

150 FERC ¶ 61,161
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Rockies Express Pipeline LLC

Docket No. CP14-498-000

ORDER ISSUING CERTIFICATE

(Issued February 27, 2015)

1. On June 10, 2014, Rockies Express Pipeline LLC (Rockies Express) filed an application under section 7(c) of the Natural Gas Act (NGA)¹ and Part 157, Subpart A of the Commission's regulations² for a certificate of public convenience and necessity authorizing it to modify certain existing compressor stations and interconnections to enable it to flow gas bi-directionally on a portion of its existing mainline within Zone 3 (Zone 3 East-to-West Project).³ As discussed below, we will grant the requested authorizations subject to the conditions discussed herein.

I. Background and Proposal

2. Rockies Express is a jointly owned Delaware limited liability company⁴ and a natural gas company, as defined by NGA section 2(6).⁵ The company operates a 1,698-mile-long, 36- and 42-inch-diameter pipeline extending from Colorado and

¹ 15 U.S.C. § 717f(c) (2012).

² 18 C.F.R. pt. 157 (2014).

³ Zone 3, the easternmost zone on Rockies Express's system, extends from Audrain County, Missouri eastward to the Clarington Hub near Clarington, Monroe County, Ohio.

⁴ Rockies Express is jointly owned by three members: 50 percent by an indirect, wholly-owned subsidiary of Tallgrass Development LP; 25 percent by an indirect, wholly-owned subsidiary of Sempra Energy; and 25 percent by an indirect, wholly-owned subsidiary of Phillips 66.

⁵ 15 U.S.C. § 717a(6) (2012).

Wyoming to its terminus at the Clarington Hub near Clarington, Monroe County, Ohio, capable of providing up to 1,800,000 dekatherms (Dth) per day of firm transportation service.⁶ The mainline was originally configured to transport natural gas from west-to-east only. Consequently, Rockies Express's ability to provide westward service is mainly limited to transportation by displacement.⁷

3. Rockies Express proposes to modify certain existing compressor stations and interconnections on its mainline in Zone 3 to enable it to provide firm transportation service for 1,200,000 Dth per day of Appalachian Basin gas west to Midwestern markets. Once these modifications are complete, the mainline in Zone 3 will be bidirectional between the Clarington Hub and the existing Natural Gas Pipeline Company of America delivery interconnection in Moultrie County, Illinois. Specifically, Rockies Express proposes to make the following modifications at existing compressor station and interconnection sites to facilitate the transportation of gas from east to west:

- Clarington Interconnection Hub in Monroe County, Ohio: installation of over pressure protection facilities at Rockies Express's existing interconnections with Dominion Transmission, Dominion East Ohio, and Texas Eastern Transmission, LP to enable bidirectional flow;
- Chandlersville Compressor Station in Muskingum County, Ohio; Hamilton Compressor Station in Warren County, Ohio; and Bainbridge Compressor Station in Putnam County, Indiana: installation of pipes, valves, fitting, and other materials to enable bidirectional flow;
- Panhandle Eastern Pipeline Company (Panhandle) Putnam Interconnect in Putnam County, Indiana: installation of over pressure protection to enable bidirectional flow; and installation of two process line heaters, station piping, valves, filtration, and metering to increase the design transportation capability from 130,000 Dth per day to 300,000 Dth per day;

⁶ See *Entrega Gas Pipeline Inc.*, 112 FERC ¶ 61,177, *order on reh'g*, 113 FERC ¶ 61,327 (2005) (certifying Zone 1); *Rockies Express Pipeline LLC*, 119 FERC ¶ 61,069 (2007) (certifying Zone 2); *Rockies Express Pipeline LLC*, 123 FERC ¶ 61,234 (2008) (certifying Zone 3).

⁷ Recently, Rockies Express added 600,000 Dth per day of east-to-west forward-haul capability from the Seneca Lateral to delivery points in Zone 3. The Seneca Lateral is a 14-mile-long, 24-inch diameter lateral with a booster compression station that connects the MarkWest Seneca Gas Processing Plant in Noble County, Ohio, to the Rockies Express mainline in Monroe County, Ohio. Rockies Express operates the Seneca Lateral under section 311(a) of the Natural Gas Policy Act of 1978, 15 U.S.C. § 3371(a) (2012). Rockies Express June 10, 2014 Application at 7 n.2 [hereinafter Application].

- Midwestern Edgar Delivery Interconnect in Edgar County, Illinois: construction of a 150-foot, 20-inch lateral pipeline, two process line heaters, station piping, valves, filter separator, metering, control valves, and miscellaneous facility modifications to enable bidirectional flow and maintain its current design capacity;
- Trunkline Douglas Interconnect in Douglas County, Illinois: construction of miscellaneous facility modifications to enable bidirectional flow; and installation of three process line heaters, control valves, filter separator, metering, piping, and valves to increase the design transportation capability from 175,000 Dth per day to 400,000 Dth per day;
- Moultrie Interconnect in Moultrie County, Illinois: construction of a 850-foot, 36-inch lateral pipeline and miscellaneous facility modifications to enable bidirectional flow; and twelve process line heaters, station piping, valves, filtration, metering to increase the design capacity from 615,000 Dth per day to 1,750,000 Dth per day; and
- Blue Mound Compressor Station in Christian County, Illinois: installation of mainline pressure regulation facilities, including control valves and other materials to enable bidirectional flow.

