PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

**FILED**
9-22-17
11:18 AM

September 22, 2017

Agenda ID #16004
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 17-01-024:

This is the proposed decision of Administrative Law Judge Rafael Lirag. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's October 26, 2017, Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, ex parte communications are prohibited pursuant to Rule 8.3(c)(4)(B).

/s/ ANNE E. SIMON
Anne E. Simon
Acting Chief Administrative Law Judge

AES:jt2

Attachment

Decision **PROPOSED DECISION OF ALJ LIRAG (Mailed 9/22/2017)**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

| | |
|---|---|
| Joint Application of Wild Goose Storage, LLC (U911G) and Lodi Gas Storage, L.L.C. (U912G) for an Order Pursuant to Sections 829 and 853 of the Public Utilities Code to Exempt from Commission Authorization the Encumbrance of the Assets of Wild Goose Storage, LLC and Lodi Gas Storage, L.L.C. and the Issuance of a Corporate Guarantee to Secure the Financing of certain Affiliates of the Utilities or in the Alternative for Authorization for the Same Relief under Sections 830 and 851. | Application 17-01-024 |

(See Attachment B for Appearances)

# DECISION GRANTING AUTHORIZATION FOR ENCUMBRANCE OF ASSETS

## Table of Contents

**Title** **Page**

## DECISION GRANTING AUTHORIZATION FOR ENCUMBRANCE OF ASSETS


### Summary

This decision grants requested exemptions from § 830 and § 851 of the Public Utilities Code allowing Wild Goose Storage, LLC and Lodi Gas Storage, LLC (collectively, Joint Applicants) to encumber 100 percent of their respective assets to serve as security for a refinancing transaction of their senior affiliate companies. The proposed encumbrance does not involve or affect the public interest as the associated refinancing transaction does not impair Joint Applicants' ability to continue to provide safe and reliable services during the short duration before the maturity date of the refinancing transaction on December 17, 2018.

However, the request for continuing exemptions for similar transactions is denied. It is uncertain what the exact terms and conditions of future transactions would be and denial of this request prevents all of Joint Applicants' assets from being used to serve as collateral for loans of other entities not regulated by the Commission, in perpetuity.


### 1. Procedural Background

On January 25, 2017, joint applicants Wild Goose Storage, LLC (Wild Goose) and Lodi Gas Storage, LLC (Lodi) (collectively, Joint Applicants) filed Application (A.) 17-01-024 requesting exemption from Commission authorization for a proposed encumbrance of public utility assets of Joint Applicants. Joint Applicants also request a continuing exemption for similar transactions. If the exemptions are not granted, Joint Applicants request, in the alternative, that they be granted authority to conduct the proposed encumbrance pursuant to § 830 and § 851 of the Public Utilities Code (Code).

Joint Applicants seek to encumber their respective assets to secure a refinancing transaction of certain senior affiliates, namely Rockpoint Gas Storage Partners LP (Rockpoint),[1] AECO Gas Storage Partnership (AECO), and Brookfield. It is contemplated in the refinancing transaction that affiliate companies of Brookfield will pledge their assets to secure three loans to be obtained by Niska, AECO, and Brookfield, in order to maximize the borrowing ability of Brookfield and its affiliate companies, which include Joint Applicants.

Protests to the application were filed by the Office of Ratepayer Advocates (ORA) and the Office of the Safety Advocate (OSA) on March 3, 2017 and March 6, 2017 respectively.

A prehearing conference (PHC) was held on April 12, 2017. At the PHC, the issues, procedural schedule and other matters relating to the proceeding were discussed. Joint Applicants were also required by the assigned Administrative Law Judge (ALJ) to submit additional information concerning the transaction such as the relationship of the different companies involved in the transaction, the percentage of assets proposed to be encumbered by Joint Applicants, and the need for funds and availability of funds. Joint Applicants provided the additional in their Response dated April 26, 2017.

On May 16, 2017, Joint Applicants and ORA filed a joint motion to enter into a stipulation among the three parties. The motion was granted by the assigned ALJ in a ruling dated June 26, 2017.

