

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Trunkline Gas Company, LLC
Trunkline LNG Company, LLC

Docket Nos. CP04-64-000
CP02-60-004

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

(Issued September 17, 2004)

1. On February 12, 2004, Trunkline Gas Company, LLC (Trunkline Gas) filed, in Docket No. CP04-64-000, an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Rules and Regulations requesting authorization to construct, own, operate and maintain certain natural gas transmission facilities to provide transportation services for regasified LNG (liquefied natural gas). On February 27, 2004, Trunkline LNG Company, LLC (Trunkline LNG) filed, in Docket No. CP02-60-004, an abbreviated application pursuant to section 3(a) of the NGA and Part 157 of the Commission's Rules and Regulations to amend existing certificate authority granted for its LNG Terminal Expansion Project in Docket Nos. CP02-60-000 and No. CP02-60-003. Trunkline LNG seeks authority to install unloading facilities, vaporizers, and second stage pumps to provide additional firm vaporization service and increased sendout capability. Trunkline LNG also seeks to convert an approved layberth into an LNG unloading dock. This order grants the requested authorities, as conditioned, and will assist in assuring the availability and transportation of LNG supplies required by domestic gas markets.

I. Background and Proposals

A. Trunkline LNG

2. Trunkline LNG seeks authority for a further enhancement of its expansion project filed December 21, 2001 (Original Expansion Project), and amended on April 17, 2003 (Amended Expansion Project).¹ In the orders cited, Trunkline LNG was authorized: (i) to increase its terminal storage capacity to 9.0 Bcf, (ii) to increase the sustained sendout capability to 1.2 Bcf per day (Bcf/d), and (iii) to increase peaking capability to 1.3 Bcf/d. On October 27, 2003, the Commission authorized Trunkline LNG to modify the unloading facilities by installing a layberth and to purchase commercial electric power in lieu of installing on-site generation facilities.² The Commission also extended the in-service date of the Expansion Project to January 1, 2006.

3. In this application (Modified Expansion Project), Trunkline LNG seeks authority to install additional unloading facilities, vaporizers, and second stage pumps, to provide additional firm vaporization service, and to increase sendout capability for its customer, BG LNG Services, LLC (BG LNG). On February 6, 2004, Trunkline LNG and BG LNG entered into a Second Amendment to the Precedent Agreement (Amended Precedent Agreement) that provides for firm terminal service under Rate Schedule FTS-2. The Amended Precedent Agreement provides for a further expansion of the Trunkline LNG terminal to achieve an additional daily sendout capability of 600,000 Dth. The sustained sendout capacity of the LNG terminal will be increased to 1.8 Bcf/d, with 2.1 Bcf/d peak sendout capacity. The modification will not change the level of storage capacity of the terminal, 9.0 Bcf, as established in the Original Expansion Project. BG LNG will utilize 100 percent of the terminal's expanded capacity under a long-term contract which terminates December 31, 2023.

4. Trunkline LNG requests authorization to convert the layberth, approved in the Amended Expansion Project, to an unloading facility. Supplies of LNG available to BG LNG for importation at the Trunkline LNG terminal have increased and BG LNG requires additional unloading and regasification capability to meet its requirements. Accordingly, Trunkline LNG and BG LNG have concluded that the facilities proposed herein are needed to provide the additional firm LNG terminalling service. The new unloading dock will have three LNG unloading arms, one vapor return/delivery arm, support trestles, and appurtenant facilities. These facilities will permit continuous

¹ CMS Trunkline LNG Company, LLC, 100 FERC ¶ 61,217 (2002); 101 FERC ¶ 61,300 (2002); 102 FERC ¶ 61,306 (2003).

² See Trunkline LNG Company, LLC, 105 FERC ¶ 61,137 (2003).

unloading of ships from either of the two docks; however, no simultaneous unloading of LNG ships will occur.

5. Trunkline LNG estimates that a 27-month construction period is needed to complete the Amended Expansion Project with an in-service date of January 1, 2006. Trunkline LNG states that the total capital cost of constructing the additional facilities included in its Modified Expansion Project will be approximately \$77 million, excluding Allowance for Funds Used During Construction (AFUDC). The total Modified Expansion Project cost including AFUDC will be approximately \$86.8 million. The combined total cost of the Amended Expansion Project approved in Docket No. CP02-60-003 and the additional facilities proposed in the Modified Expansion Project is \$253,160,290.

