

**163 FERC ¶ 62,096**  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Paiute Pipeline Company

Docket No. CP17-471-000

**ORDER ISSUING CERTIFICATE AND APPROVING ABANDONMENT**

(Issued on May 15, 2018)

On July 5, 2017, Paiute Pipeline Company (Paiute) filed an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA)<sup>1</sup> and Part 157 of the Commission's regulations<sup>2</sup> for authorization to construct, operate, and abandon pipeline and appurtenant facilities to provide an additional 4,604 dekatherms per day (Dth/d) and to move 1,031 Dth/d to a new delivery point in Douglas and Lyon Counties, Nevada, and Carson City, Nevada (2018 Expansion Project). As discussed below, this order will grant the requested authorizations, subject to certain conditions.

**Background and Proposal**

Paiute is a natural gas company engaged in the transportation of natural gas in interstate commerce, subject to the Commission's NGA jurisdiction. Paiute is a wholly-owned subsidiary of Southwest Gas Corporation (Southwest Gas) and an indirect subsidiary of Southwest Gas' parent company, Southwest Gas Holdings, Inc.

Paiute's natural gas transmission system extends approximately 226 miles in a southerly direction from an interconnection with Northwest Pipeline, LLC at the Owyhee Receipt Point near the Idaho-Nevada border to Wadsworth Junction, Nevada, where Paiute's mainline splits into the Reno and Carson Laterals.<sup>3</sup> Near Carson City, Nevada, the Carson Lateral splits further into the North Tahoe and South Tahoe Laterals, which

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<sup>1</sup> 15 U.S.C. § 717f(c) (2012).

<sup>2</sup> 18 C.F.R. Part 157 (2017).

<sup>3</sup> Most of Paiute's market requirements, including the service expansion discussed in this order, are served downstream of Wadsworth Junction.

extend into the Lake Tahoe Basin at the north and south ends of the lake. The North Tahoe and South Tahoe Laterals terminate at the California-Nevada border.

Paiute held a non-binding open season from April 20 to May 12, 2016,<sup>4</sup> and a binding open season from May 26 to June 10, 2016, for new or additional firm service capacity downstream from Wadsworth Junction. In its open season notices, Paiute solicited requests to change delivery points or point quantities under existing contracts downstream from Wadsworth Junction. Paiute also sought, but did not receive, offers to turn back capacity for the proposed project. As a result of the open season, Paiute executed binding precedent agreements with Southwest-Northern Nevada (Southwest-NN) for an additional 4,604 Dth/d, and Southwest-Northern California (Southwest-NC) to shift 1,031 Dth/d of existing service to a new delivery point, for a primary terms of 25 years.<sup>5</sup>

Paiute states that Southwest-NN will use the firm transportation service to meet the growing needs of residential, industrial, and commercial customers in Douglas and Lyon Counties and Carson City. Southwest-NC will use the delivery point shift to meet the needs of residential and commercial customers in South Lake Tahoe, California.

Paiute proposes to abandon, construct and operate new pipeline facilities in Douglas and Lyon Counties, Nevada, and Carson City, Nevada in order to provide 4,604 Dth/d of additional firm transportation service from Wadsworth Junction to delivery points located along the Carson and South Tahoe Laterals. Further, the proposed facilities are designed shift 1,031 Dth/d of existing transportation service from the Minden-Gardenville Delivery Point in Douglas County downstream to the South Lake Tahoe City Gate near the California-Nevada border.

Specifically, Paiute proposes to abandon, construct and operate the following pipeline facilities:

- abandon in place 0.97 miles of 8-inch-diameter pipeline between MPs 50.25 and 51.22 and abandon by removal 0.61 miles of 8-inch-diameter pipeline between MPs 51.22 and 51.83 along the Carson Lateral in Carson City;

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<sup>4</sup> On May 4, 2016, Paiute extended the non-binding open season from May 5 to May 12, 2016, to allow shippers more time to respond.

<sup>5</sup> Southwest-NN and Southwest-NC are the local distribution company divisions of Paiute's parent company, Southwest Gas.

- abandon by removal 2.03 miles of 10-inch-diameter pipeline between MPs 45.34 and 47.37 and abandon in place 0.24 miles of 10-inch-diameter pipeline between MPs 47.37 and 47.61 along the Carson Lateral in Carson City;
- construct approximately 0.42 miles of 12-inch-diameter pipeline looping between mileposts (MP) 0.00 and 0.42 along the South Tahoe Lateral in Douglas County (Segment 1);
- construct approximately 1.58 miles of 12-inch-diameter pipeline between MPs 50.25 and 51.83 along the Carson Lateral in Carson City (Segment 2);
- construct approximately 2.27 miles of 20-inch-diameter pipeline between MPs 45.34 and 47.61 along the Carson Lateral in Carson City and Lyon County (Segment 3); and
- construct approximately 4.20 miles of 20-inch-diameter pipeline between MPs 5.25 and 9.45 along the Carson Lateral in Lyon County (Segment 4).

