

123 FERC ¶ 61,248  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Steckman Ridge, LP

Docket No. CP08-15-000

ORDER ISSUING CERTIFICATES

(Issued June 5, 2008)

1. On November 1, 2007, Steckman Ridge, LP (Steckman Ridge) filed in Docket No. CP08-15-000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity authorizing the construction and operation of a natural gas storage facility and associated facilities (Steckman Ridge Project) in Bedford County, Pennsylvania. Steckman Ridge also requests a blanket construction certificate under Part 157, Subpart F of the Commission's regulations and a blanket certificate to provide open-access firm and interruptible storage and hub services under Part 284, Subpart G of the Commission's regulations. Additionally, Steckman Ridge requests authority to charge market-based rates for the proposed storage services, and waiver of certain Commission filing, accounting, and reporting requirements applicable to cost-based rate proposals, which the Commission has previously found inapplicable for storage providers granted market-based rate authority.

2. As discussed and conditioned below, this order grants Steckman Ridge's requested certificates for its proposed storage project and services and its request to charge market-based rates for its services, except for its proposed wheeling service, which is rejected without prejudice to Steckman Ridge filing to support market-based rates for such service.

**I. Background**

3. Steckman Ridge is a new company with no existing jurisdictional or non-jurisdictional operations in the natural gas pipeline or storage industry. Steckman Ridge

is a joint venture owned in equal interests by subsidiaries of Spectra Energy Transmission, LLC (Spectra)<sup>1</sup> and New Jersey Resources Corporation.

4. Steckman Ridge states that in anticipation of strong market demand for natural gas services and the need for significant storage capacity in the Northeast region of the United States, it acquired an existing natural gas production field in Pennsylvania and proposes to convert it into a multi-cycle natural gas storage facility that will provide secure and flexible storage services to the Northeast energy market by April 2009. Steckman Ridge states that it held an open season from May 21, 2007 through June 22, 2007, to determine market interest for its proposed market-area storage facility providing multi-cycle service. Steckman Ridge states that it received nominations for approximately 58 Bcf in storage services starting in April 2009 and is continuing to work with those parties who nominated during the open season to execute firm commitments for service.

5. Steckman Ridge states that the supply and demand dynamics of the Northeast energy market are in the midst of a significant transition, creating a substantial increase in the demand for storage services in this region. Steckman Ridge claims that the growth in liquefied natural gas supply along the eastern seaboard of the United States and Canada and the introduction of incremental supply from the Rocky Mountain region and from the Mid-Continent region are important new sources of natural gas that will meet the growing demands for natural gas in the Northeast markets. Growth in conventional markets will continue to expand the seasonal peak requirements, while a growing number of gas-fired power generation markets have introduced a summer peak to the market profile. Consequently, states Steckman Ridge, there is an increasing demand for natural gas storage services that will offer growing markets the ability to manage price volatility, along with providing supply security, diversity, flexibility and seasonal balance.

6. Steckman Ridge states because of its strategic location between new natural gas supplies from the East, Mid-Continent and Rocky Mountain areas, and its close proximity to existing interstate pipelines serving the Mid-Atlantic and New England regions, the Steckman Ridge Project will become an integral part of the Northeast energy market, allowing it to serve key customers, including local distribution companies, power generators, and marketers. The proposed project will provide natural gas storage services to help meet the daily and seasonal needs of customers, including multi-cycle storage, park and loan, and wheeling services.

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<sup>1</sup> Spectra, through its subsidiaries, owns and operates natural gas storage projects throughout the United States, including the Accident Storage Field, Oakford Storage Field, Liedy Storage Field, and Saltville Gas Storage Facility.

## **II. The Proposal**

### **A. New Facilities**

7. Steckman Ridge proposes to construct and operate a multi-cycle natural gas storage facility that will be converted from an existing natural gas production field located in Bedford County, Pennsylvania. Steckman Ridge states that its project consists of the conversion of five existing production wells into storage wells; the drilling of 18 new storage wells; the construction of a storage field piping network; a 9,470 horsepower (hp) compressor station consisting of two 4,735 hp reciprocating compressor units, as well as gas processing and dehydration facilities, a meter and regulator station, and certain non-jurisdictional facilities;<sup>2</sup> and the removal of existing production field piping.<sup>3</sup> Steckman Ridge states that the project will have a total capacity of 17.7 Bcf (12 Bcf working gas and 5.7 Bcf cushion gas), a maximum withdrawal rate of 300 MMcf per day, and a maximum injection rate of 227 MMcf per day. Steckman Ridge will locate its new storage facility on approximately 96 acres.<sup>4</sup>

8. Steckman Ridge's proposed storage field piping network consists of a 2.83-mile 16-inch pipeline, a 4.12-mile 16-inch pipeline, and 23 well laterals totaling 3.48 miles of 6-inch and 8-inch pipeline. The Steckman Ridge Project will interconnect with the Capacity Restoration Program pipeline, which is jointly owned by Texas Eastern Transmission, LP (Texas Eastern) and Dominion Transmission, Inc. (Dominion).

9. In support of its request for authority to make adjustments, prior to commencement of drilling, to the exact top and bottom-hole locations of the well bores into the storage reservoir, Steckman Ridge states that the bottom-hole location of a well

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<sup>2</sup>The non-jurisdictional facilities for the project include additional electrical infrastructure to be provided by Allegheny Power. These facilities include approximately 4.5 miles of 120/240 volt electric distribution lines that would connect the wells and compressor station to Allegheny Power's electric service in the project area.

<sup>3</sup>Except for three locations where Steckman Ridge will leave the existing production pipeline in place to avoid impacts to waterbodies, the existing pipeline system will be removed.

<sup>4</sup>Approximately 6.61 acres would be required for the storage wells, 10.4 acres for the compressor station, 61.65 acres for the storage field pipeline network, and 17.7 acres for permanent access roads.

bore will be within 500 feet of the proposed location.<sup>5</sup> Steckman Ridge states that it has modified a number of well surface locations to accommodate terrain, environmental, and landowner issues. As a result, uncertainties exist as to the corresponding bottom-hole locations. Therefore, Steckman Ridge also requests authority to adjust top-hole locations by up to 500 square feet around the proposed locations. Steckman Ridge states that the requested flexibility in top-hole and bottom-hole locations will allow it to respond to additional geological information obtained prior to drilling and when drilling the initial wells.

10. Steckman Ridge states that it proposes to commence initial injections of third-party gas by April 1, 2009, the start of the injection season, thereby providing potential customers with the flexibility of a full injection season. This flexibility will assist customers in managing incremental demand by taking advantage of new and traditional gas supply sources resulting from projects expected to come on line in the region in the near future.

**B. Storage and Hub Services and Rates**

11. Steckman Ridge proposes to offer firm storage service, enhanced park and loan services and interruptible park, loan and wheeling services on an open-access basis. The enhanced services are afforded a scheduling priority above interruptible services but below firm services. Steckman Ridge will use its proposed storage field piping network to link its storage facilities with Texas Eastern and Dominion, to receive gas into its storage facilities, withdraw gas from its storage facilities for redelivery and to wheel gas between interconnecting pipelines. Steckman Ridge is not proposing to offer a stand-alone transportation rate schedule and will not be directly connected to any end-use markets. Steckman Ridge proposes to offer firm storage service under its FSS Rate Schedule, enhanced park service under its EPS Rate Schedule, enhanced loan service under its ELS Rate Schedule, interruptible park service under its IPS Rate Schedule, interruptible loan service under its ILS Rate Schedule and interruptible wheeling service under its IWS Rate Schedule.

12. Steckman Ridge proposes to offer its firm and interruptible storage services at market-based rates. Steckman Ridge supports its proposal with a market power analysis in Exhibit I to its application that concludes that Steckman Ridge will lack market power with respect to the services that it provides.

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<sup>5</sup>Steckman Ridge states that the 500 foot radius will not exceed the storage reservoir boundaries and will not be concentric or overlap with any other proposed bottom-hole locations.

### **C. Requests for Waivers**

13. Because it proposes to charge market-based rates, Steckman Ridge requests waiver of certain of the Commission's filing, accounting, and reporting requirements applicable to cost-based rate proposals, which the Commission previously found inapplicable to storage providers that are granted market-based rate authority. These regulations include: (1) section 157.6(b)(8) (applicants to submit cost and revenue data); (2) sections 157.14(a)(13), (14), (16), and (17) (cost-based exhibits); (3) the accounting and reporting requirements of Part 201 and sections 260.1, 260.2, 260.3, 260.300 (relating to the cost-of-service rate structure, i.e., Form 2A); (4) section 157.20(c)(3) (applicants to submit construction cost statement); (5) section 284.7(e) (reservation charge); and (6) section 284.10 (straight fixed-variable rate design methodology).

14. Steckman Ridge also requests waiver of several additional Commission regulations and policies. Since Steckman Ridge proposes to provide only natural gas storage service, and no stand-alone transportation services, it requests waivers of the section 284.7(d) requirement pertaining to segmentation and the section 157.14(a)(10) requirement to provide a showing of accessible gas supplies.

15. Further, Steckman Ridge seeks a waiver of the Commission's "shipper must have title" policy to enable it to obtain off-system capacity that may be necessary to provide storage services to its customers. In support of its request, Steckman Ridge proposes tariff language stating that it will only transport gas for others using such off-system capacity pursuant to its open-access tariff and subject to Commission-approved rates.

