

119 FERC ¶ 61,227
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Petal Gas Storage, L.L.C.

Docket No. CP07-81-000

ORDER ISSUING CERTIFICATE

(Issued June 1, 2007)

1. On February 5, 2007, Petal Gas Storage, L.L.C. (Petal) filed an application under section 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity to construct and operate a new 15,000 horsepower (hp) compressor station and auxiliary facilities as well as 1,605 feet of compressor station piping to connect the station to the existing Petal storage complex located east of Hattiesburg, in Forrest County, Mississippi. The proposed project, referred to as the No. 3 Compressor Station Project, will enable Petal to utilize the storage capacity provided by Cavern No. 8, which is currently under development, on a multi-cycle basis.¹ Petal also seeks continued authority to charge market-based rates for its storage services and requests any further waiver of those parts of the Commission's regulations requiring the submission of cost data that may be necessary.

2. As discussed below, the Commission finds that Petal's proposed No. 3 Compressor Station Project is required by the public convenience and necessity and issues Petal the requested certificate authorization, subject to conditions.

I. Background

3. Petal is a Delaware limited liability company with its principal place of business in Forrest County, Mississippi. Petal is a wholly-owned subsidiary of Enterprise Products

¹ *Petal Gas Storage, L.L.C.*, 102 FERC ¶ 61,243 (2003); *order clarifying prior order*, 103 FERC ¶ 61, 311 (2003).

Partners, L.P., based in Houston, Texas.² Petal is a natural gas company within the meaning of the NGA and is engaged in the storage and transportation of natural gas for others in interstate commerce.

4. On August 4, 1993, the Commission authorized Petal to construct and operate its first salt dome natural gas storage cavern, Cavern No. 6, as well as the Petal No. 1 Compressor Station, located on the Petal Salt Dome in Forrest County, Mississippi.³ As outlined below, in a series of subsequent orders, the Commission authorized the construction of additional storage caverns, the expansion of caverns' storage capacity and the construction and expansion of various storage header and mainline facilities, including compression and interconnection facilities. In these orders, the Commission authorized Petal to charge market-based rates for its storage services and cost-based rates for its related open-access transportation services.

5. In March 1999, the Commission authorized Petal to construct its second salt dome natural gas storage cavern, Cavern No. 7, adjacent to Cavern No. 6 on the Petal Salt Dome.⁴ In February 2000, the Commission approved Petal's application to enlarge the capacity of each of these caverns from 5.2 billion cubic feet (Bcf) (3 Bcf working gas) to approximately 8 Bcf (5 Bcf working gas).⁵ In addition, in September 2000, the Commission authorized Petal to add compression at the storage facility (Petal No. 2 Compressor Station), install a 5.5 mile loop of its storage header and enlarge an existing interconnection with Tennessee Gas Pipeline Company.⁶ Further, in October 2001, the Commission approved Petal's application to construct and operate a 59-mile transmission pipeline (Line 100) commencing at the terminus of Petal's storage header facility and terminating adjacent to Southern Natural Gas Company's compressor station near Enterprise, Mississippi.⁷

² Enterprise Products Partners, L.P., through its merger with GulfTerra Energy Partners, L.P., acquired Petal on October 1, 2004.

³ *Petal Gas Storage Company*, 64 FERC ¶ 61,190 (1993).

⁴ *Petal Gas Storage Company*, 86 FERC ¶ 61,224 (1999).

⁵ *Petal Gas Storage, L.L.C.*, 90 FERC ¶ 61,243 (2000).

⁶ *Petal Gas Storage, L.L.C.*, 92 FERC ¶ 61,220 (2000).

⁷ *Petal Gas Storage, L.L.C.*, 97 FERC ¶ 61,097 (2001).

6. In February 2003, the Commission authorized Petal to develop its third and fourth natural gas storage caverns. Specifically, the Commission approved Petal's application to convert an existing brine storage cavern, Cavern No. 3, to a natural gas storage cavern, to construct and operate a new natural gas storage cavern, Cavern No. 8, and to install a new 5,000 hp compressor unit at the Petal No. 2 Compressor Station.⁸ Cavern No. 3 and the new compressor unit were placed in service on December 1, 2005. When fully developed, Cavern No. 3 will have capacity of 4.75 Bcf, including 3 Bcf of working gas and 1.75 Bcf of cushion gas. Cavern No. 8 is projected to be in service in April 2008, with a total capacity of 7.9 Bcf, which will consist of 5.0 Bcf of working gas and 2.9 Bcf of cushion gas.