Paiute estimates the proposed facilities will cost approximately \$17,950,000. Paiute proposes to establish an incremental recourse reservation rate under Rate Schedule FT-1 for firm transportation service on the project facilities. Paiute also proposes to use its existing, system-wide fuel retention percentage tariff methodology.

### **Notice and Interventions**

Notice of Paiute's application was published in the *Federal Register* on July 25, 2017, with comments and interventions due August 9, 2017.<sup>6</sup> Southwest Gas filed a timely, unopposed motion to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.<sup>7</sup> No motions to intervene in opposition, adverse comments, or protests were filed.

### **Findings**

#### **Abandonment**

Since the subject facilities have been or will be used to transport natural gas in interstate commerce subject to the Commission's jurisdiction, the proposed

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<sup>6</sup> 82 Fed. Reg. 34,515 (2017).

<sup>7</sup> 18 C.F.R. § 385.214 (2017).

abandonment, construction and operation of the facilities are subject to the requirements of section (b) of section 7 of the NGA.<sup>8</sup> Section 7(b) of the NGA provides that an interstate pipeline company may abandon jurisdictional facilities or services only if the Commission finds the abandonment is permitted by the present or future public convenience or necessity.<sup>9</sup>

Paiute's proposal to remove, and replace Segments 2 and 3 on the Carson Lateral is appropriate. When an applicant proposes to abandon facilities, the continuity and stability of existing services are the primary consideration in assessing whether the public convenience or necessity permit the abandonment.<sup>10</sup> If it is found that an applicant's proposed abandonment for particular facilities will not jeopardize continuity of existing gas transportation services, it will defer to the applicant's business judgment.<sup>11</sup> Paiute has not proposed any changes that will adversely impact the operations of its system. Additionally, the 2018 Expansion Project will not have any adverse effects on shippers and there will be no effect on Paiute's existing rates or tariff. Therefore, Paiute's request is required by the public convenience or necessity

### **Certificate Policy Statement**

The Commission issued a statement of policy<sup>12</sup> (Policy Statement) to provide guidance as to how proposals for certificating new construction will be evaluated. It provides that a pipeline must financially support a project without relying on subsidization from its existing customers. It also established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. Specifically, the Policy Statement explains that the Commission, in deciding whether to authorize the construction of new pipeline facilities, balances the public benefits against the potential adverse consequences.

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<sup>8</sup> 7 15 U.S.C. § 717f(b), (c) (2012).

<sup>9</sup> *Id.* § 717f(b) (2012).

<sup>10</sup> See, e.g., *El Paso Natural Gas Co., L.L.C.*, 148 FERC ¶ 61,226, at P 12 (2014).

<sup>11</sup> See, e.g., *Trunkline Gas Co.*, 145 FERC ¶ 61,108 at P 65 (citing *Northern Natural Gas Co.*, 142 FERC ¶ 61,120 (2013)).

<sup>12</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128 (2000), *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

Furthermore, the Policy Statement provides that a pipeline must financially support an expansion project without relying upon subsidization from its existing customers. The Commission has indicated that projects designed to improve existing service by replacing capacity and improving reliability are for the benefit of existing customers and is not a subsidy.<sup>13</sup> The Commission noted further that projects designed to replace capacity and improve reliability are permitted to be rolled-in and are not covered by the presumption of the current pricing policy.

As stated, 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 Commission has determined that, in general, where a pipeline proposes to charge incremental rates for new construction that are higher than the existing system rates, the pipeline satisfies the threshold requirement that the project will not be subsidized by existing shippers.<sup>14</sup> As discussed below, Paiute proposes an incremental recourse reservation rate that is higher than its existing system-wide rate to recover the cost of the project. Moreover, this order approves Paiute's request to charge its existing, system-wide fuel retention surcharge because, as discussed below, Paiute submitted a fuel study that shows its system fuel surcharges will face an immaterial decrease with the inclusion of billing determinants and costs related to the expansion. Under these circumstances, this order finds Paiute's existing customers will not subsidize the project.