4. Rockies Express held open seasons from January 29 to February 12, 2014, and from April 30 to May 7, 2014. The open seasons resulted in precedent agreements with four shippers for 100 percent of the project's capacity. The shippers have signed precedent agreements for firm transportation service under Rate Schedule FTS at negotiated rates for 20 year terms. The shippers are: American Energy – Utica, LLC (550,000 Dth per day), EQT Energy, LLC (300,000 Dth per day), Gulfport Energy (175,000 Dth per day), and Rice Drilling B LLC (Rice Drilling) (175,000 Dth per day).

5. The project's estimated cost is \$78,730,315. Rockies Express proposes to use its existing Zone 3 Rate Schedule FTS system reservation charge and commodity charge as the project's transportation service recourse rate, as well as charge its system fuel percentage.

II. Notice and Interventions

6. Notice of Rockies Express's project was published in the *Federal Register* on June 27, 2014.⁸ The parties listed in Appendix A filed timely, unopposed motions to intervene.⁹

⁸ 79 Fed. Reg. 36,500 (2014).

⁹ Timely, unopposed motions to intervene are granted by operation of Rule 214(c). 18 C.F.R. § 385.214(c) (2014).

7. Two environmental nonprofit organizations filed late motions to intervene. On September 5, 2014, Allegheny Defense Project (Allegheny), and on January 26, 2015, the Freshwater Accountability Project (Freshwater) each filed a late motion to intervene. The Commission will grant these late motions to intervene, as both organizations have demonstrated an interest in this proceeding and granting their motions will not delay, disrupt, or unfairly prejudice the parties to this proceeding.¹⁰

8. In its comments, Ultra Resources Inc. (Ultra), an existing shipper, expressed concern that the proposed bidirectional flow could degrade operational flexibility and negatively impact existing shippers. We will address this issue below.

III. Discussion

9. 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

10. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.¹¹ 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.

11. 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 its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the construction. If

¹⁰ *Id.* at 385.214(d).

¹¹ *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).

residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

12. As discussed above, 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 its existing customers. Rockies Express's existing recourse rates exceed the projected incremental rate calculated to recover the costs of the new facilities. Because the proposed initial rates are rates for a new service, none of the proposed project's costs are included in Rockies Express's currently effective rates. Accordingly, the Commission finds that Rockies Express's proposal will not result in subsidization from its existing customers. The project satisfies the no-subsidy threshold requirement.

13. Ultra, an existing shipper on Rockies Express, contends that the proposal may degrade operational flexibility on Rockies Express's system.¹² Ultra also states that it has secondary delivery rights at the Clarington Hub and is concerned that additional westbound flows could disrupt those rights.

14. Rockies Express states that the proposed 1,200,000 Dth per day of east-to-west transportation capability in Zone 3 will enhance its firm service capability and will not have any adverse impact on its ability to meet service commitments to existing shippers, including Ultra.¹³ Rockies Express states that the deliveries to existing and new project shippers will not depend on offsetting nominations, or displacement, but rather, that it will be able to accommodate the deliveries of eastward and westward flows in Zone 3 through the requisite dispatching of its compressor stations,¹⁴ regardless of nominations in either direction. Rockies Express submitted information and supporting workpapers showing that it will be able to satisfy the primary firm service rights of its existing shippers.

¹² In its comments, Ultra states that it may be implicitly subsidizing the proposed project if the project causes any degradation in service. We disagree. Ultra's operational concerns are best addressed as an impact to existing customers.

¹³ Rockies Express August 25, 2014 Data Request Response at 1.

¹⁴ "Requisite dispatching" means that Rockies Express will dispatch its compressor stations to accommodate shippers' daily flow nominations. As a result, the flow through the compressor stations will be dictated by shippers and operational staff for required maintenance.

15. Rockies Express further explains that a number of original firm shippers with west-to-east transportation paths currently have primary and secondary delivery point rights in Zone 3. The original firm shippers' ability to switch primary receipt and delivery points is governed by the terms of their service agreements and Rockies Express's tariff, subject to the availability of capacity at the requested receipt and delivery points. Rockies Express states that the project will increase delivery capability at three points in Zone 3 by a total of 1,530,000 Dth per day,¹⁵ which exceeds the proposed 1,200,000 Dth per day of additional firm project throughput. Rockies Express notes that this incremental point capacity will be available to original firm shippers, subject to its availability at the time of the request.

16. Moreover, existing shippers with west-to-east primary paths and secondary delivery point rights in Zone 3 will continue to have secondary rights upon the completion of the project, subject to the availability of point capacity. In response to Ultra's expressed concerns, Rockies Express emphasizes that the additional east-to-west transportation capacity will not affect deliverability at Clarington, the easternmost terminus of the system. Moreover, we note that a shipper's entitlement to receipt and delivery points are limited to primary firm points. Access to secondary receipt and delivery points is always only available to the extent those points have excess capacity.¹⁶

17. We are satisfied that the proposed project operations will not degrade service to Rockies Express's existing customers. Rockies Express has provided information showing that during peak day operating conditions, the pipeline will be able to satisfy its existing customers' primary service rights.

18. Rockies Express proposes to provide a new service that will not replace firm transportation service on any other pipeline. No pipeline company or customer of any other pipeline company has protested the application. Thus, the Commission finds that there will be no adverse impact on other pipelines or their captive customers.

19. The proposals will not adversely impact landowners or surrounding communities. Rockies Express states that all of the proposed construction activities will take place within currently fenced facility sites, except for the modifications that take place at the Moultrie, Midwestern Edgar, and Panhandle Putman interconnections. Rockies Express

¹⁵ Rockies Express's application shows new incremental delivery capability of 170,000 Dth per day at Panhandle, 225,000 Dth per day at Trunkline Douglas and 1,135,000 Dth per day at Moultrie. Application Vol.1 at 13.

