

135 FERC ¶ 61,021
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

East Cheyenne Gas Storage, LLC

Docket No. CP11-40-000

ORDER AMENDING CERTIFICATE

(Issued April 12, 2011)

1. On November 19, 2010, East Cheyenne Gas Storage, LLC (East Cheyenne) filed an application under section 7(c) of the Natural Gas Act (NGA),¹ to amend the certificate of public convenience and necessity issued to it on August 2, 2010, in Docket No. CP10-34-000 (August 2 Order).² East Cheyenne requests authorization to make certain changes to its certificated project which relate to the design and number of wells to be employed in the initial project development (Well Plan Amendment). East Cheyenne does not propose any change in the capacity, injection rates or withdrawal rates authorized in the August 2 Order.

2. As discussed below, the Commission grants East Cheyenne's requested amendments to its certificate authorizations, subject to the conditions described in the August 2 Order and herein. Further, the Commission affirms its finding that East Cheyenne may charge market based rates for its services as previously determined and conditioned in the August 2 Order.

I. Background

3. East Cheyenne is a Delaware limited liability company authorized to do business in Colorado and is owned by Merchant Energy Partners, LLC (Merchant Energy), a subsidiary of Quantum NGS Holdings, LLC.³ Neither East Cheyenne nor its upstream

¹ 15 U.S.C. § 717f(c) (2006).

² *East Cheyenne Gas Storage, LLC*, 132 FERC ¶ 61,097 (2010).

³ Quantum NGS Holdings, LLC is a joint venture between Larry Bickle and Quantum Energy Partners, a private equity firm.

owners have any ownership interests in any natural gas storage facilities in the United States other than the facilities authorized in the August 2 Order.

4. In the August 2 Order, the Commission authorized East Cheyenne to construct and operate a new interstate natural gas storage facility in the nearly depleted West Peetz and Lewis Creek oil and gas fields located in Logan County, Colorado.⁴ The August 2 Order authorized East Cheyenne to provide firm and interruptible storage and hub services on an open-access basis at market-based rates. East Cheyenne accepted the certificate of public convenience and necessity on August 3, 2010. On August 13 and 24, 2010, the Commission staff issued letter orders approving East Cheyenne's Implementation Plan and authorizing East Cheyenne to commence certain project construction activities.

5. The project authorized by the Commission in the August 2 Order includes: (1) ten natural gas storage injection/withdrawal (I/W) wells at six new well pads, including methanol injection units at each well pad; (2) five monitoring wells; (3) four produced water injection/disposal wells; (4) a centrally located storage processing facility, consisting of a compressor station, a natural gas liquids (NGL) recovery plant, gas dehydration facilities and amine treating facilities (the Process Facility);⁵ (5) approximately 66,000 feet of 4- to 24-inch-diameter field pipelines⁶ (with associated pig launchers and receivers and valving) connecting the I/W wellheads to the Process Facility; (6) a single corridor, approximately 3.57-miles long, occupied by separate 16-inch and 24-inch high-pressure natural gas pipelines (the Header), with metering, extending from the Process Facility to interconnections with Rockies Express Pipeline LLC (REX) and Trailblazer Pipeline Company LLC (Trailblazer); (7) temporary compression facilities (the West Peetz Compressor Station); (8) support facilities for construction, including temporary storage areas and temporary and permanent access

⁴ The West Peetz and Lewis Creek Fields are structural traps on the east flank of the D-J Basin that use two storage zones, the D Sand and the J Sand. The D Sand occurs at a depth of approximately 5,200 feet and the J Sand occurs at a depth of approximately 5,300 feet in both fields. Both fields have produced oil and gas since the early 1950's. East Cheyenne's oil production activities in these two fields are subject to the jurisdiction of the Colorado Oil and Gas Conservation Commission.

⁵ One of the five 4,735-horsepower (hp) reciprocating compressor units, along with the NGL recovery plant, gas dehydration facilities, and amine treating facilities at the Process Facility, will be used for non-jurisdictional enhanced oil recovery (EOR) and NGL recovery.

