

4. Florida Gas' existing Mobile Bay Lateral is a 30-inch diameter, 28.8-mile long pipeline that extends from Compressor Station 44 in Mobile County, Alabama north to an interconnection with Florida Gas' mainline at milepost 170.4 near Citronelle, Alabama.¹

5. Florida Gas and Transco jointly-own pipeline facilities, also known as the Mobile Bay Lateral (hereinafter referred to as the "jointly-owned Mobile Bay Lateral"). The jointly-owned Mobile Bay Lateral is a 30-inch diameter, approximately 122.7-mile long pipeline that extends from the tailgate of Mobil Oil Exploration & Producing Southeast Inc.'s treatment plant near Coden in Mobile County, Alabama to interconnections with Transco's mainline at compressor Station 85 near Butler, Alabama and Florida Gas' mainline near Citronelle.

6. Gulf LNG Energy, LLC (Gulf Energy) is constructing an LNG import terminal in Jackson County, Mississippi, and Gulf LNG Pipeline, LLC (Gulf Pipeline) is constructing a 5.02-mile long, 36-inch diameter pipeline (the Gulf LNG Pipeline) that extends from the tailgate of Gulf Energy's terminal to three above ground, natural gas metering, delivery, and interconnect sites: two for interconnections with the interstate pipelines owned by Destin Pipeline Company and Gulfstream Pipeline Company and one for an interconnection with a gas processing plant near Pascagoula, Mississippi.

Proposals

7. In Docket No. CP09-455-000, Florida Gas proposes to extend its Mobile Bay Lateral by constructing and operating: (1) approximately 8.83 miles of 24-inch diameter pipeline extending from the current terminus of Florida Gas' Mobile Bay Lateral at Compressor Station 44 to an interconnection, near Grand Bay, Alabama, with the proposed Pascagoula Lateral and the jointly-owned Mobile Bay Lateral; (2) a meter and regulation station with a pig launcher at the tie-in with the proposed Pascagoula Lateral (the Grand Bay Meter Station); and (3) an over-pressure protection regulator station with pig receiver at the existing tie-in between Florida Gas' Mobile Bay Lateral and its mainlines near Citronelle. Florida Gas also requests authority to modify facilities at its Compressor Station 44 to include cooling, unloaders, and recycle capability. The proposed facilities are designed to provide 342,610 dekatherms per day (Dth per day) of firm transportation service. Florida Gas estimates the cost of its proposed extension project to be approximately \$34 million.

¹ The southern end of Florida Gas' Mobile Bay Lateral connects to a 30-inch diameter line that Florida Gas jointly owns with Gulf South Pipeline Company, LP.

8. In Docket No. CP09-456-000, Florida Gas and Transco propose to construct and operate the Pascagoula Expansion Project in order to interconnect Florida Gas' Mobile Bay Lateral Extension Project and the jointly-owned Mobile Bay Lateral with the Gulf LNG Pipeline. Florida Gas and Transco propose to construct and operate: (1) a receipt meter station near Pascagoula in Jackson County, Mississippi, at the terminus of the Gulf LNG Pipeline; (2) approximately 15.54 miles of 26-inch diameter pipeline (Pascagoula Lateral) extending from an interconnection with Gulf LNG Pipeline to interconnections with the jointly-owned Mobile Bay Lateral and with Florida Gas' extended Mobile Bay Lateral at the proposed Grand Bay Meter Station; (3) a tap and associated piping at the Grand Bay Meter Station; and (4) minor above-ground facilities such as valves and valve operators, pig launchers and receivers, and regulators. Florida Gas and Transco also request authority to modify the existing Compressor Station 82 in Mobile County, Alabama on the jointly-owned Mobile Bay Lateral. The Pascagoula Expansion Project is designed to provide 810,000 Dth per day of firm transportation service from the Gulf LNG Pipeline to the two Mobile Bay Laterals, (i.e., the jointly-owned Transco and Florida Gas pipeline and Florida Gas' pipeline). The Pascagoula Expansion Project facilities are estimated to cost approximately \$59 million.

9. Transco will have a 57.7025 percent (equivalent to 467,390 Dth per day of capacity) ownership interest in the Pascagoula Lateral and Florida Gas will own a 42.2975 percent interest (equivalent to 342,610 Dth per day of capacity) in the lateral. Transco will own 8.25 percent and Florida Gas will own 91.75 percent of the facility modifications at Compressor Station 82 – the same ownership percentages as the applicants currently have in Compressor Station 82.² Of the estimated total expansion project cost of approximately \$59 million, approximately \$34 million will be allocated to Transco, and approximately \$25 million will be allocated to Florida Gas.

