

155 FERC ¶ 61,161
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Arcadia Gas Storage, LLC

Docket No. PR16-9-000

ORDER ON PETITION FOR APPROVAL OF MARKET-BASED RATES AND
REVISIONS TO THE STATEMENT OF OPERATING CONDITIONS

(Issued May 13, 2016)

1. On December 15, 2015, Arcadia Gas Storage, LLC (Arcadia) filed a petition (Petition) requesting that the Commission (1) grant Arcadia the authority to provide firm wheeling transportation service at market-based rates, (2) continue the market-based authorization for Arcadia's firm and interruptible storage services and for interruptible hub and wheeling services, and (3) accept the corresponding changes to its existing Statement of Operating Conditions (SOC). As discussed below, the Commission will grant the requested market-based authority, and accepts Arcadia's revised SOC¹ as fair and equitable, effective December 15, 2015, as proposed.

I. Background

2. According to the Petition, Arcadia provides firm and interruptible natural gas storage and hub services using market based rates under section 311 of the Natural Gas Policy Act of 1978 (NGPA).² Arcadia states its facilities are located on the Arcadia Salt Dome, approximately 46 miles west of the city of Monroe in Bienville Parish, north

¹ Arcadia Gas Storage, LLC, FERC NGPA Gas Tariff, Statement of Operating Conditions of Arcadia Gas Storage, [Electronic Tariff, Tariff, 7.0.0](#).

² 15 U.S.C. 3372 (2012).

central Louisiana.³ Arcadia states that the storage facility has a working gas capacity of 21,800 MMcf and a maximum deliverability of 1,380 MMcf per day, which includes 24 miles of 24-inch and 36-inch header pipeline. Arcadia further states that the header includes eight interconnects, six bidirectional and two receipt only, to interstate and intrastate gas pipelines.

3. The Petition notes that the Commission has previously found that Arcadia is incapable of exercising market power as to the storage and interruptible hub and wheeling services it provides in the Gulf Coast Supply Region and has authorized Arcadia to charge market-based rates for all of the storage and interruptible hub and wheeling services it currently provides under its SOC.⁴ Arcadia states that it has received a number of inquiries from existing and prospective customers interested in firm wheeling transportation service. Arcadia states that it will provide this service using the unsubscribed pipeline capacity across its header system, so it should not affect existing firm service. The proposed firm wheeling service, Arcadia claims, will provide additional supply liquidity and flexibility and surety of hub services as desired by new and existing customers.

II. Notice and Intervention

4. Public notice of the filing was issued on December, 17, 2015. Interventions and protests were due on or before January 5, 2016. Pursuant to Rule 214,⁵ all timely filed motions to intervene and any unopposed motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

III. Discussion

5. Arcadia is requesting approval to charge market-based rates for a new firm wheeling transportation service using Arcadia's pipeline facilities in Louisiana and to

³ According to the Petition, Arcadia is a subsidiary of Cardinal Gas Storage Partners LLC. Its Commission-regulated affiliates include Arcadia, Perryville Gas Storage, Cadeville Gas Storage, and Monroe Gas Storage.

⁴ *Arcadia Gas Storage, LLC*, Docket No. PR09-15-000 (July 13, 2009) (delegated letter order). *See also* Notification of new circumstances, Arcadia Gas Storage, LLC, Docket No. PR09-15-000 (filed August 28, 2013).

⁵ 18 C.F.R. § 385.214 (2015).

maintain market based rates for storage and interruptible hub and wheeling service, which is to be performed under section 311 of the NGPA. The Commission's main concern in granting a pipeline the use of market based rates for storage and transportation is the presence the pipeline has in the relevant marketplace. If the pipeline has market power over a service in the relevant marketplace, then the Commission will not permit it to charge market-based rates for that service.⁶

6. Pursuant to the Alternative Rate Policy Statement,⁷ the Commission has developed a framework for evaluating requests for market-based rates. This framework has two principal purposes: (a) 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 (b) to determine whether the applicant can discriminate unduly in price or terms and conditions. To find that an applicant cannot withhold or restrict services, significantly increase prices over an extended period, or unduly discriminate, the Commission must find either that there is a lack of market power⁸ because customers have good alternatives,⁹ or that the applicant or the Commission can mitigate the market power with specified conditions. The Commission performs the same analysis for section 311 pipelines that it does for Natural Gas Act pipelines.

