

118 FERC ¶ 61,048  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

SG Resources Mississippi, L.L.C.

Docket No. CP02-229-002

ORDER AMENDING CERTIFICATE

(Issued January 24, 2007)

1. On July 21, 2006, SG Resources Mississippi, L.L.C. (SGRM) filed an application under section 7(c) of the Natural Gas Act (NGA) to amend its certificate of public convenience and necessity issued October 10, 2002 (October 2002 Order).<sup>1</sup> SGRM seeks to increase the working gas capacity of each of the two natural gas storage caverns in Greene County, Mississippi authorized in the October 2002 Order as part of the Southern Pines Energy Center (Southern Pines) and to develop a third storage cavern. It also seeks authorization to construct, own, operate, and maintain approximately 26 miles of dual, bi-directional pipeline that will interconnect Southern Pines with the interstate pipeline systems of Florida Gas Transmission Company (Florida Gas) and Transcontinental Gas Pipe Line Corporation (Transco). SGRM requests that the Commission affirm that its approval of market-based rates for this project in the October 2002 Order will apply to the amended project as well. For the reasons discussed herein, we will grant SGRM's requests subject to the conditions set forth herein.

**Background**

2. In the October 2002 Order, the Commission authorized SGRM to construct and operate the high-deliverability Southern Pines salt-dome gas storage facility in Greene County, Mississippi, finding that the project would serve the public interest by furthering the development of needed natural gas infrastructure, by serving a growing market for high-deliverability storage for the gas-fired electric generation market, and by providing

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<sup>1</sup> 101 FERC ¶ 61,029 (2002).

hub-related services<sup>2</sup> without significant landowner or environmental impacts. To enable these services, the Commission authorized SGRM to construct two underground salt dome caverns, each with a working gas capacity of 6 Bcf and 0.6 Bcf per day of deliverability capability and 0.3 Bcf per day of injection capability. Thus, upon completion, the Southern Pines facility would have a total of 12 Bcf of working gas capacity, 1.2 Bcf per day of deliverability, and 0.6 Bcf per day of maximum injection capacity. Along with the storage caverns, the Commission authorized two injection and withdrawal wells, five water supply wells, five brine disposal wells, associated pumping and piping systems, four compressors, and two 3.13 mile-long, 24-inch diameter pipelines extending from the storage facility to an interconnection with Destin Pipeline Company, L.L.C.'s (Destin) interstate pipeline system.

3. The Commission also found that SGRM lacked market power and granted SGRM's request to charge market-based rates for open-access firm storage and interruptible hub services, including storage-related transportation. The October 2002 Order expressly stated that its market-based rate approval would be subject to reexamination in the event SGRM were to add additional storage capacity.

4. To provide electrical service for operation of the Southern Pines facilities, SGRM explained that the Singing River Electrical Power Association (Singing River) would construct an approximately 10-mile long non-jurisdictional electric power line to the storage facility. Applying the Commission's established four-factor test for determining whether the non-jurisdictional electric line would require the Commission's environmental review,<sup>3</sup> the October 2002 Order concluded that the Singing River electric transmission line need not be subject to the Commission's environmental review.

### **Proposal**

5. SGRM's Southern Pines storage facility is currently under construction; however, SGRM has continued to market its services and has commitments for working gas capacity in excess of the 12 Bcf authorized in the October 2002 certificate. At the time it filed this application it had entered into binding contractual agreements with nine

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<sup>2</sup> The October 2002 Order described the hub services that SGRM would provide as consisting of parking (under Rate Schedule IP), loaning (under Rate Schedule IL), wheeling (under Rate Schedule IW), imbalance trading (under Rate Schedule IBT), and balancing (under Rate Schedule IB).

<sup>3</sup> See *Algonquin Gas Transmission Company*, 59 FERC ¶ 61,255 (1992).

customers for 13.22 Bcf of storage capacity, and it expects additional commitments in the near future. SGRM states that many of these commitments involve deliveries to and receipts from Florida Gas and Transco.

