122 FERC ¶ 61,193
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

PetroLogistics Natural Gas Storage, LLC — Docket Nos. CP07-427-000, CP07-428-000, CP07-429-000

ORDER ISSUING CERTIFICATES

(Issued March 3, 2008)

1. On August 2, 2007, PetroLogistics Natural Gas Storage, LLC (PetroLogistics) filed an application in Docket No. CP07-427-000 under section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations requesting a certificate of public convenience and necessity authorizing the construction and operation of a salt dome natural gas storage facility and associated pipeline facilities in Iberville Parish, Louisiana. Also, in Docket Nos. CP07-428-000 and CP07-429-000, respectively, PetroLogistics seeks blanket certificates under Part 157, Subpart F and under Part 284, Subpart G of the Commission's regulations. As discussed below, the Commission finds that PetroLogistics' unopposed proposal is required by the public convenience and necessity, and issues PetroLogistics its requested certificate authorizations, subject to the conditions set forth below. The Commission also grants PetroLogistics' request for market-based rate authority and waiver of certain filing and other requirements.

I. <u>Background and Proposal</u>

2. PetroLogistics, a Delaware corporation and wholly-owned subsidiary of PetroLogistics Olefins LLC., is a new company with no jurisdictional or non-jurisdictional operations. Upon receipt of its certificate authorizations, PetroLogistics will become a natural gas company within the meaning of NGA section 2(6).

A. <u>New Facilities</u>

3. PetroLogistics proposes to construct and operate a new 9 Bcf (6 Bcf working gas and 3 Bcf cushion gas), high-deliverability salt cavern natural gas storage facility

consisting of one cavern, gas compression, two natural gas pipeline headers, metering and regulating stations, and certain non-jurisdictional facilities. PetroLogistics states that upon completion, the storage facility will be capable of delivering natural gas at the rate of approximately 300 MMcf per day, and receiving injection gas at a rate of approximately 350 MMcf per day.

4. PetroLogistics proposes to construct a 24-inch, 7.3-mile pipeline and a 16-inch, 5.83-mile pipeline to deliver gas volumes to and from the storage facility. The pipeline header will connect the storage facility with Florida Gas Transmission Company, LLC, Texas Eastern Transmission, LP, Bridgeline Pipeline Company, CrossTex LIG Pipeline Company, and Southern Natural Gas Company. PetroLogistics proposes to construct bi-directional metering and regulation sites at each pipeline interconnect. The compressor station will comprise two 10,000 horsepower (hp) electrically driven compressors for a total capacity of 20,000 hp. Additionally, PetroLogistics' proposed project will include the construction of gas processing and dehydration facilities and brine water disposal pipeline facilities that will be located in the same right-of-way as the proposed natural gas pipeline facilities.

B. Markets and Services

5. PetroLogistics requests a blanket certificate under Subpart G of Part 284 in order to provide firm and interruptible storage services on an open-access basis. PetroLogistics also requests approval of its pro forma tariff at Exhibit P to its application. PetroLogistics proposes to provide the firm storage service under Rate Schedule FSS and the interruptible storage service under Rate Schedule ISS. The rate schedules are intended to allow PetroLogistics' customers to customize their respective injection rates, withdrawal rates, and total inventory capacity based upon their needs. PetroLogistics also proposes to provide interruptible hub services, which include parking, loaning, wheeling, balancing and imbalance trading services.

6. PetroLogistics requests authority to charge market-based rates for all storage services and hub services. PetroLogistics supports its request with a market power analysis at Exhibit I to its application that concludes that PetroLogistics will lack market power with respect to the services it proposes to provide. Further, PetroLogistics requests that the Commission waive sections 157.6(b)(8)[1] and 157.20(c)(3)[2] of the Commission's regulations which require an applicant to provide the Commission with the information otherwise necessary for the Commission to make an up-front determination on the rate treatment for a project and updated cost data information to be filed once the

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[1] 18 C.F.R. § 157.6(b) (8) (2007).

[2] 18 C.F.R. § 157.20(c) (3) (2007).

facilities are in service. PetroLogistics also requests that the Commission waive its filing requirements as to Exhibit K (cost of facilities), Exhibit L (financing), Exhibit N (revenues, expenses and income), and Exhibit O (depreciation and depletion).

II. Notice and Interventions

7. Notice of PetroLogistics' application was issued on August 15, 2007 and published in the *Federal Register* on August 22, 2007 (72 Fed. Reg. 46,982), with protests and interventions due on or before September 5, 2007. Florida Gas Transmission Company, LLC; Pine Prairie Energy Center, LLC; and BG Energy Merchant, LLC (BGEM) filed timely, unopposed motions to intervene.[3] Additionally, BGEM filed comments in support of PetroLogistics' proposals.

III. Discussion

A. Certificate Policy Statement

8. Since the proposed facilities will be used to transport natural gas in interstate commerce, subject to the jurisdiction of the Commission, the construction, acquisition, and operation of the facilities are subject to the requirements of the NGA section 7, subsections (c) and (e).

9. The Commission's September 15, 1999 Certificate Policy Statement provides guidance as to how it will evaluate proposals for certificating new construction.[4] The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances 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, and avoidance of the unnecessary exercise of eminent domain or other disruptions of the environment.

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[3] Timely, unopposed motions to intervene are granted by operation of Rule 214 (18 C.F.R. § 385.214 (2007).

[4] *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

10. 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 of the new pipeline. 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.

11. As stated, the threshold requirement is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. PetroLogistics is a new entrant in the natural gas storage market and has no existing customers. Therefore, there will be no subsidization. Moreover, under its market-based rate proposal, PetroLogistics assumes the economic risks associated with the costs of the project's facilities to the extent that any capacity is unsubscribed or revenues are not sufficient to recover costs. The Commission finds that PetroLogistics has satisfied the threshold requirement of the Certificate Policy Statement.

12. The proposed PetroLogistics project will have no adverse impact on existing customers or services since PetroLogistics has no current customers or services. We are satisfied that there will be no negative impact on existing storage providers or their captive customers. As discussed below, the proposed project will be located in a competitive market and will serve new demand in a region experiencing rapid growth in natural gas use. The proposal will also enhance storage options available to pipelines and their customers, and thus, will increase competitive alternatives. Additionally, no storage company in PetroLogistics' market area has protested the proposal.

13. The project will not adversely impact landowners because the majority of facilities will be constructed on land already owned by PetroLogistics, thereby minimizing impact to property. No landowners have submitted protests to PetroLogistics' certificate application. Accordingly, consistent with the Certificate Policy Statement and NGA section 7, we find approval of PetroLogistics' proposal to be required by the public convenience and necessity, subject to the conditions discussed below.

