121 FERC ¶ 61,071
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Cheniere Creole Trail Pipeline, L.P. Docket No. CP05-357-006

Cheniere Sabine Pass Pipeline, L.P. Docket No. CP07-426-000

ORDER GRANTING ABANDONMENT AUTHORITY
AND AMENDING CERTIFICATE

(Issued October 19, 2007)

1. On July 31, 2007, Cheniere Creole Trail Pipeline, L.P. (Creole Trail) and its affiliate, Cheniere Sabine Pass Pipeline, L.P. (Sabine Pass), filed a joint application seeking authorizations under sections 7(b) and 7(c) of the Natural Gas Act (NGA) to merge Sabine Pass into Creole Trail. Both Creole Trail and Sabine Pass currently are constructing pipeline facilities authorized by the Commission. Specifically, Sabine Pass requests permission to abandon, and Creole Trail requests authorization to acquire, Sabine Pass' certificate authorization for its 16-mile long, 42-inch diameter pipeline (Sabine Pass Segment) in Cameron Parish, Louisiana. Creole Trail also seeks the authorization to revise its approved initial section 7 rates so that its Zone 1 transportation rates will reflect the acquisition of Sabine Pass's facilities and to revise its *pro forma* FERC Gas Tariff in certain respects. For the reasons stated below, we: (1) will grant the requested authorizations, subject to conditions, as permitted or required by the public convenience and necessity, to allow the merger of Sabine Pass into Creole Trail and (2) will accept the proposed tariff revisions except as discussed in this order.

I. Background and Proposal

2. On December 21, 2004, the Commission granted Sabine Pass LNG, L.P. (Sabine Pass LNG) authority under NGA section 3 to site, construct, and operate a liquefied natural gas (LNG) facility in Cameron Parish. The order also granted Sabine Pass a certificate under NGA section 7 to construct and operate pipeline facilities extending

eastward 16 miles from the LNG terminal to Johnsons Bayou, Cameron Parish, Louisiana (December 21 Order).[1]

3. On June 15, 2006, the Commission granted Creole Trail LNG, L.P. (Creole Trail LNG) authority under section 3 of the NGA to site, construct, and operate an LNG facility in Cameron Parish. The order also granted Creole Trail a certificate under NGA section 7 to construct and operate pipeline facilities extending northeastward 116.8 miles from the LNG terminal to a terminus in Acadia Parish, Louisiana (June 15 Order).[2] As subsequently amended, Creole Trail's system will consist of a single 134.9-mile, 42-inch diameter pipeline comprising Segments 1, 2, and 3.[3]

4. Segment 1 of Creole Trail's system extends 18.1 miles from an interconnection at the terminus of Sabine Pass' system at Johnsons Bayou to the Creole Trail LNG terminal. Segment 2 extends 25.3 miles northward from the Creole Trail LNG terminal to an interconnection with unaffiliated Sabine Pipeline Company. Segment 3, consisting of 91.5 miles of pipeline, is divided into Segments 3a and 3b for purposes of establishing rates. Segment 3a extends 32.7 miles northeastward from the interconnection with Sabine Pipeline Company to an interconnection with Texas Eastern Transmission Corporation (Texas Eastern) in Beauregard Parish, Louisiana. Segment 3b continues 58.8 miles eastward from that interconnection to the system's terminus at an interconnection with Columbia Gulf Transmission Company (Columbia Gulf) in Acadia Parish.

5. Creole Trail's cost of service is allocated between Zone 1 and Zone 2. Zone 1 is comprised of facilities in Segments 1, 2, and 3(a) and traverses 76.1 miles from the interconnection with Sabine Pass at Johnsons Bayou to the interconnection with Texas Eastern in Beauregard Parish. Zone 2 comprises the facilities in Segment 3b and

---

[1] *Sabine Pass LNG and Cheniere Sabine Pass Pipeline Company*, 109 FERC ¶ 61,324 (2004).

[2] *Creole Trail LNG and Creole Trail*, 115 FERC ¶ 61,331 (2006).

[3] *Creole Trail*, 117 FERC ¶ 61,341 (2006) (vacating prior order, in part, to eliminate one of the originally certificated dual 42-inch diameter pipelines and reduce the capacity from 3.3 Bcfd to 2.0 Bcfd); *Creole Trail*, 118 FERC ¶ 61,125 (2007) (authorizing construction of 18.1 miles of 42-inch pipeline extending westward from Creole Trail LNG's terminal to an interconnection with Sabine Pass' system at its terminus at Johnsons Bayou, and authorizing allocation of cost of service between two zones).

traverses 58.8 miles from the interconnection with Texas Eastern to the interconnection with Columbia Gulf in Acadia Parish.

