

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

Southern Natural Gas Company

Docket No. CP05-388-000

Florida Gas Transmission Company

Docket No. CP06-1-000

ORDER ISSUING CERTIFICATES

(Issued June 15, 2006)

1. On November 22, 2005, in Docket No. CP05-388-000, the Commission issued a preliminary determination addressing the non-environmental issues raised in an application filed by Southern Natural Gas Company (Southern) under section 7 of the Natural Gas Act (NGA) requesting certificate authorization to construct and operate its proposed Cypress Pipeline.<sup>1</sup> The proposed project will consist of approximately 177 miles of 24-inch and 30-inch pipe, 31,050 horsepower (hp) of compression, and appurtenant facilities, and will transport up to 500 MMcf/d of regasified liquefied natural gas (LNG) from an interconnection with the Southern LNG, Inc. (Southern LNG) Elba Island LNG import terminal near Savannah, Georgia, to an interconnection with Florida Gas Transmission Company (FGT) in Clay County, Florida. In the November 2005 Order, the Commission expressed its conditional approval of Southern's proposed project and Southern's proposal to roll project costs into its existing rates. Final authorization of Southern's proposed project was withheld pending completion of the Commission's environmental review.

2. On October 5, 2005, in Docket No. CP06-1-000, FGT filed an application under NGA section 7(c) requesting certificate authorization for its proposed Phase VII Expansion project, which will add 32.6 miles of 36-inch diameter pipe and 9,800 hp of compression to FGT's existing system to enable FGT to provide firm summer transportation for up to 160,000 MMBtu/d of gas from the interconnection with Southern's proposed Cypress Pipeline.

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<sup>1</sup> 113 FERC ¶ 61,199 (2005).

3. The Commission has completed its analysis of Southern's proposed Cypress Pipeline and FGT's proposed Phase VII Expansion. As discussed below, we will grant the requested authorizations, subject to certain conditions. However, we will deny FGT's request for a predetermination that it may roll the costs of the Phase VII Expansion into its Rate Schedule FTS-2 rates.

**I. Background**

**A. Southern's Proposed Cypress Pipeline, Docket No. CP05-388-000**

4. On June 29, 2005, Southern filed an application under NGA section 7 requesting certificate authorization to expand its existing interstate pipeline system in Georgia and Florida to transport an additional 500 MMcf/d from Southern LNG's Elba Island terminal to existing delivery points on Southern's system, new delivery points in Georgia and Florida, and an interconnection with FGT's proposed Phase VII Expansion. Southern estimates that the total cost of the project will be \$320,880,518.

5. Southern proposes to construct the Cypress Pipeline in three phases, as follows:

- Phase I, with a target in-service date of May 1, 2007, will consist of: (1) 166.63 miles of 24-inch diameter pipeline, extending from an interconnection with Southern's existing Wrens-Savannah pipelines in Effingham County, Georgia, to an interconnection with FGT in Clay County, Florida; (2) interconnection and measurement facilities with Atlanta Gas Light Company (Atlanta Gas) in Glynn County, Georgia; Southern's South Georgia facilities in Nassau County, Florida; JEA in Duval County, Florida; and FGT in Clay County, Florida; and (3) various appurtenant and auxiliary facilities, including replacement facilities, at Southern's existing Marietta Delivery Point with Atlanta Gas in Cobb County, Georgia;
- Phase II, with a target in-service date of May 1, 2009, will consist of a new 10,350 hp compressor station in Glynn County, Georgia; and
- Phase III, with a target in-service date of May 1, 2010, will consist of: (1) 9.85 miles of 30-inch diameter pipeline loop on Southern's Wrens-Savannah pipelines in Chatham and Effingham Counties, Georgia; (2) a new 10,350 hp compressor station in Liberty County, Georgia; and (3) a new 10,350 hp compressor station in Nassau County, Florida.

6. Southern has entered into precedent agreements for firm transportation service for the full capacity of its proposed Cypress Pipeline with BG LNG Services, LLC (BG) for a 20-year term; Florida Power Corporation d/b/a Progress Energy Florida, Inc. (Progress Energy) for a 20-year term; and the City of Austell, Georgia (Austell) for a 15-year term.

BG and Progress Energy have agreed to pay a negotiated rate and Austell has agreed to pay Southern's existing maximum firm transportation rate. Southern requests that the Commission make a predetermination that it may roll the costs of the Cypress Pipeline into its existing rate base in a future NGA section 4 rate proceeding.

7. In the November 2005 Order, we determined that contingent on a favorable result in our then pending environmental review, Southern's proposed Cypress Pipeline will be required by the public convenience and necessity. We also determined that absent any material change in circumstances, Southern will be able to roll the costs of the proposed project into its existing rates in a future NGA section 4 rate proceeding. Several parties noted that the physical characteristics of the LNG imported at the Elba Island terminal may differ from traditional sources of gas, and expressed apprehensions that these differences could adversely impact the pipelines carrying LNG imports and the end users. We found that in the ongoing *AES Ocean Express LLC v. Florida Gas Transmission Company (AES v. FGT)* proceeding in Docket Nos. RP04-249,<sup>2</sup> the same natural gas quality and interchangeability concerns were already under consideration (with parties to that proceeding repeating identical concerns in this Southern proceeding). We concluded that in the interests of administrative efficiency and consistency, it would be most appropriate to address shared issues in a single proceeding. Therefore, rather than take up anew issues already under review, we elected to condition any certificate authorization granted to Southern on its adherence to any gas quality standards established as a result of the *AES v. FGT* proceeding. There were no requests for rehearing of the November 2005 Order.

**B. FGT's Proposed Phase VII Expansion,  
Docket No. CP06-1-000**

8. FGT owns and operates an interstate pipeline system that extends along the arc of the Coast of the Gulf of Mexico through the states of Texas, Louisiana, Mississippi,

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<sup>2</sup>115 FERC ¶ 63,009 (2006) (*initial decision*); 108 FERC ¶ 61,221 (*order establishing hearing*); 107 FERC ¶ 61,276 (2004) (*order on complaint*). See also *AES*, 106 FERC ¶ 61,090 (2004) (*order issuing authorizations*); 103 FERC ¶ 61,030 (*order amending preliminary determination*); and 103 FERC ¶ 61,326 (2003) (*preliminary determination*).

Alabama, and Florida.<sup>3</sup> FGT states that during the 1990s, Florida's population grew by 23.5 percent and is expected to continue to increase at a rate of 2.1 percent annually between 2000 and 2010.<sup>4</sup> FGT cites a Florida Public Service Commission report that projects there will be over 20,000 MW of gas-fired generation capacity added between 2005 and 2014.<sup>5</sup> FGT states that a portion of this new generation will be installed as an expansion of the Progress Energy's Hines Energy Complex in Polk County, Florida, with gas to fuel these new facilities delivered via FGT's proposed Phase VII Expansion. FGT states that Progress Energy anticipates placing its new generation facilities into service by 2007.

9. FGT conducted an open season between December 1 and December 31, 2004 for firm transportation service on its proposed expansion, and concurrently conducted a reverse open season. As a result of the open season, two parties, Progress Energy and BG executed firm service agreements totaling 160,000 MMBtu/d of summer season service (May-September) under FGT's Rate Schedule FTS-2. BG has entered into a 20-year service agreement for 60,000 MMBtu/d, starting on May 1, 2007. Progress Energy has entered into a 20-year service agreement at an initial level of 60,000 MMBtu/d starting on May 1, 2007, then increasing to 80,000 MMBtu/d on May 1, 2008, and finally to 100,000 MMBtu/d on May 1, 2009. As a result of the reverse open season, existing FGT shippers turned back summer season capacity of 4,353 MMBtu/d, which FGT states is factored into the design of its proposed expansion to reduce the scale of the facilities necessary to meet prospective customers' service commitments.

### 1. Facilities

10. FGT proposes to construct its Phase VII Expansion in two phases. For Phase I, with a projected in-service date of May 1, 2007, FGT proposes to:

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<sup>3</sup> FGT is organized under the laws of the State of Delaware and is a wholly-owned subsidiary of Citrus Corporation, of which 50 percent is held by CrossCountry Citrus, LLC and 50 percent by El Paso Citrus Holdings, Inc. CrossCountry Citrus, LLC is owned by CrossCountry Energy, LLC, which is indirectly owned by Southern Union Company with a 50 percent share and General Electric Company with approximately 30 percent; minority investors hold the remaining ownership interests. El Paso Citrus Holdings, Inc. is wholly owned by Southern, and Southern is a subsidiary of El Paso Corporation.

<sup>4</sup> FGT cites a March 2005 report from the Florida Legislature, Office of Economic and Demographic Research.

<sup>5</sup> *A Review of Florida Electric Utility 2004 Ten-Year Site Plans*, Florida Public Service Commission, December 2004.

