to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23271 Filed 9–19–95; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11077–0001]

Alaska Power and Telephone Company; Errata Notice to Notice of Application

August 16, 1995.

In the notice issued August 9, 1995, published at 60 FR 4872 (August 29, 1995), item ''j'' should read: ''Deadline for comments, recommendations, terms and conditions, and prescriptions: October 10, 1995.''

Lois D. Cashell,

Secretary.

[FR Doc. 95–23272 Filed 9–19–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR95–11–000]

Egan Hub Partners, L.P.; Order to Show Cause

Issued September 14, 1995.

On May 11, 1995, Egan Hub Partners, L.P. (Egan) filed a petition, supplemented on August 11 and August 18, 1995, in Docket No. PR95–11–000 for authority to charge and collect individually-negotiated, market-based rates for interstate storage and transportation services performed under section 311 of the Natural Gas Policy Act of 1978 (NGPA). The instant order establishes a show cause proceeding, pursuant to sections 5, 7, and 16 of the Natural Gas Act (NGA), to investigate the jurisdictional implications of Egan's proposed construction of storage facilities for NGPA ''section 311 only.'' As discussed below, the Commission is requiring Egan to show cause why the proposed storage facilities should not be subject to the Commission's NGA jurisdiction.

Background and Description of the Facilities

Egan is owned by Egan Hub Partners, Inc., its sole general partner and Market Hub Partners, L.P., its sole limited partner. Tejas Power Corporation (Tejas) indirectly owns a 66 percent interest in Egan. Egan provides intrastate transportation services through its intrastate pipeline facilities located in Calcasieu, East Baton Rouge, and Pointe Coupee Parishes, Louisiana. Egan currently provides intrastate transportation services to three gas customers: an electric utility, a university, and an industrial user.

On February 3, 1994, Egan filed a notice with the Commission under 18 CFR 284.11 stating that it intended to commence construction of an underground salt dome storage cavern and appurtenant facilities, including pipeline facilities in Acadia Parish, Louisiana, to be used solely for the purpose of providing services pursuant to section 311(a)(2) of the NGPA. Egan anticipated that construction of the facilities would cost approximately $56 million and take approximately two years to complete, with the facilities available for service during the 1995–1996 winter heating season.

Egan states that the storage facilities are approximately nine miles from Louisiana Gas System Inc.'s (LGS) intrastate pipeline facilities. According to Egan, an interconnection with LGS has not been pursued because of a lack of firm demand for Egan's services. Egan adds that if both intrastate and section 311 gas are stored in the field, the gas may become subject to state regulatory control in the event of a curtailment. As a result of these uncertainties, Egan states that it elected to construct the storage and transportation facilities as ''section 311 only'' facilities.

On May 11, 1995, Egan filed a petition in Docket No. PR95–11–000 for authority to charge and collect individually-negotiated, market-based rates for interstate storage and transportation services performed under section 311. Egan states that construction of the first cavern is nearing completion and will be ready for service on or about September 1, 1995. The cavern will have a capacity for 4.5 Bcf of working gas, with an additional 1.2 Bcf of pad gas. The maximum injection rate is expected to be 135,000 Mcf/d and the maximum deliverability rate is expected to be 750,000 Mcf/d. Two compressors, having a total of 6,260 horsepower, will also be installed. Egan states that as many as four additional caverns could be located at the site, if future demand justifies a need for such additional storage.

Egan states that it has constructed approximately 9,240 feet of dual 20-inch pipeline, and 19,117 feet of dual 24-inch pipeline, as well as other related pipeline facilities in Acadia Parish to provide the ''section 311 only'' services.[1] These facilities will enable Egan to transport, store and/or deliver gas to and from the interstate pipeline systems of ANR Pipeline Company, Trunkline Gas Company, Tennessee Gas Pipeline Company, and Texas Gas Transmission Corporation.

