

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Caledonia Energy Partners, L.L.C.) Docket Nos. CP05-15-000
CP05-16-000
CP05-17-000

ORDER ISSUING CERTIFICATES

(Issued April 19, 2005)

1. On October 26, 2004, Caledonia Energy Partners, L.L.C. (Caledonia) filed an application under section 7 (c) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations for authority to construct, own and operate, rearrange and maintain a high-deliverability natural gas reservoir storage facility (Caledonia Storage Project) in Lowndes and Monroe Counties, Mississippi. Caledonia also requests a blanket certificate under Part 157, subpart F, so that it may construct, acquire, operate and abandon qualifying facilities following construction of the Caledonia Storage Project. Further, Caledonia requests blanket certificate authorization pursuant to Part 284, subpart G, of the Commission's regulations to provide open-access firm and interruptible interstate natural gas storage services with pregranted abandonment for such services. Finally, Caledonia requests authority to charge market-based rates for the proposed storage services, and a waiver of the requirements applicable to storage facilities charging cost-based rates. Because the proposed project will enhance the availability of storage and services, the Commission finds that Caledonia's proposal to construct and operate the Caledonia Storage Facility is in the public interest and we will grant the requested authorizations, subject to conditions, for the reasons discussed herein.

I. Caledonia's Proposal

2. Caledonia proposes to convert a depleted natural gas reservoir into a high-deliverability, multi-cycle gas storage field capable of storing 11.72 Bcf of working gas at a maximum operational pressure of 2,110 psia. Caledonia states that it will be possible to cycle the completed storage field up to four times annually with initial daily maximum injection and withdrawal capabilities of 260 MMcf and 330 MMcf, respectively. Caledonia proposes to begin injecting base gas during the lower-cost summer months and complete construction of the project in time to meet its in-service obligations which

commence in April 2006. Caledonia is a new entrant in the natural gas storage industry. Currently Caledonia does not own any other natural gas facilities.

3. Caledonia's proposed project is to be located less than one mile from Tennessee Gas Pipeline Company's (Tennessee) 500 Leg Mainline in an area traversed by numerous interstate pipelines. Caledonia initially proposes to interconnect with Tennessee, but states that it may potentially interconnect directly with Texas Eastern Transmission Corporation (TETCO) and Southern Natural Gas Company (Sonat), which lie approximately 17 miles and 14 miles, respectively, from Caledonia's facility. Caledonia states that it is in the final stages of negotiating its interconnect with Tennessee at the existing Maple Branch Tap in Caledonia, Mississippi, and is in the process of securing all required permits and construction authorizations from the state of Mississippi and other governmental agencies.

4. Caledonia proposes to construct its high-deliverability multi-cycle gas reservoir storage project on the northeast edge of the town of Caledonia by modifying a depleted gas reservoir known as the Caledonia field. Specifically Caledonia proposes to construct eight horizontal injection/withdrawal wells, install three 3,550 horsepower (hp) compressors, install approximately 0.32 miles of small diameter pipeline to interconnect the wells, 0.85 miles of 24-inch pipeline to connect the wells to the compression facility, and approximately 0.81 miles of 24-inch lateral pipeline to connect the compression facility to the Tennessee interconnect. Caledonia states that the facility is designed to permit the cycling of gas four times per year, with each cycle consisting of 40 days for withdrawal and 51 days for injection.

5. Caledonia proposes to provide open-access firm and interruptible storage services, as well as an interruptible loan service, and is seeking authorization to charge market-based rates for each of these services. Caledonia states that it lacks market power because it is a small entrant in an area where there are 23 other storage facilities. Caledonia defines the relevant geographic market as east Texas, Louisiana, Mississippi, and Alabama. Caledonia notes that the Commission's new standards of conduct provide an exemption from the definition of "Transmission Provider" for independent storage providers that are authorized to charge market-based rates and are not interconnected with an affiliate transmission provider. Because Caledonia states that it has satisfied these requirements, it has not included specific provisions for compliance with the standards of conduct. Caledonia further states that it will provide all services on an open access, non-discriminatory basis consistent with its obligations under the NGA. In addition, Caledonia requests that the Commission provide it with a generic waiver of the "shipper must have title" policy to enable Caledonia to obtain off-system capacity that may be necessary to render storage services.

6. Caledonia held an open season from May 13 to June 25, 2004, for its project. It received significant expressions of interest from a number of potential shippers.

Caledonia states that it is in the process of finalizing the execution of precedent agreements with five potential shippers for a minimum of fifty percent of the total working capacity for various multi-year contract terms. Caledonia states it is continuing to receive expressions of interest in its project and is negotiating with other shippers for the remainder of the working capacity of the project. Caledonia states that it expects to have precedent agreements in place for nearly 100 percent of the project capacity by early November with firm service agreements following in January 2005. Based on current levels of interest, Caledonia anticipates the field will be fully subscribed by the April 1, 2006 in-service date.

7. Caledonia states that it has acquired nearly all of the surface and subsurface property rights (both mineral and storage rights) necessary to construct and operate its project and is negotiating to secure remaining property interests and rights-of-way. These property rights include approximately 3,500 acres of land. Caledonia states that its proposed facility will have minimal impact on environment and adjacent landowners. It has been designed to maximize co-location opportunities with existing rights-of-way and to avoid sensitive environmental areas. The project is located in a sparsely populated rural agricultural area.

II. Notice And Interventions

8. Public notice of Caledonia's application was published in the *Federal Register* on November 17, 2004, 69 Fed. Reg. 67,334. Timely, unopposed motions to intervene were filed by Nicor Exchange, Inc. (Nicor); Tennessee; SG Resources Mississippi, L.L.C.; and Pine Prairie Energy Center, LLC. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's regulations.¹ Nicor commented in support of the application. No protests were filed.

III. Discussion

A. The Certificate Policy Statement

9. On September 15, 1999, the Commission issued a Policy Statement² providing guidance as to how we will evaluate proposals for certificating new construction. It provides that a pipeline must financially support a project without relying on subsidization from its existing customers. The Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The policy statement explains that in deciding

¹ 18 C.F.R. § 385.214(a)(3)(2004).

² *Certification of New Gas Pipeline Facilities (Policy Statement)*, 88 FERC ¶ 61,227 (1999), *order clarifying statement of policy*, 90 FERC ¶ 61,128 (2000).

whether to authorize construction of new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences.

