UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Chandeleur Pipe Line Company | Docket No. CP04-48-000

ORDER ISSUING CERTIFICATE

(Issued May 11, 2004)

1. On December 19, 2003, Chandeleur Pipe Line Company (Chandeleur) filed an application under section 7(c) of the Natural Gas Act requesting authority to acquire Chevron Natural Gas Pipe Line LLC's (Chevron) interest in the Mobile Area Gathering System (MAGS), an offshore gathering pipeline, and to operate all of MAGS as part of Chandeleur's system. Chandeleur also proposes to increase the operating capacity of its system.

2. After the acquisition from Chevron, Chandeleur proposes to operate all of MAGS as an integral part of its interstate transmission system. Chevron, however, does not own all of the MAGS system. Rather, Chevron shares ownership of a small segment of MAGS with two non-jurisdictional gathering companies, one of which, Murphy Exploration & Production Company (Murphy Exploration), is not selling its interest to Chevron. Although Murphy Exploration has been notified of Chandeleur's proposals numerous times, it has not responded to an offer to purchase its segment of MAGS. Also, Murphy Exploration has not intervened in this proceeding or protested Chandeleur's proposals.

3. In this order, we will approve Chandeleur's proposals because they will add new capacity to the interstate grid and provide access to new markets for Chandeleur's shippers. We note that the proposals are consistent with the requirements of the agreement that the owners of the jointly-owned segment of the MAGS system have established for operating that segment. Specifically, as discussed below, the agreement provides for an Operating Committee comprised of each owner and that the Operating Committee's decisions are binding on all owners. The Operating Committee approved Chandeleur's proposals. In addition, we find that Murphy Exploration will not be harmed because it has not shipped gas through the segment in almost four years and sold all of its production interests attached to the segment almost two years ago.

I. Background

4. Chandeleur, an interstate pipeline, extends from the outer continental shelf, offshore Louisiana and Mississippi, to an onshore terminus near Pascagoula, Mississippi.[1] Chandeleur's system receives gas production from the Main Pass, Chandeleur Sound, Mobile, and Viosca Knoll areas and transports the gas to a refinery in Pascagoula, its only end-use customer, and to three downstream pipelines – Destin Pipeline Company, Texas Eastern Transmission, LP, and Gulf South Pipeline Company, LP. Chandeleur does not transport gas to any local distribution company. Chandeleur's pipeline transports up to 321,000 Dth per day and operates at pressures up to 1,200 psi.

5. The MAGS system consists of a 32-mile long, 12-inch diameter line. MAGS begins at an interconnect with Chandeleur at Mobile Block (MO) 861, offshore Mississippi, and runs east to MO 908, where it turns northeasterly to the southern shore of Dauphin Island. From there, the MAGS system runs north across Dauphin Island, crosses the water between Dauphin Island and the mainland, and continues to a point near Coden, Alabama in the vicinity of Mobile Bay. The MAGS system receives production at various points from MO 908, MO 952, MO 864, and Mississippi Sound Block 73. MAGS is capable of delivering 75,000 Dth per day onshore to interconnects with Transcontinental Gas Pipe Line Corporation/Florida Gas Transmission Corporation (Transco/FGT) and Gulf South Pipeline Company, LP/Florida Gas Transmission Corporation (Gulf South/FGT), and 80,000 Dth per day to the offshore interconnect with Chandeleur at MO 861.

6. When Chandeleur filed its application in this proceeding, Chevron[2] owned 100 percent of the MAGS system between MO 908 and the onshore termination point near Coden and 49.26095 percent of the MAGS system between the interconnect with Chandeleur in MO 861 and MO 908 (the MO 908 segment).[3] The remaining 50.73905 percent of the MO 908 segment was owned by Range Energy Ventures Corporation (a 32.81165 percent ownership interest) and Murphy Exploration (a 17.92740 percent

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[1] Chandeleur has a blanket certificate under Subpart K of Part 284 to provide open-access transportation.

[2] Chevron, an affiliate of Chandeleur, is an offshore gatherer in the Gulf of Mexico.

[3] The MO 908 segment is approximately 7.6 miles long.

ownership interest). After Chandeleur filed its application, Chevron entered into an agreement to purchase Range Energy's portion of the MO 908 segment. This purchase is not yet final.