- construct and operate approximately 5.0 miles of 36-inch diameter pipeline loop on its existing system in Gilchrist County, Florida (Loop J);
- construct and operate approximately 6.0 miles of 36-inch diameter pipeline loop on its existing system in Levy County, Florida (Loop K);
- construct and operate approximately 6.3 miles of 36-inch diameter pipeline loop on its existing system in Hernando County, Florida (Loop G);
- upgrade the existing 13,000 hp gas driven centrifugal compressor unit (Unit 2401) to 15,000 hp at its existing Station No. 24 in Gilchrist County, Florida;
- install a new electric driven centrifugal 15,000 hp motor and gear box in place of the existing 7,200 hp gas driven driver on Unit 2602 at Station No. 26 in Citrus County, Florida, as well as add cooling and re-wheel Units 2601 and 2602 at this station;<sup>6</sup>
- construct and operate a new interconnection with Southern's Cypress Pipeline in Clay County, Florida;
- reconstruct the existing Hines M&R Station in Polk County, Florida;
- install bi-directional piping and rework Units 1601 and 1602 at Station No. 16 in Bradford County, Florida;
- install a chromatograph at Station No. 17 in Marion County, Florida;
- modify the existing Lawtey Regulator Station to accommodate bi-directional flow in Bradford County, Florida;
- install the Long Branch Regulator Station in Clay County, Florida;
- install a chromatograph at the PGS Jacksonville Meter Station in Duval County, Florida;
- install a chromatograph at the Brandy Branch Meter Station in Bradford County Florida;
- install blow-down piping at MP 44.5 in Levy County, Florida; and
- install blow-down piping at MP 110.8 in Hernando County, Florida.

11. For Phase II, with a projected in-service date of May 1, 2009, FGT proposes to:

- construct and operate approximately 9.2 miles of 36-inch diameter pipeline loop on its existing system in Levy and Citrus, Counties, Florida (Loop K);
- construct and operate approximately 6.1 miles of 36-inch diameter pipeline loop on its existing system in Hernando County, Florida (Loop G);
- re-wheel existing Units 2701 and 2702 at Station No. 27 in Hillsborough County, Florida;

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<sup>6</sup> FGT intends to place the existing 7,200 hp Rolls Royce 501 driver in standby since this type of equipment is installed at other locations on FGT's system. FGT states that this will give it a spare driver to either use for a permanent replacement or temporarily while a similar unit is being repaired or refurbished.

- install blow-down piping at MP 53.7 in Levy County, Florida; and
- install blow-down piping at MP 117.0 in Hernando County, Florida.

## 2. Rates

12. FGT estimates its proposed expansion project will cost \$105.52 million, of which \$1.77 million will be reimbursable costs, for a net total of \$103.75 million. FGT states that the service agreements with Progress Energy and BG will generate revenues of \$163.4 million over the first ten years of service, which will exceed the estimated cost-of-service of \$154.4 million over the same period by approximately \$9 million. Therefore, FGT requests a predetermination that it may roll the costs of its proposed Phase VII Expansion into its FTS-2 rates in a future NGA section 4 proceeding.

13. In support of its requested rate treatment, FGT explains that its Incremental System and Rate Schedule FTS-2 were created as a result of FGT's Phase III Expansion in 1993.<sup>7</sup> The Phase III Expansion involved a major addition to the FGT system, including installing over 800 miles of new pipe. In a settlement agreement addressing Phase III issues, FGT and its customers affirmed that the Phase III Expansion provides cheap expansibility for the Incremental System in the future.<sup>8</sup> The 1993 settlement required that the costs of future expansions be rolled into the costs of the Incremental System, provided an expansion application was filed with the Commission prior to July 1, 1998.<sup>9</sup>

14. FGT states that although this settlement provision expired before it filed its Phase IV, V, and VI Expansions,<sup>10</sup> it nevertheless sought to roll the costs of these expansions into its Rate Schedule FTS-2 rates in future rate proceedings, and its last rate case reflected rolling these costs and billing determinants into Rate Schedule FTS-2

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<sup>7</sup> *FGT*, 62 FERC ¶ 61,024 (preliminary determination), order granting and denying reh'g and granting clarification, 63 FERC ¶ 61,093, order issuing certificates, authorizing abandonments, and clarifying prior order, 64 FERC ¶ 61,288 (1993), order granting reh'g, in part, and granting clarification, 66 FERC ¶ 61,160 (1994).

<sup>8</sup> 62 FERC ¶ 61,024 (1993).

<sup>9</sup> *Id.* at 61,176 and 61,181.

<sup>10</sup> Phase IV: *FGT*, 88 FERC ¶ 61,142 (1999) (preliminary determination), order issuing certificate, 90 FERC ¶ 61,212 (2000); Phase V: *FGT*, 93 FERC ¶ 61,203 (2000) (preliminary determination), order issuing certificate and granting abandonment authorization, 96 FERC ¶ 61,151 (2001); and Phase VI: *FGT*, 98 FERC ¶ 61,127, order issuing certificate, 99 FERC ¶ 61,311 (2002).

rates.<sup>11</sup> FGT asserts that rolled-in rate treatment for the proposed Phase VII Expansion costs would not adversely affect the maximum rate for service under Rate Schedule FTS-2.

15. FGT filed *pro forma* tariff sheets reflecting changes to section 27 of the General Terms and Conditions (GT&C) of its FERC Gas Tariff to permit it to track and recover certain costs associated with the installation of an electric drive compressor unit. FGT maintains that this is necessary due to its proposal to install a 15,000 hp electric driven unit at Station No. 26. FGT proposes to convert the power costs to operate this unit to gas flow units (MMBtu) to allow it to recover an equivalent volume through its fuel tracker.

## **II. Notice and Interventions**

16. In Docket No. CP05-388-000, notice of Southern's application was published in the *Federal Register* on July 14, 2005. Motions to intervene were submitted as described in the November 2005 Order.<sup>12</sup>

17. In Docket No. CP06-1-000, notice of FGT's application was published in the *Federal Register* on October 21, 2005.<sup>13</sup> Timely motions to intervene were filed by several parties.<sup>14</sup>

18. SCANA Energy Marketing, Inc. (SCANA), South Carolina Electric & Gas Company (South Carolina Electric & Gas), and South Carolina Pipeline Corporation (South Carolina Pipeline)<sup>15</sup> filed untimely motions to intervene. FGT submitted a reply opposing the motions to intervene out-of-time. FGT insists that because SCANA and South Carolina Electric & Gas are parties to the proceeding in Docket No. CP05-388-000, their interests can be represented there; thus, there is no need to intervene in FGT's separate proceeding. Further, FGT claims that because none of the three entities seeking

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<sup>11</sup> FGT, 109 FERC ¶ 61,320 (2004).

<sup>12</sup> 70 FR 40,698 (2005).

<sup>13</sup> 70 FR 61,271 (2005).

<sup>14</sup> Timely, unopposed motions to intervene are granted by Rule 214.218 of the Commission's Rules of Practice and Procedure. 18 CFR § 385.214 (2005). The parties to the proceeding in Docket No. CP06-1-000 are listed in Appendix A to this order.

<sup>15</sup> The three motions to intervene out-of-time were filed separately; the three parties are wholly-owned subsidiaries of SCANA Corporation.

late intervention are customers or competitors of FGT, none has an interest that merits being included as a party to FGT's expansion proceeding.

19. We disagree. Entities seeking to intervene need not be customers or competitors of an applicant; there is an extensive array of other interests that constitute legitimate grounds for seeking intervenor status in a proceeding. In this case, the three entities seeking to intervene are customers on Southern's system, and as such, stand to be impacted by the proposed Cypress Pipeline, and potentially, by FGT's proposed Phase VII Expansion as well. Accordingly, we find that SCANA, South Carolina Pipeline, and South Carolina Electric & Gas have demonstrated an interest in the FGT proceeding that is not adequately represented by existing parties to the proceeding. Whether to grant the motion to intervene out-of-time turns on whether doing so might delay, disrupt, or otherwise prejudice the proceeding or the parties to this proceeding. In this case, we find no adverse impacts, and so grant the three motions to intervene out-of-time. In addition, Jane Moore, a landowner, filed late comments raising issues regarding the impact of FGT's proposed project on her property. We admit the late-filed comments, as we find that to do so will not delay, disrupt, or otherwise prejudice this proceeding or the parties to this proceeding.

### **III. Protests**

20. In Southern's Docket No. CP05-388-000 proceeding, several parties raised concerns regarding siting and safety.<sup>16</sup> In the November 2005 Order, we determined that these issues could best be examined in the context of the environmental review of Southern's proposal. Accordingly, siting and safety issues associated with the proposed Cypress Pipeline are discussed in the environmental document and are addressed below, as well as the issues raised by Jane Moore in her comments concerning FGT's proposed expansion.

21. FGT's proposed expansion is protested by Tampa Electric Company jointly with Peoples Gas System, a Division of Tampa Electric Company (Tampa and Peoples). The parties object to FGT's proposed rolled-in rate treatment and maintain that the potential adverse impacts of sending undiluted LNG through the facilities of a local distribution system (LDC) – *e.g.*, Peoples' facilities – have not been adequately addressed. FGT filed an answer to the protest. Section 385.213(a)(2) of our Rules of Practice and Procedure does not permit answers to protests.<sup>17</sup> However, we may waive this rule for good cause

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<sup>16</sup> See comments and protests submitted by Austin Hill Realty; Charles W. Bostwick; Eugene T. Clark, Sr. jointly with Frances H. Clark, John Aylor, and Debbi Aylor; Henry Morgan and G.P. Morgan III; and Hilda Whitaker.

<sup>17</sup> 18 CFR § 385.213(a)(2) (2005).

shown, and we do so in this instance to clarify the issues under consideration. Concerns set forth in the protest, and FGT's response, are discussed below.