6. In this proceeding, Creole Trail and Sabine Pass propose to merge, with Creole Trail as the surviving entity. Upon completion of the merger, through Sabine Pass' abandonment and Creole Trail's acquisition of the Sabine Pass Segment, Creole Trail will operate an integrated 150.9-mile, 42-inch diameter pipeline system with a capacity of 2.0 Bcfd.[4] Applicants assert that the merger will serve to streamline pipeline operations, reducing operational and administrative costs and eliminating the need for interconnect facilities between the two systems. Applicants also allege that a single integrated pipeline will benefit shippers by enhancing flexibility in gas flows, reducing overall transportation rates for gas moving across the combined pipeline facilities, and lessening the administrative burden associated with nominating gas and monitoring conditions on two separate pipelines. Sabine Pass proposes to abandon its Part 157 certificate for the Sabine Pass Segment and requests authorization to abandon its blanket certificates issued under Subpart G of Part 284 and under Subpart F of Part 157 of the Commission's regulations.

7. Creole Trail also proposes to revise its previously authorized Zone 1 initial transportation rates to reflect inclusion of costs associated with the Sabine Pass Segment. Creole Trail states that the merger will have no impact on the cost of service factors underlying its existing Zone 1 facilities. Creole Trail proposes no change in its authorized Zone 2 initial rates.

8. Applicants state that the merger will result in a reduction to the overall transportation rates paid by a shipper moving gas originating at the Sabine Pass LNG terminal to delivery points in Zone 1 as compared to cumulative Sabine Pass and Creole Trail rates. In deriving the revised cost of service and rates for Zone 1, Creole Trail proposes to calculate the cost of service associated with the revised Zone 1 rates utilizing Creole Trail's previously approved capital structure (70/30 debt-equity ratio), cost of debt (7.75 percent), return on equity (14 percent), and depreciation rate (2.5 percent). The

[4] Sabine Pass' currently certificated capacity is 2.6 Bcfd. However, this design capacity was predicated on certain anticipated gas flows, including delivery of 1.1 Bcfd to an interconnect with Natural Gas Pipeline Company of America (NGPL) at Milepost 1.0 near the Sabine Pass LNG terminal. Sabine Pass states that, due to absence of shipper interest, the delivery point to NGPL at Milepost 1.0 is no longer proposed to be constructed. Thus, as currently proposed, Sabine Pass will have an operational capability of transporting up to 2.0 Bcfd, rather than 2.6 Bcfd as initially designed.

total estimated cost of the resultant Creole Trail Zone 1 facilities, including the Sabine Pass Segment, is approximately $571.6 million.

9. The Sabine Pass Segment and Creole Trail's pipeline are currently under construction. Creole Trail proposes to place facilities located in Zone 1, including the acquired Sabine Pass Segment, into service in February 2008, concurrent with the anticipated in-service date of the Sabine Pass LNG terminal. Creole Trail anticipates placing the facilities located in Zone 2 into service in 2009, all prior to the currently anticipated 2011 in-service date of the Creole Trail LNG terminal.[5] The authorizations requested herein will have no impact on the NGA section 3 authorizations granted to Sabine Pass LNG and Creole Trail LNG.

II. Notice and Intervention

10. Notice of Creole Trail's and Sabine Pass' joint application was published in the *Federal Register* on August 2, 2007.[6] Cheniere Marketing Inc. (Cheniere Marketing), and ExxonMobil Gas and Power Marketing Company, a Division of ExxonMobil Corporation, filed timely motions to intervene. Timely motions to intervene are automatically granted pursuant to Rule 214 of the Commission's Rules of Practice and Procedure.[7] No protests were filed.

III. Discussion

A. Sabine Pass Abandonment

11. Since the facilities Sabine Pass seeks to abandon have been certificated to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, Sabine Pass' proposed abandonment requires Commission authorization under NGA section 7(b).

