

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Pine Prairie Energy Center, LLC	Docket Nos.	CP04-379-000 CP04-380-000 CP04-381-000
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ORDER ISSUING CERTIFICATES

(Issued November 23, 2004)

1. On July 16, 2004, Pine Prairie Energy Center, LLC (Pine Prairie), filed an application under section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a high-deliverability, salt-dome natural gas storage facility in Evangeline Parish, Louisiana, and the construction and operation, or acquisition and operation, of associated pipeline facilities. Pine Prairie also requests authority to charge market based rates for its proposed storage and hub services. In addition, Pine Prairie requests authority under section 7(c) to provide open-access firm storage and interruptible hub services under Subpart G of Part 284 of the regulations and for a blanket construction certificate under Subpart F of Part 157 of the regulations.
2. The Commission finds that Pine Prairie's proposals will serve the public interest by providing high-deliverability storage service, which is in demand in the Gulf Coast market, without significant landowner or environmental impacts. The proposed storage service will also further the development of the natural gas infrastructure necessary to provide storage for gas-fired electric generation plants and will support the liquefied natural gas (LNG) import terminals proposed for the Gulf Coast region. Thus, the order finds that Pine Prairie's proposals are in the public convenience and necessity. The order also grants Pine Prairie authorization to charge market based rates for its firm storage and interruptible hub services and issues the requested Part 284 and Part 157 blanket certificates.

I. Background

3. Pine Prairie is a limited liability company organized and existing under the laws of Delaware. Pine Prairie is a wholly owned subsidiary of PPEC Corporation and an indirect subsidiary of Sempra Energy Trading Corp., an energy trading company.¹ Pine Prairie is a new company that does not currently provide transportation or storage services of any kind.² Upon receipt of its requested certificate authorizations, Pine Prairie will become a natural gas company within the meaning of section 2(6) of the Natural Gas Act.

II. Proposals

A. Facilities

4. Pine Prairie proposes to construct and operate a high-deliverability, natural gas storage facility in Evangeline Parish, Louisiana, with associated jurisdictional pipeline facilities extending a short distance into Acadia and Rapides Parishes. The proposed storage facility is approximately 40 miles northwest of Lafayette, Louisiana, close to the Henry Hub and to numerous interstate and intrastate pipelines.

5. Specifically, the proposed facilities will consist of: (a) three solution-mined, underground salt storage caverns; (b) a gas handling facility and surface facilities for the storage caverns; (c) four wells for withdrawal of fresh water to be used to leach salt from the salt dome and four wells to dispose of the brine produced through the leaching process; (d) jurisdictional pipeline facilities connecting the various project sites and leading to connections with six gas transmission pipelines; and (e) seven pipeline connections with six transmission pipelines.

¹ Sempra Energy Trading Corp. is a wholly owned subsidiary of Sempra Energy Solutions and an indirect subsidiary of Sempra Energy Global Enterprises. Sempra Energy Global Enterprises is a direct, wholly owned subsidiary of Sempra Energy, a public utility holding company.

² Pine Prairie is affiliated with Bluewater Gas Storage, LLC, a wholly owned subsidiary of Sempra Energy Trading Corp. Bluewater owns and operates a 27 Bcf storage facility in St. Clair, Michigan and is a Hinshaw pipeline under section 1(c) of the Natural Gas Act.

6. Pine Prairie's proposed project will consist of three storage caverns, each with a capacity of 9.6 Bcf and a working gas capacity of 8.0 Bcf. The three caverns will provide approximately 2.4 Bcf per day of maximum withdrawal capability and 1.2 Bcf per day of maximum injection capability. Pine Prairie states that the caverns will be approximately 1,800 feet in height, that the caverns will be 270 feet in diameter, and that there will be 3,400 feet between the top of the cavern and the top of the salt mass. Pine Prairie states that there will be a minimum of 527 feet between any cavern and approximately 300 feet between the caverns and the edge of the salt mass. The caverns will be developed in four phases over three and one-half years as follows:

- Phase I – Cavern 1 will be developed to a working gas capacity of up to 6.0 Bcf, with associated pipeline infrastructure and compression added at the same time;
- Phase II – Cavern 2 will be developed to a working gas capacity of up to 6.0 Bcf, with associated pipeline infrastructure and compression added at the same time;
- Phase III – Caverns 1 and 2 will be expanded to a working gas capacity of 8.0 Bcf each; and
- Phase IV – Cavern 3 will be developed to a working gas capacity of 8.0 Bcf, with associated pipeline infrastructure and incremental compression added at the same time.³

7. Pine Prairie states that it will drill and complete the cavern wells under the applicable regulations of the Louisiana Department of Natural Resources (LDNR). The leaching process will be monitored by periodic sonar surveys to ensure that each cavern roof is properly shaped and that the production casing string seat is protected. Once the final cavern design shape is attained, Pine Prairie will perform and submit a final sonar survey to the LDNR. After the final sonar survey, Pine Prairie will pressurize each cavern and subject the caverns to a mechanical integrity test performed in accordance with LDNR requirements. Following confirmation and approval of cavern integrity by the LDNR, Pine Prairie will convert each cavern to natural gas storage service.

