

139 FERC ¶ 61,239
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

Trunkline Gas Company, LLC
Sea Robin Pipeline Company, LLC

Docket No. CP12-5-000

ORDER GRANTING ABANDONMENT, DETERMINING JURISDICTIONAL
STATUS OF FACILITIES, AND ISSUING CERTIFICATES

(Issued June 21, 2012)

1. On October 7, 2011, Trunkline Gas Company, LLC (Trunkline) and Sea Robin Pipeline Company, LLC (Sea Robin) filed a joint application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA),¹ requesting authorization for: (1) Trunkline to abandon by sale to Sea Robin virtually all of Trunkline's offshore pipeline facilities in the Gulf of Mexico, offshore Louisiana and Texas, as well as certain onshore pipeline facilities in Louisiana; and (2) Sea Robin to acquire and operate the facilities Trunkline proposes to abandon.
2. Trunkline currently operates all the facilities it is seeking to abandon as jurisdictional transmission facilities, and Sea Robin is seeking certification under section 7(c) of the NGA for all of the facilities it will acquire. In considering Sea Robin's request for a certificate the Commission has applied its primary function test to the subject facilities and has determined that some of the facilities actually perform a gathering function. As described and conditioned in this order, the Commission approves Trunkline's request to abandon by sale to Sea Robin its offshore facilities and will issue Sea Robin a certificate of public convenience and necessity to acquire and operate those components of the offshore facilities that perform a jurisdictional transportation function.

¹ 15 USC § 717f(b) and (c) (2006).

I. Background

3. Trunkline and Sea Robin are affiliates. Trunkline is a wholly owned subsidiary of Panhandle Eastern Pipe Line Company, LP (Panhandle), and Sea Robin is owned 50 percent each by Trunkline Deepwater Pipeline, LLC and Trunkline Offshore Pipeline, LLC, which are both indirect wholly owned subsidiaries of Panhandle. Both Trunkline and Sea Robin are natural gas companies as defined by NGA section 2(6).

4. Trunkline owns and operates, or has partial ownership interest in, approximately 533 miles of pipeline and related facilities in the Gulf of Mexico, offshore Louisiana and Texas, which make up three discrete systems: (1) the Vermilion System; (2) the Terrebonne System; and (3) the Brazos Area Block A-47 System. The Vermilion and Terrebonne Systems extend onshore into Louisiana. There are no direct interconnections among the Vermilion, Terrebonne, and Brazos Area Block A-47 Systems.

5. Sea Robin's pipeline system, which is mostly located in the Gulf of Mexico, is configured as an inverted "Y" with a west leg extending approximately 100 miles from East Cameron Block 335 to Vermilion Block 149, offshore Louisiana, and an east leg extending over 100 miles from Ship Shoal Block 222 and South Marsh Island Block 128, offshore Louisiana. The legs converge in Vermilion Block 149. From Vermilion Block 149, Sea Robin's system extends approximately 60 miles to its onshore terminus at the Erath Compressor Station in Vermilion Parish, Louisiana and its onshore interconnection with Trunkline.²

6. Sea Robin's onshore interconnection with Trunkline is located approximately 15 miles east of the Vermilion System's terminus at Trunkline's Kaplan Compressor Station and approximately 50 miles west of the Terrebonne System's terminus at Trunkline's Patterson Compressor Station. There are no offshore interconnections between Sea Robin and Trunkline.

² In *Sea Robin Pipeline Co.*, 87 FERC ¶ 61,384 (1999), *reh'g denied*, 92 FERC ¶ 61,072 (2000) (*Sea Robin*), the Commission found that all of Sea Robin's facilities upstream of the Vermilion Block 149 platform, which houses 24,700 horsepower of compression, are gathering facilities.

II. Proposal

A. Facilities

7. Trunkline proposes to abandon by sale to Sea Robin its Vermilion, Terrebonne, and Brazos Area Block A-47 Systems, as described below.³ These systems consist of approximately 533 miles of pipeline, eight platforms (seven offshore piping platforms and one platform with 28,950 horsepower of compression), and appurtenant facilities. This sale represents virtually all of Trunkline's offshore facilities, including facilities in which it holds a partial interest.⁴ For current Trunkline long-haul shippers that have primary firm receipt points on the facilities, Trunkline states that it will amend their service agreements to re-designate their receipt points to one or more of Trunkline's onshore custody transfer points. Trunkline states that there are no short-haul firm customers on the facilities to be abandoned.

8. Sea Robin proposes to acquire and operate the facilities that Trunkline proposes to abandon. Sea Robin states that it will provide open-access transportation service on the facilities to be abandoned pursuant to its existing Rate Schedules FTS and FTS-2 (Firm Transportation Service), ITS (Interruptible Transportation Service) and GPS (Gas Parking Service). In addition, Sea Robin proposes a pooling service for those entering into a pooling service agreement.

9. Trunkline and Sea Robin do not propose to construct or remove any facilities to effectuate the proposed abandonment.

1. Vermilion System

10. The Vermilion System, with facilities dating to 1959, extends from Vermilion Block 23, offshore Louisiana to the suction side of Trunkline's onshore Kaplan Compressor Station in Vermilion Parish, Louisiana. The system consists of

³ While all of Trunkline's offshore facilities are currently covered by certificates of public convenience and necessity, certain of the facilities are nevertheless functionalized for rate purposes as gathering, and Trunkline provides service using those facilities pursuant to a separately-stated gathering rate in its tariff.

⁴ The applicants state that Trunkline has certain facilities that are physically located onshore in Louisiana but are classified as offshore on Trunkline's records. The applicants further state that these facilities will remain under Trunkline's ownership and, consistent with the proposed transfer, Trunkline will reclassify these facilities from "offshore" to "onshore."

approximately 86.5 miles of various-sized pipe up to 18 inches in diameter.⁵ The system also includes two piping platforms and appurtenant facilities. There is no compression on the Vermilion System. As functionalized by Trunkline, the system includes both transmission and gathering facilities.

11. The Vermilion System transported approximately 11,000 Mcf of gas per day in 2009 and 2010, and approximately 5,800 Mcf per day during the first seven months of 2011. Trunkline indicates that the maximum capacity of the system is approximately 292,000 Mcf per day. Following the transfer, Sea Robin proposes to deliver immediately downstream into Trunkline's system on the suction side of Trunkline's Kaplan Compressor Station.

2. Terrebonne System

12. The Terrebonne System, with initial construction dating to 1968, extends from South Marsh Island Block 268, Ship Shoal Block 274, Ewing Bank Block 826, and Grand Isle Block 82, offshore Louisiana, to the suction side of Trunkline's onshore Patterson Compressor Station in St. Mary Parish, Louisiana. The system consists of approximately 446.4 miles of various-sized pipe up to 30 inches in diameter. The system also includes five piping platforms, one platform supporting compression facilities totaling 28,950 horsepower, and appurtenant facilities. The applicants state that the compression facilities were constructed in 1997 in Ship Shoal Block 139 to expand the capacity of the system to transport newly developed supplies. As functionalized by Trunkline, the system includes both transmission and gathering facilities.

13. Trunkline indicates that the Terrebonne System transported on average approximately 298,000 Mcf per day in 2010 and 261,000 Mcf per day during the first seven months of 2011. Trunkline states that the maximum capacity of the system is approximately 1,455,000 Mcf per day. Following the transfer, Sea Robin will deliver residue gas volumes into Trunkline's system on the suction side of Trunkline's Patterson Compressor Station.

⁵ According to applicants' February 21, 2012 Data Response 7, Trunkline intends to separately abandon in place under separate application two of the lines on the Vermilion System, totaling 22.6 miles in length. Thus, applicants state, Lines 210A-2300 and 210A-2400 are removed from the set of facilities to be transferred to Sea Robin. Following the abandonment of the facilities addressed herein, in addition to the abandonment of the facilities referenced in the February 21, 2012 Data Response, Trunkline will no longer own any offshore facilities.

3. Brazos Area Block A-47 System

14. The Brazos Area Block A-47 System, constructed in 1983, is located in the Brazos Area Block A-47, offshore Texas. Trunkline has a 33.33 percent ownership interest in the facility, which it jointly owns with Northern Natural Gas Company and Southern Natural Gas Company. Trunkline is only abandoning by sale its 33.33 percent ownership in the facilities. The other owners are not proposing to change their use or ownership of these facilities in this proceeding. The system consists of 4,607 feet of 8-inch diameter pipeline connecting a producer platform to Transcontinental Gas Pipe Line Company, LLC's system. Trunkline states that the system is functionalized as transmission; however, the Commission previously determined that the Brazos A-47 System provides primarily a gathering function.⁶ Trunkline has not used its capacity on this lateral since at least 1993, although gas continues to flow under the other owners' rights.

B. Trunkline's Explanation of Its Abandonment Request

15. Trunkline contends that its proposal to abandon facilities by sale to Sea Robin is driven by the market shift from traditional offshore Gulf of Mexico supply sources to new onshore gas production areas. Since 2008, Trunkline states that it has added four pipeline interconnections and upgraded two existing interconnections related to the transportation of new onshore supply sources. Those interconnections (in Trunkline's Zone 1A), located onshore between Longville, Louisiana and Dyersburg, Tennessee, have a combined capacity of 3.8 Bcf per day, increasing Zone 1A's current receipt capacity to 5.6 Bcf per day. The applicants state that, over the same time period, average daily volumes received in Zone 1A have increased from 250,000 Mcf per day to nearly 1.1 Bcf per day. In comparison, volumes received into Trunkline's offshore facilities proposed for abandonment (in Trunkline's Field Zone) currently total approximately 250,000 Mcf per day.⁷

16. According to the applicants, the proposals herein are designed to unbundle Trunkline's offshore business operations from its onshore operations and to benefit both Trunkline's and Sea Robin's customers. Specifically, the applicants believe that the proposals will enable Trunkline to more efficiently direct its resources to the operation of its onshore facilities, on which its customers increasingly rely. In addition, Trunkline states that its proposals will reduce future capital repair, operations and maintenance

⁶ *Trunkline Gas Co.*, 113 FERC ¶ 62,136 (2005) (*Trunkline Gas*).

⁷ Trunkline's Field Zone, located to the south of Zone 1A, includes onshore facilities in Texas and Louisiana as well as the offshore facilities proposed for abandonment.

(O&M) expense,⁸ and abandonment costs. Sea Robin, which primarily only has offshore facilities, will be able to use the transferred facilities to meet the needs of offshore shippers and producers.

17. The applicants state that the proposals will merely transfer facilities to Sea Robin, where the facilities will continue to provide service at the same level and quality without interruption. The applicants aver that the proposed transfer will not diminish the supply options on Trunkline or Sea Robin, because offshore supplies collected on the facilities proposed to be abandoned will continue to be available to Trunkline's shippers at the designated, post-transfer interconnections serving as the new demarcation points between Sea Robin and Trunkline. The applicants further state that continuity and stability of service are assured, as any prospective shipper or producer may negotiate with Sea Robin for transportation service on the transferred offshore facilities, and Trunkline's existing shippers with receipt points on the offshore facilities will have their receipt points re-designated to downstream, onshore points.⁹

18. The applicants acknowledge that shippers using the transferred offshore facilities will have to pay Sea Robin's rates to transport their gas to an interconnection with Trunkline, from which further transportation would be subject to Trunkline's rates. Under Trunkline's current rate structure, shippers with receipt points on the offshore facilities pay a single transportation rate that includes transportation through the whole Field Zone, including transportation to and through a pool. The applicants contend that this result should not be considered rate stacking because Sea Robin and Trunkline will charge separate, Commission-approved rates for separate services.

19. Trunkline states that the vast majority of service on the offshore facilities is interruptible service, that the majority of its firm customers have already agreed to transfer their receipt points to the new interconnection points with Sea Robin, and that no firm customer has protested the proposed abandonment of the facilities and the impact it may have on their firm services.

⁸ The applicants indicate that Trunkline's annual O&M expenses for the offshore facilities total \$7,132,482.

⁹ The applicants state that numerous firm shippers have receipt points on the Terrebonne System, but no firm shippers have Vermilion System receipt points. The Brazos Area Block A-47 System capacity has not been used since at least 1993.

III. Notice and Interventions

20. Notice of Trunkline and Sea Robin's application was published in the *Federal Register* on October 27, 2011.¹⁰ The 16 parties that filed timely, unopposed motions to intervene are identified in the Appendix to this order.¹¹

21. Consumers Energy Company (Consumers Energy) filed a motion to intervene out-of-time. Consumers Energy has demonstrated an interest in this proceeding. Consumers Energy's motion to intervene will not delay, disrupt, or unfairly prejudice any parties to the proceeding. Thus, the Commission will grant Consumers Energy's untimely motion to intervene under Rule 214(d) of the Commission's regulations.

22. Energy Resource Technology GOM, Inc. (ERT), the Producer Coalition,¹² LLOG Exploration Company, L.L.C. (LLOG), Apache Corporation (Apache), ExxonMobil Gas & Power Marketing Company (ExxonMobil) and Hess Corporation (Hess), and Arena Energy, LP (Arena) protested the application, and Chevron U.S.A. Inc. (Chevron) filed comments. Trunkline and Sea Robin filed two answers to the protests. The Producer Coalition filed a reply to Trunkline's and Sea Robin's answer.

