Rock Desoto Pipeline, L.P., to Disconnect Facilities and Cease Providing Pipeline Services to F.I.G. Energy, L.L.C.* That case involves the shut-in of a well operator.

c. Initial Ruling on Applicability

As noted above, Sabine requested that a ruling be issued requiring TGG to continue providing service until such time that the Commission determines, after a hearing, that TGG is authorized to discontinue service pursuant to Rule 73. A hearing was held on Sabine's motion on February 21, 2013, and a ruling was issued on March 20, 2013.⁷⁹ All parties agreed that TGG may cease providing service prior to issuance of a Final Order **only if** Rule 73 did not apply to this proceeding. Based upon the pleadings, as they existed on March 20, 2013, and resolving any disputed facts in favor of the respondent, the Examiners found that Rule 73 applied. Consequently, the Examiners issued a ruling requiring that TGG continue to provide service until a Final Order was issued in this case. No interim appeals were filed.

The Examiners determined that Rule 73 applied for three reasons: First, it was not clear from the pleadings that TGG's decision was not a physical disconnection. In the application, TGG equivocated regarding actual delivery of any of Sabine's production to the DCP Carthage Plant. Thus, it appeared that failure to deliver gas to the DCP Carthage plant was a physical discontinuance of gas deliveries to the DCP Carthage plant.

Second, it was not clear from the pleadings where production received from meter 923 and 924 flowed. These meters are associated with two wells: The Hope #1 and the Woodfin #1H. These wells are located in on the north-eastern 12-inch lateral, referred to as the North Scottsville lateral. At the time the motion was considered, TGG stated that it would deliver all of Sabine's production to DCP Crossroads. It was not clear from the pleading that production from the Hope #1 and the Woodfin #1H would be redelivered to DCP Crossroads. Thus, the Examiners found that production from Hope #1 and the Woodfin #1H was effectively disconnected if the only delivery point available for production from those wells was DCP Crossroads.

Third, the Examiners determined that TGG's discontinuance of delivering an equivalent quantity of Sabine's production to the DCP Carthage Plant was encompassed by Rule 73. The Examiners found that that service was a pipeline service and the rule requires agreement from the well operator or prior approval from the Commission.

The first and second basis for the Examiners' initial ruling reflected in **Examiners' Letter No. 3** are based upon a plain reading of Rule 73 as it relates to physical disconnections. The third basis is an issue of first impression. The Examiners are not aware that the Commission

⁷⁹ The interim ruling, **Examiners' Letter No. 3**, is attached to this *Proposal for Decision* as PFD Exhibit 1.

has previously considered this issue. The Examiners are of the opinion, however, that the issue raised by the third basis is not reached.

This is because an issue that was not raised at the time was whether Rule 73 applied to the facts of this case where (1) the pipeline operator continues to provide transportation service and only seeks a modification of the service provided, (2) the pipeline operator contends that the proposed service modification is contemplated by the contractual terms, and (3) the pipeline operator is willing to redeliver to all points on the pipeline under certain contractual conditions.

d. *Examiners' Analysis Regarding Applicability of Rule 73*

1. *Introduction*

As noted above, the initial ruling regarding the applicability of Rule 73 was based upon the pleadings, as of the date of the Interim Ruling, March 20, 2013. On April 2, 2013, an amendment to the application was filed by TGG. A hearing on the merits was held on April 3, 2013. The issue of the applicability of Rule 73 may now be evaluated based upon the amended pleadings and the evidence in the record. Furthermore, the Examiners have conducted a review of the administrative history of Rule 73. The evidence and the administrative history provide a full record upon which the Commission may evaluate issues regarding the applicability of Rule 73 to this case.

2. *Changes in the Pleading*

The changes in the pleading ensure that Sabine will continue to receive service off of the northeastern 12-inch lateral, the North Scottsville Lateral, for any production that is currently delivered to that lateral line. Namely, production from the Hope #1 and the Woodfin #1 will be delivered to the CenterPoint Waskom processing plant. Further, the record clarified that deliveries could be made to DCP Crossroads by displacement. Thus, the Hope #1 and the Woodfin #1H are no longer shut-in if TGG modifies its service to Sabine and limits deliveries to the CenterPoint Waskom and DCP Crossroads processing plants.