B. Storage and Hub Services and Rates

14. Under the Alternative Rate Policy Statement,[5] the Commission's framework for evaluating requests for market-based rates has two principal purposes: (1) to determine whether the applicant can withhold or restrict services and, as a result, increase price by a significant amount for a significant period of time; and (2) to determine whether the applicant can discriminate unduly in price or terms and conditions. To find that an applicant cannot withhold or restrict services, significantly increase prices over an extended period, or unduly discriminate, the Commission must find either that there is a lack of market power[6] because customers have good alternatives,[7] or that the applicant or the Commission can mitigate the market power with specified conditions. The Commission's analysis of whether an applicant has the ability to exercise market power includes three major steps: (1) definition of the relevant markets; (2) measurement of a firm's market share and market concentration; and (3) evaluation of other relevant factors. The Commission has also distinguished between production area storage facilities, such as PetroLogistics, and market area storage facilities.[8] In general, alternatives to storage in a production area are less of a concern than in a market area, because production itself can serve as a substitute for storage.

15. PetroLogistics' market power analysis for the storage market defines the relevant product and geographic markets, measures market share and concentration, and evaluates the ease of entry into the relevant market. PetroLogistics identifies the relevant product market as interruptible and firm natural gas storage, hub, and balancing services.

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[5] *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines*, 74 FERC ¶ 61,076, *reh'g denied,* 75 FERC ¶ 61,024 (1996), *petitions for review denied and dismissed sub nom. Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998) (Alternative Rate Policy Statement), *criteria modified, Rate Regulation of Certain Natural Gas Storage Facilities* (Order No. 678), FERC Stats. & Regs. ¶ 31,220 (2006); *order on clarification and reh'g* (Order No. 678-A), 117 FERC ¶ 61,190 (2006).

[6] Market power is defined as the ability to profitably maintain prices above competitive levels for a significant period of time. 74 FERC ¶ 61,076 at 61,230.

[7] A good alternative is an alternative that is available soon enough, has a price that is low enough, and has a quality high enough to permit customers to substitute the alternative for an applicant's service. *Id.* at 61,231.

[8] *See, e.g., Moss Bluff Hub Partners, L.P.*, 80 FERC ¶ 61,181 (1997) and *Steuben Gas Storage Company*, 72 FERC ¶ 61,102 (1995), *order on compliance filing and denying reh'g*, 74 FERC ¶ 61,060 (1996).

PetroLogistics identifies the relevant geographic market as the Gulf Coast production area, comprising Louisiana, Texas, Alabama, and Mississippi (the Gulf Coast Supply Region). The geographic market used in PetroLogistics' analysis consists of over 50 storage facilities, either existing or under construction, that are planned to be in service by year end 2008, 20 of which have been authorized to use market-based pricing.[9]

16. PetroLogistics utilizes two measures of natural gas storage capacity in its analysis of market concentration: working gas capacity and peak day deliverability. PetroLogistics' market power analysis shows a Herfindahl Hirschman Index (HHI)[10] of market concentration for working gas capacity of 682, with PetroLogistics' market share being 0.7 percent, and an HHI for peak day deliverability of 525, with PetroLogistics' market share being 0.9 percent. These HHIs are significantly below the 1,800 level cited in the Alternative Rate Policy Statement, and therefore no further market power analysis is required. As PetroLogistics notes, these market shares of less than 1 percent are extremely small compared to other storage operators in the Gulf Coast Supply Region, and we find that these relatively small market shares will not enable PetroLogistics to exert market power in the relevant market area.

17. PetroLogistics proposes to offer firm and interruptible storage service, including interruptible park and loan and wheeling hub services. Traditionally, in evaluating whether shippers of an applicant seeking market-based rate authority for interruptible wheeling service could obtain the same services from alternative providers, the Commission has used a matrix, referred to as a "bingo card," which identifies all possible interconnections for pipelines attached to a hub and indicates whether good alternatives exist. PetroLogistics provides such an analysis of delivery and receipt capacity on the five pipelines it is to be connected to in the relevant geographic area of the Gulf Coast Supply Region. PetroLogistics determined that its market shares for incoming and outgoing capacity are 7.8 and 7.0 percent, respectively, and the HHIs for incoming and outgoing capacity are 1641 and 1396, respectively. PetroLogistics will be located in the East Texas/Louisiana supply area where nine hubs are currently operating, eight of which

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[9] In addition, PetroLogistics submits in Exhibit No. KLB-6 that there are 23 individual storage projects that may be coming on line after 2008, some of which have been certificated and approved for market based rates pricing and others that are pending.

[10] An HHI is calculated by summing the squares of each storage seller's market share. The Alternative Rate Policy Statement specifies that the HHI is to be used as an indicator of the level of scrutiny to be given to the applicant. An HHI above 1,800 results in the applicant being given closer scrutiny because the HHI indicates that the market is more concentrated and the applicant may have significant market power. *See* Alternative Rate Policy Statement, 74 FERC ¶ 61,076 at 61,235.

are connected to at least one of the pipelines proposed to be connected to PetroLogistics. In addition, five more hubs now under construction will be connected to one or more of the five pipelines connected to PetroLogistics.[11] PetroLogistics' level of market concentration will be further reduced when the new hubs become operational after December 31, 2008.[12]

18. PetroLogistics' market power analysis also shows that shippers would benefit from the services offered by PetroLogistics and the flexibility made available via market-based rates. In further support, PetroLogistics submits that market hubs are a prime location for spot market transactions, buyer-seller matching, and gas trading with greater price transparency, that it will enhance the efficiency of natural gas transportation by linking supply, storage, pipelines, and distribution areas; improve reliability by providing market access to multiple supply sources; and increase competition by connecting multiple buyers and sellers.

19. We find that PetroLogistics does not possess market power because the relevant market is easy to enter, and the Commission has found in numerous cases that there are no significant barriers to entry in the natural gas storage market in the Gulf Coast production region.[13] In prior orders, we have approved requests to charge market-based rates for storage services based on a finding that a proposed project would not be able to

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[11] *See* Exhibit No. KLB-12

[12] Exhibit No. KLB-13 shows the HHI calculation of market concentration and PetroLogistics' share of the hub market relative to available incoming and outgoing non-coincidental interconnection capacities.

