

106 FERC ¶ 61,276  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeen G. Kelly.

TransColorado Gas Transmission Company

Docket No. CP04-12-000

ORDER ISSUING CERTIFICATE

(Issued March 24, 2004)

1. On October 31, 2003, TransColorado Gas Transmission Company (TransColorado) filed an application pursuant to Section 7(c) of the Natural Gas Act (NGA) to construct three new compressor stations and make upgrades to two existing compressor stations on its pipeline system, all within the State of Colorado. The proposed facilities will create approximately 125,000 Dekatherms/day (Dth/d) of additional firm transportation capacity on TransColorado. We find that TransColorado's proposal to build compression facilities is in the public interest because it will meet the need for additional capacity to transport natural gas from production areas in the Rocky Mountains to the market. Therefore, we will grant the requested certificate authorization, subject to the conditions herein.

**I. Background**

2. TransColorado is a natural-gas company that provides interstate natural gas transportation services within the States of Colorado and New Mexico. TransColorado's system extends from the Greasewood Receipt Point located in Rio Blanco County, Colorado, southward to a point of interconnection with various pipelines at the Blanco Hub located in San Juan County, New Mexico. The system interconnects with several interstate and intrastate pipelines, gatherers and producers in Colorado and New Mexico and delivers supplies of natural gas produced from the Piceance, Paradox and San Juan Production Basins.

3. On June 3, 1994, the Commission issued a certificate authorizing TransColorado to construct and operate its new pipeline system in western Colorado and northern New

Mexico.<sup>1</sup> On September 30, 1996, the Commission amended the certificate to authorize TransColorado to construct the pipeline in two phases.<sup>2</sup> As set forth in those applications, and the orders certificating TransColorado's pipeline system, TransColorado's transportation facilities were constructed to provide an outlet for natural gas producers in the region.

## II. Proposal

4. TransColorado has held an open season to assess the need for additional capacity on its system. When no conforming bids were received, TransColorado entered into negotiations with interested parties that resulted in a precedent agreement with a shipper for all 125,000 Dth/d of new capacity, with a primary term of 10 years from the commencement of full transportation service.<sup>3</sup> The precedent agreement represents subscription of 100% of the new firm transportation capacity proposed by TransColorado. During the open season, TransColorado requested turn-back capacity from existing shippers. No existing shippers responded to the turn-back solicitation.

5. In order to provide the required additional capacity, TransColorado requests a Section 7(c) certificate to construct, modify and operate the following facilities starting at the north end of its system and moving south:

**Whitewater Compressor Station** – Install one new 4,735 horsepower (hp) compressor unit at the proposed new compressor station site to be located

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<sup>1</sup>67 FERC ¶ 61,301 (1994). At that time, TransColorado was a newly formed 50-50 general partnership of Questar Pipeline Company and KN TransColorado, Inc. (an affiliate of KN Energy, Inc. now merged with Kinder Morgan, Inc.). Effective October 1, 2002, Kinder Morgan, Inc. acquired Questar's interest and became the owner of 100 percent of the TransColorado pipeline system.

<sup>2</sup>76 FERC ¶ 61,366 (1996). The Phase I facilities, which were placed in service on December 15, 1996, consist of the southern-most 22.5 miles of the pipeline and a 2.5-mile connecting line. The Phase II facilities, which were placed in service on March 31, 1999, consist of 275.2 miles of pipeline, including the 5.3 mile extension to the Greasewood Receipt Point, and the Dolores and Olathe Compressor Stations.

<sup>3</sup>Concurrently with its application, TransColorado filed a request, pursuant to Section 388.112 of the Commission's Rules of Practice and Procedure, for confidential treatment of the precedent agreement.

on federal land administered by the U.S. Bureau of Land Management in Section 8, Township 2 South, Range 2 East, Mesa County, Colorado.

**Olathe Compressor Station** – Re-wheel the existing 3,873 hp site-rated compressor unit located in Section 2, Township 49 North, Range 11 West, Montrose County, Colorado. The re-wheeling of this compressor unit is proposed to increase efficiency of the unit within its existing design parameters. It will not result in a change in horsepower rating.

