

149 FERC ¶ 61,197
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ANR Pipeline Company

Docket No. CP14-514-000

ORDER ISSUING CERTIFICATE

(Issued December 2, 2014)

1. On July 2, 2014, ANR Pipeline Company (ANR) filed an application under section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations for authority to construct and operate a 10,915 horsepower (hp) compressor unit and appurtenant facilities at ANR's existing Sulphur Springs Compressor Station north of Sulphur Springs, in Henry County, Indiana (Sulphur Springs Compression Project). For the reasons discussed below, the Commission grants ANR the requested authorization, subject to certain conditions.

I. Background and Proposal

2. ANR, a corporation organized and existing under the laws of Delaware, is a natural gas company, as defined by section 2(6) of the NGA, engaged in the business of transporting and storing natural gas in interstate commerce. ANR operates approximately 9,400 miles of interstate pipeline, extending from Oklahoma and Texas to Wisconsin and Michigan.

3. The Lebanon Lateral consists of 37.8 miles of 30-inch-diameter pipeline, extending from ANR's 30-inch-diameter Southeast Mainline at Sulphur Springs, Indiana to the Glen Karn meter station near Glen Karn, Ohio, and 60.7 miles of 36-inch-diameter pipeline extending from the Glen Karn meter station to the lateral's terminus near Lebanon, in Warren County, Ohio. ANR owns the segment of the Lebanon Lateral from its Southeast Mainline to the Glen Karn meter station. ANR and Texas Eastern Transmission LP (Texas Eastern) each own a 50 percent interest as tenants-in-common in the Lebanon Lateral from the Glen Karn meter station to its terminus.

4. ANR states that Texas Eastern's infrastructure allows it to deliver gas to ANR at the Glen Karn meter station. In order to accept these gas deliveries, ANR states that it

modified its Glen Karn meter station to achieve bi-directional flow capability.¹ More specifically, ANR states that as a result of the meter station modification, it is able to provide an additional 350,000 dekatherms per day (Dth/d) of firm service, within the existing capacity of the Lebanon Lateral, in the reverse direction (from the Glen Karn meter station towards ANR's Southeast Mainline), thereby providing a gateway to markets for new reserves located upstream of the lateral.

5. In this proceeding, ANR proposes to construct and operate a 10,915 hp (ISO rated) turbine compressor unit and appurtenant facilities at its existing Sulphur Springs Compressor Station, located on the Lebanon Lateral. ANR states that the Sulphur Springs Compression Project will enable it to provide an additional 133,643 Dth/d of firm service on the Lebanon Lateral from the Glen Karn meter station towards ANR's Southeast Mainline, above the 350,000 Dth/d of firm service capacity created by the modification to ANR's Glen Karn meter station referenced above.

6. ANR conducted an open season for the Sulphur Springs Compression Project from September 22 to October 23, 2013. As a result of the open season, ANR executed precedent agreements with CNX Gas Company, LLC (CNX) and Rice Drilling B, LLC (Rice Drilling) for all of the capacity of the proposed project on the Lebanon Lateral from the Glen Karn meter station to ANR's Southeast Mainline for a term of 10 years.²

7. ANR proposes to charge its existing applicable rate under Rate Schedule FTS-1 as the recourse rate for service on the proposed expansion. CNX has elected to pay the maximum recourse rate, while Rice Drilling has elected to pay a negotiated rate. ANR requests a predetermination that it may roll the costs associated with the project into its system rates in a future NGA section 4 rate case. ANR states that the estimated cost of the Sulphur Springs Compression Project is \$35,261,000.

II. Notice, Interventions, and Comments

8. Notice of ANR's application was published in the *Federal Register* on July 22, 2014 (79 Fed. Reg. 42,507). The parties listed in Appendix A filed timely, unopposed motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.³

¹ ANR states that the Glen Karn delivery meter station modifications were performed under section 2.55(a) of the Commission's regulations. 18 C.F.R. § 2.55(a) (2014).

² ANR states that CNX and Rice Drilling have acquired available mainline capacity downstream of Sulphur Springs in order to deliver gas to their markets.

³ See 18 C.F.R. § 385.214 (2014).

9. On August 6, 2014, the Indicated Shippers⁴ filed comments stating that if ANR seeks rolled-in rate treatment in a future NGA section 4 rate proceeding, ANR must demonstrate that no significant change in circumstances has occurred and account for construction and operating costs and revenues associated with the proposed project.

