

154 FERC ¶ 61,256
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Florida Gas Transmission Company, LLC

Docket No. CP15-144-000

ORDER ISSUING CERTIFICATE

(Issued March 30, 2016)

On March 31, 2015, Florida Gas Transmission Company, LLC (FGT) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations² for a certificate of public convenience and necessity requesting authorization to construct and operate pipeline, compression, and other facilities in Suwannee, Columbia, Bradford, and Clay Counties, Florida (Jacksonville Expansion Project). As discussed below, the Commission will grant the requested authorization, subject to conditions.

I. Background and Proposal

1. FGT, a Delaware limited liability company,³ is a natural gas company, as defined in section 2(6) of the NGA.⁴ FGT owns and operates a 5,300-mile-long pipeline system that extends through Texas, Louisiana, Mississippi, Alabama, and Florida.

¹ 15 U.S.C. § 717f(c) (2012).

² 18 C.F.R. pt. 157 (2015).

³ FGT is a direct, wholly-owned subsidiary of Citrus Corporation, a holding company jointly owned by El Paso Citrus Holdings, Inc. and CrossCountry Citrus, LLC. El Paso Citrus Holdings is an indirect, wholly-owned subsidiary of Kinder Morgan, Inc. CrossCountry Citrus, LLC, is a direct, wholly-owned subsidiary of several direct, wholly-owned subsidiaries of Energy Transfer Partners, L.P.

⁴ 15 U.S.C. § 717a(6) (2012).

2. The Jacksonville Expansion Project would modify a small segment of FGT's system in North Florida. The existing mainline in the proposed project area comprises 24 and 36-inch-diameter pipeline, with portions of these pipes having parallel 30-inch-diameter looping. The looping ends near milepost (MP) 518.3 and, approximately 30 miles away, the mainline connects with Compressor Station 16.⁵ At Compressor Station 16, the mainline also connects with the Jacksonville Lateral, a 16-inch-diameter pipeline with 20-inch-diameter looping that extends from Compressor Station 16 to MP 15.5.

3. For its Jacksonville Expansion Project, FGT proposes to construct and operate the following pipeline looping, compression, and associated auxiliary facilities:

- approximately 3 miles of 30-inch-diameter mainline loop (Branford Loop) on FGT's mainline, beginning at MP 518.3 and ending at MP 521.3, as well as various auxiliary facilities, including a new pig launcher on FGT's mainline at MP 515.3 and pig receiver at MP 521.3, in Columbia and Suwannee Counties;⁶
- approximately 5.7 miles of 20-inch-diameter loop (Jacksonville Loop) on the Jacksonville Lateral, beginning at MP 15.5 and ending at MP 21.2 at the existing Brandy Branch-Peoples Gas Meter Station, as well as auxiliary facilities, including a new regulation station at MP 21.2 and the relocation of a pig receiver from MP 15.5 to MP 21.2, in Bradford and Clay Counties;⁷ and
- a new reciprocating gas driven 5,000 horsepower compressor unit and various auxiliary facilities, as well as re-wheeling of existing unit 1607 at Compressor Station 16 in Bradford County.

4. FGT states that the proposed project is needed to enable it to provide up to 15,000 MMBtu per day of firm transportation service at 800 pounds per square inch gage (psig) to the SeaCoast and Brandy Branch delivery points on the Jacksonville Lateral.⁸ The proposed Branford Loop will increase the pressure at the Compressor Station 16

⁵ From Compressor Station 16, FGT's mainline extends to South Florida.

⁶ The proposed Branford Loop will parallel FGT's existing 36-inch-diameter and 24-inch-diameter mainlines.

⁷ The proposed Jacksonville Loop will parallel the existing 16-inch-diameter Jacksonville Lateral extending from the terminus of the existing 20-inch-diameter loop.

⁸ All the proposed modifications, including those to the mainline, are designed to enable FGT to provide additional service on the Jacksonville Lateral.

inlet, which will allow FGT to connect the Jacksonville Lateral to the Compressor Station 16 outlet. Once Compressor Station 16 is connected to the Jacksonville Lateral, pressures on the lateral will increase to enable provision of the additional transportation service at the requested delivery pressure.