6. To make this service available, SGRM requests in this application that the Commission amend the October 2002 certificate for the Southern Pines project to authorize SGRM to double its storage capacity from 12 Bcf to 24 Bcf and to construct a dual lateral pipelines to connect Southern Pines with Florida Gas and Transco. Specifically, SGRM requests authorization to:

- a. increase the working gas capacity of each of the two authorized storage caverns from 6 Bcf to 8 Bcf, supported in each case by approximately 2.1 Bcf of cushion gas capacity;
- b. develop a third storage cavern with an additional 8 Bcf working gas capacity and 2.1 Bcf cushion gas capacity;<sup>4</sup>
- c. construct, own, and operate two additional brine disposal wells;<sup>5</sup> and
- d. construct, own, operate, and maintain a new bidirectional, approximately 26-mile long lateral, consisting of two 24-inch diameter pipelines for receipt and delivery, extending from the Southern Pines storage facilities to points of interconnection with pipeline facilities of Florida Gas and Transco in Mobile County, Alabama (Florida Gas/Transco lateral).

7. SGRM states that the proposed increase in working gas capacity and the new lateral will enable it to offer additional high-deliverability storage capacity in response to increased market demands. The new 26-mile lateral, it states, will enable SGRM's customers to gain access to Florida and other southeastern markets served by Florida Gas and Transco. The lateral SGRM proposes will consist of two pipelines. The dual pipeline design, explains SGRM, will address the need to accommodate receipts from and deliveries into the Florida Gas and Transco pipelines that are likely to operate at

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<sup>4</sup> The third cavern drilling location and related surface facilities will be located entirely within the SGRM-owned 80-acre tract described in the original application. The three caverns will have a total capacity of 30.3 Bcf – 24 Bcf working gas and 6.3 Bcf cushion gas.

<sup>5</sup> The two brine disposal wells will be located in the immediate vicinity of the previously authorized brine disposal and raw water disposal site on land which SGRM has an option to acquire.

pressures that will differ significantly and are likely to vary from day to day and hour to hour. The Florida Gas/Transco lateral will be capable of transporting up to 1.2 Bcf per day, and its two sets of metering stations will have bi-directional flow and measurement capability. The Florida Gas interconnection will accommodate receipts and deliveries of up to 1.0 Bcf per day, and the Transco interconnection of up to 600 Mcf per day.

8. SGRM states that it will use the Florida Gas/Transco lateral (and the already authorized Destin lateral) only for storage receipts, deliveries, and pipeline-to-pipeline wheeling transactions. The only receipt and delivery points on these lateral facilities will be SGRM's Southern Pines storage facilities and the interconnected third-party pipelines. The lateral facilities will include no end-user connections or other market delivery points.

9. SGRM has acquired easements for most of the necessary rights-of-way for the newly proposed pipeline lateral, and is engaged in discussions with landowners with respect to the balance of the land necessary. It has completed negotiation of interconnection agreements with Florida Gas and Transco. SGRM avers that the increased working gas capacity and additional storage cavern will not result in any significant added environmental impacts beyond those already evaluated by the Commission when it certificated the original Southern Pines project, and it asserts that construction and operation of the Florida Gas/Transco lateral and the two additional brine wells will produce minimal impacts on landowners and the environment. SGRM states that the new proposal here does not invalidate the Commission's determination that SGRM lacks market power, and it requests the Commission to reaffirm its prior determination in the October 2002 Order that SGRM may charge market-based rates for its storage, hub, and wheeling services.

10. While SGRM proposes here the construction of a new lateral to interconnect with Florida Gas and Transco, it no longer needs to construct one of the two previously authorized 3.13-mile long lateral pipelines extending from Southern Pines to an interconnection with Destin. Accordingly, SGRM requests the Commission to amend the certificate authorization already granted to reflect elimination of one of the two certificated Destin laterals.

