

FERC 120 ¶ 61,168
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.

Leaf River Energy Center LLC

Docket No. CP07-422-000

ORDER GRANTING EXEMPTION
FOR TEMPORARY ACTS AND OPERATIONS

(Issued August 17, 2007)

1. On July 24, 2007, Leaf River Energy Center LLC (Leaf River) filed a petition pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure¹ and section 7(c)(1)(B) of the Natural Gas Act (NGA)² for exemption from certificate requirements to drill three test wells and perform other activities to determine the feasibility of developing an underground natural gas storage facility in Smith County, Mississippi.

2. We find that it is in the public interest to grant Leaf River's requested exemption for the proposed activities, subject to the conditions herein, to facilitate the development of storage facilities.

Proposed Activities

3. Leaf River seeks an exemption from NGA Section 7(c) certificate requirements to explore and assess the technical and economic feasibility of developing an underground natural gas storage facility in the New Home Salt Dome in Smith County, Mississippi. Leaf River is not a "natural gas company" within the meaning of Section 2(6) of the NGA and holds no Section 7 certificates. Leaf River states that it is a limited liability company organized and existing under the laws of the state of Delaware. Leaf River is owned by NGS Energy Fund, LP, a limited partnership engaged in natural gas storage development activities, and it was formed to develop, own and operate a salt cavern natural gas storage facility to be located in Smith County, Mississippi. Leaf River

¹18 C.F.R. § 385.207 (2007).

²15 U.S.C. § 717(c)(1)(b). Section 7(c)(1)(B) of the NGA permits the Commission to exempt "temporary acts or operations for which the issuance of a certificate will not be required in the public interest."

declares that the purpose of the test wells will be to evaluate (1) prospects for obtaining a fresh water supply, (2) options for brine disposal, and (3) whether the salt formation underlying one of the wells is suitable for development of a natural gas storage facility.

4. Leaf River proposes to drill one fresh water supply test well and two stratigraphic test wells and requests, if necessary, pre-granted authority to abandon the wells if natural gas storage proves infeasible. The fresh water supply test well will be drilled to a depth of approximately 4,500 feet in order to gather information regarding the suitability of the target formations for obtaining water supply. One of the stratigraphic test wells will be drilled to a depth of approximately 8,000 feet in order to gather information regarding the suitability of the target formations for long-term brine disposal at the required injection rates. The other stratigraphic test well will be drilled to a depth of approximately 5,900 feet in order to extract salt core samples and conduct laboratory analysis of the samples.

5. Leaf River anticipates that the stratigraphic test wells and the fresh water supply test well will be required to confirm the physical integrity of the salt formation, help to determine technological feasibility of locating a high pressure natural gas storage facility in the salt formation underlying the well, and evaluate fresh water supply and brine disposal. Leaf River is in the process of obtaining drilling permits from the Mississippi Department of Environmental Quality and the Mississippi State Oil and Gas Board. Leaf River states that drilling will not occur until the State permits are issued, and it expects to receive them by the end of July 2007.

6. Leaf River affirms that no gas storage or transportation service will be rendered in connection with this temporary activity. Further, Leaf River submits that this temporary activity will have no effect on the public in general.

7. Leaf River states that the wells will be drilled, operated and then plugged and abandoned in accordance with the rules and regulations of the Mississippi Department of Environmental Quality and the Mississippi State Oil and Gas Board and all other applicable requirements of the state of Mississippi, as well as the Commission's applicable regulations.

Notice and Intervention

8. Notice of Leaf River's application was issued on July 24, 2007. No motions to intervene, protests or comments were filed by the August 3, 2007 due date.

Discussion

9. Leaf River's proposed activities are a necessary preliminary phase in the development and construction of a natural gas storage facility. Depending on the outcome of tests, salt caverns may be developed for the storage of natural gas. We therefore consider the proposed activities to be a necessary phase in the construction of a jurisdictional storage facility. As such, the proposed activities are subject to the certificate requirements of NGA Section 7(c). However, pursuant to NGA Section 7(c)(1)(B), we may exempt certain temporary acts or operations from the certificate requirement that would otherwise apply, if we find that such an exemption is in the public interest. Previously, we have granted such exemptions to allow operations of a temporary nature that have no effects on the ratepayer, on the quality of service provided by a natural gas company or on the public as a whole.³

10. Leaf River emphasizes that its proposed exploratory activities are temporary and will be conducted in order to determine the feasibility of developing the Leaf River salt-dome natural gas storage facility complex. No jurisdictional service will be rendered from the well without Commission authorization. The certificate authorization exemption will be used solely for discrete exploratory activities to obtain geological and engineering data.

11. Under the circumstances described in Leaf River's petition, we find that the proposed activities constitute temporary acts or operations within the meaning of NGA Section 7(c)(1)(B), and we find it in the public interest to exempt the proposed activities from the certificate requirements of NGA Section 7(c). Further, the proposed activities are necessary in order for Leaf River to make an informed business and engineering decision regarding the feasibility of developing a new storage complex, which would allow Leaf River to better serve the growing gas demand needs in the region.

12. In view of the above, we will exempt Leaf River from the certificate requirements of NGA Section 7 as to the activities specified herein, subject to the conditions set forth below.⁴ The certificate exemption granted herein is without prejudice to any decision the Commission may make regarding any application Leaf River may file for authorization for a storage project at the site or related pipeline construction.

³ See, e.g., *Southeast Storage Development Co., L.L.C.*, 117 FERC ¶ 61,012 (2006); *Desert Crossing Gas Storage and Transportation System LLC*, 98 FERC ¶ 61,277 (2002); *Copper Eagle Gas Storage L.L.C.*, 97 FERC ¶ 62,193 (2001); and *Central New York Oil and Gas Co., LLC*, 89 FERC ¶ 61,006 (1999).

⁴ The requested pre-granted abandonment authority is not necessary since no jurisdictional facility or service will be constructed or provided pursuant to this order.

13. As proposed by Leaf River in its petition and consistent with Commission practice,⁵ its authorization will be conditioned on its performing all activities in compliance with the same environmental conditions that apply to natural gas companies' activities under their Part 157 blanket certificates, as set forth in section 157.206(b) of the Commission's regulations.⁶ Leaf River's proposed storage testing activities are similar to activities permitted under a Part 157 blanket certificate, and section 157.206(b) of the regulations sets forth standard conditions to protect the environment when activities are undertaken under a Part 157 blanket certificate. Requiring Leaf River to comply with the provisions of section 157.206(b) will ensure the same level of protection in this case.

The Commission orders:

(A) Upon the terms and conditions of this order pursuant to NGA Section 7(c)(1)(B), Leaf River is granted an exemption from the certificate and abandonment requirements of Section 7 of the NGA to undertake the activities specified in this order and in Leaf River's petition. This exemption is effective upon issuance of this order. The authorized drilling and testing activities shall be completed within one year of the date of this order.

(B) Leaf River shall notify the Commission within 10 days after commencing activities under the exemption granted in Ordering Paragraph (A). Leaf River shall allow inspection by Commission staff at any time.

(C) Leaf River shall comply with the environmental requirements of section 157.206(b) of the Commission's regulations in implementing the drilling and testing activities.

(D) The exemption granted in Ordering Paragraph (A) may be revoked if the actions are determined to be inconsistent with this order or with state or federal law and

⁵ See, e.g., *Central New York Oil and Gas Co., LLC*, 89 FERC ¶ 61,006 at 61,030 (1999).

⁶ 18 C.F.R. § 157.206(b) (2007).

regulations. The Commission may halt work authorized under this exemption until any required consistency determination is completed.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.