

156 FERC ¶ 61,021
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Transcontinental Gas Pipe Line Company, LLC

Docket No. CP15-527-000

ORDER ISSUING CERTIFICATE AND GRANTING ABANDONMENT

(Issued July 7, 2016)

1. On July 8, 2015, Transcontinental Gas Pipe Line Company, LLC (Transco) filed an application pursuant to section 7(b) and 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations requesting authorization to construct, operate, and abandon facilities at its proposed New York Bay Expansion Project. As discussed below, the Commission will grant the requested authorization, subject to certain conditions.

I. Background and Proposal

2. Transco is a natural gas pipeline company engaged in the transportation of natural gas in interstate commerce by means of its natural gas transmission system extending from Texas, Louisiana, and the offshore Gulf of Mexico area, through Mississippi, Alabama, Georgia, South Carolina, North Carolina, Virginia, Maryland, Pennsylvania, and New Jersey, to its termini in the New York City metropolitan area.

3. The New York Bay Expansion Project would provide 115,000 dekatherms per day (Dth/d) of incremental firm transportation service for The Brooklyn Union Gas Company, d/b/a National Grid NY (National Grid NY). The 115,000 Dth/day would include 65,000 Dth/d from Compressor Station 195 in York County, Pennsylvania to the Rockaway Transfer Point on Transco's New York Bay Lateral, and 50,000 Dth/d from Compressor Station 195 to the Narrows Meter Station in Richmond County, New York.

¹ 15 U.S.C. §§ 717f(b) and (c) (2012).

4. Transco proposes to: (i) add a new electric motor-driven 11,000 horsepower (hp) compressor unit at its Compressor Station 207 in Middlesex County, New Jersey; (ii) increase by 2,140 hp the total authorized horsepower at Compressor Station 200 in Chester County, Pennsylvania; (iii) uprate an existing electric compressor unit by 2,500 hp at Compressor Station 303 in Essex County, New Jersey; (iv) abandon by removal three segments of the Lower New York Bay Lateral located in Middlesex County, New Jersey, and replace the segments with approximately 0.25 miles of 42-inch pipe in an adjacent trench within an existing right-of-way; (v) add regulators and perform modifications at the Morgan Meter and Regulator Station in Middlesex County, New Jersey; (vi) modify the Narrows Meter Station in Richmond County, New York; (vii) install approximately 80 feet of 30-inch-diameter piping and modify certain facilities at the Downingtown Meter and Regulator Station in Chester County, Pennsylvania; and (viii) construct related appurtenances. Transco estimates the cost of the New York Bay Expansion Project to be approximately \$112 million.

5. Transco executed a binding precedent agreement with National Grid NY for 115,000 dekatherms (Dth) per day (Dth/d) of firm transportation service using the capacity created by the New York Bay Expansion Project. Transco then held an open season from March 6 through March 26, 2015, during which Transco offered firm transportation service to other shippers. However, Transco received no other acceptable requests for firm transportation service. The service agreement with National Grid NY has a primary term of 15 years. Transco states that National Grid NY will pay the applicable maximum recourse reservation and commodity rates and all other applicable charges, surcharges, and fuel retention under Transco's Rate Schedule FT.

6. Transco proposes to establish incremental recourse reservation and commodity charges under Rate Schedule FT for firm service using the project capacity.

II. Notice and Interventions

7. Notice of Transco's application was published in the *Federal Register* on July 27, 2015 (80 Fed. Reg. 44,338). The parties listed in Appendix A filed timely, unopposed motions to intervene.² The New York Public Service Commission filed an untimely, unopposed motion to intervene. We find that the untimely motion to intervene will not delay, disrupt, or unfairly prejudice any parties to this proceeding, and will therefore grant it pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure.

² Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedures. See 18 C.F.R. § 385.214 (2015).

III. Discussion

8. Since the proposed project includes the abandonment of existing facilities and the construction and operation of facilities used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, the proposal is subject to the requirements of subsections (b), (c) and (e) of section 7 of the NGA.³

A. Certificate Policy Statement

9. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.⁴ The Certificate Policy Statement establishes criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explains that in deciding whether to authorize the construction of major new natural gas facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

10. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the construction. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is 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.

