

154 FERC ¶ 61,235  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Texas Gas Transmission, LLC

Docket No. CP15-513-000

ORDER ISSUING CERTIFICATE

(Issued March 24, 2016)

1. On June 5, 2015, Texas Gas Transmission, LLC (Texas Gas) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA)<sup>1</sup> and Part 157 of the Commission's regulations<sup>2</sup> requesting certificate authorization to construct a new compressor station in Hamilton County, Ohio (Harrison Compressor Station) and make modifications at eight existing compressor stations in, Indiana, Kentucky, Tennessee, Mississippi, and Louisiana (Northern Supply Access Project). The proposed project is designed to enable Texas Gas to provide an additional 384,000 million British thermal units (MMBtu) per day of firm transportation service primarily in a north-to-south direction on Texas Gas's system while maintaining Texas Gas's current ability to flow gas south to north. For the reasons discussed below, the Commission will grant Texas Gas's requested authorizations, subject to conditions.

**I. Background and Proposal**

2. Texas Gas is a natural gas company as defined by section 2(6) of the NGA,<sup>3</sup> engaged in the transportation of natural gas in interstate commerce. It is a limited liability company organized and existing under Delaware law. Texas Gas's natural gas transmission system extends from Texas and Louisiana, through Mississippi, Arkansas, Tennessee, Kentucky, Illinois, and Indiana, to its terminus in Ohio.

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<sup>1</sup> 15 U.S.C. § 717f(c) (2012).

<sup>2</sup> 18 C.F.R. Part 157 (2015).

<sup>3</sup> 15 U.S.C. § 717(a)(6) (2012).

3. Texas Gas states that the proposed Northern Supply Access Project is intended to meet an increased demand by its customers for new capacity to transport natural gas supplies being produced in the northern end of its system to mid-western and southern markets. Texas Gas proposes to modify its existing system to allow Texas Gas to flow gas bi-directionally in order to accommodate customers' transportation requests. Following the in-service date of the project, Texas Gas states that it anticipates that the predominant flow on its system will be north to south.<sup>4</sup>

4. Specifically, Texas Gas proposes to:

- (1) construct and operate the new 23,877 horsepower (hp) Harrison Compressor Station in Hamilton County, Ohio;
- (2) install gas cooling equipment at the Dillsboro Compressor Station in Dearborn County, Indiana;
- (3) install a replacement 9,699 hp gas turbine compressor unit at the Bastrop Compressor Station in Morehouse Parish, Louisiana, and classify existing reciprocating compressors No. 2 through 5 (a total of 7,040 hp) as back-up units at the compressor station;
- (4) make certain yard and station piping modifications to provide for bi-directional flow capabilities at the existing Jeffersontown, Hardinsburg, and Slaughters Compressor Stations in Jeffersontown, Breckinridge County, and Webster County, Kentucky, respectively, and at the existing Leesville Compressor Station in Lawrence County, Indiana, the Covington Compressor Station in Tipton County, Tennessee, the Clarksdale Compressor Station in Coahoma County, Mississippi, and the Bastrop Compressor Station in Morehouse Parish, Louisiana.

5. Texas Gas states that the new Harrison Compressor Station will consist of:

(1) one Solar Mars 100 turbine compressor unit, (2) one solar Taurus 70 gas turbine compressor unit, and (3) other yard and station piping and appurtenant auxiliary facilities and buildings. Texas Gas states it proposes to purchase the property upon which the Harrison Compressor Station will be located.

6. Texas Gas explains that the increased flow of natural gas from north to south on its system will require the exiting Dillsboro Compressor Station to manage larger volumes of gas at higher pressures. As a result, Texas Gas is proposing to install facilities which will allow the lowering of the station's main gas discharge temperature

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<sup>4</sup> Texas Gas September 30, 2015 Data Request Response, Question No. 5.

from 144 degrees Fahrenheit to a maximum of 120 degrees Fahrenheit, including (1) two air-cooled heat exchangers, (2) various valves, fittings, and instrumentation, and (3) yard and station piping.

7. Texas Gas estimates that the total capital cost of the proposed facilities is approximately \$149 million.

8. Texas Gas states that it held a non-binding open season in the spring of 2014 and a binding open season from June 24 to July 28, 2014.<sup>5</sup> In its application, Texas Gas stated that it had entered into precedent agreements with eight shippers to provide a total of up to 384,000 MMBtu per day of firm transportation service under Rate Schedule FT. However, in a February 26, 2016 supplemental filing, Texas Gas explains that one of the project shippers has filed for bankruptcy and it appears that the shipper will not sign a firm transportation agreement. As a result, Texas Gas states it has eliminated this precedent agreement from its market support for the project in revised Exhibit I. Texas Gas states that it is not proposing to modify its application in any other manner and will be at risk for the unsubscribed capacity. With the loss of this shipper, Texas Gas has precedent agreements with seven shippers to provide a total of 284,000 MMBtu per day of firm transportation service under Rate Schedule FT.<sup>6</sup> Texas Gas explains that the executed precedent agreements include primary terms of either 15 or 20 years and that all the project shippers have elected to receive service at negotiated rates.

9. Texas Gas proposes to use its existing system rates under Rate Schedule FT as the initial recourse rates for service using the project capacity. In addition, Texas Gas seeks a predetermination that it may roll the costs of the Northern Supply Access Project into its system rates in a future general NGA section 4 rate case.

## **II. Notice and Interventions**

10. Notice of Texas Gas's application was issued on June 17, 2015, and published in the *Federal Register* on June 26, 2015 (80 Fed. Reg. 36,326). The notice established July 8, 2015, as the deadline for interventions, comments, and protests. The parties 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.<sup>7</sup>

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<sup>5</sup> Texas Gas solicited offers from its shippers to turn-back capacity as part of the open season, but received no offers.

