

149 FERC ¶ 61,096
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

Florida Gas Transmission Company, LLC

Docket No. CP14-21-000

ORDER ISSUING CERTIFICATE

(Issued October 30, 2014)

1. On November 15, 2013, Florida Gas Transmission Company, LLC (FGT) filed an application under section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations seeking authorization to construct and operate a compressor station and appurtenant facilities in Broward County, Florida, and to extend its existing 18- and 24-inch diameter mainlines approximately 3,100 feet to the proposed compressor station (Pompano Compressor Station 21.5 Project). For the reasons discussed below, we will grant the requested authorization, subject to appropriate conditions.

I. Background

2. FGT is a limited liability company formed under the laws of the state of Delaware. FGT is a "natural gas company" as defined in section 2(6) of the NGA and is subject to the Commission's jurisdiction. FGT receives natural gas from suppliers in the Gulf Coast areas of Texas, Louisiana, Mississippi, Alabama, Florida, and the Offshore Federal Domain and transports and delivers this gas through its transmission system for consumption or further transportation.

3. Florida Power & Light Company (Florida Power) is an existing customer of FGT. Florida Power is a public electric utility that owns transmission facilities and provides wholesale and retail electric service to customers in Florida. Florida Power is modernizing its Port Everglades Next Generation Clean Energy Center (PEEC), located in Broward County, with high-efficiency natural-gas-fired units. FGT states that PEEC, once upgraded, will produce up to 1,277 megawatts of electricity. The units are scheduled to be placed in service in 2016.

4. To meet Florida Power's pressure and delivery requirements at the modernized PEEC facility, FGT proposes to construct and operate a new electric compressor station,

the Pompano Compressor Station 21.5, approximately 0.31 miles southeast of the intersection of West Sample Road and the Florida Turnpike. The proposed compressor station will consist of one 22,000 horsepower (hp) electric unit, a backup 22,000 hp electric compressor unit, a new regulator station, and additional auxiliary facilities. FGT states that an approximately 3,100-foot mainline extension, beginning at approximate mainline Mile Post 868.5, will connect its existing 18- and 24-inch diameter mainlines to the proposed compressor station. FGT states that construction of the proposed mainline extension will require the removal of approximately 100 feet each of existing 18- and 24-inch diameter mainline pipe to allow for the tie-ins to the proposed compressor station. All of the construction will take place in Broward County.

5. The Port Everglades Lateral is approximately 13 miles south of the proposed compressor station and serves PEEC. The lateral consists of two pipelines connected to FGT's mainlines. FGT states that the proposed Pompano Compressor Station 21.5 Project is designed to increase the delivery pressure to PEEC from 50 to 250 pounds per square inch gauge (psig) on one of the lines of the Port Everglades Lateral and from 250 to 650 psig on the other line and to increase the quantity of gas deliverable to the Port Everglades Measurement and Regulator (M&R) Station, also located on the Port Everglades Lateral, by 25 million cubic feet per day.¹

6. FGT estimates the cost of the proposed project to be approximately \$126.1 million. FGT states that it entered into an agreement with Florida Power whereby Florida Power will reimburse FGT for all costs and expenses relating to construction, operation, and maintenance of the proposed facilities, including electric power costs.

7. FGT states that Florida Power has agreed to an amendment to Exhibit B to its existing Service Agreements under Rate Schedules FTS-1, FTS-2, and FTS-3. The proposed amendment will increase the minimum inlet delivery pressure and maximum delivery quantity at the Port Everglades delivery point.² Additionally, FGT states that Florida Power has agreed to execute an amended Negotiated Rate agreement under FGT's Rate Schedule FTS-3. Both the amended Exhibit B and the amended Negotiated Rate agreement are proposed to be effective upon the in-service date of the proposed project.

¹ FGT states that it will upgrade the existing Port Everglades M&R Station under its Part 157, Subpart F blanket certificate.

² The proposed Pompano Compressor Station 21.5 Project will also increase the maximum delivery quantities at other delivery points south of Martin County, Florida, which is north of the Broward County location of the proposed project.

