Decision No. C04-0451

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-062G

IN THE MATTER OF THE JOINT APPLICATION OF ROCKY MOUNTAIN NATURAL GAS COMPANY AND KINDER MORGAN, INC. FOR AN ORDER APPROVING THE TRANSFER AND ACQUISITION OF CERTAIN GAS PIPELINE FACILITIES LOCATED IN MESA COUNTY, COLORADO AND THE ABANDONMENT AND DISCONTINUANCE OF CERTAIN NATURAL GAS SALES SERVICE DUE TO LACK OF ADEQUATE GAS SUPPLIES THAT WOULD MEET MINIMUM GAS QUALITY TARIFF REQUIREMENTS.

COMMISSION ORDER APPROVING APPLICATION

Mailed Date: April 30, 2004
Adopted Date: March 21, 2004

I. BY THE COMMISSION

A. Statement

1. On February 12, 2004, Rocky Mountain Natural Gas Company (Rocky Mountain) and Kinder Morgan, Inc. (Kinder Morgan) (together referred to as Applicants), filed a verified joint application for an order approving the transfer and acquisition of certain gas pipeline facilities located in Mesa County, Colorado and the abandonment and discontinuance of certain natural gas sales service due to lack of adequate gas supplies that would meet minimum gas quality tariff requirements.

2. Applicants supplemented the joint application by filing a Supplement to Verified Joint Application on March 30, 2004, a Second Supplement to Verified Joint Application on April 8, 2004, and a letter to Commission Staff on April 13, 2004.

3. This application is made under § 40-5-101 and § 40-5-105, C.R.S., and Rule 55, Commission Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

4. No protests or motions to intervene in opposition have been filed in connection with this application. Accordingly, because the application is non-contested, it may be decided without hearing in accordance with § 40-6-109(5), C.R.S., and Rule 24 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1.

B. Findings of Fact and Conclusions

5. Kinder Morgan is an operating public utility subject to the jurisdiction of this Commission and is engaged in, *inter alia*, the purchase, distribution, transportation, and sale of natural gas for domestic, mechanical, or public uses in various certificated areas within the State of Colorado.

6. Kinder Morgan’s natural gas requirements are transported by Kinder Morgan Interstate Gas Transmission LLC for the North Eastern rate area, by Colorado Interstate Gas Company for the Southern Colorado Arkansas Valley rate area, and by Public Service Company of Colorado for the North Central and Southern Colorado Western Slope rate areas. The majority of Kinder Morgan's natural gas supply for the North Eastern and North Central rate areas is purchased from wellhead sources. The majority of Kinder Morgan's natural gas requirements for its Southern Colorado Arkansas Valley and Southern Colorado Western Slope area rates is purchased from various suppliers. Kinder Morgan obtains its natural gas supply for the Western Slope rate area through wholesale purchase transportation from Rocky Mountain.

7. Rocky Mountain is an operating public utility subject to the jurisdiction of this Commission and is engaged in the purchase, transmission, and general resale of natural gas along

its pipeline system in the western slope area of the State of Colorado. Rocky Mountain's only sale-for-resale customer is Kinder Morgan.

8. The majority of Rocky Mountain's natural gas supply is purchased from wellhead sources.

9. Tom Brown, Inc. (Tom Brown), is engaged in, *inter alia*, the business of producing, gathering, processing, and marketing natural gas on the Western Slope area of the State of Colorado. Tom Brown is not an affiliate of either Applicants.

10. By this Application, Rocky Mountain requests an order authorizing Rocky Mountain to:

> i. abandon, by asset transfer to Tom Brown, an unaffiliated third party engaged in natural gas production, gathering, processing and marketing, certain natural gas gathering and transmission facilities owned by Rocky Mountain, located in Mesa County, Colorado,
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> ii. abandon, by asset transfer to Kinder Morgan, certain natural gas gathering and transmission facilities owned by Rocky Mountain, located in Mesa County, Colorado,
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> iii. reconfigure its facilities and operations to better provide tariff quality gas supply at wholesale to Kinder Morgan in order to enable Kinder Morgan to, in turn, provide retail gas service to certain customers, and
>
> iv. abandon and discontinue certain wholesales and deliveries of gas supplies to Kinder Morgan at certain rural delivery points on wet gas gathering systems where tariff quality gas supply is unavailable.

11. Kinder Morgan requests that an order be issued authorizing Kinder Morgan:

> i. to acquire, from both Rocky Mountain and Tom Brown, certain facilities to be used by Kinder Morgan in providing retail gas service to rural customers and granting a Certificate of Public Convenience and Necessity authorizing Kinder Morgan to own and operate the acquired facilities and to provide gas utility services therefrom pursuant to its PUC Tariff, and

ii. to abandon and discontinue service to those six specific rural retail customers referred to herein (a total of seven distribution meters) for whom tariff quality dry gas supplies are not available due to the location of their premises.

