

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell and Joseph T. Kelliher,

Tractebel Calypso Pipeline, LLC Docket Nos. CP01-409-000, 001, and 002
CP01-410-000, 001, and 002
CP01-411-000, 001, and 002
CP01-444-000, 001, and 002

ORDER ISSUING CERTIFICATES, SECTION 3 AUTHORIZATION, AND
PRESIDENTIAL PERMIT

(Issued March 24, 2004)

1. On May 1, 2003, the Commission issued a preliminary determination (PD) addressing the non-environmental issues in this proceeding, finding that the proposal by Tractebel Calypso Pipeline, LLC (Tractebel Calypso)¹ to construct, own, and operate a natural gas pipeline to provide service from a proposed liquefied natural gas (LNG) facility to be constructed in Freeport, Grand Bahama Island was required by the public convenience and necessity.² Issuance of a certificate authorizing construction of Tractebel Calypso's proposed facilities, related blanket construction and transportation certificates, Natural Gas Act (NGA) Section 3 authority, and a Presidential Permit were reserved pending completion of the environmental review process. We have now completed our environmental analysis of Tractebel Calypso's proposal, and we are granting the requested authorizations, subject to environmental compliance conditions.

¹The application was originally filed by Calypso Pipeline, L.L.C. Calypso, however, subsequently filed for bankruptcy with the U.S. Bankruptcy Court for the Southern District of New York (Bankruptcy Court), and with the Court's approval, sold certain assets, including the applications that are the subject of this proceeding, to Tractebel Calypso. Calypso's applications were amended to substitute Tractebel Calypso as the applicant, replacing Calypso.

²103 FERC ¶ 61,106 (2003).

Background

2. Tractebel Calypso seeks a certificate of public convenience and necessity authorizing it to construct, own, and operate a new 24-inch natural gas pipeline extending approximately 42 miles from the offshore boundary of the U.S. – The Bahamas Exclusive Economic Zone (EEZ)³ to an interconnection with pipeline facilities of Florida Gas Transmission Company in Broward County, Florida.⁴ The new facilities are designed to provide up to 832,000 MMBtu a day of natural gas transportation service from a proposed liquefied natural gas facility to be constructed in Freeport, Grand Bahama Island to the United States mainland in Florida.⁵ Tractebel Calypso requests a blanket construction certificate and a blanket transportation certificate. Tractebel Calypso also requests a Presidential Permit and authorization pursuant to Section 3 of the NGA to construct, install, operate, and maintain certain natural gas import facilities at the U.S.-The Bahamas EEZ boundary that would connect the proposed facilities described above with a proposed Bahamian pipeline that would extend from the EEZ boundary to Freeport.

3. The May 1, 2003 PD found, based on non-environmental issues, that Tractebel Calypso's project is required by the public convenience and necessity. The Commission determined that construction of the proposed facilities would help satisfy a growing demand for natural gas in Florida, diversify the sources of supply to the State, and increase competitive alternatives to the existing pipeline infrastructure. Subject to completion of the environmental review, the Commission concluded that the benefits from the proposed project will outweigh any potential adverse effects.

³As defined in the 1995 Department of State Notice 2237 - Exclusive Economic Zone and Maritime Boundaries; Notice of Limits U.S. Atlantic Coast and Gulf of Mexico, 60 Fed. Reg. ¶ 43,825 (1995).

⁴On June 3, 2003 Tractebel Calypso revised its proposed route alignment (shortening it by approximately 2,000 feet) to accommodate concerns of various landowners and governmental and nongovernmental organizations, including John U. Lloyd Beach State Park and Port Everglades. Our environmental analysis addresses the revised alignment.

⁵In response to a data request, Tractebel Calypso states that it anticipates that the affiliated project in the Bahamas (called the Hawksbill Project) will receive all necessary Bahamian regulatory approvals for the construction of the LNG terminal and associated non-jurisdictional pipeline during the second quarter of 2004.

Discussion

4. Because the proposed facilities will be used in interstate commerce subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to the requirements of Section 7 of the NGA. In the May 1, 2003 preliminary determination we found under Section 7 that the proposed facilities were required by the public convenience and necessity.

5. In this order we consider and evaluate the environmental issues raised by Tractebel Calypso's application, and proposed adjustments to Tractebel Calypso's proposed rates and tariff. We do not consider other non-environmental issues because they were addressed in the preliminary determination. No requests for rehearing of that decision were filed. The earlier findings with respect to non-environmental issues are incorporated in the final order here.

Rate and Tariff Issues

6. Tractebel Calypso has filed revisions to the proposed rates set forth in the Commission's May 1, 2003 PD. These revisions reflect increases in capital costs needed to resolve concerns raised by the Naval Surface Warfare Center, Carderock Division, increased environmental mitigation and monitoring conditions, and routing variation changes. The increases are offset somewhat by the elimination of an isolation block valve assembly. Overall, Tractebel has increased its estimated capital costs by a total of \$21,847,500 from \$144,558,645 to \$166,406,145. This results in an increase in the cost of service to \$27,450,828. The changes to the cost of service and rates reflect only the revised capital costs and corresponding adjustments. The proposed rate base and cost of service are shown on Appendix C.

7. Tractebel Calypso now proposes a maximum cost-based Rate Schedule FTS daily reservation rate of \$0.0904 per Dth derived from the proposed annual levelized cost of service of \$27,450,828⁶ and the firm annual reservation billing determinants totaling 303,680,000 Dth.⁷ Tractebel Calypso has not identified any variable costs, and accordingly, proposes an FTS usage rate of \$0.0000 per Dth. Tractebel Calypso proposes

⁶The cost of service is levelized by adjusting the annual depreciation expense over a 20-year period.

⁷This amount is calculated by multiplying the maximum daily volume of 832,000 Dth times 365 days.

a \$0.0904 per Dth usage rate for the Rate Schedule ITS interruptible transportation calculated as a 100 percent load factor derivative of the Rate Schedule FTS rates. Tractebel Calypso did not request negotiated rate authority.

