

122 FERC ¶ 61,242
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Iroquois Gas Transmission System, L.P.

Docket No. CP07-457-000

ORDER ISSUING CERTIFICATE

(Issued March 20, 2008)

1. On September 28, 2007, Iroquois Gas Transmission System, L.P. (Iroquois) filed an application under section 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity to construct and operate the 08/09 Expansion Project in New York and Connecticut.¹ The project consists of new pipeline looping and a new compressor station, as well as the expansion of an existing compressor station, which will enable Iroquois to provide 200,000 Dth/d of new transportation service to an affiliated shipper, KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island (KeySpan). Iroquois also seeks a predetermination that the project costs may be rolled into Iroquois' existing Eastchester Expansion Project rates in the first NGA section 4 rate case in which the Eastchester rates are subject to change, following the in-service date for

¹ On February 15, 2008, Iroquois filed a data response stating that it no longer needs to construct pipeline loop segments in Boonville and Wright, New York, as proposed in its application in order to provide project service to KeySpan. Iroquois further stated in its data response that the Commission has the option to remove the Boonville and Wright loops from Iroquois' application. However, Iroquois has not amended its application. In view of these considerations, the certificate issued by this order shall not include authorization for the pipeline loop segments in Boonville and Wright, New York.

the proposed facilities.² For the reasons discussed in this order, we will grant Iroquois the requested certificate authorization, as revised, and grant Iroquois' request for a predetermination of rolled-in rate treatment for the project costs in its next general NGA section 4 rate proceeding, absent a significant change in circumstances.

I. Background and Proposal

2. Iroquois conducted an open season for additional firm transportation service subscriptions on its system from September 13, 2006, until October 6, 2006. Following its open season, Iroquois and KeySpan executed a precedent agreement and a long-term firm transportation service agreement under which Iroquois will provide open-access firm transportation service to KeySpan under its existing Rate Schedule RTS (Reserved Transportation Service) in three phased quantities: firm transportation of 95,000 Dth/d on November 1, 2008 (Phase I construction), an additional 80,000 Dth/d of firm transportation on January 1, 2009 (Phase II construction), and the remaining 25,000 Dth/d on November 1, 2009 (Phase III construction). This additional firm capacity will extend from a primary receipt point at Brookfield, Connecticut, to a primary delivery point at South Commack, New York. The additional firm capacity corresponds to an additional 200,000 Dth/d of firm service that KeySpan has contracted upstream on Algonquin Gas Transmission, LLC (Algonquin) and Millenium Pipeline Company.³

3. Iroquois' initial application sought authorization to construct and operate: (1) 36-inch diameter pipeline looping in Boonville, New York (5.8 miles), Wright, New York (1.0 mile), and Newtown, Connecticut (1.6 miles) (Phase I, in-service November 1, 2008); (2) two 10,300 horsepower (hp) compressor units at a new compressor station in Milford, Connecticut (Phase II, in-service January 1, 2009); and (3) a 10,300 hp compressor unit and additional gas cooling facilities at the certificated Brookfield

² In Docket Nos. CP00-232-000 and -001, the Commission authorized Iroquois to construct and operate its Eastchester Extension Project, which consisted of 32.2 miles of pipeline and compression. *Iroquois Gas Transmission System, L.P.*, 95 FERC ¶ 61,335, *reh'g denied and certificate granted*, 97 FERC ¶ 61,379 (2001). In that proceeding, the Commission required Iroquois to recover the cost of the Eastchester Expansion through incremental rates, denying Iroquois' request for a predetermination that the costs could be rolled into its system rates in its next rate case. Pursuant to an uncontested rate settlement which modified the rates being paid by shippers using the Eastchester expansion capacity, Iroquois may not file, prior to July 1, 2011, a proposal to increase the Eastchester shippers' settlement rates to become effective before December 31, 2011. *Iroquois Gas Transmission System, L.P.*, 109 FERC ¶ 61,059 (2004).

³ *Millenium Pipeline Company, L.L.C.*, 117 FERC ¶ 61,319 (2006), *on reh'g*, 119 FERC ¶ 61,173 (2007).

compressor station in Brookfield, Connecticut⁴ (Phase III, in-service November 1, 2009). The estimated cost of the proposed facilities is \$163.7 million.

4. On February 15, 2008, Iroquois advised the Commission that it no longer needs to construct the proposed Boonville and Wright loops in order to provide project service to KeySpan.⁵ Removing these facilities from the project reduces the estimated cost from \$163.7 million to \$118.4 million.⁶ Iroquois explains that the capacity to be provided by the proposed Boonville and Wright loops is no longer necessary because the Commission, in an order issued on February 5, 2008, directed Iroquois to modify its MarketAccess Project service agreement with Consolidated Edison Company of New York (ConEdison) to delete a provision that would have afforded ConEdison certain primary receipt point flexibility not available to other shippers on its system. In order to provide such flexibility, Iroquois would have reserved 30,000 Dth/d of primary firm capacity on its system on a transportation path from Waddington, New York, to Brookfield, Connecticut.⁷ Iroquois states that the project will be able to provide up to 200,000 Dth/d of firm capacity to KeySpan without the Boonville and Wright loops.

5. Iroquois will provide firm transportation service under its existing Rate Schedule RTS and the applicable General Terms and Conditions of its FERC Gas Tariff, First Revised Volume 1. Iroquois proposes to use its currently approved Part 284 open-access RTS rates applicable to service on the Eastchester Expansion as the recourse rates for the proposed new service and to charge KeySpan a negotiated rate under Iroquois' tariff.

