

138 FERC ¶ 61,036
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Golden Triangle Storage, Inc.

Docket No. CP11-531-000

ORDER ISSUING CERTIFICATE

(Issued January 19, 2012)

1. On August 5, 2010, Golden Triangle Storage, Inc. (Golden Triangle) filed an application under section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations² requesting a certificate of public convenience and necessity to expand its existing natural gas storage facility in Jefferson County, Texas. Golden Triangle also requests that its existing market-based rate authority apply to the proposed expansion. As discussed below, the Commission grants Golden Triangle's requested certificate authorization, subject to the conditions described herein. The Commission also grants Golden Triangle's request for market-based rate authority and waiver of certain filing, accounting, and reporting requirements.

I. Background

2. Golden Triangle, a Delaware corporation, is a wholly-owned subsidiary of AGL Resources Inc. (AGL Resources) and is a natural gas company within the meaning of section 2(6) of the NGA.³

3. On December 31, 2007, the Commission authorized Golden Triangle to construct and operate a natural gas storage facility in Jefferson County, Texas (December 2007 Order).⁴ As certificated, Golden Triangle's facilities consist of two high-deliverability

¹ 15 U.S.C. § 717f(c) (2006).

² 18 C.F.R. Part 157 (2011).

³ 15 U.S.C. § 717a(6) (2006).

⁴ *Golden Triangle Storage Inc.*, 123 FERC ¶ 61,313 (2007), *amended in part*, 132 FERC ¶ 61,101 (2010), *order granting reh'g*, 134 FERC ¶ 61,036 (2011).

salt dome storage caverns; leaching and brine disposal facilities; a 14,205 horsepower (hp) compressor station; a power substation; a header system consisting of two parallel 24-inch diameter pipelines; and six bi-directional metering stations. The facility has a total certificated capacity of 24.48 billion cubic feet (Bcf) (consisting of 16 Bcf working gas and 8.48 Bcf cushion gas) and a maximum withdrawal capacity of 600 million cubic feet (MMcf) per day.

II. Proposal

A. Facilities

4. Golden Triangle proposes to construct and operate two new salt dome storage caverns (Caverns 3 and 4) at its existing storage facility. Once completed, Cavern 3 will have a total capacity of 13.8 Bcf (consisting of 9.2 Bcf of working gas and 4.6 Bcf of cushion gas) and Cavern 4 will have a total capacity of 11.1 Bcf (consisting of 7.4 Bcf of working gas and 3.7 Bcf of cushion gas). The proposed expansion would increase the total certificated capacity of Golden Triangle storage facility to 49.38 Bcf (consisting of 32.6 Bcf of working gas and 16.78 Bcf of cushion gas). Golden Triangle does not propose to change its maximum injection or withdrawal rates from those approved in its original certificate order and currently employed at Cavern 1.⁵

5. Golden Triangle states that the proposed expansion will require the construction of two new service corridors and three new access roads within Golden Triangle's existing facility site. However, Golden Triangle states that no additional land rights are required since it currently holds leases for all the necessary land. Golden Triangle states that it anticipates commencing construction of Cavern 3 in the third quarter of 2012 and Cavern 4 in 2014. It anticipates that it will place Caverns 3 and 4 in service in 2015 and 2017, respectively.

B. Open Season and Proposed Services

6. Golden Triangle states that it held an open season for the Caverns 3 and 4 storage capacity and solicited turnback capacity from existing shippers. Golden Triangle states that it did not receive any bids during the open season process and currently does not have any subscribers to the capacity, but anticipates that during the multi-year development of the proposed expansion, the market for firm storage capacity will improve significantly.

⁵ Golden Triangle states that it placed Cavern 1 into service on an interim basis and is currently solution mining Cavern 2. Golden Triangle anticipates that it will place Cavern 2 into service in 2012.

