

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. CP02-229-003

ORDER GRANTING REHEARING IN PART

(Issued June 8, 2007)

1. In an order issued January 24, 2007 (January 2007 Order),¹ the Commission approved a request by SG Resources Mississippi, L.L.C. (SGRM) to amend its certificate of public convenience and necessity issued October 22, 2002 (October 2002 Order)² to increase the working gas capacity of each of the two natural gas storage caverns authorized in the October 2002 Order and to develop a third storage cavern at SGRM's Southern Pines Energy Center (Southern Pines) in Greene County, Mississippi. The January 2007 Order also authorized SGRM to construct a 26-mile-long bidirectional pipeline that will connect Southern Pines with the systems of Florida Gas Transmission Company (Florida Gas) and Transcontinental Gas Pipe Line Corporation (Transco). As pertinent here, Environmental Condition 14 of the January 2007 Order imposes limits on the level of noise that can occur during construction of the authorized facilities.

2. SGRM filed a timely request for rehearing, urging the Commission either to eliminate Environmental Condition 14 altogether, or to clarify the condition. For the reasons set forth below, we are granting, in part, SGRM's request for rehearing by modifying Environmental Condition 14 to require SGRM to make all reasonable efforts to meet the noise limitation.

Background

3. In the October 2002 Order, the Commission authorized SGRM to construct and operate the Southern Pines storage facility in Greene County, Mississippi, finding that the project would serve the public interest by furthering the development of needed natural gas infrastructure. The Commission authorized SGRM to construct two underground salt

¹ *SG Resources Mississippi, L.L.C.*, 118 FERC ¶ 61,048 (2007).

² *SG Resources Mississippi, L.L.C.*, 101 FERC ¶ 61,029 (2002).

dome caverns, 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 the Destin Pipeline Company, L.L.C. interstate pipeline system. The October 2002 Order required SGRM to adopt measures assuring that noise from operation of the gas handling facility will not exceed a day-night sound level (Ldn) of 55 decibels on the A-weighted scale (dBA) at nearby noise sensitive areas (NSAs). The facilities authorized in 2002 are currently under construction.

4. In July 2006, SGRM filed an application in July 2006 to double its authorized storage capacity from 12 Bcf to 24 Bcf and to construct a dual, bi-directional pipeline to connect Southern Pines with Florida Gas and Transco. Specifically, it requested authorization to increase the working gas capacity of each of the two authorized storage caverns from 6 Bcf to 8 Bcf, develop a third storage cavern with an additional 8 Bcf working gas capacity, construct two additional brine disposal wells, and construct a 26-mile-long lateral from the Southern Pines storage facilities to interconnections with Florida Gas and Transco. The Commission found in the January 2007 Order that the proposed expansion of the storage facilities was required by the public convenience and necessity and authorized the project, subject to environmental conditions.

5. Environmental Condition 14 to the January 2007 Order requires SGRM to submit a plan to the Commission ensuring that noise caused by construction activities at the gas handling facility, brine disposal wells, and pipeline horizontal directional drill (HDD) locations will be below 55 dBA Ldn at the nearest noise sensitive areas. The condition requires SGRM to cease any drilling and mitigate noise levels that exceed that standard at noise sensitive areas (NSAs) or to offer temporary housing until levels are at or below 55 dBA.

SGRM's Rehearing Request

6. SGRM contends that the noise limitation condition in the January 2007 Order's Environmental Condition 14 is inappropriately broad and more restrictive than the noise limitation condition imposed in the October 2002 Order. The October 2002 Order, avers SGRM, imposes a limitation only on the noise level resulting from operation of the gas handling facility at Southern Pines. The January 2007 Order, on the other hand, not only imposes a limit on noise that occurs during construction, in addition to operation, of the expansion capacity and facilities, but also seeks to limit the noise permissible during construction of the previously authorized facilities. The new noise restrictions, SGRM states, are also more demanding than those the Commission has placed on other recently certificated gas storage projects, in particular, the Mississippi Hub project approved in

February 2007. SGRM contends that the Commission has not justified the new construction noise restrictions at Southern Pines nor explained why these restrictions should apply to Southern Pines, but not to other projects.

