

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Columbia Gas Transmission Corporation

Docket No. CP04-34-000

ORDER ISSUING CERTIFICATE AND APPROVING ABANDONMENT

(Issued June 20, 2005)

1. On December 15, 2003, Columbia Gas Transmission Corporation (Columbia)¹ filed an abbreviated application under sections 7(b) and (c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations for a certificate of public convenience and necessity authorizing it to construct and operate replacement natural gas facilities and for approval to abandon the deteriorated facilities being replaced. The facilities to be replaced and abandoned are located in Northampton, Monroe and Pike Counties, Pennsylvania.

2. We find that approval of the proposal is in the public interest because it will permit Columbia to replace deteriorating natural gas facilities, maintain and enhance the reliability of its system, and comply with corrective action orders issued by the U.S. Department of Transportation (DOT).

I. Background and Proposal

3. In March 2002, Columbia performed an in-line inspection of Line 1278 from Easton, Pennsylvania to a point north of Milford in Pike County, Pennsylvania. Columbia determined that this segment of pipeline was unsafe because of deterioration and Columbia reduced the pressure in this line. On May 13, 2002 Columbia filed a safety

¹ Columbia, a corporation of the State of Delaware, is a wholly-owned subsidiary of the Columbia Energy Group which is a wholly owned subsidiary of NiSource, Inc. Columbia is authorized to do business in Delaware, Georgia, Indiana, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, Virginia, and West Virginia.

report with the United States Department of Transportation (DOT) which issued corrective action orders on June 20, 2002, and November 19, 2003, requiring Columbia to, *inter alia*, maintain the lower operating pressure and upgrade and replace sections of its pipeline by 2007.

4. Line 1278 is a component of one of Columbia's main transmission systems, originating in Kentucky and traversing parts of West Virginia, Virginia, Maryland, and Pennsylvania, and is Columbia's main transmission line into eastern Pennsylvania, from Northampton County to the New York state line, and also serves markets to the east in New Jersey. Columbia notes that it is the only gas provider to certain communities in this area. Columbia asserts that the majority of this multi-state transmission pipeline consists of 20-inch diameter pipeline.

5. Columbia proposes to abandon approximately 43.3 miles of its 14-inch diameter Line 1278 located in Northeastern Pennsylvania and to replace it with approximately 43.4 miles of 20-inch diameter pipeline. Columbia asserts that the proposed replacement is warranted due to the advanced age and deteriorated condition of the line, sections of which were installed as early as 1948. Additionally, the replacement and, in particular, the increase in diameter, are needed in order to restore the pipeline's ability to operate at its historic design pressure of 1,200 psig. Columbia has been operating Line 1278 at reduced pressures since it was inspected in 2002.

6. Columbia initially sought to abandon and replace approximately 16 miles of line in 2004 with the remaining 27 miles of line to be abandoned and replaced in 2005. In a supplement filed April 28, 2004, Columbia proposed delaying this schedule because of environmental compliance restrictions. In a meeting with staff on March 1, 2005, Columbia outlined further environmental delays and again modified its schedule. As a result Columbia now proposes to begin construction by August 1, 2005 to replace 7.8 miles of line in Pike County in 2005, with the remainder to be completed in 2006.² Although primarily designed to be responsive to the DOT corrective action orders, the project is also part of an ongoing program to replace and upgrade Columbia's mainline pipeline facilities. Because Line 1278 is Columbia's main transmission line in eastern Pennsylvania, it proposes to replace the pipeline sequentially in order to maintain gas flow and delivery obligations to its customers.

² Columbia has encountered delays in the environmental permitting process involving the U.S. Army Corps of Engineers, DOT, National Park Service, U.S. Fish and Wildlife Service, and the Pennsylvania Department of Environmental Protection.

7. The total cost of the replacement project and the related abandonment is estimated at \$86,526,300, which Columbia proposes to finance with funds generated from internal sources and through credit arrangements with its parent company, NiSource, Inc. Columbia requests rolled-in rate treatment for the project cost and asserts that the project satisfies the criteria for rolled-in rate treatment in the Commission's Certificate Policy Statement.³

II. Interventions

8. Notice of Columbia's application was published in the *Federal Register* on December 30, 2003, 66 Fed. Reg. 75,224 (2003). Timely motions to intervene were filed by the New York State Electric & Gas Corporation and Proliance Energy, LLC.⁴ No comments, protests or petitions to intervene in opposition were filed.

III. Discussion

9. Since the proposed facilities will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, Columbia's proposal to construct, operate, and abandon these facilities is subject to the requirements of subsections (b) (c) and (e) of section 7 of the NGA.

A. Certificate Policy Statement

10. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating new construction. The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explained that in deciding whether to authorize the construction of major new pipeline facilities, we balance 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

³*Certification of New Interstate Natural Gas Pipeline Facilities* (Certificate Policy Statement), 88 FERC ¶61,227 (1999), *order clarifying statement of policy*, 90 FERC ¶ 61,228, *order further clarifying statement of policy*, 92 FERC ¶ 61,094 (2000).

