

121 FERC ¶ 61,272
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.

Copiah Storage, LLC

Docket No. CP02-25-001

ORDER AMENDING CERTIFICATE

(Issued December 20, 2007)

1. On March 29, 2007, Copiah Storage, LLC¹ (Copiah) filed an application under section 7(c) of the Natural Gas Act (NGA) to amend the certificate of public convenience and necessity issued by Commission order dated June 13, 2002, in Docket No. CP02-25-000 (2002 Order),² authorizing Copiah's storage project in Copiah County, Mississippi. The facilities authorized by the 2002 Order have not yet been constructed or placed in service. Copiah seeks a certificate amendment authoring an expansion of the previously authorized salt dome storage cavern, construction of an additional salt dome storage cavern, compression facilities, fresh water supply wells and brine disposal wells, and pipeline facilities to interconnect with nearby interstate pipelines. Copiah also seeks approval of a revised pro forma tariff and affirmation of the market-based rate authority approved in the 2002 Order for Copiah's storage and hub services. As discussed below, the Commission finds that Copiah's proposed expansion project is required by the public convenience and necessity, and grants Copiah's requested authorizations.

I. Background

2. Copiah filed an application with the Commission on November 14, 2001, requesting authorization to construct, operate, and maintain natural gas storage facilities in the Allen Salt Dome in Copiah County, Mississippi. The Commission issued Copiah a certificate of public convenience and necessity for the construction, operation, and maintenance of: (1) one salt dome storage cavern with total capacity of 4.3 Bcf, working gas capacity of 3.3 Bcf, 300,000 dekatherms per day (Dth/d) of withdrawal capacity and

¹ Previously called Copiah County Storage Company, Copiah became a limited liability company on December 31, 2003. Copiah is a subsidiary of Spectra Energy Transmission, LLC (previously known as Duke Energy Gas Transmission, LLC).

² *Copiah County Storage Co.*, 99 FERC ¶ 61,316 (2002).

150,000 Dth/d of injection capacity; (2) four brine disposal and four freshwater supply wells; (3) a new 13,350 horsepower (hp) compressor station; and (4) associated ancillary facilities and roadways. The 2002 Order also authorized Copiah to charge market-based rates for its services.

II. The Proposal

A. Facilities

3. Copiah seeks amendment of its existing authorization to enable it to increase the storage capacity of the previously certificated salt dome storage cavern to approximately 10.5 Bcf and to construct and operate an additional storage cavern, also with 10.5 Bcf of capacity. The two caverns would have a total working gas capacity of 15.5 Bcf, and total injection/withdrawal rates of 650,000 Dth/d and 1.3 Dth/d, respectively. Copiah also seeks authorization: (1) to increase the previously certificated compression to 32,000 hp; (2) to change the location of the authorized fresh water supply wells and brine disposal wells; and (3) to construct approximately 15 miles of 24-inch diameter header pipeline, including a 1.55-mile long header to connect the Copiah facilities to Texas Eastern Transmission, LP (Texas Eastern) and a 13.43-mile long header to connect with the consolidated Southern Natural Gas (Southern Natural) and Southeast Supply Header, LLC (Southeast Supply) facilities, as well as two meter and regulator stations and two tap valves and appurtenant facilities.

4. The cavern sites are located in the northeast corner of the Copiah Storage Facility. Cavern No. 1, authorized by the 2002 Order, is approximately 1,000 feet from proposed Cavern 2. The two caverns will be developed using solution mining with freshwater. Freshwater supply wells will pass through the Citronelle Formation and terminate approximately 2,300 feet below ground level in the Sparta Formation. The brine disposal wells will pass through the Sparta Formation and terminate at various sand intervals below 3,200 feet in the Wilcox Formation. At full development, the proposed storage caverns will extend to depths of approximately 3,700 to 5,300 feet.

B. Need

5. Copiah's proposed amendment is in response to an open season held in May, 2006, which resulted in requests for 13 Bcf of additional storage service. Copiah asserts that this amendment is warranted because the additional storage capacity will enable it to respond to a market interest in high deliverability storage services for regasified liquefied natural gas in the Gulf Coast market. Copiah states that growth in the demand for high-deliverability storage services in the Gulf Coast region is driven by a number of factors: the tight North American balance between supply and demand of natural gas; the need for increased assurance of supply reliability to end-use markets; the desire to manage risk and capture opportunities in a volatile, high gas price environment; overall natural gas

demand growth, increasing the need for hourly, daily and seasonal balancing services; and new, summer-peaking in southeast markets served through Southern Natural and Southeast Supply.

C. Rates

6. Copiah seeks affirmation of the market-based rate authority approved by the 2002 Order for Copiah's firm storage and interruptible hub services using its expanded storage capacity. To support its market-based rate proposal, Copiah submitted in Exhibit I-1 of its application an updated market power study.

D. Tariff and Services

7. In the 2002 Order, the Commission accepted Copiah's pro forma tariff. In Exhibit P of the instant application, Copiah filed a superseding pro forma tariff. Copiah's revised pro forma tariff provides for firm storage and interruptible hub services on an open-access basis and eliminates the previously authorized Interruptible Storage Service and the related ISS Rate Schedule. The revised pro forma tariff proposes to add "enhanced" park and loan services (EPS Rate Schedule and ELS Rate Schedule, respectively) and continues to provide for interruptible park service (IPS Rate Schedule), interruptible wheeling service (IWS Rate Schedule), and interruptible loan service (ILS Rate Schedule).

III. Notice and Interventions

8. Notice of Copiah's application was published in the *Federal Register* on April 16, 2007, 72 Fed. Reg. 18,968. Motions to intervene were due on or before April 30, 2007. There were no motions to intervene or protests.

IV. Discussion

9. Since the proposed facilities will be used for storage of natural gas in interstate commerce subject to the jurisdiction of the Commission, Copiah's proposal is subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

A. The Certificate Policy Statement

10. The Commission's Certificate Policy Statement provides guidance as to how it will evaluate proposals for certificating new construction.³ The Certificate Policy

³*Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

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

11. 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.

12. 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. Copiah is a new entrant into the natural gas storage market and has no customers currently receiving service. Further, Copiah is requesting affirmation of its market-based rate authority for all services and thereby continues to assume the economic risks associated with the costs of its facilities to the extent any capacity is unsubscribed or revenues are not sufficient to recover costs. In view of these considerations, we find, as we found in the 2002 Order, that Copiah's proposal presents no potential for subsidization by existing customers and the proposal will not adversely affect existing customers. Accordingly, Copiah has satisfied the threshold no-subsidy requirement of the Certificate Policy Statement.