23. Rule 213(a)(2) of the Commission's regulations prohibits answers to protests and answers to answers unless otherwise ordered by the decisional authority.¹³ The Commission will allow the filings because doing so will not cause undue delay and they will assist us in the decision-making process. The protests and responses are addressed below.

¹⁰ 76 Fed. Reg. 66,709 (2011).

¹¹ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. *See* 18 C.F.R. § 385.214 (2011).

¹² Producer Coalition includes: Century Exploration New Orleans, LLC, Dynamic Offshore Resources, LLC, Energy XXI (Bermuda) Ltd., Hilcorp Energy Company, Inc, McMoRan Oil & Gas LLC, Pisces Energy LLC, and W&T Offshore, Inc.

¹³ 18 C.F.R. § 385.213(a)(2) (2011).

IV. Discussion

A. Trunkline's Request for Abandonment Authority

24. Because Trunkline seeks authority to abandon facilities used for the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, the proposal is subject to the requirements of section 7(b) of the NGA.¹⁴

25. Section 7(b) allows an interstate pipeline company to abandon jurisdictional facilities or services only if the abandonment is permitted by the “present or future public convenience or necessity.” The courts have explained that, in considering the criteria for abandonment under section 7(b), two important principles apply: (1) a pipeline which has obtained a certificate of public convenience and necessity to serve a particular market has an obligation, deeply embedded in the law, to continue to serve; and (2) the burden of proof is on the applicant to show that the public convenience or necessity permits abandonment, that is, that the public interest will in no way be disserved by abandonment.¹⁵ This does not mean, however, that abandonment is not permitted if there is any harm to any narrow interest. Rather, the Commission takes a broad view in abandonment proceedings and evaluates proposed abandonment proposals against the benefits to the market as a whole.¹⁶

26. The Commission examines abandonment applications on a case-by-case basis. In deciding whether a proposed abandonment is warranted, the Commission considers all relevant factors, but the criteria vary as the circumstances of the abandonment proposal vary. Historically, in reviewing a request for abandonment by sale, the Commission considers: (1) the needs of the two natural gas systems and the public markets they serve, (2) the environmental effects of its decision, (3) the economic effect on the pipelines and their customers, (4) the presumption in favor of continued service, and (5) the relative

¹⁴ 15 U.S.C. § 717f(b) (2006).

¹⁵ See *Michigan Consolidated Gas Co. v. F.P.C.*, 283 F.2d 204, 214 (D.C. Cir. 1960) (*Michigan Consolidated*); *Transcontinental Gas Pipe Line Corp. v. F.P.C.*, 488 F.2d 1325, 1328 (D.C. Cir. 1973) (*Transco Gas*).

¹⁶ See *Southern Natural Gas Co.*, 50 FERC ¶ 61,081, at 61,222 (1990). See also *Consolidated Edison Co. v. FERC*, 823 F.2d 630, 643-644 (D.C. Cir. 1987) (“We agree with FERC that the ‘public convenience or necessity’ language of the NGA’s abandonment provision [cite omitted] envisions agency policy-making to fit the regulatory climate.”).

diligence of the respective pipelines in providing for adequate natural gas supplies.¹⁷ The Commission also weighs the claimed benefits of the abandonment against any detriments.

1. Impacts to Trunkline's Shippers

a. Protests

27. Arena, LLOG, the Producer Coalition, Apache, ERT, ExxonMobil and Hess, and Chevron question the applicants' claim that the proposals will benefit shippers on the Trunkline and Sea Robin pipeline systems.¹⁸ Specifically, ExxonMobil and Hess request that the applicants explain how the transfers of the unused Brazos A-47 System and the underused Vermilion System will permit them to be used in a way that enhances Sea Robin's operational efficiencies. ExxonMobil and Hess, and Apache state that any rate reduction benefits will not accrue until the applicants file rate cases.¹⁹

28. ExxonMobil and Hess contend that it does not appear that transfer of the facilities will better position the applicants to provide open-access transportation service, since as an affiliate of Trunkline, Sea Robin would have no incentive to connect the transferred facilities to any other systems that could deprive Trunkline and its shippers of otherwise captive supply. Arena, LLOG, and the Producer Coalition also point out that Trunkline and Sea Robin are affiliates and appear to benefit from synergies such as the sharing of senior management, field personnel, and computer systems. In the event the proposals are authorized, Chevron contends that Sea Robin should consider physically

¹⁷ *Southern Natural Gas Co.*, 126 FERC ¶ 61,246, at P 27 (2009) (*Southern*). See also *Cimarron River Pipeline, LLC*, 124 FERC ¶ 61,069, at P 33 (2008) (where the proposed abandonment involves the transfer of certificated facilities to another jurisdictional company that would operate the facilities under an NGA certificate, a relevant factor is the economic impact on existing customers).

¹⁸ Arena, LLOG, the members of the Producer Coalition, and ERT are producers and do not themselves contract for transportation service on the facilities to be transferred. Apache is a producer and shipper on Trunkline's facilities to be acquired by Sea Robin. ExxonMobil and Hess are both producers and are shippers on Sea Robin's system. Chevron is a producer and shipper on Trunkline's and Sea Robin's pipeline facilities.

¹⁹ ExxonMobil and Hess note that Trunkline's rates were established more than a decade ago and that Trunkline is under no obligation to file a rate case. They note, however, that Sea Robin has an obligation to file an NGA section 4 general rate case by January 1, 2014.

interconnecting its system with Trunkline's offshore facilities to provide greater flow certainty and reliability.

29. Arena, LLOG, and the Producer Coalition stress that the facilities to be abandoned are a crucial means of adding new supplies to Trunkline's interstate pipeline system, and contend that the applicants do not assert that Trunkline's offshore facilities are underutilized assets.

b. Applicants' Response

30. The applicants state that the proposals further the evolving needs of Trunkline and Sea Robin, allowing Sea Robin to optimize its offshore assets to meet the challenges presented by the offshore areas while enabling Trunkline to better position itself to serve the growing onshore need for transportation related to the development of new onshore supply sources. The applicants state that no protests were filed by long-haul or firm Trunkline shippers,²⁰ or any shipper in its capacity as a shipper on Sea Robin's system, and that the lack of protests by Trunkline's shippers is evidence that Trunkline's offshore facilities are no longer a necessary part of its system. The applicants contend that the proposal is consistent with the Commission's mandate to protect firm shippers, noting that long-haul shippers holding approximately 70 percent of firm transportation capacity with offshore receipt points have agreed to move their receipt points downstream of the offshore facilities.²¹

31. Regarding the Producer Coalition's implication that its members are "shippers that have historically relied on Trunkline's certificated services on these facilities," the applicants again emphasize that none of the parties comprising the Producer Coalition is currently a firm shipper on the offshore facilities. Citing Order No. 712,²² the applicants

²⁰ The applicants state that the sole exception was Hess, who, when it filed its protest, held firm capacity with receipt points on Trunkline's offshore facilities under a temporary capacity release. The temporary capacity release expired in March 2012. East Ohio Gas Company, who released its capacity to Hess, has agreed to move its receipt point to an onshore receipt point downstream of the proposed new onshore demarcation points and filed no protest or adverse comments.

²¹ In support, applicants cite *Trunkline Gas Co.*, 94 FERC ¶ 61,381, at 62,421 (2001) (observing that investors "do not construct an interstate pipeline or continue it in operation to serve only interruptible customers at discounted rates").

²² *Promotion of a More Efficient Capacity Release Market*, 123 FERC ¶ 61,286, at P 50 (2008) ("Short-term customers, those using interruptible or short-term firm pipeline service or relying on capacity release transactions, are by the very nature of the service

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maintain that the Commission does not consider short-term, interruptible shippers, such as the Producer Coalition, to be captive customers even if they are only connected to one pipeline. The applicants further claim that *Tennessee Gas Pipeline Co.*²³ squarely contradicts the Producer Coalition's contention that it is irrelevant under NGA section 7(b) how Sea Robin will operate the facilities. Regarding the Producer Coalition's claim of economic harm, the applicants believe that such a claim is overblown, as service will be subject to Sea Robin's Commission-approved rates.

c. Commission Determination

32. The Commission is not persuaded by the protestors arguments that the public interest will be disserved by the proposals for Trunkline's abandonment and Sea Robin's acquisition of the offshore facilities. The Commission's consideration of the public interest under section 7(b) focuses on the interests of the market as a whole and how the public's needs are best served, rather than a narrow focus on a particular group.²⁴ Despite protestors' characterization to the contrary, Trunkline need only show that the public service would not be disserved by the proposed abandonment, not that the abandonment will have affirmative benefits.²⁵

33. The Commission finds it significant that no protests or objections were filed by long-haul or firm Trunkline shippers, or any shipper in its capacity as a shipper on Sea Robin's system, taking this lack of protest as an indication that such shippers believe that they would be unharmed by the proposed abandonment and that there is at least a potential that they will benefit from the proposals. Long-haul shippers holding approximately 70 percent of firm transportation with offshore receipt points have agreed to move their receipt points downstream of the offshore facilities. No customer has objected to Trunkline's statements that its proposed abandonment will not adversely affect its ability to meet its remaining firm contractual obligations.

for which they are contracting, expressly taking the risk that they may have to forgo the use of gas entirely if short-term capacity is too expensive, or not available, when they need it.").

²³ 137 FERC ¶ 61,105, at P 28 (2011) (*Tennessee*).

²⁴ *Consolidated Edison Co. v. FERC*, 823 F.2d 630, 635 (D.C. Cir. 1987) (explaining the Commission's shift in identification of the public interest under section 7(b) from the interest of only specific customers to the interests of the market as a whole).

²⁵ See *Michigan Consolidated*, 283 F.2d at 214; *Transco Gas*, 488 F.2d at 1328.

34. While ExxonMobil contends that Sea Robin would have no incentive to connect the facilities to be abandoned to any other systems, it provides no reason to believe that Sea Robin would have a greater disincentive than Trunkline to construct additional delivery points on the facilities to be abandoned. In regard to its assertion that Sea Robin should consider physically interconnecting the facilities to be abandoned with Sea Robin's existing offshore facilities, Chevron and other shippers may request Sea Robin to establish additional points of interconnection.²⁶

35. The protestors' concerns regarding their perceived lack of benefits under the proposed abandonment are understandably narrowly focused on their circumstances as interruptible shippers and producers in the offshore environment, rather than on the potential effects of the proposals on firm shippers of the pipelines or on the broader market as a whole. However, the Commission emphasizes that the interruptible users of the abandoned facilities will not lose access to the facilities to be abandoned; transportation service over the facilities will still be available from Sea Robin. In addition, the Commission finds the fact that Trunkline's firm shippers have not objected strongly implies that those shippers do not believe they will be disserved by Trunkline's abandonment by sale to Sea Robin of virtually all of its offshore facilities.

2. Economic Effect of Abandonment and Allegations of Rate Stacking

a. Protests

36. Apache and ERT assert that after the proposed abandonment shippers will be required to pay for transportation on Sea Robin in order to access Trunkline's pools, a service for which they currently pay little or nothing.²⁷ Apache and ERT assert that

²⁶ Sea Robin's currently effective tariff provides for construction of additional receipt or delivery facilities upon shipper consent and reimbursement of any construction costs. Sea Robin Pipeline Company, LLC, FERC NGA Gas Tariff, Third Revised Volume No. 1, GT&C Section 19, Construction of New Receipt or Delivery Facilities, 0.0.0.

²⁷ Trunkline has several pools in the Field Zone. The two most affected by the abandonment are the West Louisiana Service Area and the East Louisiana Service Area. The West Louisiana Service Area is composed of the receipt points on the Vermilion System on the suction side of the Kaplan Compressor Station and the receipt points from the discharge side of the Kaplan Compressor Station to the suction side of the downstream Longville Compressor Station, excluding Holly Beach and Johnson's Bayou. The East Louisiana Service Area is composed of the receipt points on the Terrebonne

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Trunkline's Rate Schedule TABS-1 peak rate for service from Trunkline's offshore receipt points to Trunkline's onshore pooling is only \$0.0107 per Dth if there is gathering involved in the transportation. Apache indicates that Trunkline's current Rate Schedule IT Field Zone to Field Zone maximum transportation rate is \$0.1240 per Dth. However, the protestors complain that under the applicants' proposal, shippers on the transferred facilities would be subject to Sea Robin's currently effective \$0.2207 per Dth transportation rate, a \$0.0822 per Dth gathering rate, when applicable, and a currently effective \$0.1990 hurricane surcharge. ExxonMobil and Hess state that these increased rates for offshore transportation will lower the net-back price at the well head, accelerating the end of the economic life of current production. They also point out that Trunkline's Field Zone rates were set over 10 years ago and that Trunkline is under no obligation to file a rate case; thus, existing Trunkline shippers will not benefit from the abandoned facilities being removed from Trunkline's rate base. Apache asserts that it would face an increase of approximately \$9 million annually in gathering and transportation costs, resulting in the premature abandonment of production and adversely affecting the economic evaluation of whether to drill and develop additional gas reserves from nearby leases.

37. Many parties contend that the applicants' proposals constitute unwarranted rate stacking because shippers will have to pay Sea Robin to transport gas to shore, and pay Trunkline for further downstream transportation. These parties contend that the transportation charges will lead to much higher, stacked rates for the same transportation service they are currently receiving.