#### **IV. Discussion**

22. Because the applications filed by Southern and FGT involve facilities used to transport natural gas in interstate commerce, the construction and operation of the proposed facilities are subject to the jurisdiction of the Commission and the requirements of NGA section 7.

23. In order to determine whether a proposed project is required by the public convenience and necessity, we consider whether the proposal meets the criteria set forth in our policy statement addressing new facilities.<sup>18</sup> In this policy statement, we establish criteria for determining whether there is a need for a proposed project, balance the public benefits against potential adverse impacts, and determine whether the proposed project will serve the public interest. Our 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 to the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

24. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from the 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, we 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 we proceed to complete the environmental analysis where other interests are considered.

##### **A. Southern's Cypress Pipeline, Docket No. CP05-388-000**

25. In our November 2005 Order, we found the proposed Cypress Pipeline could proceed without subsidies, and subject to certain conditions, would not adversely affect

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<sup>18</sup> *Certification of New Interstate Natural Gas Pipeline Facilities (Policy Statement on New Facilities)*, 88 FERC ¶ 61,227 at 61,748 (1999); 90 FERC ¶ 61,128 (*clarifying statement of policy*); 92 FERC ¶ 61,094 (2000) (*clarifying statement of policy*).

other pipelines and their customers. Further, we found that the proposed project could be expected to allow additional volumes of LNG imports to reach a growing regional market and provide operational benefits to both the Southern and FGT systems. Therefore, consistent with our Policy Statement on New Facilities and NGA section 7, we found, pending completion of the environmental review, approval of the Cypress Pipeline to be required by the public convenience and necessity. In the November 2005 Order, we also made a predetermination that rolled-in rate treatment for the Cypress Pipeline's costs would be appropriate, absent material changes in the relevant facts and circumstances, in Southern's next general NGA section 4 rate case. As noted, there were no requests for rehearing of the November 2005 Order.

## **B. FGT's Phase VII Expansion, Docket No. CP06-1-000**

### **1. Market Need**

26. FGT has demonstrated a need for its proposed Phase VII Expansion by submitting firm, long-term transportation service agreements for the full summer season peak capacity of the proposed project. In addition, we concur with FGT's assessment that the market for gas supplies is growing in the region to be served by the proposed expansion, particularly for gas to fuel electric generation facilities.

### **2. Subsidization and Rolled-In Rate Treatment**

27. The threshold requirement under our Policy Statement on New Facilities is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. For the reasons discussed below, we conclude that FGT's Phase VII Expansion can proceed without subsidization from its existing customers, and we deny FGT's request for a predetermination that it may roll-in the costs of the expansion in its next general section 4 rate proceeding.

### **3. FGT's Existing Rates**

28. FGT provides firm transportation service under three rate schedules, each with separate rates and applicable to a different portion of its system. FGT renders firm service on its Incremental System under Rate Schedule FTS-2. The Incremental System comprises major system expansions that were placed in service in FGT's market area on or after March 1, 1995, beginning with the Phase III Expansion. The costs of FGT's subsequent major expansions in its market area have been rolled into the Rate Schedule FTS-2 rates in FGT's latest general rate case settlement in Docket No. RP04-12 (Settlement).<sup>19</sup> In accordance with Articles IX and XII of the Settlement, FGT may not

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<sup>19</sup> 109 FERC ¶ 61,320 (2004).

file to increase its base tariff rates prior to October 1, 2007, and must file a general rate case under section 4 of the NGA no later than October 1, 2009.

#### **4. FGT's Proposed Rates**

29. Exhibit L of FGT's application includes service contracts with Progress Energy and BG for summer-season FTS-2 transportation. The transportation rate for each contract is the lower of the FTS-2 maximum tariff rate, or a rate determined by discounting the FTS-2 rate according to a formula in FGT's FTS-2 Form of Service Agreement.

30. In this proceeding, FGT requests a predetermination that costs associated with its proposed Phase VII Expansion can be rolled into its FTS-2 rates in FGT's next general rate case. In support of this request, FGT maintains that its 1993 settlement on issues related to the Phase III Expansion recognized that the expansion would make possible subsequent cheap expansibility of capacity, and consequently required that the costs of expansion projects for which applications were filed prior to July 1, 1998, would be rolled into the FTS-2 rates. FGT further states that although the 1993 settlement expired before FGT filed for its Phase IV, V, and VI Expansion projects, FGT nevertheless proposed to roll the costs of these expansions into its FTS-2 rates in future rate proceedings. FGT notes that such costs received rolled-in rate treatment in its latest general rate settlement.

31. FGT maintains that, as with each major expansion after the Phase III Expansion, rolling in the costs of its proposed Phase VII Expansion in a future NGA section 4 rate proceeding would not adversely affect FTS-2 rates. According to FGT, Commission policy recognizes that when cheap expansibility, in this case the Phase VII Expansion, is made possible by existing customers who bore the costs of earlier more costly construction in their rates, *i.e.* the Phase III Expansion, that "[r]olled-in pricing avoids subsidies by existing customers."<sup>20</sup> FGT further asserts that Commission policy requires that rate treatment for projects involving cheap expansibility be resolved prior to construction.<sup>21</sup>

32. FGT also seeks to demonstrate that rolled-in rate treatment is appropriate because the proposed Phase VII Expansion will be "financially viable without any contribution from . . . FTS-2 existing customers."<sup>22</sup> Accordingly, Exhibits N and P of the application

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<sup>20</sup> FGT's Application at 8 (October 5, 2005).

<sup>21</sup> *Id.* at 9, *citing* the Commission's Policy Statement on New Facilities, 88 FERC ¶ 61,227 at 61,748 (1999).

<sup>22</sup> *Id.* at 8.

project costs and revenues associated with the proposed expansion over the first ten years of operation, beginning with the initial in-service date of May 1, 2007, using currently effective FTS-2 reservation rates, and taking into consideration the timetable for phasing-in service under the contracts with Progress Energy and BG. During this 10-year period, total revenues of \$163,425,530 are expected to exceed total costs of \$154,418,624 – a difference of approximately \$9 million.

33. FGT states that it will replace an existing 7,200 hp gas-fired compression driver at Compressor Station 26 with a 15,000 hp electric compression driver. FGT maintains that its total system mainline compressor fuel use will not increase as a result of this upgrade. FGT explains it has converted the projected cost of electricity to run the replacement driver during the summer season into equivalent gas volumes, using as a conversion factor the estimated cost of an MMBtu based on the average FGT cash in/cash out price for January through August 2005. According to page 3 of Exhibit N of FGT's application, the resulting summer season total mainline fuel use percentage is reduced from 3.44 percent to 3.17 percent once the proposed Phase VII Expansion is fully operational. In *pro forma* tariff revisions to GT&C section 27, Fuel Reimbursement Charges,<sup>23</sup> FGT proposes to add language to account for this cost of electricity in the fuel reimbursement percentage.

#### **5. Protest Addressing FGT's Proposal to Roll In Phase VII Costs**

34. Tampa and Peoples object to FGT's proposal to roll in the proposed Phase VII Expansion's costs, claiming it is not possible to conclude with any confidence that incremental revenues from services using the proposed new facilities will exceed the costs of operation. Tampa and Peoples similarly lack any confidence that the purported revenue benefit of \$9 million will be realized, pointing out that this is less than six percent of projected costs, and could easily be overtaken by unforeseen expenditures. In particular, they argue that FGT has not included any costs that may be incurred as a result of the accelerated deterioration of compression couplings on the distribution systems served by FGT, and claim that such costs could be large enough to produce a significant revenue deficit in Phase VII Expansion operations.

35. Tampa and Peoples note that FGT declares the central purpose of the Phase VII Expansion to be to enable FGT to deliver to Progress Energy and BG regasified LNG imported at the Elba Island LNG terminal and carried via Southern's proposed Cypress Pipeline to FGT's system. The protesting parties point out that this will expose Peoples' Jacksonville, Florida Division infrastructure and customers to undiluted LNG supplies for the first time. They surmise that, depending on the flow of gas from other sources at any

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<sup>23</sup> See FGT's Application, Exhibit N, Revenues and Expenses, Sheet Nos. 205, 206, 206B, and 207 (October 5, 2005).

given time, there may be prolonged periods when LNG is not blended with other gases, and there may be rapid swings between flows of undiluted LNG and blended gas.

36. Tampa and Peoples contend this calls into question the safety and integrity of the existing distribution infrastructure. They assert that transported gas from which heavy hydrocarbons have been stripped, which is the case with regasified LNG, has been identified in various studies as a factor contributing to increased incidence of leaks in compression couplings of gas pipeline systems.<sup>24</sup>

37. Tampa and Peoples concede that although this has not occurred in every instance where compression couplings were exposed to undiluted LNG supplies, there remains no recognized basis, without testing, for predicting whether it might occur at a particular location. Therefore, Tampa and Peoples urge FGT, Southern, and the Southern LNG to cooperate in assessing the potential adverse impacts of transporting unblended LNG and devise a plan to prevent and remediate such impacts. Tampa and Peoples insist it would be inappropriate to impose the costs of such a plan on Peoples' ratepayers when Peoples has not contracted for gas supplies from Elba Island, or for capacity on the Cypress Pipeline or the Phase VII Expansion. The protesting parties argue costs attributable to adverse impacts that result from exposure to undiluted LNG supplies should be included among the costs of the Phase VII Expansion; however, such costs have not been taken into account by FGT in its economic evaluation of its proposed expansion project. Therefore, Tampa and Peoples conclude that the Commission should not authorize FGT's proposed expansion until (1) the issue of preventing and remediating adverse impacts due to transporting undiluted LNG supplies has been resolved in a way that protects LDCs and their customers, and (2) the costs to resolve this issue are shown to be less than the projected revenue-over-cost margin of approximately \$9 million. Alternatively, Tampa and Peoples ask that the Commission clarify that prevention and remediation costs will be considered to be expansion project costs, and condition the certificate on FGT assuming the risk of any revenue shortfall.