10. The proposed Caledonia Storage Project will provide public benefits by providing additional means for shippers to be able to serve rising gas demand. Its high deliverability performance characteristics will enable it to serve not only the traditional LDC markets, but also gas-fired electric generation markets and LNG markets which require high cycling capability. It also may be used by customers to avoid imbalance penalties, and to capture the value of gas price differentials and to support swing gas supply. Since Caledonia is a new natural gas company with no existing shippers, it meets the threshold requirement for no subsidies. The project will have no adverse impact on other interstate pipelines but rather will enhance storage options available to pipelines and their customers, as well as increase competitive alternatives. And finally, the project should have minimal impact on landowners and communities since the proposed facilities are located in a sparsely populated, rural and mostly agricultural area. In addition, the pipeline connecting the compressor facilities to the Tennessee interconnect is located entirely within existing right-of-way. We find that the proposed project is required by the public convenience and necessity because it will provide the market with additional choices, will enhance the storage infrastructure, will not have any adverse impact on any existing customers, and will have minimal environmental impact.

B. Market-Based Rates

11. We have approved market-based rates for storage services where applicants have demonstrated, under the criteria in the Commission's Alternative Rate Policy Statement, that they lack significant market power or have adopted conditions that significantly mitigate market power.³ In prior orders, we have approved requests to charge market-based rates for storage services based on a finding that proposed projects would not be able to exercise market power due to small size, anticipated share of the market, and numerous competitors.⁴ We have also distinguished between production area storage

³ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines* (Alternative Rate Policy Statement), 74 FERC ¶ 61,076 (1996); *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996); *reh'g denied*, 75 FERC ¶ 61,066 (1996), *petition for review denied*, *Burlington Resources Oil & Gas Co. v. FERC*, Nos. 96-1160, *et al.*, U.S. App. Lexis 20697 (D.C. Cir. 1998).

⁴ *Egan Hub Partners, L.P.*, 99 FERC ¶ 61,269 (2002); *Egan Hub Partners, L.P.*, 95 FERC ¶ 61,395 (2001); *Moss Bluff Hub Partners, L.P.*, 80 FERC ¶ 61,181 (1997); *Egan Hub Partners, L.P.*, 77 FERC ¶ 61,016 (1996).

facilities, such as Caledonia, and market-area storage.⁵ In general, market power in a production area is less of a concern due to the numerous alternative storage facilities.

12. Caledonia's market power analysis for the storage market provides a description of the services for which market-based rates are proposed, defines the relevant product and geographic markets, measures market share and concentration, and evaluates other factors. For the purpose of its analysis, Caledonia identifies the relevant product market as firm and interruptible storage services for natural gas, as well as interruptible loan service. The relevant geographic market is defined as consisting of East Texas, Louisiana, Mississippi, and Alabama. Caledonia states that it has further narrowed the potential market by removing from the study any facility that does not currently offer storage capacity and deliverability into the marketplace for the use of third parties.

13. The Commission uses the Herfindahl Hirschman Index (HHI) test to determine market concentration for gas pipeline and storage markets. The Alternative Rate Policy Statement states that a low HHI – generally less than 1,800 – indicates that sellers cannot exert market power because customers have sufficiently diverse sources of supply in the relevant market. While a low HHI suggests a lack of market power, a high HHI – generally greater than 1,800 – requires a closer scrutiny in order to make a determination about a seller's ability to exert market power. Caledonia's market power analysis shows an HHI calculation of 1,610 for working gas capacity and an HHI calculation of 1,230 for peak day deliverability. These measures of market concentration are well below the Commission's threshold level of 1,800, indicating that Caledonia would be unable to exert market power in the relevant market area after the construction of its proposed storage facilities.

14. In addition to the proposed facility, Caledonia's market power study identifies 23 alternative storage areas, affiliated with 11 separate entities, in the relevant market area.⁶ The study finds that the current combined market working gas capacity of all the included facilities, including Caledonia, is 677.35 Bcf, with Caledonia controlling 11.7 Bcf, or two percent of the market. (Exhibit No. KAR-3) In addition, the study finds that Caledonia's 2.4 Bcf per day of peak deliverability will be two percent of the total

⁵ *Moss Bluff Hub Partners, L.P.*, 80 FERC ¶ 61,181 (1997); *Steuben Gas Storage Company*, 72 FERC ¶ 61,102 (1995), *order on compliance filing, issuing certificates, and denying reh'g*, 74 FERC ¶ 61,024 (1996).

⁶ Five of the alternative storage facilities are directly connected to Tennessee's system, to which Caledonia proposes to interconnect. The remaining alternative storage providers identified in Caledonia's study have indirect access to Tennessee through other pipelines within the market area. *See* Response to December 28, 2004 Data Request, Question No. 1.

market peak deliverability of 17.495 Bcf per day. (Exhibit No. KAR-4) Thus, we find that Caledonia's aggregate share of the relevant market will be relatively small.

15. Caledonia provides data to support its contention that it will have to compete against other potential storage facilities for customers within the market area. Caledonia lists 11 storage projects under development in East Texas, Louisiana, Mississippi, and Alabama (Exhibit No. KAR-5). Caledonia contends that these projects, if built, will expand the current working gas capacity in the Gulf Coast region by 129.7 Bcf (or 19 percent) and expand peak day delivery by about 15.25 Bcf per day (or 87 percent). In addition, Caledonia lists four existing facilities within the market area that are expanding current working gas capacity and peak day deliverability (Exhibit No. KAR-6). Furthermore, Caledonia also notes that 11 other storage facilities within the geographic market offer firm storage at market based rates (Exhibit No. KAR-7). In light of this information, we conclude that the barriers to entry to the storage markets in the relevant market area are low.

16. In sum, we find that Caledonia's proposed storage facilities will be in a highly competitive production area where numerous storage and interruptible hub service alternatives exist for potential customers. We also find that Caledonia's prospective market shares are low and that market area HHIs are below the threshold for further review. Thus, we conclude that Caledonia will lack market power. Further, Caledonia's proposal for market-based rates is unopposed. For these reasons, we will approve Caledonia's request to charge market-based rates for firm storage, interruptible storage, and interruptible loan services.