II. Notice, Interventions, and Comments

8. Notice of FGT's application was published in the *Federal Register* on December 3, 2013 (78 Fed. Reg. 72,668). R/S Associates of Florida (R/S Associates); Florida Power; Broward County, Florida (Broward County), a political subdivision of the state of Florida; and, jointly, Peoples Gas System and Tampa Electric Company filed timely, unopposed motions to intervene.³

9. R/S Associates and Broward County filed comments on the proposed project. These comments will be addressed in the environmental section of this order.

III. Discussion

10. Since the proposed facilities will be used to transport natural gas in interstate commerce subject to the Commission's jurisdiction, the construction and operation of the facilities are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

A. Certificate Policy Statement

11. The Commission's Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.⁴ The Certificate Policy Statement establishes 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 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.

12. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without

³ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. *See* 18 C.F.R. § 385.214 (2014).

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

relying on subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, and 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.

13. As noted above, the threshold requirement under the Certificate Policy Statement is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Florida Power will reimburse FGT for the cost of constructing, operating, and maintaining the project. Therefore, the Commission finds that FGT's proposal will not result in existing customers subsidizing the proposed project.

14. FGT's existing customers should not experience any degradation of service as a result of the proposed project. There will be no adverse impacts on competing pipelines or their captive customers. Further, no other pipeline company or their captive customers filed comments opposing the construction of the project.

15. FGT purchased a 27.3-acre site on which most construction activities for both the compressor station and mainline extensions will take place. Thus, the Commission finds that FGT has taken appropriate steps to minimize adverse impacts on landowners and surrounding communities.

16. FGT's proposed project will increase the pressures and quantities of gas that can be delivered to Florida Power's modernized PEEC facility. Based on the benefit the project will provide and the lack of any identifiable adverse impacts on existing customers, other pipelines, their captive customers, landowners, and surrounding communities, the Commission finds, consistent with the Certificate Policy Statement and section 7(c) of the NGA, that FGT's proposal to construct and operate the Pompano Compressor Station 21.5 Project is required by the public convenience and necessity.

B. Rates

17. FGT will transport gas to Florida Power under its existing Rate Schedules FTS-1, FTS-2, and FTS-3. FGT states that Florida Power has agreed to execute amended negotiated rate agreements under FGT's Rate Schedules FTS-1, FTS-2, and FTS-3 with the amended negotiated rate agreements to be effective upon the in-service date of the proposed project. The amended rate agreements provide for the reimbursement of the project's construction costs and monthly reimbursement for the project's operation and

maintenance costs, including the cost of electric power needed to run the compressors. FGT must file either its negotiated rate agreements or tariff records, at least 30 days, but not more than 60 days, prior to the proposed effective date for such rates, setting forth the essential terms of the agreements associated with the project, in accordance with the Alternative Rate Policy Statement⁵ and the Commission's negotiated rate policies.⁶

18. We note that Florida Power will reimburse FGT for all costs associated with the proposed project. The Commission directs FGT to keep separate books and accounting of costs attributable to the proposed facilities. The books should be maintained with applicable cross-references, as required by section 154.309⁷ of the Commission's 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. 710.⁸ 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.

C. Accounting

19. FGT will be reimbursed by Florida Power for the cost of constructing the proposed compressor station. FGT proposes to account for the reimbursements from Florida Power as a contribution to construction and intends to credit "Account 107, Construction Work in Progress – Gas" with the reimbursements as the proposed project is

⁵ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076, at 61,241, *order granting clarification*, 74 FERC ¶ 61,194, *reh'g denied*, 75 FERC ¶ 61,024 (1996).

⁶ *Natural Gas Pipelines Negotiated Rate Policies and Practices; Modification of Negotiated Rate Policy*, 104 FERC ¶ 61,134 (2003), *order on reh'g and clarification*, 114 FERC ¶ 61,042, *reh'g dismissed and clarification denied*, 114 FERC ¶ 61,304 (2006).

⁷ 18 C.F.R. § 154.309 (2014).

