

161 FERC ¶ 61,132  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

ANR Pipeline Company

Docket No. CP17-9-000

ORDER ISSUING CERTIFICATE  
AND APPROVING ABANDONMENT

(Issued November 2, 2017)

1. On November 3, 2016, ANR Pipeline Company (ANR) filed an application pursuant to sections 7(b) and (c) of the Natural Gas Act (NGA)<sup>1</sup> and Part 157 of the Commission's regulations<sup>2</sup> for authority to install, abandon, replace and modify facilities on its system in Illinois and Wisconsin (Wisconsin South Expansion Project). As discussed below, the Commission will grant the requested authorizations, subject to conditions.

**I. Background and Proposal**

2. ANR, a corporation organized under the laws of Delaware, is a natural gas company, as defined by NGA section 2(6), engaged in the business of transporting and storing natural gas in interstate commerce.<sup>3</sup> ANR operates approximately 9,400 miles of pipeline facilities, extending in a northern direction from Texas and Oklahoma and the producing areas along the Gulf Coast to points in Michigan and Wisconsin.

3. ANR proposes to:

- (a) install a new 6,130-horsepower Solar Centaur 50 gas-fired compressor unit and appurtenant facilities at its existing Sandwich Compressor Station in

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

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

<sup>3</sup> 15 U.S.C. § 717a(6) (2012).

Kendall County, Illinois, which will enable ANR to increase the capacity of the Sandwich north mainline;

- (b) replace, in the same right-of-way, the existing 16-inch-diameter, 0.54-mile-long Line 332 Lateral with a 24-inch-diameter pipeline to increase capacity from the existing Hampshire Meter Station in Kane County to an interconnection with Nicor Gas Company in Kane County, Illinois;
- (c) replace an existing meter and abandon in-place 50 feet of 16-inch-diameter pipeline at the Tiffany East Meter Station in Rock County, Wisconsin;
- (d) install a tap on its 1-301 Loop Line and an additional metering and flow control loop at the Hampshire Meter Station; and
- (e) re-stage an existing Saturn 10 gas-fired turbine compressor unit at the Kewaskum Compressor Station in Sheboygan County, Wisconsin, to help balance its Wisconsin pipeline systems.<sup>4</sup>

4. ANR states that the capacity to be created by the proposed facilities, together with capacity it reserved on its system, will allow it to provide 230,950 dekatherms (Dth) per day of firm transportation service to meet growing natural gas demand in Northern Illinois and Wisconsin.<sup>5</sup>

5. ANR conducted a non-binding open season from June 14 through August 5, 2014. The open season resulted in commitments from four customers, for either 10- or 15-year terms, for the full 230,950 Dth per day of project service to be made available by the expansion at negotiated and discounted rates. ANR also held a reverse open season during the same timeframe, but did not receive any turn back offers.

6. ANR estimates that the cost of the proposed expansion facilities will be approximately \$57.7 million, which includes allowance for funds used during construction. It proposes to use its existing rates under Rate Schedules FTS-1, FTS-3,

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<sup>4</sup> ANR states that to the extent practicable, the proposed facility modifications will be located entirely on existing rights-of-way or on its property within existing compressor and meter station yards.

<sup>5</sup> ANR reserved unsubscribed capacity on its system on November 20, 2014. However, Part 6.3.3 of the General Terms and Conditions of ANR's FERC Gas Tariff limits such a reservation to one year. ANR requested and received from the Commission a waiver of this provision. *ANR Pipeline Co.*, 153 FERC ¶ 61,236 (2015).

and ETS as initial recourse rates for transportation service on the Wisconsin South Expansion Project. It has agreed to provide the service currently subscribed under precedent agreements at discounted and negotiated rates. ANR requests a predetermination that it can roll the costs of the project into its general system rates in its next NGA section 4 general rate proceeding.<sup>6</sup>

## II. Notice, Interventions, and Comments

7. Notice of ANR's application was published in the *Federal Register* on November, 23, 2016, with comments due on December 7, 2016.<sup>7</sup> The parties listed in Appendix A filed timely, unopposed motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.<sup>8</sup>