3. *Physical Delivery to DCP Carthage*

The Examiners find that TGG established that generally the gas that Sabine delivers into the Legacy System is not physically delivered to DCP Carthage. There was no evidence presented that more than a hypothetical quantity of Sabine's production arrives at DCP Carthage. Furthermore, any of Sabine's production that is delivered into the northeastern 12-inch lateral, the North Scottsville Lateral is of such small quantities that it is unlikely to pass the redelivery points managed by TGG for the CenterPoint Waskom processing plant.⁸⁰

⁸⁰ Tr. p. 22, ln. 17 – p. 26, ln. 11 & p. 79, lns. 11 – 19.

4. *Application of Rule 73 to Facts of this Case*

As noted above, the applicability of Rule 73 to the facts of this case is an issue of first impression. The relevant facts are as follows: (1) the pipeline operator continues to provide transportation service and only seeks a modification of the service provided, (2) the pipeline operator contends that the proposed service modification is contemplated by the contractual terms, and (3) the pipeline operator is willing to redeliver to all points on the pipeline under certain contractual conditions. The Examiners find that under such circumstances Rule 73 does not apply as the issue is not a physical disconnection of service or a discontinuance of service that results in the well operator being shut in.

Under the facts of this case it appears that Sabine's contention is that the proposed terms and conditions of service are not contemplated by the contract. The appropriate recourse is a proceeding in district court to settle the disputed claim. By obtaining a ruling from this Commission that Rule 73 requires unmodified service under the existing terms of the contract, the District Court's jurisdiction to determine a contractual dispute is set aside.

At the hearing, in its opening statements, Sabine appeared to concede that the issue in this case is contractual and economic by noting that this case is not within the principle ambit of Rule 73:

So the real purpose of Rule 73 is to enable pipelines to disconnect marginal wells or unsafe wells or to discontinue service when the pipeline itself has integrity issues because of age or corrosion or that sort of thing. It's not a mechanism to do what TGG proposes to do in this case, which is to disconnect producers based on the economic or the components of natural gas that's being transported. This entire proceeding is driven by economics.⁸¹

TGG has not proposed the disconnection of Sabine from the Legacy System. The filing itself was driven, in part, by Sabine's insistence on the applicability of Rule 73. Sabine appears to concede, however, that the dispute is not resolved by application of Rule 73. The Examiners concur and find that the rule is inapplicable to the specific facts of this case. The issue in this case is a contractual dispute.

If the Commission determines that Rule 73 applies, the Commission must first evaluate TGG's arguments that it has complied with Rule 73 by obtaining written consent from the well operator. If the Commission finds that written consent was not obtained, the Commission must evaluate the proposed abandonment in the context of the issues delineated in that Rule.

⁸¹ Tr. p. 140, lns. 8 – 19.

6. Written Consent

a. Introduction

Although TGG filed this proceeding, TGG contended that it had complied with Rule 73. TGG argued that Sabine had previously provided written consent to any change in the transportation service provided by TGG to Sabine, including disconnection or discontinuance of service. Rule 73(b)(1) provides that no pipeline operator may 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 for the proposed disconnect or termination. Sabine, on the other hand, contended that Rule 73 applied despite contractual provisions and argued that the contractual provision could not qualify as “written consent” required by Rule 73.

b. 2009 Contract Termination Provisions

The 2009 Contract applies to the particular wells noted above. The 2009 Contract provided that the agreement would be in full force and effect from March 1, 2009 through November 30, 2010 and shall continue from month-to-month thereafter unless and until terminated by either party upon at least thirty (30) days’ advanced written notice to the other Party.⁸² TGG explained that it has provided its termination notice. TGG contended that this provision, contained in a contract signed by Sabine, constitutes written consent to disconnection or discontinuance of service as required by Rule 73(b).

c. 2009 Contract and 2010 Contract Provisions Related to Interruptions

The 2010 Contract applies to the particular wells noted above. The primary or initial term for that contract runs from September 27, 2010 to September 27, 2015. Thus, the 2010 Contract is still in its primary term. The 2009 Contract and the 2010 Contract provide that gathering and delivery of gas shall be subject to partial or total interruption or cessation at TGG’s reasonable discretion for safety and operational reasons.⁸³ On November 30, 2012, TGG indicated that it would no longer deliver equivalent quantities of gas to the DCP Carthage delivery point on behalf of Sabine for safety and operational reasons.⁸⁴ As with the termination provisions of the 2009 Contract, TGG contended that this provision, contained in contracts signed by Sabine, constitutes written consent to disconnection or discontinuance of service as required by Rule 73(b).