17. Nevertheless, Caledonia must notify the Commission if future circumstances significantly affect its present market power status. Thus, our approval of market-based rates for the indicated services is subject to re-examination in the event that: (a) Caledonia adds storage capacity beyond the capacity authorized in this order; (b) an affiliate increases storage capacity; (c) an affiliate links storage facilities to Caledonia; or (d) Caledonia, or an affiliate, acquires an interest in, or is acquired by, an interstate pipeline connected to Caledonia. Since these circumstances could affect its market power status, Caledonia shall notify the Commission within 10 days of acquiring knowledge of any such changes. The notification shall include a detailed description of the new facilities and their relationship to Caledonia.⁷

18. We note that the Commission convened a technical conference in Docket Nos. PL04-17-000 and AD04-11-000 on October 21, 2004, to initiate an industry dialogue focused on policy issues related to underground storage, including the appropriate reporting requirements for storage providers granted market-based rate

⁷ See, e.g., *Copiah County Storage Company*, 99 FERC ¶ 61,316 (2002); *Egan Hub*, 99 FERC ¶ 61,269 (2002).

authority. The authorization granted to Caledonia here will be subject to the outcome of the proceeding in Docket Nos. PL04-17-000 and AD04-11-000.

C. Waivers

19. Because it proposes to charge market-based rates, Caledonia requests waiver of the Commission's cost based regulations, which include: (1) section 157.6(b)(8) (certificate applicants to submit cost and revenue data); (2) sections 157.14(a)(13), (14), (16), and (17) and 157.20(c)(3) (cost based exhibits); (3) the accounting and reporting requirements of Part 201 and 260.2 relating to cost-of-service rate structure (Form 2A); (4) section 284.7(e) (reservation charge); and (5) section 284.10 and section 284.7(e) (straight fixed-variable rate design methodology). Caledonia also requests a waiver of the section 157.14(a)(10) to provide a showing of accessible gas supplies, which does not apply to Caledonia's natural gas storage operations.

20. The cost-related information required by these regulations is not relevant in light of our approval of market-based rates for Caledonia's storage services. Thus, consistent with our findings in previous orders,⁸ we will grant Caledonia's request for waivers with one exception. We will grant the requested waiver of section 260.2 (Form No 2-A) of the regulations except for information necessary for the Commission's assessment of annual charges. Caledonia is required to file pages 520 and 520a of Form 2A, reporting the gas volume information which is the basis for imposing an Annual Charge Adjustment (ACA) charge.⁹ We will require Caledonia to maintain sufficient records consistent with the Uniform System of Accounts should the Commission require Caledonia to produce these reports in the future.

D. Tariff Provisions

21. Caledonia proposes to offer firm and interruptible storage and interruptible loan services on an open-access basis under the terms and conditions set forth in the *pro forma* tariff attached as Exhibit P to the application. We find that Caledonia's proposed tariff generally complies with Part 284 of the regulations with the exceptions discussed below:

⁸ See, e.g., *SG Resources Mississippi, L.L.C.*, 101 FERC ¶ 61,029 at P 26 (2004); *Egan Hub Partners, L.P.*, 95 FERC ¶ 61,395 at p. 62,473 (2001) and 99 FERC ¶ 61,269 at p. 62,142 (2002).

⁹ See *Wyckoff Gas Storage Co., LLC*, 105 FERC ¶ 61,027 at P 65 (2003).

1. Order No. 637 Compliance

a. Segmentation and Related Issues

22. Section 284.7(d) of the Commission's regulations provides that an interstate pipeline must permit a shipper to make use of the firm capacity for which the shipper has contracted by segmenting that capacity into separate parts for the shipper's own use, or for the purpose of releasing that capacity to replacement shippers to the extent that segmentation is operationally feasible. Caledonia requests an exemption from the segmentation requirement in section 284.7(d), contending that its system consists of a single storage facility and that there is nothing to segment.

23. In *Clear Creek Gas Storage Company*, we found that the requirements of section 284.7(d) did not apply to pipelines engaged solely in natural gas storage and which did not provide stand-alone transportation services.¹⁰ Caledonia meets the requirements in *Clear Creek*. Thus, we hold that the requirements of section 284.7(d) do not apply to Caledonia. We also find that other tariff provisions related to segmentation, such as the allocation of primary point rights in segmented release and within-the-path scheduling, do not apply to Caledonia.

b. Penalties

24. Caledonia's *pro forma* tariff includes provisions in section 9 of Rate Schedules Firm Storage Service (FSS), Interruptible Storage Service (ISS), and Interruptible Loan Service (ILS) that allow Caledonia to retain gas improperly left in storage by customers at the termination of a contract. Section 4.5.2 of the General Terms and Conditions (GT&C) of Caledonia's proposed tariff also includes a penalty of \$15.00 plus the spot price¹¹ for violating an Operational Flow Order (OFO). Rate Schedule ISS and Rate Schedule ILS provide that if a customer does not comply with a notice to reduce its Interruptible Storage Balance(s) or its Interruptible Loan Balance(s),¹² Caledonia shall cash out the Storage Balance quantity that the customer failed to reduce at the sales price

¹⁰ 96 FERC ¶ 61,071 (2001).

¹¹ The tariff defines spot price as the "highest daily spot price during the OFO period for the location Tennessee, La., 500 Leg as reported in the Daily Price Survey in the industry publication of Gas Daily plus applicable transportation costs to move gas to the Caledonia Storage Facility."

¹² Caledonia can issue such a notice if it determines that these interruptible services must be interrupted in order to satisfy its obligations to firm customers or is necessary to avoid adverse impact on the operations of Caledonia's system.

of the gas less ten percent under Rate Schedule ISS, and at the replacement cost of the gas less ten percent under Rate Schedule ILS. Finally, Rate Schedule ISS and Rate Schedule ILS allow Caledonia to issue a notice requiring any customer with an Interruptible Storage Balance or an Interruptible Loan Balance of less than 100 Dth, respectively, to eliminate its respective balance within 30 days. If customer fails to comply with the notice, any positive Interruptible Storage Balance remaining will be cashed out at 80 percent of the lowest Minimum Daily Gas Index calculated during the 30-day period and any negative Interruptible Loan Balance remaining will be cashed out at 120 percent of the highest Maximum Daily Gas Index.

