

150 FERC ¶ 61,197
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
Norman C. Bay, and Colette D. Honorable.

Tres Palacios Gas Storage LLC

Docket No. CP14-27-000

ORDER DENYING ABANDONMENT

(Issued March 19, 2015)

1. On December 6, 2013, Tres Palacios Gas Storage LLC (Tres Palacios) filed an application under section 7(b) of the Natural Gas Act (NGA)¹ and Part 157, Subpart A of the Commission's regulations² for authorization to abandon up to 22.9 billion cubic feet (Bcf) of certificated working gas storage capacity in its salt dome natural gas storage facility located in Matagorda, Colorado, and Wharton Counties, Texas. Tres Palacios states that its facility's working gas storage capacity is significantly higher than demand in the Gulf Coast gas storage market and that the proposed reduction in capacity will allow it to reduce payments under a cavern capacity lease, thereby decreasing its operating costs and enhancing its ability to compete.

2. As discussed in this order, the Commission denies Tres Palacios's requested authorization.

I. Background and Proposal

3. Tres Palacios,³ a Delaware limited liability company with its principal place of business in Houston, Texas, is a natural gas company⁴ and the owner and operator of the

¹ 15 U.S.C. § 717f(b) (2012).

² 18 C.F.R. Pt. 157, Subpart A (2014).

³ Tres Palacios is a wholly owned subsidiary of Crestwood Equity Partners LP (formerly known as Inergy, L.P.), who owns the general partner of Crestwood Midstream Partners LP (formerly known as Inergy Midstream, L.P.). Through this ownership, Crestwood Equity Partners LP is affiliated with Central New York Oil And Gas Company, LLC, the owner and operator of the Stagecoach Natural Gas Storage Project, a FERC-jurisdictional natural gas storage facility in New York and Pennsylvania, and

(continued ...)

Tres Palacios Gas Storage Facility located in Matagorda, Colorado and Wharton Counties, Texas.

4. In 2007, the Commission authorized Tres Palacios to construct and operate a three-cavern underground natural gas storage facility with a total certificated capacity of 53.99 Bcf and approved Tres Palacios's proposal to charge market-based rates for its storage services.⁵ In 2010, the Commission granted Tres Palacios's request to amend this authorization to conform the certificated total, working, and base gas capacities of each cavern to post-conversion sonar surveys.⁶ As a result, Tres Palacios is currently certificated to store a working gas capacity of 38.4 Bcf, supported by 18.86 Bcf of base gas, for a total certificated capacity for the facility of 57.26 Bcf. Table 1 shows the individual certificated capacities for each cavern.

Cavern		Current Certificated Capacity	Max Gradient, Max Pressure at Shoe, ⁷ Min Pressure at Shoe,
1	Working Gas, Bcf	12.68	0.85 psi/ft
	Base Gas, Bcf	6.77	2841 psig
	Cavern total, Bcf	19.45	836 psig
2	Working Gas, Bcf	14.37	0.85 psi/ft
	Base Gas, Bcf	7.87	3091 psig
	Cavern total, Bcf	22.24	909 psig
3	Working Gas, Bcf	11.35	0.85 psi/ft
	Base Gas, Bcf	4.22	2724 psig
	Cavern total	15.57	641 psig
Total Facility	Working Gas, Bcf	38.40	
	Base Gas, Bcf	18.86	
	Total, Bcf	57.26	

Arlington Storage Company, LLC, a FERC-jurisdictional independent storage company which owns three gas storage facilities in New York.

⁴ See 15 U.S.C. § 717a(6) (2012).

⁵ *Tres Palacios Gas Storage, LLC*, 120 FERC ¶ 61,253 (2007) (*Tres Palacios I*).

⁶ *Tres Palacios Gas Storage LLC*, 133 FERC ¶ 62,244 (2010) (*Tres Palacios II*).

⁷ The casing shoe is a piece of equipment welded onto the bottom joint of a casing that represents the location of the bottom of the casing and facilitates the lowering of the casing into the wellbore.

