171 FERC ¶ 61,147
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick, Bernard L. McNamee,
and James P. Danly.

Sabine Pipe Line LLC	Docket Nos. CP20-24-000
Bridgeline Holdings, L.P.	CP20-25-000

ORDER ISSUING CERTIFICATES

(Issued May 21, 2020)

1. On December 11, 2019, Sabine Pipe Line LLC (Sabine) and Bridgeline Holdings, L.P. (Bridgeline) filed a joint application pursuant to section 7(c) of the Natural Gas Act (NGA)[1] and Part 157 of the Commission's regulations for approval of a long-term capacity lease arrangement under which Sabine will lease transportation capacity on Bridgeline's intrastate pipeline system in southern Louisiana and provide service thereon under Sabine's FERC Gas Tariff. Specifically, Sabine seeks a certificate of public convenience and necessity authorizing it to acquire by lease 300,000 dekatherms (Dth) per day of capacity from Bridgeline and offer service on the leased capacity under its tariff. In turn, Bridgeline seeks a limited jurisdiction certificate to enable it to lease the capacity to Sabine. In addition, Bridgeline requests: (1) a waiver of all filing and accounting requirements otherwise applicable to an interstate pipeline, in relation to the leased capacity; and (2) a determination that the non-leased portion of its pipeline will remain an intrastate pipeline providing interstate service under section 311 of the Natural Gas Policy Act of 1978 (NGPA).[2]

2. As discussed below, we will grant the requested authorizations, as described herein.

I. Background

3. Sabine, a Delaware limited liability company with its principal place of business in Texas, is a natural gas company as defined by section 2(6) of the NGA, engaged in the

[1] 15 U.S.C. § 717f(c) (2018).

[2] 15 U.S.C. § 3371 (2018).

transportation of natural gas in interstate commerce.[3] Sabine's pipeline system consists of approximately 131 miles of pipeline ranging from 12 to 22 inches in diameter, and extends from its eastern terminus at the Henry Hub, Vermilion Parish, Louisiana, to its western terminus in Jefferson County, Texas. Sabine is a wholly-owned subsidiary of EnLink Midstream Operating, LP (EnLink).

4. Bridgeline, also a wholly-owned subsidiary of EnLink with its principal place of business in Texas, is a Delaware limited partnership engaged in the intrastate transportation of natural gas, as well as interstate transportation service under section 311 of the NGPA. Bridgeline's pipeline system consists of approximately 1,000 miles of intrastate pipeline in Louisiana, ranging from 2 to 30 inches in diameter, as well as two natural gas storage caverns in Louisiana.

5. Sabine and Bridgeline (Applicants) state that the lease will enable Sabine to provide natural gas transportation service for Venture Global Calcasieu Pass, LLC (Venture Global). Venture Global received Commission authorization on February 21, 2019, to site, construct, and operate a new liquefied natural gas (LNG) export terminal and associated facilities along the Calcasieu Ship Channel in Cameron Parish, Louisiana.[4] Construction of the export terminal and associated facilities is ongoing. Venture Global intends to use the requested transportation service to procure natural gas feedstock for its LNG facility.

II. **Proposal**

6. In order to support Venture Global's transportation request, Sabine proposes to lease 300,000 Dth per day of firm transportation capacity from Bridgeline via a long-term lease agreement. The proposed leased capacity will originate at the interconnection between Sabine and Bridgeline at the Henry Hub in Louisiana (Sabine/Bridgeline Henry Hub Meter No. 846121) and extend southwesterly to the interconnection between Bridgeline and the certificated TransCameron Pipeline near Grand Chenier, Louisiana.[5] This capacity is currently unsubscribed on Bridgeline.[6] The proposed lease agreement

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[3] 15 U.S.C. § 717a(6) (2018).

[4] *Venture Global Calcasieu Pass, LLC*, 166 FERC ¶ 61,144 (2019).