12. Sabine Pass requests authority to abandon its pipeline system by merger with Creole Trail. Upon consummation of the merger, Sabine Pass will cease to exist and Creole Trail will operate the Sabine Pass Segment as an integral part of its currently certificated system. Cheniere Marketing is the sole customer of both Sabine Pass and Creole Trail, holding 100 percent of the capacity on each system under 20-year term

---

[5] 118 FERC ¶ 61,125 at P 5 (2007).

[6] 72 Fed. Reg. 44,837.

[7] 18 C.F.R. § 385.214 (2007).

agreements. Cheniere Marketing states that it fully supports the proposal as providing the benefits of enhanced flexibility in gas flows, reduced transportation rates, and lessened administrative burdens. No service will be disrupted, there is no opposition to the proposal, and there are operational and rate benefits which will arise from the abandonment by merger. Further, we find below that the public convenience and necessity permit Creole Trail's acquisition of Sabine Pass's facilities. Thus, we find that the proposed abandonment is in the public interest. Accordingly, Sabine Pass is granted permission and approval to abandon its certificate authorizations and the Sabine Pass Segment to implement its proposed merger into Creole Trail.

B. Creole Trail's Acquisition of the Sabine Pass Segment

13. Since the facilities Creole Trail seeks to acquire are to be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, Creole Trail's proposal requires Commission authorization under NGA section 7(c) and (e).

1. Consistency with the Certificate Policy Statement

14. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new construction by establishing criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest.[8] In a situation where an applicant proposes to acquire facilities that have already been certificated and are under construction by another pipeline, as is the case here, the Policy Statement's concerns with disruptions of the environment and the exercise of eminent domain have already been addressed in the Commission's prior approval of the facilities.

15. However, the threshold requirement under the Policy Statement, that a pipeline must be prepared to financially support the project without relying on subsidization from its existing customers, is equally applicable to a pipeline's acquisition of certificated facilities already under construction. Similarly, whether the applicant has made efforts to eliminate or minimize any adverse effects the proposal might have on the acquiring applicant's existing customers and existing pipelines in the market and their captive customers is also relevant to our evaluation.

---

[8] *Certification of New Interstate Natural Gas Pipeline Facilities* (Certificate Policy Statement), 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000), *order further clarifying*, 92 FERC ¶ 61,094 (2000).

16. Creole Trail's proposed revised Zone 1 rates will be lower than the cumulative Sabine Pass and Creole Trail Zone 1 rates previously approved. Shippers will also benefit from the proposal through enhanced flexibility in gas flows and lessened administrative burdens. Cheniere Marketing, the sole customer of a newly merged and integrated Creole Trail system, will continue to hold all of the capacity under long-term contracts and supports the proposal. Thus, we find that the proposal is consistent with the goals set out in the Policy Statement. Additionally, no new pipeline facilities or services are proposed,[9] and there have been no protests from other pipelines or their shippers. Therefore, we find that the proposal will have no effect on existing pipelines in the market and their captive customers. Considering the benefits the proposed project will provide and the lack of adverse effects, we find that the public convenience and necessity requires the approval of Creole Trail's proposal to acquire by merger the Sabine Pass Segment and to operate such facilities as an integrated part of its currently approved system, subject to the conditions described in this order.

2. Revised Zone 1 Initial Rates

17. Creole Trail has filed to revise its authorized Zone 1 transportation rates to include the recovery of costs associated with the Sabine Pass Segment. Zone 1 will now include the Sabine Pass Segment along with Segment 1, Segment 2 and Segment 3a of Creole Trail's existing system.[10] With the addition of the Sabine Pass Segment, Creole Trail's Zone 1will accommodate the receipt and transportation of regasified LNG from both the Sabine Pass LNG and the Creole Trail LNG terminals.

18. The proposed revised FTS rates for Zone 1 are based on the straight-fixed variable (SFV) rate design and are derived using an average cost of service for the first three years of operation of $93,882,203 and annual FTS reservation billing determinants of 25,200,000 Dth, based on Creole Trail's maximum daily design capacity. The proposed maximum cost-based FTS reservation rate for Zone 1 is $3.7255 per Dth. Creole Trail projects that it will have no variable costs, so the proposed FTS usage rate is $0.00 per Dth.

---

[9] The proposed merger will not result in any additional environmental impacts. Creole Trail, as successor to Sabine Pass, will be subject to the environmental conditions of the certificate issued to Sabine Pass in the December 21 Order as well as to the environmental conditions of the certificate issued to Creole Trail in the June 15 Order, as amended.