⁸ *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, FERC Stats. and Regs. ¶ 31,267, at P 23 (2008), *order on reh'g*, Order No. 710-A, 123 FERC ¶ 61,278 (2008), *remanded sub nom. American Gas Ass'n v. FERC*, 593 F.3d 14 (D.C. Cir. 2010), *order on remand*, Order No. 710-B, 134 FERC ¶ 61,033, *order on reh'g*, Order No. 710-C, 136 FERC ¶ 61,109 (2011).

being constructed. FGT's proposed accounting is in accordance with Gas Plant Instruction 2D and is approved.⁹

D. Environmental Analysis

20. On January 9, 2014, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment* (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 property owners within one-half mile of the proposed facility. We received comments in response to the NOI from R/S Associates and the School Board of Broward County. The primary issues raised by the commenters concerned safety, groundwater contamination, and environmental justice.

21. To satisfy the requirements of the National Environmental Policy Act of 1969, our staff prepared an environmental assessment (EA) for FGT's proposal. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, socioeconomics, cumulative impacts, and alternatives. All substantive comments received in response to the NOI were addressed in the EA.

22. The EA was issued for a 30-day comment period and placed into the public record on July 9, 2014. The Commission received comments on the EA from the Florida Department of Transportation (FDOT),¹⁰ R/S Associates, Broward County, and the U.S. Fish and Wildlife Service (FWS). FGT filed responses to the comments by R/S Associates and Broward County.

23. In its comments, R/S Associates states that the EA fails to describe the reasoning behind many of its findings and requests that the Commission issue an Environmental Impact Statement (EIS) or "Final EA." We conclude that the EA addresses all of the substantive issues raised during the scoping period. Further, consideration of the comments on the EA, as described below, does not alter the EA's conclusions. Thus, an EIS or revised EA is not warranted.

⁹ 18 C.F.R. Part 201 (2014).

¹⁰ FDOT expressed no concerns about the project.

24. R/S Associates asserts that the proposed compressor horsepower is significantly higher than that of typical compressor stations, since the proposal includes two 22,000 horsepower compressors, and the EA should address how this level of pressure will affect pipeline leaks and the formation of natural gas condensate. The compressor station's proposed horsepower was designed to attain the delivery pressure and capacity required for the project. As stated in section A.3 of the EA, FGT has designed the station for 100 percent redundancy and will only operate one unit at a time. The horsepower of natural gas compressor stations can fall within a wide range; so a 22,000 horsepower station is neither significant nor unusual on a mainline system. Further, operation of the compressor station will not affect production of natural gas condensate, since condensate is removed from the gas stream before compression.

25. FGT must comply with all federal safety regulations applicable to construction and operation of the compressor and pipeline facilities in 49 C.F.R. Part 192, *Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards*. These regulations are intended to ensure adequate protection for the public and prevent natural gas facility accidents and failures, such as leaks. In compliance with these regulations, FGT will hydrostatically test both above-ground and buried natural gas facilities before placing the compressor station and pipelines in service.

26. R/S Associates states that the EA fails to address any visual impacts to its property. We disagree. Section B.5 of the EA discusses the potential visual impacts of the proposed project and concludes that such impacts will not be significant, given the current commercial and industrial character of the area and existing natural screening.

27. R/S Associates further suggests that the EA fails to adequately address environmental justice concerns raised during the scoping period. Section B.6 of the EA addresses these concerns, stating that no environmental justice issues would arise from the proposed project because "all of the proposed facilities would be constructed within an existing industrial park," so no significant adverse environmental impacts, safety, or health concerns will result inside or outside of this commercial area. We agree that an industrial facility constructed in an industrial park will not give rise to significant environmental justice concerns, since such a facility will not incrementally impact land use, safety, or other environmental resources, as discussed in the EA. Thus, we conclude that no communities will be adversely affected by the project. We also note that apart from R/S Associates, whose primary concern is impacts on its commercial property, no other landowners or local community members expressed concerns about environmental justice issues arising from the proposed project.

28. R/S Associates asserts that construction of the proposed project will cause its property, the Festival Flea Market Mall, to become infested with rodents. It states that such an infestation occurred after the previous owner of the project site filled the quarry lake.¹¹ R/S Associates claims that the project will result in a "constructive taking" of land or "inverse condemnation" by significantly impairing its business operations. However, R/S Associates identifies other nearby land uses that may relate to the pest infestation, including an "ever-growing garbage dump situated directly adjacent to the other side of Landowner's property." Section B.3 of the EA recognizes that construction of the project may displace more mobile species, such as mammals, to an extent. However, we do not find the potential displacement will constitute a significant impact.