38. The Producer Coalition contends that its members have relied on Trunkline's services and that the economic impact of the proposals herein on producers and interruptible shippers are significant and cannot be ignored. The Producer Coalition claims that in *Tennessee*, the Commission specifically focused on the economic impact of Tennessee's abandonment proposal²⁸ on interruptible shippers and contends that the

System and all receipt points on the suction side of the Kaplan Compressor Station, including all plants and pipeline interconnects. Trunkline's Fourth Revised Volume No. 1, Rate Schedule TABS-1, Transportation Aggregation Balancing Service, 0.0.0.

²⁸ *Tennessee*, 137 FERC ¶ 61,105 at P 27 ("The Commission has stated that in determining whether a pipeline's proposed abandonment of jurisdictional facilities is in the public convenience or necessity it will consider the potential that shippers will be charged higher rates for the same services they are currently receiving."); *id.* at n.24 ("The issue before us here is the proposed abandonment of facilities that we find are currently performing a jurisdictional transmission function. The protestors' concerns with

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Commission must look to the impact of abandonment on both firm and interruptible shippers when evaluating the abandonment proposal here. To support its position, the Producer Coalition cites several cases that denied abandonment proposals and that stated the Commission will consider the potential that shippers will be charged a higher rate for the same service.²⁹ The Producer Coalition also asserts that it is irrelevant that *Tennessee* involved a transfer from a jurisdictional to a nonjurisdictional entity because the criteria that the Commission must evaluate under section 7(b) applies “regardless of to whom the facilities will be conveyed or for what purposes such facilities will be utilized post-abandonment.”³⁰

b. Applicants’ Response

39. The applicants contend that placing cost responsibility for use of the offshore service with those producers and shippers that actually use the service is consistent with basic cost causation principles and is in the best long-term interest of both systems. The applicants also contend that Trunkline’s customers will benefit from the removal of the facilities from rate base in its next rate case. The applicants assert that claims that the proposal will result in shut-in production are speculative and wholly unsupported. Sea Robin states that it has recently added throughput from four new connections on its system and remains committed to maintaining and growing its business in the area and providing a viable transportation option for gas and condensate production.

c. Commission Determination

40. Arena, LLOG, and the Producer Coalition contend that Sea Robin would be collecting excess revenues under its proposal to charge Sea Robin’s existing rates for service on the transferred facilities.³¹ As discussed below, the Commission will require

respect to rate impacts which would result from such an abandonment are thus a significant consideration in our decision-making process.”).

²⁹ *Tennessee*, 137 FERC ¶ 61,105 (2011); *Transcontinental Gas Pipe Line Co. LLC*, 129 FERC ¶ 61,255 (2009) (*Transco*); and *Southern*, 126 FERC ¶ 61,246 (2009).

³⁰ Producer Coalition December 28, 2011 Answer at 5 (emphasis omitted).

³¹ Apache, Arena, LLOG, and the Producer Coalition also couch their assertions regarding increased rates as a continuity of service issue, stating that uninterrupted service is meaningless if there is an onerous increase in the cost of doing business. The continuity of service concerns raised by the protestors are unfounded because increased rates alone do not amount to a continuity of service issue. Here, Trunkline proposes to abandon by sale its facilities to Sea Robin, a jurisdictional pipeline company. The

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Sea Robin to file a newly derived incremental initial rate for service on the acquired facilities that includes only the costs of those facilities. The Commission concludes that Sea Robin's new incremental rate based on the cost of service for the Trunkline facilities to be abandoned will be an appropriate incremental rate for service on the transferred facilities. Therefore the issue of Sea Robin over-recovery of its incremental cost of service is addressed.

41. The protestors also contend that the fact that they will have to pay a separate, additional rate to Sea Robin in and of itself constitutes impermissible rate stacking. The Commission has indeed expressed concern in instances where a proposed transfer of facilities would result in the imposition of additional costs for the performance of the same transportation services. Currently, most of the shippers utilizing Trunkline's offshore facilities to access Trunkline onshore pooling points pay nothing for that service.³² However, the fact that offshore shippers have not usually paid for this service does not mean that Trunkline has provided the service for free. Under the Commission's pooling policy, pipelines may only charge once for gas transported to and from a pool.³³

Commission's open-access policies and regulations will ensure that Sea Robin makes all the facilities to be acquired from Trunkline, including the facilities found to be gathering, available to shippers on an open-access basis. In addition, Sea Robin's transmission and gathering rates are subject to the Commission's jurisdiction. Finally, Sea Robin cannot cease service without seeking abandonment authority from the Commission. Under these circumstances, the presumption of continuity of service is met because jurisdictional service on the offshore facilities to be abandoned will continue and will not result in the termination of service to any of Trunkline's existing customers.

³² Pooling service under Trunkline's Rate Schedule TABS-1 is provided in connection with other transportation service agreements on Trunkline, and is available to offshore receipt points on the Vermilion and Terrebonne Systems. For receipts at points designated as gathering, Trunkline imposes only a gathering rate. The peak TABS-1 gathering rate is \$0.0107 per Dth. For receipts at points designated as transmission, Rate Schedule TABS-1 imposes no rate. Transportation service, for receipts either aggregated under a TABS-1 agreement or at any specific transmission receipt point, is subject to a peak rate of \$0.1240 per Dth for transportation between points located within Trunkline's Field Zone.

³³ *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587-F, FERC Stats. & Regs., Proposed Regulations 1988-1998 ¶ 32,527, at 33,351 (1996) ("When a pool exists in a rate zone, the charge for shipment in that zone must be incurred either for shipment to the pool or shipment out of the pool."). *See also Transcontinental Gas Pipe Line Co.*, 127 FERC ¶ 61,206, at P 12 (2009).

On the Trunkline system, the transportation charge is assessed as the gas is transported away from the pool. Thus, while the protestors are correct that they do not currently pay for offshore transportation services, Trunkline has been billing shippers downstream of the pool for that upstream service. The Commission does not view a change in cost responsibility as rate stacking. Thus, the Commission finds that a situation where shippers upstream of Trunkline's pooling points will now pay Sea Robin for the offshore transportation that is currently being paid for by downstream shippers is not rate stacking.³⁴

42. Trunkline's current rates were approved by the Commission and are considered just and reasonable, and Sea Robin is being required to file for approval of a newly derived incremental, initial rate for services on the acquired facilities. Under the circumstances, the Commission does not find that the application of the two separate rates constitutes impermissible rate stacking.

43. In considering a proposed abandonment, the Commission considers the potential that shippers, both firm and interruptible, will be charged higher rates for the same services they are currently receiving. Here, the Commission recognizes and considers the fact that the approval of the proposals by Trunkline and Sea Robin may result in shippers utilizing the facilities to be abandoned paying higher rates. However, because those rates will be charged by a jurisdictional interstate pipeline and calculated only to recover the costs associated with the provision of service over the facilities, the Commission does not believe the effect on customers warrants a finding that the proposals are not permitted by the public convenience or necessity. The Commission notes that the pricing concern expressed by the protestors is not unique to the proposed abandonment by sale of the subject facilities. The same reallocation of the full responsibility for costs associated with Trunkline's offshore facilities to only those shippers actually using the facilities could have been accomplished by Trunkline's proposing to split its existing Field Zone into separate offshore and onshore rate zones in a section 4 proceeding.

44. The Producer Coalition cited several cases where it contends that the Commission denied a proposed abandonment of interstate pipeline facilities because shippers would have been charged a higher rate for their existing service. However, none of the cited cases are apposite. In *Tennessee*, the Commission noted that if the proposed

³⁴ The Commission notes that since Trunkline's existing rates will not change unless and until it files a NGA section 4 general rate case, the rates of Trunkline's downstream shippers will still include costs associated with the facilities and services that will now be provided by Sea Robin. However, the Commission notes that none of those firm shippers have protested the proposed abandonments.

abandonment were authorized, current shippers would have to pay an additional, separate rate for part of the service they currently received and acknowledged that protestors' concerns regarding rate impacts were a significant consideration in its decision-making process. However, the Commission's decision to deny the requested abandonment was not based upon that fact. Rather, the Commission denied the proposal to abandon facilities because the Commission determined that some of the facilities to be abandoned performed a jurisdictional transmission function, but the nonjurisdictional entity to whom the facilities were to be sold had not applied for certificate authorization to acquire and operate the facilities.³⁵ In *Transco*, the Commission denied the proposed abandonment because it found the McMullen Lateral was functioning to provide interstate transportation service to existing Transco shippers and Transco had proposed to abandon the facilities to a non-jurisdictional gathering company.³⁶ The *Southern* proceeding involved the proposed abandonment of facilities to a nonjurisdictional entity. While the Commission did note the potential for the proposal resulting in increased rates for similar service, the Commission also expressed concern that granting abandonment would result in the loss of open-access service³⁷ and noted that the abandonment was protested by a large number of shippers holding firm capacity on the facilities to be abandoned, evidencing the existence of a significant continuity of service issues.³⁸

45. Here, unlike in the cases cited, Trunkline is abandoning its offshore facilities to another jurisdictional interstate pipeline company which will charge cost-based rates for service over the facilities. In addition, no firm customers of Trunkline have protested the proposed abandonment.

46. Finally, the protestors contend that their net-back prices for natural gas will be adversely affected by the gas being subject to two transportation rates. The extent to which the price of transportation affects the price of natural gas at either the well head or the end-use market in a competitive natural gas market cannot be gauged precisely. As noted above, while the proposal involves the abandonment of Trunkline's offshore facilities by sale to Sea Robin, the same reallocation of responsibility for the risks and

³⁵ *Tennessee*, 137 FERC ¶ 61,105 at P 28 (“Tennessee has requested authority to abandon the subject facilities by sale to Kinetica, but Kinetica has not requested a certificate of public convenience or necessity to acquire and operate jurisdictional facilities, as required by section 7(c)(1)(A) of the NGA.”).

³⁶ *Transco*, 129 FERC ¶ 61,255 at PP 41-42.

³⁷ *Southern*, 126 FERC ¶ 61,246, at P 45 (2009).

³⁸ *Id.* P 57.

costs associated with those facilities from Trunkline's downstream shippers to only those shippers actually using the facilities could have been accomplished absent an abandonment. Trunkline could have retained the subject facilities and instead proposed to create a new, distinct offshore rate zone in an NGA section 4 general rate proceeding. Under such a scenario, although Trunkline would still be the provider of service over the offshore facilities, the rate effect on offshore shippers would be very similar to the result here, i.e. they would be subject to a rate designed to recover all the costs associated with providing service on the offshore facilities. Under this scenario, the gas markets and individual gas contracts will ultimately determine how costs related to the continued maintenance and operation of these offshore facilities will be reflected in the prices customers are willing to pay for offshore production, and, in turn, the prices that the offshore producers receive at the well head. These markets and contracts are not subject to the Commission's jurisdiction.

3. The ExxonMobil and Hess Underutilized and Unutilized Allegations

a. Protests

47. ExxonMobil and Hess assert that the facilities proposed to be transferred are three discrete sets of facilities and that should be treated individually. ExxonMobil and Hess point out that the Brazos A-47 System has not been used for 18 years, and that the applicants should be required to explain why it should not be simply abandoned as unutilized. With respect to the Vermilion and Terrebonne Systems, ExxonMobil and Hess point out that the Vermilion System is only operating at a two percent annual load factor and the Terrebonne System is operating at an 18 percent load factor. ExxonMobil and Hess contend that the Commission should require the applicants to explain how the abandonment would not accelerate the throughput decline of both of these systems. ExxonMobil and Hess assert the Commission should require Trunkline to retain and operate the unutilized Brazos A-47 System and the underutilized Vermilion System as opposed to abandoning the facilities by sale to Sea Robin.

b. Applicants' November 23, 2011 Answer

48. The applicants answer that all of the facilities will remain open access and that no producer has provided any evidence that production would be shut-in or supplies threatened. The applicants assert that Trunkline should not be required to abandon the Brazos A-47 System as unutilized, noting that the jointly owned facilities are currently transporting approximately 2.6 MMcf per day under another owner's capacity. The applicants state that there is no preclusion to additional gas flowing under an agreement with either Trunkline or, upon transfer, Sea Robin and that neither Trunkline nor Sea Robin has the intent to seek the permanent abandonment of all service on the facilities.

49. With respect to the Vermilion and Terrebonne Systems, the applicants answer that the throughput decline is due to the natural decline of offshore production and reduced new drilling. The applicants state that Sea Robin, however, has recently added throughput from four new connections on its system and remains committed to maintaining and growing its business in the area and providing a viable transportation option for gas and condensate production.

c. Commission Determination

50. The Commission does not agree with ExxonMobil's and Hess' suggestion that the Commission should simply require Trunkline to retain and operate the Vermilion and Terrebonne Systems until throughput ceases and then abandon the facilities. While the utilization rates of the Vermilion and Terrebonne Systems are low, gas is still flowing on the systems. Trunkline is currently providing interstate transportation service over these facilities, and Sea Robin proposes to continue to provide interstate transportation service. The issue of low and declining throughput will remain the same regardless of the owner of the facilities or the provider of the transportation service. The Commission finds that there is a reasonable expectation that the Vermilion and Terrebonne Systems will continue to be utilized upon acquisition by Sea Robin. In regard to the Brazos System, the Commission finds, as discussed below, that the applicants have not made the necessary showing that the Brazos System will provide any jurisdictional service upon acquisition.

