

139 FERC ¶ 61,149  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Chestnut Ridge Storage LLC

Docket No. CP08-36-002

ORDER DENYING REHEARING AND VACATING CERTIFICATE

(Issued May 23, 2012)

1. On December 2, 2011, Chestnut Ridge Storage LLC (Chestnut Ridge) requested rehearing of a November 2, 2011 Order<sup>1</sup> of the Director of the Commission's Office of Energy Projects (OEP) denying Chestnut Ridge's request for an extension of time to complete the Junction Natural Gas Storage Project. For the reasons discussed below, we deny the request for rehearing and vacate Chestnut Ridge's certificate authorizing this project.

**Background**

2. On August 31, 2009, the Commission issued an order authorizing Chestnut Ridge, pursuant to section 7(c) of the Natural Gas Act (NGA), to construct and operate the Junction Natural Gas Storage Project near Uniontown, Pennsylvania.<sup>2</sup> The August 2009 Certificate Order specified that the project be completed and made available for service

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<sup>1</sup> *Chestnut Ridge Storage LLC*, 137 FERC ¶ 62,106 (November 2011 Order).

<sup>2</sup> *Chestnut Ridge Storage LLC*, 128 FERC ¶ 61,210 (2009) (Certificate Order). The August 31, 2009 Certificate Order also granted Chestnut Ridge a Part 157, Subpart F blanket construction certificate and a Part 284, Subpart G blanket service certificate and authorized Chestnut Ridge to charge market-based rates for its storage services.

by August 31, 2011.<sup>3</sup> Three weeks prior to the expiration of this deadline, Chestnut Ridge requested an additional three years to complete its project. In requesting the extension of time, Chestnut Ridge stated its conclusion that “[p]rospective gas storage service customers are currently unwilling to enter into new long term arrangements for storage services at rates developers such as Chestnut Ridge would need to support construction of new capacity.”<sup>4</sup>

3. The November 2011 Order denied the request for additional time, finding that “with the exception of responding to a breach of contract claim brought by landowners and seeking this extension of time,” it appears “Chestnut Ridge has taken no concrete steps toward the development of its project since June 2009.” The Order further stated, “Chestnut Ridge does not indicate that it has sought to obtain necessary property rights by means of eminent domain, nor has made preparations for construction, such as ordering materials for its project.” The Order also stated that “in seeking a three-year extension, Chestnut Ridge makes no representations that any improvement in gas storage markets or the availability of project financing for its particular project is imminent.”<sup>5</sup> In view of this, the Order concluded that “Chestnut Ridge’s desire to maintain the viability of its certificate and its belief that circumstances will eventually change such that its project will become viable are [not] sufficient reasons to grant the requested three-year extension of time.”<sup>6</sup>

### **Chestnut Ridge’s Request for Rehearing**

4. Chestnut Ridge objects to the Director of OEP taking note of its project’s progress, arguing that expecting a certificate holder to demonstrate concrete steps towards developing a project constitutes a new standard for granting an extension of time. Chestnut Ridge adds that even under such a new standard, the Director failed to acknowledge substantial steps that it has taken over the last two years, such as acquiring and retaining surface and mineral property rights and conducting geological and geotechnical survey work.

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<sup>3</sup> “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.” *Id.*, Ordering Paragraph (H).

<sup>4</sup> Chestnut Ridge’s Request for Extension of Time at 1 (August 11, 2011).

<sup>5</sup> 137 FERC ¶ 62,106 at 64,265.

<sup>6</sup> *Id.* at 64,266.

5. Chestnut Ridge also objects to the Director of OEP taking note of comments that opposed its request for an extension of time. Chestnut Ridge asserts these comments repeat allegations the Commission previously reviewed and rejected in assessing and approving its application. Chestnut Ridge argues it is inconsistent with Commission precedent to give any weight to previously expressed objections to an authorized project when reviewing a request for an extension of time.

### **Answer in Response to Request for Rehearing**

6. Mary Smith Nelson, Elizabeth Smith Arthur, Nancy Smith McGregor, Thomas W. Smith, Elizabeth Ann Smith, and Rachel Dickhut (the Smiths) jointly submitted a response to the request for rehearing. Their response is limited to observing that in a pending court proceeding which the Smiths brought to resolve questions regarding contract terms covering their property rights, Chestnut Ridge has filed a counterclaim for (1) compensatory damages because the Smiths' actions have caused Chestnut Ridge to incur additional, unnecessary costs, and (2) punitive damages based on the Smiths' "willful and wanton" opposition to its project.<sup>7</sup> The Smiths ask the Commission to consider the public policy implications of an applicant using collateral litigation to intimidate or deter interested persons from participating in Commission proceedings.

