

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
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TO PARTIES OF RECORD IN APPLICATION 14-09-001 and APPLICATION 15-08-005:

This is the proposed decision of Administrative Law Judge (ALJ) Robert W. Haga. It will appear on the Commission's June 9, 2016 agenda. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Pursuant to Rule 14.6(c)(2), comments on the proposed decision must be filed within 18 days of its mailing and reply comments must be filed within 22 days of its mailing.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Haga at rwh@cpuc.ca.gov and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ ANNE E. SIMON for
Karen V. Clopton, Chief
Administrative Law Judge

KVC:lil

Attachment

Decision **PROPOSED DECISION OF ALJ HAGA** (Mailed 5/12/2016)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of Lodi Gas Storage, L.L.C. (U912G), Buckeye Gas Storage LLC, Buckeye Partners, L.P., BIF II CalGas (Delaware) LLC and Brookfield Infrastructure Fund II for Expedited Ex Parte Authorization to Transfer Control of Lodi Gas Storage, L.L.C. to BIF II CalGas (Delaware) LLC Pursuant to Public Utilities Code Section 854(a).

Application 14-09-001
(Filed September 3, 2014)

And Related Matter.

Application 15-08-005
(Filed August 3, 2015)

DECISION APPROVING OWNERSHIP TRANSFER OF WILD GOOSE GAS STORAGE AND APPROVING IN PART THE REQUEST TO REMOVE THE RESTRICTION ON COMMUNICATION BETWEEN AFFILIATES OF LODI GAS STORAGE AND WILD GOOSE GAS STORAGE

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DECISION APPROVING OWNERSHIP TRANSFER OF WILD GOOSE GAS STORAGE AND APPROVING IN PART THE REQUEST TO REMOVE THE RESTRICTION ON COMMUNICATION BETWEEN AFFILIATES OF LODI GAS STORAGE AND WILD GOOSE GAS STORAGE**Summary**

This decision grants, subject to specified terms and conditions, the application of Wild Goose Gas Storage (Wild Goose), Carlyle/Riverstone Energy Partners III, L.P. (C/R Energy Partners III), and Brookfield Infrastructure Fund II GP, LLC (BIF II GP) (Joint Applicants) for the transfer of control of Wild Goose, an independent natural gas storage provider in California, from its current owner, C/R Energy Partners III, to BIF II GP through the purchase and sale of 100% of the outstanding limited liability interests in Wild Goose. Pursuant to Pub. Util. Code § 854(a),¹ we authorize the transfer of ownership of Wild Goose in accordance with the terms and conditions as set forth below.

We also grant in part and deny in part, subject to specified terms and conditions, the petition to modify Decision 14-12-013 submitted by Brookfield Infrastructure Fund II (BIF II), Brookfield Infrastructure Fund II CalGas (BIF II CalGas), and Lodi Gas Storage L.L.C. (Lodi) (Joint Petitioners). The Joint Petitioners seek to remove a condition originally imposed in Decision 08-01-018 and affirmed in Decision 14-12-013 that prevents Lodi, and any related entity, from sharing “sensitive market information” and identified providers of external services with Wild Goose or any entity related to Wild Goose. Joint Petitioners failed to justify why the Commission should lift the entire restriction on the

¹ All statutory references are to the Public Utilities Code unless otherwise indicated.

sharing of sensitive market information between Lodi and Wild Goose or the restriction on the sharing of the delineated external service providers.

Joint Petitioners have justified a limited change to allow both Lodi and Wild Goose to share “sensitive market information” with BIF II GP and other affiliated entities, as long as protocols are in place to ensure such information is not shared between Lodi and Wild Goose. Accordingly, we modify the restriction in Condition 4 that prevents Lodi, or any entity related to Lodi, from sharing “sensitive market information” with entities related to Wild Goose. We retain the portions of Condition 4 that prevent Lodi from sharing such information with Wild Goose and that prevent entities related to Lodi from sharing such information with Wild Goose.

1. Background

Carlyle/Riverstone Energy Partners III, L.P. (C/R Energy Partners III) is seeking to sell its ownership interest in Wild Goose Gas Storage, LLC (U911G) (Wild Goose) to Brookfield Infrastructure Fund II GP, LLC (BIF II GP). Application (A.) 15-08-005 was submitted on August 3, 2015 by Wild Goose, C/R Energy Partners III and BIF II GP, collectively the Joint Applicants, for Commission approval to transfer control of Wild Goose from C/R Energy Partners III to BIF II GP (Wild Goose Application or Application) pursuant to Public Utilities Code Section (Pub. Util. Code §) 854(a).

The Joint Applicants state that after the transfer of control is completed, Wild Goose will continue to operate as an independent natural gas storage provider. The Certificates of Public Convenience and Necessity (CPCN) held by Wild Goose will not be transferred and no natural gas storage customer will be transferred to another entity. Wild Goose will continue to operate pursuant to the authority granted by the Commission in Decision (D.) 97-06-091 (granting

Wild Goose a CPCN for construction and operation of the Wild Goose facility), D.02-07-026, D.10-12-025, and D.13-06-017 (all three amending the Wild Goose CPCN for all three additional project components). Wild Goose will continue to be subject to the reporting requirements of D.02-07-026 and D.06-11-019, as modified by D.07-10-001.

According to the Joint Applicants the proposed transaction will be accomplished through the merger of Niska Storage Partners and Swan Merger Sub, and the simultaneous acquisition of Niska Storage Partners' managing member units by Swan Holdings LP. At the conclusion of these transactions, BIF II GP will indirectly own Wild Goose, as well as Niska Storage Partners' other storage related assets.² No change is proposed for Wild Goose's assets, liabilities, management, or operations, and no utility property will be transferred.

Concurrently with the filing of the Wild Goose Application, on August 3, 2015, Lodi Gas Storage, L.L.C. (U912G) (Lodi), Brookfield Infrastructure Fund II (BIF II), and Brookfield Infrastructure Fund II CalGas (BIF II CalGas)³ (collectively Joint Petitioners) filed a Petition to Modify D.14-12-013 (Petition to Modify) to eliminate the requirement that prohibits Wild Goose and Lodi from sharing sensitive market information or external providers of identified services. The Joint Petitioners claim that operation of Lodi and Wild Goose as an integrated storage hub offers many synergies, but relief from the conditions adopted in D.14-12-013 is required to take advantage of those efficiencies.

² These storage assets include AECO Hub™, a 154 Bcf facility in Alberta, Canada, and Salt Plains, a 13 Bcf facility in Oklahoma, USA, as well as ownership interests in Starks, a 27 Bcf facility under development in Louisiana, and Sundance Gas Storage, a 70 Bcf facility under development in Alberta. Application at p. 10. *See also*, D.06-11-019 at pp. 5-9.

³ BIF II CalGas owns the Lodi facility and is itself owned by BIF II and BIF II GP.

1.1. Description of Joint Applicants and Joint Petitioners**1.1.1. Wild Goose**

Wild Goose is a Delaware Limited Liability Company authorized to conduct business in California. Wild Goose is an independent natural gas storage provider in California with combined operations of approximately 75 billion cubic feet (Bcf) of total capacity. At present, Wild Goose's peak operating injection capacity is 525 million cubic feet per day (MMcf/d) and peak operating withdrawal capacity is 950 MMcf/d. In D.97-06-091, the Commission granted Wild Goose a certificate of public convenience and necessity (CPCN) to develop, construct, and operate an underground natural gas storage facility and ancillary pipeline interconnected to PG&E's Line 167 Sacramento Valley Local Transmission System, located in Butte County, California. Wild Goose sought and received authority in D.02-07-036 to expand the authorized capacity of the storage facility and construct an approximate 25 mile pipeline to interconnect to PG&E Line 400 backbone transmission system. Wild Goose sought to further expand its injection and withdrawal capacity and expand to its current 75 Bcf capacity through D.10-12-025 and D.13-06-017. In issuing the CPCN, the Commission authorized Wild Goose, as a new public utility under Pub. Util. Code § 216, to develop, construct, and operate an underground natural gas storage facility and to provide firm and interruptible storage service in California.

1.1.2. C/R Energy Partners III

C/R Energy Partners III is a Delaware limited partnership with its principal business address in New York City, New York. C/R Energy Partners III is one of a series of investments funds established by the joint

venture between the Carlyle Group and Riverstone Holdings LLC. C/R Energy Partners III controls the investments funds (Carlyle/Riverstone Global Energy and Power Fund III, L.P. and Carlyle/Riverstone Global Energy and Power Fund II, L.P.) which own a controlling interest in Niska Storage Partners.