³ 15 U.S.C. § 717f (2012).

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

11. As discussed above, the threshold requirement for pipelines proposing new projects is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. The Commission has determined that, in general, where a pipeline proposes to charge incremental reservation rates for new construction, as is the case here, the pipeline satisfies the threshold requirement that the project will not be subsidized by existing shippers.⁵

12. We also find that the proposal will not degrade service to Transco's existing customers. Additionally, there will be no adverse impact on other pipelines in the region or their captive customers because the proposal is not intended to replace service on other pipelines. Further, no pipeline company or their captive customers has protested Transco's application.

13. We also find that the New York Bay Expansion Project will have limited impacts on landowners and communities affected by the project. Transco will construct nearly all of the project activities within Transco's existing rights-of-way and/or property boundaries of Transco's existing facilities.

14. The New York Bay Expansion Project will provide additional infrastructure to provide incremental firm transportation service for National Grid NY, who has subscribed to the entire 115,000 Dth/d of project capacity. Based on the benefits the project will provide and the minimal adverse impacts on existing shippers, other pipelines and their captive customers, and landowners and surrounding communities, we find, consistent with the Certificate Policy Statement and NGA section 7(c), that the public convenience and necessity requires approval of Transco's proposal, subject to the conditions discussed below. Further, we find that the public convenience and necessity permits Transco's abandonment of the three segments of the Lower New York Bay Lateral under 7(b) of the NGA.

B. Rates

15. Transco proposes to establish incremental recourse reservation and commodity rates for firm service under Rate Schedule FT using the expansion capacity. In addition, Transco proposes to charge National Grid NY its allocated share of fuel and electric power costs attributable to the project.

Initial Recourse Rates

⁵ See, e.g., *Transcontinental Gas Pipe Line Corp.*, 98 FERC ¶ 61,155 (2002).

16. Transco proposes an initial incremental daily firm reservation charge of \$0.55296 per Dth. This reservation charge was calculated by dividing the annual incremental cost of service of \$23,210,396 by an annual transportation quantity of 41,975,000 Dth (115,000 Dth/d multiplied by 365 days). Transco proposes a commodity charge of \$0.00428 per Dth. This commodity charge was calculated by dividing Transco's annual variable costs of \$179,595⁶ by 41,975,000 Dth. The pre-tax return Transco used in the derivation of its Cost of Service is the pre-tax return underlying the design of its settlement rates in Docket No. RP01-245-000.⁷ Transco states that it used the currently effective depreciation rate of 2.61 percent, which Transco states is the onshore depreciation rate (including negative salvage) included in the Stipulation and Agreement filed on August 29, 2013 in Docket No. RP12-993-000.⁸

17. The Certificate Policy Statement presumes an incremental rate for firm service is appropriate when the incremental rate would be in excess of the maximum system rate.⁹ Transco's proposed incremental daily firm reservation charge of \$0.55296 per Dth is higher than its generally applicable system Zone 6-6 Rate Schedule FT recourse reservation charge of \$0.12984 per Dth. However, its proposed commodity charge of \$0.00428 per Dth is lower than its generally-applicable system commodity charge of \$0.00486 per Dth.¹⁰ The Commission has reviewed the proposed cost of service and the proposed daily incremental reservation charge for the New York Bay Expansion Project and finds they are reasonable. As Transco's proposed commodity charge is lower than its generally-applicable system commodity charge, we will require the use of Transco's

⁶ In Exhibit P, Transco provided a breakdown of projected Operation and Maintenance and Administration and General Expenses by FERC account number and labor and non-labor costs for the proposed new compression and measurement and regulation facilities that was used to classify fixed and variable costs.

⁷ *Transcontinental Gas Pipe Line Corp.*, 100 FERC ¶ 61,085 (2002) (order approving partial stipulation and agreement issued on July 23, 2002).

⁸ *Transcontinental Gas Pipe Line Co., LLC*, 145 FERC ¶ 61,205 (2013).