8. The ANR Municipal Customer Group's (Municipal Group) motion to intervene included comments concerning the effect of the Wisconsin South Expansion Project on rates.<sup>9</sup> Specifically, the Municipal Group requests that the Commission require ANR: (1) to submit a revised Exhibit N that reflects the relevant cost data from ANR's then-pending 2016 rate case settlement because ANR based the cost of service for this project on the rate of return and depreciation rate of its 1997 rate case settlement;<sup>10</sup> and (2) to clarify whether ANR has included the revenues from the existing facilities and associated capacity for this project in its cost-revenue analysis. In addition, the Municipal Group questions whether the rate ANR used to justify rolled-in rate treatment was calculated using the maximum recourse rate or the negotiated rate, if it is lower than the recourse rate. We will address the Municipal Group's comments in the rate section of this order.

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<sup>6</sup> ANR Application at 8.

<sup>7</sup> 81 Fed. Reg. 84,570 (2016).

<sup>8</sup> 18 C.F.R. § 385.214(c) (2017).

<sup>9</sup> The Municipal Group is an *ad hoc* group consisting of the following municipal distributor-customers of ANR: Jackson Energy Authority (Jackson, Tennessee); City of New Boston, Illinois; Lamoni Municipal Utilities (Lamoni, Iowa); Paris-Henry County Public Utility District (Tennessee); Town of Somerville, Tennessee; and the West Tennessee Public Utility District of Weakley, Carroll, and Benton Counties, Tennessee.

<sup>10</sup> The Commission approved ANR's Rate Case Settlement on December 15, 2016. *ANR Pipeline Co.*, 157 FERC ¶ 61,205 (2016).

9. Northern Illinois Gas Company d/b/a Nicor Gas Company, the WEC Companies,<sup>11</sup> and three individuals, James O'Brien, Michael Pule, and Shane Kramer, filed comments in support of ANR's proposals.<sup>12</sup>

### **III. Discussion**

10. Since the proposed facilities include the abandonment of existing facilities and the construction, modification, and replacement of facilities to transport natural gas in interstate commerce subject to the Commission's jurisdiction, the proposal is subject to the requirements of subsections (b), (c), and (e) of section 7 of the NGA.<sup>13</sup>

#### **A. Certificate Policy Statement**

11. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.<sup>14</sup> 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 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 existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without

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<sup>11</sup> The WEC Companies are: Wisconsin Electric Power Company; Wisconsin Gas LLC; Wisconsin Public Service Corporation; The Peoples Gas Light and Coke Company; North Shore Gas Company; and Michigan Gas Utilities.

<sup>12</sup> These three individuals are not affected landowners. Their comments discuss the benefits of ANR's project—job creation, environmental advantages of natural gas use, and increased gas supply in the region.

<sup>13</sup> 15 U.S.C. § 717f (b), (c), (e) (2012).

<sup>14</sup> *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).

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 route of the new facilities. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission proceed to consider the environmental analysis, where other interests are addressed.

13. ANR's proposal satisfies the threshold requirement that it financially support the project without relying on subsidization from its existing customers. As discussed below, we will approve ANR's proposal to charge its existing general system rates as the initial recourse rates for firm services utilizing the capacity associated with this project. The project customers have agreed to pay negotiated and discounted rates, and ANR has demonstrated that the expected revenues will exceed the cost of service associated with the proposed facilities.<sup>15</sup> Thus, subject to the conditions discussed in this order, we find that ANR's existing customers will not subsidize the project.

14. We also find that the proposed project will not degrade service to existing customers. In addition, 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. Further, no pipeline company or their captive customers have protested the application.

15. We also find that ANR's proposal will have minimal impacts on landowners and surrounding communities. ANR has designed its proposed project so that, to the extent practicable, it will construct the proposed facilities using existing easements or on its property within existing compressor and meter station yards.<sup>16</sup>

16. The proposal will enable ANR to provide 230,950 Dth per day of firm transportation service for customers that signed precedent agreements for the total capacity of the project. Based on the benefits the proposal will provide and the lack of adverse effects on existing customers, other pipelines and their captive customers, and landowners and surrounding communities, we find, consistent with the Certificate Policy Statement and NGA section 7(c), that the public convenience and necessity requires

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<sup>15</sup> See *infra* P 26.

