

121 FERC ¶ 61,285  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Monroe Gas Storage Company, LLC

Docket Nos. CP07-406-000,  
CP07-407-000,  
and CP07-408-000

ORDER ISSUING CERTIFICATES

(Issued December 21, 2007)

1. On June 26, 2007, Monroe Gas Storage Company, LLC (Monroe) filed applications under section 7(c) of the Natural Gas Act (NGA) requesting (1) a certificate under Subpart A of Part 157 of the Commission's regulations to construct and operate a high deliverability natural gas reservoir storage facility and related compression and appurtenant facilities in Monroe County, Mississippi; (2) a blanket certificate under Subpart F of Part 157 of the Commission's regulations to perform certain construction activities and operations; and (3) a blanket certificate under Subpart G of Part 284 of the Commission's regulations to provide open-access, non-discriminatory firm and interruptible natural gas storage and hub services. Monroe also requests authorization to charge market-based rates for its proposed services. We will grant the requested authorizations, as discussed and conditioned below.

**Proposal**

2. Monroe proposes to construct and operate a high-deliverability natural gas reservoir storage facility, related compression and pipeline facilities, and appurtenances in Monroe County, Mississippi and Lamar County, Alabama. The project would convert the Four Mile Creek Field -- a depleted natural gas production field originally developed by Grace Petroleum -- to a natural gas storage field. The field is located approximately 2.5 miles northeast of the City of Amory in Monroe County, Mississippi. The project would provide 12.08 Bcf working gas storage capacity and 10.96 Bcf of cushion gas, of which 4.46 Bcf would be injected cushion gas. The remainder of the cushion gas would be native gas. Monroe proposes to install storage facilities capable of receiving and injecting gas at maximum rates of 445 million cubic feet per day (MMcf/d) and withdrawing and delivering gas at maximum rates of 465 MMcf/d.

3. Monroe requests a certificate to (1) construct nine new natural gas injection/withdrawal wells; (2) convert five existing natural gas production wells to observation wells; (3) construct approximately two miles of 12- and 18-inch diameter

pipeline to interconnect injection/withdrawal wells; (4) construct an integrated compressor station/control facility with three 4,735 brake horsepower gas-fueled driven reciprocating compressors equipped with air intake filters/silencers, critical grade exhaust silencer/catalyst, a glycol dehydration system, control and safety systems, and associated facilities; (5) construct an approximately 5.7-mile long, 24-inch diameter lateral pipeline to interconnect the proposed compressor station with Texas Eastern Transmission Corporation (Texas Eastern) (the Texas Eastern lateral); (6) construct an approximately 17.2-mile long, 24-inch diameter lateral pipeline to interconnect the proposed compressor station with Tennessee Gas Pipeline Company (Tennessee) (the Tennessee lateral), including two isolation block valves within the pipeline right-of-way; and (7) construct two metering and regulation stations, one at each interconnection point of the Texas Eastern and Tennessee laterals with the Texas Eastern and Tennessee pipeline systems. Monroe proposes to develop the laterals in two phases, commencing with the Texas Eastern lateral and followed by, depending on market demand, the Tennessee lateral within two years.

4. Monroe is negotiating interconnection agreements with Texas Eastern and Tennessee and anticipates completing this process prior to Commission approval of the project. Monroe's website states that it will conduct an open season for the subject capacity from December 6, 2007 through December 20, 2007. Monroe states that it will notify the Commission of the results of its open season. Monroe requests a Part 284 blanket transportation certificate to provide firm and interruptible storage services, including parking and loan, wheeling<sup>1</sup> and balancing hub services. Monroe requests authorization to charge market-based rates for its proposed storage and hub services. To support its market-based rate proposal, Monroe has submitted, as Exhibit I to its application, a market power study, which is addressed below.

5. Monroe requests waivers of certain filing and other requirements, as described below, which Monroe considers inapplicable to its market-based rate proposal. Monroe also requests waiver of the Commission's regulations since it does not plan to interconnect with affiliated transmission providers. In addition, Monroe seeks a waiver of the Commission's shipper-must-have-title policy for any off-system capacity that Monroe may obtain in the future to provide storage or hub services.

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<sup>1</sup> Connections to both Texas Eastern and Tennessee are necessary in order to provide wheeling service. Wheeling service will not be offered when the project initially goes into service since the Texas Eastern and Tennessee laterals will be built in two phases, commencing with the construction of the Texas Eastern lateral and, depending on market demand, followed by construction of the Tennessee lateral.

6. Monroe also requests a blanket certificate under Part 157 of Subpart F to perform routine activities in connection with the construction, maintenance, and operation of the facilities it proposes to construct.

### **Notice and Interventions**

7. Notice of Monroe's application was published in the *Federal Register* on July 11, 2007.<sup>2</sup> Timely, unopposed motions to intervene were filed by Texas Eastern Transmission LP, Nettleton Fox Hunting and Fishing Association Inc., Tarpon Gas Storage LP, Pine Prairie Energy Center LLC, Tres Palacios Gas Storage LLC, Caledonia Energy Partners LLC, and PSEG Energy Resources & Trade LLC. These timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.<sup>3</sup> On August 1, 2007, BG Energy Merchants LLC filed an untimely motion to intervene. We will grant this motion, since to do so at this stage of the proceeding will not delay, disrupt, or otherwise prejudice the proceeding or other parties.<sup>4</sup>

### **Discussion**

8. Because Monroe proposes to construct and operate facilities that will be used to transport natural gas in interstate commerce, Monroe's proposal is subject to the jurisdiction of the Commission and the requirements of subsections (c) and (e) of NGA section 7. The Commission finds that the public interest will be served by this proposal because it will enable Monroe to provide additional supplies of natural gas to customers.

#### **A. Application of the Certificate Policy Statement**

9. The Commission's Certificate Policy Statement provides guidance as to how it will evaluate proposals for certificating new construction.<sup>5</sup> 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 explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement

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<sup>2</sup> 72 *Fed. Reg.* 37,752.

<sup>3</sup> 18 C.F.R. § 385.214(a)(3) (2007).

<sup>4</sup> 18 C.F.R. § 385.214(d) (2007).

<sup>5</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 at 61,748 (1999); *order on clarification*, 90 FERC ¶ 61,128 (2000); *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, and the avoidance of unnecessary exercise of eminent domain or other disruptions of the environment.

10. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to support the project financially without relying on subsidization from 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, the Commission 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 after a proposed project's benefits outweigh its adverse effects on economic interests will the Commission proceed to complete the environmental analysis, in which other interests are considered.

11. The Commission finds the public interest will be served by this proposal because it will enable Monroe to satisfy the growing demand for natural gas services in the northeast, southeast, and mid-continent areas of the United States by providing firm and interruptible storage of natural gas, particularly regasified liquefied natural gas (LNG) from new import terminals proposed in the Gulf Coast region. As stated, the threshold requirement is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. Monroe is a new entrant in the natural gas storage market and has no existing customers. Therefore, there will be no subsidization. Moreover, under its market-based rate proposal, Monroe assumes the economic risks associated with the costs of the project's facilities to the extent that any capacity is unsubscribed or revenues are not sufficient to recover costs. Thus, the Commission finds that Monroe has satisfied the threshold requirement of the Certificate Policy Statement.