5. On October 6, 2014, FGT entered into a precedent agreement with Peoples Gas System, a division of Tampa Electric Company (Peoples Gas), for firm transportation service under existing Rate Schedules FTS-3 and FTS-2.⁹ Before the proposed facilities are placed into service, FGT proposes to provide up to 60,000 MMBtu per day of firm service under Rate Schedule FTS-3 and up to 30,000 MMBtu per day of firm seasonal service under FTS-2. Once the project facilities are placed into service, FGT will provide Peoples Gas with up to 75,000 MMBtu per day of firm service under FTS-3 and up to 60,000 MMBtu per day of seasonal service under FTS-2. However, FGT notes that the 60,000 MMBtu per day of firm service under Rate Schedule FTS-3 and the seasonal firm service under Rate Schedule FTS-2 can be provided without the additional facilities proposed herein.¹⁰ The proposed facilities are only needed to provide 15,000 MMBtu per day of firm service to the Jacksonville Lateral's SeaCoast and Brandy Branch delivery points.¹¹ Following the execution of the precedent agreement with Peoples Gas, FGT held an open season for the prearranged transportation capacity from November 4 through November 11, 2014. No party submitted a request for service.

6. FGT estimates the cost of the Jacksonville Expansion Project to be approximately \$46.5 million. FGT proposes to establish its existing system rates under Rate Schedule FTS-3 as the initial recourse rates for project service. FGT also requests a predetermination that it can roll the costs and billing determinants associated with the

⁹ FGT's system is divided into two service regions: the Western Division, which extends from Texas to the Alabama-Florida state line; and the Market Area, which lies within Florida. FGT provides firm transportation service within the Western Division under Rate Schedule FTS-WD, and to and within the Market Area under several rate schedules, which have historically included Rate Schedules FTS-1, FTS-2, and FTS-3. FGT's recently approved rate settlement rolls Rate Schedule FTS-2 into Rate Schedule FTS-1, and this rolled-in rate will recover the costs of FGT's facilities through its 2008 Phase VII expansion. *See Florida Gas Transmission Co., LLC*, 129 FERC ¶ 61,150 (2009); *Florida Gas Transmission Co., LLC*, 153 FERC ¶ 61,279 (2015). Rate Schedule FTS-3 recovers the costs of FGT's Phase VIII expansion, which was placed into service in April 2011. *See Florida Gas*, 129 FERC ¶ 61,150, at P 1.

¹⁰ Application at 4; FGT July 8, 2015 Data Response No. 1 at 5-6; FGT December 4, 2015 Data Response No. 2 at 5.

¹¹ Data Response No. 1 at 5.

proposed facilities into Rate Schedule FTS-3 in its next NGA section 4 rate proceeding. Peoples Gas has elected to pay a negotiated rate.

7. Prior to requesting authorization for the proposed project, on October 31, 2014, FGT filed a NGA general section 4 rate case. The Commission accepted and suspended FGT's proposed rates and set them for hearing.¹² On September 11, 2015, FGT filed a settlement, which the Commission approved as uncontested on December 4, 2015.¹³ Among other things, the settlement established rates for two consecutive 36-month periods. It also directs FGT to file a new NGA general section 4 rate case on the fifth anniversary of the effective date of the settlement and established a rate filing moratorium in the interim.

II. Notice, Interventions, and Protests

8. Notice of FGT's application was published in the *Federal Register* on April 17, 2015.¹⁴ Florida Power & Light Company, Duke Energy Florida, Inc., and Peoples Gas filed timely, unopposed motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214(c) of the Commission's Rules of Practice and Procedure.¹⁵

9. Pivotal Utility Holdings, Inc. d/b/a Florida City Gas (Pivotal) and JEA¹⁶ filed late, unopposed motions to intervene. Pivotal and JEA have demonstrated an interest in this proceeding and have shown that their participation will not delay, disrupt, or unfairly prejudice any other parties to the proceeding. Accordingly, we will grant Pivotal and JEA's late motions to intervene.¹⁷

10. Peoples Gas filed comments supporting the project, explaining that FGT's proposed facilities will help ensure the delivery of gas to the SeaCoast and Brandy Branch delivery points and allow Peoples Gas to meet the growing demands of its customer base in Florida.

¹² *Florida Gas Transmission Co., LLC*, 149 FERC ¶ 61,188 (2014).

¹³ *Florida Gas*, 153 FERC ¶ 61,279 (2015).

¹⁴ 80 Fed. Reg. 21,233 (2015).

¹⁵ 18 C.F.R. § 385.214(c) (2015).

¹⁶ JEA was formally known as "Jacksonville Electric Authority," and is the utility authority for the City of Jacksonville, Florida.

