

161 FERC ¶ 61,032
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, and Robert F. Powelson.

Gulf South Pipeline Company, LP

Docket No. CP16-478-000

ORDER ISSUING CERTIFICATE

(Issued October 6, 2017)

1. On July 11, 2016, Gulf South Pipeline Company, LP (Gulf South) filed an application under section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations² for a certificate of public convenience and necessity authorizing the construction and operation of a new compressor station and related facilities in Southeast Louisiana (St. Charles Parish Expansion Project). As discussed below, the Commission will grant the requested authorizations, subject to conditions.

I. Background & Proposal

2. Gulf South, a limited partnership formed under Delaware law, is a natural gas company as defined by section 2(6) of the NGA.³ It owns and operates approximately 6,000 miles of pipeline facilities extending from Texas, through Louisiana, Mississippi, Alabama, and Florida. Gulf South has numerous interconnects with other interstate and intrastate pipelines and storage facilities, which allow it to serve various on-system and off-system markets.

3. Gulf South proposes to construct and operate the St. Charles Parish Expansion Project to provide up to 133,333 dekatherms per day (Dth/d) of firm transportation service under Rate Schedule EFT (Enhanced Firm Transportation) to Entergy Louisiana,

¹ 15 U.S.C. § 717f(c) (2012).

² 18 C.F.R. pt. 157 (2017).

³ 15 U.S.C. § 717a(6) (2012).

LLC's (Entergy Louisiana) proposed natural gas-fired combined cycle electric generating unit to be located near Montz, Louisiana (Power Project). Rate Schedule EFT provides for flexible transportation service by permitting an hourly flow of 1/16 of a customer's Maximum Daily Quantity (MDQ) at the primary delivery point, as opposed to regular Rate Schedule FTS (Firm Transportation Service) service, which is based on an hourly flow of 1/24 of a customer's MDQ.⁴

4. To provide the incremental capacity, Gulf South proposes to construct and operate a new compressor station in St. Charles Parish, Louisiana, near the intersection of Gulf South's existing Index 270 and Index 270-94 pipelines (Montz Compressor Station).⁵ The Montz Compressor Station will include two 2,500 horsepower (hp) Caterpillar compressor engines, gas cooling, yard and station piping, and auxiliary facilities. To attach the compressor station's yard and station piping to the existing Index 270-94 pipeline, Gulf South proposes to construct approximately 900 feet of new 16-inch-diameter natural gas pipeline, and various auxiliary facilities.

5. In addition, Gulf South has reserved certain existing capacity on its Index 270 and Index 270-94 pipelines for the project in accordance with section 6.20[7] of the General Terms and Conditions (GT&C) of its FERC Gas Tariff.⁶

6. Gulf South conducted a binding open season from March 29, through April 4, 2016, for capacity on the project. As a result of the open season, Gulf South and Entergy Louisiana entered into a precedent agreement that provides for the execution of an interim and a long-term firm transportation agreement under Rate Schedule EFT for transportation service from existing interconnects with Tennessee Gas Pipeline (the Kiln

⁴ See section 5.3[2] of the GT&C of Gulf South's FERC Gas Tariff. In order to deliver 133,333 Dth/d at an hourly flow rate of 1/16th of Entergy Louisiana's MDQ, or approximately 8,333 dekatherms per hour (Dth/hr), Gulf South must reserve 200,000 Dth/d, since 8,333 Dth/hr for 16 hours is an accelerated flow rate (8,333 Dth/hr for 24 hours would equal approximately 200,000 Dth/d).

⁵ The intersection of Gulf South's existing Index 270 and Index 270-94 pipelines is located near the border between St. John the Baptist and St. Charles Parishes, Louisiana.

⁶ Gulf South states that although this project would otherwise qualify for authority under the Commission's blanket construction certificate program, section 6.20[7] requires it to file a 7(c) application in order to reserve firm capacity for a project.

