

119 FERC ¶ 61,056  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

UGI LNG, Inc.

Docket Nos. CP06-442-000,  
CP06-443-000,  
and CP06-444-000

ORDER ISSUING CERTIFICATES

(Issued April 19, 2007)

1. On August 31, 2006, UGI LNG, Inc. (UGI LNG) filed applications (1) under section 7(c) of the Natural Gas Act (NGA) requesting authorization to acquire and operate liquefied natural gas (LNG) facilities in Berks County, Pennsylvania, (2) for a blanket certificate under Subpart F of Part 157 of the Commission's regulations to perform construction activities and operations, and (3) for a blanket certificate under Subpart G of Part 284 of the Commission's regulations to provide open-access storage service for its customers. We will grant the requested authorizations, as discussed and conditioned below.

**Proposal**

2. UGI LNG proposes to acquire and operate facilities located near Temple, Pennsylvania to transport, liquefy, store, and vaporize natural gas. Currently, natural gas is delivered by UGI Utilities, Inc. (UGI Utilities) from a 5,000-foot long, 8-inch diameter line that extends from an interconnection with Texas Eastern Transmission LP (Texas Eastern) to LNG facilities that UGI Energy Services, Inc. (UGI Energy), a local distribution company, uses to provide intrastate service to UGI Utilities; the gas is sent out of the LNG facilities through a 12-inch diameter line that interconnects with UGI Utilities's distribution system.

3. UGI LNG proposes to acquire, from UGI Utilities, approximately 5,000 feet of 8-inch diameter pipeline, and, from UGI Energy, the LNG facilities, which comprise a liquefier designed to deliver approximately 4,000 Dth of gas per day (Dth/d) under

optimum flow-by conditions,<sup>1</sup> a 250,000 Mcf storage tank, and a vaporization system with a maximum daily vaporization capability of 55,200 Dth/d,<sup>2</sup> to provide peaking storage services to UGI Energy.<sup>3</sup> UGI Energy has executed a precedent agreement with UGI LNG for service under Rate Schedule LNG-F, representing a continuation of UGI Energy's pre-certificate right to use the facility to meet the peaking needs of UGI Utilities for 15- year term. Firm service to other parties would be available initially only by means of capacity release. UGI LNG will provide interruptible service and released firm services upon acceptance of its rate schedules.<sup>4</sup>

4. UGI LNG requests an open-access blanket certificate under Subpart G of Part 284 of the Commission's regulations to provide market-based firm (FTS) and interruptible (ITS) open-access services on a non-discriminatory basis. UGI LNG also requests a blanket certificate under Part 157 of Subpart F to perform routine activities in connection with the construction, maintenance, and operation of the facilities it proposes to acquire.

### **Notice and Interventions**

5. Notice of the application was published in the *Federal Register* on September 18, 2006.<sup>5</sup> Timely, unopposed motions to intervene were filed by Key Span Delivery Companies, UGI Utilities, and the Pennsylvania Office of Consumer Advocate (Consumer Advocate). Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.<sup>6</sup> There were no protests, but the Consumer Advocate filed comments noting that UGI Utilities requires

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<sup>1</sup> On January 5, 2007, UGI LNG filed supplemental information indicating that it plans to install an additional boil-off compressor to provide operational redundancy and enhance plant reliability.

<sup>2</sup> The nominal vaporization capability of the facility is 50,000 Dth/d.

<sup>3</sup> UGI LNG also indicated, on January 5, 2007, that it is in the process of installing an on-site truck scale on its existing truck loading pad. It anticipated the installation being completed in February 2007. UGI LNG states that it undertook the truck scale installation in reliance on section 2.55(a) of the regulations which provides for the installation of auxiliary or appurtenant equipment and facilities.

<sup>4</sup> UGI LNG states that customers taking service would deliver gas to UGI LNG at the interconnection between UGI Utilities and Texas Eastern, and that UGI Utilities would remain the delivery point operator.

<sup>5</sup> 71 *Fed. Reg.* 54,640.

<sup>6</sup> 18 C.F.R. § 385.214(a)(3) (2006).

the full capacity of the subject facilities during extreme weather, and that only the idle capacity that might exist would be available for interstate service.

### **Discussion**

6. Because UGI LNG proposes to acquire, install and operate facilities that will be used to transport natural gas in interstate commerce, UGI LNG's proposal is subject to the jurisdiction of the Commission and the requirements of NGA section 7.