6. Iroquois requests a predetermination that the costs and billing determinants associated with the project may be rolled in with Iroquois' Eastchester Expansion costs and billing determinants in the first NGA section 4 rate proceeding at which the Eastchester rates are at issue after the in-service date of the project. Iroquois asserts that

⁴ *Millenium Pipeline Company, L.L.C., et al.*, 117 FERC ¶ 61,319 at P 65-73, 92 (2006) (MarketAccess Project). The Brookfield compressor station, now under construction, will allow Iroquois to receive natural gas from Algonquin. Iroquois expects the Brookfield compressor station to be placed in service by November 1, 2008.

⁵ Iroquois' data response at 2 (filed February 15, 2008).

⁶ Iroquois' data response (Revised Exhibit K) (filed February 28, 2008).

⁷ *See Iroquois Gas Transmission System, L.P.*, 122 FERC ¶ 61,102 (2008), *reh'g pending*.

its existing Eastchester and MarketAccess shippers⁸ will not subsidize the project and will receive a reduction in rates from the roll-in of these new facility costs and billing determinants. Iroquois also asserts that elimination of the costs of the Boonville and Wright loops from this application will increase the magnitude of the reduction in rates and the benefit to existing customers.⁹

II. Public Notice, Interventions, and Comments

7. Notice of Iroquois' application was published in the *Federal Register* on October 24, 2007 (72 Fed Reg. 60,334), with interventions, protests, or comments due on or before November 6, 2007. Timely interventions were filed by New York Public Service Commission, New Jersey Natural Gas Company, NJR Energy Services Company, KeySpan Delivery Companies, Consolidated Edison Company of New York, Inc., Connecticut Department of Environmental Protection, and Connecticut Natural Gas Corporation and Southern Connecticut Gas Company (Connecticut Companies), jointly.¹⁰ The Connecticut Companies' intervention included comments that Iroquois answered on November 20, 2007.

8. On December 4, 2007, the Town of Brookfield, Connecticut, filed a motion to intervene out-of-time including a protest. The Commission finds that granting the motion to intervene, filed less than 30 days out-of-time, will not delay, disrupt or otherwise prejudice this proceeding, or place an additional burden on existing parties. Therefore, for good cause shown, we will grant the late-filed motion to intervene pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure.¹¹

III. Discussion

9. Since the proposed facilities will be used to transport gas in interstate commerce subject to the jurisdiction of the Commission, the construction and operation of the

⁸ The Eastchester recourse rate is also the recourse rate for MarketAccess service. The Commission granted Iroquois' request for a predetermination that it may roll the costs of its MarketAccess facilities into its Eastchester rates in its next general section 4 proceeding applicable to the Eastchester rates. *Millenium Pipeline Company, L.L.C.*, 117 FERC ¶ 61,319 at P 92,108 and Ordering Paragraph (K).

⁹ Iroquois' data response at 2, n.4 (filed February 15, 2008).

¹⁰ Timely, unopposed motions to intervene are automatically granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(c) (2007).

¹¹ 18 C.F.R. § 385.214(d) (2007).

facilities are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

A. The Certificate Policy Statement

10. On September 15, 1999, the Commission issued a Policy Statement providing guidance as to how proposals for certificating new construction will be evaluated.¹² 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, and the avoidance of the unnecessary exercise of eminent domain or other disruptions of the environment.

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 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, 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. In determining the impact that rolled-in pricing for a project would have on a pipeline's existing customers, the Commission calculates the projected project revenue using the pipeline's applicable maximum recourse rate, irrespective of whether it intends to negotiate rates with its shippers. This approach protects the existing customers from potential cross-subsidization in that, if the negotiated rate is lower than the maximum recourse rate, the pipeline would bear the responsibility for any revenue shortfall.

1. Subsidization

13. Iroquois proposes to use its existing Eastchester recourse rates as the recourse rates for services using the 200,000 Dth/d of capacity that will be created by this

¹² *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

proposed project.¹³ Our review of Revised Exhibit Z-1¹⁴ shows that, if the 200,000 Dth/d of additional capacity were contracted for at the Eastchester recourse rate, the annual revenues for each of the first three years of service would exceed the project's annual cost of service. Specifically, the recourse rates would result in net project revenues of \$16,739,645 in the first year of service, \$26,334,639 in the second year of service, and \$26,987,836 in the third year of service.¹⁵ In addition, our review of Revised Exhibit Z-2 demonstrates that the annual incremental fuel retained from the new customers would exceed the annual fuel costs for the new compressors by \$72,588.¹⁶

14. Since the revenues which would be generated by providing project service at the proposed recourse rates would exceed the project's associated cost of service, there will be no subsidization of the project's costs by Iroquois's existing shippers. Further, absent changed circumstances, rolled-in rate treatment for these costs would benefit existing customers by reducing their rates. Thus, we grant Iroquois' request for a predetermination supporting rolled-in rate treatment for the costs of the project in its next general NGA section 4 rate proceeding revising Eastchester rates, absent a significant change in circumstances.

15. To ensure that all parties have full knowledge of the costs and revenues attributable to the project, we will require Iroquois to account for the construction and operating costs and revenues separately in its next NGA section 4 rate proceeding. With such information, the parties and the Commission can evaluate the costs of the project and be able to identify any change in material circumstances that may warrant a re-examination of rolled-in rate treatment. Iroquois states that risks associated with any project cost overruns have been allocated between it and KeySpan in the negotiated rate agreement between KeySpan and Iroquois. Iroquois states that the terms of the agreement are currently confidential, but will be made public before service commences.

¹³ As noted above, pursuant to an uncontested rate settlement, Iroquois may not file, prior to July 1, 2011, a proposal to increase the Eastchester shippers' settlement rates to become effective before December 31, 2011. *Iroquois Gas Transmission System, L.P.*, 109 FERC ¶ 61,059 (2004).

¹⁴ Iroquois data response (Revised Exhibit Z-1) (filed February 28, 2008).

