

128 FERC ¶ 61,210
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Chestnut Ridge Storage LLC

Docket No. CP08-36-000

ORDER ISSUING CERTIFICATES

(Issued August 31, 2009)

1. On December 14, 2007, Chestnut Ridge Storage (Chestnut Ridge) filed an application under section 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity authorizing the construction and operation of its proposed Junction Natural Gas Storage Project, a natural gas storage facility to be located in Fayette County, Pennsylvania, and Monongalia and Preston Counties, West Virginia. Chestnut Ridge also requests: (1) a blanket construction certificate under Part 157, Subpart F, of the Commission's regulations; (2) a blanket transportation certificate to provide open-access firm and interruptible services under Part 284, Subpart G, of the Commission's regulations; (3) authority to charge market-based rates for its proposed services; and (4) the waiver of certain Commission filing, accounting, and reporting requirements.

2. As discussed and conditioned below, this order grants Chestnut Ridge authorization for its Junction Natural Gas Storage Project.

I. Background and Proposal

3. Chestnut Ridge is a new company with no existing jurisdictional or non-jurisdictional operations in the natural gas pipeline or storage industry.¹ Chestnut Ridge is a joint venture owned by eCORP, LLC, Tenaska West Summit, LLC, and TPF West

¹ Previously, the Commission granted Chestnut Ridge's request for an exemption from our certificate requirements in order to drill two stratigraphic test wells and perform certain other activities to determine the feasibility of developing a new storage facility. 121 FERC ¶ 61,022 (2007).

Summit, LLC; eCORP, LLC is to serve as the project manager and operate the Junction Natural Gas Storage Project.

4. Chestnut Ridge contends that the location of the project, in conjunction with infrastructure development in the region, will enable it to access supplies from the Mid-Continent, Rocky Mountain, and Appalachian Basin production areas, and make these supplies available as needed to markets in the Northeast and Mid-Atlantic regions, which Chestnut Ridge expects will mitigate gas price volatility and protect customers from the exercise of market power.

5. Chestnut Ridge held an open season between September 17 and October 10, 2007, and received expressions of interest from 22 prospective shippers for firm storage services, for terms ranging from one to 15 years, for a total of more than 75 Bcf. Chestnut Ridge claims that as a result of its open season, as well as subsequent expressions of interest, it now has potential customers for over 300 percent of its proposed facility's working gas capacity. Chestnut Ridge avows it will award capacity on a nondiscriminatory basis. To date, it has not entered into precedent agreements. However, Chestnut Ridge asserts that the "expressions of interest demonstrate that there is a substantial market demand" for the proposed project.²

Facilities

6. The proposed reservoir and buffer zone will occupy approximately 10,847 acres, primarily in Fayette County in Pennsylvania, with portions extending into Monongalia and Preston Counties, West Virginia. Chestnut Ridge plans to convert the West Summit Field,³ an existing natural gas production field, into a storage reservoir capable of providing high-deliverability, multicycle storage services. Chestnut Ridge expects to operate the storage facility at a maximum wellhead storage pressure of 3,500 psig, a pressure consistent with the discovery wellhead pressures observed in the production wells in the West Summit Field.

² Chestnut Ridge's *Application* at 27 (Dec. 14, 2007).

³ The West Summit Field consists of at least two major and five minor reservoir compartments in the Huntersville Chert and Oriskany geologic formations. Chestnut Ridge describes the vertical extent of the proposed certificated boundaries as the interval between points 500 feet above the Huntersville Chert and 500 feet below the bottom of the Oriskany. Chestnut Ridge believes these limits will provide adequate protection for gas storage operations, with the Onondaga Limestone and Marcellus Shale serving as part of the caprock or storage reservoir seal.

7. The proposed facilities will include: up to 26 storage injection/withdrawal wells; up to 11 observation wells, which may be converted from existing producing wells; a compressor station; a gathering pipeline system; and two lateral lines. Most of these facilities will be on a 21-acre site approximately 12.5 miles southeast of Uniontown, Pennsylvania, and will include: up to four 6,000 horsepower electric-powered compressors and ancillary support equipment; a substation to provide electric power to the compressor station; a switch station at the interconnect with an electric transmission line;⁴ a 4,900-foot-long, 50-foot-wide access road from Pennsylvania Route 857 to the compressor station; and dehydration equipment and other associated infrastructure necessary to support the direction and routing of natural gas to and from the injection and withdrawal wells.

8. The two proposed laterals to bring gas to and from the compressor site include: (1) a 24-inch diameter, 1,900-foot long pipeline (the Columbia Lateral) interconnecting with Columbia Gas Transmission Corporation (Columbia); and (2) a 24-inch diameter, 21.5-mile long lateral (the Uniontown Lateral) interconnecting with Texas Eastern Transmission, LP (Texas Eastern). Chestnut Ridge notes that its customers will also have access to Dominion Transmission Inc. (Dominion Transmission) via an existing interconnection with Texas Eastern.

Services

9. Chestnut Ridge proposes to offer open-access firm and interruptible storage services, firm and interruptible parking and loan services, and interruptible wheeling services. Chestnut Ridge claims it lacks market power over the provision of such services, and therefore seeks to offer these proposed services at market-based rates.⁵ In view of its intent to charge market-based rates, Chestnut Ridge requests the Commission waive certain filing, accounting, and reporting requirements, which Chestnut Ridge contends are relevant to cost-based-rate storage providers, but not to market-based-rate storage providers.

10. Chestnut Ridge stresses that it will not use its proposed laterals to provide transportation service on a stand-alone basis; rather, it describes its proposed lateral lines as providing storage services, given that the laterals will be employed exclusively to move gas under a storage or wheeling rate schedule between the underground reservoir and interconnected third-party transportation pipelines.

⁴ To bring electric power to its storage facility's site, Chestnut Ridge plans to construct a 138-kV, 1.5-mile long transmission line to an interconnection with an existing Allegheny Power transmission line in Monongalia County, West Virginia.

⁵ Exhibit I of Chestnut Ridge's *Application* contains a market power analysis in support of its request for market-based rates.

II. Notice, Interventions, Protests, and Request for Stay

11. Public notice of Chestnut Ridge's application was published in the *Federal Register* on January 8, 2008.⁶ Timely, unopposed motions to intervene were filed by Caledonia Energy Partners; Columbia; Dominion Transmission; Greer Industries, Inc.; Mary Smith Nelson, *et al.* (Smiths);⁷ Steckman Ridge, LP; and Lane C. Wilson.⁸

12. The Smiths and Lane C. Wilson protest the proposed project. Chestnut Ridge submitted an answer to the protests, and the Smiths answered in turn. Although the Commission's Rules of Practice and Procedure do not permit answers to protests, or answers to answers, the Commission finds good cause to waive Rule 213(a) to admit these pleadings, as they provide information that assists in the decision-making process.⁹

13. The Smiths filed a motion for stay, requesting the Commission refrain from acting on Chestnut Ridge's application until: (1) the hydrocarbon reserves on land affected by proposed project are fully depleted, or (2) landowners agree to allow the construction of the proposed storage facility. Chestnut Ridge submitted a reply opposing any stay, to which the Smiths responded. The issues raised by the Smiths in support of a stay reiterate issues raised in their protest. We consider these issues below, and find the appropriate forum for addressing these issues is not in this proceeding, but in a court of law. Accordingly, we deny the request for stay.¹⁰

⁶ 73 FR 1332 (Jan. 8, 2008).

⁷ This group consists of property owners in the proposed project area and includes: Mary Smith Nelson, Elizabeth Smith Arthur, George E. Davis, S. Benjamin Bryant, and Richard Kemp, Trustees of the Trust under the Will and Estate of Claude B. Smith, deceased; Elizabeth Ann Smith, Rachel Dickhut, Thomas W. Smith, and Nancy McGregor Smith.

⁸ 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).

⁹ 18 C.F.R. § 385.213(a)(2) (2008).

¹⁰ We note that our decision to deny the Smith's motion will not result in irreparable harm that might merit a stay, since the authorizations issued herein will not preclude affected landowners from subsequently seeking in a separate forum any damages arising from a breach of contract or compensation for the loss of royalties due to minerals remaining in place. *See, e.g., Energy Transfer Partners, L.P.*, 124 FERC ¶ 61,149, at P 18 (2008).

III. Discussion

14. Since Chestnut Ridge will use the proposed storage facility to provide natural gas services in interstate commerce subject to the jurisdiction of the Commission, the facility's construction and operation are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

A. The Certificate Policy Statement

15. On September 15, 1999, the Commission issued a Certificate Policy Statement providing guidance on how proposals to construct new facilities or to expand existing facilities will be evaluated.¹¹ Specifically, the Certificate Policy Statement explains that the Commission, in deciding whether to authorize the construction of major new natural gas facilities, balances public benefits against 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.

16. Under this policy, the threshold requirement for a company proposing a project is that it must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the company has made efforts to eliminate or minimize any adverse effects the project might have on its existing customers, on other gas companies in the market area and their captive customers, or on landowners and communities affected by the proposed project. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we will evaluate the proposal 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 we proceed to complete the environmental analysis where we consider other interests.

17. In this case there is no issue of subsidization by existing customers, since Chestnut Ridge, as a new entrant in the natural gas storage market, has no existing customers. Thus, we find that Chestnut Ridge has satisfied the threshold requirement of the Certificate Policy Statement. We also find that the proposed project should not have any adverse impact on existing storage providers or their customers, since as discussed below,

¹¹*Certification of New Interstate Natural Gas Pipeline Facilities* (Certificate Policy Statement), 88 FERC ¶ 61,227 (1999), *clarification*, 90 FERC ¶ 61,128 and 92 FERC ¶ 61,094 (2000).

the facility will be located in a competitive market and serve a region that is experiencing rapid growth in natural gas production and use. A new storage facility, by adding to the storage options available to pipelines and their customers, should enhance competition in the region. No storage company in the proposed facility's market area has protested the application. However, protests were filed by a number of property owners, and we address their objections to the project below.

Protests

Lane C. Wilson

18. Lane C. Wilson claims Chestnut Ridge has: not negotiated in good faith for property rights necessary for the proposed project; refused to specify the locations of planned wells and pipelines; sent survey crews to set stakes without first providing notice and obtaining permission to come onto property owners' land; failed to adequately consider environmentally preferable alternative drilling sites and pipeline routes; and neglected to consider the public interest in converting the production field to a CO₂ sequestration site rather than a gas storage facility.

19. Chestnut Ridge responds by avowing that it will: obtain all necessary authorizations and permits prior to commencing construction; consider adopting environmentally preferable modifications to well locations and pipeline alignments; and impose only temporary construction-related impacts on the Lane C. Wilson property, as no wells, pipelines, or permanent rights-of-way are planned for that property. Chestnut Ridge dismisses the potential use of the area at issue for a CO₂ sequestration site as speculative, observing that "[n]o one has seriously or even casually proposed such a project."¹²

20. In response to Lane C. Wilson's complaint, we find no indication in the record that Chestnut Ridge failed to meet the landowner notification requirements set forth in section 157.6(d) of our regulations.¹³ While the Commission expects companies under its jurisdiction to respect the rights of property owners along the paths of their projects (by, e.g., obtaining requisite permission before entering on property along proposed routes) and to negotiate in good faith for any necessary property rights, we do not play a direct role in such negotiations. With respect to Lane C. Wilson's allegation of trespass against Chestnut Ridge's survey crews, a court would be an appropriate forum for such a claim.

¹² Chestnut Ridge's *Answer to Lane C. Wilson* at 7 (Feb. 6, 2008).

¹³ 18 C.F.R. § 157.6(d) (2008).

21. Lane C. Wilson's concerns regarding the proposed project's potential environmental impacts, and the means to mitigate such impacts, are addressed in our Environmental Assessment (EA) and in the environmental section below. The specific facilities which were to have been on Lane C. Wilson's property were subsequently dropped from the project by Chestnut Ridge. However, to afford any other affected landowners a rapid and reliable means to resolve concerns regarding the construction and operation of the storage facility, we will require Chestnut Ridge to develop and implement an environmental complaint resolution procedure, as described in Environmental Condition No. 9.

22. In our consideration of Chestnut Ridge's proposal, we have not assessed the viability of employing the proposed storage reservoir as a site to sequester CO₂ because there is no suggestion in the record that the proposed project site or its environs are under consideration as a future location for such a facility. Our review of Chestnut Ridge's application affirms (1) there is a need for the proposed new storage services, and (2) there are no environmentally preferable alternatives able to offer services equivalent to those that the Junction Natural Gas Storage Project will make available. In balancing the benefit of building a new gas storage facility, for which there is a demonstrated need, against the alternative of rejecting Chestnut Ridge's application in favor of the letting the site sit idle based on speculation that the site might later be developed as a CO₂ sequestration project, we find the public interest favors making use of the site to store natural gas.