[5] The Commission authorized TransCameron Pipeline, LLC, Venture Global's affiliate, to construct the 23.4-mile TransCameron Pipeline, which will deliver the natural gas feedstock from the Bridgeline-TransCameron interconnection to the Venture Global LNG export terminal. *Id.*

[6] The Applicants state that some of the Bridgeline leased capacity may also be created by certain non-jurisdictional improvements. Application at 5.

has a 20 year term, which is expected to commence between October 1, 2020, and February 1, 2021. The Applicants state that the monthly lease payment paid by Sabine to Bridgeline will be equal to Bridgeline's maximum recourse rates for firm service under NGPA section 311, as may be changed from time to time over the term of the lease. Bridgeline's current maximum recourse rates for firm transportation service consist of a daily capacity reservation charge of $0.1630 per MMBtu and a usage charge of $0.1075 per MMBtu.[7]

7. Under the terms of the proposed lease agreement, Bridgeline will continue to own, operate, and maintain all its facilities on an integrated basis, while Sabine will have the right to use the leased capacity on a firm basis to provide transportation services to its customers pursuant to its FERC Gas Tariff.

8. To obtain transportation service on the leased capacity from Sabine, Venture Global entered into a precedent agreement with Sabine, Bridgeline, and EnLink, pursuant to which, upon satisfaction of its conditions, Sabine will be obligated to provide 20 years of firm transportation service on the leased capacity under a firm transportation service agreement, discussed further below. Sabine subsequently held a 10-day open season beginning on September 16, 2019, to allow other potential shippers the opportunity to also obtain service on the leased capacity. The Applicants state that the open season notice explained that under a pre-arranged agreement, Venture Global held a right to match any competing bids received during the open season. The open season notice also specified that all competing bids would be evaluated against the precedent agreement rates and terms on a net present value basis. The Applicants state that Sabine received no inquiries or competing bids.

9. Sabine proposes to apply its generally applicable firm and interruptible transportation service rates under Rate Schedules FT-1 and IT-1 as the recourse rate for service on the leased capacity. Sabine's currently effective Rate Schedule FT-1 rates include: (1) a $12.6229 per Dth monthly reservation charge ($0.4150 per Dth daily reservation charge); and (2) a usage charge of between $0.0000 and $0.0035 per Dth.[8] Venture Global has elected to pay a negotiated rate. Sabine also requests pre-approval of certain non-conforming provisions of its service agreement with Venture Global.

10. Bridgeline requests that the Commission issue a limited jurisdiction certificate to enable it to lease capacity to Sabine, while continuing to operate the leased capacity. Additionally, Bridgeline requests a waiver of all filing and accounting requirements otherwise applicable to an interstate pipeline owner and operator, related to the leased

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[7] Application at 13.

[8] Sabine Pipe Line LLC, FERC NGA Gas Tariff, First Revised Volume No. 1, Section 5, Statement of Transportation Rates, 16.0.0.

capacity. Bridgeline also requests a determination that the proposed lease will not affect the non-jurisdictional status of its non-leased facilities, services, or operations as an intrastate pipeline under section 311 of the NGPA.

11. Finally, the Applicants propose to treat the capacity lease as an operating lease for accounting purposes. Sabine will record the lease payments in Account No. 858, Transmission and Compression of Gas by Others. Bridgeline will record the monthly receipts for the lease in Account No. 489.2, Revenues from Transportation of Gas of Others Through Transmission Facilities. In addition, Bridgeline avers it will not shift any costs associated with the leased capacity to its other customers, both intrastate and those receiving service through NGPA section 311.

III. Notice and Interventions

12. Notice of the application was published in the *Federal Register* on December 27, 2019.[9] Venture Global filed a timely motion to intervene on December 26, 2019. This timely, unopposed motion to intervene was granted automatically by operation of Rule 214 of the Commission's Rules of Practice and Procedure.[10] No protests or adverse comments were filed.

IV. Discussion

13. The Applicants' proposal to lease natural gas facilities to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, is subject to the requirements of subsection (c) of NGA section 7.[11]

A. Capacity Lease

14. Historically, the Commission views lease arrangements differently from transportation services under rate contracts. The Commission views a lease of pipeline capacity as an acquisition of a property interest by the lessee in the capacity of the lessor's pipeline.[12] To enter into a lease agreement, the lessee needs to be a natural gas company under the NGA and needs section 7(c) certificate authorization to acquire the capacity. Once acquired, the lessee, in essence, owns that capacity and the capacity is subject to the lessee's tariff. The leased capacity is allocated for use by the lessee's

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[9] 84 Fed. Reg. 71,405.

