

134 FERC ¶ 61,084
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.

ETC Tiger Pipeline, LLC

Docket No. CP10-459-000

Docket No. CP09-460-001

ORDER ISSUING CERTIFICATE AND DENYING AMENDMENT TO
CERTIFICATE

(Issued February 3, 2011)

1. On June 15, 2010, in Docket No. CP10-459-000, ETC Tiger Pipeline, LLC (ETC Tiger) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157, Subpart A of the Commission's regulations requesting authorization to construct and operate an expansion of its Tiger Pipeline which would consist of approximately 20.5 miles of 42-inch mainline pipeline looping, and 30,565 horsepower (hp) of compression in Louisiana (Expansion Project). The Expansion Project is designed to provide up to 400,000 million cubic feet per day (Mcf/d) of new firm transportation capacity to meet the demand for take-away capacity from the Haynesville Shale and Middle Bossier (Mid-Bossier) Shale production areas. ETC Tiger requests a pre-determination that rolled-in rate treatment will be appropriate for the Expansion Project and approval of incremental fuel use charges for the transportation service to be provided on the proposed facilities.

2. Also, on June 15, 2010, in Docket CP09-460-001, ETC Tiger filed an application proposing to amend the initial fuel use charges approved in the April 7, 2010 order¹ authorizing the construction of the Tiger Pipeline. ETC Tiger proposes that the higher fuel use charges which would be applicable to expansion shippers also apply to interruptible service under Rate Schedule ITS and to any Authorized Overrun Service (AOS) or Unauthorized Overrun Service (UAOS) under Rate Schedule FTS or ITS. For the reasons discussed in this order the Commission will grant ETC Tiger's request for authority to construct the Expansion Project, subject to conditions, and approve ETC

¹ *ETC Tiger Pipeline, LLC*, 131 FERC ¶ 61,010 (2010).

Tiger's proposals for rolled-in rate treatment and to assess incremental fuel use charges for the proposed expansion service. However, we deny ETC Tiger's proposal to increase the fuel use charges previously authorized for service under Rate Schedule ITS, or for AOS or UAOS services.

I. Proposals

A. Expansion Project

3. The Tiger Pipeline is approximately 175 miles long and 42 inches in diameter, with a firm design capacity of 2.0 billion cubic feet per day (Bcf/d). ETC Tiger commenced construction of the Tiger Pipeline on May 4, 2010, and placed the pipeline and two of four compressor stations into service on December 1, 2010. ETC Tiger has been authorized to place its remaining compression facilities into service and anticipates doing so by February 1, 2011.²

4. ETC Tiger describes the Tiger Pipeline as having been developed primarily to transport natural gas from the growing Haynesville Shale and Mid-Bossier Shale production areas of northwest Louisiana and east Texas to Midwestern and Eastern markets. The proposed Expansion Project will increase the transportation capacity of the Tiger Pipeline to 2.4 Bcf/d by adding approximately 20.5 miles of 42-inch-diameter pipeline loop and 30,565 hp of compression at the previously authorized Cannisnia, Bienville and Chatham Compressor Stations.³ Pipeline Loop 1 will extend approximately 8.2 miles from MP 69.7 to MP 77.9, in Bienville Parish, Louisiana. Loop 2 will extend approximately 12.3 miles from MP 118.0 to MP 130.3 in Jackson and Ouachita Parishes, Louisiana. Loops 1 and 2 will be installed approximately 20 feet from

² On November 23, 2010, by delegated authority, the Commission authorized partial service of the ETC Tiger Pipeline for the following facilities: 175 miles of 42-inch-diameter natural gas pipeline; the Carthage and Chatham Compressor Stations; and all receipt and delivery meter stations, taps, and ancillary facilities. By the same authority, on January 12, 2011, the Commission authorized the Cannisnia and Carthage Compressor Stations to commence service.

