

136 FERC ¶ 61,009
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Transcontinental Gas Pipe Line Company, LLC

Docket No. CP11-31-000

ORDER ISSUING CERTIFICATE AND AUTHORIZING ABANDONMENT

(Issued July 1, 2011)

1. On November 12, 2010, Transcontinental Gas Pipe Line Company, LLC (Transco) filed an application under sections 7(b)¹ and 7(c)² of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations for authorization to construct, operate, and abandon facilities in Virginia (Mid-Atlantic Connector Expansion Project). As discussed below, the Commission will grant Transco's proposals, subject to conditions.

I. Background

2. Transco is a natural gas company, as defined in the NGA, engaged in the business of transporting natural gas in interstate commerce. Transco's pipeline system extends from supply sources in Texas, Louisiana, Mississippi, Alabama, and the offshore Gulf of Mexico area through Georgia, South Carolina, North Carolina, Virginia, Maryland, Pennsylvania, and New Jersey to its terminus in the New York City metropolitan area.

II. Proposals

A. Facilities Proposals

3. Transco proposes to construct, operate, and abandon pipeline facilities and add compression at two existing compressor stations in order to expand its existing pipeline system in its southern market area. The proposed project will enable Transco to provide an additional 142,000 dekatherms (Dth) per day of firm transportation service.

¹ 15 U.S.C. § 717f(b) (2006).

² 15 U.S.C. § 717f(c) (2006).

4. Specifically, Transco proposes to:

- a) construct and operate approximately 1.46 miles of 42-inch diameter pipeline looping extending from Transco's Compressor Station 185 at milepost (MP) 1583.40 in Prince William County, Virginia, to MP 1584.86 in Fairfax County, Virginia;
- b) abandon approximately 1.32 miles of 30-inch pipeline (Transco's Mainline B) and replace it with 42-inch pipeline (Transco's Mainline D) in Fairfax County, between MPs 1584.86 and MP 1586.18;³
- c) construct and operate a 3,550 horsepower (hp) internal combustion driven compressor unit at Transco's existing Compressor Station 165 in Pittsylvania County, Virginia;
- d) relocate a pig launcher in Fairfax County, to Compressor Station 185 in Prince William County;
- e) construct and operate various related appurtenant underground facilities and minor aboveground facilities such as valves and valve operators, launchers, and receivers; and
- f) abandon the piggable "Y" at MP 1586.18 in Fairfax County, Virginia.

5. In addition, Transco proposes to construct and operate a net addition of 15,400 hp of compression at Transco's existing Compressor Station 175 in Fluvanna County, Virginia. Specifically, Transco proposes to install one 33,000 hp electric motor driven compressor unit and to abandon four 4,400 hp internal combustion driven compressor units. Transco states that some of the compression to be installed at Compressor Station 175 will be used to provide the additional 142,000 Dth per day of firm transportation service and some of the compression to be installed will be used to support existing transportation service. Transco asserts that the four units to be abandoned have experienced numerous unplanned maintenance problems which, at times, have required shutdown of the station. By constructing a new compressor unit, Transco states that its existing and new shippers will benefit from the increased reliability of the new equipment, which translates into fewer maintenance outages, less downtime, lower fuel consumption, and lower operation and maintenance costs.

³ Upon removal of the Mainline B pipeline, the Mainline D pipeline will be placed in the same trench, except at road and highway crossings. At these intersections, the Mainline B pipeline will be abandoned in place and the Mainline D pipeline will be offset and bored. Thus, approximately 0.12 miles of the 1.32 miles of the existing Mainline B pipeline will be abandoned in place.

6. Transco held an open season for the project from July 14 through August 4, 2009, a supplemental open season from September 1 through September 8, 2009, and a reverse open season from October 26 through October 30, 2009. In response to its open seasons, Transco executed binding precedent agreements with Virginia Power Services Energy Corp., Inc. (Virginia Power) and Baltimore Gas and Electric Company (Baltimore Gas).⁴ These precedent agreements are for 100 percent of the incremental firm transportation service to be provided by the project. The precedent agreements require the Mid-Atlantic Connector Expansion Project (MAC) shippers and Transco to execute firm transportation service agreements with primary terms of 20 years within 30 days of Transco's receipt and acceptance of the Commission authorizations requested herein.