Niska Storage Partners has a 99% ownership interest in Niska GS Holdings, I, LP, which is the indirect parent of Wild Goose.

Niska Gas Storage Management, LLC and Niska Sponsor Holdings Cooperatief, U.A. (C/R Energy Partners III has a 99% ownership interest in both entities) have a combined 54.76% ownership interest in Niska Storage Partners.

1.1.3. BIF II GP and BIF II CalGas

BIF II GP is a Delaware limited liability company with its designated address in Houston, Texas. BIF II GP is the general partner of a series of private capital funds, that in conjunction with Brookfield Infrastructure Partners, L.P. (BIP), a publicly traded limited partnership controlled by Brookfield Asset Management, Inc. (BAM), indirectly owns infrastructure projects in locations domestically and internationally, including Lodi.

BIF II GP is the general partner of each of the Brookfield Infrastructure Funds II-A (CR), L.P., Brookfield Infrastructure Fund II-A, L.P., Brookfield Infrastructure Fund II-B, L.P., Brookfield Infrastructure Fund II-C, L.P., Brookfield Infrastructure Fund II-D, L.P., and Brookfield Infrastructure Fund II-D (CR), L.P. (collectively the BIF II Funds). Together with BIP, the BIF II Funds, through their indirect interest in Swan Merger Sub, will indirectly hold 100% of Wild Goose upon completion of the Transaction contemplated by the Merger Agreement. Together with BIF II GP, the BIF II Funds own BIF II CalGas, which was formed for the sole purpose of holding all interests in Lodi.

BIF II GP is an indirect subsidiary of BAM, which is a global asset manager, focused on property, renewable power, infrastructure assets and private equity. BAM is a publicly traded company listed on the Toronto Stock Exchange, New York Stock Exchange, and Euronext Amsterdam. BAM indirectly owns interests in and manages companies regulated as public utilities under the Federal Power Act and companies owning qualifying facilities, as well as interests in interstate natural gas pipelines and electric transmission companies in New England and Tennessee.

BIF II GP formed the limited partnership of Swan Holdings, LP to acquire 100% ownership of Niska Storage Partners. Swan Merger Sub is a wholly owned subsidiary of Swan Holdings, LP. Swan Merger Sub was created for the sole purpose of merging Niska Storage Partners with Swan Merger Sub.

1.1.4. Lodi

Lodi is a Delaware limited liability company with its principal place of business in Houston, Texas. Lodi is an independent natural gas storage provider in California with combined operations of approximately 46 Bcf of total capacity and 34 Bcf of working capacity. In D.00-05-048 the Commission granted Lodi a CPCN to develop, construct, and operate an underground natural gas storage facility and ancillary pipeline (i.e., the Lodi Gas Storage Facility (Lodi Facility) in San Joaquin County, approximately three miles northeast of the City of Lodi. Lodi constructed and currently operates the Lodi Gas Storage Facility. In issuing the CPCN, the Commission authorized Lodi, as a new public utility under Public Utilities Code § 216, to provide firm and interruptible gas storage services in California at market-based rates. In D.14-12-013, the Commission approved the transfer of control over Lodi to BIF II CalGas.

2. Issues before the Commission

In addition to having to determine if the proposed transfer of control of Wild Goose is in the public interest, the Commission must determine if the current prohibition on Wild Goose and Lodi sharing commercially sensitive market information and external providers of certain identified services should continue. The Commission must also determine if the transfer of control will maintain or improve the financial condition of Wild Goose. The Commission must also determine what effect the transfer of control will have on competition in the provision of natural gas storage services. Given the stated intent of applicants to operate Wild Goose and Lodi as an integrated storage hub, should the Commission require BIF II GP to operate the facilities separately until the Commission determines they may be operated as an integrated hub. The Commission must also examine if the transfer of control will have any safety concerns or considerations.

Joint Applicants and Joint Petitioners must also show how they have complied with the California Environmental Quality Act (CEQA). Public Resources Code § 21080 et seq., known as CEQA, may require environmental review of projects that are subject to the Commission's discretionary approval. A change of ownership will not result in a project subject to CEQA unless such a change of ownership or control may result in a physical change to the environment by altering an existing project, resulting in new projects, or changing facility operations.

2.1. Procedural Matters

Notice of this Application appeared in the Commission's Daily Calendar on August 12, 2015. Pursuant to Rule 7.1 of the Commission's Rules of Practice and Procedure (Rules), in Resolution ALJ 176-3362, dated August 27, 2015, the

Commission preliminarily categorized this proceeding as ratesetting and preliminarily determined that hearings were not necessary. On September 2, 2015, Central Valley Gas Storage filed a timely Response to the Application. On September 11, 2015, Gill Ranch Storage, Pacific Gas and Electric Company (PG&E), Shell Energy North America (US), L.P. (Shell Energy), and Southern California Gas Company (SoCalGas) filed timely Responses to the Application.

Of the Respondents, only SoCalGas supported Commission approval of the Application without qualifications. The other parties expressed concerns about the potential consolidation of Wild Goose with Lodi under the common ownership of BIF II GP and raised issues for the Commission to address in the Commission's decision on the application. Central Valley Gas Storage is concerned that this proceeding could raise issues of broad applicability that could affect it or other independent storage providers. Gill Ranch Storage is concerned that it may be affected by the matters raised in the Application and Petition to Modify.⁴ Gill Ranch Storage requests the Commission to evaluate whether continuing the existing conditions and reporting requirements are sufficient to ensure common ownership of Wild Goose and Lodi does not have adverse competitive impacts, or if new conditions and reporting requirements are needed. Gill Ranch Storage proposes that if the Commission approves the transfer of control of Wild Goose, it should hold this proceeding open and direct

⁴ Response of Gill Ranch Storage, LLC to Joint Application for Transfer of Control of Wild Goose Storage, LLC (U-911-G) Pursuant to Public Utilities Code Section 854(a) at 2, filed September 11, 2015; Response of Gill Ranch Storage, LLC to Petition of Brookfield Infrastructure Fund II, Brookfield Infrastructure Fund II CalGas and Lodi Gas Storage L.L.C. (U912G) for Modification of Decision 14-12-013 at 1-2, filed September 2, 2015.

parties to submit comments within two years of the decision to allow the Commission to review the effects of the transfer of control.⁵

Shell Energy would condition the transfer of control by requiring Wild Goose and Lodi continue to operate separately, including day-to-day management, operations, marketing, and accounting, and that they not be allowed to share commercially sensitive information. Such conditions would continue until the Commission approves a new application by Wild Goose and Lodi to operate the two storage entities and a single integrated storage hub. PG&E supports the transfer of control based upon the understanding it has reached with Wild Goose and BIF II GP. PG&E submitted a Stipulation with its Response that addresses PG&E's concerns regarding the transfer of control and the lifting of the current prohibition on sharing information between Wild Goose and Lodi (PG&E Stipulation). PG&E represents the stipulation prevents BIF II GP from operating Wild Goose and Lodi as an integrated hub without first detailing the terms and conditions of those hub operations and obtaining Commission authority to operate as an integrated hub.

Central Valley Gas Storage, LLC (Central Valley Gas Storage) and Gill Ranch Storage, LLC (Gill Ranch Storage) submitted Responses to the Petition to Modify expressing concerns similar to those they raised in their Responses to the Wild Goose Application.

Pursuant to Rule 7.4 of the Commission's Rules of Practice and Procedure, on December 1, 2015, Administrative Law Judge (ALJ) Robert Haga issued a Ruling consolidating applications as the Wild Goose Application and the Petition

⁵ Response of Gill Ranch Storage, LLC to Joint Application for Transfer of Control of Wild Goose Storage, LLC (U-911-G) Pursuant to Public Utilities Code Section 854(a) at 4.

to Modify covered related and overlapping topics. No party requested the Commission hold an evidentiary hearing.

The Joint Applicants filed a reply to the Responses on September 21, 2015. The Joint Applicants would have the Commission reject the conditions offered by Gill Ranch Storage and Shell Energy. The Joint Applicants state that the conditions proposed by Gill Ranch Storage and Shell Energy would negatively impact the public interest benefits of the transfer of control or establish additional and duplicative Commission processes to address hypothetical concerns. The Joint Applicants further claim that they will not be able to design a joint/amended tariff(s) without being able to share market sensitive information, including facility performance data, customer specific information and marketing information prior to filing for approval from the Commission of its future Hub Integration Application. The Joint Applicants noted that as part of their Stipulation with PG&E that they will meet with PG&E prior to filing any Hub Integration Application to discuss the terms and conditions of such integration, and they offered to extend such an agreement to Shell Energy or any other stakeholder expressing interest. The Joint Applicants believe the request of Gill Ranch Storage is redundant and an inefficient use of Commission resources.

