

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

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

New Home Storage, LLC

Docket No. CP08-407-000

ORDER GRANTING EXEMPTION FOR  
TEMPORARY ACTS AND OPERATIONS

(Issued August 4, 2008)

1. On May 22, 2008, as supplemented on July 3, 2008, New Home Storage, LLC (NHS) filed a petition pursuant to section 7(c)(1)(B) of the Natural Gas Act (NGA)<sup>1</sup> and Rule 207(a)(5)<sup>2</sup> for an exemption from the Commission's certificate requirements to drill a stratigraphic test well to determine the feasibility of developing a natural gas storage facility at the New Home Salt Dome in Smith County, Mississippi. NHS states that the testing is necessary to determine the technical, environmental, and economic feasibility of developing an underground natural gas storage facility. Subject to the conditions discussed below, we find that it is in the public interest to grant the requested exemption.

---

<sup>1</sup> 15 U.S.C. § 717f(c)(1)(B) (2000) (permitting the Commission to exempt "temporary acts or operations for which the issuance of a certificate will not be required in the public interest.").

<sup>2</sup> 18 C.F.R. § 385.207(a)(5) (2008).

## **Background and Proposal**

2. NHS, a subsidiary of Bean Industries, Inc., is a limited liability company, organized and existing under the laws of the State of Mississippi. NHS is not a “natural gas company” within the meaning of section 2(6) of the NGA<sup>3</sup> and holds no section 7 certificates.

3. NHS seeks an exemption from the NGA section 7(c) certificate requirements to drill one stratigraphic test well in Smith County, Mississippi.<sup>4</sup> It states that the testing is necessary to confirm the feasibility of rock mechanics for storage development in the New Home Salt Dome.

4. NHS states that it holds sufficient land rights, through lease, in Smith County, Mississippi to begin development of a natural gas storage facility. Its intention is to develop a storage facility at that site, which eventually would be subject to the Commission’s jurisdiction under the NGA. NHS states that it has already received a permit from the Mississippi State Oil and Gas Board to drill the stratigraphic test well. It states that it will bear the full costs of the proposed testing activities and that no service will be rendered under this petition.

5. NHS states that any drilling activity will conform to all applicable federal, state and local law. Further, it states that it will also conform to the requirements of section 157.206(b) of the Commission’s regulations.

6. NHS does not believe a section 7(b) abandonment authorization is needed to terminate any exempt temporary acts and operations as described herein. In the event that any abandonment authorization is required, NHS asks that the Commission include pre-granted abandonment authorization with the grant of the exemption under NGA section 7(c)(1)(B).<sup>5</sup>

7. If the outcome of the test well drilling suggests that the proposed location is not desirable, NHS will plug and abandon the well in accordance with the rules and regulations of the State of Mississippi, and restore the areas disturbed by drilling activities to their preexisting condition. If it is determined that it is feasible to fully

---

<sup>3</sup> 15 U.S.C. § 717a(6) (2000).

<sup>4</sup> NHS’s application indicates that it proposes to drill three wells. However, in its July 3, 2008 response to a Commission data request, NHS clarified that it intends to drill only one stratigraphic test well to determine salt characteristics.

<sup>5</sup> The requested pre-granted abandonment authority is not necessary since no jurisdictional facility or service will be constructed or provided pursuant to this order.

develop the project, NHS states that it will seek section 7 certificate authorization, as well as all other necessary federal, state, and local permits.

### **Notice and Intervention**

Notice of NHS's application was published in the *Federal Register* on June 4, 2008 (73 Fed. Reg. 31,853). Leaf River Energy Center, LLC filed a timely, unopposed motion to intervene.<sup>6</sup>

### **Discussion**

8. NHS's proposed activities are a necessary preliminary phase in the development and construction of a natural gas storage facility. Depending on the outcome of tests, the underground natural gas storage facility at the New Home Salt Dome may be developed for the storage of natural gas in interstate commerce. Thus, we consider the proposed activities to be a necessary phase in the construction of a jurisdictional storage facility. As such, the proposed activities are subject to the certificate requirements of section 7(c) of the NGA. However, under section 7(c)(1)(B), we may exempt certain temporary acts or operations from the certificate requirements that would otherwise apply, if we find that such an exemption is in the public interest. Previously, we have granted such exemptions to allow operations of a temporary nature that have no effects on the ratepayer, on the quality of service provided by a natural gas company, or on the public as a whole.<sup>7</sup>

9. NHS's proposed exploratory activities are temporary and will be conducted to determine the feasibility of developing a natural gas storage facility. No jurisdictional service will be rendered from the wells without Commission authorization. The certificate authorization exemption will be used solely for discrete exploratory activities to obtain geological and engineering data.

10. Under the circumstances described above and in NHS's petition, we find that the proposed activities constitute temporary acts or operations within the meaning of section 7(c)(1)(B). We also find that it is in the public interest to exempt the proposed activities from the certificate requirements of section 7(c) of the NGA. Further, the proposed activities are necessary in order for NHS to make an informed business and engineering decision regarding the feasibility of developing a storage facility, which would allow it to better serve the growing gas demands in the region.

---

<sup>6</sup>Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008).

<sup>7</sup> See, e.g., *Arlington Storage Co., LLC*, 122 FERC ¶ 61,152 (2008) (Arlington) *Chestnut Ridge Storage, LLC*, 121 FERC ¶ 61,022 (2007); *Leaf River Energy Center, LLC*, 120 FERC ¶ 61,168 (2007) (Leaf River).

11. For these reasons, we will exempt NHS from the certificate requirements of NGA section 7 as to the activities specified herein, subject to the conditions set forth below. The certificate exemption granted here is without prejudice to any decision we may make regarding any application NHS may file for authorization for a storage project at the site or related pipeline construction.

12. As proposed in its petition and consistent with Commission practice,<sup>8</sup> we will condition NHS's authorization on its performing all activities in compliance with the same environmental conditions that apply to natural gas companies' activities under their Part 157 blanket certificates, as set forth in section 157.206(b) of the Commission's regulations.<sup>9</sup> NHS's proposed testing activities are similar to activities permitted under a Part 157 blanket certificate and section 157.206(b) sets forth standard conditions to protect the environment when activities are undertaken under a Part 157 blanket certificate. Requiring NHS to comply with the provisions of section 157.206(b) will ensure the same level of protection in this case.

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

The Commission orders:

(A) Upon the terms and conditions of this order pursuant to NGA section 7(c)(1)(B), NHS is granted an exemption from the certificate requirements of section 7 of the NGA to undertake the activities specified in this order and in NHS's petition. This exemption is effective upon issuance of this order. The authorized drilling and testing activities shall be completed within one year of the date of this order.

(B) NHS shall notify the Commission within 10 days of commencing activities under the exemption granted in Ordering Paragraph (A). NHS shall allow inspection by Commission staff at any time.

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

---

<sup>8</sup> See, e.g., *Tenn. Gas Pipeline Co.*, 123 FERC ¶ 61,076, at P 11 (2008); *Arlington*, 122 FERC ¶ 61,152 at P 14; and *Leaf River*, 120 FERC ¶ 61,168 at P 13.

<sup>9</sup> 18 C.F.R. § 157.206(b) (2008).

(D) NHS shall file a petition for exemption from certificate authority to drill any additional test wells including a water supply test well and brine disposal test well.

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

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.