136 FERC ¶ 61,061
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Ryckman Creek Resources, LLC	Docket No. CP11-24-000
Canyon Creek Compression Company	Docket No. CP08-433-000

ORDER ISSUING CERTIFICATE AND APPROVING ABANDONMENT

(Issued July 28, 2011)

1. On November 23, 2010, Ryckman Creek Resources, LLC (Ryckman) filed an application, in Docket No. CP11-24-000, under section 7(c) of the Natural Gas Act (NGA)[1] for a certificate of public convenience and necessity authorizing the construction and operation of its proposed Ryckman Creek Storage Project, a new natural gas storage facility to be located in Uinta County, Wyoming. Ryckman also requests: (1) a blanket construction certificate under Part 157, Subpart F, of the Commission's regulations; (2) a blanket transportation certificate under Part 284, Subpart G, of the Commission's regulations; (3) authority to charge market-based rates for its proposed services; and (4) waivers of certain filing, accounting, and reporting requirements. Ryckman also proposes to acquire and incorporate into its storage project the existing Canyon Creek Compressor Station and its ancillary facilities (Canyon Creek Facilities) located in Uinta County, Wyoming and currently owned by Canyon Creek Compression Company (Canyon Creek). As discussed and conditioned below, we grant Ryckman the authorizations and waivers it requests.

2. On September 20, 2010, Canyon Creek filed a proposal in Docket No. CP08-433-000 for the disposition of its Canyon Creek Facilities as required by the Commission's December 5, 2008 order conditionally approving abandonment of the facilities.[2] Canyon

[1] 15 U.S.C. § 717f(c) (2006).

[2] *Canyon Creek Compression Co.*, 125 FERC ¶ 61,268, Ordering Paragraph (C) (2008) (December 5, 2008 Order).

Creek proposes to abandon the Canyon Creek Facilities in place and transfer ownership to Ryckman for use in its proposed storage project. As discussed below, we find that Canyon Creek may exercise the authorization for abandonment of its facilities and its Part 157, Subpart F blanket certificate granted in the December 5, 2008 Order. The abandonment will become effective upon Ryckman's acceptance of the certificates issued to it in this order and Canyon Creek's transference of the Canyon Creek Facilities to Ryckman.

I. Background and Proposal

3. Ryckman is a new limited liability company with no existing jurisdictional or non-jurisdictional operations in the natural gas pipeline or storage industry. Ryckman was formed for the purpose of developing, constructing, and operating Ryckman's proposed storage project.

4. Ryckman proposes to construct and operate a new interstate natural gas storage facility in the depleted Ryckman Creek (Nugget) Unit oil field (Nugget Field).[3] Ryckman proposes to construct its project in two phases. The storage field will have an initial working gas capacity of 19 billion cubic feet (Bcf) after Phase 1 of the project is completed in 2012. In Phase 2, after the first year of gas storage operations, Ryckman expects to increase the working gas capacity of the storage field to approximately 35 Bcf as nitrogen is removed from the reservoir and additional working and base gas is injected until the proposed total capacity of 53.048 Bcf is reached.

5. Ryckman designed its project to inject gas into storage with a surface pressure of approximately 3,500 pounds per square inch (psi) to maintain a maximum reservoir pressure not to exceed 4,000 psi. Ryckman expects minimum reservoir pressures to be approximately 1,300 psi during the end of withdrawal cycles. Ryckman states that the project will have a maximum injection capability of 350 million cubic feet per day (MMcf/d) and a maximum withdrawal capability of 480 MMcf/d.

6. Ryckman states that the project will provide for the injection and withdrawal of natural gas into and out of the Nugget Field through existing interconnections located directly adjacent to the existing Canyon Creek Compressor Station with three interstate pipelines, Kern River Transmission Company (Kern River), Questar Pipeline Company (Questar), and Overthrust Pipeline Company (Overthrust). Ryckman asserts the proposed

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[3] Depletion is an economic term. Ryckman estimates the Nugget field to currently contain approximately 23.9 percent oil, 46.4 percent water, 19.6 percent nitrogen, and 10.1 percent natural gas.

storage project will serve demand-intensive markets elsewhere in the United States, including the Rocky Mountains and Midwest, as well as supplying gas to local markets.

7. As previously stated, Ryckman proposes to use Canyon Creek's Canyon Creek Facilities in its gas storage operations. The December 5, 2008 Order addressing Canyon Creek's abandonment application, authorized Canyon Creek to abandon compression services at the Canyon Creek Facilities. However, because Canyon Creek was seeking buyers for its compression, the order conditioned abandonment of the facilities, requiring Canyon Creek to file its proposal for the disposition of the facilities with the Director of the Office of Energy Projects (OEP) for environmental review and approval within three years of the order's issuance.[4] Following that approval, the abandonment authorization for Canyon Creek's Part 157 blanket construction certificate would become effective on the date Canyon Creek files its final notification of the abandonment of its facilities.

8. In its September 20, 2010 filing, Canyon Creek proposes to abandon the Canyon Creek Facilities in place and transfer ownership to Ryckman.

A. <u>Facilities</u>

9. Ryckman proposes to construct and/or modify, and operate the following facilities: (1) up to six horizontal natural gas injection/withdrawal wells; (2) two re-entry observation wells to monitor reservoir pressure; (3) two re-entry/recompletion saltwater disposal wells to dispose of water produced from the horizontal injection/withdrawal wells and from non-jurisdictional enhanced oil recovery operations; (4) existing saltwater disposal lines to be used in connection with the saltwater disposal wells; (5) a central gas/liquids separation and processing facility (the Ryckman Plant);[5] (6) 4.8 miles of new 8-inch-diameter storage field flow lines to connect each injection/withdrawal well to the Ryckman Plant;[6] (7) an approximately 4.03-mile-long, 16-inch-diameter header pipeline

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[4] *Id.*

[5] The Ryckman Plant will act as a centralized point where injection/withdrawal wells are connected to the 16-inch diameter header pipeline connecting the Ryckman Plant to the Canyon Creek Compressor Station. The Ryckman Plant will contain gas liquids separation and storage equipment, oil, water and gas processing handling, and natural gas liquid (NGL) storage equipment and a small-electric-drive compressor to compress casinghead gas for use in enhanced oil recovery operations.

[6] The flowlines will be designed to operate at a maximum allowable operating pressure (MAOP) of 3,705 pounds per square inch gauge (psig).

connecting the Ryckman Plant to the Canyon Creek Facilities, designed to operate at a MAOP of 3,705 psig; (8) the Canyon Creek Facilities, which Ryckman will modify as described in the application and discussed below;[7] (9) bi-directional meter stations to be added to the existing Kern River, Questar and Overthrust pipeline interconnects; and (10) ancillary facilities (e.g., valves, meters, filtration, safety, cleaning, and inspection equipment).

10. At the Canyon Creek Facilities, Ryckman proposes to retrofit the four existing 5,500 horsepower (hp) electric motor-drive compressors to provide both high pressure injection and the last stage of compression for delivery of residue gas from the proposed nitrogen rejection unit (NRU). In addition to the existing compression, Ryckman proposes to install up to eight new electric motor driven compressors (with a total of up to 33,000 hp) either in an extension of the existing Canyon Creek compressor building or in a new, separate building adjacent to the existing building. Ryckman proposes to install amine, triethylene glycol and mole sieve dehydration, natural gas liquid (NGL) extraction, hydrocarbon dew point control and the NRU process equipment to complement the existing compression at the Canyon Creek Facilities.

11. During gas storage operations, natural gas will be received by Ryckman from Kern River, Questar, and Overthrust for injection. During withdrawal operations, gas will be withdrawn from the storage field, separated from any produced oil and water at the Ryckman Plant, processed at the Canyon Creek compressor building to remove water vapor, carbon dioxide, natural gas liquids, and nitrogen prior to delivery to Kern River, Questar, or Overthrust.

12. Concurrent with the development of the gas storage field, Ryckman plans to initiate non-jurisdictional enhanced oil recovery operation (EOR) of the oil reserves and NGLs remaining in the Nugget Field. These activities will be subject to the jurisdiction of the Wyoming Oil and Gas Conservation Commission.

13. Ryckman proposes to construct the project in two phases to be able to offer gas storage services at the earliest possible date. Ryckman plans to place the first phase of the project into service no later than April 1, 2012. The plans for Phase 1 include: (1) drilling three horizontal injection/withdrawal wells and constructing the field flowlines to connect each of these injection/withdrawal wells to the Ryckman Plant and re-entering/re-completing one saltwater disposal well; (2) constructing the Ryckman Plant and a 16-inch diameter header pipeline; (3) installing bi-directional meter stations at the interconnections with Kern River, Questar and Overthrust; and (4) beginning the reentry/recompletion of the existing vertical production wells for enhanced oil recovery

[7] *See Ryckman Application* at 12-15.

operations and constructing the electric power facilities for the non-jurisdictional facilities. Ryckman states it will initially offer approximately 19 Bcf of working gas capacity supported by approximately 5 Bcf of cushion gas. As storage operations occur and nitrogen is removed from the field, Ryckman will replace the nitrogen with additional base gas until the 18.243 Bcf of cushion gas capacity is reached (approximately 20 injection/withdrawal cycles), at which point Ryckman will have a working gas capacity of approximately 35 Bcf.

14. After Phase 1, Ryckman will construct the remaining facilities, and modify the Canyon Creek Facilities, as well as add new compression, to the extent necessary, to be able to provide additional storage service. Ryckman anticipates construction of the Phase 2 facilities will occur between August 2012 and April 1, 2013.

B. Request for Market Based Rates

15. Ryckman requests authority to charge market-based rates for its proposed storage, hub, and wheeling services. Ryckman proposes to offer all of its services on an open-access, non-discriminatory basis.[8] The proposed storage services include firm storage service under Rate Schedule FSS, enhanced interruptible storage service under Rate Schedule EISS, and interruptible storage service under Rate Schedule ISS. Ryckman also proposes to offer firm, enhanced, and interruptible hub services, including firm and interruptible parking services under Rate Schedules FP and IP; firm, enhanced interruptible, and interruptible loan services under Rate Schedules FL, EILS, and IL; and enhanced interruptible and interruptible wheeling services under Rate Schedules EIWS and IWS. Ryckman states that the enhanced interruptible services would offer customers a priority below firm services, but above other, non-enhanced, interruptible services. Ryckman structured these enhanced services to allow customers that value the higher priority to agree to pay a capacity charge.