[10] The facilities and approved initial section 7 rates associated with Zone 2 of Creole Trail are not affected by this application.

19. The ITS rate is derived at a 100 percent load factor of the FTS rate. The proposed maximum ITS rate for Zone 1 is $0.1225 per Dth and the same rate is proposed for Creole Trail's parking and lending service and for overrun service. For both its firm and interruptible services, Creole Trail now estimates 0.15 percent retainage for fuel. Creole Trail proposes in section 31 of its *pro forma* General Terms and Conditions to provide 100 percent crediting of interruptible and short-term firm revenues, net of variable costs, to its firm and interruptible customers. This proposal is consistent with the Commission's policy requiring new interruptible services to either credit 100 percent of the interruptible revenues, net of variable costs, to firm and interruptible customers or to allocate costs and volumes to these services.[11]

20. 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 Creole Trail, subject to the modifications and conditions imposed below.

a. Cost of Debt

21. Creole Trail anticipates raising approximately $400 million of debt for its Zone 1 facilities. This debt is based on the facilities constructed being financed with seventy percent debt at an effective interest rate assumed at 7.75 percent and retired over a period of thirty years. The debt will be raised from sources such as commercial banks and/or insurance companies and the terms and conditions applicable to the debt will depend upon the financial market conditions existing at the time the debt is raised. However, Creole Trail will seek the most favorable terms available in the marketplace at the time of financing. The cost of financing is currently reflected in the interest rate and the debt is based on financing as non-recourse debt to Creole Trail. Consistent with Commission policy, when Creole Trail files its actual tariff sheets, it must modify the cost of service and resulting rates conditionally authorized herein to the extent necessary to reflect the actual cost of debt incurred to construct the project.[12]

[11] *See, e.g., Creole Trail LNG, L.P. and Cheniere Creole Trail Pipeline, L.P.*, 115 FERC ¶ 61,331 at P 27 (2006); *Entrega Gas Pipeline Inc*., 112 FERC ¶ 61,177 at P 51 (2005).

[12] *Entrega Gas Pipeline Inc*., 112 FERC ¶ 61,177 at P 49 (2005); *Colorado Interstate Gas Company and Cheyenne Plains Gas Pipeline Company*, 105 FERC ¶ 61,095 at P 48 (2003).

b. <u>Fuel Retainage</u>

22. Creole Trail states that it plans to install inline gas heaters[13] necessitating an initial fuel retainage of 0.15 percent as compensation for fuel and lost and unaccounted for gas used in Creole Trail's operations. The fuel retainage of 0.15 percent is an increase from the originally authorized 0.00 percent reflecting primarily recovery of fuel gas associated with inline gas heaters. In addition, Creole Trail proposes to adjust its fuel retainage level twice a year in order to better align fuel usage and retainage and to ensure that it does not over-recover fuel gas from its customers.

23. While Creole Trail's initial fuel retainage of 0.15 percent is an estimate, it is comparable to the fuel and lost and unaccounted for gas factors approved by the Commission on other new pipeline systems.[14] In addition, Creole Trail has developed a fuel recovery process that is designed to ensure that it does not over-recover fuel gas from its customers. The Commission will accept Creole Trail's proposed initial fuel and lost and unaccounted for gas retainage factor.

c. <u>Rate Changes and Three-Year Filing Requirement</u>

24. If Creole Trail desires to make any other changes to facilities not specifically authorized by this order prior to placing its Zone 1 facilities into service, it must file an amendment to its certificate under NGA section 7(c). In that filing, Creole Trail must provide cost data and the required exhibits supporting any revised rates. After the facilities are constructed and placed in service, Creole Trail must make a NGA section 4 filing to change its rates to reflect revised construction and operating costs. Consistent with Commission precedent, the Commission will require Creole Trail 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.[15] In its future filing, the projected units of service should be no lower than those upon which Creole Trail's approved initial rates are based. The filing must include a cost and revenue study in the form specified in the

---

[13] Such heaters qualify as ancillary installation under § 2.55 of the regulations.

[14] *See, e.g., Sonora Pipeline LLC*, 120 FERC ¶ 61,032 at P 38 (2007) (0.25 percent); *Port Arthur LNG, L.P.*, 115 FERC ¶ 61,344 (2006) (0.2 percent).