A Prehearing Conference was held on December 8, 2015, to set the scope and schedule for the proceeding. At the Prehearing Conference the Joint Applicants and Shell Energy notified ALJ Haga that they had reached an agreement on a stipulation that would address Shell Energy's concerns with the transfer of control (Shell Energy Stipulation). ALJ Haga directed the Joint Applicants and Shell Energy to submit the stipulation by December 10, 2015, and ordered that any party seeking to comment on either the Shell Energy Stipulation

or the PG&E Stipulation must do so by December 18, 2015. Only the Joint Applicants submitted comments on December 18, 2015.

During the Prehearing Conference Gill Ranch Storage reiterated the concerns that the transaction, which would result in the consolidation of the two largest independent natural gas storage providers in California, would be consistent with state policy promoting competition in natural gas storage.

On February 26, 2016, a Joint Scoping Memo was issued by the assigned Commissioner and ALJ setting forth the issues to be considered and the schedule for the proceeding. The Joint Scoping Memo confirmed the preliminary categorization of this proceeding as ratesetting and designated ALJ Haga as the Presiding Officer for this proceeding.

On May 6, 2016, ALJ Haga granted the Motion to File Confidential Documents Under Seal submitted by the Joint Applicants coincident with the Application on August 3, 2015. The designated confidential documents, identified as Exhibits C, F, I, K, and N, will remain under seal until May 6, 2018.

3. Proposed Transfer of Control of Wild Goose

3.1. Description of the Transfer

This application represents the latest transfer of the ownership interests in Wild Goose since it received its initial CPCN nearly 20 years ago.⁶ In this transaction, all of the limited liability company interests in Wild Goose are currently controlled by C/R Energy Partners III. Upon approval of the Commission, BIF II GP will assume control of those limited liability company interests and control of Wild Goose, as well as Niska Storage Partners' other

⁶ See, D.01-05-029, D.03-06-069, and D.06-11-019 as modified by D.06-11-023, D.07-03-047, and D.07-10-001.

storage related assets outside of California. The total value of the merger transaction, including assets outside of California, is approximately \$911,926,000.

Swan Holdings, LP will acquire all equity units held by non-managing members of Niska Storage Partners, at a per unit purchase price of \$4,225. There were approximately 37,988,724 outstanding common units, equating to a total value of approximately \$160,502,359. These common units are held by Niska Gas Sponsor Holdings Cooperatief U.A. and public investors. In addition, Swan Holdings, LP will acquire the ownership interests of Niska Gas Storage Management, LLC, which is the managing member of Niska Storage Partners, for a total of \$7,497,641. After those acquisitions are complete there will no longer be any publically held equity interests in any of the Niska entities. Finally, by operation of law through the merger, Swan Holdings, LP assumes Niska's outstanding debt and capital lease obligations valued at approximately \$743,926,000 at the time of the filing of the application.

After the Commission approves the transfer of control and the transaction closes, Wild Goose's day-to-day operations in California will continue to be overseen by the existing field and operations teams. Key individuals charged with the oversight and management of Niska and Wild Goose are expected to remain after closing of the transaction. Wild Goose operations will remain consistent with the standards required to maintain the safety of its workers and the surrounding community, and local environment.

BIF II GP plans to leverage Niska's operating history to integrate and incorporate best practices throughout its operated gas storage portfolio, including the Lodi facilities. Ultimately, by combining the management and operations of Niska and Lodi, BIF II GP hopes to explore the opportunity to operate Wild Goose and Lodi as an integrated hub, similar to Niska's AECO Hub

in Alberta, Canada, where two facilities are physically separate but act as one natural gas storage hub. BIF II GP believes a hub based model will enhance operational reliability and safety and potentially expand service offerings to its customers.

3.1.1. Description of the PG&E Stipulation

PG&E support for the Wild Goose Application is based on the understanding that the transfer of control of Wild Goose is the first step toward the eventual integrated operations of the Wild Goose and Lodi storage facilities, but that BIF II GP will not begin operating the Wild Goose and Lodi facilities as an integrated hub without first detailing the terms and conditions of those hub operations and requesting further authority from the Commission. PG&E agrees that operating the Wild Goose and Lodi storage fields as one integrated storage hub will provide a number of opportunities for increased reliability of the natural gas system in California. PG&E, Wild Goose, and BIF signed the Stipulation confirming their understanding, along with other provisions that address PG&E's operational concerns regarding the Wild Goose Application pending BIF's submittal of detailed terms and conditions of hub operations to the Commission.

In the PG&E Stipulation BIF II GP agreed to seven actions in return for PG&E's support of the application to transfer control of Wild Goose to BIF II GP:

- (1) Continue to operate Wild Goose and Lodi as they are currently operated until the Commission grants authority to operate them as an integrated hub;
- (2) Develop the terms, conditions, and procedures to operate the facilities as an integrated hub within 18 months of the Commission's approval for the transfer of control of Wild Goose;
- (3) Meet and discuss with PG&E the potential operation of operating the facilities as an integrated hub at least 45 days before

filing an application with the Commission for such authority; (4) Not engage in inventory transfers between Lodi and Wild Goose before receiving Commission authority to operate as an integrated hub; (5) Conduct daily operational calls with the PG&E Gas Transmission Control Center regarding injection and withdrawal plans for the Wild Goose, Sherman Island, and Kirby Hills facilities; (6) Make reasonable efforts to accommodate PG&E requests for Facilities flow allocation on the PG&E system; (7) Meet and discuss tariff changes proposed by PG&E as they pertain to the Redwood Path Allocation and other operational issues at BIF II GP's storage facilities.

3.1.2. Description of the Shell Energy Stipulation

The agreement of Shell Energy to not oppose the Wild Goose Application is based on many of the same issues addressed in the PG&E Stipulation, in particular the process required for hub integration. Three of the first four points of Shell Energy Stipulation can also be found in the PG&E Stipulation. Shell Energy adds a provision to ensure prices, including fuel rates, will remain separate until the Commission approves the integrated hub authority. In addition the Shell Energy Stipulation adds three specific provisions regarding the marketing of services and execution of contracts prior to the Commission providing authorization to operate the Wild Goose and Lodi facilities as an integrated hub. Wild Goose, Shell Energy, and BIF II GP signed the Stipulation memorializing their agreement on December 8, 2015. Shell Energy agreed to not oppose the Wild Goose Application, but retained its rights to evaluate and challenge any future application to establish an integrated hub and/or future Wild Goose or Lodi tariff changes.

In the Shell Energy Stipulation BIF II GP agreed to seven actions in return for Shell Energy agreeing to not oppose the application to transfer control of

Wild Goose to BIF II GP: (1) Continue to operate Wild Goose and Lodi as they are currently operated until the Commission grants authority to operate them as an integrated hub; (2) Keep products and prices, including fuel rates, differentiated until the Commission grants authority to operate Wild Goose and Lodi as an integrated hub; (3) Develop the terms, conditions, and procedures to operate the facilities as an integrated hub within 18 months of the Commission's approval for the transfer of control of Wild Goose; (4) Meet and discuss with Shell Energy the potential operation of operating the facilities as an integrated hub at least 45 days before filing an application with the Commission for such authority; (5) Keep separate personnel for each of the following: (a) marketing of Firm Storage Services, as defined in the Wild Goose tariff; (b) marketing of Firm Storage Services, as defined in the Lodi tariff; and (c) Wild Goose Short-Term Storage Services and Lodi Interruptible Storage Services, as each of these services is defined in the existing respective tariffs; (6) Firm Storage Service contracts submitted to a common management team (at the vice president level) cannot reveal the identity of the customer until after it is executed; and (7) Procedures will be put in place to prevent sharing of information between marketing personnel at Wild Goose and Lodi, and will specifically restrict the exchange of customer name and terms and conditions under negotiation.

4. Petition to Modify to Remove Limitation on Sharing of Sensitive Market Information and External Market Providers between Wild Goose and Lodi

Decision 14-12-013 granted the application of Buckeye Gas Storage, BIF II and BIF II CalGas for the transfer of control of Lodi to BIF II CalGas, subject to a number of conditions. Among other things, the conditions prohibit Lodi, and any related entity, from sharing "sensitive market information" or identified external services with Wild Goose or any entity related to Wild Goose. The

Petition to Modify requests removal of the prohibition against sharing information and services in order to realize the benefits of common ownership and control of Wild Goose and Lodi by BIF II GP, commonly referred to as Condition 4.