Egan states that pursuant to an open season conducted between January 3

[1] The facilities are the subject of a 30-day prior notice filed with the Commission on February 3, 1994 in Docket CP94–217–000.

and January 14, 1994, three customers have signed long-term firm storage contracts. Those customers are the East Ohio Gas Company, the Northern Indiana Public Service Company, and Tejas Power Corporation. The committed capacity under these contracts totalled 2,900,000 Mcf. Egan contends that if its petition to charge market-based rates is approved, Egan's contract storage and transportation services will be available to help facilitate the Commission's on-going restructuring of the natural gas industry.

Discussion

The Commission is concerned that Egan's construction of storage facilities in Acadia Parish pursuant to section 311 actually may be construction of interstate facilities subject to the Commission's jurisdiction under section 7(c) of the NGA. It appears that Egan's sole purpose in constructing the storage facilities is to provide interstate storage and hub services, in facilities that are physically separate from its existing intrastate facilities, for a purpose that bears no apparent intrastate/local distribution purpose and appears unconnected to any other nonjurisdictional operation.

In 1978, the NGPA was passed to reduce the restraints on the flow of gas between interstate and intrastate markets in order to remedy supply and demand imbalances. The Commission recognizes that one purpose of NGPA section 311 is to enable intrastate pipelines to transport gas destined for the interstate market and thus spare interstate pipelines from having to construct duplicative facilities.[2] The NGPA accomplishes this by permitting intrastate pipelines to perform such transportation without becoming subject to NGA jurisdiction over the entirety of their operations. As the Commission stated in *Lear Petroleum Corporation*:

> NGPA sections 601(a)(1)(C) and (a)(2)(A) provide that the intrastate pipelines do not become subject to the NGA by virtue of section 311 transactions. This ensures that intrastate pipelines are only subject to Commission regulation of their rates for section 311 transactions. Intrastate pipelines do not become subject to Commission regulation of their intrastate activities or of construction of facilities used for intrastate transportation.[3]

In Order No. 46, the Commission explained that ''if a corporate entity qualifies as an intrastate pipeline under [NGPA] section 2(16), it will retain that identity for its entire system even if it constructs a new portion of its system to be used exclusively for section 311(a)(2) transportation.'' [4] Further, the Commission has determined in prior orders that an intrastate pipeline may, in certain circumstances, construct new facilities that are not contiguous to the intrastate pipeline's existing intrastate facilities for use in transactions under section 311(a)(2).

For instance, in *Seagull Pipeline Corporation*, 11 FERC ¶ 61,267 (1980), Seagull, an intrastate pipeline wholly owned by Houston Oil & Minerals Corporation (HO&M), proposed to transport gas produced under HO&M's Cavallo Field leases. Seagull transported 50% of the reserves from the Cavallo Field leases on behalf of Valley Pipe Lines Offshore (Valley), an intrastate pipeline subsidiary of Houston Natural Gas Company, to Houston Pipe Line Company's (HPC) existing intrastate pipeline facilities on State Tract 526. To transport Valley's gas, Seagull constructed the Cavallo line. The Cavallo line, consisting of approximately 15.5 miles of 16-inch pipeline, was not physically connected to any other pipeline facilities included in Seagull's existing intrastate pipeline system. Seagull sought also to transport the remaining gas produced at the Cavallo Field to Texas Gas, an interstate pipeline. Texas Gas would purchase the gas at a point of delivery on HO&M's platform for delivery to HPC's existing intrastate facilities through the Cavallo line. Seagull sought a declaratory order that the Cavallo line was an ''intrastate pipeline'' and that Texas Gas' volumes could be transported pursuant to NGPA section 311(a)(2).