<sup>16</sup> ANR Application Resource Report 1 at 1-5.

approval of ANR's proposal, as conditioned in this order. Further, we find that the public convenience or necessity permits ANR to abandon a 0.54-mile-long, 16-inch-diameter pipeline between the Hampshire Meter Station and an interconnection with Nicor Gas Company in Kane County, Illinois, and a 50-foot-long, 16-inch-diameter pipeline at the Tiffany East Meter Station in Rock County, Wisconsin.

## **B. Rates**

### **1. Initial Rates**

17. ANR proposes to provide transportation service on the Wisconsin South Expansion Project pursuant to its existing Rate Schedules FTS-1, FTS-3, and ETS at discounted and negotiated rates.<sup>17</sup> ANR proposes to charge system recourse rates as the initial recourse rates for its proposed project.

18. The Municipal Group comments that at the time ANR filed its application, the certified and uncontested settlement of ANR's 2016 general rate case was pending Commission approval and, by its terms, would supersede ANR's 1997 settlement.<sup>18</sup> The Municipal Group contends that since the 2016 settlement was expected to be approved before issuance of this certificate, the Commission should require ANR to submit an updated Exhibit N that reflects the relevant cost data from ANR's 2016 settlement, rather than basing the cost of service for this project on the cost data in the 1997 settlement.

19. On January 9, 2017, ANR filed a revised cost of service to reflect the approval of its 2016 settlement. As revised, ANR proposes a cost of service for the first year of \$12,767,000, which includes a depreciation rate of 2.69 percent.<sup>19</sup>

20. ANR calculated illustrative incremental recourse rates for transportation under Rate Schedules FTS-1, FTS-3, and ETS.<sup>20</sup> Specifically, ANR calculated an illustrative monthly incremental recourse reservation charge of \$4.1490 per Dth under Rate Schedule FTS-1, which is less than ANR's currently effective monthly reservation charge

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<sup>17</sup> ANR's negotiated rate authority is set forth in Section 6.27 of the General Terms and Conditions of its tariff.

<sup>18</sup> Municipal Group December 7, 2016 Comments at 2-3.

<sup>19</sup> *ANR Pipeline Co.*, 157 FERC ¶ 61,205 (2016).

<sup>20</sup> ANR February 2, 2017 Response to Staff's Data Request.

of \$5.7290 per Dth for a transportation agreement with a path of Zone ML7 to Zone ML7 under Rate Schedule FTS-1.<sup>21</sup>

21. For Rate Schedule FTS-3, the reservation charge has two components – the deliverability rate and the capacity rate, which are calculated on a monthly and daily basis, respectively. ANR calculated an illustrative deliverability rate of \$2.0750 per Dth and a capacity rate of \$0.0680 per Dth for Rate Schedule FTS-3. These illustrative rates are less than ANR's currently effective deliverability rate of \$2.8645 per Dth, and currently effective capacity rate of \$0.0942 per Dth for Zone ML7 to Zone ML7 transportation path under Rate Schedule FTS-3.

22. For Rate Schedule ETS, ANR calculated an illustrative monthly incremental recourse reservation charge of \$4.9690 per Dth, which is less than ANR's currently effective monthly reservation charges of \$6.5486 per Dth for Zone ML7 to Zone ML7 transportation path and \$13.2886 per Dth for Zone Southwest Area to Zone ML7 transportation path under Rate Schedule ETS.<sup>22</sup>

23. ANR calculated an illustrative commodity charge for Rate Schedules FTS-1, FTS-3, and ETS of \$0.0017 per Dth, which is less than ANR's currently effective commodity charges of \$0.0101 per Dth for Rate Schedules FTS-1, FTS-3, and ETS transportation path of Zone ML7 to Zone ML7, and of \$0.0216 per Dth for Rate Schedule ETS transportation path of Zone Southwest Area to Zone ML7.<sup>23</sup>

24. Our policy requires that when an incremental rate is lower than the system rate, the system rate should be used as the initial recourse rate in order to ensure existing customers will not subsidize the new service.<sup>24</sup> Thus, based on the above calculations,

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<sup>21</sup> ANR's Zone ML7 encompasses the northernmost portions of ANR's system, which is defined as all points downstream of the Sandwich, Illinois and the Defiance, Ohio compressor station sites. ANR Tariff, Third Revised Volume No. 1, General Terms and Conditions, Definitions, 6.1(39).