8. We have reviewed the proposed cost of service and find generally that it is reasonable for a new pipeline entity such as Tractebel Calypso. In its May 1, 2003 PD, the Commission approved Tractebel Calypso's proposed levelized cost of service rate designs, finding that they provide just and reasonable rates. The May 1, 2003 Order also approved Tractebel's capital structure comprised of 70 percent debt and 30 percent equity, the 14.0 percent rate of return on equity, and 8.0 percent cost of debt, resulting in an overall rate of return of 9.80%.

9. In the May 1, 2003 PD order, we noted that Tractebel Calypso was applying the Florida income tax rate to all of its taxable return allowance in developing the State income tax allowance for purposes of its cost of service. We explained, however, that under similar circumstances in the recent AES Ocean Express, LLC (Ocean Express) proceeding,⁸ we had determined that not all of Ocean Express' offshore portion of its proposed pipeline would be subject to Florida's income tax jurisdiction and directed Ocean Express to revise its rates accordingly. In the May 1, 2003 PD in this proceeding, we likewise directed Tractebel Calypso to recalculate its rates or demonstrate why all this income is subject to Florida State income tax law.

10. Tractebel Calypso, however, continues to argue that all its income is subject to Florida State income tax. In response to a December 3, 2003 data request,⁹ Tractebel Calypso states that officials of the Florida Department of Revenue have advised it that, under their interpretation of Florida law, all Tractebel Calypso's income from this pipeline will be subject to Florida tax unless a foreign country or another State actually taxes a portion of these operations as well. Tractebel Calypso does not anticipate that either The Bahamas or any State within the U.S. (other than Florida) will tax or have jurisdiction to tax its income attributable to the pipeline operations from the EEZ interconnect point to onshore Florida. Under these circumstances, we find that Tractebel Calypso has provided a reasonable explanation, and we will allow Tractebel Calypso to treat the entire taxable portion of the return allowance as being subject to Florida State income tax for rate purposes.

⁸103 FERC ¶ 61,030 (2003).

⁹December 15, 2003 Data Response, Information Request No. 1(a).

11. In the May 1, 2003 PD, noting that Tractebel Calypso did not allocate any costs to its interruptible services, we required it either to allocate an appropriate level of the estimated cost of service to interruptible service and recalculate its rates, or alternatively, to credit IT revenues to its firm shipper and revise its tariff. Tractebel Calypso now states that it will credit interruptible service revenues to firm recourse rate shippers and revise its tariff to provide a revenue crediting mechanism consistent with the requirements in the PD.¹⁰ We note, however, that Ordering Paragraph (H) in the PD inadvertently required the crediting of interruptible service revenues only to firm customers. Our policy regarding new interruptible service requires either a 100 percent credit of interruptible revenues, net of variable costs, to firm and interruptible customers, or an allocation of costs and volumes to these services.¹¹ Tractebel Calypso must revise its tariff to credit interruptible revenues from its cost-based rates, net of variable costs, to both firm and interruptible customers.

Presidential Permit and NGA Section 3 Authority

12. Tractebel Calypso's proposal here to operate and maintain facilities for the importation of natural gas into the United States is subject to the jurisdiction of the Commission under Section 3 of the NGA. Section 3 provides that the Commission will approve such a proposal unless the Commission finds that the proposal is not in the public interest.¹²

13. We find that Tractebel Calypso's proposal to operate the border facilities to provide import service is not inconsistent with the public interest. The service Tractebel Calypso proposes will facilitate the international energy trade between the United States and the Commonwealth of the Bahamas and further the policy goals and objectives of the Energy Policy Act of 1992.¹³

¹⁰December 15, 2003 Data Response, Information Request No. 2.

¹¹See, e.g., Vector Pipeline L.P., 85 FERC ¶ 61,083 (1998).

¹²See generally Applications for Authorization to Construct, Operate, or Modify Facilities used for the Export or Import of Natural Gas, Final Rule, [Reg. Preambles] FERC Stat. & Reg. ¶ 31,054 (1997), Order No. 595, Docket No. RM97-1-000.

¹³Energy Policy Act of 1992, Pub. L. 102-486 (October 24, 1992), 106 Stat. 2776.

14. On April 10, 2003, the Commission sent copies of Tractebel Calypso's application and a draft Presidential Permit to the Secretaries of State and Defense for their recommendations. In letters dated May 9, 2003 and October 29, 2003, respectively, the Secretaries of State and Defense state that they do not object to the issuance of the Presidential Permit. The Department of Defense, however, explained that its findings are contingent upon the Commission's adoption of terms contained in a Memorandum of Agreement (MOA) entered into by Tractebel Calypso and the Naval Surface Warfare Center, Carderock Division. The MOA relates primarily to materials to be used for the pipeline and coordination of construction and maintenance activities. The Commission is adopting the terms of the MOA as part of the conditions attached to the certificate issued here. Accordingly, we will grant Tractebel Calypso's request for NGA Section 3 authorization and a Presidential Permit. The terms of the Presidential Permit are set forth in Appendix B.

Environment

15. On August 1, 2003, the Commission issued a draft environmental impact statement (DEIS) for the proposed Tractebel Calypso project, and invited public comment. Copies of the DEIS were sent to interested parties including Federal, State, and local agencies; elected officials; State and local conservation organizations; local newspapers and libraries; intervenors; and landowners along the proposed route. The Commission received written comments on the DEIS from five Federal agencies, the Florida State Clearinghouse¹⁴ and the Florida Department of State (Division of Historic Resources), three local municipalities or departments, 48 groups and individuals, and Tractebel Calypso. Sixteen persons also made statements at a public meeting held on September 8, 2003 in Dania Beach, Florida.

16. On January 23, 2004, the Commission issued a final environmental impact statement (FEIS). The FEIS addresses all the issues, concerns, and comments raised in response to the DEIS. The FEIS also addresses the impact of the project on marine biological resources; geology and hazards; soils and sediments; water resources; onshore fish and wildlife; vegetation communities; endangered and threatened species; land use, recreation, and visual resources; cultural resources; socioeconomics; air quality and noise; reliability and safety. The FEIS likewise addressed potential cumulative impacts of this and other projects and several alternatives to the proposed route.

¹⁴The Florida State Clearinghouse is an umbrella organization that coordinates the State of Florida's environmental review.

