

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.

Mississippi Hub, LLC

Docket Nos. CP07-4-000  
CP07-5-000  
CP07-6-000

ORDER ISSUING CERTIFICATES

(Issued February 15, 2007)

1. On October 10, 2006, Mississippi Hub, LLC (MS HUB) filed an application in Docket No. CP07-4-000 under section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations requesting a certificate of public convenience and necessity authorizing the construction and operation of a salt dome natural gas storage facility and associated pipeline facilities (MS HUB Gas Storage Project) in Simpson and Jefferson Davis Counties, Mississippi. In addition, in Docket Nos. CP07-5-000 and CP07-6-000, respectively, MS HUB seeks blanket certificates under Part 157, Subpart F and under Part 284, Subpart G of the Commission's regulations. As discussed below, the Commission finds that MS HUB's proposed construction and operations are required by the public convenience and necessity, and issues MS HUB its requested certificate authorizations, subject to conditions. The Commission also grants MS HUB's request for market-based rate authority and waiver of certain filing and other requirements.

**Background and Proposal**

2. MS HUB is a Mississippi limited liability company, authorized to do business in the States of Mississippi and Louisiana. MS HUB is a new company with no jurisdictional or non-jurisdictional operations. Upon receipt of its requested certificate authorizations, MD HUB will become a natural gas company within the meaning of NGA section 2(6).

**A. New Facilities**

3. MS HUB proposes to construct and operate a new 17.34 billion cubic feet (Bcf), high-deliverability salt cavern natural gas storage facility consisting of two 8.67 Bcf subsurface caverns, gas compression and withdrawal facilities, a leaching plant for the solution mining, raw water withdrawal and brine disposal facilities, pipelines, metering and regulating stations. The project will be developed over a five-year period on land in which MS HUB owns the surface and underground mineral rights by developing two caverns in the Bond salt dome. MS HUB states that it would use the requested market-based rate authority to provide firm and interruptible storage services and interruptible hub and wheeling services to support further development of domestic gas production in the Gulf Coast region, as well as new liquefied natural gas projects.

4. MS HUB states that after it completes solution mining, the two fully-developed salt caverns storage caverns will have capacity for nearly 5.34 Bcf of base gas and 12 Bcf of working gas storage capacity. Each cavern will have a working gas capacity of 6 Bcf. MS HUB asserts that upon completion, the storage facility will be capable of delivering natural gas at the rate of approximately 1.2 Bcf per day, and receiving injection gas at a rate of approximately 0.6 Bcf per day.

5. MS HUB proposes 36-inch diameter pipeline segments totaling 11.31 miles in four pipeline corridors -- North (1.99 miles), East (0.22 miles), West (8.14 miles) and Utility (0.19 miles) -- to deliver gas volumes to and from the storage facility. Bi-directional pipelines will connect the storage facility with two interstate pipelines, Southern Natural Gas Company (SONAT) and Gulf South Pipeline Company, and CrossTex Energy, an intrastate pipeline.

6. MS HUB proposes to construct bi-directional metering and regulation sites at each pipeline interconnect. The compressor station will include three natural gas engine driven and three electric motor driven compressor units providing a total of 29,205 horsepower as well as dehydration, separation, and other appurtenant facilities.

7. A non-jurisdictional 161 KV electric transmission line will loop in and out of a new substation constructed to supply electric requirements to operate motor driven gas compressors, ancillary systems and solution mining facilities. The South Mississippi Electric Power Association will own, construct and operate the electric line and substation facilities. MS HUB will purchase electric power requirements from Southern Pines Electric Power Association.

**B. Markets and Services**

8. MS HUB cites the Energy Information Administration's "Annual Energy Outlook 2005" projection that total U.S. demand for natural gas will grow an average of 1.5 percent per year through 2025, primarily due to increased demand by electric generation

and industrial loads. MS HUB further states that this increased demand for natural gas supplies will require increased natural gas storage and transportation infrastructure. MS HUB emphasizes that the U.S. Congress recognized the need for additional storage capacity in its passage of the Energy Policy Act of 2005.<sup>1</sup>

9. MS HUB states that the proposed storage project will be located in the south central region of the United States, at a strategic point between new sources of natural gas supply being developed in Texas and Louisiana and in offshore areas of the Gulf of Mexico and the growing markets in the Eastern United States, including the Southeast and Mid-Atlantic regions.

10. MS HUB conducted an open season during May and June 2006. MS HUB states that it has subsequently been in contact with numerous participants in the market concerning the potential services to be available. MS HUB further states that it has received serious expressions of interest for most of the capacity in the two caverns proposed in the instant project. MS HUB asserts that it is in the process of negotiating precedent agreements with potential customers and believes that firm precedent agreements for substantially all of the proposed capacity will be executed following approval of the instant application.

11. MS HUB proposes to offer firm and interruptible storage services and interruptible hub and wheeling services on an open-access, non-discriminatory basis. MS HUB also proposes to offer unbundled sales service pursuant to section 284.284(a) of the Commission's regulations. MS HUB would provide firm storage service under its proposed Rate Schedule FSS and interruptible storage service under its proposed Rate Schedule ISS. MS HUB also proposes to offer an interruptible parking service under Rate Schedule IP, an interruptible wheeling service under Rate Schedule IW, an interruptible loan service under Rate Schedule IL, an interruptible imbalance trading service under Rate Schedule IBT, an interruptible balancing service under Rate Schedule IB and a general unbundled sales service under Rate Schedule SS. MS HUB states that the proposed rate schedules will allow its customers to customize their injection rates, withdrawal rates and total inventory capacity based on their individual needs. MS HUB proposes to charge market-based rates for all storage, hub and wheeling services.