The Commission determined that the construction of the new facility (the Cavallo line) by an existing intrastate company did not change the intrastate status of the existing facilities or system, and that the new facility was itself an intrastate facility. The Commission reasoned that the definition of an ''intrastate pipeline'' applies to the person or corporate entity engaged in natural gas transportation and does not apply to each discrete facility of or operation by the pipeline company.[5]

Like the facts presented in *Seagull*, it appears that Egan's storage cavern and appurtenant facilities in Acadia Parish are not physically connected to any intrastate facilities which comprise Egan's existing intrastate system. However, unlike *Seagull*, Egan intends to use the storage facilities for section 311 service only. As discussed, section 311 was implemented to integrate the intrastate and interstate gas markets, and intrastate pipelines were authorized to transport natural gas on behalf of any interstate pipeline without subjecting the intrastate pipeline to NGA jurisdiction. This purpose was clearly served in *Seagull* because construction of the Cavallo line permitted Seagull to engage in intrastate transportation to deliver gas on behalf of Valley, another intrastate pipeline, as well as to perform section 311 service on behalf of Texas Gas, an interstate pipeline, through the same facility.[6] The Commission questions whether the NGPA's purpose of integrating the interstate and intrastate gas markets will be advanced if Egan constructs facilities that are separate from its existing intrastate facilities, for the sole purpose of providing jurisdictional services to interstate customers.

While the Commission has stated that it is not unusual, much less unlawful, for persons to structure transactions either to qualify for regulation by one entity or to avoid regulation by another,[7] at some point such structuring may nevertheless be contrary to the public interest and inconsistent with the underlying purpose of statutes effecting a federal scheme of regulation. The Commission recognizes that construction and operation of Egan's storage caverns and appurtenant facilities would not frustrate the Commission's regulation over the rates Egan proposes to charge and collect for interstate storage and transportation services provided pursuant to section 311, since the Commission regulates those rates. Rather, the Commission is concerned that the purpose of the NGA may be frustrated because Egan will construct facilities to be used entirely in interstate commerce without becoming subject to the Commission's section 7(c) certification procedures, or complying with the environmental and other requirements of 18 CFR Part 157[8] and

[2] Lear Petroleum Corp., 42 FERC ¶ 61,015 at 61,043 (1988).

[3] *Id. See also* Mustang Energy Corp. v. FERC, 859 F.2d 1447 (10th Cir. 1988).

[4] *See* Sales and Transportation of Natural Gas, Order No. 46, FERC Stats. & Regs., Regulations Preambles 1977–1981 ¶ 30,081 at 30,536 (1979); *see also* section 284.3(c) (''The Natural Gas Act shall not apply to facilities utilized solely for transportation authorized by section 311(a) of the NGPA'').

[5] Seagull Pipeline Corp., 11 FERC ¶ 61,267 at 61,522 (1980).

[6] The question addressed in Seagull was whether intrastate status is changed where the new, separate facility was constructed ''for the purpose, *in part,* of providing'' 311 service. 11 FERC at 61,522 (emphasis supplied) (1980).

[7] *See, e.g.*, Riverside Pipeline Co., L.P., 48 FERC ¶ 61,309 at 62,015–16 (1989).

[8] Although intrastate pipelines are required to follow the environmental requirements of 18 CFR 157.206(d) for facilities constructed under NGPA section 311(a), a section 7(c) certificate requires case-specific environmental review and conditions.

Order No. 636.[9] In Order No. 636, the Commission required pipelines to unbundle transportation and sales and implement certain procedures including the requirement that interstate pipelines must offer open access to its storage facilities on a firm and interruptible basis.

If the Commission determines that Egan's facilities are in fact jurisdictional storage facilities, Egan may be required to obtain a NGA section 7(c) certificate. In *Petal Gas Storage Company*,[10] the Commission determined that Petal Gas Storage Company (Petal), a wholly owned subsidiary of Chevron U.S.A. Inc. (Chevron), and/or Chevron violated section 7(c) of the NGA because construction of jurisdictional storage facilities commenced before the requisite certificate authorization and environmental clearances were obtained. Petal was required to obtain a section 7(c) certificate to operate leased gas capacity in Chevron's salt dome storage cavern, and to construct and operate related facilities.[11] The Commission also required Petal to file a tariff conforming to Order No. 636, and imposed environmental conditions.

The Commission questions whether Egan should be deemed an interstate pipeline, subject to the requirements of the NGA and Order No. 636, when it constructs and operates new storage facilities for exclusive use in interstate commerce. Accordingly, the Commission is instituting this show cause proceeding, pursuant to sections 5, 7, and 16 of the NGA, to investigate further these matters. In its response, Egan and other interested persons are encouraged to address the concerns raised above by the Commission.

