

111 FERC ¶ 61,081
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Corpus Christi LNG, L.P. Docket No. CP04-37-000

Cheniere Corpus Christi Pipeline Company Docket Nos. CP04-44-000
CP04-45-000
CP04-46-000

ORDER GRANTING AUTHORITY
UNDER SECTION 3 OF THE NATURAL GAS ACT
AND ISSUING CERTIFICATES

(Issued April 18, 2005)

1. On December 22, 2003, Corpus Christi LNG, L.P. (Corpus Christi LNG) filed, in Docket No. CP04-37-000, an application, under section 3 of the Natural Gas Act (NGA) requesting authority to site, construct, and operate a liquefied natural gas (LNG) terminal near Corpus Christi, Texas. In Docket No. CP04-44-000, Cheniere Corpus Christi Pipeline Company (Cheniere Pipeline) filed an application under NGA section 7(c) and subpart A of Part 157 of the Commission's regulations for authorization to construct and operate a 23-mile long, 48-inch diameter pipeline from the proposed Corpus Christi LNG facility to several interconnections with various interstate and intrastate pipeline facilities in San Patricio County, Texas.
2. In Docket No. CP04-45-000, Cheniere Pipeline requests a blanket certificate under subpart F of Part 157 of the Commission's regulations to perform routine construction activities and operations. In Docket No. CP04-46-000, Cheniere Pipeline requests a blanket certificate under subpart G of Part 284 of the Commission's regulations to provide open-access transportation service for its customers.
3. Approval of Corpus Christi LNG's and the Cheniere Pipeline's applications serves the public interest by introducing competitively priced imported LNG to diversify energy supplies in the country. Accordingly, we will grant the requested authorizations, as discussed and conditioned below.

Proposal

4. Corpus Christi LNG proposes to construct and operate LNG facilities on the north shore of Corpus Christi Bay that will import, store, and vaporize foreign source LNG that will be sent out of the terminal through an onsite metering station, which will connect with Cheniere Pipeline's proposed facilities. Cheniere Pipeline proposes to transport the imported natural gas to proposed interconnection facilities with various interstate and intrastate pipelines in Texas.¹

A. Corpus Christi LNG Proposal

5. The proposed Corpus Christi LNG facilities will import, store, and vaporize approximately 2,600 million cubic feet (MMcf) per day of LNG, with an installed capacity of approximately 2,880 MMcf per day. Corpus Christi LNG seeks authorization under NGA section 3 to site, construct, and operate: (1) LNG marine terminal and transfer lines; (2) LNG storage facilities; (3) LNG vaporization and sendout facilities; and (4) associated utilities, infrastructure and support systems. More specifically, the Corpus Christi LNG facilities will be comprised of:

LNG Marine Terminal and Transfer Lines

- Turning basin and two protected berths, each equipped with mooring systems and accessories for berthing and de-berthing of LNG carriers;
- Three (3) liquid unloading arms for unloading LNG (at each berth) equipped with powered emergency release couplings;
- One (1) stainless steel (SS) vapor return line per berth;
- Two (2) SS insulated LNG transfer lines per berth;
- Three (3) tugs, and berthing facilities at or near the terminal; and
- Various controls, safety devices, appurtenances and accessories.

LNG Storage Facilities

- Three (3) all metal single-containment, top entry LNG storage tanks with a nominal working volume of 160,000 cubic meters (m³) (1,006,400 barrels equivalent);
- Three (3) in-tank pumps, each sized for 4,304 gallons per minute (gpm);

¹ Corpus Christi LNG and Cheniere Pipeline are wholly owned companies of Cheniere Energy, Inc.

- One spare pump well column with foot valve in each tank;
- Individual dikes surrounding each tank, sized to contain 110 percent of the gross tank volume; and
- Instrumentation and safety systems.

LNG Vaporization and Sendout Facilities

- Sixteen (16) high-pressure LNG sendout pumps that discharge at a pressure sufficient for vaporization and sendout to natural gas pipelines;
- Sixteen (16) high pressure submerged combustion LNG vaporizers
- Three (3) boil-off gas (BOG) compressors and a BOG condensing system to reliquefy the boil-off from the LNG tanks and unloading systems;
- Two (2) vapor return blowers; and
- On-site natural gas metering facilities.

Utilities, Infrastructure, and Support Systems

- Distributed Control Systems;
- Emergency Shutdown Systems;
- Hazard Detection Systems;
- Security systems and facilities;
- Fire response systems;
- Low pressure natural gas vent;
- High pressure natural gas vent (dedicated to high Pressure Safety Valves)
- Plant air, instrument air, and nitrogen systems;
- Electric power transmission and control systems;
- Service water and drinking water systems;
- Separate stormwater and wastewater systems;
- Access roadways and service facilities;
- Administration, control, and service buildings;
- Fire and emergency access roads; and
- Other facilities as required to support safe, efficient, and reliable operation.

6. The LNG terminal will be located near Corpus Christi, Texas. The construction and permanent operation of the LNG terminal facilities will use approximately 360 acres, including 78 acres of open water. An additional 190 acres of land will serve as an exclusion zone and 406 acres will be used temporarily during construction. The total onshore acres to be used for the LNG terminal are either owned by Corpus Christi LNG, leased from Alcoa, Inc., or under easement or other use agreement from Alcoa, Inc. and Sherwin Alumina Company.

7. Corpus Christi LNG states that it is currently negotiating terminalling service for the proposed LNG facility. It states that prospective shippers using the LNG terminal facilities will be responsible for obtaining LNG supplies, arranging for the delivery of the supplies to Corpus Christi LNG's terminal, and receiving authorization from the U.S. Department of Energy to import LNG into the United States.

B. Cheniere Pipeline Proposal

8. Cheniere Pipeline proposes to construct and operate a 23-mile, 48-inch diameter pipeline from the tailgate of the LNG terminal. The pipeline's proposed takeaway capacity of 2,700 MMcf per day will transport a projected maximum daily throughput of 2,600 MMcf per day of natural gas. In addition to the 23-miles of pipeline, the proposed facilities will include eight metering stations, eight delivery points, pigging facilities, and three mainline valves. The proposed facility will terminate near Sinton, Texas.

9. Cheniere Pipeline states that the proposed pipeline interconnects with existing pipeline systems of Texas Eastern Transmission, L.P., Gulf South Pipeline Company, L.P., GulfTerra Intrastate, L.P., Kinder Morgan Tejas Pipeline, L.P., Crosstex CCNG Marketing, Ltd., Transcontinental Gas Pipe Line Corporation (Transco), Natural Gas Pipeline Company of America, and Tennessee Gas Pipeline Company. Cheniere Pipeline estimates that the total cost of constructing the proposed pipeline facilities to be approximately \$95,190,000.

10. Cheniere Pipeline proposes to offer cost-based firm (Rate Schedule FTS) and interruptible (Rate Schedules ITS and PALS) open access transportation services on a non-discriminatory basis under Part 284 of the Commission's regulations. Cheniere Pipeline states that the proposed cost-based rates reflect a straight fixed-variable (SFV) rate design and are calculated for the total 20-year life of the project. At the conclusion of an open season, Cheniere Resources, Inc., an affiliate of Cheniere Pipeline, was awarded all the capacity on the proposed facility under a 20-year precedent agreement at maximum tariff rates.

11. Cheniere Pipeline also requests a blanket certificate to perform routine activities in connection with the construction, maintenance, and operation of the proposed facilities.

Notice and Interventions

12. Notice of the Corpus Christi LNG and the Cheniere Pipeline applications was published in the *Federal Register* on January 12, 2004 (69 *Fed. Reg.* 1,705). A number

of timely, unopposed interventions were filed. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.²

13. Six parties filed untimely motions to intervene.³ The Commission finds that granting these late-filed motions to intervene at this early date will not delay, disrupt, or otherwise prejudice this proceeding, or place an additional burden on existing parties. Therefore, for good cause shown, we will grant the late-filed motions to intervene.⁴

14. In its intervention, Transco filed comments stating that any request for an interconnection with its interstate pipeline would be subject to the terms and conditions of section 20 of the General Terms and Conditions of Transco's FERC Gas tariff. Numerous parties filed comments in support of the proposed projects. There were no protests. All intervenors are listed in Appendix A to this order.

Discussion

A. Corpus Christi LNG's Proposed Terminal

15. Because the proposed LNG terminal facilities will be used to import gas from foreign countries, the construction and operation of the facilities and site of their location require approval by the Commission under NGA section 3.⁵ The Commission's authority

² 18 C.F.R. § 385.214(a)(3) (2004).

³ They are Statoil ASA and Statoil Natural Gas LLC, Natural Gas Pipeline Company of America, Sempra Energy LNG, Kinder Morgan Texas Pipeline, L.P., Kinder Morgan Tejas Pipeline, L.P., and Project Technical Liaison Associates, Inc.