III. Discussion

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

A. Application of the Certificate Policy Statement

11. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.⁵ 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 natural gas 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 pipelines proposing new 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 effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the construction. 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

⁴ The Indicated Shippers are ConocoPhillips Company; ExxonMobil Gas & Power Marketing Company, a division of Exxon Mobil Corporation; Occidental Energy Marketing, Inc.; and Shell Energy North America (US), LP.

⁵ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

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 stated, the threshold requirement is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. ANR has entered into long-term precedent agreements with CNX and Rice Drilling for 100 percent of the design capacity of the project. ANR proposes to charge its existing system rate as the recourse rate for service on the expansion, with CNX paying the recourse rate and Rice Drilling paying a negotiated rate. As discussed below, ANR has demonstrated that the projected revenues exceed the cost of service associated with the proposed facilities. Therefore, we find ANR's existing customers will not subsidize the project.

14. The proposed project is designed to create additional capacity which has been subscribed by CNX and Rice Drilling. The proposal will not adversely affect ANR's existing customers because the project will not degrade any existing service. Also, the project will not be replacing firm transportation service on any other pipeline. Further, no pipeline or their captive customers have protested ANR's proposals. Consequently, we find that there will be no adverse impacts on ANR's existing customers or other pipelines or their captive customers.

15. The construction of the proposed facilities will take place within the fence line of ANR's existing Sulphur Springs Compressor Station site, thereby minimizing any adverse effects on landowners and surrounding communities. There is no landowner opposition to the project.

16. CNX and Rice Drilling have subscribed to all of the capacity to be created by the construction of the proposed facilities. Based on the benefits ANR's proposal will provide to CNX and Rice Drilling, the lack of adverse effects on existing customers and other pipelines and their captive customers, and the minimal adverse effects on landowners or communities, we find that, consistent with the criteria discussed in the Certificate Policy Statement and subject to the environmental discussion below, ANR's proposals herein are required by the public convenience and necessity, as conditioned in this order.

B. Rates

17. ANR proposes to provide transportation service to CNX and Rice Drilling pursuant to its existing Rate Schedule FTS-1 at the maximum recourse and negotiated rates, respectively. ANR must file either its negotiated rate agreement or a tariff record setting forth the essential terms of the agreement, in accordance with the Commission's

Alternative Rate Policy Statement⁶ and the Commission's negotiated rate policies.⁷ ANR must file the negotiated rate agreement or tariff record at least 30 days, but not more than 60 days, before the effective date for such rates.

1. Initial Recourse Rate

18. ANR's existing rate structure is based on seven zones and the resulting firm Rate Schedule FTS-1 maximum recourse rates vary depending on the zone where gas is received and delivered.⁸ ANR proposes to use its existing Rate Schedule FTS-1 Zone 3 reservation rate as the initial recourse rate for project service. ANR has calculated the incremental monthly firm reservation rate necessary to recover the project's cost of service would be approximately \$4.2000/Dth.⁹ ANR's existing Rate Schedule FTS-1 maximum recourse rate for Zone 3 is \$4.5000/Dth. Because the estimated incremental rate of \$4.2000/Dth is less than ANR's existing maximum recourse rate for Zone 3, the Commission will approve the use of ANR's existing Zone 3 system rate as the initial recourse rate for Rate Schedule FTS-1 service utilizing the new capacity created by the project.

2. Interruptible Rate

19. ANR does not propose an IT rate for the additional capacity. Our policy requires a pipeline to charge its current system IT rate for any interruptible service provided through additional capacity made available as a result of an incremental expansion that is

⁶ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61, 076, *order granting clarification*, 74 FERC ¶ 61,194 (1996), *reh'g denied*, 75 FERC ¶ 61,066 (1996).

⁷ *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, *dismissing reh'g and denying clarification*, 114 FERC ¶ 61,304 (2006).

⁸ *See* ANR FERC Gas Tariff, Part 4.3 - Statement of Rates, Rate Schedules FTS-1, FTS-4 & FTS-4L, 0.0.0.

⁹ Year one total cost of service of \$7,277,889, less commodity cost of service of \$534,582, divided by annual design determinants of 1,603,716 Dth (133,643 Dth/d * 12), equals \$4.2000/Dth. ANR August 28, 2014, Data Response No. 1 at Attachment A.

integrated with existing pipeline facilities.¹⁰ Therefore, we will require ANR to charge its system IT rate for interruptible service.