³ ETC Tiger states that it considered the Interstate Natural Gas Association of America's White Paper, *Waste Energy Recovery Opportunities for Interstate Natural Gas Pipelines*, in its system evaluation process. ETC Tiger states that, consistent with the White Paper's finding that reciprocating internal combustion engines are not well suited for waste heat recovery, the proposed reciprocating internal combustion engines at the Cannisnia, Bienville, and Chatham Compressor Stations are not viable candidates for waste heat recovery. (The fourth station at Carthage, which is not a part of this Expansion Project, also consists of reciprocating internal combustion engines.)

ETC Tiger's existing pipeline and within the existing permanent right-of-way for their entire length.

5. ETC Tiger proposes to expand three previously-certificated mainline compressor stations by a total of 30,565 hp. ETC Tiger proposes to add 4,735 hp at the Cannisnia Compressor Station at MP 47.2 in Red River Parish, Louisiana; 8,180 hp at the Bienville Compressor Station at MP 77.9 in Bienville Parish, Louisiana; and 17,650 hp at the Chatham Compressor Station at MP 113.7 in Jackson Parish, Louisiana.

6. ETC Tiger states that on February 5, 2010, it entered into a precedent agreement with Petrohawk Energy Corporation (Petrohawk), one of the major producers in the Haynesville Shale, for 400,000 dekatherms per day (Dth/d) of firm transportation service on Tiger Pipeline related to the Expansion Project. ETC Tiger states that it also held an open season, which closed on March 10, 2010, to solicit additional shipper commitments for the Expansion Project. To date ETC Tiger has not received any additional bids. Based on its maximum daily quantity and the primary term of its precedent agreement, Petrohawk is deemed by ETC Tiger to be a pre-arranged Foundation Shipper.⁴

7. The estimated cost for constructing the Expansion Project will be approximately \$193 million as set forth in Exhibit K to the application. ETC Tiger has included its proposed Allowance for Funds Used During Construction (AFUDC) in its project costs, and represents that the proposed AFUDC accruals comply with the Commission's revised policy conditions governing AFUDC.⁵

8. The Expansion Project will be operationally integrated with the existing Tiger Pipeline system and ETC Tiger proposes that the firm and interruptible transportation rates which became effective on December 1, 2010, pursuant to the November 30, 2010 unpublished Director Letter Order be approved as the initial recourse rates for service utilizing the Expansion Project facilities. ETC Tiger notes that Petrohawk has elected to pay negotiated rates for its expansion service on Tiger Pipeline. Therefore, ETC Tiger will provide the service in accord with the negotiated rate authority set forth in Section 30 of the General Terms and Conditions of its tariff.

⁴ ETC Tiger requests that the precedent agreement with Petrohawk be treated as privileged and confidential pursuant to the Commission's regulations at 18 C.F.R. § 388.112 (2010).

⁵ *Citing Florida Gas Transmission Co., LLC*, 130 FERC ¶ 61,194, at P 24-29 (2010); *see also Midcontinent Express Pipeline LLC*, 131 FERC ¶ 61,118, at P 9-10 (2010).

9. The April 7, 2010 Order approved proposed fuel gas reimbursement percentages of 1.09 percent for gas receipts at or west of Highway 789 and of 0.76 percent for receipts east of Highway 789 on the original Tiger Pipeline.⁶ For service using its Expansion Project facilities ETC Tiger proposes to add separate expansion fuel gas percentages, exclusive of Lost and Unaccounted for Gas (L&U), of 1.61 percent applicable to quantities received at and west of Highway 789, and 1.28 percent applicable to quantities received east of Highway 789. ETC Tiger submits that using an incremental fuel rate is appropriate where, as is the case here, new compression facilities increase fuel use consumption per Dth and would otherwise increase fuel rates to existing shippers.⁷

B. Fuel Reimbursement Percentages

10. As noted above, on June 15, 2010, ETC Tiger filed to amend the previously-approved pro forma tariff provisions⁸ regarding fuel use charges. Specifically, ETC proposes to add to that tariff sheet footnote 4 which states:

The Total Reimbursement Percentage (including L&U) applicable to Shippers under Rate Schedule ITS, and to any Authorized Overrun Service or Unauthorized Overrun Service under Rate Schedules FTS and ITS, shall be the highest Total Reimbursement Percentage set forth on this Sheet No. 7 according to whether the particular quantities are received by TIGER at Point (s) located at or West of Highway 789 or East of Highway 789.