10. For firm services utilizing its Pascagoula Expansion Project capacity, Transco proposes an incremental rate under Rate Schedule FT comprising a new rate calculated to recover the incremental costs of the Pascagoula Expansion Project, Transco's existing Zone 4A to 4A FT rate, and the existing Zone 4A Electric Power Unit Rate. Transco states that its proposed incremental recourse rates are based on a cost of service of \$7,079,016 and a rate base of \$33,417,226. Transco also states that the proposed rates incorporate the capital structure and rate of return underlying the approved settlement

² In addition, construction of the Pascagoula Expansion Project facilities will result in an incremental increase of 17,759 Dth per day of capacity on the jointly-owned Mobile Bay Lateral. Transco will own all of the increased capacity, resulting in a revised base capacity in the jointly-owned Mobile Bay Lateral of 801,585 Mcf per day for Transco, while Florida Gas' base capacity in the line will remain unchanged at 308,616 Mcf/day.

rates in Docket No. RP01-245-000, et al. and the onshore transmission depreciation rate included in the approved stipulation and agreement in Docket No. RP06-569-000, et al.³

11. Florida Gas proposes to charge its existing Western Division system rates as recourse rates for service utilizing its share of capacity from the Pascagoula Expansion and Mobile Bay Lateral Extension Projects. Florida Gas also states it will seek to roll the costs of both projects into its existing rates in its next general rate proceeding.

12. Angola LNG Supply Services LLC (Angola LNG) entered into precedent agreements with Florida Gas and Transco for all of the firm capacity of the Pascagoula Expansion and Mobile Bay Lateral Extension Projects for a term of 20 years at negotiated rates. Florida Gas and Transco held open seasons to determine the final scope of the projects from August 10 to September 7, 2007. The open seasons did not result in any additional firm service commitments.

Interventions

13. Notice of the applications was published in the Federal Register on September 3, 2009 (74 Fed. Reg. 45,626). The parties listed in Appendix A filed timely, unopposed motions to intervene. Timely unopposed motions to intervene are granted by operation of Rule 214.

14. Seminole Electric Cooperative (Seminole) filed comments in both dockets requesting that a condition be placed on any Commission approval of Florida Gas' proposal to roll the costs of the projects into its existing rates. Florida Gas filed an answer to Seminole's comments. The issues raised by Seminole are discussed in the rate section of this order.

15. Bobby Crawley filed a protest in Docket No. CP09-455-000. Mr. Crawley's protest is discussed in the environmental section of this order.

Discussion

16. Since the proposed facilities will be used for the transportation of natural gas in interstate commerce, the facilities are subject to the Commission's jurisdiction and the requirements of subsections (c) and (e) of section 7 of the NGA.

³ See Exhibit P of the application in Docket No. CP09-456-000.

A. Application of the Certificate Policy Statement

17. The Certificate Policy Statement⁴ provides guidance as to how we will evaluate proposals for certificating major 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 explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

18. 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 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, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

19. Transco's proposal of an incremental recourse rate for service on its share of the proposed facilities satisfies the threshold requirement of the Certificate Policy Statement that Transco's existing shippers not subsidize the expansion facilities. As discussed more fully below, the Commission also finds that Florida Gas' proposal to charge its existing Western Division system rates as recourse rates on the proposed facilities, with the requirement that Florida Gas maintain and keep separate books and records for the

⁴*Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000); *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

proposed service, will ensure that Florida Gas' existing customers will not subsidize its share of the expansion projects.⁵

20. The proposals will not have any adverse impacts on the service of the applicants' existing customers. Further, the proposals herein will not replace any firm transportation service on any other existing pipeline, nor has any pipeline company in the area protested either of the applications. The Commission also finds the proposed facilities were designed to minimize impacts on landowners and the environment, since both projects extensively utilize existing rights-of-way and areas adjacent to existing rights-of-way. The Pascagoula Lateral will be located on or adjacent to existing rights-of-way for 6.32 miles, or about 40 percent of its length. Florida Gas' Mobile Bay Extension will be located on or adjacent to the jointly-owned Mobile Bay Lateral and Southeast Supply Header LLC's rights-of-way for 100 percent of its length. Further, no communities and only one landowner filed a protest to either project.

21. The proposed pipelines are fully subscribed. The proposals will provide market access for supplies from Gulf LNG's terminal and a new source of supply for Florida Gas' and Transco's customers. Based on all the above, the Commission finds that the proposals will provide benefits to the market without any identifiable adverse impacts on existing customers, other pipelines, landowners, and communities. Thus, consistent with the Certificate Policy Statement and section 7(c) of the NGA, the Commission concludes that approval of the Mobile Bay Lateral Extension Project and the Pascagoula Expansion Project is required by the public convenience and necessity, subject to the conditions, discussed below.

B. Rates

1. Transco

a. Proposed Rates

22. Transco proposes to utilize its capacity on the Pascagoula Expansion Project to provide transportation service from the interconnection of the Pascagoula Lateral with the

⁵ Florida Gas' system is divided into two service regions: the Western Division and the Market Area. The Western Division consists of all portions of Florida Gas' system west of the Alabama/Florida state line. The Market Area consists of all portions of its system within Florida.