[13] *See, e.g., Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage,* 116 FERC ¶ 61,052, at P 25 (2006) (noting that there are "over 20 new storage projects or expansions of existing storage facilities in the Gulf Coast region," and that "[i]n light of this information, [the Commission] concludes that barriers to entry to the storage markets in the relevant market area are low"); *Katy Storage and Transportation, L.P.,* 106 FERC ¶ 61,145, at P 19 (2004) (the proposed increase in storage capacity in the production area is due in part to the ease of entry into the market and a high level of competition in the market); *Unocal Keystone Gas Storage, LLC,* 106 FERC ¶ 61,033, at P 16 (2004) (the proposed increase in storage capacity in the production area is due in part to the ease of entry into the market and a high level of competition in the market).

exercise market power due to its small size, its anticipated small share of the market, and the existence of numerous competitors.[14]

20. We find that PetroLogistics' proposed market definition properly identifies good alternatives to PetroLogistics' proposed services. We also find that, within this relevant market, PetroLogistics' prospective market shares are low and that the market's concentration is below the threshold for closer scrutiny. Finally, we agree that barriers to entry are likely to be low in the relevant market. Thus, we conclude that PetroLogistics will lack significant market power. Further, PetroLogistics' proposal for market-based rates is unopposed. For these reasons, we will approve PetroLogistics' request to charge market-based rates for all firm and interruptible storage, hub and wheeling services.

21. In addition to other reporting requirements imposed herein, PetroLogistics must notify the Commission if future changes in circumstances significantly affect its present market power status. Thus, our approval of market-based rates is subject to reexamination in the event that: (a) PetroLogistics seeks to add storage capacity beyond the capacity authorized in this proceeding; (b) an affiliate increases storage capacity; (c) an affiliate links storage facilities to PetroLogistics; or (d) PetroLogistics, or an affiliate, acquires an interest in, or is acquired by, an interstate pipeline connected to PetroLogistics. Since these circumstances could affect its market power status, PetroLogistics shall notify the Commission within 10 days of acquiring knowledge of any such changes. The notification shall include a detailed description of the new facilities and their relationship to PetroLogistics.[15] The Commission reserves the right to require such an analysis at any intervening time.[16]

C. <u>Waivers of Filing Requirements</u>

22. In light of its request for authority to charge market-based rates and the fact that PetroLogistics has no pre-existing facilities, PetroLogistics requests that the Commission waive sections 157.6(b)(8) [17] and 157.20(c)(3)[18] of the Commission's regulations, which

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[14] *Egan Hub Partners, L.P.*, 99 FERC ¶ 61,269 (2002); *Egan Hub Partners, L.P.*, 95 FERC ¶ 61,395 (2001); *Moss Bluff Hub Partners, L.P.*, 80 FERC ¶ 61,181 (1997); *Egan Hub Partners, L.P.*, 77 FERC ¶ 61,016 (1996).

[15] *See Copiah County Storage Company*, 99 FERC ¶ 61,316 (2002); *Egan Hub*, 99 FERC ¶ 61,269 (2002).

[16] *See Liberty Gas Storage LLC*, 113 FERC ¶ 61,247, at P 51 (2005) and *Rendezvous Gas Services, L.L.C.*, 112 FERC ¶ 61,141, at P 40 (2005).

[17] 18 C.F.R. § 157.6(b)(8) (2007).

require an applicant to provide the Commission with the information otherwise necessary for the Commission to make an up-front determination on the rate treatment of the PetroLogistics project and updated cost data information to be filed once the facilities are in service. PetroLogistics also requests that the Commission waive its filing requirements as to Exhibit K (cost of facilities), Exhibit L (financing), Exhibit N (revenues, expenses and income), and Exhibit O (depreciation and depletion). PetroLogistics argues that these exhibits are required of applicants seeking cost-based rate treatment and are not relevant to its application. Also, PetroLogistics requests waiver of the accounting and reporting requirements under Part 201 and section 260.2 of the Commission's regulations, and of section 284.7(e), which requires that rates be designed on a straight fixed-variable methodology. PetroLogistics requests waiver of the section 157.14(a)(10)[19] requirement to provide total gas supply information to the extent the information does not pertain to PetroLogistics' storage operations.

23. In *Golden Triangle Storage, Inc.*[20] the Commission approved market-based rates for storage service and found that where the market is sufficiently competitive to warrant market-based rates, the submission of cost-based data is unnecessary. In light of our decision to permit PetroLogistics to charge market-based rates for its storage and hub services, we will waive compliance with the requirements of sections 157.6(b)(8), 157.20(c)(3), and 157.14 to submit Exhibits K, L, N, and O.[21]

24. Since we approve PetroLogistics' request for market-based rates, we find that there is no ongoing regulatory need to have cost-based financial statements prepared in accordance with the Commission's Uniform System of Accounts. We will grant PetroLogistics' request to waive accounting requirements as prescribed in Part 201, Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act, and reporting requirements, as prescribed in Section 260.2, FERC Form No. 2-A, Annual Report for Nonmajor Natural Gas Companies, of the Commission's regulations. We note that such waivers do not extend to the Commission's assessment of annual charges (ACA). Therefore, PetroLogistics is required to file page

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[18] 18 C.F.R. § 157.20(c)(3) (2007).

[19] 18 C.F.R. § 157.14(a)(10) (2007).

[20] 121 FERC ¶ 61,313 (2007).

[21] In *Bobcat Gas Storage*, 116 FERC ¶ 61,052 (2006) and *Golden Triangle Storage, Inc.*, 121 FERC ¶ 61,313 (2007), we similarly granted market-based rate authority for storage projects and granted waivers of Exhibits K, N, and O. We approve omission of Exhibit L here because there is no protest and PetroLogistics will bear the financial risks of the project.

520 of Form No. 2-A with official certification, reporting the gas volume information which is the basis for imposing an ACA.[22]

25. These waivers are subjection to revision in the event the Commission finds cause to review PetroLogistics' market power or market-based rates. In addition, in the event the Commission may find cause to review records and data showing PetroLogistics' costs, we require PetroLogistics to maintain records to separately identify the original cost and related depreciation on its facilities, and to maintain accounts and financial information of its facilities consistent with generally accepted accounting principles.

D. Tariff Provisions

26. PetroLogistics' pro forma tariff provides for firm storage service (Rate Schedule FSS), interruptible storage service (Rate Schedule ISS), interruptible parking service (Rate Schedule IPS), interruptible loaning service (Rate Schedule ILS), interruptible wheeling service (Rate Schedule IWS), interruptible imbalance trading service (Rate Schedule IBTS), and interruptible balancing service (Rate Schedule IBS). These services will allow PetroLogistics' customers to respond to unexpected market needs, and have been found by the Commission to comply with its regulations.[23]

27. PetroLogistics states that its tariff complies with the requirements of Order No. 637,[24] and states that it will provide its services on an open-access basis under non-discriminatory terms and conditions. PetroLogistics states that it will make arrangements to transmit and receive information on an electronic basis for all storage transactions, and will provide all information required by the North American Energy Standards Board (NAESB) standards through an Internet-based Electronic Delivery Mechanism.

