

130 FERC ¶ 61,065  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer and John R. Norris.

Perryville Gas Storage LLC

Docket No. CP09-418-000

ORDER ISSUING CERTIFICATE

(Issued January 26, 2010)

1. On May 26, 2009, Perryville Gas Storage LLC (Perryville) filed an application under section 7(c) of the Natural Gas Act (NGA)<sup>1</sup> and Part 157 of the Commission's regulations<sup>2</sup> requesting a certificate of public convenience and necessity authorizing the construction and operation of a natural gas storage facility (Perryville Project) in Franklin and Richland Parishes, Louisiana. Perryville also requests: (i) a blanket certificate under Part 284, Subpart G of the Commission's regulations<sup>3</sup> to provide firm and interruptible storage services and interruptible hub services; (ii) a blanket certificate under Part 157, Subpart F of our regulations authorizing certain construction and other activities; (iii) authority to charge market-based rates for the proposed storage and hub services; (iv) approval of the proposed pro forma tariff; and (v) waiver of certain filing, accounting, and reporting requirements.

2. As discussed below, the Commission grants Perryville's requested certificate authorizations, subject to conditions described herein. We also grant Perryville's request for market-based rate authority and waiver of certain filing, accounting, and reporting requirements.

**I. Background**

3. Perryville is a limited liability company organized under the laws of the State of Delaware.<sup>4</sup> Perryville is a newly formed company and currently does not own any

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<sup>1</sup> 15 U.S.C. § 717f(c) (2006).

<sup>2</sup> 18 C.F.R. Part 157 (2009).

<sup>3</sup> 18 C.F.R. Part 284 (2009).

<sup>4</sup> Perryville is owned by Cardinal Gas Storage Partners LLC, which is a joint venture of Martin Resource Management Corporation and Energy Capital Partners.

existing storage facilities and is not engaged in any natural gas operations. It is not currently a natural gas company within the meaning of section 2(6) of the NGA.<sup>5</sup> Upon Commission approval of the authorizations requested herein, and after the completion of the proposed construction and commencement of operations, Perryville will be a natural gas company within the meaning of NGA section 2(6) and will be subject to the Commission's jurisdiction.<sup>6</sup>

## II. Proposal

### A. Facilities

4. Perryville proposes to construct and operate a high-deliverability natural gas storage facility which will provide for the injection, storage, and withdrawal of natural gas in two caverns created in an underground salt dome formation. The two proposed storage caverns will be formed in the Crowville Salt Dome, located in Franklin Parish, Louisiana, using a solution mining (leaching) process. Upon completion of the proposed facilities, the Perryville Project will provide 15 billion cubic feet (Bcf) of working gas capacity in two salt caverns. Each cavern will have approximately 7.5 Bcf of working gas capacity and 3.5 Bcf of cushion gas capacity. The Perryville Project will initially provide 600 million cubic feet (MMcf) per day of maximum withdrawal capability and 226 MMcf per day of maximum injection capability, with a capability of eight cycles per year.

5. Perryville proposes to construct the two caverns on a 42-acre site in Franklin Parish, above the Crowville Salt Dome (the Natural Gas Handling Facility site). The caverns will be about 1,000 feet apart laterally. The Natural Gas Handling Facility will include 9,500 horsepower of compression facilities in a compressor building, four raw water withdrawal wells, and related ancillary equipment. A utility corridor including an access road, an eight-inch diameter freshwater pipeline, an eight-inch diameter brine

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<sup>5</sup> 15 U.S.C. § 717a(6) (2006).

<sup>6</sup> The Commission has exempted Perryville from the certificate requirements of NGA section 7(c) in two cases. In the first case, the Commission authorized Perryville to drill two stratigraphic test wells in the Wilcox Formation and the Crowville Salt Dome and a fresh water supply test well in the Mississippi River Valley Alluvial Aquifer, within one year of the date of the order, to determine the feasibility of developing a salt cavern natural gas storage project. *See Perryville Gas Storage LLC*, 124 FERC ¶ 61,221 (2008). Perryville was unable to drill one of the wells in the allotted time, and upon application by Perryville, the Commission granted another exemption from the NGA section 7(c) certificate requirements to drill the third well, to test for saltwater disposal capacity. *See Perryville Gas Storage LLC*, 129 FERC ¶ 61,108 (2009).

pipeline, and a 14-inch diameter natural gas pipeline will connect the facilities on the land owned by Perryville to the second cavern.<sup>7</sup> Perryville proposes to construct a Leaching Facility, which includes three brine settling ponds and related pumping equipment, on a separate 30-acre parcel which it owns in fee (the Brine Disposal Ponds site). The Natural Gas Handling Facility and the Leaching Facility will be connected by an approximately 0.8 mile-long, 20-inch diameter brine disposal pipeline and a 14-inch diameter freshwater pipeline.

6. Perryville proposes to construct five brine disposal wells. Perryville states that these well locations, identified as Brine Disposal Well Pads 1, 2, 3, 4, and 5, are all located on property leased by Perryville from one owner, and that they are all located beyond the limits of the Crowville Salt Dome structure. Each brine disposal well will occupy a well pad of approximately 2.4 acres. Perryville states that the brine disposal wells will be completed in the Lower Wilcox formation and that these wells will be used for the disposal of brine during the construction period.

7. Perryville proposes two brine disposal pipeline corridors. Corridor B1 will extend from the southeast corner of the Brine Disposal Ponds site and connect with two of the five proposed brine disposal wells, located at well pads 1 and 5. It will be 2.3 miles long and 30 feet wide and contain a 20-inch diameter brine disposal pipeline. Corridor B2 will branch off Corridor B1 and be 0.9 miles long. It will contain a 20-inch diameter brine disposal pipeline, which will connect with the disposal wells at well pads 2, 3, and 4.

8. Perryville proposes to construct a 2.56-mile, 24-inch diameter pipeline to interconnect with Columbia Gulf Transmission Company (Columbia Gulf) and an 11.8-mile, 36-inch diameter pipeline to interconnect with CenterPoint Energy Gas Transmission Company (CenterPoint). The proposed 24-inch diameter pipeline will extend from the Natural Gas Handling Facility to a point of interconnection with a 30-inch diameter Columbia Gulf pipeline at the proposed Columbia Gulf Measuring and Regulating (M&R) Station in Franklin Parish. At the M&R Station site, Perryville also proposes to construct a pig launcher/receiver capable of handling instrumented pigs, related ancillary equipment, pipelines, and roads.

9. The proposed 36-inch diameter pipeline will extend an additional 9.2 miles from the Columbia Gulf M&R Station to the proposed CenterPoint M&R Station in Richland Parish. The 36-inch pipeline will parallel an existing Columbia Gulf pipeline right-of-way.

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<sup>7</sup> Perryville owns in fee approximately 36.5 acres of the 42-acre Natural Gas Handling Facility site. One cavern is located on the land Perryville owns. The other cavern is on land that Perryville does not own.

