

147 FERC ¶ 61,102  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Transcontinental Gas Pipe Line Company, LLC      Docket Nos. CP13-36-000  
CP13-132-000

ORDER ISSUING CERTIFICATES AND GRANTING ABANDONMENT

(Issued May 8, 2014)

1. On January 7, 2013, Transcontinental Gas Pipe Line Company, LLC (Transco) filed an application for the Rockaway Delivery Lateral Project (Rockaway Project), as supplemented,<sup>1</sup> under section 7(c) of the Natural Gas Act (NGA)<sup>2</sup> and Part 157 of the Commission's regulations<sup>3</sup> requesting authorization to construct and operate 3.20 miles of 26-inch diameter pipeline, a new meter station, and appurtenant facilities, extending from Transco's existing Lower New York Bay Lateral located in the Atlantic Ocean off of Brooklyn to National Grid's New York City distribution system at a delivery point on the Rockaway Peninsula in Queens County, New York. Transco's proposal will enable it to provide 647,000 dekatherms per day (Dth/day) of transportation service to The Brooklyn Union Gas Company, d/b/a National Grid NY, and KeySpan Gas East Corporation (KeySpan), all subsidiaries of National Grid, USA, Inc. (collectively National Grid Gas Delivery Companies or National Grid).

---

<sup>1</sup> Between February 7, 2013, and January 16, 2014, Transco made 32 filings to supplement its application with additional information, including responses to Commission staff's information requests dated February 2, April 4, May 5, June 6, August 2, November 6, November 21, and December 17, 2013, and responses to requests from the U.S. Army Corps of Engineers dated October 15 and November 7, 2013.

<sup>2</sup> 15 U.S.C. § 717f(c) (2012).

<sup>3</sup> 18 C.F.R. § 157 (2013).

2. On April 9, 2013, Transco filed an application pursuant to sections 7(b) and 7(c) of the NGA,<sup>4</sup> and Part 157 of the Commission's regulations, for authorizations to construct and operate its Northeast Connector Project and to abandon certain compressor facilities. The Northeast Connector Project will enable Transco to provide an additional 100,000 Dth/day of firm transportation service to National Grid at the above-described interconnection between Transco's existing Lower New York Bay Lateral and the proposed Rockaway Project, and would allow National Grid to shift 547,000 Dth/day from an existing delivery point on Long Island, New York, to the new delivery point on the Rockaway Peninsula.

3. As discussed below, the Commission will grant the requested authorizations, subject to the conditions discussed herein.

### **I. Background and Proposals**

4. Transco is a limited liability company, formed and existing under Delaware law, engaged in the transportation of natural gas in interstate commerce subject to the Commission's jurisdiction. Transco's natural gas transmission system extends from Texas, Louisiana, and the offshore Gulf of Mexico area, through Mississippi, Alabama, Georgia, South Carolina, North Carolina, Virginia, Maryland, Pennsylvania, and New Jersey to its termini in the New York City metropolitan area.

5. National Grid is engaged primarily in the purchase and retail distribution of natural gas in New York, Massachusetts, and Rhode Island. Its subsidiaries include The Brooklyn Union Gas Company, KeySpan, Boston Gas Company, Colonial Gas Company, Niagara Mohawk Power Corporation, and The Narragansett Electric Company.

#### **A. Rockaway Project, Docket No. CP13-36-000**

6. Transco proposes to construct and operate approximately 3.20 miles of 26-inch lateral pipeline (approximately 2.84 miles of which are offshore) from its existing Lower New York Bay Lateral at or near milepost 34.31 in New York State waters in the Atlantic Ocean to an interconnection with a 26-inch diameter lateral pipeline constructed by National Grid as part of its Brooklyn-Queens Interconnect (Brooklyn-Queens) Project.<sup>5</sup>

---

<sup>4</sup> 15 U.S.C. § 717f(b), (c) (2012).

<sup>5</sup> The Brooklyn-Queens Project is a non-jurisdictional pipeline project consisting of two phases of system upgrades to National Grid's system. Phase I, which is complete, consists of two parallel 12-inch and 26-inch-diameter pipelines, each approximately 8,300 feet long, extending from the proposed new meter station at Floyd Bennett Field,

(continued...)

The tie-in with National Grid will be located at 169th Street on the Rockaway Peninsula, in Queens County, on Tri-Borough Bridge and Tunnel Authority (Bridge and Tunnel Authority) property. The majority of the approximately 0.36 mile of onshore pipeline will be located beneath the Gateway National Recreation Area (Gateway Recreation Area) in Queens County, New York.<sup>6</sup>

7. Additionally, Transco proposes to construct and operate a new meter station and related appurtenant facilities, to be located in two hangars at Floyd Bennett Field within the Gateway Recreation Area in Kings County, New York, downstream of the tie-in with National Grid on the Rockaway Peninsula. Transco's siting of the meter station at a point downstream of its Rockaway Peninsula interconnection with National Grid was driven by aesthetic concerns. Specifically, the proposed siting of the meter station within existing hangars at Floyd Bennett Field will avoid the visual impacts on the viewshed of the area that would result from construction of a new building in the vicinity of the Gateway Recreation Area.<sup>7</sup> Transco estimates the Rockaway Project's cost to be approximately \$182.8 million.

8. The National Park Service (Park Service) is a land managing agency within the Department of the Interior with jurisdiction over the Gateway Recreation Area. The Park Service has no general authority to approve rights-of-way for natural gas pipelines across park land. Instead, the U.S. Congress must authorize the construction of pipelines. The

---

south under the Rockaway Inlet, to the tie-in with the Rockaway Project at 169th Street on the Rockaway Peninsula. Phase II, which is under construction, consists of approximately 12,000 feet of 30-inch-diameter pipeline extending from Transco's proposed meter station to National Grid's existing 30-inch-diameter transmission pipeline along U Street, in Brooklyn, New York, allowing natural gas from the Rockaway Project to be transported into the Brooklyn service area and the larger National Grid distribution system.

<sup>6</sup> The Gateway Recreation Area portion of the offshore pipeline extends 0.25 miles from the shore of the Rockaway Peninsula and the remaining 2.61 miles is in New York State waters. The onshore portion is on Gateway Recreation Area property, except for the 0.7 acre of Bridge and Tunnel Authority property where the tie-in will be located.

<sup>7</sup> Transco is proposing an adaptive reuse of the existing hangar complex (i.e., Hangars 1 and 2) at Floyd Bennett Field to house the meter station with an exterior appearance that would enhance the visual characteristics of the Floyd Bennett Field Historic District and in accordance with a building design using materials, fixtures, and operational systems approved by National Park Service and the New York State Historic Preservation Officer.

New York City Natural Gas Supply Enhancement Act (New York City Supply Act), enacted on November 27, 2012, authorizes the Secretary of the Interior to allow the construction and operation of the Rockaway Project, subject to receipt of the necessary permits and easements from the Park Service.<sup>8</sup>

9. Transco held an open season for prospective shippers on the Rockaway Project from June 23 through July 10, 2009. As a result of the open season, Transco executed binding precedent agreements with National Grid NY for 353,700 Dth/day and KeySpan for 293,300 Dth/day, together representing the full 647,000 Dth/day of year-round firm transportation service on the proposed Rockaway Project. The precedent agreements between Transco and the shippers require the parties to execute long-term, 15-year firm transportation service agreements under Transco's Rate Schedule FDLS after Transco's receipt and acceptance of the authorizations granted herein.

10. Transco proposes to charge National Grid the maximum recourse reservation rate and all applicable charges, surcharges, and fuel retention, if any, under Rate Schedule FDLS for the firm transportation service of 647,000 Dth/day proposed on the Rockaway Project.

**B. Northeast Connector Project, Docket No. CP13-132-000**

11. As part of the Northeast Connector Project, Transco proposes to add an incremental 6,540 horsepower (hp) at its existing Compressor Station 195 in York County, Pennsylvania. This will involve the installation of a new 35 kilovolt (kV) substation, the removal of three natural gas-fired reciprocating engines, the installation of two electric drive motors and associated equipment, the rewheeling of the two compressors to be driven by the two new electric drive motors, and modifications to station piping and valves. Transco seeks authorization to operate the electric motors up to 13,000 hp each, provided that the total horsepower utilized at Compressor Station 195 does not exceed the station's total certificated horsepower (26,000 hp upon completion of the project).<sup>9</sup>

---

<sup>8</sup> Pub. L. 112-197, 126 Stat. 1462 (2012).

<sup>9</sup> Each electric motor will be rated at 9,000 hp, but will be capable of generating additional horsepower. Under certain operating conditions, such as the unavailability of other compressor units at this location or to achieve the most fuel efficient operating condition for the station or its system, Transco may operate the electric motors up to 13,000 hp each, and would use the automated station control systems to ensure that the total horsepower at the station would at no time exceed the station's total certificated horsepower (i.e., 26,000 hp upon completion of the project).

12. Transco further proposes to add an incremental 5,000 hp at its existing Compressor Station 205 in Mercer County, New Jersey. This will be accomplished by uprating two existing electric motor drives from 7,000 to 9,500 hp each and modifying the associated compressor units.
13. Finally, Transco proposes to add an incremental 5,400 hp at its existing Compressor Station 207 in Middlesex County, New Jersey. This will be accomplished by uprating the two existing electric compressor units from 5,000 to 7,700 hp each and modifying the associated gear boxes.
14. The Northeast Connector Project will enable Transco to provide an additional 100,000 Dth/day of firm transportation service from Transco's Compressor Station 195 to the above-described interconnection between Transco's existing Lower New York Bay Lateral and the proposed Rockaway Project.
15. Transco held an open season for prospective shippers on the Northeast Connector Project from June 23 through July 10, 2009. As a result of the open season, Transco executed a binding precedent agreement with National Grid NY for the full 100,000 Dth/day of year-round firm transportation service to be provided by the Northeast Connector Project. The precedent agreement between Transco and National Grid NY requires the parties to execute a long-term, 15-year firm transportation service agreement under Transco's Rate Schedule FT after Transco's receipt and acceptance of the authorizations granted herein.
16. Transco estimates that the proposed facilities will cost approximately \$48.5 million. For firm transportation service on the proposed Northeast Connector Project, Transco states National Grid shall elect to pay either (i) the maximum recourse reservation rate and all applicable charges, surcharges, and fuel retention under Rate Schedule FT, or (ii) a negotiated rate specified in Exhibit C to the service agreement.

### **C. Project Objectives**

17. The Rockaway Project would provide 647,000 Dth/day of firm service to National Grid's distribution system to a new delivery point on the Rockaway Peninsula. This includes 100,000 Dth/day of new, additional firm service to National Grid, made possible by the compression to be provided by the proposed Northeast Connector Project. Transco states that the new delivery point would enable National Grid to shift existing volumes of natural gas supply from an existing delivery point in Long Beach in Nassau County, New York, to the Rockaway Peninsula, thereby providing National Grid additional flexibility and enhancing the reliability of National Grid's distribution system.

## II. Notice, Interventions, and Protests

### A. Rockaway Project, Docket No. CP13-36-000

18. Notice of Transco's application was published in the *Federal Register* on January 29, 2013 (78 Fed. Reg. 6098). Nearly 80 parties filed timely and untimely, unopposed motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214(c) of the Commission's Rules of Practice and Procedure.<sup>10</sup> We find that the parties filing untimely motions have shown an interest in this proceeding, and further find that granting these motions at this stage of the proceeding will not cause undue delay, disruption, or prejudice. Thus, we will grant the late motions to intervene.<sup>11</sup> The parties are listed in Appendix A.