⁶ East Cheyenne states it made a calculation error in the original certificate application with respect to these pipelines and that it should have requested 85,536 feet of lines rather than 66,000 feet.

roads; and (9) ancillary facilities necessary to operate and maintain the storage facility, flow lines, wells and compressor facilities.

6. East Cheyenne states that it seeks to modify the certificated project because it discovered, as a result of its testing to ensure that previously-abandoned wells have been appropriately plugged and abandoned, that the D Sand reservoir is more highly saturated with water than previously anticipated. In response to this new information, East Cheyenne states that it met with individuals who were involved in the development of natural gas storage facilities in Colorado, Mississippi, Texas, and California, and performed additional reservoir modeling. On the basis of these discussions and analyses, East Cheyenne concluded that it will need to increase the number of I/W wells, as well as the maximum bottom-hole pressure, to yield a more uniform and controlled gas bubble growth, provide more complete formation data, and enhance the ability to handle liquids present in the reservoir. East Cheyenne proposes to use existing vertical wells that were originally used for gas production as I/W wells during the project's initial development phase because, it states, such use will provide the safest, most efficient and most cost-effective means of managing the development of the D Sand reservoir in both the West Peetz and Lewis Creek Fields.

7. East Cheyenne does not propose any change in the capacity, injection rates, or withdrawal rates authorized by the August 2 Order. When completed, the project will provide approximately 18.9 Bcf of working gas capacity (11.5 Bcf within the West Peetz Field and 7.4 Bcf within the Lewis Creek Field) and 10.6 Bcf of cushion gas (5.7 Bcf in the West Peetz Field and 4.9 Bcf in the Lewis Creek Field). The project will have a maximum injection capability of 350 million cubic feet per day (MMcf/d) and a maximum withdrawal capability of 350 MMcf/d, both as authorized by the August 2 Order.

II. Proposal

A. New Facilities

8. East Cheyenne seeks to amend the August 2 Order to permit it to (1) convert 14 existing vertical wells into jurisdictional I/W wells; (2) relocate two of the certificated I/W wells originally proposed as horizontal wells, and develop these wells as vertical wells; (3) develop an additional 55,493 feet of field lines required to connect these additional wells to approved project facilities;⁷ and (4) incorporate additional permanent access roads required to access and service the additional wells.⁸ In addition, East

⁷ The additional lines will require approximately 1.5 miles of additional right-of-way, impacting approximately 25 additional acres.

⁸ The roads total 46,928 feet in length and will impact 22.85 acres.

Cheyenne proposes to relocate two of the originally-proposed and certificated monitoring wells and to add three additional jurisdictional monitoring wells using existing well bores and well pads. It also proposes to reduce the total number of disposal wells from four to three and to reclassify two water disposal wells. All of the wells and well pads will be located within the original 5,760-acre certificated project site.

9. In addition to the non-jurisdictional electrical facilities described in the original certificate application, Xcel Energy Inc. and High West Energy Inc., the electric service providers, will provide 17 power drops, including associated transformers and meters. They estimate approximately 17.5 acres of total easements would be required to provide power to the well pads.

10. If the proposed amendment is implemented,⁹ the East Cheyenne Gas Storage Project will consist of the following components:

- 24 I/W wells (13 in West Peetz and 11 in Lewis Creek) to be re-entered or drilled from 20 well pads, including metering facilities, liquids separators and methanol injection units at each well pad, as well as a dedicated liquids pipeline to remove liquids at each well and transport it to the Process Facility;
- the Process Facility;¹⁰
- approximately 141,029 feet of 2- to 24-inch-diameter pipelines connecting the I/W wellheads to the Process Facility;
- the Header (East Cheyenne proposes to interconnect the 24-inch diameter pipeline to REX and the 16-inch diameter pipeline to Trailblazer);
- the REX/Trailblazer Meter Station Site;
- two Class II water disposal wells;
- one water supply well;
- fourteen monitoring wells; and
- ancillary and support facilities, including access roads.

In order to dewater the D Sand and J Sand zones in both the West Peetz and Lewis Creek Fields, East Cheyenne proposes to increase the maximum overall pressure of its storage fields to 1,900 psia (from 1,300 psia).