[15] *See, e.g., Empire State Pipeline and Empire Pipeline, Inc.*, 116 FERC ¶ 61,074 at P 133 (2006); *Entrega Gas Pipeline Inc.*, 112 FERC ¶ 61,177 at P 52 (2005).

regulations to update cost of service data.[16] 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, Creole Trail 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.

d. Negotiated Rates

25. Section 30 of the *pro forma* General Terms and Conditions would allow Creole Trail to enter into negotiated rate agreements consistent with Commission policy (Original Pro Forma Sheet Nos. 212 and 213). In order to comply with the Alternative Rate Policy Statement[17] and our decision in *NorAm Gas Transmission Company*,[18] if Creole Trail intends to enter into a negotiated rate agreement, it must file the negotiated rate contracts, or numbered tariff sheets, not less than 30 days or more than 60 days, prior to the commencement of service, stating for each shipper the negotiated rate, the applicable gas volume to be transported, and an affirmation that the affected service agreements do not deviate in any material respect from the form of service agreement in Creole Trail's *pro forma* tariff. Creole Trail must also disclose all consideration received that is associated with the agreement. Finally, Creole Trail must also maintain separate and identifiable accounts for volumes transported, billing determinants, rate components, surcharges and revenues associated with its negotiated rates in sufficient detail so that they can be identified in Statements G, I, and J in any future section 4 or 5 rate case.

3. Pro Forma Tariff Issues

26. Creole Trail is incorporating in its FERC Gas Tariff, First Revised Pro Forma Volume No. 1, those changes required by the Commission in the June 15 Order issuing

[16] 18 CFR §154.313.

[17] *Alternative to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines, Alternative Rate Policy Statement*, 74 FERC ¶ 61,076 (1996), *order granting clarification*, 74 FERC ¶ 61,194 (1996) *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996), *reh'g denied*, 75 FERC ¶ 61,066 (1996); *petition for review denied, Burlington Resources Oil & Gas Co. v. FERC,* Nos. 96-1160, *et al.*, U.S. App. Lexis 20697 (D.C. Cir. July 20, 1998).

[18] 77 FERC ¶ 61,011 (1996).

Creole Trail a certificate of public convenience and necessity[19] as well as other tariff changes that it states will benefit shippers and are in compliance with Commission policy. The Commission finds that the revised *pro forma* tariff adequately addresses the requirements of the June 15 Order, except as discussed below. In addition, the Commission addresses several proposed tariff changes.[20]

a. Creditworthiness

27. Proposed section 17E provides that Creole Trail will give a shipper it has determined to be non-creditworthy written notice of and the reasons for the determination within 10 days. The shipper will be allowed to challenge the non-creditworthy determination in writing within five days of receipt of the notice (Original Pro Forma Sheet No. 162).

28. Providing a shipper with only five days to challenge a determination that the shipper has been determined to be non-creditworthy conflicts with North American Energy Standards Board (NAESB) standard 0.3.8 which provides, in part, that a shipper may initiate a creditworthiness re-evaluation at *any time* after a shipper is determined to be non-creditworthy. Creole Trail is required in this order to comply with that (and other) NAESB standards that have been developed since its application was filed and any attempt to change the standard should be addressed through NAESB. Therefore, Creole Trail must remove the provision in section 17E that provides a shipper only five days to challenge a determination of being non-creditworthy.

b. NAESB Standards

29. The June 15 Order required Creole Trail to revise its tariff to be compliant with Order No. 587-S, which adopted Version 1.7 of the NAESB standards, as well as any future NAESB requirements in effect at the time it files its actual tariff sheets.[21] Creole Trail was also required to file a cross-reference showing each NAESB standard number, the tariff section containing the standard, and whether Creole Trail incorporated the

---

[19] *Creole Trail LNG, L.P. and Cheniere Creole Trail Pipeline, L.P.*, 115 FERC ¶ 61,331 (2006).

[20] *Pro Forma* tariff sheet references are to the red-lined tariff pages.