19. The State of New York Department of Public Service (New York Public Service) and National Grid supported Transco's proposals in their motions to intervene. Many other parties, however, protested Transco's application and numerous individuals filed comments in opposition to the project. The parties and commenters opposing Transco's proposed Rockaway Project are primarily individuals who state that they use the Gateway Recreation Area, including the garden and park facilities at Floyd Bennett Field, Jacob Riis Park, and the waters and shores of the Jamaica Bay and Atlantic Ocean. Others include New York City residents and organizations stating concerns about health impacts, public safety, and other environmental aspects of the projects, such as marine habitat preservation and upstream impacts associated with Marcellus shale gas production. More specifically, their protests and comments express concerns including, but not limited to: project need; impacts on National Grid's Long Island customers; lack of public participation in all governmental processes and actions leading to the routing of the proposed project, including the siting of the meter and regulating facilities in hangars at Floyd Bennett Field, (e.g., Park Service's actions, Congress's action in passing the New York City Supply Act, and the National Historic Preservation Act (NHPA) Section 106 process); improper segmentation of National Grid's Brooklyn-Queens Project and the Rockaway Project; and environmental impacts associated with the construction and operation of the project facilities. The concerns raised in these protests and comments are discussed in the Environmental Impact Statement (EIS) prepared for this project and, as appropriate, below in this order.

---

<sup>10</sup> 18 C.F.R. § 385.214(c) (2013).

<sup>11</sup> *See* 18 C.F.R. § 385.214(d) (2013). The individuals filing untimely motions to intervene were only late by one day.

20. Liberty Natural Gas, LLC (Liberty), the developer of the proposed Port Ambrose LNG Project, a liquefied natural gas (LNG) deepwater port facility proposed to be located in the vicinity of the Rockaway Project, filed a timely motion to intervene. Liberty states that it should be granted party status because its project will interconnect with the Transco system and supply the Transco system with natural gas.<sup>12</sup>

21. Clean Ocean Action, Inc. (Clean Ocean), which describes itself as a coalition working to improve and protect marine water quality off the New Jersey and New York coast, filed an answer in opposition to Liberty's motion. Clean Ocean argues that Liberty could not be a potential supplier of gas for the Rockaway Project because Transco disavowed any connection to any LNG project in its Rockaway Project application. Moreover, Clean Ocean argues that Liberty's proposed project will not be approved because New Jersey Governor Chris Christie vetoed Liberty's previously proposed LNG project under the Deepwater Port Act<sup>13</sup> and remains opposed to future offshore LNG terminal projects. Clean Ocean also argues that Liberty did not demonstrate that its intervention is in the public interest, or that it is a consumer, customer, or competitor of the proposed Rockaway Project, and therefore, failed to show that it has a right to participate as a party in this proceeding.<sup>14</sup>

22. Rule 214(c)(2) of the Commission's Rules of Practice and Procedure states that "[i]f an answer in opposition to a timely motion to intervene is filed not later than 15 days after the motion to intervene is filed . . . the movant becomes a party only when the motion is expressly granted."<sup>15</sup> Here, Clean Ocean filed an answer opposing Liberty's motion to intervene within 15 days, and therefore, under Rule 214(c)(2), Liberty is not a party until the Commission expressly grants its motion to intervene.

23. Under Rule 214(b)(2), a movant seeking to intervene in a proceeding must state its interest in sufficient factual detail to demonstrate that its right to participate is expressly conferred by statute, Commission rule, order, or other action; that it has or represents an interest that may be directly affected by the outcome of the proceeding; or its

---

<sup>12</sup> If approved by the U.S. Coast Guard and Federal Maritime Administration, Liberty's Port Ambrose LNG Project will interconnect with Transco's Lower New York Bay Lateral. *See* Transco December 5, 2013 Filing Enclosure 1 at 1.

<sup>13</sup> 33 U.S.C. §§ 1501-1524 (2012). Under the Deepwater Port Act, a state may veto a deepwater port (i.e., offshore LNG terminal) license. *Id.* § 1508(b)(1).

<sup>14</sup> Clean Ocean February 13, 2013 Motion to Intervene at 3-4.

<sup>15</sup> 18 C.F.R. § 385.214(c)(2) (2013).

participation is in the public interest.<sup>16</sup> As noted above, Liberty states that it is the developer of the Port Ambrose LNG Project, proposed to be located in the vicinity of the Rockaway Project, and that its project would interconnect with Transco's system. Liberty's interest as a potential supplier is sufficient to demonstrate that it "has or represents an interest which may be directly affected by the outcome of the proceeding."<sup>17</sup> Accordingly, Liberty's motion to intervene is granted.

**B. Northeast Connector Project, Docket No. CP13-132-000**

24. Notice of Transco's application was published in the *Federal Register* on April 24, 2013 (78 Fed. Reg. 24,190). Fourteen parties filed timely, unopposed motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214(c) of the Commission's Rules of Practice and Procedure.<sup>18</sup>

25. Edith Kantrowitz, Clean Air Council, Martha Cameron, and New York Public Service filed untimely, unopposed motions to intervene. We find that these parties have shown an interest in this proceeding, and further find that granting these late pleadings at this stage will not cause undue delay, disruption, or prejudice to the parties to the proceeding. Thus, we will grant the late pleadings.<sup>19</sup> The parties are listed in Appendix B.

**C. Application Deficiencies**

26. A number of parties assert that Resource Report 8 in Transco's application<sup>20</sup> is misleading in that it states the adaptive reuse of Hangars 1 and 2 in Floyd Bennett Field for the purpose of housing the meter station is consistent with the objectives of the management plan for the Gateway Recreation Area. Commenters also generally claim that Transco's filings contain misleading or contradictory statements regarding proposed meter station land use classification.

27. Transco's statements contending that its proposed adaptive reuse of the hangars at Floyd Bennett Field are consistent with the management plan for the Gateway Recreation

---

<sup>16</sup> 18 C.F.R. § 385.214(b)(2) (2013).

<sup>17</sup> 18 C.F.R. § 214(b)(2)(ii) (2013).

<sup>18</sup> 18 C.F.R. § 385.214(c) (2013).

<sup>19</sup> The late motions were filed not long after the intervention deadline.

<sup>20</sup> Resource Report 8 at 8.4.1.

Area are no more than its opinion. In any event, the Park Service, not the Commission, will determine whether the Rockaway Project can be constructed in the recreation area.

28. Mr. Nerone<sup>21</sup> and Ms. Orlando<sup>22</sup> state that Transco violated section 157.6(b)(5) of the Commission's regulations by failing to list in its Rockaway Project application the Northeast Connector Project. Section 157.6(b)(5) requires an applicant to provide "[a] full statement as to whether any other application to supplement or effectuate applicant's proposals must be or is to be filed by applicant, any of applicant's customers, or any other person, with any other Federal, State, or other regulatory body; and if so, the nature and status of each such application." They assert that Transco's statement that it "is not aware of any application to supplement or effectuate its proposals herein which must be filed by Transco" cannot be reconciled with the facts that the Northeast Connector Project's capacity addition is necessary to effectuate the delivery of the new 100,000 Dth/day to be provided by the Rockaway Project, and that the Northeast Connector Project had been contemplated since Transco held the 2009 open season for the Northeast Connector Project's capacity.

29. We agree that Northeast Connector Project is necessary to the Rockaway Project. However, given that the Commission has jointly evaluated the projects and is acting on them both in this order, the extent to which Transco discussed the Northeast Connector project in its application for the Rockaway project is immaterial.

30. A number of commenters complain of various other omissions and what they allege to be confusing, misleading, and/or incorrect statements made by Transco during the pre-filing process, as well as in its Rockaway Project application, relating to matters such as the need for the project, its capacity, the extent of Transco's public outreach efforts, the decision to site the meter station within the hangars at Floyd Bennett Field, and Transco's efforts in securing enactment of the New York City Supply Act. Several commenters claim that Transco has not yet provided responses to questions raised during the public scoping period and to Commission staff data requests.

31. The pre-filing process was conducted pursuant to our regulations, as detailed below in our discussion of the environmental analysis. Transco's participation in and conduct during the pre-filing process was consistent with the requirements under our pre-filing regulations and otherwise appropriate in the circumstances of this case. Moreover, it appears that Transco made a reasonable effort to respond to comments from project

---

<sup>21</sup> *See id.*

<sup>22</sup> *See* Karen Orlando October 11, 2013 Comment.

opponents,<sup>23</sup> as well as requests from Commission staff.<sup>24</sup> The Commission has provided numerous opportunities for interested stakeholders to voice their concerns and many have taken full advantage of those opportunities. As discussed later in this order, the Commission has considered and addressed all comments raising issues relevant to its statutory obligations in processing Transco's application.

#### **D. Request for Hearing**

32. In their motions to intervene, Karen Orlando and Joseph Nerone, jointly, and Barbara Pearson and Joseph Bonserio, jointly request that the Commission hold public hearings on Transco's Rockaway Project, claiming that their respective motions raise "issues of substance" and that it is in the public interest to do so. In addition, Mav Moorehead, Eileen Rourke, and Noah Landes filed requests for hearing, asserting that Transco's proposal raises environmental and safety issues. Although section 7 of the NGA and our regulations provide for a hearing when an applicant seeks a certificate of public convenience and necessity, neither section 7 nor our regulations require that such hearings be trial-type, evidentiary hearings. When, as is usually the case, the written record provides a sufficient basis for resolving the relevant issues, it is our practice to provide for a "paper hearing."<sup>25</sup> That is the case here. We have reviewed the motions filed by these parties and conclude that all issues of material fact relating to Transco's proposal are capable of being resolved on the basis of the written record.

### **III. Discussion**

33. Because the proposed facilities will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, the abandonment, construction,

---

<sup>23</sup> See, e.g., Transco August 16, 2013 filing summarizing and responding to 129 comments filed through July 31, 2013.

<sup>24</sup> See, e.g., *supra* note 1.

<sup>25</sup> See *NE Hub Partners, L.P.*, 83 FERC ¶ 61,043, at 61,192 (1998), *reh'g denied*, 90 FERC ¶ 61,142 (2000); *Pine Needle LNG Company, LLC*, 77 FERC ¶ 61,229, at 61,916 (1996). Moreover, the courts have repeatedly recognized that even where there are disputed issues "[the Commission] need not conduct such a [evidentiary] hearing if they may be adequately resolved on the written record." *Moreau v. FERC*, 982 F.2d 556, 568 (D.C. Cir. 1993). See also *Environmental Action v. FERC*, 996 F.2d 401, 413 (D.C. Cir. 1993); *Alabama Power Co. v. FERC*, 993 F.2d 1557, 1565 (D.C. Cir. 1993).

and operation of the facilities are subject to the requirements of subsections (b), (c), and (e) of section 7 of the NGA.<sup>26</sup>

**A. The Certificate Policy Statement**

34. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.<sup>27</sup> The Certificate 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 Certificate Policy Statement explained that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's 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, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

35. Under this policy, the threshold requirement for applicants proposing new projects is that the applicant must be prepared to financially support the project without relying on subsidization from its 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 applicant's 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 when the benefits outweigh the adverse effects on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

**1. Rockaway Project, Docket No. CP13-36-000**

36. As stated, the threshold requirement is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. Transco proposes to establish incremental recourse rates under its existing

---

<sup>26</sup> 15 U.S.C. § 717f(b), (c), (e) (2012).

<sup>27</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000), *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

Rate Schedule FDLS for service on the Rockaway Project. As discussed in greater detail below, the proposed incremental rates are calculated to recover all construction, installation, operation, and maintenance costs associated with the project. Therefore, we find Transco's existing customers will not subsidize the project.

### **Existing Customers and Other Pipelines and Their Customers**

37. Nothing in the record suggests that Transco's existing customers will experience any degradation in service, nor have any customers raised any objection to Transco's proposal. Thus, we find the proposed project will have no adverse impacts on Transco's existing customers.