17. The FEIS concluded that construction and operation of the proposed project will result in limited adverse environmental impacts. The primary long-term offshore impact from the project would be to coral reef and marine hardbottom habitats. The FEIS explains that specialized offshore construction procedures, including horizontal directional drills (HDD) underneath reefs along the pipeline route, will substantially reduce impacts to the reefs and hardbottom areas. The FEIS established that the coral species present are acclimated to sedimentation and could likely sustain short-duration impact. Tractebel Calypso has developed a Nearshore Construction Monitoring Plan that addresses the major concerns of Federal, State, and local resource agencies, and is continuing to consult with Federal and State resource agencies to finalize appropriate coral relocation plans, monitoring requirements, and compensatory mitigation for long-term impacts to coral and marine hardbottom habitats.

18. The FEIS also explains that over 95 percent of the approximately 6.5-mile onshore pipeline route will be completed using HDD methods, or overlap or be adjacent to existing pipeline, railroad, utility, and road rights-of-way (ROW) corridors, reducing the need to establish new pipeline ROWs. The FEIS also notes that there are no residences within 300 feet of the proposed ROW. This will greatly reduce impacts from the project on landowners and others.

19. The Florida Department of Environmental Protection (Florida DEP) characterizes the South Florida coral reef system as a diverse and unique natural ecosystem that is critical to the economic future of Florida. The proposed MP 33.8 to MP 37.1 corridor across the coral reef system has been carefully chosen to avoid impacts to coral resources as well as to the Navy's South Florida Test Facility (SFTF) located to the south of the corridor.¹⁵ Extensive interagency review and consultation produced the proposal evaluated in the FEIS. The critical reviewing agencies, including the United States Army Corps of Engineers (COE), the National Oceanic and Atmospheric Administration (NOAA Fisheries), the U. S. Environmental Protection Agency (EPA), and the Florida

¹⁵As noted above and in the FEIS, the U.S. Navy had expressed concerns that a portion of the proposed project could potentially impact the operations of the SFTC of the Naval Surface Warfare Center, Carderock Division. Tractebel Calypso and the Navy, however, entered into an MOA in September 2003 that has resolved all technical issues and concerns related to the project route, pipeline design, and related matters affecting the SFTC. We have reviewed the terms of the MOA and find them acceptable. Ordering paragraph (E)(6) and Environmental Condition 34 require that Tractebel Calypso construct, operate, and maintain the subject pipeline in accordance with the terms of the September 2003 MOA.

DEP have all indicated strong support for a condition requiring that this sensitive segment of the project be completed first. Because of the complexity of the proposed construction and the sensitivity of the habitat being traversed, the FEIS recommends, and we agree, that the nearshore construction should precede construction of any other jurisdictional facilities. Accordingly, Environmental Condition 22 requires that before commencing construction on any other jurisdictional facilities, Tractebel Calypso must successfully complete the three near shore HDD sections (reef HDD, landfall HDD, Port Everglades HDD) and the open-cut trench connecting the reef HDD and the landfall HDD.

20. The Commission also prepared an Essential Fish Habitat (EFH) Assessment that describes how the proposed Tractebel Calypso project could affect essential fish habitat. The EFH Assessment was submitted for review to NOAA Fisheries. NOAA Fisheries filed EFH conservation recommendations for the Tractebel Calypso project on January 9, 2004. Tractebel Calypso filed a response and supplemental information to NOAA Fisheries' conservation recommendations on February 12, 2004. In response to NOAA Fisheries' recommendations, we are adopting the following seven additional environmental conditions also recommended in the FEIS. Environmental Condition 11 requires that Tractebel Calypso provide vessel and equipment-specific weather contingency procedures that establish the protocol for cessation of construction activities, demobilization of equipment and vessels, and procedures to secure and abandon pipeline segments under rough sea conditions. Environmental Conditions 15 and 17 prohibit Tractebel Calypso from using drilling mud or additives that would be toxic to marine or aquatic organisms and from using corrosion inhibitors, biocides, oxygen scavengers, or other additives in hydrostatic test water that exhibit toxicity to aquatic organisms without prior written approval of the Director of the Commission's Office of Energy Projects (OEP). Environmental Condition 19 requires Tractebel Calypso to review NOAA Fisheries' conservation recommendations and file an updated Nearshore Construction Monitoring Plan and other supporting information with the Secretary of the Commission (Secretary) for review and written approval of the Director of OEP prior to construction. Environmental Condition 20 requires Tractebel Calypso to file a pre-installation video survey plan for deepwater corals, and Environmental Condition 21 requires that it provide a post-construction monitoring plan to evaluate potential impacts to deepwater resources that may occur following placement of the pipeline on the seafloor. Environmental Condition 23 requires Tractebel Calypso to provide detailed mapping of buffers between work areas and coral resources and site-specific explanations for areas where a buffer of at least 100 feet cannot be maintained.¹⁶

¹⁶Commission staff participated in an interagency meeting with NOAA Fisheries, COE, and the Florida DEP on February 26, 2004 in West Palm Beach, Florida to discuss
(continued...)

21. On February 19, 2004, Tractebel Calypso filed a Memorandum of Agreement (MOA) between Tractebel Calypso Pipeline, LLC and Dynegy Midstream Services, Limited Partnership (DMS). Under the terms of the MOA, Tractebel Calypso, with the concurrence of the Broward County Fire Marshall, would eliminate a block valve and ancillary blow down valve planned for construction on DMS property and reroute the proposed pipeline to the eastern edge of the DMS property. The MOA resolves the safety and siting concerns regarding the project raised by DMS in its filings with the Commission.¹⁷ We approve the changes proposed in the MOA.

Additional Environmental Comments

EPA

22. The EPA filed comments on the FEIS.¹⁸ The EPA first suggests that if the Calypso Tractebel and Ocean Express pipelines are both needed and constructed,

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remaining concerns regarding the EFH. A March 11, 2004 follow-up letter from Commission staff to NOAA Fisheries addresses the potential resolution of each of NOAA Fisheries' conservation recommendations discussed at the interagency meeting, and explains that the NOAA Fisheries recommendations will be incorporated in the Commission's environmental conditions or in at least one other Federal or State permit. The March 10, 2004 letter is part of the public record in this proceeding.