10. Perryville states that certain non-jurisdictional facilities will be constructed by others to complete the Perryville Project. These include four permanent electric power drops: one each for the Natural Gas Handling Site, the Columbia Gulf M&R Station, the CenterPoint M&R Station, and the Leaching Facility. The power drops will be constructed by Northeast Louisiana Power Cooperative Inc. The other non-jurisdictional facilities are approximately 10.6 miles of 115 kilovolt (kV) transmission line and two 13.8 kV distribution circuits, each about one-half mile long.

11. Perryville requests a five-year construction period in order to accommodate the time required for phased construction which will occur based on the progress of the solution mining process of the two proposed storage caverns. Perryville states that the time requirement for leaching of salt caverns through solution mining for use as storage facilities is approximately 18 months.

12. Perryville contends that its proposed storage facility is located at a strategic point between new sources of gas supply in Texas, Arkansas, Louisiana, and offshore areas of the Gulf of Mexico and growing markets in the eastern United States, including the southeast and mid-Atlantic regions. Perryville asserts that the proposed project is also close to significant pipeline infrastructure near Delhi, Louisiana, affording new options for customers in the area.

## **B. Markets and Services**

13. Perryville proposes to offer firm (FSS) and interruptible (ISS) storage service and interruptible hub services (such as park and loan, wheeling, balancing and imbalance trading services) on an open-access, non-discriminatory basis.<sup>8</sup> Perryville proposes to charge market-based rates for all storage and hub services under its pro forma tariff. Perryville contends that it will operate in a competitive market and that it lacks market power with respect to the storage and hub services it proposes.

14. Perryville states that it conducted an open season during the months of June and July 2008. Since then, Perryville asserts that it has signed precedent agreements with several customers and is negotiating additional precedent agreements with other potential customers. Perryville believes that firm precedent agreements for substantially all of the proposed capacity will be executed following Commission approval of the Perryville Project.

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<sup>8</sup> The terms and conditions of these services are set forth in Perryville's pro forma gas tariff. *See* Application, Exhibit P.

### C. Blanket Certificate and Waiver Requests

15. Perryville requests a blanket certificate under Part 284, Subpart G of the Commission's regulations to provide storage and hub services on an open-access, non-discriminatory basis pursuant to its proposed tariff. Perryville also requests a blanket certificate under Part 157, Subpart F of the Commission's regulations to perform routine activities in connection with construction, maintenance, and operation of the proposed facilities.

16. Because it proposes to charge market-based rates, Perryville requests waiver of certain filing, accounting, and reporting requirements applicable to cost-based rate proposals, which the Commission has previously found inapplicable to storage providers that are granted market-based rate authority.

### III. Notice and Interventions

17. Notice of Perryville's application was published in the *Federal Register* on June 15, 2009.<sup>9</sup> The Town of Delhi, Louisiana, Laclede Gas Company, and Quantum NGS Holdings, LLC filed timely unopposed motions to intervene.<sup>10</sup> No protests were filed.

18. Columbia Gulf, Enstor Louisiana, LLC (Enstor), and Gavilon, LLC (Gavilon) filed motions to intervene out-of-time. Columbia Gulf, Enstor, and Gavilon have demonstrated an interest in this proceeding and have shown good cause for late intervention. Their untimely motions will not delay, disrupt, or otherwise prejudice this proceeding. Thus, we will grant the untimely motions to intervene.<sup>11</sup>

19. The Town of Delhi, the U.S. Fish and Wildlife Service (FWS), Columbia Gulf, and Gavilon filed comments. The comments of the Town of Delhi and the FWS are addressed in the environmental assessment for the Perryville Project. Columbia Gulf's and Avalon's comments support Perryville's proposal.

### IV. Discussion

20. Since the proposed facilities will be used to transport natural gas in interstate commerce, subject to the jurisdiction of the Commission, the construction, acquisition,

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<sup>9</sup> 74 Fed. Reg. 28,232 (2009).

<sup>10</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(c) (2009).

<sup>11</sup> 18 C.F.R. § 385.214(d) (2009).

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**

21. The Certificate Policy Statement provides guidance for evaluating proposals for certificating new construction.<sup>12</sup> The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. It explained that in deciding whether to authorize the construction of major new pipeline facilities, we balance the public benefits against the potential adverse consequences. Our goal is to appropriately consider the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.<sup>13</sup>

22. 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.<sup>14</sup> 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.<sup>15</sup> If residual adverse effects on these 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 if the benefits outweigh the adverse effects on economic interests will we proceed to complete the environmental analysis where other interests are considered.

23. 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. Perryville is a new entrant in the natural gas storage market and has no

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<sup>12</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) (Certificate Policy Statement).

<sup>13</sup> *See* 88 FERC at 61,737.

<sup>14</sup> *Id.* at 61,745-46.

<sup>15</sup> *Id.*

existing customers. Therefore, there will be no subsidization. Moreover, under its market-based rate proposal, Perryville assumes the economic risks associated with the costs of the proposed facilities to the extent that any capacity is unsubscribed or that revenues are not sufficient to recover costs. Thus, the Commission finds that Perryville satisfies the threshold requirement of the Certificate Policy Statement.

24. Since Perryville is a new company with no current customers or services, the proposed project will have no impact on existing customers or services. Further, the Perryville 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 also enhance storage options available to pipelines and their customers. Additionally, no storage company or customer in Perryville's market area has protested Perryville's application.

25. Perryville owns in fee 36.5 acres of the 42-acre Natural Gas Handling Facility site and a 30-acre parcel where the brine disposal ponds are located. Perryville leases the sites of the brine disposal wells from a single landowner. Most of the pipeline construction will parallel an existing Columbia Gulf pipeline right-of-way. Perryville is currently negotiating for other necessary land rights and easements. There is no landowner opposition to the Perryville Project. Thus, the Commission finds that the development of the Perryville Project will have minimal impact on landowners and surrounding communities.

26. The Perryville Project will enhance storage options available to pipelines and their customers in the eastern United States and increase competitive alternatives. Based on the benefits that the project will provide and the minimal adverse effects on other storage providers and their captive customers and landowners and surrounding communities, the Commission finds, consistent with the Certificate Policy Statement and section 7 of the NGA, that the public convenience and necessity requires approval of the proposals, subject to the conditions discussed below.

### **B. Market-based Rates**

27. Perryville requests authority to charge market-based rates for its proposed firm and interruptible storage services. Perryville also proposes to offer interruptible hub services, including parking service (IPS), a loan service (ILS), wheeling (IWS), balancing (IBS), and imbalance trading (IBTS), all at market-based rates.<sup>16</sup>

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<sup>16</sup> Application at 2-3 and 17.

