

123 FERC ¶ 61,076  
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.

Tennessee Gas Pipeline Company

Docket No. CP08-86-000

ORDER GRANTING EXEMPTION  
FOR TEMPORARY ACTS AND OPERATIONS

(Issued April 25, 2008)

1. On February 27, 2008, Tennessee Gas Pipeline Company (Tennessee) filed a petition pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure<sup>1</sup> and section 7(c)(1)(B) of the Natural Gas Act (NGA)<sup>2</sup> requesting an exemption from certificate requirements to drill a stratigraphic test well to determine the feasibility of developing an underground natural gas storage facility in the Carter/Lewis formations in the State of Mississippi. Subject to the conditions discussed below, we find that it is in the public interest to grant Tennessee's requested exemption.

**I. Proposed Activity**

2. Tennessee is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located in Houston, Texas. It is a natural gas transmission company engaged in the business of storing and transporting natural gas in interstate commerce under authorizations granted by and subject to the jurisdiction of the Commission.

3. Tennessee seeks an exemption from the NGA section 7(c) certificate requirements to explore and assess the technical, economic, and environmental feasibility of developing an underground natural gas storage facility in the Carter/Lewis formations in the State of Mississippi. In addition, to the extent that pre-granted abandonment

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<sup>1</sup> 18 C.F.R. § 385.207 (2007).

<sup>2</sup> 15 U.S.C. § 7(c)(1)(B) of the NGA permits the Commission to exempt "temporary acts or operations for which the issuance of a certificate will not be required in the public interest."

authority is needed to terminate the activities related to drilling the well once the tests are completed, Tennessee asks that the Commission grant such authorization.<sup>3</sup> Tennessee declares that the purpose of the test wells will be to evaluate the prospects for development of a natural gas storage facility.<sup>4</sup>

4. Tennessee proposes to drill and core a well in the Carter/Lewis formations to approximately 300 feet below the base of the Lewis formation. Tennessee also plans to core the cap rock above the well in the Carter/Lewis formations. Tennessee states that the planned depth of this well is approximately 5,500 feet. In addition, if Tennessee proceeds with a storage project, it states that the well will be used as an observation well to monitor the storage reservoir. Otherwise Tennessee intends to plug and abandon the well and completely restore all areas disturbed by the drilling of the well to their pre-existing condition.

5. Tennessee states that it will initially bear all costs associated with drilling the proposed well. Tennessee is currently seeking permission from the landowner(s) to conduct the drilling of the test well. Tennessee also states that that it will comply with the rules and regulations of the Mississippi Department of Environmental Quality and obtain the necessary permits from the Mississippi State Oil & Gas Board and any other required permits or approvals, in addition to complying with the Commission's applicable regulations.

6. Tennessee affirms that no gas storage or transportation service will be rendered in connection with this temporary activity. Further, Tennessee submits that this temporary activity will have no effect on the public in general and states that the conditions at the well site, both before and after drilling, shall be fully documented.

## **II. Notice and Interventions**

7. Notice of Tennessee's application was published in the *Federal Register* on March 7, 2008 (73 Fed. Reg. 13889). Timely motions to intervene were filed by Consolidated Edison Company of New York, Inc., jointly with the Orange and Rockland

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<sup>3</sup> The requested pre-granted abandonment authority is not necessary since no jurisdictional facility or service will be constructed or provided pursuant to this order.

<sup>4</sup> Tennessee states that an affiliate may ultimately develop the storage project and would seek authorization from the Commission to operate as an interstate natural gas entity. Tennessee would assign the stratigraphic test well and associated land and mineral rights to the new company.

Utilities, Inc., and the Atmos Energy Corporation.<sup>5</sup> A motion to intervene out of time was filed by the National Fuel Gas Distribution Corporation (National). Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, the Commission has discretion to grant late interventions where the movant has shown good cause, has an interest in the proceeding, and its late intervention will not disrupt the proceeding or prejudice the interests of the other parties.<sup>6</sup> Since National's motion meets these requirements, we will grant the late intervention.

