

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

Before Commissioners: Kevin J. McIntyre, Chairman;
Cheryl A. LaFleur, Neil Chatterjee,
Robert F. Powelson, and Richard Glick.

Texas Eastern Transmission, LP

Docket Nos. CP15-499-000

CP15-499-001

Pomelo Connector, LLC

CP17-26-000

ORDER ISSUING CERTIFICATES AND APPROVING ABANDONMENT

(Issued February 15, 2018)

1. On May 21, 2015, Texas Eastern Transmission, LP (Texas Eastern) filed an application, as amended on December 30, 2016, pursuant to section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations,² requesting certificate authorization to construct and operate its South Texas Expansion Project (STEP), which includes: (i) a new compressor station in Nueces County, Texas (Petronila Compressor Station); (ii) a new compressor unit and station piping at an existing compressor station in Matagorda County, Texas; and (iii) modifications to existing compression facilities in Chambers, Orange, and Brazoria Counties, Texas. Texas Eastern also requests authorization to acquire by lease all of the capacity on Pomelo Connector, LLC's (Pomelo) proposed 13.6-mile-long interstate natural gas pipeline, which is designed to interconnect with Texas Eastern's proposed Petronila Compressor Station. The proposed facilities will enable Texas Eastern to provide 396,000 dekatherms (Dth) per day of additional firm transportation service on its mainline system and the Pomelo Connector Pipeline.

2. On December 22, 2016, Pomelo filed an application pursuant to sections 7(b) and 7(c) of the NGA and Part 157 of the Commission's regulations requesting: (i) certificate authorization to construct and operate a 13.6-mile-long, 30-inch-diameter interstate

¹ 15 U.S.C. § 717f(c) (2012).

² 18 C.F.R. Part. 157 (2017).

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natural gas pipeline (Pomelo Connector Pipeline) from Texas Eastern's proposed Petronila Compressor Station to an interconnection with Valley Crossing Pipeline, LLC (Valley Crossing), a Texas intrastate pipeline, in Nueces County, Texas; (ii) certificate authorization to construct a new compressor station in Nueces County, Texas (Pomelo Compressor Station); and (iii) authorization to abandon all of the capacity of the Pomelo Connector Pipeline by lease to Texas Eastern. Pomelo also requests a Part 157, Subpart F blanket certificate³ for certain construction, operation, maintenance, and abandonment activities.

3. For the reasons discussed below, the Commission will grant the requested authorizations, subject to conditions described herein.

I. Background and Proposals

4. Texas Eastern, a Delaware limited partnership, is a natural gas company, as defined by section 2(6) of the NGA,⁴ and is engaged in the transmission of natural gas in interstate commerce, subject to the Commission's jurisdiction. Texas Eastern's transmission system extends from Texas, Louisiana, and the offshore Gulf of Mexico area, through Mississippi, Arkansas, Missouri, Tennessee, Illinois, Indiana, Kentucky, Ohio, Pennsylvania, and New Jersey, to its principal terminus in the New York City metropolitan area.

5. Pomelo, a Delaware limited liability company, is a wholly-owned subsidiary of Canyon Midstream Partners II, LLC and Antaeus Group, LLC. Pomelo is not currently engaged in the transportation of natural gas and does not own any pipeline facilities. Upon commencement of operations proposed in its application, Pomelo will become a natural gas company as defined by section 2(6) of the NGA, and subject to the Commission's jurisdiction.

A. Texas Eastern's STEP, Docket Nos. CP15-499-000, CP15-499-001

6. Texas Eastern proposes to construct and operate STEP to provide 396,000 Dth per day of additional firm transportation service to the Comisión Federal de Electricidad (CFE) on its mainline system, from its interconnections with Golden Triangle Storage, Inc. and Centana Intrastate Pipeline, both located in Texas near the Texas-Louisiana border in Texas Eastern's Zone WLA, to a new interconnection with Pomelo located at the proposed Petronila Compressor Station in Nueces County, Texas, in Texas Eastern's Zone STX. Texas Eastern will then utilize the capacity leased from Pomelo on the

³ 18 C.F.R. pt. 157, subpt. F (2017).

⁴ 15 U.S.C. § 717a(6) (2012).

Pomelo Connector Pipeline to provide 396,000 Dth per day of firm transportation service to CFE from the Petronila Compressor Station to the Nueces Header, as described more fully below. Texas Eastern states that the project will allow for bi-directional flow on its Line 16.

7. The project will include:

- (i) construction of one new 8,400 horsepower (hp) gas turbine compressor unit, appurtenant facilities, a new interconnection with Pomelo, and a gas measurement enclosure on property owned by Texas Eastern in Nueces County, Texas (Petronila Compressor Station);
- (ii) installation of one new 8,400 hp gas turbine compressor unit, a new control building, and new gas coolers and modifications of station piping at the existing Blessing Compressor Station in Matagorda County, Texas;
- (iii) modification to the existing pig launcher/receiver on Line 16 at the existing Angleton Station property in Brazoria County, Texas;
- (iv) upgrades to existing compression facilities, construction of a new gas measurement enclosure, and modification of piping to the existing pig launcher/receiver on Line 16 at the existing Mont Belvieu Compressor Station in Chambers County, Texas; and
- (v) modification of piping at the existing pig launcher/receiver on Line 16 and construction of a new gas measurement enclosure at the existing Vidor Compressor Station in Orange County, Texas.

Texas Eastern estimates the cost of STEP to be approximately \$137,298,942.

