

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Saltville Gas Storage Company L.L.C.

Docket Nos. CP04-13-000
CP04-14-000
CP04-15-000

ORDER GRANTING MOTION

(Issued December 22, 2004)

1. On June 14, 2004, the Commission issued an order in this proceeding authorizing Saltville Gas Storage Company L.L.C. (Saltville) to construct and operate natural gas storage facilities in Smyth and Washington Counties, Virginia.¹ Prior to that date, Saltville had been providing storage service pursuant to a limited-term, limited jurisdiction section 284.224 certificate as a Hinshaw pipeline and had been charging rates approved by the Commission pursuant to section 284.123 of the Commission's regulations. After determining that Saltville no longer qualified as a Hinshaw pipeline since the intrastate service it anticipated had not developed, the Commission subsequently required Saltville to apply for the certificate which ultimately was issued in the June 14 Order.
2. In the June 14 Order, the Commission stated that the issue of whether Saltville would have to renegotiate rates, terms or conditions of its pre-existing service agreements was dependent upon the rates finally approved in this proceeding and the presence of any non-conforming terms compared to the finally approved form of service agreements. On August 2, 2004, Saltville submitted its compliance filing as required by the June 14 Order. On November 22, 2004, the Commission issued an order accepting, subject to modifications, Saltville's initial rates and its tariff which became effective on that date.
3. On December 8, Saltville filed a motion requesting clarification that it may have a period of 60 days from the effective date of its rates and tariff, *i.e.*, until January 21, 2005, to submit its negotiated rate and non-conforming service agreements associated

¹ *Saltville Gas Storage Co. L.L.C.*, 107 FERC ¶ 61,267 (2004).

with service that predated the effectiveness of the tariff approved in the November 22 Order. Saltville states that this time is necessary to afford Saltville and its customers sufficient time to work through non-conforming terms and conditions of service to their mutual satisfaction and consistent with the Commission's policy which disfavors deviating terms and conditions of service.

4. When a pipeline plans to provide service pursuant to negotiated rate agreements on newly constructed facilities, the Commission generally requires the pipeline to file either the negotiated rate contracts or numbered tariff sheets reflecting certain details of the contracts not less than 30 or more than 60 days prior to commencement of service on the new facilities.² However, there are unique circumstances in this proceeding with respect to jurisdiction over Saltville. It had begun constructing its facilities pursuant to a certificate issued by the Virginia State Corporation Commission, prior to receiving a limited jurisdiction certificate from this Commission as a Hinshaw pipeline, and before ultimately being required to file an application as a jurisdictional Part 284 pipeline after the Commission determined that Saltville no longer qualified as a Hinshaw pipeline.³ Since Saltville commenced service on its storage facilities prior to the November 22 Order's approval of its new initial rates, the generally applicable certificate condition with respect to filing negotiated rate contracts prior to commencing service is moot.

5. Given these unusual circumstances, we will grant Saltville's motion.⁴ Saltville and its customers could not initiate discussions with respect to any revisions to their preexisting contracts without knowing what Saltville's new initial rates and tariff would require. Therefore, we find reasonable Saltville's request that it be given 60 days from the November 22, 2004 effective date of the new rates and tariff to file its negotiated rate and non-conforming contracts.⁵ This will allow Saltville sufficient time to come to an agreement with its customers with respect to any revisions to their contracts necessitated by the newly approved initial rates and terms and conditions of service in Saltville's new

² See, e.g., *Kinder Morgan Interstate Gas Transmission LLC*, 104 FERC ¶ 61,266 at P 37 (2003); *Tennessee Gas Pipeline Co.*, 101 FERC ¶ 61,360 at P 38 (2002).

³ For a detailed explanation of the background of this proceeding see *Saltville Gas Storage Co.*, 107 FERC ¶ 61,267 at P 3-6 (2004).

⁴ We are waiving the 15-day period for the filing of answers to motions required by Rule 213 of the Commission's Rules of Practice and Procedure § 385.213(d)(1) to enable us to timely respond to Saltville's motion.

⁵ For future purposes of the Commission's review of Saltville's cost and revenue study, Saltville is hereby put on notice that the recourse rate for its negotiated agreements will be deemed to be the maximum tariff rate in effect on November 22, 2004.

tariff. For these reasons, we will require Saltville to file no later than January 21, 2005, its negotiated rate and non-conforming service agreements associated with the service agreements that it entered into prior to November 22, 2004.

The Commission orders:

Saltville's motion is granted. Saltville is required to file its negotiated rate and non-conforming contracts by January 21, 2005 as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.