¹⁷On August 29, 2003, DMS filed a request to intervene out-of-time and a protest. On September 15, 2003 and November 24, 2003, it filed comments on the DEIS. Based on acceptance of the MOA, DMS withdrew its protest on January 28, 2004, but renews its request for late-intervention. When late-intervention is sought after issuance of an order disposing of substantive issues in a proceeding, the prejudice to other parties and burden upon the Commission of granting the late intervention may be substantial. Thus, movants bear a higher burden to demonstrate good cause for the granting of such late-intervention. Here, DMS, a landowner on the proposed route, avers that, contrary to Commission regulations regarding landowner notification, it did not receive notice of the project from Tractebel Calypso and did not become aware of the impact on its property until notified by the local Port Authority. Under the circumstances, we will grant the late-filed request for intervention.

¹⁸Commission staff directly addressed EPA's comments in detail in a letter to that Agency dated March 11, 2004.

consolidating both projects into a single pipeline or requiring the two separate projects to share a common alignment path would minimize habitat disruption. The Commission has found that there is a public need for both projects.¹⁹ The Calypso Tractebel and Ocean Express pipeline projects are not mutually exclusive; rather, as the FEIS explains, they are potentially complementary projects needed for delivering natural gas to the South Florida market to meet projected energy demands. The FEIS examined the feasibility of combining the projects into a single pipeline at Section 4.2.3.3, but found that delivery of the combined volumes of up to 1,600,000 Dth a day could not be accomplished in a 24-inch pipeline but would instead require a 36-inch pipeline. The FEIS determined that expansion of the pipeline diameter would reduce the length of an achievable HDD and generally increase the potential for frac-outs, which would in turn likely result in increased impacts to nearshore colonized hardbottom and reefs.

23. We also find that co-location of the two pipeline facilities along a single route is not practical or environmentally preferable. As explained in the FEIS, offshore marine impacts would be primarily confined to the footprint of the proposed pipelines, so offshore impacts would essentially be doubled regardless of whether the pipelines were co-located. The FEIS considered and rejected co-locating the facilities onshore at Section 4.4.6, concluding that doing so would increase the project's length, cause significant impacts to a mangrove wetland and a Fort Lauderdale Airport buffer strip, and conflict with roadway and other future development plans within Port Everglades.

24. EPA recommends continued review of the deepwater marine impacts from the pipeline by NOAA Fisheries and its interagency team in order to minimize these impacts. The anticipated impacts to marine habitats were documented in Section 3.6 of the FEIS. These impact estimates were based on the best available information. Environmental Condition 20 requires Tractebel Calypso provide a plan for a pre-installation video survey in Federal waters to determine the presence of deepwater corals and indicate resources that may be avoided.

25. EPA believes that the turbidity standards developed by NOAA Fisheries and the COE for this project are a significant improvement over existing standards used by the Florida DEP, but believes that further modification of the standards may be required in the future. The COE and NOAA Fisheries, both cooperating agencies in the preparation

¹⁹On January 29, 2004, the Commission issued AES Ocean Express a certificate to construct and operate a pipeline extending from the boundary of the U.S.- The Bahamas EEZ to Broward County, Florida. See AES Ocean Express LLC, 106 FERC ¶ 61,090 (2004).

of the FEIS, took the lead on the issue of turbidity standards for this project. Based on our own review of the scientific literature on this subject, we find that the turbidity standards and monitoring requirements that the COE and NOAA Fisheries have adopted for the Tractebel Calypso project are more than adequate to ensure protection of sensitive nearshore marine resources.

26. EPA agrees with the reviewing Federal, State, and local resource agency team that large corals and sponges should be relocated outside the path of impact, but requests clarification regarding the size and type of coral involved, and the terms and acceptability to the Commission of Tractebel Calypso's Organism Relocation, Repair, and Monitoring Plan. Section 3.6.6.1 describes the size and type of corals to be relocated. Relocation criteria were identified in the revised Organism Relocation, Repair, and Monitoring Plan Tractebel Calypso submitted to the Commission on February 12, 2004, as Appendix D to its response to NOAA Fisheries' January 9, 2004 EFH conservation recommendations. Tractebel Calypso developed this plan in close consultation with an interagency team that included NOAA Fisheries, COE, and the Florida DEP. The revised plan is consistent with NOAA Fisheries' conservation recommendations, and we find that it is more than adequate to help minimize unavoidable impacts to sensitive nearshore marine resources.

27. EPA requests that the Commission verify that Tractebel Calypso's project will not cross any waterbodies listed as impaired by the State of Florida. The project will cross one such impaired waterbody, the Intracoastal Waterway; however, the parameters of concern for this waterbody (dissolved oxygen, coliforms, and nutrients) are not hazardous pollutants of concern. Because the crossing of the Intracoastal Waterway would be accomplished by HDD, moreover, the proposed project is unlikely to adversely affect any of these parameters of concern.

The Sierra Club, Cry of the Water, and Vone Research, Inc.

28. The Broward County Sierra Club, Cry of the Water, and Vone Research, Inc. submitted comments requesting that the Commission prepare a supplemental DEIS for this project. They allege that the FEIS does not discuss potential cumulative impacts from other projects proposed in the area and that the FEIS does not address the relocation of corals. They claim that the public has not been given an opportunity to comment on these impacts. They also note that coral have been removed from their habitat and allege that there has been reef and coral damage from certain geo-technical studies being conducted by Tractebel Calypso in connection with the project. We find that all concerns raised by commentors have been fully addressed in the FEIS, or are outside the Commission's authority and jurisdiction. We will deny their request for a supplemental environmental impact statement.

29. As discussed in Section 3.6.6.1 of the FEIS, Tractebel Calypso proposed coral relocation as a means of minimizing unavoidable impacts to sensitive marine hardbottom habitats and organisms.²⁰ The FEIS explained that transplanting large sponges and hard and soft corals, as proposed, constitutes displacement of reef habitat rather than loss, and that this will reduce the amount of time required to replace lost habitat functionality.²¹ The FEIS also noted that Tractebel Calypso was then in the process of developing a detailed Organism Relocation, Repair, and Monitoring Plan (Plan) in coordination with appropriate resource agencies, including the COE, Florida DEP, and NOAA Fisheries. The Plan was not included in the FEIS because it had not been finalized or received resource agency approval in advance of the issuance of the FEIS, although the general provisions of the plan, as they had been discussed with the appropriate resource agencies, were included in Section 3.6.6.1 of the FEIS. As noted above, Tractebel Calypso has submitted the final Plan, and we find it acceptable.