28. Generally, the Commission evaluates requests to charge market-based rates for storage under the analytical framework of the Alternative Rate Policy Statement.<sup>17</sup> Under the Alternative Rate Policy Statement, the Commission's framework for evaluating requests for market-based rates has two principal purposes: (1) to determine whether the applicant can withhold or restrict services and, as a result, increase prices by a significant amount for a significant period of time; and (2) to determine whether the applicant can discriminate unduly in price or terms and conditions of service.<sup>18</sup> To find that an applicant cannot withhold or restrict services, significantly increase prices over an extended period, or discriminate unduly, the Commission must first find that there is a lack of market-power<sup>19</sup> because customers have good alternatives<sup>20</sup> or that the applicant or Commission can mitigate the market power with specified conditions.<sup>21</sup>

29. The Commission's analysis of whether an applicant has the ability to exercise market power consists of three major steps. First, the Commission reviews whether the applicant has specifically and fully defined the relevant markets<sup>22</sup> to determine which

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<sup>17</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; *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996), *petitions for review denied sub nom. Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998) (Alternative Rate Policy Statement).

<sup>18</sup> *Orbit Gas Storage, Inc.*, 126 FERC ¶ 61,095 (2009).

<sup>19</sup> The Commission defines "market power" as "the ability of a pipeline to profitably maintain prices above competitive levels for a significant period of time." *See* Alternative Rate Policy Statement, 74 FERC at 61,230.

<sup>20</sup> A good alternative is an alternative to the proposed project that is available soon enough, has a price low enough, and has a quality high enough to permit customers to substitute the alternative for an applicant's service. *See* Alternative Rate Policy Statement, 74 FERC at 61,230.

<sup>21</sup> Generally, an applicant will include in its application a market power study in support of its request, as Perryville has done in this case. *See* Application, Exhibit I. A market power study usually defines the relevant products and geographic markets, measures market shares and concentrations, and evaluates other factors such as replacement capacity, ease of entry, and non-storage alternatives.

<sup>22</sup> Relevant product market consists of the applicant's service and other services that are good alternatives to the applicant's services. *See* Alternative Rate Policy Statement, 74 FERC at 61,231.

specific products or services are identified and the suppliers of those products and services that provide good alternatives to the applicant's ability to exercise market power.<sup>23</sup> Additionally, as part of the first step, the applicant must identify the relevant geographic market.<sup>24</sup> Second, the Commission measures an applicant's market share and market concentration.<sup>25</sup> Third, the Commission evaluates other relevant factors, such as ease of entering the market.

30. Perryville identifies the relevant product market as firm and interruptible natural gas storage and hub services. Perryville identifies the relevant geographic market region as the Gulf Coast Supply Region, which includes portions of East and South Texas, Louisiana, Mississippi, and Alabama. Perryville submits: (1) that the Gulf Coast Supply Region has over sixty existing, approved and expected storage facilities, plus numerous market centers existing and expected by December 31, 2014; and (2) that these facilities, together with over fifteen new or expanding storage facilities planned in the Gulf Coast Supply Region, establish that it will be virtually impossible for any single facility to exert market power.<sup>26</sup>

31. A company can exercise market power because it has a large market share so it can raise prices acting alone or because it can act with others to raise prices.<sup>27</sup> Here, with relatively small market shares, as Exhibit No. KLB-4 of Perryville's market-power analysis<sup>28</sup> shows, Perryville will not be able to exert market power in the relevant market area. The Perryville Project and Perryville's affiliates, Arcadia Gas Storage and Cadeville Gas Storage, will have a total, combined working gas capacity of 45.3 Bcf.<sup>29</sup> Exhibit No. KLB-4 lists ninety-five storage facilities that are not affiliated with the Perryville Project and shows that Perryville and its affiliates would control in the relevant market approximately 3.6 percent of the total working gas capacity and 9.8 percent of

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<sup>23</sup> Alternative Rate Policy Statement, 74 FERC at 61,231.

<sup>24</sup> *Id.* at 61,232-34.

<sup>25</sup> *Id.* at 61,234.

<sup>26</sup> *See* Exhibit No. KLB-3, Page 1, of Exhibit I of Perryville's Application.

<sup>27</sup> *See* Alternative Rate Policy Statement, 74 FERC at 61,234.

<sup>28</sup> *See* Exhibit I of Perryville's Application.

<sup>29</sup> *See* Exhibit No. KLB-4, Page 1, of Exhibit I of Perryville's Application. Perryville's affiliates currently operate seven storage facilities in the Gulf Coast Supply Region with 30.3 Bcf of working gas capacity.

total deliverability. Thus, Perryville is unlikely to exercise market power with its small market shares.

32. The Commission uses the Herfindahl-Hirschman Index (HHI), which is used to analyze whether a competitive market exists for a specific product, to determine market concentration for gas pipeline and storage markets.<sup>30</sup> The Alternative Rate Policy Statement states that a low HHI (generally less than 1,800) indicates that sellers are less likely to be able to exert market power because customers have sufficiently diverse alternatives in the relevant market.<sup>31</sup> While a low HHI suggests lack of market power, a high HHI (generally greater than 1,800) requires closer scrutiny in order to make a determination about a seller's ability to exert market power. Perryville's market power analysis shows that its HHI calculation is 568 for working gas capacity and 547 for peak day deliverability. These measures of market concentration are significantly below the 1,800 HHI level, indicating that Perryville does not have market power in the relevant market area.

33. Lastly, Perryville cannot exercise market power because the relevant market is easy to enter. The Commission has found previously that barriers to entry in the Gulf Coast Supply Region are not significant.<sup>32</sup> In addition, the services to be provided by the project are offered by twelve competing hubs and market centers in the region.

34. Based on these factors, the Commission finds that Perryville's analysis demonstrates that its proposed project will be in a highly competitive area where numerous storage service alternatives exist for potential customers. The Commission also finds that Perryville's analysis properly identifies good alternatives and that Perryville's entry will increase the storage alternatives in the Gulf Coast Supply Region. Furthermore, the Commission finds that, within the relevant market, Perryville's prospective market shares are low and that the market concentration is below the threshold which would require closer scrutiny. Finally, the Commission finds that barriers to entry are likely to be low in the relevant market. Thus, the Commission concludes that Perryville will lack significant market power.

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<sup>30</sup> Alternative Rate Policy Statement, 74 FERC at 61,235.

<sup>31</sup> See *Rate Regulation of Certain Natural Gas Storage Facilities*, Order No. 678, FERC Stats. & Regs. ¶ 31,220 at P 55 (2006) (noting that the Commission is not changing the 1,800 HHI threshold level).

<sup>32</sup> See, e.g., *Tarpon Whitetail Gas Storage, LLC*, 123 FERC ¶ 61,274, at P 28 (2008); *Enstor Houston Hub Storage and Transportation, LP*, 123 FERC ¶ 61,019, at P 32 (2008); *Port Barre Investments, L.L.C.*, 116 FERC ¶ 61,052, at P 25 (2006).