### **III. Notice, Interventions, and Protest**

16. Public notice of Steckman Ridge's application was published in the *Federal Register* (72 Fed. Reg. 68,874) on December 6, 2007. Timely, unopposed motions to intervene were filed by Emerald Coal Resources, L.P. (Emerald), Caledonia Energy Partners, LLC, Sandra K. McDaniel, PSEG Energy Resources and Trade, LLC, Chestnut Ridge Storage, LLC, The National Grid Gas Delivery Companies,<sup>6</sup> and Steckman Ridge

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<sup>6</sup>The National Grid Gas Delivery Companies consist of The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery NY, KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery LI, Boston Gas Company, Colonial Gas Company, EnergyNorth Natural Gas, Inc., and Essex Gas Company, jointly; Niagara Mohawk Power Corporation d/b/a National Grid, and The Narragansett Electric Company d/b/a National Grid, all subsidiaries of National Grid USA.

Landowners Cooperative.<sup>7</sup> William W. and Angela Smith filed an untimely motion for leave to intervene, which we will grant as their intervention at this stage of the proceeding will not cause undue delay or disruption or otherwise prejudice this proceeding or other parties.

17. Emerald's pleading includes a protest based on concerns that its mining operations will cause subsidence of Texas Eastern's pipeline facilities with which Steckman Ridge's proposed facilities will interconnect. Steckman Ridge filed an answer to Emerald's protest. On January 17, 2008, Emerald filed an answer to Steckman Ridge's answer. On February 5, 2008, Steckman Ridge filed an answer to Emerald's answer. Although the Commission's Rules of Practice and Procedure do not permit answers to protests, the Commission finds good cause to waive Rule 213(a) to admit these pleadings, as they have provided information that assists in the decision-making process.<sup>8</sup> Emerald's protest is addressed below.

#### **IV. Discussion**

18. Since Steckman Ridge will use the proposed facilities for natural gas services in interstate commerce subject to the jurisdiction of the Commission, the construction, acquisition, and operation of the facilities are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

##### **A. The Certificate Policy Statement**

19. On September 15, 1999, the Commission issued a Policy Statement providing guidance as to how proposals for certificating new construction will be evaluated.<sup>9</sup> Specifically, the Policy Statement explains that the Commission, in deciding whether to authorize the construction of major new pipeline facilities, 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

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<sup>7</sup>Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007).

<sup>8</sup>18 C.F.R. § 385.213(a)(2) (2007)

<sup>9</sup>*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) (Policy Statement).

overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, and the avoidance of unnecessary disruptions of the environment and the unneeded exercise of eminent domain.

20. 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.

21. 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. Steckman Ridge 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, Steckman Ridge assumes the economic risks associated with the costs of the project's facilities to the extent that any capacity is unsubscribed. Thus, the Commission finds that Steckman Ridge has satisfied the threshold requirement of the Policy Statement.

22. Since Steckman Ridge is a new company that has no current customers or services, the proposed Steckman Ridge Project will have no impact on existing customers or services. Further, the Steckman Ridge Project should not have any adverse impact on existing storage providers or their customers since, as discussed below, the proposed project will be located in a competitive market and will serve demand in a region that is experiencing rapid growth in natural gas usage. The proposal will also enhance storage options available to pipelines and their customers and, thus, will increase competitive alternatives. Additionally, no storage company in Steckman Ridge's market area has protested Steckman Ridge's application.

23. In addition, there should be minimal adverse impact on landowners associated with the creation of this storage project. Steckman Ridge states that it has endeavored to include landowners, relevant resource agencies, environmental groups, elected officials, and other interested parties in the early planning stages of the project. Further, Steckman Ridge states that it has agreed to numerous modifications to its proposed facilities to accommodate landowners and other stakeholders, and that its proposed facilities strike an

appropriate balance between landowner and environmental concerns and system requirements. For these reasons, we find that any adverse impacts on landowners and communities will be minimal.

24. The Commission concludes that the Steckman Ridge Project will enhance the development of an efficient interstate pipeline transportation system by providing customers access to additional high-deliverability storage capacity. Based on the benefits the Steckman Ridge Project will provide to the market and the lack of any identified adverse effects on existing customers, other pipelines, landowners, or communities, we find, consistent with the Policy Statement and section 7 of the NGA, that the public convenience and necessity requires approval of Steckman Ridge's storage project, subject to the conditions discussed below.

#### **B. Emerald Coal Resources, L.P.'s Protest**

25. Emerald protests Steckman Ridge's application, asserting that Steckman Ridge failed to consider the risk that mining subsidence under Texas Eastern's interconnecting pipeline will significantly reduce or negate the benefits of the proposed project. Specifically, Emerald states that the viability of Steckman Ridge's proposed project depends on the interconnection with Texas Eastern's pipeline. However, Emerald states that it plans to conduct longwall coal mining directly below Texas Eastern's pipeline facilities in Greene County, Pennsylvania, upstream of the Steckman Ridge project. Emerald asserts that its right to mine coal under Texas Eastern's pipeline are prior in time and, therefore, superior to Texas Eastern's surface rights. Emerald argues that absent a subsidence mitigation plan to allow the proposed mining under Texas Eastern's pipeline, Steckman Ridge cannot rely on its interconnection with Texas Eastern, thereby negating the proposed project's stated benefit of becoming an integral part of the Northeast's and Mid-Atlantic's energy future. Emerald also emphasizes that the Commission's Guidance Manual for Environmental Reports requires consideration of mine subsidence risks to feeder pipelines. Lastly, Emerald states that the Commission has recognized the importance of subsidence mitigation and allowed cost recovery for such activities.

26. Steckman Ridge states that the Commission should reject Emerald's protest because it raises issues related to Texas Eastern's existing facilities, which are not part of Steckman Ridge's project. Specifically, Steckman Ridge states that not only are the issues related to the potential subsidence of Texas Eastern's pipeline facilities unrelated to Steckman Ridge's application, those issues are speculative because subsidence of Texas Eastern's pipeline is not occurring. Steckman Ridge argues that any dispute over the responsibility for potential subsidence or cost associated with subsidence mitigation is currently before the Pennsylvania Department of Environmental Protection (PADEP) and, therefore, beyond the scope of this proceeding. Further, Steckman Ridge points out that Emerald does not suggest that Steckman Ridge assume any responsibility for the

subsidence mitigation. Finally, Steckman Ridge states that the Commission's Guidance Manual for Environmental Reports does not require consideration of mine subsidence risks to feeder pipelines.

27. Emerald's protest raises issues regarding infrastructure that is already in place and has already undergone environmental review by the Commission. The issue of subsidence mitigation of infrastructure that has been previously approved by the Commission and is in-service is not part of this proceeding. Emerald raises no issues regarding Steckman Ridge's proposed facilities. Further, the issues raised by Emerald regarding the potential that its mining operations will cause subsidence of Texas Eastern's existing facilities are before the PADEP. Emerald does not contend that these issues will not, or cannot, be resolved in that forum. Indeed, Emerald acknowledges in its protest that subsidence mitigation has succeeded in prior mining projects involving Texas Eastern's facilities.

28. We need not consider whether, as alleged by Steckman Ridge, Emerald's protest in this proceeding is merely an attempt to hold this proceeding hostage to favorable resolution of the subsidence issues involving Steckman Ridge's affiliate, Texas Eastern, in the PADEP proceeding. We find the possibility that these issues before the PADEP will not be resolved in a manner that will keep Texas Eastern's downstream facilities operating is speculative. Accordingly, the Commission rejects Emerald's protest.

### C. Market-Based Rates

29. Generally, the Commission evaluates applicants' requests for market-based rate authority for storage services under the analytical framework of its 1996 Alternative Rate Policy Statement (Rate Policy Statement).<sup>10</sup> Under the Rate Policy Statement, the Commission will approve market-based rates for storage providers where the applicant has demonstrated it lacks market power or has adopted conditions that significantly mitigate market power. The Commission has approved requests to charge market-based

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<sup>10</sup>*Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076; *order granting clarification*, 74 FERC ¶ 61,194, *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996), *petitions denied and dismissed, reh'g denied*, 75 FERC ¶ 61,066 (1996), *Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998), (Rate Policy Statement), *criteria modified, Rate Regulation of Certain Natural Gas Storage Facilities*, 71 Fed. Reg. 36,612 (June 27, 2006), FERC Statutes and Regulations ¶ 31,220 (2006) (Order No. 678), *order on clarification and reh'g*, 117 FERC ¶61,190 (2006) (Order No. 678-A).

rates for storage services based on a finding that the applicants would not be able to exercise market power due to small size, anticipated share of the market, and numerous competitors.<sup>11</sup> The Commission permits storage applicants to include non-storage products and services, including pipeline capacity and local production and liquefied natural gas (LNG) supply in the calculation of its market concentration and market share.<sup>12</sup> In order to be conservative, Steckman Ridge's market power analysis includes LNG supply and local production.

30. Steckman Ridge's market power study is contained in Exhibit I of the application. Steckman Ridge's market power analysis defines the relevant product and geographic markets, measures market share and concentration, and evaluates other relevant factors such as replacement capacity, ease of entry and non-storage alternatives. For the purpose of its analysis, Steckman Ridge identifies the relevant product markets as firm and interruptible storage services. The primary type of service is seasonal storage. Salt cavern storage service is included in the relevant product market and the Commission has found that salt cavern storage services compete with conventional underground storage service.<sup>13</sup> Steckman Ridge's analysis defines the relevant geographic market for the storage facility as the Greater Mid-Atlantic Market, including the core states of Pennsylvania, Maryland and Virginia and the neighboring States of New York, Ohio, West Virginia and Kentucky.

31. As noted above, Steckman Ridge includes local production as a non-storage alternative in its market power analysis. The Commission has stated that, to be a good alternative, the alternative must be comparable in terms of availability, quality and price.<sup>14</sup> In adopting a more expansive definition of the relevant product market for storage in Order No. 678, the Commission specifically recognized that local production

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<sup>11</sup>*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).

<sup>12</sup>Order No. 678 at P 26.

<sup>13</sup>The Commission has found that salt cavern storage services compete with conventional underground storage. See *Avoca Natural Gas Storage*, 68 FERC ¶ 61,045, at 61,149 – 61,150 (1994); *NE Hub Partners, L.P.*, 83 FERC ¶ 61,043, at 61,176 (1998).

