

119 FERC ¶ 61,118  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Suedeem G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Panhandle Eastern Pipe Line Company, LP

Docket No. CP06-428-000

ORDER ISSUING CERTIFICATE

(Issued May 4, 2007)

1. On August 1, 2006, Panhandle Eastern Pipe Line Company, LP (Panhandle) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, requesting authority to replace certain outdated pipeline segments, install ancillary facilities and relocate certain tap facilities on Panhandle's existing system. For the reasons discussed herein, the requested authorizations are granted, subject to conditions.

**Background and Proposal**

2. Panhandle is a natural gas pipeline company engaged in the transportation of natural gas in interstate commerce. It is a limited partnership organized under the laws of Delaware. Panhandle's transmission system extends from supply sources in the states of Texas, Kansas, and Oklahoma through Missouri, Illinois, Indiana, and Ohio to northern terminus in Michigan and at the boundary between the United States and Canada.

3. Panhandle states that its system currently consists of four interconnected mainlines that were constructed over a period of approximately 40 years. These mainlines are numbered sequentially based on the time of construction and include the 100, 200, 300 and 400 mainlines.<sup>1</sup> These lines run approximately parallel to each other and gas from

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<sup>1</sup> Panhandle also has labeled discrete sections of its mainlines on a geographical basis. Segments relevant to the instant proposal are the Tuscola, Montezuma and Zionsville Lines.

one can be moved to another at various points on the lines. However, segments of the oldest line, the 100 Line, have been out of service due to deterioration.

4. Panhandle explains that it began an internal pipeline integrity program to comply with the U.S. Department of Transportation's (DOT) Integrity Management Plan (Management Plan) regulations which became effective in 2002.<sup>2</sup> Additionally, Panhandle indicates that the Management Plan requires pipeline companies to assess and mitigate threats to pipeline integrity in High Consequence Areas (HCA), which are defined based upon the density of population close to the pipeline. Panhandle states that it reduced the operating pressure of the 100-Line by 20 percent in 2004 to comply with the Management Plan through 2011. Panhandle maintains that additional risk mitigation techniques must be implemented after 2011, but has concluded that in-line inspections have limited effectiveness as a mitigation technique on most of the 100 and 200-Lines because of the steel composition of the lines and the original coupled pipeline construction. Accordingly, Panhandle has concluded that it will replace certain segments of the 100 and 200 mainlines as a mitigative measure. Panhandle states that this course of action will have the added benefit of restoring capacity lost due to the prior reduction in pressure.

5. To implement this decision, Panhandle has proposed its Tuscola East Replacement Project (Tuscola Project) in this proceeding and requests that the Commission authorize it to remove and replace certain 20-, 24-, and 36-inch diameter pipeline segments with 36-, 30-, and 20-inch diameter pipeline, respectively, on the existing Tuscola Line in Douglas County, Illinois, the Montezuma Line in Parke County, Indiana, and the Zionsville Line in Marion, Boone, and Hamilton Counties, Indiana. Specifically, Panhandle proposes to abandon portions of the 100 Line that extend from three compressor stations to the city gate downstream of each station and replace these segments with 36-inch pipeline. Although these segments of new pipeline will not be contiguous to each other, Panhandle indicates that it will designate this new pipeline as the 500 Line. Panhandle states that the new segments of the 500 Line will have a 25-foot offset from the existing Panhandle mainlines and that construction of the new 500 Line will be primarily located within the existing 150 to 200-foot wide Panhandle pipeline corridor. Additionally, Panhandle proposes to install seven above-ground ancillary facilities and mainline valves as well as to relocate 16 tap facilities. Panhandle asserts that the pipeline replacement segments will enable it to restore transportation capacity from Tuscola heading east to Michigan, as well as maintaining safety standards.

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<sup>2</sup> See 49 CFR Part 192, Subpart Q, §192.901, *et seq.* (2007).