4. Abandonment Conclusion

51. There will be no unreasonable adverse impacts to existing firm or interruptible services as a result of Trunkline's abandonment of the proposed facilities by sale to Sea Robin. Because the Commission is concurrently authorizing Sea Robin to acquire and operate the transmission facilities on an open-access basis as a jurisdictional natural gas company, there will be no continuity of service issues. The facilities abandoned by Trunkline will remain in service and will be available to any shipper who wishes to transport natural gas at rates, and under terms and conditions, subject to Commission regulation. Further, the Commission rejects the rate stacking allegations raised above, and finds that the rates to be charged following the approvals granted herein are fully consistent with the Commission's pricing policies. Thus, the Commission determines that the proposed abandonment as conditioned in this order is permitted by the present or future public convenience or necessity. Accordingly, the Commission will grant Trunkline's request for abandonment authorization. Trunkline is directed to file tariff records pursuant to Part 154 of the Commission's regulations removing references in its tariff to its offshore facilities and services at least 30 days prior to the effective date of the

abandonment. Trunkline is granted permission and approval to abandon its offshore facilities by sale to Sea Robin.³⁹

5. Accounting

52. In examining the function of the facilities Trunkline proposes to abandon, the Commission has found that certain pipeline segments are no longer providing service. Accordingly, Trunkline must, for accounting purposes, classify the facilities identified herein as idle in Account 121, Nonutility Property, effective the date of this order because they are not currently being used to provide gathering or transmission services. In addition, as discussed below, the Commission has determined that certain facilities currently certificated as transmission facilities are actually performing a gathering function. Accordingly, should Trunkline for whatever reason not proceed with the abandonment of these facilities by sale to Sea Robin, Trunkline must refunctionalize the original cost of the facilities from transmission to gathering accounts, effective the date of this order.⁴⁰ In such a case, Trunkline must also transfer the accumulated provision for depreciation carried in the account for the refunctionalized property between functions in accordance with GPI No. 12 of the Commission's USofA. The amount of accumulated depreciation associated with the refunctionalized gas plant to transfer between functions must be determined by using the actual recorded amount of accumulated depreciation on a vintage basis.⁴¹

B. Sea Robin's Proposal

53. Because a portion of the facilities to be acquired by Sea Robin will be used to transport natural gas in interstate commerce subject to the Commission's jurisdiction, the acquisition and operation of the facilities is subject to subsections (c) and (e) of section 7 of the NGA.

³⁹ The proposed transfer of facilities does not involve the construction or removal of any facilities. Thus, pursuant to 18 C.F.R. § 380.4(a)(31) (2011), the proposed abandonment by sale qualifies as a categorical exclusion from the requirements of the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.* (2006), to prepare an environmental assessment or an environmental impact statement.

⁴⁰ See *Tennessee Gas Pipeline Co.*, 138 FERC ¶ 61,179, at P 20 (2012), *clarified*, 138 FERC ¶ 61,082, at P 10 (2012).

⁴¹ See *Transwestern Pipeline Co.*, 72 FERC ¶ 61,085, at n.17 (1995).

54. Sea Robin proposes to acquire and operate the facilities Trunkline proposes to abandon. Sea Robin does not propose to change the manner in which these facilities are currently operated and does not propose to change any facility's functionalization from that reflected in Trunkline's books. Sea Robin does not propose any new construction or removal of facilities.

55. All of the Trunkline facilities proposed to be abandoned were constructed or acquired pursuant to certificates issued by the Commission under section 7(c) of the NGA. However, prior to the Commission's open-access policies requiring unbundling of pipeline services, there was no need, as a practical matter, to review applications by pipelines for certificate authority to ascertain whether any of the proposed new facilities may have actually functioned as gathering facilities. Thus, in many instances, gathering facilities were constructed under certificate authority and the costs associated with those facilities were part of the rate base of the pipeline's sales rates. Later, many of those facilities were found by the Commission to perform a gathering function.⁴²

56. Having been constructed to access offshore producing areas, it is quite possible that some of the Trunkline facilities to be abandoned perform a non-jurisdictional gathering function. The only way to definitely determine the jurisdictional status of facilities is to perform a primary function test⁴³ and the Commission has not previously performed such an analysis of all the facilities being abandoned by Trunkline. While neither Trunkline nor Sea Robin has requested a functional analysis of the facilities proposed to be abandoned, and both note that refunctionalization of the subject facilities is not contemplated in their transaction, the Commission nevertheless finds it appropriate for the Commission to take this opportunity to analyze the jurisdiction status of the subject facilities to insure that the certificate of public convenience and necessity issued to Sea Robin in this proceeding only encompasses facilities and services over which the Commission actually has jurisdiction under the NGA.

1. Idle Facilities

57. Trunkline, in its abandonment application and in responses to data requests, identified several particular facilities with which it has not provided transmission or gathering service for at least one year or longer. These pipeline segments are:

⁴² See *Equitrans, L.P.*, 109 FERC ¶ 61,209, at P 59 (2004).

⁴³ *CNG Transmission Corp.*, 67 FERC ¶ 61,330, at 62,177 (1994) (“[U]ntil the Commission actually scrutinizes the facilities under the primary function test, the actual jurisdictional status of the facilities cannot be definitively determined.”).

- Line 210A-1900, which is a 0.73-mile, 4-inch diameter line on the Vermilion System. It was last used July 2003.
- Line 210A-2000, which is a 6.13-mile, 6-inch diameter line on the Vermilion System. It was last used August 1990.
- Line 319B-1700, which is a 1.5-mile, 12-inch diameter line on the Terrebonne System. It was last used August 2010.
- Brazos line, which is a 0.9-mile, 8-inch diameter line on the Brazos A-47 System. It has not been used since at least 1993.
- TRIMARS compressor units, which have 28,950 horsepower on the Terrebonne System. It was not been used since October 2003.

58. Trunkline has not used its 33.33 percent capacity interest in the Brazos System since at least 1993, but natural gas is currently flowing using the capacity of the co-owners. Trunkline currently functionalizes the Brazos A-47 System as transmission.

59. Sea Robin does not identify any jurisdictional services that it will provide over the pipeline facilities described above, but it does discuss various potential projects on the unused pipelines, including a possible connection with Sea Robin's existing facilities to route volumes through the Terrebonne System.⁴⁴ However, given the historical evidence indicating that these facilities are not currently being used, together with the fact that Sea Robin has not provided any indication that these facilities will be used to provide any jurisdictional service upon acquisition, the Commission will not include them in Sea Robin's certificate authorization. This finding does not preclude Sea Robin from purchasing these facilities from Trunkline and is without prejudice to Sea Robin requesting certificate authority from the Commission or using its blanket certificate authority under Part 157 of the regulations should Sea Robin propose to provide jurisdictional transmission service over such facilities in the future.⁴⁵

60. As the facilities identified above are not required by Sea Robin to provide transmission service, the unutilized facilities, if acquired, should not be included in Sea

⁴⁴ Applicants' February 21, 2012 Data Response 3.

⁴⁵ Because the idle facilities have no function, it is not necessary for the Commission to analyze them under the primary function test to determine their jurisdictional status.

Robin's rate base underlying its recoverable cost of service.⁴⁶ For accounting purposes, the Commission will require Sea Robin to classify these facilities in Account 121, Nonutility Property, since they are not currently used to provide gathering or transmission services and Sea Robin has not indicated that it has a definite plan to use these facilities to provide gathering or transmission service in the future.

2. Sea Robin's Plans for Future Refunctionalization

61. ExxonMobil and Hess believe Sea Robin intends to refunctionalize some or all of the facilities to be acquired from Trunkline at some point after their transfer to Sea Robin. ExxonMobil and Hess request that the Commission require Sea Robin to clarify its intent with regard to the jurisdictional status of the facilities to be transferred and to address the operational, rate, and service effects of such refunctionalization.

62. The Commission will not speculate about what future proposals Sea Robin may have for the facilities to be acquired. As explained below, the functions of the facilities to be acquired are analyzed in this order as a first step to evaluating Sea Robin's certificate request. However, the Commission's findings herein are without prejudice to Sea Robin making a future request for a change in function designation based on changed circumstances. Accordingly, the Commission denies the protestors' request that Sea Robin clarify its future plans.

3. Jurisdictional Analysis: The Primary Function Test

63. Under section 1(b) of the NGA, the Commission's jurisdiction does not extend to facilities used for "the production or gathering of natural gas." The NGA, however, does not define the term "gathering." As a result, the Commission has developed a legal test, known as the "primary function test,"⁴⁷ to determine which facilities are non-jurisdictional gathering facilities and which facilities are jurisdictional transmission facilities.

⁴⁶ Trunkline stated, in its February 21, 2012 Data Response 7, that it intends to make a separate abandonment filing for Lines 210A-2300 and 210A-2400 located on the Vermilion system, removing them from the set of facilities to be transferred to Sea Robin. As such, Lines 210A-2400 and 210A-2300 will not be included in the sale to Sea Robin, and, consequently, the Commission does not grant Trunkline permission to abandon these lines. In addition, Lines 210A-2300 and 210A-2400 will not be included in Sea Robin's rate base underlying its recoverable cost of service.

⁴⁷ See *Amerada Hess Corp.*, 52 FERC ¶ 61,268 (1990), and *Farmland Industries, Inc.*, 23 FERC ¶ 61,063 (1983).

64. The “primary function test” includes consideration of several physical and geographic factors, including: (1) the lengths and diameters of the pipelines at issue; (2) the extension of the subject facilities beyond the central point in the field; (3) the facilities’ geographic configuration; (4) the location of compressors and processing plants;⁴⁸ (5) the location of wells along all or part of the facilities; and (6) the operating pressure of the lines. The Commission also considers the purpose, location, and operation of the facilities; the general business activity of the owner of the facilities; and whether the jurisdictional determination is consistent with the NGA and the Natural Gas Policy Act of 1978.⁴⁹ The Commission does not consider any one factor to be determinative and recognizes that all factors do not necessarily apply to all situations.⁵⁰

65. In *Sea Robin*,⁵¹ the Commission adopted an additional factor - a central aggregation point criterion — to assist in the analysis of where gathering ends and transportation begins with respect to offshore facilities. In applying its central aggregation point criterion, the Commission looks at whether there is a given point on an offshore system where gas is received from multiple upstream areas and at which there is a marked change in physical attributes, e.g., significantly larger diameter pipe downstream of that point, the presence of a production platform, or high horsepower compression facilities.

66. If there is such a central point of aggregation, the Commission still reviews the traditional factors of the primary function test, i.e. the overall geographic configuration of the system, the physical dimensions of the facilities, and the locations of compression facilities and connections with supply laterals, wells, and production platforms in

⁴⁸ The Commission notes that when considering the primary function of offshore facilities, the fact that gas volumes are processed at onshore plants does not require a finding that all offshore facilities are gathering. *See Tennessee Gas Pipeline Co.*, 124 FERC ¶ 61,128, at P 15 (2008) (“The Commission has previously discussed the impracticality of locating processing plants offshore, and concluded that in the offshore context, the absence of processing plants is of little value in assessing the primary function of facilities.”); *Sea Robin*, 87 FERC at 62,425 (“The Commission’s review has resulted in our concluding that the ‘behind-the-plant’ factor is not necessarily determinative when the primary function test is applied to offshore facilities, and can be outweighed by other factors.”).

⁴⁹ 15 U.S.C. §§ 3301-3432 (2006).

⁵⁰ *Columbia Gas Transmission Corp.*, 93 FERC ¶ 61,278, at 61,913 (2000).

⁵¹ *Sea Robin*, 87 FERC ¶ 61,384.

deciding whether the identified central point of aggregation is where non-jurisdictional gathering ends and jurisdictional transmission begins.⁵² While the courts have sanctioned giving some weight to non-physical factors, e.g., the original purpose of the subject facilities or the general business activities of the owner, and have agreed that they may be relevant considerations in determining the demarcation point between transmission and gathering facilities, such non-physical factors must be secondary to the physical factors. Thus, non-physical factors “generally only come into play if application of the physical factors results in a close call.”⁵³

67. The subject facilities, which Trunkline proposes to abandon by sale to Sea Robin, include approximately 533 miles of pipeline, eight platforms (seven offshore piping platforms and one platform with 28,950 horsepower of compression), and appurtenant facilities.⁵⁴ The facilities to be transferred are located offshore Texas and Louisiana in the Gulf of Mexico and onshore in Louisiana and represent virtually all of Trunkline’s offshore facilities.⁵⁵ The applicants state that some of the facilities have been the subject of prior jurisdictional determinations.⁵⁶

i. Vermilion System

68. The Vermilion System consists of approximately 86.5 miles of pipeline. Roughly 35 miles of pipeline are located in waters offshore of Louisiana in the Vermilion Area.

⁵² *Id.* 62,430-31.

⁵³ *Transcontinental Gas Pipe Line Co.*, 121 FERC ¶ 61,157, at P 11 (2007) (*Jupiter*).

⁵⁴ A detailed list of the facilities to be transferred is attached as Exhibit A to the Purchase and Sale Agreement provided as Exhibit U of the application. The list of facilities identifies approximately 447 miles of pipeline currently functionalized as transmission and 86 miles as gathering.

⁵⁵ The analysis below does not address the Brazos System because, as discussed above, the public convenience and necessity does not require the certification of the Brazos System.