8. Texas Eastern held an open season from November 4 to November 25, 2014, for firm service using the incremental capacity that will be created by STEP.⁵ Texas Eastern has executed a precedent agreement with the CFE for the entire 396,000 Dth per day of firm transportation service made possible by the project for a primary term of 20 years at a negotiated rate. Texas Eastern proposes to establish a new incremental recourse rate for firm transportation service on the STEP facilities and the leased Pomelo capacity under its existing Rate Schedule FT-1.

⁵ Texas Eastern did not hold a reverse open season for STEP because Texas Eastern did not identify any existing system shippers with subscribed firm transportation capacity that could be used by Texas Eastern to meet the project objectives.

B. Pomelo's Pomelo Connector Pipeline, Docket No. CP17-26-000**1. Pomelo Connector Pipeline**

9. Pomelo proposes to construct and operate the Pomelo Connector Pipeline to provide 400,000 Dth per day of firm transportation service from an interconnection with Texas Eastern's system at the proposed Petronila Compressor Station to the Nueces Header, an intrastate header system to be constructed by Valley Crossing in Nueces County, Texas. The project will consist of: (i) 13.6 miles of 30-inch-diameter pipeline extending from Texas Eastern's proposed Petronila Compressor Station to the Nueces Header; (ii) the new 5,000 hp Pomelo Compressor Station (two 2,500 hp natural gas-fired reciprocating compressor units) in Nueces County, Texas; (iii) 0.2 miles of 30-inch-diameter discharge pipeline in Nueces County, Texas; (iv) flow control facilities downstream of its interconnect with Texas Eastern at the proposed Petronila Compressor Station; and (v) meter facilities upstream of the pipeline's connection with the Nueces Header.

10. Pomelo proposes to lease to Texas Eastern all of the capacity of the Pomelo Connector Pipeline, in order to enable Texas Eastern to provide CFE with firm transportation service from the Petronila Compressor Station to the Nueces Header via the proposed Pomelo Connector. Accordingly, Pomelo requests abandonment authorization to lease the entire capacity of the project.

2. Blanket Certificate

11. Pomelo requests a blanket construction certificate pursuant to Subpart F of Part 157 of the Commission's regulations authorizing Pomelo to engage in certain construction, operation, maintenance, and abandonment activities.

C. Lease Agreement

12. Pomelo and Texas Eastern have entered into a Capacity Lease Agreement, which provides that Pomelo will construct, own, and operate the Pomelo Connector Pipeline and abandon by lease to Texas Eastern all of the capacity associated with the proposed facilities. In turn, Texas Eastern proposes to acquire that capacity to provide transportation service to CFE under its open-access tariff. The Capacity Lease Agreement is structured as an operating lease under which Texas Eastern will lease 400,000 Dth per day of capacity on the Pomelo Connector Pipeline, as well as any

additional operationally available capacity above the 400,000 Dth per day, from Pomelo.⁶ The Capacity Lease Agreement provides for an initial 23-year primary term with a one-time option for Texas Eastern to extend up to seven additional years.

13. The Capacity Lease Agreement provides that Texas Eastern will pay a fixed monthly lease charge of \$2,129,000 to Pomelo.⁷ The parties structured the lease rate so that the proposed lease and other payments by Texas Eastern to Pomelo are a pass through of the negotiated rate previously negotiated between Pomelo and CFE.⁸ Pomelo states that because it will be leasing all of the capacity on the Pomelo Connector Pipeline to Texas Eastern, Pomelo does not plan to file rates for any transportation services. Texas Eastern will reimburse Pomelo for actual fuel and lost and unaccounted-for volumes incurred by Pomelo to provide the leased capacity to Texas Eastern, subject to a one percent cap and the fuel rate shall be tracked and adjusted annually.

II. Notices, Interventions, and Comments

14. Notice of Texas Eastern's application was published in the *Federal Register* on June 11, 2015);⁹ notice of Texas Eastern's amendment application was published in the *Federal Register* on January 19, 2017.¹⁰ The parties listed in Appendix A filed timely, unopposed motions to intervene in response to one or both of Texas Eastern's applications. Notice of Pomelo's application was published in the *Federal Register* on

⁶ The Capacity Lease Agreement provides for 400,000 Dth per day of firm transportation service to account for the maximum fuel to enable Texas Eastern to provide 396,000 Dth per day of firm transportation service to CFE to the delivery point at the end of the Pomelo Connector Pipeline.

⁷ Texas Eastern December 30, 2016 Amendment Application at Exhibit P, Schedule 3.

⁸ *Id.* at 10. It was originally contemplated that the Pomelo pipeline facilities could be operated as a non-jurisdictional intrastate pipeline, with the shipper, CFE, contracting for transportation service from both Texas Eastern and Pomelo. The transaction was ultimately restructured, with the shipper receiving transportation service across the entire transportation path while having to contract with only one service provider. *See* Texas Eastern February 19, 2016 Supplemental Information Filing.

⁹ 80 Fed. Reg. 33,264.

¹⁰ 82 Fed. Reg. 6495.

January 11, 2017.¹¹ Texas Eastern and John Young filed timely, unopposed motions to intervene in response to Pomelo's application (CP17-26-000). Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedures.¹²

III. Discussion

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

A. Certificate Policy Statement

16. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.¹⁴ The Certificate Policy Statement establishes 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 explains that in deciding whether to authorize the construction of major new natural gas facilities, the Commission balances the public benefits against the potential adverse consequences. 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.

17. 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 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 construction. If

¹¹ 82 Fed. Reg. 3309.

¹² 18 C.F.R. § 385.214(c) (2017).