⁴ 18 C.F.R. § 385.214(d) (2004).

⁵ The regulatory functions of section 3 were transferred to the Secretary of Energy in 1977 pursuant to Section 301(b) of the Department of Energy Organization Act (Pub. L. No. 95-91, 42 U.S.C. §§7101 *et seq.*). In reference to regulating the imports or exports of natural gas, the Secretary subsequently delegated to the Commission the authority to approve or disapprove the construction and operation of particular facilities, the site at which facilities shall be located, and with respect to natural gas that involves the construction of new domestic facilities, the place of entry or exit for exports. DOE Delegation Order No. 00-044.00, 67 *Fed. Reg.* 8,946 (2002). However, applications for authority to import natural gas must be submitted to the Department of Energy. The Commission does not authorize importation of the commodity itself.

over facilities constructed and operated under section 3 includes the authority to apply terms and conditions as necessary and appropriate to ensure that the proposed construction and siting is in the public interest.⁶ Section 3 provides that the Commission “shall issue such order on application. . .” if it finds that the proposal “will not be inconsistent with the public interest.”

16. The Commission has chosen to exercise a less intrusive degree of regulation for new LNG import terminals, and does not require the applicant to offer open-access service or to maintain a tariff or rate schedules for its terminalling service.⁷ However, the Commission reserves the authority under section 3 to take any necessary and appropriate action if it receives complaints of undue discrimination or anticompetitive behavior.

17. The Commission recognizes the important role that LNG will play in meeting future demand for natural gas in the United States and has noted that the public interest is served through encouraging gas-on-gas competition by introducing new imported supplies.⁸ The record in this case shows that the Corpus Christi LNG terminal will provide such additional supplies of natural gas to customers. Because the project is new, Corpus Christi LNG has no existing customers who might be adversely affected by the costs or risk of recovery of the costs associated with the proposed LNG terminal project. The economic risks will be borne by Corpus Christi LNG. Therefore, we find that, subject to the conditions imposed in this order, that the Corpus Christi LNG terminal is not inconsistent with the public interest.

B. Cheniere Pipeline’s Proposed Facilities

18. 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.

⁶ *Distrigas Corporation v. FPC*, 495 F.2d 1057, 1063-64), *cert. denied*, 419 U.S. 834 (1974); *Dynegy LNG Production Terminal, L.P.*, 97 FERC ¶ 61,231 (2001).

⁷ *See Hackberry LNG Terminal, L.L.C.*, 101 FERC ¶ 61,294 (2002), *order issuing certificates and granting reh’g*, 104 FERC ¶ 61,269 (2003)(*Hackberry*).

⁸ *Hackberry*, 101 FERC at P 26 (2002).

1. The Certificate Policy Statement

19. On September 15, 1999, the Commission issued a Policy Statement providing guidance as to how proposals for certificating new construction will be evaluated.⁹ Specifically, the Policy Statement explains that the Commission, in deciding whether to authorize 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.

20. 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 the 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.

21. Cheniere Pipeline's proposal satisfies the threshold requirement that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Cheniere Pipeline is a new pipeline and has no existing customers. Thus, there will be no subsidization.

22. Cheniere Pipeline also meets the remaining criteria for certification of new facilities set forth in the Policy Statement. There will be no adverse effect on existing services because Cheniere Pipeline has no current customers. The new pipeline should also benefit interconnecting pipelines by providing new sources of gas for them to

⁹*Certification of New Interstate Natural Gas Pipeline Facilities (Policy Statement)*, 88 FERC ¶61,227 (1999); *Order Clarifying Statement of Policy*, 90 FERC ¶61,128 (2000); *Order Further Clarifying Statement of Policy*, 92 FERC ¶61,094 (2000)(*Policy Statement*).

transport. While Transco states that it reserves the right to apply the terms in its own tariff to possible interconnection with Cheniere Pipeline, no existing shippers or pipelines in the area have protested the filing.

23. No landowner or community member objected to the proposed pipeline route, 91 percent of which is to be built along existing rights-of-way. For these reasons, we find that any adverse impacts on landowners and communities will be minimal.

24. The need for the Cheniere Pipeline is supported by historical and projected trends in gas demand and supply. Various national and industry organizations that monitor energy consumption trends forecast growing demand for natural gas. However, traditional sources of domestically produced gas are in long-term decline. The data shows that 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 gap. The Corpus Christi LNG and Cheniere Pipeline projects are being developed to provide access to new, competitively priced LNG supplies to meet this growing demand. Based on the benefits Cheniere Pipeline will provide to the market and the lack of any identified adverse effect on existing customers, other pipelines, landowners, or communities, we find, consistent with the Policy Statement and NGA section 7, that the public convenience and necessity requires approval of Cheniere Pipeline's proposal.

2. Rates

a. Initial Rates

25. Cheniere Pipeline proposes to offer cost-based firm (Rate Schedule FTS) and interruptible (Rate Schedules ITS and PALS) open access transportation services on a non-discriminatory basis under Part 284 of the Commission's regulations.¹⁰ It states that the proposed cost-based rates reflect a straight fixed variable (SFV) rate design and are calculated for the total 20-year life of the project. Cheniere Pipeline first prepares estimated costs of service for each year of the 20-year project based on what it refers to as an "original cost" basis using an annual straight line depreciation accrual rate of 5 percent. It then states that it "levelizes" each of the annual costs of service for years 1

¹⁰ See Cheniere Pipeline's FERC Gas Tariff, *Pro Forma* Original Volume No. 1 (*pro forma* tariff).

through 10 at \$19,909,175 by varying the annual depreciation accrual rates.¹¹ For the remaining 10 years of the project, Cheniere Pipeline uses the annual costs of service, which it calculated on an original cost basis.

26. Although Cheniere Pipeline has made no firm financing arrangements, it anticipates that 50 percent of the capital will be furnished by the owners as equity and that 50 percent will consist of debt. Assuming this debt level, Cheniere Pipeline expects to raise approximately \$47.6 million of debt from commercial banks and/or insurance companies at an effective interest rate of 8 percent to be retired over a period of 15 years. Cheniere Pipeline states that the terms and conditions applicable to the debt will depend upon financial market conditions existing at the time the debt is raised but that it will seek the most favorable terms available in the marketplace at the time of financing, and the debt will be non-recourse to Cheniere Pipeline. It also proposes a 14 percent return on equity (ROE) based on such factors as its form of incorporation, project risks, proposed capital structure and anticipated capital market conditions. Cheniere Pipeline requests an overall after-tax rate of return of 11 percent.

27. The FTS rates are derived using the \$19,909,175 annual cost of service and annual FTS reservation determinants of 34,020,000 MMBtu (2,835,000 MMBtu times 12). The annual FTS usage determinants total 706,233,938 MMBtu and represent 65 percent load factor of the maximum capacity. The proposed maximum cost-based FTS reservation rate is \$0.5852 per MMBtu. Cheniere Pipeline states that it currently has no variable costs, so the proposed FTS usage rate is \$0 per MMBtu.

28. The ITS rate is derived at 100 percent load factor of the FTS rates. Cheniere Pipeline has not identified any usage determinants associated with its proposed ITS interruptible service. The proposed maximum ITS rate is \$0.0192 per MMBtu and the same rate is proposed for PALS parking and lending service. Cheniere Pipeline states that it does not anticipate any use of PALS service in its early years of operation, given that a similar service may be provided by other pipelines (with larger systems that include

¹¹ Cheniere Pipeline's year 1 proposed levelized cost of service consists of \$3,144,189 of operation and maintenance expenses, \$2,123,323 of depreciation expenses, \$10,345,786 of return allowance (at 14 percent rate of return on equity), \$3,648,582 of federal income taxes (calculated at a tax rate of 35 percent for federal taxes; there are no state income taxes in Texas), and \$647,295 of taxes other than income taxes, for a total cost of service of \$19,909,175. For year 1, Cheniere Pipeline reflects a proposed rate base comprised of gross plant investment of \$95,190,436, less accumulated depreciation of \$1,061,662, less accumulated deferred income taxes of \$425,430, plus working capital of \$112,277, for a total rate base of \$93,815,621.

storage) located directly downstream of Cheniere Pipeline. For both its firm and interruptible services, Cheniere Pipeline estimates zero percent retainage for fuel, loss and unaccounted for gas.