7. Golden Triangle requests authority to: (1) offer increased quantities of firm and interruptible storage and hub services made available as a result of the added working gas capacity provided by proposed Caverns 3 and 4 under the terms and conditions of its currently-effective FERC Gas Tariff and (2) continue to charge market-based rates for providing such increased quantities of firm and interruptible storage and hub services, including interruptible parking service (IP), interruptible loan service (IL), interruptible wheeling service (IW), and interruptible hourly balancing service (IHBS). Golden Triangle does not propose any changes to its previously authorized services, maximum daily injection and withdrawal rates, or currently-effective FERC Gas Tariff.

C. Requests for Waivers of Filing, Reporting, and Accounting Requirements

8. Since the Commission authorized Golden Triangle to charge market-based rates, the December 2007 Order waived certain regulations that are ordinarily only applicable to projects charging cost-based rates. In its present application for authorization to expand its storage capacity and to continue to charge market-based rates, Golden Triangle requests continuation of these waivers for the new facilities and capacity to be developed. Specifically, Golden Triangle requests that the Commission continue to waive certain sections of the Commission regulations: (1) section 157.6(b)(8) (cost and revenue information); (2) section 157.14(a)(13), (14), (16), and (17) and 157.20(c)(3) (cost-based exhibits); (3) section 157.14(a)(10) (accessible gas supplies);⁶ and (4) sections 260.1, 260.2, and 260.300 and Part 201 (accounting and reporting requirements for cost-of-service structure, including Forms 2A and 3-Q).

III. Notice, Interventions, and Comments

9. Notice of Golden Triangle's application was published in the *Federal Register* on August 23, 2011.⁷ Timely, unopposed motions to intervene were filed by Golden Pass LNG Terminal, LLC and Golden Pass Pipeline, LLC.⁸

⁶ Golden Triangle notes that its customers will supply their own gas for its storage operations.

⁷ 76 Fed. Reg. 52,649 (2011).

⁸ Timely, unopposed motions to intervene are automatically granted pursuant to Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214 (2011).

IV. Discussion

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

11. The Certificate Policy Statement provides guidance for evaluating proposals for certificating new construction.⁹ The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explained that in deciding whether to authorize construction of major new natural gas facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

12. Under this policy the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

13. As noted above, the threshold requirement is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. Golden Triangle offers its existing services, and proposes to offer the expansion services, at market-based rates; thus Golden Triangle will assume the financial

⁹ *Certification of New Interstate Natural Gas Pipeline Facilities* 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

risks associated with the proposed expansion to the extent that any capacity is unsubscribed. Therefore, there will be no subsidization by existing customers and the Commission finds that Golden Triangle satisfies the threshold requirement of the Certificate Policy Statement.

14. Golden Triangle's proposal is designed to provide expansion service and will not have a negative impact on the quality of services provided to its existing customers using existing capacity. Further, no existing customer has filed a protest in this proceeding. Additionally, the proposed project should not have any adverse impact on existing storage providers or their captive customers. As discussed below, the proposed project will be located in a competitive market and will increase competition and enhance storage options available to transportation customers of existing pipelines.

15. In addition, there should be minimal adverse impact on landowners associated with the development of this storage project. The cavern sites, service corridors and access roads will all be located on land leased by Golden Triangle. In addition, no landowner protested Golden Triangle's application or provided adverse comments on the environmental assessment (EA).

16. Although Golden Triangle received no bids during its open season for the expansion project, Golden Triangle maintains that there is nevertheless a need for new storage driven in major part by anticipated growth in natural gas markets in the Southeast. Golden Triangle further maintains that the location of its storage facility is ideally suited to provide increased delivery flexibility and enhance the region's existing energy infrastructure. Golden Triangle notes that its facilities have ready access to onshore and offshore production, including shale gas, and can serve the needs of liquefied natural gas facilities located in the Gulf Coast Production Area.