¹³ 15 U.S.C. §§ 717f(c), (e) (2012).

¹⁴ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

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 we proceed to consider the environmental analysis where other interests are addressed.

1. Texas Eastern's STEP

18. As discussed above, the threshold requirement for pipelines proposing new projects is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. The Commission has determined that, in general, where a pipeline proposes to charge incremental rates for new construction, the pipeline satisfies the threshold requirement that the project will not be subsidized by existing shippers.¹⁵ Texas Eastern proposes to establish an initial incremental recourse reservation rate for firm service using the capacity created by the STEP and Pomelo Connector Pipeline facilities. Its proposed incremental rate is designed to recover the full cost of the expansion of Texas Eastern's system as well as the cost associated with leasing the Pomelo capacity and is higher than Texas Eastern's applicable system rate. Therefore, we find that Texas Eastern's existing shippers will not subsidize the expansion project.

19. Next, we find that the proposed project will not adversely affect service to Texas Eastern's existing customers, or to other pipelines and their customers. The proposed facilities are designed to provide incremental service without degradation of service to Texas Eastern's existing firm customers. In addition, there will be no adverse impact on other pipelines in the region or their captive customers because the proposal is not intended to replace service on other pipelines. Moreover, no pipeline company or their captive customers have protested Texas Eastern's application.

20. We also find that STEP will have minimal impacts on landowners and surrounding communities. Texas Eastern states in its application that all construction of its project facilities will be located on land owned in fee by Texas Eastern.¹⁶

21. STEP, together with the lease of capacity on the Pomelo Connector Pipeline, will enable Texas Eastern to provide 396,000 Dth per day of new firm natural gas transportation service to a delivery point in Nueces County, Texas, and will provide CFE with access to additional natural gas supplies. Based on the benefits the project will

¹⁵ See, e.g., *Transcontinental Gas Pipe Line Corp.*, 98 FERC ¶ 61,155 (2002).

¹⁶ Texas Eastern's Application at 10.

provide and the minimal adverse impacts on existing shippers, other pipelines and their captive customers, and landowners and surrounding communities, we find, consistent with the criteria discussed in the Certificate Policy Statement and NGA section 7(c), that the public convenience and necessity requires approval of Texas Eastern's proposal, as conditioned in this order.

2. Pomelo's Pomelo Connector Pipeline

22. Pomelo's proposal also satisfies the threshold requirement that the pipeline must financially support the project without relying on subsidization from its existing customers. As a new pipeline company, Pomelo has no existing shippers. Moreover, because Pomelo is leasing all the capacity of the Pomelo Connector Pipeline to Texas Eastern, Pomelo will have no customers during the term of the lease; Pomelo is not being authorized herein to provide any transportation services. The project will not adversely affect Texas Eastern, existing shippers on Texas Eastern's system, or any other pipeline and their customers because the Pomelo Connector Pipeline is designed to provide incremental service, all of which will be leased to Texas Eastern. There is likewise no evidence that the project will displace existing service on other pipelines, and no other pipeline companies or their customers have objected to Pomelo's proposal.

23. We also find that the Pomelo Connector Pipeline has taken sufficient steps to minimize impacts on landowners and surrounding communities. Pomelo states that it has contacted all of the landowners in or near the construction path of the project, and has obtained the right, where necessary, to survey each landowner's property in order to establish a mutually agreeable route for the pipeline. Pomelo further states that it does not expect any landowner objections because the pipeline path has been selected to accommodate the preferences of affected landowners.

24. As discussed above, the Pomelo Connector Pipeline and associated lease of the capacity to Texas Eastern will enable Texas Eastern to provide 396,000 Dth per day of firm transportation service to CFE from existing receipt points to the Nueces Header. Based on the benefits the project will provide and the minimal impacts on landowners and surrounding communities, and on other pipelines and their captive customers, the Commission finds, consistent with the criteria discussed in the Certificate Policy Statement and NGA section 7(c), that the public convenience and necessity requires approval of Pomelo's proposal, as conditioned in this order.

3. Lease Agreement

25. Historically, the Commission views lease arrangements differently from transportation services under rate contracts. The Commission views a lease of interstate pipeline capacity as an acquisition of a property interest that the lessee acquires in the

capacity of the lessor's pipeline.¹⁷ To enter into a lease agreement, the lessee generally needs to be a natural gas company under the NGA and needs section 7(c) certificate authorization to acquire the capacity. Once acquired, the lessee in essence owns that capacity and the capacity is subject to the lessee's tariff. The leased capacity is allocated for use by the lessee's customers. The lessor, while it may remain the operator of the pipeline system, no longer has any rights to use the leased capacity.¹⁸

26. The Commission's practice has been to approve a lease if it finds that: (1) there are benefits from using a lease arrangement; (2) the lease payments are less than, or equal to, the lessor's firm transportation rates for comparable service over the terms of the lease; and (3) the lease arrangement does not adversely affect existing customers.¹⁹ The lease agreement between Texas Eastern and Pomelo satisfies these requirements.

Lease Benefits

27. The Commission has found that capacity leases in general have several potential public benefits. Leases can promote efficient use of existing facilities, avoid construction of duplicative facilities, reduce the risk of overbuilding, reduce costs, minimize environmental impacts, and result in administrative efficiencies for shippers.²⁰ While the proposal here will not avoid the construction of any facilities (since Pomelo has no existing facilities), the lease arrangement will allow the shipper to avoid managing multiple contracts and scheduling deliveries on multiple pipelines.