Decision 14-12-013 continued the conditions originally placed upon Lodi in D.08-01-018. The fourth condition originally adopted in D.08-01-018 pertains directly to the sharing of information between Lodi and Wild Goose. While that condition was adopted pursuant to a settlement, the decision indicates it was adopted to address any “lingering nexus” that might exist from the then recent ownership stake that C/R Energy Partners III had in Lodi Gas and its controlling ownership of Wild Goose. The issue that condition was seeking to address was the question raised in the protest of the Division of Ratepayer Advocates that if Lodi and Wild Goose were operated together they could exercise control of more than 50% of the Northern California gas storage market. The Office of Ratepayer Advocates did not participate in this proceeding and has not expressed an opinion about continuing Condition 4.

5. Discussion

5.1. Public Interest Standard of Review

Pub. Util. Code § 701 provides the Commission the authority to supervise and regulate every public utility in the State, including Wild Goose and Lodi, and provides the Commission authority to exercise regulatory oversight over the Merger Agreement submitted by the Joint Applicants. The Merger Agreement proposed by Joint Applicants whereby Brookfield Infrastructure will acquire control of Wild Goose constitutes a change of control, within the meaning of Pub. Util. Code § 854, and is subject to Commission jurisdiction.

In requesting Commission approval of the proposed transactions, Applicants concede that any time a public utility authority in California is transferred the transaction falls within the meaning of Section 854. The purpose of Section 854 is to require the Commission to review and establish necessary conditions on the transfer of a public utility authority in California. To approve the proposed transaction, the Commission must find the proposal meets the public interest standard that the Commission has historically applied pursuant to Section 854.

The Commission has broad discretion to determine if it is in the public interest to authorize a transaction pursuant to Section 854. Typically, the Commission has required an applicant to show that the proposed transaction is “not adverse to the public interest.”⁷ The Commission has also required applicants to show that the proposed transaction is “in the public interest,”⁸ such as that is required for all transactions subject to review under Sections 854(b) and 854(c). Sections 854(b) and 854(c) do not expressly apply to the instant transaction because, according to the Joint Applicants, neither Wild Goose nor the other parties to the proposed transfer of control have gross annual California revenues exceeding U.S. \$500 million. Even when Sections 854(b) and 854(c) do not expressly apply to a transaction, the Commission has used the criteria set forth in those statutes to provide context for its public interest assessment.⁹ The

⁷ See, for example, D.08-01-018 at pp. 19-20 (approving the transfer of control over Lodi Gas Storage at the holding company level), citing D.07-05-061 at 24.

⁸ See, D.11-06-032 at p. 12, D.10-10-017 at 11, and D.07-05-031 at 3.

⁹ See, D.03-06-069 at pp. 10-11 (In evaluating a 2003 Wild Goose Storage Application under Section 854(a), the Commission has discretion to consider the criteria set forth in Sections 854(b) and (c) if it is inclined to do so.). See also, D.07-05-061 at 20.

Commission has been inclined to evaluate applications like the proposed transfer of control of Wild Goose both under the basic § 854(a) standard of review and this heightened standard.¹⁰ Given California policies surrounding energy resources and natural gas storage,¹¹ and the potential impact on the competitive market for storage services in California,¹² Joint Applicants and Joint Petitioners must show that the relief requested is in the public interest.

5.2. The Application to Transfer Control of Wild Goose Should Be Approved Subject to Conditions

The terms of the September 10, 2015, Stipulation among Wild Goose, BIF II GP, and PG&E (PG&E Stipulation) should be approved and adopted by the Commission. The PG&E Stipulation is set forth in Appendix 2 of this decision. The Motion for acceptance of the December 8, 2015, Stipulation among Wild Goose, BIF II GP and Shell Energy (Shell Energy Stipulation) should be granted, and the terms of the Shell Energy Stipulation should be approved and adopted by the Commission. The Shell Energy Stipulation is set forth in Appendix 3 of this decision.

Based on the facts at issue here, and in view of the terms of the PG&E Stipulation and the Shell Energy Stipulation, we conclude that the Joint Applicants' proposed transfer of control is in the public interest and should be

¹⁰ See, D.08-01-018 at p. 21, D.07-05-061 at 31-32, D.05-12-007 at 6, *citing*, San Jose Water Co. (1916) 10 CRC 56.

¹¹ Stats. 1992, Ch. 1337.

¹² See, *for example*, D.00-06-079 at 14, *citing* Union Water Co. of California, 19 CRC 199, 202 (1920), mentioning several factors: economical and financial feasibility; purchase price; value of consideration exchanged; efficiencies and operating costs savings; improved financial flexibility).

approved. Accordingly, we approve the application subject to compliance with the two stipulations and continuation of existing conditions.

Joint Applicants state the transfer of control will provide Wild Goose with long-term financial stability through the ownership of BIF II GP. After the transfer of control is completed, Wild Goose will continue to operate as an independent natural gas storage provider subject to the jurisdiction of this Commission. Wild Goose's operations will continue unchanged, subject to all conditions previously ordered by the Commission. The transaction will not result in the transfer of any certificates, assets, or Wild Goose customers. Wild Goose will continue to operate "consistent with the standards required to maintain the safety of its workers and the surrounding community, as well as the local environment." (Application at p. 11.)

Central Valley Gas Storage expressed a general concern that the proceeding could have broad implications for the transfer of control of other natural gas storage companies. Central Valley Gas Storage did not expand upon its general concern with comments on the stipulations and did not provide any specific concern about the scope of the issues considered in the proceeding. The decision has been narrowly tailored to address the issues specific to Wild Goose and Lodi and addresses the concern expressed by Central Valley Gas Storage.

The request of Gill Ranch Storage to hold this proceeding open for two years after approving the transfer of control is rejected as it is both unfair to the applicants and unworkable both practically and procedurally. Gill Ranch Storage expresses concerns about how the common ownership of Wild Goose and Lodi might impact the natural gas storage market in California. However, Gill Ranch Storage expresses those concerns in general terms, and the countervailing evidence provided by the Joint Applicants shows that the natural

gas storage market is just one means for delivery of natural gas resources in California. Gill Ranch Storage provided no evidence that the common ownership of Lodi and Wild Goose will harm the competitive market for storage. In addition, Joint Applicants point to the other various sources for natural gas supply including flowing supply, secondary markets, other storage fields and core storage.

In addition, the remedy proposed by Gill Ranch Storage is not fair to the Joint Applicants. The practical impacts on the Joint Applicants and the Commission would be significant if we wait two years to take additional comments on the transaction. It is not clear from the request of Gill Ranch Storage how the Joint Applicants could be expected to proceed if the final decision of the Commission isn't actually final. Gill Ranch Storage did not identify any Commission Rules or precedent that supports the request to re-evaluate the transaction within two years of the final decision. The proposal would have the Commission effectively relitigate this case in two years, which in addition to the numerous legal and procedural challenges such action would take, taking more than 18 months to decide the case is discouraged in statute.¹³ However, should a factual dispute arise in the future, there are means to obtain relief under the Commission's Rules of Practice and Procedure. (*See, e.g.,* Article 4, Complaints; Article 16, Rehearing, Modification and Time to Comply.) As Gill Ranch Storage does not raise a specific concern with the transfer of control, the request of Gill Ranch Storage to set forth a process to take further comment on this transaction within two years of the decision is denied.

¹³ Pub. Util. Code § 1701.5.

Joint Applicants' showing on the public interest impacts of the change of control discusses compliance with most of the public interest criteria enumerated in § 854(c). Wild Goose has employed the same useful strategy when it sought authority for the change of control to the EnCana Corporation and again from the EnCana Corporation to C/R Energy Partners III. On both occasions the Commission noted that "consideration of these criteria ensures assessment of a broad spectrum of important public interest concerns and provides a good gauge of the public interest under § 854(a)." (D.06-11-019, p. 15, *citing* D.03-06-069, pp. 10-11.)

5.3. Competition in the Provision of Natural Gas Storage Services will not be Harmed as Long as Existing and New Conditions are Met

With respect to the competitive implications of the transfer of control to BIF II GP, the Joint Applicants provide a Market Power Report (Market Power Report or Report) with quantitative and qualitative components to explain why there should be no concern about the potential for market manipulation and thus no adverse competitive impact if the same entity controls both Lodi and Wild Goose. (Application Exhibit L.) However, the Market Power Report fails to properly define the geographic market or justify the geographic market it chose. By using a broad geographic market, the Joint Applicants showing is inadequate to prove that there should be no concerns about the potential for market manipulation. Thus, we cannot determine the competitive impact on the common control of Lodi and Wild Goose based on the Market Power Report alone.