<sup>22</sup> ANR's Zone Southwest Area encompasses the portions of ANR's system located in the southwestern United States supply region, which is defined as the receipt points located upstream of ANR's Greensburg, Kansas compressor station site. ANR Tariff, Third Revised Volume No. 1, General Terms and Conditions, Definitions, 6.1(73).

<sup>23</sup> ANR February 2, 2017 Response to Staff's Data Request.

<sup>24</sup> See, e.g., *Texas Gas Transmission, LLC*, 152 FERC ¶ 61,160, at P 30 (2015); *Millennium Pipeline Co., LLC*, 145 FERC ¶ 61,007 (2013).

we will approve ANR's proposal to charge its generally-applicable system rates for Rate Schedules FTS-1, FTS-3, and ETS as the initial recourse rates for this project.

## 2. Fuel

25. ANR proposes to recover compressor fuel and lost and unaccounted for gas through its system-wide Transporter Use Percentage. ANR submitted a study showing the effects on fuel usage of the additional project compression.<sup>25</sup> The study demonstrates that there will be a reduction in the system fuel percentage after the project is placed in service. Thus, we will accept ANR's proposal to charge its system-wide Transporter Use Percentage for service utilizing the project's facilities.

## 3. Rolled-in Rate Treatment

26. ANR requests a preliminary determination that it may roll the costs associated with the project into its system-wide rates in its next NGA section 4 rate proceeding.<sup>26</sup> ANR contends that the Wisconsin South Expansion Project is expected to have revenues of approximately \$15,236,000 during the first year of operation, which is greater than the estimated first-year cost of service of approximately \$12,767,000.<sup>27</sup> ANR also asserts that the projected second- and third-year revenues exceed the corresponding cost of service associated with the project.<sup>28</sup> ANR states that rolling in the cost of the project will result in a reduction in its existing recourse rates in the next general NGA section 4 rate proceeding.

27. In its comments, the Municipal Group states that ANR does not indicate whether the negotiated or recourse rate was used to calculate the estimated revenues of the project. Because the project includes a combination of new and existing capacity reserved for the project, the Municipal Group also requests that ANR clarify whether the revenues from the existing facilities were included when performing the cost-revenue

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<sup>25</sup> ANR Application at Exhibit Z-1.

<sup>26</sup> ANR Application at 7.

<sup>27</sup> ANR January 9, 2017 Revised Exhibit N at 2.

<sup>28</sup> *Id.*

analysis. According to the Municipal Group, the Commission has made clear that the cost-revenue comparison must exclude revenues associated with the existing capacity.<sup>29</sup>

28. In its February 2, 2017 data response, ANR provided information clarifying that it used the lower of the negotiated/discounted or system rates and billing determinants associated with the project in calculating the estimated revenues. We find that ANR used the appropriate costs and revenues in the cost-revenue analysis. The Commission's decision in *Florida Gas* is inapposite. In that proceeding, the Commission required the pipeline to eliminate revenues associated with service provided using solely existing capacity.<sup>30</sup> In contrast, ANR's comparison includes only revenues generated using the contract volumes to be provided by the project.

29. 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 recourse rate or, if the negotiated rate is lower than the recourse rate, the actual negotiated rate.<sup>31</sup>

30. ANR used the lower of the contract rate or the applicable currently effective maximum system rate and the actual contract volumes to calculate projected revenues for the project. ANR's projected annual revenues for each of the first three years of the project exceed the corresponding annual cost of service. Thus, we will grant ANR's request for a predetermination that it will be allowed to roll in the costs associated with the project in its next NGA general section 4 rate proceeding, absent a material change in circumstances.

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<sup>29</sup> Municipal Group December 7, 2016 Comments at 3 (citing *Florida Gas Transmission Co., LLC*, 154 FERC ¶ 61,256, at P 23 (2016)).

<sup>30</sup> *Florida Gas Transmission Co., LLC*, 154 FERC ¶ 61,256 at P 23.