**a. FGT's Answer to Tampa's and Peoples' Protest**

38. FGT argues that the protest offers no evidence that LNG volumes flowing through the proposed Phase VII facilities present any elevated risk of damaging compression couplings on existing LDC distribution lines. FGT refutes the instances cited by the protesting parties, claiming that: (1) there is no showing that LNG is the causal factor in the failure of compression couplings and (2) the referenced LNG impact studies were

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<sup>24</sup> Tampa and Peoples claim this has occurred on the distribution systems of Washington Gas Light Company, Long Island Lighting Company (now Keyspan), and Florida Gas Company (an FGT affiliate that owned much of what is now Peoples' system, including the Jacksonville Division). See Tampa's and Peoples' Protest at 7-8 (November 4, 2005).

conducted by parties with a vested interest in the studies' results. Finally, FGT points to the fact that Tampa and Peoples have presented identical issues, first in the *AES v. FGT* proceeding, and again in Southern's Cypress Pipeline proceeding, and urges the Commission to affirm its finding in its November 2005 Order that the most appropriate forum in which to address concerns related to gas quality and interchangeability is the *AES v. FGT* proceeding.

**b. Commission Response to Protest and to FGT's Request for a Predetermination on Rolled-In Rate Treatment**

39. In this proceeding, FGT requests a predetermination that costs associated with the proposed Phase VII Expansion qualify to be rolled into FTS-2 rates in its next general rate case. As discussed below, we will deny this request because such a predetermination would be speculative under the circumstances presented in this proceeding.

40. The cost and revenue projections in Exhibits N and P for the proposed Phase VII Expansion's first ten years of operation indicate that revenues will exceed the cost of service, in the aggregate, by approximately \$9 million. However, the data also indicate that operating expenses will exceed revenues during each year of the project's first three years of operation, through April 30, 2010.<sup>25</sup> Beginning with year 4 and thereafter, revenues will exceed the cost of service on an annual basis until, by the end of year 7, *i.e.*, April 30, 2014, the project's aggregate deficit will have been eliminated.

41. Comparing the period between May 1, 2007 and April 30, 2010, when the project is expected to operate with expenses exceeding revenues on an annual basis, to the period during which FGT must file its next general rate case – no sooner than October 1, 2007, if FGT is seeking to increase its base tariff rates; otherwise, no later than October 1, 2009 – we find it likely that in FGT's next rate case, test period data will reflect that the project has not achieved financial viability. Under these circumstances, rolling in the project's costs could result in existing FTS-2 customers subsidizing the project from the date the new base rates become effective until FGT files a new rate proceeding.

42. FGT stresses that Commission policy acknowledges that a subsidy does not occur when the costs of cheap expansibility are rolled into the rates of existing customers that benefit from the expansion and made the expansion possible by bearing the cost of earlier construction. Nevertheless, the Commission believes it is premature to make a predetermination on rolling in the proposed expansion's costs because FGT could file its next rate case before project revenues exceed costs on an annual basis.

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<sup>25</sup> The projected annual revenue shortfalls for operational years 1, 2 and 3 are, respectively, \$5,152,419, \$2,300,328 and \$260,183.

43. Denying the predetermination requested by FGT will not preclude FGT from the opportunity to demonstrate in its next rate case that Phase VII Expansion costs can be rolled into its FTS-2 rates without a subsidy from existing customers. However, FGT will bear the burden of proof in demonstrating that rolled-in rate treatment is just and reasonable. Until the issue of the appropriate rates for service using the proposed expansion facilities is resolved in FGT's next general rate filing, the Commission will accept FGT's currently effective FTS-2 rates as the initial rates for the project. This holding is consistent with our action in *Eastern Shore Natural Gas Company (Eastern Shore)*,<sup>26</sup> where we denied a predetermination of rolled-in rate treatment because, during the test period in Eastern Shore's next required general rate case, the project's costs would exceed its revenues.

#### **6. Tariff Modification**

44. We will accept FGT's *pro forma* tariff revisions to GT&C section 27, Fuel Reimbursement Charges, to account for expenses involved in operating the planned electric compression driver at Station No. 26. FGT is directed to file actual tariff sheets to implement the *pro forma* language in accordance with the notice requirements of section 154.207 of the Commission's regulations.<sup>27</sup>

#### **7. Adverse Impacts Related to Gas Quality and Gas Interchangeability**

45. The concerns Tampa and Peoples raise regarding LNG imports are under consideration in *AES v. FGT*. FGT has traditionally been supplied with domestic gas. Since the gas quality standards in FGT's tariff were not developed in anticipation of taking delivery of significant volumes of regasified LNG, we instituted an NGA section 5 proceeding to address the consequences of AES' proposal to deliver unblended regasified LNG directly to FGT.<sup>28</sup> We directed FGT to file tariff revisions related to gas quality and interchangeability standards. FGT did so on July 23, 2004, filing *pro forma* revisions to its tariff's gas quality requirements to accommodate the receipt of regasified LNG imports. We established a hearing to address concerns raised by FGT's proposed revisions, and an initial decision was issued by the administrative law judge in that proceeding on April 11, 2006.<sup>29</sup> The initial decision is pending before the Commission.

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<sup>26</sup> 111 FERC ¶ 61,479 (2005).

<sup>27</sup> 18 CFR § 154.207 (2005).

<sup>28</sup> *AES v. FGT*, 107 FERC ¶ 61,276 (2004).

<sup>29</sup> 115 FERC ¶ 63,009 (2006).

46. In the November 2005 Order, we observed that parties raising concerns regarding the impact of LNG imports in the Southern Cypress Pipeline proceeding had presented the same concerns in the *AES v. FGT* proceeding. We reasoned that because the proposed Cypress Pipeline is designed to deliver LNG to FGT, the outcome of the *AES v. FGT* proceeding, which is expected to determine gas standards applicable to LNG volumes at the AES-FGT interconnect, will dictate the gas standards applicable to LNG volumes at the Southern-FGT interconnect. Accordingly, we decided that rather than conduct a duplicative review of the same issues in this proceeding, we would condition any authorization granted to Southern on its compliance with any gas standards determined as a result of *AES v. FGT*. We affirm this approach. The parties protesting FGT's proposed expansion have previously briefed the same LNG-related arguments in *AES v. FGT*. Therefore, arguments based on gas quality and interchangeability issues should receive a full hearing in the *AES v. FGT* proceeding. Accordingly, we will deny requests to consider these same issues here; however, we will require that gas delivered by Southern to FGT must comply with any gas standards that are established as a result of the *AES v. FGT* proceeding.<sup>30</sup>

#### **8. Adverse Impacts on Other Pipelines**

47. We find no indication that FGT's proposed Phase VII Expansion might have adverse impacts on other interstate pipelines or their captive customers. FGT proposes to serve new incremental loads directly attached to its system. Thus, FGT will not displace loads from other existing pipelines. Tampa and Peoples speculate that LNG imports may adversely impact pipeline facilities and end users. We expect such adverse impacts to be prevented by conditioning the applicants' authorization on compliance with requirements applicable to LNG imports that are expected to be determined by the outcome of the ongoing *AES V. FGT* proceeding.

#### **9. Adverse Impacts on Landowners**

48. FGT's proposed Phase VII Expansion will be within or adjacent to existing utility corridors along 99 percent of its designated route. FGT states that it has received permission from all of the affected landowners to perform the necessary surveys for its

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<sup>30</sup> Contemporaneously with this order, in Docket No. PL04-3-000, the Commission is issuing a Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Natural Gas Pipeline Company Tariffs to provide pipelines and their customers guidance for resolving disputes over natural gas quality and interchangeability. This policy statement may inform discussions in *AES v. FGT*, since gas quality and interchangeability are the subject of *AES v. FGT*. As noted, the outcome of that proceeding will govern gas standards applicable to volumes transported on Southern's and FGT's proposed expansion facilities.

project. Based on FGT's expressed intent to locate its proposed Phase VII Expansion facilities within or adjacent to existing utility corridors, and its efforts to work with affected landowners, we conclude that FGT has made sufficient efforts to minimize landowner impacts.

## V. Environmental Review

49. On April 7, 2006, Commission staff issued a final Environmental Impact Statement (EIS) for Southern's proposed Cypress Pipeline and FGT's proposed Phase VII Expansion. On April 14, 2006, a Notice of Availability of the final EIS was published in the *Federal Register*.<sup>31</sup> Approximately 1,384 copies of the final EIS were mailed to agencies, groups, and individuals on the proposed projects' mailing lists.