6. Trunkline LNG estimates the total cost of service associated with the Modified Expansion Project to be \$28.1 million. Combining the \$50.9 million cost of service from Trunkline LNG's Amended Expansion Project approved in Docket No. CP02-60-003 with the cost of service of \$28.1 million for the instant Modified Expansion Project yields a total cost of service of \$79.0 million. Using the combined cost estimates, the modified recourse reservation rate will be \$0.6847 per Dth for service under Rate Schedule FTS-2.

B. Trunkline Gas

7. Trunkline Gas owns and operates an existing 30-inch diameter, 45.8 mile pipeline (LNG Lateral) extending from the tailgate of Trunkline LNG's liquefied natural gas import terminal in Calcasieu Parish, Louisiana, and connecting to Trunkline Gas's transmission system in Longville, Louisiana.³ The maximum capacity of the LNG Lateral is 0.7 Bcf/d on a sustained basis and 1.0 Bcf/d on a peak day basis. Trunkline Gas received authorization in Docket No. CP02-55-000 to modify certain existing metering facilities located at the tailgate of the LNG terminal.⁴ Upon completion of the modifications, the transportation capacity of the LNG Lateral pipeline would increase from 0.7 Bcf/d to 1.2 Bcf/d on a sustained basis and from 1.0 Bcf/d to 1.3 Bcf/d on a peak day basis.

³ The LNG Lateral consists of two segments. One is designated as Line 2000-1, and extends from the tailgate of the LNG terminal to Gate 203A on Trunkline's Lakeside System in Calcasieu Parish. The other, Line 200-2, extends north from Gate 203A to Trunkline's Longville Compressor Station in Beauregard Parish, Louisiana.

⁴ See Trunkline Gas Company, LLC, 102 FERC ¶ 62,072 (2003).

8. Trunkline Gas requests authorization to construct approximately 22.8 miles of 30-inch diameter pipeline looping its LNG Lateral (LNG Loop Project), in order to accommodate the increased sendout capacity of Trunkline LNG's terminal proposed in the instant application. The Trunkline Gas expansion will facilitate delivery of BG LNG's volumes of regasified LNG from the Trunkline LNG terminal to downstream pipelines for further transportation to domestic markets. Trunkline Gas will be able to receive and transport 1.8 Bcf/d on a sustained basis, and 2.1 Bcf/d on a peak day basis. In addition, Trunkline Gas will be installing new metering and appurtenant facilities within the Trunkline LNG terminal to accommodate the increase in volumes tendered by Trunkline LNG to Trunkline Gas. Trunkline LNG will reimburse Trunkline Gas for the cost of the new metering facilities. These costs are included in the overall cost of Trunkline LNG's Modified Expansion Project.

9. Trunkline Gas entered into a Firm Transportation Service Agreement (Agreement) with BG LNG to provide transportation service for up to 1,500 MDth/d of regasified LNG pursuant to Rate Schedule FT, for a term of 19 years. Trunkline Gas requests authorization to construct, own, operate and maintain the following pipeline loop and metering facilities:

- Approximately 22.8 miles of 30-inch pipeline paralleling Trunkline Gas's existing Line 2000-1 terminating at Trunkline Gas's existing Line 200-2 on the Lakeside System at Gate 203A, which will be designed with a maximum allowable operating pressure (MAOP) of 1261 psig;
- Facilities to increase metering capacity at Trunkline Gas's existing delivery point at the Transcontinental Gas Pipe Line Corporation (Transco) Ragley interconnection in Beauregard Parish, Louisiana, to 500,000 Dth/day, which will be designed with a MAOP of 835 psig;
- Facilities to increase metering capacity at Trunkline Gas's existing delivery point at the Texas Eastern Transmission, LP, (TETCO) Beauregard interconnection in Beauregard Parish, Louisiana to 500,000 Dth/day, which will be designed with a MAOP of 935 psig;
- A new interconnect with Calcasieu Gas Gathering System (Calcasieu Gas) in Calcasieu Parish, Louisiana, with metering capacity of 100,000 Dth/day, which will be designed with a MAOP of 1030 psig;
- A new interconnect with the Sabine Pipe Line Company, LLC (Sabine) in Calcasieu Parish, Louisiana, with a metering capacity of 200,000 Dth/day, which will be designed with a MAOP of 1020 psig;

