190 FERC ¶ 61,174
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Mark C. Christie, Chairman;
Willie L. Phillips, David Rosner,
Lindsay S. See and Judy W. Chang.

Colorado Interstate Gas Company, L.L.C. Docket No. CP24-124-000

ORDER ISSUING CERTIFICATE AND APPROVING ABANDONMENT

(Issued March 20, 2025)

1. On April 8, 2024, Colorado Interstate Gas Company, L.L.C. (CIG) filed an application pursuant to sections 7(b) and (c) of the Natural Gas Act (NGA)[1] and Part 157 of the Commission's regulations[2] for authorization to abandon and modify existing facilities and construct new facilities at its Totem storage field in Adams County, Colorado, increasing the certificated maximum withdrawal rate of the field by approximately 50 million cubic feet (MMcf) per day and base gas capacity by one billion cubic feet (Bcf) in order to provide a new service from the field (Totem Expansion Project).[3] For the reasons discussed below, we grant the requested authorizations, subject to certain conditions.

I. Background and Proposal

2. CIG, a Delaware limited liability company, is a natural gas company, as defined by section 2(6) of the NGA,[4] engaged in the transportation and storing of natural gas in interstate commerce.[5] CIG's interstate transmission system extends from supply areas in Texas, Oklahoma, Kansas, Colorado, Wyoming, Montana, and Utah to major delivery areas along the eastern slope of the Rocky Mountain Front Range in Colorado and

[1] 15 U.S.C. § 717f(b), (c).

[2] 18 C.F.R. pt. 157 (2024).

[3] CIG Application at 1.

[4] 15 U.S.C. § 717a(6).

[5] CIG is wholly owned by Kinder Morgan, Inc. CIG Application at 3 n.4.

Wyoming.[6] Its system interconnects with other interstate or intrastate pipelines in all the states in which it operates, except Montana.

3. In 2008, the Commission authorized CIG to lease the Totem Gas Storage Field (Totem field), a nearly depleted oil and gas field in Adams County, Colorado, from Wyco Development L.L.C. (Wyco) and to develop and operate facilities to provide storage service in the Denver, Colorado area.[7] The Totem field currently has thirteen injection and withdrawal wells and nine observation wells. It has an authorized injection capability of 100 MMcf per day, a withdrawal capability of 200 MMcf per day, and a total certificated capacity of approximately 10.7 Bcf, consisting of 7.0 Bcf of working gas and 3.7 Bcf of base gas.[8] All of CIG's existing storage services in the Totem field are fully subscribed by the Public Service Company of Colorado (PSCo).[9]

4. CIG requests authorization to: (1) install six new injection and withdrawal wells and 0.42 miles of 6-inch lateral pipeline to connect the new wells to existing storage gathering lines;[10] (2) reclassify one injection and withdrawal well as an observation well and abandon in place 0.4 miles of associated 3-inch storage gathering line; (3) abandon in place approximately 0.62 miles of 8-inch storage gathering pipeline and replace it with approximately 0.72 miles of 12-inch storage gathering pipeline; (4) remove 0.40 miles of existing 6- and 10-inch lateral pipeline and replace it with 0.34 miles of 3-, 4-, and 6-inch lateral pipeline; (5) install various auxiliary and appurtenant facilities; (6) install 0.68 miles of permanent access roads to encircle each new injection and withdrawal storage well; (7) add 1.0 Bcf of base gas capacity to the Totem field; and (8) increase the maximum

[6] *Id.* at 4.

[7] *Colo. Interstate Gas Co.*, 123 FERC ¶ 61,099 (2008). Wyco is a limited liability company jointly owned by affiliates of the Public Service Company of Colorado and CIG, Xcel Energy Inc., and by WIC Holdings Company, LLC.

[8] *Colorado Interstate Gas Co.*, 123 FERC ¶ 61,099 at app. B, 1.

[9] CIG Application at 6 n.15.

[10] Unlike non-jurisdictional gathering lines which carry gas in production areas, these "gathering" lines connect wells storing interstate gas within the storage field and thus fall within the Commission's jurisdiction.

withdrawal rate of the Totem field by 50 MMcf per day.[11] Construction and operation of the Totem Expansion Project will result in 6.78 acres of new permanent right-of-way.[12]

5. The Totem Expansion Project would increase the total capacity of the Totem field from 10.7 Bcf to 11.7 Bcf, the base gas capacity from 3.7 Bcf to 4.7 Bcf, and the maximum withdrawal rate from 200 MMcf per day to 250 MMcf per day. The working gas capacity and injection rates would remain unchanged at 7 Bcf and 100 MMcf per day, respectively.[13] CIG explains that these changes will accommodate a new service providing rapid access to stored natural gas in response to increased hourly demand for gas-fired generation in the region.[14]

II. Notice, Interventions, and Comments

6. Notice of CIG's application was published in the *Federal Register* on April 26, 2024, with comments, interventions, and protests due May 13, 2024.[15] Atmos Energy Corporation, PSCo, and the American Gas Association filed timely, unopposed motions to intervene.[16]

III. Discussion

7. Because the proposed facilities would provide natural gas storage service 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.[17]

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[11] CIG Application at 1, 10; *Id.* Ex. F-I, at 1-1-1.

[12] *Id.* Ex. F-I at 1-1-6. CIG indicates that the new permanent right-of-way will be used for the new wells, a portion of the new 12-inch storage gathering pipeline, lateral interconnects, auxiliary installations, and access roads. *Id.* at tbl. 8.2-1.

[13] CIG Application at 10.

[14] *Id.* at 6–7.

[15] 89 Fed. Reg. 32407 (Apr. 22, 2024).

[16] Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(c).

[17] 15 U.S.C. § 717f(c), (e).

A. Certificate Policy Statement

8. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.[18] 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. It explains that, in deciding whether to authorize the construction of major new natural gas facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to appropriately consider 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.

9. Under this policy, the threshold requirement for applicants proposing new projects is that the applicant 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, and landowners and communities affected by the proposed project. 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 complete the environmental analysis where other interests are addressed.

1. No-Subsidy Requirement and Project Need

10. As discussed above, the threshold requirement for applicants proposing new projects is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. The Commission has determined that, generally, where a pipeline proposes to charge incremental rates for new construction that are higher than the pipeline's existing system rates, the pipeline satisfies

[18] *Certification of New Interstate Nat. Gas Pipeline Facilities*, 88 FERC ¶ 61,227, *corrected*, 89 FERC ¶ 61,040 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement). On March 24, 2022, the Commission issued an order converting the policy statements issued in February 2022 to draft policy statements. *See Certification of New Interstate Nat. Gas Facilities*, 178 FERC ¶ 61,197 (2022) (Order on Draft Policy Statements).

the threshold requirement that existing shippers will not subsidize the project.[19] In instances where an incremental rate calculated to recover project costs is less than the existing system rate, Commission policy requires that the system rate be used as the initial recourse rate to ensure existing customers will not subsidize the new service.[20]

11. As discussed below, CIG proposes to establish a new rate schedule to recover the cost of service associated with the project. CIG's proposed incremental rates for the new services will recover all project costs from project shippers. Therefore, we find that CIG's existing customers will not subsidize the project.