<sup>6</sup> See March 3, 2016 Data Response, Revised Exhibit N, Page 8.

<sup>7</sup> 18 C.F.R. § 385.214(c) (2015).

11. Atmos Energy Corporation (Atmos), Louisville Gas and Electric Company (Louisville), and Western Tennessee Municipal Group,<sup>8</sup> Jackson Energy Authority, City of Jackson, Tennessee, and the Kentucky Cities<sup>9</sup> (collectively, Cities) filed protests on certain rate matters. All three parties oppose Texas Gas's request for a predetermination of rolled-in rate treatment. Cities also raise concerns regarding the impact of the project on fuel use and requests clarification on how capacity from the project will be priced. Texas Gas filed an answer to the protests. Rule 213(a) of the Commission's Rules of Practice and Procedure does not permit answers to protests or answers to answers unless otherwise ordered by the decisional authority.<sup>10</sup> We will accept Texas Gas's answer because it provides information that has assisted in our decision-making process. Admitting the answer will not cause undue delay or unfairly prejudice other parties. The issues raised by the protestors are addressed in the rate section of the order.

### **III. Discussion**

12. 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.

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<sup>8</sup> The Western Tennessee Municipal Group consists of the following municipal distributor-customers of Texas Gas: City of Bells, Gas & Water, Bells, Tennessee; Brownsville Utility Department, City of Brownsville, Brownsville, Tennessee; City of Covington Natural Gas Department, Covington, Tennessee; Crockett Public Utility District, Alamo, Tennessee; City of Dyersburg, Dyersburg, Tennessee; First Utility District of Tipton County, Covington, Tennessee; City of Friendship, Friendship, Tennessee; Gibson County Utility District, Trenton, Tennessee; Town of Halls Gas System, Halls, Tennessee; Humboldt Gas Utility, Humboldt, Tennessee; Town of Maury City, Maury City, Tennessee; City of Munford, Munford, Tennessee; City of Ripley Natural Gas Department, Ripley, Tennessee.

<sup>9</sup> The Kentucky Cities are the Cities of Carrollton and Henderson, Kentucky.

<sup>10</sup> 18 C.F.R. § 385.213(a) (2015).

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

13. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.<sup>11</sup> 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.

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

15. As indicated above, the threshold requirement under the Certificate Policy Statement is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. Texas Gas proposes to charge its existing applicable rates under Rate Schedule FT as the recourse rates for service on the Northern Supply Access Project. Since none of the costs of the proposed project are included in Texas Gas's currently-effective rates, we can accept Texas Gas's proposal to charge its existing rates as initial recourse rates for service on the Northern Supply Access Project, as long as steps are taken to ensure that existing customers will not, in the future, be called upon to subsidize the costs of the Northern Supply Access Project. As discussed below, in order to protect Texas Gas's existing shippers from subsidizing the

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<sup>11</sup> *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).

expansion project, the Commission is denying Texas Gas's request for a predetermination that Texas Gas may roll the cost of the expansion project into its system rates in a future rate case. This will ensure that existing customers will not be at risk of subsidizing the project. Based on the above, we find existing shippers will not subsidize service on the proposed project, and we find that the threshold no-subsidy requirement has been met.

16. Next, we find that Texas Gas has designed the Northern Supply Access Project and services such that it will not adversely affect Texas Gas's existing customers and services. Further, none of Texas Gas's existing customers have presented any concerns that the Northern Supply Access Project will result in degradation of their service. Nor is there any evidence that Texas Gas's proposed project will displace existing service on other pipelines, and no other pipelines or their customers have objected to Texas Gas's proposal.

17. We also find that the Northern Supply Access Project will have minimal impacts on landowners and communities. Texas Gas states that all project facilities at its existing compressor stations will be constructed and installed on property owned by Texas Gas. Texas Gas also explains that the new Harrison Compressor Station to be located in Hamilton County, Ohio, is proposed to be constructed on agricultural land and that it intends to purchase the property on which the station will be located.

18. The Northern Supply Access Project will enable Texas Gas to provide up to 384,000 MMBtu per day of firm transportation service with a total of 284,000 MMBtu per day of firm transportation service under precedent agreements with seven shippers for long-term transportation service.<sup>12</sup> Based on the benefits the project will provide and the lack of effects on existing shippers, other pipelines and their captive customers, and landowners and surrounding communities, the Commission finds that Texas Gas's proposed project satisfies the criteria of Certificate Policy Statement. Based on this finding and the environmental review of Texas Gas's proposal, discussed below, the Commission further finds that the public convenience and necessity requires approval of Texas Gas's proposal under section 7 of the NGA, as conditioned in this order.

## **B. Rates**

19. Texas Gas proposes to use its currently-effective firm transportation rates under Rate Schedule FT as the initial recourse rates for service on the project. Texas Gas's tariff sets forth daily demand and commodity rates under Rate Schedule FT based on the zones of receipt and delivery for capacity paths from south to north (forward haul

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<sup>12</sup> Consistent with Commission policy, we will require Texas Gas to execute firm contracts for the capacity levels and terms of service represented in the signed precedent agreements in Revised Exhibit I prior to commencing construction.

transactions) on Texas Gas's system.<sup>13</sup> In addition, the tariff sets forth daily demand and commodity rates under Rate Schedule FT for intra-zonal transactions. Texas Gas's tariff also provides that "[b]ackhaul rates equal forward haul rates from Zone SL [South Louisiana] to zone of delivery; provided, however that intra-zone rates shall apply to intra-zone transportation, whether such intra-zone transportation is forward haul or backhaul."<sup>14</sup> Texas Gas's application sets forth the primary receipt points and primary delivery points of each precedent agreement.<sup>15</sup> The majority of the precedent agreements for the project have primary receipt points in the northern part of Texas Gas's system in Zone 4, with primary delivery points in Zone SL.