29. R/S Associates identifies certain minor typographical and editorial errors, primarily related to the spelling of chemical compounds. However, none of the errors change the conclusions in the EA.

30. R/S Associates expresses concern that dewatering may cause saltwater intrusion to the groundwater at the project site. Saltwater intrusion is a concern for drinking water supplies in coastal Broward County and has been documented east of the City of Pompano Beach's coastal municipal water supply wellfield, which is three miles southeast of the project site. The pipeline trench will be no deeper than 10 feet below ground level, so dewatering the trench will only affect groundwater occurring at depths less than 10 feet below ground level and will only be necessary for a short time and at a low rate of pumping. This short-term, low-rate, shallow pumping will neither result in significant water-level drawdown in the Surficial Aquifer¹² nor salt water intrusion to groundwater at the project site.

¹¹ FGT purchased the project site on November 1, 2013. Previous owners filled in part of the quarry lake with construction and demolition debris, such as sand, gravel, and concrete, leaving an 8- to 12-foot-wide strip of the quarry open along the western property boundary. This unfilled portion of the quarry is referred to as the quarry lake and could serve as a water source.

¹² The City of Pompano Beach pumps water at depths ranging from 73 to 140 feet below sea level from the Biscayne Aquifer, which is part of the Surficial Aquifer System. See Dunn, Darrel, *Three-Dimensional Analysis of Saltwater Intrusion, City of Pompano Beach Area, Broward County, Florida* (2000), available at <http://www.dunnhydrogeo.com/home/saltwater-intrusion-pompano-t>.

31. R/S Associates comments that construction of the proposed project will disturb contaminated soil at the site. As stated in the EA,¹³ the majority of the quarry lake on the Pompano Compressor Station 21.5 site was filled in by the previous property owner in accordance with a Broward County Solid Waste Management License, which required the use of clean fill material. Broward County defines clean fill as solid waste which is virtually inert, which is not a pollution threat to ground water or surface waters. The fill material used does not have levels of organic compounds and metals that exceed the permissible levels established by the state. In addition, the EA notes that FGT will mitigate offsite movement of dust and related exposure to airborne particulates by wetting disturbed areas.¹⁴ FGT also developed Procedures for the Discovery of Unanticipated Contaminated Media that train workers to identify, assess, and contain hazards, and to notify appropriate parties. Thus, we agree with the EA's conclusions that construction of the proposed project will neither increase the levels of contamination in the surrounding area nor increase human exposure to contaminants.

32. R/S Associates states that soil used to fill the lake may continue to contaminate groundwater at and near the site, including the Festival Flea Market Mall site to the north. As noted above, there is no evidence that the soil or fill material used at the site is contaminated by organic compounds or metals at levels higher than those permitted by the state. However, several documented groundwater contamination sites exist near FGT's project site and the R/S Associates Festival Flea Market Mall. As discussed in section B.2 of the EA, the Broward County Licensing Program continues to monitor the groundwater at the proposed Pompano Compressor Station 21.5 site and will not discontinue monitoring unless, after one year, contaminant concentrations do not increase. We also note that, in its comments on the EA, Broward County did not suggest that the proposed site was unsuitable for construction due to contamination. Accordingly, it appears that construction of the proposed project will not result in increased levels of contamination in the surrounding area.

33. R/S Associates expresses concern about FGT's use of water from the quarry lake for hydrostatic testing and subsequent discharge. The EA identifies either the quarry lake or an off-site potable water well as the source for hydrostatic test water. Prior to making any discharges, FGT will obtain a National Pollutant Discharge Elimination System Permit from the Florida Department of Environmental Protection, a dewatering permit from the South Florida Water Management District, and approval from the Broward County Pollution Prevention, Remediation and Air Quality Division. As discussed in

¹³ See EA, at 8.

¹⁴ See EA, at 8.

section A.7 of the EA, FGT will discharge the hydrostatic test water in a well-vegetated area within its certificated workspace or directly back into a small portion of the quarry lake along the western property boundary. FGT will comply with any water treatment requirements prior to discharging groundwater back to the Surficial Aquifer system. We concur with the EA's findings that dewatering will not cause any significant impacts on groundwater resources.