[10] 18 C.F.R. § 385.214(c)(1) (2019).

[11] 15 U.S.C. § 717f(c).

[12] *Texas Eastern Transmission Corp.*, 94 FERC ¶ 61,139, at 61,530 (2001).

customers. The lessor, while it may remain the operator of the pipeline system, no longer has any rights to use the leased capacity.[13]

15. The Commission's practice has been to approve a lease if it finds that: (i) there are benefits from using a lease arrangement; (ii) the lease payments are less than, or equal to, the lessor's firm transportation rates for comparable service over the term of the lease on a net present value basis; and (iii) the lease arrangement does not adversely affect existing customers.[14] The lease agreement between Sabine and Bridgeline satisfies all of these requirements, as described below.

1. Lease Benefits

16. The Commission has found that capacity leases, in general, have several potential public benefits. Leases can promote efficient use of existing facilities, avoid construction of duplicative facilities, reduce the risk of overbuilding, reduce costs, minimize environmental impacts, and result in administrative efficiencies for shippers.[15] Here, the proposed lease agreement will avoid the construction of duplicative facilities replicating the path of Bridgeline's facilities subject to the lease, which Sabine would otherwise construct but for its ability to lease capacity from Bridgeline. The proposed lease also promotes the efficient use of existing facilities by utilizing existing unsubscribed capacity. In addition, because Sabine's lease of capacity from Bridgeline does not require the construction or installation of any jurisdictional facilities, environmental impacts, as well as impacts on landowners, will be minimized or non-existent.

17. Further, the leased capacity will enable Sabine to provide seamless service across its system and the leased capacity, creating administrative efficiencies for Venture Global and other shippers. These efficiencies include, among others, the ability to: (1) nominate to only one pipeline; (2) satisfy the creditworthiness requirements of only one entity; and (3) resolve disputes before only the Commission, as opposed to the Commission and the applicable state regulator. Additionally, the service will be subject to all the applicable provisions of Sabine's tariff, such as those for capacity release.

2. Lease Payments

18. The Commission has typically approved capacity leases in which the lease payments amount to no more than the rate charged by the lessor for comparable

[13] *Texas Gas Transmission, LLC*, 113 FERC ¶ 61,185, at P 10 (2005).

[14] *Islander East Pipeline Co., L.L.C.*, 100 FERC ¶ 61,276, at P 69 (2002).

[15] *See, e.g.*, *Dominion Transmission, Inc.*, 104 FERC ¶ 61,267, at P 21 (2003); *Islander East Pipeline Co.*, *L.L.C.*, 100 FERC ¶ 61,276 at P 70.

transportation service. Here, the monthly lease payments are equal to Bridgeline's maximum recourse rates for firm NGPA section 311 transportation service, as may be changed from time to time over the term of the lease. Bridgeline's current maximum recourse rates consist of a daily capacity reservation charge of $0.1630 per MMBtu and a usage charge of $0.1075 per MMBtu.[16] Therefore, the lease payments are consistent with the Commission's policy.

3. Effect on Existing Customers

19. The third criterion the Commission considers when approving a lease is whether a proposed lease arrangement will have an adverse effect on existing customers, such that the impact would outweigh the positive benefits already identified.[17] We find that the proposed lease arrangement does not adversely affect existing shippers. Sabine's existing shippers will not be adversely affected as there will be no change to Sabine's existing tariff rates that existing customers currently are charged as a result of the lease agreement. In addition, Sabine will be fully at-risk for the recovery of the lease payments to be paid to Bridgeline via the revenues derived from the Venture Global transportation service agreement and other service to third parties.[18]

20. Further, Sabine's shippers will not see any degradation of their service due to the lease arrangement, given that the lease is adding new capacity to Sabine's system. In addition, Sabine states service to its shippers will be enhanced by providing Venture Global and other shippers seamless access to supplies of natural gas at Henry Hub, a liquid trading market with nine interstate and four intrastate pipelines, as well as seamless access, under a single transportation contract, to an upcoming LNG export facility.