⁴Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.

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.

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

12. The threshold requirement is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Columbia asserts that the project will replace deteriorated and obsolete facilities, restore the original physical capability of the pipeline and allow Columbia to comply with the DOT corrective action orders. The Policy Statement provides that increasing the rates of existing customers to pay for projects designed to improve the reliability or flexibility of service for those existing customers is not a subsidy, and that the costs of the project may be rolled in.⁵ Therefore, we will approve rolled-in rates when Columbia files under NGA section 4 to recover the costs of the facilities proposed here, absent changed circumstances.

13. There will be no negative impact on Columbia's existing customers or existing pipelines and their customers. The project will have the beneficial effect of replacing an obsolete pipeline, thus assisting Columbia in maintaining service and enhancing reliability for the benefit of its customers. No customers will lose service as a result of the abandonment and replacement. Since the project does not include new service and affects only Columbia's system, there will be no adverse impact on other pipelines or their customers. Also, no other pipelines protested Columbia's application. Therefore, the project will not adversely affect either Columbia's existing customers or other pipelines or their customers.

⁵ See Certificate Policy Statement, 88 FERC ¶ 61,227 at 61,746; see also *Northwest Pipeline Corp.*, 104 FERC ¶61,176 at P 23 (2003).

14. The abandonment and replacement will have virtually no permanent landowner impact. Except for a 0.8 mile segment, where the pipeline would be relocated due to a Pennsylvania Department of Transportation road relocation project, the replacement pipeline would utilize Columbia's existing right-of-way. Columbia has obtained easements for nearly all (98.8 percent) of the parcels needed for work space and access to the right-of-way. Accordingly, the benefits of the proposal outweigh any potential adverse consequences, and Columbia's proposal to abandon deteriorated facilities and to construct and operate replacement facilities is required by the public convenience and necessity.

15. Review of Columbia's proposal indicates that the replacement of the 14-inch line with the 20-inch line will allow Columbia to maintain higher operating pressures and line pack which will enhance Columbia's operational flexibility. Because of the existing 14-inch pipeline will be replaced with 20-inch pipeline (consistent with the diameter of upstream facilities), the project will create a minor increase in capacity. However, the increase is in a very localized area of the system and is strictly incidental to the basic purpose of the project, which is to restore the historical design operating pressure. Installation of the 20-inch pipeline is necessary to maintain consistency with the pipeline diameter installed in upstream Line 1278 replacement projects.⁶ The 20-inch diameter replacement pipeline will also allow for more efficient pigging, consistent with DOT objectives.

B. Environment

16. On January 21, 2004 we issued a Notice of Intent to Prepare an Environmental Assessment (NOI). We received responses to the NOI from U.S. Fish and Wildlife Service, Terry L. Faul for the Charles E. Peters Estate Trust, U.S. Department of Health and Human Services (DHHS), National Park Service (NPS), and John Siptroth, for the Smithfield Township Board of Supervisors.

17. The NPS cooperated with our staff in the preparation of this EA because portions of the pipeline cross the Delaware Water Gap National Recreation Area (Water Gap) which is managed by the NPS. Since the project crosses the Appalachian Trail, an on-site meeting between the Water Gap staff and the Appalachian Trail unit managers was held on December 2, 2004 at the Appalachian Trail crossing site of the project. The EA addresses geology, soils, water resources, vegetation, wildlife, threatened and endangered

⁶ See, e.g., *Columbia Gas Transmission Corp.*, 64 FERC ¶ 61,028 (1993).

species, cultural resources, land use and recreation, visual resources, polychlorinated biphenols, air quality and noise, reliability and safety, environmental justice, and alternatives, including the “no action alternative.”

18. The Nature Conservancy Pennsylvania Chapter, the NPS, and the DHHS filed comments in response to the EA.⁷ The Nature Conservancy requested larger scale maps to determine whether the project would impact wetlands on Nature Conservancy property. Columbia responded that no Nature Conservancy easements would be affected and that it would provide the requested maps to the Nature Conservancy. The NPS clarified that, although the Water Gap staff is the primary point of contact for the project’s environmental analysis, the Director of the Northeast Regional Office of the NPS has the final decision-making authority. The NPS asked for more information on the “no-action” alternative, which staff provided directly to them, and NPS also asked whether Appalachian Trail unit managers were consulted. As noted above, the unit managers were consulted on December 2, 2004. Finally, the DHHS stated that it agreed with the EA’s conclusion that the project would not affect the quality of the human environment if the recommended mitigation measures were implemented.

19. Based on the discussion in the EA, we conclude that if replaced in accordance with Columbia's application, the NPS Statement of Findings for Wetlands, and supplements, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

20. 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 or operation of facilities approved by this Commission.⁸

⁷ The U.S. Geological Survey also filed a letter stating that it had no comments to the EA.