50. The EIS was prepared with the participation and assistance of the United States Army Corps of Engineers (COE), which acted as a cooperating agency under the National Environmental Policy Act (NEPA).<sup>32</sup> The COE must comply with the requirements of NEPA before issuing permits under section 404 of the Clean Water Act<sup>33</sup> and section 10 of the Rivers and Harbors Act.<sup>34</sup> Cooperating agency status allows the COE to adopt the EIS to meet its responsibilities.

51. The final EIS analyzes the proposed Cypress Pipeline and Phase VII Expansion projects and addresses the issues regarding need, alternatives, geology, soils and noxious weeds, water resources, wetlands and vegetation, fish and wildlife, federally listed species, land use, socioeconomics, cultural resources, air quality and noise, siting and safety, and cumulative impacts. The final EIS addresses comments from individuals, organizations, companies, and local authorities that either presented comments in public meetings or submitted comments in writing or electronically. Fourteen separate comments were submitted in response to the draft EIS issued on December 30, 2005, and seven individuals commented at public meetings held in areas affected by the proposed projects. The EIS also addresses comments received during the Commission's Pre-Filing Process for the projects and addresses comments and protests received in response to the July 8, 2005 notice of Southern's application for its Cypress Pipeline.

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<sup>31</sup> 71 FR 19495 (2006).

<sup>32</sup> 42 U.S.C. 4321 *et seq.* (2000).

<sup>33</sup> 33 U.S.C. 1344 (2000).

<sup>34</sup> 33 U.S.C. 403 (2000).

**A. Comments on the Final EIS**

52. We received comments on the final EIS from the United States Fish and Wildlife Service (FWS); the United States Environmental Protection Agency, Region 1 (EPA); and the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries). The FWS's comments were limited to Southern's proposed Cypress Pipeline facilities in Georgia. The FWS and EPA indicate that, in general, their previous comments and recommendations were adequately addressed in the final EIS. In its response to the final EIS, the FWS states that it concurs with our determination on the proposed Cypress Pipeline's impacts on all federally threatened and endangered species in Georgia. In its response to the final EIS, the EPA provides additional comments on the analysis of wetland and water quality impacts, recommended compressor station noise mitigation, and assessment of environmental justice.

53. The EPA asks why the acreage of temporary wetland impacts identified in the final EIS was greater than in the draft EIS. The analysis in the draft EIS was based primarily on estimated acreages from aerial photography and geographic information system (GIS) data; however, since issuance of the draft EIS, Southern supplemented its application based on actual civil survey data, and the final EIS incorporates this updated civil survey data. As indicated on page 4-54 of the final EIS, Southern's supplemented wetland acreage data also reflected changes to the proposed temporary work areas which now make additional use of the existing utility corridors. While these changes increased the acreage of emergent wetland within the maintained utility corridors, there is a reduction of forested wetland impacts adjacent to the existing utility corridors. As a result of Southern's supplemental data, temporary wetland impacts increased by approximately 30.5 acres and permanent wetland affects decreased by approximately 3 acres.

54. The EPA recommends continuing coordination with the FWS regarding functional habitat losses in forested wetlands attributed to the proposed projects. As indicated in several of the environmental conditions set forth in Appendix B, the Commission, FGT, and Southern will continue consultation with the appropriate FWS field offices prior to any construction of the projects. Further, we note that Environmental Conditions 17 and 28 require the applicants to consult with the appropriate agencies in finalizing compensatory wetland mitigation plans. These plans will ensure FGT and Southern adequately mitigate for forested wetland habitat losses. On May 8, 2006, Southern filed the required compensatory wetland mitigation plan. While the Commission has not yet completed its review of the plan, we note that Southern currently has offered to pay compensatory mitigation for a total of 278.5 acres of wetland impacts in Georgia and Florida. This proposed mitigation would restore and protect 278.5 acres of forested wetlands in areas identified by the COE as important wetland systems in need of protection.

55. The EPA requests the Commission clarify whether a horizontal directional drill (HDD) is the primary recommended crossing method for waterbodies greater than 30 feet wide. The final EIS, Appendix E, Wetland and Waterbody Construction and Mitigation Procedures, describes the mitigation requirements for open-cut crossings. As discussed in the final EIS at page 2-40, HDD is generally considered when a waterbody's size or environmental sensitivity make the use of an open-cut method impractical or undesirable. Based on its feasibility investigations, Southern proposes to cross 14 waterbodies using the HDD method; however, several waterbodies greater than 30 feet wide would be crossed using the open-cut method.<sup>35</sup>

56. The EPA is concerned that at Southern's proposed Compressor Station 3 the incremental noise level increases exceeding a day-night equivalent sound level ( $L_{dn}$ ) of 3 decibels on the A-weighted scale (dBA) could be significant at the nearest noise sensitive area (NSA). The EPA recommends additional noise monitoring if the ambient  $L_{dn}$  is 60 dBA or greater at the nearest NSA for Compressor Station 3 to determine appropriate mitigative measures. As stated in the final EIS on page 4-182, the nearest NSAs are at least 4,000 feet from all of Southern's proposed compressor stations and the ambient  $L_{dn}$  at all of these NSAs are well below the 60 dBA level. Further, Environmental Condition 26 requires Southern to conduct noise level surveys to verify that the noise attributable to the proposed new compressor stations do not exceed an  $L_{dn}$  of 55 dBA at any NSAs (EPA's noise level criteria to protect the public from indoor and outdoor activity interference<sup>36</sup>). If the noise levels exceed this level, Southern is required to install additional noise controls to meet the 55 dBA level within one year of the in-service date.

57. Environmental Conditions 26 and 36 state that if noise from a compressor station exceeds  $L_{dn}$  of 55 dBA at any nearby NSAs, then the company must act within one year of the in-service date of an offending facility to bring the noise down to an acceptable level. The EPA restates the concern it expressed in comments in response to the draft EIS that the one year timeframe provided for remediation is an unduly long time to subject residences to elevated noise levels. The final EIS analysis found that the proposed compressor stations would not result in noise levels at the nearest NSAs that exceed 55 dBA  $L_{dn}$ , and that noise impacts on residences are not anticipated in the vicinity of any of the proposed compressor stations. To further ensure that the actual noise levels do not impact any NSA, the final EIS recommended Environmental Conditions 26 and 36. In the unlikely event that noise thresholds are exceeded, we urge

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<sup>35</sup> See Final EIS, Appendix H, Waterbody Crossings (April 7, 2006).

<sup>36</sup> *Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety*, U.S. Environmental Protection Agency, 1974.

the company to act as rapidly as is both possible and prudent. Nevertheless, we believe that it is reasonable to provide up to a year for a company to conduct an engineering analysis, identify appropriate mitigation measures, and install noise controls as needed to meet the 55 dBA level.

58. The EPA comments that the final EIS does not sufficiently assess the potential for disproportionate impacts from the projects on low income or minority communities, and suggests that the Commission should conduct additional analysis. We disagree. As a threshold matter, the Commission observes that Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations*,<sup>37</sup> requires specified federal agencies to make achieving environmental justice part of their missions by identifying and addressing, as appropriate, disproportionately high and adverse human or environmental health effects of their programs, policies, and activities on minorities and low income populations. However, Executive Order 12898 applies to the agencies specified in section 1-102 of that order,<sup>38</sup> and this Commission is not one of those specified agencies. Consequently, the provisions are not binding on the Commission. Notwithstanding the inapplicability of Executive 12898, we nevertheless examined both the proposed Cypress Pipeline and Phase VII Expansion projects and determined that neither would have disproportionately high and adverse human health or environmental effects on minority or low income communities. We believe the final EIS fully and appropriately addresses the environmental justice implications pertinent to these projects.

59. For the most part, NOAA Fisheries restates concerns raised in response to the draft EIS. These concerns were addressed in the final EIS. NOAA Fisheries is not satisfied with the mitigation measures in the final EIS regarding wetland and aquatic resource impacts associated with erosion of stream banks, in-stream work activities, and hydrostatic testing. NOAA Fisheries recommends (1) that the Commission provide additional information in a supplemental environmental analysis; (2) that the Commission refrain from issuing the requested certificate authorizations until comprehensive mitigation plans are developed and implemented; (3) that Southern expand the proposed Cypress Pipeline wetland mitigation plan to include compensatory mitigation for impacts on aquatic resources; and (4) that FGT fully address wetland impacts associated with its proposed Phase VII Expansion in a compensatory mitigation plan that is developed in coordination with the applicable resource agencies.

60. We believe the final EIS fully addresses potential wetland and aquatic resource impacts associated with construction and operation of the proposed projects, including impacts associated with stream banks, in-stream work activities, and hydrostatic testing.

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<sup>37</sup> 59 FR 7629 (Feb. 11, 1994).

<sup>38</sup> See *Millennium Pipeline Company, L.P.*, 97 FERC ¶ 61,292 (2001).

Further, we find the final EIS adequately considers practical, appropriate, and reasonable measures to avoid or minimize project-related impacts on these resources to the maximum extent practicable. To mitigate for unavoidable impacts on these resources, both Southern and FGT are required to develop final compensatory wetland mitigation plans in consultation with the appropriate resource agencies.<sup>39</sup> When these plans are finalized and approved, Commission staff will ensure that Southern and FGT implement each provision of the plans. Based on the findings in the final EIS, we conclude that application of the companies' proposed mitigation and implementation of the environmental conditions attached as an appendix to this order will ensure that the proposed projects do not result in significant wetland and aquatic resource impacts.

