UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Bear Creek Storage Company	Docket No. TS04-51-000
Hampshire Gas Company	Docket No. TS04-5-000
KB Pipeline Company and Northwest Natural Gas Company	Docket No. TS04-4-000
MIGC, Inc.	Docket Nos. TS04-256-000, TS04-266-000
Missouri Interstate Gas LLC	Docket No. TS04-259-000
Total Peaking Services LLP	Docket No. TS04-97-000
Tuscarora Gas Transmission Company	Docket No. TS04-213-000

ORDER ON REQUESTS FOR WAIVERS FROM THE STANDARDS OF CONDUCT

(Issued July 7, 2004)

1. On November 25, 2003, the Federal Energy Regulatory Commission issued a Final Rule adopting Standards of Conduct for Transmission Providers (Order No. 2004 or Final Rule)[1] which added Part 358 and revised Parts 37 and 161 of the Commission's regulations.[2] Under Order No. 2004, the Standards of Conduct govern the relationships between Transmission Providers and all of their Marketing and Energy Affiliates. Order No. 2004 states that Transmission Providers may request waivers or exemptions from all or some of the requirements of Part 358 for good cause. *See* 18 C.F.R. § 358.1(d)(2004).

2. In Order No. 2004-A, the Commission established the parameters for waivers, partial waivers, or exemptions. First, the Commission will grant exemptions only for good cause. *See* Order No. 2004-A at P29. Second, the Commission will review the merits of each exemption request to determine whether a Transmission Provider qualifies for a full or partial waiver of the Standards of Conduct. *See* Order No. 2004-A at P27.

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[1] Standards of Conduct for Transmission Providers, Order No. 2004, FERC Stats. & Regs., Regulations Preambles ¶ 31,155 (2003), *order on reh'g*, Order No. 2004-A, 107 FERC ¶ 61,032 (2004), *reh'g pending.*

[2] The Commission also made minor conforming changes in Parts 250 and 284.

Third, the Commission will exempt small pipelines, based on the size of the company, the number of employees and level of interest in transportation on the pipeline, and, where appropriate, whether the company has separated to the maximum extent practicable from its Marketing or Energy Affiliates.[3] *See* Order No. 2004-A at P30. Fourth, the Commission, upon application, will exempt independent storage companies that are not interconnected with the facilities of affiliated pipelines, cannot exercise market power, have no exclusive franchise, no captive ratepayers, no cost-of-service, no guaranteed rate of return, and no ability to cross-subsidize at-risk businesses with rate-payer contributions. *See* Order No. 2004-A at P38. Finally, Order No. 2004 does not limit the time for filing requests for exemptions or waivers. *See* Order No. 2004-A at P32.

3. Between February 9 and May 21, 2004, the above-captioned Transmission Providers filed requests for exemption, waiver and partial waiver. Notice of the filings was published on June 2, 2004, with comments, protests and interventions due on June 16, 2004.

4. The Commission is granting and denying the requests for waiver and exemption as discussed herein.

I. Bear Creek Storage Company (Bear Creek) -- Docket No. TS04-51-000

5. Bear Creek Storage Company is a jointly owned natural gas transmission provider that provides certified storage service under Part 157 of the Commission's Regulations.[4] Bear Creek requested an exemption from the Standards of Conduct.[5]

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[3] These are the same criteria the Commission used in determining whether small pipelines qualified for partial exemptions from the requirements of Order No. 497. *See e.g., Ringwood Gathering Company*, 55 FERC ¶ 61,300 (1991).

[4] Bear Creek is jointly owned by two holding companies that are subsidiaries of Southern Natural Gas Company (Southern) and Tennessee Gas Pipeline Company (TGP).

[5] Bear Creek does not satisfy the criteria articulated by the Commission in Order No. 2004-A at P 38 for an exemption as an independent storage provider because it is interconnected with the facilities of affiliated natural gas pipelines.