21. Bridgeline's existing shippers also will not be adversely impacted, as the lease utilizes currently unsubscribed capacity or incremental capacity to be installed through limited non-jurisdictional improvements by Bridgeline prior to the effective date of the lease. In addition, Bridgeline asserts that it will not shift any costs associated with the

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[16] Bridgeline Holdings, L.P., FERC NGPA Gas Tariff, Statement of Operating Conditions for Transportation and Storage Services, Bridgeline SOC, Statement of Operating Conditions, 8.0.0.

[17] *See*, *e.g., Gulf Crossing Pipeline Co., LLC*, 123 FERC ¶ 61,100, at P 121 (2008).

[18] Sabine states that it may seek to roll the costs associated with the lease into its system rates in a future rate case if it is able to demonstrate, at that time, that such rate treatment will not result in the subsidization of the expansion capacity by its existing customers. Application at 14.

leased capacity to its intrastate and NGPA section 311 customers and none of Bridgeline's customers have filed adverse comments.

4. Accounting

22. We will require Sabine to treat the capacity lease with Bridgeline as an operating lease for accounting purposes, and record the monthly lease payments in Account 858, Transmission and Compression of Gas by Others, consistent with the Applicant's proposal and the accounting treatment for other similar capacity lease agreements approved by the Commission.[19]

5. Determination

23. As discussed above, we find that the lease payments are satisfactory, there are significant benefits to the lease arrangement, and those benefits outweigh any harm to existing customers. Therefore, we conclude that the proposed lease is required by the public convenience and necessity. Accordingly, we grant Sabine's request for a certificate of public convenience and necessity, and authorizes Sabine to acquire by lease the capacity from Bridgeline and offer service on the leased capacity under its tariff.

24. We will require Sabine to file with the Commission a notification in this docket, within 10 days of the date of acquisition of the capacity leased from Bridgeline, providing the effective date of the acquisition. We also remind the Applicants that, prior to the proposed termination date of the lease, Sabine must obtain authority to abandon the leased capacity and Bridgeline must obtain authority to abandon its limited jurisdiction certificate.[20] Sabine and Bridgeline must continue to meet their respective responsibilities with respect to the leased capacity until they obtain Commission authority to abandon those responsibilities.

B. Non-Conforming Provisions of the Transportation Service Agreement

25. The proposed transportation service agreement between Venture Global and Sabine contains three provisions that materially deviate from Sabine's Rate Schedule FT-1 *pro forma s*ervice agreement.[21] The first non-conforming provision provides that

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[19] *See*, *e.g.*, Tennessee *Gas Pipeline Co., L.L.C.,* 163 FERC ¶ 61,123, at P 16 (2018).

[20] *See Texas Eastern Transmission, LP*, 163 FERC ¶ 61,020, at P 35 (2018).

[21] *See* Application at Attachment B.

changes to Sabine's recourse rates will not affect the rates in the service agreement.[22] The second provision, detailed in a new Exhibit C to its Rate Schedule FT-1 service agreement, establishes specific creditworthiness and credit support requirements and grants Sabine the right to terminate the service agreement in the event Venture Global fails to pay amounts due under the service agreement or fails to replenish its credit support in the event of a draw on the credit support by Sabine.[23] The third provision sets forth specific terms regarding the in-service date for transportation service under the service agreement, which link the in-service date to the occurrence of various events, such as the construction of the TransCameron Pipeline and Venture Global's LNG export terminal, among others.[24] Additionally, the service agreement provides other minor non-substantive administrative clarifications.

26. Sabine requests that the Commission find that the above non-conforming provisions are permissible deviations from its Rate Schedule FT-1 *pro forma* service agreement. Sabine states that the rights provided in the non-conforming provisions were important to the negotiations with Venture Global, such that absent these non-conforming provisions, it would be unable to go forward with the project. Thus, Sabine asserts that Venture Global cannot be viewed as similarly situated with shippers that contract for capacity after the in-service date of the leased capacity. Regarding the creditworthiness and credit support provisions, Sabine states that they are necessary and appropriate to support Sabine's expansion via the leased capacity, maintaining that the lease agreement is analogous to the construction of new capacity, for which additional credit support from the shipper is appropriate and permissible.[25] Sabine also asserts that increased credit support requirements are appropriate in this case, where both Sabine and Bridgeline are exposed to Venture Global's credit over a 20-year period – for Sabine through receipt of the transportation rate payments needed to make the lease payments to Bridgeline, and for Bridgeline through the receipt of the lease payments upon which it is relying, in part, to recover the costs of certain non-jurisdictional improvements it will undertake.[26] Additionally, Sabine states that the proposed non-conforming provisions do not affect the terms of service on Sabine, nor do they create a risk of undue discrimination.