¹⁵ The volumes and revenues remain the same as in the original application. Cumulative revenues would have exceeded the cost of the project as originally proposed by \$47,550,886 over the first three years of service. Elimination of the Boonville and Wright loops increases the cumulative revenues over costs over the first three years of service to \$70,062,120 (or an additional \$22,511,234 net benefit over three years of service).

¹⁶ This is the same net fuel benefit as contained in the original application.

However, if significant cost overruns occur, such an event would constitute a changed circumstance warranting a reconsideration of the roll-in predetermination.¹⁷

2. Benefits and Impacts

16. The project will increase Iroquois' ability to receive natural gas supplies from Algonquin Gas, which provides an alternative to the current TransCanada Pipelines Ltd. (TransCanada) Canadian border interconnection. The additional supply security will mitigate supply or operational constraints upstream of Iroquois on TransCanada's system or upstream of the Brookfield compressor on Iroquois' system.

17. The project will not adversely affect other pipelines and their captive customers. The project shipper, KeySpan, will be receiving an expansion of its current load and will not shift load from any other pipeline. The residential natural gas market in the New York City area is projected to increase and the project will help meet that demand.

18. Iroquois' proposal minimizes the impact on landowners and the environment. Looping will be constructed within or adjacent to existing rights-of-way. The two compressor installations will be constructed on property owned by Iroquois. Minimal tree clearing will take place at the compressor station installations. For the construction of looping, Iroquois will use existing right-of-way during construction to reduce construction work space requirements.

19. One landowner along the proposed Newtown loop, Mr. Eric Chanko, filed comments. Mr. Chanko expressed concern regarding tree clearing between his parcel and the existing right-of-way. Iroquois owns about 1 mile of land adjacent to the proposed 1.6-mile-long Newtown loop; therefore, landowner easements for both construction and operation are limited to a total of about a 0.6-mile-long segment that is not currently owned by Iroquois. Mr. Chanko's property is immediately adjacent to Iroquois' proposed construction right-of-way, but is not directly affected by the proposed construction. After considering Mr. Chanko's concern, this order includes Environmental Condition No. 13, which requires Iroquois to develop a landscaping and site screening plan for this area.¹⁸

B. Recourse/Negotiated Rates

20. Iroquois proposes to use its currently approved Part 284 rates for service on the Eastchester Expansion as the recourse rates for the capacity that will be created by the

¹⁷ See, e.g., *Northern Border Pipeline Company*, 90 FERC ¶ 61,263 at 61,877 (2000).

¹⁸ See Environmental Assessment (EA) at 32 and 33 (January 4, 2008).

project for proposed new service to KeySpan.¹⁹ Iroquois asserts that this approach is consistent with Iroquois' approach in its MarketAccess Project, which the Commission approved.²⁰

21. The Eastchester RTS demand rate is \$19.3146 per Dth, and the Eastchester RTS commodity rate is zero. The Eastchester RTS interruptible rate is \$0.6350 per Dth.²¹ We will approve the Eastchester Part 284 rates as the initial recourse rates.

22. Iroquois proposes to charge KeySpan a negotiated rate for transportation service. Section 32 of Iroquois General Terms and Conditions authorizes Iroquois to enter into negotiated rate agreements. All service agreements containing a negotiated rate must comply with the Commission's Negotiated Rate Policy Statement²² and the decision in *NorAm Gas Transmission Company (NorAm)*.²³ Consistent with *NorAm*, Iroquois must file either its negotiated rate agreements or numbered tariff sheets at least 30, but not more than 60, days prior to the commencement of service using the expansion facilities. If the negotiated rate agreements are non-conforming service agreements, Iroquois must file the non-conforming agreements and clearly delineate the differences between the non-conforming rate agreements and its pro forma service agreement in redline and strikeout. If Iroquois files numbered tariff sheets, it must state, for each shipper paying a negotiated rate, the exact legal name of the shipper, the negotiated rate, the applicable receipt and delivery points, the volume to be transported, any formula upon which the negotiated rate is designed, the beginning and ending dates of the contract term, and a statement that the agreements conform in all material respects with the pro forma service agreements in Iroquois' FERC Gas Tariff.

23. Iroquois must also disclose all consideration linked to the agreements and, as noted above, 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

¹⁹ Substitute First Revised Sheet No. 4C, FERC Gas Tariff, First Revised Volume No. 1.

²⁰ *Millenium Pipeline Company, L.L.C., et al., L.P.*, 117 FERC ¶ 61,319, at P 92, 108 (2006).

²¹ Substitute First Revised Sheet No. 4C, FERC Gas Tariff, First Revised Volume No. 1.

²² *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines*, 74 FERC ¶ 61,194 (1996); *modification of Negotiated Rate Policy*, 104 FERC ¶ 61,134 (2003), *on reh'g*, 114 FERC ¶ 61,042 and 114 FERC ¶ 61,304 (2006).

²³ 75 FERC ¶ 61,091, *order on reh'g*, 77 FERC ¶ 61,011 (1996).

in any future NGA section 4 or 5 rate proceeding. Such a procedure will protect its recourse rate shippers against inappropriate cost-shifting with negotiated rates and discount adjustments.

C. Engineering Review

24. The Commission's staff has performed an engineering analysis which confirms that Iroquois has properly designed its system to increase its capacity by 200,000 Dth/d, in three phases, in order to provide KeySpan with its contracted firm transportation service. Iroquois' new service to KeySpan will not adversely affect Iroquois' ability to maintain its existing contractual obligations at appropriate pressure levels.

25. At Southern Connecticut's Milford delivery point interconnection with Iroquois, there is an existing straddle of Iroquois' mainline valve which permits gas flows from either the North or South of that valve in the event Iroquois had to close the valve because of an emergency. The Connecticut Companies assert that construction of the proposed Milford compressor station will eliminate that straddle and that the Connecticut Companies would lose their supply flexibility. In reply, Iroquois states that it is not proposing to eliminate the straddle on its mainline valve, which will continue to be able to provide an alternative supply source after construction of the Milford compressor station. The Connecticut Companies do not dispute Iroquois' clarification which we find sufficiently addresses the Connecticut Companies' concern.