11. The project's modified jurisdictional facilities will permanently affect approximately 201.39 acres (an increase of about 50.61 acres) and temporarily affect

⁹ See Appendix A of this order for a detailed comparison of East Cheyenne's Well Plan Amendment with the facilities approved in the August 2 Order.

¹⁰ See note 5 of this order.

284.45 acres (an increase of about 38.72 acres). These additional impacts, however, will be within the existing certificated project footprint.

B. Market-Based Rates

12. East Cheyenne states that the Commission concluded in the August 2 Order that East Cheyenne will not have market power over the provision of natural gas storage services and, accordingly, authorized East Cheyenne to charge market-based rates for the storage services it will provide through the East Cheyenne Gas Storage Project. Since East Cheyenne is not proposing to change the certificated project's capacity or overall injection and withdrawal capabilities or change the project's previously authorized services, East Cheyenne maintains that its amendment will not affect East Cheyenne's market power status. East Cheyenne states that it continues to lack market power. Therefore, East Cheyenne continues to rely on its previous market demand analysis and the Commission's previously granted market-based rate authorization. East Cheyenne requests that the Commission confirm that this is appropriate.

C. West Peetz Compressor Station

13. Given the changes in its project development plans, East Cheyenne avers that it no longer needs the temporary West Peetz Compressor Station, authorized in the August 2 Order to support early stage gas injections. East Cheyenne therefore proposes to eliminate the temporary compressor station from its project and to incorporate certain equipment proposed for that facility into the design of the Process Facility. Such equipment includes four 4,735-hp natural gas-driven compressors, a 1,480-hp overhead compressor, and three 625-hp generators. Accordingly, East Cheyenne requests that the Commission vacate the certificate authorization and pre-granted abandonment authority granted to East Cheyenne in the August 2 Order to the extent necessary to permit East Cheyenne to eliminate the temporary West Peetz Compressor Station from the project design.

III. Notice, Comment, and Interventions

14. Public notice of East Cheyenne's amendment application was published in the *Federal Register* on December 10, 2010 (75 Fed. Reg. 76,970 (2010)). Motions to intervene, protests, and comments were due by December 27, 2010. No interventions or protests were filed in this proceeding.

15. James M. Nelson filed comments stating that he and East Cheyenne have not yet come to an agreement regarding the lease of certain mineral rights and he further questioned East Cheyenne's and Colorado Oil and Gas Conservation Commission's (COGCC) ability to locate the eastern boundary of the Lewis Creek Field. Mr. Nelson's concerns are addressed below.

IV. Discussion

16. Since East Cheyenne's proposed amendment involves the transportation of natural gas in interstate commerce, subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to the requirements of subsections (b), (c), and (e) of section 7 of the NGA.¹¹

A. Application of the Certificate Policy Statement

17. The August 2 Order analyzed East Cheyenne's proposal in light of the Commission's Certificate Policy Statement¹² and found that the proposal was in the public convenience and necessity.¹³ Specifically, the order found that the project could proceed without subsidization from existing customers since East Cheyenne will charge market-based rates for firm and interruptible storage and hub services.¹⁴ In addition, the August 2 Order determined that there would not be any adverse effects on existing storage providers or their customers and that adverse impacts to landowners and communities affected by the project would be minimal.¹⁵

18. East Cheyenne's amendment proposes no change in services authorized in the August 2 Order. There will be no subsidization or adverse impact on existing customers or services since East Cheyenne has no current customers or services. Furthermore, no storage company in East Cheyenne's market area has protested its amendment.

19. For these reasons, the Commission finds that the public convenience and necessity requires approval of East Cheyenne's proposal to amend its certificate, as described in this order.

B. Market-Based Rates

20. East Cheyenne requests reaffirmation of its authority to provide firm and interruptible storage and hub services at market-based rates. East Cheyenne states that it

¹¹ 15 U.S.C. §§ 717f(b), 717f(c), and 717f(e) (2006).

¹² *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999) (Certificate Policy Statement), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000).

¹³ *See* August 2 Order, 132 FERC ¶ 61,097 at P 29.

¹⁴ *See id.* P 26.

¹⁵ *See id.* P 28.

is not proposing to change the capacity or overall injection and withdrawal capabilities of its storage facilities or change its authorized services. Thus, East Cheyenne maintains that it continues to lack market power and the amendment proposal will not affect its market power status.