11. Instead of the 10-mile electric transmission line originally proposed to be built by Singing River, SGRM states that it has identified an alternative routing. This new line would be constructed by Southern Mississippi Electric Power Association (SMEPA) and would be only half the length of the Singing River line route. SMEPA has already received authorization from the Mississippi Public Service Commission to construct this line, which would extend approximately 5.2 miles from an existing Mississippi Power Company transmission line to SGRM's Southern Pines gas handling facilities. In addition, the proposed meter station in Mobile County, Alabama for the Florida Gas/Transco lateral will need an electric service drop to be constructed by the local

electric utility involving a one-pole extension from nearby distribution lines. SGRM avers that under the four-factor test these non-jurisdictional electric lines will not require the Commission's environmental review.

### **Interventions**

12. Notice of the SGRM application was published in the *Federal Register* on August 10, 2006 (71 *Fed. Reg.* 45808). Timely, unopposed motions to intervene in this proceeding were filed by Florida Power Corporation, Bay Gas Storage Company, Ltd., Seminole Electric Cooperative, Inc., Sally Walley, Nancy T. Gordon, Sherra Kimble, and Suzanne Faulk-Walter. These motions are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.<sup>6</sup> No protests were filed.

### **Discussion**

#### **Certificate Policy Statement**

13. Because the proposed facilities will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, their construction and operation is subject to the requirements of section 7(c) of the NGA.

14. On September 15, 1999, the Commission issued its *Certificate Policy Statement* to provide guidance as to how we will evaluate proposals for certificating new construction.<sup>7</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. The *Certificate Policy Statement* explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of 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.

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<sup>6</sup> 18 C.F.R. § 385.214 (2005).

<sup>7</sup> *Certification of New Interstate Natural Gas Pipeline Facilities (Certificate Policy Statement)*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000).

15. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to support the project financially 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.

16. The Commission also considers potential impacts of the proposed project on other pipelines in the market and those existing pipelines' 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 then proceed to complete the environmental analysis where other interests are considered.

17. The situation before us is much the same as it was described in the October 2002 Order and our findings will be very similar. SGRM is still a new entrant into the natural gas storage market, has not placed any of its facilities into service, and has no existing customers. Further, all its initial customers will receive service under market-based rate agreements. Therefore, as we found in the October 2002 Order, there would be no subsidization by existing customers and no existing customers adversely impacted by the proposal. Moreover, because SGRM has requested and accepted market-based rate authority, SGRM has assumed the economic risks associated with the costs of the project's facilities to the extent that any capacity is unsubscribed. Accordingly, the Commission finds that SGRM has satisfied the threshold no-subsidy requirement of the *Certificate Policy Statement*.

18. SGRM's expanded storage project will still be located in what we found in the October 2002 Order to be a competitive market and will still serve new demand in a region that is experiencing steady rapid growth in natural gas use. As was the case in 2002, no storage company in SGRM's market area has protested SGRM's application to amend its certificate. Accordingly, the Commission concludes that SGRM's amended storage project will have no adverse impact on existing storage providers or their captive customers.

19. The expansion of the storage caverns authorized in 2002 and the addition of a third storage cavern will take place within the 80-acre tract already owned by SGRM, and SGRM has an option to buy the land needed for the two additional brine disposal wells. SGRM states that, as of the date it filed this application, it had negotiated easement agreements with landowners whose property cover more than 60 percent of the total length of the proposed Florida Gas/Transco pipeline lateral facilities, and it anticipates

reaching agreement with at least the “overwhelming majority” of the remaining landowners. Thus, we find that SGRM has sought to minimize any adverse effects on landowners.

20. Like the original project, the expanded SGRM storage project will further the development of needed natural gas infrastructure and will serve a growing market for high-deliverability storage for the gas-fired electric market, but to an extent even greater than the project authorized in the October 2002 Order. The increased storage capacity and the Florida Gas/Transco lateral will enhance storage options available to pipelines and their customers beyond those authorized in the October 2002 certificate. SGRM has already reached agreements for storage service in excess of the capacity originally certificated. The storage project will still serve the public interest by providing storage, hub, and wheeling services without significant landowner or environmental impacts. The benefits of the expanded storage project will outweigh any residual adverse effects. We conclude that the proposed amendment to the SGRM Southern Pines storage project is consistent with the criteria discussed in the *Certificate Policy Statement* and is required by the public convenience and necessity.