7. In March 2005, the Commission authorized Petal to up-rate certain compressor units and increase the operating pressure of its storage header in order to increase the capacity of its 59-mile mainline pipeline, Line 100, from 700 MMcf per day to 1.3 Bcf per day.⁹

8. In March 2007, the Commission authorized Petal to convert two existing salt dome caverns, Cavern 9, previously used for natural gas liquids, and Cavern 10, previously used for brine storage, into natural gas storage caverns and to construct pipeline facilities to connect the converted caverns to its existing storage operations, thereby increasing the overall storage capacity of Petal's storage complex by 4.45 Bcf (2.85 Bcf of working gas and 1.6 Bcf of cushion gas).¹⁰ Thus, the total certificated working gas capacity of the Petal facility is 20.85 Bcf and the total cushion gas capacity is 12.05 Bcf.

9. Petal states that at the time the application requesting authorization to develop Cavern No. 8 was filed in February 2003, market demand for such additional capacity appeared to require only single-cycle service and therefore only a 5,000 hp addition to the existing Petal No. 2 Compressor Station was proposed. Currently, however, firm subscriptions for the additional capacity provided by Cavern No. 8 demonstrate that present market demands require a multi-cycle service. Thus, Petal states that it proposes to construct and operate the new 15,000 hp No. 3 Compressor Station.

⁸ *Petal Gas Storage, L.L.C.*, 102 FERC ¶ 61,243 (2003); *order clarifying prior order*, 103 FERC ¶ 61,311 (2003).

⁹ *Petal Gas Storage, L.L.C.*, 110 FERC ¶ 61,260 (2005).

¹⁰ *Petal Gas Storage, L.L.C.*, 118 FERC ¶ 61,253 (2007); *reh'g pending*.

II. The Proposal

A. Facilities

10. The No. 3 Compressor Station Project involves the construction and operation of: 1) three separate 5,000 hp compressor units, to comprise the 15,000 hp compressor station; 2) approximately 1,605 feet of 20-inch diameter natural gas storage tie-in pipeline; and 3) a control system, scrubbers, utility coolers, system generator heaters, high voltage transformer, hot oil system, gas conditioning system and other auxiliary facilities.

11. Petal states that the addition of the Petal No. 3 Compressor Station will allow it to utilize, on a multi-cycle basis, the additional storage capacity provided by Cavern No. 8, which is currently under development. At its currently certificated maximum injection and withdrawal rates, the working gas capacity of Cavern No. 8 could be cycled every 30 days. Specifically, the 5 Bcf of working gas capacity could be injected in 20 days (250 MMcf/day) and withdrawn in 10 days (500 MMcf/day). The additional compression afforded by the No. 3 Compressor Station would only be used for injection such that it would have no effect on the cavern's deliverability. Although the project will enable Petal to cycle the working gas in Cavern No. 8 twelve times per year, Petal has contracted with individual firm customers for up to 9 injection/withdrawal cycles annually. The proposed compressor station, including the 1,605 feet of pipeline, will be located entirely on property owned by Petal.

B. Rates and Services

12. Petal does not propose any changes to its currently effective FERC Gas Tariff or to its services under its Rate Schedules FSS and ISS. Petal asserts that the additional compression afforded by the No. 3 Compressor Station Project should not affect the basis for the Commission's approval on Petal's current market-based rate authority since the additional compression will not increase Petal's total storage capacity or its maximum withdrawal capability beyond previously authorized levels. Petal states that the limited purpose of the No. 3 Compressor Station Project is to increase Petal's overall injection capability so that it can provide the multi-cycle firm service its customers have requested from the previously authorized storage capacity.

13. Petal states that it is currently fully subscribed on a firm basis for the existing working gas capacity provided by Cavern Nos. 3, 6 and 7. Petal previously conducted an open season for the additional firm storage capacity that will be made available by the development of Cavern No. 8, currently scheduled to be placed in service by April 1, 2008. Petal states that binding subscriptions for substantial quantities of storage capacity were executed and all customers' subscriptions were for multi-cycle storage service.

Petal further states that, in total, the nominated maximum injection rights exceed the physical injection capabilities of the existing Petal Nos. 1 and 2 Compressor Stations. In addition, Petal states it is in negotiations with potential customers for the remaining unsubscribed working gas capacity of Cavern No. 8 and, in each instance, they are requesting firm, multi-cycle service.