### **Application of the Policy Statement**

7. The Commission's September 15, 1999 Policy Statement provides guidance as to how it will evaluate proposals for certificating new construction. The Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, and the avoidance of unnecessary exercise of eminent domain or other disruptions of the environment.

8. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to support the project financially without relying on subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicants existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified, after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only after a proposed project's benefits outweigh its adverse effects on economic interests will the Commission proceed to complete the environmental analysis, in which other interests are considered.

9. The Commission finds the public interest will be served by this proposal because it will enable UGI LNG to continue providing service to UGI Energy for its local distribution needs and also provide new services for other customers on an interruptible basis, as well as on a firm basis using any capacity released by UGI Energy. UGI LNG has a commitment for the full capacity of the facilities from UGI Energy, which uses the

facilities to serve UGI Utilities; therefore, there are no customers who might be adversely affected by the costs or risk of recovery of the costs associated with the proposal. In view of these considerations, we find that UGI LNG's proposal to be required by the public convenience and necessity.

10. UGI LNG seeks a determination that it would not be a Transmission Provider within the meaning of 18 C.F.R. § 358.3(a)(2) for the purposes of the standards of conduct in 18 C.F.R. Part 358.<sup>7</sup> UGI LNG alleges that it does not fit within the definition of a Transmission Provider because, assuming that the Commission grants UGI LNG's request for market-based rate authority, it will meet the criteria under 18 C.F.R. § 358.3(a)(3) for natural gas storage providers which are not considered to be Transmission Providers.<sup>8</sup> Specifically, UGI LNG asserts that it would not be connected with any affiliated interstate pipeline, has no exclusive franchise area, no captive ratepayers and no market power. As such, UGI LNG asserts that it should be allowed to share employees with UGIU that are required for the operation of the Temple Facility.

11. Based on UGI LNG's assertions in its application, as well as the fact that the Commission is granting UGI LNG's request for the requisite authority to charge market-based rates, it appears that UGI LNG fits the description of natural gas storage providers that are not considered to be Transmission Providers under 18 C.F.R. § 358.3(a)(3). Of course, if at any time UGI LNG no longer fits the criteria in section 358.3(a)(3), it will be considered a Transmission Provider under Part 358 and must then follow the standard of conduct requirements.

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<sup>7</sup> *Standards of Conduct for Transmission Providers*, Order No. 2004, FERC Stats. & Regs., Regulations Preambles ¶ 31,155 (2003), *order on reh'g*, Order No. 2004-A, III FERC Stats. & Regs. ¶ 31,161 (2004), 107 FERC ¶ 61,032 (2004), *order on reh'g*, Order No. 2004-B, III FERC Stats. & Regs. ¶ 31,166 (2004), 108 FERC ¶ 61,118 (2004), *order on reh'g*, Order No. 2004-C, 109 FERC ¶ 61,325 (2004), *order on reh'g*, Order No. 2004-D, 110 FERC ¶ 61,320 (2005), *vacated in part, sub. nom. National Fuel Gas Supply Corporation v. FERC*, 468 F.3d 831 (D.C. Cir. 2006). *See also Standards of Conduct for Transmission Providers*, Order No. 690, FERC Stats. & Regs. ¶ 31,237 (2007) (Interim Rule); *Standards of Conduct for Transmission Providers*, FERC Stats. & Regs. ¶ 32,611 (2007) (Notice of Proposed Rulemaking).

<sup>8</sup> UGI LNG states that UGI Utilities would amend its standards of conduct compliance plan to list UGI LNG as an Energy Affiliate. *See* 18 C.F.R. § 358.3(d).

### **Market-Based Rates**

12. To demonstrate its proposal to charge market-based rates for its proposed LNG storage, liquification, and vaporization services is consistent with Commission policy<sup>9</sup> UGI LNG has included in its application a market power study based on the criteria set forth in the Commission's Alternative Rate Policy Statement. UGI LNG defines the relevant geographic market as New York and Pennsylvania, maintaining that this is the market definition approved by the Commission in orders granting market-based rate authority for other market-area gas storage projects also located in New York and Pennsylvania. UGI LNG states that it has defined the relevant product market as market area gas storage services, and has not included other services provided by non-storage facilities or other alternative services that may effectively compete with its proposed LNG storage services. UGI LNG states that its market power analysis demonstrates that good alternatives to the proposed services exist, given the number and size of existing storage facilities in the relevant market, and adds that no barriers to entry in the market exist. UGI LNG states that its market power study shows that it will not possess market power over storage allowing it to sustain significant price increases and that therefore, the grant of market-based rates authority is justified.