35. The Commission uses a “bingo card” analysis to assess whether prospective customers of an applicant seeking market-based rate authority for interruptible wheeling service could obtain those same services from alternative providers. The Commission has relied upon the bingo card analysis to determine whether shippers can avoid the pipeline interconnections provided by the applicant by using alternative interconnections between the pipelines that are directly or indirectly connected to the applicant.

36. Perryville’s bingo-card analysis<sup>33</sup> shows that there are a number of alternative paths available to shippers desiring to wheel natural gas among interstate natural gas pipelines in the Gulf Coast Supply Region. In addition, Perryville’s market power study shows that Perryville’s market share for wheeling delivery capacity at alternative hubs and market centers in the Gulf Coast will be 13.8 percent and its market share for receipt capacity will be 10.2 percent.<sup>34</sup> These percentages are similar to the percentages the Commission has determined to be acceptable in the past.<sup>35</sup> The HHI for delivery capacity is 701 and for receipt capacity is 711, which are well below the 1,800 level set forth in the Alternative Rate Policy Statement. The market power study also shows that Perryville will be unable to exercise market power because there are ample competitive alternatives for Perryville’s proposed wheeling services and alternative interconnection paths exist for every possible flow of gas among the pipelines with which Perryville’s project will interconnect.

37. For these reasons, in addition to the fact that Perryville’s request for market-based rate authority is unopposed, the Commission will approve Perryville’s request to charge market-based rates for all firm and interruptible storage, hub, and wheeling services. Nevertheless, Perryville must notify the Commission if future circumstances significantly affect its present market power status. The Commission’s approval of market-based rates for the indicated services is subject to re-examination in the event that: (i) Perryville adds storage capacity beyond the capacity authorized in this order; (ii) an affiliate increases storage capacity; (iii) an affiliate links storage facilities to Perryville; or (iv) Perryville or an affiliate acquires an interest in, or is acquired by, an interstate pipeline connected to Perryville. Since these circumstances could affect its market power status, Perryville shall notify the Commission within 10 days of acquiring knowledge of any such changes. The notification shall include a detailed description of the new

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<sup>33</sup> See Exhibit No. KLB-9 of Exhibit I of Perryville’s Application.

<sup>34</sup> See Exhibit Nos. KLB-10 and KLB-11 of Exhibit I of Perryville’s Application.

<sup>35</sup> See, e.g., *Arlington Storage Co., LLC*, 125 FERC ¶ 61,306 (2008).

facilities and their relationship to Perryville.<sup>36</sup> The Commission reserves the right to require an updated market power analysis at any time.

**C. Waivers of Filing, Reporting, and Accounting Requirements**

38. In light of its request for authority to charge market-based rates and the fact that it has no existing interstate pipeline operations, Perryville requests that the Commission waive section 157.6(b)(8) of the Commission's regulations, which would require it to submit cost and revenue information otherwise necessary for the Commission to make a determination of the rate treatment for the project. Perryville also requests that the Commission waive the filing requirements of section 157.14(a)(13), (14), (16) and (17), which require submission of 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. Perryville requests such additional waivers of the regulations as necessary to carry out the authorizations requested in its application and as are customarily issued.

39. For the same reasons, Perryville 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 Form Nos. 2 and 2-A) of the Commission's regulations. Perryville also requests waiver of the rate and cost information filing requirements of sections 157.14(a)(10) and 157.20(c)(3) to submit total gas supply data (Exhibit H), as being inapplicable to natural gas storage services.

40. In light of the Commission's approval of market-based rates for Perryville's storage and hub services, the cost-related information required by the above-described regulations is not relevant. Thus, consistent with previous Commission orders,<sup>37</sup> the Commission will grant Perryville's request for waiver of the regulations requiring cost-based related information for these services. The Commission also grants a waiver of sections 157.14(a)(10) and 157.20(c)(3), which require an applicant to submit gas supply data, which does not pertain to gas storage service.

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<sup>36</sup> See, e.g., *Port Barre Investments, L.L.C.*, 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>37</sup> See, e.g., *Port Barre Investments, L.L.C., d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052 (2006); *Copiah County Storage Co.*, 99 FERC ¶ 61,316 (2002); *Egan Hub Partners, L.P.*, 99 FERC ¶ 61,269 (2002).

41. The Commission has also found in previous orders no ongoing regulatory need to have cost-based financial statements prepared in accordance with the Uniform System of Accounts. Accordingly, the Commission will grant Perryville's request for waiver of accounting requirements, as provided in Part 201 (Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act). In addition, the Commission will also grant Perryville's request for waiver of reporting requirements, as set forth in section 260.2 (Form No. 2-A, Annual Report for Nonmajor Natural Gas Companies) and section 260.300 (Form No. 3-Q, Quarterly Financial Report of Electric Utilities, Licensees, and Natural Gas Companies), but the Commission notes that such waivers do not extend to the Annual Charge Assessment (ACA).<sup>38</sup> Therefore, Perryville is required to file the Gas Account-Natural Gas Schedule currently at page 520 of Form No. 2-A, reporting the gas volume information that is the basis for an ACA charge.<sup>39</sup> In addition, the Commission requires Perryville to maintain records to separately identify the original cost and related depreciation on its storage facilities should the Commission require Perryville to produce those reports in the future.

#### **D. Tariff Provisions**

42. Perryville proposes to offer its firm and interruptible storage, hub, and wheeling services at market-based rates under the terms and conditions set forth in the pro forma tariff attached as Exhibit P to the application. As discussed below, the Commission finds that Perryville's proposed tariff sheets generally comply with Part 284 of the regulations, with the exceptions noted. Perryville shall file actual tariff sheets at least 30 days, but not more than 60 days, prior to the commencement of service.

##### **1. Minimum Gas Quantity**

43. Sections 7.1, 7.2, and 7.3 of the General Terms and Conditions (GT&C) provide that Perryville will not be obligated to receive, deliver, or wheel at any point any quantity of gas when the total quantity at the point results in a net metered flow which is less than or equal to 10,000 dekatherms (Dth) per day.

44. Under sections 284.7(b) and 284.9(b) of the Commission's regulations, the transporter may not discriminate as to the level of volumes transported. The Commission, however, has allowed a pipeline to include a minimum volume restriction in its tariff when the pipeline was able to show that quantities below the threshold were too small to be metered and provided operational and cost justification for the

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<sup>38</sup> See *BGS Kimball Gas Storage, LLC*, 117 FERC ¶ 61,112, at P 49 (2006).