⁵⁶ Applicants’ January 11, 2012 Data Response 8. Applicants’ cite *Trunkline Gas Co.*, 67 FERC ¶ 61,256 (1994) and *Trunkline Gas Co.*, 95 FERC ¶ 61,337 (2001), *reh’g denied*, 97 FERC ¶ 61,169 (2001), wherein jurisdictional determinations were made for certain Trunkline facilities. The Commission notes that not all of the facilities at issue in this proceeding were analyzed in the cited orders.

The Vermilion System consists of pipeline segments ranging from approximately one quarter mile to 28 miles in length and 4 to 18 inches in diameter with operating pressures between 537 and 902 psig. The system has two offshore piping platforms and no compression facilities.

69. The Vermilion System comes onshore in Vermilion Parish, Louisiana, where the liquids are separated from the gas stream at the third-party owned North Freshwater Bayou Facility and then continues to the Kaplan Compressor Station, which will be retained by Trunkline. The Vermilion System's volumes are delivered into Trunkline's mainline without dehydration or further processing. The capacity of the Vermilion System is 315,944 dekatherms (Dth) per day⁵⁷ and the average daily throughput for the year 2011 was 4,881 Dth per day,⁵⁸ which equates to a utilization rate of approximately 1.5 percent.⁵⁹

70. Trunkline currently functionalizes approximately 13.9 miles as gathering and 72.6 miles as transmission. The applicants state that, although they are not filing for a change in the functionalization of any facility as determined by the Commission in prior orders, all facilities upstream of Trunkline's Kaplan Compressor Station, that is the entire Vermilion System, should be classified as gathering if the Commission performs the primary function analysis.⁶⁰

71. Initially, the Commission finds that the onshore Kaplan Compressor Station, located over 20 miles inland, can not be a central point of aggregation in the sense evoked in *Sea Robin*, as suggested by applicants.⁶¹ The central point of aggregation

⁵⁷ Applicants' February 28, 2012 Data Response. In volumetric terms, the capacity is 292,000 Mcf per day.

⁵⁸ Applicants' January 11, 2012 Data Response 3.

⁵⁹ In their February 21, 2012 Data Response 7, the applicants indicate that a producer on the Vermilion System has notified Trunkline that it intends to deliver its production into an alternative system, thus, reducing further the throughput on the Vermilion System. Applicants further state that Trunkline now intends to separately abandon two of the lines in the Vermilion System, totaling 22.6 miles in length out of the 86.5-mile total for all existing Vermilion System facilities, as discussed below.

⁶⁰ Applicants' January 11, 2012 Data Response 8.

⁶¹ *Sea Robin*, 87 FERC ¶ 61,384.

factor is used in the analysis of offshore facilities and, as such, is located offshore.⁶² To the extent applicants believe the Kaplan Compressor Station should be considered the onshore analog – a central point in the field, the Commission disagrees as the configuration of the facilities does not place the Kaplan Station at a central location receiving gathered volumes from the surrounding area. In addition, as further discussed below, the parallel mainlines were designed, and still serve, to transport gas received at points located offshore more than 20 miles to the downstream Kaplan Compressor Station.

72. The 28-mile long parallel Lines 210A-100 and 210B-100 (parallel mainlines) extend about six miles from their offshore origins in Vermilion Area Block 26 (Vermilion 26) to shore, collecting offshore sourced gas. The parallel mainlines then continue for 22 miles onshore to the Kaplan Compressor Station with only one active onshore receipt point along the way. Line 210A-100 consists of 14- and 18-inch diameter pipe and Line 210B-100 consists of 16- and 18-inch diameter pipe. The two parallel mainlines originate at platforms located less than a quarter of a mile apart in Vermilion 26 — the Trunkline T-2 platform, where Line 210B-100 originates, and a third-party platform, where Line 210A-100 originates. Line 210A-100 connects to a valve platform (T-1) in Vermilion 14 downstream of its origin in Vermilion 26. The 0.2-mile long, 14-inch diameter Line 210A-1700 interconnects Trunkline's T-2 piping platform with a third party platform in Vermilion 26 to allow transportation to shore through either of the parallel mainlines. Trunkline's 0.25-mile long, 14-inch diameter Line 210A-1800 connects a second third-party platform to the T-2 platform. That second third-party platform is itself connected to another third-party platform by a third party pipeline.

73. In addition, the two mainlines historically received gas from Lines 210A-2400 and 210A-2300, which are to be separately abandoned. The 13.1-mile long, 16-inch diameter offshore Line 210A-2400, which Trunkline currently functionalizes as gathering, extends between an interconnection with mainline Line 210A-100 near the shoreline and the offshore terminus of the 9.5-mile long, 10-inch diameter Line 210A-2300, which Trunkline currently functionalizes as transmission, and itself connects to the parallel mainlines in Vermilion 26, Lines 210A-100 and 210B-100.

74. Trunkline states, however, that, due to the producer in Vermilion 24 opting to deliver production to a third-party pipeline, Trunkline intends to make a separate

⁶² *Transcontinental Gas Pipe Line Co.*, 96 FERC ¶ 61,115, at n.44 (2001) (stating that the centralized point of aggregation analysis for offshore systems is an analog for the central point in the field analysis for onshore systems).

abandonment filing for Lines 210A-2300 and 210A-2400, removing them from the set of facilities to be transferred to Sea Robin.⁶³ Without these two lines, the lengths, diameter, and operating pressure of the remaining Vermilion System facilities are consistent with a transmission function and are configured simply as mainline transmission facilities primarily collecting gas, through either third-party facilities or short Trunkline laterals, from a small region offshore.

75. Thus, on balance, the Commission finds that all of the facilities of the Vermilion System primarily perform a transmission function. Those facilities include Lines 210A-100 and 210B-100, the T-1 and T-2 platforms, the short connecting Lines 210A-1800 and 210A-1700, and other facilities located entirely onshore.⁶⁴ The analysis here excludes transmission Line 210A-2300 and gathering Line 210A-2400 as Trunkline states that it will separately abandon those facilities, rather than transfer them to Sea Robin.

ii. Terrebonne System

76. The Terrebonne System consists of approximately 446.4 miles of pipeline. Roughly 360 miles of pipeline are located in waters offshore of Louisiana in the Ship Shoal, South Timbalier, Grand Isle, Ewing Bank, South Pelto, Eugene Island, and South Marsh Island areas. The Terrebonne System consists of pipeline segments ranging from less than one mile to approximately 73 miles in length and 4 to 30 inches in diameter. The system's operating pressure is 850 to 975 psig. The system has five offshore piping platforms, plus the TRIMARS platform that is owned by Trunkline and supports three compressor units totaling 28,950 horsepower, but which is currently unused due to low throughput.⁶⁵

77. The Terrebonne System comes onshore in Terrebonne Parish, Louisiana and extends to Trunkline's Patterson Compressor Station in St. Mary Parish, which will be retained by Trunkline. The gas is usually dehydrated before entering the Terrebonne System, but may be dehydrated at Trunkline's liquids separation facility before the gas enters the Patterson Compressor Station. The capacity of the Terrebonne System is

⁶³ See applicants' February 21, 2012 Data Response 7.

⁶⁴ The entirely onshore 6.1-mile long, 6-inch diameter lateral Line 210A-2000 is currently functionalized as transmission, but has not been used since August 1990. Other entirely onshore facilities include the Cow Island Interconnect.

⁶⁵ The TRIMARS compression facilities are included on the Table list of unutilized facilities.

1,012,300 Dth per day.⁶⁶ The average daily throughput in 2011 was 246,079 Dth per day,⁶⁷ for a utilization rate of approximately 24.3 percent.

78. Trunkline currently functionalizes approximately 72.2 miles and 374.2 miles of the Terrebonne System as gathering and transmission, respectively. The applicants state that, although they are not filing for a change in any functionalizations previously approved by the Commission, they believe that the central point of aggregation factor, when applied to the facilities to be transferred, would indicate a finding of gathering upstream of the TRIMARS compression platform located in Ship Shoal Area Block (Ship Shoal) 139.

79. The Terrebonne System consists of pipeline segments ranging from less than one mile to approximately 73 miles in length and 4 to 30 inches in diameter. Approximately 340 miles of pipeline is 20 inches in diameter or greater and about 155 miles of that length is 30 inches in diameter, most of which is downstream of the TRIMARS compression platform. Pipeline diameters this large are generally indicative of transmission.⁶⁸ However, the system's operating pressure of 850 psig to 975 psig, which is generated by pressures at the well head, is consistent with a gathering function.⁶⁹ The lack of utilized compression on the system is also consistent with a gathering function. The TRIMARS compression facilities were designed to compress gas for transportation to shore and, thus, historically performed a transportation function. While the gas volumes are processed at onshore plants, the onshore location of a

⁶⁶ Applicants' February 28, 2012 Data Response. As discussed above, the unutilized TRIMARS compression facilities are not being certificated for acquisition by Sea Robin. Therefore, the certificated capacity of the Terrebonne System is reduced from 1,542,300 Dth per day to 1,012,300 Dth per day without utilization of the TRIMARS compression, or in volumetric terms, from 1,455,000 Mcf per day to 955,000 Mcf per day.

⁶⁷ Applicants' January 11, 2012 Data Response 3.

⁶⁸ See, e.g., *Sea Robin Pipeline Co.*, 71 FERC ¶ 61,351, at 62,396-99 (1995), *reh'g denied*, 75 FERC ¶ 61,332 (1996) (stating 20-inch and larger diameter pipes, in the absence of countervailing factors, are generally indicative of a transportation function).

⁶⁹ See, e.g., *Tennessee Gas Pipeline Co.*, 124 FERC ¶ 61,128, at P 15 (2008) (stating an "operating range of 800 to 1,200 psig is consistent with the higher operating pressure of offshore gathering facilities . . .").

processing plant does not require a finding that all of the offshore facilities are gathering.⁷⁰

80. The Terrebonne System is configured with two parallel 73-mile long, 30-inch diameter mainlines (Lines 300-1 and 300-2) originating at Ship Shoal 139 where Trunkline's T-25 piping platform and downstream, adjacent TRIMARS compression platform are located. Lines 300-1 and 300-2 extend onshore to Trunkline's Patterson Compressor Station. Several upstream pipelines, ranging in diameter from 18 inches to 30 inches in diameter, feed into the T-25 platform. These upstream pipelines are, in turn, fed by a branching network of other upstream gas collection pipelines that have diameters as small as six inches.

81. Within 20 miles downstream of the T-25 platform, gas is delivered to Lines 300-1 and 300-2 by short third-party pipelines extending from three third-party platforms. In addition, the 43-mile long, 22-inch diameter Line 316A-100 interconnects with the parallel mainlines at a location onshore approximately 20 miles upstream of the Patterson Compressor Station.

82. There is a marked change in facilities at the T-25 platform. At the platform, the myriad smaller diameter upstream collection lines converge and feed into the 30-inch diameter dual mainlines that transport gas onshore.

83. The system's branching configuration of smaller diameter pipelines feeding into the T-25 platform is indicative of a central point of aggregation at the platform.⁷¹ In addition, the TRIMARS platform historically performed a transmission function by supporting compression facilities required for the transportation of gas to shore.⁷² Thus,

⁷⁰ See *Sea Robin*, 87 FERC ¶ 61,384, at 62,425 (1999), *order denying reh'g*, 92 FERC ¶ 61,072 (2000) (stating "the 'behind-the-plant' factor is not necessarily determinative when the primary function test is applied to offshore facilities").

⁷¹ See, e.g., *Transcontinental Gas Pipe Line Co.*, 121 FERC ¶ 61,157, at P 23 (2007).

⁷² When gas flows through a pipeline solely as the result of wellhead pressures or producer-owner compression facilities that "push" the gas, it is an indication that the pipeline may perform a gathering function. See *Transcontinental Gas Pipeline Co.*, 97 FERC ¶ 61,298, at 62,400 (2001) ("The wellhead pressures act to push the gas through the facilities, which is typical of a gathering function, unlike compression, which is typical of a transmission function."). On the other hand, a transmission function is usually being provided by compression facilities along a pipeline or on a platform where

(continued...)

the Commission finds that the T-25 platform is a central point of aggregation. Accordingly, after balancing the factors of the primary function test, the Commission finds that Lines 300-1 and 300-2, the TRIMARS platform,⁷³ and certain piping facilities located entirely onshore,⁷⁴ all located downstream of the central aggregation point, primarily perform a transmission function. The T-25 platform and all facilities upstream of the platform primarily perform a gathering function.

84. The Commission also finds that Line 316A-100 primarily performs a transmission function. Line 316A-100 is a 43-mile long, 22-inch diameter, high pressure straight line configured pipeline, which receives gas from third-party pipelines that connect to six third-party platforms. However, four of those platforms are connected at the same location on Line 316A-100. Because of the paucity of locations where gas enters the pipeline along its relatively long length, the relatively large diameter, and straight line configuration, the Commission finds that Line 316A-100 primarily serves a transmission function.⁷⁵

4. Certificate of Public Convenience and Necessity

85. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.⁷⁶ The Certificate Policy Statement established criteria for

there is a convergence of pipelines but no wells. *See, e.g., High Island Offshore System, L.L.C.*, 128 FERC ¶ 61,292, at P 26 (2009) (*HIOS*).