¹⁶ See, e.g., *Transcontinental Gas Pipe Line Corp.*, 104 FERC ¶ 61,171, at P 25 (2003), *order on reh'g*, 107 FERC ¶ 61,156, at P 11 (2004) ("The shipper has no guaranteed firm right to use these secondary points, however, since shippers using their primary firm capacity have priority."), *aff'd*, *Exxon Mobil Corp. v. FERC*, 430 F.3d 1166 (D.C. Cir. 2005).

states that it will negotiate with landowners for the land it needs to construct the proposed facilities and does not anticipate using eminent domain.¹⁷ No affected landowners have filed adverse comments with the Commission.

20. Rockies Express has entered into precedent agreements for all of the east-to-west capacity to be created by the project. Based on the benefits the project will provide and the minimal adverse impacts to Rockies Express's existing customers, other pipelines and their captive customers, and landowners and surrounding communities, the Commission finds, consistent with the criteria discussed in the Certificate Policy Statement and section 7 of the NGA, that the public convenience and necessity requires approval of Rockies Express's proposal, subject to the conditions discussed below.

B. Rates

21. Rockies Express proposes to charge its existing FTS Zone 3 reservation and commodity charges as the initial recourse rates for project service. Rockies Express calculated the incremental 100 percent load factor rate for the project would be \$0.0360 per Dth per day, based on its estimated construction costs and design capacity.¹⁸ This estimated incremental rate is lower than Rockies Express's currently effective FTS Zone 3 100 percent load factor rate of \$0.8792 Dth per day.¹⁹ Accordingly, we will grant Rockies Express's request to use its existing FTS Zone 3 rates as the initial incremental recourse rates for project service.

22. All of the Zone 3 East-to-West Project shippers have elected to receive service at negotiated rates. We will require Rockies Express to file either its negotiated rate agreements or tariff records setting forth the essential terms of the agreements associated with the project in accordance with the Alternative Rate Policy Statement²⁰ and the

¹⁷ Rockies Express will acquire 4.74 acres of additional land for the project. Application Vol. 1 at 16.

¹⁸ This value is derived by dividing the first year cost of service of \$15,751,179 by the total annual firm design capacity of 438,000,000 Dth (1,200,000 Dth per day times 365 days). Application Exhibit N at 1. Rockies Express uses its existing rate of return and depreciation rate approved in *Rockies Express Pipeline LLC*, 123 FERC ¶ 61,234 (2008).

¹⁹ This rate is comprised of Rockies Express's FTS Zone 3 currently effective monthly reservation charge of \$26.6651 per Dth or \$0.87616 per Dth per day, plus Rockies Express's FTS Zone 3 commodity charge of \$0.0025 per Dth per day.

²⁰ *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).

Commission's negotiated rate policies²¹ at least 30 days, but not more than 60 days, before the proposed effective date for such rates.²²

23. For purposes of making a pre-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 NGA section 4 proceeding, we will compare the cost of the project to the revenues generated using actual contract volumes and the maximum recourse rates or the actual negotiated rate if the negotiated rate is lower than the recourse rate.²³ Rockies Express has shown that the projected revenues for the proposal at the negotiated rates exceed the estimated incremental cost-of-service associated with the project. Thus, the Commission will grant Rockies Express a pre-determination that it may roll the costs associated with the proposal into its system rates in its next NGA section 4 general rate proceeding, absent any change in circumstances.²⁴

24. Rockies Express proposes to charge its generally applicable Zone 3 fuel and lost and unaccounted-for reimbursement (FL&U) percentage. Rockies Express's engineering data shows that the project would lower the overall fuel percentage. The reversed flow is expected to result in fuel savings for existing customers by displacing some of the gas currently transported on the mainline, thus reducing the amount of fuel needed for compression.²⁵ Thus, the Commission will approve Rockies Express's proposal to charge its generally applicable Zone 3 FL&U percentage for service on its Zone 3 East-to-West Project.

²¹ *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).

²² Pipelines are required to file any service agreement containing non-conforming provisions and to disclose and identify any transportation term or agreement in a precedent agreement that survives the execution of the service agreement.

²³ *See Tennessee Gas Pipeline Company, LLC*, 144 FERC ¶ 61,219, at P 22 (2013).

²⁴ *See Iroquois Gas Transmission System, Ltd.*, 122 FERC ¶ 61,242, at P 15 (2008).

²⁵ The Zone 3 FL&U percentage is 0.50 percent without project facilities versus a projected Zone 3 FL&U percentage of 0.40 percent with the proposed Zone 3 East-to-West project facilities in place. Application Exhibit N at 7.

IV. Environmental Analysis

25. On August 5, 2014, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI). The NOI was published in the Federal Register²⁶ and mailed to interested parties including federal, state, and local officials; agency representatives; conservation organizations; potentially interested Indian tribes; local libraries and newspapers; and affected landowners in the vicinity of the project.

26. In response to the NOI, Commission staff received one consultation letter from the Indiana Department of Natural Resources (DNR) stating that the Indiana State Historic Preservation Office (SHPO) has not identified any historic buildings or structures listed in, or eligible for, inclusion in the National Register of Historic Places within the probable area of potential effects. However, the Indiana DNR requested that the Commission analyze the information that has been gathered from the Indiana SHPO, the general public, and any other consulting parties and make the necessary determinations and findings.

27. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA),²⁷ Commission staff prepared an Environmental Assessment (EA) for the proposed project. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, wildlife, fisheries, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives. On November 24, 2014, the EA was placed into the public record for this proceeding. The Indiana DNR comment was addressed in the EA. Allegheny and Freshwater filed comments regarding the EA, and Rockies Express filed comments in response. We address Allegheny's and Freshwater's comments below.