13. Likewise, the Copiah Storage Project will result in no adverse impact on existing pipelines and their customers. The Copiah Storage Project will be located in a competitive market, as demonstrated in the market power study. The Copiah Storage Project will serve incremental growth, enhance storage options available to pipelines and their customers, and increase competitive alternatives.

14. The Copiah Storage Project has been designed to minimize its impacts to the surrounding landowners and communities. The proposed caverns, compressor station, wells, and associated appurtenances will be located entirely within the fence line of

Copiah's acreage. As a result, construction of these facilities will not adversely affect landowners or the community on a permanent basis. Copiah owns a total of 665 acres of land, approximately 88 percent of which will remain in its current natural state. The facilities affecting the remaining 12 percent of the total acreage have been planned in order to minimize impacts to the environment. Copiah proposes that the necessary piping corridors follow existing roads within the acreage. The disposal of brine resulting from cavern leaching will be accomplished by injection into disposal wells located within the property boundaries. The rate of fresh water use will not exceed the permitted levels. In addition, all construction plans will be adapted to lessen impact to the surrounding landowners and communities, such as locating the proposed facilities to maximize the use of existing natural forest screening from residences. Copiah's construction activities within the property line are expected to have minimal effects, if any, on the nearest community and residences, and any such effect would be limited and temporary.

15. In order to further minimize impact to landowners and the environment, Copiah proposes to build the majority of the header pipelines parallel to the existing Texas Eastern right of way. The header pipeline interconnecting Copiah, Southeast Supply, and Southern Natural is proposed to be 13.43 miles long, approximately 11.88 miles of which will follow the existing Texas Eastern right of way. To further reduce environmental impacts, Copiah proposes to place the header pipeline connecting Copiah and Texas Eastern parallel to milepost (MP) 0.0 to MP 1.5 of the header connecting Copiah and Southeast Supply and Southern Natural. Copiah's construction activities are expected to have a minimal effect on nearby communities and the environment.

16. The Commission concludes that the Copiah Storage Project will both meet unserved demand for high deliverability storage capacity and facilitate the additional development of growing market demand for natural gas in the Southeast United States. Copiah's storage facility will provide increased efficiency and reliability of storage service in the area, thereby benefiting the public by helping to reduce energy costs to consumers. Based on the benefits the project will provide to the market and the lack of any identified adverse effect on existing customers, other pipelines, landowners, or communities, the Commission finds, consistent with the Certificate Policy Statement and section 7 of the NGA, that the public convenience and necessity requires approval of the Copiah storage project.

B. Market-Based Rates

17. The 2002 Order authorized Copiah to charge market-based rates for its firm and interruptible storage and interruptible hub services because the Commission concluded that Copiah will lack market power in the relevant market for storage and hub services.

That order provided for re-examination of Copiah's market-based rate authority if Copiah proposed to expand beyond its originally certificated capacity.⁴

18. The Commission has approved market-based rates for storage services where applicants have demonstrated, under the criteria in the Commission's Alternative Rate Policy Statement,⁵ that they lack market power⁶ or conditions significantly mitigate market power. In prior orders, we have approved requests to charge market-based rates for storage services based on a finding that the applicant of a proposed project would not be able to exercise market power due to its small size, its anticipated share of the market, and the existence of numerous competitors in the relevant geographic market.⁷ The Commission has also distinguished between production-area storage facilities, such as Copiah's, and market-area storage.⁸ In general, the Commission has determined that market power in a production area is less of a concern due to the numerous alternative storage facilities operating in competition with one another.⁹ The Commission's analysis of whether an applicant has the ability to exercise market power includes three major steps: (1) definition of the relevant markets; (2) measurement of a firm's market share and market concentration; and (3) evaluation of other relevant factors.

⁴ 99 FERC ¶ 61,316 at pp. 62,349-50.

⁵ *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 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*, 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).

⁶ Market power is defined as the ability to profitably maintain prices above competitive levels for a significant period of time. *Alternative Rate Policy Statement*, 74 FERC ¶ 61,076 at 61,230 (1996).

⁷ *See, e.g.*, *Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052 (2006); *Pine Prairie Energy Center, LLC*, 109 FERC ¶ 61,215 (2004); and *Egan Hub Partners, L.P.*, 99 FERC ¶ 61,269 (2002).

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

⁹ *See, e.g.*, *Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052 at P 21 (2006).

19. The Commission uses the Herfindahl Hirschman Index (HHI)¹⁰ 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. While a low HHI suggests a lack of market power, a high HHI – generally greater than 1,800 – requires closer scrutiny in order to make a determination about a seller’s ability to exert market power.

20. The Commission allows storage service providers to charge market-based rates when the applicant demonstrates that it lacks significant market power or the applicant accepts conditions that sufficiently mitigate its market power. In determining whether it has market power, an applicant must identify the relevant product¹¹ and geographic markets for its services, identify the number and type of alternatives available, and measure the size and concentration of the market. Market shares serve as a screen to determine the level of concentration in the market and are calculated using the HHI.

21. To support the proposed expansion of its storage facility, Copiah submitted an updated market power study. This study concludes that Copiah will continue to meet the Commission's standards for granting market-based rate authority after taking into account Copiah’s proposed new storage development and its affiliates’ proposed expansions at their storage facilities in the market area. In the analysis, Copiah applies the earlier, more conservative definition of the relevant product market. Copiah asserts that this more rigorous test shows a lack market power and supports Copiah's request to maintain the market-based rate authorization for its storage and interruptible hub services.

22. Copiah’s updated market power analysis for the storage market defines the relevant product and geographic markets, measures market share and concentrations, and evaluates the ease of entry into the relevant market. Copiah identifies the relevant product market as natural gas storage services, for which the principal customer base will be diversified and include industrial customers, gas marketers, electric generators, regional local distribution companies served by interstate pipelines connected to the

¹⁰ An HHI is calculated by summing the squares of each storage seller's market share. The Alternative Rate Policy Statement specifies that the HHI is to be used as an indicator of the level of scrutiny to be given to the applicant. *Alternative Rate Policy Statement* at 61,235.