17. As discussed above, Golden Triangle's proposed project will have minimal adverse impacts on current customers, existing pipelines and storage providers, and landowners. No protests were filed to Golden Triangle's proposal. Moreover, Golden Triangle currently holds all of the property rights necessary for the development of its proposed expansion of its existing storage facility, and thus, its proposal raises no concerns regarding the potential use of the right of eminent domain. Golden Triangle has presented evidence supporting a finding that there is a general need for additional storage capability, including in the area of its proposal.¹⁰ Based on this demonstration of potential project benefits, and the lack of adverse impacts on existing customers, other pipelines and their captive customers, landowners or communities, the commission finds,

¹⁰ Golden Triangle submitted several specific market studies that indicate the demand for storage capacity will grow significantly in the near term. *See* Golden Triangle's Application at 8-9.

consistent with the Certificate Policy Statement and section 7 of the NGA,¹¹ that the public convenience and necessity requires approval of Golden Triangle's proposal, subject to the conditions discussed below. Consistent with our general practice regarding storage facilities, Ordering Paragraph (C) requires that the authorized facilities be constructed and made available for service within three years of the date of this order.¹² We note that this timeframe would accommodate Golden Triangle's contemplated schedule for Cavern 3; however, in order for Golden Triangle to complete Cavern 4 under this authorization, Golden Triangle will need to alter its development schedule.

B. Market-Based Rates

18. Generally, the Commission evaluates requests to charge market-based rates for storage under the analytical framework of the Alternative Rate Policy Statement.¹³ 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.¹⁴ 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

¹¹ 15 U.S.C. § 717f (2006).

¹² *Magnum Gas Storage, LLC*, 134 FERC ¶ 61,197, at P 24 (2011).

¹³ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines* (Alternative Rate Policy Statement), 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); *criteria modified, Rate Regulation of Certain Natural Gas Storage Facilities*, Order No. 678, FERC Stats. & Regs., ¶ 31,220, *order on clarification and reh'g*, Order No. 678-A, 117 FERC ¶ 61,190 (2006).

¹⁴ *Orbit Gas Storage, Inc.*, 126 FERC ¶ 61,095, at P 19 (2009).

lack of market power¹⁵ because customers have good alternatives¹⁶ or that the applicant or Commission can mitigate the market power with specified conditions.¹⁷ The Commission's analysis of whether an applicant has the ability to exercise market power comprises three major steps. First, the Commission reviews whether the applicant has specifically and fully defined the relevant markets¹⁸ to determine which 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.¹⁹ Additionally, as part of the first step, the applicant must identify the relevant geographic market.²⁰ Second, the Commission measures an applicant's market share and market concentration.²¹ Third, the Commission evaluates other factors, such as ease of entering the market.

19. Golden Triangle's proposed expansion of its existing natural gas storage operations does not change the Commission's finding in the December 2007 Order that, based on Golden Triangle's market power study (Initial Market Power Study), Golden Triangle will lack market power and thus would be allowed to charge market-based rates

¹⁵ 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.

¹⁶ 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.

¹⁷ Generally, an applicant includes in its certificate application a market power study in support of its request, as Golden Triangle 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.

¹⁸ 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.

¹⁹ Alternative Rate Policy Statement, 74 FERC at 61,231.

²⁰ *Id.* at 61,232-34.

²¹ *Id.* at 61,234.

for its services.²² As discussed below, our review of Golden Triangle's updated market power study submitted with the present application (Updated Market Power Study) shows that barriers to entry in the Gulf Coast Production Area,²³ where the Golden Triangle Expansion Project is located, are still not significant and Golden Triangle will continue to lack market power.