Allegheny's and Freshwater's Comments

28. The purpose of NEPA is to foster better decision-making and informed public participation for actions that affect people and the natural environment.²⁸ To that end, NEPA imposes procedural rather than substantive requirements.²⁹ Specifically, NEPA requires analysis and public disclosure of significant environmental effects to ensure

²⁶ 79 Fed. Reg. 46,791 (August 11, 2014).

²⁷ 42 U.S.C. §§ 4321 *et. seq.* (2012).

²⁸ *See* 42 U.S.C. § 4321; 40 C.F.R. § 1500.1(b)-(c) (2014).

²⁹ *See Marsh v. Oregon Natural Res. Council*, 490 U.S. 360, 371 (1989); *Vt. Yankee Nuclear Power Corp. v. Natural Res. Def. Council (Vt. Yankee)*, 435 U.S. 519, 558 (1978).

informed public decision-making, but does not require that agencies select any particular decision.³⁰

29. Allegheny and Freshwater (hereinafter Allegheny) did not submit specific comments during the scoping process but did submit comments on January 26, 2015, and additional comments on February 2, 2015. Allegheny alleges that the EA is deficient because the EA: (1) lacks adequate mitigation measures; (2) fails to fully analyze the proposed project's indirect and cumulative impacts associated with shale gas development; and (3) impermissibly segments its analysis. Allegheny also alleges that the Commission must address the environmental consequences of Marcellus and Utica Shale gas extraction and associated infrastructure development and expansion at a regional level by completing a programmatic EIS. For the reasons discussed below, the Commission staff's NEPA analysis was adequate.

1. **The EA Properly Relied on Mitigation Measures to Protect Water Resources**

30. Federal agencies may incorporate mitigation measures as part of a proposed action.³¹ In developing mitigation, agencies necessarily rely on their staff's expertise to assess mitigation needs, develop mitigation plans, and oversee mitigation implementation.³² Mitigation measures are sufficient when based on agency assessments

³⁰ *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1991); *see also* *Vt. Yankee*, 435 U.S. at 558 (stating that NEPA's mandate is "essentially procedural").

³¹ *Envtl. Protec. Info. Ctr. v. U.S. Forest Serv.*, 451 F.3d 1005, 1015 (9th Cir. 2006) (citing Counsel on Environmental Quality (CEQ), "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations," Question 39, 46 Fed. Reg. 18,026, 18,037 (1981)).

³² CEQ, *Final Guidance for Federal Departments and Agencies on the Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact*, 76 Fed. Reg. 3,843, 3,847 (2011).

or studies³³ or when they are likely to be adequately policed, such as when they are included as mandatory conditions imposed on licenses.³⁴

31. Allegheny claims that the Commission did not adequately analyze the project's impacts to wetlands and waterbodies.³⁵ Allegheny argues that the Commission's *Upland Erosion Control, Revegetation, and Maintenance Plan* (Plan) and *Wetland and Waterbody Construction and Mitigation Procedures* (Procedures)³⁶ would not protect against indirect impacts on nearby wetlands from erosion.³⁷ At the core of this claim is Allegheny's allegation that the Plan and Procedures are not effective mitigation measures. Allegheny points to one instance in which a project, the Tennessee Gas Pipeline Corporation's Line 300 Project, violated state clean water laws even though the Commission's EA had previously determined that the company's erosion control measures would minimize impacts to water resources. Allegheny does not cite any other evidence to support its allegation.

32. Commission staff has used its Plan and Procedures as a baseline level of protection on construction projects for over 20 years. During this time, staff has continued to assess mitigation needs and refined these protection measures based on its own and outside parties' expertise. Staff has had the opportunity to directly observe the measures' efficacy through thousands of environmental compliance inspections, and has

³³ See *Transcontinental Gas Pipe Line Corp.*, 126 FERC ¶ 61,097, at P 20 (2009) (citing *National Audubon Society v. Hoffman*, 132 F.3d 7, 17 (2d Cir. 1997) (citing *Friends of the Ompompanoosuc v. FERC*, 968 F.2d 1,549, 1,555 (2d Cir. 1992)).

³⁴ See *id.* (citing *National Audubon Society v. Hoffman*, 132 F.3d 7, 17 (2d Cir. 1997); *Abenaki Nation of Mississquoi v. Hughes*, 805 F. Supp. 234, 239 n.9 (D. Vt. 1992), *aff'd* 990 F.2d 729 (2d Cir. 1993)).

³⁵ Environmental Assessment (EA) at 12, 32 (2014).

³⁶ The Plan and Procedures identify mitigation measures for minimizing erosion, enhancing revegetation, and minimizing the extent and duration of disturbance on wetlands and waterbodies during project construction. Commission staff also monitors erosion control measures, and all other permit conditions, by using project-specific environmental inspectors and reports during the construction period. *Notice of Availability of Final Revisions to the Upland Erosion Control, Revegetation, and Maintenance Plan and Wetland and Waterbody Construction and Mitigation Procedures*, 78 Fed. Reg. 34,374 (June 7, 2013).

³⁷ Allegheny and Freshwater January 26, 2015 comments (Joint Comments) at 1-2.

also considered best practices and other information from the public.³⁸ As the proposed project will follow all Plan and Procedures conditions without deviation,³⁹ we agree that the mitigation measures proposed are sufficient.