26. The Connecticut Companies assert that the Commission should require Iroquois to relocate the existing Milford meter to the discharge side of the proposed Milford compressor station (instead of the proposed suction side) to enable the Connecticut Companies to take gas at a higher pressure and thus improve their operations.²⁴ Iroquois answers, however, that since the Connecticut Companies are not project shippers, they will not be paying for the Milford compressor station and should not receive a direct benefit from its operation.

27. The Connecticut Companies also allege that construction of the Milford compression station and system reconfiguration will significantly reduce pipeline operating pressures at the Milford delivery point to below levels currently experienced under the Eastchester expansion. In reply, Iroquois states that after construction of the Milford compressor station, the design day operating pressure at the Milford delivery

²⁴ The design pressure at the discharge side of the proposed Milford compressor station is approximately 1,230 psig.

point will be nearly identical to the design day operating pressures prior to Iroquois' construction of the Eastchester facilities.²⁵

28. While Iroquois does not dispute that the pressure under design day conditions at the Milford delivery point will be reduced from the current pressure based on Eastchester facilities, Iroquois asserts that the pressure resulting from the project at the Milford delivery point will be nearly identical to the pressure at that delivery point prior to the Eastchester construction. Iroquois also points out that the Connecticut Companies benefited from the Eastchester facilities without participating in that expansion and, thus, are not entitled to a continuation of the same Eastchester pressure levels.

29. The Commission finds that there is no evidence that the proposed design pressure at the Milford delivery point will be lower than Southern Connecticut's system operating pressure at Milford or that the design pressure will have adverse effects on Iroquois' service to the Connecticut Companies at the Milford delivery point. In any event, Southern Connecticut does not assert any reduction in pressure would violate the terms of its service agreements with Iroquois. Under these circumstances, we will not require that Iroquois relocate the existing Milford meter or take other measures to ensure maintenance of current pressure levels at the Milford delivery point.

D. Environmental Review

30. On May 22, 2007, the FERC issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Iroquois 08/09 Expansion Project and Request for Comments on Environmental Issues and Notice of Site Visit* (NOI). In response to the NOI and previously issued Notice of Application, we received 12 letters with environmental comments.

1. Comments in Response to the NOI

31. The comments were submitted by five individuals, the U.S. Department of the Army, Corps of Engineers (USACE), three state agencies (New York Department of Agriculture and Markets [NYSDAM], the New York Department of Transportation, and the Connecticut Department of Environmental Protection [CTDEP]), the Connecticut Attorney General, the Connecticut General Assembly, and the Governor of Connecticut.

²⁵ Iroquois states that the design operating pressure at the Milford delivery point prior to the construction of the Eastchester Expansion Project was 746 psig for both summer and winter conditions. After Eastchester, Iroquois' current pressure at the Milford delivery point under design day conditions is approximately 950 psig. The Milford delivery point, on the suction side of the proposed Milford compressor station will have design operating pressures under the revised project of approximately 740 and 760 psig for summer and winter conditions, respectively.

In addition, a total of 17 individuals commented at the public meetings held in Milford and Brookfield, Connecticut on June 18 and June 19, 2007, respectively.

32. To satisfy the requirements of the National Environmental Policy Act (NEPA), our staff prepared an environment assessment (EA) which was issued and placed in the record on January 4, 2008.²⁶ The analysis in the EA included the project's purpose and need, geology, soils, water resources, wetlands, vegetation, fish and wildlife, federally listed species, land use, recreation, visual resources, cultural resources, air quality and noise, safety, socioeconomics, cumulative impacts, and alternatives. The EA also addressed all substantive comments from individuals, agencies, and local authorities who either attended the public meetings or provided written comments.

33. The majority of issues identified during the public scoping process pertain to the Brookfield compressor station expansion site, including air and noise quality, safety, and aesthetics. Similar issues were raised and evaluated during the NEPA review conducted for the original certification of Iroquois' Brookfield compressor station.²⁷ The Brookfield compressor station is currently under construction, and it is expected to begin operation by November 1, 2008.

34. The certificated Brookfield compressor station under construction is located on a 65-acre site owned by Iroquois that includes an existing meter station and three existing natural gas pipeline rights-of-way (Iroquois' existing 24-inch-diameter mainline, and Algonquin's existing 26-inch and 30-inch pipelines). Although the site is currently zoned residential, it was historically used for gravel processing/asphalt production. The certificated Brookfield compressor station footprint will occupy an area of 1.37 acres within the 65-acre site. The project would increase the footprint of the station facilities by less than one-half acre, to a total of 1.8 acres. Construction of the compressor station expansion would affect about 2.46 acres. Iroquois plans to maintain the remainder of the 65-acre site as a buffer zone, consisting of forest land and wetlands.

35. The EA concludes that the effects of the Brookfield compressor station expansion, combined with the previously certificated compressor station facilities at this site, would result in limited air quality, noise quality, safety, and visual impacts for the following reasons: (1) Iroquois would comply with the federal and state air quality regulations to ensure that operation of the station does not result in significant air quality impacts; (2) Iroquois' proposed noise mitigation and our staff's recommended noise requirements in Environmental Condition No. 15 would ensure that the noise levels resulting from the entire compressor station do not significantly impact residences surrounding the 65-acre

²⁶ On January 14, 2008, the U.S. Environmental Protection Agency published a Notice of Availability of the EA in the *Federal Register*.

²⁷ 117 FERC ¶ 61,319 (2006).

parcel; (3) Iroquois' proposal includes safety and security measures that exceed the U.S. Department of Transportation's Minimum Federal Safety Standards in Part 192; and (4) Iroquois has committed to revise its landscaping plan, in consultation with the Town of Brookfield, to screen the viewshed of the certificated compressor station and to address any additive visual impact resulting from the proposed expansion.