On May 17, 2017, Joint Applicants filed separate motions to include additional exhibits into the record and for confidential treatment of some of the

[1] Rockpoint was formerly known as Niska Gas Storage Partners L.P. The name change occurred while the application was pending.

proposed additional exhibits. OSA filed a Response to the motion to include additional exhibits on May 31, 2017, and objecting to a finding of fact included in the motion.[2] In response to OSA's objection, Joint Applicants revised their motion to include additional exhibits and an amended motion was filed on June 2, 2017. The amended motion to include exhibits[3] and motion for confidential treatment of certain information included in the exhibits were both granted in a ruling by the assigned ALJ issued on July 3, 2017.

On May 22, 2017, the assigned Commissioner issued a Scoping Memorandum and Ruling (Scoping Memo) setting forth the issues, schedule, and addressing procedural matters in the application.

Opening Briefs were filed by ORA, Joint Applicants, and OSA on June 16, 2017. OSA also filed an accompanying motion for leave to file its opening brief under seal. The assigned ALJ issued a ruling on July 7, 2017, directing OSA to revise its motion which OSA filed on July 17, 2017. A Response was filed by the Joint Applicants on July 18, 2017. OSA's motion for confidential treatment of portions of its Opening Brief was granted by the assigned ALJ in a ruling dated August 7, 2017.

OSA also filed motions to accept additional exhibits into the record and for confidential treatment of certain responses to data requests that were part of the proposed additional exhibits on June 16, 2017. Responses to the two motions were filed by the Joint Applicants on June 22, 2017. OSA's motions to include

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[2] OSA objected to a finding of fact which states that the Application does not raise any issues related to safety considerations.

[3] There were four exhibits which were identified as Exhibits 1, 2, 3, and 4.

exhibits[4] into the record and for confidential treatment of certain information included in the exhibits were granted by the assigned ALJ ruling issued on July 3, 2017.

On June 30, 2017, Reply Briefs were filed by OSA and Joint Applicants. Joint Applicants also filed on the same day a motion for confidential treatment of certain portions of their Reply Brief. Joint Applicants' motion for confidential treatment was granted in the assigned ALJ ruling issued on July 25, 2017.

The case was deemed submitted for resolution on July 18, 2017, upon the filing of Joint Applicants' response to OSA's revised motion for leave to file portions of its Opening Brief under seal.

## 2. Request

Joint Applicants seek to encumber public utility assets and request an exemption from the requirements of § 830 and § 851 of the Code which require Commission authorization of the proposed encumbrance.

The encumbrance of Joint Applicants' respective assets shall form part of the security needed for a refinancing transaction[5] involving senior affiliates of Joint Applicants, namely Rockpoint, AECO, and Brookfield. Rockpoint, AECO, and Brookfield shall be the primary borrowers in the refinancing transaction wherein affiliate companies of Brookfield, which include Joint Applicants, shall pledge all their assets to secure loans in order to maximize the borrowing ability of Brookfield and its affiliate companies. Appendix A to this decision shows an organizational chart of the Brookfield group of companies and affiliate

[4] OSA's two exhibits were identified as Exhibits 5 and 6.

[5] The refinancing transaction is comprised of three loan agreements.

companies showing the relationship and ownership interest of Joint Applicants and the primary borrowers to the refinancing transaction. The organizational chart shows that Wild Goose and Lodi are 100 percent subsidiaries of Rockpoint and BIF II CalGas (Delaware) LLC, respectively, and that these parent companies are themselves subsidiaries in the Brookfield group of companies.

Joint Applicants also request a continuing exemption for similar transactions in the future. The refinancing transaction described above contemplates that the transaction will have a timeframe of around two to four years and that new refinancing transactions will be entered into after the end of each one. These future transactions will be similar in nature to the current refinancing transaction and Joint Applicants' assets are expected to serve as part of the security for each of these future refinancing transactions.

If the requested exemptions from Commission authority are not granted, Joint Applicants request, in the alternative, that the proposed encumbrance of their respective assets be authorized pursuant to § 830 and § 851 of the Code.