7. The MO 908 segment is owned and operated in accordance with the terms and conditions of a July 15, 1991 operating agreement between Chevron, Range Energy, and Murphy Exploration.[4] The operating agreement provides that an Operating Committee "shall make overall policy . . . with respect to the [MO 908 segment]." Chandeleur states that in the operating agreement, the ownership percentages for the MO 908 segment are used to provide a basis for revenue and expense allocation and to determine the validity of decisions voted on by the Operating Committee. Chandeleur states that the "ownership percentages are not used to limit the owners' volumetric capacities or throughput rights."[5]

II. Proposals

8. Chandeleur requests authority to acquire Chevron's interest in the MAGS system (including the interest that Chevron will acquire from Range Energy) and to operate all of MAGS as an integral part of its interstate transmission system.[6] Chandeleur states that it will continue to negotiate to acquire the remaining interest in the MO 908 segment from Murphy Exploration. Chandeleur requests that we certificate its proposed acquisition of Chevron's interest in the MAGS system, as well as any other interest that it acquires during the pendency of this proceeding.[7]

9. In addition, Chandeleur requests authority to increase its system operating capacity from 321,000 to 331,000 Dth per day. Chandeleur states that the increase is due to the added flexibility provided by the acquisition of the MAGS facilities.

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[4] Chevron is currently the operator of the MO 908 segment.

[5] Chandeleur's April 7 filing at 2.

[6] Chevron also owns and operates a non-contiguous gathering system, known as the Mobile 990 system, in the Gulf of Mexico. Chandeleur is not proposing to acquire any part of the Mobile 990 system.

[7] Chandeleur also states that it will file to amend its certificate if it is able to purchase Murphy Exploration's interest in the MO 908 segment.

10. After the acquisition, Chandeleur proposes to provide firm and interruptible transportation through MAGS under its existing tariff. Chandeleur states that it will make the receipt and delivery points on MAGS available to all shippers on its system.

11. Chandeleur states that the cost to acquire the MAGS facilities is $15,339,597.63.[8] Chandeleur states that it charges postage stamp rates and implements no zone or mileage based calculations due to the small size and simple configuration of its system.[9] Chandeleur does not propose to establish any initial rates in this proceeding. Rather, Chandeleur states that it will charge its existing Part 284 rates for services using the additional receipt and delivery points until such time as it files to include in its rates the cost of the MAGS acquisition. Chandeleur states that it reserves the right to seek authority to roll in the costs MAGS facilities in a future section 4 rate filing.

12. Chandeleur does not propose to construct any facilities. However, Chandeleur states that it will make minor modifications to existing auxiliary facilities so that gas can flow from Chandeleur's system into MAGS.[10] Chandeleur estimates that these modifications will take approximately 30 days.

13. To determine the level of shipper interest in the proposed project, Chandeleur initiated an open season for the delivery capacity at Coden.[11] Chandeleur entered into binding, firm precedent agreements with ChevronTexaco Natural Gas, an affiliate, and

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[8]Chandeleur states that it will finance the cost of the acquisition with internally generated funds.

[9]On September 30, 2003, in Docket No. RP03-625-000, Chandeleur filed a cost of service rate increase under section 4 of the Natural Gas Act. In Chandeleur Pipe Line Company, 105 FERC ¶ 61,168 (2003), the Commission accepted the proposed rates to be effective on the earlier of April 1, 2004, or on a date the Commission specifies, subject to refund and further review. On March 15, 2004, Chandeleur filed an offer of settlement in Docket No. RP03-625-000. In Chandeleur Pipe Line Company, 107 FERC ¶ 61,049 (2004), we found the settlement to be fair and reasonable and approved it to be effective April 1. On April 19, 2004, we accepted Chandeleur's motion filing of March 31 to place the settlement rates into effect on April 1.

[10]The minor modifications are listed in Exhibit M of the application.

[11]Chandeleur granted Chevron's existing firm gathering shipper a right of first refusal to match open season bids for a level of service up to its current contractual rights. That shipper did not bid for service in the open season.

Callon Petroleum Operating Company. The ChevronTexaco agreement provides that Chandeleur will transport 43,000 Dth per day under Rate Schedule FT until October 1, 2006. The Callon agreement consists of six contracts under Rate Schedule FT with terms from one to six years. Specifically, Chandeleur will transport 7,000 Dth per day for a one-year term; 7,500 Dth per day for a two-year term; 3,500 Dth per day for a three-year term; 4,000 Dth per day for a four-year term; 5,000 Dth per day for a five-year term; and 5,000 Dth per day for a six-year term. Consequently, Chandeleur will transport 32,000 Dth per day for Callon in the first year of the agreement, 25,000 Dth per day in the second year, 17,500 Dth per day in the third year, 14,000 Dth per day in the fourth year, 10,000 Dth per day in the fifth year, and 5,000 Dth per day in the sixth year.