34. R/S Associates states that FGT's Spill Prevention and Response Procedures inadequately monitors container storage areas because the facility is designed for unattended operation. The EA states that, prior to construction, FGT will develop Spill Prevention and Response Procedures, as required by the Commission's Wetland and Waterbody Construction and Mitigation Procedures.¹⁵ In its response to R/S Associates' comments, FGT states that it will revise its Spill Prevention and Response Procedures to specifically address protocols for inspecting container storage at the compressor station and will include the revised procedures in its implementation plan. Environmental Condition 6 of this order requires FGT to file its implementation plan with the Commission for review and approval prior to the start of construction.

35. R/S Associates also states that air quality impacts were inadequately assessed. Section B.7 of the EA discusses air quality and the federal and state regulations established as a result of the Clean Air Act. The EA states that the compressor station will be powered by electricity, so it will not impact air quality during operation. The EA also states that project construction will take place over a 12-month period and emissions from construction equipment exhaust and fugitive dust will be temporary and will have no significant impact on air quality. R/S Associates asserts that the EA ignores "important ongoing changes in the regulatory environment" with respect to the National Ambient Air Quality Standards and reports issued by the U.S. Environmental Protection Agency (EPA). FGT is required to comply with existing federal air quality standards, not presumptive changes to those standards. We agree with the EA's conclusion that there will be no significant impacts on air quality.

36. R/S Associates states that the EA fails to address the potential for groundwater contamination by hexavalent chromium, mercury, polychlorinated biphenyls, or natural gas condensate. FGT filed comments clarifying that the proposed project will not involve the use of hexavalent chromium, mercury, or polychlorinated biphenyls. It further states that all natural gas condensate will be stored within secondary containment in compliance with applicable federal and state regulations. We conclude that there will not be any impacts on groundwater from the chemical compounds identified by the commenter.

¹⁵ See EA, at 9.

37. R/S Associates comments that the EA fails to address cumulative impacts to air quality and groundwater. However, as noted in the EA,¹⁶ the proposed project will not result in any adverse impacts on air quality or groundwater, and no other projects were identified in the region that could result in additive or synergistic impacts to these resources. Therefore, we conclude that the analysis in the EA is sufficient.

38. Broward County filed comments identifying applicable state codes, county ordinances, and other federal and state air permitting requirements that FGT should comply with. These include Broward County's public notice requirements; Storage Tanks, Hazardous Material, and Wellfield Protection Articles; the Pollution Prevention Division's dewatering requirements; approvals from the South Florida Water Management District; and Florida Department of Environmental Protection's air permitting requirements. As noted in the EA,¹⁷ FGT will obtain all necessary permits, licenses, clearances, and approvals related to construction and operation of the project.

39. Broward County expresses concern for potential project impacts on a potable water well located about three-quarters of a mile east of the project. Section B.2.1 of the EA identifies this groundwater well and concludes that no impact will occur to groundwater resources based on FGT's limited construction activities and the compliance with appropriate Spill Prevention and Response Procedures. As noted above, FGT will file these procedures prior to the start of construction as part of its implementation plan.

40. Broward County requests noise monitoring during construction and operation to ensure that background noise is below the day-night maximum sound level of 55 decibels on the A-weighted scale (dBA) and that FGT negotiate a noise abatement plan with Broward County, if necessary. Broward County also requests that FGT develop a procedure to address landowner complaints that may occur during construction or operation regarding excessive noise, air quality issues, objectionable odors, or dust. Environmental Condition 11 of this order requires FGT to file a noise survey no later than 60 days after placing the Pompano Compressor Station 21.5 in service to ensure noise does not exceed a day-night sound level of 55 dBA at any nearby noise sensitive area. We conclude that this requirement will protect the public from significant adverse noise impacts. As required by Environmental Condition 7, the Commission will be notified of any landowner or resident complaints which may relate to compliance with the requirements of this order, and the measures taken to satisfy the concerns.

¹⁶ See EA, at 10, 18, and 25.

¹⁷ See EA, at 2.

41. In addition, Broward County requests that FGT assess the possibility of disturbing asbestos-containing materials during demolition or renovation. The project will not involve demolition or renovation and we conclude that additional asbestos-mitigation measures are not required.