⁷³ The Commission is not changing Trunkline's current functionalization of the compression facilities located on the TRIMARS platform, which is a transmission functionalization, but those compression facilities are unutilized facilities for which we will not grant Sea Robin a section 7(c) certificate of public convenience and necessity to acquire, as discussed below.

⁷⁴ The entirely onshore facilities include the 3.1-mile, 24-inch diameter Line 314B-100 and the 0.7-mile, 24-inch diameter Line 315C-100 associated with the Patterson Compressor Station and the nearby liquids handling facility.

⁷⁵ *Tennessee*, 137 FERC ¶ 61,105 at P 69 (finding that four receipt points grouped along one end of a 42-mile, 12-inch diameter pipeline are an insufficient basis to determine that the line primarily performs a gathering function).

⁷⁶ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. While Sea Robin does not contemplate any construction of new facilities, the Commission has found it appropriate to apply its Certificate Policy Statement in cases where a company seeks to acquire significant existing facilities.⁷⁷

86. As explained in the Certificate Policy Statement, in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. A proposal to acquire facilities with no related construction of facilities, such as in this proceeding, does not educe the Certificate Policy Statement's concerns with overbuilding, disruptions of the environment, and the exercise of eminent domain.⁷⁸

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

88. Sea Robin proposes to charge its existing rates for service on the acquired facilities and requests a pre-determination that it may roll the costs of the acquired facilities into its next general NGA section 4 rate proceeding. In support of that request, Sea Robin states that the revenues generated will exceed the cost of service on the acquired facilities. As discussed below, the Commission is denying both Sea Robin's request to charge its existing rates as an initial rate and its request for a pre-determination of rolled-in rate treatment for the acquired facilities, without prejudice to Sea Robin proposing in its next rate case to roll in the acquisition costs. Instead, the Commission will require Sea Robin to develop incremental, initial rates for service on the acquired facilities that are based on the combined cost of service of both the Vermilion and Terrebonne systems and do not include costs associated with Sea Robin's existing system facilities. With this condition, Sea Robin's existing shippers will not be at risk of subsidizing service on the acquired facilities as rates for the existing shippers will be unaffected by the authorization issued herein. Thus, Sea Robin's proposal, as conditioned, satisfies the threshold requirement that the pipeline must be prepared to

⁷⁷ See, e.g. *Trunkline Gas Co., LLC*, 132 FERC ¶ 61,069 (2010); *BGS Kimball Gas Storage, LLC*, 117 FERC ¶ 61,122, at PP 19-23 (2006).

⁷⁸ See, e.g., *Cimarron River Pipeline, LLC*, 124 FERC ¶ 61,069, at P 40 (2008).

financially support the project without relying on subsidization from its existing customers.

89. There will be no adverse effect on Sea Robin's existing shippers. ExxonMobil and Hess, as shippers on the Sea Robin system, assert the proposals will result in overcharges to Sea Robin's shippers in the next rate case for the facilities they do not need. Under the Certificate Policy Statement, the Commission will consider whether the "interests of the existing customers of the expanding pipeline may be adversely affected if the expansion results in their rates being increased or if the expansion causes a degradation in service."⁷⁹ ExxonMobil's and Hess' concerns are unfounded because, as the Commission explains below, as a condition of the certificate issued herein, Sea Robin is directed to price the facilities to be acquired incrementally. Further, as previously noted, certain facilities identified above as idle are currently unutilized and Sea Robin has not specified any use for these facilities if they are acquired. Thus, those facilities are not being certificated herein and their costs are not included in the cost of service or initial rates approved herein. Additionally, the Commission is denying the request for a predetermination that Sea Robin can roll-in the costs of the facilities to be acquired in its next rate case. Thus, ExxonMobil and Hess, as shippers on Sea Robin with system rates calculated separately from the facilities to be acquired, will not be adversely affected by the proposals.

90. Likewise, there will be no adverse effect on existing pipelines and their captive customers, as no other pipeline protested or raised concerns.

91. Based on our findings that there will be no adverse impacts on Sea Robin's existing customers or on other pipelines and their customers, the Commission finds that the public convenience and necessity requires the approval of Sea Robin's proposal to acquire and operate the facilities Trunkline proposes to abandon, subject to the conditions in this order.

5. Rates

a. Sea Robin's System Rates as Initial Rates and Request for Predetermination of Rolled-In Rate Treatment

92. Sea Robin states that it performed a cost/revenue analysis for the facilities to be acquired and services to be performed, and determined that estimated revenues using its currently effective base rates are greater than the estimated costs of service. Sea Robin proposes to charge shippers its existing system rates for service on the facilities to be

⁷⁹ Certificate Policy Statement, 88 FERC at 61,747.

acquired, with the exception of fuel. Sea Robin also requests a pre-determination that it may roll the costs associated with acquisition of Trunkline's offshore facilities into its system rates in a future NGA section 4 rate case. Sea Robin states that in Docket No. RP07-513-000, it agreed to file a new NGA section 4 general rate case no later than January 1, 2014, and that it will propose to calculate rates on a rolled-in basis in this upcoming NGA section 4 rate case. In support of its request, Sea Robin states that its cost/revenue study indicates that, if the acquired facilities were rolled-in, its existing customers would not subsidize services on the acquired facilities.

i. Protestors

93. Apache requests that the Commission deny Sea Robin's proposed initial rates, contending that Sea Robin's proposed rates are not just and reasonable rates for transportation on the facilities to be acquired. Apache states that the claim that there would be no subsidization by Sea Robin's existing customers as a result of rolled-in rate treatment fails to address the reciprocal issue – that there would be subsidization by Trunkline's customers. Apache, Arena, LLOG, and the Producer Coalition assert that Sea Robin's calculations demonstrate that the proposed initial rates are greater than the assumed incremental cost of service, and that the calculations prove that the Sea Robin rates are too high. Apache, Arena, LLOG, and the Producer Coalition also claim that Sea Robin's calculations demonstrate that it would overrecover the acquired facility costs and, in essence, the old Trunkline shippers would subsidize the Sea Robin system. Arena, LLOG, and the Producer Coalition state that given that the facilities are not interconnected with Sea Robin's existing system, applying Sea Robin's system-wide rates to incremental transportation service on the facilities does not make sense for ratemaking purposes. Arena, LLOG, and the Producer Coalition request that the Commission require Sea Robin to calculate incremental rates for transportation over the facilities that are no higher than Trunkline's currently effective Field Zone rates.

94. Similarly, Apache, the Producer Coalition, LLOG, ExxonMobil, and Hess also oppose Sea Robin's request to roll the costs of the facilities to be acquired into its system rates because of the low or non-existent throughput on the acquired facilities, and request that the Commission defer consideration of rolled-in rate treatment until Sea Robin's 2014 general section 4 rate proceeding to allow the parties to see the actual impact of the transfer on rates.

95. The Producer Coalition and LLOG contend that Sea Robin makes no showing that rolling the costs of the facilities into its rate base and rates is justified or consistent with the Commission's rolled-in rate policies.⁸⁰ The Producer Coalition also contends that

⁸⁰ Certificate Policy Statement, 88 FERC ¶ 61,227.

Sea Robin has failed to rebut the Commission's presumption that non-integrated, stand-alone projects should be priced incrementally based on the costs of the facilities.

96. ExxonMobil asserts that a rolled-in rate determination typically is based on contracted quantities, not annualized throughput.⁸¹ ExxonMobil points out, however, some of the facilities to be transferred have no throughput at present, and that the throughput on the other facilities is low and declining rapidly. ExxonMobil also contends that a rolled-in rate determination typically is based on a projection of costs and revenues over several years,⁸² but that Exhibit N to the application compares projected cost of service and revenues for a single 12-month period ending March 31, 2011.

97. Lastly, ExxonMobil states that the Commission has previously declared that the cost of fuel must be included in the rolled-in analysis because it is an element of a shipper's transportation expense.⁸³ However, ExxonMobil alleges that Sea Robin's effective fuel rate, and in particular the fuel and unaccounted-for gas component of the rate, have not been found just and reasonable.⁸⁴

ii. Applicants Response

98. Sea Robin contends that no subsidization of costs for the new facilities by existing Sea Robin customers will occur as a result of its proposal to roll-in rates, and that rolling the costs into its rates will benefit existing Sea Robin customers.⁸⁵ Sea Robin also states

⁸¹ ExxonMobil cites *Colorado Interstate Gas Co.*, 131 FERC ¶ 61,086, at PP 36-37 (2010) (granting pre-determination of roll-in for incremental mainline expansion based on projected revenues under firm transportation agreements over a 10-year period).

⁸² ExxonMobil cites *Iroquois Gas Transmission Sys.*, 99 FERC ¶ 61,261, at 62,125 (2002) (first three years).

⁸³ *Kern River Gas Transmission Co.*, 96 FERC ¶ 61,137, at 61,581 (2001) (citing *Northern Border Pipeline Co.*, 80 FERC ¶ 61,152 (1997), for the proposition that the Commission's pricing policy statement required the cost of fuel to be included in the rolled-in analysis).

⁸⁴ Sea Robin's effective fuel reimbursement percentage rate issue is currently pending before the Commission in Docket No. RP11-2148-000. See *Sea Robin Pipeline Co., LLC*, 135 FERC ¶ 61,278 (2011).

⁸⁵ November 23 Answer at 9.

that it will file its next NGA section 4 general rate case on or before January 1, 2014, and that any cost recovery issues should be dealt with then.

iii. Commission Determination

99. Sea Robin's cost/revenue study indicates that the use of its system rates as initial rates for services on the facilities to be acquired would likely lead to cost over recovery. There are no shared facilities. Thus, concerns about new customers benefiting from cheap expansibility of facilities paid by existing shippers as expressed in the Certificate Policy Statement, and which would favor higher system rates over lower incremental rates, do not apply. Further, because the Vermilion and Terrebonne Systems are stand-alone facilities that are not physically connected to each other or to Sea Robin's current system, there are limited operational or service inter-relationships that might favor the use of a system rate as compared to an incremental rate.

100. Sea Robin has raised no evidence to rebut the Commission's presumption that non-integrated, stand-alone projects should be priced incrementally based on the costs of the facilities. In *Colorado Interstate Gas Co.*,⁸⁶ the Commission rejected the argument that the Commission's pricing policy requires a pipeline to charge its existing rates when the incremental rate is less than its existing rate. In that case, the Commission explained that the use of existing rates is only appropriate "to the extent the new facilities are found to be integrated with the pipeline's existing system."⁸⁷ Similarly, using Sea Robin's rates on the facilities to be acquired is not appropriate given the disconnected nature of the facilities.

101. For these reasons, the Commission rejects Sea Robin's proposal to use its currently effective system rates as initial rates for services on the acquired facilities. Accordingly, the Commission will require Sea Robin to establish incremental initial maximum recourse rates for services over the Vermilion and Terrebonne Systems that are based on the combined cost of service of both the Vermilion and Terrebonne systems. The initial incremental rates will provide Sea Robin an opportunity to recover its incremental cost of service, while ensuring that existing customers on the facilities to be transferred will not be unduly impacted, as they will be charged rates based upon the costs of providing service over those facilities.

102. The Commission also believes that a pre-determination of rolled-in rates is not appropriate in this case, where the facilities to be acquired are not physically connected to

⁸⁶ 122 FERC ¶ 61,256 (2008) (*Colorado Interstate*).

⁸⁷ *Id.* 62,471.

Sea Robin's existing facilities.⁸⁸ Applying Sea Robin's system rate to Trunkline's existing shippers would result in those customers paying a rate established to recover costs which do not appear to be related to the service they are receiving. The Commission finds that incremental rates based on the costs of the jurisdictional Vermilion and Terrebonne system facilities are appropriate initial rates for the Trunkline facilities Sea Robin is acquiring. The Commission notes its rejection of Sea Robin's request for pre-determination of rolled-in rates is without prejudice to Sea Robin proposing and fully supporting such a proposal in its next NGA section 4 proceeding.

103. Below, the Commission discusses the various aspects of the rate base, cost of service, billing determinants and rate design that must underlie the incremental initial rates.

b. Rate Base

104. Sea Robin's proposed rate base is based on Trunkline's books and records as of March 31, 2011, and includes: (1) \$380,222,074 of gross plant; (2) \$292,507,749 of accumulated depreciation; and (3) accumulated deferred income taxes of \$9,739,602, for a rate base of \$77,974,723.⁸⁹ These figures are functionalized as reflected on Trunkline's books.

105. The Commission found above that certain facilities are not currently used to provide gathering or transmission services. The Commission will require Sea Robin to remove the plant costs related to these facilities from its proposed rate base and classify these facilities in Account 121, Nonutility Property. In addition, the Commission also found that certain facilities to be acquired that are currently functionalized as transmission actually perform a gathering function. The Commission will require Sea Robin to refunctionalize its rate base consistent with these findings in its compliance filing.

106. Sea Robin must, for accounting purposes, classify the facilities identified above as idle in Account 121 because they are not currently used to provide gathering or transmission services. In addition, the Commission has determined that certain facilities currently certificated by Trunkline as transmission facilities are performing a gathering function. Consistent with Commission precedent, Sea Robin must give these findings effect for accounting purposes. Sea Robin must refunctionalize the original cost of the

⁸⁸ See *Colorado Interstate*, 122 FERC ¶ 61,256.