13. The Commission has approved market-based rates for storage services where applicants have demonstrated, under the criteria in the Commission's Alternative Rate Policy Statement, they lack significant market power or have adopted conditions that significantly mitigate market power. In prior orders, we have approved requests to charge market-based rates for storage services based on a finding that proposed projects would not be able to exercise market power due to small size, anticipated share of the market, and numerous competitors.<sup>10</sup>

14. UGI LNG's market power analysis for its proposed LNG storage operation provides a description of the services for which market-based rates are proposed, defines the relevant product and geographic markets, measures market share and concentration, and evaluates other factors. For the purposes of its analysis, UGI LNG defines the

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<sup>9</sup>*Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines* (Alternative Rate Policy Statement), 74 FERC ¶ 61,076, reh'g denied, 75 FERC ¶ 61,024, petitions for review denied sub nom., *Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998). *Rate Regulation of Certain Natural Gas Facilities*, Order No. 678, 71 Fed. Reg. 36,612 (June 27, 2006); FERC Stats. & Regs. ¶ 31,220 (2006), *order on clarification and reh'g*, Order No. 678-A, 117 FERC ¶ 61,190 (2006).

<sup>10</sup>*Liberty Gas Storage LLC*, 113 FERC ¶ 61,247 (2005); *Freebird Gas Storage, LLC* 111 FERC ¶ 61,054 (2005).

relevant product market as being the market for gas storage services, and defines the relevant geographic market for such services as New York and Pennsylvania.

15. The Commission uses the Herfindahl Hirschman Index (HHI) test to determine market concentration for gas transportation and storage markets. The Alternative Rate Policy Statement states that a low HHI – generally less than 1,800 – indicates that sellers cannot exert market power because customers have sufficiently diverse alternatives in the relevant market. While a low HHI suggests a lack of market power, a high HHI – generally greater than 1,800 – requires a closer scrutiny in order to make a determination about a seller’s ability to exert market power. UGI LNG’s market share and concentration analysis shows an HHI calculation of 3,473 for working gas capacity, and an HHI calculation of 3,049 for peak day deliverability. However, while the New York and Pennsylvania storage market is considered concentrated based on the HHI analysis, this concentration is the result of a single storage provider, Dominion Transmission Inc. (DTI), which holds a 55 percent market share for working gas capacity and 52 percent for maximum deliverability. In contrast, UGI LNG will hold a 0.05 percent market share for working gas capacity and 0.49 percent for maximum deliverability. Thus, UGI LNG’s aggregate share of the relevant storage market will be relatively small. Given the number of current storage providers (UGI LNG’s study identifies 12 alternative storage facility owners in the relevant market area), the Commission concludes that the barriers to entry to the storage market in the relevant market are low. The Commission has found in similar cases that this market concentration was acceptable because DTI’s facilities are regulated and its rates are cost-based, thus alleviating the market power potential of relatively small applicants.<sup>11</sup>

16. The Commission will grant UGI LNG’s request to charge market-based rates for its storage, liquefaction, and vaporization services. Consistent with previous orders authorizing market-based rates for services, the Commission will require that UGI LNG notify the Commission of future circumstances that may significantly affect its market power status. Thus, our approval of market-based rate authority is subject to reexamination in the event that: (a) UGI LNG seeks to add storage capacity beyond the capacity authorized in this proceeding; (b) an affiliate increases storage capacity; (c) an affiliate links storage facility to UGI LNG or (d) UGI LNG, or an affiliate acquires an interest in, or is acquired by, an interstate pipeline connected to UGI LNG. Since these circumstances could affect its market power status, UGI LNG shall notify the Commission within 10 days of acquiring knowledge of any such changes. The

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<sup>11</sup> See, e.g., *Honeoye Storage Corp.*, 91 FERC ¶ 62,165 (2000); *Central New York Oil and Gas Co.*, 94 FERC ¶ 61,194 (2001); *Seneca Lake Storage, Inc.*, 98 FERC ¶ 61,163 (2002); and *Wycoff Gas Storage Company, L.L.C.*, 105 FERC ¶ 61,027 (2003).

notification shall include a detailed description of the new facilities and their relationship to UGI LNG.<sup>12</sup> The Commission also reserves the right to require an updated market power analysis at any time.<sup>13</sup>