6. Bear Creek stated that it is a fully subscribed Transmission Provider that serves only two customers, Southern and TGP, both of which are affiliated Transmission Providers.[6] Bear Creek does not anticipate any expansion of its facilities. As a result, Bear Creek claims it is highly unlikely that the facility would have any direct transactional contact with any Energy Affiliates. Bear Creek further stated that it was previously exempt from the Standards of Conduct under Part 161 of the Commission's regulations due to its status as a Part 157 pipeline. In addition, Bear Creek states that it does not have an Internet website or posting obligations because it is not an open access transmission provider.

7. Bear Creek stated that it has no employees of its own and is operated by Southern's employees who perform the transmission function operations and field services. Bear Creek also points out that since it is run by Southern employees, who are subject to the Standards of Conduct and will be trained regarding Order No. 2004, there is no gap in regulation or protection if the Commission exempts it from the requirements of Order No. 2004.

A. Interventions, Protests and Comments

8. No interventions, protests or comments were filed.

B. Discussion

9. As a preliminary matter, Bear Creek does not qualify for an exemption as an independent storage provider under the criteria articulated in Order No. 2004-A because it interconnects with an affiliated Transmission Provider.

10. Under the Standards of Conduct, a Transmission Provider, such as Bear Creek, is required to function independently of its Marketing and Energy Affiliates,[7] but is permitted to share employees with affiliated Transmission Providers.[8] Based on its filing, Bear Creek does not appear to share any employees or facilities with any Marketing or Energy Affiliates, but shares employees with Southern, an affiliated Transmission Provider. Because the Standards of Conduct allow Transmission Providers to share

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[6] Under section 358.3(d)(6)(ii) of the Commission's regulations, to be codified at 18 C.F.R. §358.3(d)(6)(ii), an affiliated Transmission Provider is not considered an Energy Affiliate.

[7] *See* sections 358.2 and 358.4(a) of the Commission's regulations, to be codified at 18 C.F.R. §§ 358.2 and 358.4(a).

[8] Under section 358.3(d)(6)(ii) of the Commission's regulations, to be codified at 18 C.F.R. § 358.3(d)(6)(ii), an affiliated Transmission Provider is not an Energy Affiliate.

employees, Bear Creek does not need a waiver to share employees with Southern. Similarly, the information disclosure prohibitions of sections 358.5(a) and (b)(1), (2) and (3) are not triggered by the sharing of information between Bear Creek and its affiliated Transmission Provider, Southern. The Commission is, therefore, denying Bear Creek's request for waivers of the independent functioning and information sharing prohibitions of the Standards of Conduct because such waivers are unnecessary in the circumstances here.

11. The Commission is also denying waiver of the remaining Standards of Conduct. Bear Creek does not explain why it is unable to comply with the requirement to implement its tariffs in a non-discriminatory manner under section 358.5(c) of the Standards of Conduct. Although Bear Creek is fully subscribed, Bear Creek has an obligation to implement all provisions of its tariff in a non-discriminatory manner. And, although the employees of Southern are subject to the Standards of Conduct, Bear Creek is responsible for ensuring that the Standards of Conduct are observed when Southern employees are acting on Bear Creek's behalf.

12. Bear Creek claims that it would have trouble with the posting requirements of section 358.5(a) and (b) of the Commission's regulations because it does not have an Internet website. With respect to the posting requirements of 358.5(b)(2) and other posting requirements,[9] Bear Creek has not explained why it could not obtain an Internet website or post its Standards of Conduct information on the Internet website of one of its joint owners. Bear Creek has not articulated sufficient grounds for an exemption from the posting requirements, and the Commission is denying its request.

II. Hampshire Gas Company (Hampshire) and Washington Gas Light Company (Washington Gas) - - Docket No. TS04-5-000

13. Hampshire is a storage facility located in Hampshire County, West Virginia that provides storage service under subpart A of Part 157 of the Commission's regulations solely to its affiliated local distribution company (LDC), Washington Gas.[10] Hampshire requests an exemption from the Standards of Conduct and to delay the effective dates of

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[9] For example, some of the other posting requirements include: (1) identifying names and addresses of Marketing and Energy Affiliates and shared facilities under sections 358.4(b)(1) and (2); (2) posting comprehensive organizational charts and job descriptions under section 358.4(b)(3); posting written procedures implementing the Standards of Conduct under section 358.4(e); and posting potential merger partners as affiliates under section 358.4(e).