The Smiths

23. In 1987, the Smiths entered into an oil and gas lease with Oil and Gas Management, Inc. (OGM), permitting OGM to extract gas in exchange for payments representing, inter alia, a portion of the value of the gas produced.¹⁴ In 1993, the Smiths and OGM executed a gas storage addendum, permitting OGM "the exclusive right to employ any depleted oil or gas stratum underlying the Lands for the storage of gas."¹⁵ In 2007, Chestnut Ridge acquired from OGM all rights under the gas storage addendum in addition to certain rights under the oil and gas lease. Pointing to the provision of the gas storage addendum stating that gas reserves must be depleted before the underground formation can be used as a storage reservoir, the Smiths contend that because wells on

¹⁴ Property owners entered into the oil and gas lease contracts in 1987 with Oil and Gas Management, Inc. Chestnut Ridge is the success-in-interest to a majority of these contracts, and is, therefore, the party responsible for production wells that are currently operating and for making royalty payments to property owners based on these wells' production.

¹⁵ See the Smiths' *Protest*, Exhibit 2, Gas Storage Addendum (Jan 21, 2008).

their property are currently producing gas in marketable quantities – which they expect them to continue to do “for some years to come”¹⁶ – Chestnut Ridge is contractually bound to refrain from developing a storage facility until gas reserves are fully depleted.

24. In response, Chestnut Ridge observes that the Commission has previously authorized gas storage projects that have had potentially adverse effects on landowners’ mineral interests and leasehold agreements,¹⁷ and urges the Commission to do the same here. Chestnut Ridge “acknowledges its duty to negotiate with the Smiths” for compensation for the value of gas remaining in place, and avows “the Smiths will receive the value of the gas remaining in place as if it had actually been produced to economic depletion.”¹⁸ Chestnut Ridge “believes that the issues raised in the Protest will be resolved through negotiations with the Smiths;” however, if an issue remains unresolved, Chestnut Ridge insists that its resolution is “the province of the appropriate court, not this Commission.”¹⁹

25. The parties agree that the production field is not yet depleted, and Chestnut Ridge does not dispute the Smiths’ contention that converting a currently producing field into a storage reservoir would be inconsistent with the provisions of the parties’ gas storage addendum. Thus, in assessing the proposal, we consider the burden that the proposed project would impose on property owners; the Smiths identify this burden as the loss of royalty payments that property owners would realize but for gas being left in place as a part of the development of the proposed storage facility. This burden constitutes economic harm, and as such, can be remedied by Chestnut Ridge paying property owners the equivalent of what they would have received in royalties for gas that could have been produced, but that will instead remain in situ to serve as cushion gas to support the storage facility. The issue of just compensation is a matter for negotiation between property owners and Chestnut Ridge, and if the parties are unable to reach an agreement, compensation will be determined by an appropriate court.²⁰

¹⁶ The Smiths’ *Protest* at 1 (Jan 21, 2008).

¹⁷ *Citing Dominion Transmission, Inc.*, 111 FERC ¶ 61,414 (2005); *Columbia Gas Transmission Corporation*, 113 FERC ¶ 61,118 (2005); and *Wyckoff*, 115 FERC ¶ 61,036 (2006).

¹⁸ Chestnut Ridge’s *Answer to the Smiths’ Protest* at 6-7 (Feb. 5, 2008).

¹⁹ *Id.* at 1 and 4.

²⁰ The Commission plays no role in assessing surface and mineral property values, or in facilitating discussions concerning payments for property rights, or in determining compensation for the transfer of such rights. *See, e.g., Transwestern Pipeline Company*,
(continued...)

26. The question of whether Chestnut Ridge's request to convert a producing field into a storage facility is, as the Smiths' allege, a violation of the gas storage addendum is a matter of contract law and not within the jurisdiction of the Commission. The Smiths may seek to enforce the rights they claim under the gas storage addendum in an appropriate court. In reviewing an application, we take into account all aspects of a proposed project, balancing benefits against burdens; the fact that development of a proposed project may be in conflict with existing agreements among various entities is a consideration, but not necessarily a bar to our approval of the project. Thus, in this case, while we take into account the Smiths' claim that the storage project would deprive them of benefits to which they are contractually entitled, we find, for the reasons discussed below, that on balance the benefits that the new storage facility will provide outweigh the burdens it will impose. To the extent this finding affects rights under pre-existing agreements, parties can seek redress for losses as may be appropriate through negotiations with Chestnut Ridge, in the context of an eminent domain proceeding, or via a claim pursuant to the contract.

Public Convenience and Necessity

27. We expect the development of the Junction Natural Gas Storage Project will impose minimal constraints on landowners' use of their property, and find adverse impacts on landowners and communities should be minimal. As noted, to the extent the project precludes property owners from realizing the value of their mineral rights, or is otherwise detrimental, property owners can seek redress through negotiations with Chestnut Ridge, in the context of an eminent domain proceeding, or via a claim pursuant to their contracts.

28. We believe the Junction Natural Gas Storage Project will enhance the development of an efficient interstate pipeline transportation system by providing high-deliverability storage capacity. Based on the benefits we expect the project will provide, and the lack of any identified significant adverse effects on other pipelines, landowners, or communities, we conclude, consistent with the Certificate Policy Statement and section 7 of the NGA, that the public convenience and necessity requires approval of Chestnut Ridge's Junction Natural Gas Storage Project, subject to the conditions discussed below.

LLC, 122 FERC ¶ 61,165, at P 40 (2008) and *Northwest Pipeline Corporation*, 99 FERC ¶ 61,365, at P 47 (2002).

29. We note that in its March 6, 2008 data response, Chestnut Ridge indicates that production activities will not necessarily cease when construction activities to develop the West Summit Field as a storage facility commence. In response, we emphasize that that once even limited storage operations begin, all native gas remaining in the West Summit Field becomes part of the storage facility and will serve as cushion gas to support the storage operations. Thus, Chestnut Ridge must ensure that production activities anywhere within the certificated boundaries of the storage facility cease as soon as any portion of the storage facility is placed in service or Chestnut Ridge has begun injecting gas into any area.

B. Market-Based Rates

30. Chestnut Ridge proposes to offer open-access firm and interruptible storage services, firm and interruptible parking and loan services, and interruptible wheeling services at market-based rates. Chestnut Ridge supports its proposal with a market power analysis that concludes it will lack market power with respect to the services that it provides.

31. We have approved market-based rates for storage services where applicants have demonstrated, under the criteria in our Alternative Rate Policy Statement,²¹ that they lack significant market power or have adopted conditions that significantly mitigate market power. Our framework for evaluating requests for market-based rates has two principle purposes: (1) to determine whether the applicant can withhold or restrict services, and as a result, increase price by a significant amount for a significant period of time, and (2) to determine whether the applicant can discriminate unduly in the price or the terms and conditions under which service is offered. To find that an applicant cannot withhold or restrict services, significantly increase prices over an extended period, or discriminate unduly, we must find either (1) that there is a lack of market power²² because customers

²¹ *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 denied and dismissed, Burlington Resources Oil & Gas Company v. FERC*, 172 F.3d 918 (D.C. Cir. 1998), *criteria modified, Rate Regulation of Certain Natural Gas Storage Facilities*, FERC Stats. & Regs. ¶ 31,220 (2006) (Order No. 678), *order on clarification and reh'g*, 117 FERC ¶ 61,190 (2006) (Order No. 678-A).

²² The Alternative Rate Policy Statement defines market power as the ability to profitably maintain prices above competitive levels for a significant period of time. 74 FERC ¶ 61,076 at 61,230.

have good alternatives,²³ or (2) that the applicant or the Commission can mitigate the market power with specified conditions. Our analysis of whether an applicant has the ability to exercise market power includes three major steps: (1) definition of the relevant markets; (2) measurement of a firm's market share and market concentration; and (3) evaluation of other relevant factors.

32. In support of its request for market-based rate authority Chestnut Ridge included a market power study based on the criteria set forth in the Alternative Rate Policy Statement.²⁴ Chestnut Ridge's market power analysis for the storage market defines the relevant products and geographic markets, measures market shares and concentrations, and evaluates other factors. The market power study defines the relevant geographic market as consisting of New York and Pennsylvania, and includes firm and interruptible natural gas storage, hub, and wheeling services. The geographic market used in Chestnut Ridge's analysis encompasses 12 companies owning competing natural gas storage facilities with total working gas capacity of 512.77 Bcf, to which the proposed project will add 25 Bcf, or 4.6 percent of the total working gas capacity that will be available in the New York/Pennsylvania market.

33. The market power study demonstrates that numerous alternatives to the proposed services exist, given the number and size of existing storage facilities and interruptible wheeling services in the relevant market. Barriers to entry in the market are low. The market power study concludes that Chestnut Ridge would not possess market power over storage and interruptible wheeling services because: Chestnut Ridge and its affiliates will not own transportation facilities to deliver stored gas directly to end-users; prospective market shares are sufficiently low; sufficient competitive alternatives exist; and barriers to entry in the market area are low, as indicated by recently completed expansions of existing storage facilities, the development of new storage projects, and plans to add further storage capacity.

34. The Commission uses the Herfindahl Hirschman Index (HHI) test to determine market concentration for storage services in a geographic market. The Alternative Rate Policy Statement states that a low HHI – generally less than 1,800 – indicates that sellers cannot exert market power because customers have sufficiently diverse sources of supply

²³A good alternative is an alternative that is available soon enough, has a price that is low enough, and has a quality high enough to permit customers to substitute the alternative for an applicant's service. *Id.* at 61,231.

²⁴ See Chestnut Ridge's *Application*, Exhibit I. Chestnut Ridge's market power study includes an analysis of market-based rates for new storage and interruptible wheeling service.

in the relevant market.²⁵ 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.²⁶

35. Chestnut Ridge utilizes two measures of gas storage capacity in its analysis of market concentration: working gas capacity and peak day deliverability. Chestnut Ridge’s market power analysis shows an HHI for working gas capacity of 2,004, with Chestnut Ridge’s market share being 4.6 percent, and an HHI for peak day deliverability of 1,984, with Chestnut Ridge’s market share being 4.7 percent. These values are higher than the 1,800 level cited in the Alternative Rate Policy Statement, therefore the Commission will consider other factors in determining market power. While the New York/Pennsylvania storage market is considered concentrated based on an HHI analysis, this concentration is the result of a single storage provider, Dominion Transmission. As indicated by the market power study, Chestnut Ridge’s market share is relatively small at 4.6 percent of working gas capacity and 4.7 percent of peak day deliverability.

36. Although the New York/Pennsylvania storage market is concentrated, with Dominion Transmission holding nearly 40 percent of the market share for both working gas capacity and peak day deliverability, in similar cases we have found such a market concentration to be acceptable when, as is the case here with Dominion Transmission, the dominant company’s facilities are regulated and its services are cost-based, thereby alleviating the potential for relatively small applicants to collude to hold prices at a monopoly level.²⁷

37. Chestnut Ridge’s market power study identifies its proposed interruptible wheeling service as a separate product market. Traditionally, in evaluating whether shippers of an applicant seeking market-based rate authority for interruptible wheeling services could obtain the same services from alternative providers, we have used a

²⁵ An HHI is calculated by summing the squares of each storage seller's market share. Alternative Rate Policy Statement, 74 FERC ¶ 61,076, 61,235.

²⁶ *Id.* See also *Steckman*, 123 FERC ¶ 61,248 at P 34 and *Enstor*, 123 FERC ¶ 61,019, at P 31 (2008).