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[22] *Id.* at section 3.2 of the service agreement.

[23] *Id.* at section 5.3 and Exhibit C of the service agreement.

[24] *Id.* at section 5.2 of the service agreement.

[25] Application at 18, n.41 (citing *Tennessee Gas Pipeline Co., LLC,* 165 FERC ¶ 61,134, at PP 9-13 (2018); *Florida Gas Transmission Co., LLC*, 163 FERC ¶ 61,017, at PP 51, 57 (2008)).

[26] *Id*.

27. In *Columbia Gas Transmission Corp.*, the Commission clarified that a material deviation is any provision in a service agreement that: (a) goes beyond filling in the blank spaces with the appropriate information allowed by the tariff; and (b) affects the substantive rights of the parties.[27] The Commission prohibits negotiated terms and conditions of service that result in a shipper receiving a different quality of service than that offered other shippers under the pipeline's generally applicable tariff or that affect the quality of service received by others.[28] However, not all material deviations are impermissible. As the Commission explained in *Columbia*, provisions that materially deviate from the corresponding *pro forma* agreement fall into two general categories: (a) provisions the Commission must prohibit because they present a significant potential for undue discrimination among shippers; and (b) provisions the Commission can permit without a substantial risk of undue discrimination.[29]

28. We find that the above described non-conforming provisions in the service agreement do constitute material deviations from Sabine's Rate Schedule FT-1 *pro forma* service agreement. However, as the Commission has found in other proceedings, these non-conforming provisions are permissible because they do not present a risk of undue discrimination, do not adversely affect the operational conditions of providing service to other shippers, and do not result in any shipper receiving a different quality of service.[30]

29. At least 30 days, but not more than 60 days, before providing service to Venture Global, Sabine must file an executed copy of the negotiated, non-conforming agreement and identify and disclose all non-conforming provisions or agreements affecting the substantive rights of Venture Global under the tariff or service agreement. This required disclosure includes any such transportation provision or agreement detailed in a precedent agreement that survives execution of the service agreement. Consistent with Section 154.112 of the Commission's regulations, Sabine must also file a tariff record identifying the agreement as a non-conforming agreement.[31]

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[27] *Columbia Gas Transmission Corp.*, 97 FERC ¶ 61,221, at 62,002 (2001) (*Columbia)*.

[28] *Monroe Gas Storage Co., LLC*, 130 FERC ¶ 61,113, at P 28 (2010).

[29] *Columbia*, 97 FERC at 62,003. *See Equitrans, L.P., 130 FERC ¶ 61,024, at P 5 (2010).*

[30] *See, e.g.*, *Texas Eastern Transmission, LP*, 153 FERC ¶ 61,311, at P 40 (2015); *Magnolia LNG, LLC*, 155 FERC ¶ 61,033, at P 45 (2016).

[31] 18 C.F.R. § 154.112 (2019). A Commission ruling on non-conforming provisions in a certificate proceeding does not waive any future review of such provisions

C. Limited Jurisdiction Certificate and Waivers

30. Bridgeline requests a limited jurisdiction certificate allowing it to lease the proposed capacity to Sabine and operate it in interstate commerce under the NGA during the term of the lease. Bridgeline also seeks a determination that participation in the lease arrangement will not affect the non-jurisdictional status of its non-leased facilities, services, and operations.

31. To enable Bridgeline to carry out its responsibilities under the capacity lease agreement, the Commission will issue a limited jurisdiction certificate to Bridgeline. The Commission looks closely at proposals that would create dual jurisdiction facilities, i.e., facilities that would be subject to state and federal jurisdiction, in order to avoid duplicative and/or potentially inconsistent regulatory schemes over the same facilities. The Commission recognizes that federal regulation of Bridgeline will be "limited" in that it will apply only to its transportation of natural gas in interstate commerce; however, Bridgeline and Sabine will be subject to exclusive federal regulation with regard to the leasing of the 300,000 Dth per day of capacity on the Bridgeline system and any issues that may arise thereunder.