33. Allegheny's reliance on the Line 300 Project is also misplaced given the differences between the Line 300 Project and the proposed project. The Line 300 Project involved the construction of approximately 127 miles of new 30-inch diameter pipeline, new compressor stations in Pennsylvania, modifications of several existing compressor stations in Pennsylvania and New Jersey, and new access roads.⁴⁰ During construction, the Line 300 Project was expected to impact 2,629 acres, including 79 waterbodies and 78 intermittent waterbodies, 331 wetlands, and 2 vernal pools.⁴¹ Rockies Express's proposed project consists of modifications to four existing compressor stations and five delivery interconnect sites. The proposed construction is estimated to impact only 10.1 acres, including just one ephemeral drainage and no wetlands.⁴² Given the proposed project's limited scope and the Commission staff's extensive experience with the Plan and Procedures, the Commission agrees with the conclusion in its EA that no wetlands will be directly affected by the project and that the Plan and Procedures will avoid any significant indirect effects. Similarly, we agree with the EA's conclusion that the Plan and Procedures will prevent significant impacts to surface waters.

2. The EA Properly Analyzed the Proposed Project's Indirect Impacts

34. NEPA requires federal agencies to prepare "a detailed statement . . . on the environmental impact" of any proposed major federal action "significantly affecting the quality of the human environment."⁴³ In making this determination, agencies must take

³⁸ Commission staff updated the Plan and Procedures in 1994, 2003, and 2013. During these revisions, the Commission received and considered comments from "the natural gas industry, federal, state and local agencies, environmental consultants, inspectors, construction contractors, nongovernmental organizations and other interested parties with special expertise with respect to environmental issues commonly associated with pipeline projects and other natural gas facility construction projects." 78 Fed. Reg. at 34,374.

³⁹ EA at 12, 32.

⁴⁰ 300 Line Project Environmental Assessment, at 1-2, Docket No. CP09-444-000 (issued February 25, 2010).

⁴¹ *Id.*, at 1-28, 2-12, 2-25, 2-26.

⁴² EA at 12.

⁴³ 42 U.S.C. § 4332(2)(C)(i) (2012).

“a hard look” at an action’s environmental consequences, including those impacts that may be indirect.⁴⁴ Indirect impacts are “caused by the action” and occur later in time or are farther removed in distance than direct project impacts but are reasonably foreseeable.⁴⁵

35. Indirect impacts may include the impacts of other activities induced by a proposed project, including growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water.⁴⁶

36. For an agency to include consideration of an impact in its NEPA analysis as an indirect effect, approval of the proposed project and the related secondary effect must be causally related, i.e., the agency action and the effect must be “two links of a single chain.”⁴⁷

37. The changes must also be reasonably foreseeable. An impact is reasonably foreseeable if it is “sufficiently likely to occur that a person of ordinary prudence would take it into account in reaching a decision.”⁴⁸ NEPA requires “reasonable forecasting,” but an agency is not required “to engage in speculative analysis” or “to do the impractical, if not enough information is available to permit meaningful consideration.”⁴⁹ The starting point of any NEPA analysis is a “rule of reason,” under which NEPA documents “need not address remote and highly speculative consequences.”⁵⁰ A future impact is not reasonably foreseeable when it could “conceivably” occur but “it is at least as likely” that it will not occur.⁵¹

38. Allegheny asks the Commission to assess as indirect effects natural gas drilling in the Marcellus and Utica shale basins. Allegheny argues that this shale development and

⁴⁴ *Kleppe v. Sierra Club*, 427 U.S. 390, 410 (1976).

⁴⁵ 40 C.F.R. § 1508.8(b) (2014).

⁴⁶ 40 C.F.R. § 1508.8(b).

⁴⁷ *Sylvester v. U.S. Army Corps of Eng’rs*, 884 F.2d 394 (9th Cir. 1989).

⁴⁸ *Sierra Club v. Marsh*, 976 F.2d 763, 767 (1st Cir. 1992).

⁴⁹ *N. Plains Res. Council v. Surface Transp. Board*, 668 F.3d 1067, 1078 (9th Cir. 2011).

⁵⁰ *Hammond v. Norton*, 370 F.Supp.2d 226, 245-46 (D.D.C. 2005).

⁵¹ *Headwaters, Inc. v. Bureau of Land Mgmt., Medford Dist.*, 914 F.2d 1174, 1182 (9th Cir. 1990).

the proposed project are “two links of a single chain” because the proposed project would move natural gas supplies onto the interstate market, and a project shipper states that its firm transportation contracts “de-risk production growth.”⁵² Allegheny alleges that drilling is reasonably foreseeable because the project’s shippers are natural gas producers and existing drilling is disturbing the Pennsylvania landscape. To forecast these impacts, Allegheny provided the project’s shippers’ public 2014 lease and well information,⁵³ and data on well pad land disturbances.⁵⁴

39. The fact that project producer-shippers have existing mineral interests and have plans to use the project to transport production from those interests⁵⁵ does not mean that the proposed project will induce future development. Nor does it mean that production will not occur in the absence of the proposed project. Information submitted by Allegheny suggests that producer-shippers may have plans to utilize a number of pipelines, of which Rockies Express is just one, to transport their production.⁵⁶ Ultimately, a number of factors—including natural gas prices, production costs, and

⁵² Joint Comments at 3, 7.

⁵³ Allegheny lists the following public well and lease data from 2014: (1) AEU has 280,000 net acres and plans to drill 2,600 gross wells in the Utica Shale and had acquired 48,000 net acres and plans to drill 410 gross wells; (2) EQT has secured drilling rights to almost 3.6 million acres in the Appalachian basin and plans to drill 186 Marcellus wells; (3) Gulfport leased 179,000 net acres and planned to drill 85-95 gross wells; (4) Rice leases 127,000 net acres in Appalachia with 787 net risked locations in the Marcellus and Upper Devonian. Joint Comments at 6-8.