Lease Payments

28. Commission policy requires parties to demonstrate that the lease payments are less than or equal to the lessor's firm transportation rates for comparable service over the terms of the lease. There is no rate for comparable service on the Pomelo Connector Pipeline because Pomelo is a new company that will be leasing all of its capacity to Texas Eastern and will not have any recourse rate for service. However, as described in the amendment application, the lease was structured so that the rate paid by Texas Eastern to Pomelo is a direct pass-through of the negotiated rate previously agreed upon

¹⁷ *Texas Eastern Transmission Corp.*, 94 FERC ¶ 61,139, at 61,530 (2001).

¹⁸ *Texas Gas Transmission, LLC*, 113 FERC ¶ 61,185, at P 10 (2005).

¹⁹ *Id.*; *Islander East Pipeline Co., L.L.C.*, 100 FERC ¶ 61,276, at P 69 (2002).

²⁰ *See, e.g., Dominion Transmission, Inc.*, 104 FERC ¶ 61,267, at P 21 (2003); *Islander East Pipeline Co.*, 100 FERC ¶ 61,276 at P 70.

between Pomelo and CFE.²¹ Because CFE has subscribed all the firm service on the project, and none of the costs associated with the lease can be passed through to Texas Eastern's existing shippers, the Commission finds that the proposed lease payment is appropriate.

Effect on Existing Customers

29. The lease will use capacity on Pomelo's system and will not adversely affect Pomelo's existing customers because Pomelo has no existing customers. In addition, the lease will not affect Texas Eastern's existing customers because the lease payments will be recovered through a negotiated rate paid by CFE.

30. Based on the foregoing discussion, we find that the lease arrangement provides sufficient benefits, the lease payments are satisfactory, and the project will not negatively impact Texas Eastern's customers. Accordingly, we find that the proposed lease is required by the public convenience and necessity and approve the lease agreement.

31. Consistent with Commission policy, we will require Pomelo to file, within 10 days of the date of abandonment of the capacity leased to Texas Eastern, a statement providing the effective date of the abandonment.²² We also remind the applicants that when the lease terminates, Texas Eastern is required to obtain authority to abandon the leased capacity, and Pomelo is required to obtain certificate authorization to reacquire that capacity.²³

B. Blanket Certificate

32. Pomelo requests a Part 157, Subpart F blanket certificate. The Part 157 blanket certificate gives an interstate pipeline NGA section 7 authority to automatically, or after prior notice, perform certain activities related to the construction, acquisition, abandonment, and replacement and operation of pipeline facilities.²⁴ Because Pomelo will become an interstate pipeline upon issuance of a certificate to construct and operate the proposed facilities, we will issue to Pomelo the requested Part 157, Subpart F blanket certificate.

²¹ Texas Eastern December 30, 2016 Amendment Application at 8-10.

²² *See, e.g., Columbia Gas Transmission, LLC*, 145 FERC ¶ 61,028 (2013).

²³ *See, e.g., Islander East Pipeline Co.*, 102 FERC ¶ 61,054, at P 35 (2003). We further note that Pomelo will need to receive appropriate authorization before utilizing any reacquired capacity to provide transportation service in interstate commerce.

²⁴ 18 C.F.R. pt. 157, Subpt. F (2017).

C. Rates

1. Initial Rates

33. Texas Eastern states that the estimated cost of STEP, as amended, is \$137,298,942. Texas Eastern proposes to establish initial incremental firm recourse rates under Rate Schedule FT-1 for firm service using the incremental capacity created by the project facilities. Specifically, Texas Eastern proposed an initial incremental monthly recourse reservation charge of \$11.415 per Dth, a Usage-1 charge of \$0.0032 per Dth, and a Usage-2 charge of \$0.3785 per Dth.²⁵ The proposed recourse reservation charge is based on a Year 1 cost of service of \$54,562,825 and annual billing determinants of 4,752,000 Dth.²⁶ The proposed cost of service reflects Texas Eastern's existing onshore transmission depreciation rate of 1.22 percent and the rate of return approved in Texas Eastern's cost-of-service settlement, as amended in Docket No. RP98-198-000, *et al.*²⁷ The cost of service also includes the \$25,548,000 annual lease cost.

34. In a January 19, 2018 response to a staff data request, Texas Eastern provided an adjusted cost of service and recalculated its initial incremental rates to reflect changes in the federal tax code as per the Tax Cuts and Jobs Act of 2017, which became effective January 2018. Texas Eastern's work papers show that the effect of the tax code change is a reduction in the estimated cost of service to \$51,656,010. The revised charges are an initial incremental monthly recourse reservation charge of \$10.803 per Dth, a Usage-1 charge of \$0.0032 per Dth, and a Usage-2 charge of \$0.3584 Dth. As Texas Eastern's January 19, 2018 calculation reflects the federal tax code that will be in effect when the project goes into service, the Commission will use the revised incremental rates for the purpose of establishing the initial incremental rates. The Commission will approve Texas Eastern's revised incremental rates for the project because the 100 percent load factor incremental rate of \$0.3584 per Dth is higher than the currently applicable Rate Schedule FT-1 Zone WLA-STX rate of \$0.1915 per Dth.²⁸

²⁵ Texas Eastern's tariff has a Usage-1 charge, which reflects variable costs, and a Usage-2 charge, which is an excess or overrun rate applicable when the actual service level is in excess of 110 percent of the scheduled service level for such day. For purposes of this discussion, the term "usage" refers to the Usage-1 charge.

²⁶ Amendment Application at Exhibit P, Schedule 2.

²⁷ *Texas Eastern Transmission Corp.*, 84 FERC ¶ 61,200 (1998).