Meter Station on Index 300 in Hancock County, Mississippi) and Texas Eastern Transmission (the Raceland Meter Station on Index 300 in Lafourche Parish, Louisiana) to a delivery point on its existing Index 270-94 pipeline for ultimate delivery to the Power Project. The interim agreement will provide Entergy Louisiana a lower service commitment (75,000 Dth/d) in order to supply test gas during the commissioning of the Power Project and will terminate when the long-term agreement begins.⁷ The long-term agreement will provide up to 133,333 Dth/d of firm transportation service for an initial term of 10 years.⁸ Entergy Louisiana has elected to pay negotiated rates.

7. Gulf South estimates the proposed facilities will cost approximately \$29.7 million. Gulf South proposes to use its existing system-wide rates under Rate Schedule EFT as the initial recourse rates for service on the expansion capacity. Gulf South requests a predetermination that it may roll the costs of the project into its existing rates in its next NGA section 4 rate proceeding.

II. Notices, Interventions, and Comments

8. Public notice of Gulf South's application was published in the *Federal Register* on July 26, 2016.⁹ The parties listed in Appendix A filed timely, unopposed motions to intervene, which are granted by operation of Rule 214(c) of the Commission's Rules of Practice and Procedure.¹⁰

9. In its motion to intervene, the Distributor Coalition,¹¹ a group of Gulf South's existing customers, filed comments stating that while the group does not object to

⁷ The interim agreement will commence on the later of (A) September 1, 2018, or (B) the first day of the month following the date Gulf South's project facilities are complete, made available for service, and capable of reliably delivering 75,000 Dth/d.

⁸ The long-term agreement will commence on the later of (A) the earlier of (i) the Power Project's commercial in service date and (ii) June 1, 2019, or (B) the first day of the month following the date Gulf South's project facilities are capable of reliably delivering 133,333 Dth/d under Rate Schedule EFT.

⁹ 81 Fed. Reg. 48,783 (2017).

¹⁰ 18 C.F.R. § 385.214(c) (2017).

¹¹ The Distributor Coalition is comprised of CenterPoint Energy Resources Corp., City of Vicksburg, Mississippi, Mobile Gas Service Corporation, and Willmut Gas Company.

Gulf South's project, it is concerned that the proposed compressor station may use a substantial amount of fuel, which could negatively affect Gulf South's fuel rate. The Distributor Coalition requests that the Commission ensure that the revenue received for the project will exceed all project costs, including fuel costs. These concerns are addressed in the rate section below.

III. Discussion

10. Since the 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 (c) and (e) of section 7 of the NGA.¹²

A. Certificate Policy Statement

11. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.¹³ 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 explains that in deciding whether to authorize the construction of major new pipeline 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.

12. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and the communities affected by the construction. If residual adverse effects on these interest groups are identified after efforts have been

¹² 15 U.S.C. §§ 717f(c) and (e) (2012).

¹³ *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).

made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

13. As stated, 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. Gulf South proposes to charge its existing system-wide reservation and commodity rates under Rate Schedule EFT as initial recourse rates for service on the St. Charles Parish Expansion Project. Gulf South has shown that the incremental revenue received under the existing system rates would exceed the incremental cost of constructing and operating the facilities. In addition, we are approving Gulf South's proposal to charge its generally applicable system retention rate to shippers on the project which should decrease system fuel use on a percentage basis, thereby resulting in lower fuel costs to its existing customers. Accordingly, we find that Gulf South's existing customers will not subsidize the expansion project.

14. We also find that the proposed project will not adversely affect Gulf South's existing customers. The St. Charles Parish Expansion Project will enable Gulf South to provide incremental firm transportation service to the project shipper, Entergy Louisiana, and there is no evidence that the project will degrade service to existing customers. None of Gulf South's existing customers have raised any concern that the new service will adversely affect existing services.

15. We further find that there will be no adverse impacts on other pipelines or their captive customers because the project will serve new demand and not replace firm transportation service on any other existing pipeline. No pipelines or their captive customers have protested Gulf South's application.

16. Regarding the project's impacts on landowners, the proposed 16-inch-diameter pipeline will be co-located within Gulf South's existing Index 270 pipeline right-of-way. Additionally, Gulf South states that it has attempted to site the location of the new compressor station to minimize the impacts on nearby landowners and it is working with landowners, community representatives, and other stakeholders to minimize any concerns regarding the right-of-way and temporary work space needed to construct this project. Accordingly, we find that the proposed project has been designed to minimize the impacts on landowners and the surrounding communities.