**Redvale Compressor Station** – Install one new 4,735 hp compressor unit at the proposed new compressor station site and reconnect the existing Rocky Mountain Natural Gas Company receipt point at Naturita Creek Meter Station No. 39626, owned by Cabot Oil & Gas Corporation and leased to TransColorado. This would be accomplished by constructing approximately 692 feet of 10-inch pipeline to the discharge side of the proposed Redvale Compressor Station, all to be located on privately owned land in Section 7, Township 45 North, Range 14 West, Montrose County, Colorado.

**Dolores Compressor Station Addition** – Install one new 3,550 hp compressor unit within the existing boundaries of the Dolores Compressor Station located in Section 9, Township 39 North, Range 14 West, Dolores County, Colorado.

**Mancos Compressor Station** – Install two new 3,550 hp compressor units at the proposed new compressor station site to be located on federal land administered jointly by the U.S. Bureau of Land Management and the U.S. Forest Service in Section 29, Township 36 North, Range 12 West, Montezuma County, Colorado.

6. In addition to the facilities described above for which Section 7(c) certificate authorization is requested, TransColorado will construct, modify and operate, qualifying facilities under the authority of Section 2.55(a) of the Commission's regulations.<sup>4</sup> These

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<sup>4</sup>18 C.F.R. § 2.55(a) (2003). Section 2.55(a) of the Commission's regulations exempts certain facilities from the requirements of Section 7(c) of the NGA because their only purpose is to achieve more efficient or more economical operation of authorized or proposed transmission facilities. However, certain notification requirements apply. The information in TransColorado's application provides such notification. See 18 C.F.R. § 2.55(a)(2).

facilities will include power generators, a filter station supervisory control systems, and a motor control center.

7. The total estimated construction cost for the Section 7(c) facilities is \$28,576,666, including overhead and contingency. An additional \$3,922,206 is anticipated to be spent on the Section 2.55(a) installations that are also part of this proposed expansion.

8. TransColorado proposes to use its currently effective Part 284 transportation rates and fuel tracking provisions for services using the expansion capacity. It states that using the current tariff provisions is appropriate because the new expansion facilities will be integrated into TransColorado's existing system operations and will provide all shippers with increased flexibility and reliability. In addition, TransColorado requests a determination that rolled-in rate treatment is appropriate for the costs of the proposed facilities since the overall rates of existing shippers will decrease when the costs of the expansion are rolled in.

### **III. Interventions and Protest**

9. The application was noticed in the Federal Register on November 14, 2003 (68 Fed. Reg. 64,615), with protests or interventions due by November 28, 2003. Timely, unopposed motions to intervene were filed by Questar Pipeline Company; Questar Southern Trails Pipeline Company; and Cabot Oil & Gas Corporation, Gasconade Oil Company, Helm Energy, LLC, McLish Petroleum Company, Riggs Oil & Gas Corporation, and Tom Brown, Inc. (jointly, Cabot).<sup>5</sup>

10. Burlington Resources Oil & Gas Company, LP (Burlington), and Southern California Gas Company (SoCalGas) filed motions to intervene out of time. Burlington and SoCalGas have demonstrated interest in this proceeding and their late interventions will not delay resolution of the issues or otherwise prejudice other parties. Therefore, for good cause shown, the late motions to intervene are granted pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure.<sup>6</sup>

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<sup>5</sup>Timely unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.

<sup>6</sup>18 CFR §385.214(d).

11. Cabot protested the application, but subsequently withdrew its protest on February 20, 2004. Burlington supported Cabot's protest but withdrew that support on February 23, 2004.

#### **IV. Discussion**

##### **Policy Statement**

12. On September 15, 1999, the Commission issued a Policy Statement<sup>7</sup> providing guidance as to how proposals for certificating new construction will be evaluated. Specifically, the Policy Statement explains that the Commission, in deciding whether to authorize the construction of new pipeline facilities, balances the public benefits against the potential adverse consequences. Our 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.

13. 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 relying on subsidization from the 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 a new pipeline. 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 then proceed to complete the environmental analysis where other interests are considered.