## **B. Landowner Comments**

61. The draft and the final EIS did not address a comment submitted by Jane Moore, a landowner along FGT's proposed Loop J in Gilchrist County, Florida, in response to the October 14, 2005 notice of FGT's application for its Phase VII Expansion. Ms. Moore's comment, filed on November 17, 2005, concerns FGT's proposal to expand its existing easement across Ms. Moore's property. The existing easement is approximately 1,300 feet long and 40 feet wide, and now holds an FGT 30-inch diameter line. Ms. Moore objects to FGT's plan to permanently widen the current 40 feet to 60 feet in order to accommodate FGT's proposed 36-inch diameter Loop J line. Ms. Moore questions whether it is necessary to establish a wider corridor to be able to add the proposed loop line and is concerned that a wider permanent right-of-way would interfere with the recent construction and use of a residence to the east of the existing pipeline.

62. FGT's existing easement, proposed permanent right-of-way, and proposed temporary construction easement for its Loop J segment of pipe are described in section 2.2.2 of the final EIS. In general, pipeline companies typically maintain 20 to 25 feet of separation between pipelines when looping existing lines to ensure safety during construction and operation. Pipeline companies establish a permanent right-of-way width and restrict certain activities to ensure the integrity of their facilities. We find that FGT's proposed 20-foot offset from its existing 30-inch diameter pipeline and its proposed permanent right-of-way width are consistent with pipeline industry standards and are warranted to ensure public safety.

63. FGT's proposed residential mitigation measures are described in section 4.8.3.3 of the final EIS. FGT stipulates that it will develop site-specific residential construction plans for any residences within 25 feet of the construction work area and submit the plans to the Commission for review and approval prior to construction. While the residence referred to by Ms. Moore does not appear on FGT's filed alignment sheets, the final EIS determined that FGT's residential mitigation measures should reduce impacts on any

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<sup>39</sup> See Environmental Conditions 17 and 28 in Appendix A of this order.

residence in close proximity to the proposed construction area. If the residence on Ms. Moore's property is within 25 feet of the construction work area or permanent right-of-way, the stipulation mentioned above would ensure that the Commission will have an opportunity to review the adequacy of FGT's site-specific residential construction plan prior to construction. We believe these measures will ensure that Ms. Moore's concerns are adequately addressed by FGT during the easement negotiation process, and we encourage the parties to make a good faith effort to reach a mutually acceptable agreement. Section 4.8.2 of the final EIS observes that negotiations between a landowner and a pipeline company concerning an easement will determine compensation for loss of use and clarify the allowable uses of a permanent right-of-way. If the parties cannot reach agreement, and the pipeline company obtains certificate authorization for its project, a court would then set the terms regarding the right-of-way and workspace areas required for the project and compensation due to the landowner.

64. Landowners located on or adjacent to the proposed route of Southern's Cypress Pipeline submitted comments and protests regarding property values, siting, safety, and the potential for construction to adversely impact environmental resources. These landowners – Austin Hill Realty; Charles W. Bostwick; Eugene T. Clark, Sr. jointly with Frances H. Clark, John Aylor, and Debbie Aylor (Clark and Aylor); Henry Morgan and G.P. Morgan, III (Morgans); and Hilda Whitaker – received both the draft and final EIS. Their concerns are addressed in the final EIS.

65. The concerns of Austin Hill Realty, Clark and Aylor, and Hilda Whitaker regarding the potential for the proposed pipeline to adversely impact private property and property values are addressed in section 4.8 of the final EIS. Section 4.8.2 of the final EIS states that easement agreements between the pipeline company and the landowner may include compensation for damage to property or for a perceived loss of use or value.<sup>40</sup> As noted above, if the parties fail to reach an agreement, and Southern is granted certificate authorization for its Cypress Pipeline, compensation will be determined by a court in the context of an eminent domain proceeding.

66. Clark and Aylor's property is adjacent to Southern's existing Marietta Meter Station in Cobb County, Georgia. As indicated in section 4.8.1 of the EIS, Southern's proposed modifications to this facility would disturb about 0.8 of an acre of land within Southern's existing meter station boundaries. Clark and Aylor's property would not be impacted by the proposed modifications.

67. Charles W. Bostwick and the Morgans request that Southern be required to locate its proposed Cypress Pipeline within existing rights-of-way. During the draft EIS scoping period, several other commentors similarly suggested that Southern make greater use of the existing utility corridor in order to minimize impacts on adjacent lands. As described in section 3.3.2.1 of the final EIS, Commission staff undertook a detailed

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<sup>40</sup>See, e.g., *Appeal of Giesler*, 622 A.2d 408 (1993).

analysis of the practicality of placing Southern's proposed pipeline within existing powerline corridors. Based on the draft EIS analysis, staff recommended that Southern realign the mainline's centerline and construction right-of-way so that its mainline's centerline is generally five feet inside the existing powerline corridor for the first 9.5 miles. Southern subsequently agreed to this recommendation in its comments on the draft EIS, and this realignment became part of Southern's proposal as analyzed in the final EIS. Because of equipment restrictions and the risks associated with operating a high-pressure pipeline in close proximity to the high voltage transmission lines, the final EIS did not recommend locating the proposed pipeline along other segments of existing powerline corridors.

68. Austin Hill Realty and the Morgans raise safety concerns. As described in section 4.12 of the final EIS, the pipeline and aboveground facilities associated with the two proposed projects will be designed, constructed, operated, and maintained in accordance with the United States Department of Transportation Minimum Federal Safety Standards.<sup>41</sup> These regulations are intended to ensure adequate protection of the public and to prevent natural gas facility accidents and failures.

69. Hilda Whitaker is generally concerned about the proposed Cypress Pipeline's impact on the environment. The final EIS addresses the environmental impacts of the project in section 4.0. Based on information provided by Southern and FGT and further developed by field investigations, literature research, alternative analyses, and contacts with federal, state, and local agencies and individual members of the public, the final EIS determines that construction and operation of the projects will result in limited adverse environmental impact. This conclusion is also based on Southern's and FGT's proposed mitigation measures and Commission staff's recommended mitigation measures. Although many factors were considered in this determination, the principal reasons are as follows:

- about 95 percent of Southern's pipeline facilities and 99 percent of FGT's pipeline facilities will be located within or directly adjacent to existing pipeline and powerline corridors, both of which have been historically disturbed, are actively maintained, and have visual impacts consistent with the proposed projects;
- Southern and FGT would implement FERC staff's Upland Erosion Control, Revegetation, and Maintenance Plan, and Wetland and Waterbody Construction and Mitigation Procedures to protect natural resources during construction and operation of the projects;

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<sup>41</sup> See 49 CFR Part 192 (2005).

- the appropriate consultations with the United States Fish and Wildlife Service and both the Georgia and Florida State Historic Preservation Offices, and any appropriate compliance actions resulting from these consultations, will be completed before Southern or FGT receive authorization to begin construction in any given area; and
- an environmental inspection and mitigation monitoring program will ensure compliance with all mitigation measures that become conditions of certification.

70. We have reviewed the information and analysis contained in the final EIS regarding the potential environmental effect of the projects. Based on our consideration of this information, we agree with the conclusions presented in the final EIS that Southern's and FGT's projects will have limited adverse environmental impact. This conclusion is based on the construction and operation of the projects in accordance with Southern's and FGT's proposed mitigation and the recommended environmental mitigation measures in Appendix B of this order. Thus, we are including the environmental mitigation measures recommended in the final EIS as conditions to the certificate authorizations issued to Southern and FGT for their proposed projects.

71. 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/replacement or operation) of facilities approved by this Commission.<sup>42</sup> Southern and FGT must notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies either Southern or FGT for their respective projects. Southern and FGT must file written confirmation of such notification with the Secretary of the Commission within 24 hours.

## **VI. Summary**

72. FGT's proposed Phase VII Expansion can be expected to provide additional gas supplies and supply diversity needed to meet the demands of a growing population and electric generation market in Florida. Further, there should be no adverse impacts on other pipelines, on their captive customers, or on FGT's existing customers. Finally, we

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<sup>42</sup> See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et. al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

find FGT has worked to minimize the effect of the project on landowners. Accordingly, we conclude that FGT's proposed Phase VII Expansion can proceed without subsidies, and subject to certain conditions, will not adversely affect other pipelines and their customers. Therefore, because the benefits of the proposed Phase VII Expansion are expected to outweigh any potential adverse effects, consistent with Commission policy on new facilities, we find that the proposed project to be required by the public convenience and necessity. However, FGT's request for a predetermination for rolled-in rate treatment is denied.

73. We affirm our November 2005 determination that similarly found Southern's proposed Cypress Pipeline to be required by the public convenience and necessity. We also affirm our determination that absent a material change in circumstances, the costs associated with Southern's proposed project will qualify for rolled-in rate treatment when Southern makes its next NGA section 4 rate filing.

74. With respect to both project proposals, we defer consideration of issues related to LNG imports raised in protests and comments to the ongoing proceeding in *AES v. FGT*. Southern's certificate authorization will be conditioned on its delivering gas to FGT that meets FGT's gas quality tariff standards as determined by the outcome of the *AES v. FGT* proceeding. FGT is obliged to enforce the terms of its tariff, and thus must incorporate and ensure compliance any the gas quality standards established in the *AES v. FGT* proceeding.