5. Tres Palacios states that it has been unable to sell its available storage capacity at a profit due to changes in the market.⁸ Tres Palacios also states that it will likely have significant unsubscribed firm storage capacity because it has been unsuccessful in extending firm storage service agreements covering 9 Bcf of working gas capacity which expired on March 31, 2014. For these reasons, Tres Palacios proposes to abandon up to 22.9 Bcf of certificated working gas storage capacity.

6. Tres Palacios subleases the three storage caverns from Underground Services Markham, LLC (Markham), an affiliate of Texas Brine Corporation, under a long-term storage sublease agreement (the Sub-Lease), which provides for annual lease payments calculated in part based on working gas storage capacity.⁹ Tres Palacios also makes annual payments based on the certificated capacity of the storage caverns to Riverway Storage Holdings, LLC (Riverway) in connection with a series of contracts and agreements related to the development of the project. Tres Palacios states that its proposed abandonment of working gas capacity would enable it to reduce its annual cavern capacity lease payments sufficiently to remain financially viable and competitive.

7. Tres Palacios states that because it will continue to have sufficient certificated capacity post-abandonment to meet its contractual obligations, its current storage customers will not be affected by the proposed capacity abandonment. Tres Palacios further asserts that no environmental impacts would result from its proposed capacity abandonment because it proposes no construction or abandonment of facilities.

II. Procedural Issues

8. Notice of Tres Palacios's application was issued by the Commission on December 17, 2013, and published in the *Federal Register* on December 23, 2013 (78 Fed. Reg. 77,445), with comments due by January 7, 2014.¹⁰ Timely, unopposed

⁸ Tres Palacios states that demand for and prices being paid for natural gas storage services in the Gulf Coast region have declined due to historically low natural gas prices, substantial reductions in natural gas price volatility and in winter/summer gas price spreads, and the increasing availability of gas from shale and other supply sources.

⁹ This is referred to as a Sub-Lease because Markham in turn is a holder in interest of an earlier lease between Markham and a third partner.

¹⁰ On December 19, 2013, Markham filed a motion requesting a week's extension of the January 7, 2014 comment date. The same day, Riverway filed an answer in support of the motion. On December 20, 2013, Tres Palacios filed an answer opposing

motions to intervene were filed by Anadarko Energy Services Company, Florida Gas Transmission Company, LLC, NJR Energy Services Company, Markham, and Riverway.¹¹ Markham and Riverway filed comments opposing Tres Palacios's proposal along with their interventions. On January 1, 2014, Trull Minerals, which manages land and mineral assets associated with the sublease, filed a comment in opposition to Tres Palacios's proposal.

9. On January 7, 2014, Markham and Riverway filed timely protests to Tres Palacios's application. On January 22, 2014, Tres Palacios filed a motion for leave to answer and an answer to the protests. Riverway and Markham filed motions to answer and answers to Tres Palacios's answer on February 6 and February 7, 2014, respectively, to which Tres Palacios filed an answer. On February 24, 2014, Markham filed an answer to Tres Palacios's answer. On April 13, 2014, Riverway filed comments in support of its earlier pleadings. On April 15, 2014, Tres Palacios filed a copy of its open season to support its earlier pleadings, to which Riverway and Markham both filed responses on April 29, 2014. Although the Commission's Rules of Practice and Procedure generally do not permit answers to protests or answers,¹² our rules also provide that we may, for good cause, waive this provision.¹³ We will accept all the responsive pleadings filed in this proceeding because they have provided information that assisted us in our decision-making process.¹⁴

10. In their protests, Markham and Riverway (Protestors) raise concerns that approving the proposed abandonment would be contrary to the public interest, the NGA, and Commission policy. They contend that such approval would harm the market, create bad precedent, lead to an influx of similar applications from other storage providers, and put cavern stability at risk. Protestors also question Tres Palacios's conclusions about

Markham's motion and suggesting an alternative date. The same day, Markham filed a reply to Tres Palacios's answer. On January 3, 2014, Markham filed a request for confirmation of the comment date. The comment date remained as originally noticed.