20. In the December 2007 Order, the Commission reviewed the Initial Market Power Study, which utilized two measures of natural gas storage capacity to analyze market concentration: working gas capacity and peak day deliverability. Golden Triangle's Initial Market Power Study showed that in the Gulf Coast Production Area, Golden Triangle and its affiliate, Jefferson Island Storage & Hub, L.L.C. (Jefferson Island),²⁴ would control approximately 3.2 percent of the total working gas capacity and 7.0 percent of available peak day deliverability. In contrast, Golden Triangle's Updated Market Power Study for the proposed expansion, which employs the same analytical method as that used in the Initial Market Power Study, shows that in the Gulf Coast Production Area, Golden Triangle and Jefferson Island would control approximately 5.7 percent of the total working gas capacity²⁵ and 3.9 percent of available peak day deliverability.²⁶ The increased working gas capacity created by the expansion yields Golden Triangle market shares that remain relatively small compared to other storage operators in the Gulf Coast Production Region.²⁷ Further, the Updated Market Power Study shows a Herfindahl Hirschman Index (HHI) of 730 for working gas capacity and 817 for peak day deliverability, in contrast to the Initial Market Power Study HHIs of 1,013 for working gas capacity and 866 for peak day deliverability. Since these Updated Market Power Study HHIs are below the 1,800 level cited in the Alternative Rate Policy

²² *Golden Triangle Storage Inc.*, 123 FERC ¶ 61,313 at P 33.

²³ See, e.g., *Mississippi Hub, LLC*, 118 FERC ¶ 61,099, at P 19 (2007); *MoBay Storage Hub, Inc.*, 117 FERC ¶ 61,298, at P 27 (2006); and *Port Barre Investments, L.L.C.*, 116 FERC ¶ 61,052, at P 22 (2006).

²⁴ Golden Triangle and Jefferson Island are affiliates under the parent company, AGL Resources Inc. (AGL Resources).

²⁵ See Golden Triangle's Updated Market Power Study, Exhibit No. 4A.

²⁶ See Golden Triangle's Updated Market Power Study, Exhibit No. 6A.

²⁷ Golden Triangle's decrease in market share of peak day deliverability from 7.0 percent to 3.9 percent is due to Golden Triangle's expansion proposal not including any change to its previously authorized maximum daily injection and withdrawal rates.

Statement, the Commission again concludes that Golden Triangle does not have market power in the relevant market area.

21. The Updated Market Power Study also includes two alternative analyses that address the market power impact of both planned and potential expansion of storage operations either affiliated with, or part of, Golden Triangle. The first alternative analysis (Alternative 1)²⁸ includes the additional working gas capacity (30 Bcf) of the proposed, but not-yet-approved Sawgrass Storage Project,²⁹ which reflects the addition of another corporate affiliate to Golden Triangle's market share calculations.³⁰ The second alternative analysis (Alternative 2)³¹ includes an increase in: (A) working gas capacity of Golden Triangle's Cavern 2 by 1.2 Bcf, which is expected to be proposed in a forthcoming certificate amendment and (B) working gas capacity associated with the proposed Sawgrass Storage Project. Golden Triangle's working gas capacity market share increases from 5.7 percent to 8.51 percent under Alternative 1 and 8.62 percent under Alternative 2. In addition, with regard to available peak day deliverability, Golden Triangle's market share increases from 3.9 percent to 4.74 percent under Alternative 1.³² In contrast to the Updated Market Power Study's HHIs of 730 for working gas capacity and 817 for peak day deliverability, the HHI value for: (1) working gas capacity decreases from 730 to 729 under both alternatives and (2) peak day deliverability

²⁸ See Golden Triangle's Updated Market Power Study, Exhibit No. 4B.

²⁹ The Sawgrass Storage Project, proposed by Sawgrass Storage, L.L.C. (Sawgrass) in Docket No. CP11-523-000, involves the conversion of a depleted natural gas reservoir facility located near Monroe, Louisiana. The proposed facility will have an initial design working gas capacity of 30 Bcf with an injection and withdrawal rate of 300 MMcf per day.