## 3. Positions of Protesting Parties

### 3.1. ORA

ORA initially filed a protest to the application but through the course of the proceeding and after receiving responses to data requests,[6] ORA states that it no longer opposes the encumbrance of assets and refinancing transaction proposed by Joint Applicants. ORA further states that Joint Applicants have addressed ORA's concerns related to risks posed by the encumbrance of all of the assets of Joint Applicants. ORA had sufficient information to review the

[6] The data requests are Exhibits 1 and 3 and the Responses are Exhibits 2 and 4.

financial health of the primary borrowers and concludes that the proposed refinancing transaction takes into account funds that will be needed by Joint Applicants to comply with new gas storage safety regulations. ORA also supports the request for continuing exemptions citing several provisions in the Joint Stipulation between ORA and Joint Applicants that provides additional safeguards.

### 3.2. OSA

OSA recommends denial of the application and explains that the proposed refinancing transaction does not contain assurances that funds obtained from the transaction will be used to fund the substantial safety needs of Joint Applicants. However, if the Commission were to approve the transaction, OSA recommends that conditions be imposed that ensure guaranteed availability of funds for Joint Applicants in order to meet the safety-related needs of their facilities and operations.

## 4. Encumbrance of Utility Assets

§ 830 of the Code requires a utility to obtain Commission approval before assuming any obligation or liability with respect to the obligations of its parent or affiliate if those obligations have a term of more than 12 months. In this case, Joint Applicants will offer corporate guarantees of repayment of the refinancing transaction undertaken by their senior affiliates. The refinancing agreement will have an effective term of more than 12 months.

§ 851 on the other hand, requires Commission approval before a utility encumbers its property and in this case, Joint Applicants seek to provide their respective physical and financial assets to serve as collateral for a refinancing transaction by their senior affiliates.

### 4.1. Exemptions

§ 829(c) of the Code[7] allows the Commission to grant an exemption from the requirements of § 830 if it finds that Commission approval of a proposed transaction under § 830 is not necessary for the public interest. Similarly, § 853(b)[8] allows the Commission to grant exemptions from § 851 if Commission approval of a proposed transaction is not necessary for the public interest. In both cases the Commission may impose conditions, rules or requirements deemed necessary, in connection with such grant of exemption.

## 5. Discussion

### 5.1. The Refinancing Transaction

As stated in the background section of this decision, Joint Applicants seek to encumber their respective assets to serve as security for a refinancing transaction by their senior affiliates. Specifically, Joint Applicants, along with other guarantors, are to provide 100 percent of their respective assets to serve as security for three loan transactions by their senior affiliate companies, Rockpoint, AECO, and Brookfield. The refinancing transaction referred to in this decision is the three loan transactions as follows:

a) Term Loan Credit Agreement for $150 million;

b) ABL Credit Agreement for $230 million; and

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[7] § 829(c) The commission may from time to time by order or rule, and subject to such terms and conditions as may be prescribed therein, exempt any public utility or class of public utility from this article (Article 5 Stocks and Security Transactions) if it finds that the application thereof to such public utility or class of public utility is not necessary in the public interest.

[8] § 853(b) The commission may from time to time by order or rule, and subject to those terms and conditions as may be prescribed therein, exempt any public utility or class of public utility from this article (Article 6 Transfer or Encumbrance of Utility Property) if it finds that the application thereof with respect to the public utility or class of public utility is not necessary in the public interest.

c) Credit Agreement for $100 million.

The loan agreements specified above will expire in approximately two years from the time they were entered into in December 2016.[9] At the expiration of the loan agreements, the companies intend to enter into similar new loan agreements but with longer maturity dates of around three to four years and likely with different lenders.

### 5.2. Need for Funds and Distribution

The three loans above total $480 million and companies in the Brookfield group of companies shall have access to these funds as needed.[10] Joint Applicants provide that they have no specific need for funds based on project-specific needs but clarify that funds and access to capital are needed for working capital and operating expenses. The amount of funds borrowed take into account working capital and operating expense needs of the Brookfield storage companies which include Joint Applicants.