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[22] *See Bluewater Gas Storage, LLC*, 117 FERC ¶ 61,122 at P 49 (2006).

[23] *Pine Prairie Energy Center, LLC,* 109 FERC 61,215 at P 42 (2004).

[24] *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637, 65 Fed. Reg. 10,156 (Feb. 25, 2000), FERC Stats. & Regs. Regs. Preambles July 1996-December 2000 ¶ 31,091 (2000), *order on reh'g*, Order No. 637-A, 65 Fed. Reg. 35,706 (June 5, 2000), FERC Stats. & Regs., Regs. Preambles July 1996-December 2000 ¶ 31,099 (2000), *reh'g denied*, Order No. 637-B, 65 Fed. Reg. 47,284 (Aug. 2, 2000), 92 FERC ¶ 61,062 (2000), *aff'd in part and remanded in part, Interstate Natural Gas Association of America v. FERC*, 285 F.3d 18 (D.C. Cir. 2000), *order on remand*, 101 FERC ¶ 61,127 (2002).

28. The Commission finds PetroLogistics' tariff sheets comply with the Commission's regulations and policies, with the exception of the requirements from which waiver is granted as discussed below. We will require PetroLogistics to file actual tariff sheets consistent with the directives in this order at least 30 days, but no more than 60 days, prior to the commencement of service.

1. Electronic Data Interchange

29. PetroLogistics requests a partial waiver of section 284.12(a)(1)(iv) of the Commission's regulations requiring compliance with the electronic data interchange (EDI) standards established by NAESB. PetroLogistics states that it will operate an interactive website which will provide for an electronic delivery mechanism, expects to have a limited number of customers initially, and it does not anticipate any of those customers requiring EDI. PetroLogistics requests waiver of the EDI standard until 90 days following a request from one of its customers that it implement EDI.

30. Consistent with precedent, the Commission will grant PetroLogistics' request for an exemption of the EDI standards, but will require PetroLogistics to implement EDI standards within 90 days following such a request. [25]

2. Segmentation

31. Section 284.7(d) of our regulations provides that an interstate pipeline must permit a shipper to make use of firm capacity for which it has contracted by segmenting that capacity into separate parts for the shipper's own use, or for the purpose of releasing that capacity to replacement shippers, to the extent that segmentation is operationally feasible. PetroLogistics requests waiver of the Commission's regulations requiring segmentation, contending that its system consists of a single storage facility, and thus there is nothing to segment. Consistent with precedent, the Commission grants PetroLogistics' request for waiver of the segmentation requirement.[26]

3. Gas Retention Penalties

32. Under section 8 of Rate Schedules FSS, ISS, IPS, and IBS, PetroLogistics can retain gas which a shipper has failed to remove from PetroLogistics' system within a

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[25] *See, e.g., Unocal Windy Hill Gas Storage*, LLC, 115 FERC ¶ 61,218 (2006) and *Rendezvous Gas Services*, 112 FERC ¶ 61,141 (2005).

[26] *See, e.g., Liberty Gas Storage LLC*, 113 FERC ¶ 61,247 (2005) and *Clear Creek Gas Storage Company*, 96 FERC ¶ 61,071 (2001).

contractually specified period after the expiration of the shipper's service agreement with PetroLogistics. PetroLogistics' tariff provides that it will credit its customers with the value of that gas. In *Windy Hill Gas Storage, LLC*,[27] the Commission held that the retention of gas left in storage at the end of the applicable withdrawal period is an operationally justified deterrent to shipper behavior that could threaten the system or degrade service to firm shippers. Thus, we will accept the proposed tariff provisions, including the proposal to credit net proceeds to non-offending shippers.

4. Imbalance Netting and Trading

33. Section 284.12(b)(2) requires that pipelines establish provisions for the netting and trading of imbalances and other imbalance management services. Order Nos. 587-G and 587-L[28] adopt the NAESB standards related to these regulations. PetroLogistics requests exemption from compliance with Order Nos. 587-G and 587-L regarding netting and trading of imbalances because it is not proposing to charge imbalance penalties. In Order No. 637-A, the Commission stated that if a pipeline has no authority to assess penalties for imbalances, then there is no need to require that pipeline to offer such imbalance services. Therefore, the regulations requiring imbalance services, including netting and trading of imbalances, are not applicable to PetroLogistics at this time and there is no need for an exemption. If PetroLogistics seeks to impose imbalance penalties in the future, then it must comply with the Commission's policies and regulations regarding imbalance management services. The Commission notes that PetroLogistics does propose to offer an imbalance trading service as part of its hub services.

5. Off-System Capacity and Shipper-Must-Have-Title Rule

34. PetroLogistics requests a generic waiver of the "shipper must have title" policy for any off-system capacity it may need to acquire in order to provide storage services and to enable it to use that capacity to transport natural gas owned by other parties without PetroLogistics having to take title to the gas. Relying on *Texas Eastern Transmission Corporation (TETCO)*,[29] PetroLogistics asks the Commission to accept its off-system

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[27] 119 FERC ¶ 61,291 (2007).

[28] *Standards For Business Practices of Interstate Natural Gas Pipelines*, Order No. 587-G, 63 *Fed. Reg.* 20,072 (Apr. 23, 1998), FERC Stats. & Regs., Regs. Preambles July 1996-December 2000 ¶ 31,062 (1998), Order No. 587-L, 65 *Fed. Reg*. 41,873 (July 7, 2000), FERC Stats. & Regs., Regs. Preambles July 1996-December 2000 ¶ 31,100 (2000).

[29] 95 FERC ¶ 61,056 (2001).

capacity statement proposed in section 26 of the General Terms and Conditions (GT&C) of its pro forma tariff. PetroLogistics states that it will only provide transportation and storage services for others using off-system capacity acquired from third parties under its open-access tariff and subject to the rates approved by the Commission.