38. Currently, Transco delivers gas to National Grid at the Long Beach delivery point in Nassau County, New York, for subsequent delivery to customers on Long Island. Karen Orlando and Joseph Nerone question whether National Grid's Long Island customers will be adversely affected by National Grid's ability to redirect those volumes from the Long Beach delivery point to the new delivery point established by the Rockaway Project.<sup>28</sup>

Transco states that the addition of an additional delivery point will actually benefit National Grid's customers currently being served via the Long Beach delivery point. Specifically, Transco asserts that in the event the Long Beach delivery point or any of National Grid's non-jurisdictional facilities downstream of the Long Beach delivery point need to be shut down for any reason, gas can be redirected to the Rockaway Project delivery point and subsequently transported to National Grid's Long Island customers through other portions of National Grid's transmission and distribution network. Further, Transco states that gas currently delivered to Long Beach and transported to National Grid's customers in New York City through National Grid's Long Island facilities can now be delivered directly into New York City.<sup>29</sup> Consistent with this explanation, neither National Grid nor any of its Long Island customers have protested or raised any concerns regarding potential adverse impacts this proposed project might have on their service, nor have any other pipeline companies in the market area, or their customers, protested the application. In addition, because the project's shippers will be using their capacity to flexibly serve the incremental growth requirements of their markets, the project will not

---

<sup>28</sup> See, e.g., Karen Orlando February 8, 2012 Motion to Intervene; Karen Orlando July 31, 2013 Comment; Joseph Nerone March 4, 2013 Comment.

<sup>29</sup> See Transco August 16, 2013 Response to Comments at Comment 19, Response 4.

replace firm transportation service on any other pipeline. Consequently, we find that there will be no adverse impact on other pipelines or their captive customers.

### **Landowners and Communities**

39. No private lands will be affected by the Rockaway Project. The portion of the pipeline that is located offshore will cross submerged lands owned by New York State and the Park Service. The part of the pipeline that is located onshore will mostly be located under Jacob Riis Park, which is part of the Gateway Recreation Area and is managed by the Park Service. The proposed meter station will be constructed within a historic hangar complex at Floyd Bennett Field, also within the Gateway Recreation Area. At its very northern end, the pipeline will be located on property owned by the Bridge and Tunnel Authority. Portions of the offshore facilities will be located on submerged lands owned by New York State. Thus, we find that Transco has designed the Rockaway Project to minimize adverse effects on landowners and nearby communities by constructing the pipeline on public rather than private property.

### **Need for the Rockaway Project**

40. Several parties and commenters question the need for the project. They contend that the need for the additional service is overstated in light of the fact that, in 2007, Transco upgraded the Long Beach delivery point so that it could accommodate an additional 100,000 Dth/day of service and Spectra Energy Corporation's New Jersey-New York Expansion Project was recently constructed, accommodating another 800,000 Dth/day of firm transportation service.<sup>30</sup> Additionally, since only 100,000 of the project's 647,000 Dth/day is intended as transportation of incremental gas supply, these parties question whether Transco is overbuilding, particularly given what they believe to be the disruptive impact of building through the Gateway Recreation Area. Several parties question whether the presumed increase in demand for energy needs to be met in the form of natural gas, contending that any increase in demand can and should be met by relying on renewable energy sources and conservation efforts.

41. To gauge interest in the proposed Rockaway Project, Transco held an open season from late June through early July, 2009, which resulted in signed precedent agreements for the full 647,000 Dth/day of year-round firm transportation service to be made available on the proposed Rockaway Project. As observed in our Certificate Policy

---

<sup>30</sup> See *Texas Eastern Transmission, LP*, 139 FERC ¶ 61,138, *reh'g denied*, 141 FERC ¶ 61,043 (2012).

Statement, service commitments for new capacity constitute “important evidence of demand for a project.”<sup>31</sup>

42. The fact that the entire capacity of the proposed Rockaway Project is subscribed under long-term precedent agreements is strong evidence that the market believes that the project is needed. The requirement that Transco pursue the project with no possibility of subsidization from existing customers discourages overbuilding. In addition, we will condition our authorization to require that Transco execute contracts for service at levels subscribed under precedent agreements prior to the commencement of any project construction. Further, our environmental review considered demand reduction and renewable sources of energy as project alternatives but concluded that these cannot serve as practical alternatives to the project.<sup>32</sup>

43. We note that New York City’s comprehensive sustainability plan, *PlaNYC 2030: A Greener, Greater New York*, published in 2007, describes new natural gas supplies as being “critical . . . to [the] long term energy security” of the metropolitan area and necessary to meet environmental and energy cost goals.<sup>33</sup> Moreover, the April 2011 *PlaNYC* progress report states that “the proposed Transco . . . pipeline would critically reinforce gas supplies in Brooklyn and Queens.”<sup>34</sup> New York Public Service points out that natural gas is expected to serve as a partial substitute for heavy heating oil, which New York City is phasing out. Specifically, New York City is prohibiting the installation of new boilers using heavy heating oil, prohibiting boilers from using No. 6 oil by their next tri-annual permit renewal (which commenced July 12, 2012), and requiring all

---

<sup>31</sup> Certificate Policy Statement, 88 FERC at 61,748.

<sup>32</sup> See Final Environmental Impact Statement for the Rockaway Delivery Lateral and Northeast Connector Projects (final EIS), sections 3.2.1 and 3.2.2, issued February 28, 2013.

<sup>33</sup> The City of New York, *PlaNYC: A Greener Greater New York* at 112 (2007), available at [http://nytelecom.vo.llnwd.net/o15/agencies/planyc2030/pdf/full\\_report\\_2007.pdf](http://nytelecom.vo.llnwd.net/o15/agencies/planyc2030/pdf/full_report_2007.pdf) .

<sup>34</sup> The City of New York, *PlaNYC: 2030 Progress Report for 2012* at 116 (April 2011), available at [http://nytelecom.vo.llnwd.net/o15/agencies/planyc2030/pdf/planyc\\_2011\\_planyc\\_full\\_report.pdf](http://nytelecom.vo.llnwd.net/o15/agencies/planyc2030/pdf/planyc_2011_planyc_full_report.pdf).

boilers to switch to No. 2 oil or natural gas either upon retirement or no later than 2030. This is expected to increase New York City's demand for natural gas.<sup>35</sup>

## **2. Northeast Connector Project, CP13-132-000**

44. As described in more detail below, Transco proposes that National Grid shall elect to pay either (i) the maximum incremental recourse reservation rate for Northeast Connector Project service to be established under existing Rate Schedule FT and all applicable charges, surcharges, and fuel retention, or (ii) a negotiated rate. Transco's existing shippers will not subsidize the proposed project because Transco is establishing an incremental rate for Northeast Connector Project service which is higher than the applicable existing system rate. Based on information filed by Transco, we conclude that there will be no adverse operational impact on service currently provided to Transco's existing customers as a result of this project. In addition, the project will have no adverse effect on existing pipelines serving the market and their captive customers. Transco's proposals will not displace existing service providers.

45. The proposed addition of horsepower at three existing compressor stations will take place within the compressor stations' sites on land owned by Transco. Thus, we find that Transco has taken steps to minimize any adverse impacts on landowners and communities that might be affected by the Northeast Connector Project.

### **Conclusion**

46. The Rockaway and Northeast Connector Projects will enable Transco to provide additional firm transportation service to the project shippers, National Grid NY and KeySpan, necessary to meet increasing demand in their service territories. National Grid NY and KeySpan have subscribed to 100 percent of the projects' capacity. The Rockaway Project delivery point will also enable National Grid to shift existing volumes of natural gas supply from the existing Long Beach delivery point. Based on the benefits the projects will provide and the minimal adverse effects on existing shippers, other pipelines and their captive customers, and landowners and surrounding communities, we find, consistent with the criteria discussed in the Certificate Policy Statement and section 7 of the NGA, that the public convenience and necessity requires approval of Transco's Rockaway and Northeast Connector Projects, subject to the conditions discussed below.

---

<sup>35</sup> See New York Public Service February 11, 2013 Notice of Intervention at 5.

**B. Lack of Public Participation in Project Development and Congress's Passage of New York City Supply Act**

47. A number of protesting parties and commenters<sup>36</sup> contend that the Commission, in determining whether Transco's proposal is in the public convenience and necessity, should consider the circumstances surrounding Congress's passage of the New York City Supply Act.<sup>37</sup> Additionally, these entities claim that the Park Service violated the National Environmental Policy Act of 1969 (NEPA); failed to comply with its own civic engagement policies; and misrepresented to the public its involvement in siting pipeline facilities in the Floyd Bennett Field hangars.

48. In addition, several parties argue that the Park Service does not have the authority to lease hangars to house the meter station. These parties point out that the authority given to the Secretary of the Interior under the New York City Supply Act to lease the hangars for the meter station is conditioned on Park Service's enabling statute, the National Park System General Authorities Act (Park System Act),<sup>38</sup> which the parties claim would not allow leasing the hangars to house the meter station. Similarly, one party maintains sections 1(a) and (b) of the Take Pride in America Act<sup>39</sup> would also prohibit leasing the hangars to house the meter station.

49. The Commission has no authority to adjudicate the legitimacy of acts of Congress.<sup>40</sup> Similarly, we have no jurisdiction to determine whether other federal

---

<sup>36</sup> These protesting parties and commenters include Karen Orlando, Gay H. Snyder, Barbara Pearson, Joseph Bonserio, Joseph Nerone, Reynolds Tenazas-Norman, Martha Cameron, Maureen Healy, and Sane Energy Project.

<sup>37</sup> As explained earlier, that act authorizes the Secretary of the Interior to lease the airplane hangars at Floyd Bennett Field to house natural gas meter and regulating equipment and to grant Transco the right-of-way necessary to construct its proposed Rockaway Project pipeline through the Gateway Recreation Area.

<sup>38</sup> 16 U.S.C. §§ 1a-2(k) (2012).

<sup>39</sup> 16 U.S.C. §§ 4601 *et seq.* (2012).

<sup>40</sup> The separation of powers doctrine, a fundamental constitutional principle, states that one branch of government cannot exercise the powers of other branches. Article I of the U.S. Constitution entrusts Congress with the sole power to legislate for the United States. Article 3 of the U.S. Constitution entrusts the judicial branch with the sole power to decide cases and controversies, including the constitutionality of legislation. The Commission is constitutionally part of the executive branch which, under Article 2 of the

(continued...)

agencies applied their own regulations properly,<sup>41</sup> or whether the Park Service complies with either the Park System Act or the Take Pride in America Act.

**C. Abandonment**

50. Transco requests authorization to abandon by removal from service three natural gas-fired reciprocating compressor engines at Compressor Station 195 in York County, Pennsylvania. Compressor engine 1 and compressor engine 2 will be removed and replaced with electric drive motors, but the associated compressors will remain in service. Compressor engine 3 will be removed, and the associated compressor and gas piping will be abandoned in place. The removal from service of these three engines and the proposed replacement of engines 1 and 2 with electric drive motors will enable Transco to transport an additional 100,000 Dth/day from Compressor Station 195 to the Rockaway Project to meet the requirements of Transco's customers. Because the compression to be abandoned will be replaced by the new compression authorized herein, with resulting decreases in noise levels<sup>42</sup> and operation emissions,<sup>43</sup> we find the proposed abandonment to be permitted by the public convenience or necessity and will approve the abandonment of facilities, as described in this order and in the application, subject to compliance with the environmental conditions described below.

**D. Rates**

**Rockaway Project, CP13-36-000**

51. National Grid has agreed to pay the maximum recourse reservation rate and all applicable charges, surcharges, and fuel retention, if any, under Rate Schedule FDLs for the firm transportation service of 647,000 Dth/day on the proposed Rockaway Project. Transco does not propose to retain any fuel for the project as the project contains no compression and shippers will only have rights on the lateral. Transco proposes to

---

U.S. Constitution, has neither the power to legislate nor to adjudicate the constitutionality of legislation.