14. TransColorado's proposal meets the threshold requirement of the Policy Statement since the expansion will not be subsidized by existing customers. As discussed in more detail below, the projected revenue from the expansion will exceed the costs of the added facilities. TransColorado's project also meets the remaining criteria for certification of

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<sup>7</sup>Certification of New Interstate Natural Gas Pipeline Facilities (Policy Statement), 88 FERC ¶ 61,227 (1999); Order Clarifying Statement of Policy, 90 FERC ¶ 61,128 (2000); Order Further Clarifying Statement of Policy, 92 FERC ¶ 61,094 (2000).

new facilities set forth in the Policy Statement. The expansion should not adversely affect existing customers since the additional compression is expected to improve the quality of service to all customers by increasing system reliability and mitigating the effects maintenance and unscheduled outages. The expansion should also benefit TransColorado's interconnecting pipelines and producers by providing needed capacity for gas supplies produced in the Rocky Mountain region. No existing shippers or pipelines in the area have protested the filing. In addition, there should be minimal impact on the surrounding landowners and community since the expansion facilities will be constructed on, or immediately adjacent to, TransColorado's existing right-of-way. While one landowner, John G. Kringle, questions the need for the Mancos Compressor Station, the application shows that the new capacity is fully subscribed. Further, during the open season, TransColorado requested turn-back capacity from existing shippers. No shippers were willing to relinquish capacity. Thus, there is a demonstrated need for additional pipeline capacity in the region. For these reasons we find that the benefits of the proposal will outweigh any potential adverse effects and that the proposal is required by the public convenience and necessity and consistent with the Policy Statement. Additional comments made by landowners are addressed in the environmental section of this order.

### **Rates and Tariff**

15. TransColorado requests a determination that rolled-in rate treatment is appropriate for the cost of the proposed facilities. In support of this request, TransColorado provides a schedule showing that projected annual revenues associated with this expansion project will exceed the annual cost of the project. TransColorado states that the expansion is to be fully contracted under negotiated rate agreements. Except in limited circumstances that are not present here,<sup>8</sup> Commission policy does not permit pipelines that negotiate rates to claim a rate discount adjustment in a general rate proceeding. TransColorado's analysis shows that the maximum incremental revenues that could be generated, based on the maximum rate and full expansion volumes, are more than twice the incremental cost of service.<sup>9</sup> Thus, this project will not be subsidized by existing customers. Accordingly, there will be a presumption that this project's costs will be rolled-in

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<sup>8</sup> Northwest Pipeline Corp., 79 FERC 61,416 (1997), reh'g denied, 84 FERC ¶ 61,109 (1998).

<sup>9</sup> Average annual revenues and average annual incremental cost of service are \$14,043,375 and \$5,791,586, respectively, based on a three-year projection. Exhibit N to the Application at p. 6.

TransColorado's next Section 4 general rate case, absent material changes in the relevant facts and circumstances.

16. We note that by order issued March 20, 1997,<sup>10</sup> the Commission approved TransColorado's request to implement a negotiated rate option for firm and interruptible transportation service. TransColorado proposes that its currently effective transportation rates shall apply as the applicable, generally available stated tariff rates that will be provided by the expansion facilities. Consistent with our finding that the expansion facilities will not result in subsidization by existing shippers, we find that the use of the currently effective transportation rates for service by the expansion facilities is appropriate. However, the Commission is not approving any particular negotiated rate here; rather, it is approving the use of the currently effective recourse rates as the initial rate ceiling for service provided by the expansion project.

17. Since TransColorado is charging its shipper negotiated rates, as opposed to the recourse rate identified in its tariff, TransColorado must file either its negotiated rate contracts or numbered tariff sheets not less than 30 days and no more than 60 days prior to the commencement of service on the expansion facilities.<sup>11</sup> The tariff filing must state for each shipper the negotiated rate, all applicable charges, the applicable receipt and delivery points, the volume to be transported, the applicable rate schedule for the service, and a statement affirming that the affected service agreements do not deviate in any material aspect from the form of service agreement in TransColorado's FERC Gas Tariff. TransColorado must also disclose any other agreement, understanding, negotiation, or consideration associated with the negotiated agreements. Finally, TransColorado must maintain separate and identifiable accounts for volumes transported, billing determinants, rate components, surcharges and revenues associated with its negotiated rates in sufficient detail so that they can be identified in Statements G, I, and J in any future Section 4 or 5 rate case. The Commission will not permit TransColorado to recover from existing shippers any revenue shortfall due to the charging of negotiated rates.