⁶ *Golden Triangle Storage, Inc.*, 152 FERC ¶ 61,158, at P 9 (2015) (*Golden Triangle*).

⁷ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076 (Alternative Rate Policy Statement), *order granting clarification*, 74 FERC ¶ 61,194, *reh'g and clarification denied*, 75 FERC ¶ 61,024, *reh'g denied*, 75 FERC ¶ 61,066 (1996), *petitions for review denied and dismissed sub nom. Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998), *criteria modified, Rate Regulation of Certain Natural Gas Storage Facilities*, Order No. 678, FERC Stats. & Regs. ¶ 31,220, *order on clarification and reh'g* Order No. 678-A, 117 FERC ¶ 61,190 (2006).

⁸ The Commission defines "market power" as "the ability of a pipeline to profitably maintain prices above competitive levels for a significant period of time." See Alternative Rate Policy Statement, 74 FERC ¶ 61,076 at 61,230.

⁹ "A '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." *Golden Triangle*, 152 FERC ¶ 61,158 at P 10, n.7.

7. Consistent with the methodology provided by the Alternative Rate Policy Statement, the Commission's analysis of whether Arcadia has the ability to exercise market power includes three major steps. First, the Commission will review whether Arcadia has specifically and fully defined the relevant markets to determine which specific products or services are identified, and the suppliers of the products and services that provide good alternatives to the applicant's ability to exercise market power.¹⁰ Additionally, as part of this first step, the Commission will identify the relevant geographic market. Second, the Commission will assess Arcadia's market share and market concentration. The Commission uses market share and the Herfindahl-Hirschman Index (HHI) as screens in assessing whether a pipeline has the ability to exercise market power in defined product and geographic markets. However, HHIs are just one factor the Commission may evaluate.¹¹ The Alternative Rate Policy Statement recognizes that having a large market share in a concentrated market does not constitute market power if ease of entry and other competitive factors can prevent the applicant from exercising significant market power.¹² Third and lastly, the Commission will evaluate other relevant factors such as ease of entering the market.

¹⁰ "The relevant product market consists of the applicant's service and other services that are good alternatives to the applicant's services." *Id.* P 11, n.8.

¹¹ For example, the Commission has accepted an HHI of 1,800 as the threshold indicating the potential ability for an applicant to exercise market power in cases where the HHI was higher than 1,800, the Commission has performed further review to determine whether other competitive factors nevertheless will prevent the applicant from being able to exercise market power. *See, e.g., UGI Storage Co.*, 133 FERC ¶ 61,073 (2010); *Arlington Storage Co., LLC*, 125 FERC ¶ 61,306 (2008); *Rendezvous Gas Services, L.L.C.*, 112 FERC ¶ 61,141 (2005).

¹² In the Alternative Rate Policy Statement, the Commission states that its consideration of a market based rate proposal will include an examination of market concentration. Further, it explained that:

[T]o measure market concentration, one generally considers the summary measure of market concentration known as the Herfindahl-Hirschman Index (HHI). If the HHI is small then one can generally conclude that sellers cannot exercise market power in this market. A small HHI indicates that customers have sufficiently diverse sources of supply in this market that no one firm or group of firms acting together could profitably raise market price. If the HHI is higher than

(continued ...)

A. Relevant Markets

8. In its market power studies, Arcadia identifies the relevant product market as the underground natural gas storage for the storage services, and the product market for hub and wheeling services is wheeling services. Arcadia states that storage services and wheeling services are in two distinct product markets, because wheeling services are transportation as opposed to storage.¹³

9. Arcadia identifies the relevant geographic market for its current and proposed service as the Gulf Coast Supply Region, which Arcadia states includes portions of south and east Texas, Louisiana, Mississippi and Alabama. The Gulf Coast Supply Region is the same geographic area utilized and accepted by the Commission in Arcadia's prior applications for market-based rates for all firm and interruptible storage and interruptible hub and wheeling services.¹⁴

additional analysis may be needed to determine if the seller can exercise market power.

The Commission will analyze the HHI calculation for the relevant markets. The HHI will be evaluated for each relevant path and/or origin market and each destination market utilizing the relevant data for each mainline receipt point (origin market) and each delivery point (destination market). If an applicant wishes to argue for either a broader or narrower market definition, it should also include calculations for its market definitions. Only sales or capacity figures associated with good alternatives should be used in calculating the HHI. In addition, applicants should aggregate the capacity of affiliated companies into one estimate for those affiliates as a single seller.