⁹ Certificate Policy Statement, 88 FERC ¶ 61,227 at 61,744 (1999) (“[w]hen a pipeline proposes to charge a cost-based incremental rate (establishing separate costs-of-service and separate rates for the existing and expansion facilities) higher than its existing generally applicable rates, the Commission usually approves the proposal.”).

¹⁰ *Transcontinental Gas Pipe Line Company, LLC*, FERC NGA Gas Tariff, Fifth Revised Volume No. 1, [Section 1.1.1, FT - Non-Incremental Rates, 14.0.0.](#)

system rate as the commodity charge for firm service using the incremental capacity created by the project.¹¹

18. Finally, Commission policy requires a pipeline to establish its currently-effective 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.¹²

19. The Commission directs Transco 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. 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. 710.¹³

Fuel Retention and Electric Power Charge

20. Transco proposes to assess National Grid NY its allocated share of fuel and electric power for transportation service under this project. The costs will be allocated based on certificated horsepower installed for the project at each respective compressor station compared to the station's total certificated horsepower. Any difference between the project's fuel and electric power costs and the Zone 6-6 fuel and electric power costs will be deferred and directly assigned to National Grid NY in the form of fuel retention and electric power surcharges. Transco provided a fuel and electric power study which showed an estimated annual increase in fuel usage of 66.71 MMscf (67,705 Dth) at Compressor Station 200, an estimated annual increase of electric power usage of 775,097 kwh/year at Compressor Station 207, and an estimated annual increase of electric power usage of 251,360 kwh/year at Compressor Station 303.¹⁴

¹¹ See, e.g., *Tennessee Gas Pipeline Co., L.L.C.*, 154 FERC ¶ 61,191, at P 22 (2016).

¹² 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), and *Kern River Gas Transmission Co.*, 117 FERC ¶ 61,077, at PP 313-14 and 326 (2006).

¹³ *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, *FERC Stats. & Regs.* ¶ 31,267, at P 23 (2008).

¹⁴ See Transco's January 27, 2016 Data Response.

21. The Commission approves Transco's proposal to recover fuel and electric power costs from the expansion shipper through a two-part charge: the Zone 6-6 fuel and electric charges plus a surcharge for the differential between allocated costs and costs recovered through the system fuel and electric charges. This will ensure that fuel and electric power costs attributable to the proposed expansion will be the responsibility of the expansion shipper, not existing customers.

22. Existing shippers can review the costs in Transco's periodic tracker filings¹⁵ to verify that only the expansion shipper is assessed fuel and electric power costs associated with the project.

C. Environmental Analysis

23. On October 8, 2015, the Commission issued its *Notice of Intent to Prepare an Environmental Assessment for the Proposed New York Bay Expansion Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to about 440 individuals, organizations, federal and state agency representatives, county and local government agencies, elected officials, the local newspaper and library, and property owners adjacent to the pipeline to be replaced and within 0.5 mile of the compressor stations to be modified. The NOI requested written comments from the public on the scope of analysis for the environmental assessment (EA). The public scoping period closed on November 8, 2015.

24. In response to the NOI, we received comments from the New Jersey Department of Environmental Protection (NJDEP), the New Jersey State Historic Preservation Office, the Pennsylvania Department of Environmental Protection, and two citizens. The primary issues raised by the commenters regarded permits required for natural gas transmission construction projects in each state, specific questions for Transco regarding the operation of the facilities, and concerns about a possible interconnect to a liquefied natural gas terminal.

25. To satisfy the requirements of the National Environmental Policy Act of 1969,¹⁶ our staff prepared an EA for Transco's proposal. The EA addresses geology and soils, water resources, vegetation and wildlife, land use, recreation and visual resources,

¹⁵ Transco recovers its fuel and electric power costs pursuant to annual fuel and electric power costs trackers.

¹⁶ 42 U.S.C. §§ 4321-4370f (2006).

cultural resources, air quality and noise, reliability and safety, cumulative impacts, and alternatives. The EA addresses all substantive comments filed in response to the NOI.