6. On the Tuscola Line, Panhandle proposes to replace a segment of the 100 Line, which will be abandoned by removal, in Douglas and Edgar Counties, Illinois, with 6.7 miles of 36-inch diameter pipeline extending from the Tuscola Compressor Station to an interconnection with the existing 300 and 400 Lines at milepost (MP) 6.7 or Gate 1. This part of the new 500 Line comprises a total of 4.8 miles of new 36-inch diameter pipe running from MP 0.0 to MP 3.2 and from MP 5.1 to MP 6.7, respectively, and a 1.9-mile segment of the existing 36-inch diameter pipeline on the 200 Line running in between the new segments from MP 3.2 to MP 6.7. Since Panhandle proposes to continue utilizing the existing 20-inch diameter pipeline on the 200 Line, it plans to construct a 1.9-mile, 20-inch diameter segment to replace the 1.9-mile, 36-inch diameter segment that will become part of the new 500 Line. Panhandle will operate the 46.3 miles of 20-inch diameter segment of the 100 Line that will not be abandoned as a contiguous lateral line to deliver gas to existing taps on that line.

7. Panhandle also proposes to replace approximately 5.6 miles of the 20-inch diameter segment of the Montezuma 100 Line located downstream of the Montezuma Compressor Station in Parke County, Indiana, with a new 36-inch diameter pipeline, also to be designated as the 500 Line. This portion of the new 500 Line will extend from the compressor station to an interconnection with the existing 400 Line at MP 6.6 or Gate 1. This segment of the 100 Line will be abandoned by removal, while the remaining approximately 54.2 miles of the Montezuma 100 Line will be capped and no gas will flow on it.

8. Additionally, Panhandle proposes to replace approximately 18 miles of the 108.9-mile 200 Line with a new 30-inch diameter pipeline extending from the Zionsville Compressor Station at MP 0.0 to an interconnection with the existing 30-inch 100 and 400-Lines at MP 18 or Gate 3. This new segment of pipeline will be located in Boone and Hamilton Counties, Indiana, and will be part of the new 500 Line. The old 18.0-mile, 4-inch diameter segment of the 200 Line will be abandoned by removal, while the remaining 90.9 miles of the 200 Line will remain in service.

9. In addition, Panhandle proposes to install one pig launcher at MP 0.0 within the existing Tuscola Compressor Station yard and one receiver at MP 6.7 on the Tuscola 500 Line. It also proposes to install a pig launcher at MP 0.0 at the existing Montezuma Compressor Station and a receiver at MP 6.7 on the Montezuma 500 Line. Finally, Panhandle proposes to install a pig launcher at MP 0.0 within the existing Zionsville Compressor Station yard, a mainline valve at MP 8.0 and a receiver at MP 18.0 on the Zionsville 500 Line. Panhandle states that on those portions of the Tuscola 100 Line and the Zionsville 200 Line to be abandoned, 16 taps will be disconnected and reconnected to an adjacent line in order to continue existing service. Panhandle notes that all existing taps on the Tuscola 100 Line and the Zionsville 200 Line are below ground and that there are no taps on the Montezuma 100 Line.

10. Panhandle maintains that the Tuscola Project will have no adverse effect on the human environment primarily because the replacement activities will occur within existing Panhandle right-of-way. It states that the project also will have no adverse effect generally on the environment because of the constructions methods it intends to use and the mitigation measures it proposed to implement. Panhandle estimates that cost of the facility replacement project will be approximately \$55.8 million.

### **Interventions**

11. Notice of Panhandle's application was published in the *Federal Register* on August 17, 2006 (71 Fed. Reg. 47,493). Timely, unopposed interventions were filed by ProLiance Energy, LLC; Central Illinois Public Service Company d/b/a AmerenCIPS, Ameren Energy Generating Company, Illinois Power Company d/b/a AmerenIP, Central Illinois Light Company d/b/a AmerenCILCO and Union Electric Company d/b/a AmerenUE (collectively, Ameren); ConocoPhillips Company; Michigan Consolidated Gas Company; Missouri Gas Energy, a Division of Southern Union Company; Process Gas Consumers Group and Semco Energy Gas Company.<sup>3</sup>

12. A motion to intervene out-of-time was filed by Claridge Farm Homeowners Association, Inc. This party has demonstrated that it has an interest in this proceeding and that its participation will not delay the proceeding or prejudice the rights of any other party. Accordingly, for good cause shown, we will grant the motion to intervene out-of-time.<sup>4</sup>

### **Discussion**

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

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<sup>3</sup> Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(a)(3) (2006).

