

125 FERC ¶ 61,342  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Texas Eastern Transmission, LP

Docket No. CP08-100-000

ORDER GRANTING ABANDONMENT AUTHORITY  
AND ISSUING CERTIFICATE

(Issued December 19, 2008)

1. On April 1, 2008, Texas Eastern Transmission, LP (Texas Eastern) filed an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations seeking authorization for its Northern Bridge Project to add compression at its existing Holbrook and Uniontown compressor stations to provide up to 150,000 Dth per day of additional firm transportation capacity on Texas Eastern's system from a new interconnection with Rockies Express Pipeline, LLC (Rockies Express) at Clarington, Ohio to the Oakford/Delmont Pennsylvania area. Texas Eastern requests authority to use its existing system recourse rates for firm and interruptible transportation as the recourse rates for services using the Northern Bridge Project's expansion capacity.

2. For the reasons discussed below, the Commission is issuing the requested authorizations and approving Texas Eastern's proposal to use its existing system recourse rates as its recourse rates for services using the Northern Bridge Project's expansion capacity. The Commission also finds that Texas Eastern may roll the costs of the Northern Bridge Project into its existing rates in a future rate case, absent a change in the circumstances underlying this finding.

**I. Background and Proposal**

3. Texas Eastern is a natural gas transmission company engaged in the business of transporting gas in interstate commerce under authorizations granted by and subject to the Commission's jurisdiction. Texas Eastern's system extends from Texas, Louisiana, and

the offshore Gulf of Mexico area, through the states of Mississippi, Arkansas, Missouri, Tennessee, Illinois, Indiana, Kentucky, Ohio, Pennsylvania, and New Jersey to its principal terminus in the New York City metropolitan area.

4. Texas Eastern states that its proposed Northern Bridge Project is designed to deliver Rocky Mountain natural gas supplies to markets in the Mid-Atlantic and New England states. The project will provide the capacity necessary for Texas Eastern to transport up to 150,000 Dth per day on a firm basis from the growing Clarington, Ohio supply point to the Delmont, Pennsylvania region. Texas Eastern conducted an open season for its Northern Bridge Project from September 6, 2007 through September 28, 2007.<sup>1</sup> Following the open season, Texas Eastern entered into precedent agreements with BP Energy Company (BP) and Merrill Lynch Commodities, Inc. (Merrill Lynch) for the entire capacity of the project for terms of ten years at negotiated rates.

5. To provide this service for BP and Merrill Lynch, Texas Eastern proposes to increase the overall compression at two of its existing compressor stations in Pennsylvania by 10,666 horsepower (hp). Specifically, Texas Eastern requests authority to (i) install a new Solar Mars 100 13,333 hp compressor unit at its Holbrook Compressor Station (Holbrook) in Greene County, Pennsylvania; (ii) uprate an existing Solar Mars 100 unit at Holbrook by 1,083 hp; (iii) abandon in place four reciprocating compressor units totaling 5,400 hp at Holbrook;<sup>2</sup> and (iv) uprate an existing Solar Mars 100 compressor unit by 1,650 hp at its Uniontown Compressor Station in Fayette County, Pennsylvania. Texas Eastern states that it will abandon the four reciprocating compressors at Holbrook in place by cutting and capping the above-ground suction and discharge pipeline.<sup>3</sup> All construction activities will take place within the existing footprints of the Holbrook and Uniontown Compressor Stations. At the Uniontown station, there will be no ground disturbance. No new mainline pipeline construction is proposed.

6. Texas Eastern estimates that the Northern Bridge Project will cost \$45 million. Texas Eastern proposes to apply its existing system recourse rates for service on the Northern Bridge Project facilities. Texas Eastern submits that the three-year cost-of-

---

<sup>1</sup> Texas Eastern held a turn-back open season related to the Northern Bridge Project from February 29, 2008 through March 14, 2008. No proposals to turn-back capacity were received.

<sup>2</sup> Upon completion of the proposed installation, uprates, and abandonment, there will be a net increase of 9,016 hp of compression at Holbrook and a net increase of 1,650 hp at Uniontown for a total overall increase of 10,666 hp.