²⁷ See, e.g., *Arlington Storage Service, LLC (Arlington)*, 125 FERC ¶ 61,306, at P 53 (2008); *Central New York Oil & Gas Company, LLC*, 116 FERC ¶ 61,277, at P 33 (2006), citing *Honeoye Storage Corp.*, 91 FERC ¶ 62,165 (2000); *Seneca Lake Storage, Inc. (Seneca)*, 98 FERC ¶ 61,163 (2002); and *Wyckoff*, 105 FERC ¶ 61,027 (2003); *Central New York Oil and Gas Company*, 94 FERC ¶ 61,194 (2001).

matrix, referred to as a “bingo card,” which identifies all possible interconnects for pipelines attached to a hub and indicates whether good alternatives exist.²⁸

38. Chestnut Ridge’s Junction Natural Gas Storage Project will interconnect directly to Dominion Transmission, Texas Eastern, and Columbia, and indirectly to National Fuel Gas Supply Corporation, and Transcontinental Gas Pipe Line Corporation. The bingo card for the proposed project indicates numerous wheeling paths; the pipelines that directly and indirectly connect to the proposed project are also interconnected with each other in various other locations in close proximity to the proposed project site. Such evidence demonstrates that there are numerous alternatives to Chestnut Ridge’s proposed wheeling services; specifically, there are 44 receipt and delivery interconnections between these pipelines that are directly or indirectly interconnected to the proposed project that would be capable of providing competing wheeling services.²⁹

39. We have previously approved market-based rate storage projects in the New York and Pennsylvania area, based on our finding that the new project would not be able to exercise market power due to its small size, anticipated small share of the market, and the existence of other competitors.³⁰ We reach the same finding here for the same reasons, and conclude that Chestnut Ridge will lack market power. Accordingly, we will approve Chestnut Ridge’s request to charge market-based rates for all firm and interruptible storage and parking and loan services and for interruptible wheeling services. However, we clarify that our authorization for Chestnut Ridge to provide interruptible wheeling services at market-based rates is limited to the provision of such services in conjunction with its underlying storage service, i.e., Chestnut Ridge may only provide interruptible wheeling service for gas which will physically or contractually enter its storage facility.

40. If future changes in circumstance significantly affect Chestnut Ridge’s market power status, it must promptly notify the Commission. Thus, our approval of market-based rates is subject to reexamination in the event that: (a) Chestnut Ridge seeks to add

²⁸ See, e.g., *Steckman Ridge, LP*, 123 FERC ¶ 61,248 at P 34; *Black Bayou Storage, LLC*, 123 FERC ¶ 61,277, at P 29 (2008); *Enstor Houston Hub Storage and Transportation, LP*, 123 FERC ¶ 61,019, at P 34 (2008); *PetroLogistics Natural Gas Storage, LLC*, 122 FERC ¶ 61,193, at P 17 (2008); *Golden Triangle Storage, Inc.*, 121 FERC ¶ 61,313, at P 32 (2007); *MoBay Storage Hub, Inc.*, 117 FERC ¶ 61,298, at P 32 (2006); and *BGS Kimball Gas Storage, LLC*, 117 FERC ¶ 61,122, at P 30 (2006).

²⁹ See Chestnut Ridge’s *Application*, Exhibit I, Attachment No. C – Bingo Card Analysis.

³⁰ See *Central New York Oil & Gas Company, LLC*, 116 FERC ¶ 61,277, at P 33 (2006), *Seneca*, 98 FERC ¶ 61,163 (2002); and *Wyckoff*, 105 FERC ¶ 61,027 (2003).

storage capacity beyond the capacity authorized in this proceeding; (b) an affiliate increases storage capacity; (c) an affiliate links storage facilities to Chestnut Ridge; or (d) Chestnut Ridge, or an affiliate, acquires an interest in, or is acquired by, an interstate pipeline connected to Chestnut Ridge. Since these circumstances could affect its market power status, Chestnut Ridge 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 Chestnut Ridge.³¹ The Commission may require a market power analysis at any time.³²

41. While a storage project operator granted market-based rate authority is not required to establish maximum recourse rates, the tariff nevertheless should provide for as much clarity for customers regarding rates and service offerings as possible. With regard to gas losses and unaccounted for gas, Chestnut Ridge clarifies that its proposed tariff's rate summary sheets, the fuel provisions of its Rate Schedules, and General Terms and Conditions (GT&C) Sections 19 and 33.3(b) all refer to the same fuel reimbursement charge.³³ Chestnut Ridge further clarifies that as a market-based rate, the fuel reimbursement charge is not limited to the collection of the enumerated items. Chestnut Ridge must revise the language on the rate summary sheets to reflect these clarifications.

42. GT&C section 12.2 of the proposed tariff addresses gas losses. Chestnut Ridge explains that this section refers to gas losses other than those experienced in the course of normal operations, such as losses due to a pipeline failure. In place of individually negotiating for the recovery of such abnormal losses, Chestnut Ridge included as a general term and condition of its tariff a tracking mechanism that will allocate costs proportionally to all customers under its various Rate Schedules.

43. In *Tarpon Whitetail Gas Storage (Whitetail)*,³⁴ the Commission required the company to delete an identical provision from its *pro forma* tariff, finding "the mixing of cost recovery mechanisms [i.e., a cost-based tracker for extra-ordinary fuel losses with market-based rates for other costs] unacceptable," and noting "that if Whitetail were a cost-based rate company, Commission policy would not permit extra-ordinary gas losses

³¹ See, e.g., *Copiah County Storage Co.*, 99 FERC ¶ 61,316 and *Egan Hub Partners, L.P.*, 99 FERC ¶ 61,269 (2002).

³² See, e.g., *Liberty Gas Storage LLC*, 113 FERC ¶ 61,247, at P 51 (2005) and *Rendezvous Gas Services, L.L.C.*, 112 FERC ¶ 61,141, at P 40 (2005).

³³ See Chestnut Ridge's April 28, 2008 *Data Response* at Question 2.

³⁴ 123 FERC ¶ 61,274 (2008).

to be passed through an automatic tracking mechanism.”³⁵ However, upon further consideration, we will reverse our position in *Whitetail* and allow the proposed tariff provision here. As a market-based rate service provider, Chestnut Ridge can negotiate any rate it chooses with its customers, including, if it so chooses, a rate which is closely tied to costs, like the proposed tracker for extra-ordinary lost-gas costs. By allowing Chestnut Ridge to include the provision in its GT&C, all prospective customers will have upfront clarity as to how the company intends to allocate the risk of extra-ordinary gas losses, enabling them to structure their negotiation strategies accordingly. We emphasize, however, that including a cost-based mechanism like a tracker as a component of a market-based rate does not change the negotiated, market-based character of all Chestnut Ridge’s rates. It simply clarifies to prospective shippers that additional charges may be flowed through to shippers in the future.

C. Waivers of Filing, Reporting, and Accounting Requirements

44. Because Chestnut Ridge proposes to charge market-based rates for its storage services, and has no existing interstate pipeline operation, Chestnut Ridge requests that we waive compliance with certain of our regulations applicable to cost-based service providers; these 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), access to gas supplies; (4) the accounting and reporting requirements of Part 201 and section 260.2, cost-of-service rate structure (Form 2A);³⁶ (5) section 284.7(e), reservation charge; (6) section 284.10, straight fixed-variable rate design methodology; and (7) section 284.9(c), interruptible service reservation fee.

45. The cost-related information specified in our regulations is not relevant in light of our approval of market-based rates for Chestnut Ridge’s storage services and our rejection of Chestnut Ridge’s proposed cost-based tracker. Thus, consistent with our findings in previous orders,³⁷ we will grant Chestnut Ridge’s request for waivers of the regulations requiring the filing of cost-based information, reservation charges, and the

³⁵ *Id.* at P 35, citing *Colorado Interstate Gas Company*, 121 FERC ¶ 61,161 (2007), *reh’g denied*, 123 FERC ¶ 61,183 (2008).

³⁶ Chestnut Ridge states its intent to file page 520 of Form 2A, which we require it to do, as this information provides the basis for determining an annual charge applicable to each jurisdictional gas company.

³⁷ *See, e.g., Port Barre Investments, L.L. C.*, 116 FERC ¶ 61,052, at P 34 (2006) and *Liberty Gas Storage, LLC*, 113 FERC ¶ 61,247, at P 54 (2005).

use of a straight fixed-variable rate design.³⁸ We will also waive compliance with section 157.14(a)(10), which requires an applicant to submit gas supply data, as this is inapplicable to gas storage. Chestnut Ridge must file page 520 of Form No. 2-A, reporting the gas volume information in order to permit the Commission to accurately calculate an annual charge.³⁹ In addition, Chestnut Ridge must maintain records of cost and revenue data consistent with the Commission's Uniform System of Accounts and stand ready to present these records if requested.

D. Tariff Provisions

46. Chestnut Ridge filed *pro forma* sheets to its proposed tariff setting forth the terms and conditions under which it will provide open-access market-based rate storage and interruptible wheeling services.⁴⁰ We find that Chestnut Ridge's proposed tariff sheets generally comply with Commission regulations, with the exceptions noted herein. Chestnut Ridge shall file actual tariff sheets consistent with the directives in this order at least 30 days, but no more than 60 days, prior to commencing service.

1. North American Energy Standards Board (NAESB)

47. Part 284 of the Commission's regulations incorporate certain NAESB standards on nominations, allocations, balancing measurement, invoicing, capacity release, and electronic communications. Chestnut Ridge states that its *pro forma* tariff complies generally with the NAESB standards, Version 1.7, the latest version of the standards adopted by the Commission at the time Chestnut Ridge filed its certificate application. When Chestnut Ridge files actual tariff sheets, it must incorporate revisions to conform to the latest NAESB standards adopted by the Commission at the time of filing. The filing must include a cross-reference showing each NAESB standard number, the tariff section containing the standard, and whether Chestnut Ridge incorporated the standard verbatim or by reference. Chestnut Ridge should file any information it believes relevant to its compliance with the NAESB Standards.

³⁸ We will waive compliance with section 284.9(c); Chestnut Ridge intends to provide market-based storage services, rendering the issue of reservation fees moot – particularly for this provision, since a reservation fee may not be imposed for interruptible transportation service.

³⁹ See, e.g., *BGS Kimball Gas Storage, L.L.C.*, 117 FERC ¶ 61,122, at P 49 (2006) and *Unocal Windy Hill Gas Storage L.L.C.*, 115 FERC ¶ 61,218, at P 38 (2006).

⁴⁰ Additionally, on April 9, 2008, Chestnut Ridge submitted a data response clarifying certain issues and statements in its tariff.

48. Typically, we require gas companies to incorporate NAESB standards into their tariffs verbatim or by reference.⁴¹ Chestnut Ridge incorporated the vast majority of the NAESB standards by reference. We have stated that when a gas company includes a NAESB standard in its tariff, it should include the complete, verbatim NAESB standard, rather than a company's rewording of that standard. Chestnut Ridge's proposed tariff includes certain NAESB standards that are incomplete and/or not verbatim.⁴² Consequently, we direct Chestnut Ridge to revise its tariff to state these standards in complete and verbatim form.

2. Segmentation

49. Section 284.7(d) of the Commission's regulations requires a pipeline to permit a shipper to make use of its firm capacity by segmenting that capacity into separate parts for the shipper's own use, or for the purpose of releasing that capacity to replacement shippers to the extent segmentation is operationally feasible.⁴³ Chestnut Ridge states that the Commission has found that its segmentation requirements need not be applied to gas

⁴¹ In Order No. 587, the Commission first required gas companies to incorporate the standards of NAESB's predecessor, the Gas Industry Standards Board, into their tariffs verbatim or by reference. As explained in Order No. 587:

Standards for business practices and communication are important elements in creating an integrated gas pipeline grid to complement the deregulated market for gas. For a competitive gas market to truly develop, shippers must have access to all available supply sources. A prerequisite for access, however, is the ability to move gas efficiently across multiple pipelines to its ultimate destination. Thus, shippers and marketers in today's market must conduct business transactions with multiple pipelines. As the industry has recognized, shippers cannot conduct multiple pipeline transactions efficiently if the business practices and communication protocols differ for each pipeline. . . . Industry-wide standards eliminate this inefficiency by enabling shippers to use the same procedures and processes to conduct business on all interstate pipelines.

Standards for Business Practices of Interstate Natural Gas Pipelines, FERC Stats. & Regs. ¶ 31,038 at pp. 30,058-59 (1996).

⁴² NAESB Standards 0.3.3, 0.3.10, 1.3.1, 1.3.2, 1.3.5, 1.3.8, 1.3.9, 1.3.26, 1.3.33, 2.3.9, 3.3.9, 3.3.10, 3.3.19, 5.3.2, 5.3.3, 5.3.8, 5.3.13, 5.3.14, 5.3.16, 5.3.24, 5.3.26, and 5.2.28.

⁴³ 18 C.F.R. § 284.7(d) (2008).

companies engaged solely in gas storage which do not provide stand-alone transportation services.⁴⁴ Chestnut Ridge contends that segmentation is operationally infeasible on its system, as it will consist of a single integrated storage facility that operates in one compact geographic location; thus, Chestnut Ridge requests a waiver from the section 284.7(d) segmentation requirement.

50. We find our segmentation requirement to be inapplicable to Chestnut Ridge, since it will be engaged solely in natural gas storage and will not provide stand-alone transportation services. Accordingly, we will waive compliance with section 284.7(d) of our regulations; further, we find that other tariff provisions related to segmentation, such as the allocation of primary point rights in segmented releases and within-the-path scheduling, will not apply to Chestnut Ridge. If Chestnut Ridge offers firm transportation services in the future, this waiver will no longer apply.