²⁸ Texas Eastern Transmission, LP, FERC NGA Gas Tariff, Texas Eastern Database 1, 2, Rate Schedule FT-1, 51.0.0.

35. Texas Eastern also proposes to establish rates for service under Rate Schedules FT-1 and IT-1 for future, non-STEP shippers desiring access to the leased capacity.²⁹ For the Petronila Extension, Texas Eastern proposes a firm monthly incremental recourse reservation charge of \$5.376 per Dth, a Usage-1 charge of \$0.0000 per Dth, and a Usage-2 charge of \$0.1767 per Dth, based on billing determinants of 4,752,000 Dth and an IT-1 rate of \$0.1767 per Dth. These recourse rates are derived from the fixed monthly payment amounts of \$2,129,000 from Texas Eastern to Pomelo for lease of the Pomelo Connector Pipeline.

36. Texas Eastern's proposed incremental recourse rates for the Petronila Extension are based on billing determinants of 396,000 Dth per day. However, 396,000 Dth per day represents the capacity that Texas Eastern will provide to CFE pursuant to the precedent agreement and is not the full amount that Texas Eastern has leased from Pomelo. The incremental rates for the Petronila Extension should be calculated using the 400,000 Dth per day of firm service available to Texas Eastern, as stated in the Lease Agreement. Therefore, the Commission will approve the Petronila Extension rates subject to Texas Eastern recalculating the rates for the Petronila Extension using the appropriate capacity in its compliance filing.

2. Fuel

37. Texas Eastern proposes to recover fuel use and lost and unaccounted for gas associated with providing the new services on STEP and the Petronila Extension through an incremental Applicable Shrinkage Adjustment (ASA) percentage of 2.64 percent and 1.0 percent, respectively. Texas Eastern will track changes in fuel and electric power costs for both new services on an incremental basis through its ASA mechanism set forth in section 15.6 of its General Terms and Conditions (GT&C) and through its Electric Power Costs (EPC) Adjustment mechanism set forth in section 15.1 of its GT&C. Texas Eastern states that it will adjust its periodic tracker mechanisms to ensure that existing customers do not subsidize the costs resulting from this new incremental service. Texas Eastern's proposal to charge an incremental fuel rate for STEP and the Petronila Extension is approved as described above.

3. Reporting Incremental Costs

38. Section 154.309 of the Commission's regulations³⁰ includes bookkeeping and accounting requirements applicable to all expansions for which incremental rates are

²⁹ Texas Eastern refers to the leased capacity on the proposed Pomelo Connector Pipeline as the Petronila Extension.

³⁰ 18 C.F.R. § 154.309 (2017).

charged to ensure that costs are properly allocated between pipelines' existing shippers and incremental expansion shippers. Therefore, to ensure that costs are properly allocated in this proceeding, Texas Eastern must keep separate books and accounting of costs and revenues attributable to the project, as required by section 154.309 of the Commission's regulations. The books should be maintained with applicable cross-references as required by section 154.309. This information must be in sufficient detail so that the data can be identified in Statements G, I, and J in any future NGA section 4 or 5 rate case, and the information must be provided consistent with Order No. 710.³¹

4. Negotiated Rates

39. Texas Eastern proposes to provide service to CFE under a negotiated rate agreement. Texas Eastern must file either negotiated rate agreements or tariff records setting forth the essential elements of the agreements in accordance with the Alternative Rate Policy Statement³² and the Commission's negotiated rate policies.³³ Texas Eastern must file the negotiated rate agreements or tariff records at least 30 days, but no more than 60 days, before the proposed effective date for such rates.³⁴

D. Environment

40. The Commission initially issued a notice of intent to prepare an environmental assessment for the proposed STEP on July 1, 2015; the notice was published in the

³¹ *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, FERC Stats. & Regs. ¶ 31,267, at P 23 (2008).

³² *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 75 FERC ¶ 61,024 (1996), *reh'g denied*, 75 FERC ¶ 61,066 (1996), *petition for review denied sub nom. Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998) (Alternative Rate Policy Statement).

³³ *Natural Gas Pipelines Negotiated Rate Policies and Practices; Modification of Negotiated Rate Policy*, 104 FERC ¶ 61,134 (2003), *order on reh'g and clarification*, 114 FERC ¶ 61,042 (2006) *dismissing reh'g and denying clarification*, 114 FERC ¶ 61,304 (2006).

³⁴ Pipelines are required to file any service agreement containing non-conforming provisions and to disclose and identify any transportation term or agreement in a precedent agreement that survives the execution of the service agreement. *See, e.g. Texas Eastern Transmission, LP*, 149 FERC ¶ 61,198, at P 33 (2014); 18 C.F.R. § 154.112(b) (2017).

Federal Register and mailed to interested persons and entities.³⁵ Texas Eastern subsequently notified Commission staff that it was amending its application and would file its modified project proposal at a later date. On April 6, 2017, after Texas Eastern filed its amended application for STEP and Pomelo filed its application for the Pomelo Connector Pipeline, Commission staff issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Pomelo Connector Pipeline and South Texas Expansion Projects and Request for Comments on Environmental Issues* (NOI). The NOI initiated a joint scoping process and announced that staff would prepare a single environmental assessment (EA) to address both projects. The NOI was published in the *Federal Register*³⁶ and mailed to interested persons and entities, including federal, state, and local government officials; regulatory agencies; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners.

