

124 FERC ¶ 61,198
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Tennessee Gas Pipeline Company

Docket No. CP08-65-000

ORDER ISSUING CERTIFICATE

(Issued August 28, 2008)

1. On January 30, 2008, Tennessee Gas Pipeline Company (Tennessee) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations seeking authority to construct and operate its Concord Lateral Expansion Project in order to provide 30,000 Dth per day of firm transportation service for EnergyNorth Natural Gas, Inc., d/b/a KeySpan Energy Delivery New England (EnergyNorth). Tennessee proposes to charge an incremental rate for service on the Concord Lateral Expansion Project under its existing Rate Schedule FT-A.

2. For the reasons discussed below, the Commission will issue the requested certificate authorization and approve Tennessee's proposal to charge incremental rates for the proposed service, as conditioned herein.

I. Background and Proposal

3. Tennessee is a natural gas transmission company engaged in the business of storing and transporting gas in interstate commerce under authorizations granted by and subject to the Commission's jurisdiction.

4. Tennessee proposes to construct and operate a new 6,130 horsepower compressor station (Compressor Station 270B1) on its Line 200 system in Pelham, New Hampshire, in order to provide 30,000 Dth per day of incremental firm transportation for EnergyNorth from an existing interconnection with the interstate pipeline system of Maritimes and Northeast Pipeline near Dracut, Massachusetts, to the existing Laconia Meter Station in Concord, New Hampshire. In addition to constructing the new compressor station, Tennessee proposes to upgrade the Laconia Meter Station's inlet piping in order to accommodate the new volumes. Tennessee estimates that the new facilities will cost

approximately \$20.4 million. Tennessee anticipates placing the facilities into service by November 1, 2009.

5. Tennessee conducted an open season for the Concord Lateral Expansion Project from February 15, 2007, to March 19, 2007.¹ As a result of the open season, EnergyNorth executed a binding precedent agreement for all of the project's anticipated firm capacity, 30,000 Dth per day, for a term ending 20 years from the anticipated in-service date. EnergyNorth elected to pay a negotiated rate for this service. Tennessee proposes a new incremental rate pursuant to Rate Schedule FT-A as the recourse rate for this service. Finally, Tennessee requests Commission approval of certain non-conforming provisions in the unexecuted transportation agreement attached to its precedent agreement with EnergyNorth.

II. Public Notice and Interventions

6. Notice of Tennessee's application was published in the *Federal Register* on February 19, 2008 (73 Fed. Reg. 9,117). Consolidated Edison Company of New York, Inc. (jointly with Orange and Rockland Utilities, Inc.), National Fuel Gas Distribution Corporation, National Grid Gas Delivery Companies (National Grid Companies)², and PSEG Energy Resources & Trade LLC filed timely unopposed motions to intervene. Timely unopposed motions to intervene are granted by operation of Rule 214 of the Commission's regulations.³ The National Grid Companies state that they fully support Tennessee's proposal as it will allow EnergyNorth to continue to expand its natural gas distribution business in New Hampshire. An untimely motion to intervene, which we grant as consistent with the requirements of Rule 214 (d), was filed by Pembroke 600 Corp., an adjoining landowner.

III. Discussion

7. Since the application filed by Tennessee proposes facilities for the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, the

¹ Tennessee held a turn-back open season concurrently with this open season. No turn-back requests were submitted.

² The National Grid Companies include Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery NY, KeySpan Gas East Corporation 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.

³ 18 C.F.R. § 385.214 (2008).

proposals are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

A. Application of the Certificate Policy Statement

8. On September 15, 1999, the Commission issued a policy statement to provide guidance as to how the Commission evaluates proposals for certificating major new construction.⁴ 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 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.

9. 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.

10. Tennessee'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 Tennessee's proposal to recover the costs of the expansion project through a separate incremental rate for the proposed service. Thus, existing customers will not bear any of the costs of the project or subsidize the Concord Lateral Expansion Project.