2. Comments on the EA

36. The EA comment period ended on February 4, 2008. We received nine timely-filed environmental comment letters in response to the EA from the Saint Regis Mohawk Tribe, the U.S. Fish and Wildlife Service (FWS), the U.S. Environmental Protection Agency (EPA), NYSDAM, CTDEP, the Town of Brookfield (Brookfield), a joint letter from Congressman Christopher S. Murphy and Senator Joseph I. Lieberman, Town of Brookfield resident Kerry Brooks Swift (Ms. Swift), and from Iroquois.

37. Both the EPA and Iroquois concur with the findings in the EA. On February 15, 2008, Iroquois also submitted responses to the other comments. Brookfield and Iroquois recommended several minor modifications/corrections to the EA which were either editorial in nature or provided clarification to general statements incorporated from Iroquois' application. Because NYSDAM's comments were limited to issues along the withdrawn Boonville and Wright Loops, they are no longer relevant and not described herein. We address the remaining comments below.

38. In response to a request from the Saint Regis Mohawk Tribe, Iroquois has agreed (in its comments on the EA) to provide the Tribe with courtesy copies of the Phase II evaluation reports for the Kelly I and Kelly II prehistoric archaeological sites.

39. The FWS, New York Field Office, generally indicated that the EA addressed both the consultation requirements pursuant to the Endangered Species Act and impacts associated with streams and wetlands. The FWS provided three recommendations regarding the restoration of affected waterbodies and wetlands which are already part of the required mitigation measures outlined in the Commission's Wetland and Waterbody Construction and Mitigation Procedures (Procedures). The FWS further recommends compensation mitigation in the form of palustrine forested wetland creation at a ratio of 1:1 for forested wetlands converted to other wetland types, with monitoring of created forested wetlands for at least 10 years.

40. The EA has fully addressed potential wetland and aquatic resource impacts associated with construction and operation of the Iroquois' proposed expansion, including impacts associated with stream banks, in-stream work activities, and hydrostatic testing. Further, the EA adequately considered practical, appropriate, and reasonable measures to avoid or minimize project-related impacts on wetland resources to the maximum extent practicable. To mitigate for unavoidable impacts on these resources, this order requires Iroquois in Environmental Condition No. 11 to develop a

final compensatory wetland mitigation plan in consultation with the appropriate resource agencies. When this plan is finalized and approved, the Commission will ensure through its compliance program that Iroquois implements the plan. Based on the findings in the EA, we conclude that implementation of the Iroquois' proposed mitigation and the attached environmental conditions will ensure that the project does not result in significant wetland and aquatic resource impacts. We believe that Iroquois' implementation of both the Procedures and Environmental Condition No. 11 adequately addresses the FWS' recommendations.

41. The CTDEP generally concurs with the findings in the EA, but provided three post-construction recommendations for the public lands crossed by the proposed Newtown Loop within the Paugussett State Forest. The CTDEP's recommendations include requiring Iroquois to post state property boundary signs, explore methods to deter off-road vehicles along the right-of-way, and implement measures to address the existing erosion problems caused by increased off-road vehicle use since the installation of Iroquois' existing 414-mile-long mainline pipeline.

42. The EA describes Iroquois' proposal which includes the mitigation measures outlined in the Commission's Upland Erosion Control, Revegetation, and Maintenance Plan (Plan) and Procedures. The Plan requires Iroquois to implement measures to control unauthorized off-road vehicle use in cooperation with the landowner by installing and maintaining signs, gates, and vehicle trails as necessary. In addition, Iroquois' implementation of the Plan requires restoration and post-construction measures to ensure that the construction right-of-way is properly restored and stabilized to prevent erosion. In its February 15, 2008 filing, Iroquois agreed to both meet with the CTDEP staff to address the above-stated concerns and to implement the recommended measures. Therefore, Iroquois' easement negotiations with the CTDEP and its implementation of the Plan within the Paugussett State Forest will adequately address CTDEP's above-stated recommendations. In addition, the Commission will routinely conduct compliance inspections during construction and restoration of the Newtown Loop to ensure that Iroquois properly restores the construction right-of-way, establishes off-road vehicle controls, and installs signs to control unauthorized vehicle access to the right-of-way.

Comments regarding the Brookfield Compressor Station Expansion

43. Similar to comments received during the public scoping period, the majority of the comments on the EA were related to the Brookfield compressor station expansion. Brookfield, Congressman Murphy, Senator Lieberman, and Ms. Swift expressed opposition to expansion of the compressor station based on the project's potential to impact groundwater, air quality, and public health and safety.

1. Aquifer and Groundwater Impacts

44. Brookfield contends that the EA failed to address potential operational impacts of the compressor station on Brookfield's primary aquifer and that the proposed expansion is inconsistent with Brookfield's Aquifer Protection Zone regulations. Brookfield is specifically concerned with the hazardous materials that could be stored at the site during operation. Brookfield notes that the EA did not discuss requirements for storage, containment, or a Spill Prevention, Containment, and Countermeasure Plan (SPCC) for operations.

45. Regarding potential impact on groundwater and the locally-designated aquifer, the EA concluded that the implementation of the Plan and Procedures and Iroquois' SPCC Plan would adequately minimize impacts on groundwater resources in the project area. The certificated Brookfield compressor station site is not located within a wellhead protection area, and the proposed expansion facilities are located over 400 feet from any public drinking water supply wells. The only existing private water supply well within 250 feet of the site is located about 100 feet from the station property. Iroquois has agreed to offer to conduct pre- and post-construction testing of private water wells within 150 feet of the construction work areas. If it is determined that any private water supply well is damaged as a result of the project, a temporary source of water will be provided until the damaged supply well is restored to its former capacity.