7. Transco estimates that the proposed facilities will cost approximately \$74 million. The cost of the proposed facilities will be financed initially through short-term loans and funds on hand. Permanent financing will be undertaken at a later date as part of Transco's overall, long-term financing program.

B. Rates Proposals

8. Transco states that it will establish its existing Part 284 maximum rate as its initial recourse rate for service for the project. Transco requests a predetermination that it may roll the costs of the project into Transco's system-wide cost of service in Transco's first NGA rate case following the in-service date of the project. Transco states that rolled-in rate treatment is appropriate because the incremental cost of service for the first three years of the project is less than the revenue Transco expects to collect from the MAC shippers at the maximum system rate under Transco's Rate Schedule FT for Zone 5 to Zone 6 transportation service.

9. Transco states that a portion of the compression to be installed at Compressor Station 175 will be used to support service for the MAC shippers and a portion of the compression to be installed will be used to support service to Transco's existing customers. Thus, Transco allocated the costs of new facilities at Compressor Station 175 based on the ratio of horsepower that will be used to support the MAC shippers and the horsepower that will be used to support existing shippers. Specifically, Transco proposes to allocate 46.7 percent of the Compressor Station 175 costs to the MAC shippers and 53.3 percent of the Compressor Station 175 costs to its existing shippers.

⁴ Collectively, Virginia Power and Baltimore Gas are known as the Mid-Atlantic Connector shippers.

III. Interventions

10. Notice of Transco's application was published in the *Federal Register* on November 30, 2010 (75 Fed. Reg. 74,028). The parties listed in Appendix A filed timely, unopposed motions to intervene.⁵

11. Although they do not oppose Transco's request for a certificate authorizing its proposed project, the joint intervention from the Municipal Gas Authority of Georgia (Gas Authority) and the Transco Municipal Group (TMG) included comments requesting that any predetermination of rolled-in rate treatment for the expansion service will not apply if there is a material change in the projected costs of the proposed facilities. Transco filed a late answer to the comments in the joint intervention, which we will accept to ensure a complete record.⁶ The Gas Authority's and TMG's concerns, as well as Transco's answer, are discussed below. In addition, Baltimore Gas and Virginia Power filed comments in support of Transco's application.

IV. Discussion

12. Since Transco seeks to construct, operate, and abandon facilities used in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, the proposal is subject to the requirements of subsections (c), (b), and (e) of section 7 of the NGA.

C. Certificate Policy Statement

13. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.⁷ The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explained that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences.

⁵ Timely, unopposed motions to intervene are granted by operation of Rule 214, 18 C.F.R. § 385.214(c) (2011).

⁶ Because Transco's answer was filed in response to the comments included in the Gas Authority's and TMG's motion to intervene, the answer was required to be filed within 15 days. 18 C.F.R. § 385.213(d) (2011).

⁷ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

The Commission's goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

14. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

15. As noted above, the threshold requirement is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Transco will be providing initial project service under its existing Part 284 rates. Since none of the costs of the proposed project are included in those rates, accepting Transco's proposal to charge its existing rates as initial rates for this project will not result in subsidization by existing customers. Further, as discussed below, the incremental cost of service for the first three years of the project is less than the revenue Transco expects to collect from the MAC shippers at the maximum system rate under Transco's Rate Schedule FT for Zone 5 to Zone 6 transportation service. Since incremental revenues at existing rates will exceed the expansion's cost of service, we find appropriate for the proposed incremental service to be provided at Transco's existing system rates in order to ensure that existing shippers will not subsidize the project.

16. We also find that the proposed project will have no adverse impact on Transco's existing customers. With respect to the portion of the project intended to replace the compression being abandoned, those facilities are necessary to maintain, and improve the reliability of, existing services. Further, to the extent the proposed facilities will be used to create additional capacity, the MAC shippers will use that capacity to serve growing markets, not to replace existing service provided by other pipelines. We note that no pipeline company has protested Transco's application. Thus, we find that there will be no adverse impacts on existing pipelines in the market or their captive customers.

17. Finally, most of the proposed construction and abandonment activities will take place within Transco's existing compressor station facilities or entirely within or parallel to existing pipeline and utility rights-of-way. Transco states that it is committed to

continuing to work cooperatively with landowners and hopes to negotiate mutually agreeable settlements with all affected landowners. Therefore, we find that Transco has designed its proposal to minimize impacts on landowners and the environment.