Alternative Rate Policy Statement, 74 FERC ¶ 61,076 at 61,234 (footnote omitted); *See Golden Triangle*, 152 FERC ¶ 61,158, at P 11, n.10.

¹³ Arcadia Ex. 1 at 2.

¹⁴ *Arcadia Gas Storage, LLC*, Docket No. PR09-15-000 (July 13, 2009) (delegated letter order). *See also* Notification of new circumstances, *Arcadia Gas Storage, LLC*, Docket No. PR09-15-000 (filed August 28, 2013).

B. Market Share and Market Concentration

10. In support of Arcadia's request to continue charging market-based rates in the storage market, its market study shows its and its affiliates' market shares are 6.1 percent for working gas and 7.4 percent for maximum deliverability. Arcadia argues that these market shares are relatively small compared to other storage operators in the region. In order to measure competition among storage facilities in the relevant geographic market, Arcadia analyzed the HHI of the facilities. Arcadia argues that because of the vast number of existing storage facilities in this region, the HHI figures are low, with an HHI of 1108 for working gas capacity and an HHI of 800 for maximum deliverability, each of which are well below the Commission's 1,800 HHI threshold.

11. With respect to the product market for wheeling service, the Commission has traditionally used a matrix, referred to as a "bingo card," in evaluating whether shippers of an applicant seeking market-based rate authority for wheeling transportation service could obtain the same services from alternative providers. The bingo card identifies all possible interconnections for pipelines attached to a hub and indicates whether good alternatives exist to the subject service. In essence, the Commission relies upon the bingo card analysis to determine whether shippers can avoid the pipeline interconnections provided by the applicant by utilizing alternative interconnections available between the pipelines that are directly or indirectly connected to the applicant.¹⁵

12. Arcadia states that its filled-in bingo card shows that there are six corporate entities directly connected to the Arcadia system that are interconnected to each other, directly or indirectly via another pipeline, and thus there are numerous competitive alternatives to wheeling service at Arcadia.¹⁶ In addition, Arcadia states there are 27 hubs in the Gulf South Supply Region and Arcadia directly connects with eight different pipelines with six delivery connections and eight receipt connections. Arcadia states the total delivery and receipt capacity in the market is 83,241 MMcf per day and 77,352 MMcf per day, respectively. Arcadia also states it has a market share of 2.3 percent of receipt capacity and 1.8 percent of delivery capacity.¹⁷

13. To evaluate the level of competition among the hubs, Arcadia analyzed the HHI for hubs in the Gulf Coast Supply Region. Arcadia states the HHI for delivery capacity is 608, based on a total delivery capacity of 83,241 MMcf/d, and the HHI for receipt

¹⁵ *Tres Palacios Gas Storage LLC*, 153 FERC ¶ 61,331, at P 14 (2015).

¹⁶ Arcadia Ex. 1 at 14.

¹⁷ Arcadia Petition at 7; Arcadia Ex. 1 at 14-15.

capacity is 488, based on a total receipt capacity of 77,352 MMcf/d. Arcadia states these HHIs are well below the 1,800 threshold used by the Commission to indicate a possible market power concern. Therefore, Arcadia concludes the hub services market in the Gulf Coast Supply Region “is an extremely competitive, established market for hub services, including wheeling.”¹⁸

C. Additional Factors

14. In regards to storage, Arcadia contends that its study demonstrates that other factors, such as ease of entry, indicate competitive market conditions. Arcadia claims that virtually all storage facilities placed into service since 1993 in this supply region have been authorized to use market based pricing. Therefore, Arcadia concludes that its study shows that it would be almost impossible for Arcadia to exercise market power for its firm and interruptible storage services and their interruptible hub services and there should be no change to Arcadia’s existing market based rate authorization for these services.

15. In addition to market share and concentration, Arcadia asserts that other factors support the conclusion that it will not be able to exercise market power in the Gulf Coast Supply Region. Arcadia states it is competing with interconnected “long-haul” interstate and intrastate pipelines, which offers shippers numerous alternative transportation and wheeling options. Arcadia notes there are several nearby interstate pipelines that could reasonably be interconnected. Arcadia argues there are low barriers to entry, as evidenced by the 38 new pipeline or expansion projects approved by the Commission since 2009 in the Gulf Coast Supply Region.¹⁹

D. Commission Determination

16. The Commission agrees that the relevant geographic market for Arcadia’s proposed service is the Gulf Coast Supply Region, which is the same geographic area that the Commission identified in Arcadia’s prior applications for market-based storage and interruptible hub and wheeling rate authority.²⁰

¹⁸ Arcadia Ex. 1 at 16.