14. To support its proposals, Chandeleur states that the MAGS system possesses the capability to deliver the gas that it gathers into Chandeleur through the MO 861 interconnect. However, Chandeleur states that the pricing differentials that exist between the market areas in the Eastern Louisiana Zone at Pascagoula and the FGT Zone 3 at Coden work against such a flow pattern. Specifically, Chandeleur alleges that shippers prefer to nominate their production through MAGS to Coden where they can receive higher FGT Zone 3 prices, rather than nominate the same volumes into Chandeleur and achieve netbacks based on East Louisiana pricing which has, at times, run considerably below FGT Zone 3 pricing. Chandeleur contends that its proposed acquisition of MAGS will increase delivery flexibility for its shippers by adding three Coden-area interstate pipelines interconnects (FGT, Transco, and Gulf South), which will expand market opportunities for existing shippers.

III. Interventions

15. Notice of Chandeleur's application was published in the Federal Register on January 2, 2004 (66 Fed. Reg. 55). There were no motions to intervene, notices of intervention, or protests to the application.

IV. Discussion

16. Since the facilities proposed to be acquired will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, the acquisition and operation of the facilities is subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

A. The Certificate Policy Statement

17. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new pipeline construction or acquiring existing facilities.[12] The Certificate Policy Statement explained that in deciding whether to authorize the construction or acquisition of facilities, we balance the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

18. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route if there is new construction. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will we proceed to complete the environmental analysis where other interests are considered.

19. Chandeleur proposes to charge its Part 284 rates for service on MAGS. We will allow Chandeleur to use its Part 284 rates, but note that Chandeleur has not demonstrated the cost impact of integrating MAGS into its existing system. Since none of the project costs are included in Chandeleur’s currently effective rates, there will be no adverse rate impact on, or subsidization by, existing customers. This is consistent with the Policy Statement.[13] However, Chandeleur states that it reserves the right to propose rolled-in

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[12] Certification of New Interstate Natural Gas Pipeline Facilities (Certificate Policy Statement), 88 FERC ¶ 61,227 (1999), order clarifying statement of policy, 90 FERC ¶ 61,128, order further clarifying statement of policy, 92 FERC ¶ 61,094 (2000). In Equitrans, L.P., 91 FERC ¶ 61,041 (2000), we applied the Policy Statement to the acquisition of facilities.

[13] See ANR Pipeline Company, 92 FERC ¶ 61,267 (2000) and ANR Pipeline Company, 90 FERC ¶ 61,171 (2000).

rate treatment in a future rate proceeding for the MAGS facilities. If it does so, at that time Chandeleur will be required to demonstrate that there will be no subsidization of the costs of service over the MAGS facilities by existing customers before the Commission will grant rolled-in rate treatment.

20. Chandeleur has demonstrated that the addition of the facilities will increase delivery flexibility on its system and provide access to markets not currently available. ChevronTexaco's and Callon's gas will enter Chandeleur's transmission system at Main Pass 41 and 42 and move on Chandeleur's system to MO 861, where it will move into the MAGS system for delivery to Coden. In addition, Chandeleur's proposals will not have an adverse impact on other pipelines or their captive customers. Since no new construction is proposed, there will be no adverse impact on the interests of nearby landowners or communities.

B. Dual Ownership of Facilities

21. The record shows that Chandeleur's proposal is consistent with the requirements of the agreement that the owners of the MO 908 segment have established for operating that line. Section 5.2 of the operating agreement provides that the "[o]perator has exclusive charge, control, and supervision of the [MO 908 segment]." In addition, section 6.1 of the operating agreement provides that the Operating Committee "shall make overall policy . . . with respect to the [MO 908 segment]," that the Operating Committee shall be comprised of representatives of each owner, and that "all decisions of the Operating Committee . . . shall be conclusively binding on all parties." Further, section 6.2 provides that "all decisions by the Operating Committee shall require the approval of two or more [owners] holding at least sixty percent . . . of the ownership interest in the [MO 908 segment]." Chandeleur states that, in a September 30, 2003 letter, Chevron, as operator of MAGS, informed the Operating Committee, including Murphy Exploration, of Chandeleur's proposal to acquire and operate MAGS, including the MO 908 segment, and to integrate MAGS into its jurisdictional transportation facilities. In the letter, Chevron also requested an affirmative vote for Chandeleur's proposal. Chandeleur states that Chevron and Range Energy, owners of more than 60 percent of the MO 908 segment, approved Chandeleur's proposal.[14] Murphy Exploration did not respond to the request for a vote.