<sup>41</sup> See *Weaver's Cove Energy, LLC*, 114 FERC ¶ 61,058, at PP 127-128 (2006), *order denying, in part, and granting request for reh'g*, 133 FERC ¶ 61,054, at P 39 (2010).

<sup>42</sup> See final EIS at p. 4-183.

<sup>43</sup> See *id.* 4-166.

charge shippers the same Zone 6 lost and unaccounted fuel retention percentage that it charges for service on its other existing Zone 6 delivery laterals.

52. For the Rate Schedule FDLS service, Transco proposes to establish an incremental daily recourse reservation rate of \$0.19164 per Dth. This rate was developed by dividing the incremental cost of service of \$45,255,674 by an annual transportation quantity of 236,155,000 Dth (647,000 Dth multiplied by 365 days). Transco used a pre-tax return of 15.34 percent, which Transco states is the pre-tax return underlying the design of its settlement rates in Docket No. RP01-245-000.<sup>44</sup> Transco states that it used the pretax return and certain other cost factors underlying the RP01-245 Settlement rates since the RP06-569 Settlement is a “black box” settlement, which does not specify most cost of service components including rate of return. Transco states that it used a depreciation rate of 6.67 percent, which is based on a 15-year depreciation rate, the term of the project shippers’ Rate Schedule FDLS contracts. In addition, Transco will apply the onshore and offshore negative salvage rates of 0.69 percent and 0.01 percent, respectively, which were included in the RP06-569 Settlement.<sup>45</sup>

53. We have reviewed the proposed cost of service and the proposed incremental recourse rate for the Rockaway Project and find that they are reasonable, with the exception of the negative salvage rates. On December 6, 2013, we approved a Settlement in Docket No. RP12-993-000, which, *inter alia*, establishes a negative salvage rate of 0.57 percent for onshore plant and zero for offshore plant.<sup>46</sup> Accordingly, when Transco files actual tariff records reflecting its initial recourse rates, Transco is directed to recalculate its proposed maximum incremental recourse rates to reflect the Settlement’s negative salvage rates.<sup>47</sup>

### **Northeast Connector Project, CP13-132-000**

54. For service on the Northeast Connector Project, Transco proposes to establish an incremental reservation charge under its existing Rate Schedule FT. Transco developed a

---

<sup>44</sup> *Transcontinental Gas Pipe Line Corp.*, 100 FERC ¶ 61,085 (2002).

<sup>45</sup> *Transcontinental Gas Pipe Line Corp.*, 122 FERC ¶ 61,213 (2008).

<sup>46</sup> *Transcontinental Gas Pipeline Co., LLC*, 145 FERC ¶ 61,205 (2013).

<sup>47</sup> This requirement satisfies National Grid’s concern that Transco’s initial rate reflect the outcome of the rate proceeding in Docket No. RP12-993-000.

daily recourse reservation rate of \$0.28479 per Dth.<sup>48</sup> This rate was developed by dividing the incremental cost of service of \$10,394,908 by an annual transportation quantity of 36,500,000 Dth (100,000 Dth multiplied by 365 days). Transco used a pre-tax return of 15.34 percent, which Transco states is the pre-tax return underlying the design of its settlement rates in Docket No. RP01-245-000.<sup>49</sup> Transco states that its operations and maintenance expenses are based on engineering estimates for operation and maintenance expenses of similar facilities. Transco states that it used a depreciation rate (including negative salvage) of 2.79 percent, which is its currently effective onshore transmission depreciation rate (including negative salvage).<sup>50</sup>

55. National Grid states Transco's proposed recourse reservation rates are based on a pre-tax return underlying Transco's approved settlement rates in Docket No. RP01-245-000 and Transco currently has pending before the Commission a general NGA section 4 filing in Docket No. RP12-993-000. As Transco proposes an in-service date of November 1, 2014, National Grid requests that the Commission require Transco to update its proposed initial rates for the Northeast Connector Project to reflect the outcome of the RP12-993 proceeding. In its November 26, 2013 data response, Transco states that the Northeast Connector Project's incremental reservation rate, as revised by the cost of service factors included in the settlement filed in Docket No. RP12-993-000, is \$0.28251 per Dth.

56. We have reviewed the proposed cost of service and the proposed incremental recourse rate for the Northeast Connector Project, as modified by the settlement in Docket No. RP12-993-000,<sup>51</sup> and find that they are appropriate.

### **Books and Accounting of Costs**

57. Consistent with the Certificate Policy Statement, we will direct Transco to keep separate books and accounting of costs attributable to the Rockaway Project and the

---

<sup>48</sup> Transco's currently effective daily reservation charge for transportation service within Zone 6 is \$0.14655 per Dth.

<sup>49</sup> *Transcontinental Gas Pipe Line Corp.*, 100 FERC ¶ 61,085.

<sup>50</sup> *Transcontinental Gas Pipe Line Corp.*, 122 FERC ¶ 61,213. Appendix A to the November 28, 2007 Settlement specifies a depreciation rate for onshore transmission plant (other than turbines) of 2.10 percent and a negative salvage rate (other than turbines) of 0.69 percent.

<sup>51</sup> See *Transcontinental Gas Pipeline Co., LLC*, 145 FERC ¶ 61,205.

Northeast Connector Project. The books should be maintained with applicable cross-references, as required by section 154.309 of the Commission regulations. This information must be in sufficient detail so that the data can be identified in Statements G, I, and J in any future NGA section 4 or 5 rate case and the information must be provided consistent with Order No. 710.<sup>52</sup> Such measures protect existing customers from cost overruns and from subsidization that might result from under-collection of the project's incremental cost of service, as well as help the Commission and parties to the rate proceedings determine the costs of the project.

### **Fuel Retention and Electric Power Rates**

58. For the Northeast Connector Project, Transco proposes to charge its generally applicable system fuel retention and electric power rates. Based on a study that was designed to determine the impact of fuel consumption (compressor fuel, plus the fuel equivalent of electricity consumed), Transco determined that the Northeast Connector Project would result in a 1.53 percent reduction in fuel use attributable to existing shippers.<sup>53</sup> Based on the overall reduction in fuel usage, we will approve Transco's proposal to charge its generally applicable system fuel retention and electric power rates.

#### **E. Environmental Review**

##### **1. Pre-Filing Review**

59. Commission staff began its initial review of the Rockaway Project following Commission approval of Transco's use of the pre-filing process on March 26, 2009, in Docket No. PF09-8-000. As part of the pre-filing process, the Commission issued a *Notice of Intent to Prepare an Environmental Impact Statement for the Planned Rockaway Delivery Lateral Project* (NOI) on May 25, 2012.<sup>54</sup> The NOI was mailed to interested parties on the staff's environmental mailing list, including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners.

---

<sup>52</sup> *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, *FERC Stats. & Regs.* ¶ 31,267, at P 23 (2008).

<sup>53</sup> The study was based on ten representative days from 2012 and compression facilities in Transco's Northern Market Area, which begins in Zone 5 at Station 180 in Virginia and extends northward to include all of Transco's facilities in Zone 6. See Transco's Application, Exhibit Z-1.

<sup>54</sup> 77 Fed. Reg. 32,626 (2012).

60. Commission staff held two public scoping meetings in June 2012 to provide the public with an opportunity to learn more about the Rockaway Project and to comment on environmental issues that should be addressed in the draft EIS.<sup>55</sup> Transcripts from the meetings were placed into the public record for the proceeding in Docket No. PF09-8-000. A total of 11 individuals provided oral comments on the Rockaway Project at the scoping meetings, and Commission staff received 120 written comments from federal, state, and local agencies; environmental and public interest groups; and other interested stakeholders.<sup>56</sup> The major environmental issues raised by commenters during scoping included use of historic hangars at Floyd Bennett Field, construction and operation impacts on the community gardens and wildlife, and water quality and aquatic resource impacts.

## 2. Application Review

### Draft and Final Environmental Impact Statements

61. Following Transco's filing of its Northeast Connector Project application on April 9, 2013, the Commission issued a Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Northeast Connector Project and Request for Comments on Environmental Issues on April 26, 2013.<sup>57</sup> This NOI described the relationship between the Rockaway Project and the Northeast Connector Project and the reasons for addressing both projects in a single EIS. The NOI was also mailed to the staff's environmental mailing list, and the Commission received four comment letters in response to the NOI. The major issues raised during scoping included air quality and safety.

62. Commission staff evaluated the potential environmental impacts of the proposed projects in draft and final EISs in accordance with the requirements of NEPA. The Park Service; EPA; the U.S. Army Corps of Engineers; National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries); and the City of New York participated as cooperating agencies in the preparation of the draft and final EISs.

---

<sup>55</sup> The public scoping meetings were held in the Borough of Brooklyn in Kings County, New York, on June 12, 2012, and the Borough of Queens in Queens County, New York, on June 13, 2012.

<sup>56</sup> Table 1.3-1 of the final EIS provides a detailed and comprehensive list of issues raised during scoping.

<sup>57</sup> 78 Fed. Reg. 26,354 (2013).

63. The draft EIS was issued on October 4, 2013, with a 45-day public comment period. The draft EIS was mailed to over 800 stakeholders on the environmental mailing list. A *Notice of Availability of the Draft Environmental Impact Statement for the Proposed Rockaway Delivery Lateral and Northeast Connector Projects and Notice of Comment Meetings* was published in the Federal Register, and established November 25, 2013, as the deadline for comments on the draft EIS.<sup>58</sup> In response to the limited funding for federal programs and resources between October 1 and 16, 2013, staff issued a *Notice of Extension of Comment Period* on October 22, 2013, which extended the closing date for submitting comments on the draft EIS to December 9, 2013. The Commission held two public meetings to receive comments on the draft EIS in October 2013.<sup>59</sup> A total of 46 people provided oral comments at the public meetings, and the Commission received 307 written comment letters from federal, state, and local agencies; companies/organizations; and individuals in response to the draft EIS.

64. The major environmental issues raised by commenters on the draft EIS included: alternatives; federally listed endangered and threatened species; impacts on the Gateway Recreation Area, including use of historic hangars at Floyd Bennett Field; safety; the cumulative impacts associated with the transportation of natural gas produced in the Marcellus shale region; environmental justice impacts; and noise impacts.

65. In addition to the several specific environmental issues raised, a number of parties contend that the Commission should have issued a supplemental draft EIS because Transco modified its construction schedule from the winter to the summer, contending that in essence this created a new project.

66. We find this contention unpersuasive. Under section 1502.9(c)(1)(i) of CEQ's regulations, an agency is only required to prepare a supplemental EIS if (1) "the agency makes substantial changes in the proposed action that are relevant to environmental concerns" or (2) "there are significant new circumstances or information relevant to environmental concerns."<sup>60</sup> The Supreme Court, in *Marsh v. Oregon Natural Resources*

---

<sup>58</sup> 78 Fed. Reg. 62,012 (2013).

<sup>59</sup> Commission staff held the draft EIS comment meetings in the Borough of Brooklyn, New York, on October 22, 2013, and the Borough of Queens, New York, on October 23, 2013. Approximately 90 people attended the public comment meetings.

<sup>60</sup> 40 C.F.R. § 1502.9(c)(1)(i) (2013).

*Council*, stated that under the “rule of reason,” “an agency need not supplement an [EIS] every time new information comes to light after the EIS is finalized.”<sup>61</sup>

67. Transco’s modification to its project construction schedule did not cause Commission staff to make “substantial changes in the proposed action,”<sup>62</sup> nor did it present “significant new circumstances or information related to environmental concerns.” Transco stated in its Rockaway Project Application that project construction would occur from fall 2013 through winter 2014.<sup>63</sup> The draft EIS analyzed the environmental impacts of Transco’s proposal under the assumptions that construction for the pipeline would be completed over a six-month period beginning in the spring 2014 (i.e., through mid-September), and construction for the meter station would be completed over a 14-month period beginning in the spring 2014 (i.e., through spring 2015). After the issuance of the draft EIS, Transco modified the project construction schedule to start in late spring and early summer of 2014. The shift in the construction schedule by several weeks caused minimal change in the impact assessment presented in the draft EIS, and the final EIS fully considered these changes.