11. ETC Tiger states that its proposal to charge the highest Total Reimbursement Percentage (i.e., the higher, cumulative fuel percentages applicable to service using the Expansion Project facilities) for all IT service, Authorized Overrun Service and Unauthorized Overrun Service is consistent with the Commission's policy of assessing fuel usage in the manner that ensures that no costs attributable to an expansion project are charged to existing shippers under circumstances where the existing shippers do not use or otherwise benefit from the expansion.⁹ ETC Tiger submits that its proposal seeks to provide up-front assurance to existing shippers that firm quantities under base system

⁶ ETC Tiger Pipeline, LLC, FERC Gas Tariff, *Pro Forma* Original Volume No. 1, Original Sheet No. 7.

⁷ *Citing Rockies Express Pipeline LLC*, 128 FERC ¶ 61,036, P at 24 (2009).

⁸ ETC Tiger Pipeline, LLC, FERC Gas Tariff, *Pro Forma* Original Volume No. 1, Substitute Original Sheet No. 7.

⁹ *Citing Northern Natural Gas Co.*, 100 FERC ¶ 61,306, at P 13 (2002); and *Texas Eastern Transmission, LP*, 101 FERC ¶ 61,120, at P 37 (2002).

firm transportation service agreements are insulated from any potential risk of subsidizing fuel usage associated with the expansion facilities.

II. Notice, Interventions and Comments

12. Notice of ETC Tiger's Expansion Project application in Docket No. CP10-459-000, was published in the *Federal Register* on July 6, 2010 (75 Fed. Reg. 38,799). Trunkline Gas Company, LLC, Chesapeake Energy Marketing, Inc. (CEMI), BG Energy Merchants, LLC (BGEM), and Petrohawk filed timely motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's regulations.¹⁰

13. Notice of ETC Tiger's application to amend its fuel reimbursement percentages in Docket No. CP09-460-001 was published in the *Federal Register* on July 8, 2010 (75 Fed. Reg. 39,231). Letters in support of expeditious approval of ETC Tiger's amendment were filed by QEP Energy Company, Encana Marketing (USA), Inc., CEMI and BGEM.

III. Discussion

14. Because ETC Tiger seeks to construct facilities that will be used for 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) and (e) of section 7 of the NGA.

A. Certificate Policy Statement

15. The Commission's Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new construction.¹¹ 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, we balance the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

¹⁰ 18 C.F.R. § 385.214(a)(3) (2010).

¹¹ *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).

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

17. As discussed below, ETC Tiger's proposal to charge its existing system rate and to roll in the costs of the Expansion Project is appropriate and will not result in ETC Tiger's existing shippers subsidizing the expansion. We find that the proposed Expansion Project will not adversely impact Tiger's existing customers, or other existing pipelines and their current customers because the expansion is a response to a demand for incremental capacity and will not duplicate any existing service on any other pipeline. In addition, no pipeline protested the Expansion Project.

18. We find that the Expansion Project has been designed to minimize impacts on landowners and environment; the pipeline loops will be placed within ETC Tiger's approved permanent rights-of-way for their entire length and no new permanent right-of-way will be required. Further, the proposed compression will be installed at existing compressor locations.

19. Petrohawk, one of the major producers in the Haynesville Shale, has entered into a precedent agreement for essentially all of the additional capacity to be created by the Expansion Project, demonstrating the existence of market growth. Accordingly, for all these reasons, the Commission finds that ETC Tiger's proposal is consistent with the Certificate Policy Statement and section 7(c) of the NGA, and that the public convenience and necessity requires approval of ETC Tiger's proposed Expansion Project, subject to the conditions set forth herein.