[14] Chandeleur's April 7 filing, Exhibit B.

22. Chandeleur contends that the MO 908 segment has been idle since November 2000. In addition, Chevron's records indicate that Murphy Exploration has not shipped gas through the MO 908 segment since June 2000. Also, Chandeleur claims that Murphy Exploration sold all of its production interests attached to the MO 908 segment effective July 1, 2002.

23. We note that Chevron has repeatedly notified Murphy Exploration about Chandeleur's proposals,[15] that Chevron has made an offer to purchase Murphy Exploration's interest in the MO 908 segment,[16] that Murphy Exploration has not responded to Chevron's communications, and that Murphy Exploration has not intervened in this proceeding or protested the proposal. Under these circumstances, we do not find that Murphy Exploration's interests will be harmed by Chandeleur's acquisition and operation of the MAGS system in accordance with the proposal.[17]

C. Conclusion

24. We find that the benefits of Chandeleur's proposals will outweigh any potential adverse impacts and are consistent with the Policy Statement. Thus, we find that Chandeleur's proposals are in the public convenience and necessity. Because the new shippers will transport gas from Chandeleur's jurisdictional system through MAGS for delivery to interstate pipelines at Coden, the MAGS facilities will be jurisdictional transmission facilities under the Natural Gas Act.[18]

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[15] Chandeleur states that Chevron e-mailed Murphy Exploration about Chandeleur's proposals on August 15 and September 8, 2003 and telephoned Murphy Exploration on October 30 and December 12, 2003 and March 12 and 23, 2004.

[16] Chandeleur states that, on October 8, 2003, Chevron sent a letter offering to purchase Murphy Exploration's interest in the MO 908 segment. In an October 17 e-mail, Murphy Exploration requested an extension of time until October 28 to consider Chevron's offer. Chandeleur states that Chevron did not hear from Murphy Exploration by October 28 and that there has been no further communication from Murphy Exploration about the purchase offer.

[17] Chandeleur would be required to consider any request for transportation service tendered by any party, including Murphy Exploration, under its Part 284 blanket certificate.

[18] As the Supreme Court has explained, production and gathering constitute "the physical acts of drawing gas from the earth and preparing it for the first stages of

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25. Our staff conducted an environmental review of the proposal set forth in the application and concluded that the proposed action qualifies as a categorical exclusion under section 380.4(a) of the regulations.

26. At a hearing held on May 5, 2004, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

<u>The Commission orders:</u>

(A) A certificate of public convenience and necessity is issued to Chandeleur authorizing it to acquire Chevron's interest in MAGS, to operate all of the MAGS system as a jurisdictional facility, and to increase the operating capacity of its system to 331,000 Dth per day, as more fully described in this order and in Chandeleur's application.

(B) Chandeleur shall comply with Part 157 of the regulations, especially paragraphs (a), (c), (e), and (f) of section 157.20.

(C) Chandeleur shall charge an initial rate for transportation service on MAGS not to exceed its current Part 284 rates for firm transportation. Chandeleur is advised that it will not be authorized to roll the costs of the MAGS facilities into its system-wide rates in its next rate case, unless it can demonstrate that its existing customers would not subsidize the acquisition.

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distribution." Northwest Central Pipeline Corp. v. State Corp. Comm'n, 489 U.S. 493, 505 (1989), <u>quoting</u>, Northern Natural Gas Co. v. State Corp. Comm'n, 372 U.S. 84, 89-90 (1963). Thus, once production has been gathered and delivered into Chandeleur's jurisdictional transmission system for further transportation, the gathering function has ceased. Delivery into other pipelines downstream, in this case the MAGS system, must logically be seen as a continuation of the transmission function initiated by Chandeleur. <u>See</u>, <u>e.g.</u>, Shell Offshore, Inc., 75 FERC ¶ 61,038, at p. 61,118 ("a facility functionalized as gathering may not be located downstream of facilities functionalized as transmission.")

(D) Chevron's interest in the MAGS facilities shall be acquired and placed into operation within one year from the date of this order, pursuant to paragraph (b) of section 157.20.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.