

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Golden Pass Pipeline LP

Docket No. CP04-400-002

ORDER AMENDING CERTIFICATE

(Issued December 22, 2006)

1. On August 11, 2006, Golden Pass Pipeline LP (Golden Pass) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) to further amend the certificate of public convenience and necessity issued on July 6, 2005, in Docket No. CP04-400-000 (July 6 Order), as amended on October 4, 2006, in Docket No. CP04-400-001 (October 4 Order).¹ As discussed and conditioned below, we find that the requested second amendment is required by the public convenience and necessity.

I. Background and Proposed Amendment

A. July 6 Order - Docket No. CP04-400-000

2. The July 6 Order authorized Golden Pass to construct and operate two parallel, 43-mile long, 36-inch diameter pipelines (mainline and loop) in Texas. The pipeline will extend from a liquefied natural gas (LNG) terminal, which the July 6 Order authorized Golden Pass's affiliate Golden Pass LNG Terminal LP to construct, to an interconnection with the American Electric Power Texoma Pipeline (AEP Texoma), an intrastate pipeline. The July 6 Order also authorized Golden Pass to construct a single 35-mile long, 36-inch diameter pipeline extending from the AEP Texoma interconnection to an interconnection with Transcontinental Gas Pipe Line Corporation (Transco) in Louisiana (Northern segment). The Golden Pass pipeline facilities are designed to transport up to 2.5 Bcf/d of regasified LNG.

¹ *Golden Pass Pipeline LP*, 112 FERC ¶ 61,041 (2006), *Golden Pass Pipeline LP*, 117 FERC ¶ 61,015 (2006).

B. October 4 Order - Docket No. CP04-400-001

3. After issuance of the July 6 Order, Golden Pass identified certain changes in the design and routing of its certificated pipeline that would reduce its overall construction footprint, impact on wetlands, and total project costs, without additional compression or an adverse effect on transportation capacity or service. Accordingly, Golden Pass requested and received in the October 4 Order amended certificate authorization:

- to construct and operate a single 33-mile long, 42-inch diameter pipeline between the Golden Pass LNG terminal and the AEP Texoma interconnection in place of the two certificated 43-mile long, 36-inch diameter looped pipelines;
- to modify the certificated route between MP 14.1 and MP 34.9 to reduce the pipeline length between these two points from 20.8 miles to 11.9 miles;
- to relocate the interconnections with Kinder Morgan (KM) Tejas Pipeline, KM Texas Pipeline, and Centana Gas Pipeline along the realigned pipeline; and
- for revised cost-based, initial recourse rates.

C. Current Proposal - Docket No. CP04-400-002

4. In order to meet an anticipated increase in downstream demand and to provide additional flexibility, Golden Pass is seeking further amendment of its certificate authority to increase the diameter of the last 35.06-mile long portion of the Northern segment of the project. Golden Pass seeks authority to increase from 36 inches to 42 inches the diameter of this pipeline segment, which will extend from slightly downstream of the AEP Texoma Interconnect site to the interconnection with Transco near Starks, Louisiana. The milepost designations for this Northern segment remain unchanged, and there would be no change in route or length of the Northern segment.

5. Further, the instant proposal does not propose any changes to the previously authorized above-ground facilities along the Northern segment at the five different sites where there will be interconnections to five other pipeline systems. Nor does Golden Pass's current application propose any compression facilities for the Northern segment.

6. Golden Pass emphasizes that the proposed increase in diameter for 35.06 miles of the Northern segment will not alter the authorized route or permanent right-of-way, and that it is not seeking to increase the authorized maximum allowable operating pressure of 1,480 psig or the authorized maximum capacity of the facilities. However, the proposed

diameter increase will require minor increases in the temporary construction work space to handle the larger diameter pipe and an increase in hydrostatic test water proportionate to the pipe size change.

7. Golden Pass estimates that the total capital cost of all its facilities, as amended by this application, will increase from \$425.7 million to \$557.3 million. These cost increases are primarily attributable to increased demand for construction services and increases in material and construction costs for the interconnect facilities and increased diameter of the Northern segment.

8. Golden Pass estimates an annual cost of service for its modified proposal of \$96,928,057 (compared to the \$76,186,550 annual cost of service approved in the October 4 Order). Applying the same Rate Schedule FT-1 billing determinants of 31,210,920 dekatherm (Dth) per year, Golden Pass proposes to increase the initial cost-based FT-1 reservation charge from \$2.44 per Dth per month, as approved by the October 4 Order, to \$3.11 per Dth.