³ Pine Prairie states that it will configure the caverns to allow for the potential addition of a fourth storage cavern, with a working gas capacity of 8.0 Bcf, in order to provide an ultimate working gas capacity of 32 Bcf. If it decides to pursue this expansion, Pine Prairie states that it will file a separate certificate application seeking authorization to add a fourth cavern and associated equipment and infrastructure.

8. Pine Prairie states that the caverns will be solution-mined, using water to be withdrawn from four proposed raw water supply wells. Pine Prairie will drill and complete the wells under the requirements of the Louisiana Department of Transportation and Development, Office of Public Works and Water Resources. Pine Prairie will dispose of the brine created by circulating this raw water in the salt formation by injecting it through four proposed brine injection wells into a geologic formation that has been proven to be acceptable and appropriate for disposal of salt water, in compliance with requirements imposed by the LDNR's Office of Conservation.

9. Pine Prairie's proposed gas handling facility will be located on a 60.57-acre parcel.⁴ The gas handling facility will include six 8,000 horsepower natural gas engine-driven compressors, gas dehydration equipment, and other cavern surface facilities.

10. Pine Prairie proposes to construct four wells for withdrawal of fresh water to be used to leach salt from the salt dome and four wells to dispose of the brine produced through the leaching process. The wells will be located on a 10-acre parcel approximately 1.92 miles southwest of the gas handling facility site. Pine Prairie states that it is currently negotiating the details of the purchase of this land.

11. Pine Prairie proposes to construct and operate, or acquire and operate, pipeline facilities in five corridors. These facilities include:

- In the Mid Pipeline Corridor, Pine Prairie proposes to construct and operate two 6.36-mile long, 24-inch diameter, bi-directional pipelines. Along the first 1.92 miles of its length, Pine Prairie proposes to construct a 16-inch diameter raw water withdrawal pipeline and a 16-inch diameter brine disposal pipeline to connect the gas holding site to the well site. Approximately 0.36 miles west of the raw water and brine wells, the two proposed bi-directional lines will interconnect with ANR Pipeline Company's (ANR) line in Zone ML2. After the interconnect with ANR's line, the bi-directional lines will continue westward for approximately 4.08 miles to interconnections with lines in the North and South Pipeline Corridors.
- In the North Pipeline Corridor, Pine Prairie proposes to acquire and operate an existing, non-jurisdictional, 17.80-mile long, 24-inch diameter, bi-directional pipeline extending from the terminus of the proposed pipelines in the Mid Pipeline Corridor north to a connection with Tennessee Gas Pipeline Company's (Tennessee) interstate system.

⁴ Pine Prairie acquired the land and associated rights for its proposed caverns from SG Resources Louisiana, L.L.C., a subsidiary of SGR Holdings, L.L.C.

The existing 24-inch diameter pipeline is a part of the existing Louisiana Chalk Gathering System, owned by Louisiana Intrastate Gas.

- In the South Pipeline Corridor, Pine Prairie proposes to acquire and operate an existing, non-jurisdictional, 16.49-mile long, 24-inch diameter, bi-directional pipeline that is also part of the Louisiana Chalk Gathering System and to construct and operate an 11.24-mile long, 24-inch diameter, bi-directional pipeline. The 11.24-mile long line to be constructed will originate at the terminus of the pipelines in the Mid Pipeline Corridor and extend south to interconnections with Transcontinental Gas Pipe Line Corporation's (Transco), Texas Gas Transmission, LLC's (Texas Gas), and Texas Eastern Transmission LP's (Texas Eastern) mainline pipelines. After the interconnects with Transco, Texas Gas, and Texas Eastern, the existing pipeline to be acquired will extend an additional 5.25 miles south to a connection with the pipelines in the East Lateral Pipeline Corridor.
- In the East Lateral Pipeline Corridor, Pine Prairie proposes to construct and operate a 3.17-mile long, 24-inch diameter, bi-directional pipeline extending from the terminus of the South Pipeline Corridor east to an interconnection with ANR's pipeline in ANR's SE Pool Zone and to an interconnection with Florida Gas Transmission Company's (FGT) pipeline system in FGT's Zone 2.
- In the TGT Lateral Pipeline Corridor, Pine Prairie proposes to construct and operate two 0.7-mile long, 24-inch diameter, bi-directional pipelines extending from the South Pipeline Corridor to an interconnection with Texas Gas.

