

116 FERC ¶ 61,316  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Pine Prairie Energy Center, LLC

Docket No. CP04-379-001

ORDER AMENDING CERTIFICATE

(Issued September 29 , 2006)

1. On May 23, 2006, Pine Prairie Energy Center, LLC (Pine Prairie) filed an abbreviated application pursuant to section 7(c) of the Natural Gas Act (NGA) to amend the certificate of public convenience and necessity issued by the Commission on November 23, 2004<sup>1</sup> (November 2004 Order). Pine Prairie seeks authority to construct, own, operate, and maintain, as part of the previously certificated Pine Prairie Energy Center natural gas storage project, a new receipt and delivery lateral in Evangeline Parrish, Louisiana consisting of 14.10 miles of 24-inch bidirectional pipeline (Miller's Lake Lateral). Pine Prairie requests to vacate the previously certificated interconnect with Texas Gas Transmission Company (Texas Gas), because the proposed new lateral will relocate the Texas Gas interconnect. Additionally, Pine Prairie requests that the Commission reaffirm its authorization to charge market-based rates for storage and hub services. As discussed below, the Commission grants the requested amendment to Pine Prairie's certificate authority, subject to the conditions imposed.

**Background**

2. Pine Prairie is a limited liability company organized and existing under the laws of the State of Delaware. Pine Prairie is a new entrant into the natural gas storage industry, and has no existing jurisdictional or non-jurisdictional operations in the natural gas pipeline and storage industry. Pine Prairie Energy Center is currently under construction and has not begun to provide natural gas storage services of any kind.

---

<sup>1</sup> *Pine Prairie Energy Center, LLC*, 109 FERC ¶ 61,215 (2004).

3. Due to the authorizations granted by the November 2004 Order, Pine Prairie is a natural gas company within the meaning of section 2(6) of the NGA and is subject to the Commission's NGA jurisdiction. As currently certificated, the Pine Prairie Energy Center will consist of three salt dome storage caverns, each with a capacity of 9.6 billion cubic feet (Bcf) for a total capacity of 28.8 Bcf, and will interconnect with six interstate gas transmission pipelines.<sup>2</sup> Pine Prairie informed the Commission on July 25, 2005 that it had begun construction of the Pine Prairie Energy Center. The November 2004 Order directed that Pine Prairie's facilities be constructed within three years, and Pine Prairie now requests a three year extension of time to complete the facilities, including the proposed Miller's Lake Lateral.

### **Proposal**

4. The Miller's Lake Lateral will consist of two, 24-inch diameter, bi-directional natural gas pipelines, Lines A and B.

5. Line A will be 12.45 miles in length, originating at a tie-in/launcher to be installed at the Pine Prairie site and interconnecting with Columbia Gulf Transmission's (CGT) 30 and 36-inch mainlines at a proposed metering and regulation (M & R) station to be constructed, owned, operated, and maintained by Pine Prairie.

6. Line B will be 1.65 miles in length, originating at a separate tie-in/launcher, located adjacent to the Line A tie-in/launcher, and interconnect with Texas Gas' 24-inch mainline. The Texas Gas M & R station will be located at Mile Post 1.01, and Line B will continue an additional 0.64 miles to the interconnect with the pipeline. Pine Prairie states that the new interconnect with Texas Gas is hydraulically preferable to the previously certificated interconnect. As a result, Pine Prairie requests that the Commission vacate the originally certificated Texas Gas interconnection, since it will not be constructed.<sup>3</sup>

---

<sup>2</sup> Those pipelines include ANR Pipeline Company, Florida Gas Transmission Company, Tennessee Gas Pipeline Company, Texas Eastern Transmission LP, Texas Gas, and Transcontinental Gas Pipeline Corporation.

<sup>3</sup> The originally certificated Texas Gas interconnection was to be located on the South Pipeline Corridor approximately 11.24 miles south of the Mid Pipeline Corridor and the South Pipeline Corridor interconnect.

7. In the November 2004 Order, the Commission authorized Pine Prairie to provide open-access firm and interruptible storage and related services at market-based rates. The Commission found that Pine Prairie's proposed storage facilities will be in a highly competitive production area where numerous alternatives exist. Pine Prairie claims that the Miller Lake Lateral would not invalidate the previous findings by the Commission, and requests that the Commission reaffirm its previous authorizations allowing Pine Prairie to charge market-based rates for storage and hub services.

### **Notice, Interventions, and Protests**

8. Public notice of Pine Prairie's application was published in the *Federal Register* on June 2, 2006 (71 *Fed. Reg.* 33,736) with comments, protests, and interventions due on or before June 23, 2006. No notices, motions to intervene, or protests in opposition were filed.