12. The proposed Monroe Gas Storage Project will have no adverse impact on existing customers or services since Monroe has no current customers or services. The Commission is also satisfied that there will be no negative impact on existing storage providers or their captive customers. As discussed below, the proposed 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. The proposal will also enhance storage options available to pipelines and their customers and thus will increase competitive alternatives. Additionally, no storage company in Monroe's market area has protested Monroe's application. The project will also have minimal impact on landowners and surrounding communities. The project has been designed, to the extent practicable, to

utilize existing rights-of-way, locate gathering and lateral pipelines along communications, control and power lines, minimize long-term impacts to high quality environmental areas, including wetlands and waterbodies, and include natural buffers between the project and the public. The project is located in a sparsely populated, rural agricultural area on mostly farm arable or pasture land. Accordingly, consistent with the Certificate Policy Statement and NGA section 7, we find approval of Monroe's proposal to be required by the public convenience and necessity, subject to the conditions discussed below.

## **B. Storage and Hub Services and Rates**

13. Monroe proposes to provide firm storage services under its proposed Rate Schedule FSS and interruptible storage service under its proposed Rate Schedule ISS. Monroe also proposes to offer a variety of common interruptible hub services including a parking service under Rate Schedule IPS, a loan service under Rate Schedule ILS, a wheeling service under Rate Schedule IWS, an imbalance trading service under Rate Schedule IBTS and a balancing service under Rate Schedule IBS. Monroe states that the proposed rate schedules will allow its customers to customize their individual injection rates, withdrawal rates, and total inventory capacity based on their commercial and operational needs.

14. Monroe requests market-based rate authority for all of its proposed services. Monroe's market power study, prepared by Brown, Williams, Moorehead & Quinn (Brown & Williams), finds that Monroe's lack of market power in the provision of storage services extends to the provision of interruptible hub services. Monroe states that, except for wheeling services, the other hub services are derivative storage services, or, in other words, each of the services is a form of storage service. Monroe's study therefore concludes that if market-based rate authority is justified for Monroe's storage services, market-based rate authority is also justified for its non-wheeling hub services.

### **1. Market-Based Rates**

15. Generally, the Commission evaluates requests to charge market-based rates for storage under the analytical framework of its 1996 Alternative Rate Policy Statement.<sup>6</sup>

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<sup>6</sup> *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines*, 74 FERC ¶ 61,076; *reh'g denied*, 75 FERC ¶ 61,024 (1996), *petitions for review denied and dismissed sub nom.*, *Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998) (Alternative Rate Policy Statement), *criteria modified*, *Rate Regulation of Certain Natural Gas Storage Facilities*, 71 Fed. Reg. 36,612 (June 27, 2006), FERC Statutes and Regulations ¶31,220 (2006) (Order No. 678), *order on clarification and reh'g*, 117 FERC ¶61,190 (2006) (Order No. 678-A).

Under the Alternative Rate Policy Statement, the Commission will approve market-based rates for storage providers where the applicant has demonstrated it lacks market power or conditions significantly mitigate market power. The Commission has approved requests to charge market-based rates for storage services based on a finding that the proposed projects would not be able to exercise market power due to their small size, their anticipated share of the market, and the existence of numerous competitors.<sup>7</sup> It has also distinguished between production-area storage facilities and market-area storage.<sup>8</sup> In general, alternative storage facilities make market power in a production area less of a concern. Similarly, Monroe's location in the Gulf Coast region on the boundary of a production zone, with access to many different supplies, and a market zone with access to multiple market regions via five interstate and one intrastate pipeline, is within a highly competitive market.

## 2. Non-Wheeling Storage and Hub Services

16. Monroe's market power study for storage service defines the relevant product and geographic market, measures market share and concentration and evaluates other factors. For the purpose of its analysis, Monroe identifies the relevant product market as underground natural gas storage, for which the principal customer base is diversified and includes pipelines, large industrial end-users, electric generators, local distribution companies (through regional and interstate pipelines), gas marketers, users of regasified LNG and various large end users that will use the facility for cyclical, seasonal, and/or short-term storage. The relevant geographic market for the storage facility is the Gulf Coast production region, which is readily accessible to the interstate pipelines to be connected to the Monroe facility.

17. The Commission uses the Herfindahl Hirschman Index (HHI) test to determine market concentration for gas pipeline and storage markets. The Alternative Rate Policy Statement states that a low HHI – generally less than 1,800 – indicates that sellers cannot exert market power because customers have sufficiently diverse alternatives in the relevant market.<sup>9</sup> 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

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<sup>7</sup> *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).

<sup>8</sup> *Moss Bluff White Partners, L.P.*, 80 FERC ¶ 61,181 (1997); *Steuben Gas Storage Company*, 72 FERC ¶ 61,102 (1995), *order on compliance filing and denying reh'g*, 74 FERC ¶ 61,024 (1996).

<sup>9</sup> *See*, Order No. 678 at P 55 (noting that the 1,800 HHI threshold level is not changed by the Order).

about a seller's ability to exert market power. Monroe's market power study shows a market share of this region of approximately 1.35 percent for working gas and 1.48 percent for peak day deliverability. The HHI calculation is 780 for working gas capacity and 583 for peak day deliverability.<sup>10</sup> These measures of market concentration are well below the Commission's threshold level of 1,800, indicating that Monroe would be unable to exert market power in the relevant market area after the construction of its proposed storage facilities.

18. Monroe is a new market entrant with no existing jurisdictional or non-jurisdictional operations in the natural gas pipeline or storage industry. Monroe's market power study identifies 62 storage fields in operation in the Gulf Coast region which are owned or controlled by 32 independent corporate entities (including Monroe). The four largest entities each own about 11 percent of the total working gas capacity in the market and the eight largest entities hold 73.5 percent of the total working gas capacity in the market. The remaining 24 entities each hold 2.7 percent or less of the market.<sup>11</sup> Therefore, there are no dominant storage providers. The top four storage providers are about equal in size and over 25 percent of the market is served by very small storage providers. The study shows that the current combined market working gas capacity of all the facilities identified in Attachment 2, *Storage Fields in Operation in the Gulf Coast Production Area: HHI and Market Share*, is 873,749 MMcf without Monroe's proposed storage facilities and would be 885,749 MMcf including Monroe's proposed facilities, with Monroe controlling 12,000 MMcf, or 1.35 percent of the market. In addition, the study shows that Monroe's 465 MMcf/day of daily deliverability will be 1.48 percent of the total production area daily deliverability of 31,333 MMcf/day. Thus, Monroe's aggregate share of the relevant storage market will be relatively small.

19. The storage market power analysis provides data demonstrating the ease of entry into the Gulf Coast market, as evidenced by 19 storage projects in the Gulf Coast production area that have been certificated by the Commission since 2000 with 270,550 MMcf of working gas capacity and 20,760 MMcf/d of peak-day deliverability.<sup>12</sup> Fourteen of these projects were completed between 2000 and 2006, adding 154,950 MMcf of working gas capacity and 13,660 MMcf/d of daily deliverability to the market.<sup>13</sup> Removing this added working gas capacity and deliverability from the current levels, without Monroe, of 873,749 MMcf of working gas capacity and 30,868 MMcf of deliverability leaves 718,799 MMcf of working gas capacity and 17,208 MMcf/d of

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<sup>10</sup> See Attachment No. 2 to the market power study.