25. We find that Caledonia's proposed penalty provisions are consistent with Order No. 637 with one exception. In *Blue Lake Gas Storage Company*, we held that the retention of gas left in storage at the end of the applicable withdrawal period is an operationally justified deterrent to shipper behavior that could threaten the system or degrade service to firm shippers.¹³ For the same reason, we find that Caledonia's proposed treatment of gas left on the system under Rate Schedules FSS, ISS, and ILS after contract termination is a reasonable penalty. Similarly, we find that Caledonia's proposed penalty under Rate Schedules ISS and ILS for failing to remove or to repay loan amounts, respectively, is an operationally justified penalty. Caledonia's proposed OFO penalty is acceptable because it is only assessed when system integrity is threatened. In addition, in *National Fuel Gas Supply Corporation*,¹⁴ the Commission held that an OFO penalty comprising a flat charge plus the cost of gas is consistent with Order No. 637.

26. However, Caledonia has not justified its proposals to (1) require customers under Rate Schedule ISS to remove storage balances of less than 100 Dth, (2) require customers under Rate Schedule ILS to repay loan amounts less than 100 Dth and (3) require customers to pay the penalties for failing to comply with either of these requirements. sections 284.7(b) and 284.9(b) of the Commission's regulations provide that transportation service must be provided "without undue discrimination or preference, including undue discrimination and preference in . . . the duration of service." Caledonia is directed to either remove these provisions from its tariff or explain why they are operationally justified and consistent with Commission policy.

27. In addition, Caledonia's tariff does not provide for the crediting of penalty revenues to non-offending shippers. In accordance with the requirements of section 284.12(b)(2)(v), the Commission will require Caledonia to revise its tariff to provide for the crediting of penalty revenues, net of costs, to non-offending shippers.

¹³ 96 FERC ¶ 61,164 (2001).

¹⁴ 96 FERC ¶ 61,182 (2001).

2. Acquisition of Off System Capacity and Waiver of Shipper Must Have Title Rule

28. Caledonia requests a waiver of the “shipper must hold title” policy for any off-system capacity it may need to acquire in order to provide storage services. Section 21 of its *pro forma* tariff states that Caledonia will only provide transportation and storage services for others using off-system capacity acquired from third parties under its open-access tariff and subject to the rates approved by the Commission.

29. This language implements the Commission's policy with respect to pipelines' acquisition of off-system capacity. In a December 14, 2000 Order on Remand in *Texas Eastern Transmission Corporation (TETCO)*, the Commission found that pipelines no longer need to obtain prior approval to acquire capacity on another pipeline provided the acquiring pipeline filed tariff language specifying that it would only transport for others on off-system capacity pursuant to its existing tariff and rates.¹⁵ Caledonia's proposed tariff language is consistent with the requirements set forth in *TETCO* and authorizations granted other storage companies authorized to charge market-based rates,¹⁶ and is accepted with the following clarification. Because Caledonia has only proposed to offer storage and lending services, and has proposed no rates or tariff provisions relating to any other transportation services other than storage and lending, Caledonia may only use capacity obtained on other pipelines pursuant to *TETCO* in order to move gas into and out of storage. That is, Caledonia may not use capacity on other pipelines 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. Furthermore, Caledonia's authorized use of the *TETCO* waiver to provide storage service shall be limited to the geographic area covered by Caledonia's market study.

30. In order to ensure that Caledonia uses acquired off-system capacity in a manner consistent with its market-based rate authority and tariff provisions, and in order to satisfy our responsibility to monitor and prevent the exercise of market power, we will direct Caledonia, once it becomes operational, to make an annual informational filing on its provision of service using off-system capacity, as detailed below.

31. Within 30 days after its first full year of operation, and every year thereafter, Caledonia is directed to file, for each acquisition of off-system capacity:

- a. the name of the off-system provider;
- b. the type, level, term and rate of service contracted for by Starks;

¹⁵ 93 FERC ¶ 61,273 (2000), *reh'g. denied*, 94 FERC ¶ 61,139 (2001).

¹⁶ *See, e.g., SG Resources Mississippi, L.L.C.*, 101 FERC ¶ 61,029 at P 30-33 (2002).

- c. a description of the geographic location - boundaries, receipt and delivery points, and segments comprising the capacity;
- d. the operational purpose(s) for which the capacity is utilized;
- e. a description of how the capacity is associated with specific transactions involving customers of Starks; and
- f. an identification of total volumes, by Starks' rate schedule and customer, that Starks has nominated on each off-system provider during the reporting period.

3. Implementation of NAESB Standards

32. The Commission has adopted in its regulations various standards for conducting business practices and electronic communication with interstate pipelines as promulgated by the North American Energy Standards Board (NAESB). The standards are intended to govern nominations, allocations, balancing measurement, invoicing, capacity release, and mechanism for electronic communication between pipelines and those with whom they do business. In its *pro forma* sheets, Caledonia has proposed to make its tariff comply with Version 1.6 of the NAESB Standards, the latest version of the NAESB standards adopted by the Commission. We accept Caledonia's proposal subject to the following modifications.

33. The Capacity Release Umbrella Agreement on *pro forma* sheet No. 89 includes references to "recall conditions." *Pro forma* sheet No. 53 incorporates by reference certain NAESB standards related to recall (5.3.55 – 5.3.58). However, the notification provisions in standards 5.3.44 and 5.3.45 do not appear to be included in the tariff. Caledonia is directed to incorporate those standards when it files its actual tariff sheets.

34. Section 9.3 (a) on *pro forma* sheet No. 43 is not a verbatim version of the "capacity release timeline."¹⁷ The following changes must be made when the actual tariff sheets are filed: (a) "standard releases" should be "biddable releases," (b) in the second bulleted item, eliminate the words ". . . or at 1:00 p.m. C.C.T. on any subsequent Business Day as specified in Releasing Customer's offer, whichever is elected by Releasing Customer," (c) add another bulleted item after the fourth one that says "match or award is communicated by 2:00 p.m.," and (d) change "it no match" in fourth bulleted item to "if no match."

35. Section 9.3 (b) on *pro forma* sheet No. 44 also requires changes. The following revisions must be made when the actual tariff sheets are filed: (a) "standard releases" should be "biddable releases," (b) in the second bulleted item, eliminate the words ". . . or at 1:00 p.m. C.C.T. on any subsequent Business Day as specified in Releasing

¹⁷ NAESB Standards, version 1.6, Book 1 of 2, pp. 62-63.