### 5.3. Past Exemptions Granted

Joint Applicants cited several instances where the Commission had granted exemptions from § 830 and § 851 of the Code. However, we find this case to be dissimilar as the examples cited do not involve a utility encumbering its assets to serve as security for a loan by another entity. Instead, other entities are to be the borrowers with the utilities' assets serving as security for such

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[9] *See* Exhibit 2. The loans mature on December 17, 2018 unless refinanced, which would require another exemption from the Commission. The refinancing transaction is already in effect but does not yet include the assets of Joint Applicants, which will only be included in the transaction if the Commisison grants the exemptions requested in this application.

[10] A portion of the total amount borrowed shall also be used to refinance existing debt.

transaction. Thus, this case shall be reviewed and decided based on its own merits.

### 5.4. Analysis

Both Wild Goose and Lodi are independent storage providers that do not have any captive ratepayers and so shareholders bear the risk of the proposed transaction. Both Wild Goose and Lodi are 100 percent owned by senior affiliate companies belonging to the Brookfield group of companies[11] and there are no shareholders of either Wild Goose or Lodi that are not also shareholders of at least one of the primary borrowers to the refinancing transaction.

Nevertheless, the Commission must consider the safety impacts of the proposed encumbrance of assets by Joint Applicants as the Commission has a duty to ensure that Joint Applicants are able to continue to provide safe and reliable services. Thus, even if the series of transactions only involve Joint Applicants, their affiliate companies, and financial institutions providing the loans, the transactions can only be considered as not involving the public interest if the Commission deems that there are no safety impacts resulting from the proposed transaction. Specifically, the Commission must determine whether the Joint Utilities will have enough resources to continue to operate and provide safe and reliable services or whether the proposed transaction will impair their ability to do so as 100 percent of their respective assets shall serve as security for a refinancing transaction by their senior affiliate companies.

The Commission recognizes the benefits of the proposed transaction in which the assets of several companies in the Brookfield group of companies are

[11] See Attachment A.

being pooled to serve as security for a refinancing transaction that would provide more advantageous interest rates and potential access to a greater amount of cash flow as opposed to having either Wild Goose or Lodi obtain loans for themselves using their own respective assets. The Commission also recognizes the risks and concerns accompanying the proposed transaction and these are taken into account in the analysis provided in this section. As structured, the loan agreements specify that each individual guarantor, including Joint Applicants, shall be jointly and severally liable for the entire value of the loan regardless of how much security they provided or how much of the loan proceeds were allocated for their use.

OSA raises concerns that the proposed encumbrances lack assurance that funds obtained from these encumbrances will be available to fund the substantial safety needs of Joint Applicants' facilities. OSA adds that compliance with new safety standards to be adopted by the federal government and new regulations from the Department of Conservation's Division of Oil, Gas, and Geothermal Resources is expected to entail a significant increase in operation costs for operators.

Joint Utilities respond that the total amount of the loans were determined by taking into account the operating and safety needs of the Brookfield storage companies which include Wild Goose and Lodi, and three non-regulated entities, AECO, Salt Plains and Tres Palacios.

Joint Applicants further state that additional expenses required to comply with new gas storage safety regulations were taken into account as well. Although there is no specific amount to be distributed to each company among the Brookfield group of storage companies, the loans take into account each company's projected operating and cash flow needs. And while other companies

can potentially draw funds from the loans greater than what was projected, the same is true for both Wild Goose and Lodi. To address concerns regarding the availability of funds should one or more companies draw amounts greater than their projected operating costs, we took a closer look at the three loan agreements.

Upon review, we find that the Term Loan Agreement and ABL Credit Agreement totaling $380 million accounts for the projected working capital and operational needs of the Brookfield storage companies. The Credit Agreement of $100 million serves as additional liquidity should the financing available from the first two loans prove insufficient to cover all the working capital, operational, and safety needs of the Brookfield storage companies.[12] In our analysis, we find that $100 million provides sufficient contingency should additional funds be needed in excess of the $380 million of projected working capital, operational, and safety needs of the five Brookfield storage companies for the duration of the refinancing transaction.