20. We will approve Texas Gas's request to use its existing rates under Rate Schedule FT for firm service using the expansion capacity. As described by Texas Gas, any transaction from north to south on its system, whether physical or by displacement, is subject to the applicable maximum backhaul rates under its tariff.<sup>16</sup> In addition, Commission policy requires a pipeline to charge its current system IT rate for any interruptible service rendered on additional capacity made available as a result of an incremental expansion that is integrated with existing pipeline facilities.<sup>17</sup>

21. In addition, Texas Gas seeks a predetermination that it may roll the project costs into its existing system-wide rates in a future rate proceeding. In support, Texas Gas provides, in Exhibit N, page 8, a comparison of the annual revenues using the negotiated rates and contract quantities reflected in the precedent agreements, and the annual cost-of-service of the project over a ten-year period. Based on this analysis, Texas Gas states the annual revenues to be generated by the project will exceed the cost of service.

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<sup>13</sup> Texas Gas Transmission, LLC, FERC NGA Gas Tariff, fourth Revised Volume No. 1, Section 4.1 (Currently Effective Rates – FT).

<sup>14</sup> *Id.*

<sup>15</sup> Texas Gas Certificate Application, Revised Exhibit N, page 8. Three of the contracts consist of intra zone or forward-haul contract paths, and the remaining contracts consist of back-haul contract paths as defined in Texas Gas's tariff.

<sup>16</sup> Texas Gas September 30, 2015 Data Request Response, Question No. 5.

<sup>17</sup> *See, e.g., Texas Eastern Transmission, LP*, 139 FERC ¶ 61,138, at P 31 (2012); *Gulf South Pipeline Co., LP*, 130 FERC ¶ 61,015, at P 23 (2010).

22. Texas Gas also sets forth a comparison of the incremental rate it calculates for the project of \$ 0.2407 per MMBtu per day,<sup>18</sup> with a weighted average daily FT recourse rate calculated based on the project's contract paths and the currently-effective forward-haul recourse rates associated with each of those paths.<sup>19</sup> Texas Gas asserts that it is appropriate to compare the incremental project rate to the weighted average daily forward-haul rate for the north-to- south contract paths, rather than to a backhaul rate, because the existing backhaul rates did not contemplate physical transport of natural gas in a north to south direction and were meant to address backhaul by displacement. Because the weighted average existing rate it calculates (0.3389 per MMBtu per day) is greater than the incremental rate calculated for the project, Texas Gas asserts that a predetermination that Texas Gas can roll the project costs into its system-wide rates in a future rate proceeding is justified.<sup>20</sup>

23. Louisville, Atmos, and Cities oppose Texas Gas's request for a predetermination of rolled-in a rate treatment. They assert that where the negotiated rates to be charged are higher than the applicable maximum recourse rates, as is the case here, the Commission's practice is to compare project costs with revenues that would be generated if all project services under contract were provided at the maximum recourse rate. The protestors contend that for purposes of comparison, the backhaul rates stated in Texas Gas's tariff should be used as the rates for the new north-to-south contract paths, as the tariff does not provide any other rates for north-to-south service beyond the existing backhaul rates. They assert that when Texas Gas's applicable backhaul rates stated in its tariff are used, the costs of the project far exceed the revenues to be generated by the project.

24. Cities also requests that the Commission require Texas Gas 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.<sup>21</sup> In addition, Cities assert that Texas Gas should clarify how capacity releases and excess capacity will be priced, given Texas Gas's position regarding rolled-in rate treatment.

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<sup>18</sup> This incremental rate consists of an estimated incremental daily firm reservation charge for the project of \$0.2373 per MMBtu (total estimated Year 1 cost of service of \$33,261,743 divided by a design capacity of 384,000 MMBtu/day) and a daily commodity charge of \$0.0034 per MMBtu.

<sup>19</sup> Texas Gas Certificate Application, Exhibit N, page 9

<sup>20</sup> Texas Gas Certificate Application at 13.

<sup>21</sup> 18 C.F.R. § 154.309 (2015).

25. Texas Gas responds that it has demonstrated that the revenues received from its negotiated rates agreements will exceed the costs of the project.<sup>22</sup> Texas Gas argues the Commission should base its determination on the actual revenues anticipated to be received under the signed precedent agreements, using the applicable negotiated rates in those agreements. Thus, Texas Gas argues the Commission should deny the protests and grant a pre-determination of rolled-in rate treatment, as the pipeline has shown that the project's negotiated rates will fully recover the costs of the project.

If the Commission does not grant a pre-determination of rolled-in rate treatment, Texas Gas requests the decision be without prejudice to Texas Gas filing for and fully supporting rolled-in rate treatment for the project in a future rate case, consistent with the Commission's finding in *Northern Natural Gas Company*.<sup>23</sup>

26. We will deny Texas Gas's request for rolled-in rate treatment. In considering a request for a predetermination that a pipeline may roll the costs of a project into its system-wide rates in its next NGA general section 4 rate proceeding, 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. Contrary to the comparison urged by Texas Gas, 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 NGA general section 4 proceeding, the Commission compares the cost of the project to the revenues generated utilizing actual contract volumes and the maximum recourse rate (or the actual negotiated rate if the negotiated rate is lower than the recourse rate).<sup>24</sup>

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<sup>22</sup> Texas Gas July 22, 2015 Answer at 3.