17. Based on the benefits Gulf South's proposal will provide, the lack of adverse effects on existing customers and other pipelines and their captive customers, and the minimal adverse effects on landowners or communities, we find, consistent with the Certificate Policy Statement and NGA section 7(c), that the public convenience and

necessity requires approval of Gulf South's proposal, subject to the conditions discussed below.

B. Rates

1. Initial Recourse Transportation Rate

18. Gulf South proposes to charge its existing system-wide rates under Rate Schedule EFT¹⁴ as the initial recourse rates for firm transportation service for the project. Gulf South calculated an illustrative incremental reservation charge for the project of \$0.2034 per dekatherm (Dth), which is lower than the Rate Schedule EFT recourse reservation charge of \$0.5070 per Dth. The proposed cost of service underlying the illustrative incremental reservation rate is based on a depreciation rate including negative salvage of 2.18 percent and an overall rate of return approved in the settlement in Docket No. RP15-65.¹⁵ In addition, Gulf South's illustrative incremental commodity charge of \$0.0014 per Dth is lower than Gulf South's existing commodity charge of \$0.0125 per Dth. The Commission approves Gulf South's proposal to charge its system-wide reservation and commodity recourse rates under Rate Schedule EFT for transportation service for this project, because the respective illustrative incremental rate is lower than the Rate Schedule EFT recourse rate.

2. Predetermination of Rolled-in Rate Treatment

19. Gulf South requests a preliminary determination that it may roll the project costs into its system-wide rates in its next NGA section 4 rate proceeding. To receive a predetermination favoring rolled-in rate treatment, a pipeline must demonstrate that rolling in the costs associated with the construction and operation of new facilities will not result in existing customers subsidizing the expansion. In general, this means that a pipeline must show that the revenues to be generated by an expansion project will exceed the costs of the project. For purposes of making a determination in a certificate proceeding as to whether it would be appropriate to roll the costs of a project into the pipeline's system rates in a future NGA section 4 proceeding, we compare the cost of the project to the revenues generated using actual contract volumes and either the maximum

¹⁴ Gulf South calculates the EFT rate as 1.5 times the FTS rate because a ratable take of 1/16 requires one and a half times the amount of pipeline capacity required for a ratable take of 1/24. Rate Schedule EFT was approved in *Gulf South Pipeline Co., LP*, 136 FERC ¶ 61,086 (2011).

¹⁵ *Gulf South Pipeline Co., LP*, 153 FERC ¶ 61,326 (2015).

recourse rate or, if the negotiated rate is lower than the recourse rate, the actual negotiated rate.¹⁶

20. Gulf South provided a rolled-in rate analysis in Exhibit N that shows that the revenue, based on the negotiated rate that is lower than the recourse rate, exceeds the project's cost of service. Therefore, the Commission grants Gulf South's request for a predetermination of rolled-in rate treatment in its next NGA section 4 rate case, absent a significant change in circumstances.

3. Fuel

21. Gulf South proposes to apply its existing system-wide fuel rate for service on the expansion capacity and requests a predetermination for rolled-in rate treatment for fuel and lost and unaccounted for gas. Gulf South submitted a fuel study¹⁷ to show the impact of the project on its existing fuel rates. The study calculates a daily design fuel rate of 0.41 percent using a 70 percent load factor and a maximum capability design fuel rate of 0.86 percent using a 100 percent load factor. Both fuel rates are lower than the system-wide fuel rate of 1.22 percent and the combined rate of 1.24 percent, which incorporates a 0.02 percent lost and unaccounted for rate. We find that this study adequately addresses the Distribution Coalition's concern regarding the project's impact on fuel rates. In this regard, we find that the project will have the effect of reducing, rather than increasing, the general system fuel rate to the benefit of all system shippers.¹⁸ Thus, the Commission accepts Gulf South's proposal.

4. Books and Accounting of Costs

22. Consistent with the Certificate Policy Statement, we will direct Gulf South to keep separate books and accounting of costs attributable to the St. Charles Parish Expansion Project. The books should be maintained with applicable cross-references, as required by section 154.309 of the Commission regulations. This information must be in sufficient detail so that the data can be identified in Statements G, I, and J in any future NGA

¹⁶ See *Natural Gas Pipeline Co. of America, LLC*, 154 FERC ¶ 61,220, at P 25 (2016).