<sup>14</sup>Rate Policy Statement, 74 FERC ¶ 61,076 at 61,231.

can be a substitute for gas storage services.<sup>15</sup> Steckman Ridge asserts that local production in the Greater Mid-Atlantic Market area meets all three of the Commission's requirements for a good alternative. Steckman Ridge states that the quality of local production is identical to storage because both services provide an identical unit of natural gas at the same point in time. Steckman Ridge states that all local production that is not under contract for more than one year and is sold in the relevant geographic market during a peak period can be considered to be readily available.<sup>16</sup> Steckman Ridge further states that most of the local production in this area is held by marketers who, in turn, sell to end users under short-term (usually month-to-month) contracts although some end users, such as local distribution companies (LDCs), may hold contracts for longer periods. To be conservative, Steckman Ridge states that it only considered seventy-five percent of the local production to be readily available.

32. Steckman Ridge states that local production is a commodity, whereas storage is a transportation service provided over time. Therefore, in determining whether local production is a good alternative to storage, the "time dimension" implicit in local production (i.e., providing gas at peak rather than at off-peak) must be analyzed. This analysis is provided in Attachment 3(a) to Exhibit I, which explains how local production can be tested for price comparability. Steckman Ridge estimated the price of local natural gas production using *Natural Gas Week* and NYMEX data and compared it to the threshold price of storage. Since the price of local production cannot be directly compared to the price of storage, Steckman Ridge compared price by calculating the peak-price premium<sup>17</sup> for local production and the threshold price for storage, as explained in Attachment 3(a). Steckman Ridge asserts that local production meets the price comparability for a good alternative if the peak-price premium for local production is less than or equal to the price of storage plus ten percent.<sup>18</sup> Steckman Ridge calculated the peak-price premium to be \$6.85 per Mcf. Steckman Ridge then calculated the

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<sup>15</sup> Order No. 678, *Rate Regulation of Certain Natural Gas Storage Facilities*, FERC Stats. & Regs. ¶ 31,220 at P 6 (2006).

<sup>16</sup> Steckman Ridge used Energy Information Administration (EIA) data on local natural gas production by state.

<sup>17</sup> The peak-price premium is the amount by which the peak price for local production exceeds the price of off-peak local production.

<sup>18</sup> Steckman Ridge states that the Commission uses a ten percent threshold price increase to identify good alternatives. Rate Policy Statement, 74 FERC ¶ 61,076 at 61,231.

threshold price for storage to be \$10.37 per Mcf using the cost-of-service rate for Dominion, the largest storage provider in the region.<sup>19</sup> Since the \$6.85 per Mcf peak-price premium for local production is less than the \$10.37 per Mcf threshold price of storage, local production is price-comparable to storage. Therefore, Steckman Ridge asserts that the local natural gas production meets the availability, quality, and price requirements for a good alternative.

33. The Commission uses the Herfindahl Hirschman Index (HHI) test to determine market concentration for gas pipeline and storage markets. The Alternative Rate Policy Statement states that a low HHI – generally less than 1,800 – indicates that sellers cannot exert market power because customers have sufficiently diverse alternatives in the relevant market.<sup>20</sup> While a low HHI suggests a lack of market power, a high HHI – generally greater than 1,800 – requires a closer scrutiny in order to make a determination about a seller’s ability to exert market power. Steckman Ridge’s market power study shows an HHI calculation of 1,565 for working gas capacity and an HHI calculation of 2,053 for daily deliverability using its defined geographic market.<sup>21</sup> The HHI of 1,565 for working gas capacity is well below the Commission’s threshold level of 1,800, but, the 2,053 HHI for daily deliverability is greater than 1,800.

34. However, Steckman Ridge, like other new storage companies for which the Commission has granted market-based rate authority, is a new market entrant with no existing jurisdictional or non-jurisdictional operations in the natural gas pipeline or storage industry.<sup>22</sup> Further, Attachment 4(a) to Steckman Ridge’s market power study identifies 132 storage facilities that are currently operating in the Greater Mid-Atlantic Market which are owned or controlled by thirteen independent corporate entities.<sup>23</sup> The

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<sup>19</sup>Dominion’s total storage charge is \$9.43 per Mcf. Increasing that price by ten percent yields the threshold price of \$10.37 per Mcf.

<sup>20</sup>See Order No. 678 at P 55.

<sup>21</sup>See Attachment 4(a) to Steckman Ridge’s market power study in Exhibit I to November 1, 2007 application.

<sup>22</sup> See, e.g., *Monroe Gas Storage LLC*, 121 FERC ¶ 61,285 at P 18 (2007) and *Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052 at P 24 (2006).

<sup>23</sup>There are 127 storage facilities controlled by twelve corporate entities if Steckman Ridge and the other four facilities controlled by Steckman Ridge’s affiliate Spectra Energy are excluded.

current combined working gas capacity of these 132 Greater Mid-Atlantic Market storage facilities and local production, including Steckman Ridge, is 1,256.8 Bcf, with Steckman Ridge and its affiliates controlling 90.2 Bcf, or 7.18 percent of the total.<sup>24</sup> Steckman Ridge's 7.18 percent market share indicates that the replacement capacity in the market is sufficient to replace Steckman Ridge's capacity thirteen times. In addition, Attachment 4(a) of the Market Power Study shows that the combined deliverability of the 132 Greater Mid-Atlantic storage facilities and local production, including Steckman Ridge, is 21,705 MMcf per day, with Steckman Ridge and its affiliates controlling 1,877 MMcf per day, or 8.65 percent.<sup>25</sup> Thus, Steckman Ridge's and its affiliates' aggregate share of the relevant storage market for both working gas capacity and daily deliverability will be relatively small. Furthermore, the storage fields of Steckman Ridge's affiliates, shown in Attachment 4(a), are all subject to Commission-approved cost-based rates,<sup>26</sup> which makes it highly unlikely that Steckman Ridge could act in concert with its affiliates to exert market power.

35. Attachments 5(a) and 5(b) to Steckman Ridge's market power study provide data demonstrating the ease of entry into the Greater Mid-Atlantic Market, as evidenced by the twelve gas storage projects that have either been certificated by the Commission, are pending Commission approval or are on the horizon in the Greater Mid-Atlantic Market. This shows that Steckman Ridge will have to compete against other potential storage facilities for customers within the relevant market area. As shown in Attachment 5(a), the certificated projects, if built, may incrementally expand the current working gas capacity in the Greater Mid-Atlantic Market by up to 62.9 Bcf and expand peak day delivery by up to 1,374 MMcf per day. Attachment 5(b) shows that the future storage expansion projects, if built, may incrementally expand the current working gas capacity in the Greater Mid-Atlantic Market by up to 48.6 Bcf and expand peak day delivery by up to 1,332 MMcf per day. Given Steckman Ridge's and its affiliates' working gas capacity of 90.2 Bcf, the future storage projects in Attachment 5(b), if built, would represent 53.9 percent replacement capacity for Steckman Ridge and its affiliates. In light of this information, we conclude that the barriers to entry to the storage markets in the relevant market area are low.

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<sup>24</sup>Steckman Ridge controls 12 Bcf, or 0.95 percent of the total. *See* Attachment 4(a) of the Market Power Study.

<sup>25</sup>Steckman Ridge controls 300 MMcf per day, or 1.38 percent of the total. *See id.*

<sup>26</sup>Spectra Energy's Accident, Leidy, and Oakford storage fields operated by Texas Gas and Spectra Energy's Saltville storage field operated by East Tennessee and Saltville.

36. Steckman Ridge proposes to provide enhanced park service, enhanced loan service, interruptible park service, interruptible loan service and interruptible wheeling service. Steckman Ridge's storage facilities will be connected to a pipeline which is co-owned by its affiliates, Texas Eastern and Dominion. Park and loan services are storage-related services and the storage service market power study may be used to support market-based rates for these services. However, wheeling service is a transportation service and the market power study for this service requires additional information such as a matrix, or "bingo card" type analysis, showing all of the pipeline interconnections, an analysis of the receipt and delivery point alternatives and an analysis showing whether the proposed wheeling service can be bypassed. Steckman Ridge has not provided any of this additional information in its market power study and has not addressed the wheeling service in its narrative.

37. We find that Steckman Ridge's analysis demonstrates that its proposed storage facilities will be in a highly competitive area where numerous storage service alternatives exist for potential customers. We also find that Steckman Ridge's prospective market shares are low and that the market area HHIs of Steckman Ridge and its affiliates are mitigated by Steckman Ridge's small market share, the availability of competing services, the fact that Steckman Ridge's affiliate storage fields are subject to Commission-approved cost-based rates, and the fact that Steckman Ridge's entry will increase the storage alternatives in the Greater Mid-Atlantic Market area. Thus, we conclude that Steckman Ridge will lack market power. Further, Steckman Ridge's proposal for market-based rates is unopposed. For these reasons, we will approve Steckman Ridge's request to charge market-based rates for its proposed firm storage service and for its enhanced and interruptible park and loan services.

38. However, as noted above, Steckman Ridge has not demonstrated that it lacks market power for its proposed interruptible wheeling service, and we therefore deny Steckman Ridge's request to charge market-based rates for its proposed wheeling service, without prejudice to Steckman Ridge filing to support market-based rates for its proposed wheeling service. If Steckman Ridge does not file support for market-based rates for its wheeling service, it must either eliminate the proposed wheeling service when it files its actual tariff or file proposed cost-based rates for its proposed wheeling service and all information required by the Commission's regulations to support its proposed cost-based rates and rate design not less than 60 days prior to placing its proposed wheeling service into service. Further, if Steckman Ridge files to support market-based or cost-based rates for its proposed wheeling service, Steckman Ridge shall explain how it will provide the proposed wheeling service (e.g., by using capacity on third-party pipelines) since, as stated above, its map shows only one interconnection with the joint Texas Eastern/Dominion pipeline.