### **Environmental**

18. On November 10, 2003, the Commission issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Compression Expansion Project and

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<sup>10</sup> TransColorado Gas Transmission Co., 78 FERC ¶ 61,306 (1997).

<sup>11</sup> See Alternative Rate Policy Statement, 74 FERC ¶ 61,076 (1996) at 61,241. See also NorAm Gas Transmission Company, 77 FERC ¶ 61,011 (1996).

Request for Comments on Environmental Issues (NOI). Comments in response to the NOI were received from the U.S. Fish and Wildlife Service (FWS); the National Park Service, and landowners in the general project vicinity. The U.S. Forest Service (USFS) and U.S. Bureau of Land Management (BLM) assisted our staff as cooperating agencies in the environmental review of the project. Our staff addressed these comments in the environmental assessment (EA), prepared to satisfy the requirements of the National Environmental Policy Act.

19. On January 29, 2004, we issued a Notice of Availability of the Environmental Assessment for the Proposed Compression Expansion Project (NOA). The EA addresses geology, soils, groundwater, vegetation, wildlife, sensitive species, cultural resources, land use, visual resources, air quality, noise, pipeline safety, cumulative impacts, and alternatives. In response to the NOA, we received comments from the FWS, USFS and BLM (jointly), the Wilderness Society, and several landowners in the general vicinity (Richard Risk, L.K. Roller, Sid Lindauer, Ron and Gizelle Turley, Don and Judith Fite, John Kringel, Wayne and Sylvie Rhodes). TransColorado filed a response to the Turley comments, in addition to providing its comments on the EA, and submitted new information to address some outstanding issues.

20. Mr. Kringel expressed concern over the project's potential effects on wildlife (including special status species) and that construction could encourage the growth and spread of noxious weeds.

21. Our staff recommended, in the EA, that TransColorado file a noxious weed control plan for the Mancos Compressor Station site. On March 4, 2004, TransColorado filed a noxious weed control plan that was developed in consultation with the USFS and the local Natural Resource Conservation Service. The plan contains monitoring protocols and TransColorado's commitment to include the status of noxious weeds at the Mancos site (including any weed control measures planned or implemented) in its quarterly reports filed with the Commission. TransColorado states it will also submit its monitoring results to the USFS.

22. Our staff has reviewed TransColorado's noxious weed plan and the comments from the USFS on it. We find the plan acceptable. Implementation of the project's noxious weed control plan would help prevent the spread of noxious weeds. Because the recommendation in the EA has been satisfied it will be deleted from the list of conditions.

23. TransColorado also filed updated correspondence from the FWS, USFS, and BLM regarding the issue of migratory birds, in response to staff's recommendation on page 3-7 of the EA. Since all outstanding issues regarding migratory birds have been satisfied by these submissions, this recommendation from the EA is no longer needed.

24. TransColorado also filed correspondence from the Colorado Division of Wildlife (CDOW), in which the CDOW states that it now has “no concern” about wildlife impacts or impacts on big game species and their migration patterns.

25. In its comments on the EA, the FWS confirms that the project would not affect federally listed species and expresses appreciation for TransColorado’s proactive efforts to protect environmental resources.

26. Mr. Lindauer states that a compressor station constructed several years ago near his ranch in Garfield County, Colorado was extremely noisy. Although his comments are not specific to TransColorado’s Compression Expansion Project, Mr. Lindauer does raise the general concern that noise from industrial operations (including compressor stations) can be heard over long distances in Colorado, given the local terrain, climate, and topography. He states that the notification requirements for such projects should include noise-sensitive areas (NSAs) and stakeholders within a couple miles of significant noise sources.

27. Likewise, the Turleys and Rhodes state that the 1-mile notification radius we used for this project is arbitrary and inadequate, and that a broader landowner notification was warranted. They add that although they can hear the compressor station noise, they were not notified about the original scoping effort for the Compression Expansion Project because they live about 1.5 miles from the Olathe Compressor Station. The Wilderness Society also states that distribution of the EA was limited to persons and parties situated close to the project. It requests to be notified about future pipeline construction projects in Colorado.