75. The Commission, on its own motion, received and made a part of the record all evidence, including the applications, as amended and supplemented, and exhibits thereto, submitted in this proceeding. Upon consideration of this record,

The Commission orders:

(A) In Docket No. CP05-388-000, a certificate of public convenience and necessity is issued to Southern under NGA section 7(c), authorizing the construction and operation of the natural gas facilities described in this order and in the November 22, 2005 Preliminary Determination and in the application, as conditioned herein, and subject to the environmental conditions set forth in Appendix B.

(B) In Docket No. CP06-1-000, a certificate of public convenience and necessity is issued to FGT under NGA section 7(c), authorizing the construction and operation of the natural gas facilities described in this order and in the application, as conditioned herein, and subject to the environmental conditions set forth in Appendix B.

(C) The authorizations granted above are conditioned on the following:

- (1) Southern constructing and making available for service the facilities described herein, pursuant to paragraph (b) of section 157.20 of the

Commission's regulations, on the following schedule: the Phase I facilities by May 1, 2007, the Phase II facilities by May 1, 2009, and the Phase III facilities by May 1, 2010;

- (2) Southern executing contracts for the levels and terms of service represented in the precedent agreements for each phase of construction, prior to commencing construction of each phase of construction;
- (3) Southern delivering gas to FGT that complies with FGT's tariff's gas quality standards, subject to the determination in the *AES v. FGT* proceeding in Docket No. RP04-249-000;
- (4) FGT constructing and making available for service the facilities described herein, pursuant to paragraph (b) of section 157.20 of the Commission's regulations, on the following schedule: the Phase I facilities by May 1, 2007, and the Phase II facilities by May 1, 2009; and
- (5) Southern and FGT complying with all regulations under the NGA, including but not limited to, Parts 154 and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations.

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

(E) Southern may roll the costs of its proposed Cypress Pipeline into its systemwide cost of service in its next NGA section 4 rate proceeding, provided there are no material changes in relevant facts and circumstances.

(F) FGT's request for a predetermination that it may roll the costs of its proposed Phase VII Expansion project into its Rate Schedule FTS-2 cost of service is denied, for the reasons discussed herein.

(G) FGT is directed to file actual tariff sheets to implement the *pro forma* tariff revisions to section 27 of the General Terms & Conditions, Fuel Reimbursement Charges, of its FERC tariff proposed in this proceeding, in accordance with the notice requirements of section 154.207 of the Commission's regulations.

(H) In Docket No. CP05-388-000, the protests of Austin Hill Realty, Charles W. Bostwick, Clark and Aylor, the Morgans, and Hilda Whitaker are denied, for the reasons discussed herein.

(I) In Docket No. CP06-1-000, the protest of Tampa and Peoples is granted with respect to the rate treatment of FGT's proposed expansion project's costs, and denied with respect to issues related to the transportation of LNG imports, for the reasons discussed herein.

(J) In Docket No. CP06-1-000, the motions to intervene out-of-time are granted.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

**Appendix A**

**Intervenors in Florida Gas Transmission Company's Docket No. CP06-1-000**

BG LNG Services, LLC  
BP Energy Company  
ConocoPhillips Company  
Florida Cities  
Florida Municipal Gas Association  
Florida Power & Light Company  
Florida Power Corporation  
Florida Reliability Coordinating Council  
Industrial Gas Users of Florida jointly with Florida Industrial Gas Users  
Jane Moore\*  
ProLiance Energy LLC  
Reedy Creek Improvement District  
SCANA Energy Marketing, Inc.\*  
Seminole Electric Cooperative, Inc.  
Shell NA LNG LLC  
South Carolina Electric & Gas Company\*  
South Carolina Pipeline Corporation  
Southern Company Services, Inc.  
Southern Natural Gas Company  
Tampa Electric Company jointly with Peoples Gas System, a Division of Tampa Electric Company\*\*

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\* Filed out-of-time.

\*\* Filed a protest.

## Appendix B

### Southern Natural Gas Company – Docket No. CP05-388-000 Florida Gas Transmission Company – Docket No. CP06-1-000

#### Environmental Conditions

As recommended in the final Environmental Impact Statement (EIS), these authorizations are subject to the conditions set forth below.<sup>43</sup>

#### Conditions Applicable to both Southern and FGT

1. Southern Natural Gas Company (Southern) and Florida Gas Transmission Company (FGT) must follow the construction procedures and mitigation measures described in their applications, supplemental filings (including responses to staff information requests), and as identified in the EIS, unless modified by the Commission order. Southern and FGT 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 each project. This authority allows:
  - 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.

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<sup>43</sup> Conditions 1 through 15 apply to both Southern and FGT, conditions 16 through 26 apply to Southern only, and conditions 27 through 36 apply to FGT only.

3. **Prior to any construction** of the respective projects, Southern and FGT must file affirmative statements with the Secretary for its project, 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 must be as shown in the EIS, as supplemented by filed alignment sheets and include the staff's recommended facility locations. **As soon as they are available, and prior to the start of construction**, Southern and FGT must file with the Secretary 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 for each project. All requests for modifications of environmental conditions of this order or site-specific clearances must be written and reference locations designated on these alignment maps/sheets.

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

5. Southern and FGT must file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 for each project, identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and well as other areas that would be used or disturbed which 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 must be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **prior to construction** in or near that area.

This requirement does not apply to route variations recommended herein, or to minor field realignments in response to landowner needs and requirements, provided the minor field realignments 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. **At least 60 days before the start of construction**, Southern and FGT must each file an initial Implementation Plan with the Secretary, for the review and written approval by the Director of OEP, describing how Southern and FGT will implement the mitigation measures required by this order. Southern and FGT must file revisions to their respective plans as schedules change. The plans must identify:
- a. how Southern or 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;
  - b. the number of EIs assigned per spread and aboveground facility site, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - c. company personnel, including EIs and contractors, who will receive copies of the appropriate materials;
  - d. what training and instructions Southern or FGT will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change), with the opportunity for OEP staff to participate in the training session(s);
  - e. the company personnel (if known) and specific portion of Southern's or FGT's organizations having responsibility for compliance;
  - f. the procedures (including use of contract penalties) Southern or 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:
    - i. the completion of all required surveys and reports;
    - ii. the mitigation training of onsite personnel;
    - iii. the start of construction; and
    - iv. the start and completion of restoration.

7. Southern and FGT must each file updated status reports with the Secretary on a **biweekly** basis **until all construction-related activities, including restoration, are complete for each phase of the respective projects**. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports must include:
  - a. the current construction status of each spread, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
  - b. 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);
  - c. a description of corrective actions implemented in response to all instances of noncompliance, and their cost;
  - d. the effectiveness of all corrective actions implemented;
  - e. 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
  - f. copies of any correspondence received by Southern or FGT from other federal, state, or local permitting agencies concerning instances of noncompliance, and Southern's or FGT's response, as applicable.
8. Southern and FGT must receive written authorization from the Director of OEP **before commencing service** for each phase of the projects. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way is proceeding satisfactorily.
9. **Within 30 days of placing the certificated facilities in service**, Southern and FGT must each file an affirmative statement with the Secretary, certified by a senior company official for the respective projects:
  - 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 Southern or FGT has complied with or will comply with. This statement must also identify any areas affected by the projects where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
10. Southern must employ a team of EIs per construction spread and FGT must employ at least one EI per spread. The EIs must be:

- a. responsible for monitoring and ensuring compliance with all environmental mitigative measures required by this order and by other grants, permits, certificates, or other authorizing documents;
  - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
  - c. empowered to order correction of acts that violate the environmental conditions of this order, and any other authorizing document;
  - d. a full-time position separate from all other activity inspectors;
  - e. responsible for documenting compliance with the environmental conditions of this order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
  - f. responsible for maintaining status reports.
11. Southern and FGT must each develop and implement an environmental complaint resolution procedure that remains active for at least 3 years following the completion of construction for the respective projects. The procedures must provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the projects and restoration of the rights-of-way. **Prior to construction**, Southern and FGT must mail the environmental complaint resolution procedures to each landowner whose property would be crossed by the respective projects.
- a. In the letter to affected landowners, Southern and FGT must:
    - i. provide a local contact that the landowners should call first with their concerns; the letter should indicate how soon to expect a response;
    - ii. instruct the landowners that if they are not satisfied with the response, they should call Southern's or FGT's Hotline; the letter should indicate how soon to expect a response; and
    - iii. instruct the landowners that if they are still not satisfied with the response from Southern's or FGT's Hotline, they should contact the Commission's Enforcement Hotline at (888) 889-8030 or at [hotline@ferc.gov](mailto:hotline@ferc.gov).
  - b. In addition, the biweekly status report that Southern and FGT are required to file must include a table that contains the following information for each problem/concern:
    - i. the identity of the caller and the date of the call;
    - ii. the identification number from the certificated alignment sheets of the affected property and appropriate location by milepost (MP);

- iii. a description of the problem/concern; and
  - iv. an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.
12. Southern and FGT must file the locations of all springs, seeps, and wells identified within 150 feet of their respective construction rights-of-way with the Secretary **prior to construction.**
  13. Southern and FGT must each file a report with the Secretary, within 30 days of placing their respective pipeline facilities in service, identifying all water supply wells/systems damaged by construction and how they were repaired. The report must include a discussion of any complaints concerning the well yield or quality and how each problem was resolved.
  14. Southern and FGT must strictly follow the United States Fish and Wildlife Service's (FWS) Habitat Management Guidelines for the Wood Stork in the Southeast Region for any portion of their respective projects that are located near a wood stork rookery. Additionally, as recommended by the FWS, Southern and FGT must delay or halt daily construction operations if foraging or roosting storks are encountered at a work site; work may begin once storks leave the area on their own.
  15. Southern and FGT must not begin construction for their respective projects until:
    - a. the FERC staff receives survey comments from the FWS or state agencies regarding their respective proposed actions; and
    - b. Southern and FGT have received written notification from the Director of OEP that construction or use of mitigation may begin.