16. Ryckman also proposes to offer firm hourly-balancing service under Rate Schedule FHBS and interruptible hourly balancing service under Rate Schedule IHBS. Ryckman states that the hourly-balancing services would allow customers to submit hourly nominations to match their load patterns. Ryckman states that these services are intended to meet the needs of end-use customers, such as gas-fired power plants, on the interconnected pipelines. Ryckman asserts that all of its proposed services are structured

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[8] The terms and conditions of these services are set forth in Ryckman's pro forma gas tariff. *See Ryckman Application*, Exhibit P.

to be essentially identical to the services of other independent storage companies that the Commission has reviewed and accepted.[9]

17. Ryckman proposes to charge market-based rates for all storage and hub services under its pro forma tariff. Ryckman contends that it will operate in a competitive market and that it lacks market power with respect to the storage and hub services it proposes.[10] Ryckman states that there is significant market demand for new natural gas storage capacity and deliverability in the market areas the project will serve. Ryckman held a non-binding open season between October 6 and November 1, 2010, and received interest for capacity in excess of its proposed initial working gas capacity.

C. <u>Blanket Certificate and Waiver Requests</u>

18. Ryckman requests a blanket certificate under Subpart F of Part 157 to construct, acquire, operate, and abandon certain facilities in accordance with the Commission's regulations. Ryckman also seeks a blanket certificate under Part 284, Subpart G, to offer open-access firm, enhanced interruptible, and interruptible storage and hub services, including interruptible wheeling service, under terms and conditions set out in its tariff.

19. Because it requests market-based rates and does not have any existing interstate pipeline operations, Ryckman requests waiver of certain filing, accounting, and reporting requirements that the Commission has previously found inapplicable to storage providers that are granted market-based rate authority.

II. <u>Public Notice, Interventions, and Comments</u>

20. Public notice of Ryckman's application was published in the *Federal Register* on December 1, 2010 (75 Fed. Reg. 74,701). Anadarko E&P Company LP (Anadarko E&P) and Anadarko Energy Services Company (AESC), jointly, and the Wyoming Pipeline Authority filed timely, unopposed motions to intervene.[11] Questar and Overthrust, jointly, and Sequent Energy Management Company filed late motions to intervene. The Commission finds that those filing untimely motions to intervene have demonstrated an

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[9] *Ryckman Application* at 30 (citing *East Cheyenne Gas Storage, LLC*, 132 FERC ¶ 61,097, at P 51 (2010).

[10] *See Ryckman Application*, Exhibit I (market power analysis in support of market-based rates).

[11] Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(c) (2011).

interest in this proceeding and that granting their motions will not unduly delay, disrupt, or prejudice this proceeding or the parties to this proceeding. We will therefore grant the late-filed motions to intervene.[12]

21. The Uinta Land and Grazing Partnership and the Belle Butte Grazing Partnership, jointly, the Wyoming Pipeline Authority, Sequent Energy Management Company, and the Uinta County Economic Development Commission filed comments in support of Ryckman's proposed project.

22. Anadarko E&P and AESC expressed support for the project conditioned on certain revisions to Ryckman's proposed tariff with respect to creditworthiness, nominations, and force majeure. Anadarko E&P's and AESC's comments and Ryckman's answer are discussed below.

III. Discussion

23. Because Ryckman proposes to construct and operate storage facilities that will be used to provide natural gas for interstate commerce, Ryckman's proposal is subject to the jurisdiction of the Commission and the requirements of subsections (c) and (e) of section 7 of the NGA.

A. Certificate Policy Statement

24. The Commission's September 15, 1999 Certificate Policy Statement provides guidance on how proposals to construct new facilities or to expand existing facilities will be evaluated.[13] 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. Specifically, the Certificate Policy Statement explains that the Commission in deciding whether to authorize the construction of major new natural gas facilities, 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, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain.

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[12] *See* 18 C.F.R. § 385.214(d) (2011).

[13] *Certification of New Interstate Natural Gas Pipeline Facilities* (Certificate Policy Statement), 88 FERC ¶ 61,227 (1999), *orders clarifying policy*, 90 FERC ¶ 61,128 and 92 FERC ¶ 61,094 (2000).

25. Under this policy, the threshold requirement for a company proposing a new project is that it must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, on existing pipelines in the market and their captive customers, or on landowners and communities affected by the construction. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we will evaluate the proposal 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 we proceed to complete the environmental analysis where other interests are considered.

26. Ryckman is a new entrant in the natural gas storage market and has no existing customers. Thus, there is no issue of subsidization by existing customers. Accordingly, the Commission finds that Ryckman satisfies the threshold requirement of the Certificate Policy Statement.

27. There will be no adverse impact on existing customers or services, since the proposed project is a new facility and Ryckman has no current customers or services. There should be no adverse impact on existing pipelines or storage providers, or their captive customers. As discussed below, the proposed storage facility will be located in a competitive market and will serve new demand. The proposed project will enhance storage options available to pipelines and their customers and should increase competitive alternatives. Further, no pipeline or storage company in Ryckman's market area has protested its proposed project.

28. Ryckman's proposed project will have minimal adverse impacts on landowners and nearby communities. The project is located in a sparsely populated, generally undeveloped area which contains oil and gas production activities. Ryckman's facilities have been designed in a manner to minimize the impact on landowners and the environment. In addition, Ryckman states that it will ensure that restoration and timely follow-up actions are completed satisfactorily and according to servitude and easement agreements.

29. Ryckman's proposed project will supply high-deliverability natural gas storage capacity to three interconnecting interstate pipelines and their customers. Based on the above findings, we conclude that the project will provide benefits to the market without any identifiable adverse impacts on existing customers, other pipelines, landowners, or communities. Thus, consistent with the Certificate Policy Statement and section 7(c) of the NGA, we conclude that approval of Ryckman's proposal is required by the public convenience and necessity, subject to the conditions discussed below.

B. <u>Market-Based Rates</u>

30. Ryckman requests authority to charge market-based rates for its proposed firm and interruptible storage and hub services. Generally, the Commission evaluates requests to charge market-based rates for storage under the analytical framework of its Alternative Rate Policy Statement.[14] Under the Alternative Rate Policy Statement, the Commission evaluates requests for market-based rates pursuant to two principal purposes: (1) to determine whether the applicant can withhold or restrict services and, as a result, increase prices by a significant amount for a significant period of time; and (2) to determine whether the applicant can discriminate unduly in price or terms and conditions of service.[15] To find that an applicant cannot withhold or restrict services, significantly increase prices over an extended period, or discriminate unduly, the Commission must find that there is a lack of market power,[16] because customers have good alternatives,[17] or that the applicant or Commission can mitigate the market power with specified conditions.[18]

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[14] *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076, *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996), *petitions for review denied sub nom., Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998) (Alternative Rate Policy Statement). *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).

[15] *See Blue Sky Gas Storage, LLC*, 129 FERC ¶ 61,210 (2009) (*Blue Sky*); *Orbit Gas Storage, Inc.*, 126 FERC ¶ 61,095 (2009) (*Orbit Gas*).

[16] 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 at 61,230.

[17] A good alternative is an alternative to the proposed project 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. *See id.*

[18] *See Ryckman Application*, Exhibit I. Ryckman's market power study includes an analysis of market-based rates for new storage and hub services as well as for interruptible wheeling service. A market power study usually defines the relevant products and geographic markets, measures market shares and concentrations, and evaluates other factors such as replacement capacity, ease of entry, and non-storage alternatives.

31. The Commission's analysis of whether an applicant has the ability to exercise market power includes three major steps. First, the Commission reviews whether the applicant has specifically and fully defined the relevant markets[19] 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.[20] Additionally, as part of the first step, the applicant must identify the relevant geographic market.[21] Second, the Commission measures the applicant's market share and market concentration.[22] Third, the Commission evaluates other relevant factors, such as ease of entering the market.

32. In 2006, the Commission issued Order No. 678 which explicitly adopted a more expansive definition of the relevant product market for storage to include close substitutes for gas storage services, including pipeline capacity and local production/LNG supply.[23] The Commission determined that for a non-storage product to be a good alternative to storage, it must be available soon enough, have a price low enough, and have a quality high enough to permit customers to substitute the alternative for the applicant's services.[24]

1. Storage Services

33. In support of its request for market-based rate authority, Ryckman included a market power study that identifies the relevant product market as firm and interruptible natural gas storage and hub services and includes local production as an alternative to storage. The market power study identifies the relevant geographic market as the Rocky Mountain Production Area, which Ryckman defines as including Colorado, Kansas, Utah, and southern Wyoming. Ryckman states its market power study reflects a

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[19] Relevant product market consists of the applicant's service and other services that are good alternatives to the applicant's services. *See Alternative Rate Policy Statement*, 74 FERC at 61,231.

[20] *Id*.

[21] *Id.* at 61,232-34.

[22] *Id.* at 61,234.

[23] Order No. 678, FERC Stats. & Regs. ¶ 31,220, *order on clarification and reh'g*, 117 FERC ¶ 61,190.

[24] Order No. 678, FERC Stats. & Regs. ¶ 31,220 at P 27.

conservative analysis of Ryckman's ability to exercise market power because it: (1) excludes all non-storage alternatives, except for some local production; (2) excludes local production if it is not within the footprint of Questar, Overthrust, or Kern River; (3) excludes local production if the counties traversed by Questar, Overthrust, or Kern River do not have documented receipt points on Questar, Overthurst, or Kern River;[25] (4) excludes some storage providers in the relevant geographic market if Ryckman could not confirm a direct connection with Questar, Overthrust, or Kern River, or to a pipeline that directly interconnects with Questar, Overthrust, or Kern River; and (5) defines the geographic market narrowly.

34. Ryckman states that its market power study shows that it is unlikely to be able to exercise market power in the Rocky Mountain Production Area for firm and interruptible storage services. The market power study shows that Ryckman would have a market share of 5.28 percent of the total working gas capacity and 6.79 percent of the total maximum daily deliverability in the relevant market.[26] Ryckman states that such relatively low market shares in the Rocky Mountain Production Area are indicative of an inability to exert market power.