<sup>39</sup> *Id. Unocal Windy Hill Gas Storage, LLC*, 115 FERC ¶ 61,218, at P 38 (2006).

restriction.<sup>40</sup> For example, in *Gulf South Pipeline Company, LP (Gulf South)*,<sup>41</sup> the Commission accepted a proposal for a 100 Dth per day threshold for connections of new receipt and delivery points. In that case, the Commission relied on Gulf South's assertions that serving small volume points presented operational challenges because these receipt points were difficult to measure, which increased the potential for lost system gas.<sup>42</sup> In addition, Gulf South stated that the costs associated with operating small points would be greater than the maximum rate would cover.<sup>43</sup>

45. Unlike *Gulf South*, where Gulf South provided operational and cost justification for its 100 Dth per day minimum volume condition, Perryville has not provided any justification here. For this reason, Perryville is required to eliminate the proposed minimum volume condition or, in the alternative, justify that a 10,000 Dth per day minimum volume condition is warranted.

## 2. Gas Quality

46. Perryville included a provision on gas quality and interchangeability in section 10 of its pro forma tariff, but did not provide the other information required by the Gas Quality Policy Statement.<sup>44</sup> The Gas Quality Policy Statement provides that applicants should: (i) ensure that their Exhibit P pro forma tariff includes general terms and conditions addressing quality and interchangeability; (ii) includes relevant information about the gas quality and interchangeability specifications of interconnecting pipelines and of the competing pipelines serving customers to be served directly by the new entrant as well as the relevant information about the gas supplies to be received by the new entrant, for transportation or storage; and (iii) applicants must show how they derived their gas quality and interchangeability specifications stated in their pro forma tariff.<sup>45</sup>

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<sup>40</sup> See, e.g., *Gulf South Pipeline Co., LP*, 103 FERC ¶ 61,105, at P 13 n.7 (2003); *Trailblazer Pipeline Co.*, 39 FERC ¶ 61,103, at 61,336 (1987); *Texas Eastern Transmission Corp.*, 37 FERC ¶ 61,260, at 61,680-81 (1986).

<sup>41</sup> *Gulf South*, 103 FERC ¶ 61,105 at P 13.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* P 9 and 12.

<sup>44</sup> *Natural Gas Interchangeability, Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Natural Gas Pipeline Company Tariffs*, 115 FERC ¶ 61,325 (2006).

<sup>45</sup> *Id.* P 45.

47. In response to a staff data request to provide the missing information required by the Policy Statement,<sup>46</sup> Perryville contends that: (i) each shipper who will use its services will need to meet the quality standards of other pipelines that interconnect with Perryville; (ii) it will coordinate with interconnecting pipelines about gas quality issues; (iii) it will negotiate interconnection agreements with such other interstate pipelines prior to going into service; and (iv) it will develop its own quality standards that will be consistent with those of the interconnecting pipelines, while maintaining operational integrity of its system.<sup>47</sup> The Commission will require that Perryville submit the conforming changes to its tariff contained in its July 31, 2009 response to the data request to the Commission for review and approval before the Perryville Project goes into service.

### 3. Segmentation

48. Section 284.7(d) of the 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 segmentation is operationally feasible. Perryville requests a waiver from the segmentation requirement in section 284.7(d), contending that it will not be offering stand-alone transportation service, since all transportation service will be provided as part of storage service.

49. In *Clear Creek Gas Storage Company (Clear Creek)*,<sup>48</sup> the Commission found that the requirements of section 284.7(d) do not apply to pipelines engaged solely in natural gas storage and which do not provide stand-alone transportation service.<sup>49</sup> Perryville meets the requirements of *Clear Creek*. Thus, the Commission finds that the requirements of section 284.7(d) do not apply to Perryville. The Commission also finds that other tariff provisions related to segmentation, such as the allocation of primary point rights in segmented releases and within-the-path scheduling, do not apply to Perryville.

### 4. Acquisition of Off-System Capacity and Waiver of Shipper-Must-Hold-Title Policy

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<sup>46</sup> See Staff data request dated July 15, 2009.

<sup>47</sup> Perryville's July 31, 2009 response to the data request.

<sup>48</sup> 96 FERC ¶ 61,071 (2001).

<sup>49</sup> *Id.* at 61,318; *Pine Prairie Energy Center, LLC*, 109 FERC ¶ 61,215, at P 44 (2004).

50. Perryville requests a generic waiver of the “shipper-must-hold-title” policy to enable it to obtain off-system capacity that may be necessary to render storage services. Section 31 of the GT&C includes an affirmative statement that Perryville will only transport gas for others using off-system capacity under its open-access tariff and subject to Commission-approved rates.

51. The Commission has imposed conditions on the use of off-system capacity by independent storage companies authorized to charge market-based rates.<sup>50</sup> In *Texas Eastern Transmission Corporation (Texas Eastern)*,<sup>51</sup> the Commission found that pipelines no longer need to obtain prior approval to acquire capacity on another pipeline, when the acquiring pipeline has filed tariff language specifying that it would only transport for others using off-system capacity pursuant to its existing tariff and rates. Perryville’s proposed tariff language is consistent with the requirements set forth in *Texas Eastern*, as well as authorizations granted other storage companies with market-based rate authority. Therefore, the Commission accepts Perryville’s tariff language and grants waiver of “the shipper-must-hold-title” policy, but clarifies that Perryville may only use capacity obtained on other pipelines in order to move gas into or out of storage. Thus, Perryville may not use capacity on other pipelines, pursuant to the requirements in *Texas Eastern*, 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, Perryville’s authorized use of the *Texas Eastern* waiver to provide storage services shall be limited to the geographic area covered in the market power study.

52. In order to ensure that Perryville uses acquired off-system capacity in a manner consistent with its tariff provisions, and in keeping with the Commission’s responsibility to monitor and prevent the exercise of market power, the Commission directs Perryville to make annual information filings, once the project becomes operational, within 30 days after its first full year of operation, and then every year thereafter. The following information must be filed for each acquisition of off-system capacity:

- (1) the name of the off-system provider;
- (2) the type, level, term and rate of service contracted for;

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<sup>50</sup> See, e.g., *Freebird Gas Storage, LLC*, 111 FERC ¶ 61,054 (2005); *Caledonia Energy Partners, L.L.C.*, 111 FERC ¶ 61,095 (2005).

<sup>51</sup> *Texas Eastern Transmission Corp.*, 93 FERC ¶ 61,273 (2000), *reh’g denied*, 94 FERC ¶ 61,139 (2001).

- (3) a description of the geographic location – boundaries, receipt and delivery points, and segments comprising the capacity;
- (4) the operational purpose(s) for which the capacity is used;
- (5) a description of how the capacity is associated with specific transactions involving customers; and
- (6) an identification of total volumes, by rate schedule and customer, that were nominated for each off-system provider during the reporting period.

## **5. Penalty Revenue Crediting**

53. Section 21 of the GT&C relates to penalties and associated revenues recovered by and retained by Perryville from its customers.<sup>52</sup> The Commission's regulations provide that pipelines may not retain net penalty revenues, but must credit them to shippers in a manner to be prescribed in the pipeline's tariff.<sup>53</sup> Thus, the Commission directs Perryville to revise its tariff to include a penalty revenue crediting mechanism in accordance with the Commission's regulations.