Joint Applicants have failed to meet their burden to show that the combination of Lodi and Wild Goose under a common owner will maintain or

improve competition in the provision of natural gas storage services. However, based on the lack of specificity provided in the Responses submitted by Central Valley Storage and Gill Ranch Storage along with the conditions specified in the PG&E and Shell Energy Stipulations that the combination of Lodi and Wild Goose under the common control of BIF II GP will not harm competition, we conclude that the proposed transaction will not harm competition in the provision of natural gas storage services. Thus, the application may be approved as long as we maintain the existing conditions on Lodi and Wild Goose and enact the conditions agreed to in the PG&E and Shell Energy Stipulations.

The Joint Applicants' analysis hinges on the acceptance of the market definitions used in the Market Power Analysis (Application Exhibit L) it submitted with its Application. Both Gill Ranch Storage and Shell Energy expressed concerns about common ownership over more than 50% of the independent natural gas storage facilities in Northern California. To counter those concerns Joint Applicants would have the Commission use the same definition we used in D.07-12-019 (*Opinion Regarding Proposed Changes to Natural Gas Operations and Service Offerings*) which defined the relevant product market as non-core storage in addition to "flowing supply, secondary markets, other storage fields and core storage."¹⁴ We see no reason to deviate from that market definition in this case. In that case, the Commission rejected the use of cost based rate caps, in part through the acceptance of evidence that the relevant product market was not concentrated in Southern California. However, in this case we are dealing with two facilities located in Northern California. Joint Applicants

¹⁴ D.07-12-019 at 84.

propose that we define the geographic market as the entire state of California and point to D.07-12-019 for precedent. However, that Decision focused exclusively on Southern California and it does not establish the entire state as the geographic market in analyzing competition for the delivery of natural gas. Joint Applicants did not provide any other arguments, precedent, or evidence to support its use of the entire state as the appropriate geographic market.

Joint Applicants' Market Power Report shows that if BIF II GP controls both Lodi and Wild Goose it will not be able to exert market power over the delivery of natural gas to customers in California. The Report shows that the combination of Lodi and Wild Goose will not create a concentrated market when looking at the entire state. The Report identifies a pre-transaction Herfindahl-Hirschman Index of 1,396.55 and a post-transaction HHI of 1,433.55, a change of 36.80 points.

The Herfindahl-Hirschman Index (HHI) is a commonly accepted measure of market concentration. The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2,600$).¹⁵

The HHI takes into account the relative size distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 points when a market

¹⁵ U.S. Department of Justice and the Federal Trade Commission, Horizontal Merger Guidelines § 5.3 (issued August 19, 2010), available at <http://www.ftc.gov/os/2010/08/100819hmg.pdf>.

is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.¹⁶

The Market Power Report compares the calculated HHI and its potential change through the combination of Wild Goose and Lodi using the merger guidelines issued by the U.S. Department of Justice and the Federal Trade Commission.¹⁷ Those federal agency merger guidelines classify a market as “unconcentrated” when the HHI is below 1,500, and that mergers with an HHI increase of less than 100 points are “unlikely to have an adverse competitive effects and ordinarily require no further analysis.”¹⁸ Both of those are true for the Report.

The Market Power Report also analyzes the transaction under the Federal Regulatory Commission (FERC) merger guidelines.¹⁹ Under the FERC guidelines, if the HHI is below 1,800, FERC assumes that there is limited market concentration with less potential for any participant to exercise significant market power, such a market is considered “moderately concentrated.”²⁰ For a moderately concentrated market, an HHI change of more than 100 is presumed to create or enhance market power. Again, neither threshold is implicated in the Report.

However, Joint Applicants provide no support, nor any rationale for why the appropriate geographic market is the entire state of California. Without such

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 18-19.

¹⁹ *Analysis of Horizontal Market Power under the Federal Power Act*, 138 FERC ¶ 61,109 (2012), available at www.ferc.gov/whats-new/comm-meet/2011/031711/E-5.pdf.

²⁰ *See*, D. 07-12-019, pp. 84-85.

a showing, the weight we can give the Market Power Report is limited. If we had the HHI analysis just for Northern California, or if we had a reasonable showing that all of California is the appropriate geographic market, then we would be able to give the Market Power Report more weight. Without such a showing we cannot conclude that the common control over Lodi and Wild Goose will maintain or improve competition in the provision of natural gas storage services.

The Joint Applicants state that Commission approval of this application will “allow the opportunity to explore operating Wild Goose and Lodi as an integrated hub.” (Application at p. 12). However, the Joint Applicants do not request authority to combine the operation of Lodi and Wild Goose into an integrated storage hub. As noted above, a significant clarification made by the PG&E and Shell Energy Stipulations is that the Lodi and Wild Goose facilities will continue to operate separately until they obtain Commission approval to operate as an integrated hub.

In addition to agreeing to the conditions set forth in the PG&E and Shell Energy Stipulations, Wild Goose does not seek to be released from any of the reporting conditions the Commission has imposed upon it in prior decisions and we have no reason at this time to cancel those requirements. This includes extending the affiliate reporting requirements adopted in D.06-11-019 to include all of the Brookfield businesses. Given the number and breadth of the energy and power industry businesses in which Brookfield and its investment funds, subsidiaries, and affiliates are involved, we require Wild Goose to continue the reporting requirements adopted in D.06-11-019.

We reiterate that unless and until modified, all terms and conditions of D.97-06-091, D.02-07-036, and D.06-11-019 will continue to apply to Wild Goose.

Likewise, Wild Goose must continue to operate in conformance with its filed tariff and with any subsequent amendments of that tariff. Thus, based on the continued separate operation of the facilities, continuation of the existing conditions on Lodi and Wild Goose, and the imposition of the new conditions agreed to in the PG&E and Shell Energy Stipulations, we conclude that the combination of Lodi and Wild Goose under a common owner will not harm competition.

With the adoption of the Safety Policy Statement of the California Public Utilities Commission on July 10, 2014, the Commission has, among other things, heightened its focus on the potential safety implications of every proceeding. Wild Goose has committed that its operations will remain consistent with the standards required to maintain the safety of its workers and the surrounding community, and local environment. In addition, given the significant global investments in the energy by BIF and its affiliates, Joint Applicants indicate that they intend to leverage the best safety practices from all of the BIF II GP affiliates to ensure Wild Goose continues to operate safely. Wild Goose must continue to adhere to all relevant safety rules and regulations.

5.4. The Petition to Modify D.14-12-013

5.4.1. Petitioners' Failed to Show that the Modification is in the Public Interest

The Petition to Modify requests removal of the fourth condition of a Stipulation between Lodi and the Office of Ratepayer Advocates that constrains the relationship between Lodi and Wild Goose (Condition 4). Condition 4 specifically limits the sharing of sensitive market information and external market providers of identified services between Lodi and Wild Goose. In the event any sharing inadvertently occurs, it must be reported to the Commission.

The basis for the Petition to Modify is that if the Wild Goose Application is approved then BIF II GP would control both Lodi and Wild Goose. Petitioners claim that the sharing of information and external services is necessary to realize the potential operating efficiencies of the facilities. Both the Application and the Petition to Modify posit that common ownership of Lodi and Wild Goose will not adversely affect competition in the gas storage market and the potential for collusive behavior does not exist. However, the Petition to Modify fails to provide citations to the record in the proceeding or to matters that may be officially noticed, and does not provide a declaration or affidavit to support new or changed facts. (Rule 16.4(b)). Thus, there are no new or changed facts to consider in evaluating the Petition to Modify.

As explained above, Joint Petitioners bear the burden of showing that it is in the public interest to allow a single entity to control more than 50% of the independent natural gas storage operations in Northern California. As A.15-08-005 and A.14-09-001 have been consolidated we are able to consider the Market Power Report submitted as part of the Wild Goose Application. As discussed above, that Market Power Report uses a broad geographic market and Joint Applicants did not provide a showing with respect to competition in the provision of natural gas storage services in Northern California. As such, Joint Petitioners showing is also inadequate to prove that there should be no concerns about the potential for market manipulation and thus no adverse competitive impact on the common control of Lodi and Wild Goose. Accordingly, Joint Petitioners have failed to show that the entire relief requested is in the public interest.