### **Waivers of Filing Requirements**

17. Because it proposes to charge market-based rates, UGI LNG requests waiver of Commission regulations relating to cost-based rate proposals and any other regulations necessary to grant its requested authorizations. In light of its request for authority to charge market-based rates, UGI LNG requests that the Commission waive section 157.6(b)(8) of the regulations, which requires an applicant to provide the Commission with information necessary for the Commission to make an up-front determination on the rate treatment of a proposed project. UGI LNG also requests that the Commission waive its filing requirements as to Exhibit K (cost of facilities), Exhibit L (financing), Exhibit N (revenues, expenses and income), and Exhibit O (depreciation and depletion). UGI LNG argues that these exhibits are not relevant to its market-based rate proposal. In addition, UGI LNG requests waiver of the accounting and reporting requirements under Part 201 and section 260.2 of the Commission's regulations, and of section 284.7(e), which requires that rates be designed on a straight fixed-variable methodology. UGI LNG requests waiver of the section 157.14(a)(10) requirement to provide total gas supply information to the extent the information does not pertain to UGI LNG's storage operations.

18. In *Mobay Storage Hub, Inc.*,<sup>14</sup> the Commission approved market-based rates for storage service and found that where the market is sufficiently competitive to warrant market-based rates, the submission of cost-based data is superfluous. In view of our decision to permit UGI LNG to charge market-based rates for its storage and hub

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<sup>12</sup> See *Copiah County Storage Company*, 99 FERC ¶ 61,316 (2002); *Egan Hub*, 99 FERC ¶ 61,269 (2002).

<sup>13</sup> See *Rendezvous Gas Services, L.L.C.*, 112 FERC ¶ 61,141 at P 40 (2005). We note that in Order Nos. 678 and 678-A, the Commission chose not to impose a generic requirement that storage providers granted market-based rate authority on the basis of a market power analysis file an updated market power analysis every five years, or at other periodic intervals. See Order No. 678-A, 117 FERC ¶ 61,190 at PP 12-15.

<sup>14</sup> 117 FERC ¶ 61,298 (2006).

services, we will waive compliance with the requirements of sections 157.6(b)(8) and 157.14 to submit Exhibits K, L, N, and O.<sup>15</sup>

19. Since we are approving UGI LNG's request for market-based rates, we find that there is no ongoing regulatory need to have cost-based financial statements prepared in accordance with the Commission's Uniform System of Accounts. Accordingly, we will grant UGI LNG's request to waive Part 201 and section 260.2 of the Commission's regulations (pertaining to accounting and reporting requirements, which presume that cost-of-service rates are charged).

20. In addition, the Commission grants waiver of the requirement to file an annual report (Form No. 2-A) in section 260.2 of the regulations, except for the information necessary for the Commission's assessment of annual charges. UGI LNG is required to file pages 520 and 520A of Form No. 2-A to report the gas volume information which is the basis for imposing an Annual Charge Adjustment charge. In addition, the Commission requires UGI LNG to maintain cost and revenue data, consistent with the Uniform System of Account, should the Commission require UGI LNG to report this information in the future.

21. These waivers are subject to revision in the event we find cause to review UGI LNG's market power or market-based rates. In addition, because we may find cause to review records and data showing UGI LNG's costs, these waivers are conditioned upon UGI LNG maintaining accounts and financial information of its facilities consistent with generally accepted accounting principles.

### **Tariff Provisions**

22. UGI LNG's pro forma tariff provides for firm natural gas liquefaction, storage and delivery service (Rate Schedule LNG-F), interruptible natural gas liquefaction, storage and delivery service (Rate Schedule LNG-I), natural gas liquefaction and terminal delivery (Rate Schedule LF-F), and interruptible natural gas liquefaction and terminal

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<sup>15</sup> We note that in *Avoca Natural Gas Storage*, 68 FERC ¶ 61,045 (1994) and *Steuben Gas Storage Company*, 72 FERC ¶ 61,102 (1996), we similarly granted market-based rate authority for storage projects and granted waivers of Exhibits K, N, and O. We grant omission of Exhibit L here because there is no protest and UGI LNG will bear the financial risks of the project.

delivery (Rate Schedule LF-I).<sup>16</sup> The Commission finds UGI LNG's tariff sheets comply with the Commission's regulations and policies, with the exceptions noted below. The Commission directs UGI LNG to file actual tariff sheets consistent with the directives in this order at least 30 days, but no more than 60 days, prior to the commencement of service.<sup>17</sup>