We took special consideration of the maturity dates of the refinancing agreements which are at the end of 2018. This means that the refinancing agreements will terminate in a little over a year as of the effective date of this decision and the funding mentioned in the preceding paragraph would only have to be sufficient until the end of 2018 when the loans mature. And as pointed out by Joint Applicants, compliance with whatever the final new regulations are for underground storage providers is not expected until late 2018, with full compliance estimated to take several years to complete. Thus, even if

[12] *See* Exhibit 2 at 4.

there are initial expenses for compliance with new regulations, only a portion of costs are expected to be incurred in 2018 while the refinancing agreements are in effect. Moreover, these "additional safety expenses" were already considered in determining the operations and cash flow needs of Joint Applicants up to 2018, with an additional $100 million available as additional funds if needed.

We also considered the primary borrowers' ability to pay. Joint Applicants provided financial documentation needed to review the financial health of their senior affiliates who are the primary borrowers.[13] ORA reviewed the financial information and found it to be satisfactory. Additionally, the amount of security provided greatly exceeds the amount of the loans. The total amount to be borrowed is up to $480 million whereas the value of security provided for the loans is nearly $1 billion dollars. Joint Applicants explain that the amount of security provided is required by the lenders in order to be able to borrow up to $480 million.

Based on all of the above, we find that there are enough assurances that Joint Applicants will have sufficient resources needed to continue to provide safe and reliable services up to when the refinancing transactions expire which is at the end of 2018. We find that Joint Applicants' ability to continue to provide safe and reliable services will not be impaired by the proposed encumbrance and conclude that the proposed encumbrance is outside the public interest. We therefore find it reasonable to grant the requested exemptions from § 830 and § 851 of the Public Utilities Code allowing Joint Applicants to encumber their

[13] Consolidated balance sheets as of February 2017 and statements of earnings and liabilities as of March 2017 were granted confidential treatment and are part of Exhibit 4.

respective assets in order to serve as security for refinancing transactions involving Joint Applicants' senior affiliate companies.

Because we are granting the requested exemptions, Joint Utilities' alternative request for authority to conduct the proposed encumbrance pursuant to § 830 and § 851 of the Public Utilities Code are now moot. OSA suggests that conditions be imposed such as earmarking of funds to ensure that Joint Utilities shall have enough funds to meet safety needs. We find that this is not necessary based on the relatively short duration of the contract and the fact that the refinancing transaction includes an amount of $100 million available as additional funds in case the projected operational and cash flow needs are insufficient. Additionally, Joint Applicants state that they have no specific need for funds for a specific project or otherwise, except for operational and working capital needs and these needs were already taken into account.

### 5.5. Request for Continuing Exemptions

Joint Applicants also request continuing exemptions from § 830 and § 851 of the Public Utilities Code for similar transactions in the future. It is contemplated that the Brookfield group of companies will enter into similar refinancing transactions once the current agreements expire but with longer contract durations of around three to four years instead of two. This cycle is intended to be repeated as each contract period expires.

After careful consideration, we find that the request for a continuing exemption should be denied. Exemptions are by nature an exception to the general rule and are not routinely granted as a matter of course. Circumstances must exist to warrant the grant of an exception. In this case, we carefully applied various factors present in determining that an exemption is warranted. One important consideration is the limited amount of time wherein all of Joint

Utilities assets are to serve as collateral for loans by senior affiliates. Granting continuous exemptions from Commission review would mean that 100 percent of Joint Utilities assets could potentially end up serving as collateral for loans by other companies not regulated by the Commission indefinitely. This would leave Joint Utilities bereft of any assets with which to procure loans on their own if needed and makes them entirely dependent on monies to be distributed at the discretion of their senior affiliate companies who also have the needs of other companies to consider.

And while the refinancing transaction purportedly take into account projected cash flow, operational expense, and safety needs of five different companies, it does not mention contingencies for extraordinary or emergency circumstances that may occur to one or more companies. There is also no guaranty what the amount and terms of future refinancing contracts to be entered into will be as Joint Applicants explicitly pointed out that future refinancing contracts will be entirely new contracts and not merely renewals. The stipulation entered into by Joint Applicants and ORA included a provision that future refinancing agreements will be structured such that there would be sufficient funds for Joint Applicants[14] but this does not provide sufficient assurance. It is also uncertain what the costs for compliance with new regulations for underground storage providers will be and whether Wild Goose and Lodi would have guaranteed access to sufficient funds to meet these costs. Based on all these considerations, we find that the request for continuing exemptions should be denied.

