

132 FERC ¶ 61,069  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
John R. Norris, and Cheryl A. LaFleur.

Trunkline Gas Company, LLC and Gulf South Pipeline Company, LP      Docket No. CP10-11-000

ORDER APPROVING ABANDONMENT AND ISSUING CERTIFICATE

(Issued July 26, 2010)

1. On October 28, 2009, Trunkline Gas Company, LLC (Trunkline), and Gulf South Pipeline Company, LP (Gulf South), filed a joint application under section 7 of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations requesting NGA section 7(b) permission and approval for Trunkline to abandon leased capacity on Gulf South's system in Louisiana. As discussed below, we will grant Trunkline permission and approval to abandon its leased capacity and we will grant Gulf South NGA section 7(c) certificate authorization to reacquire the leased capacity.

**Background**

2. On July 30, 1993, the Commission approved an Operating Lease Agreement that granted Gulf South's predecessor-in-interest approval to abandon by lease, and Trunkline certificate authority to acquire by lease, 525,000 Dth/d of firm pipeline capacity extending from the an interconnection between the parties' pipelines near Centerville, in St. Mary Parish, Louisiana, to a second interconnection near Olla, in LaSalle Parish, Louisiana.<sup>1</sup> Applicants state the lease was intended to alleviate a bottleneck on Trunkline's Bayou Sale Line, a pipeline extending from the Centerville Compressor Station in St. Mary Parish, Louisiana to the Kaplan Compressor Station in Vermilion Parish, Louisiana. On June 3, 1997, Trunkline and Gulf South amended their lease to extend the term for another five years and to amend certain terms and conditions

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<sup>1</sup> *Trunkline*, 64 FERC ¶ 61,142 (1993). See also *Trunkline*, 56 FERC ¶ 61,366 (1991), describing Trunkline's initial lease of capacity to Tennessee Gas Pipeline Company. Through several successors-in-interest, the leased capacity is now on facilities owned by Gulf South.

(First Amendment). The First Amendment was approved by Commission Order on September 25, 1997.<sup>2</sup> A Second Amendment – increasing Trunkline’s leased capacity to 550,000 Dth/d and providing for an additional five-year term continuing until September 30, 2007, and year-to-year thereafter – was approved by Commission order on August 23, 2002.<sup>3</sup>

### **Requested Abandonment and Certificate Authorization**

3. On July 25, 2006, Trunkline provided Gulf South written notice of termination of the lease agreement effective September 30, 2007, explaining that it no longer needed the additional capacity to alleviate the Bayou Sale Line bottleneck. Applicants request Commission approval for Trunkline to abandon the authorizations provided by the Commission’s August 23, 2002 Order, as amended, and for Gulf South to reacquire the 550,000 Dth/d of leased capacity on its system.

### **Notice and Interventions**

4. Notice of the parties’ application was published in the Federal Register on November 27, 2009.<sup>4</sup> ProLiance Energy, LLC submitted a timely, unopposed motion to intervene.<sup>5</sup> No party filed a protest or adverse comments.

### **Discussion**

5. Because the leased capacity is used to the transport natural gas in interstate commerce over facilities subject to the jurisdiction of the Commission, Trunkline’s proposed abandonment and Gulf South’s proposed reacquisition of the leased capacity are subject to the requirements of subsections (b), (c), and (e) of NGA section 7.

### **Abandonment Approval**

6. The Operating Lease Agreement between Trunkline and Gulf South, as amended, was terminated effective September 30, 2007. We find there is no longer any need for

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<sup>2</sup>*Trunkline*, 80 FERC ¶ 61,356 (1997).

<sup>3</sup>*CMS Trunkline Gas Company, LLC*, 100 FERC ¶ 62,139 (2002) (August 23, 2002 Order).

<sup>4</sup> 74 Fed. Reg. 62,296 (Nov. 27, 2009).

<sup>5</sup> Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214 (2010).

Trunkline to lease the subject capacity pursuant to the parties' Operating Lease Agreement; thus, we find Trunkline's proposed abandonment is permitted by the present or future public convenience or necessity.<sup>6</sup>

### **Reacquisition of Capacity and Certificate Authorization**

7. The Commission views a lease of interstate pipeline capacity as an acquisition of a property interest in the lessor's pipeline subject to NGA section 7(b) abandonment and section 7(c) certification.<sup>7</sup> Consequently, the lessee is required to obtain certificate authorization to acquire the leased capacity. When the lease terminates, and with it, the property interest of the lessee, the lessor is required to obtain certificate authorization to reacquire the capacity.<sup>8</sup> The expiration of the applicants' lease agreement ends Trunkline's property interest in the leased capacity, thus Gulf South requires certificate authorization to reacquire this capacity for use for service under its own tariff.<sup>9</sup>