39. Nevertheless, Steckman Ridge must notify the Commission if future circumstances significantly affect its present market power status. Thus, our approval of market-based rates for the indicated services is subject to re-examination in the event that: (a) Steckman Ridge adds storage capacity beyond the capacity authorized in this order; (b) an affiliate increases storage capacity; (c) an affiliate links storage facilities to Steckman Ridge; or (d) Steckman Ridge, or an affiliate, acquires an interest in, or is acquired by, an interstate pipeline connected to Steckman Ridge. Since these circumstances could affect its market power status, Steckman Ridge 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 Steckman Ridge.<sup>27</sup> The Commission also reserves the right to require an updated market power analysis at any time.<sup>28</sup>

#### **D. Waivers of Filing, Reporting, and Accounting Requirements**

40. Because Steckman Ridge is requesting authority to charge market-based rates and has no pre-existing facilities, Steckman Ridge requests that the Commission waive sections 157.6(b)(8) and 157.20(c)(3) requiring it to submit information otherwise necessary for the Commission to make an up-front determination of the rate treatment for Steckman Ridge's storage project and updated cost data after new facilities are placed into service. Steckman Ridge also requests that the Commission waive the filing requirements of section 157.14(a)(13), (14), (16), and (17) to submit Exhibit K (Cost of Facilities), Exhibit L (Financing), Exhibit N (Revenues, Expenses, and Income), and Exhibit O (Depreciation and Depletion), since these exhibits are required for cost-based rate authority. For the same reasons, Steckman Ridge requests waiver of the accounting and annual reporting requirements under Part 201 (accounting and reporting requirements of Uniform System of Accounts) and sections 260.1 and 260.2 (which require natural gas companies to file annual reports in FERC Form Nos. 2 and 2-A) of the Commission's regulations. Similarly, Steckman Ridge requests waiver of the requirement pertaining to straight fixed-variable rate design set forth in sections 284.7(e) and 284.10 also as being

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<sup>27</sup>See, e.g., *Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052 (2006); *Copiah County Storage Company*, 99 FERC ¶ 61,316 (2002); *Egan Hub Partners, L.P.*, 99 FERC ¶ 61,269 (2002).

<sup>28</sup>See *Rendezvous Gas Services, L.L.C.*, 112 FERC ¶ 61,141, at P 40 (2005). We note that in Order No. 678 the Commission chose not to impose a requirement that storage providers granted market-based rates file an updated market power analysis every five years.

inapplicable to market-based rate design. Steckman Ridge also requests waiver of the filing requirement of section 157.14(a)(10) to submit total gas supply data (Exhibit H), as being inapplicable to natural gas storage services.

41. The cost-related information required by the above-described regulations is not relevant in light of our approval of market-based rates for Steckman Ridge's storage and park and loan services. Thus, consistent with our findings in previous orders,<sup>29</sup> we will grant Steckman Ridge's request for waiver of the regulations requiring cost-based related information for these services. We will also grant a waiver of section 157.14(a)(10) requiring an applicant to submit gas supply data, which is inapplicable to storage operations.

42. In addition, the Commission grants the requested waiver of the requirement to file an annual report (Form Nos. 2 and 2-A) in sections 260.1 and 260.2 of the regulations, except for the information necessary for the Commission's assessment of annual charges.<sup>30</sup> Steckman Ridge is required to file page 520 of Form No. 2-A, reporting the gas volume information which is the basis for imposing an Annual Charge Adjustment (ACA) charge.<sup>31</sup>

43. Steckman Ridge requests a partial waiver of section 284.12(a)(1)(iv) of the Commission's regulations, which require interstate pipelines to comply with the electronic data interchange (EDI) standards developed by the Wholesale Gas Quadrant of the North American Energy Standards Board. Steckman Ridge states that it will operate an interactive website that will provide for an electronic delivery mechanism in conformity with the Commission's requirements but proposes not to implement the EDI standards at this time. Steckman Ridge states that it anticipates that its initial customers will not require EDI functionality and requests that the Commission grant it an exemption from the EDI standards until 90 days following a request from one of its customers that Steckman Ridge implement EDI.

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<sup>29</sup>See, e.g., *Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052 at P 33 (2006); *SG Resources Mississippi, L.L.C.*, 101 FERC ¶ 61,029, at P 26 (2002); *Egan Hub Partners, L.P.*, 95 FERC ¶ 61,395, at 62,473 (2001) and 99 FERC ¶ 61,269, at 62,142 (2002).

<sup>30</sup>However, we will require Steckman Ridge to maintain sufficient records of cost and revenue data consistent with the Uniform System of Accounts should the Commission require Steckman Ridge to produce this report in the future.

<sup>31</sup>See *Wyckoff Gas Storage Co., LLC*, 105 FERC ¶ 61,027, at P 65 (2003).

44. Consistent with precedent, the Commission will grant Steckman Ridge's request for an exemption of the EDI standards, but will require Steckman Ridge to implement EDI standards within 90 days following such a request, as it has proposed.<sup>32</sup>

### **E. Tariff Provisions**

45. Steckman Ridge proposes to offer firm storage service and interruptible hub services on an open-access basis under the terms and conditions set forth in the pro forma tariff attached as Exhibit P to the application. We find that Steckman Ridge's proposed tariff generally complies with Part 284 of the regulations; however, certain provisions are discussed further below.

46. Steckman Ridge does not propose to offer an interruptible storage service. Section 284.9(a) of the Commission's regulations requires companies that offer firm storage service pursuant to Part 284, Subpart G of the Commission's regulations to also offer interruptible storage service.<sup>33</sup> Steckman Ridge is therefore directed to revise its proposed tariff to include an interruptible storage service and proposed rates for the service whenever it files its actual tariff.<sup>34</sup>

#### **1. Segmentation**

47. Section 284.7(d) of the Commission's regulations provides that an interstate pipeline must permit a shipper to make use of the firm capacity for which the shipper 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. Steckman Ridge requests a waiver of the Order No. 637 segmentation requirements contained in section 284.7(d), contending that it will not be offering stand-alone transportation services and that segmentation is not operationally feasible on its system.

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<sup>32</sup>See, e.g., *MoBay Storage Hub, Inc.*, 117 FERC ¶ 61,298, at P 44-46 (2006), *Unocal Windy Hill Gas Storage, LLC*, 115 FERC ¶ 61,218 (2006) and *Rendezvous Gas Services*, 112 FERC ¶ 61,141 (2005).

<sup>33</sup> 18 C.F.R. § 385.213 (2007).

<sup>34</sup> Unless circumstances change, Steckman Ridge will not have to provide a new market power analysis if it chooses to propose market-based rates for its interruptible storage service.

48. In *Clear Creek Gas Storage Company (Clear Creek)*,<sup>35</sup> we found that the requirements of section 284.7(d) did not apply to pipelines engaged solely in natural gas storage and which did not provide stand-alone transportation services. Steckman Ridge meets the *Clear Creek* requirement. Thus, we hold that the requirements of section 284.7(d) do not apply to Steckman Ridge. Other tariff provisions related to segmentation, such as the allocation of primary point rights in segmented release and within-the-path scheduling, also do not apply to Steckman Ridge.

**2. Acquisition of Off-System Capacity and Waiver of Shipper Must Have Title Policy**

49. Steckman Ridge requests a generic waiver of the shipper must have title policy for any off-system capacity it may acquire in the future to provide storage or hub services within its geographic market area, to enable it to use that capacity to transport natural gas owned by other parties. Citing *Texas Eastern Transmission Corporation, MoBay Storage Hub, Inc. and Pine Prairie Energy Center, LLC*,<sup>36</sup> Steckman Ridge states that its tariff provides that any service provided by Steckman Ridge utilizing a third party pipeline system will be pursuant to its open-access tariff subject to rates approved by the Commission.<sup>37</sup>

50. Steckman Ridge's off-system capacity statement implements the Commission's policy with respect to pipelines' acquisition of off-system capacity. In *Texas Eastern Transmission Corporation (TETCO)*,<sup>38</sup> the Commission found that pipelines no longer need to obtain prior approval to acquire capacity on another pipeline, provided the acquiring pipeline has filed tariff language specifying that it will only transport for others on off-system capacity pursuant to its tariff provisions and rates. Steckman Ridge's proposed tariff language is consistent with the requirements set forth in *TETCO*. Therefore, we accept Steckman Ridge's tariff language and grant waiver of the shipper must hold title policy, with the following clarification. Because Steckman Ridge has proposed only to offer firm storage and interruptible hub services, and does not propose

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<sup>35</sup>96 FERC ¶ 61,071 (2001).

<sup>36</sup>See *Texas Eastern Transmission Corporation*, 95 FERC ¶ 61,056 (2001), *MoBay Storage Hub, Inc.*, 117 FERC ¶ 61,298, at P 39 (2006), and *Pine Prairie Energy Center, LLC*, 109 FERC ¶ 61,215, at P 47 (2004).

<sup>37</sup>See pro forma FERC Gas Tariff, at Pro Forma Sheet No. 280.

<sup>38</sup>93 FERC ¶ 61,273 (2000), *reh'g denied*, 94 FERC ¶ 61,139 (2001).

to offer any transportation services other than storage and hub services, Steckman Ridge may only use capacity obtained on other pipelines in order to render the services set forth in its tariff. That is, Steckman Ridge may not use its 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, Steckman Ridge's authorized use of the *TETCO* waiver to provide storage service shall be limited to the geographic area covered by Steckman Ridge's market study.<sup>39</sup>

51. In order to ensure that Steckman Ridge 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, Steckman Ridge is directed to make, once it becomes operational, an annual information filing on its provision of service using off-system capacity, as detailed below.