46. Iroquois has stated that it would adhere to all guidelines and prohibitions in the Town of Brookfield's Zoning Regulations to protect groundwater resources, so long as those guidelines and prohibitions are consistent with the Commission's authorization. Brookfield correctly states that the draft SPCC Plan provided in Iroquois application primarily applies to construction of the facility, and does not specifically apply to the operation and maintenance of the facility.

47. In its February 15, 2008 response to comments, Iroquois stated that it will develop a site-specific Emergency Preparedness Procedure and Spill Prevention, Control and Countermeasures Plan that includes operational safeguards. In accordance with our Procedures, these plans must be prepared in compliance with the EPA's requirements and must be available at the construction site. These plans will include spill response procedures and containment measures for the storage of all hazardous materials at the site. Implementation of these plans will significantly reduce the potential for introduction of chemical contamination, such as fuel and lubricants, into the groundwater/aquifer in the immediate vicinity of the site during construction and operation. Similar to the Commission's conclusion in the MarketAccess proceeding, we find that construction and operation of the Brookfield compressor station expansion is not expected to adversely affect groundwater quality.

48. In consideration of Brookfield's concerns regarding the proper containment and spill clean-up procedures of hazardous materials stored during operation of the station,

we believe that placing Iroquois' operational plans in the public record is appropriate for the review of interested stakeholders. Therefore, this order requires Iroquois in Environmental Condition No. 17 to file its site-specific Emergency Preparedness Procedure and Spill Prevention, Control and Countermeasures Plan prior to construction.

49. Brookfield expressed concern that discharge of the hydrostatic test water associated with construction of the Brookfield compressor station expansion could impact water quality and the town's drainage system. Iroquois is required, however, to implement the hydrostatic discharge protective measures outlined in the Procedures and is required to obtain a permit from the CTDEP for its hydrostatic test water discharge. The Procedures require that Iroquois regulate the hydrostatic discharge rate, use energy dissipation device(s), and install sediment barriers to prevent erosion, suspension of sediments, or excessive streamflow. We believe that these requirements will adequately ensure that Iroquois' hydrostatic test water discharges protect water quality and prevent the town's drainage system from being overwhelmed.

50. Brookfield, Congressman Murphy and Senator Lieberman expressed concerns associated with Algonquin's natural gas filtering process at the existing meter station adjacent to the Brookfield compressor station site. Algonquin's filtering facilities are being constructed in conjunction with the MarketAccess Project and are outside of the scope of this proceeding. However, the Commission thoroughly reviewed the groundwater-related issues associated with the MarketAccess Project and found that construction and operation of the approved facilities would not adversely affect groundwater quality.

51. Brookfield recommends that the Commission require Iroquois to provide the Commission, the CTDEP, and the Brookfield Wetlands Enforcement Officer with test results from all well monitoring within 300 feet of the area to be disturbed during construction and operation of the facility. As part of a voluntary clean-up program with the CTDEP, Iroquois has previously agreed to a groundwater monitoring program at the Brookfield compressor station site in compliance with conditions associated with Iroquois' MarketAccess facilities.

52. To address Brookfield's concern, Iroquois agreed to monitor groundwater around the site for an additional two years beyond the date requested by the CTDEP and to provide the monitoring results to the Brookfield Wetlands Enforcement Officer. In consultation with the CTDEP, Iroquois is actively implementing a remediation project at the site to address the handling of waste materials encountered during construction of the compressor station. Further, Iroquois' remediation plan for construction of the certificated Brookfield Compressor Station includes groundwater management measures it is currently following and would continue to implement during construction of the compressor station expansion. We find Iroquois' efforts to remediate the site under the MarketAccess proceeding and its agreements to monitor groundwater at the site, which will be overseen by the CTDEP, sufficiently address Brookfield's request.

2. Air Quality Impacts

53. Brookfield and Ms. Swift expressed air quality impact concerns associated with the proposed facility expansion due to the complex topography of the site area and the proximity of the Whisconier Middle School. Specifically, Brookfield and Ms. Swift stated that Iroquois' air quality monitoring failed to consider the complex terrain of the surrounding area and meteorological data. Brookfield recommends that the Commission require that the Brookfield compressor station expansion comply with the CTDEP requirements for an air permit.

54. The EA thoroughly addressed air quality at the proposed Brookfield compressor station expansion site. An ambient air quality impact analysis was performed in accordance with the CTDEP guidance provided in its "Ambient Impact Analysis Guideline" and EPA's "Guideline on Air Quality Models." Iroquois' dispersion modeling performed under both CTDEP's and EPA's models assessed air quality impacts in complex terrain (i.e., receptor locations and terrain elevations) including use of meteorological data. In accordance with the Clean Air Act of 1970, as amended,²⁸ the CTDEP is reviewing the air permit application filed by Iroquois. CTDEP's air quality permit is required prior to any construction of the compressor station expansion.

3. Safety

55. Brookfield, Ms. Swift, Congressman Murphy, and Senator Lieberman object to siting the compressor facilities at the proposed location due to its close proximity to the Whisconier Middle School. As indicated in the EA, the school property abuts Iroquois' 65-acre site and the edge of the school property is about 2,000 feet from the center of the planned compressor station building. The commenters contend that the EA failed to adequately address the maximum operating pressures within the proposed facility and failed to adequately address the Potential Impact Radius analysis at the site. However, the EA analysis of safety does include a thorough consideration of the maximum operating pressures of the proposed compressor station facilities and the potential impact radius. Based on our independent analysis at the site, the combined potential impact radius of operating all three pipelines (Iroquois existing 24-inch-diameter mainline and Algonquin's 26-inch- and 30-inch-diameter pipelines) is 972 feet, at the maximum operating pressures. The EA concluded, therefore, that the proposed compressor station expansion would not result in any incremental safety risks to students at the middle school.