7. SGRM also objects to Environmental Condition 14's requirement that SGRM stop drilling immediately any time construction noise at NSAs exceeds a level of 55 dBA Ldn. SGRM asserts that the Commission erred in establishing the 55 dBA noise level as a requirement that must be met under all circumstances. SGRM states that in its recent modification of the blanket certificate rules, the Commission addressed the issue of construction noise and established, as a goal, rather than as a requirement, that perceived noise from drilling be kept at the 55 dBA level.³ SGRM contends that the Blanket Certificate revisions, unlike the January 2007 Order, recognized that suspending drilling increases the risk that an HDD may fail and explained that the Commission "does not necessarily expect an ongoing HDD to be suspended at night."⁴ SGRM asserts that the requirement that it stop drilling immediately if the standard is exceeded is unreasonable because it imposes a requirement far more demanding than the requirements applicable to construction activities conducted under a blanket certificate. SGRM also argues that any construction noise restriction should not apply at all times construction occurs, but should be limited to nighttime construction.

Commission Response

8. The ambient sound level of a region is defined by the total noise generated within the specific environment, and is usually comprised of natural and artificial sounds. The United States Environmental Protection Agency (EPA) has determined that noise levels in an area should not exceed 55 dBA Ldn. This is the level that the EPA has found protects the public from interference with indoor and outdoor activities. The Commission's regulations have long required that the noise attributable to the operation of any new compressor station or modifications to an existing station not exceed 55 dBA Ldn at any preexisting NSA.⁵ The Commission applied this standard in the October 2002 Order to the operation of the compressors and other facilities to be installed as part of the Southern Pines Project.

³ See *Revisions to the Blanket Certificate Regulations and Clarification Regarding Rates*, Order No. 686, FERC Stats. & Regs. ¶ 31,231 at P 59 (2006) (Blanket Certificate Revisions).

⁴ *Id.* at P 62.

⁵ 18 C.F.R. § 380.12(k)(4)(v)(A) (2006).

9. The Commission has been reviewing its approach to environmental noise as it affects energy projects within the Commission's jurisdiction since issuance of the October 2002 Order, and has determined that the quality of the environment can be affected by noise during construction, as well as during operation, of natural gas facilities. The magnitude of the noise impact depends on the type of construction activity and equipment noise levels, and the distance between the noise sources and the receiver. Although these impacts are temporary in nature, the Commission recognizes that they can be potentially significant.

10. Contrary to SGRM's suggestion, the Commission has not singled out SGRM for disparate treatment. Impacts from construction noise, like other environmental impacts, are specific to the area around the site of each particular gas project. On a case by case basis, the Commission assesses the potential impact from noise on each project area and issues conditions it finds appropriate to mitigate the effect of noise on the area in the vicinity of the project. Within the last two years, the Commission has applied construction noise limitations very similar to the noise condition in this proceeding where the Commission has determined that the noise level from construction activity will exceed the 55 dBA standard.⁶ In the recent *Mississippi Hub* proceeding referred to by SGRM, the Commission determined that noise from drilling operations would result in a temporary and intermittent noise level above the 55 dBA level. In that case, however, the Commission did not adopt a construction noise condition because the applicant had voluntarily undertaken a plan that committed it to use a temporary sound barrier to reduce noise levels, or as an alternative, to offer temporary housing or other compensation to the landowner affected by the noise.⁷ In other circumstances, where the Commission determines that construction noise will not have a significant impact because, for example, NSAs are not located sufficiently near the source of the noise to create a problem, topographic features will block the noise, or existing high ambient noise will mask the construction noise, the Commission may not find it necessary to impose specific construction noise limitations.