35. Ryckman's market power study shows that its HHI calculation is 175 for working gas capacity and 758 for daily deliverability.[27] The determination of HHI involves two calculations. First, the size of the total market and each storage or storage-alternative provider's share of that total market is calculated. Second, each storage or storage-alternative provider's market share is squared and the squares are summed to determine the overall HHI of the market. In its market power study, Ryckman includes local production in step one, i.e., calculating the total capacity available in the geographic market and each storage provider's market share.[28] However, in step two it does not square the market share for local production and thus does not give any representation to

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[25] Ryckman states that a documented receipt point is a receipt point acquired from the informational postings websites of Questar, Overthrust, and Kern River.

[26] *Ryckman Application*, Exhibit I – Attachment 3.

[27] *Id.*

[28] Ryckman does not calculate market shares for individual producers. Rather, it calculates a collective market share of 71.57 percent for all included local production.

local production in this component of the market power analysis and in determining the HHI.[29]

36. Ryckman states that it has not included local production in step two of its analysis because it contends that local producers are price takers and cannot influence the market price by withholding output. Thus, according to Ryckman, local producers cannot act together with storage providers to exercise market power. However, the Commission believes that if local production is to be included in calculating the size of the product market (i.e., step one of the analysis) in order to develop a complete and accurate indication of the level of competition within the geographic market, it is appropriate to also include local production in calculating market concentration (i.e., step two of the analysis).[30] Accordingly, having identified what we believe to be a weakness in Ryckman's methodology for including local production in its market power analysis, and since inclusion of local production in the market power analysis is not a requirement for approval of market-based rates, we have reexamined Ryckman's market power, excluding local production from our analysis.

37. With local production excluded from the market power analysis, Ryckman would have market shares of 18.6 percent of the market's total working gas capacity and 12.2 percent of the total maximum daily deliverability. The resultant HHIs would be 2,162 for total working gas capacity and 2,450 for daily deliverability. Although these measures of market concentration are above the 1,800 HHI level, we nevertheless see good cause for finding that Ryckman will lack market power and granting Ryckman authority to charge market-based rates.[31]

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[29] Given that Ryckman did not calculate market shares for individual producers, carrying over the collective market share for local production into step two of the analysis would have resulted in an HHI of 5,297.

[30] *See, e.g., Magnum Gas Storage, LLC and Magnum Solutions, LLC,* 134 FERC ¶ 61,197 (2011); *UGI Storage Co.*, 133 FERC ¶ 61,073, at P 81 (2010), *order on reh'g*, 134 FERC ¶ 61,239, at P 43 (2011) (accepting market power analysis that included local producers in its HHI calculation).

[31] If the HHI is above 1,800 the Commission will give the applicant closer scrutiny because the index indicates that the market is more concentrated and the applicant may have significant market power. *See, Alternative Rate Policy Statement,* 74 FERC at 61,235. In granting market-based rates to entities where the HHI has been above 1,800, the Commission has looked at such factors as existing jurisdictional storage providers in the market that offer storage service at cost-based rates, good alternatives to storage service in the market, whether the applicant is a new storage provider thus increasing

(continued…)

38. Ryckman is a new market entrant with no existing jurisdictional or non-jurisdictional operations in the natural gas pipeline or storage industry.[32] In addition, Ryckman's market power study identifies 21 alternative storage facilities that are currently-operating in its defined geographic market, six of which are owned or controlled by independent corporate entities. Although Ryckman's market share of 18.6 percent of capacity after eliminating local production from the market power analysis is high in comparison to what the Commission has previously approved for projects granted market-based rates with an HHI of greater than 1,800,[33] we believe granting such rates is appropriate considering the circumstances. Except for the East Cheyenne and Southern Star Central Expansion projects, all of the storage alternatives in Ryckman's geographic market are subject to Commission approved cost-based rates,[34] making it unlikely that Ryckman will be able to exert market power. The Commission has previously found that barriers to entry in the Rocky Mountain Production Area are not significant[35] and Ryckman's market power study confirms that the relevant market is easy to enter. Ryckman's market power study shows the Commission has certificated four storage projects in the Rocky Mountain Production Area since 2000, representing 34.5 Bcf of working gas capacity and 990 MMcf per day of daily deliverability,[36] and

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storage alternatives in the market, low barriers to entry, and lack of opposition. *See, e.g., Central New York Oil and Gas Co., LLC.* 116 FERC ¶ 61,277 (2006), and *Arlington Storage Co., LLC,* 132 FERC ¶ 61,171 (2010).

[32] *See, e.g., Monroe Gas Storage Co., LLC*, 121 FERC ¶ 61,285, at P 18 (2007); *See also, Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052, at P 24 (2006) (*Bobcat*).

[33] *See, e.g., Arlington Storage, supra,* (approving market-based rates with an HHI of 2,121 and a market share of 7.9 percent of working gas capacity); *Central New York Oil and Gas, supra,*, (approving market-based rates with an HHI of 2,225 and a market share of 5.2 percent of working gas capacity).

[34] Attachment 3 of Exhibit I shows the capacities for each of these storage providers and the total capacity for the market, including the proposed Ryckman project. Approximately 80 percent of the current storage capacity in the market, excluding Ryckman, is subject to regulated cost-based rates. *Ryckman Application*, Exhibit I – Attachment 3.

[35] *See, e.g., East Cheyenne Gas Storage, LLC*, 132 FERC ¶ 61,097, at P 43-44 (2010) (*East Cheyenne*); *Unocal Windy Hill Gas Storage, LLC*, 115 FERC ¶ 61,218, at P 30, 34 (2006) (*Windy Hill*).

[36] *Ryckman Application*, Exhibit I – Attachment 4.

that there are four additional storage projects in various stages of development in the Rocky Mountain Production Area that will add approximately 59.3 Bcf of working gas capacity.[37] In addition, Ryckman's market power study excludes storage facilities located within the geographic market if they are connected to pipelines that are not directly accessible to Ryckman. Finally, our exclusion of local production from Ryckman's HHI analysis, as stated above, is based solely on what we perceive to be weaknesses in Ryckman's methodology, which fails to include any level of representation for individual local producers in determining the market's overall HHI, not on any generic rejection of the proposition that some level of local production in Ryckman's geographic market would likely serve as a viable storage alternative. The data provided in Ryckman's market power study highlights the large amount of production in the Rocky Mountain Production Area potentially available to serve as an alternative to Ryckman's storage services.[38]

39. For these reasons, and given that no one has identified any issues leading us to question Ryckman's lack of market power, the Commission will approve Ryckman's request to charge market-based rates for all firm and interruptible storage and hub services.

2. <u>Interruptible Wheeling Service</u>

40. Ryckman proposes to offer interruptible wheeling service under market-based rates. Interruptible wheeling is a transportation service that is not considered a substitute for gas storage service and, therefore, requires a separate market power analysis to evaluate a storage provider's ability to exercise market power in the interruptible wheeling service market. The Commission uses a "bingo card" analysis to assess whether prospective customers of an applicant seeking market-based rate authority for interruptible wheeling service could obtain the same services from alternative providers. The Commission has relied on the bingo card analysis to determine whether shippers can avoid the pipeline interconnections provided by the applicant by using alternative interconnections between the pipelines that are directly or indirectly connected to the applicant.

41. Ryckman's market power study includes a bingo card analysis[39] for interruptible wheeling that includes only those pipelines that directly interconnect with Ryckman. The

[37] *Ryckman Application*, Exhibit I – Attachment 5.

[38] *Ryckman Application*, Exhibit I – Attachment 2(d).

[39] *Ryckman Application*, Exhibit I – Attachment 6.

bingo card analysis demonstrates that shippers will not be dependent on the Ryckman project to wheel natural gas in the Rocky Mountain Production Area, since the area already contains a number of other pipeline interconnections and alternative paths available to shippers.

42. Ryckman's market power study also reflects that, with the addition of Ryckman's storage project, there will be at least 11 competing hubs and market centers in the Rocky Mountain Production Area. These 11 market hubs have a total receipt and delivery capacity in the market of 13,985 MMcf/d and 19,838 MMcf/d, respectively. The market power study shows that Ryckman's market share for wheeling delivery capacity at these hubs and market centers in the Rocky Mountain Production Area will be 5.55 percent, and its market share for receipt capacity will be 7.87 percent.[40] These shares are similar to the market shares the Commission has determined to be acceptable in other market based rate applications.[41] Ryckman's market power analysis shows that the market concentration for delivery and receipt capacity at hubs in the Rocky Mountain Production Area results in HHI levels of 1,768 and 1,505, respectively,[42] which are below the 1,800 level set forth in the Alternative Rate Policy Statement. Thus, we find that Ryckman will be unable to exert market power in providing interruptible wheeling services and we will approve its request to charge market-based rates for interruptible wheeling services.

3. Notification of Changed Circumstances

43. As required by section 284.504(b) of the Commission's regulations,[43] Ryckman must notify the Commission if future circumstances significantly affect its present market power status. The Commission's approval of market-based rates for the indicated services is subject to re-examination in the event that: (1) Ryckman adds storage capacity beyond the capacity authorized in this order; (2) an affiliate increases storage capacity; (3) an affiliate links storage facilities to Ryckman; or (4) Ryckman or an affiliate acquires an interest in, or is acquired by, an interstate pipeline connected to Ryckman. Since these circumstances could affect its market power status, Ryckman shall notify the Commission within 10 days of any such changes. The notification shall

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[40] *Ryckman Application*, Exhibit I – Attachment 8.

[41] *See, e.g., East Cheyenne*, 132 FERC ¶ 61,097 at P 41.

[42] *Ryckman Application*, Exhibit I – Attachment 8.

[43] 18 C.F.R. § 284.504(b) (2011).

include a detailed description of the new facilities and their relationship to Ryckman.[44] We reserve the right to require a market power analysis at any time.[45]

C. Waiver of Filing, Reporting, and Accounting Requirements

44. Because Ryckman proposes to charge market-based rates for its storage services and has no existing interstate pipeline operation, Ryckman requests waiver of compliance with certain of our regulations applicable to cost-based service providers; including: (1) section 157.6(b)(8), cost and revenue data; (2) sections 157.14(a)(13), (14), (16), and (17), cost-based exhibits; (3) section 157.14(a)(10), access to gas supplies; (4) the accounting and reporting requirements of Part 201 and section 260.1, 260.2, and 260.300, cost-of-service rate structure (Form Nos. 2 and 2A); (5) section 284.7(e), reservation charge; and (6) section 284.10, straight fixed-variable rate design methodology.