12. Additionally, we find that CIG has demonstrated a need for the Totem Expansion Project. CIG's proposed expansion is designed to provide additional deliverability to four locations on CIG's High Plains system.[21] CIG has entered into a 14.25-year precedent agreement with PSCo for all the increased storage field withdrawal deliverability that would be made available through the Totem Expansion Project.[22]

2. Impacts on Existing Customers, Existing Pipelines and Their Customers, and Landowners and Surrounding Communities

13. We find that the proposed project would not adversely affect service to CIG's existing customers or existing pipelines and their captive customers. The project is designed to provide additional deliverability while maintaining services for CIG's existing customers. The project is not intended to replace services provided by existing pipelines.[23] Furthermore, no pipelines, storage companies, or their captive customers have protested the project.

14. We are further satisfied that CIG has taken appropriate steps to minimize adverse impacts on landowners and surrounding communities. According to CIG, the Totem Expansion Project would disturb approximately 84.01 acres during construction and

[19] *See, e.g., Tenn. Gas Pipeline Co, LLC*, 179 FERC ¶ 61,041, at P 13 (2022).

[20] *See, e.g., Transcon. Gas Pipe Line Co., LLC*, 184 FERC ¶ 61,066, at P 12 (2023).

[21] CIG Application at 7. The delivery points are Banner Lake, Porcupine Creek, Tri-Town, and Fulton Ditch. *Id*.

[22] *Id.*

[23] *Id.* at 23.

permanently impact 6.78 of those acres.[24] Of the land to be disturbed, 67.63 acres are farmland and 16.38 acres are developed land.[25] All but 6.78 acres of the project would be located within the existing Totem field and CIG says that it has obtained access for all proposed construction workspaces.[26]

15. We find that there are demonstrated benefits of the Totem Expansion Project, and, further, that the project would not have adverse economic impacts on existing shippers or other pipelines and their existing customers and that the project would have minimal adverse economic effect on landowners and surrounding communities. Therefore, we conclude that the project is consistent with the criteria set forth in the Certificate Policy Statement and analyze the environmental impacts of the project below.

B. Abandonment

16. 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.[27] In deciding whether a proposed abandonment is warranted, the Commission considers all relevant factors, but the criteria vary with the circumstances of the particular proposal.[28] Continuity and stability of existing services are the primary considerations in assessing whether the public convenience or necessity allow the abandonment.[29] If the Commission finds that an applicant's proposed abandonment will not jeopardize the

[24] *Id*. Ex. F-I at tbl. 8.2-1, 7-10. CIG says that the permanently impacted 6.78 acres would be encumbered as new operational right-of-way. Of the 6.78 acres, 2.65 acres will be converted from agricultural land use to developed land and the remaining 4.13 will be allowed to revert back to managed cropland. *Id.* at 7-11.

[25] *Id.* at tbl. 8.2-1.

[26] *Id.* at 1-1-6, tbl. 1.2-7.

[27] 15 U.S.C. § 717f(b).

[28] *El Paso Nat. Gas Co., L.L.C.*, 148 FERC ¶ 61,226, at P 11 (2014).

[29] *Nat'l Fuel Gas Supply Corp.*, 160 FERC ¶ 61,050, at P 17 (2017) (citing *El Paso*, 148 FERC ¶ 61,226 at P 12).

continuity of existing gas transportation services, the Commission generally will find that the public convenience or necessity permits the abandonment.[30]

17. Here, CIG proposes to abandon, in-place, several segments of storage gathering pipelines in conjunction with its proposal for the Totem Expansion Project. We find that the proposed abandonments in place of these pipeline segments will not change the certificated capacity of CIG's system-wide storage deliverability and will have no adverse impacts on the field's storage volumes. Accordingly, we find that the public convenience or necessity permits the abandonment.

C. Rates

1. Initial Recourse Rates

18. CIG proposes an incremental recourse rate under new Rate Schedule ESD-T[31] for the recovery of the costs attributable to the project. CIG's proposed daily incremental firm recourse reservation charge consists of two parts: a new storage deliverability charge of $30.1692 per dekatherm (Dth) per month, and the maximum reservation charge under Rate Schedule TF-HP[32] of $2.1494 per Dth per month, for a total incremental firm recourse reservation charge of $32.3186 per Dth per month, or $1.0625 per Dth per day.[33] CIG is also proposing a commodity withdrawal charge of $0.0371 per Dth, a daily authorized delivery overrun rate of $0.0709 per Dth, and a daily authorized withdrawal overrun rate of $0.1604 per Dth.[34]

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[30] *See, e.g.*, *Tex. E. Transmission, LP*, 176 FERC ¶ 61,206, at P 11 (2021) (citing *Trunkline Gas Co.*, 145 FERC ¶ 61,108, at P 65 (2013)).

[31] As part of this service, CIG would make deliveries on an hour-notice basis from the Totem field to the High Plains system, using existing capacity on the High Plains system. Because the ESD-T service is a deliverability-only storage service that is only available to Rate Schedules FS-T (Firm Totem Storage Service) and TSB-T (Firm Totem Transportation-Storage Balancing Service) contract holders, these deliveries would be limited to a shipper's maximum delivery quantity and to the remaining capacity on the High Plains facilities. CIG Application at 12–13.

[32] Rate Schedule TF-HP refers to High Plains Firm Transportation Service. *Id*. at 13.

[33] *Id.* at 12.

[34] *Id.* at pt. II: (Statement of Rates), § 1.3 (Transportation Storage Balancing Rate Schedules).

19. CIG's proposed incremental firm recourse reservation charge is based on a fixed first-year cost of service of $19,441,032 and a daily design withdrawal capacity of 53,700 Dth at a current average thermal content of 1,074 Btu. CIG's proposed incremental charges are based on cost of service factors including a pre-tax return of 15.5%[35] and a depreciation rate of 7.02%.[36] In its August 21, 2024 response to a Commission staff data request, CIG clarified that the Colorado state income tax rate used in the original calculation of the composite tax rate has recently been updated by Colorado to 4.25%, making the new composite tax rate 24.36%.[37]

20. We have reviewed CIG's proposed cost of service and initial rates and find, with the exceptions discussed below, they reasonably reflect current Commission policy. We accept CIG's proposed rates as initial rates for service under new Rate Schedule ESD-T, subject to conditions.