- A new interconnect with Tennessee Gas Pipeline Company (Tennessee) in Jefferson Davis Parish, Louisiana, with a metering capacity of 500,000 Dth/day, which will be designed with a MAOP of 936 psig;
- A new interconnect with Texas Gas Transmission, LLC (Texas Gas) in Calcasieu Parish, Louisiana, with a metering capacity of 125,000 Dth/d, which will be designed with a MAOP of 998 psig; and
- Three ultrasonic flow meters and associated facilities to be installed at the tailgate of Trunkline's LNG terminal in Calcasieu Parish, with a metering capacity of 1.8 Bcf/d on a sustained basis, and 2.1 Bcf/d on a peak day basis.

10. Additionally, minor above-ground and below-ground facilities (piping, pig launcher/receiver and associated valves and crossover piping) will be installed and located within and/or adjacent to existing facilities at the LNG terminal and the loop terminus at Trunkline Gas's Lakeside System Gate 203A. The new launcher and related valves and connecting piping will be situated entirely within the Trunkline LNG terminal. The new receiver and related valves and connecting piping associated with the loop project will be located within and adjacent to the existing fenced area at Gate 203A on the Trunkline Gas Lakeside System.

11. Firm transportation service through the LNG Loop Project facilities will be provided under Trunkline Gas's Rate Schedule FT. The cost of the facilities is estimated to be approximately \$39.9 million. The cost of service associated with the proposed LNG Loop Project totals approximately \$7.7 million. Trunkline Gas proposes rolled-in treatment in lieu of establishing an incremental rate for the cost of these new facilities, because it will receive revenues in excess of its costs, ensuring that its existing customers will not subsidize the project.

II. Interventions

12. Notices of the applications filed by Trunkline Gas and Trunkline LNG, in Docket Nos. CP04-64-000 and CP02-60-004, respectively, were published in the *Federal Register* on February 19, 2004 (69 Fed. Reg. 8636) and on March 16, 2004 (69 Fed. Reg. 12311), respectively. BP Energy Company, Central Illinois Light Company, Amerencilco, and Central Illinois Public Service Company filed late motions to intervene. Their late motions have demonstrated an interest in this proceeding and granting the motions will not delay, disrupt, or otherwise prejudice this proceeding.

Thus, for good cause shown, we will grant the late motions to intervene.⁵ A number of parties filed timely unopposed motions to intervene.⁶ The intervenors are listed in Appendix A. No protests to the applications have been filed.

III. Discussion

A. Commission Policy Statement

13. The facilities proposed by Trunkline LNG and Trunkline Gas will be used to import gas and transport natural gas in interstate commerce subject to the jurisdiction of the Commission; accordingly, the construction and operation of the facilities are subject to the requirements of section 3 and section 7 of the NGA.⁷

14. On September 15, 1999, the Commission issued a Policy Statement to provide guidance as to how we will evaluate proposals for certificating new construction.⁸ The Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission 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.

⁵ See 18 CFR § 385.214(d) (2004).

⁶ Timely notices of intervention and unopposed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. ' 385.214 (2004).

⁷ Consideration of Trunkline LNG's expansion application in Docket No. CP02-60-004 has been conducted under section 3 of the NGA, as done throughout this proceeding. See CMS Trunkline LNG Company, LLC, 101 FERC ¶61,300 at P 1, n. 2 (2003).

⁸ 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).

15. 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 had 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 the 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.

1. Subsidization

16. The Commission's Policy Statement directs that the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers. Trunkline Gas submitted workpapers showing that no subsidization by its existing customers of its proposed LNG Loop's costs will occur, because the proposal's annual revenues will exceed annual expenses. Specifically, the estimated cost of service in the first year of operation of the new facilities is \$7.7 million, and \$1.7 for the use of the existing LNG Lateral, while first year revenues are projected at \$19.7 million. In subsequent years, revenues will continue to exceed expenses. BG LNG will be paying the entire cost of service of this project under its service agreement with Trunkline Gas.