68. On February 28, 2014, Commission staff issued the final EIS and the public notice of its availability was published in the Federal Register.<sup>64</sup> The final EIS addresses geology; soils; water resources; wetlands; vegetation; wildlife and fisheries; special status species; land use, recreation, and visual resources; socioeconomics; cultural resources; air quality and noise; reliability and safety; cumulative impacts; alternatives; and timely

---

<sup>61</sup> *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 374 (1989). See also *National Committee for New River v. FERC*, 373 F.3d 1323, 1329 (D.C. Cir. 2004) (“[i]f every aspect of the project were to be finalized before any part of the project could move forward, it would be difficult, if not impossible, to construct the project.” (quoting *East Tennessee Natural Gas Company*, 102 FERC ¶ 61,225, at P 25 (2003))).

<sup>62</sup> The cases that the Coalition Against the Rockaway Pipeline relies on—*State of California v. Block*, 690 F.2d 753 (9th Cir. 1982) and *Dubois v. U.S. Department of Agriculture*, 102 F.3d 1273, 1292 (1st Cir. 1996)—are inapplicable because in both the agency made a substantial change to the proposed action and did not disclose its preferred alternative until the issuance of the final EIS.

<sup>63</sup> See Transco Rockaway Project Application, Resource Report 1, section 1.3, Construction Schedule and Activity Sequence, at p. 1-12.

<sup>64</sup> EPA published a *Notice of Availability for the Final EIS* in the *Federal Register*, 79 Fed. Reg. 13,295 (2014).

comments received on the draft EIS.<sup>65</sup> The final EIS finds that the Rockaway and Northeast Connector Projects would result in limited adverse environmental impacts if constructed and operated in accordance with applicable laws and regulations. However, these impacts would mostly occur during construction and be reduced to less-than-significant levels with the implementation of the Transco's proposed mitigation and our staff's recommendations. The substantive issues raised in comments on the draft EIS are summarized below.<sup>66</sup>

**a. Segmentation**

69. A number of parties and commenters suggest that the Rockaway Project has been unlawfully segmented to circumvent a full NEPA review. Specifically, these entities claim that the Commission's environmental analysis of the proposed Rockaway Project should include an evaluation of National Grid's Brooklyn-Queens Project. The Brooklyn-Queens Project is located between Transco's Rockaway Lateral and National Grid's existing 30-inch-diameter pipeline in Brooklyn, New York. Transco's proposed meter station at Floyd Bennett Field will be located on the Brooklyn-Queens Project Facilities. Several of these parties and commenters maintain that the Brooklyn-Queens Project will perform a transmission function rather than a local distribution function and, accordingly, it should not have been constructed without the Commission's environmental review. Others contend that under applicable federal regulations, as well as case law, the Commission should have considered National Grid's Brooklyn-Queens Project and Transco's Rockaway Project to be "connected" actions, and as such reviewed them in the same EIS.

70. Specifically, the Coalition Against the Rockaway Pipeline (CARP) asserts that the Commission should have analyzed the Rockaway and Brooklyn-Queens Projects together as a connected action because: (1) they are dependent on each other to provide a long-term solution to meet the supply needs of National Grid's system by delivering gas to the Brooklyn area; (2) they are located at the same site; (3) each lacks independent utility; and (4) the Brooklyn-Queens Project's location precludes alternative locations for the Rockaway Project pipeline.<sup>67</sup> At a minimum, these entities argue that the Commission's

---

<sup>65</sup> Responses to all comments on the draft EIS are included in Volume 2 of the final EIS.

<sup>66</sup> No comments on the environmental review were filed subsequent to issuance of the final EIS.

<sup>67</sup> CARP December 9, 2013 Comments of the draft EIS at 16-17.

environmental analysis must include a comprehensive evaluation of the cumulative, indirect, and secondary impacts of both projects.

71. Under NEPA, federal agencies are required to consider the environmental consequences of “major Federal actions significantly affecting the quality of the human environment.”<sup>68</sup> Improper segmentation arises when a federal project, i.e., a major Federal action, has been segmented into separate projects to avoid compliance with NEPA.<sup>69</sup>

72. The term “major Federal action” is not defined in NEPA, but the Council on Environmental Quality (CEQ) has defined “major Federal action” to include “actions with effects that may be major and which are potentially subject to Federal control and responsibility.”<sup>70</sup> Absent in the case of National Grid’s Brooklyn-Queens Project, is any semblance of the Commission’s actual or potential control over the project. Contrary to the suggestion of the project opponents, the National Grid pipeline will not function as a Commission-jurisdictional transmission facility. Therefore, the Commission had no authority to prevent construction of the facilities commencing prior to the completion of our environmental review of Transco’s proposed facilities.

73. Phase I of the Brooklyn-Queens Project facilities, including the 1.6 mile-long, 26-inch-diameter pipeline extending from the vicinity of the proposed meter station to the vicinity of the proposed tie-in on Rockaway Peninsula which is the principal target of the project opponents, has already been constructed without any federal financing or other federal involvement, including that of the Commission.<sup>71</sup> However, the cumulative,

---

<sup>68</sup> 42 U.S.C. § 4332(2)(C) (2012).

<sup>69</sup> See, e.g., *Save Barton Creek Ass’n v. Federal Highway Administration*, 950 F.2d 1129 (5th Cir. 1992); *Coalition on Sensible Transportation, Inc. v. Dole*, 826 F.2d 60 (D.C. Cir. 1987).

<sup>70</sup> 40 C.F.R. § 1508.18 (2013).

<sup>71</sup> See *Sierra Club v. Hodel*, 848 F.2d 1068, 1089 (10th Cir. 1988) (“[T]he federal agency must possess actual power to control the nonfederal activity.”). As stated in the EIS, the Brooklyn-Queens Project is regulated at the state level by the New York State Department of Public Service. Environmental review of the Brooklyn-Queens Project was conducted under the New York State Environmental Quality Review Act (SEQRA) with the New York City Office of the Mayor as lead agency. The review was based on information provided by National Grid in its Environmental Assessment Statement (EAS) (National Grid, 2011) pursuant to Executive Order (EO) 91 of 1977, as amended, and the Rules of Procedure for City Environmental Quality Review (CEQR) found at Title 62,

(continued...)

indirect, and secondary environmental impacts of National Grid's Brooklyn-Queens Project are comprehensively evaluated in the final EIS.<sup>72</sup> Any further environmental analysis of the effects of construction of those facilities, at this juncture, would not yield any meaningful remedies.<sup>73</sup>

74. Based on the foregoing, we find that the Rockaway Project has not been unlawfully segmented to circumvent or frustrate NEPA review of the Brooklyn-Queens Project's construction. We find that the scope of the Commission staff's evaluation of the environmental impacts of the Rockaway Project and the Northeast Connector Project was consistent with our responsibilities under NEPA.

**b. Alternatives**

75. Several commenters contend that the EIS should have considered alternative non-fossil fuel energy suppliers, other system alternatives to the Rockaway Project, pipeline route alternatives, site alternatives for the meter station, and alternative pipeline construction methods.

---

Chapter 5 of the Rules of the City of New York and 6 New York Codes, Rules, and Regulations (NYCRR), Part 617, State Environmental Quality Review. On December 2, 2011, the New York City Office of the Mayor issued a Negative Declaration (CEQR No. 12OOM001K) for the Brooklyn-Queens Project in accordance with Article 8 of the New York State Environmental Conservation Law. The Negative Declaration concluded that the installation of the project will "not have any potentially significant adverse effects on the quality of the environment" (New York City Office of the Mayor, 2011). A copy of the Negative Declaration, which provides a summary of the New York City Office of the Mayor's findings from the environmental review process, is provided in Appendix B of the final EIS.

<sup>72</sup> See final EIS, sections 4.13, Cumulative Impacts, 4.13.1 – 4.13.16.

<sup>73</sup> See *One Thousand Friends of Iowa v. Mineta*, 364 F.3d 890, 893 (8th Cir. 2004) ("A NEPA claim does not present a controversy when the proposed action has been completed and no effective remedy is available."). See also, *Bayou Liberty Ass'n, Inc. v. United State Army Corps of Engineers*, 217 F.3d 393, 398 (5th Cir. 2000). As explained in *Richland Park Homeowner's Ass'n, Inc. v. Pierce*, "the basic thrust of NEPA legislation is to provide assistance for evaluating proposals for prospective federal action in the light of their future effect upon environmental factors, not to serve as a basis for after-the-fact critical evaluation subsequent to substantial completion of the construction." 671 F.2d 935, 941 (5th Cir. 1982) (citing *Aertsen v. Landrieu*, 637 F.2d 12, 19 (1st Cir. 1980)).

76. Section 3.0 in the final EIS evaluated alternatives to the proposed projects to determine whether there were technically and economically feasible and environmentally preferable alternatives. Staff evaluated the no action alternative,<sup>74</sup> energy alternatives,<sup>75</sup> system alternatives,<sup>76</sup> four route alternatives,<sup>77</sup> five meter station site alternatives,<sup>78</sup> and alternative pipeline construction methods.<sup>79</sup> The final EIS finds that none of the alternatives for the proposed pipeline or its construction, site alternatives for the meter station, and alternatives to the compressor station modifications could be expected to result in fewer adverse environmental impacts while still meeting the proposed projects' objectives of providing 647,000 Dth/day of firm transportation service to National Grid's new delivery point on the Rockaway Peninsula.

**c. Impacts on Federally Listed Species**

77. Commenters expressed concern regarding the potential impact of the Rockaway Project on federally listed endangered or threatened species. During the environmental review process, the U.S. Fish and Wildlife Service (FWS), NOAA Fisheries, and state resource agencies were consulted regarding the presence of, and impacts on, federally

---

<sup>74</sup> See final EIS, section 3.1, No Action Alternative, at p. 3-2.

<sup>75</sup> See *id.*, section 3.2, Energy Alternatives, at p. 3-3. Energy alternatives assessed in the final EIS by staff included energy conservation and increased efficiency (section 3.2.1); renewable energy sources, including wind, hydroelectric, biomass, solar/photovoltaic, tidal, and wave (section 3.2.2); nuclear energy (section 3.2.3); fossil fuels (section 3.2.4); and alternative fuels (section 3.2.5).

<sup>76</sup> See *id.*, section 3.3, System Alternatives, at pp. 3-11 – 3-18, where staff evaluates nine existing or proposed system alternatives that currently or eventually could serve the markets targeted by the projects.

<sup>77</sup> See *id.*, section 3.4, Route Alternatives to the Rockaway Delivery Lateral, at pp. 3-18 – 3-36.

<sup>78</sup> See *id.*, section 3.5, Alternative Sites to the M&R (metering and regulating) Facility, at pp. 3-26 – 3-34. In this section, staff evaluated and compared various methods of construction, as opposed to the proposed horizontal directional drill, including alternative offshore trenching, use of positioned versus anchored vessels for pipeline assembly and installation, open-cut crossing of the shoreline, and an alternative method of dealing with drilling fluid disposal.