Customer's offer, whichever is elected by Releasing Customer," (c) add another bulleted item after the fourth one that says "match or award is communicated by 2:00 p.m.," (d) in the second bulleted item, "on the day before" should read "on the Business Day before," and (e) in the fifth bulleted item, change "3:00 p.m." to "2:00 p.m." and delete the words "on the day the Bid Period ends, or such later time as specified in the Releasing Customer's offer." Additionally, in section 9.3 (c) "Non-standard" must be changed to "Non-biddable." In section 9.3 (d), on *pro forma* sheet No. 45, remove all occurrences of the phrase "on a Business Day," and change the phrase "notification of the release" to "award posting."

36. Finally, at the time it files its actual tariff sheets in this proceeding, Caledonia is directed to reflect the latest version of the NAESB Standards adopted by the Commission.

4. Creditworthiness and Contract Termination

a. Determination of Creditworthiness/Deadline for Providing Financial Assurances

37. General Terms and Conditions (GT&C) sections 24.5 and 24.6 of Caledonia's *pro forma* tariff require a shipper to establish and maintain an Acceptable Credit Rating[@] which is defined in 24.1 as being Standard & Poors BBB or Moodys Baa3. Sections 3.4(g) and 3.5 of the GT&C outline the type of information that the Customer must supply to Caledonia in order to establish creditworthiness. Under section 24.5, if a shipper is receiving service under its contract and experiences a reduction in its credit rating, it must provide additional financial assurances outlined in section 24.7 to Caledonia within five days. Section 24.5 does not state the consequence of a shipper failing to meet the five-day deadline. However, as discussed separately in section 3.4(i), such failure may be grounds for Caledonia to either suspend service under section 16(b), or invoke early termination of the contract under section 16(a).

38. In *Natural Gas Pipeline Company of America (Natural)*,¹⁸ we stated that it is important that the creditworthiness evaluation process be open and objective. Caledonia appears to have outlined the information that needs to be supplied and the criteria for creditworthiness as discussed above. However, other requirements set by *Natural* have not been met as we discuss further below.

39. Although section 24.7 states that Caledonia will letter of credit, as an assurance, in the event it fails to maintain an acceptable credit rating, it is not clear how or when Caledonia intends to communicate its initial determinations on creditworthiness to

¹⁸ 102 FERC & 61,355 at P 69 (2003).

shippers under 3.4(i), and whether it will specify the reasons for any denial of creditworthiness in such communication. In *Natural*, we held that if a service provider finds a shipper to be uncreditworthy, it must communicate that finding in writing, and state the reasons for its finding. We also required that the written communication be made within 10 days of the determination, and that the shipper be provided recourse to challenge the finding.¹⁹ Caledonia's section 3.4(i) states only that the Customer must prove creditworthiness in accordance with section 3.4(g) and 3.5(a) "within a reasonable period." While Caledonia, in section 26, does allow for a dispute resolution process for any dispute (which should include creditworthiness) under the tariff, that process allows Caledonia 30 days after receipt of the Customer's written complaint to provide a written response. Caledonia is directed to revise sections 24 and 3.4(i) to clarify how and when it intends to communicate its initial creditworthiness determinations, and that it will include the reasons for denial in such communications.

40. In addition, requiring a shipper to provide collateral assurances within five days is an unreasonably short deadline. As we stated in *Gulf South Pipeline Company, LP (Gulf South)*, A[f]ive days is not a reasonable time period to expect a shipper to obtain requisite collateral, and does not provide sufficient time for the Commission to respond to a complaint filed by a shipper who contends it was unfairly treated by the pipeline. In addition, the shipper may be faced with requests from other pipelines to provide collateral, and five days would not provide sufficient time.²⁰

41. Accordingly, we direct Caledonia to either (1) provide adequate justification for the five-day deadline; (2) justify a longer proposed notice period; or (3) consistent with prior orders, adopt the following approach, which the Commission has found to establish a reasonable balance between a service provider's legitimate need to obtain security and the shipper's need for adequate time to arrange for such security.²¹ Under this approach, when a shipper loses its creditworthiness status, the shipper must, within five business days, pay for one month of service in advance in order to continue service. This will allow the shipper to have at least thirty days to provide the next three months of security for service.

42. If the shipper fails to provide the required security within these time periods, Caledonia may suspend service immediately, and also provide simultaneous written

¹⁹ *Natural*, 106 FERC ¶ 61,175 at P 80 (2004); *Tennessee*, 103 FERC ¶ 61,275 at P 45 (2003).

²⁰ 103 FERC ¶ 61,129 at P 49 (2003), *reh=g. denied*, 107 FERC & 61,273 at P 20 (2004).

²¹ *See Tennessee*, 102 FERC & 61,075 at P 18 (2003).

notice that it will terminate service in 30 days if the shipper fails to provide security. Caledonia should also provide written notification to the Commission at least 30 days prior to terminating a shipper's service, as required by section 154.602 of the Commission's regulations.

b. Financial Assurances by Non-Creditworthy Shippers

43. Section 24.7 describes options available to a shipper that is required by sections 24.5 and 24.6 to provide financial assurances. Such assurances may consist of either (1) an irrevocable letter of credit equal to (a) in the case of Firm Service (FSS): the shorter of 12 months or the duration of the Customer's bid or Service Agreement or (b) in the case of Interruptible Storage (ISS) or Loan Service (ILS): the shorter of three months or the duration of the Customer's Service Agreement; those interruptible charges to be calculated on a 100 percent load factor basis, plus the market value of any quantities of gas provided to the Customer through a negative storage balance, (2) a guarantee of the financial assurances in (1) from a direct or indirect parent company with an AAcceptable Credit Rating®, (3) prepayment of the value of the financial assurances listed in (1), or (4) some other form of financial assurances to secure its obligations under the tariff, provided Caledonia has sole discretion to reject or accept such other form of assurances. Caledonia, in section 24.8, allows for the return of any financial assurances “. . . but only to the extent it has not applied such funds . . . to the debts, expenses, costs, assessments and liabilities payable by Customer to Caledonia pursuant to the provisions of the Service Agreements.