¹⁷ See September 13, 2016 Data Response to Questions 2 and 3.

¹⁸ As discussed above, Gulf South's existing system-wide reservation and commodity rates will fully recover the cost of the project.

section 4 or 5 rate case and the information must be provided consistent with Order No. 710.¹⁹

5. Negotiated Rates

23. Gulf South proposes to charge negotiated rates for service on the expansion capacity. Gulf South must file either negotiated rate agreements or tariff records setting forth the essential elements of the agreements in accordance with the Alternative Rate Policy Statement²⁰ and the Commission's negotiated rate policies.²¹ Gulf South 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.²²

C. Environmental Analysis

24. On August 24, 2016, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the St. Charles Parish Expansion Project and Request for Comments on Environmental Issues* (NOI). The NOI was published in the *Federal Register* on August 30, 2016,²³ and mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups;

¹⁹ *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, *FERC Stats. & Regs.* ¶ 31,267, at P 23 (2008).

²⁰ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines* 74 FERC ¶ 61,076 (Alternative Rate Policy Statement), *order granting clarification*, 74 FERC ¶ 61,194, *reh'g and clarification denied*, 75 FERC ¶ 61,024, *reh'g denied*, 75 FERC ¶ 61,066, *reh'g dismissed*, 75 FERC ¶ 61,291 (1996), *aff'd sub nom. Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d (D.C. Cir. 1998).

²¹ *Natural Gas Pipeline 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, *reh'g dismissed and clarification denied*, 114 FERC ¶ 61,304 (2006).

²² 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.

²³ 81 Fed. Reg. 59,615 (2016).

Native American tribes; local libraries and newspapers; and affected property owners. We received comments in response to the NOI from the United States Environmental Protection Agency (EPA) and the Choctaw Nation of Oklahoma. The primary issues raised during the scoping process included air quality, wetlands, environmental justice, and tribal consultations.

25. To satisfy the requirements of the National Environmental Policy Act of 1969, our staff prepared an Environmental Assessment (EA) for Gulf South's proposal. The analysis in the EA addressed geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, socioeconomics, cumulative impacts, and alternatives. All substantive comments received in response to the NOI or raised during the scoping process were addressed in the EA.

26. The EA was issued for a 30-day comment period and placed into the public record on March 3, 2017. The Commission received one comment on the EA from a state agency and two federal agency letters. In addition, following the 30-day comment period the Commission received several comments from two residents of a nearby community. The Louisiana Department of Wildlife and Fisheries (LDWF) recommends that the pipeline right-of-way not exceed 75 feet in width and that the permanent right-of-way not exceed 30 feet in width to reduce impacts. In addition, the LDWF states that it concurs with Gulf South's best management practices to reduce soil erosion and runoff. The LDWF also recommends that a 24-inch culvert be installed every 250 feet where access roads traverse wetlands and that additional culverts be installed at stream crossings and drainage features. Lastly, the LDWF recommends that all forested vegetation cleared during construction be hauled to a non-wetland disposal location or chipped and spread on site in a manner that is beneficial to the surrounding environment.

27. As stated in section A.6 of the EA, Gulf South requests two site-specific deviations from the FERC's *Upland Erosion Control, Revegetation and Maintenance Plan* (Plan) and *Wetland and Waterbody Construction and Mitigation Procedures* (Procedures). These deviations included using a construction corridor width of 100 feet in both upland and wetland areas.

28. As stated in the EA, Gulf South states that the soil types that will be affected by construction are rated "somewhat limited" for their suitability for shallow construction due to wetness, low soil strength, and moderate shrink-swell potential. As such, these soils may not adequately support construction loads. To ensure safe working conditions, Gulf South stated that work in this soil type would require additional space to manage saturated soils from rain events. As the soil saturation increases, the soils may lose their cohesiveness which may result in trench-wall loss, a reduction in vehicle travel zones, or impacts on stockpiling activities. Based on this information, the EA concluded that expanding the right-of-way to 100 feet is appropriate. We agree.