52. Within 30 days after its first full year of operation, and every year thereafter, Steckman Ridge 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 Steckman Ridge;
- 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 Steckman Ridge; and
- f. an identification of total volumes, by Steckman Ridge's rate schedule and customer, that Steckman Ridge has nominated on each off-system provider during the reporting period.

### **3. Implementation of NAESB Standards**

53. In accordance with the Commission's Policy Statement and consistent with Order No. 587-S, Steckman Ridge is directed to revise its tariff provisions to incorporate

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<sup>39</sup>See *Starks Gas Storage, L.L.C.*, 111 FERC ¶ 61,105, at P 55 (2005).

standards 5.3.13 – 5.3.16, 5.3.24 – 5.3.28, 5.3.44 – 5.3.45, 5.3.48 – 5.3.51 and 5.3.53 – 5.3.60 for capacity release, or identify the tariff location of these standards when it files its actual tariff. In so doing, Steckman Ridge may either incorporate the aforementioned standards by reference or verbatim, but not both, in its tariff. Furthermore, section 5.4(e) of Steckman Ridge's GT&C appears to conflict with standard 5.3.12, which requires that bids and offers should be complete before being posted. Steckman Ridge must revise section 5.4(e), when it files its actual tariff, to reflect that only complete bids and offers shall be posted.

#### **4. Creditworthiness**

54. Section 4 of Steckman Ridge's proposed GT&C outlines the type of information that customers must supply to Steckman Ridge in order to establish creditworthiness.<sup>40</sup> Section 4.2(a) provides that upon notification by Steckman Ridge to the customer that it has failed to satisfy or no longer satisfies the credit criteria, the customer may still obtain credit approval if it elects to provide additional financial assurances in the form of an advanced deposit, a standby irrevocable letter of credit, a security interest in collateral, or a guarantee, as detailed in the tariff provision.

55. Pursuant to Part 284 of its regulations, the Commission issued a Creditworthiness Policy Statement setting forth its approach to credit issues relating to transportation on natural gas pipelines.<sup>41</sup> In the Creditworthiness Policy Statement, we stated that pipelines must establish and use objective criteria for determining creditworthiness.<sup>42</sup> Steckman Ridge appears to have outlined the information that needs to be supplied and the criteria for creditworthiness, as discussed above. However, other requirements set out by the Creditworthiness Policy Statement have not been met. Furthermore, although section 4.2(a) of Steckman Ridge's GT&C provides that Steckman Ridge shall provide a written statement supporting Steckman Ridge's request for additional security, it is not clear whether this will be done in its initial communication on creditworthiness. Steckman Ridge must clarify how and when it intends to communicate its initial determinations on creditworthiness to shippers under section 4, and whether it will specify the reasons for any denial of creditworthiness in such initial communication. In the Creditworthiness Policy Statement, we held that if a service provider finds a shipper

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<sup>40</sup>See Pro Forma Sheet Nos. 222-226.

<sup>41</sup>See Creditworthiness Standards for Interstate Natural Gas Pipelines, 111 FERC ¶ 61,412 (2005).

<sup>42</sup>*Id.* at P 10.

to be uncreditworthy, it must promptly inform the shipper in writing of the reasons for that determination, so that the shipper can evaluate and challenge the determination.<sup>43</sup> In *Natural Gas Pipeline Company of America*,<sup>44</sup> we also required that the written communication be made within 10 days of the determination, and that the shipper be provided recourse to challenge the finding. Steckman Ridge is directed to revise section 4 to clarify how and when it intends to communicate its initial creditworthiness determinations, and that it will include the reasons for denial in such communications.

56. Section 4.2(e) provides that security in the form of an advance deposit shall not accrue interest and states that a customer may deposit such security into an escrow-bearing account established at the customer's expense. This provision is in accordance with our holding in the Creditworthiness Policy Statement,<sup>45</sup> which provides that shippers that opt to pay collateral as financial assurance must have an opportunity to earn interest on such prepayments either by the pipeline paying the interest itself at the Commission's interest rate, or by the shipper designating an interest-bearing escrow account to which the pipeline may have access for payments for services provided if needed. However, Steckman Ridge must revise section 4.2(e) to provide that if a customer obtains credit approval by providing an advanced deposit and subsequently satisfies the credit criteria, Steckman Ridge will return the advance deposit plus interest. In further accordance with the Creditworthiness Policy Statement, we will require Steckman Ridge to revise section 4.2(e) to provide that in such situations, Steckman Ridge is responsible for any expenses related to the maintenance of this escrow account. Therefore, we direct Steckman Ridge to clarify its tariff accordingly. We also direct Steckman Ridge to clarify in its tariff that such advance payments are considered collateral held for security and not prepayments for services.<sup>46</sup>

## 5. Imbalance Management Services

57. Section 284.12(b)(2) of the Commission's regulations requires that pipelines establish provisions for the netting and trading of imbalances and other imbalance

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<sup>43</sup>See 111 FERC ¶ 61,412, at P 10 (2005).

<sup>44</sup>106 FERC ¶ 61,175 at P 89 (2004).

<sup>45</sup>See Creditworthiness Standards for Interstate Natural Gas Pipelines, 111 FERC ¶ 61,412, at P 22 (2005).

<sup>46</sup>See *Tennessee Gas Pipeline Co.*, 105 FERC ¶ 61,120 at P 17-24.

management services. Order Nos. 587-G and 587-L<sup>47</sup> adopt the NAESB standards related to these regulations. Steckman Ridge asserts it is in 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<sup>48</sup> 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 Steckman Ridge at this time and there is no necessity for an exemption. However, if Steckman Ridge seeks to impose imbalance penalties in the future, then it must comply with the Commission's policies and regulations regarding imbalance management services.

58. Steckman Ridge should make the following language changes when it files its actual tariff:

- a. Replace the words "at its sole discretion" with "in a non-discriminatory manner" in section 2.4 on Pro Forma Sheet Nos. 62 and 92;
- b. Replace the word "sole" with "non-discriminatory" in section 10.2 on Pro Forma Sheet No. 255;
- c. Replace the words "in its sole discretion" with "in a non-discriminatory manner" in section 12.3 on Pro Forma Sheet No. 257.

#### **F. Engineering Analysis**

59. 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 17.7 Bcf of total storage capacity (12 Bcf working gas and 5.7 Bcf cushion gas). Further, we conclude that the natural gas facilities proposed by Steckman Ridge are properly designed to withdraw up to 300 MMcf per day.

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<sup>47</sup>*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).

<sup>48</sup>*Id.*

### **G. Environmental Analysis**

60. On May 17, 2007 Steckman Ridge filed a request with the Commission to implement the pre-filing process for the Steckman Ridge Project. On June 1, 2007, we granted Steckman Ridge's pre-filing request and established a pre-filing docket number, PF07-9-000. On August 20, 2007, we issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Steckman Ridge Storage Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners and abutters, federal, state, and local government agencies, elected officials, Native American tribes, environmental and public interest groups, and local libraries and newspapers. We received 27 comment letters from landowners and citizens, two comment letters from Emerald (whose protest is addressed above), and one comment from the Pennsylvania Department of Environmental Protection (PADEP). The most frequently raised comments concerned potential water quality impacts, noise impacts, storage field safety, and alternatives for storage wells sites and pipeline routes. All substantive comments are addressed in the environmental assessment (EA) prepared by the Commission's staff.

61. A Notice of Availability (NOA) of the EA for the proposed Steckman Ridge Project was issued on March 7, 2008. The analysis in the EA included the project's purpose and need, geology, soils, water resources, wetlands, vegetation, fish and wildlife, federally listed species, land use, visual resources, cultural resources, air quality, noise impacts, safety, and alternatives. The comment period for the EA closed on April 7, 2008. In response to our NOA we received comments from Steckman Ridge, U.S. Department of the Interior, U.S. Geological Survey (USGS), Department of Health and Human Services, U.S. Public Health Service (PHS), Joe and Sandra McDaniel, Wayne and Angela Smith, and James and Karla Levy.<sup>49</sup>

62. The USGS requested a description of potential water quality impacts related to the introduction of pressurized air during drilling, such as the precipitation of iron from groundwater. Steckman Ridge would switch over from using pressurized air to using

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<sup>49</sup> After the April 7, 2008 deadline for comments, we received eight additional comments between May 19 and May 28, 2008. These comments were reviewed to ensure that no new issues requiring consideration were raised. The subjects raised in these late filed comments have been addressed in this order (e.g., rights-of-way, alternative routes and arsenic in water), are covered in the Erosion and Sediment Control Plan (tree and brush removal), or are speculative (ATV access resulting from a gate that a landowner may or may not build).

fluids for drilling of storage wells as the drilling depth approaches the deeper gas formation target zone. It is unlikely that the duration of exposure of the upper bedrock strata to air, pressurized or otherwise, would cause geochemical reactions or other effects resulting in degradation of groundwater quality.

63. The USGS also commented that it would be appropriate to describe further the EA's referenced USGS-testing methods for sourcing natural gas present in groundwater.<sup>50</sup> Table 6 in the EA adequately outlines the basic analytical testing procedures Steckman Ridge would use to establish the source of natural gas present in groundwater near well sites, if the presence of natural gas was suspected.

64. The PHS expressed concern that there was no mention of Steckman Ridge's compliance with the requirements of the Occupational Safety and Health Act. The PHS also states that the EA did not indicate the number of water wells or structures to be located within 150 feet of construction activity in blasting areas or the number of residences within 50 feet of blasting operations. In addition, the PHS notes that the EA does not state that an updated Well Drilling Analysis and Mitigation Plan for noise levels will be made available for public review.