[21] By Errata Notice issued on June 14, 2005 the title of Order No. 654 was changed to Order No. 587-S, Standards for Business Practices of Interstate Natural Gas Pipelines, FERC Stats. & Regs. ¶ 31,179 (May 17, 2005).

standard verbatim or by reference. Creole Trail has not provided the cross-reference in its filing. Therefore, Creole Trail must file a cross-reference table which clearly shows for each Version 1.7 NAESB standard, the section of the tariff containing the standard, and whether the standard is incorporated in the tariff by reference or included in the text.

c. <u>Pressure</u>

30. Creole Trail proposes to revise section 3 of its General Terms and Conditions to allow the receipt of gas at a pressure lower than its maximum allowable operating pressure of 1440 psig, if it can do so operationally, even though doing so may reduce system capacity and its ability to meet its certificated service obligations (Original Pro Forma Sheet No. 112). Creole Trail's proposed section 3 provides in relevant part:

> Transporter's pipeline system is currently designed for a maximum allowable operating pressure of 1440 psig, but may be subject to reduced maximum operating pressures *due to operating requirements* and at certain locations pursuant to the requirements of regulatory authorities. *Transporter will accept all or any portion of the Gas at a pressure lower than 1440 psig if it can do so operationally even though doing so may reduce System capacity. The design capacity of Transporter's System is, however, predicated on the receipt pressure of 1440 psig. In the event that Gas is received at lower receipt pressures, Transporter's capacity as to all Shippers may be reduced, in which event its service obligation shall be reduced accordingly.*
>
> *In the event that potential interruptible services are deemed to impact the pressure profile on Transporter's system such that firm, flowing gas would be negatively impacted, as determined by Transporter, Transporter may elect not to schedule such services.*

31. Creole Trail asserts that the design capacity of its pipeline, which does not have compression, is predicated on a receipt pressure of 1440 psig at the Sabine Pass LNG terminal, the initial sole receipt point on the Creole Trail system.[22] Delivery of gas at that point at a pressure less than 1440 psig will reduce Creole Trail's overall capacity to transport; however, it also has the potential to reduceshippers' heater fuel usage and costs.[23] Since the pressure of gas tendered to Creole Trail at the Sabine Pass LNG

---

[22] Creole Trail's data response (filed September 7, 2007).

[23] In its September 7 Data Response, Creole Trail explains that delivering gas from its pipeline at high pressures to delivery points operating at much lower pressures creates a decrease in the temperature of the delivered gas stream, which requires heating to

(continued)

terminal is controlled by customers of the terminal who are also shippers on Creole Trail, Creole Trail argues that this tariff provision is necessary to clarify its obligation in the instance when a shipper tenders gas at a pressure less than 1440 psig. Creole Trail states this provision is consistent with the *pro forma* tariff of *Kinder Morgan Louisiana Pipeline LLC*,[24] which has the Sabine Pass LNG terminal as its sole receipt point.

32. According to Creole Trail, its sole shipper is willing to accept the effect of reducing total system capacity in order to have the flexibility of reducing the need for heater fuel usage. Creole Trail concludes that since tendering gas to Creole Trail at a pressure lower than 1440 psig is done at the discretion and direction of the shipper, Creole Trail does not intend to provide reservation charge credits for any resulting capacity reduction.

33. The Commission recognizes the desirability of minimizing shipper fuel requirements and encourages steps toward that goal. Creole Trail's existing *pro forma* tariff permits it to accept gas at pressures lower than 1440 psig, and as long as there is only a single shipper on the system, there should be no problem in its doing so. In those circumstances, the shipper's heater fuel usage and costs may be reduced, and only that shipper's capacity rights will be impacted.

34. However, in the event that Creole Trail enters into additional firm contracts, with primary receipt points that are not located at the Sabine Pass LNG terminal,[25] the proposed revision would allow Creole Trail to unilaterally reduce the capacity available to those shippers who have not agreed to reduce their capacity. Creole Trail has not provided adequate justification for this proposal. Creole Trail must maintain its fundamental obligation to provide open access transportation service to any shipper willing to deliver gas at the pressure required to enable the gas to enter Creole Trail's system at the receipt point. In *Kinder Morgan Louisiana Pipeline LLC*, the Commission did not specifically address the merits of such a provision. Therefore, the proposed revisions are rejected.

---

prevent freezing of the interconnect facilities and to satisfy tariff requirements of the receiving pipelines. Such heating requires fuel, which is a cost that shippers must bear.

[24] 119 FERC ¶ 61,309 (2007).