⁸² Tr. p. 59, lns. 10 – 22.

⁸³ TGG Ex. 6, 2009 Contract, Article II, Section 2.04, pp. 2- 3 (“[I]t is specifically agreed and understood by the Parties hereto that the receipt, transportation, or redelivery of Gas hereunder by Transporter shall be subject, at any time and from time to time, to partial or total interruption or cessation at Transporter’s sole reasonable discretion for safety and operational reasons.”) & TGG Ex. 8, 2010 Contract, Exhibit A, Section 5.05, pp. A-10 – A-11 (“[I]t is specifically agreed and understood by the Parties that the receipt, gathering and delivery of Gas hereunder by Gatherer shall be subject, at any time and from time to time, to partial or total interruption or cessation at Gatherer’s reasonable discretion for safety and operational reasons.”).

⁸⁴ TGG Ex. 9, November 20, 2012 Correspondence from Brian Essner, Vice President, Commercial & Business

d. Examiners' Analysis

The Commission has previously considered and rejected the argument that the contractual agreement may be considered written consent in the context of Rule 73. In the preamble to revisions to the rule various comments were noted of pipeline operators who argued that they should not have to go beyond what their contractual agreements require. The Commission specifically noted that the Commission declined to “define ‘consent’ in the rule and the Commission declines to validate the ‘pre-granted’ consent language in contracts between operators and producers.”⁸⁵ Additional discussion in the preamble is set forth below:

Various pipeline operators commented that they should not have to go beyond what their contractual agreements require regarding consent for disconnects, and that ‘prior written consent’ would include any prior written agreement between the parties, including but not limited to a gas purchase agreement, contract, letter agreement, or other documentation The Commission disagrees with these comments As to disconnect issues, the Commission expects the pipeline operators to seek consent for a proposed disconnect or cessation of service.⁸⁶

Based upon the administrative history of the rule the Examiners find that TGG’s arguments that the contract qualifies as “written consent” to disconnect or discontinue service are misplaced. The contract language may not satisfy the requirement of Rule 73 that the pipeline operator obtain written consent of the well operator prior to disconnection of discontinuance of service. To the extent that the Commission determines that Rule 73 applies to the facts of this case, and if the Commission concludes that Sabine has not previously consented to the proposed modification of service by entering into the 2009 Contract and the 2010 Contract, the Commission must evaluate the Rule 73 application in light of the factors set out in Rule 73(c)(4).

7. Application of the Rule 73 Factors

a. Introduction

In determining whether or not to approve a request to physically disconnect from or cease providing service to a well or lease, the Commission may consider relevant factors, including but not limited to the following:

1. Operational integrity of the pipeline facilities;
2. Operational integrity of the equipment on the well or lease;
3. Cost of continued operation of the physical connection or service;
4. Risk to public safety, human health and the environment;
5. Availability of alternative transportation;
6. Protection of correlative rights; and
7. Prevention of waste.

⁸⁵ 28 *TexReg* 9243. A copy of the preamble is attached as Exhibit 1.

⁸⁶ 28 *TexReg* 9243.

b. Operational Integrity of the Pipeline Facilities, Equipment on the Well or Lease, Cost of Continued Operation of the Physical Connection or Service, and Risk to Public Safety, Human Health, and the Environment.

Ms. Travieso asserted that other well operators that deliver gas into the system have requested a solution to the dilution issue. She explained that one shipper has left the system and gone to a competitor.⁸⁷ The fact that shippers left the system is conceded by Sabine.⁸⁸ She contended that it harms other producers on the system who are producing rich gas into the system because those producers do not receive full value for what is delivered into the system. She maintained that some customers have threatened litigation if a solution could not be found to address the NGLs dilution issue. Finally, Ms Travieso claimed that it was difficult to attract new customers to the system and noted that since June of 2010 TGG has not attracted any new customers. She concluded that this would ultimately impact the viability of the Legacy System.⁸⁹