32. The limited jurisdiction certificate will enable Bridgeline to operate the leased capacity being used for NGA jurisdictional services subject to the terms of the lease and subject to Sabine's tariff. The limited jurisdiction certificate will also require Bridgeline to operate the leased capacity in a manner that ensures Sabine's ability to provide services on an open-access, non-discriminatory basis. The Commission has approved similar leases in the past involving intrastate pipelines,[32] and our finding that Bridgeline is jurisdictional is limited to its role as the lessor and operator of the capacity to be used by Sabine to provide Sabine's interstate services, and its NGPA section 311 activities. Bridgeline will remain non-jurisdictional as to its intrastate activities.[33]

33. Finally, Bridgeline requests that the Commission grant it waivers of certain requirements that otherwise would be applicable to an NGA interstate pipeline. Specifically, Bridgeline requests waiver of all reporting, filing, electronic posting, and other such requirements by Bridgeline, including any requirement to file FERC Form

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when the executed copy of the non-conforming agreements and a tariff record identifying the agreements as non-conforming are filed with the Commission.

[32] *See Midcontinent Express Pipeline, LLC,* 124 FERC ¶ 61,089 (2008); *Gulf Crossing Pipeline Co. LLC*, 123 FERC ¶ 61,100.

[33] *See High Point Gas Transmission, LLC*, 163 FERC ¶ 61,135, at PP 59-61 (2018).

No. 2 (and any quarterly financial filings) and assess annual charges.[34] The Commission grants Bridgeline the requested waivers of all jurisdictional filing and accounting requirements that might otherwise be applicable to an interstate pipeline under the NGA.[35]

34. Given that there are no jurisdictional facilities to be constructed by Sabine on its system, no environmental assessment or environmental impact statement has been prepared for this application because it qualifies for categorical exclusion from such review under section 380.4(a)(27) of the Commission's regulations.[36] In addition, although Bridgeline will be making limited non-jurisdictional improvements to two compressor stations to enhance the unsubscribed leased capacity and may undertake minor non-jurisdictional construction activities with respect to the new interconnection with TransCameron Pipeline, the Commission has held that these types of activities by a non-jurisdictional pipeline prior to a lease are non-jurisdictional and qualify as categorically exempt from the Commission's environmental requirements.[37]

35. At a hearing held on May 21, 2020, 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, and all comments, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Sabine authorizing it to acquire by lease the subject capacity from Bridgeline and offer service thereon under its tariff, as described and conditioned herein, and as more fully described in the application.

(B) A limited jurisdiction certificate of public convenience is issued to Bridgeline authorizing it to lease capacity to Sabine and operate it in interstate commerce under the NGA, as described herein.

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[34] The Applicants state that Sabine will charge annual charges to Venture Global and other shippers taking service on the leased capacity, and will meet its posting, reporting, and filing requirements related to the leased capacity. Application at 28.

[35] *Discovery Producer Services LLC*, 117 FERC ¶ 61,243, at P 24 (2006).

[36] 18 C.F.R. § 380.4(a)(27) (2019).

[37] *See Tennessee Gas Pipeline Co., L.L.C.*, 163 FERC ¶ 61,123, at P 18, *clarification granted*, 165 FERC ¶ 61,205 (2018).

(C) Sabine shall notify the Commission within (10) days of the date of the acquisition of the leased capacity from Bridgeline, as discussed above.

(D) Sabine's request for pre-approval of the non-conforming provisions included in its service agreement is granted, as described herein.

(E) Bridgeline's request for waivers of all filing and accounting requirements with respect to the leased capacity that might otherwise apply to an NGA pipeline, is granted.

(F) Sabine is required to treat the capacity lease of 300,000 Dth per day with Bridgeline as an operating lease for accounting purposes, and record the monthly lease payments in Account 858, Transmission and Compression of Gas by Others, consistent with the accounting treatment approved by the Commission for other similar capacity lease agreements.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.