21. CIG proposes to use a 7.02% depreciation rate that was calculated using a 14.25-year depreciation term to match the length of the contract term.[38] In support of its depreciation rate, CIG first argues that the Totem field is analogous to a delivery lateral constructed for a single customer and that the Commission has approved the use of a depreciation rate based on the contract life in such instances. Second, CIG notes that the expansion facilities are leased, and states that the proposed depreciation rate reflected in Exhibit N of the instant application is included in the lease payments used for the cost of service.[39] CIG asserts that, although the facilities are subject to the Commission's abandonment jurisdiction, at the termination of the lease and contract it does not have the

[35] CIG notes that the pre-tax return was approved by the Commission in Docket No. CP08-30-000. *Id*. Ex. N, at 1 n.3.

[36] *Id.* at 3 n.2.

[37] CIG Aug. 21, 2024 Response to Aug. 13 Data Request at 4.

[38] CIG Application, Ex. N at 3 n.2.

[39] We note that the lease agreement defines "depreciation rate" as "CIG's underground storage function depreciation rate as reflected in the computation of CIG's jurisdictional rates." *See* CIG, Revised Form Lease Agreement between CIG and Wyco, Docket No. CP08-30-000, at Ex. B-2 (filed Dec. 18, 2007). We also note that the "storage plant" depreciation rate at the time that the lease agreement was filed had been approved in the settlement procedures in Docket No. RP06-397-000 and it was 1.95%. *See* CIG, Stipulation and Agreement, Docket No. RP01-350-000, at 15 (filed Jun. 20, 2006).

right to continue to use the expansion facilities to provide the additional service, unlike the case with integrated, owned facilities.[40]

22. The Commission's general policy with respect to pipeline expansions is to use the depreciation rate approved in the pipeline's last general rate proceeding.[41] The Commission has been willing to deviate from this general policy on occasion, particularly with respect to delivery laterals to a single customer.[42] The Totem Expansion Project is an integrated expansion of CIG's existing system and not analogous to a delivery lateral constructed for a single customer. The project will increase the deliverability for existing storage capacity which will operate and rely on the existing storage facilities.[43] The project will not function merely as a delivery lateral to serve one customer, but will have the potential to serve other customers.[44] Because we find the project to be an integrated expansion of CIG's existing facilities, we are not persuaded to deviate from the Commission's general policy.[45] Furthermore, in approving the initial rates for the Totem

[40] CIG Nov. 14, 2024 Response to Nov. 6 Data Request at 4–5. We note that under Article III of the lease agreement between CIG and Wyco, it is stated that at the end of the lease term or at the termination of the lease for any other reason: (1) the lease will be renewed; (2) CIG will purchase the facilities from Wyco; or (3) Wyco will file a certificate application for authority to operate the Totem field facilities and CIG will file an abandonment application. *Colorado Interstate Gas Co.*, 123 FERC ¶ 61,099 at P 20.

[41] *See Wyo. Interstate Co.,* 119 FERC ¶ 61,251, at P 22 (2007) (stating that the Commission's general policy with respect to pipeline expansions is to use the depreciation rate approved in the pipeline's last NGA section 4 general rate proceeding).

[42] *See, e.g., Kinder Morgan Interstate Gas Transmission LLC*, 122 FERC ¶ 61,154, at P 35 (2008).

[43] *See Gulf S. Pipeline Co., LP*, 166 FERC ¶ 61,089, at P 10 (2019) (explaining that the test for integration is fundamentally when "an expansion project is integrated with an existing facility where 'the pipeline operate[s] the new facilities and the old facilities as a single system'"); *id.* P 12 ("[The] Project relies on the mainline facilities to effectuate service. These projects are dissimilar to projects involving lateral facilities for which the Commission has allowed incremental plus rate treatment, where the receipt and delivery points can be distinguished from the mainline facilities.").

[44] *Mountain Valley Pipeline, LLC*, 171 FERC ¶ 61,232, at P 59 (2020). While all the firm storage capacity is currently contracted by one customer, potential customers could use the new facilities through capacity release or after the contract expires.

[45] *See Gas Transmission Nw. LLC*, 187 FERC ¶ 61,023, at P 40 (2024) (explaining that the Commission's general policy with respect to pipeline expansions that are integrated with the existing system is to use the depreciation rate approved in the

field, the Commission found it reasonable to use CIG's depreciation rate from its last rate case settlement.[46] CIG has not demonstrated why the Commission should authorize different treatment for the Totem Expansion Project. Accordingly, CIG is directed to use the depreciation rate approved in its last general rate proceeding.

23. In its August 21, 2024 data request response, CIG explains that the accumulated depreciation and accumulated deferred income taxes (ADIT) were not factored into the calculation of the rate base for the first year because it used the day-one cost of service convention, as it did in the original Totem field certificate in Docket No. CP08-30-000. However, in Opinion No. 138,[47] the Commission explained that "[a] 'day-one' rate base is computed on the total investment in pipeline facilities on the day the pipeline becomes operational, without regard to or in recognition of depreciation that will be accrued while the rates are in effect."[48] The Commission explained that "rate base [should] be reduced each year to reflect accrued depreciation, [and that] initial rates for the interim period should be based on the estimated average rate base for the . . . period."[49] The Commission has consistently denied the use of a day-one rate base for initial rates and instead required the use of a first-year average rate base.[50] Accordingly, CIG should

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pipeline's last general rate proceeding) (citations omitted); *Gulf S. Pipeline*, 166 FERC ¶ 61,089 at P 30 (same).

[46] *Colorado Interstate Gas Co.*, 123 FERC ¶ 61,099 at PP 36, 39.

[47] *Trailblazer Pipeline Co.,* Opinion No. 138, 18 FERC ¶ 61,244, at 61,507 (1982).

[48] *Id*.

[49] *Id*.

[50] *See Nw. Pipeline, LLC*, 155 FERC ¶ 61,026, at P 14 n.14 (2016) ("A day-one rate base is computed on the total investment in pipeline facilities on the day the pipeline becomes operational without regard to, or in recognition of, depreciation that will be accrued while the rates are in effect."); *id.* P 18 ("We have consistently denied the use of a day-one rate base for initial rates and required instead the use of a first-year average rate base."); *Columbia Gas Transmission, LLC*, 146 FERC ¶ 61,069, at P 19 (2014) ("Use of such a 'day-one' estimate is inappropriate because it does not reflect the accumulated depreciation that will be accrued over the course of the year."); *Moraine Pipeline Co.,* 42 FERC ¶ 61,144, at 61,541 (1988) ("[R]ates based on a day-one rate base may lead to excessive return allowances."); *Hackberry LNG Terminal, L.L.C.*, 101 FERC ¶ 61,294, at P 61 (2002) ("Historically, our preferred methodology has been to use a first-year average in calculating the components of a pipeline's rate base.");

compute revised rates reflecting the use of a first-year average rate base. We acknowledge that CIG used a day-one rate base in Docket No. CP08-30-000.[51] However, the Commission approved that rate without explanation, and that case is inconsistent with our policy.