However, Joint Petitioners have convinced us that a limited change is permissible to allow both Lodi and Wild Goose to share “sensitive market

information” with BIF II GP and other affiliated entities, as long as protocols are in place to ensure such information is not shared between Lodi and Wild Goose. Accordingly, we remove the restriction in Condition 4 that prevents Lodi, or any entity related to Lodi, from sharing “sensitive market information” with entities related to Wild Goose. We retain the portions of Condition 4 that prevent Lodi and entities related to Lodi from sharing such information with Wild Goose. Through this modification we retain the core provision that drove the settlement between Lodi and the Office of Ratepayer Advocates that Lodi cannot share sensitive market information with Wild Goose, but allow their now common owner access to the information so that it can analyze and prepare an application for an integrated hub.

Accordingly we strike from the first line of the second paragraph of Condition 4 the words “and any entity related to Lodi Gas Storage L.L.C.” We also strike from the second and third line of that paragraph “any entity exercising direct or indirect control over.” By removing those words the first provision of the second paragraph of Condition 4 now reads:

Lodi Gas Storage, L.L.C.: (a) shall not share Sensitive Market Information regarding Lodi Gas Storage, L.L.C. with Wild Goose Storage LLC or with any other entity in which such sharing could reasonably result in the direct or indirect disclosure of Sensitive Market Information regarding Lodi Gas Storage, L.L.C. to Wild Goose Storage, LLC;

By rewording Condition 4 in this manner we allow Lodi to share sensitive market information with BIF II GP and related entities and require BIF II GP and those entities to ensure protections are in place that will prevent that sensitive market information from being transmitted to Wild Goose. Direct sharing of sensitive market information between Lodi and Wild Goose remains prohibited.

5.4.2. The Rationale Provided by Petitioners to Modify D.14-12-013 is not Clear and not Substantiated

Without actual facts in the record, the unsupported and vague statements of the Joint Petitioners are not persuasive. The Petition to Modify states that BIF II GP intends to integrate operations of Wild Goose and Lodi to maximize the operating efficiencies between the facilities and proceeds to extoll the virtues of such integration. However, Joint Petitioners provide no explanation of what sensitive market information or external market providers of identified services would be necessary to achieve any benefit of such integration. Joint Petitioners do not explain why removal of the restriction is necessary to operate the two storage fields efficiently and prepare an application for an integrated hub facility combining both storage fields. Joint Petitioners do not even provide examples of the type of information or external market providers that they are currently restricted from sharing for the Commission to consider whether the continuation of the constraint is necessary.

The Petition to Modify says that maintaining Condition 4 would prevent the successful integration of Lodi and Wild Goose, but then it fails to explain how Condition 4 is a barrier to integrating the operations of Lodi and Wild Goose. As was made clear in the PG&E and Shell Energy Stipulations, additional Commission action is needed to allow integrated hub operations, and the Petitioners fail to explain why the restrictions of Condition 4 could not be fully considered in that additional Commission action.

The Petition to Modify cites the Market Power Report to support its request (Wild Goose Application Exhibit L). That Market Power Report attempts to show that common ownership of Lodi and Wild Goose will not adversely affect competition in the relevant market, and thus the potential for collusive

behavior does not exist. However, the conditions adopted in D.08-01-018 and reiterated in D.14-12-013, including Condition 4, were put in place to address the potential common ownership of Wild Goose and Lodi. Now we are approving the actual common ownership of Wild Goose and Lodi. Petitioners must provide better justification to remove a restriction put in place to prevent potential collusion when the facts that led to the imposition of the restriction are becoming a reality. We have fully considered the Market Power Report and determine that in using a broad geographic market the Joint Petitioners did not provide a showing with respect to competition in the provision of natural gas storage services in Northern California. As such, Joint Petitioners showing is also inadequate to prove that there are no concerns about the potential for market manipulation and thus no adverse competitive impact on the common control of Lodi and Wild Goose. Accordingly the Market Power Report alone is insufficient justification to remove the restrictions contained in Condition 4.

5.4.3. The Commission is not being Asked to Approve an Integrated Storage Hub and Consideration of Removal of the Entire Restriction is Premature

The Joint Applicants state that BIF II GP proposes to operate Wild Goose and Lodi as “one integrated storage hub.” However, other than this statement, it was not clear whether the Joint Applicants were seeking Commission approval in the Wild Goose Application to operate Wild Goose and Lodi in such an integrated fashion, or if the BIF II GP intends to seek such approval after the Commission considers this application and the related Petition to Modify. In other words, Joint Applicants did not specify what Lodi or Wild Goose needed from the Commission to maximize the operating efficiencies between the facilities.

It was only through the PG&E Stipulation, the Shell Energy Stipulation, and the Joint Applicants Comments on those Stipulations that the Joint Applicants have made it clear that they intend to continue operating the two facilities separately until such time as an integrated hub proposal is approved by the Commission. The two stipulations state that the Joint Applicants will operate Lodi and Wild Goose as two distinct storage facilities and will not jointly market their firm storage services. The two stipulations state that all parties will have an opportunity to participate in and comment upon the development of Brookfield's future application for approval of an integrated storage hub consisting of both fields.

The comments on those stipulations is the first place that the Joint Petitioners state they are seeking to eliminate Condition 4 in order for BIF II GP to have access to the information it needs to operate the two storage fields efficiently and to prepare its application for an integrated hub facility combining both storage fields. Based on the arguments and facts presented the Joint Petitioners would have grounds for tailoring Condition 4 to allow BIF II GP to have access to sensitive market information based on the changed circumstances. But the Joint Petitioners are seeking to remove the Commission's restriction on the sharing of sensitive market information between Lodi and Wild Goose. They have not carried their burden to show that it is in the public interest to remove the entire restriction.

Further, there is no explanation or showing as to why the Commission should remove the second part of Condition 4, prohibiting the sharing of external providers of financial planning services, regulatory affairs, lobbying, legal, and/or risk management personnel where such sharing might directly or indirectly disclose sensitive market information regarding Lodi to Wild Goose.

Absent any explanation or facts upon which to base removing such a condition, the Joint Petitioners request on this point is denied. Accordingly, we retain the portion of Condition 4 that prevents the sharing of external providers of financial planning services, regulatory affairs, lobbying, legal, and/or risk management personnel.

The Joint Petitioners' comments make three claims that on their face appear compelling but upon examination are not persuasive. The first is that the common ownership, control, and management of both Lodi and Wild Goose would be seriously compromised if Condition 4 isn't removed. However, the Joint Petitioners' comments do not explain how Condition 4 has any impact on BIF II GP's ownership, control, or management. In fact, there is compelling evidence in the Wild Goose Application to justify transferring control to BIF II GP that undermines this claim. For example, the Wild Goose Application states that BIF II GP's ownership of Wild Goose will ensure the continued financial stability of existing facilities. Further, the Wild Goose Application is careful to explain that change of control is in the public interest given the commitments made in the application and the existing conditions and reporting obligations previously required of Wild Goose or Niska entities that will transfer to the new owners. The Wild Goose Application also makes claims for how the integrated operation of Lodi and Wild Goose will be even more beneficial, but that is not the relief sought by the Joint Applicants and thus is not relevant to the matter before us.

The second assertion made in the Joint Petitioners' comments is that continuing Condition 4 will delay or prevent benefits and efficiencies that BIF II GP would bring to the gas storage market. The Joint Petitioners' comments then proceed to explain that without sensitive market information

from Lodi and Wild Goose, BIF II GP cannot create a streamlined management and administrative structure for both providers. The Joint Petitioners' comments fail to explain how sensitive market information, information defined as that which, if disclosed, would disadvantage the natural gas storage customer, has any impact on management and administrative structure. In short, the Joint Petitioners' comments make two assertions without any supporting facts or explanation, and as such they are not persuasive.

The third assertion is that the two stipulations would restrict the types of data shared and prevent harm to customers by coordinated marketing or operation of the two storage fields. However, when looking at the types of data that will be restricted by the stipulations, we can determine the new restrictions in the stipulations on sharing of data do not cover all of the types of data contained in Condition 4. Condition 4 defined "Sensitive Market Information" as:

Any information which would customarily be considered by a natural gas storage customer to be sensitive or proprietary, which is not available to the public, or which, if disclosed, would subject a natural gas storage customer to risk of competitive disadvantage or other business injury. This includes, but is not limited to: contractual capacity rights, actual customer injection and/or withdrawal data (including forecast/future price, historical price, contractual valuation data, costs, when injection and/or withdrawal occurs and how much natural gas is involved), both as to individual customers and in aggregate.