12. Historically, Rocky Mountain's Collbran West Gathering System has been connected to wells that produce wet gas (*i.e.*, gas rich with liquid hydrocarbons and/or saturated with water) and dry gas. In the past Rocky Mountain was able to commingle the liquid hydrocarbons and/or wet gas and dry gas with other dry gas to continue delivering merchantable quality gas.

13. During the third quarter of 2001, Rocky Mountain reconfigured its gathering and certain of its transmission facilities located in Mesa County, Colorado to prevent the receipt of wet gas from impairing Rocky Mountain's ability to meet the quality specifications set forth in its tariff. Rocky Mountain clarifies that it did not investigate other alternative plans and represents that this application, including all appendices and supplements, constitute Rocky Mountain's final plan with regard to its approach to resolve the gas quality specification issues.

14. Rocky Mountain reconfigured its gathering and transmission system by isolating the liquid hydrocarbons and/or wet gas from the dry gas into different pipeline configurations. Rocky Mountain had identified various points on its system which required either one or a combination of the following: cutting and capping lines, re-piping, re-valving, new regulators, new measurement facilities, and/or new transmitters and associated telecommunications equipment. This reconfiguration of the pipeline systems resulted in the shutting in of certain wells due to the inability of the wells to deliver merchantable quality gas. The reconfigurations were completed in the spring and summer of 2002. Applicants represent that the costs associated with the 2001 and 2002 reconfigurations were to a lesser extent directly expensed by Rocky

Mountain, and the remainder was paid by Tom Brown, so none of these reconfiguration costs were directly passed on to Applicants' customers.

15. Prior to the reconfigurations of the pipeline systems, Kinder Morgan had approximately 500 retail customers in its Collbran, Molina, Mesa, and Debeque, Colorado service areas. Of those 500 customers, approximately 350 were receiving dry gas service from gas supplied to Kinder Morgan via dry gas transmission systems owned by Rocky Mountain. The 350 dry gas customers were primarily in the Collbran area, and in addition, there were (and are) Kinder Morgan customers connected directly to Rocky Mountain's transmission mainlines.

16. The remaining approximately 150 customers, which consist of a few in the Collbran area, the majority in the Molina and Mesa areas, and a few in the Debeque area, were receiving wet gas service directly from various wet gas gathering systems owned both by Rocky Mountain and by third party gathering companies. Applicants represent that these customers were customers of the Applicants. [1]

17. Following the reconfiguring of Rocky Mountain's Collbran West Gathering System, over 100 Kinder Morgan customers, who had previously received gas supply from various wet gas gathering systems, were converted to dry gas lines. This left only 13 active retail customers (a total of 14 distribution meters) receiving gas service from Kinder Morgan meters directly connected to third party owned wet gas gathering systems in the De Beque, Collbran, Molina, and Mesa, Colorado areas served by Applicants. Geographically, 2 of the 13 remaining

[1] Abandonment applies to jurisdictional customers on a pipeline system owned or operated by a utility. To the extent that there may be a lack of public utility obligation, abandonment does not apply.

customers are located in the De Beque area, 1 in the Collbran area, 5 in the Molina area, and 5 in the Mesa area.

18. The third party owner of the wet gas gathering system in the De Beque area is Canyon Gas Resources, Inc., of Englewood, Colorado (Canyon); and the third party owner of the wet gas gathering systems in the Collbran, Molina, and Mesa areas is Tom Brown. Both Canyon and Tom Brown acquired the specific systems to which the customers were connected prior to any of the dealings described herein. The natural gas has been delivered in an "as is" condition in Canyon's or Tom Brown's gathering systems.

19. Applicants were subsequently able to find a means to provide dry gas service to 7 of the 13 customers, leaving a total of 6 customers to whom Applicants were unable to economically provide a means for connection to dry gas service. Kinder Morgan determined that, with regard to the five customers in the Molina area, if Applicants and Tom Brown were to enter into an arrangement[2] whereby certain wet gas gathering lines owned by Tom Brown were assigned to Kinder Morgan, certain gathering and transmission lines

[2] Such arrangement includes the following provisions:

A. Rocky Mountain and Tom Brown entered into an Assignment, Bill of Sale and Conveyance dated July 17, 2002, pursuant to which Rocky Mountain has agreed to sell and Tom Brown has agreed to purchase, for $96,000, certain of the reconfigured wet gas pipelines and associated equipment.