<sup>11</sup> *Id.*

<sup>12</sup> See Market Power Study, Attachment 3: Certificated Natural Gas Projects Since 2000 (Gulf Coast production area).

<sup>13</sup> See Market Power Study, Attachments 3 and 4.

deliverability in 2000. Therefore, completed new construction projects have expanded the market by 22 percent in working gas capacity and 79 percent in peak-day deliverability over the last six years.

20. In addition, there are twelve future storage projects in various stages of development in the Gulf Coast market. There are also five certificated storage projects that have not been completed, which represent 115,600 MMcf of working gas capacity and 7,100 MMcf/d of peak day deliverability. Furthermore, there are three storage projects pending Commission approval, which represent 57,540 MMcf of working gas capacity and 6,400 MMcf/d of peak-day deliverability. There are also four projects on the horizon, which represent 25,700 MMcf of working gas capacity and 2,535 MMcf/d of peak-day deliverability.<sup>14</sup>

21. The market power study shows that another relevant factor that limits the exercise of market power is non-storage alternatives, which are significant and were not included in the market share and HHI analysis in order to be conservative. The study points out that the Commission has recognized that LNG is a good alternative in a number of storage cases.<sup>15</sup> Attachment 5 shows that there are seventeen existing and proposed LNG facilities in the Gulf Coast production area with a regasification capacity of 32,500 MMcf/d. The Lake Charles LNG facility is in operation today with a regasification capacity of 2,100 MMcf/d. This capacity, if available, could provide all of Monroe's customers with the opportunity to avoid Monroe if it tried to raise prices above the competitive level. Attachment 5 also shows that if all of the planned LNG projects were constructed, an additional 30,400 MMcf/d of regasified capacity, or 2,736,000 MMcf<sup>16</sup> of working gas capacity, would be available. This would expand the 885,749 MMcf total working gas capacity of the Gulf Coast production area shown in Attachment 2 by 300 percent and Monroe's market share would drop from 1.35 percent to 0.33 percent. While it is unlikely that all this proposed gulf Coast LNG will be built, this example is illustrative of the potential alternatives to Monroe in an already highly competitive area.

22. In light of the above information, we conclude that the barriers to entry to the storage markets in the relevant market area are low. We further conclude that Monroe will have a small market share in its proposed market region and that it lacks storage and hub service market power.

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<sup>14</sup> See Market Power Study, Attachment 4.

<sup>15</sup> See *Mississippi Hub, L.L.C.*, 118 FERC ¶ 61,099 (2007); *Petal Gas Storage LLC*, 118 FERC ¶ 61,253 (2007); *WPS-ESI Gas Storage, L.L.C.* 108 FERC ¶ 61,061 (2004).

<sup>16</sup> 90 days x 30,400 MMcf/d = 2,736,000 MMcf.

### 3. Wheeling Service

23. The market power study asserts that interruptible wheeling services are a separate relevant product market since wheeling service is a transportation service which facilitates the transfer of gas from one interconnected pipeline to another and does not provide a storage function, as do the other hub services. As described above, two open-access, interstate pipelines will be connected to Monroe: Texas Eastern and Tennessee. Monroe will therefore be limited to transferring gas from Texas Eastern to Tennessee and from Tennessee to Texas Eastern.

24. The study uses the same relevant Gulf Coast production area geographic market for wheeling services as it did for storage and other hub services and identifies the pipeline interconnections and major hubs in the area that represent good alternatives to Monroe's wheeling service. The geographic market definition is conservative since it excludes market centers and hubs in west Texas, hubs that will soon enter the Gulf Coast production market but are not yet in operation, the Southeast Supply Header, LLC project and market centers or hubs that do not have at least one direct pipeline connection with Texas Eastern or Tennessee.

25. Brown & Williams performed market power analyses for Monroe's proposed interruptible hub wheeling service, a "bingo card" analysis on alternative pipeline interconnections and an analysis of hub competition.<sup>17</sup> This analysis only identifies direct pipeline interconnections that are good alternatives to Monroe's proposed wheeling service, in order to be conservative. Attachment 6 shows that there are ten bi-directional, direct pipeline interconnections between Texas Eastern and Tennessee. Attachment 7 consists of a matrix which summarizes the alternative bi-directional pipeline capacity for the ten potential direct pipeline interconnects that will compete with Monroe's wheeling service. Since only two pipelines, Texas Eastern and Tennessee, connect to Monroe, the bingo card is a 2x2 matrix and shows that the total capacity of the ten alternative pipeline interconnections is 1,460 MMcf. Since all ten interconnections are bi-directional, the same alternative capacity is available for each of Monroe's two wheeling services, from Texas Eastern to Tennessee and vice versa. Therefore, if Monroe were to attempt to raise the price of its wheeling service above the competitive level, its customers could avoid the price increase by potentially using one of the ten alternative pipeline interconnections. The alternative pipeline capacity is enough to replace all of Monroe's approximately 450 MMcf of receipt or delivery point capacity almost three times. Furthermore, since

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<sup>17</sup> A "bingo card" is a matrix of all possible interconnects for pipelines attached to a hub and indicates whether good alternatives exist.

Monroe is a new entrant, it will be forced to price its services at or below the alternative services in order to gain any customers. Based on the above, Monroe cannot exercise market power in providing interruptible wheeling service.

26. The bingo card analysis underestimates the degree of competition in the market since it does not consider competition from competing market centers or hubs. Attachment 8 shows the nine hubs that compete with Monroe in providing wheeling service. The total receipt capacity in the market is 13,071 MMcf/d and the total delivery capacity is 16,586 MMcf/d. Monroe's market share is 3.83 percent of receipt capacity and 3.01 percent of delivery capacity. This indicates that there are numerous good hub alternatives to Monroe's wheeling services. Therefore, the competition from hubs is sufficient to prevent Monroe from exercising market power acting alone.

27. BWMQ computed and analyzed the HHI for the Gulf Coast production area in order to evaluate the possibility that Monroe may attempt to act together with the hubs to exercise market power. As shown on Attachment 8, the HHI for receipt capacity is 1,254 and the HHI for delivery capacity is 1,123, which are both well below the 1,800 HHI threshold that would indicate a market power concern. Therefore, Monroe cannot exercise market power acting together with the Gulf Coast production area hub operators.

28. The Commission has determined that ease of entry into the production area can be shown by providing evidence that a large number of sellers are in the market.<sup>18</sup> Attachment 8 shows that Monroe must compete with nine existing hubs, with the largest hub holding a 19.74 percent share of the receipt capacity and the smallest hub holding a 4.59 percent share. The four top hubs account for 60.83 percent of receipt capacity, with each hub holding a market share of at least 12.25 percent. The remaining five alternative hubs hold market shares between 4.59 percent and 10.90 percent and Monroe will be the smallest hub with a 3.83 percent market share. The size distribution for receipt capacity suggests that entry is easy and that smaller hubs are competitive. The market structure for delivery capacity is more competitive, with the top four firms holding a combined delivery capacity market share of 53.19 percent and each firm holding at least an 11.76 percent market share. The top eight firms hold a combined delivery capacity market share of 90.75 percent and are roughly the same size, with each firm holding at least an 8.59 percent market share. Monroe's 3.01 percent delivery capacity market share is the smallest in the production area.