12. Pine Prairie proposes to construct and operate seven meter stations in order to interconnect its proposed facilities with six interstate pipeline companies, *i.e.*, ANR, Tennessee, Transco, Texas Gas, Texas Eastern, and FGT. Pine Prairie states that it is in the final stages of negotiating interconnection agreements with each company. Pine Prairie states that each meter facility will include a series of valves, instruments, controls, and gas measurement meters and will be located on one-half to one acre sites.⁵

⁵ To support its proposed facilities, Pine Prairie states that it will require three phase, high-voltage electrical service to power the pumps and other facilities to be used in the cavern leaching process and to support gas compression, as well as to supply construction power. Pine Prairie states that it will require smaller, low voltage service to support metering needs. Pine Prairie is negotiating with Cleco Power LLC, the local electric utility, to provide the non-jurisdictional electrical service for its proposed project.

13. Pine Prairie states that its gas pipeline facilities will only be used to move gas between third party pipelines and its gas handling facility to provide storage services and interruptible wheeling among the various third party pipelines by means of adjustments in receipts of gas into and deliveries of gas from Pine Prairie's storage caverns. Pine Prairie asserts that it cannot use its pipeline facilities for any other purpose because the only receipt and delivery points will be the gas handling facility and the third party pipelines. Pine Prairie states that its facilities will include no end user connections or other market delivery points.

14. Pine Prairie held an open season from May 24 to June 25, 2004. During the open season, Pine Prairie states that it received "strong expressions of interest" on the part of electric utilities, local distribution companies, industrial customers and marketers, and LNG terminal developers in subscribing to the storage capacity. Pine Prairie also states that it continues to receive additional expressions of interest in storage capacity. Although the purpose of the open season was to gauge interest, Pine Prairie contends that potential customers submitted formal requests for service in excess of the 24 Bcf of proposed storage capacity.

B. Services and Rates

15. In Docket No. CP04-380-000, Pine Prairie requests a blanket certificate under Subpart G of Part 284 in order to provide firm storage and interruptible hub services.

16. Pine Prairie's proposed tariff includes two rate schedules for firm service: Rate Schedule FSS for firm storage service and Rate Schedule SFS for secondary firm service. Secondary firm storage service has priority over all interruptible services, but is subordinate in priority to firm storage service.

17. Pine Prairie also proposes to provide hub service on an interruptible basis. Specifically, Pine Prairie proposes to provide parking under Rate Schedule IP, loaning under Rate Schedule IL, wheeling under Rate Schedule IW, imbalance trading under Rate Schedule IBT, and balancing under Rate Schedule IB.

18. Pine Prairie requests authority to charge market based rates for its firm and secondary firm storage services and interruptible hub services, such as parking, loaning imbalance trading, balancing, and wheeling. To support its market-based rate proposal, Pine Prairie included in its application a market power analysis using the Gulf Coast region of East Texas, Louisiana, Mississippi, and Alabama.

19. Because it proposes to charge market based rates, Pine Prairie requests a waiver of the Commission's cost based regulations and the accounting and reporting requirements in Part 201 and section 260.2.

C. Subpart F Blanket Certificate

20. In Docket No. CP04-381-000, Pine Prairie requests authority for a blanket certificate under Subpart F of Part 157 in order to undertake certain routine construction, maintenance, and operational activities related to its proposals.

D. Justification for Proposals

21. Pine Prairie contends that its proposed high-deliverability storage project is designed to meet the needs of electric power generators, local distribution companies, industrial end users, energy marketers, LNG importers, and natural gas pipelines for storage and related services such as park and loan, imbalance trading, and wheeling. Pine Prairie points out that its project is near the Henry Hub, a major gas trading center; close to 10 interstate and intrastate pipelines; connected to six interstate pipelines; and close to several proposed LNG terminals. Pine Prairie contends that its proposals will help support the growing peak winter heating and summer cooling loads in the southeast and Mid-Atlantic regions and will enhance the ability to serve new gas-fired electric generation. Pine Prairie also contends that its proposals will permit gas suppliers, LNG marketers, gas marketers, and end users to address volatility in gas supply, gas demand and gas prices, and will increase the reliability and security of gas supplies.