### **Market-Based Rates**

21. SGRM is seeking to reaffirm its authority to provide firm storage and interruptible hub and wheeling services at market-based rates. The Commission previously granted SGRM’s request to charge market-based rates for these services, but expressly required SGRM to submit a new market power study in the event SGRM sought to expand its storage facilities beyond the capacity authorized in the October 2002 Order. SGRM submitted such a study showing that expansion of Southern Pines will not affect the Commission’s previous determination that SGRM does not have market power in providing firm storage and interruptible hub and wheeling services.

22. The Commission has approved market-based rates for storage services where applicants have demonstrated, under the criteria in the Commission’s *Alternative Rate Policy Statement*, that they lack significant market power or have adopted conditions that significantly mitigate market power.<sup>8</sup> In prior orders, we have approved requests to

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<sup>8</sup> *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines (Alternative Rate Policy Statement)*, 74 FERC ¶ 61,076 (1996), *reh’g and clarification denied*, 75 FERC ¶ 61,024 (1996), *petitions for review denied and dismissed*, *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 (2006), *order on clarification and reh’g*, 117 FERC ¶ 61,190 (2006).

charge market-based rates for storage services based on a finding that proposed projects would not be able to exercise market power due to small size, anticipated share of the market, and numerous competitors.<sup>9</sup> In the October 2002 Order, the Commission approved market-based rates for firm storage and interruptible hub and wheeling services for SGRM, concluding that SGRM would not possess market power over these services in the relevant geographic market.<sup>10</sup>

23. In support of its request for continuation of market-based rate authority for its modified proposal, SGRM has filed, as Exhibit I to its July 21, 2006 application, an updated market power study based on the traditional criteria set forth in the *Alternative Rate Policy Statement*.<sup>11</sup> SGRM's market power study for the storage market defines the relevant product and geographic markets, measures market share and concentration, looks at changes that have occurred since the original analysis and evaluates other factors. The market power study defines the relevant geographic market as consisting of eastern Texas, Louisiana, Mississippi and Alabama ("Gulf Coast Market"), and concludes that SGRM's proposed addition to working gas capacity and the addition of two direct pipeline interconnections, does not alter the original conclusion that SGRM lacks market power.

24. According to SGRM's updated market power study, the market for hub and storage services in the Gulf Coast Market has become less concentrated since the original study due to changes in the ownership of various storage facilities as well as expansions of working gas capacity at several storage facilities. Including Southern Pines, the storage facilities in the relevant geographic market have a total working gas capacity of 407.75 Bcf and total peak day deliverability of 14,705 MMcf. Including the 12 Bcf of proposed working gas capacity in this application, SGRM's share of the total working gas capacity in the Gulf Coast Market is approximately 5 percent and its share of peak day

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<sup>9</sup> *Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052 (2006); *Pine Prairie Energy Center, LLC*, 109 FERC ¶ 61,215 (2004); *Egan Hub Partners, L.P.*, 99 FERC ¶ 61,269 (2002).

<sup>10</sup> October 2002 Order at P 24.

<sup>11</sup> The market power study was prepared by Keith A. Reutter, Ph. D., Managing Economist with Nathan Associates, Inc. SGRM's market power study includes an updated analysis for market-based rates for storage, hub, and wheeling services.

deliverability will be approximately 8 percent.<sup>12</sup> The market power analysis also shows that ten other storage facilities in the Gulf Coast Market, totaling 97 Bcf of working gas capacity, are under development.

25. We use the Herfindahl Hirschman Index (HHI) test to determine market concentration for gas pipeline and storage markets. The *Alternative Rate Policy Statement* explains that a low HHI – generally less than 1,800 – indicates that sellers cannot exert market power because customers have sufficiently diverse alternatives in the relevant market. While a low HHI suggests a 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. SGRM’s market power analysis shows an HHI calculation of 1,299 for working gas capacity and an HHI calculation of 1,127 for peak day deliverability.<sup>13</sup> These measures of market concentration are well below the Commission’s threshold level of 1,800, indicating that SGRM does not have market power in the relevant market area.