45. Ryckman requests a waiver of section 260.300 (which requires natural gas companies to file a quarterly financial report in FERC Form No. 3-Q) of the Commission's regulations and a waiver of the rate and cost information filing requirements of sections 157.14(a)(10) and 157.20(c)(3) to submit total gas supply data (Exhibit H).

46. In light of our approval of market-based rates for Ryckman's storage and hub services, the cost-related information required by the above-described regulations is not relevant. Consistent with previous Commission orders,[46] we will grant Ryckman's request for waiver of the regulations requiring the filing of cost-based rate related information, reservation charges, and use of a straight fixed-variable rate design. We also waive compliance with sections 157.14(a)(10) and 157.20(c)(3), which requires an applicant to submit gas supply data, as this is inapplicable to gas storage.

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[44] *See Bobcat*, 116 FERC ¶ 61,052; *Copiah County Storage Co.*, 99 FERC ¶ 61,316 (2002) (*Copiah*); *Egan Hub Partners, L.P.*, 99 FERC ¶ 61,269 (2002) (*Egan Hub*).

[45] *See Liberty Gas Storage LLC*, 113 FERC ¶ 61,247, at P 51 (2005). *See also Rendezvous Gas Services, L.L.C.*, 112 FERC ¶ 61,141, at P 40 (2005). We note in Order Nos. 678 and 678-A, that the Commission chose not to impose a generic requirement that storage providers, granted market-based rate authority on the basis of a market power analysis, file an updated market power analysis every five years, or at other periodic intervals. *See* Order No. 678-A, 117 FERC ¶ 61,190 at P 12-15.

[46] *See, e.g.*, *Bobcat*, 116 FERC ¶ 61,052; *Copiah*, 99 FERC ¶ 61,316; *Egan Hub*, 99 FERC ¶ 61,269.

47. The Commission has also found in orders dealing with similar projects no ongoing regulatory need to have cost-based financial statements prepared in accordance with the Uniform System of Accounts. Accordingly, we will grant Ryckman's request for waiver of accounting requirements, as provided in Part 201 (Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act). We will also grant Ryckman's request for waiver of reporting requirements, as set forth in section 260.2 (Form No. 2-A, Annual Report for Nonmajor Natural Gas Companies) and section 260.300 (Form No. 3-Q, Quarterly Financial Report of Electric Utilities, Licensees, and Natural Gas Companies), but the Commission notes that such waivers do not extend to the Annual Charge Assessment.[47] Ryckman must file page 520 of Form No. 2-A, reporting gas volume information in order to permit the Commission to accurately calculate the annual charge.[48] In addition, Ryckman must maintain records of cost and revenue data consistent with the Commission's Uniform System of Accounts and stand ready to present these records if requested.

D. Tariff Provisions

48. Ryckman filed pro forma sheets to its proposed tariff setting forth the terms and conditions under which it will provide firm and interruptible storage, hub, and wheeling services. Anadarko E&P and AESC filed comments on Ryckman's pro forma tariff, which are discussed below. We find that Ryckman's proposed tariff sheets generally comply with Commission regulations, with the exceptions noted herein. Ryckman is direct to file actual tariff records at least 60 days prior to the commencement of service. As a reminder, Ryckman must comply with the Commission's electronic filing requirements set forth in Order No. 714[49] and Part 154 of the Commission's regulations.[50]

1. Segmentation

49. Section 284.7(d) of the Commission's regulations requires a pipeline to permit a shipper to segment its contracted firm capacity into separate parts for the shipper's own use, or for the purpose of releasing that capacity to replacement shippers to the extent

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[47] *See BGS Kimball Gas Storage, LLC*, 117 FERC ¶ 61,122, at P 49 (2006).

[48] *Windy Hill*, 115 FERC ¶ 61,218 at P 38.

[49] *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

[50] 18 C.F.R. § 154.4 (2011).

segmentation is operationally feasible.[51] Ryckman requests waiver of the segmentation requirements in section 284.7(d), because it states that it will not be offering stand-alone transportation service, since all transportation service will be provided as part of storage service.

50. Ryckman is only proposing to offer natural gas storage and no firm stand-alone transportation services, thus our segmentation requirement does not apply to Ryckman.[52] Accordingly, we will waive compliance with section 284.7(d) of our regulations; further, we find that other tariff provisions related to segmentation, such as the allocation of primary point rights in segmented releases and within-the-path scheduling, also do not apply to Ryckman and are waived.

2. <u>Off-System Capacity and Shipper Must Hold Title Policy</u>

51. Ryckman seeks a waiver of the Commission's "shipper must hold title" policy to enable it to obtain off-system capacity that may be necessary to render storage services. Section 6.33 of the General Terms and Conditions (GT&C) of Ryckman's pro forma tariff[53] includes an affirmative statement that Ryckman will only transport gas for others using off-system capacity under its open-access tariff and subject to Commission-approved rates.

52. The Commission has imposed conditions on the use of off-system capacity by independent storage companies authorized to charge market-based rates.[54] In *Texas Eastern Transmission Corp.*,[55] the Commission found that pipelines no longer need to obtain prior approval to acquire capacity on another pipeline, provided the acquiring

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[51] 18 C.F.R. § 284.7(d) (2011).

[52] *See, e.g., East Cheyenne*, 132 FERC ¶ 61,097 at P 55; *Chestnut Ridge Storage, LLC*, 128 FERC ¶ 61,210, at P 50 (2009); *Bobcat*, 116 FERC ¶ 61,052 at P 37; *Pine Prairie Energy Center, LLC*, 109 FERC ¶ 61,215, at P 44 (2004) (*Pine Prairie*); *Egan Hub Partners, L.P.*, 98 FERC ¶ 61,284 (2002).

[53] Ryckman pro forma tariff, section 6.33, GT – C OFF-SYSTEM CAPACITY, 0.0.0.

[54] *See, e.g.*, *Freebird Gas Storage, LLC*, 111 FERC ¶ 61,054 (2005); *Caledonia Energy Partners, L.L.C.*, 111 FERC ¶ 61,095 (2005).

[55] *Texas Eastern Transmission Corp.*, 93 FERC ¶ 61,273 (2000), *reh'g denied*, 94 FERC ¶ 61,139 (2001).

pipeline has filed tariff language specifying that it will only transport for others using off-system capacity pursuant to its existing tariff and rates. Ryckman's proposed tariff language is consistent with the requirements set forth in *Texas Eastern,* as well as authorizations granted other storage companies with market-based rate authority.[56] Therefore, we accept Ryckman's tariff language and grant waiver of the "shipper must hold title" policy, with the following clarifications. Ryckman may only use capacity obtained on other pipelines in order to move gas into or out of storage. That is, Ryckman may not use capacity on other pipelines, pursuant to the requirements in *Texas Eastern*, to transport gas which will not physically or contractually enter its storage facility unless and until it has received Commission authorization to provide such transportation services. In addition, Ryckman's waiver to utilize capacity on other pipelines to provide storage service shall be limited to the geographic area covered in the market power study.

53. To ensure that Ryckman uses acquired off-system capacity in a manner consistent with its tariff provisions, and to satisfy our responsibility to monitor and prevent the exercise of market power, we direct Ryckman to make annual informational filings, once the project becomes operational, within thirty days after its first full year of operation, and then every year thereafter.[57] The following information must be filed for each acquisition of off-system capacity: (1) the name of the off-system provider; (2) the type, level, term, and rate of service contracted for; (3) a description of the geographic location – boundaries, receipt and delivery points, and segments comprising the capacity; (4) the operational purpose(s) for which the capacity is used; (5) a description of how the capacity is associated with specific transactions involving customers; and (6) an identification of total volumes, by rate schedule and customer, that were nominated for each off-system provider during the reporting period.

3. <u>Transmission Provider Standards of Conduct</u>

54. The Commission's Standards of Conduct in Part 358 of the regulations ensure that transmission providers cannot extend their market power over transmission by giving marketing affiliates unduly preferential treatment.[58] However, section 358.3(k)(3)

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[56] *See, e.g., Arlington Storage Co., LLC*, 125 FERC ¶ 61,306, at P 77 (2008); *Tres Palacios*, 120 FERC ¶ 61,253, at P 47 (2007) (*Tres Palacios*); *Windy Hill*, 115 FERC ¶ 61,218 at P 43.

[57] *See, e.g., Starks Gas Storage L.L.C.*, 111 FERC ¶ 61,105, at P 54-57 (2005).

[58] *Standards of Conduct for Transmission Providers*, Order No. 717, FERC Stats. & Regs. ¶ 31,280 (2008), *order on reh'g*, Order No. 717-A, 129 FERC ¶ 61,043, *order on reh'g*, Order No. 717-B, 129 FERC ¶ 61,123 (2009), *order on reh'g*, Order No. 717-C, 131 FERC ¶ 61,045 (2010), *order on reh'g, Order No. 717-D,* 135 FERC

(continued…)

provides that "[a] transmission provider does not include a natural gas storage provider authorized to charge market-based rates."[59] For this reason, Ryckman requests that the Commission confirm that Ryckman is exempt from the Standards of Conduct requirements of Part 358. Since we are approving Ryckman's request to charge market-based rates for firm and interruptible storage and interruptible hub services, including wheeling services, we find that, under current circumstances, Ryckman is exempt from the Standards of Conduct.

4. Netting and Trading of Imbalances

55. Section 284.12(b)(2) of the Commission's regulations requires pipelines to establish provisions for netting and trading imbalances and other imbalance management services.[60] However, in Order No. 637-A, the Commission stated that if a pipeline has no authority to assess penalties for imbalances, there is no need to require that pipeline to offer such imbalance services.[61] Since Ryckman is not proposing to assess imbalance penalties, we find that it qualifies for the requested exemption and grant Ryckman's requested waiver.[62] Nevertheless, if Ryckman seeks to implement imbalance penalty provisions in the future, Ryckman must comply with section 284.12(b)(2) of the Commission's regulations.

5. Injection Ratchets

56. Ryckman's FSS Rate Schedule enables Ryckman and its customers to negotiate the ratchets that limit a customer's ability to inject or withdraw its maximum daily

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¶ 61,017 (2011).