There are no new restrictions in the PG&E Stipulation that could be characterized as restricting the sharing of sensitive market information. The Shell Energy Stipulation does contain two restrictions that could be characterized as limiting the sharing of sensitive market information. First, the Shell Energy Stipulation specifically restricts customer identity for Firm Storage Service

contracts submitted to a common management team (at the vice president level) until after it is executed. Second, the Shell Energy Stipulation requires BIF II GP to establish procedures to prevent sharing of information between marketing personnel at Wild Goose and Lodi, and to specifically restrict the exchange of customer name and terms and conditions under negotiation. These restrictions are much narrower than those already in place in Condition 4. For example, the Shell Energy Stipulation largely covers information sharing prior to contract execution. The procedures to prevent sharing of information between marketing personnel by its own terms will be limited as it doesn't cover any other personnel at either facility.

The Joint Petitioners' comments do provide a good explanation for how the two stipulations will restrict data shared between Wild Goose and Lodi and should prevent customers from being disadvantaged by coordinated marketing or operation of the two fields while they are being operated independently. Accordingly, as noted above, the Joint Petitioners' comments do provide a reasonable explanation with factual support to tailor Condition 4 to allow BIF II GP to have access to sensitive market information. The Joint Petitioners' comments do not provide any support for removing the restriction in Condition 4 that restricts the sharing of "external providers of financial planning services, regulatory affairs, lobbying, legal, and/or risk management personnel." Joint Petitioners have failed to justify why the Commission should lift its restriction on the sharing of sensitive market information between Lodi and Wild Goose or the restriction on the sharing of the delineated external service providers. Accordingly, the Petition to Modify is denied in part.

5.5. CEQA

Under CEQA and Rule 2.4, we must consider the environmental consequences of projects subject to our discretionary approval. (Public Resources Code § 21080.) In some cases, it is possible that a change of ownership and/or control may alter an approved project, result in new projects, or change facility operations in ways that have an environmental impact.

However, as the Wild Goose Application states, the change of ownership at issue here will result in no direct or indirect change in the environment or change in previously reviewed and approved construction and operation criteria for the Wild Goose facility. We concur, for a number of reasons. The Wild Goose gas storage facilities will continue to be developed and operated as previously authorized by this Commission. All environmental mitigation measures contained in the certified EIR will continue to apply, and all monitoring requirements and restrictions imposed in D.97-06-091, D.02-07-036, and D.10-12-025, which certified these EIRs, will continue. Therefore, the proposed project qualifies for an exemption from CEQA pursuant to § 15061(b)(3)(1) of the CEQA guidelines and the Commission need perform no further environmental review (See CEQA Guidelines § 15061(b)(3)(1).)

6. Conclusion

The request of Wild Goose, C/R Energy Partners III, and BIF II GP to transfer control of Wild Goose from CR Energy Partners III to BIF II GP through the merger of Niska Gas Storage Partners, LLC with Swan Merger Sub, LLC is approved, subject to the terms and conditions adopted herein. It does not appear the public will be harmed by the transaction and the public may benefit from the transfer of control.

The request of Lodi, BIF II, and BIF CalGas to modify D.14-12-013 is approved in part and denied in part. Appendix 1 of this decision sets forth the modified conditions adopted in D.14-12-013 pursuant to D.08-01-018.

7. Reduction of Comment Period

The proposed decision of ALJ Robert W. Haga in this matter was mailed to the parties in accordance with Section 311 of Public Utilities Code. Pursuant to Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, all parties stipulated to a reduction of the 30-day comment period. Comments were filed _____, and reply comments were filed _____ by _____.

8. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and Robert W. Haga is the assigned ALJ in this proceeding.

Findings of Fact

1. Wild Goose is a natural gas storage provider in California that was granted a CPCN to provide firm and interruptible storage service in California at market-based rates.
2. Lodi is an independent natural gas storage provider in California that was granted a CPCN to provide firm and interruptible storage service in California at market-based rates.
3. Wild Goose constructed and currently operates the Wild Goose Gas Storage Facility (Wild Goose Facility) in Butte County.
4. Lodi constructed and currently operates the Lodi Facility in San Joaquin and Sacramento counties.
5. Niska Storage Partners has a 99% ownership interest in Niska GS Holdings, I, LP, which is the indirect parent of Wild Goose.

6. C/R Energy Partners III owns approximately 54% of Niska Storage Partners and thus controls Wild Goose.
7. BIF II GP formed the limited partnership of Swan Holdings, LP to acquire 100% ownership of Niska Storage Partners.
8. Swan Holdings, LP, created Swan Merger Sub as a wholly owned subsidiary for the sole purpose of merging Niska Storage Partners with Swan Merger Sub.
9. Together with BIP, the BIF II Funds, through their indirect interest in Swan Merger Sub, will indirectly hold 100% of Wild Goose upon completion of the Transaction contemplated by the Merger Agreement.
10. On June 14, 2015, Niska Storage Partners, Niska Gas Storage Management, L.L.C., Niska Sponsor Holdings Cooperatief U.A. (all three entities under the indirect ownership of C/R Energy Partners III), Swan Holdings LP and Swan Merger Sub, LLC (each entity under the indirect ownership of BIF II GP) entered into an Agreement and Plan of Merger and Membership Interest Transfer Agreement (Merger Agreement).
11. The Merger Agreement results in (i) the merger of Niska Storage Partners and Swan Merger Sub and (ii) Swan Holdings, LP owning all of Niska Storage Partner's managing member units.
12. The Merger Agreement results in the transfer of control over Wild Goose from C/R Energy Partners III to BIF II GP.
13. After the transfer, Wild Goose will continue to operate as a limited liability company owned in full by BIF II GP, and hold the CPCN for the Wild Goose Facility. All operating and management functions will be transitioned to BIF II GP.

14. Closing of the transaction to transfer control of Wild Goose is conditioned upon Commission approval of the Wild Goose Application, as specified in the Merger Agreement, Section 9(d).

15. The proposed transfer of control of Wild Goose from C/R Energy Partners III to BIF II GP will result in a change of ownership of Wild Goose, but will not result in the transfer of any certificates, assets, or customers of Wild Goose.

16. Joint Applicants' public interest showing discusses many of the criteria listed in § 854(c), even though no party to this transaction has gross annual California revenues of \$500 million or more.

17. Together with BIF II GP, the BIF II Funds own BIF II CalGas which is the owner of Lodi.

18. A.14-09-001 and A.15-08-005 were consolidated pursuant to Rule 7.4.

19. Wild Goose, BIF II GP, and Pacific Gas and Electric Company (PG&E) entered into a stipulation (PG&E Stipulation) which was submitted as part of PG&E's response to the application on September 11, 2015.

20. The PG&E Stipulation is attached as Appendix 2 of this decision.

21. Wild Goose, BIF II GP, and Shell Energy entered into a stipulation (Shell Energy Stipulation) and filed a motion for its approval on December 10, 2015.

22. The Shell Energy Stipulation is attached as Appendix 3 of this decision.

23. By using a broad geographic market the Joint Applicants showing is inadequate to prove that there should be no concerns about the potential for market manipulation and thus not adverse competitive impact on the common control of Lodi and Wild Goose.

24. Granting the Wild Goose Application subject to compliance with the terms and conditions of both the PG&E Stipulation and the Shell Energy Stipulation is in the public interest.

25. Lodi and Wild Goose will continue to be operated as separate facilities.

26. The transfer of control of Wild Goose proposed by the Joint Applicants will provide Wild Goose with long-term financial stability and infuse new investment capital to support energy infrastructure facilities.

27. The change of control over Wild Goose should leave its service quality and management quality unimpaired.

28. Wild Goose has committed that its operations will remain consistent with the standards required to maintain the safety of its workers and the surrounding community, and local environment.

29. This decision does not authorize any new construction, changes to the operations of Wild Goose or other entity, or changes in the use of existing assets and facilities. The decision will not have a significant impact on the environment.

30. The change of control over Wild Goose is a project subject to environmental review pursuant to CEQA, but because the project qualifies for an exemption, no further review needs to be done.

31. There will be no change in Wild Goose's day-to-day operations following the transfer of control and operations in California will continue to be overseen by the existing field and operations teams.

32. Wild Goose will continue to provide safe and reliable operation of underground natural gas storage facility and ancillary pipeline service for its customers in the same manner as before the transfer of control.

33. Continued operation of Wild Goose's gas storage facilities supports the Commission's goal of investors building utility natural gas storage in California.