17. Similarly, the entire costs of Trunkline LNG's construction/operation project will continue to be paid by BG LNG, which has fully subscribed the incremental capacity to be made available. As noted in the Commission's initial approval of the Original Expansion Project, Trunkline LNG will charge a separately stated incremental rate to recover fully from BG LNG all expansion costs.⁹ No protests or comments have been filed arguing that subsidization will occur in violation of the Commission Policy Statement, and the record supports the Commission's conclusion that no subsidization by other existing customers will occur.

⁹ See 100 FERC ¶61,217 at P 25-26 (2002).

2. Adverse Effects

18. The projects will provide new services and no competing pipelines or their customers will be affected. Trunkline LNG states that no new land will be required since the construction/operation of its proposed facilities will occur entirely within the existing Trunkline LNG terminal site. The Lake Charles Harbor and Terminal District, Port of Lake Charles, Louisiana urges Commission approval of the Trunkline LNG application, because the national energy security will be enhanced and because of the direct benefits to the Lake Charles community. To minimize environmental impact, Trunkline Gas has proposed a route that follows, for most of its length, the existing route. All affected land owners have been notified by Trunkline Gas regarding the LNG Loop Project. No party submits any argument that adverse economic results will occur as a result of either application.

3. Conclusion

19. The record shows that the additional import and pipeline facilities proposed in these applications will assist in the reliable receipt, regasification, and subsequent transportation of LNG, as required by domestic markets. Trunkline Gas states that its expansion will increase customer access to LNG imports through Trunkline LNG's enhanced import terminal, thus providing the nation's end-users with flexible, reliable access to the largest LNG import facility in the nation. Trunkline Gas will establish four new interconnections with other pipeline systems and upgrade two existing interconnections, thus providing all its customers with more flexible, reliable access to other markets.

20. We also conclude that Trunkline LNG and Trunkline Gas have properly designed these projects to provide additional vaporization service and increased sendout capabilities to their customers. These projects would increase the take-away capacity from 0.7 to 1.8 Bcf/d on a sustainable basis and from 1.0 to 2.1 Bcf/d on a peak day basis from the interconnection with Trunkline LNG's import terminal in Calcasieu Parish, Louisiana, to the proposed new and existing interconnections on Trunkline Gas's mainline in Calcasieu, Jefferson Davis, and Beauregard Parishes, Louisiana.

21. Consistent with the criteria discussed in the Policy Statement, we find that the benefits of the properly designed projects proposed by Trunkline LNG and Trunkline Gas will outweigh potential adverse effects, none of which are identified in the record. Consequently, the proposals are in the public interest, and the grant of the construction/operation authorities requested by Trunkline LNG and Trunkline Gas is necessary.

B. Rates

22. Trunkline LNG's proposal to install additional unloading facilities, vaporizers and second stage pumps will increase the previously estimated capital cost of the expansion project, including AFUDC, by approximately \$86.8 million to \$253,160,290. The previously estimated cost of service for the expansion facilities will also increase by about \$28 million, from \$50.9 million to \$79,007,240. Trunkline LNG has also increased the design determinants used in its rate calculations from 208,050,000 Dths to 427,050,000 Dths in order to reflect the terminal's increased sendout capability made possible by the facilities proposed herein. Otherwise, Trunkline LNG continues to utilize the same straight-fixed variable rate design, capital structure (75 percent equity and 25 percent debt), and return percentages (12.31 percent return on equity, 8.75 percent interest rate on debt, and overall rate of return of 11.42 percent) that were conditionally approved by the October 27, 2003 Order in this proceeding.¹⁰

23. Accordingly, Trunkline LNG has revised its proposed incremental recourse rates under Rate Schedules FTS-2 and ITS-2, as follows: the proposed maximum Reservation Charge for firm service under Rate Schedule FTS-2 increases from \$0.4594 per Dth to \$0.6847 per Dth, and the FTS-2 Overrun Charge increases from \$0.4594 per Dth to \$0.0685 per Dth. The FTS-2 usage charge continues to be \$0.0000 per Dth. The Monthly Inventory Rate for service under Rate Schedule ITS-2 increases from \$2.7945 per Dth to \$4.1652 per Dth. Trunkline LNG also projects an increase in its fuel reimbursement percentage from 1.61 percent to 1.66 percent for LNG regasification.¹¹