¹¹ As explained in Order No. 678, the definition of the relevant product market gas storage services may be expanded, on a case-by-case basis, to include close substitutes when an applicant can prove that alternative services to gas storage are viable substitutes. *Rate Regulation of Certain Natural Gas Storage Facilities* (Order No. 678), FERC Statutes and Regulation ¶ 31,220 at P 22, 26 (2006).

Copiah facility, and various large end users that will use the facility for seasonal and short-term storage. Copiah identifies the relevant geographic markets for the storage facility as Louisiana, Texas, and Mississippi.

23. Copiah states that its updated market power analysis demonstrates that, following the completion of both caverns, the market for storage services in the relevant geographic area will not be highly concentrated. This is shown by an HHI below 1,800, the Commission's general threshold for highly concentrated markets. The study considers the relevant geographic market to encompass Louisiana, Mississippi, and Texas. As Copiah explains, this market definition is actually more conservative than other market definitions recently approved by the Commission.¹² Copiah calculates the HHI based on working gas capacity for storage to be 1,157, with Copiah and its affiliates representing 8.8 percent of the market. Copiah calculates the HHI for peak day deliverability to be 1,031, with Copiah and its affiliates representing 22 percent of the market. We find that the HHI for both working gas capacity and peak day deliverability, as calculated by Copiah, fall in the moderately concentrated range and well below the Commission's threshold of 1,800. Thus, Copiah will be unable to exert market power for gas storage services following the construction of the storage facility as proposed in the instant application.

24. The Commission would ordinarily be concerned that Copiah and its affiliates represent 22 percent of the market for peak deliverability. Such a high percentage may signify the potential for a company to exercise market power that would inhibit competition, and deny customers viable options. However, because Copiah is located within the major production, transportation and storage area in the Gulf Coast, the Commission agrees with the conclusion in Copiah's study that there exist a large number of alternatives available to shippers on pipelines interconnected with Texas Eastern, which will interconnect with Copiah.¹³ The Commission finds this further demonstrates that Copiah will be unable to exercise market power for hub services after the proposed expansion, a conclusion that is consistent with prior Commission determinations with respect to Copiah and its affiliates.¹⁴

¹² See, e.g., *MoBay Storage Hub*, 117 FERC ¶ 61,298 at P 34 (2006); *Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,502 at P 22, 26 (2006); and *Liberty Gas Storage*, 113 FERC ¶ 61,247 at P 45 (2005).

¹³ See Testimony of Julie R. Solomon in Exhibit I to Copiah's application identifying numerous alternatives for shippers and pipelines.

¹⁴ See *Copiah County Storage Co.*, 99 FERC ¶ 61,316 at 62,349 (2002). Copiah's market power analysis included affiliated companies' storage facilities (Egan Hub, Moss Bluff Salt Dome, and Spindletop).

25. In summary, the Commission finds that Copiah's storage facilities are located in a competitive market where numerous storage facilities and service alternatives exist for potential customers. Copiah's HHIs for working gas capacity and for peak deliverability are well below the 1,800 threshold for market concentration warranting further scrutiny. Based on Copiah's market power analysis, the Commission concludes that Copiah lacks significant market power in the relevant market. Further, Copiah's request for market-based rate authority is unopposed. For these reasons, the Commission finds that Copiah's market-based rate proposal meets the traditional criteria established in the Alternative Rate Policy Statement. Therefore, the Commission will approve Copiah's request for authority to charge market-based rates for their proposed expanded storage and hub services.

26. Consistent with the 2002 Order authorizing market-based rates for services using Copiah's existing facilities, the Commission will require that Copiah notify the Commission of future circumstances that may significantly affect its market power status. Thus, our approval of continued market-based rate authority is subject to reexamination in the event that: (a) Copiah seeks to add storage capacity beyond the capacity authorized in this proceeding; (b) an affiliate increases storage capacity; (c) an affiliate links storage facilities to Copiah; or (d) Copiah, or an affiliate, acquires an interest in, or is acquired by, an interstate pipeline connected to Copiah. Since these circumstances could affect its market power status, Copiah 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 Copiah.¹⁵ The Commission also reserves the right to require an updated market power analysis at any time.¹⁶

C. Pro Forma Tariff

27. In the 2002 Order, the Commission accepted, subject to conditions, the pro forma tariff Copiah filed in its application. In Exhibit P of the instant application, Copiah filed a superseding pro forma tariff that Copiah asserts conforms to the requirements of the North American Energy Standards Board (NAESB) in Order Nos. 587, *et seq.*,¹⁷ and

¹⁵ See, e.g., *Egan Hub*, 99 FERC ¶ 61,269 (2002).

¹⁶ See *Rendezvous Gas Services, L.L.C.*, 112 FERC ¶ 61,141 at P 40 (2005). We note that in Order Nos. 678 and 678-A, the Commission chose not to impose a generic requirement that storage providers, granted market-based rate authority on the basis of a market power analysis, file an updated market power analysis every five years, or at other periodic intervals. See Order No. 678-A, 117 FERC ¶ 61,190 at PP 12-15.

¹⁷ *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587, 61 Fed. Reg. 39,053 (July 26, 1996), FERC Stats. & Regs. ¶ 31,038 (1996), Order No. 587-B, 62 Fed. Reg. 5,521 (Feb. 6, 1997), FERC Stats. & Regs. ¶ 31,046
(continued...)

Order Nos. 637¹⁸ and 690.¹⁹ With two exceptions discussed below concerning the proposed elimination of the ISS Rate Schedule and an auction crediting provision, the superseding pro forma tariff proposed by Copiah is accepted.

28. The Commission specifically finds that the proposed EPS and ELS Rate Schedules will give shippers flexibility to manage their volumes through the interconnecting pipelines. The Commission further finds that offering these services in addition to the services already approved in the 2002 Order is consistent with Commission action in *MoBay Storage Hub, Inc.*,²⁰ and generally complies with the Commission's regulations and policies.