Sabine did not concede that continued delivery to DCP Carthage of Sabine's production would impact the operational integrity of the pipeline or equipment operated by TGG. In fact, Sabine argued that transportation of its production enhanced the safety of the Legacy System. Transportation of natural gas with a higher NGL content raises safety concerns that are not present with the drier gas produced by Sabine.⁹⁰

The Examiners find that TGG has established that continued delivery of Sabine's production to DCP Carthage raises operational and cost concerns that may adversely impact the operations of the Legacy System. The evidence that other shippers have left the system and that other shippers have threatened litigation is undisputed.

c. Availability of Alternatives

One alternative for Sabine is to accept a component balancing agreement. TGG does not refuse transportation on the basis of a component balancing agreement that is administered by TGG or a third-party. Sabine has not established that it is harmed by the proposed Component Balancing Agreement or another similar arrangement which would allow Sabine to be compensated for the components of its natural gas product.

Sabine contended that the only way to compensate a shipper for the component part of its natural gas stream is to deliver a single stream to a single producer.⁹¹ Alternatively, Sabine

⁸⁷ Tr. p. 133, ln. 7 – p. 134, ln. 16.

⁸⁸ Tr. p. 139, lns. 5 – 9. (Sabine Opening Statement) (“Some producers have realized over time maybe this has not been what they wanted or what they expected. The equivalent MMBtu delivery system did not give them what they wanted. The may have left the system.”)

⁸⁹ Tr. p. 46, ln. 13 – p. 47, ln. 20; p. 68, ln. 13 – p. 69, ln. 10; p. 92, ln. 10 – p. 93, ln. 18; p. 103, lns. 1-17; p. 130, lns. 5 – 21; & p. 132, lns. 7 – 20.

⁹⁰ Tr. p. 193, ln. 8 – p. 195, ln. 5.

⁹¹ Tr. p. 136, lns. 7 – 9 & p. 138, lns. 12 – 14. (Sabine Opening Statement).

contends that a system-side change is required. The evidence is undisputed that TGG is attempting a system-wide change and that all shippers and processors, other than Sabine, favor a change and the evidence that all shippers on the system support some sort of component balancing is uncontroverted. Furthermore, Sabine's assertions are contradicted by the fact that deliveries to the Waskom plant, which receive a blended natural gas stream, are allocated back to producers. The Examiners find that Sabine has the option to continue deliveries to DCP Carthage.

Recognizing that Sabine is unwilling to accept a component balancing agreement, or some other method of allocating NGLs back to producers based upon the content of deliveries in to the system, TGG has offered to continue deliveries to DCP Crossroads and CenterPoint Waskom. The evidence is undisputed that Sabine has previously nominated deliveries of gas to those plants.⁹² Sabine contended that DCP Crossroads may not have capacity to receive gas produced by Sabine.⁹³ Sabine also argued that the market for residue gas at DCP Carthage was better than the market for residue gas at CenterPoint Waskom or DCP Carthage.⁹⁴ Other than Sabine's assertions, no evidence was presented that DCP Crossroads or CenterPoint Waskom were unable or unwilling to accept deliveries from Sabine. The Examiners find that deliveries to DCP Crossroad and CenterPoint Waskom are reasonable alternatives for production from the wells operated by Sabine.

Sabine appears to contend that those alternatives are not available because of existing contracts with DCP Carthage and other parties at the tailgate of the processing plant. One of the contracts obligates Sabine to sell gas through October 2013. That agreement was entered into in October of 2012, after the dispute at issue at issue in this proceeding commenced.⁹⁵ The proposed Component Balancing Agreement was circulated in July of 2012.⁹⁶ TGG's notice of intent to terminate the 2009 Contract was dated November 20, 2012.⁹⁷

In any case, this appears to be an argument that existing investments or expenditures should be considered when evaluating a Rule 73 application. The Examiners observe that this is not one of the enumerated factors included in Rule 73. This is in contrast to 16 TEX. ADMIN. CODE § 7.465 related to a proposed abandonment by a utility to its customers. That rule specifically provides that the Commission consider "whether any customer has made investments or capital expenditures in reliance on continued availability of natural gas." Rule 73 does not contain a parallel provision.

TGG contended that there are alternative pipelines: (1) Natural Gas Pipeline ("NGPL") Company, (2) Gulf South Pipeline Company ("Gulf"), (3) Texas Eastern Transmission, and (4)

⁹² Tr. p. 67, ln. 17 – p. 68, ln. 12; Tr. p. 148, ln. 2 – 10.