III. Interventions

22. Notice of Pine Prairie's applications was published in the *Federal Register* on July 30, 2004 (69 Fed. Reg. 45697). Egan Hub Storage, LLC; Enstor Operating Company, LLC; Starks Gas Storage, LLC; and Texas Eastern filed timely, unopposed motions to intervene.⁶ In addition, Bob Manuel, Davis Manuel, and Bill Guidry of the Evangeline Parish Police Jury filed comments in support of Pine Prairie's application.

23. Transco filed an untimely motion to intervene, contending that the proposed interconnect with Pine Prairie is subject to the terms and conditions of section 20 of Transco's tariff. Transco has demonstrated an interest in this proceeding and has shown good cause for intervening out of time. Further, Transco's motion will not delay, disrupt, or otherwise prejudice this proceeding. Thus, Transco's untimely motion to intervene is granted.

⁶ Timely, unopposed motions to intervene are granted by operation of Rule 214.

IV. Discussion

24. Since the proposed facilities will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, the construction, acquisition, and operation of the facilities are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

A. Certificate Policy Statement

25. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new construction.⁷ The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explained that in deciding whether to authorize the construction of major new pipeline facilities, we balance the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

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

⁷ *Certification of New Interstate Natural Gas Pipeline Facilities* (Certificate Policy Statement), 88 FERC ¶ 61,227 (1999), *order clarifying statement of policy*, 90 FERC ¶ 61,128, *order further clarifying statement of policy*, 92 FERC ¶ 61,094 (2000).

27. The threshold requirement is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Pine Prairie is a new entrant into the natural gas storage market and has no existing customers. Thus, there will be no subsidization. Moreover, under its market-based rate proposal, Pine Prairie assumes the economic risks associated with the costs of the project's facilities to the extent that any capacity is unsubscribed. Thus, we find that Pine Prairie has satisfied the threshold requirement of the Certificate Policy Statement.

28. There will be no negative impact on existing services since Pine Prairie has no current customers. In addition, Pine Prairie's storage project will be located in a competitive market and will serve new demand in a region that is experiencing rapid growth in natural gas use. Pine Prairie's storage project will enhance storage options available to other pipelines and their customers. Also, no storage company in Pine Prairie's market area protested the application here. Thus, we conclude that Pine Prairie's storage proposals will have no adverse impact on existing pipelines or their captive customers.

29. Pine Prairie owns the land where it will construct the storage caverns, is negotiating the purchase of the land where the brine and raw water wells will be located, and already owns or will acquire all of the rights-of-way for the pipeline facilities it proposes to construct. In addition, Pine Prairie proposes to acquire existing non-jurisdictional lines to reduce pipeline construction and to reduce the need to establish new rights-of-way. Pine Prairie does not anticipate using eminent domain. There has been no landowner opposition to the proposals. For these reasons, we find that any adverse impacts on landowners and communities will be minimal.

30. The Energy Information Agency (EIA) projects that the demand for natural gas will increase by an average of 1.6 percent per year through 2020, primarily due to the growth in gas-fired electric generation facilities.⁸ The EIA also projects that the fastest growth will occur in the area where Pine Prairie's facilities will be located. In addition, numerous LNG facilities are proposed for the Gulf Coast region, which, if constructed, will lead to a significant increase in LNG imports. Moreover, Pine Prairie's proposed facilities will connect with six interstate pipelines. Thus, we find that Pine Prairie's proposals will further the development of the interstate natural gas infrastructure, since the proposals will serve a growing market for high-deliverability storage for gas-fired electric generation plants and LNG facilities. Based on the benefits Pine Prairie will

⁸ See EIA's *Annual Energy Outlook 2004 with Projections to 2025*.

provide to the market and the lack of any identified adverse effect on existing customers, other pipelines, landowners, or communities, we find, consistent with the Certificate Policy Statement and section 7 of the Natural Gas Act, that the public convenience and necessity requires approval of Pine Prairie's proposals.

B. Market Based Rates

31. 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.⁹ 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.¹⁰ We have also distinguished between production area storage facilities, such as Pine Prairie, and market area storage.¹¹ In general, market power in a production area is less of a concern due to the numerous alternative storage facilities.

32. Pine Prairie's market power analysis for the storage market defines the relevant product and geographic markets, measures market share and concentration, and evaluates other factors. For the purpose of its analysis, Pine Prairie identifies the relevant product market as firm and interruptible storage and hub services and the relevant geographic market as consisting of East Texas, Louisiana, Mississippi, and Alabama.