⁸⁹ Sea Robin proposes to adjust the numbers to reflect actual book values as of the date of acquisition.

facilities from transmission to gathering accounts. Also, Sea Robin must transfer the accumulated provision for depreciation carried in the account for the refunctionalized property between functions in accordance with Gas Plant Instruction No. 12 of the Commission's Uniform System of Accounts. The amount of accumulated depreciation associated with the refunctionalized gas plant to transfer between functions must be determined by using the actual recorded amount of accumulated depreciation on a vintage basis.⁹⁰

c. Cost of Service

107. Sea Robin presented an illustrative cost of service for the acquired facilities as part of its cost and revenue study.⁹¹ The applicants state that the cost of service is \$18,608,924⁹² and is composed of: (1) Operation and Maintenance (O&M) expenses of \$4,284,638; (2) Administrative and General (A&G) expenses of \$2,847,844; (3) Depreciation expense of \$3,989,844; (4) Other Taxes of \$150,355; (5) Return on Rate Base of \$7,345,219; (6) State Income Taxes of \$116,951; (7) Federal Income Taxes of \$2,867,671; and (8) Revenue Credits of \$2,993,598. Sea Robin states that its O&M, A&G, and revenue credits are based on Trunkline's books and records. Depreciation expense, return, and taxes are based on Sea Robin's values underlying its currently effective rates.⁹³ This cost of service is based on an overall after tax rate of return of 9.42 percent, a straight line depreciation of 0.80 percent, and a negative salvage rate of 0.25 percent.

108. In its protest, Apache contends that there is no factual support for the assumptions embedded in the cost of service associated with the acquired facilities. It is not clear to what assumptions Apache refers. Initial rates are usually based on estimated costs for facilities not yet in service. In contract, Sea Robin states that it used Trunkline's actual data for O&M, A&G, and revenue credits for the 12-month period ending March 31, 2011. In fact, for O&M and A&G expenses, Sea Robin provided all the costs by account number. The Commission approves Sea Robin's use of actual costs for O&M, A&G, and revenue credits as supported and reasonable. As for the values used to determine depreciation expense, return, and taxes, Sea Robin used the values underlying its

⁹⁰ See *Transwestern Pipeline Co.*, 72 FERC ¶ 61,085, at n.17 (1995).

⁹¹ Application at Exhibit N (Revenues-Expenses-Income).

⁹² Application at 22.

⁹³ Settlement approved in *Sea Robin Pipeline Co., LLC*, 125 FERC ¶ 61,185 (2008), Docket No. RP07-513-000.

currently effective rates. The Commission has already found these values to be just and reasonable, and also accepts their use.

109. Sea Robin states that its cost of service is illustrative. Sea Robin functionalized its cost of service between transmission and gathering. Consistent with the findings in this order, Sea Robin's compliance filing must remove from the cost of service any costs attributable to facilities that are not used, and reflect the refunctionalization findings made above. The Commission expects the compliance cost of service base figures to be changed only to reflect rate base adjustments as of the date of acquisition.

d. Throughput and Billing Determinants

110. Sea Robin proposes usage billing determinants of 43,043,000 Dth for gathering and 97,352,000 Dth for transmission. Sea Robin states that its proposed billing determinants reflect average throughput for the first seven months of 2011, ending July 31, 2011, annualized for the remainder of the year. Sea Robin supported its billing determinants by filing actual throughput amounts in response to the Commission's December 21, 2011 data request.⁹⁴ Sea Robin's actual gathering and transmission throughput amounts yield 40,773,284 Dth and 91,600,214 Dth, respectively.

111. The Commission reviews billing determinants to ensure that they appropriately allocate costs and risk. In this instance, Sea Robin demonstrated that its estimates were greater than actual throughput volumes. This implies Sea Robin is accepting the risk of transporting less than its projections. The Commission believes that Sea Robin's methodology for determining its billing determinants is appropriate.

112. Sea Robin projected gathering and transmission billing determinants. The Commission has made findings, however, that changed the functionalization of certain facilities. In response to data requests from the Commission, the applicants provided alternate versions of Page 1 of Exhibit N showing actual offshore throughput data by receipt point for a 12-month period ending December 31, 2011.⁹⁵ These explanations and data support Sea Robin's proposed billing determinants used in Exhibit N to calculate revenues. The Commission accepts the method Sea Robin used to derive gathering and transmission billing determinants, and directs Sea Robin to use the same methodology for recalculating gathering billing determinants to reflect the Commission's functionalization findings.

⁹⁴ See January 20, 2012 supplement to January 11, 2012 response to Request no. 11 at DR_11_Attachment_11.2.pdf.

⁹⁵ *Id.*

e. Rate Design

113. Sea Robin has a straight fixed-variable rate design, with its interruptible transportation rate calculated at a 100 percent load factor equivalent of the incremental firm transportation rate. As discussed above, Sea Robin proposes to apply its system rate to the acquired facilities. In addition, Sea Robin and Trunkline have gathering rates, and Sea Robin proposes to continue assessing a gathering rate on transportation utilizing gathering facilities. While the Commission rejected Sea Robin's proposed use of its system rate, the Commission will accept the rate design for calculating initial incremental rates for the acquired facilities, and its application to both gathering and transportation rates. Sea Robin's illustrative incremental costs of service combines the costs of both the Vermilion and Terrebonne Systems, as do all the supporting cost documentation and billing determinants. The recalculated initial rates for each service should apply equally to transportation over either system.

114. Arena, LLOG, and the Producer Coalition request that the Commission require Sea Robin to calculate incremental rates for transportation over the facilities that are no higher than Trunkline's currently effective Field Zone rates. The Commission has already required Sea Robin to recalculate its initial maximum recourse rates. The result may or may not be higher than Trunkline's Field Zone rates. The initial rates to be established here are based on the acquired facilities' actual and estimated costs, which Sea Robin is entitled to recover. Trunkline's rate design or its rates has no relevance to how Sea Robin may recover its costs.

f. Compliance Filing

115. Sea Robin's compliance filing, with actual tariff records reflecting initial recourse base rates, should include work papers in electronic spread sheet format, including the formulas. Sea Robin should start with Exhibit N's costs of service as shown in its filing, and show and document any adjustments. The Commission will also require Sea Robin to keep separate books and records for the facilities.

g. Fuel, Lost and Unaccounted for Gas

116. Sea Robin states that there are no compressors in operation on the acquired facilities, meaning that there will be no compressor fuel associated with throughput on the facilities. As a result, Sea Robin proposes initially to establish a separate standard fuel calculation for transportation, which would only include Sea Robin's then-effective lost and unaccounted for gas component, which currently is 0.49 percent. Sea Robin filed revised *pro forma* tariff language at section 4.1(b) of its General Terms and Conditions (GT&C) to reflect the separate calculation for the acquired facilities.

117. ExxonMobil does not protest Sea Robin's proposal to separately calculate lost and unaccounted for gas on the acquired facilities. However, ExxonMobil notes that it has

protested various aspects of Sea Robin's fuel, lost and unaccounted for gas calculation and that the proposed rate of 0.49 percent is in effect subject to refund.⁹⁶

118. ExxonMobil and the Commission have not identified any of Sea Robin's proposed *pro forma* tariff changes that, if accepted, would compromise the issues raised by ExxonMobil's in Docket No. RP11-2148-000. The Commission will approve Sea Robin's proposal to create a separate lost and unaccounted-for gas calculation for the acquired facilities under its existing fuel, lost and unaccounted for gas mechanism. The existing mechanism contains a true-up mechanism. Thus, Sea Robin's currently effective lost and unaccounted for gas rate is acceptable, as any under or over recoveries will be reconciled in a subsequent GT&C section 4.1(b) filing.

h. Hurricane Surcharge

119. Sea Robin proposes to apply its existing hurricane surcharge to all customers, including the shippers on the acquired facilities. That rate is currently \$0.1990 per Dth.⁹⁷

120. Sea Robin states that it established a volumetric hurricane surcharge in order to recover costs resulting from any hurricane or tropical storm named by the U.S. National Oceanic and Atmospheric Administration or the U.S. National Weather Service. Sea Robin states that this Commission-approved tariff mechanism requires it to assess the hurricane surcharge on all transportation services provided on its system from October 1, 2009, through September 30, 2013. Sea Robin explains that the hurricane surcharge applies to, and is paid in addition to, the rates applicable to such transportation service qualifying for any rate discount or provided under any negotiated rate agreement. Sea Robin contends that the Commission has recognized that: (1) system repairs provide a benefit to all shippers as the shippers benefit from the quick resumption and continued availability of service;⁹⁸ and (2) the hurricane surcharge most closely matches cost

⁹⁶ *Sea Robin Pipeline Co., LLC*, 135 FERC ¶ 61,278 (2011) in Docket No. RP11-2148-000. This proceeding is still pending before the Commission.

⁹⁷ *Sea Robin Pipeline Company, LLC*, FERC NGA Gas Tariff, Third Revised Volume No. 1, 1. Rate Schedule FTS, Currently Effective Rates, 5.0.0. Section 24 Adjustment.

⁹⁸ *Sea Robin Pipeline Co., LLC*, 128 FERC ¶ 61,286, at P 39 (2009) (*Sea Robin II*), *reh'g denied*, 130 FERC ¶ 61,191 (2010) (finding that "Sea Robin's incurrence of [costs related to hurricane damage] benefits its customers by allowing it to resume full service as quickly as possible following a catastrophic event").

incurrence with cost responsibility by assigning the hurricane damage repair costs to all of Sea Robin's customers.⁹⁹

121. Sea Robin explains that since the hurricane surcharge was placed into effect, it has added throughput from four new connections with producers, which has totaled 9.7 Bcf through August 2011. Sea Robin states that, as required by its tariff, all new throughput from these interconnections is subject to the hurricane surcharge. Sea Robin asserts that the offshore producers, who will be new customers using the facilities, will also realize the benefit and will assume the generally applicable costs of offshore transportation.

i. Protests

122. ERT, the Producer Coalition, LLOG, and Apache contend that shippers using the Trunkline facilities to be abandoned should not have to pay Sea Robin's hurricane surcharge, with is currently \$0.1990 per Dth. ERT, the Producer Coalition, LLOG, and Apache state that the surcharge is predicated on the costs incurred to repair the damage caused to Sea Robin's existing facilities by Hurricane Ike in 2008, and that Trunkline does not claim that the facilities to be abandoned were similarly damaged by that hurricane. ERT, the Producer Coalition, and LLOG assert that the gas transported on the facilities to be abandoned will not be delivered into Sea Robin's existing system, but will consist of incremental service. ERT states that the immediate effect of applying the surcharge to Trunkline's current offshore shippers is yet another \$15.8 million increase above their current rates.¹⁰⁰

123. Chevron contends that Sea Robin should be required to take any and all necessary action in order to immediately fully restore the damaged facilities resulting from the hurricane.

⁹⁹ *Transcontinental Gas Pipe Line Co.*, 112 FERC ¶ 61,170, at P 148 (2005) (*Transcontinental*) ("In the post Order No. 636 environment, matching cost incurrence with cost responsibility as closely as possible helps to ensure that services are priced as they should be, and furthers the Commission's goal of competition in the industry.").

¹⁰⁰ ERT states that applying the Exhibit N projected annual throughput of 97,352,000 Dth to Sea Robin's then current \$0.1620 per Dth hurricane surcharge produces an additional \$15.8 million in charges to Trunkline's existing offshore shippers. ERT further contends that, under the mechanics of Sea Robin's hurricane surcharge adjustment mechanism, all other things being equal, the additional throughput derived from the existing Trunkline offshore shippers should serve, over time, to reduce the unit surcharge. ERT notes that the immediate impact, however, is as described above.

ii. **Applicants' Response**

124. Sea Robin contends that in its hurricane surcharge proceeding, the Administrative Law Judge (ALJ) found that “every party that uses the pipeline’s services should share in the additional payment of this emergency cost” and ruled that “all shippers should be required to pay the hurricane surcharge.”¹⁰¹ Sea Robin also asserts that the protestors are analogous to shippers on the four new interconnects that it added after Hurricane Ike, who pay the hurricane surcharge, but were not customers at the time that the damage to Sea Robin’s system occurred.

125. In response to Chevron’s request that Sea Robin be required to immediately fully restore the damaged facilities resulting from the hurricane, Sea Robin states that it has already restored its system, and that its ability to restore service is related to its financial ability to deal with unplanned system outages, which its hurricane surcharge is designed to recover.

iii. **Commission Determination**

126. Sea Robin contends that the Commission has recognized that system repairs provide a benefit to all shippers, as the shippers benefit from the quick resumption and continued availability of service.¹⁰² However, in *Sea Robin*, the Commission also stated in relevant part that:

To the extent Sea Robin is not recovering in the Hurricane Surcharge past costs which it incurred solely to provide past service and instead using the facilities at issue to provide future service, *the hurricane-related costs*, as is true of all pipeline’s investments in used and useful facilities, *would be related to all current and future service performed using the relevant facilities.*¹⁰³

127. While repairs on Sea Robin’s system provide a benefit to all shippers using the Sea Robin offshore pipeline in cases where hurricane damage occurred, the system repairs that underlie the hurricane surcharge were incurred prior to acquisition of the Vermilion and Terrebonne Systems. Although Sea Robin quotes the ALJ’s findings in

¹⁰¹ *Sea Robin Pipeline Co. LLC*, 133 FERC ¶ 63,009, at P 196 (2010).