<sup>4</sup> 18 C.F.R. § 285.214(d) (2006).

### **The Certificate Policy Statement**<sup>5</sup>

14. The purpose of the Tuscola Project is to ensure system integrity in compliance with DOT's pipeline safety regulations. The Certificate Policy Statement provides that increasing rates of existing customers to pay for these improvements is not a subsidy<sup>6</sup> and that the cost of new and/or replacement facilities may be rolled into existing rates where such projects are designed to maintain and improve existing service and operations and enhance reliability for the benefit of all customers.<sup>7</sup> Therefore, there will be no subsidization by existing customers as a result of the Tuscola Project. Further, the Commission has found that appropriate capital costs attributable to ensuring compliance with DOT safety standards may be rolled in, absent any significant change in circumstances.<sup>8</sup> Therefore, the Commission finds that Panhandle's proposal is required by the public convenience and necessity, subject to the environmental mitigation conditions discussed below. Accordingly, the Commission will grant a predetermination of rolled-in rate treatment when Panhandle files to recover the project costs in its next rate case, absent a significant change in circumstances.<sup>9</sup>

15. Additionally, because the Tuscola Project's primary purpose is not to serve new loads, there will be no adverse impact on competing pipelines and their captive

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<sup>5</sup>*Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999); *order clarifying policy*, 90 FERC ¶ 61,128 (2000); and *order clarifying policy*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

<sup>6</sup> 88 FERC ¶ 61,227 at n. 12 (1999).

<sup>7</sup> 90 FERC ¶ 61,128 at 61,391 and 61,393-94 (2000).

<sup>8</sup> *See Algonquin Gas Transmission Co.*, 108 FERC ¶ 61,195 at P 22 (2004). Although in several instances Panhandle is replacing existing pipeline segments with larger diameter pipe, the Commission has determined that the proposed replacements will not result in any usable increase of capacity above the currently-certificated levels of the system. However, to the extent capacity through these specific segments is increased through some future authorization, this would constitute a significant change in circumstances for purposes of the pre-determination favoring rolled-in rate treatment granted in this order.

<sup>9</sup> Additionally, to the extent that this order necessitates any tariff changes, Panhandle must file under section 4 of the NGA to make the appropriate changes (such as reflecting the existence of new Line 500).

customers. Further, given the fact that the replacement activities will take place within Panhandle's existing right-of-way, landowner impacts will be minimal. In conclusion, this project will provide system benefits with minimal adverse impacts and is necessary to meet DOT standards<sup>10</sup>

### **Environmental Analysis**

16. On October 12, 2006, a Notice of Intent to Prepare an Environmental Assessment and Request for Comments on Environmental Issues (NOI) was issued for the proposed Tuscola Project. Comment letters were received from three federal government agencies (Department of Health & Human Services, United States Environmental Protection Agency (EPA), and National Park Service), one state agency (Indiana Department of Natural Resources), one local agency (Hamilton County Soil and Water Conservation District), and six individuals. Additionally, nine people provided comments at the October 24, 2006 scoping meeting in Noblesville, Indiana. Issues raised included use of native seed mixes for revegetation, impacts on federally listed threatened and endangered species, in particular on the Indiana bat, impacts on residences within 50 feet of construction work areas, noise from the pipeline, and safety. All of these comments are addressed in the Environmental Assessment (EA).

17. On March 7, 2007, the EA for the project was issued; comments on the EA were due by April 6, 2007. The EA addresses geology, soils, water resources, vegetation, wildlife, threatened and endangered species, cultural resources, land use, air quality, noise, reliability and safety, and alternatives. Panhandle indicates that it will implement the Commission's Upland Erosion Control, Revegetation and Maintenance Plan, and Wetland and Waterbody Construction and Mitigation Procedures for construction and restoration of all work areas affected by the project.