### **Commission Response**

#### **Issues Raised in Other Forums**

7. The Commission's regulations do not permit answers to requests for rehearing<sup>8</sup> and because the information provided in the Smiths' pleading will not assist in our decision making, we find no cause to waive our regulation.

#### **Rationale for Time Limits for Completing Projects**

8. The Commission considers requests by project sponsors for extensions of time to undertake and complete authorized construction on a case-by-case basis. However, in considering such requests, we bear in mind that our orders authorizing projects include

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<sup>7</sup> See the Smiths' Answer to Chestnut Ridge's Request for Rehearing, at 2 (Dec. 8, 2011) and *Thomas W. Smith, et al. v. Chestnut Ridge Storage LLC, et al.*, No. 11-C-457 (*pending*), filed by the Smiths in July 2011 in the Circuit Court of Monongalia County, West Virginia.

<sup>8</sup> See 18 C.F.R. § 385.713(d)(1) (2011).

completion deadlines because the information supporting our public convenience and necessity determination goes stale with the passage of time.<sup>9</sup> The deadline for placing a new project in service is not, as Chestnut Ridge states, “arbitrarily established in the original certificate.”<sup>10</sup> Rather, the completion date specified in a certificate order provides what we believe – based on our assessment of circumstances relevant to the specific project – to be a reasonable period of time, within which the findings supporting our authorization can be expected to remain valid, for the project sponsor to conclude any necessary marketing efforts and complete construction and make the project available for service.<sup>11</sup>

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<sup>9</sup> When we act on an application, we rely on information available at that time. However, the data that underpin our conclusions on the need for a project, its commercial prospects, and its environmental impacts are subject to change. Thus, the validity of our conclusions and environmental mitigation conditions cannot be sustained indefinitely. Accordingly, when we issue a certificate authorizing a project, the certificate comes with an expiration date.

<sup>10</sup> Chestnut Ridge’s Request for Rehearing at 13.

<sup>11</sup> We believe the original grant of two years for Chestnut Ridge to complete construction of the Junction Natural Gas Storage Project conformed to Chestnut Ridge’s expectation “that certificates must provide project developers with the time required under then-extant market conditions to secure contractual commitments from market participants and to make the complex financial arrangements required to bring a certificated project – particularly one for which the project developer assumes all market risk – to fruition.” Chestnut Ridge’s September 21, 2011 Data Response at p. 2. At the time the Commission was considering Chestnut Ridge’s application and specifically making a determination as to whether the public benefits of its project would outweigh its adverse impacts, Chestnut Ridge provided no indication that it expected to have difficulty in securing contractual commitments or financing. To the contrary, Chestnut Ridge represented that following a 2007 open season, it had potential customers for over 300 percent of its proposed facility’s working capacity and, accordingly, committed to awarding the capacity on a nondiscriminatory basis. While acknowledging that it had no precedent agreements, Chestnut Ridge nevertheless asserted that the “expressions of interest demonstrate that there is a substantial market demand” for the proposed project. Certificate Order, 128 FERC ¶ 61,210 at P 5. We based our determination that the benefits of the project would outweigh the potential adverse impacts on Chestnut Ridge’s assurance that there was sufficient *present* customer interest to sustain its project. In any case, had Chestnut Ridge believed that the two-year construction deadline was arbitrary

(continued ...)

9. In addition to the potential for information and data to become dated, there could potentially be anti-competitive implications associated with granting project sponsors extensions of time to construct authorized projects based primarily upon the projects' inability to garner market support. The fact that one company already holds a certificate for a project, even if it hasn't started construction, could inhibit a potential competitor from pursuing its own project to serve the same market, since the certificate holder, having already received Commission authorization to proceed with its project, could conceivably begin construction at any time.<sup>12</sup> This could run contrary to Commission efforts to preclude practices which might introduce or perpetuate market inefficiencies.

10. We also observe that an issued certificate for a storage facility can constrain landowners within the certificated boundaries from pursuing activities that could prove incompatible with the project's construction or operation. Therefore, an extension of time which results in limitations in the use of a landowner's property might not be warranted unless the company can demonstrate credible prospects for its project's completion.