[59] 18 C.F.R. § 358.3(k)(3) (2011).

[60] 18 C.F.R. § 284.12(b)(2) (2011).

[61] *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637, FERC Stats. & Regs. ¶ 31,091, *clarified*, Order No. 637-A, FERC Stats. & Regs. ¶ 31,099, *reh'g denied*, Order 637-B, 92 FERC ¶ 61,062 (2000), *aff'd in part and remanded in part sub nom. Interstate Natural Gas Ass'n of America v. FERC*, 285 F.3d 18 (D.C. Cir 2002), *order on remand*, 101 FERC ¶ 61,127 (2002), *order on reh'g*, 106 FERC ¶ 61,088 (2004), *aff'd sub nom. American Gas Ass'n v. FERC*, 428 F.3d 255 (D.C. Cir. 2005).

[62] *See Orbit Gas*, 126 FERC ¶ 61,095 at P 41; *Pine Prairie*, 109 FERC ¶ 61,215 at P 47.

quantity under a contract. Although the Commission provides pipelines with flexibility in negotiating individual rate provisions through negotiated rate authority, the Commission has not allowed the negotiation of terms and conditions of service that would result in a customer receiving a different quality of service than that provided to other customers contracting for the same service under the pipeline's tariff.[63] The Commission has stated that allowing shippers to negotiate ratchets of a storage service fundamentally changes the nature of the service, such that two parties contracting for the same service may no longer be receiving a service that is equal or even similar in quality.[64]

57. In its FSS Rate Schedule and in Exhibit A to its FSS pro forma service agreement, Ryckman includes a provision that enables a customer to receive either ratcheted or unratcheted storage services, but does not provide specific and generally applicable ratchet percentages. While the Commission has previously allowed storage service providers to offer customers the option of receiving either ratcheted or unratcheted storage service,[65] the Commission has required specific and generally applicable ratchet percentages to be stated in the tariff when implemented.[66]

58. Therefore, we direct Ryckman to revise its tariff to eliminate its ability to negotiate storage ratchets with its customers. However, consistent with our acceptance of ratchets for other storage service providers, Ryckman may provide customers with the option of choosing unratcheted storage service, or storage service ratcheted in accordance with percentages stated in actual tariff records at the time of filing.

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[63] Section 284.7(b)(2) of the Commission's regulations provides that "[a]n interstate pipeline that offers transportation service on a firm basis … must provide each service on a basis that is equal in quality for all gas supplies transported under that service, whether purchased from the pipeline or another seller." 18 C.F.R. § 284.7(b)(2) (2011).

[64] *Golden Triangle Storage, Inc.*, 121 FERC ¶ 61,313, at P 54 (2007) (*Golden Triangle*).

[65] Ratchets are tariff or contract provisions that specify the rights to inject or withdraw storage gas depending on the inventory in the storage account.

[66] *See Orbit Gas*, 126 FERC ¶ 61,095 at P 60 (citing *Windy Hill Gas Storage, LLC*, 119 FERC ¶ 61,291, at P 43-44 (2007)). *See also Southeast Gas Storage, LLC*, 125 FERC ¶ 61,307, at P 48 (2008); *Tres Palacios*, 120 FERC ¶ 61,253 at P 53-54.

6. Definitions

59. GT&C sections 6.2.20 through 6.2.24 (Definitions) imply that all gas quantities nominated will be scheduled. In *Tarpon Whitetail Gas Storage, LLC*,[67] the Commission required *Whitetail* to revise similar language to clarify that scheduled quantities are subject to the other provisions of the tariff controlling the priorities of service and factors that may result in scheduled quantities less than nominated quantities.[68] Thus, we require Ryckman to revise GT&C sections 6.2.20 through 6.2.24, to clarify the scheduled quantities are subject to the nomination and scheduling provisions of GT&C section 6.7 and the scheduling priority order in GT&C section 6.8.

7. Creditworthiness – Financial Assurances

60. In their comments, Anadarko E&P and AESC request that Ryckman change its debt rating triggers for creditworthiness so that a Customer's senior unsecured debt is rated at least BBB- by Standard & Poor's or Baa3 by Moody's. In reply, Ryckman proposes to modify the credit evaluation procedures set forth in section 6.4.3 of its GT&C to clarify that a customer will be deemed creditworthy if customer's senior unsecured debt is rated at least BBB- by Standard & Poor's or Baa3 by Moody's.[69] Accordingly, Ryckman is directed to revise its tariff to reflect debt rating triggers for creditworthiness of at least BBB- for Standard & Poor's or Baa3 for Moody's.[70]

8. Nominations and Scheduling

61. In their comments, Anadarko E&P and AESC request that Ryckman's customers retain the ability to nominate simultaneous injections to and withdrawals from storage under a single contract.

62. In its answer, Ryckman states that the Commission considers simultaneous injection and withdrawal to be transportation, and that it is not seeking certificate authority to provide transportation services. Ryckman further clarifies that shippers who want to nominate simultaneous injection and withdrawal quantities during the same

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[67] *Tarpon Whitetail Gas Storage, LLC*, 123 FERC ¶ 61,274 (2008).

[68] *Id.* P 66.

[69] Ryckman's December 30, 2010 Answer at 2.

[70] Debt rating triggers are based upon a rating of BBB- by Standard & Poor's or Baa3 by Moody's.

nomination cycle may do so by utilizing Ryckman's interruptible wheeling service under Rate Schedule Interruptible Wheeling Service or Rate Schedule Enhanced Interruptible Wheeling Service. Nonetheless, Ryckman proposes to modify the nomination and scheduling procedures set forth in section 6.7.3 of its GT&C to clarify that although same-cycle simultaneous injection and withdrawal is not permitted, a customer may engage in same-day, different cycle, injection and withdrawal by submitting separate intra-day nominations for such services.[71]

63. In *Tres Palacios*, the Commission accepted the storage service provider's proposal to restrict simultaneous injection and withdrawal nominations from firm storage on its system during the same nomination cycle.[72] Therefore, we accept Ryckman's proposal to restrict same-cycle simultaneous injection and withdrawal nominations from firm storage on its system, while still allowing same-day different-cycle injections and withdrawals by submitting separate intra-day nominations, and require that Ryckman revise its tariff in its compliance filing.

9. <u>Billing and Payments</u>

64. In GT&C section 6.16 Ryckman provides in relevant part that "[i]f Customer's failure to pay [an] undisputed portion of any invoice rendered … continues beyond [thirty days] after the due date of such invoice, … [Ryckman] … [may] suspend further deliveries of Gas until such default shall have been cured." Pipelines that opt to suspend service are making an election of remedies, i.e. they are determining that the risk of continued service outweighs the potential collection of reservation or other charges during the time of the suspension. The Commission has not permitted pipelines to impose reservation charges during the period of suspension, since the pipeline is making an election to suspend service and is not providing the service required under the contract during the period of suspension.[73] For these reasons, we will require Ryckman to expressly state in GT&C section 6.16 that it will not impose reservation charges during the period of suspension.

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[71] Ryckman's December 30, 2010 Answer at 5.

[72] *Tres Palacios Gas Storage LLC*, 128 FERC ¶ 61,084, at P 41, 44 (2009), *order on reh'g*, 131 FERC ¶ 61,131, at P 17 (2010).

[73] *Golden Triangle*, 121 FERC ¶ 61,313 at P 49.

10. Impairment of Deliveries/Force Majeure

65. In GT&C section 6.19.1 Ryckman provides in relevant part that "[Ryckman] shall have the right to restrict the scheduling of service … from time to time to perform repair, maintenance, and other construction or testing procedures on [Ryckman's] system or to comply with applicable regulatory requirements." GT&C section 6.19.2 provides that service may be interrupted or curtailed for reasons of *force majeure*.

66. In their comments, Anadarko E&P and AESC request that Ryckman be required to remove scheduled maintenance from its definition of *force majeure* as contrary to Commission policy. They further state that the proposal that Ryckman should not be liable and shall not provide revenue credits to its customers or any other party in the event of a service interruption caused by scheduled maintenance is also contrary to Commission policy.

67. In its answer, Ryckman proposes to modify GT&C section 6.19 to clarify that reservation charges will be reduced for non-*force majeure* events in accordance with Commission policy. Ryckman also proposes to modify GT&C section 6.19 to clarify that reservation charges will not be reduced when Ryckman is unable to receive or deliver or to accept any portion of the customer's scheduled firm reservation quantities under a firm storage service agreement during periods when Ryckman is undergoing a seasonal shut-in test or other necessary tests of its storage facility. Ryckman asserts that a seasonal shut-in test must be performed to ensure the integrity of the storage field. Ryckman further asserts that a seasonal shut-in test requires the temporary suspension of storage field activities (injections and withdrawals) for a period of approximately seven to ten days. Ryckman plans to schedule such a test during the spring or fall shoulder months when it expects demand on the storage field to be lower to further minimize any impact on customers. Ryckman will post notification of testing on its website as soon as reasonably practicable, and at least five days prior to testing when possible, to alert its customers and give them an opportunity to make other arrangements to adjust for the interruption of storage.[74]

68. Ryckman's proposal regarding interruption of service does not comply with Commission policy. The Commission has found that curtailment is only applicable in an emergency situation or when an unexpected capacity loss occurs after scheduling.[75] Because routine repair or maintenance is not an emergency situation or an unexpected loss of capacity, we require Ryckman to modify its tariff to clarify that routine repair,

[74] Ryckman's December 30, 2010 Answer at 5-7.

[75] *See, MarkWest Pioneer, L.L.C.*, 125 FERC ¶ 61,165, at P 52 (2008.)

maintenance, and other construction or testing procedures on Ryckman's system should be planned through scheduling and should not disrupt confirmed service.

69. We have allowed storage providers with market-based rate authority to negotiate alternate forms of rate relief, such as reservation charge credits, because such provisions are essentially a rate matter.[76] Ryckman does not propose to negotiate reservation charge credits; however, Ryckman proposes to modify GT&C section 6.19 to clarify that reservation charges will be reduced for non-*force majeure* events, except during periods when Ryckman is undergoing a seasonal shut-in test or other necessary tests of its storage facility. Accordingly, we accept Ryckman's proposal, subject to Ryckman submitting the conforming change to GT&C section 6.19 contained in its December 30, 2010 answer for Commission review in its compliance filing.

