

3. The August 14 Order included special conditions for the Downingtown Replacement because of the proximity of residences to the existing pipeline, which will be replaced with new pipe. In particular, Environmental Condition No. 17 (Condition 17) in Appendix B to the August 14 Order requires Transco to submit for review and approval by the Director of the Office of Energy Projects (OEP) individual site-specific residential construction plans for all residences within 50 feet of construction work areas for the Downingtown Replacement.⁴ Condition 17 further states that “Transco shall not exercise eminent domain authority granted under section 7(h) of the Natural Gas Act to acquire permanent rights-of-way until the required site-specific residential construction plans have been reviewed and approved by the Director of OEP.”⁵

4. In the August 14 Order, paragraph 64 has the subheading “Eminent Domain Authority” and is part of the discussion under the heading “Downingtown Replacement.” Paragraph 64 states:

Transco’s certificate authority granted by this order may only be used to invoke eminent domain for the rights-of-way necessary for the facilities certificated by this order. We recognize property owners’ concerns regarding the proposed construction and permanent rights-of-way. Therefore, as discussed above, we are including Environmental Condition No. 17 to ensure that Transco does not seek to invoke eminent domain under its certificate and section 7(h) of the NGA to acquire permanent right-of-way until the required site-specific plans have been reviewed and approved by the Director of OEP.⁶

5. The Conyngham, Wind Gap, Mountain View, and Turnpike Loops are conditioned separately in Environmental Condition No. 18 (Condition 18).⁷ For these loops, site-specific construction plans are required only for residences within 25 feet of the construction work area. There is no language limiting Transco’s use of eminent domain in Condition 18.

II. Request for Clarification

6. Transco seeks clarification on two points arising from the Commission’s conditioning of the Downingtown Replacement. First, Transco is concerned that

⁴ *Transcontinental*, 124 FERC at 61,800-01.

⁵ *Id.* at 61,801.

⁶ *Id.* at P 64.

⁷ *Id.* at 61,801.

Condition 17 and paragraph 64 could be misinterpreted to restrict Transco's right to invoke eminent domain for *any* property along the Sentinel Project until the site-specific residential plans required by Condition 17 have been reviewed and approved by the Director of OEP.

7. In response, the Commission clarifies that Condition 17 applies only to the Downingtown Replacement. Condition 17 begins with the introductory clause, “[p]rior to construction of the *Downingtown Replacement*,” and then sets forth the conditions applicable to the Downingtown Replacement.⁸ In contrast, Condition 18 begins by stating “[p]rior to construction ... [of] the *Conyngham, Wind Gap, Mountain View, and Turnpike Loops*,” and then sets forth the conditions applicable to these sections of the Sentinel Project.⁹ Thus, by their terms, Condition 17 applies only to the Downingtown Replacement and Condition 18 applies only to the Conyngham, Mountain View, Wind Gap, and Turnpike Loops. Phrased another way, Condition 17 imposes no limitations on Transco's construction authority with respect to the Conyngham, Mountain View, Wind Gap, and Turnpike Loops.

8. Further, as stated above, paragraph 64 with the subheading “Eminent Domain” is located under the heading “Downingtown Replacement,” which includes 22 subheadings discussing issues applicable only to the Downingtown Replacement. Therefore, paragraph 64 applies only to the Downingtown Replacement.

9. Transco's second concern is that Condition 17 could be misinterpreted to require that Transco receive approval from the Director of OEP for all site-specific residential plans along the Downingtown Replacement before commencing eminent domain proceedings with respect to individual Downingtown Replacement properties for which plans have already been approved by the Director of OEP.

10. In response, the Commission clarifies that Condition 17 only limits Transco's ability to commence eminent domain proceedings with respect to a particular Downingtown Replacement property until the Director of OEP has approved the site-specific plan for that individual property. Upon approval of a site-specific plan for an individual property, Transco may initiate eminent domain proceedings with respect to that Downingtown Replacement property, notwithstanding that the Director of OEP may not have approved site-specific plans for all Downingtown Replacement properties.

⁸ *Id.* at 61,800 (emphasis added).

⁹ *Id.* at 61,801 (emphasis added).

The Commission orders:

Transco's request for clarification of the August 14 Order is granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.