<sup>31</sup> *ANR Pipeline Co.*, 156 FERC ¶ 61,212, at P 23 (2016).

#### 4. Negotiated Rates

31. ANR proposes to charge its shippers negotiated rates. ANR must file either the negotiated rate agreements or tariff records setting forth the essential elements of the agreements in accordance with the Alternative Rate Policy Statement<sup>32</sup> and the Commission's negotiated rate policies.<sup>33</sup> ANR 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.<sup>34</sup>

#### C. Environmental Analysis

32. On November 29, 2016, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI). The NOI was published in the *Federal Register* and mailed to interested parties, including: federal, state, and local officials; agency representatives; Native American tribes; local libraries and newspapers; and property owners potentially affected by the proposed facilities.<sup>35</sup>

33. In response to the NOI, the Commission received three comments from individuals supporting the project.<sup>36</sup> We also received comments from the Miami Tribe of Oklahoma and the Illinois Historic Preservation Agency, indicating that they have no objections to the project. Finally, we received a comment letter from the U.S. Fish and Wildlife Service stating that the Environmental Assessment (EA) should fully disclose the federally listed species, migratory birds, and wildlife habitat affected by the project.

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<sup>32</sup> *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076, *order granting clarification*, 74 FERC ¶ 61,194 (1996).

<sup>33</sup> *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, *dismissing reh'g and denying clarification*, 114 FERC ¶ 61,304 (2006).

<sup>34</sup> ANR is 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. *E.g.*, *Texas Eastern Transmission, LP*, 149 FERC ¶ 61,198, at P 33 (2014).

<sup>35</sup> 81 Fed. Reg. 87,922 (2016).

<sup>36</sup> See P 9 for the names of the individuals.

34. To satisfy the requirements of the National Environmental Policy Act of 1969,<sup>37</sup> Commission staff prepared an environmental assessment for ANR's proposal. The analysis in the EA addresses geology, soils, water resources, wetlands, aquatic resources, vegetation, wildlife, cultural resources, land use, recreation, visual resources, air quality, noise, safety, cumulative impacts, and alternatives. All substantive comments received in response to the NOI were addressed in the EA; including the U.S. Fish and Wildlife Service's comments.<sup>38</sup>

35. The EA was issued for a 30-day comment period and placed into the public record on April 27, 2017. On May 8, 2017, we received a general comment on the EA from the Wisconsin Historical Society regarding its review process for historic properties. Section B.4 of the EA addresses cultural resources and consultation with the State Historic Preservation Officers; staff's analysis determined that the project would have no effect on cultural resources or historic properties.<sup>39</sup> Thus, our analysis is complete and the Commission's responsibilities under Section 106 of the National Historic Preservation Act are satisfied.

36. Based on the analysis in the EA, we conclude that if constructed and operated in accordance with ANR'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.

37. 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 or operation of facilities approved by this Commission.<sup>40</sup>

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<sup>37</sup> 42 U.S.C. §§ 4321-4347 (2012).

<sup>38</sup> Wildlife, migratory birds, and special status species are discussed in section B.3 of the EA. Environmental Assessment at 12-13.

<sup>39</sup> Environmental Assessment at 13-14.

<sup>40</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 (1988) (state regulation that interferes with the Commission's regulatory authority over the transportation of natural gas is preempted); and *Dominion*

(continued...)

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

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing ANR to construct and operate the Wisconsin South Expansion Project, as described more fully herein and in the application.

(B) The certificate authority granted in Ordering Paragraph (A) is conditioned on ANR's:

(1) completion of modification and replacement of the proposed facilities and making them available for service within two years of the date of this order pursuant to section 157.20(b) of the Commission's regulations;

(2) compliance with all applicable regulations under the NGA, including paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and

(3) compliance with the environmental conditions listed in Appendix B of this order.

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

(D) ANR's proposal to charge its existing recourse rates under Rate Schedules FTS-1, FTS-3, and ETS as initial rates and its system Transporter Use Percentage are approved.

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*Transmission, Inc. v. Summers*, 723 F.3d 238, 243 (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).