29. The Commission has reviewed the proposed cost of service and proposed initial rates, and generally finds them reasonable for a new pipeline entity, such as Cheniere Pipeline, subject to the modifications and conditions imposed below.

b. Cost of Service Rate Designs

30. Cheniere Pipeline's rate proposal incorporates two distinct cost recovery concepts for the 20-year project life. It proposes rates based on levelized costs of service that remain unchanged for each of the first 10 years of operation. It also calculates what it refers to as original costs of service for years 11 through 20, but does not propose rates based on those costs of service levels to be placed into effect for each year of that remaining 10-year period. Cheniere Pipeline states that it designed its initial reservation rate based on a 10-year levelized cost of service, rather than the entire 20-year project life, because it expected initial firm contracts of only 10 years in duration. Cheniere Pipeline also stated that it intends to address the cost of service and rate design for the second 10-year period at the time the original contracts are replaced or renewed.¹²

31. In the past, the Commission has approved levelized cost of service rate designs finding that they can provide just and reasonable rates. However, Cheniere Pipeline's proposal deviates from levelized cost of service rate designs previously approved by the Commission for other pipeline proposals related to new LNG projects in a number of important ways.¹³ In this case, Cheniere Pipeline has proposed to only levelize the cost of service and rates for the first 10 years of service. However, it has not proposed rates to apply to service for the remainder of the 20-year period underlying the calculation of Cheniere Pipeline's proposed cost of service and rates.¹⁴ Cheniere Pipeline's proposed

¹² Cheniere Pipeline's response to the August 12, 2004 staff information request no. 7.

¹³ See, e.g., *Tractebel Calypso Pipeline, L.L.C.*, 103 FERC ¶ 61,106 (2003), *order issuing certificates, section 3 authorization, and presidential permit*, 106 FERC ¶ 61,273 (2004); *AES Ocean Express, L.L.C.*, 103 FERC ¶ 61,030 (2003), *order issuing presidential permit and NGA sections 3 and 7 authorizations*, 106 FERC ¶ 61,090 (2004) (approving levelized rates consistent with the term of the shipper's contract).

¹⁴ Cheniere Pipeline proposes using 20-year straight line depreciation resulting in a 5 percent annual depreciation accrual rate, but then for each of the first 10 years of the 20-year project operations, it adjusted each of the annual depreciation accrual rates to

(continued)

rates, reflecting only levelized costs for years 1 through 10, are not consistent with the 20-year term of its shipper's contract.¹⁵ Moreover, Cheniere Pipeline's proposed rates may allow it to overrecover the project's estimated 20-year total cost of service because the proposed levelized rates derived for years 1 through 10 recover about 63 percent of the total cost of service calculated for the entire 20-year period. For these reasons, the Commission will require Cheniere Pipeline to modify its proposed rates.

32. Cheniere Pipeline may design its initial rates based on a levelized cost of service over the entire 20-year operational life of the project consistent with its sole firm shipper's contract. In the alternative, it may design its initial rates using conventional ratemaking practices and offer discounts to the maximum tariff rates, if necessary. Finally, because Cheniere Pipeline has proposed negotiated rate provisions in section 30 of the General Terms and Conditions (GT&C), it may choose to offer negotiated rates to its shipper.

c. ROE and Capital Structure

33. In Exhibit L to the application, Cheniere Pipeline proposes a 14 percent ROE based on its form of incorporation, project risks, proposed capital structure of 50 percent debt and 50 percent equity, and anticipated capital market conditions. Cheniere Pipeline also relies on the recent 14 percent ROEs that the Commission has allowed for other authorized pipelines.¹⁶ Cheniere Pipeline asserts that the risks are much greater for its ultimate parent company, Cheniere Energy, Inc. (Cheniere Energy), than for the equity owners of the abovementioned pipelines, because Cheniere Energy is a small company with a substantially leaner capitalization than that generally found for other much larger capitalized parents of Commission-regulated pipelines. Additionally, Cheniere Pipeline contends that the major source of gas receipts for the pipeline will come from a single source, the Corpus Christi LNG terminal, which can lead to variability in the quantities of gas transported and higher uncertainty of receiving operating income. Cheniere Pipeline

levelize the costs of service. For the second 10 years of operations, Cheniere Pipeline proposes using the 5 percent annual straight line depreciation accrual rates.

¹⁵ As stated, Cheniere Pipeline recently awarded all the capacity through the open season process for a period of 20 years to its affiliate, Cheniere Resources, Inc., at maximum tariff rates.

¹⁶ See Cheniere Pipeline's response to the August 12, 2004 staff information request no. 2. Specifically, it refers to the facilities approved for the Islander East Pipeline Company, L.L.C., Millennium Pipeline Company, LP and Cross Bay Pipeline Company, L.L.C. pipelines.

believes these factors and considerations support a 14 percent ROE at a 50 percent debt and 50 percent equity capital structure. The Commission approves Cheniere Corpus Christi Pipeline's proposed capital structure, rate of return on equity and debt costs.

d. Interruptible Services Revenue Crediting

34. Cheniere Pipeline does not propose to allocate costs to the ITS and PALS interruptible services. The Commission's policy regarding new interruptible services requires either a 100 percent credit of the interruptible revenues, net of variable costs, to firm and interruptible customers or an allocation of costs and volumes to these services.¹⁷ Consistent with precedent, the Commission will require Cheniere Pipeline to allocate an appropriate level of the estimated cost of service to its interruptible services, recalculate its rates, and file documentation demonstrating its recalculation. In the alternative, Cheniere Pipeline may credit the ITS and PALS revenues to its firm and interruptible shippers. If it does so, Cheniere Pipeline must revise its tariff to provide for a mechanism to credit 100 percent of the ITS and PALS revenues, net of variable costs, to its firm and interruptible cost-based recourse rate shippers.

e. Rate Changes and Rate Review

35. The Commission will require Cheniere Pipeline to file revisions to its proposed initial rates consistent with the discussion above within 60 days of the date of issuance of this order. If it desires to make any other changes not specifically authorized by this order prior to placing its facilities into service, it will need to file an application under NGA section 7(c) to amend its certificate authorization. In that filing, Cheniere Pipeline will need to provide cost data and the required exhibits supporting any revised rates. After the facilities are constructed and placed in service, Cheniere Pipeline must make a NGA section 4 filing in order to change its rates to reflect revised construction and operating costs.

36. Consistent with Commission precedent, the Commission will require Cheniere Pipeline 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.¹⁸ In its filing, the projected units of service should be no lower than those upon which Cheniere

¹⁷ See, e.g., *Maritimes & Northeast Pipeline L.L.C.*, 80 FERC ¶ 61,136 at p. 61,475 (1997), *order on reh'g*, 81 FERC ¶ 61,166 at pp. 61,725-26 (1997).

¹⁸ See, e.g., *Trunkline LNG Co.*, 82 FERC ¶ 61,198, at 61,780 (1998), *aff'd sub nom*, *Trunkline LNG Co. v. FERC*, 194 F.3d 68 (D.C. Cir. 1999); *Horizon Pipeline Co., L.L.C.*, 92 FERC ¶ 61,205, at 61,687 (2000); *Vector Pipeline Co.*, 85 FERC ¶ 61,083 (1998).

Pipeline's approved 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 this filing, Cheniere Pipeline 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.

f. Pro Forma Tariff Issues

37. The Commission is hindered in its review of Cheniere Pipeline's pro forma tariff because the proposed tariff is incomplete. There are numerous places where Cheniere Pipeline has failed provide the referenced to tariff provisions making it impossible for the Commission to fully understand how the various tariff provisions are intended to relate to each other.¹⁹ There are also references to tariff sheets that do not exist, tariff sheet references that are incorrect, circular references, as well as terms that are not defined.

38. Some tariff provisions address certain terms and conditions of service that are located in multiple places in the tariff and may conflict with each other.²⁰ Cheniere Pipeline attempts to remedy this situation by stating that if a conflict arises between the rate schedule(s) and its GT&C, the provisions in the rate schedule(s) shall govern. This approach creates unnecessary inconsistencies and ambiguities. Cheniere Pipeline has also included some provisions in more than once place in the GT&C.²¹ Therefore, the Commission will require Cheniere Pipeline to revise its pro forma tariff to include generally applicable service provisions that apply to all rate schedules either in the GT&C or in each rate schedule, but not both. Also, the Form of Service Agreement(s)

¹⁹ For example, there are over 80 instances where the *pro forma* tariff contains references to provisions that do not exist in its tariff, such as "Section 0," "Section 0.B.," "Section 0.0.2(a) (ii), b(i) and b(2)," and several other similar variations.

²⁰ For example, provisions related to requests for service under Rate Schedule ITS are located in Rate Schedule ITS, section 3 (Original Sheet Nos. 22-25), the ITS Form of Service Agreement (Original Sheet Nos. 503-506), and section 22 of the GT&C (Original Sheet No. 172).

²¹ For example, the segmentation provisions are located in both section 20 and 26.D of the GT&C.

should not include general provisions already addressed in either the rate schedules or the GT&C.²² Additionally, Cheniere Pipeline is required to eliminate the duplication of provisions included in the GT&C.