¹⁷ *See* 18 C.F.R. § 385.214(d) (2015).

III. Discussion

11. Because the proposed facilities will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.¹⁸

A. The Certificate Policy Statement

12. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.¹⁹ 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.

13. Under this policy, the threshold requirement for applicants proposing new projects is that the applicant 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.

¹⁸ 15 U.S.C. §§ 717f(c), 717f (e) (2012).

¹⁹ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000), *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

14. 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. To ensure that existing customers do not subsidize expansion projects, Commission policy generally requires that incremental rates be established for services utilizing expansion capacity unless such incremental rates would be lower than the existing generally applicable rates, in which case the existing rates are approved as the initial recourse rates for the expansion service.²⁰ However, even when incremental rates would be higher than the existing rates, a pipeline may nonetheless use its existing rates as initial recourse rates for project service as long as existing customers are protected from subsidizing the expansion project.²¹

15. Here, the Commission finds that properly calculated incremental rates based on the expansion capacity and costs would be higher than FGT's existing rates under Rate Schedule FTS-3. Nevertheless, FGT is proposing to use its existing rates under Rate Schedule FTS-3 as the initial recourse rates for project service. As indicated above, this is acceptable, as long as steps are taken to protect existing customers from subsidizing the project. As discussed below, the Commission is denying FGT's request for a predetermination that it may roll the Jacksonville Expansion Project's costs into its system rates in a future section 4 rate case. This step is sufficient to protect existing shippers. Accordingly, we find that the threshold no-subsidy requirement has been met.

16. FGT's proposed expansion facilities will not degrade service to its existing customers. In addition, there will be no adverse impact on other pipelines in the region or their captive customers because the proposal is not designed to replace service on other pipelines. We note that no pipeline company or their captive customers have filed adverse comments to FGT's proposal.

17. FGT proposes to construct the Jacksonville Expansion Project within existing rights-of-way and on the yard of its existing Compressor Station 16. Further, the Commission did not receive any adverse comments on the project. Thus, the Commission finds that FGT has designed the project to minimize potential impacts to landowners and surrounding communities.

18. FGT's proposed Jacksonville Expansion Project will help Peoples Gas meet the growing demands of its customers. Based on the benefits the project will provide to Peoples Gas and the minimal adverse effect on existing shippers, other pipelines and their captive customers, and landowners and surrounding communities, the Commission finds,

²⁰ See, e.g., *Texas Eastern Transmission, LP*, 146 FERC ¶61,086, at P 60 (2014), and *Gulf South Pipeline Company, L.P.*, 119 FERC ¶61,281, at P 33 (2007).

²¹ See, e.g., *N. Nat. Gas Co.*, 146 FERC ¶ 61,194, at P 18 (2014).

consistent with the criteria discussed in the Certificate Policy Statement and section 7(c) of the NGA, and subject to the environmental discussion and conditions included in this order, that the public convenience and necessity requires approval of FGT's proposal, as conditioned in this order.

B. Rates

1. Initial Recourse Rates

19. FGT proposes to use its currently-effective rates under Rate Schedule FTS-3 as the recourse rates for service on the Jacksonville Expansion Project, including all other applicable charges and surcharges. Based on a settlement approved by the Commission, FGT's currently-effective reservation and usage charges under Rate Schedule FTS-3 are \$1.3299 per MMBtu and \$0.0023 per MMBtu, respectively.²²

20. As noted above, a rate properly calculated to recover the costs associated with the Jacksonville Expansion Project facilities would be higher than FGT's existing applicable system rates. However, with our denial below of FGT requested predetermination of rolled-in rate treatment, approval of FGT's proposal to use its currently-effective Rate Schedule FTS-3 rates as the recourse rates for the Jacksonville Expansion Project will not result in subsidization by existing customers. Accordingly, we approve FGT's request to use its currently-effective Rate Schedule FTS-3 rates as the initial recourse rates for the expansion project.

2. Predetermination of Rolled-In Rate Treatment for Project Costs

21. FGT requests a predetermination that it may roll the project costs into its existing rates under Rate Schedule FTS-3 in its next NGA section 4 rate proceeding.²³

22. To receive authorization for rolled-in rate treatment for expansion facilities, 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 project costs. 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 section 4 proceeding, we compare the cost of the project to the revenues generated using actual contract volumes and either the

²² See *Florida Gas*, 153 FERC ¶ 61,279.