23. UGI LNG proposes to offer a general unbundled sales service pursuant to section 284.284(a)<sup>18</sup> of the Commission's regulations and *Order No. 636*.<sup>19</sup> By operation of Section 284.284(a) of the regulations, the issuance of UGI LNG's Part 284, Subpart G blanket transportation certificate will automatically provide UGI LNG with Part 284, Subpart J blanket authority for unbundled sales. In order to exercise this unbundled sales authority, however, UGI LNG must have approved tariff provisions on file that comply with the standards of conduct for unbundled sales services set forth in sections 284.286 and 284.288. UGI LNG's *pro forma* tariff does not include such provisions. Therefore, before providing any unbundled sales service, it will be necessary for UGI LNG to make

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<sup>16</sup> Under Rate Schedules LNG-F and LNG-I, delivery is to the intrastate facilities of UGIU. Under Rate Schedules LF-F and LF-I, delivery is to a properly qualified transporting vehicle at the terminal.

<sup>17</sup> Certain Commission requirements such as segmentation, within-the-path scheduling, and Standards of Conduct provisions are not applicable to companies that provide storage service with no stand-alone transportation.

<sup>18</sup> Section 284.284(a) reads as follows: "*Authorization*. An interstate pipeline that offers transportation service under Subpart B or G of this part is granted a blanket certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act authorizing it to provide unbundled firm or interruptible sales in accordance with the provisions of this section."

<sup>19</sup> *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation, and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, 57 *Fed. Reg.* 13267 (April 16, 1992), *FERC Statutes and Regulations, Regulations Preambles January 1991-June 1996* ¶ 30,939, at pp. 30,425-427 (April 8, 1992), *order on reh'g*, Order No. 636-A., 57 *Fed. Reg.* 36128 (August 12, 1002), *FERC Statutes and Regulations, Regulations Preambles January 1991-June 1996* ¶ 30,950 (August 3, 1992), *order on reh'g*, Order No. 636-B, 57 *Fed. Reg.* 57911 (December 8, 1992), 61 *FERC* ¶ 61,272 (1992), *notice of denial of reh'g*, 62 *FERC* ¶ 61,007 (1993), *aff'd in part and vacated and remanded in part, United Dist. Companies v. FERC*, 88 F.3d 1105 (D.C. Cir. 1996), *order on remand*, Order No. 636-C, 78 *FERC* ¶ 61,186 (1997).

a subsequent filing proposing an unbundled sales rate schedule and tariff provisions that comply with the standards of conduct in sections 284.286 and 284.288.<sup>20</sup>

### **Electronic Data Interchange**

24. UGI LNG requests a waiver of the Commission's regulations requiring compliance with the electronic data interchange (EDI) standards established by the North American Energy Standards Board. UGI LNG states that UGI Utilities will continue to be the point operator for deliveries from the connecting interstate pipeline.

25. Consistent with Commission precedent, we will grant UGI LNG's request for an exemption of the EDI standards, but will require UGI LNG to implement those standards within 90 days following a request from one of its customers that it implement EDI.<sup>21</sup>

### **Gas Retention Penalties**

26. Under Section 11 of Rate Schedules LNG-F and LNG-I, UGI LNG can retain gas which a shipper has failed to remove from UGI LNG's system on or before the date of termination of its service agreement. Section 28 of the GT&C provides for the disposition of retained gas and for crediting the proceeds to shippers. In *Blue Lake Gas Storage Company*, the Commission held that the retention of gas left in storage at the end of the applicable withdrawal period is an operationally justified deterrent to shipper behavior that could threaten the system or degrade service to firm shippers.<sup>22</sup> The Commission accepts UGI LNG's proposal.

### **Right of First Refusal**

27. The Commission notes that UGI LNG's proposed tariff contains a regulatory right of first refusal (ROFR) provision. However, the Commission is approving UGI LNG's request for market-based rates and a regulatory ROFR only for shippers paying maximum (cost-based) tariff rates.<sup>23</sup> Thus, the ROFR provision in UGI LNG's tariff is inapplicable

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<sup>20</sup> We note that section 284.286(c) provides that a pipeline making unbundled sales under Part 284, Subpart J also must comply with the standards of conduct set forth in Part 358.

<sup>21</sup> See, e.g., *Unocal Windy Hill Gas Storage, LLC*, 115 FERC ¶ 61,218 (2006) and *Rendezvous Gas Services*, 112 FERC ¶ 61,141 (2005).