26. The EA was issued for a 30-day comment period and placed into the public record on April 3, 2016. The Commission received comments on the EA from: Transco; the U.S. Environmental Protection Agency (EPA) Region 2; the Chester County Planning Commission (CCPC); the Chester County Water Resources Authority (CCWRA); and the NJDEP. The Commission also received a letter from the New York Department of State regarding the project.

1. Clarifications

27. On April 28, 2016, Transco submitted comments to update and clarify certain information presented in the EA. On June 2, 2016, Transco filed comments to correct the April 28 comments. Notably, Transco clarifies that the scope of work at Compressor Station 303 is a re-wheel of Unit 1, not a re-gear of the gearbox for Unit 1, and is indeed requesting an uprate of 2,500 horsepower. This correction does not change the conclusions set forth in the EA.

28. Transco also corrects several table notations of acreages to be impacted, notes that no agricultural area is to be impacted, and emphasizes the limited nature of tree clearing at project sites in Pennsylvania and New York. These clarifications provided by Transco are noted, and we find that they do not change the conclusions set forth in the EA.

29. On April 18, 2016, the New York Department of State filed a letter concurring with the consistency certification for the project regarding the New York Coastal Management Program. The EA incorrectly suggested this state-level concurrence had been issued on January 28, 2016; however, this was merely the date of the original consistency certification from the New York City Department of Planning and not the corresponding concurrence from the New York Department of State.

2. Land Use and Miscellaneous Comments

30. EPA Region 2 concludes that, based on its review of the EA, no significant adverse environmental impacts are expected from the project. However, EPA notes that Compressor Station 303 is located within a 100-year floodplain, and recommends that the Commission consider climate adaptation measures pursuant to the National Climate Assessment released by the U.S. Global Change Research Program (USGCRP). EPA

suggests that such a review may “inform alternatives analysis and possible changes to the proposal.”¹⁷

31. We disagree. The EA discusses the USGCRP May 2014 report’s observations of environmental impacts that may be attributed to climate change in the Northeast region.¹⁸ However, because Compressor Station 303 is an existing facility, we find that additional climate change analysis will not provide meaningful information with respect to an alternatives analysis.

32. Similarly, the NJDEP expresses concern over what it deems the lack of detail on construction activities at Compressor Station 303 given its presence within a 100-year floodplain. However, we note that the activities proposed at Compressor Station 303 are limited to inside the compressor station and represent neither ground disturbing activities nor substantive change to the facility itself. Accordingly, we find that additional detail on construction activities is not needed.

33. The EPA also recommends that Transco replant young trees to replace felled forest habitat around Compressor Station 207. The EA addresses impacts on vegetation,¹⁹ describing 2.7 acres of forest to be temporarily impacted for construction at Compressor Station 207 and then allowed to revert to previous land use. As this forest is principally on Transco’s existing property, abutting existing forest, and is not responsible for station screening, we conclude that allowing the vegetation to regrow naturally is warranted and that any active replanting would be at Transco’s discretion.

34. The CCPC and the CCWRA submitted comments regarding the consistency of the project with Chester County’s policies and plans for natural resources. The CCPC describes the presence of special land uses in the vicinity of Compressor Station 200, including the Schuylkill River National and State Heritage and Conservation Area. As described in the EA,²⁰ all project activities at Compressor Station 200 will occur within the existing station fence line; therefore, we agree with the EA conclusion that the project will have minimal-to-no impact on any special use areas.

¹⁷ EPA Comments at 2.

¹⁸ EA at 53.

¹⁹ *Id.* at 25.

²⁰ *Id.* at 3, 35.

35. The CCPC identifies the presence of karst topography and sinkholes in the project area in Pennsylvania. The EA notes and addresses this risk in section B.1.2. As the project involves minor construction principally at the existing facilities, we agree with the conclusions set forth in the EA²¹ that there will be no new risk from karst or sinkholes as a result of the project.