⁸ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *Columbia 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).

21. Columbia 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 Columbia. Columbia shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

22. At a hearing held on June 15, 2005, 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, as supplemented, submitted in support of the authorization sought.

The Commission Orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued authorizing Columbia to construct and operate the facilities as described above and conditioned herein and as more fully described in the application.

(B) Columbia shall comply with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c)(1), (c)(3), (c)(4), (e) and (g) of section 157.20 and Parts 154 and 284 of the Commission's regulations.

(C) Permission for and approval of the abandonment by Columbia of the subject facilities, as described above and in the application, are granted, subject to compliance with Part 157 of the Commission's regulations.

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

(E) The facilities authorized in this order shall be completed and made available for service within two years of the date of issuance of this order in compliance with section 157.2(b) of the Commission's regulations.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

Appendix Environmental Conditions

As recommended in the EA, this authorization includes the following conditions:

1. Columbia 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. Columbia must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission ;
 - 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 (Director) **before using that modification.**
2. The Director 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**, Columbia 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. 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**, Columbia shall file with the Secretary any revised detailed survey

alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by this order. All requests for modifications of environmental conditions of this order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

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

5. Columbia 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, and 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 **before construction** in or near that area.

This requirement does not apply to route variations required herein or extra workspace allowed by the Upland Erosion Control, Revegetation, and Maintenance Plan, 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 this certificate and before construction begins, Columbia shall file an initial Implementation Plan with the Secretary for review and written approval by the Director describing how Columbia will implement the mitigation measures required by this order. Columbia must file revisions to the plan as schedules change. The plan shall identify:
- a. how Columbia will incorporate these requirements into 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;
 - b. the number of environmental inspectors assigned per project area, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - c. company personnel, including environmental inspector sand contractors, who will receive copies of the appropriate material;
 - d. what training and instruction Columbia will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change), with the opportunity for OEP staff to participate in the training session(s);
 - e. the company personnel (if known) and specific portion of Columbia's organization having responsibility for compliance;
 - f. the procedures (including the use of contract penalties) Columbia will follow if noncompliance occurs; and
 - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (1) the completion of all required surveys and reports;
 - (2) the mitigation training of onsite personnel;
 - (3) the start of construction; and
 - (4) the start and completion of restoration.

7. Columbia shall employ at least one environmental inspector on its project. The environmental inspector shall be:
 - a. responsible for monitoring and ensuring compliance with all mitigative measures required by this order and other grants, permits, certificates or other authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract, see condition 5 above, and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of this order, and any other authorizing document;
 - d. a full-time position, separate for all other activity inspectors;
 - e. responsible for documenting compliance with the environmental conditions of this order, as well as any environmental conditions/permit requirements imposed by other Federal, state, or local agencies; and
 - f. responsible for maintaining status reports.

8. Columbia shall file updated status reports prepared by the head environmental inspector with the Secretary on a **weekly** basis **until** all construction-related activities, including restoration and initial permanent seeding, are complete on its project. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
 - a. the current construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmental sensitive areas;
 - b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector(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;
 - c. corrective actions implemented in response to all instances of noncompliance, and their cost;
 - d. the effectiveness of all corrective actions implemented;

- e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this order, and the measures taken to satisfy their concerns; and
 - f. copies of any correspondence received by Columbia from other federal, state, or local permitting agencies concerning instances of noncompliance, and Columbia's response.
9. Columbia must receive written authorization from the Director **before commencing service** on each segment of its project, respectively. Such authorization will only be granted following a determination that rehabilitation and restoration of the sites are proceeding satisfactorily.
 10. **Within 30 days of placing the certificated facilities in service**, Columbia shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the certificate conditions Columbia has complied with or will comply with. This statement shall also identify any areas along the ROW where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
 11. Columbia shall station its spill kits and appropriate containment for spill disposal near streams or wetlands during active construction at a stream or wetland and include a provision to notify the Delaware Water Gap National Recreation Area (DWGNRA) if spills occur within or upstream of the DWGNRA. Columbia shall revise its Spill Prevention, Containment, and Control Plan to include these recommendations.
 12. Columbia shall incorporate into its environmental training for its contractor and personnel a session focused on bog turtles, which includes life history, habitat preferences, and turtle identification.
 13. Columbia shall defer the replacement/relocation of Line 1278 in Pennsylvania, including use of all staging, storage, and temporary work areas, and new or to-be-improved access roads associated with those facilities **until**:

- a. the Advisory Council on Historic Preservation has been given the opportunity to comment on the project; and
- b. the Director notifies Columbia in writing that it may proceed with data recovery or construction.

All material filed with the Commission containing **location, character, and ownership** information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: **“CONTAINS PRIVILEGED INFORMATION – DO NOT RELEASE.”**