24. CIG's cost of service reflects its existing overall pretax return of 15.5% as approved in a settlement in Docket No. RP01-350-000.[52] In its November 14, 2024 data request response, CIG explained that because the pretax rate of return was derived through a black-box settlement and its individual components were not stated in the settlement, it is not able to recalculate its pretax return and directly flow through the change from 35% to 21% in the federal income tax rate[53] in its incremental rate calculation. Therefore, when revising its cost of service in this proceeding, CIG only recalculated the ADIT amount to reflect the new lower 21% corporate income tax rate, which results in a higher rate base and annual cost of service for the new facilities. The Commission will not allow CIG to flow through only the portion of the tax reduction that affects ADIT because that would result in customers paying higher rates while not receiving the benefit of the tax reduction.[54] For these reasons, we find that it is in the public convenience and necessity for CIG to revise its Rate Schedule ESD-T initial incremental reservation recourse rate, subject to CIG recalculating the rate to reflect an ADIT amount based on the previous 35% corporate income tax rate.

25. Therefore, we direct CIG to recalculate its proposed rates based on a depreciation rate approved in its last general rate proceeding. CIG should also recalculate its rates to reflect the accumulated depreciation and ADIT based on the estimated average rate base for the period, and to reflect an ADIT amount based on the previous 35% corporate income tax rate in order to be consistent with the calculation of the pretax return.

KO Transmission Co., 74 FERC ¶ 61,101, at 61,309 (1996); *Great Lakes Transmission Co. Ltd. P'ship*, 66 FERC ¶ 61,115, at 61,196 (1994).

[51] *Colorado Interstate Gas Co.*, 123 FERC ¶ 61,099.

[52] CIG Nov. 14, 2024 Response at 3.

[53] Effective January 2018, the Tax Cuts and Jobs Act of 2017 changed several provisions of the federal tax code, including reducing the federal corporate income tax rate from 35% to 21%. Pub. L. No. 115-97, 131 Stat. 2054.

[54] *See Columbia Gas Transmission, LLC*, 164 FERC ¶ 61,137, at P 8 (2018).

2. Reporting Incremental Costs

26. Section 154.309 of the Commission's regulations includes bookkeeping and accounting requirements applicable to all expansions for which incremental rates are charged. The requirements ensure that costs are properly allocated between pipelines' existing shippers and incremental expansion shippers.[55] Therefore, we will require CIG to keep separate books and accounting of costs and revenues attributable to the incremental expansion capacity created by the project as required by section 154.309.[56] The books should be maintained with applicable cross-reference 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.[57]

3. *Pro Forma* Tariff Records

27. CIG proposes *pro forma* tariff records to update various sections of its tariff to reflect the incorporation of Rate Schedule ESD-T to its tariff and the new Form of Service Agreement associated with it. We have reviewed CIG's proposed tariff revisions as provided for by the *pro forma* tariff records and find they reasonably reflect current Commission policy.

4. Non-Conforming Service Agreement

28. CIG requests that the Commission pre-approve certain non-conforming provisions included in the precedent agreement with PSCo. Specifically, CIG requests the Commission approve the following non-conforming provisions:

a. CIG's obligation to construct the project facilities is subject to CIG receiving all necessary Commission approvals, in a form and substance satisfactory to CIG (in its sole discretion), including approval of the newly proposed Rate Schedule ESD-T rates;

b. PSCo shall pay CIG a prorated share of the maximum tariff rates if the in-service date is any other than the first of the month;

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[55] 18 C.F.R. § 154.309.

[56] *Id.*

[57] *See Revisions to Forms, Statements, & Reporting Requirements for Nat. Gas Pipelines*, Order No. 710, 122 FERC ¶ 61,262, at P 23 (2008).

c. and if at any time during the term of the agreement PSCo fails to demonstrate creditworthiness in accordance with the provision of CIG's tariff, it can satisfy its creditworthiness obligations by either: (1) an irrevocable, unconditional guarantee of its obligations issued by another person or entity that satisfies the creditworthiness standards; (2) providing security equivalent to the lesser of 18 months or the period of time remaining in the primary term multiplied by monthly charges under the agreement; (3) other credit arrangements mutually agreed to by CIG and PSCo.[58]

29. CIG states that although these provisions may be non-conforming, they are permissible under Commission policy and are consistent with similar provisions approved by the Commission.[59] CIG also states that the proposed partial month service provision does not affect service to any other shipper and is not unduly discriminatory, and that the proposed creditworthiness provision reflects a reasonable sharing of the risks of the project given the level of capital expenditures and thus, should be accepted as permissible.[60]

30. In *Columbia*, the Commission clarified that a material deviation is any provision in a service agreement that (a) goes beyond filling in the blank spaces with the appropriate information allowed by the tariff, and (b) affects the substantive rights of the parties.[61] The Commission prohibits negotiated terms and conditions of service that result in a shipper receiving a different quality of service than that offered other shippers under the pipeline's generally applicable tariff or that affect the quality of service received by others.[62] However, not all material deviations are impermissible. As we explained in *Columbia*,[63] provisions that materially deviate from the corresponding

[58] CIG Application at 15–17.

[59] *Id.* at 16–17 (citing *Colo. Interstate Gas Co., L.L.C*, Docket No. RP22-984-000 (Jul. 12, 2022) (delegated order) (approving similar partial month service provision)); *Calpine Energy Servs., L.P. v. S. Nat. Gas Co.*, 103 FERC ¶ 61,273, at P 32 (2003) (upholding a 30-month collateral requirement); *Colo. Interstate Gas Co., L.L.C*, Docket No. RP22-1084-000 (Aug. 25, 2022) (delegated order) (approving similar creditworthiness provision)).

[60] *Id.*

[61] *Columbia Gas Transmission Corp.*, 97 FERC ¶ 61,221, at 62,002 (2001).

[62] *Monroe Gas Storage Co., LLC*, 130 FERC ¶ 61,113, at P 28 (2010).

[63] *Columbia*, 97 FERC at 62,003.

pro forma agreement fall into two general categories: (a) provisions the Commission must prohibit because they present a significant potential for undue discrimination among shippers, and (b) provisions the Commission can permit without a substantial risk of undue discrimination.[64]

31. We find that the non-conforming provisions in CIG's service agreement constitute material deviations from CIG's *pro forma* service agreement. However, in other proceedings, the Commission has found that non-conforming provisions may be necessary to reflect the unique circumstances involved with the construction of new infrastructure and to provide the needed security to ensure the viability of a project.[65] Here, we find the non-conforming provisions identified by CIG are permissible because they do not present a risk of undue discrimination, do not adversely affect the operational conditions of providing service, and do not result in any customer receiving a different quality of service.[66]

32. Before providing service to any project shipper under a non-conforming agreement, CIG must file an executed copy of the non-conforming service agreement and identify and disclose all non-conforming provisions or agreements affecting the substantive rights of the parties under the tariff or service agreement. Consistent with section 154.112 of the Commission's regulations, CIG must also file a tariff record identifying the agreements as non-conforming agreements.[67] In addition, the Commission emphasizes that the above determination relates only to those items described by CIG in its application and not to the entirety of the precedent agreement or the language contained in the precedent agreement.[68]

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[64] *See Equitrans, L.P.*, 130 FERC ¶ 61,024, at P 5 (2010).

