

105 FERC ¶ 61,137
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

Trunkline LNG Company, LLC

Docket No. CP02-60-003

ORDER AMENDING AUTHORIZATION UNDER SECTION 3
OF THE NATURAL GAS ACT

(Issued October 27, 2003)

1. On April 17, 2003, Trunkline LNG Company, LLC (Trunkline LNG) filed an application under Section 3 of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations seeking to amend its authorization to construct and operate expansion facilities at its existing liquefied natural gas (LNG) terminal in Calcasieu Parish, Louisiana. For the reasons discussed below, we find that amending Trunkline LNG's NGA Section 3 authorization is consistent with the public interest because it provide for the same quantity of imported natural gas at a reduced cost. Therefore, we will grant the requested amended authorization.

BACKGROUND AND PROPOSAL

2. In orders issued on August 27, 2002 and December 18, 2002, the Commission authorized Trunkline LNG to expand the storage capacity and sendout deliverability of its LNG terminal in Calcasieu Parish, Louisiana.¹ The expansion project was fully subscribed to by BG LNG Services, Inc. (BG LNG).

3. Trunkline LNG states that after a year of operating experience, Trunkline LNG and BG LNG have determined that with some modification to the expansion facilities they can reduce the costs and rates of the expansion project without changing the capacity and throughput of the terminal facility. As such, Trunkline LNG requests authorization to amend its NGA Section 3 authorization by:

¹ See Trunkline LNG Co., 100 FERC ¶ 61,217 (2002), order denying reh'g and granting authorization under Section 3 of the NGA, 101 FERC ¶ 61,300 (2002), order denying reh'g, 102 FERC ¶ 61,306 (2003) for a more detailed description of the project.

- eliminating the new proposed unloading facilities, including the proposed recondenser and the desuperheater; and
- purchasing commercial electric power needs from the local distribution company, Entergy Louisiana, Inc., (Entergy) in lieu of installing the additional on-site generation facilities.

4. Trunkline LNG states that its amended project will continue to include all other previously approved facilities including the construction of a new LNG tanker docking facility (now a layberth), designed to handle LNG tankers with a capacity from 71,500 to 160,000 cubic meters. Trunkline LNG also states that the new electric power supply will be provided through the addition of a new substation to be built, owned and operated by Entergy.

5. Trunkline LNG states that the proposed modifications will not affect the newly authorized storage capacity of 2.7 Bcf nor the daily sendout capability of 1,200 MMcf per day and peaking capacity of 1,300 MMcf per day. It contends that eliminating the additional unloading related facilities and the gas turbine generation will reduce overall new facilities costs by approximately \$11 million and will reduce the estimated cost of service by approximately \$3.2 million per year. Trunkline LNG estimates that the new cost of the project to be \$166,356,379.

6. The August 27 order in this proceeding required Trunkline LNG to construct and to place the facilities in service on or before December 18, 2005.² We will grant Trunkline LNG's request to move the in-service date to January 1, 2006.

NOTICE, INTERVENTIONS, COMMENTS AND PROTESTS

7. Notice of Trunkline LNG's application was published in the Federal Register on May 1, 2003 (68 Fed. Reg. 23,293). Interventions were due on or before May 16, 2003.

² 100 FERC ¶ 61,217 at ordering paragraph E.

The Lake Charles Harbor and Terminal District (District) filed a timely motion to intervene and comments which it subsequently withdrew on June 12, 2003.³

DISCUSSION

8. The Commission has jurisdiction over the siting, construction, and operation of natural gas import and export facilities under NGA Section 3.⁴ Trunkline LNG's proposed amendment consists of relatively minor changes that do not reduce to public benefits underlying the Commission's approval in the previous orders in this proceeding. Further, Trunkline LNG has concluded, and BG LNG has agreed, that the proposed expansion service can be provided without the new unloading facilities. The new dock will be constructed as previously approved, but will be used as a layberth. This new configuration will still permit two LNG vessels to be docked at once and will facilitate the prompt unloading of both, albeit one at a time, with the existing unloading facilities. The proposed changes will reduce costs and rates, but will not adversely affect service. Accordingly, we find that Trunkline LNG's proposal is consistent with the public interest.

9. The elimination of the additional unloading dock and the gas turbine generators will reduce overall estimated costs by approximately \$11 million to \$166,356,379 (including an AFUDC of \$29.6 million), and the estimated annual cost of service by about \$3.2 million from \$54.1 to \$50.9 million. Trunkline LNG bases the total capital cost on a revised capital structure of 75 percent equity and 25 percent debt. Trunkline LNG proposes to continue the 12.31 percent return on equity and requests approval of an 8.75 percent interest rate on debt resulting in an overall rate of return of 11.42 percent.

³ Under Rule 216 of the Commission's regulations, a withdrawal of a pleading is effective 15 days after the date of the filing of a notice of withdrawal if no motion in opposition to the notice of withdrawal is filed. We note that BG LNG filed an answer to District's comments. Because District withdrew its comments, we will dismiss BG LNG's answer as moot.