<sup>3</sup> Texas Eastern states that it may use various parts from the abandoned compressor units as spare parts for other compressor facilities.

service and revenue calculation provided in Exhibit N to its application demonstrates that the revenues from the Northern Bridge Project will exceed the incremental cost-of-service of the project and that there will thus be no subsidization by existing shippers.

## **II. Public Notice and Interventions**

7. Notice of Texas Eastern's application was published in the *Federal Register* on April 22, 2008 (73 Fed. Reg. 21,628). Several parties filed timely, unopposed motions to intervene.<sup>4</sup> Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's regulations.<sup>5</sup>

8. Philadelphia Gas Works (Philadelphia Gas) filed comments with its intervention request, and Emerald Coal Resources, L.P. (Emerald) filed a protest. Texas Eastern filed a motion for leave to answer and answers to Emerald's protest and Philadelphia Gas's comments, and Emerald filed an answer to Texas Eastern's answer. Although our rules do not permit these kinds of responsive pleadings,<sup>6</sup> our rules do provide that we may, for good cause, waive this provision.<sup>7</sup> We find good cause to do so in this instance because Texas Eastern's and Emerald's pleadings provide information that will assist us in our decision-making. We will address the comments and protest below.

## **III. Discussion**

9. Because the facilities proposed by Texas Eastern will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, their construction and operation are subject to the requirements of section 7(c) of the NGA. The proposed abandonment of facilities by Texas Eastern is subject to the requirements of NGA section 7(b).

### **A. Application of the Certificate Policy Statement**

10. The Commission's September 15, 1999 Certificate Policy Statement provides guidance as to how the Commission evaluates proposals for certificating major new construction.<sup>8</sup> The Certificate Policy Statement established criteria for determining

---

<sup>4</sup> A list of intervenors is attached as Appendix A to this order.

<sup>5</sup> 18 C.F.R. § 385.214 (2008).

<sup>6</sup> 18 C.F.R. § 385.213(a)(2) (2008).

<sup>7</sup> 18 C.F.R. § 385.101(e) (2008).

<sup>8</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).

whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to appropriately consider the enhancement of competitive transportation alternatives, possibility of overbuilding, subsidization by existing customers, applicant's responsibility for unsubscribed capacity, avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

11. Under this policy, the threshold requirement in establishing the public convenience and necessity for existing pipelines proposing expansion projects is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effect 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.

12. Texas Eastern's proposal satisfies the threshold requirement that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. As explained below, we are approving Texas Eastern's proposal to utilize its existing system rates as recourse rates for service on the Northern Bridge Project facilities. In future rate proceedings, revenues from services using the expansion capacity will be calculated as if the recourse rates had been charged for all services, regardless of whether lower, negotiated rates have been charged for some services. Exhibit N to Texas Eastern's application calculates revenues appropriately and demonstrates that revenues from the project will exceed expenses by \$20,185,127 over the first three years the Northern Bridge Project facilities are in service. Thus, Texas Eastern's existing customers will not subsidize the expansion.

13. The project will not adversely affect Texas Eastern's existing customers or other pipelines and their customers. The proposed facilities are designed to provide incremental service without degradation of service to Texas Eastern's existing firm customers. In addition, there is no evidence that service on other pipelines will be displaced or bypassed. Thus, we conclude that Texas Eastern's proposal will not have adverse impacts on existing pipelines or their customers

14. Likewise, we do not expect adverse economic impacts on landowners. Texas Eastern has designed the Northern Bridge Project so that all construction activities associated with the compressor units will take place on existing compressor station sites. There will be no additional land required for the compressor units, and no extra work spaces or access roads will be constructed.

15. The fact that Texas Eastern has entered into long-term precedent agreements for 100 percent of the design capacity of the project demonstrates market support for the project. Texas Eastern's proposal to increase the overall capacity at its Holbrook and Uniontown Compressor Stations will provide transportation capacity needed to move new Rocky Mountain gas supplies into the east coast market. The Commission finds that the Northern Bridge Project will provide substantial benefits without any adverse impacts on shippers or other pipelines. Therefore, the proposal is consistent with the Certificate Policy Statement and section 7(c) of the NGA. Accordingly, balancing the factors set forth in the Certificate Policy Statement, we conclude that approval of the Northern Bridge Project is required by the public convenience and necessity.