35. In *TETCO*,[30] the Commission found that pipelines no longer need to obtain prior approval to acquire capacity on another pipeline, provided the acquiring pipeline filed tariff language specifying that it would only transport for others on off-system capacity pursuant to its existing tariff and rates. PetroLogistics' proposed tariff language is consistent with the requirements set forth in *TETCO* and the authorizations granted other storage companies authorized to charge market-based rates.[31] The Commission accepts PetroLogistics' tariff language and grants a waiver of the shipper-must-have-title policy, with the following clarification. PetroLogistics may only use capacity obtained on other pipelines in order to render the services set forth in its tariff. That is, PetroLogistics may not use capacity on other pipelines to transport gas which will not physically or contractually enter its storage facility unless and until it has received Commission authorization to provide such transportation services. Furthermore, PetroLogistics' authorized use of the *TETCO* waiver to provide storage service shall be limited to the geographic area covered by PetroLogistics' market study.

36. To ensure that PetroLogistics uses acquired off-system capacity in a manner consistent with its market-based rate authority and tariff provisions, and in order to satisfy our responsibility to monitor and prevent the exercise of market power, PetroLogistics is directed to make an annual informational filing on its provision of service using off-system capacity, once it becomes operational, as detailed below.

37. Within 30 days after its first full year of operation, and every year thereafter, PetroLogistics is directed to file, for each acquisition of off-system capacity:

a. the name of the off-system provider;
b. the type, level, term, and rate of service contracted for by PetroLogistics;
c. a description of the geographic location – boundaries, receipt and delivery points, and segments comprising the capacity;
d. the operational purpose(s) for which the capacity is utilized;
e. a description of how the capacity is associated with specific transactions involving customers of PetroLogistics; and

[30] 93 FERC ¶ 61,273 (2000), *reh'g denied*, 94 FERC ¶ 61,139 (2001).

[31] *See, e.g., SG Resources Mississippi, L.L.C.*, 101 FERC ¶ 61,029 (2002).

f. an identification of the total volumes, by PetroLogistics' rate schedule and customer, that PetroLogistics has nominated on each off-system provider during the reporting period

6. Negotiated Right of First Refusal

38. PetroLogistics requests that the Commission authorize it to negotiate a right of first refusal (ROFR) with its customers on a not unduly discriminatory basis. Because the regulatory ROFR applies only to customers paying the maximum tariff rate, and because PetroLogistics proposes to charge market-based rates for which there will be no maximum rate, PetroLogistics maintains that the regulatory ROFR does not apply. Furthermore, PetroLogistics maintains that as a new market entrant it has no market power and no captive customers; consequently, none of the Commission's policy reasons for a regulatory ROFR apply. The Commission has previously approved tariff language that provides for the negotiation of ROFR on a not unduly discriminatory basis where a regulatory ROFR would not otherwise apply.[32] Since we are authorizing PetroLogistics to charge market-based rates in this order, the regulatory ROFR is not applicable. The Commission accepts PetroLogistics' request to provide for negotiation of a contractual ROFR with customers on a not unduly discriminatory basis.

7. Standards of Conduct

39. In Order No. 2004-A[33] the Commission granted a generic exemption from the requirement to file specific provisions for compliance with the Standards of Conduct to independent storage providers which are authorized to charge market-based rates and which are not interconnected with an affiliated transmission provider. PetroLogistics states that pursuant to that exemption it has not included such provisions in its tariff. The Commission accepts PetroLogistics' explanation for this omission.

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[32] *See, e.g.*, *Egan Hub Storage, LLC*, 116 FERC ¶ 61,174 (2006).

[33] *Standards of Conduct for Transmission Providers (Standards of Conduct),* 69 Fed Reg. 23,562 (April 29, 2004), Order No. 2004-A, FERC Stats. & Regs., Regulations Preambles 2001-2005 ¶ 31,161 (2004), *vacated and remanded sub nom. National Fuel Gas Supply Corp. v. FERC*, No. 04-1183, *et al.* (D.C. Cir. Nov. 17, 2006). While the court vacated and remanded Order No. 2004 as it applies to natural gas pipelines, the mandate has not yet issued so PetroLogistics' request is still relevant to the Commission's consideration of its application at this time.

8. Filing and Effectiveness of Tariff

40. PetroLogistics, consistent with Commission policy, states it will file to make its pro forma FERC Gas Tariff effective not more than 60 days, nor less than 30 days, before the date on which it will commence provision of the services proposed herein. Such filing shall reflect all modifications detailed in the body of this order, as well as any intervening changes to the Commission's regulations that apply generally to the tariffs of natural gas storage companies.

E. Engineering Analysis

41. Commission staff completed an engineering analysis of the facility proposed for natural gas storage, including the design capacity of the proposed facility. Based on this analysis, we conclude that the facilities are properly designed to provide 9 Bcf of total storage capacity (6 Bcf working gas and 3 Bcf cushion gas). Further, we conclude that the natural gas facilities proposed by PetroLogistics are properly designed to withdraw up to 350 MMcf per day. Based on Commission staff's analysis, we conclude that the geological and engineering parameters for the underground natural gas salt cavern storage facilities proposed by PetroLogistics are well defined. The analysis shows that PetroLogistics' proposed cavern locations are well within the design criteria and confinement of the salt formation.

42. Because salt deforms plastically in relatively short time frames, caverns will shrink over time. As stated in *A Brief History of Salt Cavern Use,* large volume losses due to salt creep have occurred in natural gas storage caverns.[34] Further, the Interstate Oil and Gas Compact Commission's *Hydrocarbon Storage in Mined Caverns* (IOGCC Report) states that monitoring to demonstrate cavern stability and successful hydrodynamic containment should be carried out throughout the life of the facility. In order to mitigate these concerns, PetroLogistics shall conduct sonar surveys to monitor the cavern's size and shape to insure that salt creep does not potentially damage the integrity of the cavern, which may result in lost gas and reductions in storage capacity. Additionally, the IOGCC Report states "[a]ll gaseous and/or liquid products injected into or withdrawn from the storage facility shall be metered using industry accepted standards. The measurements shall be counterchecked by product level measurement in the cavern (using the level versus volume curve)."[35] Therefore, we will require

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[34] *Hydrocarbon Storage in Mined Caverns: A Guide for State Regulators,* Interstate Oil and Gas Compact Commission, 2000.

[35] Thomas, Robert and Gehle, Richard, *A Brief History of Salt Cavern Use,* Solution Mining Research Institute, 2000.

PetroLogistics to file an annual inventory verification study to assist in identification of potential problems with the storage facility.

F. Environmental Analysis

43. On October 17, 2007, we issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed PetroLogistics Gas Storage Project and Request for Comments on Environmental Issues*. One comment was received in response to the notice of intent (NOI) from PetroLogistics clarifying that its facilities are distinct from the adjacent Strategic Petroleum Reserve (SPR) facilities maintained by the U.S. Department of Energy (DOE). No other comments concerning the environment from federal, state, or local agencies, or landowners were filed in response to the NOI.