3. Netting and Trading of Imbalances

51. Section 284.12(b)(2)(ii) of the Commission's regulations requires pipelines to establish procedures permitting shippers and their agents to net imbalances across contracts and to trade imbalances with other shippers. Chestnut Ridge requests an exemption from compliance with Orders 587-G and 587-L regarding the imbalance netting and trading requirements, asserting that its tariff does not contain imbalance penalties.⁴⁵ In Order No. 637-A, the Commission stated that if a pipeline has no authority to assess penalties for imbalances, then there is no need to require that pipeline to offer such imbalance services. Therefore, the regulations requiring imbalance services, including netting and trading of imbalances, are not applicable to Chestnut Ridge at this time and there is no need for an exemption. If Chestnut Ridge seeks to implement imbalance management program or penalty provisions in the future, it must then comply with section 284.12(b)(2)(iii) of our regulations.⁴⁶

⁴⁴ Chestnut Ridge cites: *Pine Prairie Energy Center, LLC*, 109 FERC ¶ 61,215, at P 44 (2004); *SG Resources Mississippi, L.L.C.*, 101 FERC ¶ 61,029, at P 28 (2002); *Egan Hub Partners, L.P.*, 98 FERC ¶ 61,284 (2002); *Clear Creek Gas Storage Co.*, 96 FERC ¶ 61,071 (2001); *Southwest Gas Storage Co.*, 96 FERC ¶ 61,166 (2001).

⁴⁵ *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587-G, 63 FR 20072 (April 23, 1998), FERC Stats. & Regs., Regulations Preambles July 1996 – December 2000 ¶ 31,062 (April 16, 1998); Order No. 587-L, 65 FR 41873 (July 7, 2000), FERC Stats. & Regs., Regulations Preambles ¶ 31,100 (June 30, 2000).

⁴⁶ See *PetroLogistics Natural Gas Storage, LLC*, 122 FERC ¶ 61,193 at P 33 (2008).

4. Electronic the Data Interchange/Electronic Delivery Mechanism (EDI/EDM) and Flat File/Electronic Delivery Mechanism (FF/EDM) Requirements

52. Chestnut Ridge requests a partial waiver of our section 284.12(a)(1)(iv) regulations requiring gas companies to comply with the NAESB's EDI standards, because it does not anticipate it will receive any requests to send information in this form.⁴⁷ If such a request is received, Chestnut Ridge asks for 90 days to prepare to comply.

53. We will grant Chestnut Ridge an extension of time to comply with the EDI requirements until 90 days after the receipt of a request for EDI information.

5. Off-System Capacity and "Shipper Must Hold Title"

54. Chestnut Ridge seeks a waiver of the Commission's "shipper must hold title" policy to enable it to use off-system capacity it may obtain on interstate pipelines to enable it to link its storage facility to citygates in its market area and thereby offer "delivered storage" services via third-party pipeline delivery points. Chestnut Ridge notes that GT&C section 30 of its *pro forma* tariff includes an affirmative statement that it will only transport gas for others using off-system capacity pursuant to its open-access tariff and subject to Commission-approved rates.

55. In *Texas Eastern Transmission Corp. (Texas Eastern)*,⁴⁸ we found that pipelines no longer need to obtain prior approval to acquire capacity on another pipeline, provided the acquiring pipeline has filed tariff language specifying that it will only transport for others using off-system capacity pursuant to its existing tariff and rates.⁴⁹ Chestnut

⁴⁷ Chestnut Ridge affirms its web site will include postings of capacity release information that the Commission requires to be available to the public and will comply with NAESB's electronic bulletin boards (EBB) and EDM standards. Chestnut Ridge observes the Commission has provided a similar exemptions in *Tres Palacios Gas Storage, LLC (Tres Palacios)*, 120 FERC ¶ 61,253, at P 52 (2007); *Unocal Windy Hill Gas Storage, LLC (Windy Hill)*, 115 FERC ¶ 61,218, at P 48 (2006); *MoBay Storage Hub, Inc.*, 117 FERC ¶ 61,298, at P 46 (2006); and *Saltville Gas Storage Co.*, 109 FERC ¶ 61,200, at PP 36-37 (2004).

⁴⁸ 93 FERC ¶ 61,273 (2000), *reh'g denied*, 94 FERC ¶ 61,139 (2001).

⁴⁹ Application of the open-access tariff of the storage company acquiring off-system transportation capacity accomplishes the same non-discriminatory objective as the Commission seeks through the shipper must have title policy. *See, e.g., SG Resources Mississippi, L.L.C. (SG Resources)*, 101 FERC ¶ 61,029, at P 33 (2002).

Ridge's proposed tariff language is consistent with the requirements set forth in *Texas Eastern* and authorizations granted other storage companies.⁵⁰

56. We accept Chestnut Ridge's proposed tariff language and grant waiver of the shipper must have title policy, with the following clarifications. Chestnut Ridge may only use capacity obtained on other pipelines in order to move gas into and out of storage.⁵¹ That is, Chestnut Ridge may not use its header facilities or capacity on other pipelines to transport gas which will not physically or contractually enter its storage facility unless and until it has received Commission authorization to provide such transportation services. In addition, Chestnut Ridge's waiver to utilize capacity on other pipelines to provide storage service shall be limited to the geographic area covered by its market study.⁵²

57. To ensure that Chestnut Ridge uses acquired off-system capacity in a manner consistent with its market-based rate authority and tariff provisions, and to satisfy our responsibility to monitor and prevent the exercise of market power, we direct Chestnut Ridge, once it becomes operational, to make an annual informational filing regarding its provision of service using off-system capacity, as detailed below.⁵³

58. Within 30 days after its first full year of operation, and every year thereafter, Chestnut Ridge must file a report with the Commission, for each acquisition of off-system capacity:

- a. the name of the off-system provider;
- b. the type, level, term, and rate of service contracted for by Chestnut Ridge;

⁵⁰ See, e.g., *Arlington*, 125 FERC ¶ 61,306, at P 77 (2008), *Tres Palacios*, 120 FERC ¶ 61,253, at P 47 (2007); *Windy Hill*, 115 FERC ¶ 61,218, at P 43 (2006); and *SG Resources*, 101 FERC ¶ 61,029, at PP 30-33 (2002).

⁵¹ In the *Texas Eastern* proceeding, the Commission stated that a pipeline acquiring off-system capacity will be at risk for any unrecovered costs associated with such capacity. *Texas Eastern Transmission Corp.*, 93 FERC ¶61,273, at p. 61,886 (2000). The Commission's at-risk policy is achieved in this proceeding by our approval of market-based rates. See, e.g., *SG Resources*, 101 FERC ¶ 61,029, at P 31 (2002).

⁵² See, e.g., *Arlington*, 125 FERC ¶ 61,306, at P 78 (2008), *Tres Palacios*, 120 FERC ¶ 61,253 at P 48, and *Windy Hill*, 115 FERC ¶ 61,218, at P 44 (2006).

⁵³ See, e.g., *Starks Gas Storage L.L.C.*, 111 FERC ¶ 61,105, at PP 54-57 (2005) and Chestnut Ridge's *Application* at 42.

- c. a description of the geographic location – boundaries, receipt and delivery points, and segments comprising the capacity;
- d. the operational purpose(s) for which the capacity is utilized;
- e. a description of how the capacity is associated with specific transactions involving customers of Chestnut Ridge; and
- f. an identification of total volumes, by Chestnut Ridge's rate schedule and customer, that Chestnut Ridge has nominated on each off-system provider during the reporting period.

6. General Terms and Conditions

59. Sections 154.108, 154.109 and 154.110 of the Commission's regulations describe the composition of a pipeline tariff, specifically rate schedules, the GT&C, and *pro forma* service agreements. Rate schedules should fully describe the kind or classification of services to be rendered, and the GT&C should only contain terms and conditions of service applicable to all or any of the rate schedules. Chestnut Ridge's proposed storage Rate Schedules FSS and ISS and the related *pro forma* service agreements describe the service to be rendered.

60. However, Chestnut Ridge also proposes GT&C section 6. This section is only applicable to Rate Schedules FSS and ISS, and describes generally how customers inject gas into storage at points of receipt and receive gas at points of delivery. Chestnut Ridge states that GT&C section 6 restates, without contradiction, the attributes of service found in each Rate Schedule.⁵⁴ Because the provisions of section 6 are more appropriate for inclusion in specific rate schedules and *pro forma* service agreements than in the GT&C and, indeed, are merely duplicative of language already in those documents, we will require Chestnut Ridge to delete the section.

61. Section 2.18 of the GT&C provides a definition of "Interruptible:"

"Interruptible" means that the storage, parking, wheeling, or loaning is subject to interruption at any time by CHESTNUT RIDGE. A Customer may be required to withdraw Gas held in storage pursuant to Customer's Storage Service Agreement for Interruptible service or Customer's Hub

⁵⁴ Chestnut Ridge's April 28, 2008 *Data Response*.

Services Agreement,⁵⁵ or provide Gas to CHESTNUT RIDGE, should such capacity or quantities be required by a Firm Storage Service. [Footnote added.]

62. The second sentence of this definition of “interruptible” describes customer obligations under specific services in the event the service is interrupted. These requirements should be part of the rate schedules’ description of the services, and not part of the definition of a word. We therefore direct Chestnut Ridge to remove section 2.18 from the GT&C, but to relocate the second sentence of the definition therein to the appropriate rate schedules because that language describes the services that will be rendered under the schedules.

63. GT&C section 17.2 addresses liability from the standpoint of *force majeure*. *Force majeure* is defined broadly as a superior or irresistible force, or an event or effect, that cannot be reasonably anticipated or controlled. GT&C section 17.2 includes testing or maintenance to plant as *force majeure* events. Testing and maintenance are part of Chestnut Ridge’s duties under a certificate of public convenience and necessity, and can be reasonably anticipated or controlled; consequently, these operator duties cannot be considered to be *force majeure* events.⁵⁶ We require Chestnut Ridge to revise GT&C section 17.2 accordingly.⁵⁷

64. GT&C section 17.1(c) provides a reservation charge credit for *non-force majeure* curtailment of service only if service falls below 98 percent of scheduled quantities. Chestnut Ridge has committed to modify the *non-force majeure* reservation charge credit provision to provide a full credit when service falls below 100 percent of scheduled quantities.⁵⁸ We direct Chestnut Ridge to make this modification.

65. GT&C sections 9.3 and 9.4 discuss customers’ contractual obligations with other interconnecting pipelines. Chestnut Ridge explains that its customers, as a practical

⁵⁵ Chestnut does not offer hub services per se, but has proposed a *pro forma* Form of Service Agreement entitled the “Hub Service Agreement” which is proposed to be applicable to its interruptible parking, wheeling, and loan services.

⁵⁶ See, e.g., *Portland Natural Gas Transmission System*, 76 FERC ¶ 61,123 (1996).

⁵⁷ See, e.g., *Tarpon Whitetail Gas Storage, LLC*, 123 FERC ¶ 61,274, at P 56 (2008), *order granting reh’g and allowing tariff revision*, 125 FERC ¶ 61,050 (2008).

⁵⁸ See Chestnut Ridge’s April 28, 2008 *Data Response*.

matter, will have transportation agreements with interconnecting pipelines;⁵⁹ that section 9.3 is intended to ensure that customers' nominations satisfy the NAESB requirements; and section 9.4 is intended to assign customers' imbalances incurred on the interconnecting pipelines to the customers.

66. We note that every rate schedule Chestnut Ridge proposes already contains a provision whereby the customer accepts responsibility for arranging transportation with interconnecting pipelines. If the objective of GT&C section 9.3 is to acquire the data necessary to complete an NAESB nomination, it is the customers' obligation to provide that information to Chestnut Ridge, as reflected in GT&C section 8 on nominations and scheduling. If the customer's nomination data is incomplete or unconfirmed by the interconnecting pipeline, then Chestnut Ridge can reject the nomination. Chestnut Ridge cannot impose and enforce a contractual relationship between its customers and interconnecting pipelines – imbalances, their management, and any resulting penalties are matters between the customer and the interconnecting pipeline. Thus, Chestnut Ridge must remove GT&C sections 9.3 and 9.4.

67. GT&C sections 9.5 and 13.1 both describe gas measurement standards. Section 9.5 states that the gas delivered shall be measured by Chestnut Ridge in accordance with the transporter's tariff,⁶⁰ while section 13.1 states that all procedures verifying the quantity of gas delivered shall be measured in accordance with the standards prescribed in Report No. 3 of the American Gas Association. We require Chestnut Ridge to clarify this inconsistency.