11. The project will not adversely affect Tennessee's existing customers, or other pipelines and their customers. The proposed facilities are designed to provide incremental

⁴ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999); *order clarifying policy*, 90 FERC ¶ 61,128 (2000); *order clarifying policy*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

service without degradation of service to Tennessee's existing firm customers. In addition, Tennessee's project is designed to meet new local distribution demand and there is no evidence that service on other pipelines will be displaced or bypassed. As explained below, we also find that Tennessee's proposed services are in accord with Commission policy. Thus, we conclude that Tennessee's proposal will not have adverse impacts on existing pipelines or their customers.

12. Tennessee has designed the Concord Lateral Expansion Project to minimize the impact on landowners and the environment. Tennessee states that the new compressor station will be constructed on land it owns in fee and that all of the modifications to the Laconia Meter Station will occur within the existing station yard. Thus, Tennessee will not need to exercise eminent domain for the project.

13. Tennessee has entered into a long-term precedent agreement for 100 percent of the design capacity of the project. Tennessee's proposal will provide needed natural gas transportation capacity to support the local distribution demand of EnergyNorth. Based on the benefits that Tennessee's proposal will provide to the market and the minimal adverse effects on existing customers, other pipelines, landowners, or communities, we find that approval of the Concord Lateral Expansion Project is required by the public convenience and necessity.

B. Incremental Rates

14. Tennessee proposes to charge an incremental Rate Schedule FT-A recourse rate of \$14.347 per Dth and a maximum daily commodity rate of \$0.000 per Dth. Other charges for this firm service would include the applicable demand and commodity surcharges, and applicable fuel and loss retention. Tennessee and EnergyNorth have agreed to a negotiated monthly reservation rate of \$12.17 per Dth and a daily commodity rate equal to Tennessee's maximum applicable commodity rates for service under Rate Schedule FT-A. Tennessee proposed a rate base of \$19,978,000 for the Concord Lateral Expansion Project. Tennessee has estimated an annual cost of service of \$5,165,000, using a depreciation rate of 5 percent and return of 11.5 percent.⁵

15. Tennessee's enhancements proposed here increase its Line 200 system's deliverability by 30,000 Dth per day. We find that Tennessee's derivation of its incremental rate for service on the Concord Lateral Expansion Project is consistent with Commission policy and we will accept Tennessee's proposed incremental maximum

⁵ These terms are consistent with and reflect the capital structure and rate of return approved by the Commission in Tennessee's 1996 settlement filed in Docket No. RP95-112. *See Tennessee Gas Pipeline Co.*, 77 FERC ¶ 61,083 (1996), *reh'g denied*, 78 FERC ¶ 61,069 (1997).

recourse rate of \$14.347 per Dth as a reservation rate and \$0.0000 per Dth as the commodity rate as the initial recourse rates for the Concord Lateral Expansion Project.

C. Non-Conforming Provisions of the Transportation Agreement

16. Tennessee submitted a precedent agreement for the proposed project. As part of the precedent agreement Tennessee included an unexecuted gas transportation agreement and a letter agreement. Tennessee states that there are several differences between the project transportation agreement and Tennessee's pro forma FT-A transportation agreement. Tennessee states that these differences, discussed below, do not constitute material deviations from Tennessee's pro forma FT-A agreement.

17. The transportation agreement filed with this application contains "whereas" clauses, stating that Tennessee will make a filing with the Commission relating to the Concord project to request authorization to render firm transportation and to construct the necessary facilities to provide such service.

18. Article II of the transportation agreement provides that service will not commence until after Tennessee has received the requisite authorizations to provide such service and has constructed the project facilities.

19. Sections 2.1, 2.2, 6.1, 9.1, 11.1, and 12.1 of the transportation agreement have been modified to reflect the commencement date and/or need for acceptable authorizations. Section 15.5 states that the service agreement supersedes and cancels the precedent agreement except as specified in the precedent agreement. Finally, Tennessee included a letter agreement which details the negotiated rates applicable to the service to be provided.

20. The Commission finds the differences between the pro forma service agreement and the negotiated rate agreement do constitute material deviations from the pro forma agreement found in Tennessee's tariff since all language different from that in the pro forma agreement is deemed to be material.⁶ However, not all material deviations are impermissible. If the Commission finds that such deviations do not constitute a substantial risk of undue discrimination, the Commission may permit the deviations. The filed service agreement, for the most part, provides for FT-A service in a manner that is consistent with the FT-A service described in Tennessee's tariff and does not create a risk of undue discrimination against other shippers. Thus, with one exception, the deviations contained in the non-conforming service agreement are permissible.