8. In considering the public interest in a proposal by an interstate pipeline to lease capacity on facilities that have already been constructed and certificated, generally, there is no cause to consider issues related to disruptions of the environment, landowner rights, and the exercise of eminent domain. We do consider whether the pipeline seeking to lease capacity is prepared to financially support its proposal without relying on subsidization from its existing customers. We also consider whether the applicant has made efforts to eliminate or minimize any adverse effects the proposed lease might have on its own existing customers, and on existing pipelines in the market and their captive customers. These are significant criteria described in the Commission's statement of

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<sup>6</sup> The applicants have not requested abandonment approval retroactive to September 7, 2007, the proposed effective date of Trunkline's notice of termination of the Operating Lease Agreement. Thus, the applicants' respective service obligations under the Operating Lease Agreement remain in effect until Trunkline exercises the abandonment approval granted by this order. *See, e.g., Transcontinental Gas Pipe Line Corporation*, 45 FERC ¶ 61,238, at 61,704-05 (1988). *See also CNG Transmission Corporation*, 80 FERC ¶ 61,092, at 61,323-24 (1997).

<sup>7</sup> *Texas Eastern Gas Transmission Corporation*, 94 FERC ¶ 61,139, at 61,530 (2001); *Panhandle Eastern Pipe Line Company*, 73 FERC ¶ 61,137, at 61,390 (1995). *See also Tennessee Gas Pipeline Company*, 115 FERC ¶ 61,283, at P 4 (2006).

<sup>8</sup> *See Islander East Pipeline Company*, 102 FERC ¶ 61,054, at P 35 (2003).

<sup>9</sup> Gulf South did not explicitly request certificate authorization to reacquire the capacity at issue; however, such authorization is required, and after review of the joint application, we determine such authorization is warranted.

policy on new facilities.<sup>10</sup> Thus, the Commission has found it appropriate to apply its Certificate Policy Statement's criteria to the extent applicable when addressing requests by pipelines for certificate authority to lease capacity owned by other pipelines.<sup>11</sup>

9. On the other hand, while a lessor pipeline's reacquisition of leased capacity at the end of a capacity lease agreement also is an acquisition of a property interest for which certificate authorization is necessary, such a reacquisition does not raise the types of subsidization and competitive concerns intended to be addressed by the Certificate Policy Statement. Therefore, the Commission does not apply the Certificate Policy Statement *per se* in determining whether the public convenience and necessity require granting certificate authorization for the lessor pipeline to once again make the capacity available for service under its own tariff.

10. In this case, we expect Gulf South to reacquire 550,000 Dth/d of capacity without incurring costs that would affect the rates of those shippers that will rely on this capacity. Thus, we find Gulf South will be able to reacquire capacity on its own system without relying on subsidization from its existing customers and without otherwise adversely impacting its existing shippers. Further, we find Gulf South's proposal will not adversely impact existing pipelines in the market and their captive customers. Accordingly, we find the public benefits of Gulf South's reacquiring its leased capacity outweigh any potential adverse consequences;<sup>12</sup> we therefore find Gulf South's reacquisition of 550,000 Dth/d of capacity is required by the public convenience and necessity.

11. The Commission on its own motion, received and made a part of the record all evidence, including the application (s), as supplemented, and exhibits thereto, submitted in this proceeding and upon consideration of the record,

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<sup>10</sup> *Certification of New Interstate Natural Gas Pipeline Facilities (Certificate Policy Statement)*, 88 FERC ¶ 61,227 (1999) and *Orders Clarifying Statement of Policy*, 90 FERC ¶ 61,128 (2000) and 92 FERC ¶ 61,094 (2000).

<sup>11</sup> *See, e.g., CenterPoint Energy Gas Transmission Company*, 126 FERC ¶ 61,239, at P 12 and 13 (2009).

<sup>12</sup> Given that the capacity at issue is on a jurisdictional interstate pipeline, and does not involve any construction activities, a change in a party holding a property interest in capacity on the pipeline has no effect on the pipeline's environmental impact.

The Commission orders:

(A) Trunkline is granted permission and approval under NGA section 7(b) to abandon the capacity lease agreement with Gulf South, as more fully described in this order and the application.

(B) A certificate of public convenience and necessity is issued to Gulf South under NGA section 7(c) authorizing it to reacquire the leased capacity from Trunkline, as more fully described in this order and the application.

(C) The abandonment approval and certificate authorization issued in Ordering Paragraphs (A) and (B) are conditioned on Trunkline and Gulf South complying with all applicable Commission regulations under the Natural Gas Act and particularly section 154 and paragraphs (a), (d), (e), and (g) of section 157.20 of the Commission's regulations.

(D) Trunkline shall notify the Commission within ten (10) days of the date of abandonment of the described capacity.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.