18. Environmental Condition Nos. 12 and 13 of the EA requires Panhandle to consult with the U.S. Fish and Wildlife Service (FWS) and develop a tree clearing plan to minimize impacts on the federally endangered Indiana bat, and to file this plan for review and written approval by the Director of the Office of Energy Projects. On March 22, 2007, Panhandle filed its Indiana bat habitat survey and correspondence with the FWS. Panhandle identified a total of 9 trees that could potentially provide habitat for the Indiana bat along the Zionsville and Montezuma Lines. Panhandle stated that the trees would either be removed prior to April 15, as suggested by the FWS, or would be preserved within the construction right-of-way by installing fence around the trees to

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<sup>10</sup> The Commission notes that a review of the engineering exhibits provided by Panhandle demonstrates that Panhandle's replacement project is appropriately designed.

protect them. In its letter dated March 13, 2007, the FWS determined that if the above measures are implemented, the project is not likely to adversely affect the Indiana bat. We concur with the FWS determination, but note that since the April 15, 2007 deadline has expired, Panhandle must install fence around the 9 trees it identified as potential Indiana bat habitat. Therefore, The EA's Environment Condition Nos. 12 and 13 have been eliminated from the conditions contained in the Appendix to this order.

19. Environmental Condition No. 15 of the EA required Panhandle to file with the Commission for review and written approval comments from the State Historic Preservation Officer (SHPO) on Panhandle's archaeological reports for the project prior to initiating construction. Commission environmental staff already received and reviewed the SHPO's February 2, 2007 comments and agrees with the SHPO's assessment that the archeological report documents indicate that there are no significant archaeological sites or other historic properties located in the area that would be affected by the project. Accordingly, Environment Condition No.15 has been eliminated from the Appendix.

20. On April 11, 2007, the EPA Region 5 filed comments on the EA. It stated that downstream sediment transport would be minimized if Panhandle coordinated with the Morse Reservoir Dam operator to cross Cicero Creek at MP 15.5 on the Zionsville Line, so that this waterbody is crossed during a seasonal low flow period. Panhandle would cross this waterbody about a half mile downstream of the dam. The environmental staff concurs with this recommendation, which the Commission adopts, that a new environmental condition incorporating the EPA's recommendations with regard to crossing Cicero Creek should be imposed on Panhandle. Therefore, a new Environmental Condition No.12 has been added to the Appendix.

21. Based on the discussion in the EA and in this order, the Commission finds that if constructed and operated in accordance with Panhandle's application and the December 18, 2006 and January 29, 2007 supplements, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

22. The Commission notes that any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or

operation of facilities approved by this Commission.<sup>11</sup> Panhandle shall notify the Commission's environmental staff by telephone, e-mail, or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies either Panhandle for their respective projects. Further, Panhandle shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

### **Conclusion**

23. For the reasons discussed above and subject to the conditions in the Appendix, the Commission concludes that the facilities proposed for construction, as more particularly described in the application, supplements thereto, and this order are required by the public convenience and necessity. Further, the abandonment of the facilities associated with this replacement project will not adversely affect existing service; therefore, the abandonment is permitted by the future public convenience and necessity.

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

#### **The Commission orders:**

(A) A certificate of public convenience and necessity is issued to Panhandle pursuant to section 7(c) of the NGA authorizing Panhandle to construct, own, and operate replacement natural gas facilities, as described and conditioned herein, and as more fully described in the application.

(B) The certificate issued in Ordering Paragraph (A) is conditioned on Panhandle's completing the authorized construction of the proposed facilities and making them available for service within one year of the date of this order pursuant to section 157.20 (b) of the Commission's regulations.

(C) The certificate issued in Ordering Paragraph (A) is conditioned on Panhandle's compliance with all applicable Commission regulations, including paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations.

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<sup>11</sup>See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Comm'n*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(D) Panhandle is authorized to abandon facilities, by removal or in place, associated with the Tuscola Project as more particularly described in this order.

(E) Panhandle shall comply with the environmental conditions listed in the appendix to this order.

(F) The motion to intervene out-of-time is granted.