[65] *See, e.g., Tenn. Gas Pipeline Co.*, 144 FERC ¶ 61,219 (2013); *Midcontinent Express Pipeline LLC*, 124 FERC ¶ 61,089 (2008).

[66] *See, e.g., CIG*, Docket No. RP22-984-000 (Jul. 12, 2022) (delegated order) (approving similar partial month service provision and creditworthiness provision); *see also Creditworthiness Standard for Interstate Nat. Gas Pipelines*, 111 FERC ¶ 61,412, at P 17 (2005).

[67] 18 C.F.R. § 154.112.

[68] 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 agreement(s) and a tariff record identifying the agreement(s) as non-conforming are filed with the Commission, consistent with section 154.112 of the

D. Engineering Analysis

33. The Commission reviews the design storage parameters of proposed natural gas facilities to ensure that the design is technically sound and feasible. Commission staff completed an engineering analysis of CIG's project. Based on this analysis, we find that the Totem Storage Field is appropriately designed to store up to 11.7 Bcf of total gas capacity comprised of 7.0 Bcf of working gas capacity and 4.7 Bcf of base gas capacity at a maximum pressure of 2,800 psia. Further, the project will support an increase in maximum withdrawal capacity from 200 MMcf/d to 250 MMcf/d that will be realized during the early withdrawal season.

E. Environmental Analysis

34. On May 22, 2024, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Totem Enhanced Deliverability Project* (Notice of Scoping). The Notice of Scoping was published in the *Federal Register*[69] and mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners. We received responsive comments from Adams County, Colorado and the U.S. Environmental Protection Agency (EPA) Region 8. Adams County filed comments regarding air quality emissions, noise impacts, pipeline removal, odor during construction, and the potential applicability of the County's requirements regarding infrastructure and road access. EPA provided comments regarding the purpose and need, alternatives, compliance with the Clean Water Act, impact analysis, air quality, environmental justice, aquatic resources, climate change, and project resilience.

35. Pursuant to NEPA,[70] Commission staff prepared an Environmental Assessment (EA) for CIG's proposal. The analysis in the EA addresses geology, soils, water

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Commission's regulations. *See, e.g., Tenn. Gas Pipeline Co., L.L.C.*, 150 FERC ¶ 61,160, at P 44 n.33 (2015).

[69] 89 Fed. Reg. 46383 (May 29, 2024).

[70] 42 U.S.C. §§ 4321 *et seq*. *See also* 18 C.F.R. pt. 380 (2024) (Commission's regulations implementing NEPA). On February 19, 2025, the Council on Environmental Quality (CEQ) issued an interim final rule rescinding its NEPA regulations, 90 Fed. Reg. 10610 (Feb. 25, 2025), and a memorandum directing agencies to "continue to follow their existing practices and procedures" while considering revising or establishing their own NEPA implementing procedures. *Memorandum for Heads of Departments and Agencies: Implementation of the National Environmental Policy Act*, CEQ (Feb. 19, 2025), https://ceq.doe.gov/docs/ceq-regulations-and-guidance/CEQ-Memo-Implementation-of-NEPA-02.19.2025.pdf (accessed Feb. 26, 2025). Additionally, the

resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, reliability and safety, socioeconomics, environmental justice, cumulative impacts including climate change, and alternatives. Under NEPA, the Commission considers impacts to all potentially affected communities. The EA addressed all substantive comments received in response to the Notice of Scoping and concluded that the project would not constitute a major federal action significantly affecting the quality of the human environment.[71]

36. The EA was issued for a 30-day comment period and placed into the public record on November 7, 2024. A Notice of Availability of the EA was published in the *Federal Register*[72] and was mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners. The Commission received comments on the EA from the Bureau of Land Management (BLM) and EPA.

1. Mapping

37. In its comment letter, BLM acknowledges that the project does not take place on BLM-managed surface lands, nor does it impact federal minerals. However, BLM staff recommends that high-quality maps with proper locating information, including

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Commission is aware of the recent court decisions regarding CEQ's rulemaking authority. *Marin Audubon Society v. Fed. Aviation Admin.*, 121 F.4th 902 (D.C. Cir. 2024) (holding that CEQ's regulations implementing NEPA are not judicially enforceable or binding), *reh'g denied en banc*, No. 23-1067, 2025 WL 374897 (D.C. Cir. Jan. 31, 2025); *Iowa v. CEQ*, No. 1:24-cv-00089 (D.N.D. Feb. 3, 2025) (vacating CEQ's 2024 regulations). We are continuing to review the recent changes in the law and may take such further action as is appropriate.

[71] EA at 47. Commission staff could not determine whether the impacts from greenhouse gas (GHG) emissions attributable to the project would be significant or insignificant. *Id.* at 42; *see* 42 U.S.C. § 4336(b)(2) ("An agency shall prepare an environmental assessment with respect to a proposed agency action that does not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown . . . ."). We note that NEPA does not require that the Commission formally label project-related GHG emissions as significant or insignificant. *See Citizens Action Coal. of Ind., Inc. v. FERC*, 125 F.4th 229, 241–242 (D.C. Cir. 2025) (holding that "the absence of a 'significance' label does not violate NEPA, CEQ guidance, or FERC regulations") (citing *Food & Water Watch v. FERC*, 104 F.4th 336, 346 (D.C. Cir. 2024)) (*East 300*); *see also Transcon. Gas Pipe Line Co.*, 187 FERC ¶ 61,200, at P 33 (2024) (applying *East 300* in the context of an EA).

[72] 89 Fed. Reg. 89989 (Nov. 13, 2024).

coordinates, be provided for the project.[73] Appendix A of the EA includes project mapping that describes the proposed Project facilities and location. The maps are sufficient for our review and provide a clear display of the proposed project's boundaries with the placements of the existing and new proposed wells.

2. Project Purpose and Reasonable Alternatives

38. BLM requests further discussion of whether and how there will be actions to meet the demand for the Totem Expansion Project if the no-action alternative is selected.[74] BLM suggests that that the Commission should acknowledge that the needs of CIG's customer, PSCo, will be met regardless of where that necessary gas comes from.[75] BLM also suggests that the Commission expand the project overview to account for PSCo's stated need for the project to support renewable energy integration, and, accordingly, consider potential climate benefits associated with the proposed action compared to the no-action alternative.[76]

39. NEPA provides that agencies include "a detailed statement" of "a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no-action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal.[77] An agency uses the purpose and need statement to define the objectives of a proposed action and then to identify and consider reasonable alternatives.[78] When an agency is asked to consider a specific proposal, the needs and goals of the applicant should be taken into account.[79] Where, as here, a federal agency is not the sponsor of a project, "the Federal government's consideration of alternatives may

[73] BLM Dec. 9, 2024 Comments on EA at 1.