28. The Commission regulation for notices, applications, and mailing lists (Title 18, Code of Federal Regulations Section 157.6(d)(2)(iii)) requires notification of landowners whose property contains residences within 0.5 mile of proposed compressors. We exceeded these requirements. First, the Commission decided to notify landowners near the existing Olathe Compressor Station even though the Compression Expansion Project would not add compression at this site. In addition, given the generally rural nature of the project area, our staff decided to expand the notification radius from the required 0.5 mile radius to a 1-mile radius to provide the public with an enhanced scoping opportunity. In the future Commission staff will include the Wilderness Society among those groups that are notified about new construction projects in Colorado.

29. The Turleys, Fites, and Rhodes report that they have longstanding complaints regarding the noise generated by the Olathe Compressor Station. According to the Turleys, the noise is loud enough at times to be heard inside their house and to awaken

them at night. They further compare the noise at times to that of a jet flying overhead. The Rhodes state that they have taken sound level measurements as high as 62 dBA.

30. Given this, the landowners question the adequacy of our use of an  $L_{dn}$  of 55 dBA noise requirement. They believe that while the 55 dBA standard may be applicable to more developed areas where ambient noise is higher, it is not appropriate for a quieter rural setting.

31. The sound level criteria used in our EA, an  $L_{dn}$  of 55 dBA, was identified by the U.S. Environmental Protection Agency (EPA) as protecting the public from indoor and outdoor activity interference. However, TransColorado has not conducted noise surveys at the Turley, Fite, or Rhodes residences to see whether this level is being exceeded or to identify the specific noise level attributable to the Olathe Compressor Station.

32. The Turleys state that they believe the noise level standard used in our staff's EA is less restrictive than one previously used by the BLM in its 1992 Final Environmental Impact Statement; TransColorado Gas Transmission Project (FEIS). Page 201 of the FEIS states that the compressor stations (including Olathe) "would be designed to limit the compressor noise at residences to a day-night average level ( $L_{dn}$ ) of 50 dBA at night (7:00 pm to 7:00 am) and a  $L_{dn}$  of 55 dBA during the day...."

33. We do not believe our noise level standard is less restrictive than that contained in the BLM's 1992 FEIS. The use of the terms " $L_{dn}$  at night" and " $L_{dn}$  during the day" in BLM's FEIS is confusing because  $L_{dn}$  by definition is a 24-hour weighted average. It is probable that the FEIS is actually referring to  $L_{eq}$ ,<sup>12</sup> which is a single measure of the sound level that is equivalent to the actual time-varying sound energy over a 24-hour period. Conversely,  $L_{dn}$  is the  $L_{eq}$  with a 10-dBA weighting applied to nighttime sound levels (10:00 pm to 7:00 am) to account for the difference in annoyance between daytime and nighttime noises in noise-sensitive areas.

34. Thus, an  $L_{eq}$  (day) of 55 dBA and an  $L_{eq}$  (night) of 50 dBA would translate to an  $L_{dn}$  of 58 dBA whereas our  $L_{dn}$  of 55 dBA is equivalent to a continuous noise level (such as that from a compressor station) of 48.6  $L_{eq}$  dBA, both at night and during the day. Thus, our 55 dBA threshold is more restrictive than that presented in the FEIS. It is important to note, however, that  $L_{eq}$  is a time varying average (i.e., noise levels may be greater than the  $L_{eq}$  value for short periods of time).

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<sup>12</sup>Other references in the FEIS (pages vii, 203, and 242) do not specify  $L_{dn}$  or  $L_{eq}$ , merely a "noise level," which means the decibel level methodology is undefined.

35. The Turleys state that TransColorado's past efforts to reduce noise from the Olathe Compressor Station have not been effective. They and the Rhodes request that TransColorado be required to implement at the Olathe Compressor Station the same types of more stringent measures being proposed for the new compressor stations on this project.

36. On March 3, 2004, TransColorado filed its commitment to "construct similar noise abatement equipment at the Olathe Compressor Station as will be constructed at the new compressor stations [i.e., Whitewater, Redvale, and Mancos] in order to yield similar levels of noise reduction." We agree that this is prudent and will help to reduce noise levels in the area.