[25] While the Sabine Pass LNG terminal will be Creole Trail's sole receipt point when the system commences service, Creole Trail's *pro forma* FERC Gas Tariff provides for the ability to contract for capacity at other receipt points.

d. Construction of Facilities

35. Creole Trail proposes to revise section 32 (the construction of facilities) of its General Terms and Conditions, to provide in new subsection D: (1) that existing firm shippers have the right to request that Creole Trail build new or additional receipt or delivery point capacity under Creole Trail's blanket construction authority and (2) that, among other things, the new receipt or delivery facilities must not require the construction of compression facilities (Original Pro Forma Sheet No. 220).

36. The Commission's interconnection policy stated in *Panhandle Eastern Pipe Line Company*, [26] provides that a party desiring access to a pipeline may obtain an interconnection if it satisfies five stated conditions, including the requester's willingness to pay for the necessary facilities.[27] The Commission's policy does not allow pipelines to deny interconnections requiring facilities, including compression, for which the shipper is willing to pay the costs and the interconnection causes no operational problems. The proposed condition precluding interconnections that include compression facilities is not reflected in current Commission policy. Moreover, the proposed provision only provides existing firm shippers with the right to request new point capacity. Our interconnection policy, however, is intended to benefit all parties, including potential shippers, looking to access the interstate pipeline grid. Accordingly, Creole Trail must revise its tariff to remove the condition that it will not construct facilities that require the installation of compression under the blanket construction certificate and to state that any potential shipper can ask for an interconnection.[28]

[26] 91 FERC ¶ 61,037 at 61,141 (2000).

[27] The five conditions require that: (1) the party seeking the interconnection bear the cost of construction of the interconnection; (2) the proposed interconnection not adversely affect the pipeline's operations; (3) the proposed interconnection and resulting transportation not result in diminished service to the pipeline's existing customers; (4) the proposed interconnection not cause the pipeline to be in violation of any applicable environmental or safety laws or regulations with respect to the facilities required to establish an interconnection with the pipeline's facilities; and (5) the proposed interconnection must not cause the pipeline to be in violation of its right-of-way agreements or any contractual obligations with respect to the interconnection facilities.

[28] Also, the word "authorization" should be substituted for "authoritative" in section 32B of accepted Original Pro Forma Sheet No. 219.

e. Imbalances

37. The June 15 Order directed Creole Trail to clarify or eliminate its imbalance resolution procedures in section 13, which the Commission found to be too vague and which introduced the possibility of undue discrimination. Creole Trail's compliance filing revises the imbalance provisions so that all imbalances are resolved through one mechanism that is clearly defined in its tariff (Original Pro Forma Sheet Nos. 148 through 150).

38. The proposed tariff provisions: (1) extend the period for in-kind resolution of imbalances from five days to the end of the month following the month in which the imbalance occurred; (2) indicate that shippers may rely on operational information provided by Creole Trail to adjust their imbalances during a month; and (3) revise the imbalance nominations procedure. These tariff provisions are intended to provide additional flexibility and tools to aid shippers in clearing imbalances. The Commission believes that Creole Trail's revised monthly imbalance resolution procedures satisfy the concerns of the June 15 Order and reduce the possibility of undue discrimination. However, the Commission notes that NAESB has developed a series of imbalance trading standards,[29] and it is not clear whether Creole Trail's proposed section 13 fully complies with those standards, specifically standard 2.3.41, which requires that Transportation Service Providers provide the ability to post and trade imbalances until at least the close of the seventeenth business day of the month. Creole Trail must review section 13 and make any changes necessary to address NAESB's monthly imbalance trading standards.

f. Scheduling

39. Creole Trail proposes in sections 10C(1) and 10C(2) of the General Terms and Conditions to revise its scheduling priorities for mainline capacity and for receipt and delivery points (Original Pro Forma Sheet Nos. 134 and 135). In the event nominations for service exceed available capacity, overrun service under a firm transportation contract would be accorded a higher priority than interruptible services. This priority is not consistent with our policy, since the Commission considers authorized overrun and

[29] Standards 2.2.2, 2.2.3, 2.3.30, 2.3.40, 2.3.41, 2.3.42, 2.3.43, 2.3.44, 2.3.45, 2.3.46, 2.3.47, 2.3.48, 2.3.49, and 2.3.50.

interruptible service to be identical, and has held that pipelines must revise their tariffs so that interruptible and overrun services are accorded the same scheduling priority.[30] Therefore, Creole Trail must revise its proposed tariff to provide the same priority to overrun service and interruptible service.