16. Consistent with our standard practice, we will condition our certificate authorization so that construction cannot commence until after Texas Eastern executes contracts that reflect the levels and terms of service represented in its precedent agreements.<sup>9</sup>

#### **B. Emerald's Protest**

17. Emerald, a wholly-owned indirect subsidiary of Foundation Coal Corporation, engages in the mining of coal in areas of southwestern Pennsylvania. Emerald currently has an application pending before the Pennsylvania Department of Environmental Protection (Pennsylvania DEP) to conduct mining operations in areas crossed by Texas Eastern's existing pipeline facilities in Greene County. Emerald argues that the Commission should not approve the Northern Bridge Project until Texas Eastern takes appropriate measures to address what it characterizes as known mining subsidence risks associated with Texas Eastern pipeline facilities already existing in Greene County.<sup>10</sup> In the alternative, Emerald suggests that the Commission impose subsidence mitigation conditions similar to those the Commission recently adopted for the Rockies Express Project to insure that Texas Eastern will address subsidence issues and potential route

---

<sup>9</sup> See, e.g., *Gulf South Pipeline Company, L.P.*, 119 FERC ¶ 61,281 (2007).

<sup>10</sup> Emerald states that through affiliates it owns both the "mineral" (coal) estate and the "support" estate underlying Texas Eastern's pipeline in Greene County, Pennsylvania. These ownership interests, it asserts, include the right to subside the "surface" estate owned by Texas Eastern during mining operations.

alternatives relating to that existing pipeline.<sup>11</sup> Unless mitigated, Emerald asserts, pipeline subsidence could significantly reduce or even negate the proposed benefits of the Northern Bridge Project. Emerald states that the Commission should consider whether expanding the capacity of a pipeline segment in an active mining area is justified or whether it would be more appropriate to relocate the existing pipeline away from the mining area.

18. Emerald also states that there are several gas pipeline projects contemplated for southeastern Ohio and southwestern Pennsylvania, and asserts that cumulative subsidence impacts on coal mining operations from these projects should be considered together in one proceeding. In particular, Emerald avers that there is a close relationship in terms of timing, purpose, and facilities to be upgraded between the Northern Bridge Project and Texas Eastern's contemplated TEMAX/TIME III Projects. Taken together and with other projects, Emerald asserts these proposals form a pattern of increasing reliance on facilities that cross major coal mining regions. Emerald argues that, given the increasing pace of proposals from Texas Eastern and others in this area, the Commission should consider now whether the cumulative impact of recurring subsidence mitigation on multiple pipelines is warranted, or whether alternative routes exist that would reduce the need for further pipeline infrastructure over these coal reserves.

19. In response, Texas Eastern states that the Northern Bridge Project is limited to increasing Texas Eastern's capacity through addition of new compression at its existing Holbrook and Uniontown Compressor Stations. The Northern Bridge Project does not involve, Texas Eastern points out, the construction of any additional pipeline in any mining area, and the compressor stations where construction will occur are not located in an area identified by Emerald as a potential mining area. Texas Eastern states that the Northern Bridge Project will have no impact on the location of its existing pipelines and that the possibility of subsidence of an existing pipeline from future mining operations is not properly an issue in this proceeding. Texas Eastern avers that Emerald's proposed mining activities are not affected by the construction of facilities at the existing Uniontown and Holbrook Compressor Stations. Texas Eastern states that the subsidence issues Emerald raises are already properly under consideration by the Pennsylvania DEP in Emerald's mining permit application.

### **Commission Response**

20. We recently addressed a similar issue in the Steckman Ridge proceeding where we found that issues relating to subsidence mitigation with respect to Texas Eastern's existing in-service facilities were not properly part of that proceeding.<sup>12</sup> We reach the

---

<sup>11</sup> See *Rockies Express Pipeline LLC*, 123 FERC ¶ 61,234 (2008) (*REX*).