18. Transco's proposed project will enable it to provide 142,000 Dth of additional service to the MAC shippers. Further, the replacement of four aging compressor units with additional horsepower to be installed at Compressor Station 175 will improve the reliability of service to Transco's existing customers. Based on the benefits the project will provide and the lack of any identifiable adverse impacts on existing customers, other pipelines and their customers, and minimal impacts on landowners and communities, we find, consistent with the Certificate Policy Statement and section 7(c) of the NGA, that Transco's proposals to construct and operate facilities are required by the public convenience and necessity. We also find that the public convenience or necessity permit Transco's abandonment of facilities under section 7(b) of the NGA.

D. Rates

19. TMG⁸ and the Gas Authority⁹ do not oppose Transco's certificate application, but they assert that a predetermination of rolled-in rates may be premature, since the difference between the projected revenue from the expansion service at Transco's current maximum tariff rates and the projected cost of service of the expansion project over the first three years following the in-service date is very small.¹⁰ TMG and the Gas Authority state that if the costs of the expansion project increase, even by a small amount, the costs of the expansion may exceed the revenues produced in the early years of the project, causing existing customers to inappropriately subsidize the expansion project. Thus, TMG and the Gas Authority request that any predetermination of rolled-in rate treatment not apply if there is a material change in the projected costs of the proposed facilities. In addition, TMG and the Gas Authority contend that the Commission should require Transco to provide information in future rate cases to demonstrate that system rates are not being increased as a result of the rolled-in rate treatment of the expansion facilities.

⁸ TMG is an ad hoc group of municipal customers of Transco.

⁹ The Gas Authority is a Georgia public corporation providing sources and supplies of natural gas for municipalities that own and operate natural gas systems and that desire to contract with the Gas Authority.

¹⁰ TMG and the Gas Authority also contend that Transco should be required to submit additional justification for its claim that combining the replacement of facilities at Compressor Station 175 with the proposed system expansion will yield the estimated level savings it is projecting. Transco did so in its answer.

20. Transco states that its proposal to replace existing compression while contemporaneously adding compression for the expansion reduces the cost to system shippers by \$7.8 million and reduces the cost to MAC shippers by \$10.2 million. Specifically, Transco contends that if it installed a 15,400 hp electric motor driven compressor unit and did no replacement work, the estimated cost to MAC shippers would be \$27.0 million instead of the \$16.8 million estimated by Transco.¹¹ If Transco replaced the four existing compression units with a single 18,000 hp electric motor driven compressor unit separate from the expansion portion of the project, the estimated cost to system shippers would be \$27.0 million instead of the \$19.2 million estimated by Transco.¹² Thus, Transco contends that the savings to system shippers by performing the expansion work and the replacement work contemporaneously is \$7.8 million.¹³

21. Transco states that when the Commission makes a predetermination in a certificate proceeding regarding whether rolled-in rate treatment is appropriate, it bases its decision on the facts, estimates, and assumptions at the time the certificate is issued. Transco cites Exhibit P of its application to demonstrate that firm transportation revenues will exceed expenses for the first year of service, which constitutes the requisite demonstration that existing firm transportation customers will not subsidize the project.

22. We find that Transco has adequately demonstrated that the horsepower replacement portion of the project at Compressor Station 175 is necessary to improve the reliability of service to its existing customers. Thus, we will grant Transco a predetermination of rolled-in rate treatment for the costs of the replacement portion of the project in its next general rate proceeding. We have reached similar determinations in prior cases where, as here, the costs incurred are attributable to the maintenance of safety and reliability for the benefit of existing customers.¹⁴

¹¹ Transco Answer at 6.

¹² *Id.*

¹³ *Id.* 7.

¹⁴ *See, e.g., Northwest Pipeline Corp.*, 104 FERC ¶ 61,176, at P 23 (2003), stating that “increasing the rates of existing customers to pay for projects designed solely to improve the reliability or flexibility of service for those existing customers is not a subsidy, and that the costs of the project may be rolled in,” (citing, the Certificate Policy Statement, 88 FERC ¶ 61,227, *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094; *Northwest Pipeline Corp., reh’g denied*, 105 FERC ¶ 61,109 (2003)).