### **Notice and Interventions**

12. Public notice of MS HUB's application was published in the *Federal Register* on October 30, 2006.<sup>2</sup> Bay Gas Storage Company, LTD, and AGL Resources, Inc. filed

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<sup>1</sup>Energy Policy Act of 2005, Pub. L. No. 109-58, § 312, 119 Stat. 594,688 (2005).

<sup>2</sup> 71 *Fed. Reg.* 63,294.

timely unopposed motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's regulations.<sup>3</sup>

## **Discussion**

### **A. Certificate Policy Statement**

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

14. The Commission's September 15, 1999 Certificate Policy Statement provides guidance as to how it will evaluate proposals for certificating new construction.<sup>4</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 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.

15. 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.

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<sup>3</sup>18 C.F.R. § 385.214(a)(3) (2006).

<sup>4</sup>*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).

16. 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. MS HUB 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, MS HUB 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 MS HUB has satisfied the threshold requirement of the Certificate Policy Statement.

17. The proposed MS HUB Gas Storage Project will have no adverse impact on existing customers or services since MS HUB 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 MS HUB's market area has protested MS HUB's application. Accordingly, consistent with the Certificate Policy Statement and NGA section 7, we find approval of MS HUB's proposal to be in the public convenience and necessity, subject to the conditions discussed below.

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

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

18. The Commission has approved market-based rates for storage providers where applicants have demonstrated, under the analytical framework of the Commission's Alternative Rate Policy Statement, that they lack market power or have adopted conditions that significantly mitigate market power.<sup>5</sup> The Commission has approved requests to charge market-based rates for storage services based on a finding that the

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<sup>5</sup> *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines* (Alternative Rate Policy Statement), 74 FERC ¶ 61,076; *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996), *petitions denied and dismissed*, *Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998). *Rate Regulation of Certain Natural Gas Storage Facilities*, Order No. 678, FERC Stats. and Regs. ¶ 61,343 (2006) (Order No. 678), *order on clarification and reh'g*, 117 FERC ¶ 61,190 (2006), *criteria modified*, *Rate Regulation of Certain Natural Gas Storage Facilities*, Order No. 678, FERC Stats. & Regs. ¶ 31,220 (2006), *order on clarification and reh'g*, 117 FERC ¶ 61,190 (2006).

proposed projects would not be able to exercise market power due to small size, anticipated share of the market, and numerous competitors.<sup>6</sup> It has also distinguished between production-area storage facilities and market-area storage.<sup>7</sup> In general, alternative storage facilities make market power in a production area less of a concern. MS HUB's location in the Gulf Coast production area with access to many different supplies, twenty-five other competing storage facilities and twelve other competing hubs and market centers, is within a highly competitive market.

## 2. Storage Services

19. MS HUB's market power study is provided in the testimony of Theodore R. Breton (Breton study). MS HUB's market power analysis for storage service defines the relevant product and geographic market, measures market share and concentration, and evaluates other factors.<sup>8</sup> For the purpose of its analysis, MS HUB identifies the relevant products as firm and interruptible underground natural gas storage, unbundled sales service and storage related interruptible hub and wheeling services. The relevant geographic market for the storage facility is the Gulf Coast production area comprising East Texas, Louisiana, Mississippi and Alabama.

20. 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. 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. MS HUB's market power study shows an HHI calculation of 1,074 for working gas capacity and an HHI calculation of 884 for peak day deliverability. These measures of market concentration are well below the Commission's threshold level of 1,800, indicating that MS HUB would be unable to exert market power in the relevant market area after the construction of its proposed storage facilities.

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<sup>6</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>7</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>8</sup> See Exhibit 1 to Breton study.

21. MS HUB is a new market entrant with no existing jurisdictional or non-jurisdictional operations in the natural gas pipeline or storage industry. Exhibit No. 7 of the Breton study identifies 44 storage facilities that are currently operating in the Gulf Coast production area; however, MS HUB did not include the working gas capacity and peak day deliverability from 19 storage facilities in the market share and HHI calculations since they are currently dedicated to a parent company or subsidiary or to specific parties under long-term contractual agreements. In addition, there are 13 new gas storage facilities currently under development in the area.<sup>9</sup> The current combined working gas capacity of the Gulf Coast production area existing storage facilities, including MS HUB, is 680.2 Bcf, with MS HUB controlling 12.0 Bcf, or 1.76 percent of the total.<sup>10</sup> In addition, Exhibit No. 6 of the Breton study shows that MS HUB's 1,200 MMcf per day of maximum peak day deliverability will be 6.43 percent of the total Gulf Coast production area's maximum peak day deliverability of 18,670 MMcf per day. Thus, MS HUB's aggregate share of the relevant storage market will be relatively small.

22. Exhibit No. 13 of the Breton study provides data demonstrating the ease of entry into the Gulf Coast market, as evidenced by 13 storage projects which are proposed or under development in the Gulf Coast production area, showing that MS HUB will have to compete against other potential storage facilities for customers within the relevant market area. As shown in Exhibit No. 13, these projects, if built, may incrementally expand the current working gas capacity in the Gulf Coast production area by up to 163 Bcf (or 24 percent) and expand peak day deliverability by about 11,180 MMcf per day (or 60 percent). Additionally, Exhibit No. 15 of the Breton study identifies 6 existing storage facility expansion projects in the Gulf Coast production area, which will expand current working gas capacity and deliverability by 46.2 Bcf (or 6.7 percent) and 3,200 MMcf per day (or 17.1 percent), respectively. Furthermore, Exhibit No. 16 of the Breton study shows that there are in service, approved and pending Gulf Coast peak shaving and LNG import facilities with a working gas capacity of 159 Bcf (or 23.4 percent) and a peak deliverability of 30,951 MMcf (or 166 percent). In light of this information, we conclude that the barriers to entry to the storage markets in the relevant market area are low.