21. The language found in paragraph 1(a) of the negotiated rate letter agreement permits Tennessee to immediately terminate the negotiated rate letter agreement or charge the

⁶ *Natural Gas Pipeline Negotiated Rate Policies and Practices*, 104 FERC ¶ 61,134, at P 33 (2003).

maximum rate if the shipper violates any term of either the negotiated rate letter agreement or transportation agreement. The Commission has previously found this provision to be potentially discriminatory⁷ and subsequently approved Tennessee's revised provision limiting the circumstances allowing such termination.⁸ Therefore, we direct Tennessee to remove the language in paragraph 1(a) from the negotiated rate letter agreement when it is re-filed. Tennessee may revise the paragraph consistent with the revised language that the Commission accepted.⁹ The Commission finds the proposed service agreement acceptable subject to the modification noted above and subject to Tennessee's making the requisite compliance tariff filings after the service agreement is executed and prior to commencement of service.

D. Negotiated Rate Requirements

22. As noted above, EnergyNorth has agreed to pay a negotiated rate for service on the Concord Lateral. Consistent with the Alternative Rate Policy Statement,¹⁰ and the Commission's decision in *NorAm Gas Transmission Company*,¹¹ the Commission is directing Tennessee to file, not less than 30 days nor more than 60 days prior to the commencement of service on the expansion facilities, its negotiated rate expansion contract which contains the material deviations from the pro forma agreement found in Tennessee's tariff. Tennessee must also disclose any other agreement, understanding, negotiation, or consideration associated with the negotiated agreements. Finally, Tennessee 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 case.

⁷ See *Tennessee Gas Pipeline Co.*, 121 FERC ¶ 61,116, at P15 (2007).

⁸ *Tennessee Gas Pipeline Co.*, 122 FERC ¶ 61,097 (2008).

⁹ *Id.* P 6-7.

¹⁰ *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).

¹¹ *NorAm Gas Transmission Co.*, 77 FERC ¶ 61,011 (1996) (*NorAm*).

E. Environmental

23. On February 22, 2008, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the proposed Concord Lateral Expansion Project, Request for Comments on Environmental Issues, and Notice of Site Visit* (NOI). The site visit was conducted on April 2, 2008. The NOI was sent to affected landowners and abutters; federal, state, and local government agencies; elected officials, Native American tribes; environmental and public interest groups; and local libraries and newspapers.

24. Three comments from individual landowners were received during the scoping period. The comment letters stated general concern about noise impacts, alternatives, safety, pollution, zoning, visual impacts, and any potential resulting effects on property values.

25. To satisfy the requirements of the National Environmental Policy Act (NEPA), our staff prepared an environment assessment (EA) which was issued and placed in the record on May 12, 2008. The analysis in the EA included the project's purpose and need, geology, soils, water resources, wetlands, vegetation, fish and wildlife, federally listed species, land use, recreation, visual resources, cultural resources, air quality and noise, safety, socioeconomics, cumulative impacts, and alternatives. The EA also addressed all substantive issues raised in the scoping comment letters. The EA comment period ended on June 11, 2008. We received four environmental comment letters; one from Tennessee, two from affected landowners, and one from the Fire Chief of Pelham, New Hampshire.

26. Mrs. Carol Desrosiers commented that the project may encroach onto two other jurisdictions. Tennessee has responded that the proposed compressor station is located entirely within the jurisdiction of Pelham, New Hampshire. While this property also borders the jurisdictions of Windham and Hudson, New Hampshire, no portion of the project is located within these jurisdictions.

27. Ms. Desrosiers also commented that the noise level of the compressor station would have adverse physical and physiological effects on both humans and animals.