40. In addition, Creole Trail's proposed section 10C(2) provides that shippers utilizing secondary receipt and delivery points under Rate Schedule FTS are allocated capacity on a pro rata basis, regardless of whether the points are within-the-path or outside-the-path. Creole Trail's proposed section 10C(2) does not reflect the Commission's within-the-path priority for allocating capacity at secondary receipt or delivery points.[31] Creole Trail must revise its tariff to reflect the within-the-path priority at receipt and delivery points.

g. Definitions

41. Creole Trail's proposed definition for Zone 1 in section 1(tt) of the General Terms and Conditions omits the Sabine Pass Segment located west of Johnsons Bayou (Original Pro Forma Sheet No. 104). Creole Trail must revise the Zone 1 definition to include those facilities.

h. Daily Tolerances

42. Creole Trail proposes in the first sentence of section 11D of the General Terms and Conditions to reflect that a shipper should deliver natural gas to Creole Trail at the receipt point on a uniform "hourly" (not "daily") basis (Original Pro Forma Sheet No. 145). This change is acceptable. However, Creole Trail must revise the second sentence or clarify why the referenced uniform "daily" basis is still appropriate there given the change in the first sentence of section 11D.

---

[30] *See, e.g., Central New York Oil and Gas Co., LLC,* 114 FERC ¶ 61,105 (2006); *CNG Transmission Corp*., 81 FERC ¶ 62,587 at 62,592 (1997).

[31] *Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services,* Order No. 637, *FERC Stats. & Regs., Regs. Preambles* July 1996 - December 2000 ¶ 31,091 (2000), *order on reh'g,* Order No. 637-A, *FERC Stats. & Regs., Regs. Preambles* July 1996 - December 2000 ¶ 31,099 (2000), *reh'g denied,* Order No. 637-B, 92 FERC ¶ 61,062 (2000), *aff'd in part and denied in part, Interstate Natural Gas Ass'n v. FERC, 285 F.3d 18 (D.C. Cir. 2002), review denied, American Gas Ass'n. v. FERC*, 428 F.3d 255 (D.C. Cir. 2005).

43. At a hearing held on October 18, 2007, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications, as supplemented, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) In Docket No. CP05-357-006, Creole Trail's certificate of public convenience and necessity, issued on June 15, 2006, in Docket No. CP05-357-000, as subsequently amended, is further amended to issue Creole Trail certificate authorization under section 7(c) of the NGA to acquire the Sabine Pass Segment by merger with Sabine Pass, as more fully described in this order and in the application.

(B) Sabine Pass' requests in Docket No. CP07-426-000 for permission and approval of the abandonment of the Sabine Pass Segment, Part 157 certificate, and blanket certificates issued under Subpart G of Part 284 and Subpart F of Part 157 of the Commission's regulations are granted.

(C) Sabine Pass shall notify the Commission within ten (10) days of the date of abandonment of the facilities.

(D) The certificate authorization in Ordering Paragraph (A) above is conditioned upon Creole Trail's compliance with all applicable Commission regulations under the NGA, particularly paragraphs (a), (c), (d), (e), and (f) of section 157.20 of such regulations.

(E) Creole Trail's acquisition of the Sabine Pass Segment granted by Ordering Paragraph (A) shall be completed and the facilities made available for service by March 1, 2008, the anticipated in-service date of the Sabine Pass LNG Terminal, in accordance with section 157.20(b) of the Commission's regulations.

(F) Except as provided herein, the terms and conditions of Creole Trail's certificate authorization, set forth in the June 15 Order, as subsequently amended, remain unchanged.

(G) As successor to Sabine Pass, Creole Trail's certificate authorization is subject to the environmental conditions of Sabine Pass' certificate issued in the December 21, 2004 Order, as well as Creole Trail's certificate issued in the June 15 Order, as amended.

(H) Creole Trail's revised rates and tariff are approved, as conditioned and modified in the body of this order.

(I) Creole Trail must file actual tariff sheets, including the cross-reference table for NAESB standards, consistent with the directions in the body of this order not less than 30 days and not more than 60 days prior to commencing service.

(J) Creole Trail is directed to file any negotiated rate agreements or a tariff sheet fully describing the transaction no less than 30 days or more than 60 days prior to the commencement of interstate service.

(K) Within three years after its in-service date pursuant to Ordering Paragraph E, Creole Trail must make a filing to justify its existing cost-based firm and interruptible recourse rates. In lieu of such filing, Creole Trail 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.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Acting Deputy Secretary.