[10] Both Hampshire and Washington Gas are subsidiaries of WGL Holdings Inc., a registered holding company under the Public Utility Holding Company Act of 1935 (PUHCA).

the requirements until after the Commission issues a Final Order on the instant request. And, if the request is denied, Hampshire asks the Commission to grant a minimum of 30 days from the issuance of such denial to comply with the requirements of Part 358, including the informational filings.

14. In the same pleading, Washington Gas requests clarification whether it is considered a Transmission Provider because it provides firm transportation service under section 7(f) of the Natural Gas Act (NGA) and a blanket certificate issued under section 284.224 of the Commission's regulations to Mountaineer Gas Company.[11]

15. Hampshire's facility is comprised of a natural gas storage reservoir, a compressor station and gathering lines. Hampshire provides storage service under a Commission-approved, cost-based rate schedule. Washington Gas is its only customer and transportation from Hampshire's storage facility to the Washington Gas city gate is provided by a non-affiliated interstate pipeline.

16. Hampshire has about 10 field personnel who operate the facilities and otherwise shares employees with Washington Gas for day-to-day operations of the storage system, including the day-to-day control of injections and withdrawals.[12] Hampshire claims these employees only devote a small percentage of their time to Hampshire and it would be cost prohibitive to staff the managerial and scheduling responsibilities on a stand-alone basis. In addition, Hampshire claims that since Washington Gas is its only customer, having to post the required information would not promote the Commission's goal of preventing undue discrimination.

17. Hampshire stated that it is regulated by three state commissions (the Virginia State Corporation Commission, the Maryland Public Service Commission, and the Public Service Commission of the District of Columbia) for Washington Gas's natural gas procurement activities. Each of these commissions oversees the relationship between Washington Gas and its affiliates and has the authority to review rates and terms of service along with applying its own standards of conduct. The Commission approved the section 7(c) service provided from Hampshire to Washington Gas while the three state commissions review the storage services. As a result, Hampshire argues no regulatory gap would exist if the Commission approves Hampshire's exemption request.

[11] Washington Gas states that it is considering terminating its contract with Mountaineer to avoid becoming a Transmission Provider under Order No. 2004. Mountaineer asks that the Commission grant Washington Gas's request for exemption or in the alternative prevent it from unilaterally canceling the contract to avoid Commission jurisdiction.

[12] Hampshire states that it has no marketing or sales employee and shares no employees with its Marketing Affiliate, Washington Gas Energy Services (WGES).

A. Public Notice, Interventions, and Protests

18. Mountaineer Gas Company (Mountaineer) filed a motion to intervene and comments.

B. Discussion

19. As a preliminary matter, Washington Gas is not a Transmission Provider, but is an Energy Affiliate of Hampshire. In Order No. 2004-A, the Commission clarified that the holders of limited-jurisdictional certificates authorizing exchanges and NGA section 7(f) authorizations are not Transmission Providers.[13] Therefore, the Commission is granting Washington Gas's request for clarification that it is not a Transmission Provider with respect to the service it provides under section 7(f) of the NGA.[14]

20. Although Hampshire does not meet the criteria to qualify for a partial exemption from the Standards of Conduct as an independent storage provider because it provides service at cost-based rates, because of its small size and limited operations, the Commission is granting Hampshire a partial waiver from the requirements of Order No. 2004. Specifically, the Commission is waiving the obligation to comply with the independent functioning requirements of section 358.4 with respect to Washington Gas (its Energy Affiliate) and is waiving the information disclosure prohibitions of section 358.5(a) and (b)(1), (2) and (3) with respect to Washington Gas. Hampshire must comply with the applicable requirements of the Standards of Conduct by September 1, 2004.