21. The Commission has approved market-based rates for storage services where applicants have demonstrated, under the criteria in the Commission's Alternative Rate Policy Statement that they lack significant market power or have adopted conditions that significantly mitigate market power.¹⁶ In prior orders, we have approved requests to charge market-based rates for storage services based on a finding that the operators of proposed projects would not be able to exercise market power due to their proposed storage facilities' relatively small size, anticipated share of the market, and numerous competitors.¹⁷

22. The Commission finds that East Cheyenne's market power analysis has not changed and affirms the August 2 Order that the analysis demonstrates that its proposed storage facilities will be in a highly competitive production area where numerous storage and hub service alternatives exist for potential customers such that East Cheyenne lacks market power.

23. Nevertheless, East Cheyenne must notify the Commission if future circumstances significantly affect its present market power status. Thus, our approval of market-based rates for the indicated services is still subject to re-examination in the event that: (a) East Cheyenne adds storage capacity beyond the capacity authorized in this order; (b) an affiliate increases storage capacity; (c) an affiliate links storage facilities to East Cheyenne; or (d) East Cheyenne, or an affiliate, acquires an interest in, or is acquired by, an interstate pipeline connected to East Cheyenne. Since these circumstances could affect its market power status, East Cheyenne shall notify the Commission within ten days of acquiring knowledge of any such changes. The notification shall include a detailed description of the new facilities and their relationship to East Cheyenne.¹⁸ The

¹⁶ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076 (1996) (Alternative Ratemaking Policy Statement); *see also Rate Regulation of Certain Natural Gas Storage Facilities*, Order No. 678, FERC Stats. & Regs. ¶ 31,220 (2006), *reh'g denied*, Order No. 678-A, 117 FERC ¶ 61,190 (2006).

¹⁷ *See Port Barre Investments*, 116 FERC ¶ 61,052 (2006), *Pine Prairie Energy Center*, 109 FERC ¶ 61,215 (2004); *Egan Hub Partners*, 99 FERC ¶ 61,269 (2002).

¹⁸ *See, e.g., Port Barre Investments*, 116 FERC ¶ 61,052; *Copiah County Storage Co.*, 99 FERC ¶ 61,316 (2002); *Egan Hub Partners*, 99 FERC ¶ 61,269.

Commission also reserves the right to require an updated market power analysis at any intervening time.¹⁹

C. West Peetz Compressor Station

24. East Cheyenne requests that the Commission vacate the certificated authority to construct the West Peetz Compressor Station. Since East Cheyenne no longer needs to construct the compression facilities, we will vacate the certificate authorization (and the related pre-granted abandonment authority) for the West Peetz Compressor Station.

D. Engineering Analysis

25. Commission staff evaluated the data submitted in East Cheyenne's application and data responses, and concludes that the proposal is technically sound and feasible. The East Cheyenne storage facility's total certificated capacity remains unchanged at 29.533 Bcf, with approximately 18.9 Bcf of working gas capacity (11.5 Bcf within West Peetz Field and 7.4 Bcf within the Lewis Creek Field), and 10.633 Bcf of cushion gas capacity (5.706 Bcf within West Peetz Field and 4.927 Bcf within Lewis Creek Field).

26. In the August 2 Order, the authorized maximum bottom-hole pressure for the West Peetz D Sand is approximately 1,900 psia. All other zones were authorized with a certificated maximum bottom-hole pressure of approximately 1,300 psia. The initially-certificated design was based on the theory that the storage space would not exceed the original area occupied by the production field if the original bottom-hole pressure of 1,300 psia was not exceeded in the D and J Sands. East Cheyenne, however, avers that the new proposed bottom-hole pressure of 1,900 psia is required to adequately dewater all of the zones, not just the West Peetz D Sand.