26. As to interruptible wheeling service, SGRM presented a matrix, referred to as a “bingo-card analysis”, which identifies all possible interconnects for pipelines attached to a hub and indicates whether good alternatives exist. SGRM’s analysis shows that there are a number of alternative paths available to shippers desiring to wheel natural gas between interstate natural gas pipelines in the Gulf Coast Market. Including Southern Pines, there will be eight market centers and hubs operating in the Gulf Coast Market, with interconnections to numerous intrastate and interstate pipelines. The market power study shows that, with the addition of the Florida Gas/Transco lateral, SGRM’s market share for wheeling delivery capacity at alternative hubs and market centers in the Gulf Coast Market will be 9 percent and its market share for receipt capacity will be 11 percent. The HHIs for delivery capacity are 1,290 and for receipt capacity 1,470, both of which are well below the 1,800 level set forth in the *Alternative Rate Policy Statement*. The market power study also shows that ample competitive alternatives exist for the

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<sup>12</sup> The expansion will not change Southern Pines’ maximum deliverability. Therefore, because additional storage deliverability has been constructed by others since the original market power study was conducted, applicant’s peak day deliverability has decreased from 9 percent to 8 percent of the total available in the relevant geographic market.

<sup>13</sup> The HHI in the original application for working gas capacity was 1,515 and the original HHI for peak-day deliverability was 1,418.

interruptible hub services SGRM proposes to provide and that there are alternative interconnection paths for every possible flow of gas among the pipelines with which Southern Pines will interconnect.

27. In view of these considerations, we will reaffirm SGRM's ability to charge market-based rates for its expanded storage, hub, and wheeling services. However, consistent with the October 2002 Order authorizing market-based rates for SGRM's original proposal, we will again require that SGRM notify the Commission of future circumstances that may significantly affect its market power status. Thus, our approval of continued market-based rate authority is subject to re-examination in the event that: (a) SGRM adds storage capacity beyond the capacity authorized in this order; (b) an affiliate increases storage capacity; (c) an affiliate links storage facilities to Southern Pines; or (d) SGRM or an affiliate acquires an interest in, or is acquired by, an interstate pipeline connected to Southern Pines. Because these circumstances could affect its market power status, SGRM must notify the Commission within 10 days of acquiring knowledge of any such changes. The notification shall include a detailed description of the new facilities and their relationship to SGRM.<sup>14</sup>

### **Waiver Requests**

28. Because it proposes to charge market-based rates, SGRM requests waiver of the Commission's cost based regulations, which include: (1) section 157.6(b)(8) (cost and revenue data); (2) sections 157.14(a)(13), (14), (16), and (17) (cost based exhibits); (3) section 157.14(a)(10) (accessible gas supplies); (4) the accounting and reporting requirements of Part 201 and section 260.2 relating to cost-of-service rate structure (Form 2A); (5) section 284.7(e) (reservation charge); and (6) section 284.10 (straight fixed-variable rate design methodology).

29. The cost-related information required by these regulations is not relevant in light of our approval of market-based rates for SGRM's storage services. Thus, consistent with our findings in previous orders,<sup>15</sup> we will grant SGRM's request for waivers, except for the information necessary for the Commission's assessment of annual charges.<sup>16</sup> SGRM is required to file pages 520 and 520A of Form No. 2-A, reporting the gas volume

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<sup>14</sup> See, e.g., *Copiah County Storage Company*, 99 FERC ¶ 61,316 (2002); *Egan Hub*, 99 FERC ¶ 61,269 (2002).

<sup>15</sup> See, e.g., *Port Barre Investments, L.L. C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052 (2006); *Liberty Gas Storage, LLC*, 113 FERC ¶ 61,247 at P 54 (2005); *SG Resources Mississippi, L.L.C.*, 101 FERC ¶ 61,029 at P 26 (2004).

<sup>16</sup> See *Wyckoff Gas Storage Co., LLC*, 105 FERC ¶ 61,027 at P 65 (2003).

information which is the basis for imposing an Annual Charge Adjustment (ACA) charge. However, these waivers are subject to re-examination in the event that SGRM's market power or market-based rates need to be re-examined. In addition, we also require SGRM to maintain sufficient records consistent with the Uniform System of Accounts should the Commission require SGRM to produce these reports in the future.