### **3. Hub and Wheeling Services**

23. MS HUB's storage facilities will directly connect with the SONAT interstate pipeline and the SONAT Crossover line and the CrossTex Energy intrastate facilities. MS HUB will also connect to Gulf South Pipeline Company's pipeline. However, this

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<sup>9</sup> See Exhibit 13 to Breton study.

<sup>10</sup> See Exhibit No. 4 to the Breton study.

connection will be used to provide natural gas for project needs.<sup>11</sup> Exhibit No. 8 of the Breton study presents a matrix referred to as a “bingo-card analysis”, which identifies all possible interconnects for pipelines attached to the MS HUB storage facilities and indicates whether good alternatives exist. Two bingo-cards are shown on Exhibit No. 8, with the first showing the alternative routes from SONAT to CrossTex and the second showing the alternative routes from CrossTex to SONAT. The information shows that shippers on either SONAT or CrossTex can avoid MS HUB’s interconnections entirely by using alternative interconnections available between the pipelines that are connected to the MS HUB project. In addition, Exhibit No. 9 shows that there are 23 alternative receipt and delivery points available via the pipelines connected to MS HUB. Exhibit No. 10 shows that there are 13 competing hubs and market centers, including MS HUB, in the Gulf Coast production area plus the rest of Texas (Gulf Coast region). There are also 101 delivery points and 88 receipt points available to shippers among the various hubs and market centers.<sup>12</sup> Therefore, shippers can avoid MS HUB through the use of alternative routes.

24. Exhibit No. 10 shows that the total delivery capacity to the hubs and market centers is 27.8 Bcf per day, of which the MS HUB project will account for 1.2 Bcf per day, representing about 4.3 percent of the total. Exhibit No. 10 also shows that the Gulf Coast region HHI for total delivery capacity at the hubs and market centers is 968, indicating a competitive market.

25. Exhibit No. 11 shows that the total receipt capacity at the hubs and market centers is 24.8 Bcf per day, of which the MS HUB project will account for 0.6 Bcf per day, or less than 2.4 percent, of the total receipt capacity. The Gulf Coast region HHI for receipt capacity is 1,019. This is an indication that the market for interruptible wheeling services in the Gulf Coast region is competitive.

26. Exhibit No. 12 shows that the MS HUB hub services are also available to shippers at twelve other competing hubs and market centers in the region. The large number of choices available to shippers in the Gulf Coast Region means that MS HUB will be forced to compete with existing, non-affiliated facilities to attract customers by charging competitive rates for its hub services. Some of these services are also available from the pipelines whose interconnections are near MS HUB.

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<sup>11</sup> See page 6 of the Application.

<sup>12</sup> Exhibits 10 and 11 to Breton study.



27. When reviewing HHI figures, the Commission will consider other factors in determining market share. First, the Gulf Coast Region's receipt capacity HHI of 1,019 and delivery capacity HHI of 968 are below the threshold level. Second, the number of pipelines to be connected to the facility and the interchange alternatives that exist on and between these pipelines, indicate that MS HUB lacks significant market power in the hub market. Third, as indicated earlier, the Breton study shows that MS HUB's market share is relatively small (about 2.4 percent of the receipt capacity and 4.3 percent of the delivery capacity). Market share indicates whether the applicant could hold the price above a competitive level, whereas the HHI indicates whether all providers acting in concert could collude to hold prices at a monopoly level. MS HUB's small market share would make it difficult for it to hold its price above a competitive level.<sup>13</sup> Moreover, Exhibit No. 12 shows that each of the various hub services proposed to be offered by MS HUB is also offered by at least three competing market hubs located in the Gulf Coast Region.

#### **4. Conclusion**

28. We find that MS HUB's analysis demonstrates that its proposed storage facilities will be in a highly competitive production area where numerous storage and interruptible hub service alternatives exist for potential customers. We also find that MS HUB's prospective market shares are low and that market area HHIs are mitigated by MS HUB's small market share and the availability of competing services. Thus, we conclude that MS HUB will lack market power. Further, MS HUB's proposal for market-based rates is unopposed. For these reasons, we will approve MS HUB's request to charge market-based rates for firm and interruptible storage services and interruptible hub and wheeling services.

29. Nevertheless, MS HUB 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) MS HUB adds storage capacity beyond the capacity authorized in this order; (b) an affiliate increases storage capacity; (c) an affiliate links storage facilities to MS HUB; or (d) MS HUB, or an affiliate, acquires an interest in, or is acquired by, an interstate pipeline connected to MS HUB. Since these circumstances could affect its market power status, MS HUB shall notify the Commission within 10 days of acquiring knowledge of any such changes. The notification shall include a detailed description of the new

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<sup>13</sup> See *Central Oklahoma Oil and Gas Corporation*, 80 FERC ¶ 61,250 (1997), *Manchester Pipeline Corporation*, 76 FERC ¶ 61,007 (1996), *Transok Inc.*, 64 FERC ¶ 61,095 (1995).

facilities and their relationship to MS HUB.<sup>14</sup> The Commission also reserves the right to require an updated market power analysis at any time.<sup>15</sup>

### C. Waivers of Filing Requirements

30. Given that it is requesting authority to charge market-based rates and the fact that it has no pre-existing facilities, MS HUB requests that the Commission waive sections 157.6(b)(8) and 157.20(c)(3) requiring it to submit information otherwise necessary for the Commission to make an up-front determination of the rate treatment for MS HUB's storage project and updated cost data after new facilities are placed into service. MS HUB also requests that the Commission waive the filing requirements of section 157.14(a) (13), (14), (16), and (17) to submit Exhibits K (Cost of Facilities), Exhibit L (Financing), Exhibit N (Revenues, Expenses, and Income), and Exhibit O (Depreciation and Depletion), since these exhibits are required for cost-based rate authority. For the same reasons, MS HUB 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 (which require natural gas companies to file annual reports in FERC Form Nos. 2 and 2-A) of the Commission's regulations. Similarly, MS HUB requests waiver of the requirement pertaining to straight fixed-variable rate design set forth in sections 284.7(e) and 284.10 also as being inapplicable to market-based rate design. Finally, MS HUB requests waiver of the filing requirement of section 157.14(a)(10) to submit total gas supply data (Exhibit H), as being inapplicable to natural gas storage services. MS HUB states that its customers will supply their own gas for storage.