34. All costs associated with securing the necessary approvals to transfer control of Wild Goose to Brookfield Infrastructure Fund II, including any and all implementation costs and any and all costs associated with the formation of Swan Merger Sub, LLC, and merger of Niska Gas Storage Partners, LLC with Swan Merger Sub, LLC will be borne by Wild Goose owners, and Wild Goose will not seek to recover any portion thereof in rates.

35. No party established the existence of material, disputed facts that require evidentiary hearing.

Conclusions of Law

1. Wild Goose is an independent natural gas storage provider regulated as a public utility by this Commission.

2. Lodi is an independent natural gas storage provider regulated as a public utility by this Commission.

3. The Merger Agreement proposed by Joint Applicants whereby Brookfield Infrastructure will acquire control of Wild Goose constitutes a change of control, within the meaning of Pub. Util. Code § 854, and is subject to Commission jurisdiction.

4. Pub. Util. Code § 701 provides the Commission the authority to supervise and regulate every public utility in the State, including Wild Goose and Lodi, and provides the Commission authority to exercise regulatory oversight over the Merger Agreement submitted by the Joint Applicants.

5. The change of control over Wild Goose should be approved under § 854(a) subject to reporting requirements designed to ensure that the Commission has sufficient information to monitor its affiliates' acquisition of or investment in

electric and natural gas entities and assets located in California and Western North America.

6. Because no party to the transfer of control has California revenues exceeding \$500 million, § 854(b)(3) is inapplicable. Section 854(b)(3) requires the Commission to seek an opinion on competitive impacts from the California Attorney General if revenues reach this threshold.

7. Authorization from the Commission under Pub. Util. Code § 851 is not required because the transfer of control does not contemplate the sale, lease, assignment, mortgage or other disposition or encumbrance of utility property.

8. Joint Applicants and Joint Petitioners must show that the relief requested is in the public interest.

9. Modifying Condition 4 adopted in D.08-01-018 and reiterated in D.14-12-013 is in the public interest.

10. Following the change of control, Wild Goose must continue to be bound by the terms of its CPCN, by all requirements and conditions mandated in D.97-06-091, D.02-07-036, and D.06-11-009, as modified by D.07-10-001, as modified by subsequent Commission decisions, and by the tariff filed with the Commission, as approved and subsequently modified by any approved amendments.

11. The Commission should deny the request of Gill Ranch Storage to set forth a process to take further comment on this transaction within two years of the decision.

12. Joint Applicants have failed to meet their burden to show that the combination of Lodi and Wild Goose under a common owner will maintain or improve competition in the provision of natural gas storage services.

13. The Commission should consider the competitive impacts on the geographic market in Northern California for the purposes of analyzing the competitive impacts of the proposed transfer of control.

14. The terms of the September 10, 2015, Stipulation among Wild Goose, Brookfield Infrastructure Fund II GP, and Pacific Gas and Electric Company (PG&E Stipulation), as set forth in Appendix 2 of this decision should be approved.

15. The Motion for acceptance of the December 8, 2015, Stipulation among Wild Goose, Brookfield Infrastructure Fund II GP and Shell Energy (Shell Energy Stipulation), as set forth in Appendix 3 of this decision should be granted, and the terms of the Shell Energy Stipulation should be approved.

16. The application may be approved as long as we maintain the existing conditions on Lodi and Wild Goose and enact the conditions agreed to in the PG&E and Shell Energy Stipulations.

17. The restriction in Condition 4 that prevents Lodi, or any entity related to Lodi, from sharing "sensitive market information" with entities related to Wild Goose should be removed.

18. The portions of Condition 4 adopted in D.08-01-018 and reiterated in D.14-12-013 that prevent Lodi from sharing "sensitive market information" directly with Wild Goose and prevent entities related to Lodi from sharing such information with Wild Goose should be retained.

19. Joint Petitioners have failed to justify why the Commission should lift its restriction on the sharing of the delineated external service providers.

20. This transfer of control qualifies for an exemption from CEQA under CEQA Guidelines § 15061(b)(3)(1) and therefore, additional environmental review is not required.

21. The change of ownership control of Wild Goose should not occur until the Joint Applicants comply with the terms and conditions as specified in Appendices 2 and 3 and in the Ordering Paragraphs of this decision.

O R D E R

IT IS ORDERED that:

1. The Application of Wild Goose Storage, LLC (Wild Goose), Carlyle/Riverstone Energy Partners III, L.P., and Brookfield Infrastructure Fund II GP (collectively, Joint Applicants) to transfer control of Wild Goose from Carlyle/Riverstone Energy Partners III, L.P. to Brookfield Infrastructure Fund II GP through the merger of Niska Gas Storage Partners, LLC with Swan Merger Sub, LLC is approved pursuant to Pub. Util. Code § 854, subject to the terms and conditions set forth in Ordering Paragraphs 1-4 and 6-13 of this decision.
2. All costs associated with securing the necessary approvals to transfer control of Wild Goose Storage, LLC (Wild Goose) to Brookfield Infrastructure Fund II, including any and all implementation costs and any and all costs associated with the formation of Swan Merger Sub, LLC, and merger of Niska Gas Storage Partners, LLC with Swan Merger Sub, LLC shall be borne by Wild Goose owners, and Wild Goose shall not seek to recover any portion thereof in rates.
3. The terms and conditions of the September 10, 2015 Stipulation among Wild Goose Storage, LLC, Brookfield Infrastructure Fund II GP and Pacific Gas and Electric Company (PG&E Stipulation), attached as Appendix 2 of this decision, are adopted.
4. The Motion filed on December 10, 2015, for acceptance of the December 8,

2015, Stipulation among Wild Goose Storage, LLC, Brookfield Infrastructure Fund II GP and Shell Energy North America (US), L.P. (Shell Energy Stipulation), attached as Appendix 3 of this decision, is hereby granted. The terms and conditions of the Shell Energy Stipulation, attached as Appendix 3, are adopted.

5. The request to set forth a process to take further comment on this transaction within two years of this decision is denied.

6. Wild Goose Storage, LLC (Wild Goose) and its owners shall continue to be bound by all terms and conditions of Wild Goose's certificate of public convenience and necessity, as granted by Decision (D.) 97-06-091 and modified by subsequent decisions of the Commission, including D.02-07-036, D.06-11-009, as modified by D.07-10-001, and by the tariff filed with the Commission, as approved and subsequently modified by any approved amendments.

7. The transfer of control qualifies for an exemption from the California Environmental Act (CEQA) under CEQA Guidelines § 15061(b)(3)(1) and therefore, additional environmental review is not required.

8. Lodi Gas Storage L.L.C., Wild Goose Storage, LLC, and Brookfield Infrastructure Fund II GP, LLC shall comply with its continuing duty to the reporting required in affiliate transactions prescribed by the Commission in Decision (D.) 03-02-071, D.06-11-019, and D.05-12-007, except as modified by D.08-04-033, and the conditions in D.08-01-018, as expressly set forth as Appendix 1 of D.14-12-013.

9. Lodi Gas Storage, L.L.C. (U912G) (Lodi), Brookfield Infrastructure Fund II, and Brookfield Infrastructure Fund II CalGas shall continue to comply with all terms except Condition 4 of the Joint Stipulation attached as Appendix 2 of Decision (D.) 14-12-013.

10. Lodi Gas Storage, L.L.C. (U912G) (Lodi), Brookfield Infrastructure Fund II,

and Brookfield Infrastructure Fund II CalGas shall continue to be bound by all terms and conditions of the Lodi certificate of public convenience and necessity, as granted by D.00-05-048 and modified by D.04-05-034, including the requirements therein for a performance or security bond.

11. Lodi Gas Storage, L.L.C. (U912G) (Lodi), Brookfield Infrastructure Fund II, and Brookfield Infrastructure Fund II CalGas shall also continue to be bound by the conditions previously identified in D.06-03-012 (granting Lodi a certificate of public convenience and necessity for construction and operation of the Kirby Hills Facility), as amended in D.08-02-035.

12. The Petition to Modify Decision (D.) 14-12-013 filed on August 3, 2015, is approved in part and denied in part. Appendix 1 of this decision sets forth the modified conditions adopted in D.14-12-013 pursuant to D.08-01-018.

13. The authority granted by this decision authorizing the transfer control of Wild Goose from Carlyle/Riverstone Energy Partners III, L.P. to Brookfield Infrastructure Fund II GP through the merger of Niska Gas Storage Partners, LLC with Swan Merger Sub, LLC shall expire if not exercised within one year from the effective date of this decision.

14. Application 14-09-001 and Application 15-08-005 are closed.

This order is effective today.

Dated _____, at San Francisco, California.