27. These sands are part of a fluvial complex that contained trapped hydrocarbons on top of a four-way closure at both fields. East Cheyenne provided evidence that the water saturation in the storage zones is much greater than it anticipated. The Commission agrees that increasing both the number of I/W wells and the bottom-hole pressure in all

¹⁹ We note that in Order Nos. 678 and 678-A, the Commission chose not to impose a generic requirement that storage providers, granted market-based rate authority on the basis of a market power analysis, file an updated market power analysis every five years, or at other periodic intervals. *See Rate Regulation of Certain Natural Gas Storage Facilities*, Order No. 678, FERC Stats. & Regs. ¶ 31,220, at P 6 (2006); *see also* Order No. 678-A, 117 FERC ¶ 61,190, at P 12-15 (2006) (affirming the Commission's decision). The Commission, however, has previously reserved the right to require an updated market power analysis. *See, e.g., Liberty Gas Storage*, 113 FERC ¶ 61,247, at P 51 (2005); *Rendezvous Gas Services*, 112 FERC ¶ 61,141, at P 40 (2005).

the zones will effectively allow East Cheyenne to de-water the storage zones and control the gas bubble growth and gas migration through injections and monitoring. A maximum bottom-hole pressure of 1,900 psia is below the equivalent freshwater gradient because the specific gravity of petroleum fluids, including natural gas, is lower than that of water. As such, this pressure is also well below the fracture gradient for the reservoir, which ensures that no physical damage will be done to the storage zones during operations. Therefore, we authorize a maximum bottom-hole pressure for the D and J Sands in both the West Peetz and Lewis Creek Fields of 1,900 psia. East Cheyenne is directed to monitor this bottom-hole pressure for any potential migration. In addition, East Cheyenne is required to follow all of the engineering conditions set forth in Appendix B of this order.

28. James M. Nelson argues that East Cheyenne does not accurately describe the contour boundary of one of the existing wells in the J Sand Reservoir in the Lewis Creek Field. Mr. Nelson further argues that because no wells have been drilled east of the well Nelson No.1 on section 18, it is impossible to say exactly where the eastern boundary of the Lewis Creek Field J Sand is located. As noted in the August 2 Order, the COGCC has a record of the description of the reservoir, including its contour boundaries and the wells completed in the reservoir.²⁰ While no wells have been drilled east of Nelson No. 1, the COGCC has, using the best available information, designated an eastern boundary of the Lewis Creek Field J Sand. Contrary to Mr. Nelson's comments, the August 2 Order does not require East Cheyenne to prove the accuracy of the boundaries in COGCC's records; rather it requires East Cheyenne to show that the boundaries of its project match those described in the COGCC's records. As required in the August 2 Order, we continue to require that East Cheyenne ensure that its description of the reservoir and its boundaries are consistent with what is on record with the COGCC. East Cheyenne must file an affirmation of this consistency prior to commencing the construction of the storage facilities.

E. Environmental Analysis

29. On December 13, 2010, the Commission issued a Notice of Intent to Prepare an Environmental Assessment for the East Cheyenne Gas Storage Project Well Plan Amendment and Request for Comments on Environmental Issues (NOI). The NOI was mailed to interested parties including federal, state, and local officials; agency representatives; Native American tribes; local libraries and newspapers; and affected property owners. The NOI comment period ended on January 13, 2011.

²⁰ See August 2 Order, 132 FERC ¶ 61,097 at P 70.

30. We received comments in response to the NOI from the Colorado State Historic Preservation Office (SHPO), the National Park Service's Intermountain Regional Office, and Mr. Nelson.

31. To satisfy the requirements of the National Environmental Policy Act,²¹ our staff prepared an environmental assessment (EA) for East Cheyenne's proposal that was placed into the public record on February 28, 2011. Because the majority of the project remains unchanged from that addressed in our EA for the original project in Docket No. CP10-34-000, our staff's environmental analysis of East Cheyenne's Well Plan Amendment addressed only the proposed changes. The EA for the amended project addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, and alternatives. All comments received in response to the NOI were addressed in the EA.

32. In response to the NOI, the National Park Service indicated that the project would have no effect on any national park. The Colorado SHPO indicated that new project facilities should be surveyed for cultural resources. As stated in the EA, all of the changes proposed in the Well Plan Amendment would take place within the area surveyed for cultural resources for the original project. Because there were no historic properties within that survey area that would be affected by the project, the EA concluded that no additional cultural resources survey is needed.