30. Section 3.13 of the FEIS discussed the cumulative impacts associated with the proposed Tractebel Calypso Project and a number of past, present, and reasonably foreseeable future projects, including other natural gas pipeline projects, facilities that would be associated with construction of the proposed project but are not under the Commission's jurisdiction, and unrelated projects that are either in place, are under construction in the vicinity of the proposed project, or are proposed. These projects included: the Ocean Express, Seafarer and Gulfstream pipeline projects; the Broward County Shore Protection and the Palm Beach County and Miami-Dade County Shore Protection Projects; the Port of Miami River Dredging Project; the Eller Drive Intermodal Container Transfer Facility Overpass; the Eller Drive Return Loop Project; the Port Everglades and Palm Beach Harbors Ocean Dredged Material Disposal Sites; Fiber Optic Cables and the Offshore Sewage Outfalls. Although the geotechnical investigation performed for the Tractebel Calypso Project did not require Commission authorization, it was nonetheless considered to contribute to the potential cumulative impacts associated with the project. The anticipated impacts associated with the geotechnical investigation were therefore included in our analysis of cumulative impacts and explicitly identified in Table 3.13 of the FEIS.

²⁰Coral relocation was also discussed in the DEIS in Section 3.6.3.1. The DEIS specifically requested input from the public for consideration in preparation of the FEIS.

²¹Relocation of organisms, however, was not used to reduce or in any other way minimize the anticipated level of marine hardbottom impacts reported in the FEIS.

31. The geotechnical studies referred to by commentors were authorized by permits issued by the COE and the Florida DEP, and required no additional authorizations or approval by the Commission. It also is our understanding that the scoping process associated with issuing both the COE and Florida DEP permits issued for the Tractebel Calypso geotechnical investigations included public notice and comment periods. Enforcement of and negotiations surrounding any non-compliance issues associated with those permits rests with the regulatory agencies that issued them.

Conclusion

32. The FEIS developed specific mitigation measures for the construction and operation of the proposed facilities, including a program of environmental inspection and monitoring that is designed to contain most of the impact within the project vicinity and ensure compliance with certificate and permit requirements. The FEIS concludes that these measures will substantially reduce any environmental impact and finds that if the project is constructed and operated in accordance with the mitigation measures, it will be an environmentally acceptable action. The Commission adopts the findings and conclusion of the FEIS. In accordance with our usual practice, moreover, no construction will be allowed in any given area until completion of all necessary consultations with other governmental agencies.

33. We have previously made preliminary findings based on all non-environmental issues relating to Tractebel Calypso's application, and have conducted an environmental review of the proposal. We have now completed our review of Tractebel Calypso's application. Based on our preliminary findings and on our subsequent environmental review, we find that Tractebel Calypso's proposed facilities and services are required by the public convenience and necessity. This order incorporates the findings with respect to the non-environmental issues contained in the May 1, 2003 Order, as revised herein, and constitutes the Commission's final decision on Tractebel Calypso's requests for authorization.

34. Any State or local permits issued with respect to the expansion facilities described herein and in the application, as supplemented, must be consistent with the conditions of Tractebel Calypso's authorization. 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 or operation of facilities authorized by this Commission.²²

²²See, e.g., *Schneidewind v. ANR Pipeline Company*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990);
(continued...)

Tractebel Calypso shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by any other Federal, State, or local agencies on the same day that such agency notifies Tractebel Calypso. Tractebel Calypso shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

35. At a hearing held on March 24, 2004, the Commission on its own motion received and made part of the record in this proceeding all evidence, including the application as amended, supplements and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) In Docket No. CP01-409-000, et al., a certificate of public convenience and necessity is issued to Tractebel Calypso under Section 7(c) of the NGA authorizing the construction and operation of the proposed facilities, as described herein and in the May 1, 2003 preliminary determination.

(B) In Docket No. CP01-410-000, et al., a blanket construction certificate is issued to Tractebel Calypso under Subpart F of Part 157 of the Commission's regulations, as described and conditioned herein, and in the May 1, 2003 preliminary determination.

(C) In Docket No. CP01-411-000, et al., a blanket transportation certificate is issued to Tractebel Calypso under Subpart G of Part 284 of the Commission's regulations, as described and conditioned herein, and in the May 1, 2003 preliminary determination.

(D) In Docket No. CP01-444-000, et al., a Presidential Permit and authorization under NGA Section 3 to construct, own, operate, and maintain natural gas facilities at the Exclusive Economic Zone boundary between the United States and The Bahamas, as described and conditioned herein, and as more fully described in the May 1, 2003 preliminary determination, are issued to Tractebel Calypso.

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and Iroquois Gas Transmission System, L.P., 52 FERC P61,091 (1990) and 59 FERC P 61,094 (1992).

(E) The authorizations in the above paragraphs are conditioned on Tractebel Calypso's:

- (1) placing the proposed facilities in service within three years of the final order;
- (2) complying with all regulations under the NGA including, but not limited to, Parts 154 and 284, and paragraphs (a), (c), (e), and (f) of Section 157.20 of the Commission's regulations;
- (3) filing pro forma tariff sheets and revising its rates consistent with the discussion in the body of this order and the Commission's May 1, 2003 preliminary determination within 60 days after issuance of this order;
- (4) revising its tariff to provide a revenue crediting mechanism to credit interruptible service revenues from its cost-based rates, net of variable costs, to both firm and interruptible service customers;
- (5) signing and returning the Testimony of Acceptance of all the provisions, conditions, and requirements of the Presidential Permit to the Secretary of the Commission within thirty days of the issuance of this order;
- (6) complying with the terms of its Memorandum of Agreement with the Naval Surface Warfare Center, Carderock Division; and;
- (7) complying with the specific environmental conditions listed in Appendix A of this order.

(F) Prior to commencing construction, Tractebel Calypso shall provide the Commission with evidence that Tractebel Bahamas LNG, Limited or other applicable entity, has received all authorizations and approvals from the Commonwealth of The Bahamas necessary to complete the Bahamian portions of this project.