31. The cost-related information required by the above-described regulations is not relevant in light of our approval of market-based rates for MS HUB's storage services. Thus, consistent with our findings in previous orders,<sup>16</sup> we will grant MS HUB's request for waiver of the regulations requiring cost-based rate related information. We will also

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<sup>14</sup> See, *e.g.*, *Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052 (2006); *Copiah County Storage Company*, 99 FERC ¶ 61,316 (2002); *Egan Hub Partners, L.P.*, 99 FERC ¶ 61,269 (2002).

<sup>15</sup> See, *e.g.*, *Rendezvous Gas Services, L.L.C.*, 112 FERC ¶ 61,141 at P 40 (2005).

<sup>16</sup> See, *e.g.*, *Port Barre Investments, L.L.C. d/b/a Bobcat Gas Storage*, 116 FERC ¶ 61,052 (2006) at P 33; *SG Resources Mississippi, L.L.C.*, 101 FERC ¶ 61,029 at P 26 (2004); *Egan Hub Partners, L.P.*, 95 FERC ¶ 61,395 at p. 62,473 (2001) and 99 FERC ¶ 61,269 at p. 62,142 (2002).

grant a waiver of section 157.14(a)(10) requiring an applicant to submit gas supply data, which is inapplicable to storage operations.

32. In addition, the Commission grants the requested waiver of the requirement to file an annual report (Form Nos. 2 and 2-A) in sections 260.1 and 260.2 of the regulations, except for the information necessary for the Commission's assessment of annual charges.<sup>17</sup> MS HUB is required to file pages 520 and 520-A of Form No. 2-A, reporting the gas volume information which is the basis for imposing an Annual Charge Adjustment (ACA) charge.<sup>18</sup>

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

33. MS HUB proposes to offer firm and interruptible storage services and interruptible hub services on an open-access basis under the terms and conditions set forth in the pro forma tariff attached as Exhibit P to the application. MS HUB also proposes to offer unbundled sales service pursuant to section 284.284(a) of the Commission's regulations. We find that MS HUB's proposed tariff generally complies with Part 284 of the regulations; however, certain provisions are discussed further below.

##### **1. Segmentation**

34. 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. MS HUB requests a waiver of the Order No. 637 segmentation requirements contained in section 284.7(d), contending that it will not be offering stand-alone transportation services, but rather all transportation service will be provided as part of the storage services offered. Therefore, MS HUB states that segmentation is not feasible.

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<sup>17</sup> However, we will require MS HUB to maintain sufficient records of cost and revenue data consistent with the Uniform System of Accounts should the Commission require MS HUB to produce this report in the future.

<sup>18</sup> See *Wyckoff Gas Storage Co., LLC*, 105 FERC ¶ 61,027 at P 65 (2003).

35. In *Clear Creek Gas Storage Company*,<sup>19</sup> we found that the requirements of section 284.7(d) did not apply to pipelines engaged solely in natural gas storage and which did not provide stand-alone transportation services. MS HUB meets the *Clear Creek* requirement. Thus, we hold that the requirements of section 284.7(d) do not apply to MS HUB. 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 MS HUB.

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

36. MS HUB requests a generic waiver of the shipper must hold 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.*,<sup>20</sup> MS HUB states that it included language in its tariff stipulating that any service provided by MS HUB utilizing a third-party pipeline system will be pursuant to its open-access tariff subject to rates approved by the Commission.<sup>21</sup> MS HUB further states that in the event that acquisition of off-system capacity requires Commission approval, or the re-authorization of any market-based rate authority is required, MS HUB will seek such approval or authority at the appropriate time.

37. MS HUB'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>22</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. MS HUB's proposed tariff language is consistent with the requirements set forth in *TETCO*. Therefore, we accept MS HUB's tariff language and grant waiver of the shipper must hold title policy, with the following clarification. Because MS HUB has proposed only to offer firm storage and interruptible hub services, and does not propose to offer any transportation services other than storage, hub and wheeling services, MS HUB may only use capacity obtained on other pipelines in order to render the services set forth in its tariff. That is,

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<sup>19</sup> 96 FERC ¶ 61,071 (2001) (*Clear Creek*).

<sup>20</sup> *See SG Resources Mississippi, L.L.C.*, 101 FERC ¶ 61,029, P 30-33 (2002).

<sup>21</sup> *See* section 25.6 of the General Terms and Conditions (GT&C) of its pro forma tariff, Original Pro Forma Sheet No. 134.

<sup>22</sup> 93 FERC ¶ 61,273 (2000), *reh'g denied*, 94 FERC ¶ 61,139 (2001).

MS HUB may not use its 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, MS HUB's authorized use of the *TETCO* waiver to provide storage service shall be limited to the geographic area covered by MS HUB's market study.<sup>23</sup>

38. In order to ensure that MS HUB 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, MS HUB is directed to make, once it becomes operational, an annual information filing on its provision of service using off-system capacity, as detailed below.

39. Within 30 days after its first full year of operation, and every year thereafter, MS HUB 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 MS HUB;
- 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 MS HUB; and
- f. an identification of total volumes, by MS HUB's rate schedule and customer, that MS HUB has nominated on each off-system provider during the reporting period.

### **3. Unbundled Sales Services**

40. MS HUB requests a blanket certificate under Part 284, Subpart J of the Commission's regulations authorizing it to provide unbundled sales services on behalf of others with pre-granted authority to abandon such services.