## **6. Force Majeure**

54. Section 17 of the GT&C relates to force majeure and associated effects and obligations.<sup>54</sup> Specifically, Section 17.1(b) provides that Perryville will calculate credits against a customer's reservation charges to reflect any reduction in Perryville's ability to render firm services resulting from an event of force majeure declared by Perryville that cannot be cured in a period of 15 days. The Commission allows either full reservation credits after 10 days or partial crediting starting at day one of a force majeure event.<sup>55</sup> However, the Commission is open to alternative approaches if fully justified and supported. Therefore, the Commission directs Perryville to revise its tariff to provide full

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<sup>52</sup> See Original Pro Forma Sheet No. 120 of Perryville's pro forma tariff attached as Exhibit P to the application.

<sup>53</sup> 18 C.F.R. § 284.12(b)(2)(v) (2009).

<sup>54</sup> See Original Pro Forma Sheet No. 114 of Perryville's pro forma tariff attached as Exhibit P to the application.

<sup>55</sup> See, e.g., *El Paso Natural Gas Co.*, 104 FERC ¶ 61,045 (2003), *order clarifying prior order*, 108 FERC ¶ 61,056 (2004) (partial reservation charge credits from day one); *Natural Gas Pipeline Company of America*, 106 FERC ¶ 61,310 (2004) (full reservation charge credits once the ten-day period ends).

reservation charge credits after 10 days or partial credit from day one or to provide further justification and support of its proposal.

**E. Engineering Analysis**

55. The Commission's 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, the Commission concludes that the facilities are properly designed to provide 22 Bcf of total storage capacity (15 Bcf of working gas and 7 Bcf of cushion gas) at a maximum bottom-hole pressure as measured at the casing shoe of 3,230 psi. Further, the Commission concludes that the natural gas facilities proposed by Perryville are properly designed to withdraw up to 600 MMcf per day and inject up to 226 MMcf per day. Perryville is required to follow all of the engineering conditions set forth in Appendix B to this order, many of which are standard reporting requirements for natural gas storage operations.

**F. Environmental Analysis**

56. On June 26, 2009, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI). The NOI was published in the *Federal Register* on July 7, 2009.<sup>56</sup> The NOI was mailed to interested parties including federal and state agency representatives, Native American groups, and affected landowners in the vicinity of the proposed project. The NOI comment period ended on July 27, 2009. On July 14, 2009, the Commission's staff conducted a public scoping meeting in Winnsboro, Louisiana.

57. In response to the NOI, the Commission received comment letters from FWS, the Louisiana Department of Wildlife and Fisheries (LDWF), and the Town of Delhi. The FWS and LDWF provided comments regarding potential project impacts on the Louisiana black bear and its habitat. The LDWF also commented on the width of the proposed pipeline construction rights-of-way. The Town of Delhi raised safety issues since some proposed facilities are adjacent to the Delhi airport runway. In addition, commenters at the public scoping meeting expressed concern about potential impacts on groundwater resources.

58. To satisfy the requirements of the National Environmental Policy Act of 1969,<sup>57</sup> the Commission's staff prepared an environmental assessment (EA) for Perryville's proposal. The EA was issued for a 30-day comment period and placed in the public

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<sup>56</sup> 74 Fed. Reg. 32,151 (2009).

<sup>57</sup> 42 U.S.C. §§ 4321 *et seq.* (2006).

record on October 23, 2009. A Notice of Availability of the EA was published in the *Federal Register* on November 2, 2009.<sup>58</sup> The FWS served as a cooperating agency in the preparation of the EA. The EA addressed geologic resources and hazards, soils, water resources, wetlands, vegetation, fish and wildlife, threatened and endangered species, land use, cultural resources, air quality and noise, safety, and alternatives. All substantive scoping comments were addressed in the EA.

59. The EA evaluated the potential impact of the project on the Louisiana black bear and included two environmental recommendations to reduce impacts. The Commission includes environmental condition 14 in Appendix A to this order, which requires Perryville to conduct pre-construction surveys on the North Pipeline Corridor (where Perryville proposes to construct the 30-inch diameter pipeline) and, if denning habitat is found, to institute certain clearing and maintenance restrictions.

60. Environmental condition 15 in Appendix A to this order addresses the FWS' and LDWF's concerns regarding Louisiana black bear interactions with personnel working on the project. The condition requires Perryville to hold specific training sessions before construction begins and again during construction.

61. As stipulated in environmental condition 16, Perryville may not begin construction activities within the North Pipeline Corridor until Commission staff completes consultation with the FWS pursuant to section 7 of the Endangered Species Act.<sup>59</sup>

62. In its scoping comment, the LDWF also expressed concern with the width of Perryville's construction rights-of-way for its proposed pipelines and its effect on fish and wildlife resources and wetlands. The EA concluded that Perryville's proposed temporary construction widths (150 feet) are excessive for the proposed pipelines' diameters. With environmental condition 11, the Commission will require Perryville to limit the width of its construction rights-of-way to no more than 100 feet, unless a site-specific variance is approved by the Director of the Office of Energy Projects (OEP).

63. In its comments on the EA, the LDWF requested that a mitigation plan be developed by the applicant due to impacts on fish and wildlife resources and that the plan be incorporated into any project permit. The LDWF also requested that Perryville implement adequate erosion and sediment control measures, such as vegetated buffers, silt fences or other Environmental Protection Agency-approved best management practices, in order to ensure that no sediments or other activity-related debris are allowed to enter waters of the state.

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<sup>58</sup> 74 Fed. Reg. 56,607 (2009).

<sup>59</sup> 16 U.S.C. § 1536 (2006).

64. The EA evaluated Perryville's construction and restoration methods and concludes that with Perryville's adherence to best-management practices contained in the Commission staff's *Upland Erosion Control, Revegetation, and Maintenance Plan* and *Wetland and Waterbody Construction and Mitigation Procedures*, these impacts would be reduced to the greatest extent practicable. The Commission does not find it necessary to require the development of an additional mitigation plan.

65. If the State of Louisiana has additional concerns regarding permitting of the Perryville Project, additional measures for protection of fisheries could be stipulated in the state certification authority given by the Louisiana Department of Environmental Quality under sections 401 and 402 of the Clean Water Act.<sup>60</sup>

66. Regarding the Town of Delhi's concerns about airport safety issues, the EA discussed Perryville's commitment to ensure that the pipeline under the runway will have sufficient wall thickness and depth of burial to eliminate safety concerns. Perryville will also ensure that its right-of-way does not encroach upon the south end of the airport runway, and that there will be no height encroachment near the south end of the airport that could interfere with plane traffic.<sup>61</sup>

67. The EA also included an evaluation of the Perryville Project's potential impact on groundwater resources. A discussion of Perryville's proposed measures to avoid and mitigate any adverse effects concludes that any impacts on groundwater will be short-term and confined to the area of the well bores.