III. KB Pipeline Company and Northwest Natural Gas Company (KB Pipeline and NW Natural) -- Docket No. TS04-000

21. On January 21, 2004, KB Pipeline and its affiliated LDC, NW Natural, filed a request for an exemption from the requirements of Order No. 2004. Following issuance of Order No. 2004-A, on May 24, 2004, KB Pipeline and NW Natural specifically requested a small pipeline exemption.

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[13] Order No. 2004-A at P72.

[14] Mountaineer asks that the Commission grant Washington Gas' request for exemption or in the alternative prevent it from unilaterally canceling the contract to avoid Commission jurisdiction.

22. KB Pipeline holds a Part 157 certificate[15] to use its 10 percent ownership interest in the 19-mile Kelso-Beaver pipeline to transport approximately 19,300 Dth/d for its only customer, NW Natural, which engages in off-system sales on upstream, unaffiliated interstate pipelines.[16] KB Pipeline is not authorized to provide transportation for any unaffiliated customers. The Kelso-Beaver pipeline is jointly owned by B-R Pipeline Company (B-R), KB Pipeline and Portland General Electric (Portland). Each of the co-owners is separately certificated to flow gas on its share of the Kelso Beaver pipeline.[17]

23. KB Pipeline states that it does not have any operating employees. KB Pipeline holds the certificate and performs accounting and maintenance functions for the Kelso Beaver pipeline for the benefit of the other joint owners. KB Pipeline states that these activities do not require a full time employee so NW Natural employees perform these functions.

24. KB Pipeline states that it would incur significant costs if it had to operate separately from NW Natural. Both KB Pipeline and NW Natural state that complying with the separation of function rules would be costly, difficult and exceedingly disruptive.

A. Public Notice, Interventions and Protests

25. No comments, protests or motions to intervene were filed.

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[15] *See Portland General Electric Co*., 57 FERC ¶ 61,095 (1991), *amended*, 57 FERC ¶ 61,312 (1991).

[16] As an LDC, NW Natural also provides interstate storage service with related transportation to and from storage on NW Natural's distribution system under Section 284.224 of the Commission's regulations. *See* Northwest Natural Gas Co., 95 FERC ¶ 61,242 (2001). NW Natural's request to amend its Section 284.224 limited jurisdictional blanket certificate to allow it to use its Part 157 capacity on the Kelso-Beaver Pipeline to transport gas for its storage customers was denied. Northwest Natural Gas Co., 105 ¶ 61,024 (2003).

[17] *B-R Pipeline Co*., 105 FERC ¶ 61,025 (2003 (order issuing Part 284 certificate); and *Portland General Electric Co*., 105 FERC ¶ 61,023 (2003) (order issuing Part 284 certificate). Although Portland and B-R have been issued open access certificates for their share of the Kelso-Beaver pipeline, KB Pipeline is not authorized to provide open access service through its share of the pipeline.

B. Discussion

26. Under the Standards of Conduct, KB Pipeline would have to function independently of its Energy Affiliate, NW Natural, and would be prohibited from sharing information with NW Natural under the information disclosure prohibitions. Applying the criteria set forth in Order No. 2004-A, the Commission is granting KB Pipeline a partial exemption from the requirements of Order No. 2004 based on its small size, lack of staff and limited operations.

27. As stated in its pleadings, KB Pipeline owns 10 percent of a 19-mile pipeline, does not have any employees, is a free-flow, delivery only pipeline, and is only authorized to transport up to 19,300 Dth/day for its affiliate, NW Natural. Moreover, KB Pipeline notes that the Commission granted a similar small pipeline exemption to B-R Pipeline, a co-owner of the Kelso-Beaver pipeline in Order No. 2004-A at P31. Specifically, KB Pipeline is exempt from the independent functioning requirements of section 358.4 and the information disclosure prohibitions in section 358.5(a) and (b)(1), (2) and (3). KB Pipeline shall implement the remaining Standards of Conduct by September 1, 2004.