41. In response to the initial notice and/or subsequent NOI, we received a total of seven comment letters from the following entities and individuals: U.S. Environmental Protection Agency, the Texas Parks and Wildlife Department (Texas PWD), Union Pacific Railroad, Gary Pyron (an adjacent landowner to the proposed Petronila Compressor Station site), John Young (an individual), and the Teamsters National Pipeline Labor Management Cooperation Trust. The issues raised during the public scoping process included related and non-jurisdictional facilities, air quality/greenhouse gas emissions, alternatives, biological resources, migratory birds, wildlife and its habitat, water resources, hazards/safety concerns, stormwater, and general support for the projects.

42. To satisfy the requirements of the National Environmental Policy Act of 1969,³⁷ Commission staff prepared an EA for the proposals that was placed into the public record on September 18, 2017. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, socioeconomics, air quality, noise, safety, cumulative impacts, related facilities, and alternatives. All substantive comments received in response to the scoping notices were addressed in the EA. The Commission received comments on the EA from Texas PWD and Pomelo.

³⁵ 80 Fed. Reg. 40,060 (July 13, 2015).

³⁶ 82 Fed. Reg. 17,654 (Apr. 12, 2017).

³⁷ 42 U.S.C. §§ 4321 *et seq.* (2012).

1. Texas Parks and Wildlife Department's Comments on the EA

43. Texas PWD's October 11, 2017 filing states that it supports the implementation of the environmental commitments by Texas Eastern and Pomelo outlined in the EA related to wildlife, habitat conservation, and the avoidance and minimization of impacts. Additionally, Texas PWD recommends specific measures related to general construction and restoration, as well as for state-listed species.

44. Texas PWD recommends using erosion and seed/mulch stabilization materials that avoid entanglement hazards to wildlife species during construction and restoration of all disturbed areas within the project footprint. The EA states that Texas Eastern would implement its Erosion and Sedimentation Control Plan (Erosion Plan), which incorporates the Commission's *Upland Erosion Control, Revegetation, and Maintenance Plan* (Plan) and *Wetland and Waterbody Construction and Mitigation Procedures* (Procedures)³⁸ without modifications, as well as guidelines from the U.S. Fish and Wildlife Service (FWS), the U.S. Department of Agriculture, the Natural Resources Conservation Service, and various state agencies.³⁹ The EA also notes that Pomelo did not develop its own Erosion Plan, but would comply with the Commission's *Plan and Procedures*, standard construction practices, and policies, and any additional project-specific requirements that may be imposed by federal, state, and local agencies.⁴⁰ Similar to Texas PWD's recommendations, the Commission's *Plan and Procedures* specify that synthetic monofilament mesh/netted erosion control materials should not be used in areas designated as sensitive wildlife habitat, unless the product is specifically designed to minimize harm to wildlife. The Commission's *Plan and Procedures* also specify that erosion control fabric should be anchored with staples or other appropriate devices, which is proper installation for erosion control and protection of wildlife.

45. Texas PWD also recommends that Texas Eastern and Pomelo report observations of threatened and rare species to the Texas Natural Diversity Database. As discussed in the EA, with the exception of the Texas horned lizard, no state-listed species are expected to occur within the project area because the disturbed areas do not contain

³⁸ The Commission's Plan is available at <http://www.ferc.gov/industries/gas/enviro/plan.pdf>. The Commission's Procedures are available at <http://www.ferc.gov/industries/gas/enviro/procedures/pdf>.

³⁹ EA at 7.

⁴⁰ *Id.* at 8.

native habitat.⁴¹ Based on implementation of the applicants' proposed mitigation and the environmental conditions in Appendix B of the order, we agree with the EA's conclusion that impacts on special-status species will be adequately avoided or minimized.

2. Pomelo's Comments on the EA

46. Pomelo's October 10, 2017 filing contains four comments and updates specific to the Pomelo Connector Pipeline. First, Pomelo notes that its name was omitted from the second sentence of recommended Environmental Condition No. 1 in the EA, and requests that it be added for consistency. We agree with this comment, and have added Pomelo's name to Environmental Condition 1 in Appendix B to this order.

47. Second, Pomelo provides new information regarding its consultation with the Texas PWD, in which Pomelo proposed, and Texas PWD approved on October 3, 2017, project-specific best management practices for the Texas horned lizard. These measures, documented in an email from Mott MacDonald to Texas PWD dated September 27, 2017,⁴² include six specific measures and associated details that are designed specifically to protect the Texas horned lizard. Pomelo's proposed measures replace and supersede the previous agreement to implement Texas tortoise best management practices, which Pomelo had also intended to implement to protect the Texas horned lizard. We find that Pomelo's revised conservation measures are acceptable, given they are more tailored to, and protective of, the species, and because Texas PWD determined the measures to be acceptable to provide sufficient protection for the species.

48. Third, in response to EA-recommended Environmental Condition No. 12, Pomelo notes that it had previously consulted with the Texas General Land Office (Texas GLO) regarding the federal coastal zone consistency review under the Texas Coastal Land Management Program (Texas CMP), and that a representative from Texas GLO indicated via email that a Texas CMP Federal Consistency Review was not required. However, Commission staff's subsequent correspondence with Texas GLO confirms that a federal coastal zone consistency review is, in fact, required for the project. Accordingly, this order retains staff's recommendation in the EA as Environmental Condition 12.

49. Finally, Pomelo notes that on September 11, 2017, it filed supplemental information from the FWS that revises a conservation measure related to the Migratory

⁴¹ EA at 53. As agreed to by the Texas PWD, and further discussed below, both Texas Eastern and Pomelo will implement specific wildlife avoidance, protection, and conservation measures, as applicable where suitable habitat could be present for the Texas horned lizard. *Id.* at 53-54.