#### **4. Conclusion**

29. In sum, we find that Monroe's market power study demonstrates that its proposed storage facilities will be in a highly competitive production area where numerous storage

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<sup>18</sup> See *Egan Hub Partners, L.P.*, 95 FERC ¶ 61,395 (2001).

and interruptible hub service alternatives exist for potential customers. We also find that Monroe's prospective market shares for storage and hub services, including wheeling service, are low and that market area HHIs are mitigated by Monroe's small market share and the availability of competing services. Thus, we conclude that Monroe will lack market power. Further, Monroe's proposal for market-based rates is unopposed. For these reasons, we will approve Monroe's request to charge market-based rates for firm storage and interruptible hub services, including wheeling service.

30. Nevertheless, Monroe must notify the Commission if future circumstances significantly affect its present market power status. Thus, our approval of market-based rates for the indicated services is subject to re-examination in the event that:

(a) Monroe adds storage capacity beyond the capacity authorized in this order; (b) an affiliate increases storage capacity; (c) an affiliate links storage facilities to Monroe; or (d) Monroe, or an affiliate, acquires an interest in, or is acquired by, an interstate pipeline connected to Monroe. Since these circumstances could affect its market power status, Monroe 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 Monroe.<sup>19</sup> The Commission also reserves the right to require an updated market power analysis at any time.<sup>20</sup>

### **C. Waivers of Filing Requirements**

31. In light of its request for authority to charge market-based rates and the fact that Monroe has no pre-existing facilities, Monroe requests that the Commission waive sections 157.6(b)(8) and 157.20(c)(3) of the Commission's regulations. These sections require the submission of information necessary for the Commission to make an up-front determination of the appropriate rate treatment for Monroe's storage project, and require the filing of updated cost data after new facilities are placed into service.

32. Monroe also requests that the Commission waive the filing requirements of section 157.14(a)(13), (14), (16), and (17), which require Monroe to submit Exhibit K (Cost of Facilities), Exhibit L (Financing), Exhibit N (Revenues, Expenses, and Income), and Exhibit O (Depreciation and Depletion), since Monroe is seeking authority to charge market-based rate authority and these exhibits are required for cost-based rate authority.

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<sup>19</sup> See, e.g., *Copiah County Storage Company*, 99 FERC ¶ 61,316 (2002); *Egan Hub Partners, L.P.*, 99 FERC ¶ 61,269 (2002).

<sup>20</sup> See *Rendezvous Gas Services, L.L.C.*, 112 FERC ¶ 61,141 at P 40 (2005). We note that in Order No. 678 the Commission chose not to impose a requirement that storage providers granted market based rates file updated market power analysis every five years.

For the same reasons, Monroe requests waiver of the accounting and annual reporting requirements under Part 201 (accounting and reporting requirements of Uniform System of Accounts) and sections 260.1 and 260.2 (filing of annual reports in FERC Form Nos. 2 and 2-A) of the Commission's regulations.

33. Similarly, Monroe requests waiver of the requirement pertaining to straight fixed-variable rate design set forth in sections 284.7(e) and 284.10 of the Commission's regulations also as being inapplicable to market-based rates. Finally, Monroe requests waiver of the filing requirement contained in section 157.14(a)(10) to submit total gas supply data (Exhibit H), as being inapplicable to natural gas storage services. Monroe states that its customers will supply their own gas for storage.

34. The cost-related information required by the above-described regulations is not relevant in light of our approval of market-based rates for Monroe's storage and hub services, including wheeling service. Thus, consistent with our findings in previous orders,<sup>21</sup> we will grant Monroe's request for waiver of the regulations requiring cost-based related information. We will also grant a waiver of section 157.14(a)(10) requiring an applicant to submit gas supply data, which is inapplicable to storage operations.

35. In addition, the Commission grants the requested waiver of the requirement to file an annual report (Form Nos. 2 and 2-A), contained in sections 260.1 and 260.2 of the regulations, except for the information necessary for the Commission's assessment of annual charges.<sup>22</sup> Monroe is required to file pages 520 and 520A of Form No. 2-A, reporting the gas volume information which is the basis for imposing an Annual Charge Adjustment (ACA) charge.<sup>23</sup>

#### **D. Tariff Provisions**

36. Monroe proposes to offer firm and interruptible storage and interruptible hub services on an open-access basis under the terms and conditions set forth in the *pro forma*

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<sup>21</sup> See, e.g., *SG Resources Mississippi, L.L.C.*, 101 FERC ¶ 61,029 at P 26 (2002); *Egan Hub Partners, L.P.*, 95 FERC ¶ 61,395 at p. 62,473 (2001) and 99 FERC ¶ 61,269 at p. 62,142 (2002).

<sup>22</sup> However, we will require Monroe to maintain sufficient records of cost and revenue data consistent with the Uniform System of Accounts should the Commission require Monroe to produce this report in the future.

<sup>23</sup> See *Wyckoff Gas Storage Co., LLC*, 105 FERC ¶ 61,027 at P 65 (2003).

tariff attached as Exhibit P to the application. We find that Monroe's proposed tariff generally complies with Part 284 of the regulations; however, certain provisions are discussed further below.

### 1. Segmentation

37. Section 284.7(d) of the Commission's regulations provides that an interstate pipeline must permit a shipper to make use of the firm capacity for which the shipper has contracted by segmenting that capacity into separate parts for the shipper's own use, or for the purpose of releasing that capacity to replacement shippers to the extent that segmentation is operationally feasible. Monroe requests waiver of the Order No. 637 segmentation requirements in section 284.7(d), contending that segmentation is not feasible since it will not be offering stand-alone transportation services, but rather all transportation service will be provided as part of the storage/hub services offered.

38. We have found, in several proceedings, that the requirements of section 284.7(d) do not apply to pipelines engaged solely in natural gas storage that do not provide stand-alone transportation services.<sup>24</sup> Since Monroe is a storage facility, the requirements of section 284.7(d) do not apply to Monroe. Other tariff provisions related to segmentation, such as the allocation of primary point rights in segmented release and within-the-path scheduling, also do not apply to Monroe.

### 2. Acquisition of Off-System Capacity and Waiver of Shipper Must Have Title Policy

39. Monroe requests a waiver of the shipper-must-have-title policy for any off-system capacity it may acquire in the future to provide storage or hub services, to enable it to use that capacity to transport natural gas owned by other parties. Citing *SG Resources Mississippi, L.L.C. (SG Resources)*,<sup>25</sup> Monroe asks the Commission to accept its off-system capacity statement proposed in section 26 of the General Terms and Conditions (GT&C) of its pro forma tariff.<sup>26</sup> Section 26 states that Monroe will use such off-system capacity for operational reasons and will only provide service to customers on the acquired capacity pursuant to its open-access tariff and subject to its rates.

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<sup>24</sup> See, e.g., *Bobcat Gas Storage*, 116 FERC ¶ 61,052 at P 37 (2006); *Pine Prairie Energy Center, LLC*, 109 FERC ¶ 61,215 at P 44 (2004); *Egan Hub Partners, L.P.*, 98 FERC ¶ 61,284 (2002); *Clear Creek Gas Storage Company*, 96 FERC ¶ 61,071 (2001).