11. Accordingly, we do not, as Chestnut Ridge suggests, automatically grant additional time solely because a company expresses a preference, or even need, to place a hold on its project until more agreeable market conditions materialize. We do, in general, grant extensions of time when a project sponsor demonstrates that good faith efforts to meet a deadline have been thwarted by unforeseeable circumstances, e.g., difficulties in obtaining deliveries of needed materials or the discovery of cultural remains on an approved right-of-way. In this case, however, it appears Chestnut Ridge has reached the conclusion, which we have no reason to dispute, that its project is not financially viable under current conditions. It has consequently refrained from moving forward with activities that must be completed, or be well underway, prior to initiating construction, e.g., acquiring necessary property rights, submitting a Construction Implementation Plan,

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or otherwise inappropriate, it should have raised that issue by seeking rehearing of the 2009 Certificate Order. It cannot do so here.

<sup>12</sup> Somewhat similar concerns led to the Commission's policy against hydroelectric project site-banking, wherein one company obtains, but does not use, exclusive rights pertaining to a particular site and thereby prevents all others from developing the same site. *See, e.g., Public Utility District No. 1 of Pend Oreille County, Washington*, 124 FERC ¶ 61,064, at P 31 (2008), explaining that "an entity that is unwilling or unable to develop a site should not be permitted to maintain the exclusive right to develop it."

ordering materials, and obtaining state and federal permits and authorizations. These decisions on the part of the company provide grounds for the Commission to refrain from “automatically” granting Chestnut Ridge an extension of time without further consideration.<sup>13</sup>

### **Rationale for Granting or Denying an Extension of Time**

12. In seeking more time to complete its project, Chestnut Ridge identifies 20 other storage projects which received extensions of time over the past decade.<sup>14</sup> The sponsors of several of these projects referenced the downturn in the economy and its impact on the gas market as a reason for seeking additional time.<sup>15</sup> Chestnut Ridge argues that because it too seeks additional time as a consequence of changes in the gas market, its request should also be granted.

13. In considering requests to extend the time for completing construction of natural gas projects, we examine the facts of each case. As noted by Chestnut Ridge, the

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<sup>13</sup> See *Iroquois Gas Transmission System, L.P.*, 104 FERC ¶ 61,307 (2003): “Construction deadlines . . . are routinely imposed on certificate applications to ensure that the facts, analysis, and rationale regarding a particular proposal do not grow stale. If an applicant fails to construct the authorized facilities by the construction deadline, the certificate will lapse. However, to retain the flexibility to respond to the factual circumstances of each case, construction deadlines may be extended for good cause.” (*Citations omitted.*)

<sup>14</sup> See Exhibit A to Chestnut Ridge’s Request for Rehearing.

<sup>15</sup> Of the 20 projects cited by Chestnut Ridge, three most closely resemble Chestnut Ridge in that the project sponsors had yet to commence construction and sought additional time to market capacity and arrange financing. However, unlike Chestnut Ridge, in these three projects there were no objections voiced – by landowners or by others – to either the initial application or the request for additional time. See *Liberty Gas Storage LLC*, 127 FERC ¶ 61,221 (2009) (September 1, 2010 letter order granting three-year extension of time); *Orbit Gas Storage Inc.*, 126 FERC ¶ 61,095 (2009) (January 6, 2010 letter order granting two-year extension of time. This extension of time expired February 5, 2012. A second extension, to February 5, 2014, was granted, based upon evidence of continuing process.); and *Tarpon Whitetail Gas Storage, LLC*, 125 FERC ¶ 61,050 (2008) (May 20, 2009 letter order granting three-year extension of time. This extension expires June 18, 2012.

sponsors of a number of storage projects have come to the Commission in recent years requesting additional time in which to construct and place their projects into service. In most of the cases cited by Chestnut Ridge, construction was underway at the time the request for an extension of time was submitted, and the reasons stated for seeking more time had to do with unanticipated construction-related difficulties or a need to make changes to the project facilities. In these cases, when extra time was provided to make up for time lost due to an unanticipated need to make changes to the project, or work around obstacles encountered during construction, the project continued to move to completion.<sup>16</sup> However, recent experience gives us cause to consider whether the same result (ultimate project completion within the extended time period) can be reasonably anticipated when the sponsor of a project which is still in the pre-construction stage seeks additional time based on market-related, as opposed to construction-related, setbacks.