44. The Commission finds that, except for the three-month prepayment of Interruptible charges in 24.7(d) and listed above under (1)(b), the financial assurances described in section 24.7 are potentially broader than allowed under Commission policy, and must therefore be clarified or revised in accordance with this discussion. We will also direct Caledonia to clarify in its tariff that such prepayments are considered collateral held for security and not advance payments for services.²²

45. The Commission has approved a collateral requirement equal to three months of demand charges as the industry standard.²³ In *Natural*,²⁴ the Commission determined that requiring longer than three months of security is acceptable in precedent agreements for greenfield pipelines and major system expansions, but that once the pipeline goes into service tariff requirements for security must be limited to three months. This limitation

²² See *Tennessee*, 105 FERC ¶ 61,120 at P 17-24 (2003).

²³ See *Gulf South*, 107 FERC ¶ 61,273 at n. 38.

²⁴ *Natural*, 102 FERC at P 29-30.

applies equally to standby irrevocable letters of credit, collateral security, a guarantee by a creditworthy entity, or prepayment costs.

46. Therefore, it is possible that requiring a letter of credit to equal the total storage charge under an FSS contract or the value of an ISS or ILS transaction as determined by Caledonia would violate Commission policy if the term of the FSS contract, or ISS or ILS transaction were longer than three months. Section 24.7(b) also applies the same requirements for financial assurances to a Guarantor company, rendering that section potentially inconsistent with the Commission's collateral limitations. Moreover, the option in section 24.7(c) for a shipper to provide some other form of Financial Assurances to secure its obligations . . . that Caledonia may reject . . . or accept . . . in a manner that is not unduly discriminatory²⁵ is not indexed to the value of three months of charges under a shipper's contract, and therefore could exceed the Commission's collateral limitations. Caledonia is directed to revise its tariff proposal accordingly.

47. Finally, as we held in *Tennessee*,²⁵ Caledonia's shippers that opt to pay collateral equal to three months of demand charges as financial assurance under section 24.7 must have an opportunity to earn interest on such prepayments either by Caledonia paying the interest itself at the Commission's interest rate, or by the shipper designating an interest-bearing escrow account to which Caledonia may have access to payments for services provided if needed, and we direct Caledonia to revise its tariffs to accordingly.

c. Suspension of Service

48. Under sections 16(a) and (b), Caledonia may suspend performance under the contract if the shipper fails to pay in full any amount owed to Caledonia that is not the subject of a good faith dispute, or fails to comply with a material provision of the tariff within thirty days after written notice of such a "default." This remedy is in addition to any other remedy Caledonia may have at law or in equity as noted in section 16(d). In addition, Caledonia, under section 16(c) may set off any amount it owes to the shipper against amounts the shipper may owe Caledonia. Before exercising these remedies, Caledonia may, under section 16(a), allow the shipper at least thirty days and up to sixty days to correct the default situation provided the shipper takes substantial and continuing efforts to correct the default. It is unclear how Caledonia will treat the default when the shipper corrects the default in full before the end of the thirty day notice period.

49. Section 16 does not address whether the shipper whose service is suspended will continue to be billed demand charges by Caledonia. In accordance with prior

²⁵*Tennessee*, 103 FERC at P 21, *reh'g denied*, 105 FERC ¶ 61,120 at P 17-24.

Commission orders,²⁶ we direct Caledonia to revise its tariff to clarify that shippers cannot incur demand charges when their service is suspended.

4. Miscellaneous

50. Section 4.1(b) of its GT&C provides that Caledonia will schedule firm storage service at secondary points of receipt and delivery after scheduling firm storage service at primary points of receipt and delivery. In a data response, Caledonia explained that since it will have a single, primary point of receipt and delivery,²⁷ the provision in section 4.1(b) was inadvertently included and should be deleted. Caledonia may delete this provision when it files its actual tariff sheets.

51. Caledonia proposes to use a commodity index price in several provisions of its tariff.²⁸ Caledonia is directed to demonstrate that this index is in compliance with the Commission's Order Regarding Future Monitoring of Voluntary Price Formation, Use of Price Indices in Jurisdictional Tariffs, and Closing Certain Tariff Dockets issued on November 19, 2004.²⁹

52. The *pro forma* tariff includes several references that allow Caledonia to make certain decisions in its "sole discretion." We find that a sole discretion standard is arbitrary and should be removed. The Commission directs Caledonia to replace this language throughout its tariff with language that gives Caledonia the ability to make these decisions in its "reasonable judgment."

53. Section 16 (c) states that upon termination, a customer shall remove its gas from storage ". . . in the manner specified in the Service Agreement." The Service Agreement says nothing about the removal of gas after termination of the Service Agreement. The Rate Schedule directs the Customer how and when gas should be removed after termination of the Service Agreement. The reference to "Service Agreement" should be changed to "Rate Schedule."

54. The Commission will require Caledonia to file actual tariff sheets consistent with this order not more than 60 days or less than 30 days prior to commencing service.

²⁶See, e.g., *Natural*, 106 FERC ¶ 61,175 at P 53.

²⁷ December 28, 2004 Response to Staff Data Request Question No. 8.

²⁸ See, e.g., section 4.5.2 of GT&C and section 7 of Rate Schedule ISS and ILS.

²⁹109 FERC ¶ 61,184 (2004).

5. Transmission Provider Standards of Conduct

55. In Part 358 of the regulations, the Commission adopted new standards of conduct to ensure that transmission providers cannot extend their market power over transmission by giving energy affiliates unduly preferential treatment.³⁰ In Order No. 2004-A, the Commission granted a request “to generically exempt from the definition of ‘Transmission Provider’ natural gas storage providers authorized to charge market-based rates that are not interconnected with the jurisdictional facilities of any affiliated interstate natural gas pipeline, have no exclusive franchise area, no captive ratepayers and no market power. Such storage providers will be treated as Energy Affiliates if they are affiliated with any Transmission Provider.”³¹ Caledonia states that it is not including specific provisions to comply with the Standards of Conduct because it qualifies for the exemption in Order No. 2004-A.

6. Blanket Certificates

56. Caledonia requests issuance of a Part 284, subpart G, blanket certificate in order to provide open-access storage services. Caledonia filed a *pro forma* Part 284 tariff to provide open-access storage services. Since a Part 284 blanket certificate is required for Caledonia to offer these services, we will grant Caledonia a Part 284 blanket certificate, subject to the conditions imposed herein.