<sup>25</sup> See *SG Resources Mississippi, L.L.C.*, 101 FERC ¶ 61,029 at P 30-33 (2002).

<sup>26</sup> Original Pro Forma Sheet No. 191.

40. Monroe's off-system capacity statement implements the Commission's policy with respect to pipelines' acquisition of off-system capacity. In *Texas Eastern Transmission Corporation (TETCO)*,<sup>27</sup> the Commission found that pipelines no longer need to obtain prior approval to acquire capacity on another pipeline, provided the acquiring pipeline has filed tariff language specifying that it will only transport for others on off-system capacity pursuant to its tariff provisions and rates. Monroe's proposed tariff language is consistent with the requirements set forth in *TETCO*. Therefore, we accept Monroe's tariff language and grant waiver of the shipper must have title policy, with the following clarification. Because Monroe has proposed only to offer firm storage and interruptible hub services, and does not propose to offer any transportation services other than storage and hub services, Monroe may only use capacity obtained on other pipelines in order to render the services set forth in its tariff. That is, Monroe may not use capacity on other pipelines to transport gas which will not physically or contractually enter its storage facility unless and until it has received Commission authorization to provide such transportation services. Furthermore, Monroe's authorized use of the *Texas Eastern* waiver to provide storage service shall be limited to the geographic area covered by Monroe's market study.<sup>28</sup>

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

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

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

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<sup>27</sup> 93 FERC ¶ 61,273 (2000), *reh'g denied*, 94 FERC ¶ 61,139 (2001).

<sup>28</sup> *See Starks Gas Storage, L.L.C.*, 111 FERC ¶ 61,105 at P 55 (2005).

### 3. Unbundled Sales Services

43. Monroe requests a blanket certificate under Part 284, Subpart G of the Commission's regulations authorizing it to provide unbundled sales services on behalf of others with pre-granted authority to abandon such services. However, Monroe's pro forma tariff does not contain a proposed sales rate schedule. By operation of section 284.284(a) of the Commission's regulations, the issuance of Monroe's Part 284, subpart G blanket transportation certificate will automatically provide Monroe with Part 284, Subpart J blanket authority for unbundled sales.<sup>29</sup> If Monroe should propose to exercise this unbundled sales authority in the future by filing a proposed rate schedule for unbundled sales service, Monroe must also propose tariff provisions that comply with the standards of conduct for unbundled sales services set forth in sections 284.286 and 284.288 of the Commission's regulations.<sup>30</sup>

### 4. Creditworthiness

44. Section 2.3 of Monroe's proposed GT&C outlines the type of information that customers must supply to Monroe in order to establish creditworthiness.<sup>31</sup> Section 2.3 provides that upon notification by Monroe to the customer that it has failed to satisfy or no longer satisfies the credit criteria, the customer may still obtain credit approval if it elects to provide additional financial assurances in the form of a prepayment, a standby irrevocable letter of credit, a guarantee by a third party with an acceptable credit rating, or other forms of mutually acceptable forms of security, as detailed in the tariff provision.

45. Pursuant to Part 284 of its regulations, the Commission issued a Policy Statement setting forth its approach to credit issues relating to transportation on natural gas pipelines.<sup>32</sup> In the Policy Statement, we stated that pipelines must establish and use

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<sup>29</sup> Section 284.284(a) reads as follows: "*Authorization.* An interstate pipeline that offers transportation service under subpart B or G of this part is granted a blanket certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act authorizing it to provide unbundled firm or interruptible sales in accordance with the provisions of this section."

<sup>30</sup> We note that section 284.286(c) provides that a pipeline making unbundled sales under Part 284, Subpart J also must comply with the standards of conduct set forth in Part 358.

<sup>31</sup> Original Pro Forma Sheet Nos. 110-118.

<sup>32</sup> See *Creditworthiness Standards for Interstate Natural Gas Pipelines*, 111 FERC ¶ 61,412 (2005).

objective criteria for determining creditworthiness.<sup>33</sup> Monroe appears to have outlined the information that needs to be supplied and the criteria for creditworthiness, as discussed above. However, other requirements set out by the Policy Statement have not been met.

46. It is not clear whether Monroe has incorporated certain creditworthiness standards into its pro forma tariff. In accordance with the Commission's Policy Statement and consistent with Order No. 587-S, Monroe is directed to either revise its tariff provisions to incorporate creditworthiness standards 0.3.3 through 0.3.10 or to state the location of these standards in its tariff. In so doing, Monroe may either incorporate the aforementioned standards by reference or verbatim, but not both, in its tariff.

47. Furthermore, it is not clear how or when Monroe intends to communicate its initial determinations on creditworthiness to shippers under section 2.3, and whether it will specify the reasons for any denial of creditworthiness in such communication. In the Policy Statement, we held that if a service provider finds a shipper to be uncreditworthy, it should promptly inform the shipper in writing of the reasons for that determination, so that the shipper can evaluate and challenge the determination.<sup>34</sup> In *Natural Gas Pipeline Company of America*, we also required that the written communication be made within 10 days of the determination, and that the shipper be provided recourse to challenge the finding.<sup>35</sup> Monroe is directed to revise section 2.3 to clarify how and when it intends to communicate its initial creditworthiness determinations, and that it will include the reasons for denial in such communications.

48. Moreover, section 2.3 provides that if a customer obtains credit approval by providing a prepayment and subsequently satisfies the credit criteria, Monroe will return to the customer an advance deposit plus interest less costs incurred by Monroe. In accordance with our holding in the Policy Statement,<sup>36</sup> Monroe's shippers that opt to pay collateral as financial assurance under section 2.3 must have an opportunity to earn interest on such prepayments either by Monroe paying the interest itself at the Commission's interest rate, or by the shipper designating an interest-bearing escrow account to which Monroe may have access for payments for services provided if needed. Under either option, Monroe could retrieve any interest that accrued on the principal

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<sup>33</sup> *Id.* at P 10.

<sup>34</sup> See 111 FERC ¶ 61,412 at P 10 (2005).

<sup>35</sup> 106 FERC ¶ 61,175 at P 89 (2004).

<sup>36</sup> See *Creditworthiness Standards for Interstate Natural Gas Pipelines*, 111 FERC ¶ 61,412 at P 22 (2005).

amount. If Monroe holds the collateral, the applicable interest rate will be at least the same rate that Monroe earns.<sup>37</sup> Moreover, in such situations, the Commission will require that Monroe be responsible for any expenses related to the maintenance of this escrow account. Therefore, we direct Monroe to clarify its tariff accordingly. We also direct Monroe to clarify in its tariff that such advance payments are considered collateral held for security and not prepayments for services.<sup>38</sup>

## 5. Transmission Provider Standards of Conduct

49. Monroe requests waiver of the requirements set forth in Part 358 of the Commission's regulations. In Part 358 of its regulations, the Commission adopted new standards of conduct to ensure that transmission providers cannot extend their market power over transmission by giving energy affiliates unduly preferential treatment.<sup>39</sup> As set forth in section 358(a)(3) of the Commission's regulations, the Commission, in Order No. 2004-A, granted a request "to generically exempt from the definition of "Transmission Provider" natural gas storage providers authorized to charge market-based rates that are not interconnected with the jurisdictional facilities of any affiliated interstate natural gas pipeline, have no exclusive franchise area, no captive ratepayers and no market power."