11. Consistent with its continuing review of the construction noise issue, the Commission, as part of the recent revisions to its blanket certificate regulations, established a goal that perceived noise from nighttime drilling activities should be kept at or below 55 dBA. The Commission explained that reaching the goal should not be

⁶ See, e.g., *Texas Eastern Transmission, LP*, 114 FERC ¶ 61,185 (2006); *Natural Gas Pipeline Company of America*, 114 FERC ¶ 61,061 (2006); and *Dominion Transmission, Inc.*, 115 FERC ¶ 61,337 (2006).

⁷ *Mississippi Hub, LLC*, 118 FERC ¶ 61,099 (2007).

achieved at the expense of adding to a project's risk, such as increasing the chance for failure of an HDD, but did state that it expects project sponsors to explore mitigation measures such as erecting sound barriers.⁸

12. Nevertheless, on further reflection, we find that Environmental Condition 14 may be modified without any undue risk to the environment. We are persuaded that during construction it may not be practical, or perhaps even possible, for SGRM to maintain the 55 dBA Ldn standard at all times. In particular, as we noted in the Blanket Certificate revisions, HDDs have a greater possibility of failure if they are interrupted. We have carefully reviewed EPA noise studies and the current practices of other federal and state agencies to determine what level of noise increase could have a significant impact on the public. The consensus is that a doubling of perceived sound may be significant. A 10 dBA increase in noise is a doubling of perceived noise, so that 65 dBA, for example, would be perceived as twice as loud as 55 dBA. We believe that limiting the temporary noise increase to 10 dBA or less will protect the public during construction activities.

13. Therefore, instead of requiring SGRM to keep its construction noise below 55 dBA Ldn at all times, we will modify Environmental Condition 14 to require SGRM to assess the ambient noise and the estimated noise impact at NSAs, describe all noise mitigation measures SGRM will employ during drilling activity to reduce noise levels at the NSAs, and make all reasonable efforts to restrict noise increases from drilling to no more than 10 dBA above the ambient level if the resulting impact is above 55dBA Ldn. The noise assessment and compliance activities will be subject to review and approval by the Director of the Commission's Office of Energy Projects.⁹

14. We disagree, however, with SGRM's contention that the Commission erred in applying new construction noise conditions to facilities already authorized in the October 2002 Order without those conditions. The October 2002 Order required SGRM to complete construction and place the Southern Pines facility into service within three years, that is, by October 22, 2005. On December 1, 2004, SGRM requested an extension of time to complete the project, and on December 15, 2004, the completion date was extended by the Commission to July 31, 2007. Commission policies are not static, and the Commission's policy regarding project noise has changed in the four and one-half years since the Commission approved the Southern Pines project to include consideration of noise caused by construction. We do not find it unreasonable to require SGRM to comply with the current Commission approach. The Commission did not delay

⁸ We note, however, that these facilities would not be eligible for construction under our blanket certificate regulations.

⁹ At SGRM's request, SGRM has already been granted clearance to construct its HDDs and brine disposal wells under the existing Environmental Condition 14.

construction of this project. It was SGRM that requested the lengthy extension of the Commission's original project completion date. SGRM should be held to the same construction standards as other firms constructing similar projects during the same time frame. Moreover, in this proceeding we are considering an amendment to the original project proposed by SGRM. Because the facilities and the construction schedules of the originally approved facilities and the facilities now being approved in this amendment are highly integrated, it is practical as well as equitable to require the facilities to be constructed pursuant to the same requirements.

The Commission orders:

The Commission's January 2007 Order is modified as discussed above, and Environmental Condition 14 is modified to read as follows:

SGRM shall submit, prior to construction, a drilling noise analysis and a mitigation and compliance plan for review and approval by the Director of OEP. This plan shall assess the ambient noise and the estimated noise impact at all noise sensitive areas (NSAs), along with all noise mitigation measures SGRM would implement during construction activities to reduce noise at the NSAs. During construction activities SGRM must monitor noise and make all reasonable efforts to restrict noise increases from construction to no more than 10 dBA above ambient levels if the resulting impact is above 55 dBA Ldn.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.