IV. MIGC, Inc. (MIGC) -- Docket Nos. TS04-256-000 and TS04-266-000

28. On March 12, 2004, MIGC filed a request seeking waivers that certain affiliates not be treated as Energy Affiliates. Specifically, MIGC requested that the Commission waive it from complying with the requirements of Order No. 2004 with respect to the following affiliates: (1) MGTC, Inc., (a Hinshaw/LDC); (2) Western Gas Resources-Texas, Inc. (Western Gas) (an intrastate pipeline); and (3) Mountain Gas Transportation, Inc. (Mountain Gas) (an intrastate pipeline). MIGC also requested an extension of time to comply with Order No. 2004 if the Commission denies its request.

29. Following the issuance of Order No. 2004-A, MIGC filed a request for a small pipeline exemption,[18] which if granted, would moot MIGC's March 2004 request.

30. MIGC states that it owns and operates a 260-mile natural gas pipeline system in the Powder River Basin in Wyoming and transports gas for others pursuant to the Commission's regulations. MIGC states that in 2003, it had a net income of $6.8 million and only transported 54 Bcf (6 percent contributed from MGTC) or about 3 percent of

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[18] The Commission previously granted MIGC a partial exemption from the former Standards of Conduct based on its small size and limited number of employees. *See* 58 FERC ¶ 61,141 (1992).

Wyoming's gas production. MIGC states that in 1992, it had one firm transportation customer, now it has two. MIGC also states that it has no planned expansions.[19]

31. MIGC states that it shares its staff with its affiliates but has to the best of its ability segregated its employees from those of its Marketing and Energy Affiliates. MIGC claims that no MIGC employees are shared with the marketing and production divisions of its Energy Affiliates. MIGC also claims that the production, marketing and gathering and processing divisions' operating employees of the Marketing and Energy Affiliates are located on separate floors from the operating employees at the shared Denver, Colorado corporate office.

32. MIGC also indicates complying with Order No. 2004 is expensive and would add substantial costs to itself and its affiliates. MIGC indicates that the total minimum estimated annual cost of $673,000 would exceed 9 percent of MIGC's net income.

33. There is one shared individual, MIGC's Director of Pipeline Affairs (a Transmission Function Employee of MIGC) who also performs regulatory, accounting, and certain transportation contract support duties for Western Gas and Mountain Gas. Western Gas and Mountain Gas are separate from MIGC. There are no interconnections between the companies and they are remote from each other. In addition Western Gas and Mountain Gas do not have contracts for service on MIGC, do not share personnel and do not even transport gas produced from the same region.

A. Interventions, Protests and Comments

34. No motions to intervene or protests were filed.

B. Discussion

35. The Commission is denying MIGC's request to exempt MGTC, Western Gas Resources and Mountain Gas Transportation from the definition of Energy Affiliate. However, based on the statements provided in MIGC's pleadings concerning its small size, lack of staff and limited number of employees, the Commission is granting MIGC a partial waiver from the requirements of Order No. 2004. Specifically, the Commission is waiving the obligation to comply with the independent functioning requirement of section 358.4 and is waiving the information disclosure prohibitions of section 358.5(a) and (b)(1), (2) and (3). MIGC must comply with the applicable requirements of the Standards of Conduct. MIGC shall implement the Standards of Conduct by September 1, 2004.

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[19] There have been a few verbal inquiries into their transportation capacity but MIGC states that it has not received a written request in over two years.

V. Missouri Interstate Gas, LLC (Missouri Interstate) – Docket No. TS04-259-000

36. Missouri Interstate is a small, six-mile pipeline, with no full-time employees that commenced operations in 2003.[20] Missouri Interstate petitions for a waiver from the requirements of Order No. 2004. Specifically, Missouri Interstate requests that the Commission exempt its intrastate pipeline affiliates, Missouri Pipeline Company (MPC) and Missouri Gas Company (MGC),[21] and its unregulated local distribution affiliate, Omega Pipeline Company (Omega), from the term Energy Affiliate.[22]

37. Missouri Interstate states that it has never been fully subscribed. Missouri Interstate's only delivery point is at the interconnect with MPC and the only firm transportation customer is MPC, which provides only transportation service for its intrastate customers. MPC does not sell gas to its transportation customers. In Missouri Interstate's first year of operation, it transported less than 30,000 MMBtu of natural gas with total revenues in 2003 below $25,000. Missouri Interstate also states that Omega, the affiliated LDC, does not hold capacity on Missouri Interstate, MPC or MGC.