41. Specifically, MS HUB proposes to offer a general unbundled sales service under proposed Rate Schedule SS pursuant to section 284.284(a)<sup>24</sup> of the Commission's

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<sup>23</sup> See *Starks Gas Storage, L.L.C.*, 111 FERC ¶ 61,105 at P 55 (2005).

<sup>24</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."

regulations and Order No. 636.<sup>25</sup> MS HUB's proposed terms and conditions for unbundled sales are set forth in its pro forma FERC Gas Tariff included in Exhibit P.

42. By operation of section 284.284(a) of the regulations, the issuance of MS HUB's Part 284, subpart G blanket transportation certificate will automatically provide MS HUB with Part 284, Subpart J blanket authority for unbundled sales. However, in order to exercise this unbundled sales authority, MS HUB must have approved tariff provisions on file that comply with the standards of conduct for unbundled sales services set forth in sections 284.286 and 284.288. MS HUB's pro forma tariff does not address these requirements. Therefore, we reject MS HUB's proposal to include a rate schedule for general unbundled sales services, without prejudice to MS HUB making a subsequent filing proposing an unbundled sales rate schedule and tariff provisions that comply with the standards of conduct in sections 284.286 and 284.288.<sup>26</sup>

#### **4. Implementation of NAESB Standards**

43. 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>27</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.

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<sup>25</sup> *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation, and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, 57 Fed. Reg. 13267 (April 16, 1992), FERC Stats. & Regs., Regs Preambles, January 1991-June 1996 ¶ 30,939, at pp. 30,425 -427 (April 8, 1992), *order on reh'g*, Order No. 636-A., 57 Fed. Reg. 36128 (August 12, 1992), FERC Stats. & Regs. January 1991-June 1996 ¶ 30,950 (August 3, 1992), *order on reh'g*, Order No. 636-B, 57 Fed. Reg. 57911 (December 8, 1992), 61 FERC ¶ 61,272 (1992), *notice of denial of reh'g*, 62 FERC ¶ 61,007 (1993), *aff'd in part and vacated and remanded in part*, *United Dist. Companies v. FERC*, 88 F.3d 1105 (D.C. Cir. 1996), *order on remand*, Order No. 636-C, 78 FERC ¶ 61,186 (1997).

<sup>26</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>27</sup> NAESB was formerly called the Gas Industry Standards Board (GISB).

44. In section 24 of the GT&C of its pro forma tariff sheets,<sup>28</sup> MS HUB states that its tariff proposal is consistent with Version 1.6 of the NAESB Standards. On May 9, 2005, the Commission issued Order No. 587-S, in which the Commission incorporated by reference the most recent version, Version 1.7, of the consensus standards promulgated by the Wholesale Gas Quadrant (WGQ) of NAESB.<sup>29</sup> Version 1.7, which had been adopted by the Commission at the time MS HUB filed its certificate application, includes standards regarding implementation of Order No. 2004 and gas quality reporting standards.<sup>30</sup> Therefore, when MS HUB files actual tariff sheets in this proceeding, it must revise its tariff to conform to the Version 1.7 standards adopted in Order No. 587-S, as modified by any future NAESB requirements in effect at the time of filing. The Commission will require MS HUB to file actual tariff sheets consistent with this order, at least 60 days prior to the commencement of service.

45. NAESB Standard 1.3.2 (v), incorporated by reference in section 24 of the GT&C on Original Pro Forma Sheet No. 128 under Nominations Related Standards, should be deleted, since such standard is required to be stated verbatim in the tariff rather than incorporated by reference. Furthermore, NAESB Standard 1.3.78, incorporated by reference on sheet number 128, should be deleted.

46. In section 24 of the GT&C, under Electronic Delivery Mechanism Related Standards on Original Pro Forma Sheet No. 129, MS HUB should file revised tariff sheets to reflect the appropriate reference to Recommendation R03035A, 2004 Annual Plan Item 2 and 2005 Annual Plan Item 8 (May 3, 2005) (Affiliate Order Standards).

47. In section 24 of the GT&C, under Capacity Release Related Standards on Original Pro Forma Sheet No. 129, the reference to “5.5.3.34” should be changed to “5.3.34.”

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<sup>28</sup> Original Pro Forma Sheet Nos. 128 and 129.

<sup>29</sup> See Standards for Business Practices of Interstate Natural Gas Pipelines, Order No. 587-S, 70 Fed. Reg. 28204 (May 17, 2005), FERC Stats. & Regs. ¶ 31,179 (May 9, 2005).

<sup>30</sup> *Standards of Conduct for Transmission Providers*, Order No. 2004, FERC Stats. & Regs. Vol. III Regs. Preambles ¶ 31,155 (2003), 68 Fed. Reg. 69134 (Dec. 11, 2003); Order No. 2004-A, FERC Stats & Regs., Regs. Preambles ¶ 31,161 (2004), 69 Fed. Reg. 23562 (Apr. 29, 2004); Order No. 2004-B, FERC Stats. & Regs., Regs. Preambles ¶ 31,166 (2004), 69 Fed. Reg. 48371 (Aug. 10, 2004); Order No. 2004-C, FERC Stats. & Regs., Regs. Preambles ¶ 31,172 (2005), 70 Fed. Reg. 284 (Jan. 4, 2005); Order No. 2004-D, 110 FERC ¶ 61,320 (2005).

48. In section 24 of the GT&C, under Partial Day Recall Standards on Original Pro Forma Sheet No. 129, MS HUB refers to Recommendations R02002 and R02002-2. MS HUB should file revised tariff sheets which delete Recommendations R02002 and R02002-2. At the time Order No. 587-R was issued, the partial day recall standards were referred to by their number and Recommendation R02002 and/or Recommendation R02002-2. Any reference to these recommendation numbers should be replaced with a reference to Version 1.7.