⁹³ Tr. p. 175, lns. 5 – 7.

⁹⁴ Tr. p. 177, ln. 3 – p. 179, ln. 15.

⁹⁵ Tr. p. 217, ln. 21 – p. 218, ln. 7.

⁹⁶ TGG Ex. 4.

⁹⁷ TGG Ex. 7.

CenterPoint.⁹⁸ Sabine asserted that there were substantial costs, approximately \$600,000, to interconnect with other lines.⁹⁹ Ms. Reynolds testified that it would take several months to tie into the NGPL line. Further, the NGPL line has been restricted to firm transportation due to capacity constraints.¹⁰⁰ Gulf South Pipeline has quality specifications that may limit Sabine's ability to transport on that line.¹⁰¹ Finally, Sabine's witness asserted that all other lines in the area are not designed to receive lean natural gas production similar to Sabine's production.¹⁰² The Examiners find that, aside from the Legacy System, Sabine does not appear to have other reasonable alternatives.

d. Correlative Rights and Protection of Waste

Sabine contended that TGG's decision to modify its service and discontinue deliveries to DCP Carthage was tantamount to a shut-in for all of Sabine's production.¹⁰³ For the reasons set forth above, the Examiners find that Sabine is not shut-in as TGG will continue deliveries to DCP Crossroads and CenterPoint Waskom. Furthermore, deliveries to DCP Carthage are still available to Sabine. As explained above, TGG has established that the operational integrity of the system may be undermined if the issues related to the appropriate accounting of NGLs are not addressed and producers are not compensated for the components of their product on the system. The Examiners find that a failure of the Legacy System may impact the correlative rights of producers in the area and potentially result in waste and producers would be left without viable transportation alternatives.

8. Discrimination

Sabine contended that this proceeding raises issues of discrimination. Sabine argued that it has been singled out for discrimination by the filing of this proceeding. Sabine asserted that there are other lean gas shippers that deliver gas to DCP Carthage. TGG has not taken similar action against those shippers. Sabine pointed out that only Sabine has been singled out for a Rule 73 proceeding.¹⁰⁴

The Examiners do not find that the evidence in this proceeding supports a claim of discrimination at this time. First, TGG seeks to account for the different composition of gas that enters the system. The Examiners observe that the Common Purchaser act forbids "unjust or unreasonable" discrimination between fields. Discrimination based upon quality differences

⁹⁸ Tr. p. 65, ln. 18 – p. 66, ln. 6.

⁹⁹ Tr. p. 185, lns. 6 – 12.

¹⁰⁰ Tr. p. 113, ln. 13 – p. 114, ln. 12 & p. 186, lns. 12 – 21.

¹⁰¹ Tr. p. 114, ln. 19 – p. 115 ln. 3.

¹⁰² Tr. p. 186, ln. 22 – p. 187, ln. 5.

¹⁰³ Tr. p. 197, ln. 3 – p. 198, ln. 2.

¹⁰⁴ Tr. p. 187, ln. 4 – p. 188, ln. 13.

between fields is not prohibited.¹⁰⁵ Nor does it appear that discrimination based upon quality differences in the *same* field is precluded.¹⁰⁶ The Examiners find that TGG's efforts to account for the composition of gas in the different fields is not discrimination. On the contrary, it is intended to treat all similarly situated shipper equally.

Second, the evidence in this case established the TGG approached all shippers who are transporting gas based upon equivalent quantities and proposed the same component balancing agreement. This includes the shippers who transport gas that is produced in the Haynesville formation. Sabine is the only shipper who would not agree to an accounting that would allow shippers to be compensated for the components of the natural gas delivered into the system. There is no evidence in the record of this case that the other lean shippers are not amenable to an arrangement that would have all of the remaining shippers compensated based upon the various gas components delivered into the system.

Sabine has focused on the contention that there is at least one other shipper that has deliveries made to DCP Carthage. No evidence was presented that the shipper is not amenable to a component balancing agreement or that deliveries made are not allocated back to that shipper based upon the GPM content. The evidence established that all shippers, save Sabine, were willing to engage in a reconciliation of the GPM content.