24. The Commission finds Trunkline LNG's revised pro forma rates to be appropriate subject to Trunkline LNG filing a cost and revenue study at the end of three years of operating the expansion facilities, within 90 days after the end of the three-year period. The August 27, 2002 order approved pro forma tariff sheets for service under Rate Schedules FTS-2 and ITS-2, along with conforming revisions to the remainder of the tariff. Trunkline LNG is directed to file, in accordance with the Commission's filing requirements, actual tariff sheets corresponding to the approved pro forma sheets. Such tariff sheets should also include any subsequent tariff revisions accepted by the Commission since the August 27, 2002 Order.

¹⁰ See 105 FERC ¶61,137 (2003).

¹¹ 2nd Substitute Pro Forma Sheet No. 5

25. Trunkline Gas requests rolled-in rate treatment of the \$39.9 million in costs to build and operate the LNG Loop. To develop its cost of service, Trunkline Gas uses its existing approved cost factors underlying its most recent January 29, 2001 Rate Settlement.¹² Specifically, Trunkline Gas uses a straight fixed-variable rate design, a 59 percent debt to 41 percent equity capital structure, a long-term debt cost of 8.25 percent, an equity return of 11.92 percent, and maintains a depreciation rate of 1.5 percent based on the existing facilities depreciated at the current onshore transmission rate. These cost factors yield an overall rate of return of 10.43 percent.

26. Trunkline Gas's contract with BG LNG for the full send-out deliverability at the Trunkline terminal results in firm first year billing determinants of 493,200,000 Dth at \$0.04 per Dth discounted contract rate guaranteeing revenue of \$19,728,000 for the existing LNG Lateral and the proposed LNG Loop. Based on a projected \$7.7 million annual cost of service on the LNG Loop and the \$1.7 million cost of service for the existing LNG Lateral, Trunkline Gas shows more than \$10 million in excess revenues for the first year of service. Moreover, Trunkline Gas shows an excess of \$12.6 million in annual revenue in the subsequent years 2007 and 2008 as the contract phases in increased deliveries of regasified LNG to BG LNG in tandem with the in-service dates of Trunkline LNG's expansions.

27. We also compared Trunkline Gas's cost and revenue solely with respect to the proposed loop. The proposed loop is designed to accommodate Trunkline LNG's additional 600,000 Dth/d of sendout capacity. The \$8,760,000 revenue generated by BG LNG's firm contract for the loop capacity clearly exceeds Trunkline Gas's projected \$7.7 million annual cost to provide service on the loop.

28. We find that Trunkline Gas's proposed project is financially viable without any subsidy from Trunkline Gas' existing customers, because the revenue generated by the BG LNG contract will exceed the projected costs for the proposed LNG Loop. Accordingly, barring changed circumstances with respect to Trunkline Gas' representations in this case, we will permit Trunkline Gas to roll in the costs of the LNG Loop when it files its next NGA section 4 rate case.

C. Environmental

29. On April 30, 2004, we issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Trunkline LNG and Loop Project and Request for Comments on Environmental Issues (NOI). We received responses to the NOI from the U. S. Department of Commerce, National Oceanic and Atmospheric Administration,

¹² See Letter Order in Docket No. RP96-129-000 dated April 12, 2001.

National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS), and our staff addressed all substantive comments in the environmental assessment (EA).

30. In addition, we conducted a scoping meeting on May 19, 2004, in Sulphur, Louisiana. We received comments from Mr. Brett Palmer of the Lake Charles Pilots Association; Mr. Tony Diocee of BG LNG Services; Mr. Adam McBride, Port Director for the Lake Charles Harbor and Terminal District; and Mr. Brett Geymann, Louisiana State Representative from District 35. All of the commenters supported the project.