II. Notice and Interventions

9. Notice of Golden Pass's application for certificate amendment in Docket No. CP04-400-002 was published in the *Federal Register* on August 30, 2006 (71 Fed. Reg. 51,594). Interventions were due on or before September 11, 2006. One timely, unopposed motion to intervene was filed by Florida Gas Transmission Company. Timely, unopposed motions to intervene are automatically granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.² No protests were filed.

III. Discussion

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

A. The Certificate Policy Statement

11. On September 15, 1999, the Commission issued a Policy Statement providing guidance as to how proposals to construct new natural gas pipeline facilities will be

² 18 C.F.R. § 385.214 (2006).

evaluated.³ Specifically, the Policy Statement explains that the Commission, in deciding whether to certificate the construction of new pipeline facilities, balances the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment and the unneeded exercise of eminent domain in evaluating new pipeline construction.

12. Under this policy the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of a new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission then proceed to complete the environmental analysis where other interests are considered.

13. In the July 6 Order granting Golden Pass a certificate for its pipeline project and the October 4 Order amending that certificate to modify the authorized facilities, the Commission found that Golden Pass, as a new pipeline entrant, satisfied the threshold requirement that a pipeline must be prepared to financially support a proposed project without relying on subsidization from its existing customers and also satisfied the remaining criteria for certification of new facilities set forth in the Policy Statement. Golden Pass's instant proposal to increase the diameter of a 35.06-mile segment of its certificated pipeline facilities does not alter the Commission's conclusion that Golden Pass's project satisfies the Policy Statement's criteria.

14. Because Golden Pass will be a new pipeline company, it has no customers receiving service through existing facilities and thus there is no potential for subsidization. The total footprint of the project is unchanged by the proposed modification to Golden Pass's pipeline facilities. There will be no adverse effect on

³ *Certification of New Interstate Natural Gas Pipeline Facilities (Policy Statement)*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000), *order on clarification*, 92 FERC ¶ 61,094 (2000) (Policy Statement).

existing services because Golden Pass has no existing customers currently receiving services. Golden Pass's new pipeline will not adversely affect any other pipelines or their customers since Golden Pass's services will not replace any existing services by other pipelines. Golden Pass's pipeline project should also benefit interconnecting pipelines by providing new sources of gas for them to transport. No existing shippers or pipelines in the area have protested the original or the amended filing.

15. Finally, as discussed in the Commission's July 6 Order granting Golden Pass a certificate for its pipeline project, the need for Golden Pass's pipeline is supported by historical projected trends in gas demand and supply. Various national and industry organizations that monitor energy consumption trends forecast growing demand for natural gas. Since traditional sources of domestically produced gas are in long-term decline, forecasted domestic production will be unable to keep pace with demand and that the gap will only widen in the future. It is expected that imports, including LNG, will be necessary to make up the supply of gas.

16. Golden Pass's pipeline will provide access to new, competitively priced LNG supplies to meet this growing demand.⁴ Although Golden Pass does not seek at this time to increase its system's authorized maximum capacity, its proposal to increase the diameter of its downstream pipeline facilities will permit a relatively inexpensive increase in capacity in the future. Thus, its proposal should enhance the benefits of its pipeline project.⁵

17. In view of the above considerations, the Commission finds, consistent with the Policy Statement and section 7 of the NGA, that the public convenience and necessity require approval of Golden Pass's requested amendment to its certificate authority.

⁴ 112 FERC ¶ 61,041 at P 26.

⁵ Except as expressly provided in this order, Golden Pass's amended certificate authority for its project remains subject to all the terms and conditions in the July 6 Order granting its original certificate and the October 4 Order amending that certificate authority. In this regard, the Commission emphasizes the continuing applicability of Ordering Paragraph (D) of the July 6 Order which provides that Golden Pass must execute firm contracts equal to the level of service and in accordance with the terms of service represented in its precedent agreement with Golden Pass Trading Company, Inc. That precedent agreement was for a twenty-five year (April 2008 through April 2033) firm service agreement for the full capacity of Golden Pass's pipeline facilities, *i.e.*, 2,600,910 Dth/d, the thermal equivalent of 2.5 Bcf/d.