44. An environmental assessment (EA) was issued and placed in the record on January 4, 2008. The EA addresses impacts on geology, soils, water resources, vegetation, wildlife, fisheries federally listed endangered and threatened species, land use, cultural resources, noise, air quality, pipeline safety, and alternatives.

45. Comments and clarifications on the EA were received from PetroLogistics on January 24, 2008. PetroLogistics states that the EA reports on page 1 that the project would be capable of up to 150-300 MMcfd for both injection and withdrawal rates. PetroLogistics' filing clarifies that the maximum injection capability will be 350 MMcfd and the maximum withdrawal capability will be 300 MMcfd. The Commission's staff has confirmed this correction, which does not affect the environmental analysis.

46. Regarding pages 5 and 21 of the EA, Petrologistics asserts that the project would require 137 acres of land for construction, including 37 acres as new permanent easement, in contrast to the EA's reporting of 145 acres of land for construction, including 42 acres of new permanent easement. The acreages reported in the EA were calculated by the Commission's staff using PetroLogistics' own revised Wetland Table 2.2 and Land Use Table 8.1 filed on September 6, 2007. The Commission's staff has reviewed its calculation and concluded that the acreages in the EA are correct and appropriately describe the project's impacts.

47. PetroLogistics states that, in reference to page 8 of the EA, no portion of PetroLogistics proposed facilities are located on any portion of the salt dome under control or operated by the U.S. Department of Energy (DOE). The Commission's staff concurs that while PetroLogistics' project will be co-located on the same salt dome as the DOE-managed facilities, the project will not be located in any area that is under control or operation by DOE. Additionally, on February 20, 2008, staff confirmed by telephone conversation that DOE has no concerns over the proposed project.

48. Regarding page 10 of the EA, PetroLogistics states that the actual amount of prime farmland permanently affected by the construction and operation of the project will be only 0.02 acre, not 11 acres, as the EA indicates. Upon further review, staff determined that PetroLogistics is correct because, following construction, most prime farmland will be returned to agricultural use.

49. Lastly, PetroLogistics asserts that, concerning page 15 of the EA, only 13.8 acres of forested wetlands would be impacted, in contrast to the EA's figure of 24 acres. After further review, the Commission's staff has determined that the project actually will impact 35 acres of forested wetland. PetroLogistics' Procedures will allow it to clear up to 30 feet of vegetation over the pipeline centerline for "line of sight" during operation and maintenance activities. This is an impact. In addition, based on further review and new calculations, the amount of forested wetlands crossed by horizontal directional drilling (HDD) will be 20 acres, not 10 acres, as stated in the EA. Taking these considerations into account, staff's revised estimate is that 35 acres of forested wetland will be impacted by this project.

50. A comment on the EA was received from the U.S. Fish and Wildlife Service (FWS) on January 28, 2008. The FWS commented that it would prefer that none of the forested wetland crossed by HDD be cleared for maintenance activities. Our EA states that the use of HDD greatly minimizes the clearing of trees in forested wetlands and therefore is a beneficial construction method. Regarding the limitation of vegetation maintenance activities, we believe that the minimal amount of clearing that would occur based on PetroLogistics' implementation of its Procedures is reasonable for facilitating periodic pipeline corrosion surveys. However, to further minimize the impact associated with the clearing of vegetation during HDD installation, we have added a new environmental condition to this order. Environmental Condition 14 limits vegetation removal above HDD paths in forested wetlands to the clearing of brush and saplings using hand tools to facilitate the use of HDD tracking systems and installation of pipeline markers.

51. On February 1, 2008, PetroLogistics filed supplemental information in response to recommendations contained in the EA in an attempt to expedite Commission staff's review and construction clearance following issuance of a certificate. PetroLogistics provided construction and operation emissions calculations associated with the electrical nonjurisdictional facilities to complete the requirements of a General Conformity Analysis. The combined emissions from the jurisdictional and nonjurisdictional facilities would be 7.11 tons per year (tpy) of Volatile Organic Compounds (VOC) and 58.15 tpy of Nitrogen Oxides (NOx). These would be below the 100 tpy General Conformity Threshold levels for these pollutants and a General Conformity Determination is not required. Therefore, Environmental Recommendation No. 14 from the EA is no longer applicable.

52. Environmental Recommendation No. 15 of the EA has also been removed. PetroLogistics' February 1, 2008 filing included an HDD Noise Analysis for all HDD locations which we have found acceptable. The only location of concern would be the HDD from Station 236+81 to 255+39. The nearest noise sensitive area would be 550 feet from the drill entry point and could have projected levels up to 66.9 decibels on the A-weighted scale on a day-night sound level equivalent. This would be considered for nighttime drilling operations. However, PetroLogistics has committed to daytime drilling only at this location and drilling noise at this site would be similar to typical construction noise levels.

53. In its February 1, 2008 supplemental filing, PetroLogistics, along with its parent company, PetroLogistics Olefins, LLC, notified the Commission that PetroLogistics Olefins intends to construct two 12-inch-diameter nonjurisdictional salt brine pipelines within the same right-of-way and trench as the project's 24-inch-diameter natural gas pipeline for about seven miles. The purpose of the co-location is to reduce the amount of construction disturbance from both projects on area wetlands and soils. These facilities were not previously identified by the applicant and therefore are not described in the EA.

54. Based on information provided in the February 1, 2008 filing, the route of PetroLogistics Olefins' brine pipelines will begin approximately 0.3 miles northeast of PetroLogistics' natural gas storage facilities, and will be co-located with PetroLogistics' gas pipeline right-of-way for approximately seven miles from Station No. 18+78 to Station No. 83+85, and then proceed eastward away from PetroLogistics' gas storage project for another 11 miles, terminating at the Olin Chlor Alkali Products facility in San Gabriel, Louisiana. Although the seven-mile portion of the trench where the brine and gas pipelines will be co-located will be three feet wider than originally proposed, there will be no change in the construction or permanent right-of-way widths for PetroLogistics' gas pipeline facilities. The U.S. Army Corps of Engineers conducted an environmental review of PetroLogistics Olefins' nonjurisdictional brine pipeline facilities and issued a permit under section 404 of the Clean Water Act to PetroLogistics Olefins.

55. Based on the analysis in the EA, as clarified above, the Commission has determined that if PetroLogistics constructs the facilities in accordance with its application and supplements, and the mitigation measures included below, approval of this project would not constitute a major federal action significantly affecting the quality of the human environment.

56. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or

local laws, may prohibit or unreasonable delay the construction or operation of facilities approved by this Commission.[36]

G. Blanket Certificates

57. In Docket No. CP07-428-000, PetroLogistics has applied for a Part 157, Subpart F blanket certificate. The Subpart F blanket certificate gives a natural gas company section 7 authority to automatically, or after prior notice, perform certain activities related to the construction, acquisition, abandonment, and replacement and operation of pipeline facilities. Because PetroLogistics will become an interstate pipeline with the issuance of a certificate to construct and operate the proposed facilities, we will issue the requested Part 157, Subpart F blanket certificate. However, PetroLogistics' Part 157 blanket certificate shall not include automatic authorization to increase storage capacity.[37] This restriction on PetroLogistics' Part 157 blanket certificate is based on the fact that PetroLogistics' storage facility is a salt cavern in the initial stages of development for which future expansion will require reevaluation by the Commission of historical data and new engineering and geological data.[38]

58. In Docket No. CP07-429-000, PetroLogistics requests a Part 284, Subpart G blanket certificate in order to provide open-access storage services. Under a Part 284 blanket certificate, PetroLogistics will not need individual authorizations to provide storage services to particular customers. PetroLogistics filed a pro forma Part 284 tariff to provide open-access storage services. Since a Part 284 blanket certificate is required for PetroLogistics to offer these services, we will grant PetroLogistics a Part 284 blanket certificate, subject to the conditions imposed herein.

IV. Conclusion

59. For the reasons discussed above, the Commission finds that PetroLogistics' project is required by the public convenience and necessity and that a certificate authorizing the construction and operation of the facilities described in this order and in the application should be issued, subject to the conditions discussed herein and listed in Appendices A and B.

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[36] *See, e.g., Schneidewind v. ANR Pipeline*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Comm.*, 894 F.2d 571 (2d Cir. 1990); *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

[37] *See* 18 C.F.R. § 157.214 (2007).

[38] *See, e.g.*, *Unocal Windy Hill Gas Storage*, 115 FERC ¶ 61,218 (2006).

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

The Commission orders:

(A) A certificate of public convenience and necessity is issued to PetroLogistics in Docket No. CP07-427-000, authorizing the ownership, construction and operation of the described storage facilities, as described more fully in this order and in the application.

(B) A blanket construction certificate is issued to PetroLogistics, in Docket No. CP07-428-000, under Subpart F of Part 157 of the Commission's regulations.

(C) A blanket transportation certificate is issued to PetroLogistics, in Docket No. CP07-429-000, under Subpart G of Part 284 of the Commission's regulations.

(D) The certificate issued in Ordering Paragraph (A) is conditioned on PetroLogistics' compliance with all applicable Commission regulations under the Natural Gas Act, particularly the general terms and conditions set forth in Parts 154, 157, and 284, and paragraphs (a), (c) (1) and (2), (e), and (f) of section 157.20 of the regulations.

(E) The facilities authorized in this order shall be constructed and made available for service within one year of the date of the order in this proceeding in accordance with section 157.20(b) of the Commission's regulations.

(F) The certificate issued in Ordering Paragraph (A) is conditioned upon PetroLogistics' compliance with the engineering and environmental conditions set forth in Appendices A and B to this order.

(G) PetroLogistics' request to charge market-based storage rates for firm and interruptible storage service and interruptible hub and wheeling services is approved, as discussed in this order. PetroLogistics' market power and market-based storage rates authority shall be subject to re-examination in the event that:

1. PetroLogistics expands its storage capacity beyond the amount authorized in this proceeding;
2. PetroLogistics acquires additional transportation facilities or additional storage capacity;
3. An affiliate provides storage or transportation services in the same market area or acquires an interest in another storage field that can link PetroLogistics' facilities to the market area; or

4. PetroLogistics or an affiliate acquires an interest in or is acquired by an interstate pipeline

(H) PetroLogistics is granted a waiver of section 157.14 of the Commission's regulations requiring submission of Exhibits K (cost of facilities), L (financing), N (revenue-expenses-income), and O (depreciation and depletion); and the accounting and reporting requirements under Parts 201 and 260.2 of the Commission's regulations, which presume cost-based rates are being charged and collected, except for the information necessary for the Commission's assessment of annual charges. This waiver is subject to PetroLogistics maintaining accounts and financial information of its storage facility consistent with generally accepted accounting principles.

(I) PetroLogistics shall file, not less than 30 days nor more than 60 days, prior to its proposed effective date, actual tariff sheets consistent with its pro forma tariff in accordance with the NGA and Part 154 of the Commission's regulations.

(J) Within 30 days after its first full year of operation, and every year thereafter, PetroLogistics is directed to file an annual informational filing on its provision of service using off-system capacity, as detailed in this order.

(K) The authorizations issued in Ordering Paragraphs (A), (B), and (C) are conditioned upon PetroLogistics' notifying the Commission's environmental staff by telephone, e-mail, or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies PetroLogistics. PetroLogistics shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

APPENDIX A
Engineering Conditions for the PetroLogistics Storage Project

1. The maximum inventory of natural gas stored in PetroLogistics' storage facility shall not exceed the certificated levels of 9 Bcf at 14.73 psia and 60° F for its cavern; the maximum gas storage shut-in stabilized pressure gradient of its cavern shall not exceed 0.9 psi/ft. The minimum pressure shall be limited to 0.30 psi/ft.

2. The final gas storage operating capacity of the cavern, working gas capacity, cushion gas capacity and the minimum pressure shall be determined after the facility's operating parameters are evaluated and filed with the Commission (include data and work papers to support the actual operating capacity determination).

3. Before commencing gas storage operations, PetroLogistics shall:

   (a) Conduct a Mechanical Integrity Test for the cavern before initiation to natural gas storage, and file the results with the Commission;
   (b) File with the Commission, copies of the latest interference tracer surveys, or other testing or analysis on its cavern;
   (c) Establish and maintain a subsidence monitoring network over the proposed cavern storage area; and,
   (d) Assemble, test and maintain an emergency shutdown system.

4. Twice annually, PetroLogistics shall conduct a leak detection test during storage operations to determine the integrity of its cavern, well bore, casing and wellhead, and file the results with the Commission until one year after the storage inventory volume reaches or closely approximates the full authorized capacity, unless otherwise ordered by the Commission.

5. The cavern's well will be periodically logged to check the integrity of each casing string. Additionally, every five years PetroLogistics shall conduct sonar surveys of the cavern to monitor its dimensions and shape, including the cavern roof, and to estimate pillar thickness between openings throughout the storage operations, and file results with the Commission.