### **Discussion**

9. Since Pine Prairie's application pertains to facilities used to transport natural gas in interstate commerce, subject to the jurisdiction of the Commission, the proposed project is subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

### **Certificate Policy Statement**

10. The Commission's September 15, 1999 Certificate Policy Statement provides guidance as to how it will evaluate proposals for certificating new construction.<sup>4</sup> The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, and the avoidance of the unnecessary exercise of eminent domain or other disruptions of the environment.

---

<sup>4</sup>*Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

11. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any other adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified, after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission then proceed to complete the environmental analysis where other interests are considered.

12. Pine Prairie is a new entrant into the natural gas storage industry, is not yet operational, and has no existing customers to burden with subsidies in order to provide financial support for this project. Further, with the authority to charge market-based rates for its services, Pine Prairie will assume all economic risk associated with the project. The project modifications proposed by Pine Prairie do not affect the Commission's prior finding of no subsidization.

13. Further, the Miller's Lake Lateral will have no adverse impacts on existing pipelines or their customers. The proposed Miller's Lake Lateral will increase the flexibility of the previously approved Pine Prairie Energy Center by adding another additional pipeline. The Pine Prairie Energy Center is located in a competitive market area, and will further increase the competitive alternatives available to customers purchasing storage services. To that end, the Commission agrees to extend the authorized time for project completion another three years, as requested by the applicant.

14. The Miller's Lake Lateral will impose no significant adverse effects on landowners. Pine Prairie has encountered no landowner opposition to the project, and no landowners have filed any comments in this proceeding. Pine Prairie will continue to take all reasonable steps to minimize the visual, noise, and emissions impacts associated with the construction, operation, and maintenance of the Miller's Lake Lateral. In addition, vacating the authorization for Pine Prairie's originally certificated interconnection with Texas Gas will ensure that no unnecessary environmental disturbances will occur.

15. Based on the above considerations, the substantial public benefits of the amended Pine Prairie Energy Center continue to outweigh any remaining adverse effects on

landowners or communities. Consequently, the Pine Prairie Energy Center, as amended, is required by the public convenience and necessity.

### **Rates**

16. In the November 2004 Order, the Commission authorized Pine Prairie to provide open-access firm and interruptible storage and related hub services at market-based rates. The new lateral does not increase Pine Prairie's working gas capacity or change its deliverability. Therefore, the instant proposal does not affect the Commission's prior conclusion that Pine Prairie lacks market power status. For this reason, the Commission reaffirms its approval of Pine Prairie's request to charge market-based rates.<sup>5</sup>

### **Environmental**

17. Commission staff prepared an environmental assessment (EA) for Pine Prairie's proposal. The EA addresses geology, mineral resources, soils, water resources, vegetation, wildlife, wetlands, federally listed threatened and endangered species, land use, cultural resources, air quality, noise quality, and alternatives.

18. Based on the discussion in the EA, we conclude that if constructed in accordance with Pine Prairie's application and the conditions in the appendices to this order, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

---

<sup>5</sup> We note that on June 19, 2006, the Commission issued Order No. 678, which modified its market power analysis to better reflect the competitive alternatives for storage. *Rate Regulation of Certain Natural Gas Storage Facilities*, Order No. 678, 71 *Fed.Reg.* 36,612 (June 27, 2006). FERC Stats. and Regs. ¶ 6 (2006) (Order No. 678). Specifically, Order No. 678 adopted a more expansive definition of the relevant product market for storage. In Order No. 678, the Commission recognized that if an applicant has demonstrated a lack of market power under the traditional definition of product market, it would follow that the applicant would also qualify for market-based rates using the expanded definition of product market adopted in Order No. 678. *Id.* at P 38. As discussed, the Commission found in the November 2004 Order that Pine Prairie's market-based rate proposal met the criteria established in the Commission's Alternative Rate Policy Statement. Thus, any further inquiry under the modified analysis implemented in Order No. 678 is unnecessary.

19. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of Pine Prairie's certificate, as amended by this order. 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 of facilities approved by this Commission.<sup>6</sup> Pine Prairie shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Pine Prairie. Pine Prairie shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

20. In a July 18, 2006 letter, the U.S. Fish and Wildlife Service submitted comments determining that the Miller's Lake Lateral project would have no adverse effects on threatened or endangered species, including the red-cockaded woodpecker.

21. The Commission, on its own motion, received and made a part of the record all evidence, including the application, supplements, and exhibits thereto, submitted in support of the authorization sought in this proceeding were made part of the record and upon consideration of the record,

The Commission Orders:

(A) Pine Prairie's certificate of public convenience and necessity to construct and operate facilities in Docket No. CP04-379-000 is amended and partially vacated, as described more fully in the application and in the body of this order.