### **Tariff Issues**

30. The October 2002 Order found that SGRM's *pro forma* tariff largely complies with Commission requirements, and it directed SGRM to file actual tariff sheets with revisions described in the order at least 30 and no more than 60 days before their proposed effective date. The only additional tariff changes that the proposed amendment requires are the addition of the Florida Gas and Transco interconnections as potential receipt and delivery points. Thus, SGRM must file tariff sheets reflecting the revisions required in the October 2002 Order and the addition of the Florida Gas/Transco lateral pipeline service no less than 30 days or more than 60 days prior to the commencement of interstate service.

### **Engineering**

31. The Commission's staff analyzed the data submitted and have determined that expansion of the Southern Pines facility as proposed is technically sound from an engineering standpoint. Based on simulation, all piping has been appropriately sized to meet necessary pressure limits.

### **Environmental Review**

32. On August 21, 2006, we issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Southern Pines Energy Center Expansion Project and Request for Comments on Environmental Issues (NOI). We received responses to the NOI from the Mississippi Department of Archives & History's State Historic Preservation Officer (MS SHPO), the Wildlife and Freshwater Fisheries Division of the Alabama Department of Conservation and Natural Resources (ADCNR), and the U.S. Fish and Wildlife Service (FWS). Our staff prepared an environmental assessment (EA) for SGRM's proposal. The EA addresses geology, soils, water resources, fisheries, wetlands, vegetation and wildlife, threatened and endangered species, cultural resources, land use and visual resources, air quality and noise, and alternatives. Commission staff addressed all substantive comments in the (EA).

33. The MS SHPO requested an opportunity to review the completed EA to assess the potential effects of the project on cultural resources and offer appropriate comments. The Commission recognizes that portions of the proposed project were not surveyed for

cultural resources due to lack of access. Therefore, we have adopted environmental condition 13, which requires SGRM to defer certain activities until it submits to the Commission its required cultural resources information, any necessary treatment plans, and comments from the Mississippi SHPO and the Alabama SHPO regarding that material, and the Director of the Commission's Office of Energy Projects reviews the submissions and notifies SGRM that it may proceed.

34. The ADCNR expressed concerns about impacts associated with construction of the project on protected species habitats, stream and wetland habitats, compressor station noise, and the federally listed threatened gopher tortoise. The ADCNR recommended topsoil segregation in wetlands and uplands, strict adherence to erosion control and revegetation procedures, coordination with the ADCNR regarding hydrostatic testing, revegetation seed mixes, and advised on the use of herbicides and a time-table for right-of-way (ROW) mowing. The FWS expressed concern about federally listed threatened and endangered species and about appropriate wetland mitigation.

35. All the concerns expressed by the ADCNR and the FWS regarding stream and wetland habitats mitigation, topsoil segregation in wetlands and uplands, erosion control and revegetation, hydrostatic testing, seed mix and herbicide use, and ROW mowing are addressed in SGRM's commitment to adhere to the Commission's Upland Erosion Control, Revegetation, and Maintenance Plan, and the Wetland and Waterbody Construction and Mitigation Procedures, as stated in the EA. The remaining concerns about protected species habitats, federally listed threatened and endangered species and compressor station noise are addressed in sections 2.5 and 2.8 of the EA, as well as environmental conditions 11, 12, and 14. Conditions 11 and 14 require SGRM to submit horizontal directional drilling and construction noise plans to the Commission and receive approval of those plans by the Director of OEP before beginning construction activities. Condition 12 likewise provides that SGRM may not begin construction until Commission staff completes any needed consultation with FWS, and the Director of OEP notifies SGRM that it may begin.

36. Based on the discussion in the EA, we conclude that if constructed in accordance with SGRM's application and supplements filed August 18, September 18, October 10 and 31, and December 1, 2006, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment. We also conclude that the rerouted non-jurisdictional power transmission line to be constructed by SMEPA is not subject to our detailed review for the same reasons discussed in the EA for the original proposal and in the October 2002 Order.

37. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities.