<sup>12</sup> See *Steckman Ridge, L.P.*, 123 FERC ¶ 61,248 (2008), *order denying rehearing*, 125 FERC ¶ 61,217 (2008).

same conclusion here. We recognize that the issues of mine subsidence rights, the liability for damage to landowners' surface facilities, and the responsibility for subsidence mitigation costs are complex issues that are affected by the various parties' rights and applicable federal and Pennsylvania mining regulations. However, the construction of Texas Eastern's compressor station upgrades in the Northern Bridge Project will have no impact on Emerald's mining activities or on the location of Texas Eastern's existing pipeline system. The only pipeline that Texas Eastern proposes to construct in this application will lie within the fenced area at the existing Holbrook Compressor Station. Unlike the situation in *REX*, which involved a new greenfield pipeline that will cross mining areas, Texas Eastern's Northern Bridge Project involves increasing compression at existing compressor stations to increase the capacity of existing pipeline infrastructure that has been in place and in service for many years. The requirements imposed by the Commission in the *REX* proceeding for new pipeline construction are not only not needed and inappropriate for this project, they are outside the scope of the instant proceeding. Issues with respect to Texas Eastern's existing pipeline facilities can more properly be resolved through the Pennsylvania DEP's administrative process for pending mining permit applications or, if necessary, by a court of competent jurisdiction.

21. Although there is no impact in this proceeding regarding subsidence, the Environmental Assessment (EA) prepared by Commission staff reported on several known projects, existing or proposed, that could potentially have facilities within the same counties as those in the Northern Bridge Project. These projects, unlike the Northern Bridge Project, would largely involve the construction of new pipeline and would have very different impacts from those involved here. Two are in the very early stages of development, and there is no certainty what form they might ultimately take, or even any assurance that their sponsors will file applications. We believe that, under the circumstances, it is not required under Council of Environmental Quality regulations and would not be useful for the Commission to prepare a "regional" environmental impact analysis involving the Northern Bridge Project and these hypothetical pipeline projects.

22. On November 18, 2008, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the proposed TEMAX and TIME III Projects and Request for Comments on Environmental Issues* (TEMAX/TIME III Projects). As described in the notice, the TEMAX/TIME III Projects involve the construction of new, replacement, and loop pipeline, and a net increase of 76,133 hp of compression at four compressor stations. Although part of this new compression would be added at the Holbrook and Uniontown Compressor Stations, the Northern Bridge Project and the TEMAX/TIME III Projects are stand-alone, distinct projects that propose different facilities to create capacity for specific transportation services, shippers, and gas volumes. Because of the pipeline construction involved for the TEMAX/TIME III Projects, it will have very

different environmental impacts from the Northern Bridge Project. As stated in the EA,<sup>13</sup> the environmental impacts associated with the TEMAX/TIME III Projects will be fully analyzed and disclosed in the environmental review document that will be prepared for that project.

### C. Rates

23. Texas Eastern proposes to use its existing system recourse rates for firm and interruptible transportation as the recourse rates for services using the Northern Bridge Project expansion capacity and to roll the costs of the Northern Bridge Project into its generally applicable rates in its next section 4 rate case.<sup>14</sup> Texas Eastern has proposed a rate base of \$43,387,793 for the Northern Bridge Project.<sup>15</sup> Using a depreciation rate of 1.22 percent and a rate of return of 12.13 percent, Texas Eastern has estimated an annual cost of service of \$8,421,867.<sup>16</sup> The enhancements proposed here increase Texas Eastern's deliverability by 150,000 Dth a day. In its cost of service and revenue study,<sup>17</sup> Texas Eastern applied its Zone M2-M3 Reservation Rate of \$8.278 under Rate Schedule FT-1 to the new project capacity of 150,000 Dth a day and annualized the result to achieve annual projected revenues totaling \$14,900,400.<sup>18</sup> As the revenues from the Northern Bridge Project will exceed expenses by \$20,185,127 over the first three years the project facilities are in service, Texas Eastern avers that this project qualifies for rolled-in rate treatment under the Commission's Certificate Policy Statement. Based on our review, we will accept Texas Eastern's proposal to utilize its existing system recourse rates as recourse rates for services using the Northern Bridge Project expansion capacity,

---

<sup>13</sup> Page 31 of the EA.