11. Disposition of Retained Quantities

70. In GT&C section 6.34 Ryckman provides in relevant part that "[i]n the event that [Ryckman] holds an auction for Gas quantities retained pursuant to [its tariff], [Ryckman] … shall credit the net proceeds received from such auction to the Customer(s) whose Gas was sold during the subject auction […]." Ryckman requests that the Commission find its proposed gas retention crediting mechanism to be reasonable and consistent with Order No. 637.

71. In Order No. 637, the Commission required pipelines to credit the revenues from penalties to shippers to eliminate the pipeline's financial incentive to impose penalties.[77] Further, the Commission did not require that the revenue be credited exclusively to non-offending shippers.[78] Ryckman's proposed tariff language is consistent with Order No. 637.[79] We accept Ryckman's gas retention crediting mechanism provision.

[76] *See, e.g., Golden Triangle Storage Inc.*, 134 FERC ¶ 61,036, at P 7-8 (2011).

[77] *See* Order No. 637, FERC Stats. & Regs. ¶ 31,091.

[78] *See* Order No. 637, FERC Stats. & Regs. at 31,315 ("[*i*]*deally*, penalty revenues should be credited only to non-offending shippers (emphasis added)."). *See also* Order No. 637-A, FERC Stats. & Regs. at 31,609.

[79] *See* Order No. 637-A, FERC Stats. & Regs. at 31,610 ("[p]ipelines may propose whatever implementation mechanism is best for their systems.").

12. Implementation of NAESB Standards

72. Part 284 of the Commission's regulations, adopts various standards for conducting business practices and electronic communication with interstate pipelines as promulgated by the North American Energy Standards Board (NAESB).[80] The standards are intended to govern nominations, allocations, balancing, measurement, invoicing, capacity release, and mechanisms for electronic communication between pipelines and those with whom they do business. Ryckman states that it has adopted all relevant provisions of Version 1.9 of the NAESB standards in its pro forma tariff, except for the requested waivers applicable to storage projects authorized to charge market-based rates.

73. Ryckman's proposed tariff generally complies with Order No. 587-U, with one exception. Ryckman incorporates by reference NAESB Standard 1.1.19.[81] However, in Order No. 587-U, the Commission did not incorporate by reference into its regulations NAESB Standard 1.1.19, because NAESB's WGQ deleted Standard 1.1.19 from its Version 1.7 standards.[82] Thus, we direct Ryckman to remove the reference to NAESB Standard 1.1.19 from its proposed tariff. Ryckman's tariff must comply with the currently effective version of the NAESB standards at the time Ryckman makes its compliance filing to this order.

13. Electronic Data Interchange/Electronic Delivery Mechanism (EDI/EDM) and Flat File/Electronic Delivery Mechanism (FF/EDM) Requirements

74. Ryckman requests an extension of time to implement NAESB WGQ Version 1.9 Standards relating to certain Electronic Data Interchange (EDI)/Electronic Delivery Mechanism (EDM), and Flat File (FF)/EDM requirements. Ryckman has not received any requests to send information via EDI/EDM and FF/EDM, and does not expect any such requests in the foreseeable future. Ryckman's internet web site will include postings of capacity release information that the Commission requires to be available to the public and will comply with the NAESB Electronic Bulletin Board/EDM standards.

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[80] *Standards for Business Practices for Interstate Natural Gas Pipelines*, Order No. 587-U, FERC Stats. & Regs. ¶ 31,307 (2010) (incorporating by reference into its regulations Version 1.9 of the standards adopted by the Wholesale Gas Quadrant (WGQ) of the NAESB).

[81] Section 6.25, GTC – NAESB STANDARDS, 0.0.0.

[82] *See Standards for Business Practices of Interstate Natural Gas Pipelines,* Order 587-S, FERC Stats. & Regs. ¶ 31,179 (2005).

Consistent with previous Commission orders,[83] we grant an extension of time to comply with the EDI/EDM, and FF/EDM requirements. The extension of time is limited to the NAESB WGQ Version 1.9 Standards promulgated by Order No. 587-U,[84] but once a request is made by a Part 284 customer to use the standards Ryckman will have 90 days following receipt of the request to implement the standard.

E. Engineering Review

75. We evaluated the data submitted in Ryckman's application and data responses, and conclude that Ryckman's proposal is technically sound and feasible. The project will be constructed in the Nugget Unit, a depleted oil and gas reservoir with a well defined, four-way closure geologic anticline, and an associated water drive. The total certificated capacity of Ryckman will be 53.048 Bcf, at a maximum shut-in bottomhole reservoir pressure of 4,000 psia, with a working gas capacity of 34.805 Bcf. There will be up to six new horizontal injection/withdrawal storage wells, drilled from six existing well pads, and designed to be evenly distributed throughout the gas cap. The surface facilities, pipelines, and compressor station have all been sized to provide the proposed maximum injection and deliverability rate of 350 MMcf/d and 480 MMcf/d, respectively.

76. Ryckman proposes to use twelve existing wells for its EOR operations, which are non-jurisdictional operations and under Wyoming authorization. These wells are located in and around the original gas-oil contact, and are expected to produce water, oil and gas that have been trapped by water influx as the gas cap was blown down between 1992 and 2001. As storage operations occur, and the gas cap is repressurized and expanded to the total capacity of 53.048 Bcf, the trapped oil will either be pushed toward the twelve EOR wells or withdrawn along with the storage gas. All of the gas from the six storage injection/withdrawal wells and the twelve EOR wells will be commingled as it enters the Ryckman Plant, where the oil and water will be separated, with the oil being sold and the water sent to the two salt water disposal wells.

77. Ryckman has indicated that: (1) there is a strong water drive present, (2) there is a potential spill point to the south, and (3) the maximum volume of gas to be certificated is less than the original gas-in-place. Ryckman shall determine the current location of the

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[83] *Tres Palacios*, 120 FERC ¶ 61,253 at P 52; *Windy Hill*, 115 FERC ¶ 61,218 at P 48; *MoBay Storage Hub, Inc.*, 117 FERC ¶ 61,298, at P 43-44 (2006); *Saltville Gas Storage Co., L.L.C.*, 109 FERC ¶ 61,200, at P 36-37 (2004).

[84] *See B-R Pipeline Co.*, 128 FERC ¶ 61,126 (2009) ("[E]ach time the Commission adopts new versions of [the] standards … pipelines must request waiver of the new standards.").

gas-oil contact, the oil-water contact, and gas-water contact before beginning initial gas injection, and every five years once storage operations commence, and file those results with the corresponding semi-annual storage report. Seven well sites were evaluated for the six injection/withdrawal wells, the seventh site being an alternate site in case of difficulties encountered during the construction of one of the injection/withdrawal wells. Ryckman is reminded that it is authorized for six injection/withdrawal wells only. If Ryckman uses the alternative site, Ryckman shall notify Commission staff of the switch and explain what the plans are for the well site no longer in use.

F. Environmental Review

78. On July 15, 2010, in Docket No. PF10-18-000, the Commission issued a Notice of Intent to Prepare an Environmental Assessment (EA) for the Proposed Ryckman Creek Storage Field Project and Request for Comments on Environmental Issues (NOI). The NOI was mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners.

79. We received comments in response to the NOI from the National Park Service (NPS); Wyoming Game and Fish Department (Wyoming GFD); the State of Wyoming Department of Environmental Quality (DEQ); Mr. Tom Fitzsimmons; Mr. Bob Pruitt; and Mr. Edward M. Bown, Attorney at Law representing the Uinta Livestock Grazing Partnership and Bell Butte Grazing Partnership. The primary issues raised concerned the analysis and disclosure of cumulative impacts; control of noxious and invasive plants; impacts on livestock grazing; restoration of lands; safety; risk of fire, explosion, lightning strikes; results of reservoir testing; and concerns regarding the conditions under which the reservoir may fail or leak gas. Mr. Tom Fitzsimmons and Mr. Charles Rex expressed support for the project.

80. To satisfy the requirements of the National Environmental Policy Act, our staff prepared an EA for Ryckman's proposal. The EA was prepared with the cooperation of the Bureau of Land Management (BLM), Kemmerer Field Office. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, socioeconomics, and alternatives. All substantive comments received in response to the NOI were addressed in the EA.

81. The NPS submitted scoping comments and determined that no parks would be affected by the project.

82. The Wyoming GFD recommended that the environmental document thoroughly analyze and disclose the cumulative impacts within the area. The Wyoming GFD also recommended that ground disturbances by the project be sufficiently reclaimed and that

noxious and invasive plants be controlled. Similarly, Mr. Bown requests restoration of lands back to original condition.

83. Section B.10 of the EA addresses cumulative impacts and states that no other projects were identified as occurring in the project area, and concludes that there would be no significant cumulative impacts due to the construction and operation of the project.

84. Section A.5 of the EA indicates construction and restoration activities would be conducted in general accordance with Ryckman's Upland Erosion Control, Revegetation, and Maintenance Plan (Ryckman Plan), and Ryckman's Wetland and Waterbody Construction and Mitigation Procedures (Ryckman Procedures). The EA indicates that Ryckman's Plan and Procedures are acceptable for this project. In addition, Section B.3.1 of the EA describes Ryckman's Weed Management Plan. The EA states that BLM and FERC staff have reviewed the Weed Management Plan and find it acceptable. The EA concludes that with the implementation of Ryckman's various measures, the project area would be adequately restored and the spread of noxious weeds controlled.

85. Mr. Bown also commented that construction may affect livestock grazing. Section B.4.1 of the EA indicates that the project is located entirely within the BLM's Cumberland/Uinta grazing allotment. This allotment encompasses 337,659 acres of land authorized for use by cattle, sheep and horses. Construction associated with existing facilities such as the Canyon Creek Compressor Station and Ryckman Plant would not affect livestock because these facilities already exclude livestock within their fence lines. In addition, the BLM concludes that construction and operation of the project results in no change in the amount of forage needed to sustain one mature cow or five sheep, or "animal unit month."[85]

86. The EA concludes that because there are ample areas open to livestock grazing in both the Cumberland/Uinta grazing allotment and the region, impacts on grazing would not be adversely affected beyond the scale of the project boundaries.