56. The EA found that construction and operation of the project would not result in a significant hazard to the public. As described in section B.7 of the EA, the pipeline loop and aboveground facilities associated with the project would be designed, constructed,

²⁸ 42 U.S.C. §7401, *et seq.*

operated, and maintained in accordance with the U.S. Department of Transportation Minimum Federal Safety Standards in Title 49, Part 192 of the Code of Federal Regulations. These regulations are intended to ensure adequate protection for the public and to prevent natural gas facility accidents and failures.

57. Brookfield and Ms. Swift recommend requiring Iroquois to provide an emergency plan that includes evacuation procedures for the Whisconier Middle School. In compliance with the MarketAccess certificate, Iroquois already is developing a communication plan for the Brookfield compressor station to be included into Brookfield's existing emergency response plan. In compliance with Environmental Condition No. 7 of the original order authorizing the Brookfield compressor station, Iroquois is required to establish a protocol pursuant to the communication plan to notify the school and the nearby residents regarding any emergency situation that could have off-site consequences.²⁹ Based on Iroquois' ongoing discussions with Brookfield, Iroquois anticipates finalizing the communication plan prior to construction of the expansion and is required to file a copy of the plan for Commission review and approval. Iroquois will incorporate the resulting communication plan into its existing emergency plan developed in compliance with Part 192 of the U.S. Department of Transportation Minimum Federal Safety Standards.

58. Brookfield expressed concern that the EA failed to address potential impacts resulting from a fire event which could release by-products from hazardous materials stored at the site. While the EA did not specifically address the potential release of by-products due to a station fire, we note that the EA thoroughly addressed public safety including Iroquois' fire emergency procedures. As noted in the EA, the proposed compressor would be equipped with a hazardous gas and fire detection alarm system, a compressor unit enclosure fire suppression system, and emergency equipment shut down system. These safety and emergency systems would sufficiently minimize any potential release of hazardous by-products resulting from a station fire.

4. Site Moratorium

59. Brookfield, Congressman Murphy, and Senator Liebeman request that the Commission require a moratorium on additional expansion at the compressor station site. Iroquois' Brookfield compressor station site is 65 acres. The compressor facilities, including the project, will occupy only 1.8 acres. The remaining 63.2 acres would be maintained as a buffer zone, which primarily consists of forest land and wetlands. Iroquois has also stated that it is amenable to considering deed restrictions to preserve a buffer zone between Iroquois' facilities and the Whisconier Middle School; however, it is opposed to precluding future facilities at the site.

²⁹ *Iroquois Gas Transmission System, L.P.*, 101 FERC ¶ 61,131 (2002).

60. As indicated in the EA, any future expansion of the Brookfield compressor station would require review from the appropriate regulatory authorities. We will not prohibit, without specific consideration, additional expansion at the site. However, we have added Environmental Condition No. 18 to require Iroquois to update the Commission on the status of its consultation with Brookfield regarding the deed restrictions under negotiation to preserve a buffer between Iroquois' Brookfield compressor station and the Whisconier Middle School.

61. Based on information provided by Iroquois and further developed by field investigations, literature research, alternative analyses, and contacts with federal, state, and local agencies and individual members of the public, our staff determined in the EA that construction and operation of the project will result in limited adverse environmental impact. Most of the limited impacts associated with the proposed project would be short-term and construction-related. This conclusion is also based on Iroquois' proposed mitigation measures and our staff's recommended mitigation measures attached to this order.

62. As a result of our removal of the proposed Boonville and Wright loops based on Iroquois' statement in its February 15, 2008 filing that the loops are no longer needed, two of the recommended conditions in the EA that specifically applied to those loops are no longer required. For the same reason, the EA's recommended Environmental Conditions 7, 12, and 14 have been revised.

63. 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.³⁰

64. We have reviewed the information and analysis contained in the EA regarding the potential environmental effect of the project and find that the EA adequately satisfies NEPA requirements. Based on our consideration of this information, we agree with the conclusions presented in the EA that Iroquois' project would not constitute a major federal action significantly affecting the quality of the human environment. This conclusion is based on the construction and operation of the project in accordance with Iroquois' proposed mitigation and the recommended environmental mitigation measures in the Appendix to this order. Thus, we are including the environmental mitigation

³⁰See, 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.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

measures recommended in the EA, with the exceptions noted previously, as conditions to the authorization issued to Iroquois in this order.

IV. Conclusion

65. For the reasons discussed above, the Commission concludes that Iroquois' proposal to construct and operate the project, as described herein, is required by the public convenience and necessity.

66. At the hearing held on March 20, 2008, 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 upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Iroquois authorizing it to construct and operate the 08/09 Expansion Project as described herein and in the application, *provided that* this certificate shall not include authorization for the proposed 5.8-mile loop segment in Boonville, New York, or the proposed 1.0-mile loop segment in Wright, New York.

(B) Iroquois shall construct and make available for service the facilities authorized within two years from the date of this order in accordance with section 157.20(b) of the Commission's regulations.

(C) The certificate issued to Iroquois is conditioned on its compliance with the Natural Gas Act and all relevant Commission regulations, in particular with Part 154 and paragraphs (a), (c), (e) and (f) of section 157.20 of the regulations.

(D) Iroquois must file any non-conforming negotiated rate agreements or numbered tariff sheets at least 30, but not more than 60, days prior to the commencement of service using the expansion facilities, as discussed in the body of this order.

(E) Iroquois must maintain separate books and records for transportation associated with the project, as discussed in the body of this order.

(F) Iroquois' request to use the existing Eastchester rates as the project initial recourse rates is granted.

(G) Iroquois' request for a predetermination favoring rolled-in rate treatment for the costs of the project in its next general NGA section 4 rate proceeding at which the Eastchester rates are at issue is granted, barring a significant change in circumstances, as discussed in the body of this order.