B. Kinder Morgan, on behalf of itself, Rocky Mountain, and Tom Brown entered into a Letter Agreement dated December 13, 2002. To formalize the terms of the December 13, 2002 Letter Agreement, Rocky Mountain has executed an Assignment, Bill of Sale and Conveyance dated December 10, 2003, from Rocky Mountain to Tom Brown, and Kinder Morgan and Tom Brown have entered into a Letter Agreement dated December 23, 2003, signed by Tom Brown on February 9, 2004, which states that upon Commission approval of the authorizations requested herein, that Tom Brown will execute an Assignment, Bill of Sale, and Conveyance from Tom Brown to Kinder Morgan.

C. Additionally, Applicants have identified certain assets, still on the records of Rocky Mountain, which as a result of the reconfiguring of systems described herein, have been converted to dry gas distribution service and require an abandonment on Rocky Mountain's records, and an asset transfer to Kinder Morgan's records. Therefore, Applicants entered into an Assignment, Bill of Sale, and Conveyance dated December 10, 2003, from Rocky Mountain to Kinder Morgan.

owned by Rocky Mountain were assigned to Tom Brown, and existing connects and certain new construction of distribution pipe by Kinder Morgan were reconfigured, Kinder Morgan could retain the five Molina area customers and connect additional customers in the area, and Tom Brown could connect and flow certain gas wells that are currently shut-in.

20. Kinder Morgan contacted each of the six wet gas customers in September and October of 2002, and made a written offer to convert each of these customers to propane, rather than continuing to deliver untreated, unprocessed, and/or undehydrated gas directly from these third party owned wet gas gathering systems, in exchange for a voluntary discontinuance of service. As Applicants indicated in the application and discussed in ¶ 19 herein, five customers voluntarily agreed to propane conversion. However, Kinder Morgan has been unable to reach agreement with one Mesa area customer. Kinder Morgan therefore seeks abandonment authority for this Mesa area customer (the premises of Richard G. Martz and Nicola J. Martz (Martz)) who is receiving wet gas service from third party owned gathering lines located a substantial distance from Rocky Mountain's dry gas transmission lines. The natural gas delivered to the Martz's customer meter is in an "as is" condition as may exist in Tom Brown's gathering systems. As a result of liquid hydrocarbons and/or water entering into Tom Brown's gathering systems, the only gas supply available to Martz will not meet minimum gas quality tariff requirements, and the safety and reliability of continued service to this customer cannot reasonably be assured.

21. Applicants currently estimate the out-of-pocket costs associated with reimbursing certain conversion costs for the five of the six customers who voluntarily consented to the conversion to be $35,000. Applicants will not capitalize these identified conversion costs incurred in this proceeding.

22. To the extent Rocky Mountain is not capitalizing its expenses, the Commission is not making a decision in this Order on the propriety of spending ratepayer monies to convert customers on third party gathering companies to propane. By accepting the proposed plan filed by the Applicants, the Commission assumes that Martz was a customer of the Applicants and abandonment is therefore an appropriate request for relief. Applicants should inform the third party gathering company of this possibility and report to the Commission the status of Martz's "gas" service.

23. Applicants submitted appendices with the application that contain, *inter alia:* (1) a map which identifies all of the assets of the Applicants on the Western Slope area in Mesa County, Colorado, which are the subject of the Application; (2) a description of Rocky Mountain reconfigured wet gas assets for which Rocky Mountain is seeking abandonment authority to transfer to Tom Brown for a purchase price of $96,000; (3) a description of an exchange of gathering assets between Rocky Mountain, Tom Brown, and Kinder Morgan; (4) a description of the reconfigured dry gas gathering assets which Rocky Mountain is seeking abandonment authority to transfer to Kinder Morgan and for which Kinder Morgan is seeking a certificate of public convenience and necessity to acquire from Rocky Mountain; (5) a description of the gathering assets for which Kinder Morgan is seeking a certificate of public convenience and necessity to acquire from Tom Brown; in both cases the acquired assets to be used by Kinder Morgan to provide retail natural gas service to rural customers, and to be owned and operated by Kinder Morgan to provide gas utility services in accordance with Kinder Morgan's tariff(s) filed with the Commission; and (6) a description of affected customers.

24. Attached hereto as Attachment 1 is the proposed income statement accounting treatment which reflects a net loss of $20,370.32 to Rocky Mountain for the transfer of said assets to Tom Brown. Attached hereto as Attachment 2 is the proposed balanced sheet accounting treatment which reflects a write-off by Rocky Mountain of $756,589.60 of gas plant in service that is no longer used and useful.