⁹ *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; *reh'g and clarification denied*, 75 FERC ¶ 61,024; *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).

¹⁰ *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) .

¹¹ *Steuben Gas Storage Company*, 72 FERC ¶ 61,102 (1995), *order on compliance filing, issuing certificates, and denying reh'g*, 74 FERC ¶ 61,024 (1996).

33. Pine Prairie's market power study identifies 23 alternative storage areas, affiliated with 11 separate entities, in the relevant market area.¹² The study finds that the current combined market working gas capacity of all the included facilities, including Pine Prairie, is 689.65 Bcf, with Pine Prairie controlling 24 Bcf, or three percent of the market. (Exhibit No. KAR-3) In addition, the study finds that Pine Prairie's 2.4 Bcf per day of peak deliverability will be 12 percent of total market peak deliverability of 19.6 Bcf per day. (Exhibit No. KAR-4) Thus, we find that Pine Prairie's aggregate share of the relevant market will be relatively small.

34. We use 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. Pine Prairie's market power analysis shows an HHI calculation of 1,562 for working gas capacity and an HHI calculation of 1,131 for peak day deliverability. These measures of market concentration are well below the Commission's threshold level of 1,800, indicating that Pine Prairie would be unable to exert market power in the relevant market area after the construction of its proposed storage facilities.

35. Pine Prairie lists 11 storage projects under development in East Texas, Louisiana, Mississippi, and Alabama. (Exhibit No. KAR-11) Pine Prairie contends that these projects, if built, will expand the current working gas capacity in the Gulf Coast region by 111.7 Bcf (or 16 percent) and expand peak day delivery by about 13.45 Bcf per day (or 69 percent). In addition, Pine Prairie lists four existing facilities within the market area that are expanding current working gas capacity and peak day deliverability. (Exhibit No. KAR-12) Further, Pine Prairie notes eight other storage facilities that offer some or all of the interruptible hub services proposed to be offered by Pine Prairie. (Exhibit No. KAR-10) In light of this information, we conclude that the barriers to entry to the storage and hub markets in the relevant market area are low.

36. Pine Prairie also presents a "bingo card" analysis showing interconnections between six delivering pipelines and six receiving pipelines, indicating that shippers can avoid Pine Prairie through the use of alternative routes. (Exhibit No. KAR-5) Pine

¹² Pine Prairie included only the storage facilities available to third parties in the study.

Prairie asserts that there will be 79 delivery points and 62 receipt points available to shippers among the various competing hubs and storage facilities in the market area. (Exhibit No. KAR-7)

37. In sum, we find that Pine Prairie'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 Pine Prairie's prospective market shares are low and that market area HHIs are below the threshold for further review. Thus, we conclude that Pine Prairie will lack market power. Further, Pine Prairie's proposal for market based rates is unopposed. For these reasons, we will approve Pine Prairie's request to charge market based rates for firm storage and interruptible hub services.

38. Nevertheless, Pine Prairie must notify the Commission if future circumstances significantly affect its present market power status. Thus, our approval of market based rates is subject to re-examination in the event that: (a) Pine Prairie adds storage capacity beyond the capacity authorized in this order; (b) an affiliate increases storage capacity; (c) an affiliate links storage facilities to Pine Prairie; or (d) Pine Prairie, or an affiliate, acquires an interest in, or is acquired by, an interstate pipeline connected to Pine Prairie. Since these circumstances could affect its market power status, Pine Prairie 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 Pine Prairie.¹³

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

C. Waivers

40. Because it proposes to charge market based rates, Pine Prairie 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) section 157.14(a)(10) (showing

¹³ *E.g., Copiah County Storage Company*, 99 FERC ¶ 61,316 (2002); *Egan Hub*, 99 FERC ¶ 61,269 (2002).

of accessible gas supplies); (4) the accounting and reporting requirements of Part 201 and section 260.2 relating to cost-of-service rate structure (Form 2A); (5) section 284.7(e) (reservation charge); and (6) section 284.10 (straight fixed-variable rate design methodology).

41. The cost-related information required by these regulations is not relevant in light of our approval of market based rates for Pine Prairie's storage services. Thus, consistent with our findings in previous orders, we will grant Pine Prairie's request for waivers.¹⁴ However, we will require Pine Prairie to maintain sufficient records consistent with the Uniform System of Accounts should the Commission require Pine Prairie to produce these reports in the future.

Pine Prairie's Proposed Tariff

42. Pine Prairie proposes to offer firm storage and interruptible hub 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 Pine Prairie's proposed tariff generally complies with Part 284 of the regulations. We will discuss below some of Pine Prairie's proposed tariff provisions.