31. Our staff prepared an EA for Trunkline LNG's and Trunkline Gas's proposals. The EA addresses geology and soils, land use, water resources, fisheries, and wetlands, cultural resources, vegetation and wildlife, air quality and noise, endangered and threatened species, hazardous waste, and public safety. The EA was issued on July 29, 2004 for a 30 day public comment period.

32. On August 4, 2004, Trunkline Gas filed a letter from the USFWS dated July 2, 2004, indicating there are no federally listed threatened and endangered species, or their critical habitat, within the proposed meter station sites for Sabine, Tennessee, and Texas Gas. On August 31, 2004, we received a letter from the United States Department of Interior (Interior) providing comments on the EA. Interior stated that the EA adequately described resources in the project area, the purpose and need for the proposed project, and potential impacts associated with each alternative. Interior stated further that no further consultation under the Endangered Species Act (ESA) would be required, unless there are changes in the scope or location of the action or construction has not been initiated within one year. In addition, Interior recommended measures to avoid potential effects to a little blue heron rookery should construction activity extend into the breeding season for the species. We will add these requirements to the Environmental Conditions provided in Appendix B. Further, since no additional consultation is needed at this time, we will remove recommended condition 19 from the EA and not include it in Appendix B.

33. We received a comment on the EA dated August 6, 2004, from the State of Louisiana, Department of Wildlife and Fisheries, stating that it has no objections provided that adequate and appropriate mitigation is included within the permit conditions. We believe the use of the mitigation measures contained in Trunkline Gas's Erosion and Sediment Control Plan, as modified by the conditions in this order, is consistent with our staff's Upland Erosion Control, Revegetation, and Maintenance Plan (January 17, 2003 version) and Wetland and Waterbody Construction Procedures (January 17, 2003 version) and will provide adequate and appropriate mitigation measures for this project. Trunkline Gas will also be subject to all applicable Louisiana State permits.

34. The Department of Transportation (DOT) is solely responsible for establishing criteria and requirements for the safety of natural gas facilities. DOT sets standards for the design, construction, inspection, and operation of natural gas facilities in accordance with the Natural Gas Pipeline Safety Act of 1968. DOT's safety standards specify material selection and qualification, minimum design requirements, and protection from internal, external, and atmospheric corrosion. Any applicant for a certificate from the Commission is required to verify that the proposed facilities would meet DOT safety standards.

35. Trunkline LNG currently files its monthly progress reports regarding ongoing expansion at the LNG terminal. We believe this should continue. Therefore, we have modified environmental condition No. 9 of the EA and added a new condition No. 23 to separate the pipeline and the LNG facility reporting requirements.

36. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the (construction/replacement or operation) of facilities approved by this Commission.¹³ Trunkline LNG and Trunkline Gas 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 Trunkline LNG and Trunkline Gas. Trunkline LNG and Trunkline Gas shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

37. Based on the discussion in the EA, we conclude that if the proposed facilities are constructed or operated in accordance with Trunkline LNG's and Trunkline Gas's applications and supplements, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

38. At a hearing held on September 15, 2004, the Commission on its own motion received and made a part of the record all evidence, including the application and exhibits thereto, submitted in this proceeding, and upon consideration of the record.

¹³See, 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., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

The Commission orders:

(A) Trunkline LNG is granted authorization under section 3 of the NGA to construct and operate, as conditioned herein, the amended project proposed and described more fully in Trunkline LNG's application in Docket No. CP02-60-004.

(B) A certificate of public convenience and necessity is issued pursuant to section 7(c) of the NGA to Trunkline Gas, in Docket No. CP04-64-000, to construct, own and operate the proposed facilities as described and conditioned herein, and as more fully described in its application.

(C) The certificate issued in Ordering Paragraph (B) is conditioned upon compliance by Trunkline Gas with all applicable Commission's regulations, particularly Part 154 and paragraphs (a), (c), (e), and (f) of section 157.20.

(D) Trunkline LNG and Trunkline Gas shall complete the facilities and have them available for service by January 1, 2006, pursuant to paragraph (b) of section 157.20 of the Commission's regulations.

(E) Trunkline Gas may roll the costs of the facilities proposed in its application and approved by this order into its system-wide cost of service in its next NGA section 4 rate proceeding, unless there has been a significant change from the present facts and circumstances.