23. For the incremental costs incurred to expand the pipeline system to serve the MAC shippers, Transco's comparison of revenues to the project's cost of service over the first three years shows that revenues at the currently-effective maximum FT rate would exceed the project's associated cost of service by approximately \$2 million.¹⁵ In addition, Transco's fuel study shows that project facilities should result in a net system fuel benefit for existing system customers.¹⁶ Absent a change in circumstances, rolled-in rate treatment for these costs would benefit existing customers by reducing their rates. Therefore, we will grant Transco's request for a pre-determination supporting rolled-in rate treatment for the costs of the expansion portion of the project in its next general NGA section 4 rate proceeding, absent a significant change in circumstances.¹⁷

24. To answer TMG's and the Gas Authority's concerns, when we make a pre-determination that rolled-in rate treatment is appropriate in a certificate proceeding, we base our decision, as we did here, on the facts, estimates, and assumptions at the time the certificate is issued. We cannot predict whether circumstances will change to such an extent that the project is no longer eligible for rolled-in rate treatment by the time the pipeline files its next rate case. If cost overruns occur which would increase the project's cost above project revenues, such an event may constitute a significant change in circumstances warranting a reconsideration of the roll-in predetermination.¹⁸ To ensure that all parties have full knowledge of the costs and revenues attributable to the project, we will require Transco to account for the construction and operating costs and revenues separately in accordance with section 154.309 of the Commission's regulations.¹⁹ With such information, the parties and the Commission can evaluate the costs of the project and will be able to identify any change in material circumstances that may warrant a reexamination of rolled-in rate treatment in its next section 4 rate proceeding.

V. Environmental Analysis

25. The Commission's staff began its environmental review of the Mid-Atlantic Connector Expansion Project following approval for Transco to use the pre-filing process

¹⁵ See Exhibit P, page 2 of 2.

¹⁶ See Exhibit Z-1.

¹⁷ See, e.g., *CenterPoint Energy Gas Transmission Co.*, 127 FERC ¶ 61,087 (2009).

¹⁸ See, e.g., *Iroquois Gas Transmission System, Ltd.*, 122 FERC ¶ 61,183, at P 15 (2008). See also, *Northern Border Pipeline Co.*, 90 FERC ¶ 61,263, at 61,877 (2000).

¹⁹ 18 C.F.R. § 154.309 (2011).

on April 23, 2010, in Docket No. PF10-16-000. As part of the pre-filing review, our staff issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI) on July 15, 2010. The NOI was published in the Federal Register and mailed to over 340 parties including federal, state, and local government officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and property owners affected by construction of the proposed facilities. After issuing the NOI, the Commission's staff conducted one public scoping meeting in the vicinity of the proposed pipeline loop/replacement routes.

26. In response to the NOI, the Commission received comments from the Virginia Department of Conservation and Recreation, Department of Natural Heritage (VDCR), Virginia Department of Transportation (VDOT), Virginia Department of Environmental Quality (VDEQ), the County of Prince William (Prince William County), the Virginia Run Community Association,²⁰ and four landowners. In addition, one individual provided an oral comment at the public scoping meeting. The oral comment raised no substantive environmental concern. The primary issues raised were impact on land use; threatened, endangered, and sensitive species; access roads and traffic; hazardous waste; air quality; noise; construction methods, duration, and schedule; and pipeline safety and security.

27. To satisfy the requirements of the National Environmental Policy Act the Commission's staff prepared an environmental assessment (EA) for the project. The National Park Service, Manassas National Battlefield Park (NPS), participated in the preparation of the EA as a cooperating agency. The EA addresses geology and soils, water resources, fisheries and wetlands, vegetation and wildlife, land use, recreation and visual resources, cultural resources, air quality and noise, reliability and safety, cumulative impacts, and alternatives. As summarized below, the EA also addresses all substantive issues raised during the scoping period.

28. VDCR's scoping comments described several plant species that are classified as Virginia species of concern but have no regulatory status. The EA discusses potential impacts on sensitive species and finds that the only rare species identified during Transco's field surveys was purple milkweed. None of the other species listed by VDCR were identified. The EA states that Transco's project design limits disturbance to the purple milkweed located in the project area. In areas where purple milkweed could not be avoided, Transco proposes to re-seed with an annual rye to maintain the open habitat that this species prefers, per VDCR's recommendation. The EA concludes that the project impact on state-listed species would be minimized to the extent practicable.

²⁰ The Virginia Run Community Association is a community association of approximately 1,400 homes in Fairfax County, Virginia.