[14] Stipulation number 1 in the Joint Stipulation between Joint Applicants and ORA filed on May 16, 2017.

For similar applications in the future involving encumbrance of utility assets to be used as security for loans of affiliate companies, Joint Applicants shall include information on projected costs for operational needs and compliance with safety regulations and requirements for its California assets. Further, the loan and securitization should be structured in a manner that provides greater assurance that sufficient funds are available to meet operational and safety needs of any California gas facilities, such as earmarking of specific amounts of funds.

## 6. Conclusion

We grant Wild Goose and Lodi's request for exemptions from § 830 and § 851 of the Code and allow them to encumber their respective assets to serve as security for a refinancing transaction involving their senior affiliate companies through December 17, 2018. The Commission has authority to grant exemptions from the aforementioned code sections pursuant to § 829(c) and § 853(b) of the Code respectively, provided that the proposed transactions of Wild Goose and Lodi do not affect the public interest.

Both Wild Goose and Lodi are independent gas storage providers with no captive ratepayers, and shareholders bear the financial risks associated with the proposed encumbrance of assets. The organizational chart included as Attachment A to this decision shows that Wild Goose and Lodi are 100 percent owned by senior affiliate companies and that there are no shareholders of either Wild Goose or Lodi that are not also shareholders of at least one of the primary borrowers to the refinancing transaction.

Although proceeds from the refinancing transaction are available for use of three other storage companies belonging to the Brookfield group of companies, the total amount of the loans took into account the operating, cash

flow, and safety needs of all five companies and includes $100 million in additional funds available if actual expenses exceed what was forecast. The forecast for expenses took into account additional expenses that will be incurred in order to comply with new regulations expected for gas storage providers. The primary borrowers are in good financial health and shall be able to service the loans. Additionally the collateral amount for the loans of almost $1 billion far exceeds the total loan amount of $480 million.

We find that the proposed encumbrance will not impair Joint Applicants' ability to continue to provide safe and reliable services until the maturity date of the refinancing transaction at the end of 2018, and find that the proposed encumbrance does not affect the public interest.

However, we deny Joint Applicants request for continuing exemptions from § 830 and § 851 of the Code for similar transactions in the future. Granting continuing exemptions allows Joint Applicants assets to serve as collateral for loans by other companies not regulated by the Commission, in perpetuity. There is also no assurance what terms will be included in future refinancing transactions and it cannot be satisfactorily concluded that amounts obtained from such future transactions will be sufficient to meet Joint Applicants' financial needs in the future, including expenses relating to extraordinary circumstances or emergencies that may occur.

## 7. Safety

Granting the requested exemptions from § 830 and § 851 of the Code and authorizing Joint Applicants to encumber their respective assets until the end of 2018 does not impair either company's ability to continue to provide safe and reliable services and comply with new safety regulations for underground storage providers.

## 8. Categorization and Need for Hearings

In Resolution ALJ 176-3392, dated February 9, 2017, the Commission preliminarily categorized this A.17-01-024 as Ratesetting and preliminarily determined that evidentiary hearings were necessary. Based on the record, we affirm that the categorization for this proceeding is Ratesetting. Initially and during the PHC, ORA and OSA stated that there may be a need for evidentiary hearings. Through the course of the proceeding however, all parties were in agreement that there are no factual issues in dispute and that hearings are not necessary.

## 9. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed by _____ on _____, and reply comments were filed by _____ on _____.

## 10. Assignment of Proceeding

Commissioner Clifford Rechtschaffen is the assigned Commissioner and Rafael Lirag is the assigned ALJ in these proceedings.

## Findings of Fact

1. In Resolution ALJ 176-3392, dated February 9, 2017, the Commission preliminarily categorized this A.17-01-024 as Ratesetting and preliminarily determined that evidentiary hearings were necessary.
2. The parties determined that there are no factual issues in dispute.
3. Joint Applicants seek to encumber 100 percent of their respective assets to serve as security for a refinancing transaction (three loan agreements) of their senior affiliate companies.