57. We will also grant Caledonia a Part 157, subpart F blanket certificate. The subpart F blanket certificate gives a natural gas company section 7 authority to automatically, or after prior notice, perform certain eligible activities related to the construction, acquisition, replacement and operation of pipeline facilities. However, Caledonia’s blanket certificate shall not include automatic authorization to increase storage capacity. This restriction on Caledonia’s Part 157 blanket certificate is based on the fact Caledonia’s storage reservoir is in the initial stages of development for which future expansion will require reevaluation of historical data and new engineering and geological data.

³⁰ *Standards of Conduct for Transmission Providers*, Order No. 2004, *III FERC Stats. & Regs.* ¶ 31,155 (2003), *order on reh’g*, Order No. 2004-A, *III Stats. & Regs.* ¶ 31,161 (2004).

³¹ Order No. 2004-A, *III Stats. & Regs.* ¶ 61, 161 at P 39, as codified at 18 C.F.R. § 385.3 (a)(3) (2005).

E. Environmental Analysis

58. On November 15, 2004, we issued a Notice of Intent to Prepare an Environmental Assessment for the proposed Caledonia Storage Project and Request for Comments on Environmental Issues (NOI). We received responses to the NOI from Mr. Olen B. Brock and Ms. Marilyn H. Brock, Mr. Olen T. Brock, U.S. Senator Thad Cochran, and Mississippi State Representative Jeffery C. Smith. Our staff addressed all substantive comments in the environmental assessment (EA). The EA addresses geology, soils, water resources, wetlands, vegetation, wildlife, endangered and threatened species, land use, cultural resources, air and noise quality, reliability and safety, and alternatives.

59. On March 2, 2005, we received a comment on the EA from Ms. Marilyn H. Brock, informing staff that her son's (Olen T. Brock) residence was incorrectly identified as noise sensitive area (NSA) 2. NSA 2 is Ms. Brock's rental trailer, while the correct location of Olen T. Brock's residence is approximately 200 feet west of NSA 1. We recommended several conditions to mitigate construction and operational noise impacts at the NSAs nearest to the proposed compressor station site. Because Olen T. Brock's residence is located adjacent to NSA 1, we believe that our analysis and recommendations to minimize impacts are adequate and will provide adequate protection to that residence. Ms. Brock also requested that we reconsider Alternative Site 1 in light of the additional NSA. While separation distances for NSA 1 and Ms. Brock's residence would be increased by use of Alternative Site 1, separation distance to NSA 3 would be decreased. We have evaluated Alternative Site 1 based on topography, drainage, adjacent land uses, wetlands, visibility, access and constructability, and conclude that it is not preferable to the proposed site.

60. Ms. Brock also expressed safety concerns. The Department of Transportation (DOT) is solely responsible for establishing criteria and requirements for the safety of natural gas pipeline facilities. DOT sets standards for the design, construction, inspection, and operation of natural gas pipelines in accordance with the Natural Gas Pipeline Safety Act of 1968. DOT's safety standards specify material selection and qualification, minimum design requirements, and protection from internal, external, and atmospheric corrosion. Any applicant for a certificate from the Commission is required to verify that the proposed facilities would meet DOT safety standards.

61. Based on the discussion in the EA, we conclude that if the Caledonia Storage Project is constructed and operated in accordance with Caledonia's application and supplements filed October 29, 2004, December 23, 2004, January 10, 2005, February 14, 2005, and February 25, 2005, and the conditions listed in the Appendix of this order, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

62. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.³² Caledonia shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Caledonia. Caledonia shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

IV. Conclusion

63. For the reasons discussed above, the Commission finds that the Caledonia Storage Project is required by the 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.

64. At a hearing held on April 13, 2005, the Commission, on its own motion, received and made part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Caledonia, in Docket No. CP05-15-000, authorizing the ownership, construction and operation of the described storage facilities.

(B) A blanket construction certificate is issued to Caledonia, in Docket No. CP05-16-000, under subpart F of Part 157.

(C) A blanket transportation certificate is issued to Caledonia, in Docket No. CP05-17-000, under subpart G of Part 284.

³² See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F. 2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(D) The certificate issued in Ordering Paragraph (A) is conditioned on Caledonia's compliance with all applicable Commission regulations under the Natural Gas Act, particularly the general terms and conditions set forth in Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (g) of section 157.20 of the regulations.

(E) Caledonia's facilities shall be made available for service within eighteen months of the date of the order in this proceeding as required by section 157.20(b) of the Commission's regulations.

(F) Caledonia's request to charge market-based storage rates for firm and interruptible storage service and interruptible loan service is approved as discussed in this order.

(G) Waiver is granted of the Commission's regulations that have been deemed inapplicable to storage providers with market-based rates, as discussed in this order.

(H) Caledonia shall file revised tariff sheets that comply with the requirements contained in the body of this order not more than 60 days or less than 30 days prior to commencement of service.

(I) Within 30 days after its first full year of operation, and every year thereafter, Caledonia is directed to file an annual informational filing on its provision of service using off-system capacity, as detailed in this order.

(J) The maximum inventory of natural gas stored in the Caledonia field shall not exceed the certificated levels of 16,900 MMcf at 14.73 psia and 60 degrees Fahrenheit, and the maximum bottom hole storage pressure shall not exceed 2,110 psia, without prior authorization of the Commission.

(K) The Caledonia field shall be operated in such manner as to prevent/minimize gas loss or migration.

(L) Caledonia shall submit semiannual reports (to coincide with the termination of the injection and withdrawal cycles) containing the following information (volumes shall be stated at 14.73 psia and 60 degrees Fahrenheit, and pressures shall be stated in psia):

- (1) The daily volumes of natural gas injected into and withdrawn from the storage reservoir.
- (2) The volume of natural gas in the reservoirs at the end of the reporting period.

- (3) 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.
- (4) 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.
- (5) Any surveys of pressures in gas wells, and the results of back-pressure tests conducted during the reporting period.
- (6) The latest revised structural and isopach maps showing location of the 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.
- (7) 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.
- (8) Discussion of current operating problems and conclusions.
- (9) Such other data or reports which may aid the Commission in the evaluation of the storage project.
- (10) Reports shall continue to be filed semiannually 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 semiannual basis for a period of one year.