29. In its scoping comment letter, the VDOT Northern Virginia and Culpeper District Planning Offices states that no long-term transportation impacts would be anticipated from the project. The Culpeper District Planning Office requests that the EA identify the short-term impacts on local roads during construction. The EA discusses the various road crossing methods that Transco will use during construction and states that any open-cut road crossings would typically be completed in 24 hours. Where the project would cross roads that access private residences and no alternative entrances exist, Transco will implement measures to maintain passage for landowners during construction. The EA also states that Transco will attempt to avoid peak traffic time periods during construction that would temporarily close roads. Transco would coordinate with state and local VDOT representatives, as appropriate, to establish detours to accommodate local traffic and repair any roadways damaged during construction to pre-construction conditions. As recommended in VDOT's letter, the EA acknowledges that Transco is required to obtain applicable permits from VDOT for work planned within highway rights-of-way.

30. VDEQ provided scoping comments regarding waste issues associated with the project. In particular, it requested identification of solid or hazardous waste sites prior to construction of the project to prevent soil contamination. The EA discusses historically contaminated soils identified within Compressor Stations 165, 175, and 185 and indicates that the soil contamination at the sites has been remediated with U.S. Environmental Protection Agency (EPA) oversight. The EA indicates that construction at Compressor Station 175 will not occur in the vicinity of the contaminated site. The EA also discusses the minimum buffers that Transco will maintain between the contaminated sites and construction activities at Compressor Stations 165 and 185. Transco agreed to take extra precautions during ground disturbance activities at each compressor station, including comparing the excavation and work areas to known areas of historic contamination. Staff reviewed Transco's Unanticipated Discovery of Contamination Plan, found it acceptable, and concluded in the EA that Transco's Unanticipated Discovery of Contamination Plan and other construction procedures would minimize the spread of any contaminated soils encountered during construction.

31. Prince William County provided scoping comments concerning impacts on tourism in Manassas National Battlefield Park (Manassas Park), cultural resources within the park, vegetation within Compressor Station 185, water resources where the pipeline crosses Bull Run, and identification of wetlands within the County. The County expresses concerns about pipeline construction activities negatively impacting planned events for tourists celebrating the Sesquicentennial of the Civil War in Manassas Park. A landowner within the Virginia Run Community also filed a scoping comment about negative impacts on tourism in Manassas Park during construction of the pipeline facilities. The EA states that construction of the Bull Run Loop and Replacement is planned to commence in May 2012, avoiding the planned celebration of the Sesquicentennial of the Civil War in Manassas Park and the associated tourist activities in July 2011.

32. The EA also indicates that Transco conducted archeological surveys at each project component and no cultural materials were identified within the Bull Run Loop. The subsurface testing indicated that soils in the project area had been completely disturbed during installation of the adjacent existing pipelines. Transco submitted the survey reports to the Virginia State Historic Preservation Office (SHPO), NPS, and the Prince William and Fairfax County Archaeologists for review and comments. In a letter dated October 8, 2010, the SHPO concurred with the findings and recommendations of the reports. Based on the results of the cultural resource surveys and our staff's consultation with the Virginia SHPO, NPS, Prince William County and Fairfax County Archaeologists, the EA concludes that construction and operation of the proposed facilities will not have a significant impact on cultural resources.

33. In its scoping letter, Prince William County requests that Transco maintain a 50-foot vegetative buffer on all property boundaries at Compressor Station 185. The EA cites Transco agreement to comply with this request. The EA also discusses the potential project-related impacts on water resources and wetlands within Prince William County. The EA states that Transco will cross Bull Run, the only perennial waterbody crossed by the project, using the dam-and-pump method and implement its Soil Erosion and Sediment Control (SESC) Plan. The dam-and-pump method limits in-stream disturbance and minimizes downstream sedimentation. Transco's SESC Plan includes installing and maintaining erosion controls, limiting vegetative clearing of the approaches to waterbodies, and stabilizing and restoring the construction work areas in a timely manner. The EA also indicates that Transco reviewed National Wetland Inventory Maps and performed wetland surveys in the spring of 2010 to identify wetlands in the project area. Transco's construction and restoration methods through wetlands were summarized in the EA which concludes that with implementation of Transco's SESC Plan, no significant impacts on wetlands will occur as a result of this project. Additionally, the EA indicates that the U.S Army Corps of Engineers, VDEQ, or NPS could require additional wetland mitigation through their respective permitting processes.