⁵⁴ Allegheny cites a U.S. Geological Survey report that states that well pads and associated infrastructure require 3.6 hectares (ha) per well pad with an additional 8.5 ha of indirect edge effects. *Id.*, at 5-6.

⁵⁵ *Id.* at 22-24.

⁵⁶ *See* Joint Comments, Attachment 16 at 22-24.

transportation alternatives⁵⁷—drive new drilling.⁵⁸ Any such production would take place pursuant to the regulatory authority of state and local governments.

40. Moreover, even if a causal relationship between our action and additional production were presumed, the scope of the impacts from any such induced production is not reasonably foreseeable. Knowing the identity of a producer of gas to be shipped on a pipeline, and even the general area where that producer's existing wells are located, does not alter the fact that the number and location of any additional wells are matters of speculation. Ultimately, Allegheny's information shows that well development already exists, but this information does not show where or when additional development will occur if the project is approved. A broad analysis, based on generalized assumptions rather than reasonably specific information of this type, will not yield information that would provide meaningful assistance to the Commission in its decision making, e.g., evaluating potential alternatives.

3. The EA Properly Analyzed the Proposed Project's Cumulative Impacts

41. A “cumulative impact” is defined by CEQ as the “impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions.”⁵⁹

42. A cumulative impacts analysis may require an analysis of actions unrelated to the proposed project if they occur in the project area or the region of influence of the project

⁵⁷ Natural gas development does not depend on the proposed project because multiple existing and proposed transportation alternatives, including nonjurisdictional state pipelines, are available for production from the region. *See, e.g., Central New York Oil and Gas Co., LLC*, 137 FERC ¶ 61,121, at PP 81-101 (2011), *order on reh'g*, 138 FERC ¶ 61,104, at PP 33-49 (2012), *petition for review dismissed, sub nom., Coalition for Responsible Growth v. FERC*, 485 F. App'x. 472 (2d Cir. June 12, 2012) (unpublished opinion) (ruling that the Commission need not consider the environmental impacts of Marcellus Shale region production when authorizing projects that may (or may not) make use of such supplies). For example, Allegheny's comments include a presentation by Rice claiming that it has a 1 Bcf/d of “transportation potential” with several different interstate producers. Joint Comments, Attachment 16 at 22.

⁵⁸ *See Florida Wildlife Fed'n v. Goldschmidt*, 506 F. Supp. 350, 375 (S.D. Fla. 1981) (ruling that an agency properly considered indirect impacts when market demand, not a highway, would induce development).

⁵⁹ 40 C.F.R. § 1508.7 (2014).

being analyzed.⁶⁰ However, “it is not practical to analyze the cumulative effects of an action on the universe.”⁶¹ An agency should relate the scope of its analysis to the magnitude of the environmental impacts of the proposed action.⁶² “Proposed actions of limited scope typically do not require as comprehensive an assessment of cumulative impacts as proposed actions that have significant environmental impacts over a large area.”⁶³

43. Allegheny alleges that the Commission failed to adequately address the cumulative impacts of gas drilling in the Marcellus, Upper Devonian, and Utica shale formations. Allegheny argues that the EA’s cumulative impacts analysis is “cursory” and that the Commission should have analyzed upstream natural gas projects in the area.⁶⁴ To that end, Allegheny provides research describing gas drilling’s impacts on ecosystems throughout the United States.

44. The proposed project involves various modifications at several interconnections and compressor stations, the impacts of which are minor, temporary, and highly localized. The magnitude of the type of analysis requested by Allegheny, i.e. of impacts of gas drilling in the Marcellus, Upper Devonian, and Utica shale formations, bears no relationship to the magnitude of the Rockies Express proposal. The impacts raised by Allegheny will occur outside the region of influence of the Zone 3 East-to-West Project. We find that the EA appropriately limited its review to other projects directly in the vicinity of each proposed modification for each resource analyzed.

4. The EA Did Not Impermissibly Segment Its Review of the Proposed Project

45. When assessing a proposed project’s scope under NEPA, an agency must examine both connected and cumulative actions, and may examine similar actions.⁶⁵ An agency impermissibly “segments” NEPA review when it divides these federal actions “into

⁶⁰ CEQ, *Considering Cumulative Effects Under the National Environmental Policy Act*, at 12-16 (January 1997).

⁶¹ *Id.* at 8.

⁶² CEQ, *Memorandum on Guidance on Consideration of Past Actions in Cumulative Effects Analysis* at 3 (June 24, 2005) (*CEQ Guidance on Past Effects*). See also *El Paso Natural Gas Co.*, 136 FERC ¶ 61,175, at P 15 (2011).

⁶³ *CEQ Guidance on Past Effects* at 3.

⁶⁴ Joint Comments at 10.

⁶⁵ 40 C.F.R. § 1508.25(a) (2014).

separate projects and thereby fails to address the true scope and impact of the activities that should be under consideration.”⁶⁶ Only by comprehensively considering “pending proposals can the agency evaluate different courses of action.”⁶⁷

46. Actions are “connected” if they: “[a]utomatically trigger other actions which may require environmental impact statements;” “[c]annot or will not proceed unless other actions are taken previously or simultaneously;” or “[a]re interdependent parts of a larger action and depend on the larger action for their justification.”⁶⁸ Actions are not “connected” if they have “independent utility”⁶⁹ or if other actions have yet to be proposed.⁷⁰ A proposal occurs when: (1) agency action subject to NEPA has a goal; (2) the agency is actively preparing to make a decision on one or more alternative means of accomplishing that goal; and (3) the effects can be meaningfully evaluated.⁷¹ A proposal may exist in fact as well as by agency declaration that one exists.⁷²

47. Actions are “cumulative” if they, when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.⁷³ Similar to connected actions, cumulative actions must be proposed.⁷⁴

48. Actions are “similar” if they, when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography.⁷⁵ Unlike

⁶⁶ *Delaware Riverkeeper Network v. FERC*, 753 F.3d 1304, 1313 (D.C. Cir. 2014).