3. Fuel Rate

20. ANR proposes to use its system fuel and lost and unaccounted-for (LAUF) gas fuel retention rate for service on the new capacity. ANR states that it has examined the impacts of the additional fuel that will be required to operate the new Sulphur Springs Compressor Station and has determined that system fuel use is expected to decrease on a percentage basis which, it contends, would result in lower fuel costs to its existing customers. ANR proposes to recover any compressor fuel and LAUF volumes through its fuel tracker mechanism found in section 6.34 of the General Terms & Conditions of its tariff.

21. ANR estimates that once the project is completed, physical throughput will decline from 2,626,125 thousand cubic feet per day (Mcf/d) to 2,525,324 Mcf/d and further estimates that system compressor fuel use will be reduced from 35,960 Mcf/d to 28,380 Mcf/d.¹¹ ANR states that the post-expansion net throughput decrease is based on the assumption that the incremental capacity created by the project will increase system receipts from the Lebanon Lateral and will operationally displace and further reduce other receipts located south of Lebanon, including receipts from the Southeast Headstation near Eunice, Louisiana.¹² The reduction in system compressor fuel, states ANR, assumes that the reduction of mainline throughput will net a greater reduction in required compression and associated system compressor fuel than the incremental compression and fuel needed by the Sulphur Springs Compression Project.¹³

¹⁰ See *Texas Eastern Transmission, LP*, 139 FERC ¶ 61,138 (2012); *Gulf South Pipeline Co., LP*, 130 FERC ¶ 61,015 (2010); and *Kern River Gas Transmission Co.*, 117 FERC ¶ 61,077 (2006).

¹¹ Ex. Z-1 to ANR's application.

¹² ANR August 8, 2014, Data Response Nos. 6, 7.

¹³ ANR August 8, 2014, Data Response No. 7.

22. ANR estimates an incremental fuel rate for the project of 0.97 percent compared to its existing Zone 3 fuel-only rate of 0.65 percent.¹⁴ However, ANR contends that it would be inappropriate to compare the estimated incremental fuel rate of 0.97 percent to its existing zonal fuel rates because the historical data used to calculate the existing zonal fuel rates is based on a time period of low contract levels and low system utilization not indicative of those that will exist when the project is completed. In order to compensate for this anomalous low system use, ANR has recalculated its projected Zone 3 fuel rate to be 1.25 percent before the contemplated in-service date of November 1, 2015, for the project based on contractual commitments, and a Zone 3 fuel rate of 1.19 percent after the contemplated in-service date for the project.¹⁵

23. When deciding whether to grant a pre-determination of a rolled-in fuel rate, the Commission compares the pipeline's estimated incremental fuel rate to the pipeline's existing system-wide fuel rate. Because ANR uses zonal fuel rates, it is appropriate to compare ANR's existing Zone 3 fuel rate with ANR's estimated Zone 3 incremental fuel rate, since that is where the project is located. If the estimated incremental fuel rate for the project is lower than existing Zone 3 fuel rate, ANR would be required to charge the existing Zone 3 fuel rate. If the estimated incremental fuel rate for the project is higher than the existing Zone 3 fuel rate, ANR would be required to charge the incremental fuel rate for project service and separately identify the incremental fuel associated with its project. The illustrative incremental fuel rate of 0.97 percent calculated by ANR is higher than ANR's existing Zone 3 fuel rate of 0.65 percent. The Commission has also reviewed Exhibit G of ANR's application. Exhibit G supports ANR's illustrative rate calculation, as it shows that incremental fuel consumption for Zone 3 will increase by 1.01 percent after the project is in service based on an increase in fuel use of 1,357 Mcf/day and an increase in throughput of 134,692 Mcf/day.¹⁶ Because the illustrative incremental fuel rate is greater than the currently effective fuel rate, rolling in the higher project fuel costs may result in allocating project fuel costs to existing customers. ANR contends, however, that it would not be appropriate to use its currently

¹⁴ ANR August 28, 2014, Data Response No. 2. ANR FERC Gas Tariff, Part 4.18 - Statement of Rates, Transporter's Use (%), 4.0.0, identifies the total gas retention rate for Zone 3 transportation as 1.08 percent. Note 4 to the tariff sheet states that the LAUF component of the gas retention rate is 0.43 percent. Subtracting LAUF from the total gas retention rate results in a 0.65 percent fuel component of the total gas retention rate. Implicit in ANR's proposal to use its system gas retention rates is a proposal to apply the system LAUF retention component to service provided over the project's capacity. The Commission agrees with this part of ANR's gas retention proposal.