39. Cheniere Pipeline states without elaboration that its pro forma tariff follows the Commission's requirements and policies established by Order Nos. 637, *et seq.*,²³ and complies with all of the currently applicable standards established by the North American Energy Standards Board (NAESB). Therefore, when Cheniere Pipeline files its revised pro forma tariff, it must provide a detailed narrative explaining how the tariff conforms to the applicable provisions of Order No. 637, a chart, identifying how the tariff complies with the NAESB Standards and Definitions, and the location of the NAESB Standards as incorporated verbatim or by reference in the tariff.²⁴ Also, Part 358 of the Commission's regulations contain new standards of conduct, adopted by Order No. 2004, to ensure that transmission providers cannot extend their market power over transmission by giving energy affiliates unduly preferential treatment.²⁵ Cheniere Pipeline must also revise its pro forma tariff to comply with the standards of conduct requirements in Order No. 2004.

²² See 18 C.F.R. § 154.110 (2004).

²³ *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, FERC Stats. & Regs., Regulations Preambles (July 1996 - December 2000) ¶ 31,091 (Feb. 9, 2000); *order on reh'g*, Order No. 637-A, FERC Stats. & Regs., Regulations Preambles (July 1996 - December 2000) ¶ 31,099 (May 19, 2000); *order on reh'g*, Order No. 637-B, 92 FERC ¶ 61,062 (July 26, 2000); *aff'd in part and remanded in part*, *Interstate Natural Gas Association of America v. FERC*, 285 F.3d 18 (D.C. Cir. 2002).

²⁴ *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587-R, 102 FERC ¶ 61,273 (2003), which amends the Commission's regulations to incorporate by reference the most recent version of the standards, Version 1.6, promulgated July 31, 2002, by the Wholesale Gas Quadrant (WGQ) of the North NAESB and WGQ standards governing partial day results.

²⁵ *Standards of Conduct for Transmission Providers*, Order No. 2004, 68 *Fed. Reg.* 69,134 (December 11, 2003), III FERC Stats. & Regs. ¶ 31,155 (2003), *order on reh'g*, Order No. 2004-A, 69 *Fed. Reg.* 23,562 (April 29, 2004), III FERC Stats. & Regs. ¶ 31,161 (2004), *order on reh'g*, Order No. 2004-B, 69 *Fed. Reg.* 48,371 (August 2, 2004), III FERC Stats. & Regs., ¶ 31,166 (2004).

40. Appendix B to this order provides Cheniere Pipeline with additional guidance with respect to its pro forma tariff. However, the Commission's limited guidance regarding certain tariff provisions should not be construed as approval or acceptance of any particular pro forma tariff provision.

41. The Commission will require Cheniere Pipeline to file a revised pro forma tariff within 60 days of the date of issuance of this order in accordance with these directives. In addition, Cheniere Pipeline must file a redline-strikeout version of the revised pro forma tariff to identify the changes made to comply with this order. The Commission will further review Cheniere Pipeline's proposed terms and conditions of service once it files its revised pro forma tariff.

3. Accounting

42. Cheniere Pipeline's proposed straight-line depreciation rate of 5 percent per year based upon a 20-year life is consistent with the Commission's Uniform System of Accounts, because it is a systematic and rational depreciation method. Therefore, the Commission approves the use of a 5 percent depreciation rate for Cheniere Pipeline.

43. As noted above, Cheniere Pipeline may implement a levelized cost of service rate over the entire operational life of the project, if it so chooses. In Exhibit P of the application, Cheniere Pipeline suggests that it would implement a levelized rate plan by recognizing regulatory assets but does not provide the specific accounts that would be used. Therefore, we will clarify that regulatory assets related to a rate levelization plan shall be recorded by debiting Account 182.3, Other Regulatory Assets, and crediting Account 407.4, Regulatory Credits. Any regulatory liabilities shall be recorded by crediting Account 254, Other Regulatory Liabilities, and debiting Account 407.3, Regulatory Debits.

44. An allowance for funds used during construction (AFUDC) is a component part of the cost of constructing Cheniere Pipeline's facilities. Gas Plant Instruction 3(17) prescribes a formula for determining the maximum amount of AFUDC that may be capitalized as a component of construction cost.²⁶ That formula, however, uses prior year book balances and cost rates of borrowed funds and other capital. In cases of newly created entities, such as Cheniere Pipeline, prior year book balances do not exist; therefore, using the formula contained in Gas Plant Instruction 3(17) could produce inappropriate amounts of AFUDC.

²⁶18 C.F.R. Part 201 (2004).

45. Therefore, to ensure that appropriate amounts of AFUDC are capitalized in this project, we will require Cheniere Pipeline to capitalize the actual cost of borrowed and other funds, and for construction purposes, not to exceed the amount of debt and equity AFUDC that would be capitalized based on the overall rate of return approved herein. This is consistent with what we have required in other similar cases.²⁷

C. Environmental

46. Commission staff prepared an Environmental Impact Statement (EIS) for the Corpus Christi LNG and Cheniere Pipeline projects (collectively as Cheniere Corpus Christi).²⁸ The final EIS addresses the project's purpose and need, geology, soils and sediments, water resources, wetlands, vegetation, wildlife, essential fish habitat, threatened and endangered species, land use, socioeconomics, transportation, cultural resources, air quality and noise, safety, cumulative impacts, and alternatives. The United States (U.S.) Army Corps of Engineers, U.S. Coast Guard, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the U.S. Department of Transportation were cooperating agencies in the production of the EIS.

47. The Commission has reviewed the information and analysis contained in the final EIS regarding the potential environmental effect of the project. Based on our consideration of this information, we agree with the conclusions presented in the final EIS and find that the Cheniere Corpus Christi project is environmentally acceptable, if the project is constructed and operated in accordance with the recommended environmental mitigation measures in Appendix C to this order. Thus, we are including the environmental mitigation measures recommended in the final EIS as conditions to the authorizations issued to Cheniere Corpus Christi in this order.²⁹

²⁷ See, e.g., *Gulfstream Natural Gas System, L.L.C.*, 91 FERC ¶ 61,119 (2000); and *Buccaneer Gas Pipeline Company L.L.C.*, 91 FERC ¶ 61,117 (2000).

²⁸ See final EIS, Executive Summary, Public Involvement, at ES-7 and ES-8, for a detailed discussion on the public notices issued and comments received in the preparation of the final EIS. All substantive comments are addressed in the final EIS. Notice of Availability of the Final EIS was published in the *Federal Register* on March 11, 2005 (70 Fed. Reg. 12,212).

²⁹ We note that the environmental conditions listed in Appendix C have been modified from those listed in the final EIS. While the substance remains the same, the conditions are now listed chronologically and have been revised to clarify which company is responsible for implementing the condition.

48. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. We encourage 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 approved by this Commission.³⁰

49. Corpus Christi LNG and/or and Cheniere Pipeline shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Corpus Christi LNG and/or Cheniere Pipeline. They shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

Conclusion

50. For the reasons set forth herein, and subject to the conditions set forth below, we find that Corpus Christi LNG's import terminal is in the public interest under section 3. We further find, also subject to the conditions below, that Cheniere Pipeline's project is required by the public convenience and necessity under section 7(c). Thus, we grant the requested authorizations to Corpus Christi LNG and Cheniere Pipeline.

51. At a hearing held on April 13, 2005, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) In Docket No. CP04-37-000, Corpus Christi LNG is hereby authorized under section 3 of the NGA to site, construct, and operate its LNG terminal near Corpus Christi, Texas, as more fully described in this order and in the application.

(B) In Docket No. CP04-44-000, a certificate of public convenience and necessity is issued to Cheniere Pipeline under section 7(c) of the NGA authorizing it to construct and operate a 23-mile long, 48-inch diameter pipeline, as more fully described in this order and in the application.

³⁰See, 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) The certificate authorized in Ordering Paragraph (B) above is conditioned upon Cheniere Pipeline's compliance with all applicable Commission regulations under the NGA, particularly paragraphs (a), (c), (e), and (f) of section 157.20 of such regulations.

(D) Construction of the proposed facilities shall be completed and made available for service within three years from the date of this order in accordance with section 157.20(b) of the Commission's regulations.

(E) Cheniere Pipeline must execute firm contracts equal to the level of service and in accordance with the terms of service represented in its precedent agreement prior to commencement of construction.

(F) In Docket No. CP04-46-000, a blanket transportation certificate is issued to Cheniere Pipeline under subpart G of Part 284 of the Commission's regulations.

(G) In Docket No. CP04-45-000, a blanket construction certificate is issued to Cheniere Pipeline under subpart F of Part 157 of the Commission's regulations.

(H) Cheniere Pipeline must file revised pro forma tariff sheets and revise its rates consistent with the discussion in the body of this order, within 60 days after the date of this order.

(I) Within three years after its in-service date, as discussed herein, Cheniere Pipeline must make a filing to justify its existing rates or propose alternative rates.

