

126 FERC ¶ 61,094  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Golden Gas Service Company

Docket No. CP08-438-000

DECLARATORY ORDER

(Issued February 5, 2009)

1. On July 14, 2008, Golden Gas Service Company (Golden) filed a petition for a declaratory order requesting that the Commission find that Golden's injection of natural gas into two depleted gas/oil reservoirs in Oklahoma for enhanced oil recovery operations and later withdrawal of the gas does not constitute interstate transportation of natural gas subject to the Commission's jurisdiction under the Natural Gas Act (NGA). As discussed below, we are granting the requested declaratory order.

**Background**

2. Golden is engaged in the exploration, production, and marketing of oil and natural gas. Golden owns and operates facilities known as the West Alva A and West Alva B Units (the Alva facility) in Woods County, Oklahoma. The Alva facility consists of two depleted oil reservoirs with a total capacity of 1.25 Bcf, four wells (two in each reservoir), two compressor units, and approximately eight miles of 4-inch and 6-inch diameter pipeline facilities that connect the wells to a pipeline lateral owned and operated by Southern Star Central Gas Pipeline, Inc. (Southern Star), an interstate pipeline.

3. The four wells at the Alva facility were originally drilled as oil production wells between 1969 and 1989. After oil and associated gas production ended in the 1990s, Golden purchased the well bores and other property rights at the Alva facility, reworked the wells, added compression and piping, and began enhanced oil recovery operations.

4. Golden purchases natural gas for use in its enhanced oil recovery operations from other parties. Golden receives the gas at its interconnection with Southern Star during the summer months and injects the gas into the two reservoirs, where, over time, the gas is saturated into the native oil present in the reservoirs. In the winter, Golden produces the oil and gas together, separates the oil and gas at the surface, and sells the oil and gas to purchasers. All gas withdrawn from the Alva facility is transported by Southern Star.

5. Golden states that it cannot reinject the gas used for enhanced oil production back into the reservoirs because all four wells are used for production at the same time, and it has no means of storing the gas as it is withdrawn along with the oil. Thus, Golden sells the gas, and when the oil and gas are separated from each other, the gas is delivered into Southern Star's system. Later, new gas is purchased for the next cycle. Golden does not offer or provide gas storage services to other parties at the Alva facility.

6. The volume of oil produced from the reservoirs in any given year depends on the amount of gas that Golden injects in the summer and the amount Golden withdraws in the winter. The decision regarding injection volumes is based on current gas prices during the injection season and anticipated oil and gas prices during the next withdrawal season. The actual withdrawal volumes are based on prevailing oil and gas prices each day during the withdrawal season. Golden states that remaining native supplies of oil in the reservoirs have always been sufficient to fully saturate all the gas that is injected, and there have been no signs of any decline in the oil supplies. During the winter 2007/2008 withdrawal cycle, Golden states that it used approximately 870 MMcf of gas in its enhanced oil production activities.

#### **Golden's Request for Declaratory Order**

7. Golden requests that the Commission find that its injections of natural gas into its two depleted company-owned gas/oil reservoirs for use in its enhanced oil recovery processes and its subsequent withdrawals of that gas do not constitute interstate transportation of natural gas subject to the Commission's NGA jurisdiction.<sup>1</sup> Golden also argues that, to the extent its activities can be viewed as involving the storage of gas being transported in commerce, the gas is moving in intrastate commerce, not interstate commerce. In this regard, Golden explains that, notwithstanding the fact it receives all of its gas supplies off Southern Star's interstate system, most of the gas it purchases is produced in Oklahoma. Finally, Golden asserts its two Alva reservoirs are not large enough to permit viable third-party contract storage service.

---

<sup>1</sup> As defined in section 284.1 of the Commission's regulations, "transportation" includes "storage, exchange, backhaul, displacement, or other methods of transportation." 18 C.F.R. § 284.1 (2008). The Commission and its predecessor, the Federal Power Commission, have historically recognized that storage can constitute transportation of natural gas in interstate commerce subject to the certification requirements of the NGA and the Commission's NGA jurisdiction. *See, e.g., Michigan-Wisconsin Pipe Line Co.*, 9 FPC 152 (1950); *Billings Gas Co.*, 8 FPC 1166 (1949); *Cities Service Gas Co.*, 4 FPC 471 (1943).

### **Interventions**

8. Notice of Golden's petition for declaratory order was published in the *Federal Register* on July 28, 2008 (73 Fed. Reg. 43748). Southern Star filed a timely, unopposed motion to intervene.<sup>2</sup> Southern Star filed comments with its intervention request, and Golden filed an answer. Although our rules do not permit Golden's responsive pleading,<sup>3</sup> our rules do provide that we may, for good cause, waive this provision.<sup>4</sup> We do not find good cause to do so in this instance because Golden's answer is in response to comments by Southern Star that are not germane to Golden's request for declaratory order that is the subject of this proceeding.<sup>5</sup>

### **Discussion**

9. All of the gas purchased by Golden for use in its enhanced oil recovery operations is transported in interstate commerce by Southern Star, an interstate pipeline, to Golden's Alva facility. Further, when Golden withdraws the gas from its reservoirs and sells it, the gas is delivered back into Southern Star's system for further transportation in interstate commerce. However, Golden states that it injects all of the gas it purchases into its two reservoirs for the purpose of saturating remaining native oil so that it can be produced. The gas is still saturated in the oil when the oil is produced, and while Golden then separates the oil and gas, it has explained that it cannot reinject the gas back into the reservoirs because all four wells are used for production at the same time, and it has no other means of storing the gas. Thus, Golden states that it sells the gas used for each enhanced oil recovery cycle and delivers the gas to Southern Star's system.

10. Based on Golden's representations, all of the gas injected by Golden is injected for purposes of its enhanced oil recovery operations at the Alva facility. Therefore, we find that Golden's activities do not involve the jurisdictional storage or other transportation of

---

<sup>2</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 (2008).

<sup>3</sup> 18 C.F.R. § 385.213(a)(2) (2008).

<sup>4</sup> 18 C.F.R. § 385.101(e) (2008).

<sup>5</sup> Southern Star's comments and Golden's responsive comments relate to whether Golden qualifies as a third-party storage provider for purposes of obtaining certain rate benefits under Southern Star's tariff. This issue is unrelated to Golden's jurisdictional status under the NGA – and thus, we will not address it in this proceeding.

natural gas in interstate commerce subject to the Commission's jurisdiction under the NGA.<sup>6</sup> Accordingly, we will grant Golden's requested declaratory order.

he Commission orders:

- (A) Golden's petition for a declaratory order is granted.
- (B) Golden's August 18, 2008 answer to Southern Star's comments is rejected.

By the Commission. Commissioner Kelliher is not participating.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

---

<sup>6</sup> Golden does not request any clarification on whether its sales of gas may be jurisdictional. However, we note that, to the extent any of its sales are sales for resale that have not been exempted from NGA jurisdiction, Subpart L of Part 284 of the Commission's regulations, 18 C.F.R. § 284.401 *et seq.* (2008), provides automatic blanket certificate authorization for such sales, subject to Subpart L's standard of conduct requirements applicable to sellers that report transactions to publishers of natural gas indices.