¹⁹ *Id.* at 17-18.

²⁰ *Id.*

17. Arcadia has satisfactorily shown that, within the storage market, its prospective market share is low and the market's concentration is below the threshold the Commission would require before it would need to undertake closer scrutiny. As set forth above, in order to ascertain whether additional scrutiny is needed, the Commission examines concentration in the relevant market using the HHI. The Alternative Rate Policy Statement states that a HHI of less than 1,800 indicates that sellers cannot exert market power because customers have sufficiently diverse alternatives in the relevant market.²¹ If the HHI is above 1,800, the Commission will give the applicant more scrutiny in order to make a determination about a seller's ability to exercise market power because the market is more concentrated. For the underground natural gas storage product market, the HHI values of 1108 and 800, for working gas capacity and maximum deliverability, respectively, are below the 1800 Commission threshold. Considering the low market share of its affiliates, and that Arcadia's proposal to continue charging market-based rates for storage is unopposed, the Commission accepts Arcadia's request to continue providing market-based rates for storage.

18. In the hub product market, we note that the HHI for delivery capacity is 608 and for receipt capacity is 488. Further, its market share for receipt capacity is 2.3 percent and for delivery capacity is 1.8 percent in the Gulf Coast Supply Region. The Commission agrees with Arcadia that barriers to entry are likely to be low in the relevant market and that alternative products are available to shippers in the relevant geographic area.

19. Accordingly, upon examination of the material and studies presented by Arcadia, the Commission finds that Arcadia lacks significant market power in the relevant geographic area for the proposed market-based firm wheeling service. Furthermore, Arcadia's proposal for market-based rates is unopposed, and Commission precedent allows us to consider firm wheeling transportation service under market-based rates for a storage provider.²² Accordingly, the Commission accepts Arcadia's request to charge market-based rates for firm wheeling transportation service.

E. Notifications

20. The Commission requires any pipeline with market-based rates to notify the Commission if future changes in circumstances significantly affect its present market power status. For example, the Commission's approval of market-based rates for the indicated services is subject to reexamination in the event that: (a) Arcadia seeks to add

²¹ Alternative Rate Policy Statement, 74 FERC ¶ 61,076 at 61,235.

²² *Golden Triangle*, 152 FERC ¶ 61,158 at P 15.

storage capacity beyond the capacity authorized in this proceeding; (b) an affiliate increases storage capacity; (c) an affiliate links storage facilities to Arcadia; (d) Arcadia, or an affiliate, acquires an interest in, or is acquired by, a pipeline connected to Arcadia; (e) an expansion of capacity; (f) the acquisition of additional transportation facilities; or (g) an affiliate providing transportation services in the same market area. Since these circumstances could affect its market power status, Arcadia is directed to notify the Commission within 10 days of acquiring knowledge of any such changes. The notification must include a detailed description of the new facilities and their relationship to Arcadia.²³ The Commission also reserves the right to require an updated market power analysis at any time.²⁴

IV. SOC Provisions

21. Arcadia also filed changes to their SOC incorporating the new firm wheeling services pursuant to section 284.123(e).²⁵ The Commission finds the changes reflected in the SOC to be in line with Arcadia's market-based rate proposal, and accepts the tariff record referenced in footnote No. 1 effective December 15, 2015, as proposed.

The Commission orders:

(A) The petition for approval by Arcadia requesting authority to provide firm wheeling transportation service and the continued use of for storage and interruptible hub and wheeling services at market-based rates is granted.

(B) The proposed revisions to the Arcadia SOC are accepted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

²³ See *Port Barre Investments, L.L.C.*, 116 FERC ¶ 61,052 (2006).

²⁴ See *Floridian Natural Gas Storage Co., LLC*, 124 FERC ¶ 61,214, at P 33 (2008); *Golden Triangle*, 152 FERC ¶ 61,158 at P 27.

²⁵ 18 C.F.R. § 284.123(e)(2015).