<sup>23</sup> *Id.* at 4 (citing *Northern Natural Gas Co.*, 146 FERC ¶ 61,194 (2014)).

<sup>24</sup> *See Tennessee Gas Pipeline Co., L.L.C.*, 144 FERC ¶ 61,219, at P 22 (2013). When Texas Gas files to recover the costs associated with the expansion project in a NGA section 4 rate case, Commission policy permits the project costs to be compared to the revenues that would be generated if Texas Gas were charging the maximum recourse rate for all expansion services under contract, where the negotiated rate is greater than the recourse rate. It is appropriate to make that same comparison here in order to determine whether a presumption of rolled-in rate treatment should be granted with respect to a future section 4 rate proceeding. *See, e.g., Trunkline Gas Co., LLC*, 119 FERC ¶ 61,078, at P 23 (2007); *Natural Gas Pipeline Co. of America*, 111 FERC ¶ 62,236, at 64,518 (2005); *Southern Natural Gas Co.*, 113 FERC ¶ 61,199, at n.20 (2005).

27. All of the remaining seven shippers that have executed precedent agreements with Texas Gas for service on the Northern Supply Access Project have agreed to pay negotiated rates for service using the project capacity. All of the negotiated rates under the precedent agreements exceed Texas Gas's existing applicable maximum recourse rates. Therefore, the Commission staff has recalculated the incremental revenues in Texas Gas's Exhibit N by applying the maximum recourse rate, as required by Commission policy. Using the currently applicable maximum tariff rates, including backhaul rates for the north to south contract paths, and actual contract volumes, Texas Gas would recover \$11,890,860.50 in Year 1 revenues compared to a Year 1 cost of service of \$33,598,554, resulting in an under recovery of \$21,707,693.50.

28. We also find fault with Texas Gas's alternative argument that a presumption of rolled-in rate treatment is justified because its calculation of a weighted average rate based on the contract paths of the project and the existing forward haul recourse rates associated with each of these contract paths exceeds the incremental rate of the project. As pointed out by the protestors, Texas Gas's analysis incorrectly uses forward-haul rates for the north to south contract paths rather than the applicable backhaul rates.

29. For these reasons, Texas Gas's request for a predetermination of rolled-in rate treatment for the costs of the project in its next NGA general section 4 rate proceeding is denied. This denial is without prejudice to Texas Gas filing for and fully supporting rolled-in rate treatment in a future rate case.

30. Moreover, to ensure that costs are properly allocated to the shippers using the project facilities, the Commission directs Texas Gas 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's regulations.<sup>25</sup> 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.<sup>26</sup>

### ***Fuel***

31. In its protest, Cities states that Texas Gas has not explained the effect the project will have on fuel rates. Cities note that the Commission previously directed Texas Gas to provide a fuel study in Docket No. CP14-553-000 to show the revised in-kind fuel reimbursement percentages that would result from its Ohio-Louisiana Project. Cities

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<sup>25</sup> 18 C.F.R. § 154.309 (2015).

<sup>26</sup> See *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, FERC Stats. & Regs. ¶ 31,267 (2008).

states that that fuel rate study showed a decrease in fuel rates driven in large part by a reduction in northerly flow through Zones 2 and 3. Cities argues that because the instant Northern Supply Access Project will reverse flows completely in those zones, it stands to reason that the fuel “savings” realized from the Ohio-Louisiana Project might now be lost, and asserts a fuel study that aggregates the impacts of the two projects is necessary to analyze the potential impact.

32. In its July 22, 2015 response to protests, Texas Gas states that it proposes to use its generally applicable Fuel Reimbursement Percentages for service on the Northern Supply Access Project. Texas Gas also submits a fuel reimbursement study to show the effect of the project facilities on the existing Fuel Reimbursement Percentages.<sup>27</sup> Texas Gas states that the study demonstrates that the project will generally have the impact of lowering fuel rates system-wide.

33. We will grant Texas Gas’s request to charge its existing applicable fuel percentages for the project capacity. However, as explained above, we are requiring Texas Gas to keep separate books and accounting of costs, including fuel costs, attributable to the Northern Supply Access Project. This will enable parties in a future section 4 rate proceeding to determine the projects impact on system fuel costs.

### C. Environmental Analysis

34. On September 4, 2015, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Northern Supply Access Project and Request for Comments on Environmental Issues* (NOI). The NOI was published in the Federal Register<sup>28</sup> and mailed to over 310 parties including federal, state, and local government officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and all affected landowners as defined in the Commission’s regulations. In response to the NOI, we received written comments from the City of Harrison; Great Parks of Hamilton County (Great Parks); and the Allegheny Defense Project, Center for Biological Diversity, Fresh Water Accountability Project, Heartwood, and the Ohio Valley Environmental Coalition.

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<sup>27</sup> Texas Gas’s fuel reimbursement study shows the effect of the project facilities in aggregate with the facilities of the Ohio-Louisiana Access Project approved in Docket No. CP14-553-000. *Texas Gas Transmission, LLC*, 152 FERC ¶ 61,160 (2015).

<sup>28</sup> 80 Fed. Reg. 54,779 (2015).

35. In general, comments received primarily pertained to impacts of the proposed new Harrison Compressor Station; including land use/planning conflicts; impacts on aquifers, migratory birds, threatened and endangered species, air emissions, and noise; safety concerns; and alternative compressor station sites.

36. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA), our staff prepared an environmental assessment (EA) for the Northern Supply Access Project. The EA was placed into the public record of this proceeding<sup>29</sup> on January 27, 2016, with a comment period that closed on February 25, 2016. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, wildlife, federally listed species, cultural resources, land use, recreation, visual resources, air quality and noise, safety, cumulative impacts, and alternatives. The EA addressed all substantive comments filed in response to the NOI.

37. The EA was mailed to the FERC staff's environmental mailing list. In response to the EA, we received comments from Great Parks, the Tennessee Department of Environment and Conservation (TDEC), the Acting Tribal Historic Preservation Officer (THPO) for the Miami Tribe of Oklahoma, the Quapaw Tribe of Oklahoma THPO, and three individuals. Comments on the EA addressed cultural resources, water quality impacts, hazardous waste, air quality, noise, visual impacts, and potential alternatives. On February 25, 2016, Texas Gas filed a response to TDEC's comments.

### *Cultural*

38. The Acting THPO for the Miami Tribe of Oklahoma and the Quapaw Tribe of Oklahoma THPO request that if human remains and/or cultural objects are discovered during construction, that they be contacted. The EA notes that Texas Gas provided Unanticipated Discoveries Plans for the project,<sup>30</sup> which provide for the notification of Native American tribes in the event of such a discovery. Therefore, we find that the Miami Tribe of Oklahoma's and Quapaw Tribe of Oklahoma's requests will be met.

### *Water*

39. The TDEC requests that water for hydrostatic testing be withdrawn from a treated source and be passively discharged to surface waters. In response, Texas Gas states that it anticipates sourcing its hydrostatic test water from a potable water source. Texas Gas would obtain a National Pollutant Discharge Elimination System (NPDES) or state-

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<sup>29</sup> A notice announcing the availability of the EA was published in the Federal Register on February 3, 2016; 81 Fed. Reg. 5,739.

<sup>30</sup> EA at 18.

issued discharge permit for the discharge of hydrostatic test water. Texas Gas also states that it will ensure that water withdrawal sources will be appropriately reflected in its hydrostatic test discharge applications and will comply with all applicable permit requirements and the FERC's *Upland Erosion Control, Revegetation, and Maintenance Plan* (Plan) and *Wetland and Waterbody Construction and Mitigation Procedures* (Procedures) for the discharge of hydrostatic test water.<sup>31</sup> Therefore we find that water resources will be adequately protected.

40. The EA states that less than 6 acres of soils, primarily at the Harrison Compressor Station site, are highly erodible. Great Parks claims that the EA does not require any mitigation of hydrostatic test water discharges across these erodible soils, which may result in the degradation of Dry Fork Creek. We disagree. The EA states that Texas Gas would implement soil and erosion controls contained in FERC's Plan and Procedures. The Procedures include best management practices to mitigate the impacts from hydrostatic test water discharges.<sup>32</sup> The EA also states that this water discharge would occur within well-vegetated upland areas.<sup>33</sup> As discussed above, Texas Gas would obtain hydrostatic test water discharge permits from the Ohio Environmental Protection Agency and comply with its requirements. Therefore, we find that impacts from hydrostatic test water discharge on soils and Dry Fork Creek have been adequately mitigated.

41. William Butsch, who lives in the vicinity of the Harrison Compressor Station proposed site and of Alternative Site 2, indicates that the five homes in his neighborhood are supplied by deep-water wells, and suggests that the aquifer likely flows west from a nearby river past these homes, requiring water pollution monitoring and mitigation.<sup>34</sup>

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<sup>31</sup> See *Upland Erosion Control, Revegetation, and Maintenance Plan* and *Wetland and Waterbody Construction and Mitigation Procedures* issued May 2013, <http://www.ferc.gov/industries/gas/enviro/guidelines.asp>. The Procedures require that hydrostatic water not be discharged into state-designated exceptional value waters, waterbodies which provide habitat for federally listed threatened or endangered species, or waterbodies designated as public water supplies, unless appropriate federal, state, and local permitting agencies grant written permission.

<sup>32</sup> For example, section VII.D of the Procedures requires the use of energy dissipation devices and sediment barriers to prevent erosion.

<sup>33</sup> EA at 13.

<sup>34</sup> It is unclear which waterbody (Great Miami River or Dry Fork Creek) Mr. Butsch believes supplies the aquifer.

42. We disagree. First, the EA concludes that Alternative Site 2 does not offer a significant advantage over the proposed Harrison Compressor Station site,<sup>35</sup> and does not recommend adopting this alternative. Secondly, situated from east to west are the Great Miami River, the residences identified by Mr. Butsch, Alternative Site 2, Dry Fork Creek, and then the proposed compressor station site. Therefore, there will be no construction activity between the Great Miami River or Dry Fork Creek and the residences that could impact groundwater. Although the proposed site is west of the rivers and residences identified, and downstream of Mr. Butsch's reported aquifer flow, the EA did evaluate potential impacts on groundwater. The EA concludes that based on the shallow depths of excavation, Texas Gas's proposed construction procedures, and the protective measures included in the Spill Prevention Containment and Countermeasure Plan, construction and operation of the project would not have a significant impact on the local aquifer or groundwater resources.<sup>36</sup> We agree, and conclude that the project would not result in impacts on groundwater wells in the neighborhood in proximity to the Harrison Compressor Station.

### *Hazardous Waste*

43. The TDEC notes that the Covington Compressor Station is listed by the U.S. Environmental Protection Agency (EPA) as a small quantity generator of hazardous wastes. The TDEC requests that any hazardous waste encountered during construction be properly managed. In response, Texas Gas confirms the small quantity generator status for the Covington Compressor Station and states it will continue to comply with all requirements for small quantity generators. Texas Gas also filed an acceptable Unanticipated Discovery of Contaminated Media Plan in its application, which includes Texas Gas's commitment to adherence to all applicable federal, state and local regulations regarding the handling of hazardous waste. We find that these measures are adequate to address the potential encounter of hazardous waste.