29. Commission regulations require that jurisdictional pipelines and storage facilities that offer firm transportation and/or storage service must also offer interruptible

(1997), Order No. 587-C, 62 Fed. Reg. 10,684 (Mar. 10, 1997), FERC Stats. & Regs. ¶ 31,050 (1997), Order No. 587-G, 63 Fed. Reg. 20,072 (Apr. 23, 1998), FERC Stats. & Regs. ¶ 31,062 (1998), Order No. 587-H, 63 Fed. Reg. 39,509 (July 23, 1998), FERC Stats. & Regs. ¶ 31,063 (1998), Order No. 587-1, 63 Fed. Reg. 53,565 (Oct. 6, 1998), FERC Stats. & Regs. ¶ 31,067 (1998), order on reh'g, Order No. 587-K, 64 Fed. Reg. 17,276 (Apr. 9, 1999), FERC Stats. & Regs. ¶ 31,072 (1999), Order No. 587-M, 65 Fed. Reg. 77,285 (Dec. 11, 2000), FERC Stats. & Regs. ¶ 31,114 (2000), Order No. 587-N, 67 Fed. Reg. 11,906 (Mar. 18, 2002), FERC Stats. & Regs. ¶ 31,125 (2002), Order No. 587-O, 67 Fed. Reg. 30,788 (May 8, 2002), FERC Stats. & Regs. ¶ 31,129 (2002), Order No. 587-R, 68 Fed. Reg. 13,813 (Mar. 21, 2003), FERC Stats. & Regs. ¶ 31,141 (2003), Order No. 587-S, 70 Fed. Reg. 28,204 (May 17, 2005), FERC Stats. & Regs. ¶ 31,179 (2005) (Order No. 587), 18 C.F.R. § 284.12(a) (2007) (incorporation by reference of NAESB standards).

¹⁸ *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637, 65 Fed. Reg. 10,156 (Feb. 25, 2000), FERC Stats. & Regs., Regs. Preambles July 1996-December 2000 ¶ 31,091 (2000), order on reh'g, Order No. 637-A, 65 Fed. Reg. 35,706 (June 5, 2000), FERC Stats. & Regs., Regs. Preambles July 1996-December 2000 ¶ 31,099 (2000), reh'g denied, Order No. 637-B, 65 Fed. Reg. 47,284 (Aug. 2, 2000), 92 FERC ¶ 61,062 (2000), *aff'd in part and remanded in part*, *Interstate Natural Gas Assoc. of Am. v. FERC*, 285 F.3d 18 (D.C. Cir.), order on remand, 101 FERC ¶ 61,127 (2002).

¹⁹ *Standards of Conduct for Transmission Providers*, Order No. 690, FERC Statutes and Regulations ¶ 31,237 (2007).

²⁰ 117 FERC ¶ 61,298 (2006).

transportation and/or storage service.²¹ Interruptible storage service is separate and distinct from the interruptible hub services proposed by Copiah. Copiah offers no explanation why it should be permitted to eliminate its ISS Rate Schedule which the Commission approved in the 2002 Order, and does not request waiver of the applicable Commission regulation. The Commission directs Copiah to continue to offer the previously approved interruptible storage service and to include the ISS Rate Schedule (in addition to interruptible hub services) when it files actual tariff sheets.

30. Copiah will be required to file actual tariff sheets not more than 60 days nor less than 30 days before the date on which it will commence interstate services. That filing will reflect the changes to the proposed pro forma FERC Gas Tariff that this order requires, including corrected pagination, and any intervening regulatory changes generally applicable to the tariffs of natural gas storage companies.

D. NAESB and Order 637 Compliance

31. The Commission has adopted in its regulations various standards for conducting business practices and electronic communication with interstate gas pipelines as promulgated by the North American Energy Standards Board (NAESB). The standards are intended to govern nominations, allocations, balancing, measurement, invoicing, capacity release, and mechanisms for electronic communications between pipelines and those with whom they do business. The pro forma tariff sheets generally comply with the requirements of the NAESB. We shall require Copiah to file a cross-reference table showing each NAESB standard number, the tariff section containing the standard, and whether Copiah incorporated the standard verbatim or by reference.

1. Segmentation

32. In Order No. 637, the Commission promulgated regulations requiring natural gas companies to allow shippers to segment their firm capacity paths into separate parts to the extent operationally feasible.²² Copiah asks the Commission to find that segmentation is operationally infeasible on its system and to grant it an exception from the segmentation requirements of Order No. 637.

33. Because Copiah's system consists of a storage facility that operates in one geographic location, there are no capacity paths to segment. Copiah has not included any

²¹ 18 C.F.R. § 284.9(a)(1) (2007).

²² 18 C.F.R. § 284.7(d) (2007).

provisions in its pro forma FERC Gas Tariff regarding capacity segmentation. The Commission finds that segmentation is operationally infeasible on its system and grants Copiah an exception from the segmentation requirements of Order No. 637.

2. Penalties

34. 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.²³ The Commission, however, has required that pipelines credit the value of such penalties, net of costs, to the natural gas company's customers pursuant to the penalty revenue crediting requirements of Order No. 637.²⁴ Pro Forma Tariff Sheet No. 263 includes provisions that (i) allow Copiah to impose penalties on customers that tender or take gas in violation of an Action Alert or Operational Flow Order (OFO) issued by Copiah, and (ii) require Copiah to credit any Action Alert or OFO penalties to those customers that did not incur such penalties during the month in which the penalty revenue was collected. The penalty provisions in Pro Forma Tariff Sheet No. 263 conform to Commission policy and are accepted.

35. Pro Forma Tariff Sheet No. 268 provides that in the event that Copiah holds an auction of gas left in storage after the expiration of the contract term or termination of temporary capacity releases, Copiah will credit the proceeds to the offending shipper less applicable storage charges. The application states, without citing any precedent, that gas improperly left in storage should not be subject to a penalty that Copiah must credit to other customers.²⁵ In *MoBay Storage Hub, Inc.*, however, the Commission found that retention of natural gas after expiration of a term and sharing of the proceeds among non-offending shippers are deterrents to shipper behavior that could threaten the system or degrade service to firm shippers.²⁶ We will apply the rationale of *MoBay* here to require Copiah to revise its pro forma tariff to credit the net proceeds received from an auction to all shippers that did not have gas sold during the relevant auction.

3. Imbalance Management Services

36. Order No. 637, as implemented in 18 C.F.R. § 284.12(b)(2)(iii) (2007), requires a pipeline with imbalance penalty provisions in its tariff to provide, to the extent operationally practicable, parking and lending or other services that permit its shippers to

²³ 18 C.F.R. § 284.12(b)(2)(v) (2007).

²⁴ See, e.g., *Caldonia Energy Partners, L.L.C.*, 111 FERC ¶ 61,095 at P 27 (2005).

²⁵ Application at 18.