⁴² Pomelo's October 10, 2017 filing at Attachment A.

Bird Treaty Act, in response to a change in construction schedule for the Pomelo Connector. While Pomelo's commitment to conduct site-clearing activities outside of the migratory bird nesting season remains in place, Pomelo notes that construction activities would now need to extend into the nesting season (March 1 to July 1). In response to a FWS recommendation, Pomelo agrees to implement certain conservation measures for construction during the nesting season, including areas that have been inactive for five days or longer following its completion of clearing activities. If construction occurs within the nesting season, Pomelo commits to hire a qualified biologist to identify the presence of nesting migratory birds within the construction limits before moving equipment into the area (survey will occur within five days of moving equipment in). If an active nest is identified within the construction limits, Pomelo commits to contact FWS for further guidance, including work restriction nest buffers. In an email to Pomelo dated September 6, 2017,⁴³ FWS concurred with these measures and affirmed that these changes remain consistent with the FWS's determination letter dated March 14, 2017. We concur with the new measures.

IV. Conclusion

50. We have reviewed the information and analysis contained in the EA regarding potential environmental effects of the project, as well as other information in the record. We are adopting the environmental recommendations in the EA, as modified herein, and are including them as environmental conditions in Appendix B to this order. Compliance with the environmental conditions appended to our orders is integral to ensuring that the environmental impacts of approved projects are consistent with those anticipated by our environmental analyses. Thus, Commission staff carefully reviews all information submitted. Only when satisfied that the applicant has complied with all applicable conditions will a notice to proceed with the activity to which the conditions are relevant be issued. We also note that the Commission has the authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project, including authority to impose any additional measures deemed necessary to ensure continued compliance with the intent of the conditions of the order, as well as the avoidance or mitigation of unforeseen adverse environmental impacts resulting from project construction and operation.

51. Based on the information and findings in the EA, as supplemented herein, we conclude that the STEP and Pomelo Connector Pipeline, if constructed and operated in accordance with Texas Eastern and Pomelo's respective applications, as supplemented, and in compliance with the environmental conditions in Appendix B to this order, will not constitute a major federal action significantly affecting the quality of the human environment.

⁴³ Pomelo's October 10, 2017 filing at Attachment C.

52. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the (construction or operation) of facilities approved by this Commission.⁴⁴

53. At a hearing held on February 15, 2018, 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, and all comments and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Texas Eastern, authorizing it to construct and operate STEP, as described and conditioned herein, and as more fully described in the application, as amended, in Docket Nos. CP15-499-000 and CP15-499-001.

(B) A certificate of public convenience and necessity is issued to Pomelo, authorizing it to construct and operate the Pomelo Connector Pipeline, as described and conditioned herein, and as more fully described in the application in Docket No. CP17-26.

(C) A blanket construction certificate is issued to Pomelo under Subpart F of Part 157 of the Commission's regulations.

⁴⁴ See 15 U.S.C. § 717r(d) (state or federal agency's failure to act on a permit considered to be inconsistent with Federal law); *see also* *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293, 310 (1988) (state regulation that interferes with FERC's regulatory authority over the transportation of natural gas is preempted) and *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 245 (D.C. Cir. 2013) (noting that state and local regulation is preempted by the NGA to the extent it conflicts with federal regulation, or would delay the construction and operation of facilities approved by the Commission).

(D) The certificate authority granted in ordering paragraphs (A) and (B) shall be conditioned on the following:

- (1) applicants' completion of the authorized construction of the proposed facilities and making them available for service within two years of the issuance of this order pursuant to section 157.20(b) of the Commission's regulations;
- (2) applicants' compliance with all applicable Commission regulations under the NGA including, but not limited to Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and
- (3) applicants' compliance with the Environmental Conditions in Appendix B of this order.

(E) Texas Eastern shall file a written statement affirming that they have executed a firm contract for volumes and service terms equivalent to those in its precedent agreement, prior to the commencement of construction.

(F) Texas Eastern's proposed incremental rates and Petronila Extension rates, subject to modification as discussed above, are approved as the initial rates for STEP.

(G) Texas Eastern shall file actual tariff records setting forth the initial rates for service on STEP that comply with the requirements contained in the body of this order, no earlier than 60 days and no later than 30 days, prior to the date the project facilities go into service.

(H) Pomelo is authorized to abandon by lease to Texas Eastern capacity on its system, as described herein.

(I) A certificate of public convenience and necessity is issued to Texas Eastern authorizing it to lease the subject capacity from Pomelo as described herein.

(J) Pomelo shall notify the Commission within 10 days of the date of the abandonment of the capacity leased to Texas Eastern.

(K) Texas Eastern shall notify the Commission within 10 days of the date of acquisition of the capacity leased from Pomelo.

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A**Timely, Unopposed Motions to Intervene in Docket CP15-499**

- Atmos Energy Corporation
- Atmos Energy Marketing LLC
- Calpine Energy Services, L.P.
- Consolidated Edison Company of New York, Inc.
Orange and Rockland Utilities, Inc.
Philadelphia Gas Works
- Duke Energy Carolinas, LLC
Duke Energy Progress, Inc.
Duke Energy Indiana, Inc.
Duke Energy Kentucky, Inc.
- Exelon Corporation
- Golden Triangle Storage, Inc.
- National Fuel Gas Distribution Corporation
- National Grid Gas Delivery Companies
- New Jersey Natural Gas Company
- NJR Energy Services Company
- Philadelphia Gas Works (individually)
- Piedmont Natural Gas Company, Inc.
- Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas Company
- Pomelo Connector, LLC
- PSEG Energy Resources & Trade LLC
- Range Resources-Appalachia LLC
- Rice Energy Marketing LLC

Appendix B

Environmental Conditions

Environmental Conditions for Texas Eastern Transmission, LP (Texas Eastern) for STEP and Pomelo Connector, LLC (Pomelo) for the Pomelo Connector Pipeline.