38. Missouri Interstate states that it has no full time staff; rather it shares field operators and administrative office staff with its affiliates. The same management and administrative personnel are shared between Missouri Interstate, MPC, MGC and Omega.

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[20] Missouri Interstate Gas, LLC, Order Issuing Certificates, 100 FERC ¶ 61,312 (2002); *Order on Clarification and Reh'g,* 102 FERC ¶ 61,172 (2003).

[21] Missouri Interstate, MPC, and MGC are wholly owned by United Pipeline Systems, LLC, which is owned by Gateway Pipeline Company, LLC. MPC and MGC are both regulated by the Missouri Public Service Commission.

[22] Under section 248.3(d) of the Commission's regulations, an Energy Affiliate means an affiliate of a Transmission Provider that:

Engages in or is involved in transmission transactions in U.S. energy or transmission markets; or

Manages or controls transmission capacity of a Transmission Provider in U.S. energy or transmission markets; or

Buys, sells, trades or administers natural gas or electric energy in U.S. energy or transmission markets; or

Engages in financial transactions relating to the sale or transmission of natural gas or electric energy in U.S. energy or transmission markets.

39. Missouri Interstate requests that MPC and MGC be exempt from the definition of Energy Affiliate. Missouri Interstate argues that because MPC is its only customer it is more efficient to share in the coordination of operations, which provides for the most efficient and lowest cost of service. Missouri Interstate argues that complying with Order No. 2004 would be burdensome and result in a duplication of services. Missouri Interstate estimates that it would need to spend an additional $200,000 a year for additional personnel and office facilities.

A. Interventions, Protests and Comments

40. The Missouri Public Service Commission (Missouri Commission) filed a protest and notice of intervention. No other interventions, protests or comments were filed.

41. The Missouri Commission urges the Commission to exempt Missouri Interstate from: (1) the requirement to maintain a separate staff due to its small size; (2) the requirement to post information about transfers between affiliates because the staff works for all the affiliates on a daily basis; and (3) the information disclosure requirements because Missouri Interstate would be unable to comply with these requirements because it shares employees with its affiliates.

42. However, the Missouri Commission urges the Commission to require Missouri Interstate to comply with: (1) the requirements to maintain separate books for the affiliates because this is a Missouri Commission requirement so no additional cost would be incurred to adhere to this part of the Order; (2) the posting requirements; (3) comply with the discount requirements; and (4) the non-discrimination provisions. And finally, the MPSC believes that Missouri Interstate should be required to include in its tariff and/or its Standards of Conduct a statement that a Missouri Interstate affiliate "shall not receive a rate lower than the rate it charges similarly-situated non-affiliated shippers."

B. Discussion

43. The Commission is denying Missouri Interstate's request to exempt MPC and MGC from the definition of Energy Affiliate. However, based on the statements in Missouri Interstate's request concerning its small size, lack of staff and limited operations, the Commission is granting Missouri Interstate a partial waiver from the requirements of Order No. 2004. Specifically, the Commission is waiving Missouri Interstate's obligation to comply with the independent functioning requirements of section 358.4 and is waiving the information disclosure prohibitions of section 358.5 (a) and (b)(1), (2) and (3) with respect to MPC and MGC. Missouri Interstate must comply with the applicable requirements of the Standards of Conduct, which will not be burdensome. Missouri Interstate shall implement the Standards of Conduct by September 1, 2004.