<sup>22</sup> 96 FERC ¶ 61,164 (2001).

<sup>23</sup> See, e.g., *MoBay Gas Storage Hub, Inc.*, 117 FERC ¶ 61,298 at P 52 (2006).

until such time as UGI LNG has cost-based rates on file. Should UGI LNG wish to negotiate a ROFR provision with any of its shippers, it must first have a Commission-approved tariff provision which permits the negotiation of a ROFR with shippers on a non-discriminatory basis.

28. The Commission notes that the index to the General Terms and Conditions (GT&C) of UGI LNG's proposed tariff reflects incorrectly numbered sections and directs UGI LNG to refile its index with properly numbered sections.

### **Environment**

29. Commission staff prepared an environmental assessment (EA) for UGI LNG's proposal. The EA addresses geology, soils, land use, reliability, safety, air quality, noise, and alternatives. Because the Temple LNG Plant is an existing facility, the EA focused on the operation of the proposed project, the cryogenic design aspects of the plant, and public safety.

30. On March 2, 2007, we issued a Notice of Availability of the Environmental Assessment for the Temple LNG Plant (NOA). We received a response to the NOA from the Pennsylvania Department of Conservation and Natural Resources stating that its records indicate special concern species or resources in the vicinity of the proposed project, but that no impact is likely.

31. We have determined that the approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment and will have no significant environmental impact. These findings are based on the foregoing environmental assessment, our review of UGI LNG's application, and implementation of the mitigation measures described in the appendix to this order.

32. The Commission encourages state or local cooperation between interstate pipelines and local authorities; this does not mean, however, that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>24</sup> Any permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. UGI LNG shall notify the Commission's

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<sup>24</sup>See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies UGI LNG. UGI LNG shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

### **Blanket Certificates**

33. In Docket No. CP06-443-000, UGI LNG has applied for a Part 157, subpart F blanket certificate. The subpart F blanket certificate gives a natural gas company Section 7 authority to automatically, or after prior notice, perform certain activities related to the construction, acquisition, abandonment, and replacement and operation of pipeline facilities. Because UGI LNG will become an interstate pipeline with the issuance of a certificate to acquire and operate the subject facilities we will issue the requested Part 157, subpart F blanket certificate. The Commission notes, however, that Part 157 subpart F blanket certificate authority does not extend to construction of any LNG facilities; any modifications or additions to LNG facilities require separate section 7(c) authority.

34. In Docket No. CP06-444-000, UGI LNG requests a Part 284, subpart G blanket certificate in order to provide open-access storage services. Under a part 284 blanket certificate, UGI LNG will not require individual authorizations to provide storage services to particular customers. UGI LNG filed a pro forma Part 284 tariff to provide open-access storage services. Since a Part 284 blanket certificate is required for UGI LNG to offer these services, we will grant UGI LNG a Part 284 blanket certificate, subject to the conditions imposed herein.

### **Conclusion**

35. For the reasons set forth herein, and subject to the conditions set forth below, we find that granting authorization under section 7(c) of the NGA for UGI LNG's proposal is required by the public convenience and necessity. Thus, we grant the requested authorizations to UGI LNG.

36. At a hearing held on April 19, 2007, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, as supplemented, submitted in support of the authorizations sought herein, and upon consideration of the record,

### **The Commission orders:**

(A) In Docket No. CP06-442-000, a certificate of public convenience and necessity is issued to UGI LNG under NGA section 7(c), authorizing the acquisition,

installation and operation of natural gas facilities in Berks County, Pennsylvania, described in this order and in the application.

(B) In Docket No. CP06-443-000, a blanket certificate under subpart F of Part 157 of the Commission's regulations is issued to UGI LNG, authorizing it construct and operate certain facilities, as defined in and under the terms and conditions of that section.

(C) In Docket No. CP06-444-000, a blanket certificate under Part 284 of the Commission's regulations is issued to UGI LNG authorizing it to provide open-access transportation and storage services.

(D) The authorizations in the above paragraphs are conditioned on UGI LNG:

- (1) complying with the environmental conditions set forth in the appendix to this order and all regulations under the NGA including, but not limited to Parts 154, 157, and 284, and paragraphs(a), (c), (e), and (f) of section 157.20 of the Commission's regulations;
- (2) making a tariff filing no sooner than 60 days, but no later than 30 days, prior to commencement of service to place the rates approved herein into effect, including redlined tariff sheets reflecting how its actual tariff filing differs from its *pro forma* filing; and
- (3) UGI LNG's acquiring and making available for service the facilities described herein, within one year.