33. As discussed in section B.2.1 of the EA, East Cheyenne proposes to use an onsite water well to provide water for construction and operation of the project. Because the well would be within the state-regulated Platte River basin, East Cheyenne must obtain a tributary status determination from the Colorado Water Court. However, due to the amount of time required to obtain a ruling from the Colorado Water Court, East Cheyenne has taken steps to allow for temporary water use until the final decision is made. The steps, which have been approved by the Colorado Water Court and the Colorado Division of Water Resources, include East Cheyenne preparing a plan to replace the water it uses.

34. The EA concluded that the amended East Cheyenne project would not adversely affect federally listed species if the water resource used for the project is designated by the Colorado Water Court to be a "non-tributary" source of the Platte River. However, the EA also acknowledges if the source for the water well is determined to be a tributary of the Platte River, formal consultation with the U.S. Fish and Wildlife Service (FWS) would be required. The FWS has previously determined that any water withdrawals from

²¹ 42 U.S.C. §§ 4321 and 4331-4335 (2006).

the Platte River system could adversely affect federally listed threatened and endangered species downstream of the project area in Nebraska.

35. Because East Cheyenne proposes to use the well prior to obtaining the Colorado Water Court determination, on March 3, 2011, Commission staff initiated formal section 7 consultation with the FWS, as required by the Endangered Species Act,²² and provided them with a biological assessment regarding the potential project related impacts on federally listed threatened and endangered species from water withdrawals. To date, the FWS has not issued a biological opinion for the project. Therefore, an environmental condition (13) has been added to require completion of consultation with FWS prior to commencement of construction.

36. In addition to his comments about the boundary line, Mr. Nelson also indicated that although East Cheyenne committed to making a good-faith effort to resolve mineral negotiations, East Cheyenne rejected an offer Mr. Nelson made on August 2010, and has made no counteroffer or response as of January 2011. Thus, Mr. Nelson alleges that East Cheyenne had not continued to make a good-faith effort to resolve land acquisition and mineral rights issues. As noted in the August 2 Order, while a certificate of public convenience and necessity from this Commission carries with it the right to obtain the property rights necessary to construct the project, the Commission plays no role in assessing surface or mineral property values, or in determining the appropriate compensation for the transfer of such rights.²³ The Commission has no jurisdiction to consider issues related to any mineral or surface lease agreements between the Mr. Nelson and East Cheyenne. If the parties are unable to reach agreement regarding any easements necessitated by this authorization through negotiation, Mr. Nelson will be able to raise his concerns before the court in an eminent domain proceeding.

37. The August 2 Order included fourteen environmental conditions. East Cheyenne's November 11, 2010 filing satisfied environmental condition 11 that required East Cheyenne to revise its Upland Erosion Control, Revegetation, and Maintenance Plan. In addition, we note that environmental condition 13 of the August 2 Order, which required a noise survey of the West Peetz Compressor Station, is no longer relevant because the West Peetz Compressor Station is no longer part of the project design. The remaining environmental conditions from the August 2 Order are included in Appendix C of this order.

38. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with East Cheyenne's applications and supplements, and in compliance with the environmental conditions in Appendix C of this order, our approval of this proposal

²² 16 U.S.C. §§ 1531-1544 (2006).

²³ See August 2 Order, 132 FERC ¶ 61,097 at P 77.

would not constitute a major federal action significantly affecting the quality of the human environment.

39. 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.²⁴

V. Conclusion

40. For the reasons discussed above, the Commission finds that the amendment is required by the public convenience and necessity and that a certificate authorizing the amended construction and operation of the facilities described in this order, the August 2 Order, and in East Cheyenne's applications should be issued, subject to the conditions discussed herein.

41. The Commission, on its own motion, received and made part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to East Cheyenne, in Docket No. CP11-40-000, authorizing the amendment of the storage facilities as described in this order and more specifically in the application.

(B) The certificate issued in Ordering Paragraph (A) is conditioned on East Cheyenne's compliance with all applicable Commission regulations under the Natural Gas Act, particularly the general terms and conditions set forth in Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (g) of section 157.20 of the regulations.

(C) East Cheyenne must comply with all conditions of the August 2 Order, except as modified herein.