(J) Corpus Christi LNG and Cheniere Pipeline shall comply with the environmental conditions contained in Appendix C to this order.

(K) Corpus Christi LNG and Cheniere Pipeline shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies either Corpus Christi LNG or Cheniere Pipeline. Corpus Christi LNG or Cheniere Pipeline shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(L) The untimely motions to intervene are granted.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Appendix A

Intervenors

BP Energy Company
Calpine Corporation
ConocoPhillips Company
Crosstex Energy Services, L.P.
Exxon Mobil Gas Marketing Company
FPL Group Resources LLC
Freeport LNG Development, L.P.
Kinder Morgan Tejas Pipeline, L.P.
Kinder Morgan Texas Pipeline, L.P.
Natural Gas Pipeline Company of America
Occidental Energy Ventures Corp.
Occidental Chemical Corporation
Project Technical Liaison Associates, Inc.
Reynolds Metal Company
Sempra Energy LNG
Southern LNG Inc.
Statoil ASA and Statoil Natural Gas LLC
Total Gas & Power North America, Inc..
Transcontinental Gas Pipe Line Corporation
Trunkline LNG Company, LLC
Weaver's Cove Energy LLC

Appendix B
Cheniere Corpus Christi Pipeline Company

FERC Gas Tariff
Pro Forma Original Volume No. 1

Statement of Rates

Original Sheet No. 5

Cheniere Corpus Christi Pipeline states that the FTS Overrun, ITS, and PALS rates are \$0.0918 per MMBtu. However, the Authorized Overrun/Interruptible Rate on Exhibit P, Page 11, is \$0.0192 per MMBtu. Cheniere Corpus Christi Pipeline must correct this discrepancy in rates on the tariff sheet.

Rate Schedule FTS

Original Sheet No. 10

In the third paragraph of section 2, Cheniere Corpus Christi Pipeline states that the origin of Transporter's facilities will constitute its initial primary receipt point and FTS service for vaporized LNG at this receipt point will have a higher priority than for any other transportation service on Transporter's pipeline to ensure that the vaporized LNG can be taken away from the LNG terminal. Cheniere Corpus Christi Pipeline must explain and support this language, including explaining if it is intended to convey a higher priority for some FTS service over other FTS service. Moreover, Cheniere Corpus Christi Pipeline's use of the term "initial primary receipt point" is not defined in the General Terms and Conditions, but should be.

Original Sheet Nos. 12-14

Section 3.A.9. refers to Transporter's Point of Interest (POI) number. Cheniere Corpus Christi Pipeline must define the term.

Section 3.A.11. states that to the extent Shipper is a proposed LNG terminal who is providing service for facilitation of revaporized LNG delivered, Shipper shall provide adequate detail of Shipper's proposed LNG terminal including terminal design specifications, in-service date and intended supply sources. Cheniere Corpus Christi

Pipeline must provide an explanation why this information is necessary, and under what circumstances it can have a shipper that is a proposed LNG terminal, and why this provision is relevant to Cheniere Corpus Christi Pipeline.

The reference to p. 503 in the second paragraph of section 3.A. should be to Original Sheet No. 503.

Original Sheet Nos. 14-15

Section 4 refers to Sheet No. 554 which is an incorrect reference to the FTS rates.

Sections 4.A.1.(b) and (c) provide for charges to be multiplied by quantities actually delivered, but section 4.A.1.(d) provides for retaining gas at receipt points (Original Sheet No. 15). Section 4.A.1. is inconsistent with the second paragraph of section 2 (Original Sheet No. 10). Cheniere Corpus Christi Pipeline has calculated its cost-based rates using receipts into its pipeline system (and not deliveries), and Cheniere Corpus Christi Pipeline should conform its tariff language accordingly.

Cheniere Corpus Christi Pipeline must include language in section 4.B. stating that incidental charges must be subject to prior Commission approval. (Original Sheet No. 15)

Original Sheet Nos. 16-17

The section 7 definitions of Primary and Secondary Receipt Points (Original Sheet No. 16) and section 8 definitions of Primary and Secondary Delivery Points (Original Sheet No. 17) duplicate the Definitions in section 1 of the General Terms and Conditions. These definitions should be located in one place in the tariff.

The first paragraph of section 7.B. provides for changing the master receipt point listing on Cheniere Corpus Christi Pipeline's electronic bulletin board, but not in Appendix A to the General Terms and Conditions of its tariff (Original Sheet No. 16). Cheniere Corpus Christi Pipeline must explain why this approach is appropriate.

Cheniere Corpus Christi Pipeline refers to the electronic bulletin board (Original Sheet No. 16), electronic communications of non-transactional data website (Original Sheet No. 115) and transactional electronic communications mechanism (Original Sheet Nos. 166-167). Cheniere Corpus Christi Pipeline should explain the difference between the terms (if there are differences), and put the definition(s) in one place in the tariff.

Original Sheet No. 18

Cheniere Corpus Christi Pipeline should eliminate the second sentence in section 10, which states that if a conflict arises between the rate schedule(s) and General Terms and Conditions, the provisions in the rate schedule(s) shall govern.

Rate Schedule ITS

Original Sheet Nos. 22-25

Section 3.A.11. states that to the extent Shipper is a proposed LNG terminal who is providing service for facilitation of revaporized LNG delivered, Shipper shall provide adequate detail of Shipper's proposed LNG terminal including terminal design specifications, in-service date and intended supply sources. Cheniere Corpus Christi Pipeline must provide an explanation why this information is necessary, and under what circumstances that it can have a shipper that is a proposed LNG terminal, and why this provision is relevant.

The reference to p. 500 in the third paragraph of section 3.A. (Original Sheet No. 23) should be to Original Sheet No. 500.

Original Sheet No. 25

Section 4 refers to Sheet Nos. 4 and 554, which are incorrect references to the ITS rate.

Section 4.A.1. refers to the quantity of gas scheduled for delivery. This language is inconsistent with similar language in section 4 of Rate Schedule FTS. In this regard, Cheniere Corpus Christi Pipeline should conform its tariff language to be consistent in each of its rate schedules.

Cheniere Corpus Christi Pipeline must include language in section 4.B. stating that incidental charges must be subject to prior Commission approval. (Original Sheet No. 15)

Original Sheet No. 26

For section 7, see discussion for Original Sheet No. 18.

Rate Schedule PALS

Original Sheet No. 27

In addition to section 2.B. being inconsistent with the notice of termination in the PALS Form of Service Agreement, Cheniere Corpus Christi Pipeline should explain why the minimum period for parked or loaned gas should not be, for example, one hour up to 30 days, in lieu of the proposed one day period up to one calendar month.

Original Sheet Nos. 28-29

Section 3.A. refers to Sheet No. 4, which is an incorrect reference to the PALS rate.

Regarding section 3.D., Cheniere Corpus Christi Pipeline should explain how PALS works in conjunction with other transportation rate schedules, and particularly why retainage should be applicable to PALS service.

Original Sheet No. 29

Section 5 discusses a Critical Period Notice, but does not define the term or reference any applicable provision in the General Terms and Conditions of the *pro forma* tariff.

For section 6, see discussion for Original Sheet No. 18 above.

General Terms and Conditions

Original Sheet Nos. 104-106

In section 2.C., Cheniere Corpus Christi Pipeline refers to utilizing gas from standby equipment to effectuate deliveries. Cheniere Corpus Christi Pipeline should provide an explanation of what standby equipment it is referring to and the capabilities of such equipment (Original Sheet No. 106).

Cheniere Corpus Christi Pipeline should identify the maximum allowable operating pressure in section 3.0. (Original Sheet No. 106).

Original Sheet Nos. 131-136

Cheniere Corpus Christi Pipeline has not identified what Spot Index Prices it proposes to use in section 12 and section 14. In section 14, Cheniere Corpus Christi Pipeline has not defined non-critical periods and critical periods.

Original Sheet Nos. 141-142

Section 16.H. contains discussion stating the types of discounts that Cheniere Corpus Christi Pipeline may agree to in addition to the basic discount from the stated maximum rates. Cheniere Corpus Christi Pipeline should include provisions about discounting in one place, such as in section 27 of the General Terms and Conditions (Original Sheet Nos. 185-186).

Original Sheet Nos. 145-167

The outline numbering and lettering for section 18 contains several errors.

Cheniere Corpus Christi Pipeline must explain whether a Curtailment Order (Original Sheet No. 145) is intended to be different from an Operational Flow Order (Original Sheet No. 149), and, if not, only one of the terms should be used in the tariff.

Cheniere Corpus Christi Pipeline must explain why the order of suspension of service in section 18.A.3.b. provides for suspending Rate Schedule FTS firm service prior to suspending Rate Schedule PALS interruptible service, and also why PALS service is suspended after Rate Schedule ITS and Rate Schedule FTS (Original Sheet No. 147).