B. Rates

20. ETC Tiger proposes to charge its existing system rate as the recourse rate for services utilizing the Expansion Project capacity. In support of this proposal ETC Tiger provided an illustrative incremental recourse rate for the Expansion Project based upon the costs and volumes of the expansion and the cost-of-service components underlying ETC Tiger's existing system recourse rates. Since this illustrative incremental rate of \$8.8194 is less than ETC Tiger's currently effective system rate of \$10.5825, we find that

it is appropriate and consistent with Commission policy for ETC Tiger to charge its existing system rate for the expansion capacity.

21. ETC Tiger also requests that the Commission make a pre-determination that rolled-in rate treatment is appropriate for the proposed facilities. In support of this request, ETC Tiger provides a rolled-in rate analysis at Exhibit P, which shows that annual incremental revenues of \$51,698,600 generated by service using the expansion capacity will exceed the related incremental cost of service of \$43,136,251 by \$8,562,349.

22. Based on the facts, estimates, and assumptions before the Commission, we find that the revenues which would be generated by providing service at the proposed recourse rates would exceed the project's associated cost of service. Rolled-in rate treatment for these costs would benefit existing customers by reducing their rates. Therefore, we will grant ETC Tiger's request for a pre-determination supporting rolled-in rate treatment for the costs of the project in its next general NGA section 4 rate proceeding, absent a significant change in circumstances.

23. Because Petrohawk has elected to pay negotiated rates for transportation service on the expansion, ETC Tiger must file any negotiated rate agreements or a tariff record describing the negotiated rate agreements associated with this project in accordance with the Alternative Rate Policy Statement¹² and the Commission's negotiated rate policies¹³ not less than 30 days and no more than 60 days prior to the commencement of service on the expansion facilities.

24. ETC Tiger proposes to use an incremental fuel rate for expansion shippers, stating it is appropriate where the new compression facilities increase fuel consumption per Dth and would otherwise increase fuel rates to existing shippers.¹⁴ Specifically, ETC Tiger proposes initial expansion fuel gas percentages, exclusive of L&U,¹⁵ of 1.61 percent applicable to quantities received at and west of Highway 789, and 1.28 percent applicable

¹² *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076, order granting clarification, 74 FERC ¶ 61,194 (1996).

¹³ *Texas Eastern Transmission, LP*, 133 FERC ¶ 61,220 (2010).

¹⁴ *Citing Rockies Express Pipeline LLC*, 128 FERC ¶ 61,036, at P 24 (2009).

¹⁵ The initial L&U charge is 0.15 percent. L&U is stated on a system-wide basis with each dekatherm transported being assessed this charge.

to quantities received east of Highway 789.¹⁶ Since the addition of new compression would increase the existing fuel costs of existing shippers, we find that an incremental expansion fuel rate allocated to the expansion customers is appropriate to prevent subsidization of expansion shippers by existing shippers.

25. Finally, we turn to ETC Tiger's proposal to charge the higher expansion fuel use rate to all shippers under Rate Schedule ITS, and to AOS and UOS under Rate Schedules FTS and ITS. ETC Tiger asserts this is necessary to assure that existing firm shippers do not subsidize expansion shippers. The Commission is not persuaded by ETC Tiger's reasoning.

26. We note that after construction of its facilities, ETC Tiger will operate its base system and expansion facilities on an integrated basis. Thus, ETC Tiger will use both the initial system and the expansion facilities to provide service to all its shippers, including any IT service and any overrun volumes. In fact, the bulk of the capacity used to provide these services will come from ETC Tiger's base system facilities.¹⁷ The D.C. Circuit has held, "properly designed rates should produce revenues from each class of customer which match, as closely as practicable, the costs to serve each class or individual customer."¹⁸ The fuel costs incurred to provide IT service, AOS and UAOS after the expansion are not just the higher fuel costs of the Expansion Project, but are principally the average lower fuel costs of the initial system. Thus, ETC Tiger's proposal to charge the highest fuel rate on its system for IT service, AOS and UAOS is inconsistent with the general rate making principle of matching cost incurrence and cost causation.¹⁹ Accordingly, we deny the proposal in Docket No. CP09-460-001, and further direct ETC Tiger to change *pro forma* First Revised Sheet No. 7 of its Expansion Project application to state that the applicable Total Reimbursement Percentage for IT service, AOS and UAOS transportation is the applicable fuel rate established in the initial certificate order, not the higher fuel rate applicable to expansion shippers.