34. The Manager of Old Bull Run L.C., the owner of a privately-owned, 116-acre property provided scoping comments concerning impacts on the wooded property (which is zoned as Resource Conservation) and the possible adverse impacts on future residential development of the property. The EA states that the Bull Run Loop will not increase Transco's existing easement across this property and that installation of the new loop will not prevent any future development on the property. The EA also indicates that minimal impact will occur on the wooded property because construction is limited to the existing permanent right-of-way, involving only tree trimming, and will avoid any clearing of trees.

35. A resident located across the street from Transco's Compressor Station 185 filed a scoping comment letter regarding loud noise from the compressor units and visible fumes from the station. Although the EA states that Transco's Bull Run Loop will begin at

Compressor Station 185, no modification at this station will occur resulting in impacts on local air quality and noise associated with the Mid-Atlantic Connector Expansion Project. This station was constructed in 1957, has not been expanded since 1968, and is subject to a Clean Air Act Title V Operating Permit with pollution control requirements that was recently renewed by VDEQ.

36. A landowner within the Virginia Run Community filed comments during the scoping period regarding impacts on cultural resources within Manassas Park and the possibility of ponding water and creation of mosquito habitat during construction activities. The landowner also suggested that Commission personnel monitor the construction within Manassas Park. The EA indicates that Transco committed to employ an environmental inspector during construction to monitor environmental compliance, as well as implement its approved Unanticipated Discoveries Plan of cultural resources during construction. Additionally, Commission staff will conduct environmental inspections during construction on a regular basis. The EA concludes that these measures adequately protect cultural resources. The EA also described that the NPS, as the land managing agency for Manassas Park, would make the decision on whether or not to release the cultural survey report to the landowner. Further, the EA clarifies that the pipeline will not cross the stormwater retention pond adjacent to Centreville Presbyterian Church creating mosquito habitat, as described in the landowner's comment letter. Where spoil piles could limit sheet flow of water across the right-of-way and create the temporary ponding of water, the EA states that Transco will maintain downstream flow when crossing any stormwater drains or low-lying areas to minimize ponding and creation of mosquito habitat.

37. The Virginia Run Community Association filed comments concerning gas volumes, pressures, gas velocities, the use of pipe restraints (thrust blocks) at bends in the alignment of the new pipeline, and integrity of the pipeline. The EA summarizes the subsequent meeting between Transco and several board members of the community association to discuss and resolve the issues raised in the comment letter. The EA describes Transco's requirement to comply with the design, construction, operation, and maintenance requirements in the U.S. Department of Transportation's *Minimum Federal Safety Standards* (49 C.F.R. Part 192). The EA concludes that Transco's compliance with these standards assures that the facilities will be constructed and operated safely.

38. On May 4, 2011, the EA was placed into the public record of this proceeding²¹ and issued for a 30-day comment period. Following issuance of the EA, we received comments from the Virginia Department of Game and Inland Fisheries (VDGIF), VDCR, the Fairfax County Department of Planning and Zoning (Fairfax County DPZ), the West

²¹A notice announcing the availability of the EA was published in the *Federal Register* on May 11, 2011, 76 Fed. Reg. 37,312.

Piedmont Planning District Commission, and VDEQ. The West Piedmont Planning District Commission did not provide any substantive comments. In addition, Transco filed supplemental information after the issuance of the EA. We will address below the substantive comments received in response to the EA.

39. VDGIF's comments expressed concern regarding the project's impacts on the Cub Run waterbody and impacts on the state threatened wood turtle. VDGIF recognizes that a turtle designated area is located far north of the project area; however, it provided mitigation measures to minimize or eliminate in-stream and vegetative buffer impacts on this waterbody. As stated in section 2.2 of the EA, the project does not cross the Cub Run waterbody and Transco's only possible use for this waterbody would be as a hydrostatic test water source for which no in-stream disturbance or tree clearing will occur. Further, Transco will implement its Wetland and Waterbody Construction and Mitigation Procedures to provide for all downstream uses, including aquatic wildlife. Therefore, no wood turtle impacts are anticipated.