Additionally, the proposed project will not degrade service to Paiute's existing customers. Further, there will be no adverse impact on any other pipelines in the region or their captive customers because the proposal is not intended to replace service on other pipelines. Also, no pipeline company or their captive customers have protested the application.

Paiute's proposed expansion will have minimal impacts on landowners and communities. Paiute states that it has designed the project to limit most construction and pipeline facilities to its existing rights-of-way. Paiute states that these rights-of-way are located along previously-disturbed utility and roadway corridors or are sited on public rights-of-way. Where its proposed new rights-of-way are located on private lands, Paiute explains that the new rights-of-way will be adjacent to its existing rights-of-way in order to minimize impacts to affected landowners.

The 2018 Expansion Project will enable Paiute to provide firm transportation service to Southwest-NN and shift a delivery point for Southwest-NC. Based on the benefits the proposal will provide and the lack of impacts on Paiute's existing customers,

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<sup>13</sup> Certificate Policy Statement, 88 FERC ¶ 61,227, at n. 12 (1999).

<sup>14</sup> See, e.g., *Dominion Transmission, Inc.*, 155 FERC ¶ 61,106 (2016).

other pipelines and their captive customers, and landowners and surrounding communities, and consistent with the Certificate Policy Statement and section 7(c) of the NGA, that the public convenience and necessity requires approval of Paiute's proposal, as conditioned in this order.

## **Rates**

### **Initial Recourse Rates**

Paiute proposes to charge an incremental monthly reservation charge of \$41.0537 per Dth. Paiute designed the expansion project to provide a total of 4,604 Dth/d of additional firm transportation service downstream from Wadsworth Junction. The project's design also includes a delivery point shift of 1,031 Dth/d from the Minden-Gardnerville Delivery Point to the South Lake Tahoe City Gate. The annual cost of service, including the delivery point shift, is estimated to be \$2,776,049. Paiute uses its system-wide depreciation rates<sup>15</sup> and pre-tax rate of return for its cost of service calculations.<sup>16</sup> Paiute states that the proposed incremental monthly reservation charge of \$41.0537 per Dth for service under the agreements with Southwest-NN and Southwest-NC reflects total annual billing determinants of 67,620 Dth (5,635 Dth/d multiplied by 12) and the first year incremental cost of service of \$2,776,049.<sup>17</sup> In addition, Paiute proposes to use its system-wide firm transportation usage charge of \$0.0000 per Dth.

In a January 18, 2018 response to a staff data request, Paiute provided an adjusted cost of service and recalculated its incremental monthly reservation charge to reflect changes in the federal tax code under the Tax Cuts and Jobs Act of 2017,<sup>18</sup> which became effective in January 2018. Paiute's work papers show that the effect of the tax code is an increase in the estimated cost of service to \$3,075,223. The revised changes also reflect an increase in the incremental monthly reservation charge to \$45.4780 per Dth. In its response, Paiute explains that due to the "black box" nature of its most recent NGA

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<sup>15</sup> See Paiute Application, Exhibit N, at 9.

<sup>16</sup> Paiute's current system-side depreciation rates were established in Docket No. RP14-540-000. *Paiute Pipeline Co.*, 150 FERC ¶ 61,078 (2015).

<sup>17</sup> Paiute states that it has included an annual capacity cost of \$126,548, associated with the shift of 1,031 Dth/d of capacity priced at the system-wide firm transportation monthly reservation charge of \$10.2286 per Dth, in its first year incremental cost of service.

<sup>18</sup> Pub. L. No. 115-97, 131 Stat. 2054 (2017).

general section 4 settlement agreement, it was unable to fully recalculate an initial incremental rate to reflect the revised income tax expense using the updated federal income tax of 21 percent. Paiute contends that a revised income tax expense cannot be recalculated without specific debt and equity cost rates and a debt-to-equity ratio, and that those cost components were not discretely identified in the “black box” settlement. Paiute states that its recalculated rate does reflect the impact of the elimination of the bonus depreciation, as provided by the new tax code, for the proposed incremental facilities. Paiute explains it calculated its deferred income taxes in the application using a 40 percent bonus depreciation rate, but that it removed the bonus depreciation to recalculate deferred income taxes in recognition of the changes to the tax code.<sup>19</sup> Paiute avers that the increase in its proposed incremental monthly reservation charge is a result of the recalculation of its accumulated deferred income taxes pursuant to the new tax code.