²³ Application at 9.

maximum recourse rate or, if the negotiated rate is lower than the recourse rate, the actual negotiated rate.²⁴

23. We find that FGT has not justified its request for a predetermination of rolled-in rate treatment for project costs. Specifically, FGT has not shown that annual revenues generated from the expansion capacity will exceed the project's annual costs. FGT states in its application that its Exhibit N sheet entitled "Comparison of Proposed Revenues to Cost of Service" analysis shows that the estimated revenues from the proposed expansion facilities would exceed the project's cost of service.²⁵ However, FGT's analysis includes revenues generated using the contract volumes for both the service being provided using the capacity made available by the project facilities and the service FGT is able to provide using only existing capacity. A proper comparison requires excluding the revenues associated with service being provided using solely the existing capacity. Once those revenues are eliminated from the analysis and only revenue associated with the actual contract volumes utilizing the project facilities is considered, project revenues do not appear to exceed project costs.²⁶ Therefore, the Commission denies the request for a predetermination. This denial is without prejudice to FGT filing for and fully supporting rolled-in rate treatment for the Jacksonville Expansion Project facilities in a future NGA general section 4 rate case.

24. To ensure that project costs are properly allocated, the Commission directs FGT to keep separate books and accounting of costs, including fuel, attributable to the Jacksonville Expansion Project. The books should be maintained with applicable cross-references, as required by section 154.309 of the Commission's regulations. This information must be in sufficient detail so that the data can be identified in Statements G, I, and J in any future NGA section 4 or 5 rate case and the information must be provided consistent with Order No. 710.

3. Negotiated Rates

25. FGT must file its negotiated rate agreement or tariff record describing the negotiated rate agreement associated with this project in accordance with the Alternative

²⁴ See *Tennessee Gas Pipeline Co., L.L.C.*, 144 FERC ¶ 61,219, at P 22 (2013).

²⁵ Application at 9.

²⁶ See Application at Exhibit N, 9.

Rate Policy Statement²⁷ and the Commission's negotiated rate policies.²⁸ Consistent with Commission policy, FGT must either file the shipper's negotiated rate agreements or a tariff record setting forth the essential terms of these agreements at least 30 days, but not more than 60 days, before the proposed effective date for such rates.²⁹

C. Environmental Review

26. On May 19, 2015, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI). The NOI was published in the *Federal Register*³⁰ and mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners. In response to the NOI, the Commission received consultation letters from the Florida Department of State and the Seminole Tribe of Florida. Our consultations with the Florida Department of State and the Seminole Tribe of Florida are summarized in the Environmental Assessment (EA). No affected landowners provided comments.

27. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA),³¹ Commission staff prepared an EA for the proposed Jacksonville Expansion Project. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives.

²⁷ *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).

²⁸ *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).

²⁹ 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.

³⁰ 80 Fed. Reg. 30,069 (2015).

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

28. We have reviewed the information and analysis contained in the EA and, based on the above, we agree with the conclusions presented in the EA. We find that if operated in accordance with FGT's application, as supplemented, and in compliance with the environmental conditions in the appendix to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

29. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. We encourage cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.³²

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

The Commission orders:

(A) A certificate of public convenience and necessity is issued to FGT authorizing the construction and operation of the Jacksonville Expansion Project, as more fully described herein, and in the application.

(B) FGT's request for authority to provide service for the Jacksonville Expansion Project at its currently-effective rates under Rate Schedule FTS-3 is approved, as more fully discussed above.

(C) FGT is required to account for the construction and operating costs and revenues for the project separately in accordance with section 154.309 of the Commission's regulations, as more fully discussed above.

(D) FGT's request for a predetermination that it may roll the costs of its proposed Jacksonville Expansion Project into its Rate Schedule FTS-3 cost of service is denied, for the reasons discussed herein.

³² 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 they conflict 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).

(E) FGT shall file the negotiated rate agreements or tariff records at least 30 days, but not more than 60 days, prior to the commencement of service.

(F) Prior to commencement of construction, FGT must execute contracts for service at levels and under terms and conditions equivalent to those which it represented were subscribed under the precedent agreement.

(G) The certificates issued herein are conditioned on FGT's compliance with the environmental conditions set forth in the appendix to this order and all of the applicable regulations under the NGA 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.

(H) The facilities authorized here shall be constructed and made available for service within two years of the date of the order in this proceeding, as required by section 157.20(b) of the Commission's regulations.