50. Monroe states that it does not plan to interconnect with affiliated "Transmission Providers." As a result, Monroe states that it qualifies for the exemption granted to natural gas storage providers.

51. The Commission grants Monroe's request for waiver of the requirements set forth in section 358(a)(3) of the Commission's regulations since Monroe is not proposing herein to provide general unbundled sales under a sales rate schedule and has no interconnections with any affiliated pipelines, no captive ratepayers, no exclusive franchise area, and no market power. If circumstances change and Monroe no longer

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<sup>37</sup> Monroe will have the option, but is not required to, pay a higher interest rate if it chooses.

<sup>38</sup> See *Tennessee Natural Gas Pipeline Co.*, 105 FERC ¶ 61,120 at PP 17-24 (2003).

<sup>39</sup> *Standards of Conduct for Transmission Providers*, Order No. 2004, 68 Fed. Reg. 69,134 (December 11, 2003), FERC Stats. & Regs. ¶ 31, 155 (2003), *order on reh'g*, Order No. 2004-A, 69 Fed. Reg. 23,562 (April 29, 2004), Stats. & Regs. ¶ 31,161 (2004).

meets the requirements for the independent storage provider exemption of the Standards of Conduct, Monroe must notify the Commission within ten days of acquiring knowledge of any such changes.

52. If Monroe should propose to provide a general unbundled sales service under a sales rate schedule, it will have to make such sales under Part 284, Subpart J of the Commission's regulations. The requirements under Subpart J include standards of conduct for unbundled sales services under section 284.286. In particular, section 284.286(c) states that, if a pipeline makes sales of gas, its unbundled sales operating employees shall be deemed to be a marketing affiliate for purposes of Part 358's standard of conduct requirements. Thus, section 284.286(c) would make Monroe subject to Part 358 of the regulations and Monroe will have to explain, as part of its filing to provide a general unbundled sales service, why continuation of its exemption from Part 358 is justified.

## 6. NAESB Standards

53. The Commission has adopted in Part 284 of its regulations various standards for conducting business practices and electronic communication with interstate pipelines as promulgated by the North American Energy Standards Board (NAESB).<sup>40</sup> These standards govern nominations, allocations, balancing measurement, invoicing, capacity release, and mechanisms for electronic communication between pipelines and those with whom they do business. Monroe's *pro forma* tariff is consistent with Order Nos. 636 and 637, and with Version 1.7 of the NAESB Standards,<sup>41</sup> the latest version of the standards adopted by the Commission.<sup>42</sup>

54. However, Monroe requests a limited waiver in the form of an extension of time to comply with the Commission's regulations which require interstate pipelines to comply with the NAESB Standards related to Electronic Data Interchange/Electronic Delivery Mechanism (EDI/EDM) and Flat File/Electronic Delivery Mechanism (FF/EDM) so as to allow Monroe to postpone implementation until 90 days following receipt by Monroe of a request to send information via EDI/EDM. Monroe states that its Internet website will include postings of capacity release information that the Commission requires to be available to the public and will comply with the NAESB Internet-based Electronic

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<sup>40</sup> NAESB was formerly called the Gas Industry Standards Board (GISB).

<sup>41</sup> Section 15 of the GT&C of its *pro forma* tariff adopts Version 1.7 of the NAESB standards. *See* Original Pro Forma Sheet Nos. 178 and 179.

<sup>42</sup> *See Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587-S, FERC Stats. & Regs. ¶ 31,179 (2005).

Delivery Mechanism (EBB/EDM). Monroe states that it has not received any requests to send information via EDI/EDM and does not expect any such requests in the foreseeable future.

55. Consistent with Commission precedent,<sup>43</sup> we will grant Monroe's request for an exemption of the EDI standards, but will require Monroe to implement those standards within 90 days following the receipt of such a request.

## **7. Gas Retention Penalty Provision**

56. Rate Schedules FSS, ISS, IPS, and IBS allow Monroe to retain gas improperly left in storage by customers under certain circumstances. In addition, section 28 of the GT&C 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. Monroe requests that the Commission find its proposed gas retention penalties and crediting mechanism to be reasonable and consistent with Order 637, stating that Order No. 637 provides that a pipeline may include transportation penalties in its tariff only to the extent necessary to prevent the impairment of reliable service.

57. The Commission has found gas retention penalties to be appropriate and consistent with the mandates of Order No. 637 as a deterrent to customer behavior that could threaten the system or degrade service to firm customers.<sup>44</sup> The Commission, however, has required that the value of such gas retained, net of costs, be credited to the natural gas company's customers pursuant to the penalty revenue crediting requirements of Order No. 637.<sup>45</sup> Furthermore, section 284.12(b)(2)(v) of the Commission's regulations 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.

58. Monroe's pro forma FERC gas tariff includes provisions for Monroe to retain gas improperly left in storage by its customers in certain circumstances and Monroe has included provisions for crediting to its customers the value of such retained gas.

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<sup>43</sup> See *MoBay Storage Hub, Inc.*, 117 FERC ¶ 61,298 at P 44 (2006); *Unocal Windy Hill Gas Storage, LLC*, 115 FERC ¶ 61,218 at P 48 (2006); *Rendezvous Gas Services, L.L.C.*, 112 FERC ¶ 61,141 (2005), *Saltville Gas Storage Co. LLC*, 109 FERC ¶ 61,200 (2004); *Missouri Interstate Gas, LLC*, 102 FERC ¶ 61,172 (2003).

<sup>44</sup> See *Pine Prairie*, 109 FERC ¶ 61,215 at P 46 (2004); *Blue Lake Gas Storage Co.*, 96 FERC ¶ 61,164 (2001).

<sup>45</sup> See *Ozark Gas Transmission, L.L.C.*, 96 FERC ¶ 61,160 (2001).

Therefore, the Commission finds that Monroe's proposed penalties and crediting mechanism are consistent with Order No. 637 and section 284.12(b)(2)(v) of the Commission's regulations.

## **8. Imbalance Netting and Trading Services**

59. Monroe requests that the Commission grant a waiver of the requirement set forth in Order Nos. 587-G and 587-L regarding netting and trading of imbalances. Section 284.12(b)(2)(iii) of the Commission's regulations requires that a pipeline with imbalance penalty provisions in its tariff must provide, to the extent operationally practicable, parking and lending or other services that permit its shippers to manage transportation imbalances. Orders 587-G and 587-L adopt the NAESB standards related to that section of the Commission's regulations.

60. Monroe's pro forma FERC gas tariff does not include imbalance penalties. In Order No. 637-A, the Commission stated that if a pipeline has no authority to assess penalties for imbalances, there is no need to require the pipeline to offer such imbalance services. Nevertheless, Monroe proposes to provide a variety of services its customers will be able to use for imbalance management, including parking, loaning, balancing and imbalance trading. Therefore, although it is not subject to the imbalance management requirements of Order No. 637-A, Monroe states that its pro forma FERC gas tariff would fully meet such requirements. Also, because Monroe's pro forma FERC gas tariff does not include imbalance penalty provisions, Monroe requests that it be granted an exemption from compliance with Order Nos. 587-G and 587-L regarding netting and trading of imbalances.