VI. Total Peaking Services, L.L.C. – Docket No. TS04-97-000

44. Total Peaking Services, L.L.C. (Total Peaking) operates a liquid natural gas (LNG) peak-shaving facility with a working capacity of 1.14 Bcf and related appurtenant facilities at Milford, Connecticut (the Milford Plant).[23] Total Peaking stores gas for others under a blanket transportation certificate issued under Part 284, subpart G of the Commission's regulations. Total Peaking requests that the Commission grant it a waiver of the Standards of Conduct and toll the effective dates of the requirements under 18 C.F.R. § 358.4(e)(1) until after the Commission issues a Final Order on the instant request for waiver. However, if the request is denied, Total Peaking asks the Commission to grant a minimum of 60-days from the issuance of such order to comply with the requirements of Part 358, including the informational filings.

45. Total Peaking is fully subscribed and serves only one customer, its marketing affiliate, CNEP.[24] CNEP sells a re-vaporized LNG peak delivery service to its affiliate, Southern Connecticut, using approximately 70 percent of the capacity CNEP has on Total Peaking and provides similar service with the remainder of its Total Peaking capacity to other non-affiliated customers. Southern Connecticut also provides displacement service from the Milford Plant across its system under a separate agreement with CNEP.

46. Total Peaking states that it does not share office space, computer systems or telephone systems with any marketing employees, including those of its affiliates. Total Peaking has no direct employees. Total Peaking is operated by non-marketing employees of its affiliated LDC, Southern Connecticut. Total Peaking states that Southern Connecticut is an Energy Affiliate under section 358.3(d) of the Standards of Conduct because Southern Connecticut engages in the purchase or sale of natural gas in U.S. markets. In addition, Southern Connecticut's LDC operations and supply control facilities are located in the same building as Total Peaking's control center and are on the same grounds as the Milford Plant. Total Peaking states that employees who are involved in purchasing and selling gas for Southern Connecticut's LDC operations have certain supervisory responsibility over Southern Connecticut employees that operate the

[23] Connecticut Energy Corp., is the parent of Southern Connecticut Gas Company, an LDC, and CNE Energy Services Group, Inc. These companies together with other Energy East companies, own LNG Storage Partners, which owns Total Peaking Service, LLC and LNG Marketing Partners, which owns CNE Peaking, LLC (CNEP), a marketing affiliate.

[24] Total Peaking receives gas for liquefication and storage through the facilities of The Southern Connecticut Gas Company (Southern Connecticut), an affiliated LDC, and is connected to the pipeline facilities of Iroquois Gas Transmission System, L.P.

Milford Plant, but do not have access to protected transmission system information. Total Peaking claims that if the two entities were operated separately, the additional costs incurred by Total Peaking could make it uneconomic for it to remain in the interstate market.

47. Total Peaking states that the intent of the Part 358 Standards of Conduct is "that Transmission Providers cannot extend their market power over transmission to wholesale energy markets by giving their Energy Affiliates unduly preferential treatment." Total Peaking argues that the Commission's objectives to avoid abuse of market power will not be furthered by applying these new requirements to Total Peaking, but could instead cause it unnecessary expense, result in inefficient operation of its LNG storage services and could lead to the withdrawal of its facility from interstate service.

A. Public Notice, Interventions, and Protests

48. No motions to intervene or protest were filed.

B. Discussion

49. Although the Commission has determined that Total Peaking lacks market power,[25] it interconnects with an affiliated natural gas pipeline (Southern Connecticut). Therefore, Total Peaking does not satisfy the criteria articulated by the Commission in Order No. 2004-A at P 38 for an exemption as an independent storage provider.

50. Since the Commission has previously determined that Total Peaking is a small operation, we will grant it a partial exemption from the Standards of Conduct waive the independent functioning requirement under sections 358.2(a) and 358.4(a) of the Commission's regulations and information sharing prohibitions under sections 358.5 (a) and 358.5(b)(1), (2) and (3) of the Commission's regulations with respect to Southern Connecticut.