¹⁰² *Sea Robin II*, 128 FERC ¶ 61,286 at P 39.

¹⁰³ *Id.* at P 43 (emphasis added).

Sea Robin's hurricane surcharge proceeding to the effect that all shippers should pay the surcharge, the only system and customers at issue were Sea Robin's current system and customers. Whether the hurricane surcharge should apply to future customers located on facilities that were not part of Sea Robin at the time of the hearing was not an issue in the hearing.

128. Sea Robin contends that, consistent with Commission policy, the hurricane surcharge most closely matches cost incurrence with cost responsibility by assigning the hurricane damage repair costs to all of Sea Robin's customers.¹⁰⁴ Sea Robin also contends that the protestors are analogous to shippers on the four new interconnects that Sea Robin added after Hurricane Ike, who pay the hurricane surcharge, but were not customers at the time that the damage to Sea Robin's system occurred. The Commission does not agree. While any new shipper using the Sea Robin offshore pipeline where hurricane damage occurred should have to share in the hurricane surcharge, imposing the hurricane surcharge on Vermilion and Terrebonne customers, who receive service on physically separate facilities, for past hurricane damage provides no benefit for the new customer on the acquired facilities. Neither Trunkline nor Sea Robin has incurred any hurricane damage on the Vermilion and Terrebonne systems.

129. Accordingly, the Commission finds that Sea Robin may not impose its existing hurricane surcharge on the existing and new customers on the Vermilion and Terrebonne Systems to recover costs from past hurricane damage on the Sea Robin system. However, Sea Robin may file to recover new eligible costs resulting from future hurricane damage to the facilities. In addition, this finding is without prejudice to Sea Robin proposing in a future NGA section 4 proceeding to apply the hurricane surcharge to all of its customers.

i. Tariff Issues

i. Trunkline's Proposed Tariff Changes

130. Trunkline proposes to cancel Rate Schedule FFZ, its Flexible Field Zone transportation service, because Trunkline will no longer own offshore facilities.¹⁰⁵ Trunkline states that there are no Trunkline shippers with an executed Rate Schedule FFZ

¹⁰⁴ *Transcontinental*, 112 FERC ¶ 61,170 at P 148.

¹⁰⁵ Trunkline states that service under Rate Schedule FFZ is available to any shipper who makes a commitment to deliver into and transport through Trunkline's pipeline facilities gas produced and attributable to leasehold interests in specifically identified Outer Continental Shelf (OCS) Fields.

service agreement. Trunkline also states that, should a shipper with gas volumes on the facilities desire this form of transportation service, Sea Robin can provide similar service under Rate Schedule FTS-2.

131. Trunkline asserts that none of its shippers have firm transportation service exclusively on the offshore facilities, so that it will not need to terminate any firm service agreements as a result of the proposed abandonment. Trunkline avers that it will amend its existing firm service agreements with offshore primary receipt points to redesignate the offshore primary receipt points to corresponding Onshore Custody Transfer Meters. Trunkline maintains that once the transfer has been finalized, Sea Robin's shippers will use Sea Robin's existing Rate Schedules for the transportation of gas originating from the Vermilion and/or Terrebonne Systems to onshore delivery points near Kaplan or Patterson, Louisiana, respectively.

132. Finally, Trunkline proposes to: (1) make miscellaneous tariff changes related to the cancellation of Rate Schedule FFZ; (2) revise Field Zone and system maps to reflect removal of the offshore facilities; and (3) remove processing provisions related to offshore gas.

133. The Commission accepts Trunkline's *pro forma* tariff records in Exhibit X to Trunkline's application. Trunkline must submit actual tariff records that comply with the requirements contained in the body of this order no less than 30 days, or more than 60 days, prior to the commencement of service. Trunkline must comply with the Commission's electronic filing requirements set forth in Order No. 714¹⁰⁶ and Part 154 of the Commission's regulations.¹⁰⁷

ii. Sea Robin's Proposed Tariff Changes

134. Sea Robin proposes to establish a separate standard fuel calculation for transportation on the facilities to be acquired, which Sea Robin states would only include Sea Robin's then-effective lost and unaccounted for gas component (i.e., 0.49 percent.) Sea Robin asserts that there would be no fuel associated with the throughput, since no compression is currently operated in the transportation of natural gas through the facilities because of the current level of throughput.

135. Sea Robin states that after the acquisition of the facilities, its system will have three separate physical legs. Because it will not offer service by displacement, Sea Robin

¹⁰⁶ *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

¹⁰⁷ 18 C.F.R. § 154.4 (2011).

proposes to clarify the character of service in section 2 of each of its three transportation rate schedules to require that the receipt points and delivery points specified in the service agreement must be physically connected.

136. Sea Robin also proposes to expand section 12 of the GT&C of its tariff pertaining to gas quality to incorporate provisions currently included in Trunkline's tariff. Specifically, Sea Robin proposes to increase the maximum heating value to 1,200 total British Thermal Units per cubic foot, and add a provision that dehydration onshore can be substituted for processing.

137. Sea Robin further proposes to add generic language that shippers have the right to their retrograde condensate and are responsible for replacement of a thermally equivalent quantity of the retrograde condensate.

138. In GT&C section 12.4(e), Sea Robin proposes to include language, which Sea Robin states is similar to that set out in Trunkline's tariff (and which Trunkline proposes to delete in the instant filing), that Sea Robin or its designee will provide separation services on a reasonable basis.

139. Finally, Sea Robin proposes to make miscellaneous tariff changes to reflect the additional facilities on the preliminary statement, tariff maps, gathering and pipeline system definitions in GT&C section 1, and the spot price calculation used for cashing out in GT&C section 6.4(d).

140. The Commission accepts Sea Robin's *pro forma* tariff records in Exhibit P to Sea Robin's application, subject to the conditions discussed below. Sea Robin must submit actual tariff records that comply with the requirements contained in the body of this order no less than 30 days, or more than 60 days, prior to the commencement of service. Sea Robin must also comply with the Commission's electronic filing requirements set forth in Order No. 714¹⁰⁸ and Part 154 of the Commission's regulations.¹⁰⁹

141. ERT and Apache object to certain of the proposed tariff changes in Sea Robin's tariff.

¹⁰⁸ *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

¹⁰⁹ 18 C.F.R. § 154.4 (2011).

iii. Sea Robin's Processing Election

142. In section 12.4(b) of the GT&C of the tariff, Sea Robin proposes to revise the processing election from a monthly to an annual election. Apache contends that Sea Robin has provided no rationale for eliminating the current flexibility, which allows producers to adjust to changing market conditions on a real time basis.

143. Sea Robin states that the change to annual processing elections from monthly elections is justified because it will result in administrative efficiencies for the producers, shippers, and the pipeline, given the number of processing options on the Terrebonne System.¹¹⁰

144. Staff's December 21, 2011 data request asked how Sea Robin's processing election revision will affect the shippers on Trunkline's offshore facilities as well as Sea Robin's existing shippers. The data request also asked the applicants to explain why this and any other proposed modifications to GT&C do not require a section 4 filing to implement.

145. In their response to a data request,¹¹¹ Sea Robin contends that the proposed revision in GT&C section 12.4(b) implements the same provision from Trunkline's currently effective tariff and, as such, shippers on the facilities to be abandoned will be unaffected by the revision. Sea Robin also contends that existing shippers may benefit from the revisions through improved administrative efficiency as they will be able to confirm their processing elections annually, rather than monthly. Sea Robin asserts that subsequent to certificate authorization of the requested tariff revision, Sea Robin will file a section 4 tariff filing to effectuate the requested revision.

146. The Commission finds that shippers on the facilities to be abandoned will be unaffected by Sea Robin's proposed revision to the processing election provision in GT&C section 12.4(b), since it is the same processing election provision currently in place for these shippers under GT&C section 13.2 of Trunkline's currently effective tariff. In addition, the processing election is controlled by the producers and the annual election allows Sea Robin to establish operations to serve the requests on a regular basis and avoid repetitive and unnecessary elections. However, Sea Robin's proposed revision to the processing election provision in GT&C section 12.4(b) appears to take away flexibility for Sea Robin's existing shippers, since Sea Robin's existing shippers would be limited to making a processing election on an annual basis. Thus, the Commission

¹¹⁰ Applicants' November 23, 2011 Answer at 13.

¹¹¹ See January 11, 2012 response to Request no. 23.

will accept Sea Robin's revision of GT&C section 12.4(b), subject to Sea Robin explicitly stating that Sea Robin's annual processing election provision applies only to the Trunkline shippers on the facilities being acquired by Sea Robin and not to Sea Robin's existing shippers.

147. In section 12.4(c) of its GT&C, Sea Robin proposes to incorporate an additional provision from Trunkline's tariff that will allow Sea Robin to: (1) process a shipper's gas in the event that the shipper has elected to process but does not; (2) invoice the shipper for the costs of such processing; and (3) dispose of the processing products. Apache advocates that Sea Robin should clarify the tariff language so that the pipeline will keep the shipper whole on a thermally equivalent basis, if the pipeline processes the shipper's gas.

148. In its answer, Sea Robin comments that it will keep the shipper whole on a thermally equivalent basis, just as a shipper on the Trunkline system is currently kept whole.¹¹²

149. Based on Sea Robin's comments, the Commission will require Sea Robin, when it submits its actual tariff filing, to revise GT&C section 12.4(c) to clarify that the shipper will be kept whole on a thermally equivalent basis, if Sea Robin processes a shipper's gas.

V. Conclusion

150. At a hearing held on June 21, 2012, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications(s), as supplemented, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) Permission for and approval of the abandonment by Trunkline of the facilities as described above and in the application as supplemented by sale to Sea Robin is granted.

(B) Trunkline shall notify the Commission within 10 days of the date[s] of the abandonment of facilities as authorized by this order. Trunkline shall complete the authorized abandonments within one year from the date of this order.

¹¹² *Id.*

(C) The facilities found herein to have a primary function of gathering are exempt from the Commission's jurisdiction under NGA section 1(b).

(D) A certificate of public convenience and necessity is issued to Sea Robin under section 7 of the NGA to acquire and operate the facilities determined herein to be jurisdictional transmission facilities under the NGA.

(E) The certificate issued in Ordering Paragraph (D) is conditioned upon Sea Robin's compliance with all applicable Commission regulations under the Natural Gas Act, particularly the general terms and conditions set forth in Parts 154, 157 and 284, and paragraphs (a), (d), and (e) of section 157.20 of the regulations.

(F) Sea Robin and Trunkline must each submit actual tariff records that comply with the requirements contained in the body of this order no less than 30 days or more than 60 days prior to the commencement of service.

(G) The Commission denies Sea Robin's request for a pre-determination of rolled-in rate treatment for the facilities.

(H) Sea Robin is required, as part of its initial rate compliance filing, to:

(1) functionalize the costs of service related to the facilities, as discussed in the body of this order;

(2) remove the costs of service related to the facilities identified in the body of this order as idle from its cost of service recoverable through its jurisdictional services; and

(3) refunctionalize its rate base consistent with the findings in this order.

(I) Sea Robin shall establish and file, within 60 days of the issuance of this order, incremental, initial rates for services on the acquired facilities including supporting work papers in accordance with the discussion in the body of this order.

(J) The Commission is not certifying non-jurisdictional gathering facilities, or unutilized facilities as determined and described in this order.

(K) Sea Robin is required, as part of its compliance filing, to modify its tariff to provide that existing and new customers on the Vermilion and Terrebonne Systems are not required to pay Sea Robin's existing hurricane surcharge for hurricane related damages that occurred on Sea Robin's system prior to Sea Robin's acquisition of the Vermilion and Terrebonne Systems from Trunkline.

(L) Sea Robin shall revise GT&C section 12.4(c) to clarify that the shipper will be kept whole on a thermally equivalent basis if Sea Robin processes a shipper's gas.

(M) Sea Robin and Trunkline must comply with the Commission's electronic filing requirements set forth in Order No. 714 and Part 154 of the Commission's regulations.

(N) Trunkline and Sea Robin must account for the transaction in accordance with Gas Plant Instruction No. 5 and Account 102, Gas Plant Purchased or Sold, of the Uniform System of Accounts and file their final journal entries to clear Account 102, Gas Plant Purchased or Sold, no later than six months after the completion of the transaction. The accounting submission must provide all the accounting entries related to the transfer, along with narrative explanations describing the basis for the entries.

By the Commission. Commissioner Clark voting present.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

Interventions

Ameren Illinois Company
Apache Corporation
Arena Energy, LP
Calpine Energy Services, L.P.
Century Exploration New Orleans, LLC, Dynamic Offshore Resources, LLC, Energy XXI (Bermuda) Ltd., Hilcorp Energy Company, Inc, McMoRan Oil & Gas LLC, Pisces Energy LLC, and W&T Offshore, Inc.
Chevron U.S.A. Inc.
Energy Resource Technology GOM, Inc.
ExxonMobil Gas & Power Marketing Company
Hess Corporation
LLOG Exploration Company, L.L.C.
Memphis Light, Gas & Water Division
NJR Energy Services Company
ProLiance Energy, LLC
Stingray Pipeline Company, L.L.C.
Tennessee Valley Authority
Union Electric Company d/b/a Ameren Missouri