42. The FWS submitted comments on the EA's effect determinations for the wood stork and eastern indigo snake. Section B.3.3 of the EA concludes that the project will have no effect on either of these species because no suitable habitat exists within the project area. With regard to the wood stork, the FWS concurs that the site will provide little or no suitable foraging habitat, and it concludes that the project may affect, but is not likely to adversely affect, the wood stork. We agree with this determination. With regard to the eastern indigo snake, the FWS states that, although there is no suitable habitat for the eastern indigo snake on the proposed project site, there is suitable habitat in the surrounding areas that construction traffic may move through. The FWS recommends that FGT follow its Standard Protection Measures for the Eastern Indigo Snake (2013). We have included Environmental Condition 12 to this order to ensure that FGT follows these recommended mitigation measures. The FWS concludes that, if these measures are implemented by FGT during construction, the project may affect, but is not likely to adversely affect, the eastern indigo snake. We agree with this determination.

43. Based on the analysis in the EA, we conclude that if the proposed project is constructed and operated in accordance with FGT's application and supplements, and in compliance with the environmental conditions in the appendix to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

44. 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 of facilities approved by this Commission.¹⁸

45. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications, as supplemented, and exhibits thereto, and all comments submitted herein, and upon consideration of the record,

¹⁸See, 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., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

The Commission orders:

(A) A certificate of public convenience and necessity is issued to FGT authorizing it to construct and operate the Pompano Compressor Station 21.5 Project, as described and conditioned herein, and as more fully described in the application.

(B) The certificate authority in Ordering Paragraph (A) shall be conditioned on:

- (1) FGT completing the construction of the proposed facilities and making them available for service within one year after the date of this order, pursuant to paragraph (b) of section 157.20 of the Commission's regulations;
- (2) FGT's compliance with all applicable Commission regulations, including paragraphs (a), (c), (e), and (f) of section 157.20;
- (3) FGT's compliance with the environmental conditions listed in the appendix to this order; and
- (4) FGT executing the reimbursement agreement in accordance with the terms represented in its agreement prior to construction.

(C) FGT shall maintain a separate accounting for all costs attributable to the facilities authorized in this order over the life of the facilities.

(D) FGT is required to file the negotiated rate agreements or tariff records at least 30 days, but not more than 60 days, prior to the proposed effective date for such rates.

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

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

1. FGT 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. FGT must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission;
 - 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 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 and operation.
3. **Prior to any construction**, FGT 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.
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**, FGT 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.
5. FGT 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, 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 our *Upland Erosion Control, Revegetation, and Maintenance Plan* and/or 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. **Within 60 days of the acceptance of the certificate and before construction begins**, FGT shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. FGT must file revisions to the plan as schedules change. The plan shall identify:

- a. how FGT will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;
- b. how FGT 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, 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 FGT will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
 - f. the company personnel (if known) and specific portion of FGT's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) FGT will follow if noncompliance occurs; and
 - h. 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 environmental compliance training of onsite personnel;
 - (3) the start of construction; and
 - (4) the start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, FGT shall file updated status reports with the Secretary on a **monthly 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. an update on FGT's efforts to obtain the necessary federal authorizations;
 - b. the construction status of the project, 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(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);
 - 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 which 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 FGT from other federal, state, or local permitting agencies concerning instances of noncompliance, and FGT's response.
8. **Prior to receiving written authorization from the Director of OEP to commence construction of the project facilities**, FGT shall file with the

- Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
9. FGT must receive written authorization from the Director of OEP **before placing the project into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the areas affected by the project are proceeding satisfactorily.
 10. **Within 30 days of placing the authorized facilities in service**, FGT shall each 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 FGT 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.
 11. FGT shall file a noise survey with the Secretary **no later than 60 days** after placing the Pompano Compressor Station 21.5 in service. If a full load condition noise survey is not possible, FGT 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 the Pompano Compressor Station 21.5 under interim or full horsepower load conditions exceeds a day-night sound level of 55 decibels on the A-weighted scale at any nearby noise sensitive areas, FGT 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. FGT 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.
 12. **Prior to construction**, FGT shall file a plan, for the review and written approval of the Director of OEP, for implementing FWS's *Standard Protection Measures for the Eastern Indigo Snake* during construction of the project.