(B) Pine Prairie's amended certificate authority is conditioned upon Pine Prairie's compliance with all applicable Commission regulations under the NGA, particularly the general terms and conditions set forth in paragraphs (a), (c), (e), and (f) of section 157.20 of the regulations.

(C) The amended certificate authority issued in this order is conditioned upon Pine Prairie's compliance with the environmental and engineering conditions set forth in Appendices A and B of this order.

---

<sup>6</sup>See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(D) Pine Prairie's facilities authorized in the November 2004 order and this order must be constructed and made available for service within three years from the date this order is issued, pursuant to paragraph (b) of section 157.20 of the Commission's regulations.

(E) Pine Prairie shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Pine Prairie. Pine Prairie shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

## Appendix A

### Environmental Conditions

As recommended in the EA, this authorization includes the following conditions:

1. Pine Prairie 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 environmental assessment, unless modified by this order. Pine Prairie 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 this 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, Pine Prairie shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector'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, Pine Prairie 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 this order. All requests for modifications of environmental conditions of this order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

5. Pine Prairie 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, and 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 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 agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. Within 60 days of the acceptance of this certificate and before construction begins, Pine Prairie shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how it will implement the mitigation measures required by this order. Pine Prairie must file revisions to the plan as schedules change.

7. Pine Prairie shall file updated status reports prepared by the (head) environmental inspector 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. the current construction status of each spread, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
  - b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector(s) 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);
  - c. corrective actions implemented in response to all instances of noncompliance, and their cost;
  - d. the effectiveness of all corrective actions implemented;
  - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this order, and the measures taken to satisfy their concerns; and
  - f. copies of any correspondence received by Pine Prairie from other Federal, state or local permitting agencies concerning instances of noncompliance, and Pine Prairie's response.
  
8. Pine Prairie must receive written authorization from the Director of OEP before commencing service from each phase of the project. 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.

## APPENDIX B

### Engineering Conditions

1. The maximum gas storage inventory in Pine Prairie's three storage caverns shall not exceed 28.8 Bcf (9.6 Bcf per cavern) at 14.73 psia and 60 degrees Fahrenheit without prior Commission authorization
2. The maximum cavern gas storage pressure gradient shall not exceed 0.90 psi per foot of vertical depth and the minimum pressure will be limited to 0.15 psi per foot without prior Commission authorization;
3. Before commencing gas storage operations in the proposed caverns, Pine Prairie shall file with the Secretary:
  - (a) copies of well logs, including Neutron logs, Gamma Ray logs, Cement Bond and Caliper logs, for all wells drilled or used in conjunction with this project;
  - (b) a casing inspection base log or an equivalent survey or test obtained over the entire cased interval for the innermost string in all wells drilled or used in conjunction with this project to verify the integrity of the casing;
  - (c) a Mechanical Integrity Test run on the storage caverns before gas storage operations begin;
4. Before commencing gas storage operations in the proposed caverns, Pine Prairie shall:
  - (a) establish and maintain a subsidence monitoring network over the proposed cavern area; and
  - (b) assemble, test, and maintain an emergency shutdown system.
5. For the purpose of reporting on the development of salt cavern storage projects, Pine Prairie shall file with the Secretary semi-annual reports about the following information under section 157.214(c) of the regulations. Pine Prairie shall continue to file such information until one year after the storage inventory volume has reached, or closely approximates, the maximum level defined in ordering

Paragraph 1 above (required volumes shall be stated at 14.73 psia and 60 degrees Fahrenheit, and pressures shall be stated in psia):

- (a) the daily volume of natural gas injected into and withdrawn from each cavern, pursuant to section 157.214(c)(1);
- (b) the inventory of natural gas and shut-in wellhead pressure for each cavern at the end of each reporting period pursuant to section 157.214(c)(2);
- (c) the maximum daily injection and withdrawal rates experienced for the entire storage field during the reporting period, including the average working pressure on such maximum days taken at a central measuring point where the total volume injected or withdrawn is measured pursuant to section 157.214(c)(3);
- (d) the results of a leak detection test conducted during storage operations to determine the integrity of each cavern/ wellbore, casing, and wellhead.;
- (e) the results of any test performed to determine the actual size, configuration, or dimensions of the storage caverns;
- (f) a discussion of current operating problems and conclusions pursuant to section 157.214(c)(7); and
- (g) such other data or reports that may aid the Commission in the evaluation of the storage project pursuant to section 157.214(c)(8).