(G) Tractebel Calypso shall notify the Commission's environmental staff by telephone and/or facsimile of any environmental noncompliance identified by other Federal, State, or local agencies on the same day that such agency notifies Tractebel Calypso. Tractebel Calypso shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(H) The request by Dynegy Midstream Services, Limited Partnership to intervene in this proceeding out-of-time is granted.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

APPENDIX A

Environmental Conditions

1. Tractebel Calypso shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EIS, unless modified by this Order. Tractebel Calypso must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and receive approval in writing from the Director of the Office of Energy Projects (OEP) before using that modification.
2. The Director of OEP has delegation authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of this Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. Prior to any construction, Tractebel Calypso shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.
4. The authorized facility location shall be as shown in the EIS, as supplemented by filed alignment sheets, and shall include all of the staff's recommended facility locations. As soon as they are available, and before the start of construction,

Tractebel Calypso shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by this Order. All requests for modifications of environmental conditions of this Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

Tractebel Calypso's exercise of eminent domain authority granted under NGA Section 7(h) in any condemnation proceedings related to this Order must be consistent with these authorized facilities and locations. Tractebel Calypso's right of eminent domain granted under NGA Section 7(h) does not authorize it to increase the size of its natural gas pipeline to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Tractebel Calypso shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, and documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP before construction in or near that area.

This requirement does not apply to route variations required herein or minor field realignments per landowner needs and requirements, which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
- b. implementation of endangered, threatened, or special concern species mitigation measures;
- c. recommendations by state regulatory authorities; and
- d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.

6. Within 60 days of the acceptance of this certificate and before construction begins, Tractebel Calypso shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how Tractebel Calypso will implement the mitigation measures required by this Order. Tractebel Calypso must file revisions to the plan as schedules change. The plan shall identify:
 - a. how Tractebel Calypso will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - b. the number of environmental inspectors assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - c. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;
 - d. what training and instructions Tractebel Calypso will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change), with the opportunity for OEP staff to participate in the training session;
 - e. the company personnel (if known) and specific portion of Tractebel Calypso 's organization having responsibility for compliance;
 - f. the procedures (including use of contract penalties) Tractebel Calypso will follow if noncompliance occurs; and
 - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (1) the completion of all required surveys and reports;
 - (2) the mitigation training of onsite personnel;
 - (3) the start of construction; and
 - (4) the start and completion of restoration.
7. Tractebel Calypso shall employ one or more environmental inspector per construction spread. The environmental inspectors shall be:
 - a. responsible for monitoring and ensuring compliance with all mitigative measures required by this Order and other grants, permits, certificates, or other authorizing documents;

- b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of this Order, and any other authorizing document;
 - d. a full-time position, separate from all other activity inspectors;
 - e. responsible for documenting compliance with the environmental conditions of this Order, as well as any environmental conditions/permit requirements imposed by other Federal, state, or local agencies; and
 - f. responsible for maintaining status reports.
8. Tractebel Calypso shall file updated status reports with the Secretary on a biweekly basis until all construction-related activities, including restoration and initial permanent seeding, are complete. On request, these status reports will also be provided to other Federal and state agencies with permitting responsibilities. Status reports shall include:
 - a. the current construction status of each spread, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
 - b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other Federal, state, or local agencies);
 - c. corrective actions implemented in response to all instances of noncompliance, and their cost;
 - d. the effectiveness of all corrective actions implemented;
 - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this Order, and the measures taken to satisfy their concerns; and
 - f. copies of any correspondence received by Tractebel Calypso from other Federal, state or local permitting agencies concerning instances of noncompliance, and Tractebel Calypso's response.
9. Tractebel Calypso must receive written authorization from the Director of OEP before commencing service from each component of the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way is proceeding satisfactorily.

10. Within 30 days of placing the certificated facilities in service, Tractebel Calypso shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the certificate conditions Tractebel Calypso has complied with or will comply with. This statement shall also identify any areas along the right-of-way where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. Prior to initiation of offshore construction activities, Tractebel Calypso shall file with the Secretary for review and written approval by the Director of OEP vessel- and equipment-specific weather contingency procedures that establish the protocol for cessation of construction activities, demobilization of equipment and vessels, and procedures to secure and abandon pipeline segments under rough sea conditions. These plans shall identify the most extreme sea state and wave surge conditions under which work would be performed, and the specific weather conditions that would trigger the removal of equipment and vessels in nearshore and offshore waters during storm events, and should be consistent with U.S. Coast Guard guidance. These plans shall also identify procedures for post-event monitoring of concrete mats and abandoned pipeline segments to assess potential impacts to benthic resources.
12. Tractebel Calypso shall file with the Secretary information regarding concrete mat design parameters including the potential use of Kevlar connections and anchoring techniques prior to construction.
13. Tractebel Calypso shall file with the Secretary prior to construction a complete environmental training and monitoring plan that is developed and finalized in consultation with the resource agencies. Tractebel Calypso shall incorporate all pertinent certificate, permit, and license conditions and specifications into the environmental training plan.
14. Tractebel Calypso Shall identify any wells or wellfields along the amended pipeline route. If any water supply wells are identified within 150 feet of the proposed alignment, surveys should be conducted to determine the exact location and uses of the wells. Tractebel Calypso should file the results of this assessment with the Secretary prior to construction.