<sup>79</sup> See *id.*, section 3.7, Construction Alternatives, at p. 3-35.

listed or proposed species in the construction areas. The EIS concluded that construction and operation of the Rockaway Project would have no effect on fin whale and humpback whale;<sup>80</sup> may affect, but would not likely adversely affect, shortnose sturgeon, leatherback sea turtle, Kemp's ridley sea turtle, green sea turtle, loggerhead sea turtle, roseate tern, piping plover, and seabeach amaranth;<sup>81</sup> and may affect, and is likely to adversely affect, right whale and Atlantic sturgeon.<sup>82</sup>

78. On April 7, 2014, Transco filed supplemental information that required reconsideration of our staff's determinations for Atlantic sturgeon and right whale. Specifically, Transco proposed a start date of no sooner than June 1, 2014, for offshore pile driving activities. After this date, Atlantic sturgeon are expected to be leaving the Rockaway Project area to continue coastal migrations along the eastern seaboard, and right whale are unlikely to be present in the waters off the coast of the Rockaway Peninsula. Based on Transco's modification to its proposal, staff changed its determinations of effect to "may affect, but would not likely adversely affect" Atlantic sturgeon and right whale. Staff communicated this change to NOAA Fisheries on April 21, 2014 and requested its concurrence.

79. Environmental Condition 21 specifies that Transco not begin construction activities for the Rockaway Project until consultation is complete. Environmental Condition 21 of this order precludes Transco from commencing construction until Endangered Species Act consultation is complete and mitigation plans and measures are approved by the Commission. Accordingly, all listed species will be protected. There are no impacts on federally listed species associated with the Northeast Connector Project.

**d. Land Use Impacts on Gateway Recreation Area**

80. Commenters expressed concern with the impacts of the Rockaway Project on the Gateway Recreation Area, including use of Park Service lands for industrial development and impacts on Floyd Bennett Field, navigation, recreational activities (i.e., a bike path), Rockaway Beach, and bee keeping.

---

<sup>80</sup> See *id.*, Table 4.7-1, Federally Listed, Candidate, and Petitioned Species Potentially Occurring in the Rockaway Project Area, at p. 4-72 and section 4.1.1, Marine Mammals, 1 at pp. 4-73 – 4-74.

<sup>81</sup> See *id.*, Table 4.7-1.

<sup>82</sup> See *id.*

81. As discussed in the final EIS, the proposed meter station and approximately 0.57 mile of the Rockaway Delivery Lateral would be located on offshore and onshore areas within the recreation area.<sup>83</sup> Of the 0.57 mile of pipe located on Gate Recreation Area property, 0.32 mile would be located within Jacob Riis Park, which provides recreational facilities including, among other things, a pitch and putt golf course, playground, picnic area, beach (i.e., Rockaway Beach), swimming area, and boardwalks.

82. Surface impacts on Jacob Riis Park, including the Rockaway Beach, and nearshore habitats of the recreation area would be minimized by Transco's use of the horizontal directional drilling (HDD) method. No construction activities would occur in Jacob Riis Park except for foot traffic to monitor for inadvertent releases of drilling fluid. Transco would erect tents and/or screens around the HDD machinery that would be located on property owned by the Bridge and Tunnel Authority to help mitigate effects on the recreation area. Transco proposed a permanent 50-foot-wide right-of-way over the pipeline across Jacob Riis Park, Rockaway Beach, and Gate Recreation Area's offshore area. Transco's Outreach Plan for Offshore Construction describes how Transco would communicate information regarding offshore construction activities to beach users via signs, a website, newspaper advertisements, and public information sessions (as warranted). The final EIS concludes that impacts on the recreation area would be minor and temporary. During operations, Transco would periodically walk and inspect the onshore right-of-way and conduct leak detection surveys once a year. No alterations would be made to the land cover during these inspections. Additionally, there would be no restrictions on existing uses of the park along the right-of-way.

83. As stated in the final EIS, the meter station would be located within Floyd Bennett Field and constructed within an existing 1.1-acre hangar complex. The complex was most recently used as a storage area and by emergency response teams after Hurricane Sandy. The hangars, however, are in disrepair, and the Park Service has restricted access to the hangars due to safety concerns. Thus, construction activities would not impact any current uses of the structures.

84. Several commenters stated that Transco's proposed use of Hangars 1 and 2 for the meter station would be an inappropriate use for the hangar structures. As described previously, the New York City Supply Act authorized the Secretary of the Interior to allow construction and operation of the Rockaway Project, subject to receipt of the necessary permits and easements from Park Service. The final EIS describes how the Park Service may issue a lease of lands under its jurisdiction for any lawful purpose.<sup>84</sup>

---

<sup>83</sup> *See id.*, section 4.8, Land Use, Recreation, Special Interest Areas, and Visual Resources, at p. 4-104.

<sup>84</sup> Final EIS section 1.2.2, National Park Service, at p. 1-6.

The Park Service determined that issuance of a lease for the proposed meter station within Hangars 1 and 2 meets the definition of appropriateness.<sup>85</sup> In addition, the New York State Historic Preservation Office (SHPO) reviewed Transco's Schematic Design for the meter station and concurred that the proposed work at Hangars 1 and 2 appears to meet the Secretary of the Interior's Standards for Rehabilitation.

85. Operation of the meter station would require the use of approximately two acres of land, including the lease of the hangar complex and the establishment of two permanent right-of-way easements for the inlet and outlet piping that would connect the facility to the National Grid pipelines along Flatbush Avenue. Gateway Recreation Area traffic would not be affected by operation of the meter station. In sum, the Rockaway Project would have no impact on current land uses or cover types within Jacob Riis Park, Rockaway Beach, or Floyd Bennett Field.

86. In any event, the Park Service, not the Commission, will make the ultimate determination as to whether, and under what conditions, Transco may use recreation area lands for its project.

e. **Cultural Resources**

87. Commenters expressed concern with the impact of the Rockaway Project on cultural resources at or near the proposed meter station, specifically the adaptive re-use of the historic airplane hangars on Floyd Bennett Field. As described in the final EIS, Hangars 1 and 2 are contributing elements to the significance of the Floyd Bennett Field Historic District, listed as a district in the National Register of Historic Places (National Register) and the State Register of Historic Places. Transco prepared a draft and final historic structures report for Hangars 1 and 2 to serve as a planning tool for the proposed rehabilitation and conversion of the complex. Transco also prepared initial schematic drawings for the rehabilitation of the hangars and filed a Schematic Design Submittal and comments from the New York SHPO. In addition, as noted in the final EIS, the proposed pipeline would also be installed beneath the Jacob Riis Park Historic District.

88. In letters filed with the Commission on February 14, 2014, the Park Service indicated that it determined that the adaptive reuse of Hangars 1 and 2 at Floyd Bennett Field and the installation of the Rockaway Project pipeline beneath Jacob Riis Park would have no adverse effect on the qualities that qualified the Floyd Bennett Field Historic and Jacob Riis Park Historic Districts for listing in the National Register. As described in the final EIS, the Park Service provided an "Assessment of Actions Having

---

<sup>85</sup> See Park Service's Assessment of Actions Having an Effect on Historic Properties, filed February 14, 2014.

an Effect on Historic Properties” and specified mitigation measures that Transco should implement during the rehabilitation construction of Hangars 1 and 2.<sup>86</sup> On March 25, 2014, the New York SHPO concurred with the Park Service’s assessment that the Rockaway Project would have no adverse effect on the Floyd Bennett Field and Jacob Riis Park Historic Districts, if construction and rehabilitation included the Park Service mitigation measures that Transco has agreed to incorporate into its plans.

89. Based on the documents filed in the record and the Park Service’s and New York SHPO’s comments, we determine that the Rockaway Project would have no adverse effect on the Floyd Bennett Field and Jacob Riis Park Historic Districts.

90. A commenter requested that staff consult with the Advisory Council on Historic Preservation (ACHP) in the Section 106 process.<sup>87</sup> Staff’s no effect determination negates the need for a negotiated Programmatic Agreement with the ACHP.<sup>88</sup> As a result, Environmental Condition 23 removes the reference to the Programmatic Agreement and the need for the ACHP’s opportunity to comment that appeared in the final EIS (environmental recommendation 23) because no historic properties would be adversely affected. However, to ensure that our responsibilities under Section 106 of the NHPA are met, Environmental Condition 23 stipulates that Transco not begin construction of the Rockaway Project until all outstanding survey and evaluation reports, the final design and construction drawings for Hangars 1 and 2, and any necessary treatment plans, have been reviewed by the appropriate parties, and the Commission provides written notification to proceed.

**f. Safety**

91. Several commenters expressed concern about the potential for fire or explosion, availability of fire hydrants and firefighting equipment, remote monitoring of the pipeline, emergency response, terrorism, and regulator valves.

92. As described in the final EIS, the pipeline and above-ground facilities associated with the proposed projects would be designed, constructed, operated, and maintained in accordance with, or to exceed the requirements of, the U.S. Department of Transportation

---

<sup>86</sup> See final EIS section 4.10, Cultural Resources, at p. 4-144.

<sup>87</sup> See Karen Orlando October 28, 2013 Filing.

<sup>88</sup> The ACHP’s regulations at 36 C.F.R. § 800.5 (2013) require federal agencies to assess effects on properties that are listed in, or eligible for listing in, the National Register.

(DOT) Minimum Federal Safety Standards in 49 C.F.R. Part 192.<sup>89</sup> The DOT regulations require that pipeline facilities be designed, at a minimum, to the appropriate Class location standard and that the spacing between mainline valves meets DOT requirements. Transco proposed a more stringent design for the Rockaway Project than is required by the regulations, committing to design the entire pipeline to Class 4 standards<sup>90</sup> and bury the offshore pipeline segments with additional depth of cover. With the exception of the HDD segment of the pipeline, which would be deeper, Transco would bury the offshore pipeline at a depth of four feet below grade. Onshore, the piping associated with Transco's tie-in with National Grid would be buried three feet below grade, covered with a concrete slab, and backfilled to ground level. Transco would monitor pipeline pressures on a continuous basis. The DOT regulations are intended to ensure adequate protection for the public and to prevent facility accidents and failures. The DOT regulations also address design criteria for compressor stations, including emergency shutdowns and safety equipment, and require a written emergency plan and training of local emergency service personnel.

**g. Cumulative Impacts Associated with Marcellus shale**

93. The final EIS<sup>91</sup> addresses comments that express concern with cumulative impacts associated with development of natural gas reserves (including hydraulic fracturing) in the Marcellus shale.<sup>92</sup>

94. In evaluating cumulative impacts, we: (1) consider whether another activity/action impacts the same resource category as the proposed action; (2) establish a "region of influence,"<sup>93</sup> which defines the area in which impacts are considered

---

<sup>89</sup> See final EIS section 4.12.1, Safety Standards, at 4-190 – 4-195.

<sup>90</sup> A Class 4 location is where buildings with four or more stories above-ground are prevalent. 49 C.F.R. § 192.5 (2013).

<sup>91</sup> See final EIS sections 1.3, Public Review and Comment, and section 4.13, Cumulative Impacts.

<sup>92</sup> The unconventional development of natural gas resources in shale formations has increased significantly in recent years. In closest proximity to the proposed project is exploration and production in the Marcellus formation in the Appalachian Basin, which extends primarily from New York through Pennsylvania and into West Virginia and Ohio.

<sup>93</sup> Staff's cumulative impact analysis generally includes other projects that are currently generating impacts in the region of influence and projects for which such

(continued...)

cumulatively; and (3) determine if the effects of more distant activities/actions are localized, and not cumulative with the proposed action.

95. Natural gas exploration, production, and gathering, and the facilities and pipelines used for these activities, are not regulated by the Commission but by the affected region's state and local agencies with jurisdiction over these functions.