Original Sheet No. 157 is inexplicably blank.

Original Sheet No. 166

Section 12 appears to be an incorrect reference.

Original Sheet Nos. 172-175

Cheniere Corpus Christi Pipeline must explain how the procedures to obtain firm capacity at a new location within Shipper's MDTQ contained in section 22.C. of the General Terms and Conditions relate to the segmentation provisions of section 20 of the General Terms and Conditions. Cheniere Corpus Christi Pipeline must also explain how section 20 relates to provisions for contracting for unsubscribed capacity set forth in section 25 of the General Terms and Conditions (Original Sheet Nos. 178-182), and also those requirements set forth on section 3 of Rate Schedule FTS. Cheniere Corpus Christi Pipeline must place its procedures for obtaining capacity in one place in the tariff.

In addition, section 22.D. discusses the construction of new facilities, which is inconsistent with the overall intent of section 22 which addresses service on existing mainline facilities. Language referring to the construction of facilities should be a separate provision of the General Terms and Conditions.

Original Sheet Nos. 178-182

Original Sheet No. 181 contains in section 25.F. certain right of first refusal language. Cheniere Corpus Christi Pipeline has also included the right of first refusal in section 21 of the General Terms and Conditions. Cheniere Corpus Christi Pipeline must include the right of first refusal language in one place in the tariff.

Original Sheet Nos. 183-184

Section 26 relates to flexible primary and secondary receipt and delivery points. Cheniere Corpus Christi Pipeline must explain how this flexible primary points work in conjunction with its initial primary receipt point proposal (section 2 of Rate Schedule FTS in Original Sheet No. 10).

Section 26.D. relates to segmentation authority. Cheniere Corpus Christi Pipeline also addresses segmentation in section 20 of the General Terms and Conditions. Cheniere Corpus Christi Pipeline must place segmentation language in one place in the General Terms and Conditions.

Original Sheet Nos. 185-186

Cheniere Corpus Christi Pipeline must indicate whether it intends to use price indices in determining discounted rates, and if so, explain how any such indices are consistent with Commission policy, and provide *pro forma tariff* language for the use of price indices. *Southern Natural Gas Co.*, 108 FERC ¶ 61,326 at P 52 (2004).

Form(s) of Service Agreement

FTS (Original Sheet Nos. 400-411)

The definitions incorporated into Article I (Original Sheet No. 400) should be the definitions included in either the General Terms and Conditions, or Rate Schedule FTS.

For Article IX, see the discussion for Original Sheet No. 15 above.

Cheniere Corpus Christi Pipeline must identify the Other Provisions that constitute Article XI (Original Sheet No. 407).

Article XII contains assignment provisions that are inconsistent with those included in the Form(s) of Service Agreement for the other rate schedules (Original Sheet No. 407).

Cheniere Corpus Christi Pipeline must explain how Article XII, 12.4, which states the agreement is governed by and interpreted in accordance with the laws of State of Texas (Original Sheet No. 407), is consistent with section 28 of the General Terms and Conditions (Original Sheet No. 186). It should also explain why there is no such provision included in the ITS Form of Service Agreement, and finally, why the PALS Form of Service Agreement interpretation and performance is by the laws of the State of Nevada (Original Sheet No. 510), and Capacity Release Form Agreement applicability is interpreted under the laws of the State of Texas (Original Sheet No. 542).

ITS (Original Sheet Nos. 500-506)

Original Sheet No. 500 includes a For Internal Use Only heading not included in the Form(s) of Service Agreement for other rate schedules.

The outline and numbering used for the ITS Form of Service Agreement does not use Articles consistent with those used for the FTS and PALS Form(s) of Service Agreement.

Section 4 does not provide Cheniere Corpus Christi Pipeline the ability to use negotiated rate authority (Original Sheet No. 501).

Cheniere Corpus Christi Pipeline must identify the Other Provisions that constitute section 8 (Original Sheet No. 502).

Cheniere Corpus Christi Pipeline must explain and identify the Additional Terms and Conditions that it contemplates for section 9 (Original Sheet No. 502).

Original Sheet Nos. 503-506 contain a Request For Service Form (not included in the Form(s) of Service Agreement for FTS and PALS) that should be included in one place in the tariff.

PALS (Original Sheet Nos. 506-511)

Article II contains a notice of termination provision of one year or more that does not appear appropriate for PALS (Original Sheet No. 507).

Article III, section 3.1 does not provide Cheniere Corpus Christi Pipeline the ability to use negotiated rate authority (Original Sheet No. 508).

Article V provides for interpretation and performance of the Agreement under the laws of the State of Nevada (Original Sheet No. 510). As previously discussed, this is inconsistent with other similar provisions in the *pro forma* tariff.

Article VIII is not consistent with the assignment provisions included in the Form(s) of Service Agreement for other Rate Schedules (Original Sheet No. 510).

Capacity Release Agreement Form (Original Sheet No. 540-554)

Section B (Original Sheet No. 542) is incorrectly numbered. Also, see discussion of governing law in Original Sheet Nos. 400-411 above.

Appendix C

Environmental Conditions for the Corpus Christi LNG, L.P. (Corpus Christi LNG) and Cheniere Corpus Christi Pipeline Company (Cheniere Pipeline)

1. Corpus Christi LNG and Cheniere Pipeline (collectively “Companies”) shall follow, as applicable, the construction procedures and mitigation measures described in their applications, supplemental filings (including responses to staff data requests) and as identified in the final environmental impact statement (EIS), unless modified by this Order. The Companies 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
 - d. receive approval in writing from the Director of Office of Energy Projects (OEP) **before using that modification.**
2. For Cheniere Pipeline’s pipeline facilities, 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. For Corpus Christi LNG’s liquefied natural gas (LNG) facilities, the Director of OEP has delegated authority to take all steps necessary to ensure the protection of life, health, property, and the environment during construction and operation of the Project. This authority shall include:
 - a. stop-work authority and authority to cease operation; and
 - b. the design and implementation of any additional measures deemed necessary to assure continued compliance with the intent of the conditions of this Order.

4. **Prior to any construction**, the Companies shall file affirmative statements with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the EI'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.
5. The authorized facility locations 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**, the Companies 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.

Cheniere Pipeline's exercise of eminent domain authority granted under Section 7(h) of the Natural Gas Act (NGA) in any condemnation proceedings related to the order for the pipeline must be consistent with the authorized facilities and locations. Cheniere Pipeline's right of eminent domain granted under Section 7(h) of the NGA 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.

6. The Companies 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 extra workspace allowed by the FERC's *Upland Erosion Control, Revegetation, and Maintenance Plan*, 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.

7. **At least 60 days before the start of construction**, the Companies shall file initial Implementation Plans with the Secretary for review and written approval by the Director of OEP describing how they will implement the mitigation measures required by this Order. The Companies must file revisions to the plan as schedules change. The plans shall identify:

- a. how the Companies 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 EIs 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. the training and instructions the Companies 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(s);
- e. the company personnel (if known) and specific portion of the Companies' organization having responsibility for compliance;
- f. the procedures (including use of contract penalties) the Companies 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.
8. The Companies shall develop and implement environmental complaint resolution procedures. The procedures shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the project and restoration of the right-of-way. **Prior to construction**, the Companies shall mail the complaint procedures to each landowner whose property would be crossed by the Project.
 - a. In its letter to affected landowners, the Companies shall:
 - (1) provide a local contact that the landowners should call first with their concerns; the letter should indicate how soon a landowner should expect a response;
 - (2) instruct the landowners that, if they are not satisfied with the response, they should call the Company's Hotline; the letter should indicate how soon to expect a response; and
 - (3) instruct the landowners that, if they are still not satisfied with the response from the Company's Hotline, they should contact the Commission's Enforcement Hotline at (888) 889-8030.
 - b. In addition, the Companies shall include in their weekly status report a copy of a table that contains the following information for each problem/concern:
 - (1) the date of the call;
 - (2) the identification number from the certificated alignment sheets of the affected property;
 - (3) the description of the problem/concern; and
 - (4) an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.
9. The Companies shall employ a team of EIs (at least two per construction spread with one available at the LNG terminal as appropriate during site preparation). The EIs shall be:

- a. responsible for monitoring and ensuring compliance with all mitigation 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 (see condition 7 above) 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 (see condition 10 and 28 below).
10. Cheniere Pipeline shall file updated status reports prepared by the head EI with the Secretary on a **weekly basis until all construction and restoration activities 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 the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
 - b. listing of all problems encountered and each instance of noncompliance observed by the EI 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 the Companies from other federal, state or local permitting agencies concerning instances of noncompliance, and the Company's response.