40. In its comments, VDCR concurs with Transco's proposed mitigation measures for the purple milkweed, as stated in section 3.4 of the EA. The VDCR also states that the project will not affect any documented state-listed plants or insects and recommends that Commission staff continue coordination with the VDGIF and U.S. Fish and Wildlife Service to ensure compliance with protected species legislation regarding the James spiny mussel. As stated in section 3.4 of the EA, staff concludes that the project will have *no effect* on the James spiny mussel. Thus, no further consultation is required.

41. The Fairfax County DPZ provided comments on the EA acknowledging that while no long-term impacts are expected once the Bull Run Loop/Replacement pipeline is in operation, short-term impacts would occur during construction. The Fairfax County DPZ indicates that residential, visual, and recreational impacts should be minimized during and following pipeline construction in the Virginia Run Community. As indicated in the EA, Transco will notify landowners and tenants within 50 feet of the construction area at least five days prior to removing any private property features and at least one week prior to excavation of Mainline B. In addition, the EA states that Transco will operate construction equipment on an as-needed basis during daylight hours only; therefore, nighttime noise levels will remain unaffected by most construction activities. As detailed in the EA, visual impacts will be limited to tree trimming in certain sections of the pipeline route. In addition, an existing piggable "Y" at MP 1586.18 will be removed and the existing pig launcher at this location will be relocated to the Compressor Station 185 yard. This will reduce current visual impacts on residents within the Virginia Run community.

42. Although the recreational trail within the Virginia Run Community would not be available for use during active construction, the EA states that Transco plans to limit the duration of construction in this area to the extent possible and proposes commencing construction activities in this area no earlier than July 2012. During construction in the

vicinity of residences, Transco will install a safety fence along the construction corridor and will hire a security guard to patrol the work site after work hours and on weekends. We believe that in addition to the temporary nature of the residential, visual, and recreational impacts in the Virginia Run Community, the proposed mitigation measures outlined in the EA will minimize short-term construction impacts.

43. The Fairfax County DPZ encourages coordination with the Northern Virginia Soil and Water Conservation District as the waterbody crossings are planned and executed. We note that environmental condition 7 provides an opportunity for federal and state agencies to request construction status reports from Transco, which includes any schedule changes for stream crossings. Transco's weekly Construction Status Reports will also be available in the Commission's Public Record for this project. The staff at the Fairfax County DPZ also encourages coordination with the Fairfax County's Fire and Rescue Department during pipeline construction to increase pipeline safety for residents and businesses in the area. Transco committed to contacting the Fairfax County Fire Marshall prior to starting any new construction activities within the county.

44. VDEQ provided comments on behalf of VDCR, Virginia Department of Health, Virginia Department of Historic Resources, and VDOT. The comments summarized the federal and state permits that Transco will need to obtain prior to construction of the project and suggested that Transco use Best Management Practices during construction. Transco responded to VDEQ's letter reiterating the state and federal permits that it would receive prior to construction. Section A.6 of the EA states that Transco has a general erosion and sediment control plan on file with VDCR and that prior to construction, Transco would finalize its project-specific SESC Plan in consultation with VDCR to include specific measures required by VDCR. VDEQ's comments also reiterated the analysis in the EA relating to impacts on short- and long-term air quality, special status species, public drinking water resources, cultural resources, and transportation in the project area. VDEQ's Division of Land Protection and Revitalization revisited matters previously raised and fully addressed in the EA regarding waste sites in proximity to the compressor stations associated with the project. In addition, our staff contacted and mailed a copy of the EA to Luck Stone-Fairfax Plant, an adjacent owner of a groundwater well, as recommended by VDEQ. We encourage Transco to continue to work with VDEQ and other Virginia state agencies to further minimize impacts.

45. On May 5, 2011, Transco filed the Virginia SHPO's concurrence determination that no additional cultural resource studies are warranted for the three proposed pipe storage yards associated with the project. Thus, we will not include the EA's recommendation 11 as a condition in this order.

46. We have reviewed the information and analysis contained in the record, including the EA, regarding the potential environmental effect of the Mid-Atlantic Connector Expansion Project. Based on our consideration of this information, we agree with the conclusions presented in the EA and find that if constructed and operated in accordance

with Transco's application, as supplemented, and the conditions imposed herein, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

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

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

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Transco to construct and operate the Mid-Atlantic Connector Expansion Project facilities, as described and conditioned herein, and as more fully described in the application.