³⁰ When it filed this application, Golden Triangle stated that AGL Resources, the parent company of Golden Triangle and Jefferson Island, was in the process of acquiring Nicor, Inc. (Nicor), the parent company of Sawgrass, which has proposed the Sawgrass Storage Project. Golden Triangle, therefore, also submitted in its Updated Market Power Study alternative scenarios accounting for this acquisition. Subsequently, on December 15, 2011, Golden Triangle informed the Commission that it had completed its acquisition of Nicor.

³¹ See Golden Triangle's Updated Market Power Study, Exhibit No. 4C.

³² See Golden Triangle's Updated Market Power Study, Exhibit No. 6B. There are no Alternative 2 available peak day deliverability calculations because Golden Triangle is not proposing any changes to its previously authorized maximum daily injection and withdrawal rates.

decreases from 817 to 810 under Alternative 1.³³ Therefore, under both alternatives Golden Triangle's working gas capacity and peak daily deliverability market shares remain low in contrast to other storage operators in the Gulf Coast Production Region, and the reduced HHIs serve to further demonstrate Golden Triangle's lack of market power in the relevant market area.³⁴

22. For the reasons stated above, the Commission will approve Golden Triangle's request for continued authority to charge market-based rates for firm and interruptible storage and hub services made available as a result of the additional working gas capacity approved in this order. Nevertheless, Golden Triangle must notify the Commission if future circumstances significantly affect its current market power status. As conditioned in Ordering Paragraph (G), our approval of market-based rates for the indicated services is subject to re-examination in the event that: (1) Golden Triangle adds storage capacity beyond the capacity authorized in this order; (2) an affiliate increases storage capacity; (3) an affiliate links storage facilities to Golden Triangle; or (4) Golden Triangle or an affiliate acquires an interest in, or is acquired by, an interstate pipeline connected to Golden Triangle. Since these circumstances could affect its market power status, Golden Triangle shall notify the Commission within 10 days of acquiring knowledge of any such changes. Notification shall include a detailed description of the new facilities and their

³³ *Id.*

³⁴ As noted above, on December 15, 2011, Golden Triangle submitted an informational filing stating that on December 9, 2011, its parent company, AGL Resources, acquired Nicor and thereby ownership or ownership interests in the following three Nicor companies, two of which are storage projects: (1) Central Valley Gas Storage, LLC (Central Valley), an intrastate storage facility under construction in Calusa County, California; (2) Sawgrass, the aforementioned proposed interstate storage facility in Lincoln and Union Parishes, Louisiana; and (3) Nicor Horizon, LLC, (Nicor Horizon), which holds an interest in Horizon Pipeline Company (Horizon Pipeline), an interstate natural gas pipeline located in Illinois.

With regard to its three new affiliates, Golden Triangle explains that neither Central Valley nor Nicor Horizon own any assets in the Gulf Coast Production Area and Golden Triangle does not own any assets in California or the geographical product market that includes California, or in Illinois or the geographical product market that includes Illinois and it is not directly connected to Horizon Pipeline. Given these facts, we concur with Golden Triangle's assessment that its parent's acquisition on these ownership interests should have no impact on Golden Triangle's market power status.

relationship to Golden Triangle.³⁵ The Commission reserves the right to require Golden Triangle to provide an updated market power analysis at any time.

C. Waivers of Filing, Reporting, and Accounting Requirements

23. In light of the Commission's continued approval of market-based rates for Golden Triangle's expanded storage and hub services, the cost-related information required by the Commission regulations described above is not relevant. Consistent with previous Commission orders,³⁶ the Commission will grant Golden Triangle's request for continued waiver of the Commission's regulations requiring cost-based information for these services, except for the information necessary for the Commission's assessment of annual charges.³⁷ The Commission will also require Golden Triangle to maintain records to separately identify original cost and related depreciation on its storage facilities should the Commission require Golden Triangle to produce those reports in the future.