37. In the EA, staff recommended that TransColorado conduct noise surveys for all NSAs "within 1 mile" of the Olathe Compressor Station, a distance that the commentors question, as there do not appear to be any NSAs within this radius. Because no comments were received regarding noise at this site prior to the issuance of the EA, staff used a 1-mile radius to identify where noise impacts were likely to occur. Given the new information, we have revised staff's recommendation. Thus, condition number 4 now requires TransColorado to conduct noise surveys at the three closest NSAs (and would include the Turley, Fite, and Rhodes properties), regardless of their distance from the compressor station.

38. In addition, we are requiring that the noise survey specifically include nighttime sound measurements and an acoustic analysis to identify the possible source(s) that may contribute to the elevated nighttime sound levels.

39. In supplemental comments, the Turleys asked why the FEIS identified the Olathe Compressor Station at 4,750 hp while the EA identifies the rating as 5,047 hp. The reason for this apparent discrepancy is that the FEIS reported nominal (average) ratings, while the EA reported a maximum site rating.

40. The Turleys, the Fites, and the Rhodes also reference a November 20, 2000 system controls malfunction at the Olathe Compressor Station. This incident involved a venting of the fully pressurized pipeline for approximately 7 hours. The Turleys report that the noise and force of the release was strong enough to shake the windows of their house. The commentors question the timing and adequacy of TransColorado's response, the effectiveness of the county First Responder system (i.e., local fire and law enforcement departments), and to what extent public safety was compromised.

41. The Department of Transportation's (DOT's) Office of Pipeline Safety is the Federal agency responsible for ensuring that natural gas pipeline facilities are operated

safely. DOT also is responsible for enforcement activities. All interstate natural gas pipeline facilities are designed, constructed, and operated under the DOT Minimum Federal Safety Standards specified in 49 CFR Part 192. These standards address TransColorado's responsibilities for education and coordination with appropriate public safety and emergency response personnel and the public under 49 CFR 192.615 and 49 CFR 192.616. Our staff routinely shares information with the DOT's Office of Pipeline Safety and the Commission's staff has forwarded all of the material in the record regarding the November 20, 2000 event to that office.

42. According to TransColorado, the event described involved operation of the compressor station's emergency shut-down system and the controlled venting of natural gas. The controlled venting (blowdown) is designed to depressurize the station and upstream pipeline in a safe and reliable fashion in the event of an emergency. During the referenced November 20, 2000 incident a subsystem malfunction apparently caused the blowdown, to continue longer than would typically be expected. Additionally, a malfunction in the automatic notification system did not send an alarm to TransColorado's gas control facility. Thus, the blowdown was not detected by TransColorado personnel. TransColorado repaired the faulty sensors and modified the procedures so that their gas control center will be alerted if a blowdown occurs and allow them to stop a blowdown if they lose communication with critical alarm systems at the facility. As discussed above, the Commission's staff has forwarded DOT's Office of Pipeline Safety the information in the record of this proceeding relating to the November 20, 2000 malfunction at TransColorado's Olathe Compressor Station. That office has regulatory oversight over pipelines' protocols for educating and communicating with emergency responders, local officials and the public, as well as enforcement authority in the event of non-compliance by a pipeline.

43. Mr. Kringel discusses potential noise impacts from the proposed Mancos Compressor Station. He is primarily concerned about the impacts the station would have on the development of future residential properties in the vicinity of the station. In addition, he is concerned about compressor noise in an otherwise rural area and suggests requiring noise reduction measures.

44. Only those NSAs in existence at the time of facility siting are considered in our analysis. We do not place requirements on future development that may or may not occur, unless there are active construction plans filed with the appropriate governmental agencies. Furthermore, the estimated noise from the Mancos Compressor Station is below the level determined by the EPA to protect the public from indoor and outdoor activity interference. Although impacts have been assessed using sound level estimates, condition number 5 requires TransColorado to confirm compliance with a post-construction noise survey of the station operating at full load.

45. Mr. Risk states the concerns of nearby landowners were disregarded and that our staff did not make an effort to contact local residents and discuss concerns. Similarly, J.K. Roller states that the concerns expressed by local residents were not seriously considered in the EA and that no effort was made by our staff to have a face-to-face discussion or to personally inspect the proposed and alternate sites.