(H) The certificate issued in Ordering Paragraph (A) above is conditioned on Iroquois' compliance with the environmental conditions included in the Appendix to this order.

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

(J) The Town of Brookfield's motion to intervene out-of-time is granted pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix Environmental Conditions

1. Iroquois 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 environmental assessment (EA), unless modified by this Order. Iroquois 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 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, Iroquois 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**, Iroquois 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. Iroquois' exercise of eminent domain authority granted under the Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to this Order must be

consistent with these authorized facilities and locations. Iroquois' 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. Iroquois shall file with the Secretary, detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route alignments 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 of OEP **before construction** in or near that area.

This requirement does not apply to extra workspace allowed by the Upland Erosion Control, Revegetation, and Maintenance Plan or minor field realignments per landowner needs or to requirements that do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. At least 60 days before the start of construction, Iroquois shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP, describing how it will implement the mitigation measures required by this Order. Iroquois must file revisions to the plan as the schedule changes. The plan shall identify:
 - a. how Iroquois 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;

- b. the number of environmental inspectors assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - c. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;
 - d. what training and instructions Iroquois 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 Iroquois' organization having responsibility for compliance;
 - f. the procedures (including use of contract penalties) Iroquois will follow if noncompliance occurs; and
 - g. 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 mitigation training of onsite personnel;
 - iii. the start of construction; and
 - iv. the start and completion of restoration.
7. Iroquois shall employ a minimum of one environmental inspector for the proposed facilities in Connecticut. 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 6 above) and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of this Order, and any other authorizing document;
 - d. a full-time position for the pipeline loop spread and full or part-time for the compressor station spreads (dependent upon the level of construction activity), separate from all other activity inspectors;
 - e. responsible for documenting compliance with the environmental conditions of this Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - f. responsible for maintaining status reports.
8. Iroquois shall file updated status reports prepared by the lead environmental inspector with the Secretary on a **bi-weekly** basis **until** all construction-related activities, including restoration and initial permanent seeding, 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. the current 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;
 - 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 its 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 the concerns; and
 - f. copies of any correspondence received by Iroquois from other federal, state or local permitting agencies concerning instances of non-compliance, and the company's response.
9. Iroquois must receive written authorization from the Director of OEP **before commencing service** from each segment of the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas of project-related disturbance are proceeding satisfactorily.
10. **Within 30 days of placing the certificated facilities in service**, Iroquois shall file an affirmative statement with the Secretary, certified by a senior company official:
- a. that the facilities have been constructed and installed 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 Iroquois has complied with or will comply with. This statement shall also identify any areas along the right-of-way where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. Iroquois shall consult with the United States Army Corps of Engineers and the Connecticut Department of Environmental Protection regarding its compensatory wetland mitigation plan. The plan should include details regarding the amount, location, and types of mitigation proposed; specific performance standards to measure the success of the mitigation; and remedial measures, as necessary, to

ensure that compensatory mitigation is successful. Iroquois shall file the compensatory wetland mitigation plan with the Secretary **prior to construction**.

12. **Prior to construction**, Iroquois shall file with the Secretary documentation of concurrence from the Office of Long Island Sound Program that the Milford Compressor Station is consistent with the Connecticut State Coastal Zone Management Program.
13. Iroquois shall develop a landscaping and site screening plan, in consultation with the City of Newtown, for the proposed tie-in valve located at milepost 0.0 on the Newtown Loop. The plan shall include specific measures to minimize visual impacts of the tie-in valve including a vegetative buffer around the valve and associated fencing. Iroquois shall file a copy of this landscaping and site screening plan and any comments received from the City of Newtown for review and written approval by the Director of OEP **prior to construction of the Newtown Loop**.
14. Iroquois shall defer implementation of any cultural resource treatment plan or measure (including archaeological data recovery), construction and use of facilities and staging, storage, and temporary work areas or new or to-be-improved access roads on the Newtown Loop **until**:
 - a. Iroquois files with the Secretary all additional required cultural resources survey reports, evaluation reports, and any necessary treatment plans and the Connecticut State Historic Preservation Office comments on the reports and plans; and
 - b. the Director of OEP reviews and approves all reports and plans and notifies Iroquois in writing that treatment plans or measures may be implemented and/or construction may proceed.

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.”**

15. Iroquois shall file a noise survey with the Secretary **no later than 60 days** after placing the authorized equipment at the Brookfield Compressor Station in service. If the noise attributable to the operation of all of the equipment at the Brookfield Compressor Station at full load exceeds an day-night sound level (L_{dn}) of 55 decibels on the A-weighted scale (dBA) at the nearest noise sensitive area (NSA) property line, Iroquois shall file a report on what changes are needed and install additional noise controls to meet the level **within 1 year** of the in-service date. Iroquois shall confirm compliance with the above requirement by filing a second

noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.

16. Iroquois shall file a noise survey with the Secretary **no later than 60 days** after placing the Milford Compressor Station in service. If the noise attributable to the operation of all of the equipment at the Milford Compressor Station at full load exceeds an L_{dn} of 55 dBA at any nearby NSAs, Iroquois shall file a report on what changes are needed and install additional noise controls to meet the level **within 1 year** of the in-service date. Iroquois shall confirm compliance with the above requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.
17. **Prior to construction of the Brookfield Compressor Station expansion,** Iroquois shall file with the Secretary its Emergency Preparedness Procedure and Spill Prevention, Control and Countermeasures Plan addressing the operational safeguards regarding the storage of hazardous materials at the site.
18. **Prior to construction of the Brookfield Compressor Station expansion,** Iroquois shall update the Commission on the status of its negotiations with the Town of Brookfield regarding any deed restrictions to preserve a buffer between the Brookfield Compressor Station and the Whisconier Middle School.