Paiute states that expansion projects on its system lead to increases in gross plant, margin, and direct labor costs, and that changes in these allocation factors increase the Administrative and General (A&G) expenses to be allocated to Paiute from its parent company, Southwest Gas. Paiute asserts that it will calculate the expenses allocated to it from Southwest Gas using the Modified Massachusetts Formula (MMF). Paiute states that the MMF allocation percentage for the project is 0.19 percent, which is multiplied by Southwest Gas’ A&G expenses for the 12 months ending April 30, 2017, to calculate the representative amount of common A&G expenses that will be allocated to Paiute on an annual basis as a result of the project.<sup>20</sup> This order finds that the proposed A&G expenses associated with the expansion project are consistent with Commission precedent, and the proposed \$288,755 of A&G expenses is an acceptable estimate for use in the project’s cost of service calculations.

Paiute’s proposed incremental recourse reservation charge of \$41.0537 per Dth is higher than the current system reservation charge of \$10.2286 per Dth for firm transportation service contained in Paiute’s tariff.<sup>21</sup> This order finds that it is not feasible

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<sup>19</sup> January 18 Data Response at 2, Appendix 1 at 10.

<sup>20</sup> Paiute notes that the Commission approved this method of allocating corporate overhead costs to Paiute in previously accepted incremental projects. Paiute Application, Exhibit N, at 2 n 1. *See also* Paiute Application at 20-21 (“The Commission approved Paiute’s initial rates in Docket No. CP14-509 “only to the extent that they do not include existing A&G costs but solely include A&G costs associated with the instant [project]” citing *Paiute Pipeline Co.*, 153 FERC ¶ 61,292 (2015)).

<sup>21</sup> Paiute Pipeline Company, FERC NGA Gas Tariff, Statement of Rates, Rate Schedule FT-1.

for Paiute to accurately calculate a rate that would fully account for all the provisions of the 2017 Tax Cuts and Job Act because of the black box settlement associated with Paiute's existing rates. Therefore, Paiute's incremental reservation charge as originally proposed as the initial recourse charge for firm service using the incremental capacity created by the project is approved. Additionally, Paiute's proposal to implement a usage charge of \$0.0000 per Dth is approved. However, the approval of Paiute's proposed rates in this order does not foreclose future action under the Commission's NGA section 5 authority.

### **Fuel Retention**

Paiute proposes to charge the project shippers a retention percentage for system-wide gas used pursuant to its currently-effective methodology, as provided in section 4.2(d)(1) of the General Terms and Conditions of Paiute's FERC Gas Tariff.<sup>22</sup> Paiute states that the proposed project will add no compression and that its existing compressors will operate at 100 percent utilization both pre- and post-expansion. Paiute also provided a fuel study that estimates and compares the fuel usage under design day conditions both before and after the project's capacity is placed into service. Paiute's fuel study shows an immaterial decrease in system wide fuel usage post-expansion.

Paiute has demonstrated that the proposed expansion project's capacity will not have an adverse impact on existing shippers' fuel retention and is consistent with the Commission's policy that existing shippers not subsidize new customers on the system. Therefore, Paiute's request to utilize its existing, system-wide fuel retention percentage tariff methodology for the proposed project is approved.

### **Reporting Incremental Costs and Revenues**

This order will require Paiute to keep separate books and accounting of costs and revenues attributable to the proposed incremental services and capacity created by the project, as required by section 154.309 of the Commission's regulations.<sup>23</sup> The books should be maintained with applicable cross-references and the 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.<sup>24</sup>

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<sup>22</sup> Paiute September 20, 2017 Filing.

<sup>23</sup> 18 C.F.R. § 154.309 (2017).

<sup>24</sup> *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, FERC Stats. & Regs. ¶ 31,267, at P 23 (2008).

## Tariff Revisions

Paiute proposes to implement the project's incremental monthly reservation charge under Rate Schedule FT-1 within its Statement of Rates in its FERC Gas Tariff and add a description of the facilities surcharge within section 3.2 of Rate Schedule FT-1.

Paiute also proposes to revise the Maximum Daily Quantity (MDQ) and Maximum Hourly Quantity (MHQ) for the South Lake Tahoe City Gate point of delivery in section 4.3(b) of its General Terms and Conditions. The increase in MDQ and MHQ volumes reflects the shift in 1,031 Dth from the Minden-Garnerville Delivery Point to the South Lake Tahoe City Gate. In addition, Paiute explains that Southwest-NN's requested shift of existing delivery point MDQs will be reflected in Transportation Service Agreements Nos. F30 and F49, two existing non-conforming transportation service agreements. Paiute does not propose any other substantive changes to its FERC Gas Tariff. Therefore, the proposed changes to Paiute's *pro forma* tariff is approved.