²⁶ 117 FERC ¶ 61,298 at P 46 (2006).

manage transportation imbalances. That provision also requires a pipeline to provide its shippers the opportunity to obtain imbalance management services from other providers. Copiah's pro forma FERC Gas Tariff does not include imbalance penalties. Thus, Commission regulations that require imbalance management services do not apply.²⁷

4. Right of First Refusal

37. Section 284.22 l(d)(2) of the Commission's regulations provides a Right of First Refusal (ROFR) to customers paying maximum rates for a term of one year or more. Copiah asserts that since it has no market power and no captive customers, the policy reasons supporting the regulatory Right of First Refusal (ROFR) do not apply, and Copiah's customers do not need the protection of a regulatory ROFR. Accordingly, Copiah requests the Commission, pursuant to recent Commission precedent,²⁸ to approve its Pro Forma Tariff Sheet Nos. 35 and 36 of the FSS Rate Schedule to authorize Copiah to negotiate on a customer-by-customer basis ROFR provisions as reflected in its pro forma FERC Gas Tariff.

38. In Order No. 637, the Commission explained that limiting this regulatory ROFR only to customers paying the maximum rate is consistent with the original purpose of the right of first refusal, which was to protect long-term captive customers from the pipeline's monopoly power.²⁹ Since this order grants the authority to charge market-based rates for services, none of its customers would be paying a defined maximum rate. The Commission has held that gas storage providers with market-based rate authority are not required to provide their customers with a regulatory ROFR, but that they may contractually negotiate ROFR provisions with their customers.³⁰ Accordingly, the Commission will authorize Copiah to negotiate on a customer-by-customer basis ROFR provisions as reflected in its pro forma FERC Gas Tariff.

²⁷ See, e.g., *MoBay Storage Hub*, 117 FERC ¶ 61,298, at P 47 (2006) and *Pine Prairie Energy Center, LLC*, 109 FERC ¶ 61,215 at P 47 (2004).

²⁸ See, e.g., *MoBay Storage Hub*, 117 FERC ¶ 61,298, at P 52 (2006); *Egan Hub Storage, LLC*, 116 FERC ¶ 61,174 (2006); and *Unocal Windy Hill Gas Storage, LLC*, 115 FERC ¶ 61,218, at P 50 (2006).

²⁹ Order No. 637, FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 ¶ 31,091 at 31,341 (2000).

³⁰ See, e.g., *MoBay Storage Hub*, 117 FERC ¶ 61,298 at P 52 (2006); *Egan Hub Storage, LLC*, 116 FERC ¶ 61,174 at P 10 (2006); and *Unocal Windy Hill Gas Storage, LLC*, 115 FERC ¶ 61,218 at P 50 (2006).

E. Off-System Capacity and Waiver of Shipper Must Have Title Rule

39. Pro Forma Tariff Sheet No. 277 provides for Copiah's acquisition of off-system transportation or storage capacity on other interstate or intrastate pipeline systems to provide storage service to Copiah's customers at Copiah's rates and to meet Copiah's operational needs. Pro Forma Tariff Sheet No. 277 also provides that the shipper-must-have-title requirement is waived to enable Copiah to use any off-system capacity it may obtain in order to provide storage services within its geographic market area.

40. In *Texas Eastern Transmission Corporation (TETCO)*,³¹ the Commission found that pipelines no longer need to obtain prior approval to acquire capacity on another pipeline, provided the acquiring pipeline filed tariff language specifying that it would only transport for others on off-system capacity pursuant to its existing tariff and rates. Copiah's proposed tariff language is consistent with the requirements set forth in TETCO and the authorizations granted other storage companies authorized to charge market-based rates.³² The Commission accepts Copiah's proposed tariff language and grants a waiver of the shipper-must-have-title policy, with the following clarification. Copiah may only use capacity obtained on other pipelines in order to render the services set forth in its tariff. Copiah 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, Copiah's authorized use of the TETCO waiver to provide storage service shall be limited to the geographic area covered by Copiah's market study.

41. To ensure that Copiah 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, Copiah 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, Copiah 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 Copiah;

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

³² *See, e.g., Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052 at P 39 (2006) and *Caledonia Energy partners, L.L.C.*, 111 FERC ¶ 61,095 at P 29 (2005).

- 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 Copiah; and
- f. an identification of the total volumes, by Copiah's rate schedule and customer, that Copiah has nominated on each off-system provider during the reporting period.

F. Requests for Waiver of Filing Requirements

43. Copiah requests waiver of certain regulations related to cost-based rates. In our 2002 Order, after accepting Copiah's proposal to charge market-based rates for its initially certificated facilities, the Commission waived compliance with certain filing and reporting requirements in our regulations relevant to cost-based rates.³³ This order accepts Copiah's proposal to charge market-based rates for its expanded storage capacity. Consequently, consistent with our findings in the 2002 Order authorizing market-based rates, the Commission will grant Copiah's requests for waiver of the requirements in section 157.14(a) of the Commission's regulations to submit Exhibits K (Cost of Facilities), Exhibit L (Financing), Exhibit N (Revenues, Expenses, and Income), and Exhibit O (Depreciation and Depletion) in support of support cost-based rates.

44. The Commission will also waive, as inapplicable to market-based rate authority, section 157.6(b)(8) requiring the filing of detailed cost-based data, section 284.7(e) requiring reservation charges and the straight fixed-variable rate design, and the accounting and annual reporting requirements under Part 201 and sections 260.1 and 260.2 (Form Nos. 2 and 2-A), respectively, of the Commission's regulations, except for the information necessary for the Commission's assessment of annual charges.³⁴ Thus, Copiah is still required to file pages 520 and 520a of Form No. 2-A, reporting the gas

³³ See *Copiah County Storage Co.*, 99 FERC ¶ 61,316 at 62,350-51 (2002).

³⁴ See *Dominion Cove Point LNG, LP*, 115 FERC ¶ 61,337 at P 147 (2006) ("Any company that transports or sells natural gas including an LNG terminal or storage provider is required to assess an [Annual Charge Adjustment] charge on the volumes transported or delivered") and *Wyckoff Gas Storage Co., L.L.C.*, 105 FERC ¶ 61,027 at P 65 (2003).

volume information which is the basis for imposing an Annual Charge Adjustment charge.³⁵ Further, the Commission will grant waiver of section 157.14(a)(10) requiring the submission of gas supply data, which is inapplicable to storage operations.