⁶⁷ *Id.* (quoting *Kleppe v. Sierra Club*, 427 U.S. 390, 410 (1976)).

⁶⁸ 40 C.F.R. § 1508.25(a)(1)(i)-(iii) (2014).

⁶⁹ *See Town of Huntington v. Marsh*, 859 F.2d 1134, 1142 (2d Cir. 1988); *Hudson River Sloop Clearwater, Inc. v. Dep’t of Navy*, 836 F.2d 760, 764 (2d Cir. 1988); *Taxpayers Watchdog, Inc. v. Stanley*, 819 F.2d 294, 298 (D.C. Cir. 1987).

⁷⁰ Connected actions must be “proposed.” *Delaware Riverkeeper Network*, 753 F.3d at 1317 (citing *Weinberger v. Catholic Action of Haw.*, 454 U.S. 139, 146 (1981)).

⁷¹ 40 C.F.R. § 1508.23 (2014).

⁷² *Id.*

⁷³ 40 C.F.R. § 1508.25(a)(2).

⁷⁴ *Id.*

⁷⁵ 40 C.F.R. § 1508.25(a)(3).

connected and cumulative actions, analyzing similar actions is not always mandatory.⁷⁶ An agency *may* wish to analyze these actions in the same impact statement, but it should do so when “the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.”⁷⁷

49. Allegheny alleges that the Commission failed to include three similar actions in the EA: the Columbia Leach Xpress Project, the Dominion Lebanon II West Project, and the Dominion Monroe to Cornwell Project. The proposed Zone 3 East-to-West Project’s environmental impacts are site specific and would occur before Allegheny’s suggested similar actions. The Commission will subject each of the actions to environmental review under NEPA. We decline Allegheny’s suggestion to add these projects as similar actions in the EA.

50. Allegheny also alleges that the Commission failed to include Natural Gas Pipeline Company’s (NGPL) Chicago Market Expansion Project as a connected, cumulative, or similar action. However, NGPL has not proposed the Chicago Market Expansion Project to the Commission; therefore, the Commission cannot determine the scope, timing, and location of its potential impacts.

5. The Commission’s Duty to Perform a Programmatic (Regional) EIS

51. NEPA requires that an agency assess impacts from a *proposed* action.⁷⁸ CEQ regulations state that major federal actions for which a programmatic EIS may be required include “programs, such as a group of concerted actions to implement a specific policy or plan; [and] systematic and connected agency decisions allocating agency resources to implement a specific statutory program.”⁷⁹ Recent CEQ guidance also points out that a programmatic EIS may be a helpful tool when analyzing similar actions,

⁷⁶ *San Juan Citizens' Alliance v. Salazar*, CIV.A.00CV00379REBCB, 2009 WL 824410, at *13 (D. Colo. Mar. 30, 2009) (citing 40 C.F.R. § 1508.25(a)(3) for the proposition that “nothing in the relevant regulations compels the preparation of a single EIS for ‘similar actions’”).

⁷⁷ 40 C.F.R. § 1508.25(a)(3).

⁷⁸ 42 U.S.C. § 4332(2)(C)(i).

⁷⁹ 40 C.F.R. § 1508.18(b)(3) (2014).

including energy development programs proposed in the same region of the country.⁸⁰ However, preparing a programmatic EIS for similar actions is not required.⁸¹

52. Allegheny urges the Commission to prepare a programmatic EIS assessing natural gas infrastructure development in the Marcellus, Utica, and Upper Devonian shale basins. It also argues, as it has in several other filings before the Commission, that the Commission must prepare this programmatic EIS because the Commission is engaged in regional development and planning with the natural gas industry.

53. As evidence of the Commission's program to "increase the nation's reliance on natural gas" using Appalachian shale gas, Allegheny alleges that our FY2014-2018 Strategic Plan identifies natural gas infrastructure approval as a "goal."⁸² Allegheny also points to the Commission's recent efforts to coordinate the natural gas and electricity markets.

54. The Commission has addressed Allegheny's request that we prepare a programmatic impact statement on Appalachian shale infrastructure in several other orders.⁸³ As we have stated in those orders, there is no Commission plan or policy to promote the unconventional production of, or to increase reliance on, natural gas. Rather, interstate natural gas infrastructure is proposed and developed by private industry, as reflected in the applications filed with the Commission by natural gas companies.⁸⁴ Under NGA section 7, the Commission is obligated to authorize a project if it finds that the construction and operation of the proposed facilities "is or will be required by the present or future public convenience and necessity."⁸⁵

55. Moreover, the Commission's efforts to coordinate natural gas-based electric generation and natural gas deliveries do not provide a basis for requiring programmatic environmental review. As explained in the Notice of Proposed Rulemaking for natural

⁸⁰ CEQ, *Effective Use of Programmatic NEPA Reviews* at 21 (Dec. 18, 2014).

⁸¹ *Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Mgmt.*, 387 F.3d 989, 1,000-1,001 (9th Cir. 2004) (emphasizing that agencies are only required to assess similar actions when such review is necessarily the best way to do so).

⁸² Joint Comments at 20.

⁸³ See, e.g., *Texas Eastern Transmission, LP (Texas Eastern)*, 149 FERC ¶ 61,259 (2014), *Columbia Gas Transmission, LLC*, 149 FERC ¶ 61,255 (2014).