25. Applicants represent that various non-jurisdictional gathering assets in the Collbran West area have been transferred in the ordinary course of business by and among various non-jurisdictional entities, some of which were non-jurisdictional subsidiaries of Kinder Morgan. Those assets are currently owned by Tom Brown. The instant application seeks authority to transfer certain other gathering assets which have been owned and operated by Rocky Mountain as part of its public utility business, and which are jurisdictional to the Commission. Rocky Mountain's jurisdictional gathering assets are separate and distinct from the non-jurisdictional assets that have been transferred by and among the various non-jurisdictional entities described in the application and the supplements. None of the gathering assets owned by the non-jurisdictional affiliates of Applicants that were assigned or merged into Tom Brown over the last approximately nine-year period were Commission jurisdictional assets. All of the former assets owned by Rocky Mountain Gas Gathering Company, Gasco, Inc., KN Production Company, KN Gas Gathering and Wildhorse Energy Partners, LLC that were transferred to Tom Brown were non-jurisdictional and have never been included in the rate base of Applicants. By letter dated April 13, 2004, the Applicants affirmed that the gathering facilities owned by Rocky Mountain that are proposed to be transferred pursuant to this application have not been the

subject of any transfers to or from any affiliates of Rocky Mountain since they were acquired in 1986.

26. Rocky Mountain did not seek a competitive bid in its sales of assets to Tom Brown. Rocky Mountain believes that, due to its presence as a gas producer, gatherer, and processor in this area, Tom Brown was and is the only party in this area with whom Applicants could have structured such a deal.

27. Rocky Mountain will transfer certain assets to Kinder Morgan at net book value. Applicants agree that the additional investments made by Kinder Morgan to complete the reconfiguration of the system to dry gas plus the addition of plants to Kinder Morgan's books shall not exceed $81,000.

28. Applicants represent that it will furnish to the Commission final accounting entries associated with the transfer of the assets described in this application inclusive of any changes to the Accumulated Deferred Income Tax Account within 60 days of an order from the Commission approving this Application.

29. In compliance with Rule 57(b) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, Form Y notices of the filing of this application were mailed by Kinder Morgan to the attention of Kinder Morgan's six affected customers and by Applicants to the Board of County Commissioners for Mesa County, Colorado.

30. The Commission finds that Rocky Mountain's reconfiguration of the subject Western Slope assets, the abandonment of the identified subject assets by Rocky Mountain by transfer to Tom Brown and to Kinder Morgan, the acquisition of the identified subject assets by

Kinder Morgan from Tom Brown and Rocky Mountain, the abandonment and discontinuance of wholesale natural gas service by Rocky Mountain to Kinder Morgan at identified rural delivery points because of the lack of tariff quality natural gas, and the abandonment and discontinuance of retail natural gas service by Kinder Morgan to the six identified customers (seven meters in total), are not contrary to the public interest and should be granted.

II. ORDER

A. The Commission Orders That:

1. The application filed by Rocky Mountain Natural Gas Company and Kinder Morgan, Inc., for authority to transfer and acquire certain gas pipeline facilities located in Mesa County, Colorado and the abandonment and discontinuance of certain natural gas sales service due to lack of adequate gas supplies that would meet minimum gas quality tariff requirements, is granted.

2. The Commission's acceptance of the proposed plan to transfer and acquire certain gas pipeline facilities and the abandonment and discontinuance of certain natural gas sales service does not constitute approval of, or precedent regarding, any principle, regulation, or practice affecting such issue or service in other proceedings or a decision that the costs associated with any of these transactions will be included in rates; nor shall such acceptance be deemed recognition of any claimed contractual right or obligation associated therewith.

3. The proposed sale of assets from Rocky Mountain Natural Gas Company to Tom Brown, Inc., at a sum certain and to Kinder Morgan, Inc., at net book value is granted.

4. Kinder Morgan, Inc., is granted a certificate of public convenience and necessity to own and operate the identified assets acquired from Tom Brown Inc., and Rocky Mountain Natural Gas Company.

5. Rocky Mountain Natural Gas Company and Kinder Morgan, Inc., may abandon and discontinue natural gas service, if applicable, to the six customers discussed herein.

6. Rocky Mountain Natural Gas Company and Kinder Morgan, Inc., shall not capitalize any of the out-of-pocket costs associated with propane conversion of the abandoned customers, currently estimated at $35,000.

7. Kinder Morgan, Inc., shall not book, as a result of the proposed reconfiguration, more than $81,000 of plant assets made up of the asset transfer at net book value from Rocky Mountain Natural Gas Company, the asset transfer at no additional cost from Tom Brown, Inc., and the plant additions by Kinder Morgan, Inc.

8. Within 60 days of the effective date of this Order, Rocky Mountain Natural Gas Company and Kinder Morgan, Inc., shall submit in this docket final accounting entries inclusive of any changes to the Accumulated Deferred Income Tax Account.

9. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the Mailed Date of this Decision.

10. This Order is effective on its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING April 21, 2004.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners

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