14. As Chestnut Ridge notes, we have, in the past, granted extensions of time in the face of changed market conditions to allow project sponsors additional time to solicit customers without requiring a showing of what efforts the project sponsors were actually making to move their projects forward. However, in view of the potential for changes in the circumstances which underlay our original public interest findings, as well as the ongoing constraints and uncertainties to which landowners may be subjected, a changed market is not a premise for putting a project on indefinite hold. In this regard, our

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<sup>16</sup> See, e.g., *PetroLogistics Natural Gas Storage, LLC*, 122 FERC ¶ 61,193 (2008) (February 26, 2009 letter order granting a four-month extension of time to accommodate weather-related delays, including two hurricanes); and *Pine Prairie Energy Center, LLC*, 109 FERC ¶ 61,215 (2004) (certificate for storage project conditioned on facilities be completed within three years), *orders amending certificate*, 116 FERC ¶ 61,316 (2006) (authorizing relocation of a previously authorized lateral to interconnect with two interstate pipelines' systems and extending the original deadline for the completion of the project by 22 months); unpublished September 21, 2009 letter order in Docket No. CP04-379-000 (granting one-year extension of time for Cavern No. 3 and Compressor Unit Nos. 5 and 6 – facilities which had been delayed due to problems in salt leeching – to be placed in service); 128 FERC ¶ 61,136 (2009) (authorizing two additional gas storage caverns as part of the project and other additional facilities with condition to complete construction of the newly authorized facilities within three years); and 131 FERC ¶ 62,226 (2010) (amending certificate to authorize six compressor units rather than the four previously authorized units and other additional facilities and extending previous deadline for completion of construction by 10 months).

experience in *Seneca Lake Storage, Inc. (Seneca Lake)*, one of the storage proceedings cited by Chestnut Ridge, is instructive.<sup>17</sup>

15. A certificate was issued to Seneca Lake in 2002, conditioned on its completing construction and making its storage project available for service within one year. Subsequently, the Commission extended the construction deadline three times in response to three separate requests by Seneca Lake for “additional time to explore market opportunities.”<sup>18</sup> Finally, in 2008, we vacated the certificate, finding that “given current commercial circumstances” the project sponsor “will not construct the facilities and another extension is not warranted.”<sup>19</sup>

16. Similarly, of the three projects noted above at note 16, where there were no protests to the requested extensions, we observe that it does not appear that any of them will actually be constructed within the extended time periods granted. Thus, our experience is that extensions in such cases may well be unavailing. It is reasonable for the Commission to take into consideration impacts that might be imposed by a project that remains authorized but unbuilt, and to weigh those potential impacts against the prospects for the project ever being completed and realizing its anticipated benefits.

### **Chestnut Ridge’s Objection to Landowner’s Continued Opposition**

17. Chestnut Ridge argues that the November 2011 Order, by “affording the Smiths’ protests substantial weight as against Chestnut Ridge’s extension request,” “established a precedent that, if left standing, will have a significant chilling effect on future interstate natural gas infrastructure development.”<sup>20</sup> Chestnut Ridge maintains that the November 2011 Order “effectively rescinds Chestnut Ridge’s certificate of public convenience and necessity for no more substantial basis than the existence of opposition to the Project

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<sup>17</sup> *Seneca Lake Storage, Inc.*, 98 FERC ¶ 61,163, *Order Issuing Certificates*, (2002).

<sup>18</sup> See unpublished letter orders issued in Docket No. CP01-434-000 by the Commission’s Office of Energy Projects on February 16, 2006, January 14, 2004, and December 24, 2002.

<sup>19</sup> *Seneca Lake Storage, Inc.*, 122 FERC ¶ 61,212, *Order Vacating Certificate Authorization*, at P 3 (2008).

<sup>20</sup> Chestnut Ridge’s Request for Rehearing at 10.

which the Commission originally determined was no ground for denying Chestnut Ridge a certificate in the first place.”<sup>21</sup>

### **Commission Response**

18. While the November 2011 Order observed that the Smiths and another affected landowner (Ed McCoy, President of Coastal Timberlands Company) opposed the extension of time, it reiterated the observation in the August 2009 Certificate Order that determining the status of property ownership interests and issues related to appropriate compensation for property interests were “matters beyond the jurisdiction of the Commission,” and concluded that “there is no cause to take up these matters here.”<sup>22</sup> Thus, we do not agree with Chestnut Ridge’s suggestion that the protests of the landowners were afforded undue weight by the Director of OEP. However, Commission staff did request information from Chestnut Ridge concerning the steps it had taken since its certificate was issued to obtain the property rights necessary for its project,<sup>23</sup> in order to gauge whether Chestnut Ridge had, as the Smiths’ alleged, set its certificate on a shelf and let it lie dormant, or whether Chestnut Ridge had been actively engaged in preparations in anticipation of commencing construction.