[74] *Id.* at 1–2.

[75] *Id.* at 2.

[76] *Id.* at 2–3.

[77] 42 U.S.C. § 4332(c)(iii).

[78] *See* 40 C.F.R. § 1501.5(c)(2) (2023). On May 20, 2024, CEQ issued new regulations that went into effect for new NEPA processes begun after July 1, 2024. 40 C.F.R. § 1506.12 (2024). This action is subject to CEQ's previous rules, and citations throughout this order will refer to the 2023 regulations.

[79] *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991); *Transcon. Gas Pipe Line Co.*, 186 FERC ¶ 61,047, at P 48 (2024).

accord substantial weight to the preferences of the applicant and/or sponsor in the siting and design of the project."[80]

40. In the EA, Commission staff appropriately relied on CIG's general objectives to increase withdrawal deliverability during high inventory periods and reasonably excluded consideration of alternatives in the EA that would not feasibly achieve the project's aims.[81] The EA explains that if CIG's proposed facilities were not constructed, project effects would be avoided but it is speculative to determine what other actions could meet CIG's stated need to provide additional storage withdrawal deliverability due to market demand.[82] BLM's comment suggesting that we expand the project purpose and alternatives to consider PSCo's future energy consumption patterns and scenarios is not required by NEPA. The project seeking certification from the Commission is not PSCo's chosen mix of energy generation sources, but CIG's request for increased withdrawal deliverability. Accordingly, we are not required to consider alternatives that would fail to serve the purpose of the project.[83]

3. Air Quality

41. EPA notes that the EA incorrectly states that the Clean Air Act General Conformity does not apply to the project and recommends that the EA should be modified accordingly.[84] Under the Clean Air Act, if a federal agency's action will likely exceed emissions thresholds in nonattainment or maintenance areas, the agency must

[80] *See e.g.*, *City of Grapevine, Tex. v. Dep't of Transp.*, 17 F.3d 1502, 1506 (D.C. Cir. 1994); *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d at 199 (explaining that the evaluation of alternatives is "shaped by the application at issue and by the function that the agency plays in the decisional process").

[81] EA at 2, 45–46.

[82] *Id.* at 45–46.

[83] *See generally Citizens Action Coal. v. FERC*, 125 F.4th at 238 (upholding the Commission's NEPA analysis and finding that the Commission "properly refused to reconsider the mix of electricity generation chosen").

[84] EPA Dec. 10, 2024 Comments on EA at 1–2 (recommending the EA state that "the General Conformity Applicability Analysis has found that Project emissions will be below the *de minimis* rates at 40 C.F.R. § 93.153(b)(1) and therefore the Project is presumed to conform and a Conformity Determination is not required").

prepare a General Conformity analysis and mitigate project emissions to ensure its action does not impede the state's National Ambient Air Quality (NAAQS) attainment.[85] Adams County, Colorado, is classified as in attainment for all criteria pollutants, with the exception of classifications for "severe nonattainment" of ozone, including the ozone precursors NO_2 and VOC, and for "attainment/maintenance" for CO and PM_{10}.[86] Therefore, because Adams County is classified as either a nonattainment or maintenance area for several pollutants, General Conformity does apply to the project. However, the construction emissions from the Totem Expansion Project will be below the applicable *de minimis* thresholds,[87] and therefore a General Conformity Determination is not required.[88]

42. EPA recommends including air permit information and the project's full emissions inventory, including all equipment, emissions factors, equipment specifications, and utilization, in the appendix to the EA so that total emissions can be understood.[89] Staff's EA discloses to the public the potential environmental impacts of the Totem Expansion Project, including impacts from the project's total emissions, and is not meant as a detailed account of all regulatory permitting requirements.[90] We note that the total emissions inventory for the project can be referenced in Appendix 9.A of CIG's application.[91]

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[85] *S. Coast Air Quality Mgmt. Dist. v. FERC*, 621 F.3d 1085, 1099 (9th Cir. 2010) (citing 40 C.F.R. §§ 93.150(b), 93.153(a)–(b)).

[86] EA at 29, tbl. B.9-3.

[87] The applicable General Conformity *de minimis* thresholds are 25 tons per year for ozone precursors, including NO_2 and VOC, and 100 tons per year for CO and PM_{10}. *See* 40 C.F.R. § 93.153(b)(1), (2) (setting *de minimis* thresholds for severe nonattainment and maintenance areas by pollutant). *See* EA at 30 (concluding that project construction emissions would be below the *de minimis* thresholds).

[88] *See* 40 C.F.R. § 93.153(c)(1) (establishing that General Conformity Determinations are not required when an action's emissions are below applicable *de minimis* thresholds).

[89] EPA Comments on EA at 2.

[90] *Webster v. U.S. Dep't of Agric.*, 685 F.3d 411, 425 (4th Cir. 2012) (noting that an agency's thoroughness of its environmental analysis should be commensurate with severity of the proposed action's effects).

[91] CIG Application, Ex. F-I at app. 9.A.

43. EPA recommends the EA further explain why the modifications to the Totem Compressor Station will require a Title V operating permit modification, including what will be required to be modified in the permit.[92] The EA considered all the necessary environmental effects associated with the modifications by disclosing the anticipated increase of volatile organic compounds and indicating that CIG would need to modify its Title V permit for the Totem Compressor Station.[93] As noted below, CIG must obtain all applicable authorizations required under federal law before beginning construction.[94]

44. EPA recommends that the EA include the details of the air modeling that was performed for the Totem Compressor Station, rather than only stating that the modeling demonstrated compliance with the NAAQS. The EA explains that air dispersion modeling was conducted in 2010 for the existing Totem Compressor Station[95] but we note that CIG filed supplemental information including the numeric modeling results for the proposed modifications to the existing Totem Compressor Station to demonstrate compliance with the NAAQS.[96]

45. EPA suggests that in the EA Commission staff erred in stating that the Totem Expansion Project would not increase NAAQS regulated pollutants.[97] While EPA acknowledges this is accurate for the existing operational emissions from the Totem Compressor Station, it claims this is not accurate for all project emissions, which include construction emissions (table B.9-5), new wells' operating emissions (table B.9-6), and modifications to the Totem Compressor Station operating emissions (table B.9-7). We clarify that the EA statement was intended to refer only to emissions from the compressor station operations, not the project as a whole, and that operation of the compressor station would not increase NAAQS regulated criteria pollutants. We acknowledge that operation of the compressor station would increase emissions of VOCs, which are a precursor to the criteria pollutant ozone, but note that these increases would be minor and would not

[92] Title V of the Clean Air Act requires an operating permit for facilities that are major sources of air pollutants.

[93] EA at 28, 64–65, tbl. B.9-7. *See also* CIG Jun. 20, 2024 Response to May 31, 2024 Environmental Information Request at 6 (stating that an application to modify their Title V permit was submitted to the Colorado Department of Public Health and Environment, Air Pollution Control Division on March 13, 2024).