<sup>14</sup> Texas Eastern's Rate Schedule FT-1 pro forma service agreement provides that the rate shall be the Commission-approved maximum recourse rate, plus applicable fuel retainage and all other applicable usage charges, charges and surcharges, unless the parties otherwise mutually agree to a negotiated or discounted rate.

<sup>15</sup> The proposed rate base includes \$43.7 million for plant less reserve for depreciation, working capital, and accumulated deferred taxes.

<sup>16</sup> The rate of return, system depreciation rate and other factors used in Texas Eastern's Exhibit N were derived from its cost of service settlement, as amended in Docket Nos. RP98-198-000, *et al.*, and approved by letter order issued on August 28, 1998. 84 FERC ¶ 61,200 (1998). An adjustment has been made to reflect the current 35 percent federal income tax rate.

<sup>17</sup> Exhibit N of the application.

<sup>18</sup>  $(150,000 \text{ Dth/d} \times \$8.278 \times 12 \text{ months}) = \$14,900,400.$

and we grant Texas Eastern's request for a predetermination that it will be allowed to roll in the costs of its expansion in its next general rate proceeding, absent a change in material circumstances.

24. As noted above, BP and Merrill Lynch have agreed to pay negotiated rates for service using the Northern Bridge Project expansion capacity. Consistent with the Commission's Alternative Rate Policy Statement<sup>19</sup> and decision in *NorAm Gas Transmission Company*,<sup>20</sup> we direct Texas Eastern to file, not less than 30 days nor more than 60 days prior to the commencement of service using the expansion facilities, its negotiated rate contracts or numbered tariff sheets. Texas Eastern must also disclose any other agreement, understanding, negotiation, or consideration associated with the negotiated agreements. Finally, Texas Eastern must also maintain separate and identifiable accounts for volumes transported, billing determinants, rate components, surcharges and revenues associated with its negotiated rates in sufficient detail so that they can be identified in Statements G, I, and J in any future NGA section 4 or 5 rate proceeding.

**D. Fuel Costs**

25. Philadelphia Gas requests that the Commission clarify that Texas Eastern's existing shippers will not be required to subsidize the fuel requirements of the Northern Bridge Project expansion shippers. Philadelphia Gas further requests that the Commission require Texas Eastern in all future proceedings adjusting its fuel retention percentages to provide evidence regarding the fuel requirements of the Northern Bridge Project expansion capacity and the fuel retention from the Northern Bridge Project expansion shippers, to ensure that system customers are not subsidizing the Northern Bridge Project.

26. In its answer, Texas Eastern states that it is proposing no change in its existing Applicable Shrinkage Percentages for this project and that those fuel percentages apply to services using the Northern Bridge Project expansion capacity, as they apply to services using existing capacity covering the same transportation path. Texas Eastern also states that the actual fuel use that Texas Eastern expects for the Northern Bridge Project facilities will be significantly lower than the fuel retainage associated with Texas

---

<sup>19</sup> *Alternative to Traditional Cost-Of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines* (Alternative Rate Policy Statement) 74 FERC ¶ 61,076 (1996), *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996), *reh'g denied*, 75 FERC ¶ 61,066 (1996); *petition for review denied, Burlington Resources Oil & Gas Co. v. FERC*, Nos. 96-1160, *et al.*, U.S. App. Lexis 20697 (D.C. Cir. July 20, 1998).

<sup>20</sup> *NorAm Gas Transmission Company*, 77 FERC ¶ 61,011 (1996).