¹⁵ ANR August 28, 2014, Data Response No. 2 at Attachment B.

¹⁶ Ex. G and G-1, at 2, 3 of ANR's application.

effective Zone 3 fuel rate of 0.65 percent for the basis of our analysis due to anomalies in the data underlying this rate and requests that we use its recalculated projections. We find ANR's projections to be speculative. Therefore, the Commission will require ANR to separately identify the incremental fuel associated with its project and to charge an incremental fuel rate for the project. This finding is without prejudice to ANR's proposing to roll the project's fuel costs into its system gas retention rate in a general or limited NGA section 4 filing.

C. Rolled-in Rate Treatment

24. ANR requests a pre-determination that it may roll the costs associated with the project into its system rates in a future NGA section 4 rate case. To receive a pre-determination authorization for rolled-in rate treatment, a pipeline must demonstrate that rolling in the costs associated with the construction and operation of new facilities will not result in existing customers subsidizing the expansion. In general, this means that a pipeline must show that the revenues to be generated by an expansion project will exceed the costs of the project. For purposes of making a determination in a certificate proceeding as to whether it would be appropriate to roll the costs of a project into the pipeline's system rates in a future section 4 proceeding, we will compare the cost of the project to the revenues generated using actual contract volumes and the maximum recourse rate (or the actual negotiated rate, if the negotiated rate is lower than the recourse rate).¹⁷

25. Here, ANR calculated the incremental cost of service for the project using the same cost of capital and depreciation assumptions that support ANR's currently effective maximum FTS-1 recourse rates.¹⁸ ANR estimates that during the first year of operation the project will generate revenues of approximately \$9.6 million, which is greater than the project's first year estimated cost of service of approximately \$7.3 million.¹⁹ Review of the two precedent agreements and Attachment B to Data Response No. 4 filed on August 8, 2014, supports ANR's projected revenues and costs for the first year of the project, based on both the maximum recourse and negotiated rates and the contract quantities. ANR also projects total revenue for the first three years of the project to be \$29,000,000 and the total cost of service for the first three years of the project to be \$21,000,000. Therefore, the projected revenues would exceed projected cost of service

¹⁷ See *Tennessee Gas Pipeline Co., L.L.C.*, 144 FERC ¶ 61,219, at P 22 (2013).

¹⁸ Ex. N of ANR's application illustrates a capital structure of 40 percent debt and 60 percent equity with a rate of return of 11.13 percent and a depreciation rate of 1.30 percent.

¹⁹ Ex. N of ANR's application.

for the first three years of service. ANR concludes that rolling in the cost of the project would result in a decrease in its existing recourse rates. Based upon the information in the application and in the record, we will grant ANR a pre-determination of rolled-in rate treatment for the project's fixed and non-fuel, LAUF gas costs in its next NGA general section 4 rate proceeding, absent any significant change in material circumstances. This is consistent with Commission precedent and addresses the Indicated Shippers' concerns that circumstances could change once the project is built.

26. The Commission directs ANR to keep separate books and accounting of costs attributable to the project. The books should be maintained with applicable cross-references, as required by section 154.309 of the Commission regulations.²⁰ 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. 710.²¹ 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 rate proceedings determine the costs of the project. This is consistent with Commission precedent and addresses the Indicated Shippers' concerns that all parties have full knowledge of the costs and revenues attributable to the project.

IV. Environmental Analysis

27. On August 15, 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 affected property owners. We received no responses to the NOI.

28. To satisfy the requirements of the National Environmental Policy Act, our staff prepared an environmental assessment (EA) for ANR's proposal. The analysis in the EA addresses geology, soils, water resources, vegetation, wildlife, land use, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives. The EA was placed into the public record on October 31, 2014.

29. Based on the analysis in the EA, we conclude that if constructed in accordance with ANR's application and supplements, and in compliance with the environmental conditions in Appendix B to this Order, our approval of this proposal would not

²⁰ 18 C.F.R. § 154.309 (2014).

²¹ *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, FERC Stats. & Regs. ¶ 31,267, at P 23 (2008).

constitute a major federal action significantly affecting the quality of the human environment.

30. 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 of facilities approved by this Commission.²²

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

The Commission orders:

(A) A certificate of public convenience and necessity is issued to ANR authorizing the construction of the Sulphur Springs Compression Project facilities, as described and conditioned herein, and as more fully described in the application.