68. Based on the analysis in the EA, the Commission concludes that if Perryville constructs the facilities in accordance with its application and supplements and in compliance with the environmental conditions in Appendix A to this order, approval of this project would not constitute a major federal action significantly affecting the quality of the human environment.

69. 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

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<sup>60</sup> 33 U.S.C. §§ 1341, 1342 (2006).

<sup>61</sup> After discussions with Perryville, the Town's concerns about airport safety issues were resolved. Perryville's August 18, 2009 response to a staff data request at pp. 12-14.

local laws, may prohibit or unreasonably delay the construction, abandonment, or operation of facilities approved by this Commission.<sup>62</sup>

### **G. Blanket Certificates**

70. Perryville has applied for a Part 157, Subpart F blanket certificate. The Subpart F blanket certificate gives a natural gas company section 7 authority to automatically, or after prior notice, perform certain activities related to the construction, acquisition, abandonment, and replacement and operation of pipeline facilities. Because Perryville will become an interstate pipeline with the issuance of a certificate to construct and operate the proposed facilities, the Commission will issue the requested Part 157, Subpart F blanket certificate. However, the blanket certificate will not include automatic authorization to increase storage capacity. This restriction on Perryville's blanket certificate is based on the fact that its storage facility is in the initial stages of development, and future expansion will require reevaluation by the Commission of historical data and new engineering and geological data.<sup>63</sup>

71. Perryville also requests a Part 284, Subpart G blanket certificate, to provide open-access storage services. Under a Part 284 blanket certificate, Perryville will not require individual authorizations to provide storage services to particular customers. Perryville filed a pro forma Part 284 tariff to provide open-access storage services. Since a Part 284 blanket certificate is required for it to offer these services, the Commission will grant Perryville a Part 284, Subpart G blanket certificate, subject to the conditions imposed herein.

### **V. Conclusion**

72. For the reasons discussed above, the Commission finds that the Perryville 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.

73. 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,

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<sup>62</sup> See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1998); *National Fuel Gas Supply v. Public Service Comm.*, 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>63</sup> See, e.g., *Unocal Windy Hill Gas Storage, LLC*, 115 FERC ¶ 61,218 (2006).

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Perryville under section 7(c) of the NGA, authorizing the construction and operation of the storage facilities, as described more fully in this order and in the application.

(B) A blanket construction certificate is issued to Perryville under Subpart F of Part 157 of the Commission's regulations.

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

(D) The certificate authority granted in Ordering Paragraph (A) is conditioned upon:

(1) Perryville's compliance with all applicable Commission regulations under the NGA, including, but not limited to, 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;

(2) Perryville's compliance with the environmental and engineering conditions set forth in Appendices A and B to this order; and

(3) Perryville's constructing and making available for service the facilities authorized in this order within five years of the date of the order in this proceeding in accordance with section 157.20(b) of the Commission's regulations.

(E) Perryville's request to charge market-based rates for firm and interruptible storage service and interruptible hub service is approved, subject to the conditions in this order.

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

(G) Perryville shall notify the Commission within 10 days of acquiring knowledge of: (a) Perryville adding storage capacity beyond the capacity authorized in this order; (b) an affiliate's increasing storage capacity; (c) an affiliate's linking storage capacity to Perryville; (d) Perryville or an affiliate's acquisition of an interest in, or being acquired by, an interstate pipeline connected to Perryville. The notification shall include a detailed description of the new facilities and their relationship to Perryville. Perryville is also directed to file an updated market power analysis within five years of the date of this order and every five years thereafter. The Commission reserves the right to require such an analysis at any intervening time.

(H) Waiver is granted of the Commission's "shipper-must-have-title" policy, subject to the conditions discussed in the body of this order.

(I) Before commencing construction, Perryville must execute service agreements for the service reflected in the precedent agreements submitted in support of its proposal.

(J) Perryville shall file revised tariff sheets that comply with the requirements contained in the body of this order not less than 30 days or more than 60 days prior to commencement of service.

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

(L) Perryville shall notify the Commission's environmental staff by telephone, email, or facsimile of any environmental non-compliance identified by other federal, state or local agencies on the same day that such agency notifies Perryville. Perryville shall file written confirmation of such notification with the Office of the Secretary within 24 hours.

(M) The motions to intervene out-of-time filed by Columbia Gulf, Enstor, and Gavilon are granted.

By the Commission. Commissioner Moeller is not participating.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

## APPENDIX A

### Environmental Conditions for the Perryville Gas Storage Project

1. Perryville shall follow the construction procedures and mitigation measures described in its application and supplemental filings (including responses to staff environmental information requests) and as identified in the EA unless modified by this order. Perryville must:
  - a. request any modification to these procedures, measures, or conditions in a filing with the Office of the Secretary (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 life, health, property, and the environment during construction and operation of the 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 impacts resulting from project construction and operation.
3. **Prior to any construction**, Perryville 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 or plot plans. **As soon as they are available, and before the start of construction**, Perryville 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.

Perryville's exercise of eminent domain authority granted under NGA section 7(h) in any condemnation proceedings related to this order must be consistent with these authorized facilities and locations. Perryville'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. Perryville 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 extra workspace allowed by the Commission's 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:

- a. implementation of cultural resources mitigation measures;
  - b. implementation of endangered, threatened, or special concern species mitigation measures;
  - c. recommendations by state regulatory authorities; and
  - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of the Certificate and before construction begins,** Perryville shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Perryville must file revisions to the plan as schedules change. The plan shall identify:
    - a. how Perryville will implement the construction procedures and mitigation measures described in its application and supplements (including responses

- to staff environmental information requests), identified in the EA, and required by this order;
- b. how Perryville 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;
  - c. the number of environmental inspectors assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - d. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;
  - e. the location and dates of environmental compliance training and instructions Perryville will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
  - f. the company personnel (if known) and specific portion of Perryville 's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) Perryville will follow if noncompliance occurs; and
  - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    1. the completion of all required surveys and reports;
    2. the environmental compliance training of onsite personnel;
    3. the start of construction; and
    4. the start and completion of restoration.
7. Perryville shall employ a team of environmental inspectors for the Project. The environmental inspectors 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. 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 responsible for maintaining status reports.