⁴ The Commission's authority to perform functions with respect to facilities for the importation and exportation of natural gas was delegated by the Secretary of Energy in Delegation Order No. 0204-112, 49 Fed. Reg. 6684 (Feb. 22, 1984). See Yukon Pacific Corporation, 39 FERC ¶ 61,216 (1987).

10. In its original expansion application, Trunkline LNG failed to provide the Commission with the details of its debt financing for the project. Accordingly, in our August 27 order, we required Trunkline LNG to provide this information when it files its actual tariff sheets.⁵ We note that in its Revised Exhibit L to this amended application, Trunkline LNG states that precise financing plans are still not final. As we stated in our previous order, Section 157.14 of the Commission's regulations requires companies to file, among other things, a description of the class (e.g., commercial paper, long-term debt, preferred stock) and cost for securities expected to be issued with construction period and post-operational sources of financing. Trunkline LNG has not yet supplied this data with respect to the planned debt financing it expects to acquire following the issuance of its certificate. Therefore, the requirement of the August 27 order for Trunkline LNG to provide this information remains in effect.

11. Trunkline LNG's amendment lowers incremental rates commensurate with the lower costs for the amended project. Consistent with its initial application, Trunkline LNG proposes a traditional cost-of-service based rates, using a straight-fixed variable rate design. Trunkline LNG bases the incremental recourse rates on the revised annual cost estimate of \$50,889,030 and billing determinants of 208,050,000 Dth. The proposed maximum reservation charge for firm service decreases from \$0.5208 to \$0.4594 per Dth, and the usage charge decreases from \$0.0136 to \$0.0043 per Dth. The monthly inventory rate for interruptible storage service decreases from \$3.1683 to \$1.6633. Trunkline LNG also projects an increase in its fuel reimbursement percentage from 1.3 to 1.61 to regasify the LNG. We find Trunkline LNG's amendment to its proposed rates appropriate. However, we note that all of the rate conditions imposed in the previous orders issued in this proceeding remain in effect.

ENVIRONMENTAL

12. The environmental assessment (EA) of the original application issued on August 1, 2002, included an analysis of public safety issues associated with the Trunkline LNG Expansion Project. The analysis identified the principal properties and hazards associated with LNG; presented a summary of the design and technical review of the cryogenic aspects of the LNG terminal; analyzed the thermal radiation and flammable vapor cloud hazards resulting from credible land-based LNG spills; analyzed the safety aspects of LNG transportation by ship; and reviewed issues related to security and terrorism. Several recommendations were made in the EA and were included as

⁵ 100 FERC ¶ 61,217 at P 64-68.

conditions in the December 18, 2002 order. Trunkline LNG must comply with all applicable remaining terms and conditions of that order.

13. In addition, we will include another condition to provide that the Director of the Office of Energy Projects (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 in case of significant safety-related incidents.

14. The Commission also prepared an EA for Trunkline LNG's amended proposal. The EA addresses geology, soils, water resources, wetlands, fisheries, dredging, vegetation, wildlife, land use, socioeconomics, threatened and endangered species, cultural resources, air quality, noise quality, reliability and safety, and alternatives.

15. Based on the discussion in the EA, as subject to the conditions in the Appendix to this order, we conclude that facility changes identified for the amended expansion project would not constitute a major Federal action significantly affecting the quality of the human environment.

16. 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 or operation of facilities approved by this Commission.⁶

17. At a hearing held on October 22, 2003, 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,

⁶ See, 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 NGA Section 3 of the NGA to construct and operate the amended project, as described in Trunkline LNG's application.

(B) As discussed herein, Trunkline LNG must complete construction of the proposed facilities and place them in service by January 1, 2006.

(C) Trunkline LNG 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. Trunkline LNG shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(D) Trunkline LNG shall comply with the environmental conditions set forth in the Appendix to this order.

(E) Except as provided herein, all the terms and conditions of the prior orders in this proceeding remain in effect.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

APPENDIX

As recommended in the EA, this authorization includes the following conditions:

1. Trunkline LNG shall follow the construction procedures and mitigation measures described in its application and supplement (including responses to staff data requests) and as identified in the EA, unless modified by this Order. Trunkline LNG 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 OEP **before using that modification.**
2. The Director of OEP has delegated 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. Trunkline LNG shall certify that all necessary permits and clearances to construct and operate Entergy-Louisiana, Inc.'s nonjurisdictional substation and power lines have been filed. Trunkline LNG shall not receive power from the planned Entergy-Louisiana, Inc. facilities until this certification has been filed with the Secretary.
4. Significant non-scheduled events, including safety-related incidents (*i.e.*, LNG or natural gas releases, fires, explosions, mechanical failures, unusual overpressurization, major injuries) shall be reported to the Commission's staff **within 48 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. property damage exceeding \$10,000;
- d. death or injury requiring 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 shut down of operation of a pipeline or an LNG facility that contains or processes gas or LNG;
- l. safety-related incidents to LNG trucks or LNG vessels occurring at or in route to and from the LNG facility; or

- m. the judgment of the LNG personnel 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, the Commission's staff will determine the need for a separate follow-up report or follow-up in the upcoming semi-annual operational report. All company follow-up reports should include investigation results and recommendations to minimize a reoccurrence of the incident.