45. The above waivers are subject to reexamination in the event that Copiah's market power or market-based rates need to be reexamined. The waivers are also conditioned upon Copiah's maintaining sufficient records of cost and revenue data consistent with the Uniform System of Accounts should the Commission require Copiah to produce this information in the future.

46. Copiah also requests a partial waiver of Electronic Data Interchange (EDI) regulations in section 284.12(a)(1)(iv) which require interstate pipelines to comply with EDI standards developed by NAESB. Copiah states that its initial customers will not require the EDI functionality. We agree. Therefore, the Commission will grant the exemption of section 284.12(a)(1)(iv) until 90 days following a request from one of Copiah's customers that Copiah implement EDI, as the Commission has done for a number of similarly situated entities.³⁶

G. Engineering Analysis

47. The Commission has evaluated Copiah's proposal. The project cavern locations are well within the design criteria and confinement of the salt dome, that the caverns are located at sufficient depth, and that the caverns are at proper distances from each other and salt boundaries to avoid pressure influences between caverns when they are operated at full storage capacity/pressure. The caverns are properly spaced under Mississippi State Oil and Gas Board (MSOGB) regulations for domal salt storage facilities, which is a minimum of 500 feet. The wells are designed properly and the various tests and logs to be run on these caverns and wells are required by the MSOGB and consistent with the Interstate Oil and Gas Compact Commission (IOGCC) guidelines for salt dome storage. The Commission concludes the proposed salt cavern storage facility is appropriately designed to achieve the anticipated total gas inventory. The Commission will require compliance with the operational and maintenance engineering conditions stated in the Ordering Paragraphs and Appendix B of this order.

³⁵ See, e.g., *Petal Gas Storage LLC* ¶ 119 FERC ¶ 61,227 (2007) and *Mississippi Hub L.L.C.*, 118 FERC ¶ 61,099 (2007).

³⁶ See, e.g., *MoBay Storage Hub*, 117 FERC ¶ 61,298 at P 44 (2006) and *Unocal Windy Hill Gas Storage, LLC*, 115 FERC ¶ 61,218 at P 481 at P 49 (2006).

H. Environmental Analysis

48. On April 30, 2007, the Commission's staff issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed 2007 Copiah Storage Project Request for Comments on Environmental Issues* (NOI). Staff distributed this NOI to affected property owners and residents; federal, state and local officials, non-governmental organizations; and other interested parties.

49. In response to the NOI, Commission Staff received comments from the United States Department of Interior, Fish and Wildlife Service (USFWS) and two landowners. The USFWS expressed concern regarding the threatened fish, the bayou darter, and the potential impacts proposed Project construction would have on its habitat. After discussions with the USFWS and field biologists from the Mississippi Museum of Natural Science (MMNS), Natural Heritage Program, Copiah has adopted avoidance and mitigation measures recommended by these agencies into its *Open Cut Site-Specific Crossing and Restoration Plan* for Halls Creek and its tributary.

50. Staff has prepared an environmental assessment (EA), in response to comments received, to comply with the requirements of the National Environmental Policy Act (NEPA) and implementing regulations issued by the Council on Environmental Quality at 40 C.F.R. Parts 1500-1508, and the Commission's Implementing Regulations at Title 18 C.F.R. Part 380.³⁷ The EA examined geology and soils; water resources; fisheries, vegetation, and wildlife; threatened and endangered species; land use, recreation, and visual resources; socioeconomics; cultural resources; air quality and noise; reliability and safety; and alternatives.

51. One landowner expressed concern about the potential loss of productivity of soil in active agricultural fields. Copiah agreed in its Erosion and Sedimentation Control Plan (E&SCP) to excavate and segregate the topsoil layer, return topsoil to the trench after backfilling, and conduct compaction testing once final grading has occurred.³⁸ Copiah's remedial plan sufficiently addresses the landowner's agricultural issue.

52. Another landowner expressed concern about the potential for contamination of domestic wells from well drilling and cavern leaching operations on the proposed Copiah Storage Facility as well as the effect of the overall proposed project on nearby landowner home insurance rates. Copiah, in its resource report to the Commission, stated that it would design all proposed wells using multiple casings to isolate and protect the local

³⁷ The EA was issued and placed in the record on November 19, 2007.

³⁸ EA at 42-3.

underground source of drinking water.³⁹ The EA finds that Copiah's precautions to protect domestic wells will be adequate. Copiah stated in its resource report that it would negotiate with the landowner to determine adequate compensation if any property is negatively impacted.⁴⁰ The determination of insurance premiums is within the purview of insurance companies and state insurance commissions, not this Commission's.

53. Additionally, Copiah submitted comments on the EA. Environmental Condition No. 11 would require Copiah to drill a test well and file the results of test well data to the Commission before drilling four freshwater wells, resulting in a total of five wells. Copiah states that consistent with the December 3, 2007 approval from the Mississippi Department of Environment Quality (MDEQ), the test well it plans to drill is a well that would later be converted to one of the freshwater supply wells. Copiah states that it will drill the test well to the specifications of Freshwater Well #1, perform the necessary pump tests on the test well, cap the well, and provide the results to the Commission and MDEQ. Copiah also states that it would not drill the remaining wells until the test well data is analyzed and results submitted. As this test well drilling plan will produce the results required in the condition and negate the need to drill an additional well, we agree and amend the condition to state that Copiah shall submit the results of test well data to the Commission prior to converting the test well to a freshwater well and initiating drilling on the remaining three wells.

54. Environmental Condition No.12 requires the filing of additional surveys for the threatened bayou darter prior to construction of the Copiah Header to Texas Eastern. Copiah points out that all issues regarding the darter are related to the Copiah header to Southeast Supply Header and Southern Natural Gas header pipeline. We agree and clarify that portion of Environmental Condition No. 12 to state Copiah shall not begin construction of the Copiah Header to Southeast Supply Header and Southern Natural Gas until the listed conditions are met.

55. The EA acknowledges that two horizontal directional drillings (HDD) proposed for the project, under the Bayou Pierre and Jackson Creek waterbodies, are intended to avoid impacts to the threatened species, the bayou darter, and its habitat. Geotechnical investigations for the two HDD crossings were conducted and confirm that subsurface conditions in the vicinity of the proposed crossings are generally conducive to the HDD process. Copiah's application includes a HDD Contingency Plan to be implemented in the case of a drill failure or the inadvertent release of drilling fluid.

³⁹ EA at 47-50.