61. Since Monroe's proposed tariff has no imbalance penalties, the Commission grants Monroe waiver of the netting and trading imbalance requirements.

## **9. Negotiated Right of First Refusal**

62. Monroe requests Commission authorization to negotiate a right of first refusal ("ROFR") with its customers, on a not unduly discriminatory basis. Section 284.221(d)(2) of the Commission's regulations provides a ROFR only to customers paying maximum rates for a term of one year or more. In Order No. 637, the Commission explained that limiting the "regulatory ROFR" only to customers paying the maximum rate is consistent with the original purpose of the right of first refusal to "protect[s] long-term captive customers from the pipeline's monopoly power."

63. Monroe states that, to the extent that an entity has Commission authorization to charge market based rates for services, none of its customers would technically be paying a "maximum" rate. Monroe asserts that none of the policy reasons for a "regulatory ROFR" apply to a new market entrant with market-based rate authorization, like Monroe,

that does not have market power or captive customers. Monroe asserts that, although “regulatory ROFRs” are not required, the Commission has held that entities may contractually negotiate ROFR provisions with their customers and has recently accepted the negotiated ROFR provision in the tariff of a gas storage provider with market based rate authority.<sup>46</sup>

64. Section 7 of Rate Schedule FSS contains Monroe’s proposed ROFR provisions.<sup>47</sup> However, section 7 does not contain language stating that Monroe will negotiate ROFR provisions on a not unduly discriminatory basis. The Commission will accept Monroe’s proposal to negotiate ROFR provisions with its customers, subject to the following condition: Monroe is directed to file revised tariff sheets to modify section 7 of Rate Schedule FSS to indicate that Monroe will negotiate ROFR provisions with its customers on a not unduly discriminatory basis.

#### **10. Lien on Gas Held in Facilities**

65. Monroe included provisions in its pro forma tariff<sup>48</sup> to establish a lien or interest on gas held by Monroe in its facilities in accordance with state law. The Commission has held in prior proceedings that companies may assert liens or interest on gas held in their systems.<sup>49</sup> The proposal to establish a lien is in accordance with Commission precedent and the Commission therefore accepts Monroe’s proposal.

#### **E. Engineering**

66. The Commission’s staff prepared an engineering analysis for Monroe's proposal. Based on that analysis, we conclude that, if constructed in accordance with Monroe's application and implementation of the measures described in Appendix A to this order, the proposed storage facility is technically sound and well defined.

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<sup>46</sup> See *Unocal Windy Hill Gas Storage, LLC*, 115 FERC ¶ 61,218 at P 50 (2006).

<sup>47</sup> See Original Pro Forma Sheet Nos. 25 and 26.

<sup>48</sup> See section 8 of Rate Schedules FSS and ISS and section 10 of the Form of Service Agreement for Hub Services (Applicable to Rate Schedules IPS, ILS, IWS, IBTS and IBS).

<sup>49</sup> See *Starks Gas Storage LLC*, 111 FERC ¶ 61,105 at P 82 (2005); *Tennessee Gas Pipeline Co.* 103 FERC ¶ 61,275 (2003), *reh’g denied*, 105 FERC ¶ 61,120 (2003).

## **F. Environment**

67. On July 23, 2007, we issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Monroe Gas Storage Project and Request for Comments on Environmental Issues (NOI). We received no responses to the NOI. Our staff prepared an environmental assessment (EA) for Monroe's proposal. The EA addresses Purpose and Need; Construction, Operation, and Maintenance Procedures; Land Requirements; Permits; Water Resources and Wetlands; Vegetation; Threatened and Endangered Species; Wildlife; Soils; Land Use; Cultural Resources; Air and Noise Quality; Reliability and Safety; and Alternatives. The Alabama Department of Conservation and Natural Resources was a State Cooperating Agency involved in the review of the EA to assist the identification of potential impacts and mitigation measures.

68. Based on the discussion in the EA, we conclude that if constructed in accordance with Monroe's application and supplements filed June 26, 2007, and implementation of the mitigation measures described in Appendix B to this order, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

69. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages state or local cooperation between interstate pipelines and local authorities; this does not mean, however, that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>50</sup> Any permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. Monroe shall notify the Commission's environmental staff by telephone, e-mail or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Monroe. Monroe shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

## **G. Blanket Certificates**

70. In Docket No. CP07-407-000, Monroe has applied for a Part 157, subpart F blanket certificate. The subpart F blanket certificate gives a natural gas company Section 7 authority to automatically, or after prior notice, perform certain activities related to the construction, acquisition, abandonment, and replacement and operation of pipeline

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<sup>50</sup>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.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

facilities. Because Monroe will become an interstate pipeline with the issuance of a certificate to construct and operate the subject facilities we will issue the requested Part 157, subpart F blanket certificate.

71. In Docket No. CP07-408-000, Monroe requests a Part 284, subpart G blanket certificate in order to provide open-access storage, hub and wheeling services. Under a part 284 blanket certificate, Monroe will not require individual authorizations to provide services to particular customers. Monroe filed a pro forma Part 284 tariff to provide its open-access services. Since a Part 284 blanket certificate is required for Monroe to offer these services, we will grant Monroe a Part 284 blanket certificate, subject to the conditions imposed herein.

#### **H. Conclusion**

72. For the reasons set forth herein, and subject to the conditions set forth below, we find that granting authorization under section 7(c) of the NGA for Monroe's proposal is required by the public convenience and necessity. Thus, we grant the requested authorizations to Monroe.

73. At a hearing held on December 20, 2007, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, as supplemented, submitted in support of the authorizations sought herein, and upon consideration of the record,

#### **The Commission orders:**

(A) In Docket No. CP07-406-000, a certificate of public convenience and necessity is issued to Monroe under NGA section 7(c), authorizing the construction and operation of natural gas facilities in Monroe County, Mississippi and Lamar County, Alabama, described in this order and in the application.

(B) In Docket No. CP07-407-000, a blanket certificate under subpart F of Part 157 of the Commission's regulations is issued to Monroe, authorizing it construct and operate certain facilities, as defined in and under the terms and conditions of that section.

(C) In Docket No. CP07-408-000, a blanket certificate under Part 284 of the Commission's regulations is issued to Monroe authorizing it to provide open-access transportation and storage services.

(D) The authorizations in the above paragraphs are conditioned on Monroe:

- (1) complying with the conditions set forth in Appendices A and B to this order and all regulations under the NGA, except for the waivers

granted herein, including, but not limited to Parts 154, 157, and 284, and paragraphs(a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and

- (2) Monroe's constructing and making available for service the facilities described herein, within two years in accordance with section 157.20(b) of the Commission's regulations.

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

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

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

(H) Monroe shall file revised tariff sheets that comply with the requirements contained in the body of this order not more than 60 days nor less than 30 days prior to commencement of service.