¹¹ Timely, unopposed motions to intervene are granted by operation of Rule 214(c) of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(c) (2014).

¹² 18 C.F.R. § 385.213(a)(2) (2014).

¹³ 18 C.F.R. § 385.101(e) (2014).

¹⁴ On January 13, 2014, Markham filed a motion to hold this proceeding in abeyance. Other pleadings were filed related to this request, but Markham withdrew its request on March 26, 2014, therefore these pleadings need not be discussed in this order.

market depreciation and the scope of the Commission's review of the proposed application. Given our decision to deny Tres Palacios's application, these issues need not be discussed.

11. In addition, Markham and Riverway each a request a trial-type hearing in the proceeding. An evidentiary trial-type hearing is necessary only when material issues of fact are in dispute that cannot be resolved on the basis of the written record.¹⁵ We find that the written record provides a sufficient basis upon which to resolve the factual issues presented in this case. Consequently, there is no need for an evidentiary hearing in this proceeding.

III. Discussion

12. Because Tres Palacios seeks authority to abandon interstate natural gas storage capacity subject to the Commission's jurisdiction, the proposal is subject to the requirements of section 7(b) of the NGA.¹⁶

13. Section 7(b) allows an interstate pipeline company to abandon jurisdictional facilities or services only if the abandonment is permitted by the "present or future public convenience or necessity."¹⁷ The applicant has the burden of providing evidence to show that the abandonment is permitted under this standard. The Commission has stated that continuity and stability of existing service are the primary considerations in assessing the public convenience or necessity of a permanent cessation of service under section 7(b) of the NGA.¹⁸ However, based on the record, notwithstanding the lack of protests from

¹⁵ See, e.g., *Southern Union Gas Co. v. FERC*, 840 F.2d 964, 970 (1988); *Cerro Wire & Cable Co. v. FERC*, 677 F.2d 124 (1982); *Citizens for Allegan County, Inc. v. FPC*, 414 F.2d 1125, 1128 (1969).

¹⁶ 15 U.S.C. § 717f (b) (2012). We note that in most cases, storage companies seeking to increase or decrease their certificated capacities do so by application pursuant to NGA section 7(c), 15 U.S.C. § 717f(c), to amend their existing certificates. Cf. *ANR Pipeline Co.*, 149 FERC ¶ 62,132 (2014) (application filed under NGA section 7(b) to abandon certificated base and working gas capacity at two storage fields and section 7(c) to convert base gas capacity to working gas capacity at five other storage fields).

¹⁷ 15 U.S.C. § 717f(b) (2012). See also *El Paso Natural Gas Co.*, 135 FERC ¶ 61,079, at P 17 (2011).

¹⁸ See *Tallgrass Interstate Gas Transmission, LLC*, 144 FERC ¶ 61,197, at P 16 (2013); *Southern Natural Gas Co.*, 126 FERC ¶ 61,246, at P 27 (2009).

existing customers, we cannot find that the abandonment proposed by Tres Palacios is permitted by the public convenience or necessity.

14. Current Commission policy requires storage companies to obtain prior approval from the Commission before making changes to the operational capacities of their storage facilities.¹⁹ This policy has evolved over time to ensure adequate protection and preservation of the integrity of storage caverns (or reservoirs or formations).²⁰ Most recently, the Commission has begun to specify the cushion gas capacity and minimum pressures for each storage reservoir, aquifer, or cavern, among other facility parameters.²¹ As noted above, Tres Palacios's current certificate authorizes specific parameters for each cavern, including maximum working and cushion gas volumes and operating pressures. Here, Tres Palacios requests an overall total reduction in working gas storage capacity without specifying how this reduction would be applied to each cavern, or how it would affect other facility parameters.²² Tres Palacios's request is not consistent with either current Commission policy or Tres Palacios's existing certificate authority.²³

15. Tres Palacios has not submitted any engineering or geological data to support its request or to show that the abandonment of capacity will not adversely affect the operation of the storage facility. Certificated capacity of storage facilities is based on their physical attributes (size, shape, depth, volume, and temperature and pressure ranges). Certificated working gas capacity also considers these factors and is unrelated to