### *Air Quality*

44. The TDEC notes that the existing Covington Compressor Station is a Title V permitted facility and the project modifications at this facility may require a modified permit. The EA explains that the modifications at this compressor station would not result in any change in operating emissions. Therefore, we do not believe a modified Title V permit application is required. However, if the TDEC determines that a modified permit is needed, Texas Gas must follow the TDEC's Title V permitting requirements.

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<sup>35</sup> EA at 32.

<sup>36</sup> *Id.* at 11.

45. The TDEC states that if any structures are demolished, an asbestos demolition notification should be provided to its Division of Air Pollution Control. The TDEC also asks that any open burning activity be conducted in a manner to encourage good smoke dispersion and in accordance with state requirements. In response, Texas Gas states that modifications at the existing Covington Compressor Station will not require the demolition or modifications to structures or open burning.

46. The TDEC also notes that the EPA website reference for the National Ambient Air Quality Standards in the EA (page 21) is outdated. We agree. As noted by the TDEC, the current website is found at: <https://www3.epa.gov/ttn/naaqs/criteria.html>.

### *Noise*

47. Mr. Butsch is concerned that noise from the Harrison Compressor Station may render the campground within Miami Whitewater Forest unusable, resulting in the park moving the campground closer to a group of residences along a portion of Mt. Hope Road within the Miami Whitewater Forest. If this potential re-location occurs, he claims it will result in a loss in residential property values. Mr. Butsch also notes that these residences are the closest active residences to the compressor station. For these reasons, Mr. Butsch requests that Texas Gas implement noise and/or visual mitigation to minimize these adverse impacts.

48. Similarly, Claire LoBuono believes that the EA fails to identify the Miami Trace Condominiums as a noise sensitive area (NSA) near the Harrison Compressor Station and requests that this community be included in the noise analysis. Ms. LoBuono also requests that operating noise control measures be installed before placing the compressor station into service and before the recommended post-construction noise survey.

49. The EA identifies the closest NSAs in each direction from the Harrison Compressor Station, as these NSAs would experience the greatest noise impact from the facility.<sup>37</sup> The closest NSA is the campground within the Miami Whitewater Forest, located 1,400 feet southeast of the noise producing equipment at the proposed compressor station. The residences Mr. Butsch identifies are located further away, at about 2,200 feet east-northeast of the proposed station site. NSA 2 represents the closest group of residences west of the Harrison Compressor Station (about 1,880 feet northwest). The nearest residence in the Miami Trace Condominium community appears to be about 2,440 feet southwest from the compressor station.

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<sup>37</sup> *Id.* at 26.

50. The EA demonstrates that noise levels at the campground and NSA 2 would be below the day-night sound level ( $L_{dn}$ ) criterion of 55 decibels on the A-weighted scale (dBA), which was established by the EPA to protect the public from indoor and outdoor activity interference.<sup>38</sup> This analysis includes noise mitigation measures such as acoustically treated buildings and mufflers that would be installed during construction of the station to control noise levels. Noise levels from the compressor station would be further attenuated at the residences Mr. Butsch identifies and the Miami Trace Condominium homes. We are including the EA's recommendation to perform a post-construction noise survey at the nearby NSAs as Environmental Condition 12 of this order. This survey will ensure that installed equipment and mitigation are working effectively to limit noise impacts. Therefore, we find that noise impacts have been adequately mitigated.

51. We also find it speculative to assume that the park might move the campground, let alone where within the park it would be moved, based on projected noise levels or visual impacts. The EA addresses Hamilton County's concerns about impacts on bird and sensitive species within the park, as well as park attendance, impacts on recreational activities, and noise levels.<sup>39</sup> Therefore, we find that impacts on the Miami Whitewater Forest have been sufficiently analyzed.

52. Jim Breitenback comments that the background noise levels for the Harrison Compressor Station were estimated by taking noise measurements during daytime hours only, and were assumed to be the same level during nighttime hours. Mr. Breitenback requests that background noise levels be re-measured during daytime and nighttime hours for estimation of the background  $L_{dn}$ .

53. The EA notes that weather conditions, seasonal vegetation cover, and human activity can cause the magnitude and frequency of environmental noise to vary considerably over the course of a day and throughout the year.<sup>40</sup> Provided background noise levels in the EA are considered estimates that can be based on scientific study data or actual monitored levels to determine the magnitude of existing conditions. The EPA's document, *Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety*, provides an estimate of baseline noise levels in various locations. This document identifies that noise levels in small towns, quiet suburban areas, and suburban residential areas range from 50 to 55 dBA  $L_{dn}$ .

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<sup>38</sup> *Id.* at 27.

<sup>39</sup> *Id.* at 20.

<sup>40</sup> *Id.* at 25.

Texas Gas's application supported this general background information with sample noise measurements during daytime hours, measuring levels that are commensurate with the EPA's study. Texas Gas also estimated, but did not measure, nighttime levels. We find the background levels presented in the EA, including those estimated by Texas Gas, sufficient to describe the magnitude of existing noise levels. Further, we find that noise levels from the compressor station will be adequately mitigated and below the established significance threshold of 55 dBA  $L_{dn}$ .