1. Texas Eastern and Pomelo shall follow the construction procedures and mitigation measures described their applications and supplements (including responses to staff data requests) and as identified in the EA, unless modified by the Order. Texas Eastern and Pomelo 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, or the Director's designee, has delegated authority to address any requests for approvals or authorizations necessary to carry out the conditions of the Order, and take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the projects. This authority shall allow:
 - a. the modification of conditions of the Order;
 - b. stop-work authority; and
 - c. the imposition of any additional measures deemed necessary to ensure continued compliance with the intent of the conditions of the Order as well as the avoidance or mitigation of unforeseen adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Texas Eastern and Pomelo shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, Environmental Inspectors (EIs), and contractor personnel would be informed of the EI's authority and have been or would 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 pipeline alignment and station design sheets. **As soon as they are available, and before the start of construction**, Texas Eastern and Pomelo shall file with

the Secretary any revised detailed survey maps/sheets at a scale not smaller than 1:6,000 with station positions for the 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.

Texas Eastern's and Pomelo's exercise of eminent domain authority granted under the Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to the Order must be consistent with these authorized facilities and locations.

Texas Eastern's and Pomelo'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. Texas Eastern and Pomelo 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 the OEP **before construction in or near that area.**

This requirement does not apply to extra workspaces allowed by the Commission's *Upland Erosion Control, Revegetation, and Maintenance 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 resource mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual's landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of this authorization and before**

construction begins, Texas Eastern and Pomelo shall file an Implementation Plan with the Secretary for review and written approval by the Director of the OEP. Texas Eastern and Pomelo must file revisions to the plan as schedules change. The plan shall identify:

- a. how Texas Eastern and Pomelo would 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 Texas Eastern and Pomelo would 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 would ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who would receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instruction Texas Eastern and Pomelo would 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 Texas Eastern's and Pomelo's organizations having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Texas Eastern and Pomelo would 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. Texas Eastern and Pomelo shall employ at least one EI per Project. The EI(s) 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, Texas Eastern shall file updated status reports with the Secretary on a **monthly basis until all construction and restoration activities are complete**. Beginning with the filing of its Implementation Plan, Pomelo 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 Texas Eastern's and Pomelo'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 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 Texas Eastern or Pomelo from other federal, state, or local permitting agencies concerning instances of noncompliance, and Texas Eastern's and/or Pomelo's response.

9. Texas Eastern and Pomelo must receive written authorization from the Director of OEP **before commencing construction of any project facilities**. To obtain such authorization, Texas Eastern and Pomelo must file with the Secretary documentation that they have received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. Texas Eastern and Pomelo must receive written authorization from the Director of OEP **before placing the projects into service**. Such authorization would only be granted following a determination that rehabilitation and restoration of the areas affected by the projects are proceeding satisfactorily.
11. **Within 30 days of placing the authorized facilities in service**, Texas Eastern and Pomelo 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 would be consistent with all applicable conditions; or
 - b. identifying which of the Certificate conditions Texas Eastern and Pomelo have complied with or would comply with. This statement shall also identify any areas affected by the projects where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
12. **Prior to construction**, Texas Eastern and Pomelo shall file with the Secretary documentation of concurrence from the Texas General Land Office (GLO) that the projects have been reviewed and are consistent with the Texas Coastal Management Program, or file documentation from the GLO that a consistency review is not required.
13. Texas Eastern shall file a noise survey with the Secretary **no later than 60 days** after placing the proposed Petronila Compressor Station in service. If a full load condition noise survey is not possible, Texas Eastern shall provide an interim survey at the maximum possible horsepower load and provide the full load survey **within 6 months**. If the noise attributable to the operation of the equipment at the Petronila Compressor Station under interim or full horsepower load conditions exceeds a day-night averaged sound level (L_{dn}) of 55 decibels on the A-weighted frequency scale (dBA) at any nearby noise-sensitive areas, Texas Eastern 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. Texas Eastern 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.
14. Texas Eastern shall file a noise survey with the Secretary **no later than 60 days**

after placing the authorized unit at the modified Blessing Compressor Station in service. If a full load condition noise survey is not possible, Texas Eastern shall provide an interim survey at the maximum possible horsepower load and provide the full load survey within **6 months**. If the noise attributable to the operation of the new unit at the modified Blessing Compressor at full load exceeds an L_{dn} of 55 dBA at any nearby noise-sensitive areas, Texas Eastern shall install additional noise controls to meet that level **within 1 year** of the in-service date. Texas Eastern shall confirm compliance with the L_{dn} of 55 dBA requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.

15. Pomelo shall file a noise survey with the Secretary **no later than 60 days** after placing the new compressor at the Pomelo Compressor Station in service. If a full load condition noise survey is not possible, Pomelo shall provide an interim survey at maximum possible horsepower load and provide a full load survey **within 6 months**. If the noise attributable to the operation of the equipment at the Pomelo Compressor Station under interim or full horsepower load conditions exceeds an L_{dn} of 55 dBA at any nearby noise-sensitive areas, Pomelo 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. Pomelo 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.

Document Content(s)

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