87. Mr. Pruitt had concerns about risk of fire, explosion, and lightning strikes; the results of reservoir testing; and whether leak detection or monitoring of the air would be undertaken during operation. Section B.9. of the EA discusses Reliability and Safety. The design and operation of the facilities and storage field would incorporate the appropriate safety controls, including gas and fire protection in all buildings where hydrocarbons are present, as well as other safeguards required by pertinent federal, state

[85] By agricultural definition, an animal unit month is the amount of forage needed by an "animal unit" grazing for one month. An animal unit is a standardized measure of animals used for various agricultural purposes.

and local agencies to prevent a fire or explosion. In addition, coordination of an emergency response plan with local fire departments and response agencies would be developed and employed. The EA concludes that the facility would include safety controls to reduce impacts to Ryckman's employees, the public, and on the environment, in the rare event that a fire or explosion occurs.

88. Concerning the risk of lightening strikes, the EA indicates that Ryckman has committed to perform a lightning risk assessment prior to construction, and if it is determined lightning protection is required, air terminals (i.e. lightning rods) would be installed on all buildings and structures subject to lightning strikes. These devices would be tied together and to the plant ground grid with copper conductors. The EA concludes that these measures would sufficiently reduce impacts in the unlikely event of lightning strikes.

89. In regards to Mr. Pruitt's concern on reservoir testing, Section B.1.1 of the EA addresses the results of the reservoir testing, and indicates that after abandonment of the field by Amoco BP in 2001, Nielson Energy Group tested four wells in the Ryckman Creek Unit for an enhanced oil and gas program. Nielson used existing vertical wells to perforate the Nugget and tested small volumes of oil and/or water from these wells. Ryckman failed to find any significant quantities of oil in these wells. Ryckman is currently pursuing a test of the Nugget interval in an additional vertical well for enhanced oil recovery.

90. Concerning the issue of whether the reservoir could fail or leak gas, the EA states that Ryckman would utilize an observation well to monitor reservoir pressures to ensure no gas leaks occur from the reservoir. In addition, Ryckman and the previous operator have re-entered five existing vertical production wells and have found no wellbore integrity issues. All newly-drilled wellbores would be designed and installed under the supervision of the BLM and the Wyoming Oil and Gas Conservation Commission (Wyoming OGCC).

91. The EA was issued for a 30-day comment period and placed into the public record on April 22, 2011. The Commission received comments on the EA from Uinta Engineering & Surveying Inc. (Uinta Engineering), Canyon Creek Compression Company (Canyon Creek); and the U.S. Fish and Wildlife Service (USFWS).

92. After issuance of the EA, the Commission staff reconsidered Ryckman's commitment to provide the Commission its results of the lightning risk assessment for the project. If Ryckman determines lightning protection is required, certain installation of facilities (i.e. lightning rods) will be required, which should be analyzed by Commission staff, prior to construction. Therefore, environmental condition number 12 in Appendix A requires Ryckman to file the results of its lightning risk assessment with the Secretary of the Commission, prior to construction

93. Uinta Engineering filed comments indicating that no county roads would be crossed by the project in Uinta County, Wyoming. Although the Sulphur Haul Road and other roads may be paved roads, none of the roads crossed by pipelines or power lines associated with the project are under county jurisdiction, thus, no county road crossing permits will be required for this project.

94. Canyon Creek clarifies the status of the disposition of the Canyon Creek Facilities that is referenced in the EA at page 9. Canyon Creek states that on September 20, 2010 in Docket No. CP08-433-000, it filed its proposal for disposition informing the Commission that it intends to abandon all of the Canyon Creek Facilities in place and transfer ownership to Ryckman upon approval of its proposed disposition.

95. Canyon Creek provided a clarification to the EA at pages 46 and 50. The Canyon Creek Facilities site contains an area of known contamination where soils have been impacted by lubricating oil. Canyon Creek is coordinating with the Wyoming DEQ, Solid and Hazardous Waste Management Division in developing a Work Plan for the Remedial Excavation for the removal and remediation of the contaminated soil in accordance with Wyoming DEQ's Voluntary Remediation Program. Ryckman's application and the EA identify such soil contamination. Canyon Creek clarifies that Canyon Creek, not Ryckman, will coordinate with the Wyoming DEQ and Canyon Creek will perform the soil remediation in accordance with the Wyoming DEQ's Voluntary Remediation Program prior to the transfer of the Canyon Creek Facilities to Ryckman. Canyon Creek states that it will perform these activities pursuant to its Part 157, Subpart F blanket certificate and section 2.55 of the Commission's regulations, as well as in accordance with authorization from the Wyoming DEQ under its Voluntary Remediation Program.

96. In the event that Canyon Creek does not complete Wyoming's Voluntary Soil Remediation Program before the Canyon Creek Facilities are transferred to Ryckman, Ryckman states that it will assume responsibility for the remediation efforts until it receives completion documentation from the Wyoming DEQ.[86] Ryckman acknowledges its potential liability for soil remediation as part of the transfer of the Canyon Creek Facilities.[87] Ryckman agrees to submit the Wyoming DEQ completion documentation to the Commission.[88]

[86] Ryckman's June 22, 2011 Filing.

[87] *Id.*

[88] *Id.*

97. The USFWS recommended best management practices to prevent migratory bird mortality in the project including the use of bird exclusion devices on vent stacks; immediate clean up of any spilled oil or hydrocarbons to prevent the entrapment of birds; use of pitless drilling or the immediate closure of reserve pits after well completion; and design of overhead power lines in accordance with current guidelines to prevent migratory bird mortality due to electrocution and collisions.

98. In response to the USFWS comments, Ryckman filed a comment indicating that it agrees to install bird exclusion devices on vent stacks. In addition, BLM has indicated that it will require netting and/or screens on equipment as part of its conditions of approval. Ryckman is developing a Construction Spill Plan to reduce the likelihood of spills to minimize potential impacts should a spill occur. Ryckman also indicates that it would immediately clean up all spills and not allow any hydrocarbon products to accumulate in the pit or on site so as to prevent the entrapment of migratory birds.

99. USFWS references page 26 of the EA, which states drilling fluids would be stored in lined earthen reserve pits. USFWS is concerned that the reserve pit closure involves leaving the pit in place after well completion to allow the fluids to dry, potentially entrapping and killing migratory birds and other wildlife. The USFWS further states birds including hawks, owls, and songbirds are attracted to reserve pits by mistaking them for natural bodies of water.

100. Ryckman will comply with BLM requirements in place for reserve pits. These measures include prohibiting the accumulation of hydrocarbons in the pits and requiring the pits to be closed within six months of production. During drilling and completion operations, Ryckman will erect a fence compliant with BLM requirements around three sides of the reserve pit, and the fourth side will be fenced as feasible without interfering with the operations of the drill rig. In addition, the BLM requires deterrents such as nets or screens over the reserve pits. We believe these measures are adequate to further protect migratory birds.

101. The USFWS commented on the EA at page 32, that overhead electric power lines should meet or exceed the recommendations contained in Suggested Practices for Raptor Protection on Power Lines: the State of the Art in 2006 by the Avian Power Line Interaction Committee (APLIC) and other guidelines, in order to prevent migratory bird mortality due to electrocutions and collisions.

102. Section A.6.2 of the EA states Ryckman would construct an approximately 4-mile-long new overhead electric power line parallel to and south of the 16-inch header pipeline. The 30-foot-wide electric power line right-of way would generally parallel an existing power line easement from the Canyon Creek Compressor Station to the Ryckman Plant. In response to this comment, Ryckman indicates that it will meet or exceed the APLIC design recommendations for its electric power line, as requested by the USFWS. Ryckman also indicates that it will evaluate the use of, and will seek BLM

and USFWS approval prior to using, line markers and/or other APLIC recommended Best Management Practices as a method to reduce bird collisions with the overhead electric power line. The BLM will also require compliance with the APLIC's design recommendations as a condition to its right-of-way grant. We believe these measures are appropriate to further protect migratory birds.

103. Based on the analysis in the EA, we conclude that if constructed and operated in accordance with Ryckman's application and supplements, and in compliance with the environmental conditions in Appendix A to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

G. Blanket Certificates

104. Ryckman requests a Part 157, Subpart F, blanket certificate. The Subpart F blanket certificate gives natural gas companies section 7 authority to automatically, or after prior notice, perform certain activities related to the construction, acquisition, abandonment, and replacement and operation of pipeline facilities. Because Ryckman will become a jurisdictional interstate pipeline with the issuance of a certificate to construct and operate the subject facilities, we will issue the requested Part 157, Subpart F certificate.

105. Ryckman also requests a Part 284, Subpart G, blanket certificate authorizing it to provide open-access storage services. Under a Part 284 blanket certificate, Ryckman will not require individual authorizations to provide storage services to particular customers. Ryckman filed a pro forma Part 284 tariff to provide open-access storage services. Since a Part 284 blanket certificate is required for Ryckman to offer these services, we will grant Ryckman a Part 284 blanket certificate, subject to the conditions imposed herein.

H. Abandonment of Canyon Creek Facilities

106. In 1982, the Commission authorized NGPL-Canyon Creek Compression Company to construct and operate the Canyon Creek Facilities (consisting of a 22,000 brake horsepower compressor and appurtenant facilities).[89] On December 5, 2008, the

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[89] *NGPL-Canyon Creek Compression Co.*, 18 FERC ¶ 61,280 (1982) (certificate to construct facilities); *Canyon Creek Compression Co. and NGPL-Canyon Creek Compression Co.*, 21 FERC ¶ 61,352 (1982) (new certificate holder authorized); *Canyon Creek Compression Co.*, 43 FERC ¶ 61,191 (1988) (accepting open-access tariff provisions for transportation service under section 311 of the Natural Gas Policy Act); *Canyon Creek Compression Co.* 48 FERC ¶ 62,095 (1989) (Subpart G blanket certificate

(continued…)

Commission approved the abandonment of services at the Canyon Creek Facilities since there were no existing interstate transportation uses and its service contracts had expired.[90] However, at the time it filed its abandonment request, Canyon Creek had not finalized the disposition of the facilities (i.e. whether it would dispose of the facilities by sale to another party or by removal in whole or in part). Therefore, the abandonment of the facilities was conditioned, in Ordering Paragraph (C) of the December 5, 2008 Order, upon Canyon Creek filing its proposal for disposition of its facilities for environmental review and clearance by the Director of OEP of the proposal and satisfaction of any conditions placed on the clearance.