28. The EA found that noise levels from the proposed compressor station would be at or below 55 dBA L_{dn} (the Commission's criterion for the protection of the public from indoor and outdoor activity interference at noise sensitive areas (NSAs) per 380.12(k)). Therefore, noise emissions from the compressor station will not be significant. To further ensure noise emissions do not create a nuisance to nearby NSAs, which includes 181 residences within one-half mile of the station site, including a growing retirement community, Tennessee proposes to install a blowdown silencer to reduce the noise emitted from blowdown events at the station which are intermittent but can be quite loud and annoying. We will require Tennessee to provide design specifications and an acoustical analysis of the effectiveness of the silencer for review and approval by the Director of the

Office of Energy Projects (OEP). We believe these measures will ensure that the public is adequately protected from station noise.

29. The EA also found that while noise can have negative effects on animals, animals typically become habituated to the noise or leave the immediate area in search of other nearby habitat and that noise impacts on wildlife would not be significant. Tennessee also updated the distances to NSAs from the compressor station (*see* table 9 of the EA). The revised distances do not affect the finding of impact.

30. Tennessee requests that the Commission change the wording of Environmental Conditions 10 and 12, so as not to require review and approval of the submitted data by the Director of OEP. Tennessee also requests that Environmental Condition 13 be revised to not require Tennessee to meet the noise levels it predicted for the proposed compressor station, but instead impose the 55 dBA L_{dn} limit as referenced in 380.12(k). We disagree with Tennessee's proposed wording modifications. These environmental conditions are intended to ensure that Tennessee complies with the mitigation measures it has committed to in its filings. Condition 10 gives the Commission a chance to review the company's plans to visually screen the compressor station from the nearby retirement community prior to the station's being built. Conditions 12 and 13 would ensure that operating noise levels are close to what was predicted by Tennessee. Further, we have revised Environmental Condition 12 to ensure Tennessee provides information demonstrating that station blowdown noise is minimized at the nearby retirement community.

31. Landowner Christopher Hebert provided comments concerning the potential impacts of blasting. Although blasting is not anticipated to be needed to construct the project, Tennessee has agreed to conduct landowner-requested blasting inspections, both before and after such blastings, for any nearby residence, should any blasting be required.

32. Mr. Hebert also commented on the description in the EA of his property, which he considers inaccurate, as a two-lot subdivision where he and his brother own residences. Mr. Hebert states that his residence is located on one lot and his brother's residence is located on the other, and that the properties do not constitute a subdivision. Mr. Hebert also states that his property is zoned residential.

33. Tennessee provided clarification to the description of the area surrounding the compressor station. In its initial application, Tennessee stated that the surrounding properties were zoned industrial. Further, Tennessee stated that Mr. Hebert's property was a two-lot subdivision, relying on a description received from the Pelham Planning Board in early January 2008. These statements were used in the EA to describe the land. Tennessee now clarifies that although the compressor station is completely located within a parcel zoned as industrial, it is surrounded by both industrial- and residential-zoned land. Neither this revised description, nor Mr. Hebert's clarification that the two lots do not constitute a subdivision, requires any change to any findings of the EA.

34. Mr. Michael Walker, Fire Chief in Pelham, New Hampshire, commented on the distance from the compressor station to existing roads because of safety concerns in case of an emergency. As discussed in the EA, the U.S. Department of Transportation (USDOT) requirements include development and establishment of an emergency plan, at the local level. Important features of the plan include procedures for receiving, identifying, and classifying emergency events; establishing and maintaining communications with local fire, police, and public officials; making personnel, equipment, tools, and materials available at the scene of an emergency; protecting people first and then property; and ensuring emergency shutdown of the station and safe restoration of service. Part 192 of the USDOT regulations also requires that each operator must establish and maintain liaison with appropriate fire, police, and public officials.

35. Tennessee contacted Mr. Walker to discuss his concerns and agreed to provide Mr. Walker and his staff a tour of the facilities when construction nears completion to explain the fire protection system and all emergency procedures that would be in place at the compressor station.

36. Based on the discussion in the EA, we conclude that if constructed in accordance with Tennessee's application and supplements and the conditions imposed herein, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

37. 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 and replacement of facilities approved by this Commission.¹²

38. 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 in Docket No. CP08-65-000 authorizing Tennessee to construct and operate the Concord Lateral Expansion Project, as described more fully in the order and application.

¹²See, 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).