65. Steckman Ridge has committed to requiring its contractors to comply with the Occupational Safety and Health Administration guidelines. Tables 4 and 5 of the EA include the potential blasting areas, and identify all private water supply wells, springs, and ponds within 150 feet of construction work area, and the private water supply wells and springs within 1,000 feet of each storage well. No residences would be within 50 feet of blasting. The EA's recommendation to file an updated Well Drilling Analysis and Mitigation Plan is meant to ensure noise levels from drilling activities do not become significant at four well locations (SR 10, Stup 155, SR 11, and Clark 1664) where projected noise levels are currently above 60 decibels. This recommendation is included as environmental condition number 16 in Appendix B to this order. Steckman Ridge is required to file this information with the Secretary before construction, and it will be placed in the public record in Docket No. CP08-15-000. Therefore, the updated plan will be available to the public.

66. The McDaniels filed three separate letters in response to the EA. The McDaniels' property is affected by storage wells SR 21 and SR 22, Line 90, and also would be affected by the EA's recommended Pig Launcher North Alternative Site.

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<sup>50</sup> EA, section 3.2, Table 6.

67. The EA evaluated the Pig Launcher North Alternative location and recommends that Steckman Ridge be required to use this alternate location for Well SR 22, which is adopted by environmental recommendation number 18 in Appendix B. In its response to the EA, Steckman Ridge also filed a new alternative location for Well SR 22, known as the Southwest Alternative. Upon review of this new location, the McDaniels indicated that they prefer this new Southwest Alternative for well SR 22 to minimize impacts to trails on their property. Further, staff's analysis of the new Southwest Alternative found that it will require the least amount of connecting lateral pipeline length, well and lateral construction and operation acreages, and will impact less forest than the Pig Launcher North Alternative. While the Southwest Alternative will move Well SR22 onto property owned by the adjacent landowner, Kending, Steckman Ridge has a signed agreement with Kending. Therefore, due to the reduced environmental impacts and landowner considerations for the Southwest Alternative, the EA's recommended environmental condition 18 has been changed, as adopted in Appendix B, to require Steckman Ridge to use the Southwest Alternative for Well SR 22.

68. The McDaniels also requested consideration of two alternative locations for Well SR 21: a "new proposed" site and an alternative they identified as the "A" site. Steckman Ridge's proposed well site for the McDaniels' two alternative well sites would all be within the same construction well pad area and would require the same amount of construction workspace and permanent space for operation. Therefore, impacts for Steckman Ridge's proposed well site and the two alternative sites would be the same, but would be just slightly shifted on the McDaniels' property. Since both alternate locations and the proposed site for Well SR 21 have similar environmental impacts, we find that any of the three locations would be acceptable. As set out in environmental condition number 5 of this order, Steckman Ridge, after consultation and negotiation with the McDaniels, may choose one of the alternate locations over the proposed SR 21 well location.

69. The McDaniels also seek a reduction of the construction and permanent right-of-way required for Line 91 on their property. Specifically, the McDaniels suggest that use of alternative construction techniques, such as the stove-pipe or drag section construction techniques, might allow for an additional construction right-of-way width reduction.

70. As stated in the EA, Steckman Ridge agreed to reduce the width of its construction right-of-way for Line 91 where it would cross the McDaniels' property from 75 feet to 65 feet. Also, staff considered the use of alternate construction methods on the McDaniel property. Due to the steep terrain on their property, and the consequent grading and safety requirements for the construction equipment, the construction right-of-way could not be reduced to less than 65 feet in width. Further, while use of alternative construction techniques would lessen the length of trench opened all at once, construction time would

greatly increase because these techniques require more time to complete in-trench work and to tie in adjacent pipe segments. Therefore, this property is not a good candidate for these alternative construction techniques. Further, the alternative construction techniques would lengthen the time to complete construction, another concern expressed by the McDaniels.

71. The McDaniels also commented that the permanent right-of-way for Line 91 over their property should be only 25 feet wide. We believe a permanent 50-foot-wide right-of-way is reasonable to provide access for the large construction equipment that would be needed in the event the pipeline requires excavation during maintenance activities and to temporarily stockpile spoils associated with maintenance excavations. This width is consistent with other maintained natural gas transmission rights of-way authorized by the Commission. The 50-foot-wide permanent right-of-way will enable Steckman Ridge to maintain the pipeline and prevent encroachment, both of which will increase the safety and reliability of the pipeline.

72. The McDaniels are also concerned about forest fragmentation. Their property is entirely forested. During pre-filing, Steckman Ridge aligned the pipeline and sited wells along their property boundaries and along the edge of a steep slope to minimize forest impact across the center of their property. Also, the reduction in construction right-of-way from 75 feet to 65 feet will minimize forest fragmentation. Therefore, we do not believe any additional mitigation is necessary to reduce impacts on forest on their property. However, to minimize visual impacts as the result of tree clearing on the McDaniels' property and impacts on hiking trails, Environmental Condition No. 14 in Appendix B to this order adopts the EA's recommendation that Steckman Ridge be required to file and receive approval from the Director of the Office of Energy Projects of a site-specific restoration plan for the McDaniels' property providing for the preservation of hiking trails and visual screening. The condition requires that Steckman Ridge file documentation of consultation with the McDaniels' in developing the plan.

73. The McDaniels are also concerned about open trenches during construction, hydrostatic testing procedures, and their own safety during these construction activities.

74. Additional safety precautions across individual properties for site-specific conditions may be developed between landowners and Steckman Ridge during easement negotiations, including provisions for additional safety fencing along the open trench and planned construction time windows. Steckman Ridge will notify landowners prior to beginning construction activities (including hydrostatic testing) on their property. With this notification, it is expected that landowners will have enough notice to avoid the construction area.

75. The McDaniels are also concerned about rocks being mixed in the soil after construction workspaces are restored. Steckman Ridge's Erosion and Sedimentation Control Plan (E&SCP) addresses minimizing impacts to topsoil in agricultural (including hayfields) and residential areas where topsoil would be segregated. Excess rock fragments would be disposed in a manner so as not to be incorporated into topsoil layers where they might interfere with agricultural or residential activities. Steckman Ridge's E&SCP also states that rock excavated from the trench may be used to backfill the trench only to the top of the existing bedrock profile. Further, the size, density, and distribution of rock on the construction work area should be similar to adjacent areas not disturbed by construction. Steckman Ridge's implementation of its E&SCP's procedures for rock disposal appropriate to the affected land use will minimize impacts from rock fragments to the extent practicable.

76. The McDaniels are concerned about potential pollution from the well cuttings that would be produced during drilling. The EA addressed this concern, finding that the proposed construction procedures described in its E&SCP and Spill Prevention, Control and Countermeasures (SPCC) Plan and which Steckman Ridge will implement during project construction will minimize and/or mitigate any potential impacts.

77. The McDaniels are concerned that dewatering practices would visually impact resources from silt laden water deposited in the area, and are concerned about impacts to their pond from drilling and chemicals used. Similarly, the Smiths' are concerned about impacts to well water and the Levy's are concerned about impacts to water resources.

78. As stated in the EA, Steckman Ridge's E&SCP, SPCC Plan, and a Water Testing and Monitoring Plan all include procedures to mitigate impacts to water quality and visual impacts due to well drilling and other construction activities. These plans address trench dewatering and discharges of water following hydrostatic testing operations, procedures to prevent silt laden waters from entering waterbodies, and procedures to restore all disturbed workspaces after construction. The Water Testing and Monitoring Plan includes procedures for pre- and post-construction water testing of various water supplies, such as wells, ponds, and springs. Steckman Ridge filed material safety data sheets disclosing all chemicals that could be used in the drilling muds or hydraulic fracturing liquids. Our staff reviewed these plans and found them acceptable. Dewatering operations would result in temporary impacts on water quality, and are not expected to cause a permanent visual impact.

79. The McDaniels, Smiths, and Levys also commented about noise due to project construction and operation of the project. The Smiths are concerned about noise impacts from drilling activities on animals, claiming that the compressor station would muffle out the sounds of nature "like a lawn mower."

80. Noise impacts from construction, including well drilling activities and operation of the compressor station are evaluated in the EA at the nearest noise sensitive areas (NSAs). Anticipated noise levels at the NSAs, with proposed mitigation measures, are estimated to be less than significant except at four well drilling locations. Environmental condition number 16 of this order will ensure that projected noise levels at these four NSAs will be minimized to below significant.

81. Addressing the impact of noise due to construction and operation of the project, including well drilling, on wildlife and domestic livestock, the EA notes that in most cases animals become habituated to noise. Also, there is not sufficient research to support the establishment of any quantitative criteria for setting restrictions on noise limits with regard to animals. Noise levels are projected to be below 55 decibels (dBA) on the day-night sound level (Ldn) at all of the NSAs nearest the well and compressor station locations. The Commission's 55 dBA Ldn noise standard was adopted with the U. S. Environmental Protection Agency's guidance to prevent interference with speech or other activities in outdoor areas. In addition to their concern that noise from the compressor station will stress their cattle, the Smiths are concerned that the noise will muffle out the sounds of nature. Since projected noise levels at the nearest NSA (1,110 feet) from the compressor station would be 52.5 dBA Ldn, the noise will be less than the level that would interfere with conversation, and, therefore, should neither stress the Smiths' cattle nor muffle the sounds of nature.

82. The McDaniels also raise concern about air emissions during operation of the project. As stated in the EA, the majority of air emissions associated with operation of the project would be contributed by the proposed compressor station. The results of a screening analysis presented in the EA showed that impacts from the compressor station would be below significant levels. The McDaniels' concern regarding emissions from flaring are presented in Table 8 of the EA, and are considered negligible. Therefore, we conclude that impacts to air quality will not be significant.