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

(F) UGI LNG's request to charge market-based storage rates for firm and interruptible storage and terminal service is approved, as discussed in this order. UGI LNG's market power and market-based storage rates authority shall be subject to re-examination in the event that:

- (1) UGI LNG expands its storage capacity beyond the amount authorized in this proceeding;

- (2) UGI LNG acquires additional transportation facilities or additional storage capacity;
- (3) An affiliate provides storage or transportation services in the same market area or acquires an interest in another storage field that can link UGI LNG's facilities to the market area; or
- (4) UGI LNG or an affiliate acquires an interest in or is acquired by an interstate pipeline.

(G) UGI LNG is granted waiver of section 157.14 of the Commission's regulations requiring submission of Exhibits K, L, N, and O and the accounting and reporting requirements under Part 201 and 260.2 of the Commission's regulations, which presume cost-based rates are being charged and collected. This waiver is subject to UGI LNG maintaining accounts and financial information of its storage facility consistent with generally accepted accounting principles.

(H) Based on UGI LNG's assertions in its application, UGI LNG will not be a Transmission Provider under 18 C.F.R. § 358.3(a)(3). If at any time UGI LNG no longer fits the criteria in section 358.3(a)(3), it will be considered a Transmission Provider under Part 358 and must then follow the standards of conduct requirements.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

### Appendix

1. UGI LNG shall construct, maintain and operate the Temple LNG Plant facility as described in its application, as supplemented, unless modified by these certificate conditions. UGI LNG must:
  - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary;
  - b. justify each modification relative to site-specific conditions;
  - c. explain how that modification provides an equal or greater level of environmental protection or safety than the original measure; and
  - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) prior to using that modification.
2. UGI LNG shall eliminate the gaps under the perimeter fence and stabilize the ground near the fence to prevent further erosion.
3. UGI LNG shall file a noise survey with the Secretary **no later than 60 days** after placing the new boil-off compressor in service. If the noise attributable to the operation of the new boil-off compressor at full load exceeds an Ldn of 55 dBA at any nearby noise sensitive areas, UGI LNG shall file a report on what changes are needed and shall install the additional noise controls to meet the level within 1 year of the in-service date. UGI LNG shall confirm compliance with the above requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.
4. UGI LNG must receive written authorization from the Director of OEP before commencing interstate service from the project. Such authorization will only be granted following a determination that the LNG facility has complied with the following recommendations, and can be expected to operate safely as designed.
  - a. The fire water supply and system shall be evaluated and modified as required to provide coverage for process equipment and piping. The results of this evaluation and planned modifications shall be filed with the Secretary for review and written approval by the Director of OEP.
  - b. The LNG vaporizers shall be equipped with redundant temperature detection within stainless steel discharge piping with alarm and shutdown.
  - c. Process safety valves shall be equipped with appropriate measures to prevent water or other debris from entering the discharge nozzles.

- d. The LNG truck loading station and cold box shall be continuously monitored by one or more UV/IR detectors.
  - e. The LNG tank relief valves shall be continuously monitored with instrumentation to detect and alarm release of vapor from the tank.
  - f. Flammable gas detectors which detect and alarm the presence of natural gas in the exhaust vapor from each vaporizer shall be provided.
  - g. Fin Fan Cooler HE-24 (for regeneration gas) and Fin Fan Cooler HE-43 (for the flash gas compressor) shall be equipped with vibration detection, alarm, and shut down.
  - h. The seal between the outer tank shell and the ring wall shall be repaired.
  - i. Piping and instrumentation diagrams (P&IDs) for the facility shall be updated to include information required by the Draft Preferred Submittal Format Guidance. UGI LNG shall also file a schedule for implementing this recommendation with the Secretary. The plan shall be **filed within 30 days** after acceptance of the certificate for this proposal.
  - j. A cause and effect diagram of the alarm, shut down, and hazard control activation system, including set points, shall be produced and filed with the Secretary. UGI LNG shall also file a schedule for implementing this recommendation with the Secretary. The plan shall be **filed within 30 days** after acceptance of the certificate for this proposal.
5. **Prior to construction**, UGI LNG shall file a P&ID showing the planned installation of the new boiloff compressor with the Secretary for review and written approval by the Director of OEP.
  6. **Prior to operation**, UGI LNG shall install redundant UV/IR detectors in the Boiloff Compressor Building.