In any case, the Notice of Hearing of this proceeding was limited to the application of TGG, the applicability of Rule 73, and if applicable whether Rule 73 allowed the modification of service proposed by TGG. This proceeding was not initiated as a discrimination complaint. In the context of the issues raised, insufficient evidence was raised to support a claim of discrimination in the context of this proceeding.

TGG is, however, required to treat all similarly situated shippers the same. If Sabine, or another shipper, contends that the shippers are not treated equally Sabine has standing to file a discrimination complaint. Any contention that the terms of service are discriminatory may be considered in proceeding pursuant to TEX. NAT. RES. CODE § 81.061 and 16 TEX. ADMIN CODE § 7.7001 - Rule 7.7005 (Rules 7.7001 – 7.7005). The recommendation in this proceeding does not preclude Sabine, or any other shipper, from filing a complaint. Based upon the facts of this case, however, the evidence does not establish discrimination.

9. Examiners' Recommendation

The Examiners find that under the particular facts of this case Rule 73 does not apply. The relevant facts are as follows: (1) the pipeline operator continues to provide transportation service and only seeks a modification of the service provided, (2) the pipeline operator contends that the proposed service modification is contemplated by the contractual terms, and (3) the pipeline operator is willing to redeliver to all points on the pipeline under certain contractual

¹⁰⁵ See, TEX. NAT. RES. CODE §§ 111.081 & 111.083, making discrimination provisions of Common Purchaser Act applicable to gas purchasers or transporters. TEX. NAT. RES. CODE ANN. § 111.086 prohibits "unjust or unreasonable discrimination between fields."

¹⁰⁶ Texas Law of Oil and Gas, Smith & Weaver, Chapter 13, Section 13.4(A), p. 13-51.

conditions. The Examiners find that under such circumstances Rule 73 does not apply, as the issue is not a physical disconnection of service or a discontinuance of service that results in the well operator being shut-in.

Under the facts of this case it appears that Sabine's contention is that the proposed terms and conditions of service are not contemplated by the contract. The argument made by TGG regarding the 2009 Contract and the 2010 Contract interruption provisions underscore the contractual nature of the dispute. Those contracts provide that gathering and delivery of gas shall be subject to partial or total interruption or cessation at TGG's reasonable discretion for safety and operational reasons.¹⁰⁷ TGG argued that it was not shutting in Sabine's production and that the delivery modification, whether through a change in the delivery destinations or adoption of a system-wide Component Balancing Agreement, is within the ambit of that contractual term.

The appropriate recourse is a proceeding in district court to settle the disputed claim. By obtaining a ruling from this Commission that Rule 73 requires unmodified service under the existing terms of the contract the District Court's jurisdiction to determine a contractual dispute is set aside.

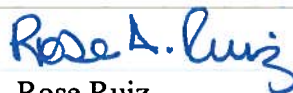
RECOMMENDATION

The Examiners recommend that attached findings of fact and conclusions be adopted and that the Commission issue a final order that this case be dismissed.

Respectfully submitted,



Gene Montes
Hearings Examiner
Hearings Division



Rose Ruiz
Technical Examiner
Hearings Division

¹⁰⁷ TGG Ex. 6, 2009 Contract, Article II, Section 2.04, pp. 2- 3 (“[I]t is specifically agreed and understood by the Parties hereto that the receipt, transportation, or redelivery of Gas hereunder by Transporter shall be subject, at any time and from time to time, to partial or total interruption or cessation at Transporter’s sole reasonable discretion for safety and operational reasons.”) & TGG Ex. 8, 2010 Contract, Exhibit A, Section 5.05, pp. A-10 – A-11 (“[I]t is specifically agreed and understood by the Parties that the receipt, gathering and delivery of Gas hereunder by Gatherer shall be subject, at any time and from time to time, to partial or total interruption or cessation ant Gatherer’s reasonable discretion for safety and operational reasons.”).

RAILROAD COMMISSION OF TEXAS
OFFICE OF GENERAL COUNSEL
HEARINGS SECTION

Oil & Gas Docket No. 06-0279915

**RULE 73 APPLICATION FILED BY TGG PIPELINE, LTD TO DISCONNECT AND
CEASE PROVIDING SERVICES TO SABINE OIL & GAS LLC**

FINAL ORDER

The Commission finds that after statutory notice the caption proceeding was heard by the examiners on April 3, 2013. The proceeding having been duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas the Commission makes the following Finding of Fact and Conclusions of Law.