¹⁶ See Exhibit P, page 10 of 10 and *pro forma* First Revised Sheet No. 7.

¹⁷ Two Bcf/d, or eighty-three percent of the total system capacity of 2.4 Bcf/d, will come from the initial Tiger Pipeline facilities.

¹⁸ *Alabama Electric Cooperative, Inc. v. FERC*, 684 F.2d 20, 27 (D.C. Cir. 1982); *K N Energy Inc. v. FERC*, 968 F.2d 1295, 1300-1 (D.C. Cir. 1992).

¹⁹ *Kern River Gas Transmission System Co.*, 117 FERC ¶ 61,077, P 326-338 (2006).

IV. Environmental Analysis

27. On August 12, 2010, the Commission issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed ETC Tiger Pipeline Expansion Project Phase I and Request for Comments on Environmental Issues (NOI). The NOI was mailed to interested parties including federal, state, and local officials; agency representatives; conservation organizations; Native American groups; local libraries and newspapers; and landowners in the vicinity of the proposed project.

28. In response to the NOI, we received two comment letters, both from the Louisiana Department of Wildlife and Fisheries (LDWF). The primary concerns of the LDWF, were construction and restoration methods for waterbody crossings, including sedimentation and the retention of the natural contours of stream banks.

29. To satisfy the requirements of the National Environmental Policy Act, our staff prepared an environmental assessment (EA) for ETC Tiger's proposal which was placed into the public record on December 1, 2010. The EA included a summary of the project's stated purpose and need, and an analysis of potential impacts on geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives. All substantive comments received during our scoping process were addressed in the EA. No comments were received in response the EA.

30. The EA addressed LDWF's scoping comments in its discussion of construction and restoration plans. Specifically, to minimize impacts on waterbodies, Tiger will implement measures identified in its *Upland Erosion Control, Revegetation and Maintenance Plan, Waterbody and Wetland Construction and Mitigation Procedures, and Spill Prevention, Containment, and Countermeasures Plan*. ETC Tiger will use the same construction plans and methods to cross the waterbodies that were used to construct the existing Tiger Pipeline. In addition, the U.S. Army Corps of Engineers or the Louisiana Department of Environmental Quality could attach additional stipulations to permits requiring additional mitigation.

31. One of the recommended environmental conditions in the EA would require ETC Tiger to document that the Louisiana State Historic Preservation Office (SHPO) agrees that activities at the proposed Sibley North Yard, Sibley Equipment Yard, and Quitman Yard would have no effect on historic properties before we would allow use of those yards. On December 20, 2010, ETC Tiger filed clearances from the SHPO, dated December 15, 2010. Therefore, condition number 11 from the EA is no longer necessary, and is not included in this order. ETC Tiger also filed a letter from the SHPO, dated December 15, 2010, accepting the Unanticipated Discovery Plan for this project.

32. Based on the discussion in the EA, we conclude that if the described facilities are constructed in accordance with ETC Tiger's application and supplements, and in compliance with the environmental conditions in the appendix to the order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

33. 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 of facilities approved by this Commission.²⁰

V. Conclusion

34. For the reasons set forth in this order, and subject to the conditions below, the Commission finds that ETC Tiger's Expansion Project is required by the public convenience and necessity under section 7(c) of the NGA. Thus we will grant the requested authorization's to ETC Tiger.

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

The Commission orders:

(A) A certificate of public convenience and necessity is issued in Docket No. CP10-459-000, authorizing ETC Tiger to construct and operate the Expansion Facilities, as described and conditioned herein, and as more fully described in the application.

(B) ETC Tiger's application in Docket No. CP09-460-001, to amend its certificate to establish fuel use rates applicable to Rate Schedule ITS, AOS and UAOS transportation, is denied for the reasons set forth herein.