[94] *See infra* condition 9 in app. B.

[95] EA at 31.

[96] CIG Jun. 20, 2024 Response.

[97] EPA Comments on EA at 2 (citing EA at 31).

contribute to a violation of any applicable ambient air quality standard, or significantly affect local or regional air quality.[98] We clarify that there will be temporary increases to criteria pollutants, namely CO, SO_2, $PM_{2.5}$, PM_{10}, and NO_x,[99] during construction activities, but these emissions increases will be temporary and do not alter the EA's conclusion that the project's air emissions will not result in significant impacts on nearby communities.[100]

4. Greenhouse Gas Emissions and Climate Change

46. We find that the GHG emissions from project construction and operations are reasonably foreseeable.[101] The EA estimates that construction and operation of the project will result in up to 7,179 metric tons of carbon dioxide equivalent (CO_2e) emissions and 1,307.1 metric tons of annual CO_2e emissions, respectively.[102] To place project emissions in context, the EA compares estimated project GHG emissions to the total GHG emissions of the United States as a whole and at the state level.[103]

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[98] EA at 31.

[99] *See id.* at 30 (listing pollutants resulting from construction).

[100] The emissions from the Totem Expansion Project fall below the General Conformity *de minimis* rates thresholds as discussed *supra* P 41.

[101] EA at 42.

[102] *Id*.

[103] *Id.* at 42–43. *See Citizens Action Coal.*, 125 F.4th at 240–41 (affirming the Commission's use of percentage comparisons to state and national emissions to place a project's GHG emissions in context). The EA also disclosed an estimate of the social cost of the project's GHG emissions to be either $613,342 (assuming a discount rate of 5%), $1,592,173 (assuming a discount rate of 3%), $2,174,686 (assuming a discount rate of 2.5%), or $4.373,321 (using the 95th percentile of the social cost of GHGs with a discount rate of 3%). EA at 43-44. After Commission staff prepared the EA, Executive Order 14154 disbanded the Interagency Working Group on the Social Cost of Greenhouse Gases and withdrew its publications. Section 6(b), 90 Fed. Reg. 8353 (Jan. 29, 2025). The Executive Order directs the EPA to issue guidance within 60 days to address inadequacies of the social cost of carbon, including consideration of eliminating the social cost of carbon calculation from any federal permitting or regulatory decision. *Id.* § 6(c).

47. When states have GHG emissions reduction targets, as Colorado does, we compare a project's GHG emissions to those state targets to provide additional context.[104] Compared to Colorado's CO_2 emissions in 2005 (95.8 million metric tons), the state of Colorado established statutory targets in 2019, which were updated in 2023, to reduce GHG emissions 26% by 2025 (i.e., to 70.9 million metric tons), 50% by 2030 (to 47.9 million metric tons), 65% 2035 (to 33.5 million metric tons), 75% by 2040 (to 23.9 million metric tons), 90% by 2045 (to 9.6 million metric tons), and 100% by 2050.[105] Project-related incremental GHG emissions disclosed in the EA would represent 0.002, 0.003, 0.004, 0.005, and 0.01 % of Colorado's target GHG emissions levels in 2025, 2030, 2035, 2040, and 2045, respectively.[106]

48. BLM questions the EA's conclusion that there are no downstream GHG emissions associated with the Totem Expansion Project. In the EA, Commission staff explained that there are no downstream emissions because the Totem Expansion Project will provide additional withdrawal deliverability of stored natural gas to contracting counterparties rather than provide new sources of natural gas to the market.[107] BLM argues that because the project will increase the likelihood that natural gas will be stored and used the Commission should instead acknowledge that there will likely be no "net differences" in downstream GHGs associated with the project.[108] Although the project may encourage the continued use of natural gas and result in increased emissions, such emissions are not reasonably foreseeable for the reasons stated in EA.[109]

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[104] EA at 43.

[105] *Id.*

[106] *Id.*

[107] *Id.* at 42

[108] BLM Comments on EA at 1–2.

[109] *See* EA at 42 (explaining that the Totem Expansion Project will not provide new sources of natural gas to the market). BLM also states that the Totem Expansion Project could result in long-term emissions benefits because the increased deliverability provided by the project could support PSCo's transition to renewable energy. BLM Comments on EA at 2–3. BLM's statement that the Totem Expansion Project could increase downstream GHG emissions followed by a statement that the project could provide emissions benefits exemplifies the speculative nature of an inquiry into downstream emissions and further shows that an increase in downstream emissions is not reasonably foreseeable.

49. We acknowledge that the project will increase the atmospheric concentration of GHGs and will contribute cumulatively to climate change. For the same reasons upheld in *East 300* and *Citizens Action Coalition*,[110] we are unable to determine whether GHG emissions are significant or insignificant. We cannot characterize any project's GHG emissions as significant or insignificant because we are unable to identify any accepted tool or method at this time that would allow us to determine what level of GHG emissions' contribution to adverse climate change impacts is significant under NEPA.[111] NEPA does not require that the Commission formally label project-related GHG emissions as significant or insignificant.[112]

5. Environmental Analysis Conclusion

50. We have reviewed the information and analysis contained in the EA, as well as the other information in the record, regarding potential environmental effects of the project. We accept the environmental recommendations in the EA and are including them as conditions in an appendix to this order. Based on the analysis in the EA, as supplemented or clarified herein,[113] we conclude that if the project is constructed, operated, and abandoned in accordance with CIG's application and supplements and in compliance

[110] *East 300*, 104 F.4th at 346; *Citizens Action Coal. v. FERC*, 125 F.4th at 241–42.

[111] We note that to date, no other Federal agency, including EPA and CEQ, has established either an accepted tool or method or a threshold for determining significance that the Commission could adopt. *See, e.g., Transcon. Gas Pipe Line Co.*, 190 FERC ¶ 61,048, at P 84 (2025) (citing *e.g.*, *Tenn. Gas Pipeline Co.*, 181 FERC ¶ 61,051, at P 34 (2022) ("[T]he Commission did not characterize [GHG] emissions as significant or insignificant because we currently have no methodology for doing so.")), *aff'd sub nom. East 300*, 104 F.4th 336; *Tenn. Gas Pipeline Co.*, 180 FERC ¶ 61,205 at P 75 ("[W]e note that there are currently no criteria to identify what monetized values are significant for NEPA purposes, and we are currently unable to identify any such appropriate criteria."), *aff'd sub nom. Ala. Mun. Distribs. Grp. v. FERC*, 100 F.4th 207; CEQ Interim Guidance, 88 Fed. Reg. 1196, 1200 (Jan. 9, 2023) ("This guidance does not establish any particular quantity of GHG emissions as 'significantly' affecting the quality of the human environment.").

[112] *Citizens Action Coal. of Ind., Inc. v. FERC*, 125 F.4th at 241 (D.C. Cir. 2025) (holding that "the absence of a 'significance' label does not violate NEPA, CEQ guidance, or FERC regulations").