FINDINGS OF FACT

1. TGG operates intrastate pipelines within the State of Texas and its P-5 Permit number is 5850984. TGG operates the TGG Legacy System ("Legacy System"). The Legacy System is an intrastate gas gathering pipeline and the applicable T-4 Permit number is 04009.
2. Producers that are connected to the Legacy System produce from gas wells that are connected to the system primarily from either the Cotton Valley Formation or the Haynesville-Formation.
3. The producers connected to the Legacy System have redelivery options to any of four processing plants that are also connected to the pipeline system: DCP Crossroads, CenterPoint Waskom, DCP Carthage and Marlin.
4. All transportation on the Legacy System is provided on an interruptible basis
5. Except for delivers made on behalf of one shipper, all natural gas delivered on the Legacy System is delivered as a blended stream and is delivered in equivalent quantities.
6. The gas delivered on the Legacy System contains a mix of methane (CH₄) and Natural Gas Liquids ("NGLs").
7. The NGLs, include, but are not limited to, ethane (C₂H₆), propane (C₃H₈) and butane (C₄H₁₀).
8. Methane and NGLs are priced differently.

9. As the transporter, TGG's compensation is based upon total volumes transported not the content of the gas.
10. The NGLs are measured in gallons per Mcf (GPM) and it is a measure of the gallons of the liquid hydrocarbon components contained in one Mcf of natural gas.
11. Producers that are connected to the Legacy System produce a mix of gas that, relative to each other, ranges from lean to rich. On a relative basis, lean gas contains a lower content of NGLs than rich gas.
12. Natural gas production from the Cotton Valley formation is richer than natural gas production from the Haynesville formation.
13. The Legacy System receives gas at approximately forty-one delivery points that is richer than the gas received at the remaining delivery points.
14. Generally, for transportation gas on the Legacy System the processor does not receive the actual gas introduced into the system by the shipper with whom the processor contracted. The processor receives an equivalent quantity.
15. The quantity of the individual components of gas in the equivalent quantity redelivered to processors is not equal to the quantity of the individual components of gas delivered into the Legacy System by shippers.
16. Sabine Oil and Gas, LLC ("Sabine"), formerly NFR Energy LLC ("NFR"), is a shipper on the Legacy System and has fifteen producing gas wells connected to the TGG Legacy System: (1) Hemby Well #3 (254417), (2) Hemby Well #4 (256352), (3) Hope #1 (244249), (4) Woodfin #1H (250062), (5) Carolyn Bell Deep 1H (257780), (6) Carolyn Bell Deep 2H (258360), (7) Rollie Sims Deep 1H (258162), (8) Rollie Sims Deep 2H (260128), (9) Mary Waldron Deep 1H (258519), (10) Mary Waldron Deep 2H (260976), (11) Allen #5 (260966), (12) Foote #3H (261361), (13) Foote #4H (261618), (14) Foote #5H (262134), and (15) Grace Young 2H (260018).
17. TGG has two transportation contracts with Sabine to transport on the Legacy System: (1) the 2009 Contract and (2) the 2010 Contract.
18. Except for production from the Hope #1 (244249) and Allen #5 (260966) all of Sabine's production is from the Haynesville Shale formation. Those two wells produce from the Cotton Valley.
19. Sabine delivers its production into the Legacy System at ten distinct delivery points. Only two delivery points receive what TGG has classified as rich gas. Thus, of the forty-one delivery points that TGG has classified as receiving rich gas, only two receive gas that is produced by Sabine.