19. Chestnut Ridge’s response indicated that even prior to receiving its certificate authorization in August 2009, Chestnut Ridge had suspended project development activities. For example, with respect to obtaining permission to enter property that had yet to be surveyed, Chestnut Ridge explained that while it had “significant success in negotiating with landowners for survey permission” before June 2009, thereafter it “suspended development activity” and “has not actively negotiated with landowners for survey permission or for property rights.”<sup>24</sup> Similarly, with respect to obtaining permission to cross state game lands and state forest lands, Chestnut Ridge stated that although it held discussions “[i]n the early stages of the Project’s development” with “officials from the Pennsylvania Game Commission and the West Virginia Public Lands Commission to discuss pertinent easements and agreements ... [t]hose discussions were not advanced further after the Project’s development was temporarily suspended in

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<sup>21</sup> *Id.* at 23.

<sup>22</sup> November 2011 Order, 137 FERC ¶ 62,106 at 64,266.

<sup>23</sup> See Commission staff’s September 1, 2011 Data Request and Chestnut Ridge’s September 21, 2011 Data Response.

<sup>24</sup> Chestnut Ridge’s September 21, 2011 Data Response at p. 1.

June 2009.”<sup>25</sup> Taking note of these statements, the Director of OEP found that Chestnut Ridge, by statement and by deed, had effectively suspended development of its project as of June 2009, and that this inactivity, coupled with the continued lack of customer demand and project funding, indicated that providing additional time would be unlikely to assure the project would be completed.

**Chestnut Ridge’s Objection to a Review of Progress to Realize its Project**

20. Chestnut Ridge objects to the Director of OEP taking into account its efforts and progress on the project, arguing that in granting extensions of time in other cases, no showings of progress or steps taken towards project completion were required. In requesting rehearing, Chestnut Ridge recites efforts it made to move its project forward.

21. Chestnut Ridge also objects to the Director of OEP relying on several statements it made declaring it had suspended development activities on the Junction Natural Gas Storage Project, contending these statements were taken “out of context.” Chestnut Ridge maintains it has “continued substantial Project development activities” from the day the certificate authorization order was issued until now, and that these activities, which “have not been specifically mentioned in materials filed with the Commission,” have cost approximately \$2,000,000.<sup>26</sup>

22. Chestnut Ridge explains that while its application was pending before the Commission, it “restructured the management of the Project,” and temporarily suspended

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<sup>25</sup> *Id.* at p. 3. Chestnut Ridge adds that “[i]mplementation of the mitigation measures recommended or required by the Pennsylvania and West Virginia state agencies, as well as discussions concerning any additional mitigation measures that may be required, are on hold pending the establishment of a revised project construction schedule.” The November 2011 Order observed that with respect to the Pennsylvania Department of Environmental Protection, Chestnut Ridge’s efforts to obtain necessary approvals are no longer “on hold;” rather, as described in a March 24, 2011 letter submitted on Chestnut Ridge’s behalf, due to its suspending activities on the project, it has withdrawn its permit application, reserving “the right to resume development and permitting activities in Pennsylvania pending resubmission and approval of a new permit application.” November 2011 Order, 137 FERC ¶ 62,106 at 64,265.

<sup>26</sup> Chestnut Ridge’s Request for Rehearing at 17. Chestnut Ridge states it has “devoted substantial legal and business resources to defending the rights and interests it purchased in the West Summit Field and required for the Project in a suit filed by the Smiths in West Virginia.” *Id.* at 20.

some, but not all, project activities. Specifically, it suspended the “further acquisition of property rights and the purchases of construction materials that had not already been purchased,” while continuing “to work with state and federal agencies on the issuance of permits and development of mitigation plans.”<sup>27</sup> Chestnut Ridge maintains it continued to consult and negotiate with federal and state agencies to resolve pending permitting issues until March 2011, when it suspended these activities in response to state agency requests that it withdraw its pending permit applications, recognizing that time-sensitive field work would need to be “refreshed” in order to provide support for its permit applications.<sup>28</sup> Chestnut Ridge asserts that since the August 2009 Certificate Order, it has undertaken “an exhaustive geologic reinterpretation of the reservoir,” in anticipation of submitting an application to amend its certificate to “propose an alternative development plan for the storage field” that will “involve modifications to the number and configuration of its injection/withdrawal wells and compression facilities originally included in the Project plan.”<sup>29</sup>

### **Commission Response**

23. Regardless of which project development activities were suspended prior to issuance of Chestnut Ridge’s certificate, which were suspended thereafter, and which are ongoing, we focus on whether the project, as it now stands, continues to be a viable option for meeting the previously identified need, despite the fact that the project sponsors have failed to meet a central condition (that the project be completed and placed into service by a date certain) of the project’s authorization. It is our policy that once the Commission has determined that the benefits of a proposed project would outweigh any identified adverse impacts, the market will determine which gas infrastructure will actually be constructed.<sup>30</sup> However, here the company is telling the Commission that

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<sup>27</sup> *Id.* at 18.