#### **Conditions Applicable to Southern Only**

16. **Prior to construction**, Southern must file with the Secretary, for review and written approval by the Director of OEP: access road information specifying the locations and dimensions of the road improvements relative to the existing road configuration; documentation that necessary wetland, cultural resource, and protected species surveys have been completed for the road improvements; and documentation that necessary permits and landowner approvals have been obtained for the road improvements.
17. Southern must consult with the United States Department of Army, Corps of Engineers (COE), the Florida Department of Environmental Protection (FLDEP), the Georgia Department of Natural Resources (GADNR), the National Oceanic Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries), and other applicable agencies and organizations to finalize its

compensatory wetland mitigation plan. The plan must include details regarding the amount, location, and types of mitigation proposed; specific performance standards to measure the success of the mitigation; and remedial measures, as necessary, to ensure that compensatory mitigation is successful. Southern must file the compensatory wetland mitigation plan with the Secretary for the review and written approval by the Director of OEP **prior to construction**.

18. Southern must not begin an open-cut crossing of the Ogeechee, Altamaha, Satilla, or St. Mary's Rivers until it files an amended horizontal directional drill (HDD) Crossing Plan with the Secretary for review and written approval by the Director of OEP. The amended HDD Crossing Plan must include site-specific drawings identifying all areas that would be disturbed by construction using an alternate crossing method. Southern must provide its amended HDD Crossing Plan with the COE, FWS, NOAA Fisheries, National Park Service (NPS), GADNR, Florida Fish and Wildlife Commission (FLFWC), as applicable, and other agencies responsible for issuing permits to implement this plan. Any open-cut crossing plan for the Ogeechee, Altamaha, Satilla, or St. Mary's Rivers must include:
  - a. the *Manatee Protection Construction Guidelines* in Georgia and the *Standard Manatee Construction Conditions* in Florida as directed by the FWS (undated); and
  - b. the *Shortnose Sturgeon Protection Construction Guidelines*. Southern must also consult with the appropriate agencies to determine the need for additional measures to avoid or minimize adverse effects on the shortnose sturgeon.
19. **Prior to construction in Bryan and Glynn Counties, Georgia**, Southern must file with the Secretary, for the review and written approval by the Director of OEP, its consultation with the FWS regarding survey methodology and mitigation for the flatwoods salamander.
20. Following surveys for pondberry, Southern must contact the FWS if pondberry is identified within the survey corridor to obtain guidance from the FWS regarding a course of action to be taken to avoid or minimize impact on this species during construction.

**Prior to construction**, Southern must file the completed survey report with the Secretary containing the following information:

- a. name(s) and qualifications of the person(s) conducting the survey;
- b. method(s) used to conduct the survey;
- c. date(s) of the survey;
- d. area surveyed (include the mileposts surveyed); and
- e. proposed mitigation that would substantially minimize or avoid the

potential impacts.

21. **Prior to construction**, Southern must file with the Secretary, for review and written approval by the Director of OEP, a site-specific mitigation plan that identifies the specific measures that Southern will implement to minimize tree clearing to the maximum extent practicable in the residential area located between MPs 99.1 and 99.3 of its proposed pipeline loop.
22. **Prior to construction**, Southern must file with the Secretary, for review and approval by the Director of OEP a visual screening plan for the proposed South Georgia Meter Station at MP 143.7, mainline valve (MLV) 6 at MP 57.4, MLV 10 at MP 99.9, and MLV 11 at MP 119.2.
23. **Prior to construction**, Southern must file with the Secretary documentation of concurrence from the GADNR that its project is consistent with the Georgia Coastal Management Plan.
24. **Prior to construction**, Southern must file with the Secretary documentation of concurrence from the FLDEP that its project is consistent with the Florida Coastal Management Program.
25. Southern must defer construction of facilities and use of all staging, storage, or temporary work areas and new or to-be-improved access roads **until**:
  - a. Southern conducts surveys and any required evaluations for the denied access areas and any other areas that remain to be surveyed, files with the Secretary the remaining cultural resources survey reports; any required evaluation reports and treatment/avoidance plans; and the Georgia and Florida State Historic Preservation Officer's (SHPO) comments on the reports and plans;
  - b. the Advisory Council on Historic Preservation (ACHP) is afforded an opportunity to comment, if historic properties would be adversely affected; and
  - c. the Director of OEP reviews all cultural resources survey reports and plans, and notifies Southern in writing that treatment plans may be implemented or construction may proceed.

All material 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.”**

26. Southern must conduct noise surveys to verify that the noise from the proposed new compressor stations operating at full load do not exceed a day night sound

level ( $L_{dn}$ ) of 55 decibels on the A-weighted scale (dBA) at any noise sensitive areas (NSAs), and file the results of the noise survey with the FERC **no later than 60 days** after placing the compressor stations in service. If the noise attributable to operating the compressor stations at full load exceeds an  $L_{dn}$  of 55 dBA at any nearby NSAs, Southern must file a report on what changes are needed and must install additional noise controls to meet that level **within one year of the in-service date**. Southern must confirm compliance with the  $L_{dn}$  of 55 dBA requirement by filing a second noise survey with the FERC **no later than 60 days** after it installs the additional noise controls.

### **Conditions Applicable to FGT Only**

27. FGT must prepare a Plan for the Discovery and Management of Contaminated Soils and Groundwater. This plan must comply with applicable state and federal regulations and must include procedures for the identification and management of unknown contaminants if any are encountered. **Prior to construction**, the plan must be filed with the Secretary for review and approval by the Director of OEP.
28. FGT must continue to consult with the COE, the FLDEP, and other applicable agencies and organizations to finalize its compensatory wetland mitigation plan. The plan must include details regarding the amount, location, and types of mitigation proposed; specific performance standards to measure the success of the mitigation; and remedial measures, as necessary, to ensure that compensatory mitigation is successful. FGT must file the compensatory wetland mitigation plan with the Secretary for review and written approval by the Director of OEP **prior to construction**.
29. **Prior to construction**, FGT must file with the Secretary, for the review and approval by the Director of OEP, its Nuisance Species Plan developed in consultation with the FLDEP. This plan must include measures to prevent the spread of invasive weeds during construction and to control invasive weeds that may develop post construction.
30. **Prior to construction along Loop K**, FGT must file with the Secretary permits issued by the state of Florida relating to time-of-year waterbody crossing restriction.
31. **Prior to constructing within 1,500 feet of an active bald eagle nest**, FGT must implement the Bald Eagle Monitoring Guidelines (FWS, 2005) and file with the Secretary, for review and approval by the Director of OEP, the results of its consultation with the FWS regarding site-specific construction plans within the nest buffer for bald eagles.

32. **Prior to construction along Loop G**, FGT must file with the Secretary, for review and approval by the Director of OEP, the results of its consultation with the FWS regarding survey methodology, results of new surveys (if necessary), and avoidance or minimization of impacts measures for the red-cockaded woodpecker.
33. **Prior to construction**, FERC staff must complete formal consultation with the FWS for the eastern indigo snake and FGT must file with the Secretary, for review and approval by the Director of OEP, its eastern indigo snake protection plan utilizing the *Standard Protection Measures for the Eastern Indigo Snake* developed by the North Florida Field Office of the FWS.
34. **Prior to construction**, FGT must file with the Secretary documentation of concurrence from the FLDEP that its project is consistent with the Florida Coastal Management Program.
35. FGT must defer construction of facilities, and use of all staging, storage, or temporary work areas and new or to-be-improved access roads **until**:
  - a. FGT files with the Secretary the Florida SHPO's comments on the survey report and the need for additional surveys;
  - b. FGT files any additional required survey reports and any required treatment plans, and the SHPO's comments on the reports and plans;
  - c. the ACHP is afforded an opportunity to comment, if historic properties would be adversely affected; and
  - d. the Director of OEP reviews all cultural resources survey reports and plans, and notifies FGT in writing that construction may proceed.

All material 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.**"

36. FGT must conduct noise surveys to verify that the noise from Compressor Stations 24 and 26 operating at full load does not exceed an  $L_{dn}$  of 55 dBA at any NSAs, and file the results of the noise survey with the FERC **no later than 60 days** after placing the compressor stations in service. If the noise attributable to operating the compressor stations at full load exceeds an  $L_{dn}$  of 55 dBA at any nearby NSAs, FGT must file a report on what changes are needed and must install additional noise controls to meet that level **within one year of the in-service date**. FGT must confirm compliance with the  $L_{dn}$  of 55 dBA requirement by filing a second noise survey with the FERC **no later than 60 days** after it installs the additional noise controls.