B. Revised Initial Rates

18. The July 6 Order approved Golden Pass' initial maximum cost-based FT-1 reservation rate of \$1.87 per Dth and its initial maximum IT-1 rate of \$0.0615 per Dth. The approved FT-1 usage rate is \$0.00 per Dth. As discussed above, when the Commission approved changes to Golden Pass' facilities in the October 4 Order, the Commission also recognized increased materials and construction costs which increased the estimated total capital cost of Golden Pass' facilities from \$327.6 million to \$425.7 million and Golden Pass' annual cost of service to \$76,186,550. Therefore, the October 4 Order approved an increase in the initial FT-1 reservation rate to \$2.44 per Dth and an increase in the initial maximum IT-1 rate to \$0.0802 per Dth.

19. We are approving Golden Pass' current application to modify its facilities which also involves increased costs and, therefore, a proposal by Golden Pass to increase its approved annual cost of service to \$96,928,057. Golden Pass has recalculated its initial rates using the October 4 Order's approved FT-1 billing determinants, straight fixed variable (SFV) rate design methodology, capital structure and cost of service components, including return on equity, return on debt, and depreciation rate. Therefore, we will approve Golden Pass' proposal to revise its section 7 recourse rates to reflect an initial maximum FT-1 reservation rate of \$3.11 per Dth and an initial maximum IT-1 rate of \$0.1022 per Dth.

20. Consistent with Commission precedent, our July 6 Order⁶ and October 4 Order⁷ require Golden Pass to file a cost and revenue study at the end of its first three years of actual operation to justify its existing cost-based firm and interruptible recourse rates. As directed in our prior orders, the projected units of service should be no lower than those upon which Golden Pass' approved revised initial rates are based. The filing must include a cost and revenue study in the form specified in section 154.313 of the regulations to update cost of service data. After reviewing the data, we will determine whether to exercise our authority under NGA section 5 to establish just and reasonable rates. In the alternative, in lieu of that future filing, Golden Pass may make an NGA section 4 filing to propose alternative rates to be effective no later than three years after the in-service date for its proposed facilities.

⁶ 112 FERC ¶ 61,041 at P 32 and Ordering Paragraph (G).

⁷ 117 FERC ¶ 61,015 at P 12 and Ordering Paragraph (D).

C. Environmental

21. On August 25, 2006, we issued a Notice of Intent to Prepare an Environmental Assessment (EA) for the Proposed Northern Segment Amendment Project and Request for Comments on Environmental Issues. Written comments were requested from the public on specific concerns about the project or issues that should be considered during preparation of the EA. Two comment letters were filed, one from the U.S. Army Corps of Engineers (COE) and one from Starks Gas Storage L.L.C. (Starks). The EA addresses their comments, which are described below.

22. Starks commented that its Storage Project, certificated in an order issued on July 25, 2005,⁸ includes construction and operation of a 30-inch diameter pipeline segment that parallels a portion of the existing Transco pipeline for a distance of about 2.4 miles in Calcasieu Parish, Louisiana. Since Golden Pass's pipeline will also parallel the same segment of the Transco pipeline right-of-way, Starks recommends that the Commission require Golden Pass to comply with the same environmental condition concerning co-location of facilities as the Commission required in the July 25, 2005 Order certificating Starks's pipeline.

23. The Starks order noted that several applications for projects filed with the Commission involve pipelines proposed to be co-located within the same rights-of-way as proposed by Starks. Therefore, to minimize construction impacts if the Starks project were constructed after other projects, we added Environmental Condition No. 17 in the July 25, 2005 Order certificating Starks's pipeline. Environmental Condition No. 17 requires in areas where the Starks's pipeline would be co-located with one or more other planned pipelines adjacent to an existing right-of-way, that the first pipeline to be constructed be placed closest to the existing right-of-way. The Starks pipeline would be constructed with a 40-foot offset from any non-affiliated pipeline or with a 25-foot offset from an affiliated pipeline. For Starks's pipeline, this area is approximately from Starks's milepost (MP) 1.8 to MP 4.4. Further, prior to construction, Starks is required to file with the Secretary for review and written approval by the Director of the Commission's Office of Energy Projects (OEP) alignment sheets and environmental information to support the new alignment.

24. As Starks states, about 2.4 miles of its pipeline and 2.4 miles of the Golden Pass pipeline will be co-located along the Transco pipeline corridor in northwest Calcasieu Parish, Louisiana. This co-location will be between approximate Golden Pass MP 72.8

⁸ *Starks Gas Storage L.L.C.*, 112 FERC ¶ 61,109 (2005).

and MP 75.2, or between Golden Pass's planned interconnect with Tennessee Gas Pipeline Company and Golden Pass's planned interconnect with Texas Eastern Transmission L.P.