83. The McDaniels use their property for hiking, enjoying nature, and religious activities. They ask the Commission to categorize their property as "sanctuary" in reference to the land use categories that are listed in Land Use (table 6) in the EA. Table 6 categorizes the amount of acreages affected by land use. "Sanctuary" is not a category used in table 6. However, the McDaniels' property was included in the acreage totals for deciduous forest. We are not aware that the McDaniels' property is categorized as a "sanctuary" through any federal, state, or local organizations or regulations.

84. The Smiths filed four comment letters on the EA. Most of the Smiths' comments are related to the existing high arsenic levels in their contaminated water supply, which they believe to be a direct result of activities conducted by the previous owner of the gas production field, and that this issue was not adequately addressed in the EA.

85. Based on Commission staff's discussions with the Smiths during pre-filing, and filed comments, consultations with the PADEP, and the water test results that were filed prior to the issuance of the EA, there was no indication of any contamination from the existing gas wells in the project area. In response to the Smiths' comment letter, Steckman Ridge indicated that it had received water well test data showing high arsenic levels in the Smiths' water supply, but had not received a final report. Neither Steckman Ridge nor the Smiths filed this information in time for inclusion in the EA. However, based on this supplemental information, we recognize that existing arsenic levels are above the drinking water standards.

86. The construction, operation, and shutdown of the five existing production wells were regulated by the State of Pennsylvania. Therefore, we cannot comment on any chemicals used during construction, or the source of arsenic in the Smiths' water (whether from well construction or naturally forming). Steckman Ridge's proposed project will be constructed under our jurisdiction, and potential impacts to water supplies will also be under the provisions of the Pennsylvania Oil and Gas Act (POGA). The EA identifies that Steckman Ridge has prepared its Water Testing and Monitoring Plan (Water Plan) in response to landowner concerns about impacts to water supplies as a result of drilling and which also complies with the requirements of the POGA. The Water Plan includes provisions for pre- and post-construction testing of water quality for private wells, ponds, and springs within 150 feet of construction workspaces and within 1,000 feet of storage wells. We find the Water Plan to be acceptable. Also, the EA indicates that any landowner with existing groundwater contamination that may be related to the production wells, or who discovers subsequent pollution of their water supply during operation should address their complaint to the PADEP, requesting PADEP to conduct an investigation.

87. Following the issuance of the EA, Steckman Ridge provided supplemental information about the materials used by Pennsylvania General Energy, LLC (PGE), the former operator of the gas production field, for hydraulic fracturing and for well drilling. Steckman Ridge states that hydraulic fracturing, arsenic, or arsenic derivatives were not used in the original drilling of the production wells. Steckman Ridge further states that it does not anticipate using hydraulic fracturing to develop the storage field, but it may be needed if well performance characteristics need to be enhanced. Steckman Ridge provided the material safety data sheets from its drilling contractor for the drilling mud and hydraulic fracturing liquids which disclosed all chemicals that could be used for the Project and showed that arsenic and arsenic derivatives would not be used.

88. Steckman Ridge states that the arsenic levels in the Smiths' water are not significantly greater than the natural arsenic levels of regional groundwater data. Steckman Ridge indicates that farm areas (such as the Smiths' property) with septic

systems, may have higher arsenic levels since septic systems tend to make groundwater anaerobic, which causes arsenic to become more mobile. The Smiths disagree with this assertion in comments dated April 28, 2008, and state their belief that PGE caused damages to their groundwater supply related to arsenic. They indicate that they have addressed a complaint to the PADEP from whom they have requested an investigation. We believe that the PADEP process is the appropriate venue for the Smiths' complaint.

89. Although the Smiths have levels of arsenic in their water above the drinking water standards, none of the water reports filed by Steckman Ridge or the Smiths indicate the cause or source of arsenic in the Smiths' water. The Smiths' assumption that the source of arsenic is from previous drilling activities is not sufficient to rule out natural causes as mentioned by Steckman Ridge. Additionally, water tests have only been filed recently (5 years after the production wells were drilled); therefore, there is no record to indicate whether arsenic existed in the water undetected prior to the wells being drilled. The Smiths have contacted the PADEP to investigate their existing problem further. We do not believe it is necessary for Steckman Ridge to include arsenic as part of its pre- and post-construction water testing since PADEP has already begun an investigation (making Steckman Ridge's testing redundant) and since arsenic has not and would not be used for Project construction. Also, as indicated in the EA, heavy metals would not be included in the water testing as their presence is typically limited to industrial manufacturing.

90. Steckman Ridge has agreed to test the Smiths' water supplies contemporaneously with the testing to be conducted for pre-and post- well drilling activities even though their property does not fall within the specified distances (private water supply wells, springs and ponds within 150 feet of the construction work area and 1,000 feet of the storage wells) of Steckman Ridge's Water Testing and Monitoring Plan.

91. On April 3, 2008, Steckman Ridge provided additional information in response to the Smiths' motion to intervene to clarify that its is seeking only underground storage rights with respect to the Smiths' property, and that its project does not require pipeline construction, well construction, use, maintenance, access roads, outbuildings, or right-of-ways on the Smiths' property.

92. Additionally, the Smiths are concerned about gas migration. The storage field would be developed in a depleted gas reservoir which lies about 5,800 feet below the surface. It is separated from shallow drinking water reservoirs by thousands of feet of intervening rock which naturally prevent communication with gas or fluids in the proposed storage field reservoir. The gas in the storage reservoir would not exceed the maximum original shut-in wellhead pressure as it originally existed in the reservoir. Because the original, natural conditions did not cause the natural gas to migrate out of the

reservoir, it is anticipated that the proposed storage pressures would not cause gas migration. Also, the storage wells would be lined with cement and steel casings and gas injection and withdrawal would be controlled by the operation of the storage field.

93. Finally, the Smiths are concerned about blasting. The EA identifies the approximate locations where Steckman Ridge anticipates it may require blasting. However, until Steckman Ridge begins construction activities and can evaluate the actual site conditions, exact blasting locations cannot be determined. Because no construction activities would occur on the Smiths' property, blasting would not be required. Steckman Ridge's Blasting Plan, included as Appendix A to the EA, outlines the notifications Steckman Ridge would make to affected landowners. We have reviewed this plan and find it acceptable.

94. In their comments on the EA, James and Karla Levy again raised concerns concerning their whitetail deer herd. The Levys' also requested an alternative pipeline route, along their property to the east of the proposed route.

95. Regarding the Levys' deer herd, as stated in the EA, Steckman Ridge will fence off the construction right-of-way for housing of deer or will offer reasonable reimbursement for animal relocation or removal. As explained in the EA, construction noise impacts on deer herds will be temporary and intermittent.

96. While the Levys suggested a pipeline alternative that would avoid their deer pen and avoid cutting through the center of their property, the proposed pipeline route will use the existing right-of-way, thereby minimizing all other impacts associated with additional new land disturbance. Also, the eastern portion of the Levys' property contains very steep slopes (with increasing steepness further south on the property). Their requested alternative would place the pipeline onto these steeper slopes in a forested area of the property. Construction on steep slopes requires additional land disturbance for grading, additional time to complete construction and restoration, and increased construction safety risks. In addition, proposed well SR 10 will be located in the middle of the Levys' property. Thus, if Line 91 were to be relocated across the eastern property boundary, the connecting lateral line to well SR 10 would still cross through the Levys' property (although potentially avoiding the deer pen) which would contribute to additional land disturbance including forested areas. The proposed route follows and uses an existing right-of-way, crosses less steep terrain, avoids forested areas, requires less new ground disturbance, and avoids impacting new landowners, and Steckman Ridge will provide reasonable measures to mitigate impacts to the deer herd. Therefore, we find that Steckman Ridge's proposed route is preferable to the Levys' alternative.

97. Based on the information in the EA, we conclude that if constructed and operated in accordance with Steckman Ridge's application and supplemental filings and the conditions in Appendix B to this order, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment. Therefore, as recommended in the EA, this order's authorizations are subject to the conditions contained in Appendix B to this order.

98. 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 unreasonably delay the (construction/replacement or operation) of facilities approved by this Commission.<sup>51</sup>

#### **H. Blanket Certificates**

99. Steckman Ridge has applied for a Part 157, Subpart F blanket certificate which is generally applicable to all interstate pipelines. A Part 157, Subpart F blanket certificate accords a natural gas company certain automatic NGA facility and service authorizations and allows it to make several simplified prior notice requests for certain minimal section 7 facility and service authorizations. Because Steckman Ridge 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, Steckman Ridge's blanket certificate shall not include automatic authorization to increase storage capacity. This restriction on Steckman Ridge's Part 157, Subpart F blanket certificate is based on the fact that Steckman Ridge's storage facility is 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.<sup>52</sup>

100. Steckman Ridge also requests a Part 284, Subpart G blanket certificate, in order to provide open-access storage services. A Part 284, Subpart G blanket certificate provides a natural gas pipeline certain automatic NGA section 7 natural gas transportation authorizations for individual customers under the terms of its contract and tariff. Under a

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<sup>51</sup>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., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

<sup>52</sup>See, e.g., *Unocal Windy Hill Gas Storage*, 115 FERC ¶ 61,218 (2006).

Part 284 blanket certificate, Steckman Ridge will not require individual authorizations to provide storage services to particular customers. Steckman Ridge filed a pro forma Part 284 tariff to provide open-access storage services. Since a Part 284 blanket certificate is required for Steckman Ridge to offer these services, we will grant Steckman Ridge a Part 284, Subpart G blanket certificate, subject to the conditions imposed herein.

### **I. Conclusion**

101. For the reasons discussed above, the Commission finds that the Steckman Ridge's 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.

102. The Commission, on its own motion, received and made 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 Steckman Ridge in Docket No. CP08-15-000, 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 Steckman Ridge under Subpart F of Part 157 of the Commission's regulations.

(C) A blanket transportation certificate is issued to Steckman Ridge under Subpart G of Part 284 of the Commission's regulations.