## 5. Creditworthiness

49. Section 25.7 of MS HUB's proposed GT&C outlines the type of information that customers must supply to MS HUB in order to establish creditworthiness.<sup>31</sup> Section 25.7(c) provides that upon notification by MS HUB 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 an advanced deposit, a standby irrevocable letter of credit, a security interest in collateral, or a guarantee, as detailed in the tariff provision.

50. 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 objective criteria for determining creditworthiness.<sup>33</sup> MS HUB 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.

51. In accordance with the Commission's Policy Statement and consistent with Order No. 587-S, MS HUB is directed to revise its tariff provisions to incorporate creditworthiness standards 0.3.3 through 0.3.10, and standards 5.3.59 and 5.3.60 for capacity release. In so doing, MS HUB may either incorporate the aforementioned standards by reference or verbatim, but not both, in its tariff.

52. Furthermore, it is not clear how or when MS HUB intends to communicate its initial determinations on creditworthiness to shippers under section 25.7, and whether it

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<sup>31</sup> Original Pro Forma Sheet Nos. 134-137.

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

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



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> MS HUB is directed to revise section 25.7 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.

53. Moreover, section 25.7(d) provides that if a customer obtains credit approval by providing an advanced deposit and subsequently satisfies the credit criteria, MS HUB will return to the customer an advance deposit plus interest. In accordance with our holding in the Policy Statement,<sup>36</sup> MS HUB's shippers that opt to pay collateral as financial assurance under section 25.7 must have an opportunity to earn interest on such prepayments either by MS HUB paying the interest itself at the Commission's interest rate, or by the shipper designating an interest-bearing escrow account to which MS HUB may have access for payments for services provided, if needed. Under either option, MS HUB could retrieve any interest that accrued on the principal amount. If MS HUB holds the collateral, the applicable interest rate will be at least the same rate that MS HUB earns.<sup>37</sup> Moreover, in such situations, the Commission will require that MS HUB be responsible for any expenses related to the maintenance of this escrow account. We direct MS HUB to clarify its tariff accordingly. We also direct MS HUB to clarify in its tariff that such advance payments are considered collateral held for security and not prepayments for services.<sup>38</sup>

54. Finally, section 25.7(g) provides that if a customer's credit standing ceases to meet MS HUB's credit requirements during the period of service, MS HUB has the right to

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<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).

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

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

require security or a deposit. The section further provides that if security or a deposit is not tendered “in a timely period as reasonably determined by MS HUB, then MS Hub is not required to continue the service” and if a customer is unable to maintain credit approval, the service agreement will terminate “as of the first day of the month following written notice to Customer.” MS HUB must clarify how long a shipper has to provide collateral assurances, consistent with our ruling in *Gulf South Pipeline Company, LP*.<sup>39</sup> In addition, this section must be revised to be consistent with section 25.5 (b)(5) (Default and Termination) of the GT&C, which conforms to the requirement in section 154.602 of the Commission’s regulations that pipelines must give at least 30 days’ notice to the customer and the Commission before terminating a service agreement.

## 6. Complaints Regarding Transmission Provider Standards of Conduct

55. In section 22.4 of the GT&C of its pro forma tariff, governing complaints regarding MS HUB’s compliance with its Standards of Conduct compliance procedures, MS HUB does not establish a uniform protocol to which it must adhere in responding to complaints.<sup>40</sup> The absence of such a uniform protocol provides the potential for unduly discriminatory treatment when responding to complaints. Therefore, MS HUB is directed to revise section 22.4 such that a uniform protocol for responding to complaints is established.

### E. Engineering Analysis

56. The Commission reviewed the design capacity of proposed natural gas facilities to ensure that the design is appropriate and efficient. Commission staff completed an engineering analysis of both the proposed interconnecting pipeline facilities and the two caverns proposed for natural gas storage. Based on staff’s review, the Commission concludes that the geological and engineering parameters for the underground natural gas salt cavern storage facilities proposed by MS HUB are well defined. Based on this analysis and provided MS HUB complies with the engineering requirements of Appendix

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<sup>39</sup> 103 FERC ¶ 61,129 at P 49, *reh’g denied*, 107 FERC ¶ 61,273 at P 63 (2003).

<sup>40</sup> See e.g. *Freebird Gas Storage, L.L.C.’s* Standards of Conduct tariff language regarding complaints at section 20.5 of its GT&C on Original Sheet No. 142, which reads as follows: “Within forty eight (48) hours of receipt of such information, an officer of Freebird shall orally respond to the complaint, and within thirty (30) days of the receipt of the complaint, an officer of Freebird shall provide a written response to the complaint. In the event the required date of Freebird’s response falls on a Saturday, Sunday or a holiday that affects Freebird, Freebird shall respond by the next business day.”

A of this order, the Commission finds that the facilities are appropriately designed to inject gas at a maximum rate of 0.6 Bcf per day and withdraw gas at a maximum rate of 1.2 Bcf per day and to provide a gas storage inventory of 17.34 Bcf at 14.73 psia and 60° F.

#### **F. Environmental Analysis**

57. On November 3, 2006, we issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed MS HUB Storage Project and Request for Comments on Environmental Issues (NOI). In response to the NOI, we received four comment letters. Our staff addressed all substantive comments in the environmental assessment (EA). The EA addresses geology, soils, water resources, wetlands, vegetation, wildlife, fisheries, threatened and endangered species, land use, cultural resources, air quality, noise, reliability and safety, and alternatives.

58. Mr. James Scott commented to the Commission with concerns about losing his land through eminent domain or forced sale. After review by MS HUB, it was determined that Mr. Scott's land is not located along any proposed construction rights-of-way.