D. Engineering Analysis

24. The Commission's engineering staff completed an engineering analysis of the proposed storage expansion facilities and concludes that Golden Triangle properly designed Caverns 3 and 4 to provide a total capacity of 13.8 Bcf and 11.1 Bcf and a working gas capacity of 9.2 Bcf and 7.4 Bcf, respectively. Once completed, Golden Triangle's storage facility will have a total capacity of 49.38 Bcf, consisting of 32.6 Bcf of working gas and 16.78 Bcf of cushion gas. Commission staff further concludes, and we concur, that if constructed as described the proposed cavern locations are well within the design criteria and confinement of the salt dome and that the caverns are located at sufficient depth and within the proper distances from Golden Triangle's previously certificated caverns, the nearest third party wells, and the salt boundaries.

E. Environmental Analysis

25. On August 29, 2011, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Golden Triangle Storage Expansion Project and Request for Comments on Environmental Issues* (NOI). The NOI was mailed to interested parties including federal, state, and local officials; elected officials; agency

³⁵ See, e.g., *Port Barre Investments, L.L.C.*, 116 FERC ¶ 61,052 (2006); *Copiah County Storage Co.*, 99 FERC ¶ 61,316 (2002); *Egan Hub Partners, L.P.*, 99 FERC ¶ 61,269 (2002).

³⁶ *Id.*

³⁷ See *BGS Kimball Gas Storage, LLC*, 117 FERC ¶ 61,112, at P 49 (2006).

representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners.

26. We received comments in response to the NOI from the Texas Commission on Environmental Quality (Texas CEQ) and the U.S. Army Corps of Engineers (Corps). The Texas CEQ's comments concerned air quality impacts and potential impacts on water resources. The Corps's comments concerned potential impacts on wetlands, waterbodies, and the associated aquatic vegetation and wildlife.

27. To satisfy the requirements of the National Environmental Policy Act of 1969,³⁸ our staff prepared an environmental assessment (EA) that was placed into the public record on December 16, 2011. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, and alternatives. As summarized below, all substantive comments received in response to the NOI were addressed in the EA.

28. In its comments, Texas CEQ notified the Commission that a General Conformity analysis would not be required for the project because the emissions from the Golden Triangle's proposed expansion would not exceed 100 tons per year. This is consistent with the conclusion in the EA.

29. As discussed in the EA, the proposed expansion would not impact wetlands or waterbodies. The Corps filed additional comments stating that the wetlands in the vicinity of the project are not subject to the Corps jurisdiction.

30. We have reviewed the information and analysis contained in the record, including the EA, regarding the potential environmental effects of the Golden Triangle's proposed expansion project. Based on our consideration of this information, we agree with the conclusions presented in the EA and find that if constructed and operated in accordance with Golden Triangle's application and supplements, and the environmental conditions imposed herein, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

31. Golden Triangle shall notify the Commission's environmental staff by telephone, e-mail, and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Golden Triangle. Golden Triangle shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

³⁸ 42 U.S.C. §§ 4321-4370f (2006).

32. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.³⁹

V. Conclusion

33. At a hearing held on January 19, 2012, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, as supplemented, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

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

(B) The authorization issued in Ordering Paragraph (A) is conditioned on Golden Triangle's compliance with all applicable Commission regulations under the Natural Gas Act, particularly the general terms and conditions set forth in Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the regulations, except that the requirements of section 157.20(c)(3) are waived.

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

(D) The authorization issued in Ordering Paragraph (A) is conditioned upon Golden Triangle's compliance with the engineering and environmental conditions set forth in Appendices A and B of this order.