### **III. Discussion**

8. Tennessee's proposed activities are a necessary preliminary phase in the development and construction of a natural gas storage facility. Depending on the outcome of tests, a storage field may be developed for the storage of natural gas. We therefore consider the proposed activities to be a necessary phase in the construction of a jurisdictional storage facility. As such, the proposed activities are subject to the certificate requirements of NGA section 7(c). However, pursuant to NGA section 7(c)(1)(B), we may exempt certain temporary acts or operations from the certificate requirements that would otherwise apply, if we find that such an exemption is in the public interest. Previously, we have granted such exemptions to allow operations of a temporary nature that have no effects on the ratepayer, on the quality of service provided by a natural gas company or on the public as a whole.<sup>7</sup>

9. Tennessee emphasizes that its proposed exploratory activities are temporary and will be conducted in order to determine the feasibility of developing a natural gas storage facility complex. No jurisdictional service will be rendered from the well without Commission authorization. The certificate authorization exemption will be used solely for discrete exploratory activities to obtain geological and engineering data.

10. Under the circumstances described in Tennessee's petition, we find that the proposed activities constitute temporary acts or operations within the meaning of NGA section 7(c)(1)(B), and we find it in the public interest to exempt the proposed activities

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<sup>5</sup> Timely unopposed motions to intervene are allowed by operation of Rule 214(c) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(c) (2007).

<sup>6</sup> 18 C.F.R. 385.214(d) (2007).

<sup>7</sup> See, e.g., *Arlington Storage Company, LLC*, 122 FERC ¶ 61,152 (2008); *Chestnut Ridge Storage, LLC*, 121 FERC ¶ 61,022 (2007); *Leaf River Energy Center LLC (Leaf River)*, 120 FERC ¶ 61,168 (2007); and *Southeast Storage Development Co., L.L.C.*, 117 FERC ¶ 61,012 (2006).

from the certificate requirements of NGA section 7(c) subject to the conditions set forth below. The proposed activities are necessary in order for Tennessee to make an informed business and engineering decision regarding the feasibility of developing a new storage complex, which would allow Tennessee to better serve the growing gas demand needs in the region. The certificate exemption granted herein is without prejudice to any decision the Commission may make regarding any application Tennessee or an affiliate may file for authorization for a storage project at the site or related pipeline construction.

11. As proposed by Tennessee in its petition and consistent with Commission practice,<sup>8</sup> its authorization will be conditioned on Tennessee performing all activities in compliance with the same environmental conditions that apply to natural gas companies' activities under their Part 157 blanket certificates, as set forth in section 157.206(b) of the Commission's regulations.<sup>9</sup> Tennessee's proposed storage testing activities are similar to activities permitted under a Part 157 blanket certificate, and section 157.206(b) of the regulations sets forth standard conditions to protect the environment when such activities are undertaken. Requiring Tennessee to comply with the provisions of section 157.206(b) will ensure the same level of protection in this case.

12. The Commission on its own motion, reviewed and made part of the record in this proceeding all evidence, including the petition and exhibits thereto, and upon consideration of the record.

The Commission orders:

(A) Upon the terms and conditions of this order pursuant to NGA section 7(c)(1)(B), Tennessee is granted an exemption from the certificate and abandonment requirements of section 7 of the NGA to undertake the activities specified in this order and in Tennessee's petition. This exemption is effective upon issuance of this order. The authorized drilling and testing activities shall be completed within one year of the date of this order.

(B) Tennessee shall notify the Commission within 10 days after commencing activities under the exemption granted in Ordering Paragraph (A). Tennessee shall allow inspection by Commission staff at any time.

(C) Tennessee shall comply with the environmental requirements of 157.206(b) of the Commission's regulations in implementing the drilling and testing activities.

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<sup>8</sup> See, e.g., *Leaf River*, 120 FERC ¶ 61,168, at P 13 (2007) and *Central New York Oil and Gas Co., LLC*, 89 FERC ¶ 61,006, at 61,030 (1999).

<sup>9</sup> 18 C.F.R. § 157.206(b) (2007).

(D) The exemption granted in Ordering Paragraph (A) may be revoked if the actions are determined to be inconsistent with this order or with state or federal law and regulations. The Commission may halt work authorized under this exemption until any required consistency determination is completed.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.