59. Mr. Eisenhower Durr, a landowner along the pipeline route, commented to the Commission in two letters expressing concerns for health, safety, property damage, property value, future building restrictions, and suggesting an alternative route. MS HUB responded to Mr. Durr in a letter dated December 27, 2006, committing to avoid any negative property damage and fair and equitable reimbursement for the pipeline easement. We reviewed the pipeline routing via aerial photography and topographical maps and concluded that the proposed route is the preferred alternative. The U. S. Department of Transportation (DOT) is solely responsible for establishing criteria and requirements for the safety of natural gas pipeline facilities. The DOT sets standards for the design, construction, inspection, and operation of natural gas pipelines in accordance with the Natural Gas Pipeline Safety Act of 1968. Any applicant for a certificate from the Commission is required to verify that the proposed facilities would meet DOT safety standards.

60. The U.S. Fish and Wildlife Service (FWS) commented to the Commission with recommendations to minimize potential impacts to species listed under the Endangered Species Act (ESA) of 1973, as amended. Specifically, the FWS recommended directional drilling Bowie Creek as well as taking all necessary precautions during brine storage and transport to prevent creek contamination. We consulted with the FWS concerning its recommendation to directionally drill Bowie Creek and discussed with FWS a dry-ditch crossing technique which could be used to minimize potential sedimentation. FWS agreed that the dry-ditching technique could be used as an appropriate alternative to a directional drill, if conducted in accordance with Commission

procedure. Accordingly, we included Environmental Condition No. 13, requiring MS HUB to cross perennial streams using dry-ditch crossing methods to reduce instream sedimentation. MS HUB would install appropriate erosion controls, stabilize and restore waterbody bed and banks, and implement spill prevention, testing, and inspection procedures to reduce the potential for brine discharge. Based upon these measures and our consultations with the FWS, we believe construction of the proposed project would have “no affect” on ESA listed species.

61. We have applied our four-factor procedure for determining the need to include non-jurisdictional facilities in our environmental review.<sup>41</sup> We have determined that electrical facilities proposed by South Mississippi Electric Power Authority are not subject to our review. However, the land requirements for the necessary electric facilities are included in the analysis presented in the EA.

62. Based on the discussion in the EA, we conclude that if MS HUB is constructed and operated in accordance with MS HUB’s application and supplements and the conditions 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.

63. 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 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 this Commission.<sup>42</sup>

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

### **G. Blanket Certificates**

65. In Docket No. CP07-5-000, MS HUB has applied for a Part 157, Subpart F blanket certificate. The Subpart F blanket certificate gives a natural gas company section

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<sup>41</sup> See, e.g., *Algonquin Gas Transmission Company*, 59 FERC ¶ 61,255 (1992).

<sup>42</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).

7 authority to automatically, or after prior notice, perform certain activities related to the construction, acquisition, abandonment, and replacement and operation of pipeline facilities. Because MS HUB will become an interstate pipeline with the issuance of a certificate to construct and operate the proposed facilities, we will issue the requested Part 157, Subpart F blanket certificate. However, MS HUB's blanket certificate shall not include automatic authorization to increase storage capacity. This restriction on MS HUB's Part 157 blanket certificate is based on the fact that MS HUB's storage facility is a salt cavern in the initial stages of development for which future expansion will require reevaluation by the Commission of historical data and new engineering and geological data.<sup>43</sup>

66. In Docket No. CP07-6-000, MS HUB requests a Part 284, Subpart G blanket certificate in order to provide open-access storage services. Under a Part 284 blanket certificate, MS HUB will not require individual authorizations to provide storage services to particular customers. MS HUB filed a pro forma Part 284 tariff to provide open-access storage services. Since a Part 284 blanket certificate is required for MS HUB to offer these services, we will grant MS HUB a Part 284 blanket certificate, subject to the conditions imposed herein.

### **Conclusion**

67. For the reasons discussed above, the Commission finds that the MS HUB Gas Storage Project is 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 the application should be issued, subject to the conditions discussed herein and listed in Appendices A and B.

68. The Commission, on its own motion, received and made part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

### **The Commission orders:**

(A) A certificate of public convenience and necessity is issued to MS Hub in Docket No. CP07-4-000, authorizing the ownership, construction and operation of the described storage facilities, as described more fully in this order and in the application.

(B) A blanket construction certificate is issued to MS Hub, in Docket No. CP07-5-000, under Subpart F of Part 157.

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<sup>43</sup> See, e.g., *Unocal Windy Hill Gas Storage*, 115 FERC ¶ 61,218 (2006).

(C) A blanket transportation certificate is issued to MS Hub, in Docket No. CP07-6-000, under Subpart G of Part 284.

(D) The certificate issued in Ordering Paragraph (A) is conditioned on MS Hub's compliance with all applicable Commission regulations under the Natural Gas Act, particularly the general terms and conditions set forth in Parts 154, 157, and 284, and paragraphs (a), (c) (1) and (2), (e), and (f) of section 157.20 of the regulations.

(E) MS Hub's facilities should be made available for service within twenty-four months of the date of the order in this proceeding. Completion of all MS HUB facility construction should be accomplished within five years as required by section 157.20(b) of the Commission's regulations.

(F) MS Hub's request to charge market-based storage rates for firm and interruptible storage service and interruptible hub and wheeling services 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) MS HUB shall file revised tariff sheets that comply with the requirements contained in the body of this order, at least 60 days prior to the commencement of service.

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

(J) The certificate issued in Ordering Paragraph (A) is conditioned upon MS HUB's compliance with the engineering and environmental conditions set forth in Appendices A and B to this order.