68. GT&C section 9.6 states that Chestnut Ridge will be held harmless for all costs and penalties its customers are assessed by interconnecting pipelines, unless the costs or penalties were due to Chestnut Ridge's negligence. GT&C section 21 assigns to customers all costs incurred by Chestnut Ridge as a consequence of customers' actions on interconnecting pipelines. Chestnut Ridge explains this provision is a backstop for any penalties that might be assessed by an interconnecting pipeline outside of the scope of a customer's transportation service agreement with that pipeline.⁶¹

69. We believe these two sections address the same set of costs, but in an inconsistent manner. In assigning cost responsibility, GT&C section 9.6 has a negligence provision,

⁵⁹ *Id.*

⁶⁰ Exhibit P, GT&C section 9.5; Original Sheet No. 139.

⁶¹ *See* Chestnut Ridge's April 28, 2008 *Data Response*.

whereas GT&C section 21 does not. We require Chestnut Ridge to reconcile these two sections to make them consistent, with both sections reflecting the negligence standard currently in section 9.6.

70. GT&C section 14.4 reads:

If Customer's failure to pay the undisputed portion of any invoice rendered hereunder continues beyond thirty (30) days after the due date of such invoice, then CHESTNUT RIDGE, in addition to all other legal remedies available to it, shall have the right and option to suspend further deliveries of Gas until such default shall have been cured. If Customer's failure to pay the undisputed portion of any invoice rendered hereunder continues beyond sixty (60) days after the due date of such invoice, then CHESTNUT RIDGE, in addition to all other legal remedies available to it, shall have the right and option to terminate service hereunder.

71. GT&C section 28.2 provides Chestnut Ridge's remedies in the event of a customer's default, which include suspension and termination. Chestnut Ridge explains that should remedies be pursued for a customer's failure to pay under section 14.4, Chestnut Ridge will do so in accordance with section 28.⁶² We require Chestnut Ridge to include in section 14.4 a statement that remedies will be pursued in accordance with section 28.

7. Miscellaneous Tariff Issues

72. The second paragraph of Chestnut Ridge's Preliminary Statement at Original Sheet No. 3 states that it "will seek" market-based rates for its services. Since this order grants Chestnut Ridge's request for authority to charge market-based rates, this language should be modified or removed when Chestnut Ridge files its actual tariff.

73. Proposed Rate Schedule FSS, section 9, provides for injection and withdrawal ratchets. However, because the storage facility has not been built and its operational characteristics are not yet known, Chestnut Ridge proposes to provide the ratchet terms of service when it files its actual tariff. We accept this approach and require Chestnut Ridge to enter its injection and withdrawal ratchet terms of service when it files its actual tariff.

74. Chestnut Ridge's proposed GT&C section 24 references multi-customer contracts. Chestnut Ridge explains it copied this provision from another tariff, and was unsure what it was originally intended to address. Since this provision is inapplicable to the services

⁶² *Id.*

Chestnut Ridge will offer, Chestnut Ridge must remove section 24 when it files its actual tariff.

75. Section 2.1(a) of the various Rate Schedules and GT&C sections 2.21 through 2.25 imply that all gas quantities nominated will be scheduled. Chestnut Ridge explains that scheduled quantities are subject to the other provisions of the tariff controlling the priorities of service and factors that may result in scheduled quantities less than nominated quantities. To avoid confusion, we require Chestnut Ridge to clarify these sections when it files its actual tariff.

IV. Engineering

76. Staff evaluated the data submitted in Chestnut Ridge's application and data responses, and concluded that their proposal is technically sound and feasible. The Junction Natural Gas Storage Project will be constructed in the West Summit Field, which consists of the Huntersville Chert and the Oriskany Sandstone. The proposed caprock is the 500 foot interval above the Chert, containing all of the formations up to the Tully Limestone.⁶³ While this interval does contain a portion of the Marcellus Shale, Chestnut Ridge states that setting the caprock at the top of the distinct, easily identifiable, Tully Limestone is the best way to protect the integrity of the West Summit Field from third-party producers.⁶⁴ In addition, Chestnut Ridge has proposed a base as the 500 foot interval below the Oriskany, which is completely made up of the Helderberg Limestone.

77. The total capacity of the Junction Natural Gas Storage Project will be 29.109 Bcf at a maximum bottomhole reservoir pressure of 4,150 psia.⁶⁵ It will have a working gas capacity of 25 Bcf. While less than the estimated original gas-in-place, the 29.109 Bcf represents the maximum capacity of the West Summit that Chestnut Ridge has determined to be suitable for storage due to the presence of extensive fracturing. The Junction Natural Gas Storage Project will have up to 25 storage wells, and Chestnut Ridge will be authorized to construct each horizontal section of the 14 new

⁶³ The caprock and vertical buffer contain the following formations, in ascending order from the Chert: Onondaga Limestone (20 feet), Marcellus Shale (125 feet), Manhantango Shale (280 feet), and Tully Limestone (70 feet).

⁶⁴ Chestnut Ridge states that unlike the Marcellus and Manhantango shales, the Tully Limestone makes a distinct, easily identifiable showing in all well logs. Thus setting the top of the caprock as the Tully Limestone will prevent inadvertent activities from occurring that could cause damage to the integrity of the storage formations.

⁶⁵ This converts to a wellhead pressure of approximately 3,500 psig, consistent with the discovery wellhead pressures.

injection/withdrawal wells in one of two possible directions (north-northeast or south-southwest) in order to orient each well to contact as much of the fractures as possible. The surface facilities, pipelines, and compressor station have all been sized to provide the proposed maximum injection and deliverability rate of 500 MMcf/d.

78. Chestnut Ridge is required to follow all of the engineering conditions set forth in Appendix A of this order, many of which are standard reporting requirements for natural gas storage operations.

V. Environment

79. On January 28, 2008, we issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Junction Natural Gas Storage Project and Request for Comments on Environmental Issues (NOI).⁶⁶ We received responses to the NOI from the U. S. Department of Health and Human Services' U.S. Public Health Service (DHHS), U.S. Department of Interior's, Fish and Wildlife Service - Pennsylvania Field Office (FWS), five mineral rights owners, and five affected landowners. On March 10, 2008, we issued a Notice of Public Scoping Meeting and Site Visit for the Proposed Junction Natural Gas Storage Project. On March 27, 2008, our staff conducted the public scoping meeting in Fairchance, Pennsylvania. Several landowners attended and provided both written and verbal comments.

80. The Commission staff prepared an environmental assessment (EA) for Chestnut Ridge's proposal. The EA was issued on March 27, 2009 and was placed into the public record. The Commission's *Notice of Availability of the Environmental Assessment for the Proposed JCT Storage Project* was published in the *Federal Register* on April 2, 2009.⁶⁷ The deadline for comments on the EA was April 26, 2009.

81. The EA addresses geology, soils, water resources, wetlands, fisheries, wildlife, vegetation, land use, cultural resources, air quality, noise, safety, and alternatives. The EA also addresses all substantive comments submitted during the scoping period. We received nine comment letters on the EA.⁶⁸ The comments and our responses are summarized below.

⁶⁶ The NOI was published in the *Federal Register* on February 4, 2008 (73 FR 6495).

⁶⁷ 74 FR 14979.

⁶⁸ Chestnut Ridge LLC provided two letters of comments on the EA; an April 27, 2009 letter consisting primarily of comments on the EA and a May 5, 2009 letter consisting of responses to other commenters.

82. DHHS recommends that Chestnut Ridge's environmental inspectors should be qualified to implement measures to protect public health and should coordinate with state and local environmental health officials. In this regard, we note that the specific responsibilities of environmental inspectors are outlined in Chestnut Ridge's *Erosion and Sedimentation Control Plan* and in Environmental Condition No. 7. In general, environmental inspectors ensure that the Commission's environmental conditions, state and federal environmental permit conditions, and landowner requirements are followed. Should there be any unique public health issues identified with the project, the responsibility of coordinating with appropriate agencies lies with Chestnut Ridge.

83. Mr. Lane Wilson suggests that the Commission should not approve Chestnut Ridge's storage project until a national carbon policy and requisite carbon dioxide regulations are in place to eliminate or mitigate the negative impact from carbon dioxide emissions of the project. Mr. Wilson also states that the EA does not discuss the potential of the West Summit Storage Field to be used for carbon dioxide storage, rather than natural gas storage. Mr. Wilson further asserts that the EA is deficient in addressing the long-term stability of storing natural gas in the West Summit Field.

84. The establishment of a national carbon policy, requisite carbon dioxide regulations, and use of the West Summit Field for carbon dioxide storage are outside the scope of the EA and this proceeding. As noted earlier in this order, no one has proposed the development of a carbon dioxide storage facility in the vicinity of Chestnut Ridge's proposed storage project. In addition, as discussed in the EA,⁶⁹ there is no evidence of gas migration from the West Summit Field, which has operated as a gas production field, and there is no reason to doubt that the West Summit Field will continue to hold gas reliably. However, Chestnut Ridge will be required to operate its storage project in such a manner as to prevent or minimize any gas migration.

85. Mr. Wilson also states that the EA does not adequately address the storage project's impact on recreational use in Chestnut Ridge Regional Park in terms of noise, visual resources, and trail use. In this regard, we note that Chestnut Ridge Regional Park, operated by Monongalia County, is located within Coopers Rock State Forest. While Chestnut Ridge Regional Park was not specifically addressed in the EA, the EA addresses Coopers Rock State Forest, which encompasses Chestnut Ridge Regional Park.⁷⁰ The EA concludes that the project would be located north of any trails and an expanse of trees would provide a buffer between the project and the areas of Coopers Rock State Forest

⁶⁹ See EA, p. 33.

⁷⁰ See EA, p. 78.

used by recreational visitors, such as Chestnut Ridge Regional Park. Therefore, any project-related visual and noise impacts would be minimal and limited to the construction period.

86. Mr. Wilson also commented that the EA does not indicate that interested stakeholders were given the opportunity to provide input regarding the Chestnut Ridge's gas storage project. In this regard we note that, as required under section 157.6 of the Commission's regulations, Chestnut Ridge notified affected landowners and relevant West Virginia and Pennsylvania State permitting agencies regarding the proposed storage project. As documented in its December 2007 Resource Report 1 submittal, Chestnut Ridge held two public open house meetings regarding the project in Fairchance, Pennsylvania on October 17 and 18, 2007. On March 10, 2008, we issued a notice regarding a public scoping meeting and project site visit conducted on March 27 and 28, 2008. The EA, issued March 27, 2009, was mailed to approximately 150 interested parties including agencies, public interest groups, newspapers, and affected landowners and a 30-day period was provided for comment on the EA. Although the EA does not explicitly describe all contacts, we find that the public was provided adequate notice and opportunity to comment.

87. Ms. Kimberly Hostetler expressed concern about reseeded after project construction, the project's impact on timber management on her property by limiting access to the property, particularly for logging roads, and that the pipeline would divide her property into two sections. In this regard, we note that the EA describes Chestnut Ridge's revegetation plans, stating specifically that reseeded will be consistent with the recommendations of state agencies, or as requested by the landowner. The EA states⁷¹ that Chestnut Ridge will develop timber management plans in conjunction with affected landowners, which would include measures to maintain access to timber areas (e.g., the specific placement of a logging haul road across the pipeline). With regard to pipeline placement, as stated in the EA, the 24-inch diameter Uniontown Lateral would parallel an existing pipeline and road. Photo-alignment sheets show that this existing pipeline and road already bisect Ms. Hostetler's property. The addition of the Uniontown Lateral would result in a wider right-of-way (ROW), but would not significantly alter current conditions on her property.

88. Ms. Hostetler also commented that there could be threatened and/or endangered species on her property and believes that biological, cultural and civil surveys should be conducted on all properties. In this regard, we note that, under our regulations, Chestnut Ridge is required to conduct biological, cultural and civil surveys on all properties affected by construction of the storage project. Chestnut Ridge has already completed

⁷¹ See EA, p. 62.

approximately 85 percent of the required surveys. Where survey permission was not granted by landowners prior to the Commission authorization, Chestnut Ridge must complete the necessary survey work prior to construction.