25. Starks began construction of portions of its storage project facilities in 2006, but it has not yet begun construction of its pipeline between Golden Pass MPs 72.8 and 75.2. Golden Pass plans to begin construction of its 42-inch diameter pipeline in 2007. Neither our July 6 Order nor our October 4 Order includes a condition similar to the one included in the Starks order to require that when multiple pipelines are to be co-located adjacent to an existing right-of-way, the first pipeline to be constructed be placed closest to the existing right-of-way. However, for consistency with the treatment of the co-location issue in the Starks order, we will impose the same condition on Golden Pass, as set forth in the appendix to this order.

26. The United States Army Corps of Engineers (COE) commented that a portion of the pipeline segment to be increased in diameter appears to go through waters of the United States, including adjacent wetlands. COE further states that these areas appear to be subject to section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act of 1899. Any project changes that result in discharging dredged and/or fill material into waters of the United States require a Department of the Army (DA) permit. The COE recommended that Golden Pass conduct wetland delineation of the additional workspaces and submit it to the Galveston District COE for verification, along with revised project plans showing COE jurisdictional impacts for proper DA permitting. Golden Pass' amendment to its COE permit for the Golden Pass LNG Terminal and Pipeline Project for the proposed Northern Segment Project is pending.

27. Pipeline safety has been previously raised in the Golden Pass proceeding. The Commission notes the United States Department of Transportation (DOT) is solely responsible for establishing criteria and requirements for the safety of natural gas pipeline facilities. DOT sets standards for the design, construction, inspection, and operation of natural gas pipelines in accordance with the Natural Gas Pipeline Safety Act of 1968, as amended. DOT's safety standards specify material selection and qualification, minimum design requirements, and protection from internal, external, and atmospheric corrosion. Any applicant for a certificate from the Commission is required to verify that the proposed facilities would meet DOT safety standards. Since Golden Pass will construct, operate, and maintain its pipeline in compliance with the requirements of the DOT's regulations, its pipeline should operate in a safe manner.

28. On October 23, 2006, the Commission made the EA for the Northern Segment Amendment Project available to the public. The EA incorporates by reference the environmental analysis and recommendations for the Golden Pass LNG Terminal and Pipeline Project which was approved by the Commission in its July 6 Order and

October 4 Order. The EA addresses alternatives, land requirements, land use, soils, water resources, wetlands, vegetation, federally threatened species, and cultural resources affected by the amendment.

29. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction of facilities approved by this Commission.⁹ Golden Pass shall notify the Commission's environmental staff by telephone, e-mail, or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Golden Pass. Golden Pass shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

30. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with Golden Pass' application and supplements filed on September 15 and October 4, 2006, and the environmental condition in the Appendix to this order, approval of this proposal will not constitute a major federal action significantly affecting the quality of the human environment.

The Commission Orders:

(A) The certificate issued on July 6, 2005, in Docket No. CP04-400-000, as amended on October 4, 2006, in Docket No. CP04-400-001, is further amended in Docket No. CP04-400-002 to increase the diameter, from 35 inches to 42 inches, of the approximately 35.06 mile-long portion of the Northern segment of its project between downstream of the AEP Texoma interconnection site to the interconnection with Transco near Starks, Louisiana, discussed herein and as described in application.

(B) Golden Pass's proposed revised initial recourse rates under Rate Schedule FT-1 and Rate Schedule IT-1 rates are approved.

⁹See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(C) Except as provided in Ordering Paragraphs (A) and (B) above, the terms and conditions of Golden Pass's certificate authority as set forth in the Commission's July 6, 2005 Order in Docket No. CP04-400-000, as amended by the Commission's October 4, 2006 Order in Docket No. CP04-400-001, are unchanged.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

APPENDIX

Golden Pass Pipeline LP Docket No. CP04-400-002

Environmental Condition

In addition to the environmental conditions set forth in the Appendix to the Commission's July 6, 2005 Order in Docket No. CP04-400-000 and in the appendix to the Commission's October 4, 2006 Order in Docket No. CP04-400-001, the authorizations granted in this order are subject to the following environmental condition:

For areas where Golden Pass's pipeline would be co-located with one or more planned pipeline(s) adjacent to an existing right-of-way, the first pipeline to be constructed shall be placed closest to the existing right-of-way. The Golden Pass Pipeline shall be constructed with a 40-foot offset from any non-affiliated pipeline or with a 25-foot offset from an affiliated pipeline. For the Golden Pass pipeline, this area is from approximate MP 72.8 MP 75.2.

Prior to construction Golden Pass shall file with the Secretary for review and written approval by the Director of OEP alignment sheets and environmental information to support the new alignment, if needed.