96. The proposed facilities will be located in a developed urban area, not in an area of shale development. Activities associated with the proposed projects would occur outside of the Marcellus shale region. The local resources that may be affected by Marcellus shale development would not be affected by the projects, and local resources affected by the projects would also not be affected by development in the Marcellus shale.<sup>94</sup> Further, as stated in the final EIS, approximately 85 percent of the natural gas transported by the projects to National Grid is gas which currently is transported to National Grid via the existing delivery point in Long Beach.<sup>95</sup> Only approximately 15 percent of the natural gas to be transported by the projects is incremental (i.e., additional or new volumes of gas). This additional supply could originate at any number of points along the interconnected interstate natural gas pipeline grid. Given the multiple sources of gas that will be able to be delivered to the proposed project, this project is not dependent on the development of shale gas resources to achieve its stated goals. Consequently, although the proposed projects may potentially transport gas produced from shale formations, including the Marcellus, the development of shale gas resources is not dependent on this proposed project. Thus, it is unknown at this time, and commenters have not identified, how much, if any, of the gas to be transported by the projects will come from additional shale production, much less where the development of such production and its associated potential impacts would occur. Accordingly, we are unable to prepare a meaningful analysis of the impacts of future natural gas development that will assist in informing the Commission's decision here.

#### **h. Environmental Justice Impacts**

97. The Center for Urban Environmental Reform (Center for Reform) claims that because the Commission performed an environmental justice analysis, the Commission

---

impacts are reasonably foreseeable. In most cases, staff has defined the region of influence as the same county, airshed, or watershed, as appropriate.

<sup>94</sup> See final EIS section 4.13, Cumulative Impacts, at p. 4-204.

<sup>95</sup> See *id.*, section 1.3, Public review and Comment, at p. 1-13 and section 3.1, No Action Alternative, at p. 3-2

had a duty under the Administrative Procedure Act (APA) to not conduct its analysis in an arbitrary and capricious manner.<sup>96</sup> The Center for Reform argues that the Commission did not meet that duty when the Commission issued a draft EIS that arbitrarily and capriciously analyzed adverse impacts on environmental justice communities nearby the Rockaway Project.

98. We believe that our further consideration in the final EIS of the Rockaway Project's impacts on nearby environmental justice communities meets the APA standard. Section 4.9.7 of the final EIS identified minority and low-income populations near the Rockaway Project, and considered the impacts the proposed project could have on these communities. The final EIS found no evidence that risks of environmental or socioeconomic impacts would be disproportionately borne by any racial, ethnic, or socioeconomic group,<sup>97</sup> and the Center for Reform does not provide information that would change this conclusion.

#### **h. Noise Associated with Meter Station**

99. Commenters expressed concern with the noise associated with construction and operation of the meter station in Floyd Bennett Field. Transco's construction of the meter station would include modifications to, and rehabilitation of, the existing hangars and installation of meter and regulating equipment. As discussed in the final EIS, construction noise would result from pile driving outside the hangars for sheeting that would be hammered into the ground to support the building walls, excavating trenches for the new pilings and equipment foundations, and pile driving inside the hangars at the location of each proposed piece of equipment/skid and underground piping and headers.<sup>98</sup> These activities would temporarily increase noise levels in the vicinity of the site.

100. The final EIS determines that the maximum estimated increase in construction noise at four of the five closest noise sensitive areas would be less than 2.1 decibels on the A-weighted scale (dBA). This increase is less than what is considered detectable by the human ear. The estimated increase in noise at the fifth area (the nearest garden plots within the Floyd Bennett Gateway Park Community Garden), would be 16.1 dBA. This noise increase would be noticeable but would occur only during peak construction periods.

---

<sup>96</sup> 5 U.S.C. § 706 (2012).

<sup>97</sup> Final EIS, section 4.9.7, Environmental Justice, at p. 4-143.

<sup>98</sup> See final EIS, section 4.11.2, Noise, at p. 4-170.

101. The final EIS concludes that operation of the Rockaway Project is not expected to generate significant noise levels. During operation of the meter station, noise would be radiated from above-ground piping associated with the regulator valves. The level of piping noise would be directly related to the pressure drop and gas flow across the flow control valves associated with the regulator runs inside Hangar 1. Noise would also be generated by equipment located inside Hangar 2, such as the electric motor-driven pumps and heat exchangers. The results of the acoustical assessment analyzed in the final EIS indicate that the noise attributable to operation of the meter station would be minimal.

**i. Late Comments**

102. Gay Snyder, Karen Orlando, and Barbara Pearson filed comment letters too late to be addressed in Volume II of the final EIS. These commenters reiterated their concerns about the Park Service review and approval process, the need for the proposed projects, the NHPA Section 106 process and adaptive reuse of historic hangars, and the Commission's environmental review process. Each of these issues was addressed in the final EIS<sup>99</sup> and are summarized above.

**Conclusion**

103. We have reviewed the information and analysis contained in the final EIS regarding potential environmental effects of the Rockaway and Northeast Connector Projects. Based on our consideration of this information and the discussion above, we agree with the conclusions presented in the final EIS and find that the proposed projects, if constructed and operated as described in the final EIS, are environmentally acceptable actions. We are accepting the environmental recommendations in the final EIS and are including them as conditions to this order in Appendix C.

104. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. We encourage cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>100</sup>

---

<sup>99</sup> See *id.*; section 1.1, Project Purpose and Need, at p. 1-2; section 4.10, Cultural Resources, at p. 4-144; and section 4.8.7, Recreation and Special Use Areas, at p. 4-129.

<sup>100</sup> See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Comm'n*, 894 F.2d 571 (2d Cir. 1990); *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

105. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and exhibits thereto, as supplemented, submitted in with respect to the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Transco in Docket No. CP13-36-000, authorizing the construction and operation of the Rockaway Project facilities, as more fully described in the application, as supplemented, and in the body of this order.

(B) A certificate of public convenience and necessity is issued to Transco in Docket No. CP13-132-000 authorizing the construction and operation of the Northeast Connector Project facilities, as more fully described in the application, as supplemented, and in the body of this order.

(C) The certificates issued herein are conditioned on Transco's compliance with the environmental conditions set forth in Appendix C of this order and all of the applicable 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.

(D) Permission and approval is granted to Transco in Docket No. CP13-132-000 to abandon certain facilities by removal and abandon other facilities in place, as more fully described in the application, as supplemented, and in the body of this order.

(E) Prior to commencement of construction of the projects authorized herein, Transco must execute, for each project, contracts for service at levels and under terms and conditions equivalent to those which it represented were subscribed under precedent agreements.

(F) Transco shall notify the Commission within 10 days of the effective dates of the abandonments approved in Ordering Paragraph (D).

(G) The facilities authorized here shall be constructed and made available for service within two years of the date of the order in this proceeding, as required by section 157.20(b) of the Commission's regulations.

(H) Transco's request for authority to charge incremental rates for firm service under proposed Rate Schedule FDLs for the Rockaway Project is approved, subject to Transco filing revised rates as discussed in the body of this order. Transco shall submit actual tariff records no earlier than 60 days and no later than 30 days prior to the in-

service date of the Rockaway Project. Transco shall keep separate books and accounting of costs attributable to the proposed incremental services, as more fully described in the body of this order.

(I) Transco's request for authority to charge incremental rates for firm service under proposed Rate Schedule FT, as revised in its November 26, 2013 data response, is approved. Transco shall submit actual tariff records no earlier than 60 days and no later than 30 days prior to the in-service date of the Northeast Connector Project. Transco shall keep separate books and accounting of costs attributable to the proposed incremental services, as more fully described in the body of this order.

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

(K) Liberty's motion to intervene is granted.

(L) The untimely motions to intervene filed are granted.

(M) The motions for a hearing are denied.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

**Appendix A**

**Intervenors in Docket No. CP13-36-0000**

*Timely, Unopposed Motions to Intervene*

- Alice Zinnes
- Atmos Energy Corporation
- Atmos Energy Marketing LLC
- Barbara Pearson
- Bonnie J. Lowenstein
- Brian L. Porzak
- Bruce Rosen
- Calpine Energy Services, L.P.
- Carolina Power & Light Company
- Coalition Against the Rockaway Pipeline
- Consolidated Edison Company of New York
- Damascus Citizens for Sustainability, Inc.
- Danielle Amodeo
- David C. Publow
- Debora Chaves
- Dominik Eckenstein
- Edith Kantrowitz
- Edward Sczudllo
- Eileen E. Rourke
- Eleanor O. Preiss
- Elizabeth Kelly
- Erik R. McGregor
- Eugene Marner
- Exelon Corporation
- Florida Power Corporation
- Gabriel Reichler
- Gay H. Snyder
- Ieva Zadina
- Iwona Hoffman
- Jamaica Bay Ecowatchers
- Janna L. Olson
- Jason Rosenfeld
- Jennifer Terry
- Jessica Stickler

- Joseph Bonserio
- Joseph Fionda
- Joseph Nerone
- Judi Cheng
- Judith K. Canepa
- Karen Orlando
- Kevin Burke
- Kim A Fraczek
- Kirsten A. Bunner
- Linnea M. Palmer Paton
- Marc Landis
- Margaret Browne
- Margery Schab
- Marianne C. Waldow
- Marina Tsaplina
- Martha Cameron
- Maureen W. Healy
- Mav Moorhead
- Melina Hammer
- Michael Korn
- Michael Leete
- Michele Kaplan
- Mike Misner
- Nancy I. Sheran
- National Grid Gas Delivery Companies<sup>101</sup>
- Natural Resources Protective Association
- New Jersey Natural Gas Company
- New York Public Service Commission
- Nidhin C. Joseph
- NJR Energy Services Company
- NYH20
- Owen Crowley
- Philadelphia Gas Works

---

<sup>101</sup> The National Grid Gas Delivery Companies include: The Brooklyn Union Gas Company; KeySpan Gas East Corporation; Boston Gas Company; Colonial Gas Company; Niagara Mohawk Power Corporation; The Narragansett Electric Company; and all subsidiaries of National Grid USA, Inc.

- Phoebe Berg
- Piedmont Natural Gas Company, Inc.
- PSEG Energy Resources & Trade LLC
- Restore the Rock
- Sandra Stratton-Gonzalez
- Sane Energy Project
- Sharon Y. Shoenfeld
- The Family Council at CABS
- Thomas J. Hillgardner
- United for Action
- Washington Gas Light Company
- Wendy Brawer

*Late Unopposed Motions to Intervene*<sup>102</sup>

- Carlos J. Cabeza
- Dennis M. Hart
- Devery Doleman
- Gloria Lucia Albasi
- Jill Greenberg
- Lois Pinetree
- National Fuel Gas Distribution Corporation

---

<sup>102</sup> The Commission's Rules of Practice and Procedure provide that any filing received after regular business hours (i.e., after 5 p.m. Eastern Time) is considered filed on the next regular business day. 18 C.F.R. § 385.2001(a)(2) (2013). Because the movants—Carlos J. Cabeza, Dennis M. Hart, Devery Doleman, Gloria Lucia Albasi, Jill Greenberg, and Lois Pinetree—filed their motion to intervene after 5 p.m. Eastern Time on February 12, 2013, their motions to intervene are considered filed on February 13, 2013.

**Appendix B**

**Interventions in Docket No. CP13-132-000**

*Timely, Unopposed Motions to Intervene*

- Atlanta Gas Light Company
- Consolidated Edison Company of New York
- Exelon Corporation
- Municipal Gas Authority of Georgia
- National Fuel Gas Distribution Corporation
- National Grid Gas Delivery Companies<sup>103</sup>
- New Jersey Natural Gas Company
- NJR Energy Services Company
- Philadelphia Gas Works
- Piedmont Natural Gas Company, Inc.
- Pivotal Utility Holdings, Inc.
- PSEG Energy Resources & Trade LLC
- Transco Municipal Group
- Virginia Natural Gas, Inc.

*Late, Unopposed Motions to Intervene*

- Clean Air Council
- Edith Kantrowitz
- Martha Cameron
- New York Public Service Commission

---

<sup>103</sup> See *supra* note 1 and accompanying text.