(D) East Cheyenne's certificate authorization to construct the West Peetz Compressor Station and the related pre-granted abandonment are vacated.

²⁴ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *Nat'l Fuel Gas Supply v. Public Service Comm'n*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(E) East Cheyenne's facilities shall be made available for service within eighteen months of August 2, 2010, as required by section 157.20(b) of the Commission's regulations.

(F) East Cheyenne's request to charge market-based storage rates for firm and interruptible storage and hub services is affirmed, as discussed and subject to the conditions in this order.

(G) East Cheyenne shall notify the Commission within ten days of acquiring knowledge of: (a) East Cheyenne 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 East Cheyenne; or (d) East Cheyenne or an affiliate's acquisition of an interest in, or being acquired by, an interstate pipeline connected to East Cheyenne. The notification shall include a detailed description of the new facilities and their relationship to East Cheyenne. The Commission also reserves the right to require an updated market power analysis at any intervening time.

(H) The certificate issued in Ordering Paragraph (A) is conditioned upon East Cheyenne's compliance with the engineering conditions set forth in the Appendix B to this order.

(I) The certificate issued in Ordering Paragraph (A) is conditioned upon East Cheyenne's compliance with the environmental conditions set forth in the Appendix C to this order.

(J) East Cheyenne shall notify the Commission's environmental staff by email, telephone, or facsimile of any environmental non-compliance identified by other federal, state or local agencies on the same day that such agency notifies East Cheyenne. East Cheyenne shall file written confirmation of such notification with the Secretary of the Commission within twenty-four hours.

(K) East Cheyenne shall file with the Commission an affirmation that its description of the J Sand reservoir and the reservoir's boundary is consistent with the description on record with the Colorado Oil and Gas Conservation Commission prior to the commencement of construction of the storage facilities.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix A

TABLE 1 Summary of Changes to the East Cheyenne Gas Storage Project

Summary of Changes	Revised Original Breakdown					
	Original Filing Quantities		Amended Filing Quantities		Total Changes in Quantity	
	D	J	D	J	D	J
Wells in West Peetz						
Horizontal Wells (new)	4	2	4	0	0	-2
Vertical Wells (7 existing in D and 2 new in J)	0	0	7	2	7	2
Water Disposal Wells (existing, Jurisdictional)	0		1		+1	
Water Disposal Wells (existing, non Jurisdictional)	1		0		-1	
Water Disposal Wells (new, Jurisdictional)	0		0		0	
Water Disposal Wells (new, non Jurisdictional)	1		1		0	
Jurisdictional Monitoring Wells (existing)	4		3		-1	
Temporary Abandoned Monitoring Wells (existing)	0		3		3	
Plugged and Abandoned Wells (existing)	18		8		-10	
EOR Production Wells (non Jurisdictional)	5		5		0	
Wells in Lewis Creek						
Horizontal Wells (new)	2	2	2	2	0	0
Vertical Wells (existing)	0	0	7	0	0	7
Water Disposal Wells (existing, Jurisdictional)	1		0		-1	
Water Disposal Wells (existing, non Jurisdictional)	0		0		0	
Water Disposal Wells (new, Jurisdictional)	1		1		0	
Water Disposal Wells (new, non Jurisdictional)	0		0		0	
Monitoring Wells (existing)	1		5		4	
Temporary Abandoned Monitoring Wells (existing)	0		3		3	

Plugged and Abandoned Wells (existing)	25		13		-12	
EOR Production Wells (non Jurisdictional)	0	5	0	5	0	0

Appendix B

Engineering Conditions for the East Cheyenne Gas Storage Project

- A) Grant a certificate of public convenience and necessity authorizing East Cheyenne to construct and operate the Project with the Well Plan Amendment, as more fully described in the application.
- B) The maximum inventory of natural gas stored in the East Cheyenne Gas Storage project shall not exceed the total certificated level of 29.533 Bcf without prior authorization of the Commission. Each storage zones individual certificated capacity is stated in the table:

Field	Sand	Total Gas Capacity (Bcf)	Working Gas (Bcf)	Cushion Gas (Bcf)	Maximum Bottom-hole Reservoir Pressure (psi)
West Peetz	D	17.206	11.5	5.706	1,900
	J				1,900
Lewis Creek	D	12.327	7.4	4.927	1,900
	J				1,900

- C) East Cheyenne shall operate the Project in such a manner as to prevent/minimize gas loss or migration.
- D) East Cheyenne shall conduct an annual inventory verification study on each storage zone.
- E) East Cheyenne 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):
 - (1) The daily volumes of natural gas injected into and withdrawn from the storage reservoir. The monthly volumes of oil and water produced from the storage reservoir.
 - (2) The volume of natural gas in the reservoir at the end of the reporting period.
 - (3) 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.