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

³⁹See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Comm'n*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

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

(G) Golden Triangle shall notify the Commission within 10 days of acquiring knowledge of: (a) Golden Triangle 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 Golden Triangle; (d) Golden Triangle or an affiliate's acquisition of an interest in, or being acquired by, and interstate pipeline connected to Golden Triangle. The notification shall include a detailed description of the new facilities and their relationship to Golden Triangle. Golden Triangle 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.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix A

Engineering Conditions for Golden Triangle's Expansion Project

1. The maximum inventory of natural gas stored in Golden Triangle's Cavern 3 shall not exceed the certificated level of 13.8 Bcf at 14.73 psia and 60° F and the maximum inventory for Cavern 4 shall not exceed 11.1 Bcf at 14.73 psia and 60° F. The maximum shut-in stabilized pressure gradient for each cavern shall not exceed 0.85 psi/ft at the casing shoe. The minimum pressure gradient shall be limited to 0.20 psi/ft at the casing shoe.
2. For each cavern, the final gas storage operating capacity, working gas capacity, cushion gas capacity, minimum and maximum pressure, and casing shoe depth shall be determined after the facility's operating parameters are evaluated and filed with the Commission (including data and work papers to support the actual operating capacity determination).
3. Before commencing storage operations, Golden Triangle 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;
 - d. Assemble, test, and maintain an emergence shutdown system;
 - e. File information showing the geologic cross sections through the total project area showing all geologic units;
 - f. Conduct and file with the Commission the results of the sonar surveys of each cavern, including plan view and cross sections; and
 - g. Determine and file with the Commission the volume of rubble at the base of each cavern, including the methodology of determining such volume.
4. Until one year after the storage inventory reaches or closely approximates the full authorized capacity, Golden Triangle shall twice annually 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, unless otherwise ordered by the Commission.
5. Each cavern's well(s) shall be periodically logged to check the integrity of each casing string. Additionally, every five years, Golden Triangle 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. In the alternative, no less than 30 days before placing the caverns into service, Golden Triangle may file with the Commission for prior approval of the methodology, a detailed cavern integrity monitoring plan that is consistent with the intent of the sonar survey.
6. Golden Triangle shall conduct an annual inventory verification study on each cavern, and file the results with the Commission.
 7. The Golden Triangle storage project shall be operated in such a manner as to prevent gas loss from migration.
 8. Golden Triangle 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 each cavern;
 - 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 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 any operating problems and conclusions; and
 - f. Other data or reports which may aid the Commission in the evaluation of the storage project.
 9. Golden Triangle shall continue to file the above semi-annual reports in accordance with section 157.214(c) of the Commission's regulations for a period of one year following the date facility operation at maximum level is initiated.

Appendix B

Environmental Conditions for Golden Triangle's Expansion Project

As recommended in the environmental assessment (EA), this authorization includes the following conditions:

1. Golden Triangle shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA, unless modified by the Order. Golden Triangle must:
 2.
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) before using that modification.
 2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of the Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Golden Triangle shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the EI'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. **As soon as they are available, and before the start of construction**, Golden Triangle shall each 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 the Order. All requests for

modifications of environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

5. Golden Triangle 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, 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 Golden Triangle's Erosion and Sediment Control Plan and/or 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. **At least 60 days before construction begins**, Golden Triangle shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Golden Triangle must file revisions to its plan as schedules change. The plan shall identify:
 - a. how Golden Triangle will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;
 - b. how Golden Triangle 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 EIs assigned, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instructions Golden Triangle 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 Golden Triangle's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Golden Triangle 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. Beginning with the filing of its Implementation Plan, Golden Triangle 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 Golden Triangle'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 work in environmentally sensitive areas;
 - c. a listing of all problems encountered and each instance of noncompliance observed by the EI(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 the Order, and the measures taken to

- satisfy their concerns; and
 - g. copies of any correspondence received by Golden Triangle from other federal, state, or local permitting agencies concerning instances of noncompliance, and Golden Triangle's response.
- 8. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, Golden Triangle shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
- 9. Golden Triangle must receive written authorization from the Director of OEP **before placing the project into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the areas affected by the project are proceeding satisfactorily.
- 10. **Within 30 days of placing the authorized facilities in service**, Golden Triangle 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 Golden Triangle 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.