III. Notice, Interventions, and Comments

14. Public notice of Petal's application was published in the *Federal Register* on March 7, 2007 (72 Fed. Reg. 10,199). Motions to intervene were due on or before March 21, 2007. No motions to intervene, comments or protests were filed in response to the notice of Petal's application.

IV. Discussion

15. Since the proposed facilities will be used to provide natural gas services subject to the jurisdiction of the Commission, Petal's proposal is subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

A. The Certificate Policy Statement

16. The Commission's September 15, 1999 Certificate Policy Statement provides guidance as to how it will evaluate proposals for certificating new construction.¹¹ 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 the avoidance of the unnecessary exercise of eminent domain or other disruptions of the environment.

17. 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

¹¹*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).

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.

18. 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. All of Petal's existing customers receive storage service under contracts with Petal at market-based rates. These contracts will not change as a result of the No. 3 Compressor Station Project. The multi-cycle storage service resulting from the approval of this application will be supported by new contracts with those customers subscribing for such service. Further, the Commission is affirming its authorization of market-based rate authority for Petal, as discussed below. Thus the new contracts also will be at market-based rates, and Petal therefore will assume the economic risks associated with the project's costs. In view of these considerations, the Commission finds that Petal has satisfied the threshold requirement of the Certificate Policy Statement.

19. Petal's proposal will enable it to provide customers with multi-cycle storage services. The project should not have any adverse impact on the service provided to Petal's existing customers. Nor is there any evidence that Petal's proposal will have an adverse impact on existing natural gas companies in the market and their captive customers by displacing any services provided by other companies. Further, no storage company in Petal's market area has protested Petal's application.

20. There should be minimal adverse impacts on landowners associated with Petal's No. 3 Compressor Station Project. As stated, *supra*, all of the proposed facilities are located solely within the boundaries of the existing storage facility property owned by Petal or its affiliates. Thus, no new rights-of-way or other ground disturbance is required.

21. The Commission concludes that the No. 3 Compressor Station Project will both meet unserved storage service demand and facilitate the additional development of growing market demand for natural gas in the Southeast United States.

22. Based on the benefits the instant Petal project will provide to the market and the lack of any identified adverse effect on existing customers, other pipelines, landowners, or communities, the Commission finds, consistent with the Certificate Policy Statement and section 7 of the NGA, that the public convenience and necessity requires approval of the No. 3 Compressor Station Project.

B. Market-Based Rate Authority

23. Since Petal's proposed project will not increase either its total storage capacity or its maximum withdrawal capability, Petal's market share for working gas and deliverability will be unaffected. As stated, the limited purpose of the No. 3 Compressor Station Project is to increase Petal's injection capability so that it can provide the multi-cycle firm service its customers have requested within previously authorized storage levels. Thus, none of the parameters examined by the Commission in approving Petal's market-based rate authority has changed.¹²

24. The Commission concludes that Petal will continue to lack significant market power in the relevant market. Further, Petal's request for continued market-based rate authority is unopposed. For these reasons, the Commission finds that Petal's proposal to continue to charge market-based rates meets the traditional criteria established in the Alternative Rate Policy Statement. Therefore, the Commission will affirm Petal's market-based rate authority for the enhanced multi-cycle storage service created by the No. 3 Compressor Station, as well as the continuation of waivers previously granted.¹³

25. Consistent with previous orders authorizing market-based rates for services using Petal's existing facilities, the Commission will require that Petal notify the Commission of future circumstances that may significantly affect its market power status. Thus, our approval of continued market-based rate authority is subject to reexamination in the event that: (a) Petal seeks to add storage capacity beyond its currently certificated levels; (b) an affiliate increases storage capacity; (c) an affiliate links storage facilities to Petal; or (d) Petal, or an affiliate, acquires an interest in, or is acquired by, an interstate pipeline connected to Petal. Since these circumstances could affect its market power status, Petal 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

¹² In an order issued on March 27, 2007, the Commission affirmed continued market-based rate authority for Petal based, in part, on a market power study filed with its application that indicated Petal's market share is 4.1 percent for working gas and 11.6 percent for deliverability. The corresponding Herfindahl-Hirschman Index (HHI) values of 757 and 666 are well below the Commission's threshold level of 1800. *Petal Gas Storage, L.L.C.*, 118 FERC ¶ 61,253 at p. 37 (2007).