(F) As discussed in the body of this order, Trunkline LNG is directed to file

- (1) a cost and revenue study reflecting three years of operating the expansion facilities, within 90 days after the three-year period;
- (2) actual tariff sheets corresponding to the pro forma tariff sheets approved in this proceeding, at least 60 days prior to the in-service date of the expansion facilities.

(G) The authorities issued in Ordering Paragraphs (A) and (B) above are conditioned upon compliance by Trunkline LNG and Trunkline Gas with the environmental conditions set forth in Appendix B to this order. Trunkline LNG and Trunkline Gas shall notify the Commission's environmental staff by telephone and/or facsimile of any environmental noncompliance identified by other federal, state, or local

agencies on the same day that such agency notifies Trunkline LNG and Trunkline Gas. Trunkline LNG and Trunkline Gas shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(H) All untimely motions to intervene are granted.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Appendix A

Interventions

Trunkline Gas Company, LLC, Docket No. CP04-64-000 and Trunkline LNG Company, LLC, Docket No. CP02-60-004

BG LNG Services, LLC

BP Energy Company

Calpine Corporation

Central Illinois Light Company, Amerencilco

Central Illinois Public Service Company

Laclede Gas Company

Lake Charles Harbor & Terminal District, (LA)

Memphis Light, Gas and Water Division

Methodist Health System Foundation, Inc.

Michcon Gas Company

ProLiance Energy, LLC

Southern LNG Inc.

Transcontinental Gas Pipeline Corporation

Appendix B

Environmental Conditions

As recommended in the EA, this authorization includes the following condition(s):

1. Trunkline LNG and Trunkline Gas shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA unless modified by this Order. Trunkline LNG and Trunkline Gas 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 the Office of Energy Projects (OEP) before using that modification.
2. The Director of OEP has delegation authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of this Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Trunkline LNG and Trunkline Gas shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel would be informed of the environmental inspector's authority and have been or would be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, Trunkline LNG and Trunkline Gas 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.

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

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

This requirement does not apply to (route variations required herein or) extra workspace allowed by the 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.

6. **Within 60 days of the acceptance of this certificate and before construction** begins, Trunkline LNG and Trunkline Gas shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how Trunkline LNG and Trunkline Gas would implement the mitigation measures required by this Order. Trunkline LNG and Trunkline Gas must file revisions to the plan as schedules change. The plan shall identify:
- a. how Trunkline LNG and Trunkline Gas would incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - b. the number of environmental inspectors assigned per spread, and how the company would ensure that sufficient personnel are available to implement the environmental mitigation;
 - c. company personnel, including environmental inspectors and contractors, who would receive copies of the appropriate material;
 - d. the training and instructions Trunkline LNG and Trunkline Gas would 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 Trunkline LNG and Trunkline Gas's organization having responsibility for compliance;
 - f. the procedures (including use of contract penalties) Trunkline LNG and Trunkline Gas would follow if noncompliance occurs; and
 - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for (i) the completion of all required surveys and reports; (ii) the mitigation training of onsite personnel; (iii) the start of construction; and (iv) the start and completion of restoration.
7. Trunkline LNG and Trunkline Gas shall develop and implement an environmental complaint resolution procedure. The procedure 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 ROW. **Prior to construction**, Trunkline LNG and Trunkline Gas shall mail the complaint procedures to each landowner whose property would be crossed by the project.
- a. In its letter to affected landowners, Trunkline LNG and Trunkline Gas 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 Trunkline 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 Trunkline LNG and Trunkline Gas's Hotline, they should contact the Commission's Enforcement Hotline at (888) 889-8030.
 - b. In addition, Trunkline LNG and Trunkline Gas shall include in its 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, would be resolved, or why it has not been resolved.
8. Trunkline Gas shall employ at least one (or as may be established by the Director of OEP) environmental inspector per construction spread. The environmental inspector(s) 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 6 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.