43. Section 284.7(d) 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 shippers own use, or for the purpose of releasing that capacity to replacement shippers to the extent that segmentation is operationally feasible. Pine Prairie 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.

44. 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 other transportation services.¹⁵ Pine Prairie meets the requirements in *Clear Creek*. Thus, we hold that the requirements of section 284.7(d) do not apply to Pine

¹⁴ *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).

¹⁵ 96 FERC ¶ 61,071 (2001).

Prairie. 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 Pine Prairie.

45. Under section 5.1 of Pine Prairie's *pro forma* tariff, firm storage service under Rate Schedule FSS at primary receipt and delivery points, within daily contract demand, is scheduled first. After that, Pine Prairie schedules all other firm services, including firm storage service under Rate Schedule FSS at secondary receipt and delivery points, and all secondary firm storage service under Rate Schedule SFS. Section 5.3 of the *pro forma* tariff provides that Pine Prairie will interrupt service in the reverse order of section 5.1's scheduling priorities. In Order No. 636-B, however, we held that when the constraint develops after gas is scheduled, service to alternative firm delivery points should be considered as firm as service to primary firm delivery points, *i.e.*, once primary and secondary points have been scheduled, curtailment should treat such points on a *pro rata* basis.¹⁶ We have held that tariffs establishing curtailment of firm service in reverse order of scheduled service should be revised to conform to our policy on the curtailment of firm service.¹⁷ Thus, we will require Pine Prairie to revise its tariff to comply with Order No. 636-B no less than 30 days or more than 60 days prior to the commencement of operations.

46. Section 284.12(b)(2)(v) provides that pipelines may include in their tariff transportation penalties only to the extent necessary to prevent the impairment of reliable service and that pipelines may not retain penalty revenues, but must credit them to shippers net of cost. Rate Schedules FSS, SFS, IP, and IB allow Pine Prairie to retain gas improperly left in storage by customers under certain circumstances. In addition, section 33 of Pine Prairie's *pro forma* tariff provides for an auction of such retained gas and for the auction proceeds to be credited to all customers that did not have gas sold during the auction. 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.¹⁸ Thus, we will accept the proposed tariff provisions, including the proposal to credit net proceeds to non-offending shippers.

¹⁶ 61 FERC ¶ 61,272, at p. 62,013 (1992).

¹⁷ *Texas Eastern Transmission Company*, 103 FERC ¶ 61,278, at P 37 (2003).

¹⁸ 96 FERC ¶ 61,164 (2001).

47. Section 284.12(b)(2)(ii) requires pipelines to establish procedures permitting shippers and their agents to net imbalances across contracts and to trade imbalances with other shippers. Pine Prairie requests an exemption from the imbalance netting and trading requirements, asserting that its tariff does not contain imbalance penalty provisions. Since Pine Prairie is not authorized to assess imbalance penalties, we find that it qualifies for the requested exemption.¹⁹ Nevertheless, if it seeks to implement imbalance penalty provisions in the future, Pine Prairie must comply with Order No. 587-G.²⁰

48. Pine Prairie requests a waiver of the “shipper must hold title” policy for any off-system capacity it may need to obtain in order to provide storage services. Section 31 of its *pro forma* tariff provides that Pine Prairie will only transport gas for others using off-system capacity acquired from third parties under its open-access tariff and subject to the rates approved by the Commission. Section 31 of Pine Prairie’s tariff conforms to the Commission’s requirements.²¹ Thus, we will approve this tariff provision.

E. Transmission Provider Standards of Conduct

49. In Part 358 of the regulations, we adopted new standards of conduct to ensure that transmission providers cannot extend their market power over transmission by giving energy affiliates unduly preferential treatment.²² In Order No. 2004-A, we granted an exemption to independent storage service providers that are authorized to charge market based rates and are not interconnected with an affiliated transmission provider.²³

¹⁹ *Standards for Business Practices of Interstate Pipelines*, 92 FERC ¶ 61,266 (2000).

²⁰ Order No. 587-G, 63 *Fed. Reg.* 20072 (April 23, 1998), FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 ¶ 31,062 (April 16, 1998).

²¹ *Texas Eastern Transmission Corporation*, 95 FERC ¶ 61,056 (2001); *Texas Eastern Transmission Corporation*, 95 FERC ¶ 61,298 (2001).

