ORDER ON INFORMATIONAL FILINGS REGARDING MARKET-BASED RATES

(Issued April 23, 2018)

1. Jefferson Island Storage & Hub, L.L.C. (Jefferson Island), a natural gas storage provider regulated under subsection 311 of the Natural Gas Policy Act (NGPA), and Golden Triangle Storage, Inc. (Golden Triangle), a natural gas storage provider regulated under the Natural Gas Act (NGA), are affiliates that each have market-based rate authority for storage and wheeling services. On December 8, 2016, Jefferson Island and Golden Triangle (collectively, Filers) filed in Docket Nos. PR17-13-000 and RP17-254-000, respectively, to inform the Commission of a change in circumstances that may affect each pipeline’s present market power status, as required by Commission regulations.¹ As discussed below, the Commission concludes that both Filers continue to satisfy the Commission’s standards for market-based rate authority.

I. Background

2. Pursuant to previous Commission orders, both Filers have authority to offer market-based rates for firm and interruptible storage services and for interruptible wheeling and ancillary services.² Jefferson Island states that it owns an intrastate natural gas storage and pipeline header system in Iberia and Vermilion Parishes, Louisiana. Golden Triangle states that it owns an interstate natural gas storage and pipeline header system in Jefferson and Orange Counties, Texas.

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¹ 18 C.F.R. §284.504(b) (2017) (“A storage service provider granted the authority to charge market-based rates under § 284.503 is required to notify the Commission within 10 days of acquiring knowledge of significant changes occurring in its market power status.”)

3. Filers state that their parent company is Southern Company Gas (SCG). SCG, they state, is acquiring a 50 percent interest in Southern Natural Gas Company, L.L.C. (SNG). They state that SNG owns and operates a pipeline system connecting natural gas supply basins in Texas, Louisiana, Mississippi, Alabama, and the Gulf of Mexico, to markets in the southeast United States. They state that SNG’s assets include a 50 percent ownership of Bear Creek Gas Storage, L.L.C., which is a natural gas storage facility located in Bienville Parish, Louisiana, and full ownership of the Muldon Gas Storage Facility, which is a natural gas storage facility located in Monroe County, Mississippi.

II. Notice and intervention

4. Public notice of Docket Nos. PR17-13-000 and RP17-254-000 was issued on December 14, 2016 and January 13, 2017, respectively. Interventions and protests were due on or before December 29, 2016 and January 23, 2017, respectively. Pursuant to Rule 214, 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. Filers are requesting confirmation that they may continue to charge market-based rates for the services that the Commission has previously approved; they are not requesting approval to expand or modify their market-based rate authority.

6. 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. Pursuant to the *Alternative Rate Policy Statement*, the Commission has developed a

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5 *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, order on reh’g and clarification, 75 FERC ¶ 61,024, reh’g denied, 75 FERC ¶ 61,066, reh’g dismissed, 75 FERC ¶ 61,291 (1996), petition denied sub nom. *Burlington Res. 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,
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 power because customers have good alternatives, or that the applicant or the Commission can mitigate the market power with specified conditions. The Commission performs the same analysis for section 311 or Hinshaw pipelines that it does for Natural Gas Act pipelines.

7. Consistent with the methodology provided by the Alternative Rate Policy Statement, the Commission’s analysis of whether filers have the ability to exercise market power includes three major steps. First, the Commission will review whether filers have 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. Additionally, as part of this first step, the Commission will identify the relevant geographic market. Second, the Commission will assess Filers’ 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 considers.

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6 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.*

7 “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* (2015).


9 *Id.* P 7.

10 “The relevant product market consists of the applicant’s service and other services that are good alternatives to the applicant’s services.” *Golden Triangle, 152 FERC ¶ 61,158 at P 11, n.8.*
Commission may evaluate. 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. Third and lastly, the Commission will evaluate other relevant factors such as ease of entering the market.

A. Relevant Product and Geographic Markets

8. In their joint market power study, Filers state that the relevant product markets for both companies are (1) the provision of firm and interruptible storage service, and (2) wheeling service. Filers state that wheeling service is a separate product market from storage services, because wheeling service does not involve the storage of natural gas. Filers state that the relevant geographic market is the Gulf Coast Production Area (eastern Texas, Louisiana, Mississippi, and Alabama). Filers state that these are the same markets that the Commission adopted in its previous orders on each pipeline.

B. Market Share and Market Concentration

9. For storage service, Filers state that their and their affiliates’ market shares are 7.33 percent for working gas capacity and 4.39 percent for daily deliverability. In the interest of being conservative Filers included all existing and planned capacity in their analysis. Filers argue these market shares are below any level that would raise a market power concern. Filers state that the corresponding HHIs for their market are 880 for working gas capacity and 718 for daily deliverability, which they note are well below the Commission’s traditional HHI screen of 1,800. Filers conclude that, given these market shares and market concentrations, Filers and their affiliates cannot exercise market power either alone or in concert with other storage providers.

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

13 Filers Market Power Study at 14.

14 Filers Market Power Study at 16.
10. For wheeling service, Filers note that 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.

11. Filers state that Golden Triangle’s facilities are served by a header system with bi-directional interconnections to six interstate and intrastate pipelines, and Jefferson Island’s facilities are served by a header system with bi-directional interconnections to eight interstate and intrastate pipelines and a single receipt connection from an offshore pipeline. Filers state that at least one alternative pipeline path exists for each wheel, without involving SNG or other affiliates.