(B) The certificate authority granted in Ordering Paragraph (A) is conditioned on ANR's:

(1) completing the authorized construction of the proposed facilities and making them available for service within one year of the issuance of this order pursuant to section 157.20(b) of the Commission's regulations.

(2) complying with all applicable Commission regulations under the NGA, including Parts 154 and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations.

(3) complying with the environmental conditions in Appendix B to this order.

(4) executing firm service agreements equal to the level of service and in accordance with the terms of service presented in its precedent agreements, prior to commencing construction.

²² 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., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(C) With the exception of the fuel component of the gas retention rate, ANR's existing system rates are approved as the initial rates for the Sulphur Springs Compression Project.

(D) The request for a predetermination of rolled-in rate treatment for the fixed and non-fuel costs associated with the project in ANR's next general NGA section 4 rate proceeding is granted, barring a significant change in circumstances, as discussed in the body of the order.

(E) The request for a predetermination of rolled-in rate treatment for the fuel associated with the Sulphur Springs Compression Project is denied. ANR is required to charge the incremental fuel rate for the project and is required to separately identify the incremental fuel associated with its project.

(F) ANR is required to account for the construction and operating costs and revenues for the project separately in accordance with section 154.309 of the Commission's regulations, as described further above.

(G) ANR shall file actual tariff records reflecting the rates and fuel retainage percentages not less than 30 days, or more than 60 days, before the date the Sulphur Springs Compression Project facilities go into service.

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

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix A
Interventions

Atmos Energy Marketing, LLC and Trans Louisiana Gas Pipeline, Inc. (Joint Motion to Intervene)

ConocoPhillips Company

Exelon Corporation

ExxonMobil Gas & Power Marketing Company, a division of Exxon Mobil Corporation

Integrus Gas Group (Michigan Gas Utilities Corporation, North Shore Gas Company, The Peoples Gas Light and Coke Company, and Wisconsin Public Service Corporation)

Occidental Energy Marketing, Inc.

Shell Energy North America (U.S.), L.P.

Appendix B
ANR Pipeline Company
Docket No. CP14-514-000
Environmental Conditions

As recommended in the environmental assessment (EA), this authorization includes the following conditions:

1. ANR 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. ANR must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**

2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the 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**, ANR shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), 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 location shall be as shown in the EA. **As soon as they are available, and before the start of construction**, ANR shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 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. ANR shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all facility relocations, staging areas, contractor 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 the FERC 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 authorization and before construction begins**, ANR shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. ANR must file revisions to the plan as schedules change. The plan shall identify:
 - a. how ANR 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 ANR 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 ANR 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 ANR's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) ANR 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. ANR shall employ at least one EI. The EI shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the order and other grants, permits, certificates, or other authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of the order, and any other authorizing document;
 - d. a full-time position, separate from all other activity inspectors;
 - e. responsible for documenting compliance with the environmental conditions of the order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - f. responsible for maintaining status reports.
8. Beginning with the filing of its Implementation Plan, ANR 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 ANR'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 ANR from other federal, state, or local permitting agencies concerning instances of noncompliance, and ANR's response.
9. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, ANR shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. ANR 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 construction work areas affected by the project are proceeding satisfactorily.
11. **Within 30 days of placing the authorized facilities in service**, ANR shall file an affirmative statement with the Secretary, certified by a senior company official:
- a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the conditions in the order ANR 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.
12. ANR shall make all reasonable efforts to ensure its predicted noise levels from the modified Sulphur Springs Compressor Station are not exceeded at nearby noise-sensitive areas and shall file noise surveys showing this with the Secretary **no**

later than 60 days after placing the modified Sulphur Springs Compressor Station in service. If full load condition noise surveys are not possible, ANR shall provide interim surveys at the maximum possible horsepower load **within 60 days** of placing the modified Sulphur Springs Compressor Station in service and provide the full load surveys **within 6 months**. If the noise attributable to the operation of all of the equipment at the modified Sulphur Springs Compressor Station under full or interim horsepower load conditions exceeds a day-night noise level (L_{dn}) of 55 decibels on the A-weighted scale (dBA) at any nearby noise-sensitive areas, ANR shall file a report on what changes are needed and shall install the additional noise controls to meet the level **within 1 year** of the in-service date. ANR shall confirm compliance with the above requirement by filing a second full load noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.