(E) ANR's request for a predetermination supporting rolled-in rate treatment for the costs of the project in its next NGA general section 4 rate proceeding is approved, absent a material change in circumstances.

(F) ANR 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.

(G) ANR is granted permission and approval under section 7(b) of the NGA to abandon the facilities described in this order.

(H) ANR must notify the Commission within 10 days of the abandonment of the facilities discussed in Ordering Paragraph G.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

**Appendix A****Timely, Unopposed Interventions**

- Alliant Energy Corporate Services, Inc.
- ANR Municipal Customer Group
- Antero Resources Corporation
- Atmos Energy Corporation
- Atmos Energy Marketing LLC
- Exelon Corporation
- NJR Energy Services Company
- Northern Illinois Gas Company d/b/a Nicor Gas Company
- Northern States Power Company - Minnesota and Northern States Power Company - Wisconsin
- Rice Energy Marketing LLC
- Rocky Road Power, LLC
- Wisconsin Electric Power Company, Wisconsin Gas LLC, Wisconsin Public Service Corporation, The Peoples Gas Light and Coke Company, North Shore Gas Company, and Michigan Gas Utilities Corporation (collectively, the WEC Companies)

## Appendix B

### Environmental Conditions

1. ANR shall follow the abandonment and 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 this order. ANR 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 this order, and take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project and activities associated with abandonment. This authority shall allow:
  - a. the modification of conditions of this 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 impacts resulting from project construction and operation.
  
3. **Prior to any construction**, ANR shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
  
4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, ANR 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 this order. All requests for modifications of environmental conditions of this order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

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

5. ANR 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 or abandonment begins**, ANR shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. ANR must file revisions to the plan as schedules change. The plan shall identify:

- a. how ANR 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 this order;
  - b. how ANR 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 ANR 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 and specific portion of ANR's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) ANR will follow if noncompliance occurs; and
  - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - (1) the completion of all required surveys and reports;
    - (2) the environmental compliance training of onsite personnel;
    - (3) the start of construction; and
    - (4) the start and completion of restoration.
7. ANR 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 this 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 this 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 this 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**, ANR shall file updated status reports with the Secretary on a **monthly basis** until all abandonment, 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 ANR'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 waterbody 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 this order, and the measures taken to satisfy their concerns; and
  - g. copies of any correspondence received by ANR from other federal, state, or local permitting agencies concerning instances of noncompliance, and ANR's response.
9. ANR must receive written authorization from the Director of OEP **before commencing construction of any project facilities**. To obtain such authorization, ANR must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. ANR 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.
11. **Within 30 days of placing the authorized facilities in service and within 30 days of completing the abandonment of the authorized facilities**, ANR shall file an affirmative statement with the Secretary, certified by a senior company official:
  - a. that the facilities have been constructed and/or abandoned in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or

- b. identifying which of the certificate conditions ANR has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
12. ANR shall file a noise survey with the Secretary **no later than 60 days** after placing the additional compressor unit at the existing Sandwich Compressor Station into service. If a full power load condition noise survey is not possible, ANR shall file an interim survey at the maximum possible power load **within 60 days** of placing the additional compressor unit at the Sandwich Compressor Station in service and file the full load survey **within six months**. If the noise attributable to the operation of the additional compressor unit at maximum flow conditions exceeds 55 decibels on the A-weighted day-night sound level at any nearby noise sensitive areas, ANR shall file a report on what changes are needed and shall install the additional noise controls to meet the level **within one year** of the in-service date. ANR shall confirm compliance with the above requirement by filing a second full power noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.
13. ANR shall file a noise survey with the Secretary **no later than 60 days** after placing the modified Tiffany East Meter Station into service. If a full power load condition noise survey is not possible, ANR shall file an interim survey at the maximum possible power load **within 60 days** of placing the modified Tiffany East Meter Station in service and file the full load survey **within six months**. If the noise attributable to the operation of the modified meter station at full or interim power load conditions exceeds 55 decibels on the A-weighted day-night sound level at any nearby noise sensitive areas, ANR shall file a report on what changes are needed and shall install the additional noise controls to meet the level **within one year** of the in-service date. ANR shall confirm compliance with the above requirement by filing a second full power noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.

Document Content(s)

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