[113] Although the analysis in the EA provides substantial evidence for our conclusions in this order, it is the order itself that serves as our record of decision. The order supersedes any inconsistent discussion in the EA.

with the environmental conditions in the appendix to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.[114] Based on the foregoing discussion, we conclude that notwithstanding the project's adverse impacts, as identified in the EA and herein, the Totem Expansion Project is an environmentally acceptable action and that the identified environmental harms do not outweigh the project's benefits.

IV. Conclusion

51. We find on balance that the record before us supports a determination that the benefits of the proposed Totem Expansion Project outweigh its adverse effects. We find that CIG has demonstrated a need for the proposed project, which will enable CIG to expand its natural gas storage facilities and increase its service capability for its existing customer and the market. Further, the project will not have adverse economic impacts on existing shippers or other pipelines and their existing customers, and the project's benefits will outweigh any adverse economic effects on landowners and surrounding communities. The Commission recognizes that the proposed project would impact the environment and individuals living in the vicinity of the project facilities. We conclude that, as conditioned, the project would not constitute a major federal action significantly affecting the quality of the human environment. Based on the foregoing, we conclude that under section 7 of the NGA the project is required by the public convenience and necessity, subject to the conditions in this order.

52. Compliance with the environmental conditions appended to our orders is integral to ensuring that the environmental impacts of approved projects are consistent with those anticipated by our environmental analyses. Thus, Commission staff carefully reviews all information submitted. Only when satisfied that the applicant has complied with all applicable conditions will a notice to proceed with the activity to which the conditions are relevant be issued. We also note that the Commission has the authority to take whatever steps are necessary to ensure the protection of environmental resources during the construction activities of the Totem Expansion 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.

53. 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

[114] We are not making a significance determination regarding GHG impacts for the reasons discussed *supra* P 49.

local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by the Commission.[115]

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

The Commission orders:

(A) A certificate of public convenience and necessity is issued to CIG under section 7(c) of the NGA, authorizing the construction and operation of the proposed storage facilities, as described more fully in this order and in the application.

(B) The authorization issued in Ordering Paragraph (A) is conditioned on CIG's compliance with all applicable Commission regulations under the NGA, 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 regulations.

(C) CIG is granted permission and approval to abandon the facilities described in this order, and more fully described in the application.

(D) CIG shall notify the Commission within 10 days of abandonment of the facilities. CIG shall complete the authorized abandonment within three years from the date of this order.

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

(F) CIG shall file a written statement affirming it has executed firm contracts for the capacity levels and terms of service represented in its filed precedent agreement, prior to commencing construction.

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[115] *See* 15 U.S.C. § 717r(d) (state or federal agency's failure to act on a permit considered to be inconsistent with Federal law); *see also Schneidewind v. ANR Pipeline Co*., 485 U.S. 293, 310 (1988) (state regulation that interferes with the Commission's regulatory authority over the transportation of natural gas is preempted); *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).

(G) Pursuant to section 157.20(b) of the Commission's regulations, the facilities authorized in Ordering Paragraph (A) must be constructed and placed in service within three years of the date of the final order in this proceeding.

(H) The authorizations issued in Ordering Paragraphs (A) and (C) are conditioned upon CIG's compliance with the engineering and environmental conditions set forth in Appendices A and B of this order.

(I) CIG's proposal to charge incremental rates under new Rate Schedule ESD-T is approved subject to CIG recalculating its proposed rates, as described in the body of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Secretary

Appendix A

Engineering Conditions

This authorization includes the following conditions:

1. The following conditions shall apply to the Totem Storage Field:

    a. The maximum inventory of natural gas stored shall not exceed the certificated levels of 11.7 Bcf (consisting of 7 Bcf of working gas capacity and 4.7 bcf of base gas capacity) at 14.73 psia and 60 degrees Fahrenheit.

    b. The maximum withdrawal rate shall not exceed 250 MMcf/d.

2. CIG shall conduct an annual inventory verification study on the Totem Storage Field.

3. Twice annually, CIG shall conduct a leak detection test during storage operations to determine the integrity of each wellbore, casing, and wellhead of the six new injection and withdrawal wells. In addition, CIG shall file a report, with the Secretary of the Commission summarizing the results of these tests until one year after the operating capacity of the Totem Storage Field have reached the maximum defined in Engineering Condition (1)(a).

4. CIG shall operate its facility in such a manner as to prevent/minimize gas loss or migration.

5. CIG shall file with the Secretary of the Commission semi-annual reports (to coincide with the termination of the injection and withdrawal cycles) containing the following information in accordance with Section 157.214(c) of the Commission's regulations (volumes shall be stated at 14.73 psia and 60 degrees Fahrenheit, and pressures shall be stated in psia):

    a. The daily volumes of natural gas injected into and withdrawn from the storage reservoir.

    b. The volume of natural gas and the shut-in wellhead pressures at the end of the reporting period.

    c. The maximum daily injection and withdrawal rates experienced for the entire storage field during the reporting period, including the average working pressure on such maximum days taken at a central measuring point where the total volume injected or withdrawn is measured.

d. A discussion of current operating problems and conclusions.

e. Other data or reports which may aid the Commission in the evaluation of the storage project.

6. CIG shall file the above semi-annual reports in accordance with section 157.214(c) of the Commission's regulations until one year after the storage inventory volume has reached or closely approximates the maximum level defined in this order.

7. CIG shall file its Integrity Monitoring Program for the Totem Storage Field consistent with the parameters outlined in American Petroleum Institute's (API) Recommended Practice (RP) 1171: Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs.

Appendix B

Environmental Conditions

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

1. CIG shall follow the construction and abandonment 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. CIG 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), or the Director's designee, 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 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 ensure continued compliance with the intent of the conditions of the Order as well as the avoidance or mitigation of unforeseen adverse environmental impact resulting from project construction and operation.

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

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

a. how CIG 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 CIG will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;

c. the number of EIs assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;

d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;

e. the location and dates of the environmental compliance training and instructions CIG 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 CIG's organization having responsibility for compliance;

g. the procedures (including use of contract penalties) CIG 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. CIG 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. 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

   e. responsible for maintaining status reports.

8. Beginning with the filing of its Implementation Plan, CIG shall file updated status reports with the Secretary on a **monthly** basis until all construction, abandonment, 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 CIG's efforts to obtain the necessary federal authorizations;

   b. the construction status of each spread, 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;

   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 CIG from other federal, state, or local permitting agencies concerning instances of noncompliance, and CIG's response.

9. CIG must receive written authorization from the Director of OEP, or the Director's designee, **before commencing construction or abandonment activities**. To obtain such authorization, CIG must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).

10. CIG must receive written authorization from the Director of OEP, or the Director's designee, **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**, CIG shall file an affirmative statement with the Secretary, certified by a senior company official:

a. that the facilities have been constructed and abandoned in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or

b. identifying which of the conditions in the Order CIG 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.