89. Dominion Transmission, Inc. (DTI) owns and operates the North Summit Storage Field, a jurisdictional natural gas storage field approximately two miles east of the West Summit Field that Chestnut Ridge will develop as a gas storage facility. Chestnut Ridge's Uniontown Lateral will traverse the length of DTI's North Summit Storage Field. DTI states that while it does not oppose Chestnut Ridge's storage project and believes that it will eventually reach an agreement with Chestnut Ridge regarding the Uniontown Lateral's route across DTI's storage site, it remains concerned about the impact of the construction, operation, and maintenance of the Uniontown Lateral on the operation and safety of DTI's facilities. DTI requests that we require Chestnut Ridge to file a construction and operations plan for construction of the Uniontown Lateral through DTI's North Summit Storage Field. DTI specifically mentions issues of concern that it would like resolved in a construction plan, such as minimum clearance distance between the Uniontown Lateral and DTI's existing North Summit pipeline, and procedures for blasting below DTI's North Summit Storage Field. We have determined that DTI's request is reasonable and have added Environmental Condition No. 22 to conditions included in Appendix B to this order to ensure that Chestnut Ridge coordinates its construction with DTI.

90. The EA's recommended Environmental Condition No. 6 states that Chestnut Ridge should be required to file an Implementation Plan and obtain written approval by the Director of the Office of Energy Projects (OEP) at least 60 days before beginning construction. Chestnut Ridge requests that the wording of Environmental Condition No. 6 be revised so that it can commence construction as soon as the OEP Director has approved Chestnut Ridge's Implementation Plan. We have modified Environmental Condition No. 6 accordingly.

91. Chestnut Ridge states that page 9 of the EA incorrectly identifies the extent of their requested additional 500-foot vertical buffer both above and below the gas storage geological formations of the West Summit Field. Chestnut Ridge emphasizes that it is important to correctly identify the vertical buffers requested by Chestnut Ridge to be included within its certificated boundaries to ensure that Chestnut Ridge will be able to prevent the integrity of its storage facility and storage operations from being compromised by gas and/or oil exploration and production activities. While the 500-foot buffer above the storage area is not fully described on page 9 of the EA, it is described in the Geologic Resources section⁷² and includes, in ascending order, the Onondaga

⁷² See EA, pg 33.

limestone, the Marcellus shale, the Hamilton shale (also known as the Monhantango shale), and the Tully Limestone.⁷³ This description is based on Chestnut Ridge's March 6, 2008 response to staff's February 14, 2008 data request 8(d).⁷⁴

92. Chestnut Ridge contends that the EA incorrectly identifies the phase of construction of the storage project during which the West Summit Field would be converted from a production field to a natural gas storage field. Based on this assertion, Chestnut Ridge states that "it may be possible to continue production of natural gas from other compartments within the field until additional storage wells are completed."

93. We disagree. Chestnut Ridge must recognize that once placed into service, even for limited commercial storage operations, the West Summit Field becomes a storage facility and is no longer a production field. At that time, all native gas remaining in the West Summit Field becomes part of the storage facility and will serve as cushion gas to support the storage operations. Chestnut Ridge must be prepared to cease production from the entire West Summit Field as soon as any portion of the storage facility is placed in service.

94. Chestnut Ridge contends that the statement on page 26 of the EA, that "[t]iling of the subsoil and topsoil would be done at the request of the landowner" would only apply to agricultural and residential areas. We disagree. Chestnut Ridge's *Erosion and Sedimentation Control Plan*, which incorporates the Commission's *Upland Erosion Control, Revegetation, and Maintenance Plan* and the Commission's *Wetlands and Waterbodies Construction and Mitigation Procedures*, provides guidelines for construction and restoration for the project. As stated in Chestnut Ridge's *Erosion and Sedimentation Control Plan*, section VI.A.1., topsoil and subsoil segregation will be

⁷³ As noted above, the Onondaga Limestone and Marcellus Shale will serve as part of the caprock or storage reservoir seal to prevent the upward migration of gas from the storage area. Including the overlying Hamilton shale and Tully Limestone in the certificated boundaries will ensure that Chestnut Ridge is able to prevent production or other activities that could fracture or otherwise compromise the integrity of the caprock.

⁷⁴ Chestnut Ridge indicates that production activities will not necessarily cease when construction activities to develop the West Summit Field as a storage facility commence. As discussed above, once any storage operations have begun or Chestnut Ridge has begun injecting gas in any area, Chestnut Ridge must ensure the cessation of production activities anywhere within the certificated boundaries of the West Summit Field.

undertaken in "actively cultivated croplands and pastures, residential areas, hayfields, and *other areas at the landowner's or land managing agency's request.*" (Italics added.)

95. Chestnut Ridge questions the basis for certain statements on pages 35 and 36 of the EA. First, Chestnut Ridge questions the EA's statement that it will be necessary for two existing mining operations to update their mining permits with the relevant state agencies as a result of the Chestnut Ridge's construction of injection/withdrawal wells and pipeline facilities as part of its gas storage project. Chestnut Ridge also questions the accuracy of the EA's statement that there will be timing restrictions on pipeline construction crossing Dunbar Creek in Pennsylvania and Morgan Run in West Virginia due to the presence of wild and stocked brook trout. These statements in the EA are based on the Commission staff's consultations with the relevant state agencies, as indicated in the References section of the EA.⁷⁵

96. Chestnut Ridge states that the discussion on air quality impacts in the EA, which divides impacts by year, may be inaccurate by the time construction commences on the storage project. In this regard, we note that although the analysis in the EA used the best available information regarding anticipated commencement of construction at the time of the application review, Chestnut Ridge may be correct. Therefore, to account for a possible change in construction schedule, we have added Environmental Condition No. 23 to Appendix B of this order to require that, prior to commencement of construction, Chestnut Ridge file revised estimates of construction emissions and combined construction and operation emissions for the project by calendar year, including a revised general conformity applicability determination, and obtain written approval by the Director of OEP.

97. The Pennsylvania Department of Conservation and Natural Resources (DCNR) expresses a concern that any excavation for pipeline construction could potentially expose and/or remove coal or expose coal-bearing materials to oxygen and water, creating acidic discharge or drainage that would impair local streams. In this regard, we note that, as discussed in the EA,⁷⁶ Chestnut Ridge will implement its *Erosion and Sedimentation Control Plan* and its Stormwater Pollution Prevention Plan which will prevent the flow of spoil or heavily silt-laden water into any waterbody. An environmental inspector will be on-site to monitor construction activity and ensure all

⁷⁵ Chestnut Ridge's comments on the EA discuss some minor modifications to the proposed facilities that either do not change or would decrease overall environmental impacts and the footprint of ground disturbance. Chestnut Ridge's comments on the EA also dispute certain minor points or provide clarifications that are not material to the EA's conclusions and recommendations.

⁷⁶ See EA, pgs. 3, 4 and 54.

erosion and sediment control devices are properly installed and functioning. We believe these measures will adequately prevent acidic run-off from the project-related disturbed areas.

98. The Pennsylvania DCNR states that the “characterizations and assertions made in Chestnut Ridge’s Resource Report 6 do not provide enough information to properly assess whether the West Summit Field is appropriate for natural gas storage,” since the “north and south boundaries of the West Summit Field are not as well understood.” The Pennsylvania DCNR further states that the neighboring North Summit Gas Storage Field has experienced difficulties in containing injected gas.

99. While the north and south boundaries are not as well defined as the east and west boundaries, current geological interpretation places the northern boundary just north of the proposed well JCT 3A, with an additional 2,000 feet of buffer surrounding the field. There is currently only one well (the Carnegie #1) in the northern part of the West Summit Field to provide geological information or well control data. The proposed JCT 3A, if constructed, will provide additional information to help confirm the northern boundary and will become an observation well. In addition, we will require Chestnut Ridge to operate the field in such a manner as to prevent/minimize any gas migration. As Chestnut Ridge develops and operates the West Summit Storage Field, it will obtain additional information to refine its geological interpretation of the field. If that new information demonstrates a need for any changes in certificated parameters, including boundaries, Chestnut Ridge would file with the Commission the information necessary to support further authority to make those changes.

100. The Pennsylvania DCNR comments that the EA does not include a discussion of the potential impact of blasting activities on local fauna. In this regard, we note that, while not reprinted in the EA, Chestnut Ridge included a Blasting Plan⁷⁷ which states that the blasting “contractor shall address concerns and outline procedures to be implemented to protect special status species or a deterioration of existing habitat.” Additionally, Chestnut Ridge will have to acquire a state license to blast and follow all state blasting regulations. We believe these measures will be adequate to protect local fauna. The Blasting Plan is in the public record of this proceeding and may be reviewed in the Commission's eLibrary.

101. The Pennsylvania DCNR states that it has serious concerns regarding any future construction by Chestnut Ridge given environmental impacts of its exploratory drilling of the well that will become JCT1 well.⁷⁸ During that drilling, the drillers hit a water

⁷⁷ Filed June 20, 2008.

⁷⁸ As noted above, in 2007 the Commission granted Chestnut Ridge’s request for an exemption from our certificate requirements in order to drill two stratigraphic test
(continued...)

bearing formation, causing drilling fluid to leak into a stream. In this regard, we note that the EA documents the drilling failure of the test well and Chestnut Ridge's remediation of the situation⁷⁹ and includes a recommended environmental condition to avoid such future incidents. The EA recommends that Chestnut Ridge be required to install casings to protect water bearing formations from storage well development activities, subject to the Pennsylvania Department of the Environment's requiring other measures. We incorporate the EA's recommendation as Environmental Condition No. 14 in Appendix B to this order.

102. The Pennsylvania DCNR states that the 100-foot-wide construction ROW for the Uniontown Lateral does not appear constrained by topography and is excessive in width. The Pennsylvania DCNR suggests narrowing the ROW to the point where construction can proceed in a safe and efficient manner while minimizing the potential impact to adjacent forest resources.

103. During staff's March 28, 2008 visit of the storage project site, staff noted several steep inclines and deep valleys along the Uniontown Lateral route. Based on the terrain to be crossed by the ROW, we believe Chestnut Ridge's requested 100-foot-wide ROW is appropriate and necessary for safe and efficient construction.

104. The Pennsylvania DCNR states that the Uniontown Lateral crosses the Whitetail Trail (near Skyline Drive) and that stakeholder groups should be notified and advised on the potential impact to this recreation resource. In this regard, we note that the Whitetail Trail is within the Forbes State Forest managed by the Pennsylvania DCNR. The Pennsylvania DCNR may require such notification as a stipulation to its permit to cross the forest.

105. The Pennsylvania DCNR is concerned that nearly 50 percent of the Uniontown Lateral does not parallel existing infrastructure and therefore would directly impact forest habitat causing forest fragmentation. In this regard, we note that Table 20 of the EA⁸⁰ shows that the Uniontown Lateral would parallel existing pipelines and other infrastructure for 77 percent of its length and the EA includes a discussion of forest fragmentation.⁸¹ The EA notes that, while forest fragmentation may have both beneficial

wells and perform certain other activities to determine the feasibility of developing a new storage facility. 121 FERC ¶ 61,022 (2007).

⁷⁹ Chestnut Ridge cemented the hole in the well and put bales of hay in the stream to filter the drilling fluid. *See* EA, p. 41.

⁸⁰ *See* EA, p. 75.

⁸¹ *See* EA, p. 64.

and detrimental impacts on different species at those parts of the project not parallel to existing rights-of-way, the impact of forest fragmentation along the 20.9 miles of pipeline adjacent to existing rights-of-way would be minimal. While the Commission encourages applicants to site pipelines parallel to existing infrastructure to minimize forest fragmentation and impacts on other resources, this is not always possible.

106. The Pennsylvania DCNR questions the EA's alternatives analysis and contends that other routes would be much shorter in length than the Uniontown Lateral and have fewer impacts upon species of special concern because the alternative routes would be in more developed areas. We believe the EA provides an adequate evaluation of alternatives. As stated in the EA,⁸² Alternatives A and B would be routed to a location on upstream of the TETCO Uniontown Compressor Station. TETCO, however, requested that in the event either of these alternatives was approved, they be rerouted to a location downstream of the compressor station, a reroute that would have extended each of these alternatives by approximately eight miles, making them longer than the proposed Uniontown Lateral.

107. Additionally, staff analysis found that Alternative A had a higher potential to cross sensitive cultural resources and waterbodies than the proposed route. Further, Alternative B would run straight through Fairchance, Pennsylvania, impacting more residences and businesses. In its March 6, 2008, data response, Chestnut Ridge provided a detailed analysis of the Alternative B route (the shortest of all four routes) that supported this conclusion. Therefore, given their longer lengths and potential resource impacts, Alternatives A and B were eliminated from further consideration. Additionally, since Alternative C/C1 (as shown in figure 10 of the EA) would be sited along most of the same route as the Uniontown Lateral, and yet would still be longer, it was also eliminated from further consideration.

108. The Pennsylvania DCNR states that the EA is unclear whether temporary and permanent access roads were included in the environmental review process. The Pennsylvania DCNR notes that if Chestnut Ridge is to use any State Forest Roads, Chestnut Ridge will have to complete a Road Use Agreement with the Pennsylvania DCNR. The Pennsylvania DCNR also states that the EA is unclear as to whether roads were included during field survey reports for species of special concern.