(M) The certificate issued in Ordering Paragraph (A) is conditioned upon Caledonia's compliance with the environmental conditions set forth in the Appendix to this order. Caledonia shall inform the Commission's environmental staff by telephone or

facsimile of any environmental non-compliance identified by other federal, state or local agencies on the same day that such agency notifies Caledonia. Caledonia shall file written confirmation of such notification with the Secretary of the Commission with 24 hours.

By the Commission. Commission Brownell concurring with a separate statement attached.

(S E A L)

Linda Mitry,
Deputy Secretary.

APPENDIX

1. Caledonia 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 EA, unless modified by this Order. Caledonia 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 OEP before using that modification.
2. The Director of OEP has delegation 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**, Caledonia shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA. **As soon as they are available, and before the start of construction**, Caledonia shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by this Order. All requests for modifications of environmental conditions of this Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

5. Caledonia's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to this Order must be consistent with these authorized facilities and locations. Caledonia's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipeline to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.
6. Caledonia shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, and documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area.**

This requirement does not apply to extra workspace allowed by the *Upland Erosion Control, Revegetation, and Maintenance Plan*, 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.
7. Caledonia shall develop and implement an environmental complaint resolution procedure. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the project and restoration of the ROW.

Prior to construction, Caledonia shall mail the complaint procedures to each landowner whose property would be crossed by the project or is within one mile of the compressor station.

- a. In its letter to affected landowners, Caledonia shall:
 - (1) provide a local contact that the landowners should call first with their concerns; the letter should indicate how soon a landowner should expect a response;
 - (2) instruct the landowners that, if they are not satisfied with the response, they should call Caledonia's Hotline; the letter should indicate how soon to expect a response; and
 - (3) instruct the landowners that, if they are still not satisfied with the response from Caledonia's Hotline, they should contact the Commission's Enforcement Hotline at (888) 889-8030.

- b. In addition, Caledonia shall include in its biweekly status report a copy of a table that contains the following information for each problem/concern:
 - (1) the date of the call;
 - (2) the identification number from the certificated alignment sheets of the affected property;
 - (3) the description of the problem/concern; and
 - (4) an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.

8. Caledonia shall employ at least one environmental inspector per construction spread. The environmental inspector shall be:
 - a. responsible for monitoring and ensuring compliance with all mitigation measures required by this Order and other grants, permits, certificates, or other authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of this Order, and any other authorizing document;
 - d. responsible for documenting compliance with the environmental conditions of this Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - e. responsible for maintaining status reports.

9. Caledonia shall file updated status reports prepared by the environmental inspector with the Secretary on a **biweekly** basis **until all construction and restoration activities are complete**. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
 - a. the current construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
 - b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
 - c. corrective actions implemented in response to all instances of noncompliance, and their cost;
 - d. the effectiveness of all corrective actions implemented;
 - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this Order, and the measures taken to satisfy their concerns; and
 - f. copies of any correspondence received by Caledonia from other federal, state or local permitting agencies concerning instances of noncompliance, and Caledonia's response.

10. Caledonia must receive written authorization from the Director of OEP **before commencing service** from the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.

11. **Within 30 days of placing the certificated facilities in service**, Caledonia shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the certificate conditions Caledonia has complied with or will 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.

12. Caledonia shall file with the Secretary a noise mitigation plan and results of a revised acoustical analysis for the compressor station for review and written approval of the Director of OEP, **before commencing construction** of the compressor station facilities. The analysis shall quantify the magnitude and frequency spectrum of the noise sources associated with compressor station operations, specify noise mitigation measures and list the noise control equipment Caledonia would install to meet the noise level of 55 dBA L_{dn} at nearby noise sensitive areas (NSAs). The noise mitigation plan shall also include plans to maintain a permanent tree screen on the site, and measures to minimize tree clearing by rearrangement of the proposed facility layout and location of temporary use areas, to further minimize noise impact on nearby NSAs.
13. Caledonia shall install silencers on all blowdown stacks ensuring that they do not exceed 55 dBA L_{dn} at the closest NSAs.
14. Caledonia shall file with the Secretary, **prior to well drilling**, a drilling noise mitigation plan for review and written approval by the Director of OEP. This plan shall specify all noise mitigation equipment necessary to reduce the noise from drilling operations at the nearest NSAs to 55 dBA L_{dn} .
15. Caledonia shall file a noise survey with the Secretary **no later than 60 days** after placing the compressor station in service. If the noise attributable to the operation of the compressor station at full load exceeds an L_{dn} of 55 dBA at any nearby NSAs, Caledonia shall file a report on what changes are needed and shall install additional noise controls to meet the level **within 1 year** of the in-service date. Caledonia shall confirm compliance with the L_{dn} of 55 dBA requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.

Additionally, if the measured noise level with all units operating at this station exceeds an L_{dn} of 55 dBA at full load, Caledonia shall reduce operation of this station until a noise level below an L_{dn} of 55 dBA at the nearby NSAs is achieved.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Caledonia Energy Partners, L.L.C.

Docket Nos. CP05-15-000,
CP05-16-000
and CP05-17-000

(Issued April 19, 2005)

BROWNELL, Commissioner, concurring:

For the first time, we attach conditions to the use of the *Tetco* waiver. We limit Caledonia's use of the *Tetco* waiver to the geographic area covered by Caledonia's market study and require Caledonia to make an annual informational filing detailing its use of the *Tetco* waiver. We attach these conditions without explanation. These conditions strike me as solution in search of a problem. Caledonia requests the *Tetco* waiver for any off-system capacity it may need to obtain in order to provide storage services. Given how Caledonia plans to use the *Tetco* waiver, I have no objection to the geographic area limitation. However, the order fails to explain the nexus between the relevant geographic market for storage service and third-party transportation service. In the order, we do note that the annual information filing detailing Caledonia's use of the *Tetco* waiver is necessary to satisfy our responsibility to monitor and prevent the exercise of market power. I do not take issue with that statement. It strikes me, however, that the larger issue is approving market-based rates for storage service without some type of periodic update of the underlying market power analysis.

For these reasons, I concur with today's order.

Nora Mead Brownell
Commissioner