Eastern's existing Zone M2-M3 fuel percentages. Texas Eastern also states that the 10,666 hp increase in compression on its system, along with the related increase in mainline capacity from Clarington, Ohio to Oakford, Pennsylvania, will result in actual fuel usage by the Northern Bridge Project facilities that will be less than the fuel retainage associated with the fuel percentages applicable to the Zone M2-M3 transportation path. In view of these considerations and the fact that the same fuel percentages will apply to services using the Northern Bridge Project expansion, Texas Eastern asserts that there is no basis for Philadelphia Gas's concern over whether existing shippers will subsidize the fuel requirements of the Northern Bridge Project expansion shippers

27. We find that, because the actual fuel usage Texas Eastern projects for the Northern Bridge facilities will be significantly lower than the fuel retainage associated with the fuel percentages applicable to the M2 to M3 transportation path, there will be no fuel subsidization by existing shippers on Texas Eastern's system.

#### **E. Environment**

28. On May 5, 2008, we issued a *Notice of Intent To Prepare an Environmental Assessment For the Proposed Northern Bridge Project and Request for Comments on Environmental Issues* (NOI). The NOI was mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners.

29. We received comments in response to the NOI from the Pennsylvania Department of Conservation and Natural Resources, Bureau of Forestry (Pennsylvania DCNR); the Pennsylvania Game Commission; Emerald; CONSOL, Energy Inc.; the Green County, Pennsylvania Board of Commissioners; and the Onondaga Nation Historic Preservation Office. We received seven additional comments from stakeholders during the scoping period. The comment letters requested information and presented concerns. The primary issues raised concerned potential noise impacts on hunting and fishing, the effect of water intake and discharge on surface and ground water, and potential conflicts with existing coal mining operations.

30. Commission staff prepared an EA which was issued for a 30-day comment period and placed in the public record on September 12, 2008. The analysis in the EA included the project's purpose and need, geology, soils, water resources, wetlands, vegetation, fish and wildlife, threatened and endangered species, land use, recreation, cultural resources, air quality and noise, and alternatives. The EA also addressed all substantive issues raised in the scoping comment letters.

31. The Commission received comments on the EA from the Pennsylvania DCNR and Emerald. Texas Eastern also filed answers to Emerald's comments. The Pennsylvania

DCNR commented that it expects no impacts on species of concern as a result of the Holbrook Compressor Station modifications. The Pennsylvania DCNR recommends that disturbance to woods in the project area be avoided. The EA explains that the area that would be affected by the project is industrial land; therefore, disturbance to woodlands would be avoided. We have already addressed above the issues raised by Emerald in its comments.

32. Based on the discussion in the EA, we conclude that if the described facilities are constructed or abandoned in accordance with the application and supplements, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

33. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages 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>21</sup>

34. The Commission, on its own motion, received and made a part of the record all evidence, including the application, and exhibits thereto, submitted in support of the authorization sought herein. Upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Texas Eastern to construct and operate the Northern Bridge Project, as described more fully in the order and application.

(B) Texas Eastern is authorized to abandon four reciprocating compressors at the Holbrook Compressor Station as more fully described herein and in Texas Eastern's application.

(C) The certificate authority granted in Ordering Paragraph (A) shall be conditioned on the following:

- (1) Texas Eastern's completion of the authorized construction of the proposed facilities and making them available for service within one

---

<sup>21</sup>See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

year of the issuance of this order pursuant to section 157.20(b) of the Commission's regulations.

- (2) Texas Eastern's compliance with all applicable Commission regulations under the NGA including but not limited to, Parts 154 and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the regulations.
- (3) Texas Eastern's compliance with the environmental conditions in Appendix B to this order.

(D) Texas Eastern shall execute firm service agreements reflecting levels and terms of service equivalent to those represented in its precedent agreements prior to commencing construction of the Northern Bridge Project.

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

(F) Texas Eastern's proposal to utilize its existing system recourse rates as recourse rates for the Northern Bridge Project is approved, and its request for a predetermination that it will be allowed to roll in the costs of its expansion in its next general rate proceeding, is granted, in the absence of changed circumstances.

(G) Texas Eastern must file not less than 30 days nor more than 60 days prior to the commencement of service using the expansion facilities, its negotiated rate contracts for services using the Northern Bridge Project expansion capacity.