46. As discussed on page 1- 4 of the EA, our staff inspected each of the sites where new compression was to be installed during the first week of October 2003. At that time, most of the specific alternate sites discussed in the EA had not been identified. However, our staff evaluated each alternate site not visited during the October field inspection using photographs, maps, visual models, and scoping comments, and discussed our findings in the EA. The Commission then issued the NOI to inform the public and to solicit comments on environmental matters relating to TransColorado's project. The Commission uses various methods for assessing the environmental impacts of a project. Sometimes this includes meetings with local residents where face-to-face communication is possible. However, such meetings are not required by the National Environmental Policy Act, and Commission staff determined that such meetings were not necessary in this proceeding, since sufficient information could be gathered through other means, including site visits and comments in response to the NOI.

47. The EA addresses all substantive comments collected during scoping. In fact, the three main concerns for the project were visual impacts, noise impacts, and alternatives. Overall, more than 50 percent of the discussion presented in the EA focuses on these three topics. The commentors have raised no new issues nor supplemented their previous comments with new information. They also have not indicated where the analysis presented in the EA is flawed. The mitigation proposed by TransColorado, as well as measures recommended by our staff (which we are requiring as conditions to this order), were specifically designed to avoid or limit impact on visual resources and noise. Consequently, we believe the analysis is sufficient.

48. The USFS and BLM filed comments expressing concern with potential cumulative air quality effects and visibility impacts in the Four Corners region where TransColorado's Expansion Project will be located. They specifically discuss the problem of nitrate formation, which is derived from nitrogen oxide emissions and contributes to haze and reduced visibility. The USFS and BLM are concerned that substantial existing and proposed development in the area will continue to contribute to cumulative visibility impacts. Consequently, the USFS and BLM request that the Commission and TransColorado recognize these regional air quality concerns and to agree to participate, with Federal Land Managers, in any mitigation group or strategy formed to deal with relevant emissions generated from the Four Corners region.

49. The TransColorado compressor units authorized in this order will burn natural gas, which has negligible particulate emissions. Further, the four stations with emission changes will be minor sources (or minor modifications) of particulates and nitrogen oxides for which no cumulative modeling analysis is required.<sup>13</sup> The minor sources are unlikely to have a measurable impact on visibility. We note that TransColorado will require emission permits from the CDPHE. Although this permitting process provides a mechanism to control regional air quality impacts from various sources, it is appropriate for TransColorado to participate in mitigation groups related to emissions in the Four Corners region.

50. The USFS and BLM also restate their intention to require TransColorado to implement mitigation measures to reduce the project's effects with regard to visual impacts and vegetation screening, noise thresholds and monitoring, and compressor station lighting. The EA discusses measures that TransColorado has agreed to as a part of its proposed action and that will be enforced by this certificate. The EA acknowledges that additional appropriate mitigation may be required by other permitting agencies such as the USFS and BLM. Moreover, the certificate being issued herein does not restrict the USFS and BLM from requiring additional mitigation as a part of their permitting processes.

51. Mr. Risk questions whether the project is merely an incremental step in Kinder-Morgan's overall plans for the region. He cites the fact that the Compression Expansion Project will bring TransColorado's pipeline to full capacity and that new wells are being drilled in the area. Mr. Risk then surmises that further expansions of TransColorado's system will be forthcoming.

52. Kinder-Morgan, or another entity, may well propose to construct additional facilities along the TransColorado System in the future. It would not be unusual for an interstate transmission system to be upgraded and/or reinforced with additional capacity when demand warrants it. However, we will not speculate about what additional facilities may be proposed, where they may be located, or when additional capacity may be needed. The record in this case adequately supports the proposal put forth by

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<sup>13</sup> TransColorado states that it developed its Air Quality Analysis Protocol for the Colorado Department of Public Health and Environment (CDPHE) using modeling protocols based upon written guidance by the CDPHE, conversations with CDPHE officials, and other guidance documents. TransColorado has not, based upon this guidance, developed cumulative impact modeling for the region.

TransColorado. We will consider the merits of proposals to expand the TransColorado System when, and if, such development is proposed in the future.

53. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with TransColorado's application and supplements, and the environmental conditions attached below, approval of the Compression Expansion Project would not constitute a major Federal action significantly affecting the quality of the human environment. This authorization includes the conditions listed in the Appendix to this order.

54. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction, replacement, or operation of facilities approved by this Commission.<sup>14</sup> TransColorado shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other Federal, state, or local agencies on the same day that such agency notifies TransColorado. TransColorado shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

## V. Conclusion

55. For the reasons discussed above, and with the conditions imposed by this order, the Commission concludes that the authorizations requested herein are required by the public convenience and necessity.

56. At a hearing held on March 24, 2004, the Commission on its own motion received and made part of the record all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record.

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<sup>14</sup>See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

The Commission Orders:

(A) A certificate of public convenience and necessity under Section 7(c) of the Natural Gas Act is issued to TransColorado to construct, modify and operate facilities as described herein and more fully in its application.

(B) The authority issued in Paragraph (A) above is conditioned on TransColorado's compliance with Parts 154 and 157 of the Commission's regulations, in particular with the generic terms and conditions set forth in Section 157.20 (a), (c), (e) and of the regulations.

(C) Construction of the proposed facilities will be completed and made available for service within one year from the date of this order in accordance with Section 157.20(b) of the Commission's Regulations.

(D) Prior to commencement of construction, TransColorado shall execute a service agreement(s) for the level and term of service represented in the precedent agreement.

(E) TransColorado's construction costs will receive rolled-in rate treatment, absent a material change in circumstances at the time TransColorado makes its next Section 4 rate filing after the facilities have been placed in service, in accordance with the discussion in this order.

(F) TransColorado shall maintain separate books, accounts, and records for transportation services provided at negotiated rates and for transportation services provided at recourse rates in accordance with Section 154.309 of the Commission's regulations.

(G) TransColorado will file with the Commission the necessary tariff sheets or contract reflecting the negotiated rate, volume, rate schedule, and applicable receipt and delivery points not less than 30 days, nor more than 60 days, prior to the proposed effective date of the tariff sheets.

(H) The authority issued in Paragraph (A) above is conditioned on TransColorado's compliance with the environmental conditions set forth in the Appendix.

(I) Burlington's and SoCalGas' motions to intervene out of time are granted.

(J) TransColorado shall notify the Commission's environmental staff by telephone and/or facsimile of any environmental noncompliance identified by other Federal, state, or local agencies on the same day that such agency notifies TransColorado. TransColorado shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

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

By the Commission

( S E A L )

Linda Mitry,  
Acting Secretary.

**APPENDIX**  
**TransColorado Gas Transmission Company**  
**Docket No. CP04-12-000**

**Environmental Conditions**

1. TransColorado shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), and as identified in the EA, unless modified by this Order. TransColorado must:
  - a. request any modification to these procedures, measures, or conditions in a filing with the 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 has delegation authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
  - a. the modification of conditions of this Order; and
  - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
  
3. **Prior to any construction**, TransColorado shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector'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. TransColorado shall file a noise survey with the Secretary no later than 60 days after returning the modified unit at the Olathe Compressor Station into service and installing new noise abatement measures. The survey shall include nighttime

sound measurements and an acoustic analysis to identify the possible source(s) that may contribute to elevated nighttime levels. The survey must be conducted at the three closest NSAs and the Turley, Fite, and Rhodes residences, should any of these not be one of the three closest NSAs. If the noise attributable to the operation of the authorized unit at the station at full load exceeds an  $L_{dn}$  of 55 dBA at any of the NSAs, TransColorado must install additional noise controls to meet that level within 1 year of the in-service date. TransColorado shall confirm compliance with the 55 dBA  $L_{dn}$  requirement by filing a second noise survey with the Secretary no later than 60 days after TransColorado installs the additional noise controls.

5. TransColorado shall file a noise survey with the Secretary no later than 60 days after placing the authorized units at the Dolores, Whitewater, Redvale, and Mancos Compressor Stations in service. If the noise attributable to the operation of the authorized unit(s) at the stations at full load exceeds an  $L_{dn}$  of 55 dBA at any nearby NSA, TransColorado must install additional noise controls to meet that level within 1 year of the in-service date. TransColorado shall confirm compliance with the  $L_{dn}$  of 55 dBA requirement by filing a second noise survey with the Secretary no later than 60 days after TransColorado installs the additional noise controls.