Paiute is required to file any non-conforming service agreements associated with this project at least 30 days, but not more than 60 days, before the proposed effective date for such agreements. A Commission ruling on non-conforming provisions in a certificate proceeding does not waive any future review of such provisions when the executed copy of the non-conforming agreements and a tariff record identifying the agreements as non-conforming are filed with the Commission consistent with section 154.112 of the Commission's regulations.<sup>25</sup>

## Environmental Analysis

On October 17, 2017, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI). The NOI was sent to affected landowners, owners of mineral rights; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. No comments were received in response to the NOI.

To satisfy the requirements of the National Environmental Policy Act of 1969, Commission staff prepared an Environmental Assessment (EA) for Paiute's proposal. The EA was placed into the public record on November 27, 2017.

Based on the analysis in the EA, as supplemented herein, this order finds that if constructed and operated in accordance with Northwest's application and supplements, and in compliance with the environmental conditions in the appendix to this order, approval of this proposal would not constitute a major federal action significantly

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<sup>25</sup> 18 C.F.R. § 154.112 (2017).

affecting the quality of the human environment. Compliance with the environmental conditions appended to Commission orders is integral to ensuring that the environmental impacts of approved projects are consistent with those anticipated by the 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. Additionally, 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.

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 and replacement of facilities approved by this order.<sup>26</sup>

This action is taken under 18 C.F.R. § 375.308 and it is ordered that:

(A) A certificate of public convenience and necessity is issued to Paiute authorizing it to construct and operate the 2018 Expansion Project, as described more fully above and in the application.

(B) Paiute is granted permission and approval under section 7(b) of the NGA to abandon the facilities described in the application and discussed in this order.

(C) The certificate authority granted in Ordering Paragraph (A) and the abandonment authority granted in Ordering Paragraph (B) is conditioned on Paiute's:

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<sup>26</sup> 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).

(1) completion of abandonment and 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) 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;

(3) compliance with the environmental conditions listed in the appendix to this order.

(D) Paiute's proposed incremental reservation and usage charges under Rate Schedule FT-1 are approved as described above. In addition, Paiute's proposal to utilize its existing, system-wide fuel retention percentage is approved.

(E) Paiute shall file revised actual tariff records at least 30 days, but not more than 60 days, prior to the date the project facilities go into service.

(F) Paiute shall keep separate books and accounts of costs attributable to the proposed incremental services, as described above.

(G) Paiute 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.

(H) Paiute 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 Paiute. Paiute shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

(I) Paiute shall notify the Commission within 10 days of the abandonment.

(J) This order constitutes final agency action. Requests for rehearing may be filed within 30 days of the date of issuance of this order pursuant to 18 CFR § 385.713.

Pamela J. Boudreau  
Acting Director  
Division of Pipeline Certificates  
Office of Energy Projects

## Appendix A

### Environmental Conditions

Paiute Pipeline Company (Paiute) shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA, unless modified by the Order. Paiute 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, take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the Project, including abandonment activities. 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, operation, and abandonment activities.
3. **Prior to any construction**, Paiute shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspectors' authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, Paiute 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.

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

5. Paiute 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, as well as 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 that 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**, Paiute shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Paiute must file revisions to the plan as schedules change. The plan shall identify:
    - a. how Paiute 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 Paiute 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 on-site construction and inspection personnel;
  - c. the number of environmental inspectors assigned per construction spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - d. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;
  - e. the location and dates of environmental compliance training and instructions Paiute will give to all personnel involved with construction and restoration (initial and refresher training as the Project progresses and personnel changes);
  - f. the company personnel (if known) and specific portion of Paiute's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) Paiute 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 on-site personnel,
    - iii. the start of construction, and
    - iv. the start and completion of restoration.
7. Paiute shall employ at least one environmental inspector per construction spread. The environmental inspectors 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, Paiute 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 Paiute'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 environmental inspectors during the reporting period (both for the conditions imposed by FERC 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 that 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 Paiute from other federal, state, or local permitting agencies concerning instances of noncompliance, and Paiute's response.
  9. **Paiute must receive written authorization from the Director of OEP before commencing construction of any Project facilities.** To obtain such authorization, Paiute must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
  10. **Paiute must receive written authorization from the Director of OEP before placing its 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.
  11. **Within 30 days of placing the authorized facilities in service,** Paiute shall file an affirmative statement with the Secretary, certified by a senior company official:

- a. that the facilities have been constructed in compliance with all applicable conditions and that continuing activities will be consistent with all applicable conditions; or
- b. identifying the certificate conditions Paiute 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.