### *Forest Buffer*

54. Great Parks requests that Texas Gas be required to plant 12.9 acres of trees within the temporary construction workspace to the east and south of the Harrison Compressor Station for the following reasons: 1) to mitigate the loss of 0.8 acre of trees from construction and the loss of bat tree habitat; 2) to mitigate noise impacts on nearby migratory bird habitats and wildlife management areas; 3) to mitigate noise impacts on the campsite within the Miami Whitewater Forest; and 4) to mitigate visual impacts on the Shaker Trace Trail. Although the EA states that a large forested buffer exists between the proposed Harrison Compressor Station and the campground<sup>41</sup> within Miami Whitewater Forest, Great Parks notes that this vegetation buffer is only about 300 feet, all on Great Parks' property. Great Parks asserts that the amount of forest buffer is insufficient to avoid noise impacts at the campsite or visual impacts on the Shaker Trace Trail within the park, and requests that Texas Gas plant trees to provide additional noise and visual mitigation.

55. We disagree. While the minor tree clearing from construction may result in the loss of some trees suitable for bat habitat, Texas Gas has committed to complying with tree clearing restrictions, and the U.S. Fish and Wildlife Service has found this restriction to be acceptable to mitigate impacts on protected bat species.<sup>42</sup>

56. The EA evaluates potential impacts on birds and wildlife, including impacts associated with noise, indicating that the species in the area are accustomed to human disturbances.<sup>43</sup> While Great Parks believes its nearby wildlife management areas require additional noise mitigation in the form of increased forested buffers, the EA concluded that noise levels developed for mitigation to protect nearby residences, as discussed above, would also ensure that the Harrison Compressor Station does not significantly

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<sup>41</sup> The campground is about 1,450 feet southeast of the Harrison Compressor Station equipment.

<sup>42</sup> EA at 17.

<sup>43</sup> *Id.* at 14.

impact the environment, including sensitive wildlife and bird species.<sup>44</sup> The analysis in the EA calculated that noise impacts within the Miami Whitewater Forest, which is the closest of Great Parks' properties, would be less than significant, without including the noise reduction offered by the existing forest buffer. As such, we conclude that noise impacts would not result in a substantial long-term impact on birds and wildlife management areas, and do not necessitate additional tree buffers.

57. The minor tree clearing at the Harrison Compressor Station site would be to the west of the property and would not change the existing tree buffer between the property and the campsite. As discussed above, noise impacts on the campsite were evaluated in the EA and found to be less than significant. The EA also notes that this analysis overestimates noise impacts, as it does not account for any vegetation buffer, although one exists. As such, noise impacts at the campsite are likely to be less than estimated. Therefore, we do not believe additional tree planting is necessary.

58. Finally, the EA explains that the Harrison Compressor Station would be located on land surrounded by light to dense forest vegetation on three of its four sides, providing sufficient visual screening of the facility.<sup>45</sup> At its closest point, the Shaker Trace Trail is about 1,100 feet northeast of the compressor station site. A portion of this trail is outside of the forested portion of the park, and the Harrison Compressor Station may be visible from the trail depending on weather conditions and visual obstructions of sporadic vegetation, several road crossings, and housing developments. However, the tree planting suggested by Great Parks would not provide any additional visual buffer between the station and the trail, so we are not requiring this mitigation.

### *Alternatives*

59. Mr. Butsch believes that certain homes within the Miami Whitewater Forest are too close to Alternative Site 2 for the Harrison Compressor Station, and as such, this alternative should not be considered due to noise, air, and water impacts. Although Alternative Site 2 was evaluated in response to comments, the EA concludes that Alternative Site 2 does not offer a significant advantage over the proposed Harrison Compressor Station site and did not recommend its use.<sup>46</sup> We agree with this conclusion.

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<sup>44</sup> *Id.* at 15.

<sup>45</sup> *Id.* at 20.

<sup>46</sup> *Id.* at 32.

60. Great Parks reiterates its request that the new Harrison Compressor Station be sited in an area with fewer impacts and away from the Miami Whitewater Forest. As an initial matter, the EA thoroughly addresses impacts from the Harrison Compressor Station on all resource areas and concludes that constructing and operating this facility would not result in any significant impacts, including on the Miami Whitewater Forest. However, in response to Great Parks and other scoping comments, the EA evaluates three alternative sites for the compressor station.<sup>47</sup> Two of these sites would result in equal or greater impacts on the Miami Whitewater Forest and were not found to be environmentally preferable. The third alternative considered, Alternative Site 3, is about 0.9 mile southwest of the proposed site (i.e. further from the Miami Whitewater Forest) within an industrial/commercial area. However, this site is not large enough to accommodate construction and operation of the compressor station. Therefore, Alternative Site 3 was found to be infeasible and was not recommended. Based on the alternatives analyzed in the EA, we agree that none of the alternatives are both feasible and provide a significant environmental advantage.

61. We have reviewed the information and analysis contained in the record, including the EA, regarding the potential environmental effect of the Northern Supply Access Project. Based on our consideration of this information, we agree with the conclusions presented in the EA and find that if constructed and operated in accordance with Texas Gas's application, as supplemented, and the conditions imposed herein, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

62. 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.<sup>48</sup>

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<sup>47</sup> *Id.* at 31 and 32.

<sup>48</sup> See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 243 (D.C. Cir. 2013) (holding state and local regulation is preempted by the NGA to the extent it conflicts with federal regulation, or would delay the construction and operation of facilities approved by the Commission); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Texas Gas to construct and operate the Northern Supply Access Project, as described more fully in the application, as supplemented, and in the body of this order.

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned on:

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

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

(3) Texas Gas's compliance with the environmental conditions listed in Appendix B to this order; and

(4) Texas Gas's execution of firm contracts for the capacity levels and terms of service represented in signed precedent agreements in Revised Exhibit I, before commencing construction.