36. The CCPC also recommends that Transco coordinate its construction activities at Compressor Station 200 with PECO Energy Company given the abutting right-of-way and also requests that Transco provide Chester County with the contact information of the environmental inspector for use by county departments. We encourage the CCPC to contact Transco directly for personnel information, and also note that Transco's regulatory contact information is available publicly in this docket.²²

37. The NJDEP's State Historic Preservation Office (SHPO) comments that it is ready to provide consultation under Section 106 of the National Historic Preservation Act. However, such consultation was concluded with a letter from the New Jersey SHPO on December 14, 2015, in which it concurred that there were no historic properties affected within the project area. The EA concludes no impacts on cultural resources are anticipated as a result of this project.²³ We agree.

3. Surface Water

38. The CCPC and CCWRA request further detail regarding the use and disposal of hydrostatic discharge water in Chester County, expressing concern about the potential transport of water across watershed boundaries. The EA addresses the need for and disposal of hydrostatic test water.²⁴ In Chester County, a total of only 4,000 gallons of municipal water is estimated to be necessary for testing of the Downingtown Meter and Regulation Station and Mainline Bypass portion of the project. We consider this to be minimal and note that this amount represents less than the monthly consumption of a single average household in the area.²⁵ In addition, Transco is required to obtain a

²¹ *Id.* at 13.

²² *See, e.g.*, Transco's June 8, 2016 Application at 2.

²³ *Id.* at 38.

²⁴ *Id.* at 20.

²⁵ An average home uses 5,400 gallons per month according to the Chester Water Authority "Frequently Asked Questions." Accessed May 2016. <http://www.chesterwater.com/faq.html>.

National Pollutant Discharge Elimination System permit from the Pennsylvania Department of the Environment for the discharge of hydrostatic water.²⁶

39. The CCPC and CCWRA also both describe Chester County's Act 167 Stormwater Management Plan, which was developed to encourage planning and infrastructure to "reduce runoff, erosion, and flooding, and drainage problems." The agencies request that Transco's activities be consistent with this ordinance. The operational land use change in Chester County is limited to an expansion of an access road by 0.06 acre, resulting in insignificant changes to surface hydrologic conditions. Transco has committed to implementing a number of plans to minimize impacts during construction.²⁷ In particular, Transco will implement project-specific Soil Erosion and Sediment Control Plans (SESCPs) to be submitted to the applicable state or county soil conservation districts for review and approval. Transco will provide and file with Commission finalized SESCOs prior to construction.

40. The NJDEP's comments regarding water allocation permits appear to refer to a different project in New Jersey. In any event, Transco has indicated in its application that it will apply for water allocation permits from the NJDEP for this project.

41. The NJDEP also comments on construction within waterbodies. Specifically, it states that the waterbodies to be impacted during construction are within an anadromous species migration corridor. Therefore, construction should not occur between March 1 and June 30. The NJDEP recommends the construction window stated in the EA of June 1 through November 30, the minimum requirement for warm-water fisheries in our *Wetland and Waterbody Construction and Mitigation Procedures* (Procedures)²⁸, should instead be July 1 through November 30. The Procedures require a company to adhere to any written state-mandated crossing windows; as such, Transco will be required to implement the NJDEP's timing restriction.

42. We have reviewed the information and analysis contained in the record, including the EA, concerning the New York Bay Expansion Project's potential impacts. Based on our consideration of this information and the discussion above, we conclude that if constructed and operated in accordance with Transco's application and supplements, and in compliance with the environmental conditions in Appendix B to this Order, approval

²⁶ EA at 10.

²⁷ *Id.* at 8.

²⁸ FERC Procedures Section V.B.1, available at <http://www.ferc.gov/industries/gas/enviro/procedures.pdf>.

of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

43. 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 or operation of facilities approved by this Commission.²⁹

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

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Transco authorizing it to construct and operate its New York Bay Expansion Project, as described and conditioned herein, and as more fully described in the application.