109. The EA details the access roads that will be used by Chestnut Ridge to construct the storage project.⁸³ To summarize, Chestnut Ridge will create one new road to access the Junction Compressor Station, upgrade 14 existing roads within the West Summit

⁸² See EA, pgs. 110-112.

⁸³ See EA, p. 18.

Field, and incorporate nine roads that would be constructed as part of the permanent ROW easement for the pipeline. Chestnut Ridge must obtain any applicable permits for all road work from the relevant state or local agencies. Field survey reports for species of special concern were not reprinted in the EA but are on file with the Commission. These field survey reports include all areas to be disturbed by the storage project, including roads.

110. The Pennsylvania DCNR states that EA table 6 references the issuance of an August 29, 2008 technical deficiency letter from Pennsylvania Department of Environmental Protection (DEP) and an October 22, 2008 request by Chestnut Ridge for a Pennsylvania DEP jurisdictional determination. The Pennsylvania DCNR also states that it is unclear whether wetland delineations were completed for the storage project. The Pennsylvania DCNR believes this correspondence and the wetland delineation reports should be included as appendices to the EA. The Pennsylvania DCNR also states that Chestnut Ridge should have completed the Pennsylvania Natural Diversity Inventory (Diversity Inventory) and final coordination with all relevant federal and state agencies before the issuance of the EA and that copies of all coordination letters should be included in the EA.

111. Wetland delineation and Diversity Inventory reports were completed for Chestnut Ridge's storage project. The wetland delineation, the Diversity Inventory reports, and all correspondence between Chestnut Ridge and state agencies are in the public record and available online through the Commission's eLibrary. Further, although all permits have not yet been issued, there was sufficient information available to complete the NEPA review.

112. The Pennsylvania DCNR contends that our Plan and Procedures (as adopted by Chestnut Ridge in its *Erosion and Sedimentation Control Plan*) are not protective enough for wetland or waterbody crossings. The Pennsylvania DCNR states that its State Forest Resource Management Plan limits or completely restricts disturbance activities within buffer zones adjacent to water resources and states that all wetlands will be protected or enhanced. The Pennsylvania DCNR states it will require all wetlands crossing to be bored.

113. As shown in table 9 of the EA,⁸⁴ the only wetland on lands managed by the Pennsylvania DCNR is wetland WA 1 C, which is a 1,008 square foot (0.02 acre) palustrine emergent wetland on the existing Carnegie #1 well pad. We believe that project measures sufficiently minimize impacts and facilitate restoration of wetlands in areas where the hydrologic characteristics are not significantly altered. However, the

⁸⁴ See EA, p. 56.

Pennsylvania DCNR may specify additional measures in its permit for crossing state forest lands if it determines that further restrictions are necessary.

114. The Pennsylvania DCNR is concerned that given the drilling failure of the test well pursuant to the temporary authorization Chestnut Ridge received in Docket No. CP07-439-000, there is potential for the construction of the Uniontown Lateral to impact high quality water sources. In this regard, we note that the EA is clear that no wells will be drilled along the Uniontown Lateral corridor; therefore, there is no potential for a similar occurrence along the corridor.

115. The Pennsylvania DCNR states that Chestnut Ridge's storage project will be located in an area known as the Laurel Highlands, and that the project appears to oppose the goals of the Laurel Highlands Comprehensive Landscape Initiative. In this regard, we note that Chestnut Ridge has conducted surveys to identify archaeological sites and historic structures in the project area. The project will avoid all archaeological sites potentially eligible for the National Register of Historic Places and will follow an existing pipeline across the property of the historic Summit Hotel, thus minimizing impacts on the hotel's viewshed. Where survey access has been denied, we will require cultural resource surveys to be conducted before construction in the area is authorized (see Environmental Condition No. 19 in Appendix B to this order). Finally, 72 percent of the project follows existing utility corridors to reduce tree clearing and visual impacts in forested areas. We believe that these measures will adequately minimize the natural and cultural resources of the project area.

116. The Pennsylvania DCNR states that the crossing of Skyline Drive would impact the viewshed and thus adversely affect the local economy. In this regard, we note that, as detailed in table 18 of the EA,⁸⁵ the Uniontown Lateral will not cross Skyline Drive, which is located along a ridge top. Where the lateral parallels Skyline Drive, it will be approximately 150 feet off the western side-slope. Table 18 also indicates that the entrance road to Laurel Caverns would be crossed using the bore method and U.S. Route 40 would be crossed using the HDD method. Therefore, because the Uniontown Lateral will be located on the downward slope of Skyline Drive and will cross other public roads that provide access to local tourist attractions near Skyline Drive using underground methods, the Uniontown Lateral will have a limited impact on the viewshed of Skyline Drive.

117. The Pennsylvania DCNR is also concerned with the potential spread of invasive species. In this regard, we note that, as discussed in the EA,⁸⁶ Chestnut Ridge will

⁸⁵ See EA, p. 73.

⁸⁶ See EA, p. 62.

minimize the spread of invasive and exotic species within the ROW (beyond conditions observed prior to construction) by applying seed mixes recommended by the state agencies and following prescribed revegetation procedures during restoration.

118. The Pennsylvania DCNR states that according to the EA, the mountain bellwort, a state species of concern, cannot be avoided and would be destroyed during construction. The Pennsylvania DCNR believes that the EA should provide an explanation of why this species cannot be avoided and any minimization or mitigation measures that would be implemented. The Pennsylvania DCNR also states that on December 3, 2008, it asked Chestnut Ridge to provide a mountain bellwort mitigation plan and an invasive species plan, neither of which has been provided to date.

119. In its April 27, 2009 filing, Chestnut Ridge stated that it would not eradicate the mountain bellwort from the Uniontown Lateral corridor and is working with the Pennsylvania DCNR to develop a mitigation plan to ensure the bellwort's survival. This filing also indicates that Chestnut Ridge is working with the Pennsylvania DCNR, the Pennsylvania Game Commission, and the Pennsylvania Fish and Boat Commission to provide mitigation and other plans required by those agencies. Chestnut Ridge has filed meeting minutes with those agencies that are available for public review on the Commission's eLibrary.

120. The Pennsylvania DCNR states that the EA does not discuss avoidance and minimization measures for the storage project's impacts on the woodrat, a state threatened species, and its habitat. The Pennsylvania DCNR is concerned that a new pipeline corridor through woodrat habitat would invite predators such as raccoons, known carriers of raccoon roundworm, which has decimated woodrat populations. The Pennsylvania DCNR also asks that the EA address cumulative impacts.

121. The EA does discuss impacts on state threatened and endangered species as they pertain to the relocation of proposed well JCT3⁸⁷. These species included a population grouping of woodrat, green salamander and timber rattlesnakes in a rocky outcropping that would have been impacted by the trenching of the well lateral. As stated in the EA, the pipeline corridors collectively parallel existing corridors for 72 percent of their length, and therefore would not significantly increase the threat to woodrats. Section D of the EA discusses cumulative impacts. In this regard, the EA states that, while cutting additional trees to construct this project will lead to less wildlife habitat, there are already a number of surface mines in the area that have resulted in the elimination of trees.

122. The Pennsylvania DCNR states that the width of the Uniontown Lateral corridor and its proximity to public roads will encourage illegal all-terrain vehicle (ATV) use of

⁸⁷ See EA, p. 110.

the ROW and that such use will cause severe ecological impacts. Additionally, the Pennsylvania DCNR states that the monitoring and enforcement of an ATV-ban would be difficult.

123. The illegal use of ATVs along the pipeline ROW was raised during the scoping period and is addressed in the EA.⁸⁸ Chestnut Ridge's *Erosion and Sedimentation Control Plan* includes provisions to control unauthorized vehicle access including installing signs, fences with locking gates, installing slash, timber and other barriers across the ROW. Therefore, we believe that ATV access along the ROW will be minimized.

124. The Pennsylvania DCNR states that Chestnut Ridge has been slow or unresponsive in providing information requested and has in fact indicated on numerous occasions that it intends to employ the powers of eminent domain conveyed by our order. The Pennsylvania DCNR is concerned that given Chestnut Ridge's lack of cooperation with the Pennsylvania DCNR during the FERC review process that it will not engage in reasonable negotiations with the Pennsylvania DCNR if a certificate is issued.

125. While we encourage parties to negotiate in good faith to reach easement agreements, we recognize that if the parties are unable to come to an agreement, then a certificate holder will be able to employ eminent domain to obtain necessary property rights under section 7h of the NGA. However, eminent domain will not enable Chestnut Ridge to initiate construction. Chestnut Ridge will first have to fulfill all applicable environmental conditions to this order. Further, we are including, as Environmental Condition No. 18 in the Appendix B to this order, a requirement that Chestnut Ridge, prior to commencing construction on any state-owned or managed lands, file copies of any pertinent easement agreement, permits, licenses, approvals, or comments that have been obtained, including plans to address any additional mitigation measures recommended by Pennsylvania Department of Conservation and Natural Resources, Pennsylvania Game Commission, and West Virginia Division of Natural Resources-Office of Lands and Streams.

126. The Pennsylvania DCNR notes that Chestnut Ridge has not been granted access to properties by private landowners and questions when the environmental surveys on those lands would be completed and reviewed by the Commission. In this regard, we note that Chestnut Ridge will conduct all required biological and cultural surveys on all properties affected by construction of the storage project and related pipeline facilities. It is not uncommon for some surveys to be done after a company receives its certificate on properties where access was previously denied. Survey access has been denied on approximately 15 percent of the project area.

⁸⁸ See EA, pgs. 5-6.

127. In their comments on the EA, the Pennsylvania DCNR, the Pennsylvania Game Commission, and the Pennsylvania Fish and Boat Commission all expressed concern about the impact Chestnut Ridge's project would have on certain state species of special concern: the bat species northern myotis, the timber rattlesnake, and the green salamander. The Commission encourages applicants to work with state agencies to avoid or minimize impacts on state sensitive species. As stated in the EA,⁸⁹ Chestnut Ridge has completed surveys for state listed species and is working with the Pennsylvania DCNR, the Pennsylvania Game Commission, and the Pennsylvania Fish and Boat Commission on mitigation plans.

128. Based on the discussion in the EA, we conclude that if constructed in accordance with Chestnut Ridge's application and supplements and the conditions imposed in Appendix B to this order, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

129. 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.⁹⁰

VI. Blanket Certificates

130. Chestnut Ridge's application includes a request for a Part 157, Subpart F blanket certificate. The Subpart F blanket certificate gives a natural gas company section 7 authority to automatically, or after prior notice, perform certain activities related to the construction, acquisition, abandonment, and replacement and operation of pipeline facilities. Because Chestnut Ridge will become a jurisdictional natural gas company with the issuance of a certificate to construct and operate the proposed facilities, we will issue the requested Part 157, Subpart F blanket certificate.

131. Chestnut Ridge's application also requests a Part 284, Subpart G blanket certificate in order to provide open-access storage services. Under a Part 284 blanket certificate, Chestnut Ridge will not require individual authorizations to provide storage services to particular customers. Chestnut Ridge filed a *pro forma* Part 284 tariff to

⁸⁹ See EA, pgs. 66-67.

⁹⁰ 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).

provide open-access storage services. Since a Part 284 blanket certificate is required for Chestnut Ridge to offer these services, we will grant Chestnut Ridge a Part 284 blanket certificate, subject to the conditions imposed herein.

VII. Conclusion

132. For the reasons discussed above, the Commission finds that Chestnut Ridge's proposed Junction Natural Gas Storage Project is required by the public convenience and necessity and that a certificate authorizing the construction and operation of the facilities described in this order and in the application should be issued, subject to the conditions discussed herein and listed in Appendices A and B.

133. The Commission, on its own motion, received and made part of the record in this proceeding all evidence, including the application and exhibits thereto, as supplemented, 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 Chestnut Ridge in Docket No. CP08-36-000, authorizing the construction and operation of the Junction Natural Gas Storage Project, as described more fully in this order and in the application.

(B) A blanket construction certificate is issued to Chestnut Ridge under Subpart F of Part 157 of the Commission's regulations.

(C) A blanket transportation certificate is issued to Chestnut Ridge under Subpart G of Part 284 of the Commission's regulations.

(D) The certificates issued in Ordering Paragraph (A) through (C) are conditioned on Chestnut Ridge'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) (1) and (2), (e), and (f) of section 157.20.

(E) The facilities authorized in this order shall be constructed and made available for service within two years from the date of this order in accordance with section 157.20(b) of the Commission's regulations.