⁴⁰ EA at 87.

56. Copiah states that pursuant to its Contingency Plan Copiah does not believe that stopping “the HDD until all agencies have agreed cleanup is satisfactory, as stated in the EA,⁴¹ would be the best course of action for drilling activities or in the interest of environmental protection. Copiah asserts that multiple stops and starts, particularly a prolonged stop of HDD drilling equipment, will increase the risk of drill failure and potentially increase the total volume of drilling fluid released. According to Copiah, terminating drilling operations would only be considered as a final resort.

57. Our experience in dealing with HDD construction shows that the majority of frac-outs occur at either end of the HDD and not in the waterbody itself, where the bayou darter would be directly affected. Additionally, it is also known that the faster construction is conducted, the fewer environmental impacts there usually are. Based on our field experience, we agree with Copiah that stopping the HDD and waiting for state agency approval of the clean-up would extend construction time, increasing the risk of drill failure. Therefore, we clarify that Copiah is not required to wait until all agencies have agreed that cleanup is satisfactory before restarting HDD.

58. However, because HDD construction was required for both of these sites in order to protect a threatened species, we will require Copiah, pursuant to new Environmental Condition No. 15, to notify the Commission and the U.S. Department of Interior Fish and Wildlife Service immediately in the event of a frac-out within either the Bayou Pierre or Jackson Creek waterbodies. In this way, agencies can be informed of a specific potentially damaging event to the bayou darter and assess damage that a frac-out within the waterbody would have on this threatened species and its habitat without hampering Copiah or its drilling contractor in their efforts to conduct any necessary clean-up or complete the project.

59. In reference to its Jackson Creek HDD crossing, Copiah states that it plans to cut trees along the HDD line-of-sight to facilitate guiding the drilling equipment across the creek. Copiah states that it is consulting with the Mississippi State Historic Preservation Officer (SHPO) regarding potential impacts caused by tree clearing. Copiah states that results of these consultations will be filed with the Commission. Environmental Condition No.13 already requires that Copiah defer construction for the proposed Copiah Header to Southeast Supply Header and Southern Natural Gas Header pipeline until consultation with the Mississippi SHPO is complete and the Director of the Office of Energy Policy notifies Copiah in writing that construction may proceed; therefore, no further action needs to be taken in reference to this comment.

⁴¹ EA at 65.

60. Copiah states that the EA made an incorrect reference to its *Site-Specific Crossing Plans* in the event of a frac-out in the Bayou Pierre or Jackson Creek waterbodies.⁴² While it is true that a Copiah did write a stand alone *HDD Crossing Plan*, which it submitted after its *Site-Specific Crossing Plans*, its *Site-Specific Crossing Plans* did include separate sections on the potential of a frac-out and contingency measures. Therefore, we will require Copiah to satisfy the requirements of all documentation, including its *Site-Specific Crossing Plans*, regarding frac-outs during construction of the project and consider its procedures stated therein incorporated into Environmental Condition No.1.

61. Copiah raises an issue regarding potential methods of transporting hydrostatic test water to pipelines. Copiah states that the EA does not mention the possibility of trucking water while Copiah's earlier data response stated that if well water is used for the Copiah Header to Texas Eastern Transmission, LP, water may be trucked or pushed into the pipeline through the Copiah storage facility piping and/or a hose and pump assembly.⁴³ Copiah included in its data response the possibility of trucking hydrostatic test water as part of its construction operations. Environmental Condition No. 1 includes all procedures that Copiah addressed in its data response. Thus, no changes to the EA on this issue are warranted.

62. The EA states that during grading "[l]arger trees would be cut and their stumps left in place unless the latter are in the trench-line or constitute a safety hazard for equipment."⁴⁴ Copiah asks to clarify that pursuant to its Erosion and Sedimentation Control Plan, it would remove all stumps across the graded construction workspace to allow of heavy equipment movement. Copiah adds that it would not allow any stumps within the permanent ROW which will be maintained by mowing. We note that Copiah's construction methods are in line with the Commission's Upland Erosion Control, Revegetation, and Maintenance Plan and are incorporated under Environmental Condition No. 1. 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 does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by

⁴² EA at 73.

⁴³ Data Response, filed September 5, 2007

⁴⁴ EA at 67.

this Commission.⁴⁵ We shall require Copiah to 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 Copiah.

63. Based on the discussion in the EA, we conclude that if Copiah constructs and operates the subject facilities in accordance with Copiah's application, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

64. For the reasons discussed above, the Commission finds that Copiah's proposed facilities are required by the public convenience and necessity and that a certificate authorizing the construction and operation of the facilities described in this order and in Copiah's application for certificate amendment should be issued, subject to the conditions discussed herein and set forth in the Ordering Paragraphs and Appendices A and B of this order.

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

The Commission orders:

(A) The certificate of convenience and necessity issued to Copiah on June 13, 2002, is amended to authorize Copiah to construct and operate additional facilities, as described more fully in the application and in the body of this order, in compliance with the environmental and engineering conditions in the Appendices of this order.

(B) The amended certificate is conditioned upon Copiah's compliance with all applicable Commission regulations under the NGA, 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 such regulations.

(C) Copiah's request for authorization is approved to continue to charge market-based storage rates for firm and interruptible storage service and interruptible hub services. This authorization is subject to reexamination in the event that: (a) Copiah adds storage capacity beyond the capacity filed in this proceeding; (b) an affiliate proposes to construct or to acquire an interest in another storage field in the relevant

⁴⁵ 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).

geographic market area; (c) an affiliate links storage facilities to Copiah; or (d) Copiah or affiliate acquires an interest in or is acquired by an interstate pipeline in Copiah's market area. Copiah or an affiliate shall notify the Commission if any of the above conditions occur within 10 days of acquiring such knowledge.

(D) Copiah must comply with the marketing affiliate standards of conduct and reporting requirements in Order No. 497.

(E) At least 30 days and no more than 60 days prior to commencing service, and consistent with the discussion in the body of this order, Copiah must file actual tariff sheets complying with the NAESB and Order No. 637 standards in effect at that time, including a chart that identifies the tariff provision incorporating the NAESB standard incorporated verbatim or by reference, the ISS Rate Schedule, and deletion of its proposed auction crediting provision, as discussed in the body of this order.

(F) Copiah's facilities authorized by the 2002 Order and this order must be constructed and made available for service within three years from the date this order is issued, pursuant to Paragraph (b) of section 157.20 of the Commission's regulations.