⁸⁴ See *Texas Eastern*, 149 FERC ¶ 61,259 at P 44.

⁸⁵ 15 U.S.C. § 717f(e) (2012).

gas and electric coordination,⁸⁶ rules to address the scheduling practices of the natural gas transportation and electricity markets do not involve any construction and qualify for a categorical exemption from environmental review under the Commission's NEPA regulations.⁸⁷

56. Based on the analysis in the EA, the Commission concludes that if constructed and operated in accordance with Rockies Express's application and supplements, and in compliance with the environmental conditions in Appendix B to this Order, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

57. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this authorization. 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.⁸⁸

58. 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, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Rockies Express authorizing it to construct and operate the Zone 3 East-to-West Project, as described and conditioned herein, and as more fully described in the application.

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned on Rockies Express's:

⁸⁶ *Notice of Proposed Rulemaking, Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities*, 146 FERC ¶ 61,201 (2014).

⁸⁷ *See* 18 C.F.R. § 380.4(a)(27) (2014) (exempting “[s]ale, exchange, and transportation of natural gas under sections 4, 5 and 7 of the Natural Gas Act that require no construction of facilities” from environmental review).

⁸⁸ *See, e.g., Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *Nat'l Fuel Gas Supply v. Pub. Serv. Comm'n*, 894 F.2d 571 (2d Cir. 1990); *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(1) completion of construction of the proposed facilities and making them available for service within two years of the date of this order, pursuant to section 157.20(b) of the Commission's regulations;

(2) compliance with all applicable Commission regulations including, but not limited to, Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;

(3) compliance with the environmental conditions in Appendix B to this order; and

(4) executing, prior to the commencement of construction, firm contracts for the volumes and service terms equivalent to those in its precedent agreements.

(C) Rockies Express's request to charge its existing transportation service rates including fuel on the Zone 3 East-to-West Project is approved.

(D) Rockies Express shall file an executed copy of each non-conforming agreement as part of its tariff, disclosing and reflecting all non-conforming language in the agreement not less than 30 days, and not more than 60 days, prior to the commencement of service on the project.

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

(F) Allegheny's and Freshwater's untimely motions to intervene are granted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A

Timely Interventions

Ameren Illinois Company, LLC
BG Energy Merchants
Chevron U.S.A., Inc.
ConocoPhillips Company
Encana Marketing USA Inc.
EQT Energy, LLC
Exelon Corporation
Indiana Gas Company, Inc.
Independent Oil and Gas Association of West Virginia
Laclede Gas Company
Macquarie Energy LLC
NJR Energy Services Company
Pennsylvania Independent Oil and Gas Association
Rice Drilling B LLC
Sempra Rockies Marketing, LLC
Shell Energy North America, LP
Ultra Resources, Inc.,
WPX Energy Marketing, LLC

Appendix B

Environmental Conditions

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

1. Rockies Express shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA, unless modified by this Order. Rockies Express must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary;
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of this Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Rockies Express 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 locations shall be as shown in the EA, as supplemented by filed design sheets. **As soon as they are available, and before the start of construction**, Rockies Express shall file with the Secretary any revised detailed survey maps/sheets at a scale not smaller than 1:6,000 with station positions for the facilities approved by this Order. All requests for modifications of environmental conditions of this Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

5. Rockies Express shall file with the Secretary detailed 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 the OEP **before construction in or near that area.**

This requirement does not apply to extra workspaces allowed by the Commission's 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 resource 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 this authorization and before construction begins**, Rockies Express shall file an Implementation Plan with the Secretary for review and written approval by the Director of the OEP. Rockies Express must file revisions to the plan as schedules change. The plan shall identify:
 - a. how Rockies Express would 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 this Order;
 - b. how Rockies Express would incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - c. the number of EIs assigned per spread, and how the company would ensure that sufficient personnel are available to implement the environmental mitigation;

- d. company personnel, including EIs and contractors, having responsibility for compliance;
 - e. the location and dates of the environmental compliance training and instruction Rockies Express would 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 Rockies Express's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Rockies Express would 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, Rockies Express 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 would also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on Rockies Express'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 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 this Order, and the measures taken to satisfy their concerns; and
 - g. copies of any correspondence received by Rockies Express from other federal, state, or local permitting agencies concerning instances of noncompliance, and Rockies Express's response.

8. **Prior to receiving written authorization from the Director of the OEP to commence construction of any project facilities**, Rockies Express shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
9. Rockies Express must receive written authorization from the Director of OEP **before placing the project into service**. Such authorization would 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**, Rockies Express shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities would be consistent with all applicable conditions; or
 - b. identifying which of the certificate conditions Rockies Express 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. Rockies Express shall file a noise survey with the Secretary **no later than 60 days** after placing the Blue Mound Compressor Station in service. If a full power load condition noise survey is not possible, Rockies Express shall provide an interim survey at maximum possible horsepower load and provide the full load survey **within six months**. If the noise attributable to the operation of the equipment at the Blue Mound Compressor Station under interim or full horsepower load conditions exceeds a day-night sound level of 55 A-weighted decibel scale at any nearby noise sensitive area, Rockies Express 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. Rockies Express 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. Rockies Express shall file a noise survey with the Secretary **no later than 60 days** after placing the Natural Gas Pipeline Company Moultrie Delivery Interconnect in service. If the noise attributable to the operation of the equipment at the Natural Gas Pipeline Company Moultrie Delivery Interconnect exceeds a day-night sound level of 55 A-weighted decibel scale at any nearby noise sensitive area, Rockies Express 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. Rockies Express 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.