11. The Companies must receive written authorization from the Director of OEP **before commencing service** for the Project. Such authorization will only be granted following a determination that the LNG facility has been constructed in accordance with Commission approval and applicable standards, can be expected to operate safely as designed, and that rehabilitation and restoration of the right-of-way is proceeding satisfactorily.
12. **Within 30 days** of placing the authorized facilities in service, the Companies shall file affirmative statements 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 the Companies have complied with or will comply with. This statement shall also identify any areas affected by the Project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
13. **Prior to construction**, Corpus Christi LNG shall file with the Secretary documentation of consultations with the U.S. Army Corps of Engineers (COE) regarding timing of the dredging for the LNG terminal marine basin and maneuvering area. To the extent possible, Corpus Christi LNG shall coordinate its dredging operations with the proposed COE dredging of the La Quinta Channel extension to avoid construction conflicts.
14. Corpus Christi LNG shall file with the Secretary **prior to construction** the following information on nonjurisdictional facilities, including the American Electric Power, Inc. transmission line and substation, San Patricio Municipal Water District pipeline, and three existing natural gas pipelines and associated aboveground facilities:
 - a. documentation of consultations with the appropriate agencies and the status of federal, state, or local permits or approvals required for their construction, abandonment, removal, or relocation. Consultations shall address handling and removal of potential hazardous substances during facility removal; and
 - b. status and copies of any surveys and reports prepared for waterbodies, wetlands, threatened and endangered species, and cultural resources.

15. **Prior to construction**, Corpus Christi LNG shall file with the Secretary details of its coordination with the City of Port Aransas, and other local, state, or federal government entities, regarding its planned or potential assistance with ongoing or future shoreline protection efforts.
16. Corpus Christi LNG shall include in its wetlands mitigation plan construction of breakwaters 5-9 and 16-25 at the Shamrock Island mitigation site, unless required otherwise by the COE and/or the National Marine Fisheries Service (NOAA Fisheries) as a result of the COE's review of the Companies' Section 404/10 permit applications.
17. Cheniere Pipeline shall attempt to avoid the removal of trees along the pipeline right-of-way with a diameter at breast height greater than 12 inches. If such trees must be removed, Cheniere Pipeline shall prepare a mitigation plan, in consultation with the Texas Parks and Wildlife Department (TPWD), and file the plan with the Secretary **prior to construction**.
18. The Companies shall consult with the TPWD and the National Resources Conservation Service to develop a revised seed mix to be used in uplands and dredged material placement areas that includes native grass species. The Companies shall file the revised seed mix with the Secretary **prior to construction**.
19. The Companies shall avoid clearing woody vegetation during the peak migratory bird nesting period between March 1 and August 31 of any year. If vegetation clearing must be conducted during this time, the Companies shall survey for all migratory bird nests no more than three weeks prior to commencing work. If an active migratory bird nest is found, the Companies shall consult with the U.S. Fish and Wildlife Service (FWS) to identify the most appropriate measure that shall be taken to avoid or minimize impacts.
20. The Companies shall not begin construction activities **until**:
 - a. the staff receives concluding comments from the FWS and NOAA Fisheries regarding the proposed action;
 - b. the staff completes formal consultation with FWS and NOAA Fisheries, if required; and
 - c. the Companies have received written notification from the Director of OEP that construction or use of mitigation may begin.
21. If facilities are not constructed **within one year** from the date of issuance of the authorization from the Director of OEP that construction may begin, the Companies shall consult with the appropriate offices of the FWS and NOAA Fisheries to verify that previous consultations and determinations of effect are still current.

22. Corpus Christi LNG shall prepare a plan, consistent with NOAA Fisheries recommendations, to minimize potential noise impacts on sea turtles and marine mammals from driving piles during construction of the LNG terminal marine basin and berths. The plan shall include measures to reduce sound transmission into the water (*e.g.*, air bubble curtains, limitations on the type of hammer used, reductions in force applied to the pile) or a monitoring protocol to ensure listed species are not present in the zone of potential affect. The plan shall be filed with the Secretary for review and written approval by the Director of OEP **prior to construction**.
23. Corpus Christi LNG shall not begin construction of any component of its LNG terminal **until** it files with the Secretary a copy of the consistency determination issued by the Texas General Land Office Coastal Coordination Council.
24. The Companies shall consult with the Texas Department of Transportation (TDOT) and other local entities responsible for transportation issues including San Patricio and Nueces Counties and the Cities of Gregory and Portland, and determine the need for a Project-specific Construction Transportation Management Plan. Such a plan shall provide specific measures that would be used to transport materials and construction workers to the proposed LNG terminal work site. Aspects of the plan may include, but are not limited to, identification of off-site vehicle parking areas, traffic control measures, traffic control personnel, and construction and delivery hours. The Companies shall file with the Secretary, **prior to construction**, the results of this consultation and the Construction Transportation Management Plan if recommended by the transportation authorities.
25. The Companies shall **defer construction** and use of their proposed facilities, including related ancillary areas for staging, storage, and temporary work areas, and new or to-be-improved access roads, **until**:
 - a. the Companies file with the Secretary all additional required inventory and evaluation reports, a State Historic Preservation Office (SHPO)-approved Project-specific unanticipated discovery plan, and any necessary treatment plans;
 - b. the Companies file with the Secretary the SHPO comments on all cultural resources investigation reports and plans;

- c. the Advisory Council on Historic Preservation has been given an opportunity to comment if any historic properties would be adversely effected by the Project; and
- d. the Director of OEP reviews and approves all cultural resources reports and plans, and notifies the Companies in writing that it may proceed with treatment or construction.

All material filed with the Commission 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.”**

- 26. Corpus Christi LNG shall make all reasonable efforts to assure its predicted noise levels from the LNG terminal are not exceeded at the noise sensitive areas (NSA) and file noise surveys showing this with the Secretary **no later than 60 days** after placing the LNG terminal in service. However, if the noise attributable to the operation of the LNG terminal exceeds 55 dBA L_{dn} at an NSA or the noise increase exceeds 10 dBA L_{90} at an NSA, Corpus Christi LNG shall file a report on what changes are needed and shall install additional noise controls to meet the level **within one year** of the in-service date of the LNG terminal. Corpus Christi LNG shall confirm compliance with these requirements by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.
- 27. Corpus Christi LNG shall evaluate the need for additional dredging, and the quantity of dredging that would be required, to accommodate the maneuvering of LNG vessels up to 250,000 m³ capacity through the Corpus Christi and La Quinta Channels. This study shall be done in consultation with the COE, U.S. Coast Guard (USCG), and Aransas Corpus Christi Pilots Association (Pilots). Corpus Christi LNG shall file the results of this evaluation with the Secretary for the review and approval of the Director of OEP **prior to the use** of LNG ships over 140,000 m³ in capacity.
- 28. Corpus Christi LNG shall document progress on the construction of the LNG terminal in **monthly** reports filed with the Secretary. Details in the reports shall include a summary of activities, problems encountered, and remedial actions taken. Problems of significant magnitude shall be reported to the FERC **within 24 hours**.

The following measures apply to the LNG terminal design and construction details. Information pertaining to specific conditions 29 through 54 shall be filed by Corpus Christi LNG with the Secretary for review and approval by the Director of OEP either: prior to initial site preparation; prior to construction of final design; prior to commissioning; or prior to commencement of service. This information shall be submitted a minimum of 30 days before approval to proceed is required.

29. **Prior to initial site preparation**, Corpus Christi LNG shall file with the Secretary documentation that suitable procedures and coordination exist between Corpus Christi LNG, the Pilots, and the TDOT to minimize delays to the Port Aransas Ferry operations from LNG carrier transits.
30. A complete plan and list of the hazard detection equipment shall be filed **prior to initial site preparation**. The information shall include a list with the instrument tag number, type and location, alarm locations, and shutdown functions of the proposed hazard detection equipment. Plan drawings shall clearly show the location of all detection equipment.
31. Corpus Christi LNG shall provide technical reviews of its facility design that:
 - a. Identifies all combustion/ventilation air intake equipment and the distance(s) to any possible hydrocarbon release (LNG, flammable refrigerants, flammable liquids, and flammable gases).
 - b. Demonstrates that these areas would be adequately covered by hazard detection devices and indicate how these devices would isolate or shutdown any combustion equipment whose continued operation could add to or sustain an emergency.

Corpus Christi LNG shall file this review **prior to initial site preparation**.

32. A complete plan and list of the fixed and wheeled dry-chemical, fire extinguishing, high expansion foam, hazard control equipment shall be filed **prior to initial site preparation**. The information shall include a list with the equipment tag number, type, size, equipment covered, and automatic and manual remote signals initiating discharge of the units. Plan drawings shall clearly show the planned location of all fixed and wheeled extinguishers.
33. **Prior to initial site preparation**, Corpus Christi LNG shall provide, in a filing with the Secretary, evidence of its ability to exercise legal control over the activities that occur within the portions of the thermal exclusion

zones, listed in table 4.12.4.2-2 of the final EIS, that fall outside of the LNG terminal property line.