(H) Texas Eastern must notify the Commission within 10 days of the abandonment of facilities authorized by Ordering Paragraph (B).

(I) Emerald's protest is denied as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

## **Appendix A Interventions**

1. Consolidated Edison Company of New York, Inc.
2. East Ohio Gas Company d/b/a Dominion East Ohio and Peoples Natural Gas Company d/b/a Dominion Peoples
3. Emerald Coal Resources, L.P.
4. Equitable Gas Company
5. Municipal Defense Group<sup>22</sup>
6. National Grid Gas Delivery Companies<sup>23</sup>
7. The New England Local Distribution Companies<sup>24</sup>
8. New Jersey Natural Gas Company
9. NJR Energy Services Company
10. Philadelphia Gas Works
11. PSEG Energy Resources & Trade LLC

---

<sup>22</sup> The Municipal Defense Group consists of the following distributor customers of Texas Eastern: Borough of Chambersburg, Pennsylvania; Batesville, Indiana; Cairo Public Utility Company, an Illinois not-for-profit corporation; Gloster, Mississippi; Harrisburg, Arkansas; Horton Highway Utility District, Tennessee; Lawrenceburg, Tennessee; Loretto, Tennessee; Middleborough, Massachusetts, Municipal Gas and Electric Department; Norwich, Connecticut, Department of Public Utilities; Smyrna Tennessee; and Utica, Mississippi.

<sup>23</sup> The National Grid Gas Delivery Companies consist of: Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery LI; Boston Gas Company, Colonial gas Company, EnergyNorth Natural Gas, Inc., and Essex Gas Company, collectively d/b/a KeySpan Energy Delivery NE; Niagara Mohawk Power Corporation d/b/a National Grid; and The Narragansett Electric Company d/b/a National Grid, all subsidiaries of National Grid USA.

<sup>24</sup> The New England Local Distribution Companies include: Bay State Gas Company; Connecticut Natural Gas Corporation; New England Gas Company; Northern Utilities, Inc.; NSTAR Gas Company; The Southern Connecticut Gas Company; and Yankee Gas Services Company.

## **Appendix B Environmental Conditions**

As recommended in the EA, this authorization includes the following conditions:

1. Texas Eastern shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA unless modified by this Order. Texas Eastern 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 OEP before using that modification.
2. The Director of OEP has delegation authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
  - a. the modification of conditions of this 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 the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Texas Eastern shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel would be informed of the environmental inspector's authority and have been or would be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.
4. **Within 60 days of the acceptance of this certificate and before construction begins**, Texas Eastern shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP. Texas Eastern must file revisions to the plan as schedules change. The plan shall identify how Texas Eastern would implement the mitigation measures required by this Order. The

plan shall identify for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram) and dates for:

- (1) the completion of all required surveys and reports;
  - (2) the mitigation training of onsite personnel;
  - (3) the start of construction; and
  - (4) the start and completion of restoration.
  
5. Texas Eastern shall employ one environmental inspector for the project. The environmental inspector 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 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. 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
  - e. responsible for maintaining status reports.
  
6. Texas Eastern must receive written authorization from the Director of the OEP **before commencing service from the project**. Such authorization would only be granted following a determination that rehabilitation and restoration of the areas affected by the project are proceeding satisfactorily.
  
7. **Within 30 days of placing the certificated facilities in service**, Texas Eastern 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 would be consistent with all applicable conditions; and
  - b. identifying which of the certificate conditions Texas Eastern has complied with or would comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.

8. Texas Eastern shall make all reasonable efforts to ensure its predicted noise levels from the proposed new unit at the Holbrook Compressor Station are not exceeded at all nearby noise sensitive areas (NSA) and file noise surveys showing this with the Secretary **no later than 60 days** after placing the new unit into service. However, if the noise attributable to the operation of the new unit at full load exceeds an  $L_{dn}$  of 55 dBA at any nearby NSA, Texas Eastern shall file a report on what changes are needed and shall install additional noise controls to meet that level **within 1 year** of the in-service date. Texas Eastern 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.