(B) The certificate authority granted in Ordering Paragraph (A) is conditioned on the following:

- (1) Tennessee's completion of the authorized construction of the proposed facilities and making them available for service within 2 years of the issuance of this order pursuant to section 157.20(b) of the Commission's regulations.
- (2) Tennessee'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) Tennessee's compliance with the environmental conditions attached in Appendix A to this order.

(C) Tennessee shall execute a firm service agreement equal to the level of service represented in its precedent agreement prior to commencing construction of the Concord Lateral Expansion Project.

(D) Tennessee 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 Tennessee. Tennessee shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(E) Tennessee's proposed initial incremental rates for services on the Concord Lateral Expansion Project are approved.

(F) Tennessee must file, not less than 30 days or more than 60 days prior to commencing service, actual tariff sheets consistent with the discussion in this order with its pro forma tariff sheets.

(G) Tennessee must file, not less than 30 days nor more than 60 days prior to the commencement of service on the expansion facilities, its negotiated rate expansion contract which contains the material deviations from the pro forma agreement found in Tennessee's tariff.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix A

1. Tennessee 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 the Order. Tennessee 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 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 the 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

3. **Prior to any construction**, Tennessee shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector'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.

4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, Tennessee shall file with the Secretary any revised detailed survey alignment maps/sheets 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.

Tennessee's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to the Order must be consistent with these authorized facilities and locations. Tennessee's right of eminent domain granted under NGA section 7(h) does not authorize it to increase

the size of its natural gas pipeline to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Tennessee 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 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, and 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 route variations required herein or extra workspace allowed by the Upland Erosion Control, Revegetation, and Maintenance Plan, minor field realignments per landowner needs and requirements which 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. **At least 60 days prior to the start of construction**, Tennessee shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how Tennessee will implement the mitigation measures required by the Order. Tennessee must file revisions to the plan as schedules change. The plan shall identify:
 - a. how Tennessee 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;

- b. the number of environmental inspectors assigned per site, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - c. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;
 - d. the training and instructions Tennessee will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
 - e. the company personnel (if known) and specific portion of Tennessee's organization having responsibility for compliance;
 - f. the procedures (including use of contract penalties) Tennessee will follow if noncompliance occurs; and
 - g. 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.
7. Tennessee shall file updated status reports prepared by the head environmental inspector with the Secretary on a *biweekly* basis **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. the current construction status of each site, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
 - b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector(s) 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);
 - c. corrective actions implemented in response to all instances of noncompliance, and their cost;
 - d. the effectiveness of all corrective actions implemented;
 - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and copies of any correspondence received by Tennessee from other federal, state or local permitting agencies concerning instances of noncompliance, and Tennessee's response.

8. Tennessee must receive written authorization from the Director of OEP **before commencing service** from the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the areas affected by the project are proceeding satisfactorily.
9. **Within 30 days of placing the certificated facilities in service**, Tennessee shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed/installed 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 Tennessee has complied with or will 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.
10. **Prior to construction**, Tennessee shall develop a landscaping and site screening plan for Compressor Station 270B1. The plan shall include specific measures to minimize visual impacts of the compressor station including additional vegetative screening. Tennessee shall file a copy of this landscaping and site screening plan for review and written approval by the Director of OEP.
11. Tennessee shall defer construction activities at the Laconia Meter Station **until** Tennessee files the New Hampshire State Historic Preservation Office's comments on the extra workspace at the meter station, and the Director of OEP notifies Tennessee in writing that it may proceed.
12. **Prior to construction**, Tennessee shall submit for review and approval the design specification of the blowdown vent silencer at Compressor Station 270B1, and an acoustical analysis showing the effectiveness of the silencer to reduce noise levels at the closest NSAs resulting from a silenced blowdown of this compressor station.
13. Tennessee shall make all reasonable efforts to ensure its predicted noise levels from Compressor Station 270B1 are not exceeded at the NSAs and file noise surveys with the Secretary **no later than 60 days** after placing the compressor station in service. If the noise attributable to the operation of the compressor station at full loads exceeds 55 dBA L_{dn} at any nearby NSAs, Tennessee should file a report on what changes are needed and should install additional noise controls to meet the level **within 1 year** of the in-service date. Tennessee should confirm compliance with these requirements by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.