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

(J) As discussed in detail herein, Monroe is granted waiver of section 157.14 of the Commission's regulations requiring submission of Exhibits K, L, N, and O and the accounting and reporting requirements under the applicable portions of Parts 201 and 260 of the Commission's regulations, which presume cost-based rates are being charged and collected; the waiver, however, does not extend to the Commission's assessment of annual charges, and Monroe is required to maintain records to separately identify the original cost and related depreciation on its storage gas facilities, to file pages 520 of

Form 2 or Form 2-A, respectively, for calculation of the ACA and to maintain accounts and financial information of its storage facility consistent with generally accepted accounting principles.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

**APPENDIX A**

This authorization includes the following conditions:

1. The total maximum gas storage inventory stored in the Four Mile Creek field shall not exceed 23.04 billion standard cubic feet (Bcf) at 14.73 pounds per square inch absolute (psia) and 60°F without prior Commission authorization. The maximum gas storage shut-in stabilized bottomhole pressure shall not exceed 1,200 psia.
2. Monroe shall operate the Four Mile Creek field in such manner as to prevent/minimize gas loss or migration.
3. Monroe shall periodically conduct an inventory verification study on the field.
4. Monroe shall submit semiannual reports (to coincide with the termination of the injection and withdrawal cycles) containing the following information (volumes shall be stated at 14.73 psia and 60 degrees Fahrenheit and pressures shall be stated in psia):
  - (a) The daily volumes of natural gas injected into and withdrawn from each side of the reservoir.
  - (b) The volume of natural gas in the reservoir at the end of the reporting period.
  - (c) The maximum daily injection and withdrawal rates experienced during the reporting period, and the average working pressure on such maximum days taken at a central measuring point where the total volume injected or withdrawn is measured.
  - (d) Results of any tracer program by which the leakage of injected gas may be determined. If leakage of gas exists, the report should show the estimated total volume of gas leakage, the volume of recycled gas, and the estimated remaining inventory of gas in the reservoir at the end of the reporting period.
  - (e) Any surveys of pressures in gas wells, and the results of back-pressure tests conducted during the reporting period.
  - (f) The latest revised structural and isopach maps showing the locations of the wells and the location of the gas-water contact. These maps need not be filed if there is no material change from the maps previously filed.
  - (g) A summary of wells drilled, worked over, or recompleted during the reporting period, indicating the subsea depth of formation and casing settings, as well as summary reports of any new core analyses, back-pressure tests, or well log analyses.
  - (h) Discussion of current operating problems and conclusions.

- (i) Such other data or reports which may aid the Commission in the evaluation of the storage project.
5. Reports shall continue to be filed semiannually until the storage inventory volume and pressure have reached or closely approximate the maximum permitted in the Commission's Order. Thereafter, the reports shall continue on a semiannual basis for a period of one year.

**APPENDIX B**

As recommended in the EA, this authorization includes the following condition(s):

1. Monroe shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA unless modified by this Order. Monroe must:
  - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
  - b. justify each modification relative to site-specific conditions;
  - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
  - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the Project. This authority shall allow:
  - a. the modification of conditions of this Order; and
  - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction,** Monroe shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel would be informed of the EI's authority and have been or would be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction,** Monroe shall file with the Secretary revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by this Order. All requests for modifications of environmental conditions of this Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets. Monroe's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to this Order must be

consistent with these authorized facilities and locations. Monroe's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipeline to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

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

This requirement does not apply to extra workspace allowed by the *Upland Erosion Control, Revegetation, and Maintenance Plan*, minor field realignments per landowner needs and requirements that do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
  - b. implementation of endangered, threatened, or special concern species mitigation measures;
  - c. recommendations by state regulatory authorities; and
  - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of this certificate and before construction begins**, Monroe shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how Monroe will implement the mitigation measures required by this Order. Monroe must file revisions to the plan as schedules change. The plan shall identify:
    - a. how Monroe 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 EIs assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - c. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
  - d. the training and instructions Monroe 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 Monroe 's organization having responsibility for compliance;
  - f. the procedures (including use of contract penalties) Monroe will follow if noncompliance occurs; and
  - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - i. the completion of all required surveys and reports;
    - ii. the mitigation training of onsite personnel;
    - iii. the start of construction; and
    - iv. the start and completion of restoration.
7. Monroe shall employ at least one EI for the project. The EI(s) shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by this Order and other grants, permits, certificates, or other authorizing documents;
  - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract and any other authorizing document;
  - c. empowered to order correction of acts that violate the environmental conditions of this Order, and any other authorizing document;
  - d. responsible for documenting compliance with the environmental conditions of this Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
  - e. responsible for maintaining status reports.
8. Monroe shall file updated status reports prepared by the EI with the Secretary on a biweekly basis until all construction and restoration activities are complete. On request, these status reports would also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. 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 EI(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
  - 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 Monroe from other federal, state or local permitting agencies concerning instances of noncompliance, and Monroe's response.
9. Monroe must receive written authorization from the Director of the OEP before commencing service from the project. Such authorization will only be granted following a determination that facilities have been constructed in accordance with FERC approval and applicable standards, and rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
10. **Within 30 days of placing the certificated facilities in service**, Monroe 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 would be consistent with all applicable conditions; and
  - b. identifying which of the certificate conditions Monroe has complied with or would comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. **Prior to construction**, Monroe shall file with the Secretary its final Spill Prevention, Containment, and Countermeasure Plan, Erosion and Sedimentation Control Plan, Emergency Response Plan, and Security Plan.
12. **Prior to construction**, Monroe shall file with the Secretary its final U.S. Army Corps of Engineers approved compensatory wetlands mitigation plan.
13. **Prior to construction**, Monroe shall complete consultation with the Mississippi Natural Heritage Program regarding surface water withdrawals, provide copies of any correspondences, and responses to recommendations.

14. Monroe shall defer implementation of any treatment plans/mitigation measures (including archaeological data recovery), construction of facilities and use of all staging, storage or temporary work areas and new or to-be-improved access roads until:
  - a. Monroe files with the Secretary cultural resources survey and evaluation reports, any necessary treatment plans and the Alabama and Mississippi State Historic Preservation Officer's comments on the reports and plans; and
  - b. The Director of OEP reviews and approves all cultural resources survey reports and plans and notifies Monroe in writing that treatment plans/procedures may be implemented and/or construction may proceed.

All material filed with the Secretary 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.”**

15. Prior to the start of construction, MSGC shall file with the Secretary, for review approval by the Director of OEP, a noise analysis for the HDD entry and exit locations. This analysis should identify the finalized location of the HDD entry and exit locations on a topographic map and all NSAs within one half mile of the entry or exit location, the estimated length of time for completion of drilling work at the HDD site, whether drilling would be done 24-hours per day, the distance and direction of the closest NSAs, the ambient noise and the estimated noise impact at the NSAs at each location along with all noise mitigation which MSGC would implement during drilling activity to reduce noise at the NSAs as follows: During HDD operations MSGC should monitor noise and make all reasonable efforts to restrict noise increases from HDD operations to no more than 10 dBA above ambient if the resulting impact is above 55 dBA.
16. Monroe shall file noise surveys with the Secretary no later than 60 days after placing the Monroe Compressor Station in service. If the noise attributable to the operation of the equipment at the Monroe Compressor Station at full load exceeds an  $L_{dn}$  of 55 dBA at any nearby NSAs, Monroe shall file a report on what changes are needed and shall install the additional noise controls to meet the level within 1 year of the in-service date. Monroe shall confirm compliance with the above requirement by filing a second noise survey with the Secretary no later than 60 days after it installs the additional noise controls.