8. Beginning with the filing of its Implementation Plan, Perryville shall file updated status reports with the Secretary on a monthly 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. an update on Perryville's efforts to obtain the necessary federal authorizations;
  - b. the construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
  - c. 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);
  - d. a description of the corrective actions implemented in response to all instances of noncompliance, and their cost;
  - e. the effectiveness of all corrective actions implemented;
  - f. 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
  - g. copies of any correspondence received by Perryville from other federal, state, or local permitting agencies concerning instances of noncompliance, and Perryville's response.
9. Perryville must receive written authorization from the Director of OEP **before commencing service** from the Project. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
10. **Within 30 days of placing the certificated facilities in service**, Perryville shall file an affirmative statement with the Secretary, certified by a senior company official:
  - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
  - b. identifying which of the certificate conditions Perryville 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. Perryville shall not use a construction right-of-way for construction activities exceeding 100 feet in width, unless a site-specific variance(s) is requested, and reviewed and approved by the Director of OEP.
12. Perryville shall not exercise eminent domain authority granted under section 7(h) of the NGA to acquire a permanent right-of-way greater than 50 feet in width.
13. **Prior to construction**, Perryville shall conduct, with the well owner's permission, pre- and post-construction monitoring of well yield and water quality for the wells listed in table 2.2.1-1 of the EA. **Within 30 days of placing the facilities in service**, Perryville shall file a report with the Secretary discussing whether any complaints were received concerning well yield or water quality and how each was resolved.
14. **Prior to the start of construction of the proposed pipeline in the North Pipeline Corridor**, Perryville shall conduct a survey consistent with FWS protocols using a qualified biologist of the authorized construction right-of-way for potential Louisiana black bear denning habitat and file the results of this survey with the FWS and the Secretary. Where suitable Louisiana black bear denning habitat is identified, Perryville shall not conduct any construction activities or vegetative maintenance in these areas **between December 1<sup>st</sup> and April 30<sup>th</sup>**. During operation of the proposed pipeline in the North Pipeline Corridor, Perryville shall only maintain a 10-foot-wide corridor centered on the pipeline in an herbaceous state, and limit its tree cutting to trees greater than 15 feet in height and within 15 feet of the pipeline.
15. Perryville's environmental training program shall provide training to all field personnel working within the North Pipeline Corridor regarding Louisiana black bears before that field personnel begins work on the right-of-way. This training shall be given again by the environmental inspector before personnel begin working in areas where Louisiana black bear sightings are most likely to occur as determined in consultation with the FWS. Perryville shall also post signs in areas where Louisiana black bear sightings are most likely to occur alerting personnel to be aware of potential human-bear interaction.
16. Perryville **shall not begin construction** activities within the North Pipeline Corridor **until**:
  - a. staff completes section 7 consultations with the FWS; and
  - b. Perryville has received written notification from the Director of OEP that construction or use of mitigation may begin.

17. **Prior to the start of construction**, Perryville shall file with the Office of the Secretary copies of correspondence with the Louisiana Natural Heritage Program regarding impacts on state rare, threatened and endangered species, and include any mitigation measures Perryville proposes to further reduce impacts on state species of concern.
18. **Prior to the start of construction**, Perryville shall file a noise analysis including all supporting detailed calculations, for review and written approval by the Director of OEP, for all noise sensitive areas (NSAs) within one-half mile of each fresh water, brine disposal, and cavern well. Provide:
  - a. the distance and direction to the NSAs from each individual well;
  - b. identification of each well and NSA on a topographic or aerial map;
  - c. estimated drilling noise contributions at the NSAs for each well;
  - d. any noise mitigation measures Perryville will commit to implement at each well location where estimated drilling noise contributions will exceed 55 decibels on the A-weighted scale (dBA) Ldn at a nearby NSA, and the resulting noise levels after mitigation; and
  - e. site-specific plans identifying any noise walls or barriers, equipment locations, equipment barriers, or any other noise mitigation measures.
19. Perryville shall file noise surveys with the Secretary **no later than 60 days** after placing the Natural Gas Handling Facility in service. If the noise attributable to the operation of all of the equipment at the Natural Gas Handling Facility at full load exceeds an  $L_{dn}$  of 55 dBA at any nearby NSAs, Perryville shall install additional noise controls to meet the level **within one year** of the in-service date. Perryville shall confirm compliance with the above requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.

**APPENDIX B****Engineering Conditions for the Perryville Gas Storage Project**

1. The maximum inventory of natural gas stored in the Perryville Project shall not exceed the certificated levels of 22 Bcf, 11 Bcf per cavern, at 14.73 psia and 60° F. The maximum gas storage shut-in stabilized pressure gradient of each cavern shall not exceed 0.9 psi/ft. The minimum pressure gradient shall be limited to 0.25 psi/ft.
2. The final gas storage operating capacity of each cavern, working gas capacity, cushion gas capacity and the minimum pressure shall be determined after the facility's operating parameters are evaluated and filed with the Commission (Perryville shall include data and work papers to support the actual operating capacity determination).
3. Before commencing gas storage operations, Perryville shall:
  - (a) Conduct a Mechanical Integrity Test for each cavern before initiation of each well/cavern to natural gas storage, and file the results with the Commission;
  - (b) File with the Commission copies of the latest interference tracer surveys, or other testing or analysis on each cavern to verify the lack of communication between the caverns;
  - (c) Establish and maintain a subsidence monitoring network over the proposed caverns storage area; and,
  - (d) Assemble, test, and maintain an emergency shutdown system.
4. Twice annually, Perryville shall conduct a leak detection test during storage operations to determine the integrity of each cavern, well bore, casing and wellhead, and file the results with the Commission until one year after the storage inventory volume reaches or closely approximates the full authorized capacity, unless otherwise ordered by the Commission.
5. Each cavern's well will be periodically logged to check the integrity of each casing string. Additionally, every five years Perryville shall conduct sonar surveys of the caverns to monitor their dimensions and shape, including the cavern roof, and to estimate pillar thickness between openings throughout the storage operations, and file the results with the Commission.
6. Perryville shall conduct an annual inventory verification study on each cavern, and file the results with the Commission.
7. The Perryville Project shall be operated in such a manner as to prevent gas loss or migration.

8. Perryville shall file with the Commission semi-annual reports (to coincide with the maximum and minimum storage pressures) containing the following information in accordance with section 157.214(c) of the Commission's regulations (volumes shall be stated at 14.73 psia and 60° F, and pressures shall be stated in psia):
  - (a) The daily volume of natural gas injected into and withdrawn from the storage reservoirs.
  - (b) The inventory of natural gas and shut-in wellhead pressure for each cavern at the end of each reporting period.
  - (c) The maximum daily injection and withdrawal rates experienced for the storage field during the reporting period, and the average working pressure on such maximum days taken at a central measuring point where the total volume injected or withdrawn is measured.
  - (d) The results of any tests performed to determine the actual size, configuration, or dimensions of each storage cavern.
  - (e) A discussion of current operating problems and conclusions.
  - (f) Other data or reports which may aid the Commission in the evaluation of the storage project.
  
9. Perryville shall continue to file the above described semi-annual reports in accordance with section 157.214(c) of the Commission's regulations for a period of one year following the date Perryville initiates facility operation at a maximum level.