<sup>28</sup> *Id.* at 18-19. Chestnut Ridge states that it has twice requested and received additional time to complete its Construction Implementation Plan, because it seeks to obtain all necessary state and federal permits prior to submitting its Plan.

<sup>29</sup> *Id.* at 19-21.

<sup>30</sup> *Certification of New Interstate Natural Gas Pipeline Facilities (Certificate Policy Statement)*, 88 FERC ¶ 61,227, at 61,746 (1999) (“[a] number of commenters . . . urged the Commission to allow the market to decide which projects should be built, and this requirement [that a project be able to stand on its own financially without subsidies] is a way of accomplishing that result”). *See also AES Sparrows Point, LNG*, “we affirm

there have been “changes in the natural gas storage market and the overall state of the economy since [its] Certificate Order was issued” which have precluded the company from being able to secure financing for its project and that “Chestnut Ridge is hardly alone” in being unable to find customers in order to proceed with a certificated storage project.<sup>31</sup> In such a circumstance, it seems reasonable for the Commission to look for something beyond a company’s unsupported request on which to base a determination that, notwithstanding the company’s dire assessment of the state of the market, there is reason to believe the project will indeed be built if the sponsor is provided more time.

24. Although Chestnut Ridge represented that strong interest was expressed during the open season it conducted in the fall of 2007,<sup>32</sup> it has been over four years since Chestnut Ridge filed its certificate application and two and a half years since we authorized its project, and it has yet to secure any customer commitments. Further, Chestnut Ridge has stated its conclusion that prospective gas storage service customers are currently unwilling to enter into long-term agreements for its services at rates that would produce the level of revenues it would need to support going forward with construction of its project.<sup>33</sup>

25. In the November 2011 Order denying Chestnut Ridge’s request for an extension of time, the Director of OEP observed that Chestnut Ridge acknowledged it lacked both prospective customers and project financing. In seeking rehearing, Chestnut Ridge makes no representation that this has changed. In other words, Chestnut Ridge’s deadline for completing its project came and went, and it is still unable to secure financing or present any evidence of market demand for its storage services at the rates it says it would need to make its project viable. Therefore, we affirm the determination of the Director of OEP that “[g]iven the absence of customer demand and funding at this point ... Chestnut Ridge’s desire to maintain the viability of its certificate and its belief that circumstances will eventually change such that its project will become viable” are not

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our previously stated preference permitting determinations on the number, type, timing, and location of energy facilities to be guided by market forces, and not by Commission fiat.” *AES Sparrow Point, LNG*, 129 FERC ¶ 61,245, at P 45 (2009).

<sup>31</sup> Chestnut Ridge’s Request for Extension of Time at 1.

<sup>32</sup> Certificate Order, 128 FERC ¶ 61,210 at P 5.

<sup>33</sup> Chestnut Ridge’s Request for Extension of Time at 1.

“sufficient reasons to grant the requested three-year extension of time.”<sup>34</sup> Consequently, we deny Chestnut Ridge’s request for rehearing of the November 2011 Order.

26. Given that Chestnut Ridge has failed to justify granting its request for an extension of the August 31, 2011 deadline to construct and make its facilities available for service, we will vacate its certificate. This action is without prejudice to Chestnut Ridge’s ability to submit a new application. Chestnut Ridge’s preparation of a new application, modified to accommodate its recent geologic reinterpretation of the reservoir and to reflect current market demand, could rely on the environmental reviews it has already completed, to the extent they remain valid.

The Commission orders:

(A) Chestnut Ridge’s request for rehearing of the November 2, 2011 Order denying extension of time is denied, for the reasons discussed in the body of this order.

(B) The certificate authorizations granted to Chestnut Ridge under NGA section 7 and Parts A, F, and G of the Commission’s regulations on August 31, 2009, in Docket No. CP08-36-000 to construct and operate its Junction Natural Gas Storage Project and provide service are vacated.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>34</sup> 137 FERC ¶ 62,106 at 64,226.