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

²⁰ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Com'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).

- (1) ETC Tiger completing the authorized construction of the proposed facilities and making them available for service within twelve months of the issuance of this order pursuant to section 157.20(b) of the Commission's regulations;
 - (2) ETC Tiger's compliance with all applicable Commission regulations, including paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;
 - (3) ETC Tiger's adherence to the environmental conditions listed in the Appendix to this Order.
- (D) ETC Tiger's tariff revisions are approved, as conditioned and modified in this Order.
- (E) ETC Tiger's request for approval of an incremental fuel use rate for expansion service is granted.
- (F) ETC Tiger is directed to revise its tariff for Rate Schedule ITS, AOS and UAOS transportation so that the applicable Total Reimbursement Percentage is the applicable existing fuel use rate established for base shippers in the April 7, 2010 Order in Docket No. CP09-460-000, not the higher fuel use rate applicable to expansion shippers.
- (G) ETC Tiger's request to charge its existing system rates as the recourse rates for the Expansion Project is approved.
- (H) ETC Tiger's request for a predetermination supporting rolled-in rate treatment for the costs of the Expansion Project is granted, absent a significant change in material circumstances.
- (I) ETC Tiger is directed to execute firm contracts equal to the level of service in accordance with the terms of service represented in its precedent agreement prior to the commencement of construction.
- (J) ETC Tiger must file actual tariff sheets that comply with the requirements contained in the body of this order no less than 60 days and no more than 90 days prior to the commencement of interstate service.
- (K) ETC Tiger is directed to file its negotiated rate agreement or a tariff sheet describing the essential elements of the agreement no less than 60 days or not more than 90 days prior to the commencement of service.

(L) ETC Tiger shall notify the Commission's environmental staff by telephone and/or facsimile of any environmental noncompliance identified by other Federal, state, or local agencies on the same day that such agency notifies ETC Tiger. ETC Tiger 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 for ETC Tiger's
Expansion Project
Docket No. CP10-459-000

1. ETC Tiger 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, unless modified by the Order. ETC Tiger 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 the order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, ETC Tiger shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, ETC Tiger 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.

ETC Tiger'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. Tiger'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. ETC Tiger 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 extra workspace allowed by ETC Tiger's Erosion, Sedimentation, Control, Avoidance and Mitigation 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,** ETC Tiger shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. ETC Tiger must file revisions to the plan as schedules change. The plan shall identify:

- a. how ETC Tiger 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 ETC Tiger will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - c. the number of EIs assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
 - e. the location of the environmental compliance training ETC Tiger will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
 - f. the company personnel (if known) and specific portion of ETC Tiger's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) ETC Tiger will follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (1) the completion of all required surveys and reports;
 - (2) the environmental compliance training of onsite personnel;
 - (3) the start of construction; and
 - (4) the start and completion of restoration.
7. ETC Tiger shall employ at least one EI per construction spread. The EI shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the 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 the 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 the 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. Beginning with the filing of its Implementation Plan, ETC Tiger shall file updated status reports with the Secretary on a biweekly 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 ETC Tiger'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 ETC Tiger from other federal, state, or local permitting agencies concerning instances of noncompliance, and ETC Tiger's response.
9. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, ETC Tiger shall file with the Secretary documentation that it has received all authorizations required under federal law (or evidence of waiver thereof).
10. ETC Tiger must receive written authorization from the Director of OEP **before commencing service from 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.
11. **Within 30 days of placing the certificated facilities in service**, ETC Tiger 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 ETC Tiger 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.
12. ETC Tiger shall file noise surveys with the Secretary **no later than 60 days** after placing the Cannisnia, Bienville, and Chatham Compressor Stations in service. If the noise attributable to the operation of all of the equipment at the Compressor Stations at full load exceeds an L_{dn} of 55 dBA at any nearby NSAs, ETC Tiger shall file a report on what changes are needed and shall install the additional noise controls to meet the level **within 1 year of the** in-service date. ETC Tiger 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.