6. PetroLogistics shall conduct an annual inventory verification study on its cavern, and file results with the Commission.

7. The PetroLogistics Storage Project shall be operated in such a manner as to prevent gas loss or migration.

8. PetroLogistics shall file with the Commission semi-annual reports (to coincide with the maximum and minimum storage pressures) containing the following information

in accordance with section 157.214 (c) of the Commission's regulations (volumes shall be stated at 14.73 psia and 60°F, and pressures shall be stated in psia):

(a) The daily volume of natural gas injected into and withdrawn.
(b) The inventory of natural gas and shut-in wellhead pressure for its cavern at the end of each reporting period.
(c) The maximum daily injection and withdrawal rates experienced for the storage facility during the reporting period; and the average working pressure on such maximum days taken at a central measuring point where the total volume injected or withdrawn is measured.
(d) The results of any tests performed to determine the actual size, configuration, or dimensions of the storage cavern.
(e) A discussion of current operating problems and conclusions.
(f) Other data or reports which may aid the Commission in the evaluation of the storage project.

9. PetroLogistics shall continue to file the above semi-annual reports in accordance with section 157.214(c) of the Commission's regulations for a period of one year following the date facility operation at maximum level is initiated.

APPENDIX B
Environmental Conditions

1. PetroLogistics shall follow the construction procedures and mitigation measures described in its application and supplements and as identified in the environmental assessment, unless modified by the Order. PetroLogistics must:

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

2. The Director of OEP has delegation authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:

   a. the modification of conditions of the order; and
   b. 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.

3. **Prior to any construction**, PetroLogistics shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.

4. The authorized facility location shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available,** and before the start of construction, PetroLogistics shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by the order. All requests for modifications of environmental conditions of the order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

   PetroLogistics' exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to the Order must be consistent with these authorized facilities and locations. PetroLogistics' right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipeline to accommodate future needs or to acquire a ROW for a pipeline to transport a commodity other than natural gas.

5. PetroLogistics shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, and documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area.**

   This requirement does not apply to minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

   Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

   a. implementation of cultural resources mitigation measures;
   b. implementation of endangered, threatened, or special concern species mitigation measures;
   c. recommendations by state regulatory authorities; and
   d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.

6. **Within 60 days of the acceptance of this certificate and before construction begins,** PetroLogistics shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how PetroLogistics will implement the mitigation measures required by the Order. PetroLogistics must file revisions to the plan as schedules change. The plan shall identify:

   a. how PetroLogistics will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;

b. the number of environmental inspectors assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;

c. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;

d. the training and instructions PetroLogistics will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);

e. the company personnel (if known) and specific portion of PetroLogistics' organization having responsibility for compliance;

f. the procedures (including use of contract penalties) PetroLogistics will follow if noncompliance occurs; and

g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:

   (1) the completion of all required surveys and reports;
   (2) the mitigation training of onsite personnel;
   (3) the start of construction; and
   (4) the start and completion of restoration.

7. PetroLogistics shall employ at least one environmental inspector. The environmental inspector (EI) shall be:

   a. responsible for monitoring and ensuring compliance with all mitigative measures required by the Order and other grants, permits, certificates, or other authorizing documents;
   b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract and any other authorizing document;
   c. empowered to order correction of acts that violate the environmental conditions of the order, and any other authorizing document;
   d. responsible for documenting compliance with the environmental conditions of the order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
   e. responsible for maintaining status reports.

8. PetroLogistics shall file updated status reports prepared by the EI with the Secretary on a weekly basis **until all construction-related activities, including restoration and initial permanent seeding, are complete.** On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:

a. the current construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;

b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);

c. corrective actions implemented in response to all instances of noncompliance, and their cost;

d. the effectiveness of all corrective actions implemented;

e. a description of any landowner/resident complaints which may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and

f. copies of any correspondence received by PetroLogistics from other federal, state, or local permitting agencies concerning instances of noncompliance, and PetroLogistics' response.

9. PetroLogistics must receive written authorization from the Director of OEP **before commencing service** from the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way is proceeding satisfactorily.

10. **Within 30 days of placing the certificated facilities in service,** PetroLogistics shall file an affirmative statement with the Secretary, certified by a senior company official:

a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or

b. identifying which of the certificate conditions PetroLogistics has complied with or will comply with. This statement shall also identify any areas along the right-of-way where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.

11. PetroLogistics shall limit the widening of the access road at Station Number 641+50 to no more than 35 feet.

12. **PetroLogistics shall not begin service until:** it files documentation, including clearances and/or surveys required from the FWS and State Historic Preservation Office (SHPO) regarding the proposed electric service lines and substation, and

PetroLogistics has received notification from the Director of OEP that service may begin.

13. PetroLogistics shall develop and implement an environmental complaint resolution procedure. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the Project and restoration of the ROW. **Prior to construction,** PetroLogistics shall mail the complaint procedure to each whose property would be crossed by the Project.

a. In its letter to affected landowners, PetroLogistics should:

(i) provide a local contact that the landowners should call first with their concerns; the letter should indicate how soon a landowner should expect a response;
(ii) instruct the landowners that, if they are not satisfied with the response, they should call PetroLogistics' Hotline; the letter shall indicate how soon to expect a response; and
(iii) instruct the landowners that, if they are still not satisfied with the response from PetroLogistics' Hotline, they should contact the Commission's Enforcement Hotline at (1-888-889-8030) or by email at hotline@ferc.gov.

b. In addition, PetroLogistics should include in its weekly status report a table that contains the following information for each problem/concern:

(i) the date of the call;
(ii) the identification number from the certificated alignment sheets of the affected property and approximate location by milepost or station number;
(iii) the description of the problem/concern; and
(iv) an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.

14. PetroLogistics shall limit vegetation clearing on the right-of-way above horizontal directional drilling paths in forested wetlands to the clearing of brush and saplings using hand tools to facilitate the use of horizontal drill tracking systems and installation of pipeline markers.

15. PetroLogistics shall make all reasonable efforts to assure its predicted noise levels from the proposed compressor station are not exceeded at nearby NSAs and file noise surveys showing this with the Secretary **no later than 60 days** after placing the compressor station in service. However, if the noise

attributable to the operation of the compressor station at full load exceeds an L_{dn} of 55 dBA at any nearby NSAs, PetroLogistics shall file a report on what changes are needed and should install additional noise controls to meet the level **within one year of the in-service date**. PetroLogistics shall confirm compliance with this requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.