(F) Chestnut Ridge's request for authority to charge market-based rates for firm and interruptible storage services, firm and interruptible parking and loan services, and interruptible wheeling services is approved, subject to the conditions in this order.

(G) Chestnut Ridge shall notify the Commission within 10 days of acquiring knowledge of: (a) Chestnut Ridge adding storage capacity beyond the capacity authorized in this order; (b) an affiliate's increasing storage capacity; (c) an affiliate's linking storage facilities to Chestnut Ridge; (d) Chestnut Ridge or an affiliate's acquisition of an interest in, or being acquired by, an interstate pipeline connected to Chestnut Ridge. The notification shall include a detailed description of the new facilities and their relationship to Chestnut Ridge.

(H) Chestnut Ridge is granted a waiver of compliance with the following provisions of the Commission's regulations: (1) the section 157.14 requirement to submit Exhibits H, K, L, N, and O; (2) sections 284.7(e) and 284.10; and (3) the accounting and reporting requirements under Parts 201 and 260.2, except for the information necessary for the Commission's assessment of annual charges. This waiver is subject to Chestnut Ridge maintaining accounts and financial information of its storage facility consistent with generally accepted accounting principles.

(I) Chestnut Ridge is granted a waiver of compliance with the Commission's "shipper must have title" policy, subject to the conditions discussed in the body of this order.

(J) Within 30 days after its first full year of operation, and every year thereafter, Chestnut Ridge must submit an annual informational filing on its provision of service using off-system capacity, as described in this order.

(K) Chestnut Ridge must submit actual tariff sheets that comply with the requirements contained in the body of this order no more than 60 days and no less than 30 days prior to the date of service, including the cross-reference to reflect the location of each NAESB standard in its tariff, and are otherwise consistent with its *pro forma* tariff in accordance with the NGA and Part 154 of the Commission's regulations.

(L) Chestnut Ridge shall notify the Commission within 10 days of acquiring knowledge of changes in circumstance significantly affecting its market power status. Its authority to charge market-based rates is subject to reexamination in such events, including: (a) Chestnut Ridge seeking to add storage capacity beyond the capacity authorized in this proceeding; (b) an affiliate increasing storage capacity; (c) an affiliate linking storage facilities to Chestnut Ridge; or (d) Chestnut Ridge, or an affiliate, acquiring an interest in, or being acquired by, an interstate pipeline connected to Chestnut Ridge. The notification shall include a detailed description of new facilities related to change in circumstances and their relationship to Chestnut Ridge.

(M) The Commission reserves the right to require a market power analysis at any time.

(N) Chestnut Ridge shall notify the Commission's environmental staff by telephone, electronic mail, and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Chestnut Ridge. Chestnut Ridge shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(O) The certificate issued in Ordering Paragraph (A) is conditioned upon Chestnut Ridge's compliance with the engineering and environmental conditions set forth in Appendices A and B to this order.

(P) The protests are denied, for the reasons discussed in this order.

(Q) The Smiths' motion for stay is denied, for the reasons discussed in this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

APPENDIX A

Engineering Conditions

1. The maximum inventory of natural gas stored in the West Summit field shall not exceed the certificated levels of 29,190 MMcf at 14.73 psia and 60 degrees Fahrenheit, and the maximum bottom hole storage pressure shall not exceed 4,150 psia, without prior authorization of the Commission.
2. Chestnut Ridge shall operate the West Summit Field in such a manner as to prevent/minimize gas loss or migration.
3. Chestnut Ridge shall submit semiannual reports (to coincide with the termination of the injection and withdrawal cycles) containing the following information (volumes shall be stated at 14.73 psia and 60 degrees Fahrenheit, and pressures shall be stated in psia):
 - a. The daily volumes of natural gas injected into and withdrawn from the storage reservoir.
 - b. The volume of natural gas in the reservoirs at the end of the reporting period.
 - c. The maximum daily injection and withdrawal rates experienced during the reporting period. Average working pressure on such maximum days taken at a central measuring point where the total volume injected or withdrawn is measured.
 - d. Results of any tracer program by which the leakage of injected gas may be determined. If leakage of gas exists, the report should show the estimated total volume of gas leakage, the volume of recycled gas, and the estimated remaining inventory of gas in the reservoir at the end of the reporting period.
 - e. Any surveys of pressures in gas wells, and the results of back-pressure tests conducted during the reporting period.
 - f. The latest revised structural and isopach maps showing the surface and bottomhole locations of the wells and the location of the gas-water contact. These maps need not be filed if there is no material change from the maps previously filed.

- g. For the reporting period, a summary of wells drilled, worked over, or recompleted with subsea depth of formation and casing settings. Copies of any new core analyses, back-pressure tests, or well log analyses.
- h. Discussion of current operating problems and conclusions.
- i. Such other data or reports which may aid the Commission in the evaluation of the storage project.
- j. Reports shall continue to be filed semiannually until the storage inventory volume and pressure have reached or closely approximate the maximum permitted in the Commission's Order. Thereafter, the reports shall continue on a semiannual basis for a period of one year.

APPENDIX B

Environmental Conditions

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

1. Chestnut Ridge 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 the Commission Order. Chestnut Ridge LCC 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 the Commission 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**, Chestnut Ridge shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), 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, and as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, Chestnut Ridge 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 all facilities approved by the Commission 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.

Chestnut Ridge's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to the Order must be consistent with these authorized facilities and locations. Chestnut Ridge's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas facilities to accommodate future needs or to acquire a ROW for a pipeline to transport a commodity other than natural gas.

5. Chestnut Ridge 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 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 Chestnut Ridge's E&SCP, 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. **Within 60 days of the acceptance of the certificate and before construction begins**, Chestnut Ridge shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Chestnut Ridge must file revisions to the plan as schedules change. The plan shall identify:
- a. how Chestnut Ridge 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 Commission Order;
 - b. how Chestnut Ridge 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 per construction area, 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 training and instructions Chestnut Ridge 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 Chestnut Ridge's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Chestnut Ridge 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 mitigation training of onsite personnel;
 - (3) the start of construction; and
 - (4) the start and completion of restoration.
7. Chestnut Ridge shall employ at least one EI per construction area. The environmental inspector shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the Commission Order and other grants, permits, certificates, or authorizing documents;
 - b. responsible for evaluating the construction contractor's

- implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
- c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
 - d. a full-time position, separate from all other activity inspectors;
 - e. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - f. responsible for maintaining status reports.
8. Beginning with the filing of its Implementation Plan, Chestnut Ridge shall file updated status reports with the Secretary on a **weekly** 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 Chestnut Ridge's efforts to obtain the necessary federal authorizations;
 - b. the current construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
 - c. a listing of all problems encountered and each instance of noncompliance observed by the EIs 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 Commission Order, and the measures taken to satisfy their concerns; and
 - g. copies of any correspondence received by Chestnut Ridge from other federal, state, or local permitting agencies concerning instances of noncompliance, and Chestnut Ridge's response.
9. Chestnut Ridge shall develop and implement an environmental complaint resolution procedure. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental

mitigation problems/concerns during construction of the project and restoration of the ROW. **Prior to construction**, Chestnut Ridge shall mail the complaint procedures to each landowner whose property would be crossed by the project.

- a. In its letter to affected landowners, Chestnut Ridge shall:
 - (1) provide a local contact that the landowners should call first with their concerns; the letter should indicate how soon a landowner should expect a response;
 - (2) instruct the landowners that if they are not satisfied with the response, they should call Chestnut Ridge's Hotline; the letter should indicate how soon to expect a response; and
 - (3) instruct the landowners that if they are still not satisfied with the response from Chestnut Ridge's Hotline, they should contact the Commission's Enforcement Hotline at (888) 889-8030 or at hotline@ferc.gov.
 - b. In addition, Chestnut Ridge shall include in its weekly status report a copy of a table that contains the following information for each problem/concern:
 - (1) the identity of the calls and date of the calls;
 - (2) the identification number from the certificated alignment sheet(s) of the affected property and location by milepost;
 - (3) a description of the problem/concern; and
 - (4) an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.
10. Chestnut Ridge must receive written authorization from the Director of OEP **before commencing service** from each phase of the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the ROW and other areas affected by the project are proceeding satisfactorily.
11. **Within 30 days of placing the certificated facilities in service**, Chestnut Ridge 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 Chestnut Ridge 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.

12. **Prior to construction of the Interstate Highway Route 40 crossing,** Chestnut Ridge shall submit both the site-specific horizontal directional drill (HDD) crossing plan that includes a contingency plan outlining procedures to be implemented in the case of drill failure or the inadvertent release of drilling fluid and the geotechnical investigation report confirming subsurface conditions in the vicinity of the proposed crossing is generally conducive to the HDD process.
13. Chestnut Ridge Storage shall hire a geotechnical engineer or engineering geologist to survey the proposed pipeline and powerline routes and proposed compressor station site to identify areas that require design considerations to prevent or mitigate landslides and karst-related ground failures both during and after construction. The analysis shall identify all unstable or potentially unstable slopes and areas subject to karst subsidence along the ROW, and shall include site-specific recommendations for minimizing the hazards during construction and over the life of the facility. Chestnut Ridge Storage shall file a report of the investigation and proposed mitigation measures for review and approval by the Director of OEP **prior to construction.**
14. At a minimum, Chestnut Ridge shall set in cement an intermediate string of casing to protect the water bearing formations to a depth of 200 feet for each well unless the Pennsylvania Department of Environmental Protection requires more stringent measures. Chestnut Ridge shall file an updated well completion schematic showing casing sizes, setting depth, top of cement and all relevant well completion information with the Secretary **prior to the drilling of each well.**
15. Chestnut Ridge shall replace any potable water supply system that it damages during construction and cannot repair to its former capacity and quality. **Within 1 year of completion of construction,** Chestnut Ridge shall file a report with the Secretary identifying all potable water supply systems damaged by construction and how they were repaired.
16. **Prior to construction,** Chestnut Ridge shall consult with the PADEP regarding mitigation requirements for any areas where the project might encounter contaminated soils or groundwater. Chestnut Ridge shall file the results of the consultation with the Secretary including identification of all such areas, as well as any required, recommended and agreed-upon

mitigation measures.

17. Chestnut Ridge shall consult with the Mountain Water Association and Fairchance Borough Water Department prior to construction of the proposed project through their respective wellhead protection area and surface water catchment area and file documentation of the consultation with the Secretary including all recommended mitigation measures.
18. **Prior to construction through any state-owned or managed lands,** Chestnut Ridge shall file with the Secretary copies of any pertinent easement agreements, permits, licenses, approvals, or comments that have been obtained, including plans to address any additional mitigation measures recommended by Pennsylvania Department of Conservation and Natural Resources, Pennsylvania Game Commission, and West Virginia Division of Natural Resources-Office of Lands and Streams.
19. Chestnut Ridge 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. Chestnut Ridge files with the Secretary cultural resources survey and evaluation reports, any necessary treatment plans, and the State Historic Preservation Officer's comments on the reports and plans; and
 - b. the Director of OEP reviews and approves all cultural resources survey reports and plans and notifies Chestnut Ridge in writing that treatment plans/mitigation measures may be implemented or that 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.”**
20. Chestnut Ridge shall implement the noise control recommendations its consultants identified in Hoover & Keith's Report No. 2158 including a temporary noise barrier around two or three (depending on the location of the affected noise sensitive areas) sides of the U.S. Route 40 HDD entry point equipment area and install a secondary partial barrier around the hydraulic power unit. Chestnut Ridge shall construct the noise barrier using ¾ inch thick plywood panels.

21. Chestnut Ridge shall make all reasonable efforts to ensure its predicted noise levels from the compressor station are not exceeded at the nearby NSAs. Chestnut Ridge shall file noise surveys with the Secretary **no later than 60 days after placing the compressor station into service**. If the noise attributable to the operation of the new compressor station at full load exceeds an L_{dn} of 55 dBA at any nearby NSA, Chestnut Ridge should file a report on what changes are needed and should install additional noise controls to meet that level within 1 year of the in-service date. Chestnut Ridge shall confirm compliance with this requirement by filing a second noise survey with the Secretary **no later than 60 days after it installs the additional noise controls**.
22. **Prior to construction of the Uniontown Lateral**, Chestnut Ridge shall develop in coordination with Dominion Transmission, Inc. a construction plan for crossing of the North Summit Storage Field that addresses the issues raised in DTI's April 24, 2009 letter, and file the construction plan with the Secretary for review and written approval by the Director of OEP.
23. **Prior to construction**, Chestnut Ridge shall file for review and written approval by the Director of OEP revised estimates of construction emissions and combined construction and operation emissions for the project by calendar year, including a revised general conformity applicability determination.