²² *Standards of Conduct for Transmission Providers*, Order No. 2004, 68 *Fed. Reg.* 69,134 (December 11, 2003), III FERC Stats. & Regs. ¶ 31,155 (2003), *order on reh’g*, Order No. 2004-A, 69 *Fed. Reg.* 23,562 (April 29, 2004), III Stats. & Regs. ¶ 31,161 (2004).

²³ Order No. 2004-A at P 39.

50. Pine Prairie contends that it qualifies for the exemption in Order No. 2004-A because it is not interconnected with an affiliated interstate gas pipeline, has no exclusive franchise area, has no captive customers, and has no market power. Nevertheless, Pine Prairie included in section 22 of its tariff a statement that it will voluntarily comply with the provisions in Part 358. We will accept the language in section 22 of Pine Prairie's tariff that states it will comply with the provisions of Part 358.

F. Design Capacity

51. The caverns will be approximately 1,800 feet in height, 270 feet in diameter, and there will be 3,400 feet between the top of the cavern and the top of the salt mass. There will be a minimum of 527 feet between any cavern and approximately 300 feet between the caverns and the edge of the salt mass. Pine Prairie will drill four water wells to a depth of approximately 800 feet into the Evangeline aquifer to supply raw water for the leaching of the salt caverns.²⁴ Pine Prairie will also drill four injection wells in the Lower Miocene to Pleistocene age formations for disposal of the brine.

52. In section 7(c) cases, we review and approve the design capacity of a project to ensure that the design is appropriate and efficient. Here, we conclude that the design of Pine Prairie's storage facilities is appropriate, subject to the conditions in Ordering Paragraph (J).

G. Environmental Assessment

53. Our staff prepared an environmental assessment (EA) for Pine Prairie's proposals. The EA addresses geology, mineral resources, soils, water resources, vegetation, wildlife, federally listed threatened and endangered species, land use, cultural resources, air quality, noise quality, and project alternatives. Based on the discussion in the EA, we conclude that approval of Pine Prairie's proposals would not constitute a major federal action significantly affecting the quality of the human environment, if the project is constructed and operated in accordance with Pine Prairie's application and the environmental mitigation measures in the appendix to this order.

54. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. We encourage cooperation between interstate pipelines and local authorities. However, this

²⁴ Water from the Evangeline aquifer is not used for a potable water supply.

does not mean that state or local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.²⁵

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

H. Blanket Certificates

56. Pine Prairie requested authority for a Part 284, Subpart G, blanket certificate in order to provide open-access storage services. Under a Part 284 blanket certificate, Pine Prairie will not require individual authorizations to provide storage services to particular customers. Pine Prairie filed a *pro forma* Part 284 tariff to provide open-access storage services. Since a Part 284 blanket certificate is required for Pine Prairie to offer those storage services, we will grant Pine Prairie's request for a Part 284 blanket certificate, subject to the conditions imposed herein.

57. Pine Prairie requested authority for a Part 157, Subpart F, blanket certificate. A Subpart F blanket certificate accords a natural gas company section 7 authorizations automatically, or after prior notice, to construct certain eligible facilities and perform certain eligible activities. We will grant Pine Prairie's request for a Subpart F blanket certificate. However, Pine Prairie's blanket certificate shall not include automatic authorization to increase storage capacity. This restriction on Pine Prairie's Part 157 blanket certificate is based on the fact that Pine Prairie's storage cavern is a salt cavern in the initial stages of development for which future expansion will require re-evaluation of historical data and new engineering and geological data.

58. At a hearing held on November 18, 2004, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

²⁵ 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).

The Commission orders:

(A) In Docket No. CP04-379-000, a certificate of public convenience and necessity is issued to Pine Prairie authorizing it to construct and operate the storage facilities and to acquire, construct, and operate the associated pipeline facilities, as described more fully in this order and in the application.

(B) In Docket No. CP04-380-000, a blanket transportation certificate is issued to Pine Prairie under Subpart G of Part 284.

(C) In Docket No. CP04-381-000, a blanket construction certificate is issued to Pine Prairie under Subpart F of Part 157.

(D) The certificates issued in Ordering Paragraphs (A), (B), and (C) are conditioned upon Pine Prairie'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 (f) of section 157.20 of the regulations.

(E) Pine Prairie's request to charge market based rates for firm storage and interruptible hub services is approved, as conditioned in the body of this order.

(F) Pine Prairie's requests for waivers of the Commission's regulations are granted, as discussed in the body of this order.

(G) Pine Prairie shall submit actual tariff sheets that comply with the requirements contained in the body of this order no less than 30 days or more than 60 days prior to the commencement of operations.