34. **Prior to initial site preparation**, Corpus Christi LNG shall provide, in a filing with the Secretary, evidence of its ability to exercise legal control over the activities that occur within the portions of the vapor dispersion exclusion zones that fall outside of the LNG terminal property line.
35. Corpus Christi LNG shall examine provisions to retain any vapor produced along the transfer line trenches and other areas serving to direct LNG spills to associated impoundments. Measures to be considered may include, but are not limited to: vapor fencing; intermediate sump locations; or trench surface area reduction. The Corpus Christi LNG shall file final drawings and specifications for these measures with the Secretary **prior to initial site preparation**.
36. Corpus Christi LNG shall develop emergency evacuation routes/methods in conjunction with the local emergency planning groups and town officials for areas that are within any transient hazard areas. These evacuation routes/methods shall be filed with the Secretary for review and written approval by the Director of OEP **prior to initial site preparation**.
37. The **final design** shall include procedures for offsite contractors' responsibilities, restrictions, limitations, and supervision of the contractors by Corpus Christi LNG staff.
38. The **final design** of the hazard detection equipment shall identify manufacturer and model.
39. The **final design** of the hazard detection equipment shall include redundancy and fault detection and fault alarm monitoring in all potentially hazardous areas and enclosures.
40. The **final design** of the hazard detection equipment shall provide flammable gas and UV/IR hazard detectors with local instrument status indication as an additional safety feature.
41. The **final design** of the fixed and wheeled dry-chemical, fire extinguishing, high expansion foam hazard control equipment shall identify manufacturer and model.
42. The **final design** shall include equipment and instrumentation for the measurement of translational and rotational movement of the inner vessel for use during and after cool down.

43. The **final design** shall include details of the LNG tank tilt settlement and differential settlement limits between each LNG tank and piping and procedures to be implemented in the event that limits are exceeded.
44. The **final design** shall include drawings and specifications of the spill protection system to be applied to the LNG tank roof(s).
45. The **final design** shall include drawings and specifications of the LNG storage tank piping support structure.
46. The **final design** shall include a fire protection evaluation carried out in accordance with the requirements of NFPA 59A, chapter 9.1.2.
47. **Prior to commissioning**, Corpus Christi LNG shall file documentation of coordination with the USCG to define the responsibilities of Corpus Christi LNG's security staff in supplementing other security personnel and in protecting the LNG tankers and terminal.
48. Security personnel requirements for prior to and during LNG vessel unloading shall be filed **prior to commissioning**.
49. Operation and Maintenance procedures and manuals, as well as emergency plans, emergency evacuation plan and safety procedure manuals, shall be filed **prior to commissioning**.
50. Copies of the USCG security plan, vessel operation plan, and emergency response plan shall be provided to the FERC staff **prior to commissioning**.
51. The contingency plan for failure of the outer LNG tank containment shall be filed **prior to commissioning**.
52. A copy of the criteria for horizontal and rotational movement of the inner vessel for use during and after cool down shall be filed **prior to commissioning**.
53. Corpus Christi LNG shall develop an Emergency Response Plan (including evacuation) for its LNG terminal and coordinate procedures with local emergency planning groups, fire departments, state and local law enforcement, and appropriate federal agencies. This plan shall include at a minimum:
 - a. designated contacts with state and local emergency response agencies;

- b. scalable procedures for the prompt notification of appropriate local officials and emergency response agencies based on the level and severity of potential incidents;
- c. procedures for notifying residents and recreational users within areas of potential hazard;
- d. evacuation routes for public use areas and residents of areas that are within any transient hazard areas;
- e. locations of permanent sirens and other warning devices; and
- f. an “emergency coordinator” on each LNG vessel to activate sirens and other warning devices.

The Emergency Response Plan shall be filed with the Secretary for review and approval by the Director of OEP **prior to commencement of service**. Corpus Christi LNG shall notify the FERC staff of all meetings in advance and shall report progress on its Emergency Response Plan at six-month intervals starting at the commencement of construction.

54. FERC staff shall be notified of any proposed revisions to the security plan and physical security of the facility **prior to commencement of service**.

The following conditions apply throughout the life of the LNG facility:

55. The LNG facility shall be subject to regular FERC staff technical reviews and site inspections on at least a **biennial** basis or more frequently as circumstances indicate. Prior to each FERC staff technical review and site inspection, Corpus Christi LNG shall respond to a specific data request including information relating to possible design and operating conditions that may have been imposed by other agencies or organizations. Up-to-date detailed piping and instrumentation diagrams reflecting facility modifications and provision of other pertinent information not included in the semi-annual reports described below, including facility events that have taken place since the previously submitted annual report, shall be submitted.
56. **Semi-annual** operational reports shall be filed with the Secretary to identify changes in facility design and operating conditions, abnormal operating experiences, activities (including ship arrivals, quantity and composition of imported LNG, vaporization quantities, boil-off/flash gas, etc.), plant modifications including future plans and progress thereof. Abnormalities shall include, but not be limited to: unloading/shipping problems, potential

hazardous conditions from offsite vessels, storage tank stratification or rollover, geysering, storage tank pressure excursions, cold spots on the storage tanks, storage tank vibrations and/or vibrations in associated cryogenic piping, storage tank settlement, significant equipment or instrumentation malfunctions or failures, non-scheduled maintenance or repair (and reasons therefore), relative movement of storage tank inner vessels, vapor or liquid releases, fires involving natural gas and/or from other sources, negative pressure (vacuum) within a storage tank and higher than predicted boiloff rates. Adverse weather conditions and the effect on the facility also shall be reported. Reports shall be submitted **within 45 days** after each period ending **June 30 and December 31**. In addition to the above items, a section entitled "Significant plant modifications proposed for the next 12 months (dates)" also shall be included in the semi-annual operational reports. Such information would provide the FERC staff with early notice of anticipated future construction/maintenance projects at the LNG facility.

57. In the event the temperature of any region of any secondary containment, including imbedded pipe supports, becomes less than the minimum specified operating temperature for the material, the Commission shall be notified **within 24 hours** and procedures for corrective action shall be specified.
58. Significant non-scheduled events, including safety-related incidents (*i.e.*, LNG or natural gas releases, fires, explosions, mechanical failures, unusual over pressurization, and major injuries) and security-related incidents (*i.e.*, attempts to enter site, suspicious activities) shall be reported to FERC staff **within 24 hours**. In the event an abnormality is of significant magnitude to threaten public or employee safety, cause significant property damage, or interrupt service, notification shall be made immediately, without unduly interfering with any necessary or appropriate emergency repair, alarm, or other emergency procedure. This notification practice shall be incorporated into the LNG facility's emergency plan. Examples of reportable LNG-related incidents include:
 - a. fire;
 - b. explosion;
 - c. estimated property damage of \$50,000 or more;
 - d. death or personal injury necessitating in-patient hospitalization;
 - e. free flow of LNG for five minutes or more that results in pooling;
 - f. unintended movement or abnormal loading by environmental causes, such as an earthquake, landslide, or flood, that impairs the

- serviceability, structural integrity, or reliability of an LNG facility that contains, controls, or processes gas or LNG;
- g. any crack or other material defect that impairs the structural integrity or reliability of an LNG facility that contains, controls, or processes gas or LNG;
 - h. any malfunction or operating error that causes the pressure of a pipeline or LNG facility that contains or processes gas or LNG to rise above its maximum allowable operating pressure (or working pressure for LNG facilities) plus the build-up allowed for operation of pressure limiting or control devices;
 - i. a leak in an LNG facility that contains or processes gas or LNG that constitutes an emergency;
 - j. inner tank leakage, ineffective insulation, or frost heave that impairs the structural integrity of an LNG storage tank;
 - k. any safety-related condition that could lead to an imminent hazard and cause (either directly or indirectly by remedial action of the operator), for purposes other than abandonment, a 20 percent reduction in operating pressure or shutdown of operation of a pipeline or an LNG facility that contains or processes gas or LNG;
 - l. safety-related incidents to LNG vessels occurring at or en route to and from the LNG facility; or
 - m. an event that is significant in the judgment of the operator and/or management even though it did not meet the above criteria or the guidelines set forth in an LNG facility's incident management plan.

In the event of an incident, the Director of OEP has delegated authority to take whatever steps are necessary to ensure operational reliability and to protect human life, health, property or the environment, including authority to direct the LNG facility to cease operations. Following the initial company notification, FERC staff would determine the need for a separate follow-up report or follow-up in the upcoming semi-annual operational report. All Corpus Christi LNG follow-up reports shall include investigation results and recommendations to minimize a reoccurrence of the incident.