12. Filers state that the filled-in bingo card shows that there are 20 Gulf Coast Production Area hubs that compete with Golden Triangle and Jefferson Island in the provision of wheeling services, with a total receipt and delivery capacity of 67,220 MMcf per day and 78,981 MMcf per day, respectively. Filers state that Golden Triangle and Jefferson Island have a market share of 6.13 percent of receipt capacity and 5.18 percent of delivery capacity; in other words, there is alternative hub capacity sufficient to replace the combined Golden Triangle and Jefferson Island receipt capacity approximately 16 times and delivery capacity approximately 19 times. Filers conclude that, given the above analysis, Filers and their affiliates acting alone cannot exercise market power in wheeling in this market. Filers further state that the HHI for their market for receipt capacity is 592 and the HHI for delivery capacity is 676. Filers further conclude that, Filers and their affiliates acting together with competing hubs cannot exercise market power in wheeling in the Gulf Coast Production Area.

C. Additional Factors

13. Filers argue that, given the above factors, the fact that their parent company SCG is acquiring a 50 percent interest in SNG should not raise any market power concerns. However, Filers also note several additional factors that, they argue, would lessen any concerns that might exist. Filers state that they do not use SNG facilities, nor does SNG use Filers’ facilities. Filers state that they provide transparent open-access service on a non-discriminatory basis, as do the Bear Creek and Muldon storage facilities operated by SNG. Filers also argue that they have no ability to control operations at Bear Creek and Muldon storage facilities. Filers state that there is enough replacement capacity in the Gulf Coast Production Area to replace Filers’ and affiliates’ working gas capacity approximately 14 times over, and their daily deliverability capacity approximately

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15 Filers Market Power Study at 24; Attachments 4-7.

16 Filers Market Power Study at 17.
23 times over. Finally, Filers argue that the current transportation and storage market is robust, with strong demand and low barriers to entry.

14. Regarding wheeling service specifically, Filers note that market center competition is robust. They state that there are 22 market centers in the Gulf Coast Production Area, with a combined receipt and delivery capacity of more than 146 Bcf per day and an HHI that is more than 60 percent below the threshold of concern. Filers also state that the natural gas trading markets have been maintaining low price differentials among the different hubs in the region. Filers argue that a low basis differential limits the price that hub operators can charge for wheeling services.17

D. Commission Determination

15. The Commission agrees that the relevant geographic market for Filers’ existing service is the Gulf Coast Production Area, which is the same geographic area that the Commission identified in Filers’ prior applications for market-based firm and interruptible storage rate authority.

16. Filers have satisfactorily shown that, within the storage market, their 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 an HHI of less than 1,800 indicates that sellers cannot exert market power because customers have sufficiently diverse alternatives in the relevant market.18 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 relevant HHIs for working gas capacity and maximum deliverability are 880 and 718, respectively, which are below the 1,800 Commission threshold. Considering the low market share of their affiliates, and that Filers’ proposal to continue charging market-based rates for storage is unopposed, the Commission accepts Filers’ proposal to continue providing market-based rates for storage.

17. In the wheeling and ancillary market, we note that the HHI for receipt capacity is 592 and the HHI for delivery capacity is 676. Further, Filers’ market share is 6.13 percent of receipt capacity and 5.18 percent of delivery capacity in the Gulf Coast.

17 Filers Market Power Study at 30-31.

18 Alternative Rate Policy Statement, 74 FERC ¶ 61,076 at 61,235.
Production Area. The Commission agrees with Filers 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.

18. Accordingly, upon examination of the material and studies presented by Filers, the Commission finds that Filers lack significant market power in the relevant geographic area for their existing wheeling and ancillary services. Furthermore, Filers’ proposal to continue charging market-based rates is unopposed, and Commission precedent allows us to consider firm wheeling transportation service under market-based rates for a storage provider.\(^\text{19}\) Accordingly, the Commission accepts Filers’ proposal to continue charging market-based rates for wheeling and ancillary transportation service.

E. **Notifications**

19. 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.\(^\text{20}\) For example, the Commission’s approval of market-based rates for the indicated services is subject to reexamination in the event that (a) Filers seek to add storage capacity beyond the capacity authorized in this proceeding; (b) an affiliate increases storage capacity; (c) an affiliate links storage facilities to Filers; (d) Filers, or an affiliate, acquire an interest in, or are acquired by, a pipeline connected to Filers; (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, Filers are each 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

\(^\text{19}\) *Golden Triangle Storage, Inc.*, 152 FERC ¶ 61,158 at P 15.

\(^\text{20}\) A notification of a change in circumstances should be submitted as a filing in compliance with 18 C.F.R. § 284.504(b) (2017) and should be filed through the eTariff portal in the manner recommended in the Commission’s eTariff guidelines, http://www.ferc.gov/docs-filing/etariff.asp. An NGA pipeline should make its compliance filing using the Type of Filing Code 580. An NGPA pipeline should make its compliance filing using the Type of Filing Code 790. The pipeline should include as part of the eFiling description, a reference to the most recent docket number in which the Commission either approved or re-certified the pipeline’s MBR rate authority. Any additional supporting documentation, including an updated market power study, should be filed using the same procedures.
to Filers. The Commission also reserves the right to require an updated market power analysis at any time.

The Commission orders:

The notices of change in status are hereby accepted for filing, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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21 See Port Barre Investments, L.L.C., 116 FERC ¶ 61,052 (2006); 18 C.F.R. § 284.504.

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