- (4) 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.
- (5) Any surveys of pressures in gas wells, and the results of back-pressure tests conducted during the reporting period.
- (6) The latest revised structural and isopach maps showing the surface and bottom-hole 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.
- (7) 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.
- (8) Discussion of current operating problems and conclusions.
- (9) Such other data or reports which may aid the Commission in the evaluation of the storage project.
- (10) 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.
- (11) East Cheyenne's facilities shall be made available for service within eighteen months of the August 2, 2010 order date as required by section 157.20(b) of the Commission's regulations. If East Cheyenne is not able to comply it should request an extension of time.

Appendix C

Environmental Conditions for the East Cheyenne Gas Storage Project

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

1. East Cheyenne shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), and as identified in the EA, unless modified by the order. East Cheyenne 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 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**, East Cheyenne shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, East Cheyenne 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 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.

East Cheyenne'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. East Cheyenne's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipeline or storage facility to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. East Cheyenne shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area.**

This requirement does not apply to extra workspace allowed by East Cheyenne's project-specific Upland Erosion Control, Revegetation, and Maintenance Plan, and/or minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

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

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas
6. **Within sixty days of the acceptance of the Certificate and before construction begins**, East Cheyenne shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. East Cheyenne must file revisions to the plan as schedules change. The plan shall identify:
 - a. how East Cheyenne will implement the construction procedures and mitigation measures described in its application and supplements (including

- responses to staff data requests), identified in the EA, and required by the Order;
- b. how East Cheyenne will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - c. the number of EIs assigned, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instructions East Cheyenne 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 East Cheyenne's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) East Cheyenne will follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (1) the completion of all required surveys and reports;
 - (2) the environmental compliance training of onsite personnel;
 - (3) the start of construction; and
 - (4) the start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, East Cheyenne shall file updated status with the Secretary on a **biweekly** basis until all construction and restoration activities are complete. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on East Cheyenne'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 order, and the measures taken to satisfy their concerns; and
 - g. copies of any correspondence received by East Cheyenne from other federal, state, or local permitting agencies concerning instances of noncompliance, and East Cheyenne's response.
8. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, East Cheyenne shall file with the Secretary documentation that it has received all authorizations required under federal law (or evidence of waiver thereof).
 9. East Cheyenne must receive written authorization from the Director of OEP **before placing each phase of the project into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
 10. **Within thirty days of placing the authorized facilities in service**, East Cheyenne 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 East Cheyenne has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
 11. East Cheyenne shall conduct, with the well owner's permission, pre- and post-construction monitoring of well yield and water quality for wells within 150 feet of the construction work area. **Within thirty days of placing the facilities into service**, East Cheyenne shall file a report with the Secretary discussing whether any complaints were received concerning well yield or water quality and how each was resolved.
 12. East Cheyenne shall file a noise survey with the Secretary **no later than sixty days** after placing the Process Facility in service. If the noise attributable to the operation of all of the equipment at the Process Facility at full load exceeds a day-night sound level of 55 decibels on the A-weighted scale at any nearby noise-

sensitive areas, East Cheyenne shall install additional noise controls to meet the level **within one year** of the in-service date. East Cheyenne shall confirm compliance with the above requirement by filing a second noise survey with the Secretary **no later than sixty days** after it installs the additional noise controls.

13. East Cheyenne shall not begin construction activities **until**:
 - a. the staff receives comments from the FWS regarding the proposed action;
 - b. the staff completes any necessary formal and informal consultation with the FWS; and
 - c. East Cheyenne has received written notification from the Director of OEP that construction or use of mitigation may begin.