However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the (construction/replacement or operation of) facilities approved by this Commission.<sup>17</sup> SGRM shall notify the Commission's environmental staff by telephone, e-mail, or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies SGRM. SGRM shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

38. 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) SGRM's certificate of public convenience and necessity, issued October 10, 2002, is amended to authorize SGRM to construct and operate the facilities described in the body of this order, and as more fully described in the application. SGRM's certificate authority is vacated, in part, to eliminate one of the 3.13-mile long lateral pipelines to interconnect with Destin as described in SGRM's July 21, 2006 application.

(B) This authorization is conditioned on SGRM's compliance with all applicable Commission regulations under the NGA, 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.

(C) SGRM's facilities must be constructed and made available for service within 3 years of the date of the order in this proceeding as required by section 157.20(b) of the Commission's regulations.

(D) This authorization is also conditioned upon the following:

(1) The maximum inventory of natural gas stored in SGRM's facilities shall not exceed the certificated levels of 30.3 Bcf at 14.73

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<sup>17</sup> See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

psia and 60° F (10.1 Bcf per cavern); the maximum gas storage shut-in stabilized pressure of each cavern will not exceed 3,510 psi, not to exceed a pressure gradient of 0.9 psi/foot.

(2) The final gas storage operating capacity of each cavern, working gas capacity, cushion gas capacity and the minimum pressure should be determined after the cavern's operating parameters are determined and filed with the Commission (include data work papers to support the actual operating capacity determination).

(3) Twice annually, SGRM shall conduct a leak detection test during storage operations to determine the integrity of each cavern, well bore, casing and wellhead. In addition, SGRM shall file a report with the Secretary of the Commission summarizing the results of these tests until one year after the operating capacity of the SGRM storage facility has reached the maximum defined in ordering paragraph (D)(1).

(4) Each cavern's well must be periodically logged to check the cavern roof and status of each casing. Additionally, every five years SGRM shall conduct sonar surveys of the caverns to monitor their dimensions and shape and to estimate pillar thickness between openings throughout the storage operations.

(5) SGRM shall conduct an annual inventory verification study on each cavern.

(6) The SGRM storage project shall be operated in such a manner as to prevent and minimize gas loss or migration.

(7) SGRM shall file with the Commission semi-annual reports (to coincide with the termination of the injection and withdrawal cycles) 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).

(E) Before commencing gas storage operations in each of the caverns, SGRM shall:

- (1) Conduct and file with the Commission a Mechanical Integrity Test for each cavern before initiation of each well/cavern to natural gas storage;
- (2) 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;
- (3) Establish and maintain a subsidence monitoring network over the proposed caverns storage area; and,
- (4) Assemble, test and maintain an emergency shutdown system.

(F) SGRM must comply with the environmental conditions set forth in the appendix to this order. SGRM shall notify the Commission's environmental staff by telephone and/or facsimile of any environmental non-compliance identified by other federal, state, or local agencies on the same day that such agency notifies SGRM. SGRM shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(G) SGRM's request to charge market-based rates for firm storage and interruptible hub and wheeling services is approved, consistent with the discussion in the body of this order. This authorization is subject to reexamination in the event that:

- (a) SGRM expands its storage capacity beyond the amount authorized in this proceeding;
- (b) an affiliate acquires an interest in another storage field in the relevant geographic market area;
- (c) an affiliate links storage facilities to SGRM; or
- (d) SGRM or an affiliate acquires an interest in or is acquired by an interstate pipeline in SGRM's market.

SGRM or an affiliate shall notify the Commission if any of the above conditions occur within 10 days of acquiring such knowledge.

(H) SGRM's request for waivers of the Commission's regulations is granted, as discussed in the body of this order.

(I) SGRM shall submit actual tariff sheets reflecting the revisions required in the October 2002 Order and the addition of the Florida Gas/Transco lateral pipeline service no less than 30 days or more than 60 days prior to the commencement of interstate service.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

## APPENDIX

As recommended in the EA, this authorization includes the following conditions:

1. SGRM 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 environmental assessment (EA), unless modified by this Order. SGRM must:
  - 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 this Order; and
  - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation and activities associated with abandonment of facilities.
3. **Prior to any construction**, SGRM 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 location 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**, SGRM 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 the 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.
  