20. Sabine's daily transportation on the system approximates 12,000 to 14,000 MMBtu per day.
 21. The majority of Sabine's production is considered lean natural gas relative to the other producers on the system.
 22. TGG delivers all of Sabine's gas to the DCP Carthage Plant.
 23. Sabine's product does not physically arrive at the DCP Carthage redelivery point. TGG redelivers equivalent quantities on behalf of Sabine to DCP Carthage.
 24. The GPM content of the gas that is delivered into the system by Sabine is lower than the GPM content of the equivalent quantities of gas that are redelivered to the DCP Carthage plant.
 25. Sabine is credited for a larger volume of NGLs than what Sabine delivers into the Legacy System.
 26. TGG has offered to continue delivery on behalf of Sabine to DCP Carthage subject to a component balancing agreement or similar reconciliation arrangement.
 27. Sabine has not agreed to a component balancing agreement or similar reconciliation arrangement.
 28. TGG has notified Sabine of its intent to restrict Sabine's nominations to those points of delivery physically accepting a gas composition which most resembles the gas delivered by Sabine to TGG's points of receipt.
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29. TGG has offered to continue delivery on behalf of Sabine to DCP Carthage subject to a component balancing agreement or similar reconciliation arrangement.
 30. The fact that Sabine is paid on a blended stream has impacted the operations of the pipeline. Other customers who have rich Cotton Valley Gas perceive that they have been harmed.
 31. Some customers have left the system, others have threatened litigation and TGG has been unable to attract new customers to the system.
 32. The departure of customers, prospective litigation, and TGG's inability to attract new transportation customers impacts the viability of TGG's Legacy System.
 33. In order to more accurately identify the deliveries of gas into the Legacy System and assure that every shipper is compensated for the full value of the product delivered, TGG proposed a component balancing arrangement that would be applicable to all shippers and all processors (Component Balancing Agreement).

34. Except for Sabine, all shippers were in favor of a component balancing mechanism on the Legacy System.
 35. All processors are supportive of the component balancing agreement on the Legacy System.
 36. Waskom attempts to match the compensation to the GPM content of the shipper's product. That plant already employs an allocation process in calculating compensation provided to shippers that takes into account the GPM content at the inlet.
 37. Sabine has not reached an agreement with TGG and Sabine and TGG have been in negotiations over a component balancing agreement since June of 2012.
 38. Without Sabine's participation, TGG is unable to implement a component balancing agreement or NGL allocation on a system-wide basis.
 39. As an alternative, TGG proposed that the service provided to Sabine under the transportation agreement be modified pursuant to the contractual terms contained in TGG's contract with Sabine.
 40. TGG proposed that Sabine's gas delivered to the Legacy System be redelivered to either DCP Crossroads or Waskom.
 41. Sabine's nominations received at those processing plants would closely match the NGLs from the producer's own production.
 42. TGG continues to provide transportation service and only seeks a modification of the service provided.
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43. The modification will not result in Sabine being shut-in.
 44. TGG contended that the modified transportation service is contemplated by the contractual terms of the applicable contracts between TGG and Sabine.
 45. TGG is willing to redeliver Sabine's production to all delivery points on the system subject to a component balancing mechanism or similar reconciliation arrangement.

Conclusions of Law

1. Proper notice was issued by the Railroad Commission to appropriate persons legally entitled to notice.
2. All things necessary to the Commission attaining jurisdiction over the subject matter and the parties in this hearing have been performed.
3. Rule 73 is applicable to the physical disconnection or termination of service that results in an operator being shut-in where the pipeline operator no longer provides transportation

service and the pipeline operator is unwilling to deliver gas produced by the well operator.

The Commission finds that, after statutory notice in the above-numbered docket, a hearing on April 3, 2013, the examiners have made and filed a report and proposal for decision containing finding of fact and conclusions of law, which was served on all parties of record, and that this proceeding was duly submitted to the Railroad Commission of Texas at conference held in its offices in Austin, Texas.

Therefore it is **ORDERED** by the Railroad Commission of Texas that:

That Rule 73 does not apply to the facts of this case and that this proceeding is hereby dismissed.

This Order will not be final and effective until 20 days after a party is notified of the Commission's order. A party is presumed to have been notified of the Commission's order three days after the date on which the notice is actually mailed. If a timely motion for rehearing is filed by any party at interest, this order shall not become final and effective until such motion is overruled, or if such motion is granted, this order shall be subject to further action by the Commission. Pursuant to TEX. GOV'T CODE §2001.146(e), the time allotted for Commission action on a motion for rehearing in this case prior to its being overruled by operation of law, is hereby extended until 90 days from the date the order is served on the parties.

All requested findings of fact and conclusions of law which are not expressly adopted herein are denied. All pending motions and requests for relief not previously granted or granted herein are denied.

SIGNED this 10th day of September, 2013.

RAILROAD COMMISSION OF TEXAS

CHAIRMAN BARRY T. SMITHERMAN

COMMISSIONER DAVID PORTER

COMMISSIONER CHRISTI CRADDICK

ATTEST:

SECRETARY