

105 FERC ¶ 61,334
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

NE Hub Partners, L.P.

Docket No. CP96-53-011

ORDER VACATING CERTIFICATE

(Issued December 22, 2003)

1. This order vacates certificate authority granted to NE Hub Partners, L.P. (NE Hub) in 1998.¹ NE Hub's unopposed motion requests that its certificate be vacated because it is currently uneconomic to construct and operate the natural gas storage facilities earlier proposed and approved. The Commission will grant NE Hub's request and vacate, as conditioned, the certificate issued in this proceeding. This order will assure continued oversight of the two wells constructed, while allowing further analysis by NE Hub of the commercial viability of a revised gas storage project.²

BACKGROUND

2. NE Hub originally proposed to construct and operate the Tioga Project, a natural gas storage facility consisting of two salt caverns and appurtenant facilities, in Tioga County, Pennsylvania. The Tioga Project was to be located in a salt bed underneath an operating storage complex owned by two separate companies. The certificates issued required that the facilities approved in the order be constructed and placed in service

¹83 FERC ¶61,043 (1998); Order Denying Stay, 85 FERC ¶61,105 (1998); Order Approving Settlement, 86 FERC ¶61,221(1999); Order Denying Clarification, 87 ¶61,147 (1999); Order Denying Rehearings, 90 FERC ¶61,142 (2000).

²On June 28, 2002, Dominion Transmission, Inc. (Dominion) purchased all of the outstanding member interests of NE Hub Partners, L.P., and thereafter placed NE Hub's assets, consisting mostly of the cost of land and land sites, in Uniform System of Accounts, Account 105 (Gas Plant held for future use). NE Hub states that no accounting change is proposed.

within 3 years of the order's issuance. That time period has been extended several times pursuant to NE Hub's requests, up to April 1, 2003.³

3. Under its certificate, NE Hub drilled Cavern Well No. 1 (CW-1) and a salt disposal well (SWDW-1) during the year 2000. It also developed a five-acre working area for the drill site, constructed a temporary access road, and installed water wells and a temporary camp for workers on the project.⁴ In June, 2000, NE Hub partially restored this five-acre working area.⁵ NE Hub states that it also plans to re-grade topsoil, to seed and to mulch at each of the sites, and to maintain current silt fences until re-vegetation has been accomplished.

4. NE Hub states that the Pennsylvania Department of Environmental Protection (PADEP) will continue to review the cavern well.⁶ NE Hub also states that its discussions with PADEP focus on possibly continuing the current inactive-well status, but that it may become necessary to plug the cavern well temporarily until a revised new storage project is proposed. NE Hub plans to plug SWDW-1 in 2004 in accordance with PADEP regulations. Further, the United States Environmental Protection Agency (EPA) will continue to exercise jurisdiction over those aspects of the project involving the underground injection permits granted to NE Hub.⁷

5. NE Hub states that it continues to explore the substantial potential for development of this project on a smaller scale, given the project's natural advantages of proximity to major pipeline systems and to growing northeastern markets. Further, the ongoing evolution of technology for developing salt caverns for natural gas storage in bedded salt formations will assist in future development of such projects. Currently, however, NE Hub considers its project no longer economically feasible as measured

³See Letter Orders issued April 25, 2001; November 27, 2001; and November 19, 2002.

⁴Citing NE Hub Bi-weekly status report for the period ending January 31, 2000.

⁵Motion at 4. The restoration included closing the panic, shaker and reserve pits, and reseeded and mulching appropriate areas.

⁶The well remains subject to quarterly inspections under the PADEP's Mining Permit program.

⁷See 40 C.F.R. §146.33 (monitoring and reporting conditions).

against current natural gas storage markets.⁸ Consequently, NE Hub requests that the certificate be vacated without prejudice to NE Hub's future reference to materials filed in this docket, in the event NE Hub re-files for certificate authorization of any revised project.⁹

DISCUSSION

6. The Commission will vacate the certificate, as requested. NE Hub shows that: 1) no service has begun under the certificate,¹⁰ 2) the certificate has expired since NE Hub has failed to construct and place the authorized facilities in service by the required date,¹¹ and 3) NE Hub no longer intends to construct the facilities authorized under the certificate.¹² Both PADEP and EPA will continue monitoring the condition of the two wells, and NE Hub may plug CW-1 temporarily as necessary. No party has objected to NE Hub's request. In these circumstances, issuance of NGA abandonment authority is not required, and the Commission will vacate the existing certificate authorization.

7. An Environmental Assessment (EA) was prepared for NE Hub's request. The EA finds that if NE Hub leaves CW-1 in inactive status and plugs SWDW-1 in accordance with PADEP and EPA regulations, and in accordance with its application and the mitigation measures listed below, approval of NE Hub's requests will not constitute a major Federal action significantly affecting the quality of the human environment. Further, NE Hub shall notify the Commission's environmental staff by telephone and/or

⁸NE Hub states that precedent agreements previously supporting this project have all been terminated or have expired on their own terms and that no customers will be impacted or any service terminated.

⁹Citing section 157.6(a) of the Commission's regulations, 18 C.F.R. §157.6(a), and El Paso Natural Gas Co., 86 FERC ¶61,033 (1999).

¹⁰Citing Koch Gateway Pipeline Company, 84 FERC ¶62,245 (1998); Great Lakes Gas Transmission Limited Partnership, 85 FERC ¶62,001 (1999). See also Reynolds Metal Co. v. FPC, 534 F.2d 379, 384 (D.C. Cir. 1976)(an abandonment within the meaning of NGA section 7(b) "occurs whenever a natural gas company permanently reduces a portion of a particular service.").

¹¹Citing Independence Pipeline Company, 100 FERC ¶61,082 (2002).

¹²Citing Columbia Gas Transmission, 101 FERC ¶61,337 (2002).

facsimile of any environmental noncompliance identified by other Federal, state, or local agencies on the same day that such agency notifies NE Hub. NE Hub shall file written confirmation of such notification with the Secretary of the Commission within 24 hours. In accordance with the discussion above,

The Commission orders:

(A) Certificate authority issued in this proceeding is vacated;

(B) NE Hub shall comply with the mitigation measures attached to its Motion to Vacate filed in this proceeding August 7, 2003, and with the following terms and conditions. NE Hub shall:

1. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission;
2. justify each modification relative to site-specific conditions;
3. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
4. receive approval in writing from the Director of the Office of Energy Projects (OEP) before using that modification.

(C) The Director of OEP has delegation authority to take whatever steps are necessary to insure the protection of all environmental resources during restoration of well sites CW-1 and SWDW-1. This authority shall allow:

1. the modification of conditions of this Order; and
2. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.

(D) NE Hub shall notify the Commission's environmental staff by telephone and/or facsimile of any environmental noncompliance identified by other Federal, state, or local agencies on the same day that such agency notifies NE Hub. NE Hub shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.