(C) Texas Gas's request to use its existing system rates under Rate Schedule FT as the initial recourse rates for service on the project is approved.

(D) Texas Gas's request for a predetermination supporting rolled-in rate treatment for the costs of the project in its next general NGA section 4 rate proceeding is denied.

(E) Texas Gas's request to utilize its existing Fuel Retention Percentages is granted.

(F) Texas Gas must file its negotiated rate agreements or tariff records describing the essential elements of the agreements at least 30 days, but not more than 60 days, prior to the date the project facilities go into service.

(G) Texas Gas 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 Texas Gas. Texas Gas shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

## Appendix A

### Interventions

Atmos Energy Corporation  
Atmos Energy Marketing LLC  
Exelon Corporation  
Duke Energy Kentucky, Inc. and Duke Energy Ohio, Inc.  
Indiana Gas Company, Inc. and Southern Indiana Gas and Electric Company  
Louisville Gas and Electric Company  
Memphis Light & Water Division  
NJR Energy Services Company  
Public Service Company of North Carolina  
Sequent Energy Management, L.P.  
Tennessee Valley Authority  
Western Tennessee Municipal Group,<sup>49</sup> Jackson Energy Authority,  
City of Jackson, Tennessee, and the Kentucky Cities<sup>50</sup>

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<sup>49</sup> The Western Tennessee Municipal Group consists of the following municipal distributor-customers of Texas Gas: City of Bells, Gas & Water, Bells, Tennessee; Brownsville Utility Department, City of Brownsville, Brownsville, Tennessee; City of Covington Natural Gas Department, Covington, Tennessee; Crockett Public Utility District, Alamo, Tennessee; City of Dyersburg, Dyersburg, Tennessee; First Utility District of Tipton County, Covington, Tennessee; City of Friendship, Friendship, Tennessee; Gibson County Utility District, Trenton, Tennessee; Town of Halls Gas System, Halls, Tennessee; Humboldt Gas Utility, Humboldt, Tennessee; Town of Maury City, Maury City, Tennessee; City of Munford, Munford, Tennessee; City of Ripley Natural Gas Department, Ripley, Tennessee.

<sup>50</sup> The Kentucky Cities are the Cities of Carrollton and Henderson, Kentucky.

## **Appendix B**

### **Environmental Conditions**

1. Texas Gas shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA, unless modified by this Order. Texas Gas 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 this Order; and
  - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
  
3. **Prior to any construction**, Texas Gas 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 alignment sheets. **As soon as they are available, and before the start of construction**, Texas Gas shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by 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.

Texas Gas's exercise of eminent domain authority granted under the Natural Gas Act section 7(h) in any condemnation proceedings related to this Order must be consistent with these authorized facilities and locations. Texas Gas's right of eminent domain granted under the Natural Gas Act section 7(h) does not authorize them to increase the size of their natural gas facilities to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Texas Gas shall file with the Secretary detailed alignment maps and aerial photographs at a scale not smaller than 1: 6,000 identifying all facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area.**

This requirement does not apply to extra workspace allowed by our Upland Erosion Control, Revegetation, and Maintenance Plan and/or minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
  - b. implementation of endangered, threatened, or special concern species mitigation measures;
  - c. recommendations by state regulatory authorities; and
  - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of the Certificate and before construction begins**, Texas Gas shall file an Implementation Plan for the Project with the Secretary for review and written approval by the Director of OEP. Texas Gas must file revisions to its plan as schedules change. The plan shall identify:
    - a. how the company 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 this Order;
- b. how the company 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 the company 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 the company's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) the company will follow if noncompliance occurs; and
  - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - (1) the completion of all required surveys and reports;
    - (2) the environmental compliance training of onsite personnel;
    - (3) the start of construction; and
    - (4) the start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, Texas Gas shall file updated status reports for the Project 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 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 the company from other federal, state, or local permitting agencies concerning instances of noncompliance, and Texas Gas's response.
8. **Prior to receiving written authorization from the Director of OEP to commence construction of the Northern Supply Access Project (Project) facilities**, Texas Gas shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
9. Texas Gas must receive written authorization from the Director of OEP **before placing its Project into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the areas affected by the Project are proceeding satisfactorily.
10. **Within 30 days of placing its authorized facilities in service**, Texas Gas 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 Certificate conditions Texas Gas 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. Texas Gas shall not begin construction of facilities and/or use of staging, storage, or temporary work areas and new or to-be-improved access roads **until**:
- a. Texas Gas files with the Secretary updated "Blanket Environmental Clearances" with the Louisiana, Mississippi, and Tennessee State Historic Preservation Offices, applicable to Texas Gas's planned 2016 construction activities; and
  - b. the Director of OEP notifies Texas Gas in writing that construction may proceed.

12. Texas Gas shall file noise surveys with the Secretary **no later than 60 days** after placing the new Harrison Compressor Station and modified Bastrop and Dillsboro Compressor Stations in service. If a full load condition noise survey is not possible, Texas Gas shall provide an interim survey at the maximum possible horsepower load and provide the full load survey **within 6 months**. If the noise attributable to the operation of the modified compressor station at full or interim power load conditions exceeds existing noise levels at any nearby noise sensitive areas (NSAs) that are currently at or above a day-night sound level ( $L_{dn}$ ) of 55 decibels on the A-weighted scale (dBA), or exceeds 55 dBA  $L_{dn}$  at any nearby NSAs that are currently below 55 dBA  $L_{dn}$ , Texas Gas shall file a report on what changes are needed and should install the additional noise controls to meet the level **within 1 year** of the in-service date. Texas Gas 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.