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned on the following:

- a. Transco's completing the authorized construction of the proposed facilities and making them available for service within eighteen months of the date of issuance of this order pursuant to section 157.20(b) of the Commission's regulations;
- b. Transco's compliance with all applicable Commission regulations, particularly the general terms and conditions as set forth in Parts 154, 157, and 284 and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;
- c. Transco's adherence to the environmental conditions, as described in Appendix B to this order.

²² 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).

(C) Permission for and approval of the abandonment by Transco of four compressor units at Transco's Compressor Station 175 and abandonment of approximately 1.32 miles of Mainline B pipeline, is granted, subject to compliance with Part 157 of the Commission's regulations.

(D) Transco shall notify the Commission of the date of the abandonment within 10 days thereof.

(E) Transco's request for a predetermination of rolled-in rate treatment for the costs of the Mid-Atlantic Connector Expansion Project in its next section 4 proceeding is granted, absent any material change in circumstances.

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A

Motions to Intervene in Docket No. CP11-31-000

Baltimore Gas and Electric Company
Consolidated Edison Company of New York, Inc. and Philadelphia Gas Works
Municipal Gas Authority of Georgia and the Transco Municipal Group (joint motion)
National Grid Gas Delivery Companies
New Jersey Natural Gas Company
North Carolina Utilities Commission
Patriots Energy Group
Philip S. Shapiro
Piedmont Natural Gas Company, Inc.
PSEG Energy Resources & Trade LLC
Public Service Company of North Carolina, Inc. and South Carolina Electric & Gas
Company
Virginia Power Services Energy Corp., Inc.
Virginia Run Community Association, Inc.

Appendix B

Environmental Conditions for the Mid-Atlantic Expansion Connector Project

1. Transco shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA, unless modified by the Order. Transco must:
 - b. request any modification to these procedures, measures, or conditions in a filing with the Secretary;
 - c. justify each modification relative to site-specific conditions;
 - d. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - e. 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 the Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction, operation, and abandonment activities.

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

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

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

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

This requirement does not apply to extra workspace allowed by the Transco Soil Erosion and Sediment Control Plan and/or minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

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

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of the certificate and before construction begins**, Transco shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Transco must file revisions to the plan as schedules change. The plan shall identify:
 - a. how Transco will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;

- b. how Transco will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - c. the number of EIs assigned, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instructions Transco will give to all personnel involved with construction and restoration (initial and the refresher training as the project progresses and personnel change);
 - f. the company personnel (if known) and specific portion of Transco 's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Transco will follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - i. the completion of all required surveys and reports;
 - ii. the environmental compliance training of onsite personnel;
 - iii. the start of construction; and
 - iv. the start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, Transco shall file updated status reports with the Secretary on a **weekly basis until all construction and restoration activities are complete**. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on Transco's efforts to obtain the necessary federal authorizations;
 - b. the construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally-sensitive areas;
 - c. a listing of all problems encountered and each instance of noncompliance observed by the EI(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
 - d. a description of the corrective actions implemented in response to all instances of noncompliance, and their cost;
 - e. the effectiveness of all corrective actions implemented;

- f. a description of any landowner/resident complaints which may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and
 - g. copies of any correspondence received by Transco from other federal, state, or local permitting agencies concerning instances of noncompliance, and Transco's response.
8. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, Transco shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
9. Transco must receive written authorization from the Director of OEP **before placing the pipeline facilities into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
10. **Within 30 days of placing the authorized facilities in service**, Transco shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the certificate conditions Transco has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. Transco shall conduct a noise survey at Compressor Station 165 to verify that the noise from all the equipment at the modified station operated at full capacity does not exceed the existing noise level that is above a day-night sound level (L_{dn}) of 55 decibels on the A-weighted scale (dBA) at noise-sensitive area (NSA) The results of this noise survey shall be filed with the Secretary **no later than 60 days** after placing the new unit in service. If the noise level is exceeded, Transco shall, **within one year** of the in-service date, implement additional noise control measures to reduce the operating noise level at this NSA to or below the previously existing noise level. Transco shall confirm compliance with this requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.
12. Transco shall file noise surveys with the Secretary **no later than 60 days** after placing the authorized units at Compressor Stations 165 and 175 in service. If the

noise attributable to the operation of all the equipment at the compressor stations at full load exceeds an L_{dn} of 55 dBA at the remaining nearby NSAs, Transco shall install additional noise controls to meet that level **within one year** of the in-service date. Transco shall confirm compliance with the above requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.