(K) MS HUB shall notify the Commission's environmental staff by telephone or facsimile of any environmental non-compliance identified by other federal, state or

local agencies on the same day that such agency notifies MS HUB. MS HUB shall file written confirmation of such notification with the Commission within 24 hours.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

## Appendix A

### **Engineering Conditions for the MS Hub Gas Storage Project**

1. The maximum inventory of natural gas stored in MS HUB's facilities shall not exceed the certificated levels of 17.34 Bcf at 14.73 psia and 60° F (8.67 Bcf per cavern); the maximum gas storage shut-in stabilized pressure of each cavern will not exceed 3,150 psi.
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 in each of the two caverns, MS HUB shall:
  - (a) Conduct a Mechanical Integrity Test for each of the two caverns before initiation of each well/cavern to natural gas storage, and file the results with the Commission;
  - (b) File with the Commission 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) Establish and maintain a subsidence monitoring network over the proposed caverns storage area; and,
  - (d) Assemble, test and maintain an emergency shutdown system.
4. Twice annually, MS HUB 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.
5. Each cavern's well will be periodically logged to check the cavern roof and status of each casing string. Additionally, every five years MS HUB shall conduct sonar surveys of the caverns to monitor their dimensions and shape and to estimate pillar thickness between openings throughout the storage operations, and file results with the Commission.
6. MS HUB shall conduct an annual inventory verification study on each cavern, and file results with the Commission.
7. The MS HUB Storage Project shall be operated in such a manner as to prevent and minimize gas loss or migration.



8. MS HUB 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 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.
  - (f) Other data or reports which may aid the Commission in the evaluation of the storage project.
  
9. MS HUB 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.

## Appendix B

### Environmental Conditions for the MS HUB Gas Storage Project

1. MS HUB 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. MS HUB 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 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**, MS HUB shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel would be informed of the environmental inspector'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**, MS HUB 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.

MS HUB'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. MS HUB'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. MS HUB 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**, MS HUB shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how MS HUB will implement the mitigation measures required by this Order. MS HUB must file revisions to the plan as schedules change. The plan shall identify:
    - a. how MS HUB will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;

- b. the number of environmental inspectors assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - c. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;
  - d. the training and instructions MS HUB 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 MS HUB's organization having responsibility for compliance;
  - f. the procedures (including use of contract penalties) MS HUB will follow if noncompliance occurs; and,
  - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - (1) the completion of all required surveys and reports;
    - (2) the mitigation training of onsite personnel;
    - (3) the start of construction; and,
    - (4) the start and completion of restoration.
7. MS HUB shall develop and implement an environmental complaint resolution procedure. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the project and restoration of the right-of-way. **Prior to construction**, MS HUB shall mail the complaint procedures to each landowner whose property would be crossed by the project.
- a. In its letter to affected landowners, MS HUB shall:
    - (1) provide a local contact that the landowners should call first with their concerns; the letter should indicate how soon a landowner should expect a response;
    - (2) instruct the landowners that, if they are not satisfied with the response, they should call MS HUB's Hotline; the letter should indicate how soon to expect a response; and,
    - (3) instruct the landowners that, if they are still not satisfied with the response from MS HUB's Hotline, they should contact the Commission's Enforcement Hotline at (888) 889-8030.
  - b. In addition, MS HUB shall include in its biweekly status report a copy of a table that contains the following information for each problem/concern:

- (1) the date of the call;
  - (2) the identification number from the certificated alignment sheets of the affected property;
  - (3) the description of the problem/concern; and,
  - (4) how it was resolved or why it has not been resolved.
8. MS HUB shall employ at least one environmental inspector for the project. The environmental inspector(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.
9. MS HUB shall file updated status reports prepared by the environmental inspector 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 environmental inspector(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
  - c. corrective actions implemented in response to all instances of noncompliance, and their cost;
  - d. the effectiveness of all corrective actions implemented;
  - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this Order, and the measures taken to satisfy their concerns; and,

- f. copies of any correspondence received by MS HUB from other federal, state or local permitting agencies concerning instances of noncompliance, and MS HUB's response.
10. MS HUB must receive written authorization from the Director of the OEP **before commencing service** from each phase of 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.
11. **Within 30 days of placing the certificated facilities in service**, MS HUB 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 MS HUB 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.
12. **Prior to hydrostatic testing**, MS HUB shall file with the Secretary a copy of its National Pollution Discharge Elimination System (NPDES) permit along with a detailed description of hydrostatic test water discharge methods and discharge locations by milepost (MP).
13. MS HUB shall cross Bowie Creek (WB18) and the East Prong of Silver Creek (WB 25, WB 26) using dry-ditch crossing methods.
14. MS HUB shall fence the edge of the construction work area adjacent to the equipment shed at MP8.2, West Pipeline Corridor, for a distance of 100 feet on either side of the structure to ensure that construction equipment and materials, including the spoil pile, remain within the construction work area.
15. **Prior to construction of the pipeline facilities**, MS HUB shall file with the Secretary a revised site diagram for the Cross-Tex Tie-In and Metering Facility Site, depicting the facility footprint and all visual screening devices that would minimize impacts to the residence at MP8.2, West Pipeline Corridor.
16. MS HUB shall consider the chicken farm (located across Highway 541 from the Natural Gas Handling Facility Site) as a noise sensitive area (NSA)

17. MS HUB shall defer implementation of any treatment plans/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. MS HUB files with the Secretary cultural resources survey and evaluation reports, any necessary treatment plans, and the 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 MS HUB in writing that treatment plans/mitigation measures may be implemented or that construction may proceed.

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

18. MS HUB shall conduct a noise survey and file the survey results with the Secretary no later than **60 days after placing the Natural Gas Handling Facility Site in service**. If the noise attributable to the operation of the Natural Gas Handling Facility Site at full load exceeds 55 dBA Ldn at any nearby NSA, MS HUB shall install additional noise controls to meet the level within one year of the in-service date. MS HUB shall confirm compliance with this requirement by filing a second noise survey with the Secretary no later than 60 days after it installs the additional noise controls.