(D) The certificate issued in Ordering Paragraph (A) is conditioned on Steckman Ridge's 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 by April 1, 2009 in accordance with section 157.20(b) of the Commission's regulations.

(F) Steckman Ridge's request to charge market-based rates for firm storage service and interruptible park and loan service is approved, as discussed in this order.

(G) Steckman Ridge's request to charge market-based rates for its proposed wheeling service is denied without prejudice to Steckman Ridge tendering a filing containing the support discussed herein, to request market-based rates for this service. If Steckman Ridge does not either eliminate its proposed wheeling service from its actual tariff or file support for market-based rates for its wheeling service, it must file its proposed cost-based rates for its proposed wheeling service and all information required by the Commission's regulations to support its proposed cost-based rates and rate design not less than 60 days prior to placing its proposed wheeling service into service. Steckman Ridge shall explain how it will provide the proposed wheeling service.

(H) 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.

(I) Steckman Ridge is directed to revise its proposed tariff to include an interruptible storage service and proposed rates for the service whenever it files its actual tariff.

(J) Steckman Ridge shall file revised tariff sheets that comply with the requirements contained in the body of this order not less than 60 days prior to the commencement of service.

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

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

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

## **Appendix A**

### **Engineering Conditions for Steckman Ridge's Proposed Project**

1. Maximum inventory of natural gas stored in the Steckman Ridge storage facility shall not exceed the certificated levels of 17.7 Bcf at 14.73 psia and 60 degrees Fahrenheit, and the maximum shut-in bottom hole storage pressure shall not exceed 2,650 psi without prior authorization of the Commission.
2. The Steckman Ridge Project shall be operated in such manner as to prevent/minimize gas loss or migration.
3. Steckman Ridge shall conduct an annual inventory verification study on the storage field, and file results with the Commission.
4. Steckman Ridge shall submit semiannual reports (to coincide with the termination of the injection and withdrawal cycles) containing the following information (volumes shall be stated at 14.73 psia and 60 degrees Fahrenheit and pressures shall be stated in psia):
  - (1) The daily volumes of natural gas injected into and withdrawn from the storage reservoir.
  - (2) The volume of natural gas in the reservoirs at the end of the reporting period.
  - (3) The maximum daily injection and withdrawal rates experienced during the reporting period, average working pressure on such maximum days, taken at a central measuring point where the total volume injected or withdrawn is measured.
  - (4) Results of any tracer program by which the leakage of injected gas may be determined. If leakage of gas exists, the report should show the estimated total volume of gas leakage, the volume of recycled gas, and the estimated remaining inventory of gas in the reservoir at the end of the reporting period.
  - (5) Any surveys of pressures in gas wells, and the results of back-pressure tests and inventory verification studies conducted during the reporting period.

- (6) The latest revised structure contour maps showing location of the wells and the location of the gas-water contact if one exists. These maps need not be filed if there is no material change from the maps previously filed.
- (7) For the reporting period, a summary that includes the below ground surface depth and casing settings of wells drilled, worked over, or recompleted. Additionally, summarize results of reservoir characteristics from any logs or cores taken in each well.
- (8) Discussion of current operating problems and conclusions.
- (9) Such other data or reports which may aid the Commission in the evaluation of the storage project.

Steckman Ridge shall continue to file these reports semiannually until the storage inventory volume and pressure have reached or closely approximate the maximum permitted in this order. Thereafter, the reports shall continue on a semiannual basis for a period of one year.

## Appendix B

### Environmental Conditions for Steckman Ridge's Proposed Project

1. Steckman Ridge shall follow the construction procedures and mitigation measures described in its applications and supplements (including responses to staff data requests), and as identified in the EA, unless modified by this Order. Steckman Ridge must:
  - a. request any modification to these procedures, measures, or conditions in a filing with the 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 OEP **before using that modification.**
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the Steckman Ridge Storage Project (Project). This authority shall allow:
  - a. the modification of conditions of this 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**, Steckman Ridge 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 locations shall be as shown in the EA, as supplemented by filed alignment sheets, and shall include all of the staff's recommended facility locations identified in the EA. **As soon as they are available, and before the start of construction**, Steckman Ridge 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 this Order. All requests for modifications of environmental conditions of this Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

Steckman Ridge's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to this Order must be consistent with these authorized facilities and locations. Steckman Ridge's 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 right-of-way for a pipeline to transport a commodity other than natural gas.

5. Steckman Ridge 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 route variations required herein or extra workspace allowed by the Upland Erosion Control, Revegetation, and Maintenance Plan, 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:

- (i) implementation of cultural resources mitigation measures;
- (ii) implementation of endangered, threatened, or special concern species mitigation measures;
- (iii) recommendations by state regulatory authorities; and
- (iv) 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, Steckman Ridge shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how Steckman Ridge will implement the mitigation measures required by this Order. Steckman Ridge must file revisions to the plan as schedules change. The plan shall identify:
- a. how Steckman Ridge 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 Steckman Ridge will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change), with the opportunity for OEP staff to participate in the training session(s);
  - e. the company personnel (if known) and specific portion of Steckman Ridge's organization having responsibility for compliance;
  - f. the procedures (including use of contract penalties) Steckman Ridge will follow if noncompliance occurs; and
  - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - (i) the completion of all required surveys and reports;
    - (ii) the mitigation training of onsite personnel;
    - (iii) the start of construction; and
    - (iv) the start and completion of restoration.
7. Steckman Ridge shall employ at least one environmental inspector per construction spread. The environmental inspector shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by this 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 (*see* condition 6 above) and any other authorizing document;
  - c. empowered to order correction of acts that violate the environmental conditions of this Order, and any other authorizing document;
  - d. a full-time position, separate from all other activity inspectors;
  - e. responsible for documenting compliance with the environmental conditions of this Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
  - f. responsible for maintaining status reports.
8. Steckman Ridge shall file updated status reports prepared by the (head) environmental inspector with the Secretary on a **biweekly** basis **until all construction and restoration activities 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 each spread, 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(s) 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 this Order, and the measures taken to satisfy their concerns; and
  - f. copies of any correspondence received by Steckman Ridge from other federal, state or local permitting agencies concerning instances of noncompliance, and Steckman Ridge's response.
9. Steckman Ridge must receive written authorization from the Director of OEP **before commencing service** for each phase of the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the ROW and other areas affected by the project are proceeding satisfactorily.

10. **Within 30 days of placing the certificated facilities in service**, Steckman Ridge shall file an affirmative statement with the Secretary, certified by a senior company official:
  - a. that the facilities have been constructed /installed 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 Steckman Ridge has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. Steckman Ridge shall amend its E&SCP to include compaction testing and mitigation if testing indicates soils are compacted in residential areas.
12. Steckman Ridge **shall not begin construction activities** on alternate well or pipeline modifications, or temporary work spaces not previously identified until:
  - a. the staff completes consultations with the FWS regarding impacts on the Indiana bat; and
  - b. Steckman Ridge has received written notification from the Director of OEP that construction or use of alternative site facilities may begin.
13. Steckman Ridge 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, Steckman Ridge shall mail the complaint procedures to each landowner whose property would be crossed by the project.
  - a. In its letter to affected landowners, Steckman Ridge shall:
    - (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 Steckman Ridge 's Hotline; the letter should indicate how soon to expect a response; and

- (iii) instruct the landowners that, if they are still not satisfied with the response from Steckman Ridge 's Hotline, they should contact the Commission's Enforcement Hotline at (888) 889-8030.
  - b. In addition, Steckman Ridge shall include in its weekly status report a copy of 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;
    - (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. **Prior to construction**, Steckman Ridge shall file with the Secretary for review and written approval by the Director of OEP, a site-specific plan restoration plan for the McDaniel's property including the preservation of hiking trails and visual screening. Steckman Ridge shall file documentation of consultation with the landowner in the development of this restoration plan.
- 15. Steckman Ridge shall **defer construction and use of facilities and staging, storage, and temporary work areas and new or to-be-improved access roads until:**
  - a. Steckman Ridge files supplemental survey reports for all previously unsurveyed areas, and the SHPO's comments on the reports;
  - b. Steckman Ridge files the SHPO's comments on the Phase II evaluations of the Clark Farmstead Site, Raccoon Ridge Site, Big Creek Sites 2, 3, and 4, Clark 1 Site, and on any required treatment plan(s);
  - c. The ACHP is afforded an opportunity to comment, if historic properties would be adversely affected; and
  - d. The Director of OEP reviews and approves all reports and plans and notifies Steckman Ridge in writing that it may proceed with any treatment or construction.

All material filed with the Commission containing **location, character, and ownership information** about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: **“CONTAINS PRIVILEGED INFORMATION – DO NOT RELEASE.”**

16. **Prior to construction**, Steckman Ridge shall file an updated Well Drilling Analysis and Mitigation Plan, for review and written approval by the Director of OEP, for the four well locations (SR10, Stup 155, SR 11, and Clark 1664) with projected noise levels above 60 dBA. The plan shall include mitigation to reduce the projected noise levels at the nearest NSAs. The analysis shall identify the new projected noise levels at the nearest NSAs including the mitigation measures implemented prior to construction.
17. Steckman Ridge shall make all reasonable efforts to assure its predicted noise levels from the proposed compressor station are not exceeded at all nearby NSAs and file noise surveys showing this with the Secretary **no later than 60 days** after placing the compressor station into service. However, if the noise attributable to the operation of the new compressor station at full load exceeds an  $L_{dn}$  of 55 dBA at any nearby NSA, Steckman Ridge shall file a report on what changes are needed and shall install additional noise controls to meet that level **within 1 year** of the in-service date. Steckman Ridge 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.
18. **Prior to construction**, Steckman Ridge shall use the Southwest Alternative Site for Well SR 22 and shall file with the Secretary revised alignment sheets to reflect this change.