107. On September 20, 2010, Canyon Creek filed a proposal for the disposition of the Canyon Creek Facilities, explaining that Ryckman would take ownership as a part of the storage project being considered in Docket No. CP11-24-000. As discussed above, we have fully considered all environmental aspects of the abandonment and transfer of ownership of the Canyon Creek Facilities, and we find that the condition in Ordering Paragraph (C) of the December 5, 2008 Canyon Creek abandonment order has been satisfied. No further action by the Director of OEP is required as long as Ryckman accepts the certificate of public convenience and necessity issued herein. The abandonment of the Canyon Creek Facilities and Canyon Creek's Part 157 blanket construction certificate will become effective upon Canyon Creek's transferring the facilities to Ryckman.

IV. <u>Conclusion</u>

108. For the reasons discussed above, the Commission finds that Ryckman's proposed Ryckman Creek Storage Project is required by public convenience and necessity and that a certificate authorizing the construction and operation of the facilities described in this order and in the application should be issued, subject to the conditions discussed herein and listed in Appendices A and B. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, as supplemented, submitted in support of the authorizations sought herein, and upon consideration of the record,

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issued); *Canyon Creek Compression Co.*, 57 FERC ¶ 62,099 (1991) (Part 157, Subpart F blanket certificate issued).

[90] *Canyon Creek*, 125 FERC ¶ 61,268.

The Commission orders:

(A) In Docket No. CP11-24-000, a certificate of public convenience and necessity is issued to Ryckman under section 7 of the NGA to construct and operate the proposed facilities, as more fully described herein and in the application.

(B) In Docket No. CP11-24-000, a blanket construction certificate is issued to Ryckman under Subpart F of Part 157 of the Commission's regulations.

(C) In Docket No. CP11-24-000, a blanket transportation certificate is issued to Ryckman under Subpart G of Part 284 of the Commission's regulations.

(D) The certificate authority issued in Ordering Paragraphs (A), (B), and (C) is conditioned on Ryckman's compliance with all applicable Commission regulations under the NGA, particularly the general terms and conditions in Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the regulations.

(E) Ryckman must comply with all environmental conditions set forth in Appendix A to this order.

(F) Ryckman must comply with all engineering conditions set forth in Appendix B to this order.

(G) The facilities authorized herein must be constructed and made available for service within four years of the date of the order in this proceeding, as required by section 157.20(b) of the Commission's regulations.

(H) Ryckman's request to charge market-based rates for firm and interruptible storage service and interruptible hub services is approved, consistent with the discussion in the body of this order. This authorization is subject to reexamination in the event that: (a) Ryckman expands its storage capacity beyond the amount authorized in this order; (b) an affiliate's increasing storage capacity; (c) an affiliate's linking storage facilities to Ryckman; or (d) Ryckman, or an affiliate's acquisition of an interest in, or is acquired by, an interstate pipeline connected to Ryckman. Ryckman shall notify the Commission within 10 days of any such changes.

(I) Ryckman is granted a waiver of the Commission's cost-based regulations. Ryckman is required to file page 520 of Form No. 2-A to report gas volume information as the basis for imposition of Annual Charge Assessment charges. This waiver is subject to reexamination in the event that Ryckman's market power or market-based rates need to be reexamined. Ryckman shall maintain records consistent with the Uniform System of Accounts.

(J) Ryckman is granted waiver of "shipper must hold title" policy, subject to the conditions discussed in the body of this order.

(K) Within 30 days after its first full year of operation and every year thereafter, Ryckman shall submit an annual information filing on its provision of service using off-system capacity as discussed in the body of this order.

(L) Ryckman must submit actual tariff records that comply with the requirements contained in the body of this order at least 60 days prior to the commencement of service.

(M) In Docket No. CP08-433-000, Canyon Creek's abandonment of its Part 157 blanket construction certificate and the Canyon Creek Facilities will be effective upon Ryckman's acceptance of the certificates issued to it in this proceeding and Canyon Creek's transferring the facilities to Ryckman. Canyon Creek shall notify the Commission within ten days of the date of the abandonment of the facilities.

(N) The untimely motions to intervene are granted as discussed herein.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A

Environmental Conditions
Ryckman Creek Resources, LLC
Docket No. CP11-24-000

1. Ryckman 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 (EA), unless modified by this order. Ryckman 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**, Ryckman shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel would be informed of the EI's authority and have been or would 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**, Ryckman 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.

Ryckman's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to the order must be consistent with these authorized facilities and locations. Ryckman's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipeline/facilities to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Ryckman 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, 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 extra workspace allowed by Ryckman's Project-specific Upland Erosion Control, Revegetation, and Maintenance Plan described in the EA and/or 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
   d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.

6. **Within at least 60 days of the acceptance of the Certificate and before construction begins,** Ryckman shall file an Implementation Plan with the

Secretary for review and written approval by the Director of OEP. Ryckman must file revisions to the plan as schedules change. The plan shall identify:

a. how Ryckman will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by this order;
b. how Ryckman will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
c. the number of EIs assigned, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
e. the location and dates of the environmental compliance training and instructions Ryckman would give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
f. the company personnel (if known) and specific portion of Ryckman's organization having responsibility for compliance;
g. the procedures (including use of contract penalties) Ryckman will follow if noncompliance occurs; and
h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:

    (1) the completion of all required surveys and reports;
    (2) the environmental compliance training of onsite personnel;
    (3) the start of construction; and
    (4) the start and completion of restoration.

7. Beginning with the filing of its Implementation Plan, Ryckman shall file updated status reports with the Secretary on a **biweekly** basis until all construction and restoration activities are complete. On request, these status reports would also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:

a. an update on Ryckman’s efforts to obtain the necessary federal authorizations;
b. the construction status of the project work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally-sensitive areas;

c. a listing of all problems encountered and each instance of noncompliance observed by the EI(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);
d. a description of the corrective actions implemented in response to all instances of noncompliance, and their cost;
e. the effectiveness of all corrective actions implemented;
f. 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
g. copies of any correspondence received by Ryckman from other federal, state, or local permitting agencies concerning instances of noncompliance, and Ryckman's response.

8. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, Ryckman shall file with the Secretary documentation that it has received all authorizations required under federal law (or evidence of waiver thereof).

9. Ryckman must receive written authorization from the Director of OEP **before placing the project into service.** Such authorization would 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.

10. **Within 30 days of placing the authorized facilities in service**, Ryckman shall file an affirmative statement with the Secretary, certified by a senior company official:

a. that the facilities have been constructed/abandoned/installed in compliance with all applicable conditions, and that continuing activities would be consistent with all applicable conditions; or
b. identifying which of the Certificate conditions Ryckman has complied with or would comply with. This statement shall also identify any areas affected by the Project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.

11. **Prior to construction of the 16-inch-diameter header pipeline and the salt water disposal pipeline,** Ryckman shall file for the review and approval by the Director of OEP, a comprehensive slope stability analysis that includes site-specific construction and mitigation measures for the following areas:

a. between MP 0.25 and MP 0.55 on the 16-inch-diameter header pipeline; and

b. along the saltwater disposal line to well RCU #4 where it crosses the gully separating enhanced oil recovery Wells RCU #22 and RCU #7.

Ryckman shall also file documentation of the BLM's review and approval of the analysis, for the BLM-managed lands identified above, as appropriate.

12. **Prior to construction,** Ryckman shall file the results of its lightning risk assessment for all buildings with the Secretary.

Appendix B

Engineering Conditions for
Ryckman Creek Resources, LLC
Docket No. CP11-24-000

1) The maximum inventory of natural gas stored in the Ryckman Creek (Nugget) Unit shall not exceed the certificated level of 53.048 Bcf at 14.73 psia and 60 degrees Fahrenheit, and the maximum bottom hole storage pressure shall not exceed 4,000 psia, without prior authorization of the Commission. The minimum pressure for the storage reservoir shall be maintained at 1,300 psia at the casing shoe to maintain late-season deliverability.

2) Ryckman shall operate the Ryckman Creek (Nugget) Unit in such a manner as to prevent/minimize gas loss or migration.

3) Ryckman shall conduct an annual inventory verification study on the Nugget Unit.

4) Ryckman shall notify the Commission if it uses the alternative injection/withdrawal site RCU #35-H, which site it is replacing, and what Ryckman plans to do with that site.

5) Ryckman shall determine the current location of the gas-oil contact, the oil-water contact, and gas-water contact before beginning initial gas injection, and every five years once storage operations commence, and file those results with the corresponding semi-annual storage report.

6) Ryckman shall submit semi-annual reports (to coincide with the termination of the injection and withdrawal cycles) containing the following information (volumes shall be stated a t 14.73 psia and 60 degrees Fahrenheit, and pressures shall be stated in psia):

   a. (1) The daily volumes of natural gas injected into and withdrawn from the storage reservoir.
   (2) The monthly volumes of oil and water produced from the storage reservoir.
   (3) The monthly volume of nitrogen removed from the storage reservoir.

   b. The volume of natural gas in the reservoir at the end of the reporting period.

c. The maximum daily injection and withdrawal rates experienced during the reporting period. Average working pressure on such maximum days taken at a central measuring point where the total volume injected or withdrawn is measured.

d. Results of any tracer program by which the leakage of injected gas may be determined. If leakage of gas exists, the report should show the estimated total volume of gas leakage, the volume of recycled gas, and the estimated remaining inventory of gas in the reservoir at the end of the reporting period.

e. Any surveys of pressures in gas wells, and the results of back-pressure tests conducted during the reporting period.

f. The latest revised structural and isopach maps showing the surface and bottomhole locations of the injection/withdrawal, enhanced oil recovery, and observation wells and the location of the gas-water contact. These maps need not be filed if there is no material change from the maps previously filed.

g. For the reporting period, a summary of wells drilled, worked over, or recompleted with subsea depth of formation and casing settings. Copies of any new core analyses, back-pressure tests, or well log analyses.

h. Discussion of current operating problems and conclusions.

i. Such other data or reports which may aid the Commission in the evaluation of the storage project.

j. Reports shall continue to be filed semi-annually until the storage inventory volume and pressure have reached or closely approximate the maximum permitted in the Commission's order. Thereafter, the reports shall continue on a semi-annual basis for a period of one year.