(G) Panhandle shall notify the Commission's environmental staff by telephone or facsimile of any environmental non-compliance identified by other federal, state, or local agencies on the same day that such agency notifies Panhandle. Panhandle shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

## Appendix

### Environmental Conditions

1. Panhandle shall follow the construction procedures and mitigation measures described in its application and supplements including responses to staff data requests and as identified in the environmental assessment (EA), unless modified by this Order. Panhandle must:
  - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
  - b. justify each modification relative to site-specific conditions;
  - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
  - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) before using that modification.
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
  - a. the modification of conditions of this Order; and
  - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Panhandle shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets, and shall include all of the staff's recommended facility locations identified in the EA. **As soon as they are available, and before the start of construction**, Panhandle shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by this Order. All requests for modifications

of environmental conditions of this Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

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

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

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

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

- a. implementation of cultural resources mitigation measures;
  - b. implementation of endangered, threatened, or special concern species mitigation measures;
  - c. recommendations by state regulatory authorities; and
  - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of acceptance of this certificate and before construction begins**, Panhandle shall file an initial Implementation Plan with the Secretary for

review and written approval by the Director of OEP describing how Panhandle will implement the mitigation measures required by this Order. Panhandle must file revisions to the plan as schedules change. The plan shall identify:

- a. how Panhandle 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 environmental inspectors assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - c. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;
  - d. the training and instructions Panhandle will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
  - e. the company personnel (if known) and specific portion of Panhandle's organization having responsibility for compliance;
  - f. the procedures (including use of contract penalties) Panhandle will follow if noncompliance occurs; and
  - d. 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. Panhandle shall employ at least one environmental inspector per construction spread. The environmental inspector shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by this Order and 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.
8. Panhandle shall file updated status reports prepared by the head environmental inspector with the Secretary on a *weekly* basis until all construction and restoration activities are complete. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
    - a. 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 environmental inspector(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. 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 which may relate to compliance with the requirements of this Order, and the measures taken to satisfy their concerns; and copies of any correspondence received by Panhandle from other federal, state or local permitting agencies concerning instances of noncompliance, and Panhandle's response.
  9. Panhandle must receive written authorization from the Director of OEP before commencing service for each phase of the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
  10. Within 30 days of placing the certificated facilities in service, Panhandle shall file an affirmative statement with the Secretary, certified by a senior company official:
    - a. that the facilities have been constructed/installed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
    - b. identifying which of the certificate conditions Panhandle has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented,

if not previously identified in filed status reports, and the reason for noncompliance.

11. Panhandle shall provide site-specific construction plans and justifications for each extra work space with a less than 50-foot setback from the water's edge or reconfigure or relocate its proposed additional temporary work spaces (ATWS) so that the ATWS at MPs 1.1, 1.2, 2.1, 7.7, 8.7, 11.6, 13.8, and 14.4 along the Zionsville Line are located at a minimum of 50 feet from water's edge of waterbodies or wetland boundaries as required by our Procedures items V.B.2.a and b and VI.B.1.a and b. Panhandle shall include these site specific plans or revisions in its alignment sheets to be filed with the Secretary for review and approval by the Director of OEP, **prior to construction**.
12. **Prior to construction**, Panhandle shall file with the Secretary for review and written approval by the Director of OEP, a site-specific plan for the Cicero Creek crossing at MP 15.5 on the Zionsville Line. This plan shall include coordination with the Morse Reservoir Dam operator so that the crossing may be completed during a seasonal low flow period.
13. Panhandle shall develop and implement an environmental complaint resolution procedure. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the project and restoration of the ROW. Prior to construction, Panhandle shall mail the complaint procedures to each landowner whose property would be crossed by the project.
  - a. In its letter to affected landowners, Panhandle shall:
    - (i) provide a local contact that the landowners should call first with their concerns; the letter should indicate how soon a landowner should expect a response;
    - (ii) instruct the landowners that, if they are not satisfied with the response, they should call Panhandle'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 Panhandle's Hotline, they should contact the Commission's Enforcement Hotline at (877) 337-2664.
  - b. In addition, Panhandle shall include in its weekly status report a copy of a table that contains the following information for each problem/concern:

- (i) the date of the call;
  - (ii) the identification number from the certificated alignment sheets of the affected property;
  - (iii) the 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.
  
- 14. Panhandle shall prepare a Fugitive Dust Control Plan. This plan shall be filed with the Secretary for review and written approval of the Director of OEP prior to the start of construction. The plan shall specify the following:
  - a. the precautions that would be taken to minimize fugitive dust emissions from construction activities and when/how the measures would be applied;
  - b. the individuals with authority to determine if/when water needs to be reapplied for dust control; and
  - c. the individuals with authority to stop work if the contractor does not comply with dust control measures.