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

- (1) completion of construction of the proposed facilities and making them available for service within eighteen months of the issuance of this order pursuant to section 157.20(b) of the Commission's regulations;
- (2) compliance with all applicable Commission regulations under the NGA including, but not limited to Parts 154, 157, and 284, and

²⁹ 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 Natural Gas Act to the extent they conflict with federal regulation, or would delay the construction and operation of facilities approved by the Commission); *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;

- (3) compliance with the Environmental Conditions in Appendix B to this order; and
- (4) execution, prior to commencement of construction, of a firm contract(s) for the volumes and service terms equivalent to those in its precedent agreement.

(C) Transco's proposed incremental firm reservation charge for transportation on the New York Bay Expansion Project is accepted.

(D) Transco is directed to charge its generally-applicable commodity charge for the New York Bay Expansion Project, as more fully described above.

(E) Transco is granted permission and approval under section 7(b) of the NGA to abandon the facilities described in this order.

(F) Transco shall keep separate books and accounting of costs attributable to the proposed incremental services, as more fully described above.

(G) Transco shall file actual tariff records with the incremental rate no earlier than 60 days and no later than 30 days, prior to the date the New York Bay Expansion Project facilities go into service.

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

(I) The untimely motion to intervene is granted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,

Deputy Secretary.

Appendix A
Timely, Unopposed Motions to Intervene

Atlanta Gas Light Company; Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas;
Pivotal Utility Holdings, Inc. d/b/a Elkton Gas; and Virginia Natural Gas, Inc.
Calpine Energy Services, L.P.
Consolidated Edison Company of New York and Philadelphia Gas Works
Direct Energy Business Marketing, LLC
East Tennessee Group
Exelon Corporation
National Fuel Gas Distribution Corporation
New Jersey Natural Gas Company
NJR Energy Services Company
The National Grid Gas Delivery Companies

Appendix B Environmental Conditions

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

1. Transco shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA, unless modified by the Order. Transco 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 FERC Office of Energy Projects (OEP) **before using that modification.**

2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of the Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.

3. **Prior to any construction**, Transco shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.

4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, Transco shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by the Order. All requests for modifications of environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

Transco's exercise of eminent domain authority granted under Natural Gas Act section 7(h) in any condemnation proceedings related to the Order must be consistent with these authorized facilities and locations. Transco's right of eminent domain granted under Natural Gas Act 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. Transco 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 the OEP **before construction in or near that area.**

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

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

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

- a. how Transco will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;
 - b. how Transco 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 (per spread), 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 Transco 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 Transco's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Transco 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, Transco shall file updated status reports with the Secretary on a **monthly basis until all construction and restoration activities are complete**. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on Transco 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 Transco from other federal, state, or local permitting agencies concerning instances of noncompliance, and Transco's response.
8. **Prior to receiving written authorization from the Director of the OEP to commence construction of any project facilities**, Transco shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
 9. Transco must receive written authorization from the Director of the 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**, Transco shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the conditions in the Order Transco 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 any blasting activities**, Transco shall file its project blasting plan with the Secretary for the review and written approval of the Director of the OEP.
 12. **Prior to construction of the Lower New York Bay Replacements**, Transco shall consult with the New Jersey Department of Environmental Protection regarding appropriate groundwater containment and disposal guidelines and practices, and file the results of this consultation with the Secretary.
 13. Transco shall file noise surveys with the Secretary **no later than 60 days** after placing each of the modified Compressor Stations 200, 207, and 303 in service. If a full load condition noise survey is not possible, Transco must 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 new or modified

compressor stations at full or interim power load conditions exceeds 55 day-night averaged sound level (L_{dn}) in decibels on the A-weighted scale (dBA) at any nearby noise sensitive areas, Transco shall file a report on what changes are needed and should install the additional noise controls to meet the level within 6 months of the in-service date. Transco 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.

14. **Prior to construction at Compressor Station 200**, Transco shall file with the Secretary, for the review and written approval of the Director of the OEP, a plan that indicates measures Transco would implement to reduce noise from the station should a post construction survey reveal, as estimated, that the noise attributable to the operation of all of the equipment at the modified compressor station at full or interim power load conditions exceeds an L_{dn} of 55 dBA at any nearby noise sensitive areas.