## Appendix C

### Environmental Conditions

**Rockaway Delivery Lateral Project  
Docket No. CP13-36-000  
and  
Northeast Connector Project  
Docket No. CP13-132-000**

As recommended in the final EIS and otherwise amended herein, this authorization includes the following conditions:

1. Transco shall follow the construction procedures and mitigation measures described in its applications and supplemental filings (including responses to staff information and data requests) for the Rockaway Delivery Lateral Project (Rockaway Project) and the Northeast Connector Project (combined, referred to as Projects), and as identified in the EIS, unless modified by the Commission's Order. Transco 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 than the original measure; and
  - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the Projects. This authority shall allow:
  - a. the modification of conditions of the Commission's Order; and
  - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as avoidance or mitigation of adverse environmental impacts resulting from construction and operation of the Projects.
3. **Prior to any construction**, Transco shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the

EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities for the Projects.

4. The authorized facility locations shall be as shown in the EIS, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, Transco shall file with the Secretary any revised detailed survey alignment maps/sheets for the Projects at a scale not smaller than 1:6,000 with station positions for all facilities approved by the Order. All requests for modifications of environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

Transco's exercise of eminent domain authority granted under Natural Gas Act section 7(h) in any condemnation proceedings related to the Order must be consistent with these authorized facilities and locations. Transco's right of eminent domain granted under Natural Gas Act section 7(h) does not authorize it to increase the size of its natural gas facilities to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Transco shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas for the Projects that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area**.

This requirement does not apply to extra workspace allowed by Transco's *Project-Specific Erosion Control, Revegetation, and Maintenance Plan* for the Rockaway Project, the FERC *Upland Erosion Control, Revegetation, and Maintenance Plan* for the Northeast Connector Project, and/or minor field realignments per landowner needs and requirements that do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
  - b. implementation of endangered, threatened, or special concern species mitigation measures;
  - c. recommendations by state regulatory authorities; and
  - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of the certificate and before construction begins**, Transco shall file Implementation Plans for the Projects for review and written approval by the Director of OEP. Transco must file revisions to the plans as schedules change. The plans shall identify:
- a. how Transco will implement the construction procedures and mitigation measures described in its applications and supplements (including responses to staff data requests), identified in the EIS, and required by the Order;
  - b. how Transco will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
  - c. the number of EIs assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
  - e. the location and dates of the environmental compliance training and instructions Transco will give to all personnel involved with construction and restoration (initial and refresher training as the Projects progress and personnel change), with the opportunity for OEP staff to participate in the training session(s);
  - f. the company personnel (if known) and specific portion of Transco's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) Transco will follow if noncompliance occurs; and
  - h. for each discrete facility, a Gantt or Project Evaluation and Review Technique chart (or similar project scheduling diagram), and dates for:
    - i. the completion of all required surveys and reports;
    - ii. the environmental compliance training of onsite personnel;
    - iii. the start of construction; and
    - iv. the start and completion of restoration.

7. Transco shall employ at least one EI for the Rockaway Project and one EI for the Northeast Connector Project. The EI shall be:
  - a. responsible for monitoring and ensuring compliance with all mitigation measures required by the Order and other grants, permits, certificates, or other authorizing documents;
  - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
  - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
  - d. a full-time position, separate from all other activity inspectors;
  - e. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
  - f. responsible for maintaining status reports.
  
8. Beginning with the filing of its Implementation Plans, Transco shall file updated status reports with the Secretary **on a weekly basis for the Rockaway Project and a monthly basis for the Northeast Connector Project until all construction and restoration activities are complete.** On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
  - a. an update on Transco's efforts to obtain the necessary federal authorizations;
  - b. the construction status of the projects, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
  - c. a listing of all problems encountered and each instance of noncompliance observed by the EI during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
  - d. a description of the corrective actions implemented in response to all instances of noncompliance, and their cost;
  - e. the effectiveness of all corrective actions implemented;
  - f. a description of any landowner/resident complaints that may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and
  - g. copies of any correspondence received by Transco from other federal, state, or local permitting agencies concerning instances of noncompliance, and Transco's response.

9. **Prior to receiving written authorization from the Director of OEP to commence construction of any facilities for the Projects**, Transco shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. Transco must receive written authorization from the Director of OEP **before placing the Projects into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the Projects are proceeding satisfactorily.
11. **Within 30 days of placing the authorized facilities for the Projects into service**, Transco shall file an affirmative statement with the Secretary, certified by a senior company official:
  - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
  - b. identifying which of the certificate conditions Transco has complied with or will comply with. This statement shall also identify any areas affected by the projects where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
12. **Prior to construction of the Rockaway Project**, Transco shall update its Horizontal Directional Drilling Monitoring and Contingency Plan to include response procedures for offshore inadvertent releases of drilling fluid. The updated plan shall be filed with the Secretary for review and written approval by the Director of OEP.
13. **Prior to construction of the Rockaway Project**, Transco shall consult with New York City Department of Environmental Protection staff to identify and address agency concerns regarding flow rates for withdrawals of municipal water for hydrostatic testing and file documentation of the consultation with the Secretary.
14. **Prior to construction of the Rockaway Project**, Transco shall update its Spill Prevention, Control and Countermeasure Plan to include specific measures that would be implemented to identify, control, and clean up any accidental leaks or spills from offshore construction vessels. This information shall be filed with the Secretary for review and written approval by the Director of OEP.

15. **Prior to construction of the offshore portion of the Rockaway Project,** Transco shall file with the Secretary for review and written approval by the Director of OEP a noise monitoring and mitigation plan. The plan shall include:
  - a. a description of the equipment and methods Transco would use to measure noise during installation of the 14- and 16-inch-diameter piles;
  - b. a figure illustrating where the measuring equipment would be placed relative to the piles;
  - c. provisions for reporting noise data to the Commission and the National Oceanic and Atmospheric Administration, National Marine Fisheries Service( NOAA Fisheries);
  - d. mitigation measures that would be implemented to reduce noise to acceptable levels if the noise exceeds predicted values (e.g., use of bubble curtains, isolation casings, or cushion blocks, or seasonal restrictions); and
  - e. comments on the plan from NOAA Fisheries.
  
16. Transco shall not begin offshore construction activities for the Rockaway Project **until:**
  - a. Commission staff receives written comments from NOAA Fisheries, Protected Resources Division regarding impacts on marine mammals and Transco's proposed mitigation measures;
  - b. NOAA Fisheries issues an Incidental Harassment Authorization to Transco; and
  - c. the Director of OEP approves Transco's plans and notifies Transco in writing that the mitigation measures may be implemented and construction may proceed.
  
17. **Prior to construction of the offshore portion of the Rockaway Project,** Transco shall file with the Secretary a post-construction benthic sampling and monitoring plan for review and written approval by the Director of OEP. The plan shall identify the duration of the monitoring period, the timing of sampling surveys, success criteria for assessing recovery of benthic species, and reporting requirements. Transco shall also file comments from NOAA Fisheries on the plan.
  
18. **Prior to construction of the Rockaway Project,** Transco shall file an assessment identifying the specific additives that would be used in the horizontal directional drill drilling fluid, including:
  - a. the material safety data sheets for each additive;
  - b. the concentration and dilution rates for each additive;
  - c. an evaluation of the toxicity of each additive;

- d. an evaluation of the potential for bioaccumulation of each additive in the food chain; and
  - e. comments from NOAA Fisheries on the assessment.
19. **Prior to construction of the offshore portion of the Rockaway Project**, Transco shall file with the Secretary for review and written approval by the Director of OEP a five-year plan for annual, post-construction, hydrographic monitoring of the seabed along the pipeline route. The plan shall identify the timing of annual surveys, success criteria for assessing restoration of the seabed, reporting requirements, and the implementation of remedial measures, if necessary. Transco shall also file comments from NOAA Fisheries on the plan.
20. **Prior to construction of the Rockaway Project**, Transco shall consult with the National Park Service (Park Service) to identify a protocol for coordinated monitoring of the drill path in the Gateway National Recreation Area between the months of March and September for the presence of sensitive species, and file documentation of the consultation with the Secretary.
21. Transco shall not begin construction activities for the Rockaway Project **until**:
- a. Commission staff receives written comments from NOAA Fisheries, Protected Resources Division and FWS regarding impacts on federally listed species;
  - b. Commission staff completes formal consultation with NOAA Fisheries/FWS, if required; and
  - c. the Director of OEP approves Transco's mitigation plans and notifies Transco in writing that the mitigation measures may be implemented and construction may proceed.
22. **Prior to construction of the offshore portion of the Rockaway Project**, Transco shall file with the Secretary a finalized crossing plan for the Neptune Regional Transmission System cable and documentation of consultation with the cable owner regarding the plan. In the event that Transco is unable to maintain a minimum of 18 inches of separation between the pipeline and the subsea cable, as well as four feet of cover over the pipeline, Transco shall also file documentation that the U.S. Army Corps of Engineers approves of its contingency plan.
23. Transco shall not begin implementation of any treatment plans/measures (including archaeological data recovery); construction of facilities; or use of staging, storage, or temporary work areas, and new or to-be-improved access roads for the Rockaway Project **until**:

- a. Transco files all outstanding survey and evaluation reports, the final design and construction drawings for Hangars 1 and 2, any necessary treatment plans, and written comments from the Park Service and the New York State Historic Preservation Office on all reports and plans for the Rockaway Project;
- b. Commission staff reviews and the Director of OEP approves all cultural resource reports and plans, and notifies Transco in writing that the treatment plans/mitigation measures may be implemented and/or that construction may proceed.

All material filed with the Commission that contains location, character, and ownership information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: **“CONTAINS PRIVILEGED INFORMATION – DO NOT RELEASE.”**

24. **Prior to construction of the Rockaway Project**, Transco shall file with the Secretary a site-specific noise mitigation plan for the horizontal directional drill onshore entry location for review and written approval by the Director of OEP that incorporates the noise mitigation measures recommended in Report No. 2825 by Hoover and Keith, Inc.; identifies any deviations from these recommendations with stated justification; and specifies any additional or alternate mitigation that would be employed.
25. Transco shall file a noise survey with the Secretary **no later than 60 days** after placing the modified Compressor Station 195 in service for the Northeast Connector Project. If a full load condition noise survey is not possible, Transco shall provide an interim survey at the maximum possible horsepower load and provide the full load survey **within six months**. If the noise attributable to the operation of all of the equipment at Compressor Station 195 under interim or full horsepower load conditions exceeds existing noise levels at noise sensitive area (NSA) no. 1 or an day-night sound level ( $L_{dn}$ ) of 55 decibels on the A-weighted scale (dBA) at NSA nos. 2 and 3, Transco shall file a report on what changes are needed and shall install the additional noise controls to meet the level **within one year** of the in-service date. Transco 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.
26. Transco shall file a noise survey with the Secretary **no later than 60 days** after placing the modified Compressor Station 205 in service for the Northeast Connector Project. If a full load condition noise survey is not possible, Transco shall provide an interim survey at the maximum possible horsepower load and provide the full load survey **within six months**. If the noise attributable to the

operation of all of the equipment at Compressor Station 205 under interim or full horsepower load conditions exceeds an  $L_{dn}$  of 55 dBA at any nearby NSAs, Transco shall file a report on what changes are needed and shall install the additional noise controls to meet the level **within one year** of the in-service date. Transco 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.

27. Transco shall make all reasonable efforts to ensure its predicted noise levels from Compressor Station 207 are not exceeded at nearby NSAs and file noise surveys showing this with the Secretary **no later than 60 days** after placing the modified Compressor Station 207 in service for the Northeast Connector Project. If a full load condition noise survey is not possible, Transco shall provide an interim survey at the maximum possible horsepower load and provide the full load survey within six months. If the noise attributable to the operation of Compressor Station 207 at interim or full horsepower load exceeds an  $L_{dn}$  of 55 dBA at any nearby NSAs, Transco shall file a report on what changes are needed and shall install additional noise controls to meet the level **within one year** of the in-service date. Transco shall confirm compliance with this requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.