9. Trunkline Gas shall file updated status reports prepared by the head environmental inspector with the Secretary on a biweekly basis **until all construction and restoration activities on the pipeline are complete**. On request, these status reports would 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. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other Federal, state, or local agencies);
 - c. corrective actions implemented in response to all instances of noncompliance, and their cost;
 - d. the effectiveness of all corrective actions implemented;
 - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this Order, and the measures taken to satisfy their concerns; and
 - f. copies of any correspondence received by Trunkline Gas from other Federal, state or local permitting agencies concerning instances of noncompliance, and Trunkline Gas's response.
10. Trunkline LNG and Trunkline Gas must receive written authorization from the Director of OEP **before commencing service** from the project. Such authorization would only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
11. Within 30 days of placing the certificated facilities in service, Trunkline LNG and Trunkline Gas shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities would be consistent with all applicable conditions; and
 - b. identifying which of the certificate conditions Trunkline LNG and Trunkline Gas has complied with or would 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.

12. Prior to using the wareyard, Trunkline Gas shall install construction fence along the boundary of the wetland in the wareyard to prevent any wetland disturbance during construction activities.
13. Trunkline Gas shall obtain written recommendations from the local soil conservation authorities or land management agencies regarding permanent erosion control and revegetation specifications in accordance with Section III.F.1. of our Upland Erosion Control, Revegetation, and Maintenance Plan (Plan).
14. If the full ROW width method of topsoil segregation is used, then Trunkline Gas may use up to a 100-foot-wide ROW as allowed by section IV.A.2. of our Plan.
15. Trunkline Gas shall install temporary slope breakers as necessary to prevent erosion in accordance with sections IV.F.1. and II.B.12 of our Plan.
16. Trunkline Gas shall test topsoil and subsoil for compaction at regular intervals in residential areas, and perform appropriate soil compaction mitigation in severely compacted residential areas in accordance with sections V.C.1 and V.C.3 of our Plan.
17. Trunkline Gas shall prepare a schedule identifying when trenching would occur within each waterbody greater than 10-feet-wide. Trunkline Gas shall file the schedule with the Secretary **within 30 days** of the acceptance of the certificate and revise it as necessary to provide **at least 14 days advance notice**. Changes within this last 14-day period must provide for **at least 48 hours advance notice**.
18. Trunkline Gas shall complete its wetland surveys for the modifications at the TETCO and Transco Meter Station sites, and file them with the Secretary for the review and written approval of the Director of OEP, **prior to construction**.
19. Trunkline Gas shall file its site-specific construction plans for any residence closer than 25 feet to the construction work area for the review and written approval of the Director of OEP, **prior to construction**.
20. Trunkline LNG and Trunkline Gas shall **defer** the initiation of construction **until** it has filed the SHPO's comments on project's effect on historic properties and the Director of OEP has notified Trunkline LNG and Trunkline Gas in writing that it may proceed.
21. Trunkline LNG and Trunkline Gas shall use the revised Unanticipated Discoveries Plan filed May 28, 2002 under Docket No. CP02-60-000 for construction of both

the pipeline and LNG plant facilities.

22. Trunkline LNG shall provide a technical review of the design of the proposed facilities 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 are 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. Trunkline LNG shall file this review with the Director of OEP for review and approval, **prior to construction.**
23. Progress on the Modified Expansion Project shall be reported by Trunkline LNG in monthly reports filed with the Secretary. Details shall include a summary of activities, problems encountered, and remedial actions taken. Problems of significant magnitude shall be reported to the Commission on a timely basis. Additional site inspections and technical reviews will be held by Commission staff **prior to commencement of operation** of the expansion facilities.
24. If the construction has not been initiated within one year of certificate issuance, or if the scope or location of the proposed activity is changed, Trunkline Gas shall initiate a follow-up ESA consultation with the FWS to ensure that the threatened and endangered species information is up to date. Construction may not begin until any such resulting ESA consultations have been completed by OEP.

If construction near the little blue heron rookery, adjacent to the Natali Sand Pit (MP 14) were to occur during the breeding season (March 1 to July 31), all construction activities shall be located more than 1,000 feet away from the rookery to minimize potential disturbance to incubating adult birds and/or hatchlings. Should other colonial wading bird species be observed, Trunkline Gas shall initiate consultation with the FWS's Lafayette, Louisiana Field Office for guidance regarding recommended construction activity windows.