29. As stated in section B.2.5 of the EA, Gulf South would cross two wetlands and two waterbodies in order to install two permanent access roads. Gulf South would install four permanent culverts in order to cross these resources. The size and the location of the culverts would be determined based on site specific conditions. Gulf South stated that the culverts would be installed to allow water flow to be maintained. The EA concluded that this approach was acceptable. We agree.

30. Gulf South would clear vegetation debris from the project area in accordance with FERC's Plan and Procedures. Section IV.B.2.F of the Procedures states that cut vegetation, excluding existing root systems, would be removed from the wetlands for disposal if woody debris are not burned. Gulf South's proposal is therefore consistent with the LDWF recommendation.

31. The EPA filed a routine comment stating the presence of floodplains and prime farmland in the project area; consultation requirements on special status species; and air quality concerns, specifically in regards to ozone emissions during construction. As noted in the EA, construction emissions would be low and are not expected to trigger nonattainment for ozone. The EPA recommended that the United States Fish and Wildlife Service's consultation letter referenced in the EA be included. The EA does not typically include all supporting documentation. Publicly available consultation information, however, can be found on the Commission's eLibrary website. All additional substantive comments from the EPA were addressed in the EA.

32. In addition, the National Marine Fisheries Service Habitat Conservation Division, Baton Rouge, Louisiana Field Office (NMFS) provided a routine agency correspondence letter. The NMFS states that no NMFS trust resources are affected by the project and as such it does not object to the project.

33. After the 30-day comment deadline for the EA had passed, on July 20, July 27, and August 1, 2017, Shannon Borne and Daniel Waguespack, two residents of the nearby Montz community, filed comments raising concerns about the proposed Montz Compressor Station. Gulf South filed an answer on July 27, 2017, and on August 9, 2017, Commission staff sent Gulf South a letter requesting more information, to which Gulf South responded on August 18, 2017.

34. The commentors state that Gulf South misrepresented a parish boundary and the location of the proposed Montz Compressor Station, which they assert would not be constructed in St. John the Baptist Parish, as Gulf South stated, but in St. Charles Parish. Gulf South explains that though there was confusion over the parish boundary, the proposed site location has not changed. Although the parish boundary was not accurate in Gulf South's initial filing, the NOI and EA were mailed to all residents within 0.5-mile of the proposed project, the St. John the Baptist Director of Planning and Zoning, the St. Charles Parish Director of Planning and Zoning, the St. John the Baptist Parish public library, and the St. Charles Parish public library.

35. The commentors also question the adequacy of notice provided to residents of new properties constructed along Evangeline Road near the proposed compressor station site after Gulf South filed its application. Gulf South contends that although these landowners were not on the project mailing list – because the properties were purchased after Gulf South mailed its application notice to all known affected landowners as of July 20, 2016 – the new residents were informed of the project. Gulf South states that a notice of re-zoning to accommodate the proposed compressor station site was published in the St. Charles Parish Planning and Zoning Commission’s official journal for three consecutive weeks and sent via certified letter to abutting property owners, including the new residents. Gulf South also states that a sign was posted at the proposed site ten days before the May 22, 2017 meeting held by the St. Charles Planning and Zoning Commission, and that the new landowners participated in its open house held on June 15, 2017, and a St. Charles Parish meeting about the project on July 6, 2017. We find that the notification to new residents was sufficient, moreover, no comments have been filed by these new landowners.

36. The commentors also state that the compressor station is proposed to be sited on residential land. Gulf South clarifies that the proposed compressor station site is zoned as open land and that there is a strip of residential land along the temporary access road. Gulf South states that it will leave the existing tree screen in place and will re-vegetate the temporary access road.

37. Commentors raise additional concerns about the potential noise produced by the compressor station, especially at the properties along Evangeline Road. When the application was filed, the nearest home was 0.3 mile to the project area. However, the new residences across Evangeline Road are approximately 700-feet east-southeast from the proposed compressor station.