5. SGRM 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 must be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of the OEP **before construction in or near that area**.

This requirement does not apply to route variations required herein or extra workspace allowed by the Upland Erosion Control, Revegetation, and Maintenance Plan, minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resource 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 this certificate and before construction begins**, SGRM shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how SGRM would implement the mitigation measures required by this Order. SGRM must file revisions to the plan as schedules change. The plan shall identify:
- a. how SGRM would incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
  - b. the number of environmental inspectors assigned per spread, and how the company would ensure that sufficient personnel are available to implement the environmental mitigation;
  - c. company personnel, including environmental inspectors and contractors, who would receive copies of the appropriate material;
  - d. what training and instructions SGRM would give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change), with the opportunity for OEP staff to participate in the training session(s);
  - e. the company personnel (if known) and specific portion of SGRM's organization having responsibility for compliance;
  - f. the procedures (including use of contract penalties) SGRM would follow if noncompliance occurs; and
  - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - i. the completion of all required surveys and reports;
    - ii. the mitigation training of onsite personnel;
    - iii. the start of construction; and
    - iv. the start and completion of restoration.
7. SGRM shall employ at least one environmental inspector. The environmental inspector shall be:
- a. responsible for monitoring and ensuring compliance with all mitigative 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 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
  - e. responsible for maintaining status reports.
8. SGRM shall file updated status reports prepared by the head environmental inspector with the Secretary on a **biweekly** basis **until all construction and restoration activities are complete**. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
  - a. the current construction status of the project spread, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
  - b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector(s) during the reporting period both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies;
  - c. corrective actions implemented in response to all instances of noncompliance, and their cost;
  - d. the effectiveness of all corrective actions implemented;
  - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this Order, and the measures taken to satisfy their concerns; and
  - f. copies of any correspondence received by SGRM from other federal, state or local permitting agencies concerning instances of noncompliance, and SGRM's response.
9. SGRM 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, SGRM 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 SGRM 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. SGRM shall prepare a revised horizontal directional drilling (HDD) crossing plan for HDD 1 at about MP 2.0. The plan shall move the exit point out of wetland W01GR015 into the open area to the east. A site-specific plan that includes scaled drawings identifying all areas that would be disturbed by construction shall be filed with the Secretary for review and written approval by the Director of OEP.
12. SGRM shall not begin construction activities **until**:
  - a. the staff receives comments from the U.S Fish and Wildlife Service (FWS) regarding the proposed action;
  - b. the staff completes formal consultation with the FWS, if required; and
  - c. SGRM has received written notification from the Director of OEP that construction or use of mitigation may begin.
13. SGRM shall defer implementation of any treatment plans/measures (including archaeological data recovery), construction of facilities and use of all staging, storage or temporary work areas and new or to-be-improved access roads

**until:**

- a. SGRM files with the Secretary cultural resources survey and evaluation reports, any necessary treatment plans and the Mississippi and Alabama State Historic Preservation Officers' comments on the reports and plans; and
- b. The Director of OEP reviews and approves all cultural resources survey reports and plans and notifies SGRM in writing that treatment plans/measures may be implemented and/or construction may proceed.

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

14. SGRM shall submit, prior to construction, a drilling noise analysis, mitigation and compliance plan for review and approval by the Director of OEP. This plan shall demonstrate that noise due to construction activities at the Gas Handling Facility and brine disposal well and HDD drilling operations are below 55 dBA Ldn at the nearest noise sensitive areas (NSAs) and specify all noise mitigation equipment necessary to reduce noise below 55 dBA Ldn. SGRM shall detail the method by which it would ensure compliance, and where ambient noise surveys indicate that noise attributable to drilling exceeds 55 dBA Ldn, SGRM shall:
  - a. immediately stop drilling and mitigate the noise at the affected NSAs to reduce the noise levels at those NSAs to 55 dBA Ldn or below, or
  - b. offer temporary housing until Ldn levels at the NSAs are 55 dBA or below.