The Commission Orders

(A) Within 30 days of the issuance of this order:

Egan is required to show cause why the Commission should not require Egan to obtain a NGA section 7(c) certificate to construct and operate the storage facilities since the facilities are intended for use in interstate commerce and appear unrelated to any other nonjurisdictional operation on Egan's system.

(B) Notice of this proceeding will be published in the Federal Register. Interested persons will have 20 days from the date of publication of the notice to intervene.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23313 Filed 9–19 –95; 8:45 am]

BILLING CODE 6717–01–P

[9] Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 57 FR 13267 (Apr. 16, 1992), III FERC Stats. & Regs. Preambles ¶ 30,939 (Apr. 8, 1992).

[10] 64 FERC ¶ 361,190 (1993), *as amended*, 67 FERC ¶ 61,135 (1994).

[11] Chevron, an independent producer, initially planned to use its salt dome cavern in a nonjurisdictional manner or to obtain a certificate from the State of Mississippi. Subsequently, Chevron decided to form its subsidiary, Petal, to provide jurisdictional stand-alone storage service to third parties.

[Docket No. CP95–738–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

September 14, 1995.

Take notice that on September 7, 1995, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP95–738–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to revise an existing meter station to enable Koch Gateway to transport natural gas to serve Phoenix Gas Pipeline Company (Phoenix) for ultimate delivery to Calciner Industries Inc. (Calciner) at this location in Louisiana, under Koch Gateway's blanket certificate issued in Docket No. CP82–430–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch Gateway proposes to install two 4-inch positive meters and three 2-inch regulators at an existing delivery meter station located on its Baton Rouge-New Orleans Line designated as TPL 270–8, St. Charles Parish, Louisiana. The additional meter will increase delivery capacity to Calciner from 4,200 MMBtu to 6,050 MMBtu per day. The estimated cost is $42,535. The revision of existing metering facilities will involve only above-ground assembly within existing and previously disturbed right-of-way. Koch Gateway states it is authorized to provide interruptible transportation service to Phoenix under a November 1, 1993 transportation agreement and that the proposed installation of facilities will provide Phoenix with a better means of serving Calciner. Koch Gateway states that the proposed interruptible service provided through these facilities will remain within current certificated levels and will be rendered without detriment or disadvantage to existing customers. Koch Gateway's tariff does not prohibit the proposed modification of facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23273 Filed 9–19–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL95–35–000]

Order Establishing Hearing

Issued September 14, 1995.

In the matter of Kootenai Electric Cooperative, Inc., Clearwater Power Company, Idaho County Light & Power Cooperative Association, Inc., and Northern Lights, Inc. v. Public Utility District No. 2 of Grant County, Washington

On March 2, 1995, Kootenai Electric Cooperative, Inc., Clearwater Power Company, Idaho County Light & Power Cooperative Association, Inc., and Northern Lights, Inc. (collectively referred to as the Idaho Cooperatives or Complainants) tendered for filing a complaint against Public Utility District No. 2 of Grant County (Grant County). In their complaint, the Idaho Cooperatives request the Commission to determine and fix the applicable portion of capacity and output to be made available to the Idaho Cooperatives from the Priest Rapids Project upon relicensing and expiration of existing power sales contracts. Grant County and the Purchasers [1] oppose this request.

[1] The Purchasers are: City of Tacoma, Washington Water Power Company, Puget Sound Power & Light Company, Seattle City Light, Eugene Water & Electric Board, PacifiCorp, Portland General Electric Company, and Cowlitz County PUD No. 1.

They provide retail electric service in the States of Oregon, Washington, Idaho and Montana, and also engage in wholesale purchases and sales of electricity and transmission services, including transactions with Grant County. The Purchasers each entered into similar contracts with Grant County for the purchase and sale of output of the Priests Rapids Development. The contracts terminate on October 31, 2005. Certain of the