4. The loan agreements mature on December 17, 2018.

5. § 829(c) and § 853(b) of the Code allow the Commission to grant exemptions from the requirements of § 830 and § 851 if applications under the latter code sections are not necessary for the public interest.

6. The Commission has granted exemptions from § 830 and § 851 in the past but the exemptions granted do not involve a utility encumbering its assets to serve as collateral for a loan of another company.

7. Wild Goose and Lodi are independent storage providers with no captive ratepayers, and shareholders bear all the financial risks of the transaction.

8. Joint Applicants are both 100 percent owned by other companies in the Brookfield group of companies.

9. There are no shareholders of either Wild Goose or Lodi that are not also shareholders of at least one of the primary borrowers to the refinancing transaction.

10. The proposed encumbrance of assets has both benefits and risks.

11. The Commission has a duty to ensure that Joint Applicants are able to continue to provide safe and reliable services in California.

12. Funds from the refinancing transaction total $480 million and will be available to fund the operating and working capital needs of five storage companies belonging to the Brookfield Group of companies, including Joint Applicants.

13. The loans took into account projected operational and safety needs of the five companies but there is no set allocation of funds.

14. $100 million of the funds serve as additional funds if needed.

15. The total amount of the loan agreements took into account initial costs for compliance with new safety regulations for underground storage providers.

16. The total amount of security provided of almost $1 billion, greatly exceeds the total amount of $480 million to be borrowed in the refinancing transaction.

17. The Brookfield group of companies, including Joint Applicants, seek to enter into similar refinancing transactions once the current agreement expires, but with longer contract durations of around three to four years instead of the current two years.

18. A continuous exemption may result in Joint Applicants' assets being used as collateral for loans by other companies not regulated by the Commission, in perpetuity.

19. The refinancing transaction does not include contingencies for extraordinary or emergency circumstances.

20. There is also no guaranty what the amount and terms of future refinancing contracts to be entered into will be.

21. It is uncertain what the new regulations for underground storage providers will be and what costs are entailed.

## Conclusions of Law

1. The preliminary determination made in Resolution ALJ 176-3392 of the need for hearings should be changed to hearings are not necessary.

2. The facts and circumstances surrounding A.17-01-024 are different from past instances wherein the Commission granted exemptions from § 830 and § 851 of the Code, and should be decided on its own merits.

3. The proposed transaction can only be considered as having no effect on public interest if the Commission deems that there are no safety impacts resulting from the proposed transaction and that Joint Applicants' ability to continue to provide safe and reliable services in California is not impaired.

4. $100 million provides sufficient contingency should additional funds be needed in excess of the $380 million of projected working capital, operational, and safety needs of the five Brookfield storage companies for the duration of the refinancing transaction.

5. The financial information submitted and the fact that the total amount of security provided greatly exceeds the total amount of the loan shows that the primary borrowers have sufficient resources to service the total debt in the refinancing transaction.

6. There are sufficient assurances that the proposed encumbrance and associated refinancing transaction will not impair Joint Applicants' ability to continue to provide safe and reliable services in California until the maturity date of the refinancing transaction on December 17, 2018.

7. The proposed encumbrance does not affect the public interest.

8. The requested exemptions from § 830 and § 851 of the Code should be granted without any accompanying conditions.

9. The request for continuing exemptions should be denied.

10. The preliminary determination made in Resolution ALJ 176-3392 of the need for hearings should be changed to hearings are not necessary.

11. A.17-01-024 should be closed.

## O R D E R

**IT IS ORDERED** that:

1. Exemptions from § 830 and § 851 of the Public Utilities Code requested by Wild Goose Storage, LLC and Lodi Gas Storage, LLC are hereby granted through December 17, 2018.

2. Wild Goose Storage, LLC and Lodi Gas Storage, LLC are allowed to encumber their respective assets to serve as security for a refinancing transaction, as described in the application, involving their senior affiliate companies.

3. The request for continuing exemptions from § 830 and § 851 of the Public Utilities Code for similar transactions, is denied.