38. As stated in the EA, the station is designed to meet or exceed the Commission’s 55 decibel on the A-weighted scale (dBA) requirements at the nearest noise sensitive area. Also, Commission staff requested that Gulf South revise its acoustical analysis to include the two new residences. Subsequently, Gulf South submitted a revised Noise Impact Analysis for the Montz Compressor Station which indicates that noise attributable to the proposed compressor station at the newly-constructed residences will be at a day-night sound level (Ldn) of 52.7 dBA. Gulf South states that noise mitigation measures for the 20 acres of property include retaining the unused property as a buffer, leaving a 300-foot-wide tree buffer in front of the station, using low speed fans and extended fan shrouds, and using noise insulating blankets on aboveground pipes and other areas as possible.

39. In accordance with Environmental Condition 13 in the appendix to this order, Gulf South is required to file surveys following operation of the Montz Compressor Station to confirm predicted noise levels and to ensure that the actual noise levels

attributable to the compressor station do not exceed an Ldn of 55 dBA at any noise sensitive area.

40. The commentors also express safety concerns regarding the increase in pressure along the existing Gulf South 16-inch-diameter pipeline into which the proposed compressor station would tie. Gulf South states that the maximum allowable operating pressure of the pipeline (MAOP) is 1,125 pounds per square inch gauge (psig). This MAOP includes a 40 percent safety factor. Gulf South clarifies that the actual operating pressure of this pipeline will be 900 psig following construction of the proposed compressor station. Based on Gulf South's clarification, we find that the operating pressure is below the MAOP and thus addresses the commentors' concerns.

41. The commentors express concerns regarding the distance between Gulf South's existing pipeline and Entergy Louisiana's power lines. The pipeline was constructed in 1988 in consultation with Entergy Louisiana. Gulf South states that there has been nothing to indicate any new safety issue with the pipeline location. We agree.

42. The commentors also discuss issues surrounding consideration of alternative locations for the compressor station. We note that neither the commentors, nor any stakeholders identified an alternative location for consideration. The alternatives analysis in the EA discusses two alternative sites for the proposed Montz Compressor Station and concludes that they do not provide a significant environmental advantage over the proposed location. We agree.

43. Lastly, the commentors assert that Gulf South should construct pipeline facilities rather than a new compressor station in order to provide incremental transportation service. The EA discusses one system alternative involving building only looping pipeline, but determined that it would result in significantly more environmental impacts compared to the proposed project. The EA also stated that in the course of their review, Commission staff was unable to identify any pipeline route alternative that would satisfy the evaluation criteria.

44. Based on the information and analysis in the EA and in this order, we conclude that if constructed and operated in accordance with Gulf South's application and supplements, and in compliance with the environmental conditions in Appendix B of this order, our approval of this proposal will not constitute a major federal action significantly affecting the quality of the human environment.

IV. Conclusion

45. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. We encourage cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws,

may prohibit or unreasonably delay the construction/installation or operation of facilities approved by this Commission.²⁴

46. The Commission on its own motion received and made part of the record in this proceeding all evidence, including the application(s) as supplemented and exhibits thereto, and all comments submitted, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Gulf South authorizing it to construct and operate the St. Charles Parish Expansion Project, as described and conditioned herein, and as more fully described in its application.

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

- (1) Gulf South's proposed St. Charles Parish Expansion Project being constructed and made available for service within 2 years of the date of this order, pursuant to section 157.20(b) of the Commission's regulations;
- (2) Gulf South's compliance with all applicable Commission regulations, particularly the general terms and conditions set forth in Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;
- (3) Gulf South's compliance with the environmental conditions listed in Appendix B to this order; and

(C) Gulf South's request to use its system-wide recourse rates for firm transportation service under Rate Schedule EFT is approved, as described above.

²⁴ See 15 U.S.C. § 717r(d) (2012) (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) Gulf South's request to use its system-wide fuel rate is approved, as described above.

(E) Gulf South's request for a predetermination of rolled-in rate treatment for the costs of the project in the next NGA general section 4 proceeding is granted, barring a significant change in circumstances, as described above.

(F) Gulf South is required to maintain separate accounting and reporting of costs, in a manner to comply with the requirements of section 154.309 of the Commission's regulations.

(G) Gulf South shall file a written statement affirming that it has executed firm contracts for the capacity levels and terms of service represented in signed precedent agreements, prior to commencing construction.