15. Tractebel Calypso shall not use synthetic drilling muds or additives that would be toxic to marine or aquatic organisms without prior written approval of the Director of OEP.
16. Prior to construction, Tractebel Calypso shall file with the Secretary an offshore-specific SPCC Plan and the estimated volumes associated with a worst-case spill scenario, as well as an appropriate evaluation of the associated potential impacts to marine life and shore areas.
17. Tractebel Calypso shall not use corrosion inhibitors, biocides, oxygen scavengers, or other additives in hydrostatic test water that exhibit toxicity to aquatic organisms without prior written approval by the Director of OEP.
18. Prior to construction, Tractebel Calypso shall file a site-specific construction plan for each major waterbody with the Secretary for review and written approval by the Director of OEP. The plan shall include scaled drawings identifying all areas to be disturbed by construction including extra workspace areas, spoil storage areas, sediment control structures, mitigation for navigational issues, and contingency plans.
19. Tractebel Calypso shall review NOAA Fisheries EFH conservation recommendations and file an updated Nearshore Construction Monitoring Plan and other supporting information with the Secretary for review and written approval of the Director of OEP prior to construction
20. At least 90 days prior to initiating offshore construction between about MP 16.0 and MP 33.8, Tractebel Calypso shall file with the Secretary for review and written approval by the Director of OEP a pre-installation video survey plan for deepwater corals that includes identification and mapping of high probability exposed hardbottom regions along the pipeline centerline; specifications on the resolution and survey method; designation and draft contractual agreement with a recognized Florida deepwater coral expert to independently review the pre-installation video; and avoidance, impact minimization (including the establishment of adequate buffers), and mitigation strategies, if required. Results of the survey(s) and mitigation strategies must be submitted to NOAA Fisheries, COE, MMS, and FDEP for review at least 30 days prior to construction. The Florida deepwater coral expert shall be selected in consultation with NOAA Fisheries.
21. At least 45 days prior to initiating offshore construction between MP 16.0 and MP 33.8, Tractebel Calypso shall file a post-construction monitoring plan that would

- provide a qualitative assessment of impacts to significant deepwater resources that could not be avoided by construction of this segment of the pipeline. The plan should include provisions for: (a) an as-built baseline survey for the pipeline between MP 16.0 and MP 33.8, and (b) an assessment of impacts to significant deepwater resources at year two following construction. An interagency team comprised of FERC, MMS, NOAA Fisheries, COE, and FDEP would review the results of the year two survey and determine the need for monitoring of these resources at year four. If monitoring at year four is required, the team would review the results and determine if a final monitoring survey is needed at year 10. The plan shall propose survey methodologies including the types of equipment to be used, the expected resolution of survey data, and the dimensions of the survey corridor.
22. Tractebel Calypso shall successfully complete installation of the pipeline segment between MP 33.8 and MP 37.1 before commencing construction on any other jurisdictional facilities. Successful installation should include completion of the three HDD sections (reef HDD, landfall HDD, Port Everglades HDD) and the open-cut trench. Within 90 days of successful installation of the nearshore segment, Tractebel Calypso shall file with the Secretary a summary of the installation problems encountered, and a comparison of the actual impacts to coral reef and hardbottom habitat verses those predicted by Tractebel Calypso prior to construction.
 23. Prior to construction, Tractebel Calypso shall file detailed maps (at a scale of 1 inch = 100 feet or greater) showing all offshore work areas, coral resources, habitat type, and proposed offset buffers with the Secretary for review and written approval of the Director of OEP. Where applicable, Tractebel Calypso shall provide a site-specific explanation of the conditions that would not permit at least a 100-foot setback from reef resources.
 24. If FWS determines additional conservation measures are warranted for sea turtles or manatees, Tractebel Calypso shall incorporate FWS' measures into its Sea Turtle Observation and Protection Guidelines and/or Standard Manatee Construction Conditions (as appropriate), and shall file the updated plan(s) with the Secretary for review and written approval by the Director of OEP prior to construction.
 25. Tractebel Calypso shall continue to coordinate with FLL Airport authorities and the FAA to ensure that concerns regarding the airport have been adequately addressed. Written results of this coordination shall be filed with the Secretary prior to construction.

26. Tractebel Calypso shall continue to coordinate with the Florida DOT to ensure that concerns regarding the Eller Drive Return Loop project have been adequately addressed. Written results of this coordination shall be filed with the Secretary prior to construction.
27. Tractebel Calypso shall continue to coordinate with the FDEP to ensure that concerns regarding John U. Lloyd Beach State Park have been adequately addressed and shall file the written results of this coordination with the Secretary prior to construction.
28. Tractebel Calypso shall not begin construction until it has received a determination from FDEP that the project is consistent with its Coastal Zone Management program and Tractebel Calypso has filed a copy of the coastal zone consistency determination with the FERC.
29. Tractebel Calypso shall consult with Port Everglades representatives to confirm that concerns regarding the proposed pipeline have been resolved, and shall file the written results of this resolution with the Secretary prior to construction.
30. Tractebel Calypso shall coordinate with the U.S. Coast Guard, COE, Port Everglades, and other applicable agencies to determine the appropriate measures to minimize impacts to anchorage and shipping lanes associated with construction of the proposed project, and shall file the results of this consultation with the Secretary prior to construction.
31. Tractebel Calypso shall coordinate with the U.S. Coast Guard and COE to establish a timeline for updating the appropriate navigation charts to show the as-built location of the proposed pipeline prior to construction.
32. Tractebel Calypso shall defer implementation of any treatment plans/measures (including archaeological data recovery) and defer construction and use of facilities and staging, storage, and temporary work areas and new or to be improved access roads until:
33. Tractebel Calypso files with the Secretary cultural resources reports, and treatment plans as appropriate, and the SHPO's comments, including:
 - a. a revised and updated survey report for the offshore portion of the proposed project;
 - b. an evaluation of the historic significance of the 1907 New York to Havana cable;

- c. additional information on the hulks sunk as artificial reefs;
and
- d. the Director of OEP notifies Tractebel Calypso in writing that treatment plans/measures may be implemented or construction may proceed.

All material filed with FERC containing location, character and ownership information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: **“CONTAINS PRIVILEGED INFORMATION – DO NOT RELEASE”**

- 33. Tractebel Calypso shall incorporate the Cooling Pond Route Variation (HDD) into the proposed project route. Tractebel Calypso shall also continue to consult with the party that holds claim to the gravel mining rights for the cooling pond.
- 34. Tractebel Calypso shall construct, operate, and maintain pertinent portions of its pipeline in accordance with the terms of its September 2003 Memorandum of Agreement with the U.S. Naval Surface Warfare Center, Carderock Division.