51. However, the Commission is denying Total Peaking's request for waiver of the requirement to post information on an Internet website because it would be "costly." Total Peaking has not articulated sufficient grounds for an exemption from the information posting requirements. Although the Commission previously allowed Total

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[25] When the Commission granted Total Peaking the authority to charge market-based rates, the Commission determined that Total Peaking could not transfer market power to an affiliate. *See Market-Based Rate Order*, 84 FERC ¶ 61,189 at 61,963. The Commission also granted Total Peaking a waiver of 18 C.F.R. § 284.10 to permit Total Peaking to use a telephone bulletin board to provide information concerning capacity, service interruptions and emergency contacts.

Peaking to use a telephonic bulletin board for the contemporaneous disclosure of information, Total Peaking has had an Internet website since 2000, and is capable of complying with the Standards of Conduct posting requirements.[26]

VII. Tuscarora Gas Transmission Company (Tuscarora) - Docket Number TS04-213-000

52. The Commission previously granted Tuscarora certain limited waivers under the former Standards of Conduct at Part 161 of the Commission's regulations (information sharing prohibitions) because of Tuscarora's small size and the limited number of employees.[27] Tuscarora filed a request to maintain these limited waivers for the information disclosure prohibitions of sections 358.5(b)(1) and (2) of the Commission's regulations under the new Standards of Conduct. Tuscarora states that it intends to comply with the other requirements of the Standards of Conduct.

53. Tuscarora owns and operates at 227-mile interstate natural gas pipeline connecting PG&E Gas Transmission, Northwest Corporation and terminating at the Tracey Power Plant owned by Sierra Pacific Power Company.[28] Tuscarora refers the Commission to its previous Standards of Conduct pleading, in which it stated that it is has nine employees and two contract employees, and three employees of its affiliate Sierra Pacific Power Company administer the off-system sales of gas to Southwest Gas Corporation.[29] Tuscarora states that its transmission function employees are already separate from those of its Marketing or Energy Affiliates' employees.

54. Tuscarora shares telephone equipment and a password protected Local Area Network with its Marketing Affiliate. However, operating employees of Tuscarora's Marketing and Energy Affiliates maintain separate offices in different buildings.

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[26] Http://totalpeaking.com/Menu/Copy_of_noncriticalnoticesbulletin.html and http://totalpeaking.com/Menu/EESOrgChart2.jpg (June 21, 2004).

[27] *Tuscarora Gas Transmission Company*, 94 FERC 61,325 (2001) ("March 2001 Order").

[28] Sierra Pacific is a gas and electric local distribution company and a subsidiary of Sierra Pacific Resources.

[29] Tuscarora is a Nevada partnership owned equally by a wholly-owned subsidiary of Sierra Pacific Resources and a wholly-owned subsidiary of TransCanada PipeLines Ltd.

A. Public Notice, Interventions, and Protests

55. No interventions or protests were filed.

B. Discussion

56. The Commission is granting Tuscarora's request for a partial waiver from the Standards of Conduct under Order No. 2004. Specifically, the Commission is continuing the waivers provided in 2001 and Tuscarora is not required to comply with the requirements of section 358.5(a) and (b)(1), (2) and (3) with respect to Sierra Pacific Power Company.

The Commission orders:

(A) As discussed herein, the Commission is denying Bear Creek Storage Company's request for waiver of the Standards of Conduct.

(B) As discussed herein, the Commission is granting Hampshire Gas Company's request for partial waiver of the Standards of Conduct and clarifying that Washington Gas Light Company is not a Transmission Provider.

(C) As discussed herein, the Commission is granting KB Pipeline's request for partial waiver of the Standards of Conduct.

(D) As discussed herein, the Commission is granting MIGC's request for partial waiver of the Standards of Conduct.

(E) As discussed herein, the Commission is denying Missouri Interstate Gas' request to exempt its two affiliates from the definition of Energy Affiliates, but is granting Missouri Interstate a partial waiver of the Standards of Conduct.

(F) As discussed herein, the Commission is granting Total Peaking Services' request for a partial waiver of the Standards of Conduct.

(G) As discussed herein, the Commission is granting Tuscarora Gas Transmission Company's request for partial waiver of the Standards of Conduct.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.