¹⁹ See, e.g., *Transcontinental Gas Pipe Line Co., LLC*, 142 FERC ¶ 61,095, at P 45 (2013), *order on reh'g*, 147 FERC ¶ 61,091 (2014); *Southern Star Central Gas Pipeline, Inc.*, 139 FERC ¶ 62,161 (2012); *Leaf River Energy Center, LLC*, 139 FERC ¶ 62,221 (2012); *Pine Prairie Energy Center, LLC*, 135 FERC ¶ 61,168 (2011).

²⁰ See *Transcontinental Gas Pipe Line Co., LLC*, 142 FERC ¶ 61,095, at P 45.

²¹ See, e.g., *D'Lo Gas Storage, LLC*, 140 FERC ¶ 61,182 (2012) (requiring, among other parameters, Commission approval of cavern specific working gas capacities, cushion gas capacities, and maximum and minimum pressures); *PetroLogistics Natural Gas Storage, LLC*, 139 FERC ¶ 61,225 (2012).

²² Tres Palacios states that it will notify the Commission of the exact quantity and distribution of the working gas reduction among the three storage caverns no later than one year following Commission approval of its request. See Application at 3, 14.

²³ See *Transcontinental Gas Pipe Line Co.*, 142 FERC ¶ 61,095, at P 52 (original certificate authorizing maximum storage capacity for storage field, with no certificated maximum storage capacities for individual caverns, did not serve the public interest.)

the amount of working gas capacity the storage company is able to sell. Tres Palacios does not assert that its salt dome storage caverns have physically changed. To the contrary, Tres Palacios has indicated that there will be no physical change to any cavern parameter. The only change proposed is to limit injections to maintain 15.5 Bcf of working gas inventory in the facility.

16. Tres Palacios asserts in its response to protests that modeling was conducted prior to the initiation of gas storage service to ensure that the maximum and minimum operating pressures selected for the facility were suitable for cavern stability and supported acceptable volume losses due to salt creep.²⁴ However, Tres Palacios also acknowledges that “it may be necessary to modify and customize the operation of the caverns on a more individualized basis to accommodate market requirements and account for any differences predicted by the modeling.”²⁵ Tres Palacios states that its implementation of the proposed reduction in working gas capacity will be based on physical configuration of the caverns, engineering analyses, and market need after the Commission approves abandonment.²⁶ This proposal does not give the Commission enough information to determine that the integrity of the salt caverns will be protected and preserved if the abandonment is authorized.

17. Finally, the sole reason Tres Palacios provides for the proposed abandonment of a portion of its certificated working gas capacity is to reduce its sublease payments to Markham, part of which are calculated based on such capacity. We note that Tres Palacios and Markham are parties in a proceeding before the District Court for Harris County, Texas regarding this sublease, which the court has held in abeyance pending the outcome of this proceeding before the Commission. The state court is the appropriate forum in which to address Markham’s and Tres Palacios’s dispute regarding the sublease.²⁷

²⁴ Tres Palacios January 22, 2014 Motion for Leave to Answer and Answer to Protests at 21.

²⁵ *Id.* at 21-22.

²⁶ *Id.* at 21.

²⁷ *Tres Palacios Gas Storage LLC, Request of Underground Services Markham, LLC to Withdraw Motion to Hold Proceeding in Abeyance, 20140326-5070 (2014); Underground Services Markham, LLC, f/k/a Underground Services (Markham, L.P. v. Tres Palacios Gas Storage LLC, No. 2014-00823, (Tex. Dist. – Harris County 2014).*

18. Our ruling is without prejudice to Tres Palacios filing a properly supported application for authorization to abandon storage.

19. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application(s), as supplemented, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) Tres Palacios's request for authorization to abandon up to 22.9 Bcf of working gas storage capacity in its salt dome natural gas storage facility, as described in this order, is denied without prejudice.

(B) The requests for a trial-type evidentiary hearing are denied.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.