(I) FGT shall notify the Commission's environmental staff by telephone, e-mail, and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies FGT. FGT shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

(J) Pivotal's and JEA's untimely motions to intervene are granted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Environmental Conditions

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

1. FGT shall follow the construction procedures and mitigation measures described in its application and supplements, including responses to staff data requests, as identified in the EA, unless modified by this Order. FGT 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 activities associated with the 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 ensure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, FGT shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (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**, FGT shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by 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.

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

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

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

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

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual landowners that affect other landowners or could adversely affect sensitive environmental areas.
6. **At least 60 days before construction begins**, FGT shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. FGT must file revisions to the plan as schedules change. The plan shall identify:

- a. how FGT will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff environmental information requests), identified in the EA, and required by this Order;
 - b. how FGT will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - c. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
 - d. the location and dates of the environmental compliance training and instructions FGT will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
 - e. the company personnel (if known) and specific portion of FGT's organization having responsibility for compliance;
 - f. the procedures (including use of contract penalties) FGT will follow if noncompliance occurs; and
 - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (1) the completion of all required surveys and reports;
 - (2) the environmental compliance training of onsite personnel;
 - (3) the start of construction; and
 - (4) the start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, FGT shall file updated status reports with the **Secretary on a monthly bi-weekly basis until all construction and restoration activities are complete**. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on FGT's efforts to obtain the necessary federal authorizations;
 - b. the construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally-sensitive areas;
 - c. a listing of all problems encountered and each instance of noncompliance observed by the EI 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 that 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 FGT from other federal, state, or local permitting agencies concerning instances of noncompliance, and FGT's response.
8. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, FGT shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
9. FGT must receive written authorization from the Director of OEP **before placing the project into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
10. **Within 30 days of placing the authorized facilities in service**, FGT shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been abandoned, constructed and installed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the certificate conditions FGT has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. **Prior to construction**, FGT shall file with the Secretary confirmation that the Florida State Historical Preservation Office and interested Indian tribes were provided an opportunity to review and comment on the project-specific Plan for the Unexpected Discovery of Cultural Resources and Human Remains. If comments were provided, FGT shall file a revised Plan for the Unexpected Discovery of Cultural Resources and Human Remains that responds to their concerns, for the review and approval of the Director of OEP.
12. FGT **shall not begin construction** of facilities or use any staging, storage, or temporary work areas and new or to-be-improved access roads **until**:
 - a. FGT files with the Secretary:
 - (1) cultural resources survey reports covering access roads;

- (2) evaluation reports, and avoidance or treatment plans for any sites identified along the access roads, as necessary; and
 - (3) comments on the cultural resources reports and plans from the Florida State Historical Preservation Office and interested Indian tribes.
- b. the Advisory Council on Historic Preservation is afforded an opportunity to comment if any historic properties would be adversely affected.
 - c. the Commission staff reviews and the Director of OEP approves the cultural resources reports and plans, and notifies FGT in writing that treatment plans (including archaeological data recovery) may be implemented and/or construction may proceed.

All materials filed with the Commission containing location, character, and ownership information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: “CONTAINS PRIVILEGED INFORMATION - DO NOT RELEASE.”

13. **Prior to construction**, FGT shall file the results of an air quality screening (AERSCREEN), or refined modeling analysis (AERMOD or EPA-approved alternative) for all of the emission generating equipment (including existing equipment) at Compressor Station 16. The results shall demonstrate that the modeled existing emissions, plus the modeled incremental increase in emissions of criteria pollutants from the modifications either:
 - a. results in local concentrations below the National Ambient Air Quality Standards (NAAQS) where current modeled concentrations from the existing compressor station (existing and ambient background) are below the NAAQS; or
 - b. does not cause or contribute to significantly increased local area concentrations above the NAAQS where the current ambient background concentrations are currently above the NAAQS.
14. FGT shall conduct a noise survey at Compressor Station 16 to verify that the noise from all the equipment operated at full capacity does not exceed the previously existing noise levels that are at or above a day-night sound level of 55 A-weighted decibels at the nearby noise-sensitive areas. If a full load condition noise survey is not possible, FGT shall provide an interim survey at the maximum possible horsepower load and provide the full load survey **within six months**. The results of this noise survey shall be filed with the Secretary **no later than 60 days** after placing the modified units in service. If any of these noise levels are exceeded, FGT shall, **within one year** of the in-service date, implement additional noise control measures to reduce the operating noise level at the noise-sensitive areas to or below the previously existing noise level. FGT shall confirm compliance with this requirement by

filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.