¹³ Petal is still required to file pages 520 and 520-A of its Form No. 2-A, reporting the gas volumes information which is the basis for imposing an annual charge adjustment (ACA) charge.

relationship to Petal.¹⁴ The Commission also reserves the right to require an updated market power analysis at any time.¹⁵

C. Environmental Analysis

26. Commission staff prepared an environmental assessment (EA) for Petal's proposal. The EA addresses soils, vegetation and wildlife, threatened and endangered species, cultural resources, land use, air and noise quality, safety, and alternatives.

27. On April 3, 2007, the Commission issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Petal No. 3 Compressor Station Project and Request for Comments on Environmental Issues (NOI). The NOI was mailed to about 200 interested parties including federal, state, and local officials; agency representatives; conservation organizations; Native American groups; local libraries and newspapers; and landowners in the vicinity of the proposed project.

28. In response to the NOI, the Commission received one comment letter from a landowner whose property is near the proposed compressor station site. In the letter, Mr. Jerry W. Byrd expressed concern that his residence would be affected by an increase in noise levels from the proposed project. Mr. Byrd's noise concern is addressed in section B.6 of the EA. Further, environmental condition 4 ensures that there would be no increase in existing noise levels at any residences in the vicinity of the project facilities as a result of the proposed project.

29. Based on the discussion in the EA, the Commission concludes that if constructed and operated in accordance with Petal's application and our recommended mitigation measures, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

30. 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.

¹⁴ See *Mississippi Hub, LLC*, 118 FERC ¶ 61,099 (2007); *Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052 (2006).

¹⁵ See *Rendezvous Gas Services, L.L.C.*, 112 FERC ¶ 61,141 at P 40 (2005). We note that in Order Nos. 678 and 678-A, the Commission chose not to impose a generic requirement that storage providers granted market-based rate authority on the basis of a market power analysis file an updated market power analysis every five years or at other periodic intervals. See Order No. 678-A, 117 FERC ¶ 61,190 at P 15.

However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.¹⁶

31. Petal 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 Petal. Petal shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

32. The Commission on its own motion, received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Petal in Docket No. CP07-81-000 authorizing it to construct and operate the No. 3 Compressor Station Project, as described and conditioned herein, and as more fully described in the application.

(B) The certificate issued in Ordering Paragraph (A) is conditioned upon:

(1) Petal's compliance with all applicable Commission regulations under the Natural Gas Act, particularly the general terms and conditions set forth in Parts 154 and 284 and paragraphs (a), (c), (e) and (f) of section 157.20.

(2) The certificate issued in Ordering Paragraph (A) is conditioned upon Petal's compliance with the environmental conditions set forth in the appendix of this order.

(C) Petal's request for Commission authorization to continue to charge market-based storage rates for firm and interruptible storage service is granted, as discussed herein. Petal's market power and market-based storage rate authority shall be subject to reexamination in the event that: (1) Petal expands its storage capacity beyond the amount

¹⁶ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

authorized in this proceeding; (2) an affiliate increases storage capacity; (3) an affiliate links storage facilities to Petal; or (4) Petal, or an affiliate, acquires an interest in, or is acquired by, an interstate pipeline connected to Petal. Petal shall notify the Commission within 10 days of any such change in circumstance that may alter Petal's market power status.

(D) Waiver is granted of the Commission's regulations that have been deemed inapplicable to storage providers with market-based rates, as discussed in this order.

(E) Pursuant to section 157.20(b) of the Commission's regulations, the facilities authorized in Ordering Paragraph (A) must be constructed and placed in service within one year of the date of the final order in this proceeding.

(F) Petal 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 Petal. Petal 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
Petal Gas Storage, L.L.C.
Environmental Conditions

As recommended in the EA, this authorization includes the following condition(s):

1. Petal shall follow the construction procedures and mitigation measures described in its application and supplements and as identified in the EA, unless modified by the Commission Order. Petal 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 Commission 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 and operation.
3. **Prior to any construction**, Petal 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. Petal shall file a noise survey with the Secretary **no later than 60 days** after placing the authorized Petal Compressor Station No. 3 in service. If the noise

attributable to the operation of the Petal facility (Petal Compressor Station Nos. 1, 2, and 3 cumulatively) at full load exceeds an L_{dn} of 55 dBA at any nearby NSAs, Petal shall install additional noise controls to meet that level **within 1 year** of the in-service date. Petal shall also confirm compliance with the L_{dn} of 55 dBA requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.