(H) The certificates issued in Ordering Paragraphs (A), (B), and (C) are conditioned upon Pine Prairie's compliance with the environmental conditions set forth in the appendix to this order.

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

(J) The certificates issued to Pine Prairie are further conditioned on the following:

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

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

(K) Pine Prairie's facilities shall be constructed and made available for service within three years of the date of the order in this proceeding.

(L) Transco's untimely motion to intervene is granted.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

Appendix

Environmental Conditions for Pine Prairie's Project

1. Pine Prairie shall follow the construction procedures and mitigation measures described in its application and supplements and as identified in the EA, unless modified by this order. Pine Prairie must:
 - a. request any modifications to these procedures, measures, or conditions in a filing with the Secretary;
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegated authority to take whatever steps are necessary to insure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of this order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions, as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Pine Prairie shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspectors's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.

4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction,** Pine Prairie shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for the facility 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. Pine Prairie's exercise of eminent domain authority under section 7(h) of the Natural Gas Act in any condemnation proceedings related to this order must be consistent with those authorized facilities and locations. Pine Prairie's right of eminent domain under 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.

5. Pine Prairie shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, and documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director OEP **before construction** in or near that area.

This requirement does not apply to extra workspaces 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 adversely affect sensitive environmental areas.
6. Within 60 days of the acceptance of this certificate and **before construction begins**, Pine Prairie shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how Pine Prairie will implement the mitigation measures required by this order. Pine Prairie must file revisions to the plan as schedules change. The plan shall identify:
- a. how Pine Prairie will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - b. the number of environmental inspectors assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - c. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;
 - d. what training and instructions Pine Prairie will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
 - e. the company personnel (if known) and specific portion of Pine Prairie's organization having responsibility for compliance;
 - f. the procedures (including use of contract penalties) Pine Prairie will follow if noncompliance occurs; and
 - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (1) the completion of all required surveys and reports;
 - (2) the mitigation training of onsite personnel;
 - (3) the start of construction; and

(4) the start and completion of restoration.

7. Pine Prairie shall file updated status reports prepared by the environmental inspector with the Secretary on a bi-weekly 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(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
 - c. corrective actions implemented in response to all instances of noncompliance, and their cost;
 - d. the effectiveness of all corrective actions implemented;
 - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this order, and the measures taken to satisfy their concerns; and
 - f. copies of any correspondence received by Pine Prairie from other federal, state, or local permitting agencies concerning instances of noncompliance, and Pine Prairie's response.
8. Pine Prairie must receive written authorization from the Director of OEP **before commencing service** from the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way is proceeding satisfactorily.
9. **Within 30 days of placing the authorized facilities in service**, Pine Prairie 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 Pine Prairie has complied with or will comply with.
10. Pine Prairie shall limit right-of-way vegetation maintenance in wetlands to a corridor centered on the pipeline and up to ten feet wide, which may be maintained in an herbaceous state. Trees within 15 feet of the pipeline that are greater than 15 feet in height may be selectively cut and removed from the permanent right-of-way.
11. If a right-of-way greater than 75 feet is required in wetlands along the South Pipeline Corridor or the East Pipeline Lateral corridor, Pine Prairie shall justify the modification and file a site-specific construction plan with the Secretary for review and approval by the Director of OEP.
12. Pine Prairie shall not begin construction activities until:
 - a. the staff receives comments from the United States Fish and Wildlife Service (FWS) regarding the proposed action;
 - b. the staff completes formal consultation with the FWS, if required; and
 - c. Pine Prairie has received written notification from the Director of OEP that construction or use of mitigation may begin.
13. Construction and use of facilities and staging, storage, and temporary work areas and new or to-be-improved access roads shall be deferred until:
 - a. Pine Prairie files a revised cultural resources report, including maps and tables, which clearly indicate the areas inventoried and the areas not surveyed;
 - b. the comments of the State Historic Preservation Office on the revised cultural resources report are filed with the Secretary;
 - c. the Advisory Council on Historic Preservation has been given an opportunity to comment, if historic properties would be adversely affected by the project; and

- d. the Director of OEP reviews and approves all reports and plans, and notifies Pine Prairie in writing to implement treatment measures, or proceed with construction.

All material filed with the Commission containing location, character, and ownership information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: **“CONTAINS PRIVILEGED INFORMATION – DO NOT RELEASE.”**

14. Pine Prairie 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 facility at full load exceeds an Ldn of 55 dBA at any nearby noise sensitive areas, Pine Prairie shall install additional noise controls to meet that level within one year of the in-service date. Pine Prairie shall confirm compliance with the Ldn 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.