

133 FERC ¶ 61,088
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

D'Lo Gas Storage, LLC

Docket No. CP10-504-000

ORDER GRANTING EXEMPTION
FOR TEMPORARY ACTS AND OPERATIONS

(Issued October 28, 2010)

1. On September 21, 2010, D'Lo Gas Storage, LLC (D'Lo Gas) filed a petition under section 7(c)(1)(B) of the Natural Gas Act (NGA)¹ and Rule 207(a)(5) of the Commission's Rules of Practice and Procedure² for an exemption to perform specific temporary activities related to drill site preparation and the drilling of three test wells to determine the feasibility of developing a salt cavern as a natural gas storage facility in Simpson County, Mississippi. Subject to the conditions discussed below, we find it is in the public interest to grant the requested exemption.

I. Background and Proposal

2. D'Lo Gas is a limited liability company organized under the laws of Mississippi. D'Lo Gas is not currently a natural gas company within the meaning of NGA Section 2(6)³ and holds no section 7 certificates. D'Lo Gas is currently exploring the feasibility of developing a salt cavern storage facility using land controlled by D'Lo Gas in Simpson County, Mississippi.

¹ 15 U.S.C. § 717f(c)(1)(b) (2006). This section authorizes the Commission to exempt by regulation from the requirements of NGA section 7(c) "temporary acts or operations for which the issuance of a certificate will not be required in the public interest."

² 18 C.F.R. § 385.207(a)(5) (2010).

³ 15 U.S.C. § 717(a)(6)(2006).

3. D'Lo Gas requests an exemption from the NGA section 7(c) certificate requirements for the temporary and limited purpose of undertaking test well drilling at the property controlled by D'Lo Gas in Simpson County, Mississippi. Specifically, D'Lo Gas proposes to drill one water test well and two stratigraphic test wells: one to determine salt characteristics and the other to determine the viability of salt water disposal. D'Lo Gas states that it intends to develop a natural gas storage facility, which eventually would be subject to the Commission's jurisdiction under the NGA, and that these test wells are necessary to determine the technical, environmental, and economic feasibility of this facility.

4. D'Lo Gas states that it will comply with all applicable federal, state, and local permitting and environmental requirements, and that the proposed activity will not adversely impact the public. D'Lo Gas asserts that drilling the test wells would be in the public interest because the wells will aid in deciding whether to develop the proposed storage facility. D'Lo Gas states that it will bear the full costs of the subject activities and that the construction and testing will be temporary in nature. D'Lo Gas asserts that it will not perform any jurisdictional service using the planned test wells.

5. If the outcome of the test well drilling shows that the proposed location is not desirable for further development, D'Lo Gas asserts that it will conform with all applicable federal, state, and local requirements, and will plug and abandon the test wells and restore the areas disturbed by well drilling activities to their pre-existing condition.

II. Notice and Interventions

6. Notice of D'Lo Gas's petition was published in the *Federal Register* on October 5, 2010 (75 Fed. Reg. 61,478). No motions to intervene, protests, or comments were filed.

III. Discussion

7. We find D'Lo Gas's proposed activities are a necessary preliminary phase in the development and construction of a jurisdictional natural gas storage facility. Therefore, the proposed activities are subject to the certificate requirements of NGA section 7(c). However, pursuant to NGA section 7(c)(1)(B), we may exempt certain temporary acts or operations from the certificate requirements that would otherwise apply, if we find that such an exemption is in the public interest. Previously, we have granted such exemptions to allow operations of a temporary nature that have no effects on ratepayers, on the quality of service provided by a natural gas company, or on the public as a whole.⁴

⁴ See, e.g., *Tallulah Gas Storage, LLC*, 132 FERC ¶ 61,063 (2010) (*Tallulah*); *Henry Gas Storage, LLC*, 131 FERC ¶ 61,233 (2010) (*Henry*); *Perryville Gas Storage, LLC*, 129 FERC ¶ 61,108 (2009) (*Perryville*); *BCR Holdings, Inc.*, 129 FERC ¶ 61,030 (2009).

8. D'Lo Gas's proposed exploratory activities are temporary and will be conducted to determine the feasibility of developing a natural gas storage facility in Simpson County, Mississippi to serve the growing storage demand in the region. The certificate authorization exemption will be used solely for discrete exploratory activities to obtain stratigraphic and well water data. No jurisdictional service will be rendered from the wells without Commission authorization. There will be no effects on ratepayers, quality of service, or the public.

9. Under the circumstances described in D'Lo Gas's petition, we find that the proposed activities constitute temporary acts or operations within the meaning of NGA section 7(c)(1)(B), and we find it in the public interest to exempt the proposed activities from the certificate requirements of NGA section 7(c). The certificate exemption granted here is without prejudice to any decision the Commission may make regarding an application D'Lo Gas may file for authorization for a storage project at the site or related pipeline construction.

10. As proposed by D'Lo Gas in its petition and consistent with Commission practice,⁵ our authorization will be conditioned upon D'Lo Gas's performing all activities in compliance with the same environmental conditions that apply to the activities of natural gas companies under their Part 157 blanket certificates, as set forth in the Commission's regulations.⁶ D'Lo Gas's proposed testing activities are similar to activities permitted under a Part 157 blanket certificate and section 157.206(b) of the regulations that sets forth standard conditions to protect the environment when activities are undertaken under a Part 157 blanket certificate. Requiring D'Lo Gas to comply with the provisions of section 157.206(b) will ensure the same level of protection in this case.

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

The Commission orders:

(A) Upon the terms and conditions of this order pursuant to NGA section 7(c)(1)(B), D'Lo Gas is granted an exemption from the certificate and abandonment requirements of section 7 of the NGA to undertake the activities specified in this order and in D'Lo Gas's petition. This exemption is effective upon issuance of this order.

⁵ See, e.g., *Tallulah*, 132 FERC ¶ 61,063 at Ordering Paragraph (C); *Henry*, 131 FERC ¶ 61,233 at Ordering Paragraph (C); *Perryville*, 129 FERC ¶ 61,108 at Ordering Paragraph (C).

⁶ 18 C.F.R. § 157.26(b) (2010).

The authorized drilling and testing activities shall be completed within one year of the date of this order.

(B) D'Lo Gas shall notify the Commission within 10 days after commencing activities under the exemption in Ordering Paragraph (A). It shall allow inspection by Commission staff at any time.

(C) D'Lo Gas shall comply with the environmental requirements of section 157.206(b) of the Commission's regulations in implementing the drilling and testing activities.

(D) The exemption granted in Ordering Paragraph (A) may be revoked if the actions by D'Lo Gas are determined to be inconsistent with this order or with state or federal law and regulations. The Commission may halt work authorized under this exemption until any required consistency determination is completed.

By the Commission

(S E A L)

Kimberly D. Bose,
Secretary.