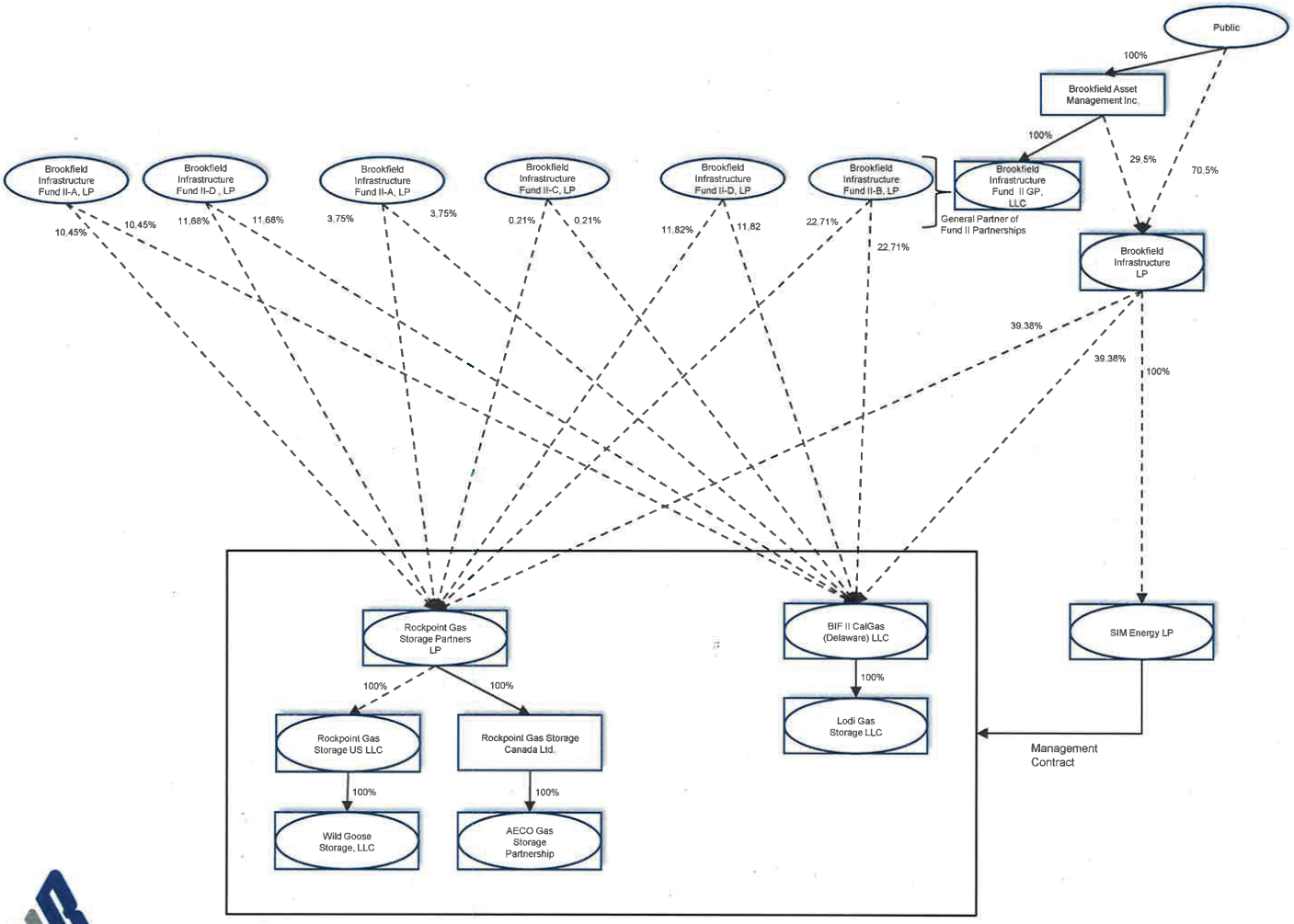
4. The preliminary determination made in Resolution ALJ 176-3392 of the need for hearings is changed to hearings are not necessary.

5. Application 17-01-024 is closed.

This order is effective today.

Dated _____, at Sacramento, California.

# ATTACHMENT A




ROCKPOINT
GAS STORAGE

# Attachment B

**********  SERVICE LIST A1701024**********
**Last Updated on 07-AUG-2017 by: AMT**

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(End of Attachment B)