(G) Copiah 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 Copiah. Copiah shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(H) Copiah's request for waivers of the Commission's regulations is granted, as discussed in the body of this order.

(I) Within 30 days after its first full year of operation, and every year thereafter, Copiah must file on each acquisition of off-system capacity as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

APPENDIX A
Environmental Conditions

1. Copiah 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 the Order. Copiah must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary;
 - b. justify each modification relative to site-specific conditions; and
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and receive approval in writing from the Director of the OEP before using that modification.
2. The Director of OEP has delegation authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of the 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;
3. Prior to any construction, Copiah shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the EI'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, and shall include all of the staff's recommended facility locations identified in the EA. As soon as they are available, and before the start of construction, Copiah shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by the Order. All requests for modifications of environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets. Copiah's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to the Order must be

consistent with these authorized facilities and locations. Copiah'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. Copiah 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 route variations required herein or extra workspace allowed by Copiah's E&SCP and/or minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

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

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of the certificate and prior to construction,** Copiah shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how Copiah will implement the mitigation measures required by the Order. Copiah must file revisions to the plan as schedules change. The plan shall identify:
 - a. how Copiah 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 Copiah 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 Copiah's organization having responsibility for compliance;
 - f. the procedures (including use of contract penalties) Copiah 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. Copiah shall file updated status reports prepared by the head EI with the Secretary on a *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 each spread, 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; and
 - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and copies of any correspondence received by Copiah from other federal, state or local permitting agencies concerning instances of noncompliance, and Copiah's response.

8. Copiah shall employ at least one EI per construction spread. The EI shall be:
 - a. responsible for monitoring and ensuring compliance with all mitigation measures required by the 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 (see condition 6 above) and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
 - d. a full-time position, separate from all other activity inspectors;
 - e. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - f. responsible for maintaining status reports.
9. Copiah 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 ROW and other areas affected by the project are proceeding satisfactorily.
10. **Within 30 days of placing the certificated facilities in service**, Copiah shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed/installed 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 Copiah has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. Copiah shall file the results of test well data to the FERC prior to converting the test well to a freshwater well and initiating drilling on the remaining three wells.
12. In order to protect the bayou darter, Copiah shall file the results of its bayou darter surveys within the timeframe recommended by USFWS along with any USFWS comments on the survey results. Copiah shall not begin construction of the Copiah Header to Southeast Supply Header and Southern Natural Gas until:
 - a. FERC staff has reviewed the results of both surveys and any comments from the USFWS regarding the proposed action;

- b. FERC staff completes any necessary consultation with the USFWS for the bayou darter; and
 - c. Copiah has received written notification from the Director of OEP that construction or use of mitigation may begin.
13. Copiah 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 associated with *proposed Copiah Header to Southeast Supply & Southern Natural pipelines* (only) until:
- a. Copiah files with the Secretary cultural resources survey and evaluation reports, any necessary treatment plans and the Mississippi SHPO'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 Copiah 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”**

14. Copiah shall file noise surveys with the Secretary no later than 60 days after placing the Copiah Compressor Station in service. If the noise attributable to the operation of all of the equipment at the Copiah Compressor Station at full load exceeds an L_{dn} of 55 dBA at any nearby NSAs, Copiah 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. Copiah 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.
15. Copiah shall contact the Commission and the U.S. Department of Interior Fish and Wildlife Service immediately in the event of a frac-out within either the Bayou Pierre or Jackson Creek waterbodies.

APPENDIX B
Engineering Conditions

1. The total maximum gas inventory of natural gas stored in the caverns shall not exceed 21 Bcf at 14.73 psia and 60° F (each individual cavern shall not exceed 10.5 Bcf) without prior Commission authorization; the maximum gas storage shut-in stabilized pressure gradient shall not exceed 0.9 psi per foot of cavern depth, and the minimum pressure in each cavern shall be limited to 0.20 psi per foot of cavern depth.
2. The final gas storage operating capacity of each cavern, working gas capacity, cushion gas capacity and the minimum pressure should be determined after cavern's operating parameters are determined and filed with the Commission (include data work papers to support the actual operating capacity determination).
3. Before commencing gas storage operations, Copiah shall file with the Commission:
 - a. the results of a Mechanical Integrity Test for each cavern performed before initiation of each well/cavern to natural gas storage;
 - b. copies of the latest interference tracer surveys, or other testing or analysis on each cavern to verify the lack of communication between the caverns;
 - c. estimate the volume of rubble at the bottom of each cavern;
 - d. geological cross-sections through the total project area showing all geological units;
 - e. establish and maintain a subsidence monitoring network over the proposed caverns storage area; and
 - f. assemble, test and maintain an emergency shutdown system.
4. Twice annually, Copiah shall conduct a leak detection test during storage operations to determine the integrity of each cavern, well bore, casing and wellhead, and file the results with the Commission until one year after the storage inventory volume reaches or closely approximates the full authorized capacity, unless otherwise ordered by the Commission.
5. Each cavern's well will be periodically logged to check the status of each casing string. Additionally, every five years Copiah shall conduct sonar surveys of the caverns to monitor their dimensions and shape, including the cavern roof, and to estimate pillar thickness between openings throughout the storage operations and file the results with the Commission.

6. Copiah shall conduct an annual inventory verification study on each cavern, and file results with the Commission.
7. The Copiah Storage Project shall be operated in such a manner as to prevent and minimize gas loss or migration.
8. Copiah shall file with the Commission semi-annual reports (to coincide with the termination of the injection and withdrawal cycles) containing the following information in accordance with section 157.214 (c) of the Commission's regulations (volumes shall be stated at 14.73 psia and 60 °F, and pressures shall be stated in psia):
 - a. the daily volume of natural gas injected into and withdrawn;
 - b. the inventory of natural gas and shut-in wellhead pressure for each cavern at the end of each reporting period;
 - c. the maximum daily injection and withdrawal rates experienced for the entire storage field 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. the results of any tests performed to determine the actual size; configuration, or dimensions of the storage caverns.
 - e. a discussion of current operating problems and conclusions; and
 - f. other data or reports which may aid the Commission in the evaluation of the storage project.
9. Copiah shall continue to file the above semi-annual reports in accordance with section 157.214(c) of the Commission's regulations for a period of one year following the date facility operation at maximum level is initiated.