(H) Gulf South shall notify the Commission's environmental staff by telephone, e-mail, and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Gulf South. Gulf South 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 A: Timely Intervenors

Atmos Energy Corporation

Atmos Energy Marketing LLC and Trans Louisiana Gas Pipeline, Inc.

Distributor Coalition²⁵

Entergy Services, Inc.

NJR Energy Services Company

United Municipal Distributors Group²⁶

²⁵ The Distributor Coalition is comprised of CenterPoint Energy Resources Corp., City of Vicksburg, Mississippi, Mobile Gas Service Corporation, and Willmut Gas Company.

²⁶ United Municipal Distributors Group includes: City of Brewton, Alabama, City of Fairhope, Alabama, City of Pascagoula, Mississippi, City of Pensacola, Florida, North Baldwin Utilities, Alabama, Okaloosa Gas District, Florida, South Alabama Gas District, Alabama, Town of Century, Florida, Utilities Board of the City of Foley, Alabama, Utilities Board of the Town of Citronelle, Alabama.

Appendix B: Environmental Conditions

As recommended in the Environmental Assessment (EA) this authorization includes the following conditions:

1. Gulf South shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the environmental assessment (EA), unless modified by the Order. Gulf South 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 project. 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 assure 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.

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

4. The authorized facility location(s) 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** Gulf South 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.

Gulf South'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. Gulf South'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. Gulf South 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, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area.**

This requirement does not apply to extra workspace allowed by the 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 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 authorization and before construction begins**, Gulf South shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Gulf South must file revisions to the plan as schedules change. The plan shall identify:
- a. how Gulf South 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 Gulf South will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - c. the number of EIs assigned, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instructions Gulf South 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 Gulf South's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Gulf South will follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (i) the completion of all required surveys and reports;
 - (ii) the environmental compliance training of onsite personnel;
 - (iii) the start of construction; and
 - (iv) the start and completion of restoration.
7. Gulf South shall employ at least one EI for the Project. 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, Gulf South shall file updated status reports with the Secretary on a **monthly** 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 Gulf South'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 Gulf South from other federal, state, or local permitting agencies concerning instances of noncompliance, and Gulf South's response.
9. Gulf South shall develop and implement an environmental complaint resolution procedure. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the project and restoration of the right-of-way. **Prior to construction**, Gulf South shall mail the complaint procedures to each landowner whose property will be crossed by the project.

- a. In its letter to affected landowners, Gulf South shall:
 - (i) provide a local contact that the landowners should call first with their concerns; the letter should indicate how soon a landowner should expect a response;
 - (ii) instruct the landowners that if they are not satisfied with the response, they should call Gulf South's Hotline; the letter should indicate how soon to expect a response; and
 - (iii) instruct the landowners that if they are still not satisfied with the response from Gulf South's Hotline, they should contact the Commission's Landowner Helpline at 877-337-2237 or at LandownerHelp@ferc.gov.
 - b. In addition, Gulf South shall include in its weekly status report a copy of a table that contains the following information for each problem/concern:
 - (i) the identity of the caller and date of the call;
 - (ii) the location by milepost and identification number from the authorized alignment sheet(s) of the affected property;
 - (iii) a description of the problem/concern; and
 - (iv) an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved
10. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, Gulf South shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
 11. Gulf South must receive written authorization from the Director of OEP **before placing the project into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
 12. **Within 30 days of placing the authorized facilities in service**, Gulf South 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 the continuing activities will be consistent with all applicable conditions; or
 - b. identify which of the certificate conditions Gulf South 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.

13. Gulf South shall **not begin construction** of the project until it files with the Secretary a copy of the coastal zone consistency determination by the Louisiana Department of Natural Resources, Office of Coastal Management.
14. Gulf South shall file a noise survey(s) with the Secretary **no later than 60 days** after placing the Montz Compressor Station in service. If a full load condition noise survey is not possible, Gulf South 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 all of the equipment at the Montz Compressor Station under interim or full horsepower load conditions exceeds a day-night average sound level of 55 A-weighted decibels at any nearby (NSAs or noise-sensitive areas), Gulf South 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. Gulf South 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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