APPENDIX B

**PRESIDENTIAL PERMIT
AUTHORIZING TRACTEBEL CALYPSO PIPELINE LLC
TO CONSTRUCT, OPERATE AND MAINTAIN
NATURAL GAS FACILITIES AT THE BOUNDARY BETWEEN
THE EXCLUSIVE ECONOMIC ZONES OF THE UNITED STATES AND THE
COMMONWEALTH OF THE BAHAMAS**

**FEDERAL ENERGY REGULATORY COMMISSION
DOCKET NOS. CP01-444-000, CP01-444-001 and CP01-444-002**

(Issued March 24, 2004)

In Docket No. CP01-444-000, et al., Tractebel Calypso Pipeline LLC (Tractebel or Permittee), a limited liability company organized and existing under the laws of the State of Delaware, requested, pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00, a Presidential Permit authorizing Permittee to construct, operate, install, and maintain certain pipeline and related facilities described in Article 2 below in waters off the southeast coast of Florida at the boundary between the Exclusive Economic Zones of the United States and the Commonwealth of the Bahamas.

By letter dated May 9, 2003, the Secretary of State, and by letter dated October 29, 2003, the Secretary of Defense, favorably recommended that the amended Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of a Permit is appropriate and consistent with the public interest.

Pursuant to the provisions of Executive Order Nos. 10485 and 12038, dated September 3, 1953, and February 3, 1978, respectively, the Secretary of Energy's Delegation Order No. 00-004.00, effective December 6, 2001, and the Commission's Regulations, permission is granted to Permittee to construct, operate, install, and maintain the natural gas transmission facilities described in Article 2 below, upon the terms and conditions of the Permit.

Article 1. It is expressly agreed by the Permittee that the facilities herein described shall be subject to all provisions and requirements of this Permit. This Permit may be modified or revoked by the President of the United States or the Federal Energy Regulatory Commission and may be amended by the Federal Energy Regulatory Commission upon proper application therefor.

Article 2. The following facilities are subject to this Permit: that portion of the 24-inch pipeline which is located in the United States immediately adjacent to the boundary between the Exclusive Economic Zones of the United States and the Commonwealth of the Bahamas.

Article 3. The natural gas facilities authorized herein, or which may subsequently be included herein by modification or amendment, may be utilized for importation or exportation of natural gas in the manner authorized under Section 3 of the Natural Gas Act.

Article 4. The operation and maintenance of the aforesaid facilities shall be subject to the inspection and approval of representatives of the United States. The Permittee shall allow officers and employees of the United States, showing proper credentials, free and unrestricted access to the land occupied by the facilities in the performance of their official duties.

Article 5. If in the future it should appear to the Secretary of the Army that any facilities or operations permitted hereunder cause unreasonable obstruction to the free navigation of any of the navigable waters of the United States, the Permittee may be required, upon notice from the Secretary of the Army, to remove or alter the same so as to render navigation through such waters free and unobstructed.

Article 6. The Permittee shall be liable for all damages occasioned to the property of others by the operation or maintenance of the facilities, and in no event shall the United States be liable therefor. The Permittee shall do everything reasonable within its power to prevent or suppress fires on or near land occupied under this Permit.

Article 7. The Permittee agrees to file with the Commission, under oath and in such detail as the Commission may require, such statements or reports with respect to the natural gas imported or exported, or the facilities described herein, as the Commission may, from time to time, request. Such information may be made available to any Federal, State, or local agency requesting such information.

Article 8. Neither this Permit nor the facilities, nor any part thereof, covered by this Permit shall be voluntarily transferred in any manner, but the Permit shall continue in effect temporarily for a reasonable time in the event of the involuntary transfer of the facilities by operation of law (including transfer to receivers, trustees, or purchasers under foreclosure or judicial sale) pending the making of an application for a permanent Permit and decision thereon, provided notice is promptly given in writing to the Commission accompanied by a statement that the facilities authorized by this Permit remain substantially the same as before the involuntary transfer. The Permittee shall maintain the

facilities in a condition of repair for the efficient transportation of natural gas and shall make all necessary renewals and replacements.

Article 9. At such time that this Permit is surrendered, revoked, or otherwise terminated, the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place. The Commission will specify the time within which any authorized facilities shall be removed, and the Permittee shall remove those facilities within such time and at the Permittee's expense. Upon failure of the Permittee to comply with the Commission's direction to remove any authorized facilities, the Commission may direct that possession of the same be taken and the facilities be removed at the Permittee's expense, and the Permittee shall have no claim for damages by reason of such possession or removal.

Article 10. The Permittee agrees that when, in the opinion of the President of the United States, evidenced by a written order addressed to it as holder of this Permit, the safety of the United States demands it, the United States shall have the right to enter upon and take possession of any of the facilities, or parts thereof, maintained or operated under this Permit, and all contracts covering the transportation or sale of natural gas by means of said facilities, to retain possession, management, and control thereof for such length of time as may appear to the President to be necessary to accomplish said purposes, and then to restore possession and control to the Permittee; and in the event that the United States shall exercise such right it shall pay the Permittee just and fair compensation for the use of said facilities upon the basis of a reasonable profit in time of peace, and the cost of restoring said facilities to as good condition as existed at the time of taking over thereof, less the reasonable value of any improvements that may be made thereto by the United States and which are valuable and serviceable to the Permittee.

Article 11. This Permit is subject to any action which the Government of the United States may in the future deem expedient or necessary to take in case any part of the aforesaid facilities comes into the control of any foreign government.

Article 12. The Government of the United States shall be entitled to the same or similar privileges as may by law, regulation, agreement, or otherwise, be granted by the Permittee to any foreign government.

By direction of the Commission.

Linda Mitry,
Acting Secretary.

IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of _____ has caused its named to be signed by _____, pursuant to a resolution of its Board of Directors duly adopted on the __ day of _____, _____, a certified copy of the record of which is attached hereto.

Tractebel Calypso Pipeline, LLC

By _____

(Attest)

Executed in triplicate

APPENDIX C**Proposed Rate Base and Cost of Service (\$)**Rate Base

Gross Plant	166,406,145
Less: Accumulated Depreciation	1,410,906
Less: Accumulated Deferred Income Taxes	1,012,067
Plus: Working Capital	<u>0</u>
Total Rate Base	163,983,172

Cost of Service

Operation and Maintenance Expenses	2,864,638
Depreciation Expenses	2,821,812
Return (9.8% Overall Return, 14% ROE)	16,128,224
Federal Income Taxes at 35% and State Income Taxes at 2.639%	4,490,512
Taxes Other Than Income Taxes	<u>1,145,643</u>
Total Cost of Service	27,450,828