In addition, **recommendations 4.c, and 7 through 10** shall apply throughout the life of the facility:

7. The facility shall be subject to regular FERC staff technical reviews and site inspections on a **biennial** basis or more frequently as circumstances indicate. Prior to each FERC staff technical review and site inspection, UGI LNG shall respond to a specific data request including information relating to possible design and operating conditions that may have been imposed by other agencies or organizations. Up-to-date detailed P&IDs shall be submitted, reflecting facility modifications, and the

provision of other pertinent information not included in the semi-annual reports described below, including facility events that have taken place since the previously submitted semi-annual report.

8. **Semi-annual** operational reports shall be filed with the Secretary to identify changes in facility design and operating conditions, abnormal operating experiences, activities (including quantity and composition of LNG delivered to and from the facility by truck, vaporization quantities, boil-off/flash gas, etc.); and plant modifications, including future plans and progress thereof. Abnormalities shall include, but not be limited to: unloading/shipping truck problems, storage tank stratification or rollover, geysering, storage tank pressure excursions, cold spots on the storage tank, storage tank vibrations and/or vibrations in associated cryogenic piping, storage tank settlement, significant equipment or instrumentation malfunctions or failures, non-scheduled maintenance or repair (and reasons therefore), relative movement of the storage tank inner vessel, vapor or liquid releases, fires involving natural gas and/or from other sources, negative pressure (vacuum) within a storage tank and higher than predicted boil off rates. Adverse weather conditions and the effect on the facility also shall be reported. Reports shall be submitted **within 45 days** after each period ending **June 30 and December 31**. In addition to the above items, a section entitled "Significant Plant Modifications Proposed for the Next 12 Months" (with dates) also shall be included in the semi-annual operational reports. Such information will provide the Commission staff with early notice of anticipated future construction/maintenance projects at the LNG facility.
9. In the event the temperature of any region of any secondary containment becomes less than the minimum specified operating temperature for the material, the Commission shall be notified **within 24 hours** and procedures for corrective action shall be specified.
10. Significant non-scheduled events, including safety-related incidents (e.g., LNG or natural gas releases, fires, explosions, mechanical failures, unusual over pressurization, and major injuries) and security related incidents (e.g., attempts to enter site or suspicious activities) shall be reported to Commission staff. In the event an abnormality is of significant magnitude to threaten public or employee safety, cause significant property damage, or interrupt service, notification shall be made immediately, without unduly interfering with any necessary or appropriate emergency repair, alarm, or other emergency procedure. In all instances, notification shall be made to Commission staff **within 24 hours**. This notification practice shall be incorporated into the LNG facility's emergency plan. Examples of reportable LNG-related incidents include:

- a. fire;
- b. explosion;
- c. estimated property damage of \$50,000 or more;
- d. death or personal injury necessitating in-patient hospitalization;
- e. free flow of LNG that results in pooling;
- f. unintended movement or abnormal loading by environmental causes, such as an earthquake, landslide, or flood, that impairs the serviceability, structural integrity, or reliability of an LNG facility that contains, controls, or processes gas or LNG;
- g. any crack or other material defect that impairs the structural integrity or reliability of an LNG facility that contains, controls, or processes gas or LNG;
- h. any malfunction or operating error that causes the pressure of a pipeline or LNG facility that contains or processes gas or LNG to rise above its maximum allowable operating pressure (or working pressure for LNG facilities) plus the build-up allowed for operation of pressure limiting or control devices;
- i. a leak in an LNG facility that contains or processes gas or LNG that constitutes an emergency;
- j. inner tank leakage, ineffective insulation, or frost heave that impairs the structural integrity of an LNG storage tank;
- k. any condition that could lead to a hazard and cause a 20 percent reduction in operating pressure or shutdown of operation of a pipeline or an LNG facility;
- l. safety-related incidents to LNG trucks occurring at or en route to and from the LNG facility; or
- m. an event that is significant in the judgment of the operator and/or management even though it did not meet the above criteria or the guidelines set forth in an LNG facility's incident management plan.

In the event of an incident, the Director of OEP has delegated authority to take whatever steps are necessary to ensure operational reliability and to protect human life, health, property or the environment, including authority to direct the LNG facility to cease operations. Following the initial company notification, Commission staff will determine the need for an on-site inspection by Commission staff, the timing on an initial incident report (normally within 10 days), and follow up reports.