Gulf LNG Pipeline to Transco's Station 85 Pool, which is located at the interconnection of the jointly-owned Mobile Bay Lateral with Transco's mainline at an incremental recourse rate under its Rate Schedule FT. This rate will comprise a new incremental rate calculated to recover the incremental costs of the Pascagoula Expansion Project, Transco's existing Zone 4A to 4A FT rate, and the existing Zone 4A Electric Power Unit Rate.

23. Transco states that it has calculated its proposed cost of service and derived the proposed daily maximum incremental recourse rate for firm project service based on its share (approximately \$34 million) of the Pascagoula Expansion Project's capital costs. Transco proposes a maximum recourse incremental daily reservation rate of \$0.04150 per Dth.⁶ Transco's recourse reservation rate reflects a cost of service of \$7,079,016 and billing determinants of 467,390 Dth per day. The cost of service has been calculated using the estimated cost of facilities, engineering estimates for operation and maintenance expenses based on estimates for similar facilities, and other cost factors, including Transco's approved pre-tax return of 15.34 percent⁷ and a depreciation rate of 2.79 percent, which is Transco's currently-effective onshore transmission depreciation rate (including negative salvage).⁸ The existing Zone 4A to 4A commodity rate and the generally applicable Zone 4A system fuel retention factor, ACA surcharge, and other applicable charges under Transco's Rate Schedule FT will also apply to service using the proposed incremental rate.

24. The Commission finds that Transco's proposal to charge an incremental rate for the expansion service and the calculation of its incremental cost of service to be appropriate and approves the proposed incremental recourse rate. The Commission directs Transco to file actual tariff sheets to implement the approved rate at least 30 days, and not more than 60 days, prior to commencing service. Further, the Commission will require Transco to keep separate books and accounting of costs attributable to the incremental rate. The books and records should be maintained with applicable cross-references as required by section 154.309 of the Commission's regulations. This information must be in sufficient detail so that the data can be identified in Statements G,

⁶ In its pro forma tariff sheets attached as Exhibit P to the application, Transco refers to the Pascagoula Lateral as the Pascagoula Supply Line.

⁷ *Transcontinental Gas Pipe Line Corp.*, 100 FERC ¶ 61,085 (2002).

⁸ *Transcontinental Gas Pipe Line Corp.*, 122 FERC ¶ 61,213 (2008).

I, and J in any future NGA section 4 or 5 rate case and the information must be maintained consistent with the requirements of Order No. 710 on incremental facilities.⁹

b. Interruptible Transportation Service

25. Transco states that all the transportation capacity created by the Pascagoula Expansion Project has been subscribed on a firm basis under Rate Schedule FT by Angola LNG. Transco states that if Angola LNG's firm transportation capacity is not fully utilized under Rate Schedule FT, it will be made available on an interruptible basis under Rate Schedule IT. The maximum rate applicable to this interruptible transportation will be the Commission-approved maximum rate under Rate Schedule IT for transportation within Zone 4A, plus all applicable surcharges.

26. Since Transco's proposed expansion service does not involve service on the incrementally-priced Pascagoula Lateral alone, but consists of service on the new lateral combined with service on Transco's share of the existing jointly-owned Mobile Bay Lateral, we find Transco's proposal to provide any interruptible service at its existing Rate Schedule IT rate for Zone 4A to 4A service to be acceptable.

c. Non-Conforming Service Agreement

27. Transco contends that the precedent agreement between Transco and Angola LNG for service on the Pascagoula Expansion Project includes a service agreement that deviates from Transco's Rate Schedule FT pro forma service agreement in one respect. Specifically, Transco explains that Exhibit A to the Rate Schedule FT pro forma service agreement contains a single column heading, "Point(s) of Receipt," which provides a space to list the points of receipt under the agreement. Exhibit A to the project service agreement, however, contains an additional column heading, "Pressure(s)," in which

⁹ *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, *FERC Stats. & Regs.*, ¶ 31,267, at P 23 (2008), provided in regard to incremental facilities that pipelines were required to:

report the following: (1) the name of the facility; (2) the docket number under which the facility was approved; (3) the type of rate treatment (e.g., incremental or another rate treatment); (4) the amount of plant in service; (5) the amount of accumulated depreciation; (6) the amount of accumulated deferred income taxes; (7) amount of operating expenses; (8) the amount of maintenance expenses; (9) the amount of depreciation expense; (10) incremental revenues; and (11) other expenses.

Transco and Angola LNG have set forth their agreement that Angola LNG will deliver or cause to be delivered gas at the point of receipt at a pressure of no less than 1,380 psig, or such lower pressure as may be agreed upon by Transco and Angola LNG in writing. Transco states that the project service agreement conforms in every other respect to Transco's Rate Schedule FT pro forma service agreement.

28. Transco contends that the non-conforming provision is necessary to reflect the unique circumstances involved with the design of the Pascagoula Expansion Project facilities and ensures the economic viability of the project. In order to provide the requested firm transportation capacity of 467,390 Dth per day on Transco's portion of the project capacity, Transco asserts that it requires a receipt pressure of 1,380 psig at the proposed interconnection between the Pascagoula Lateral and the Gulf LNG Pipeline. Transco states that Angola LNG has agreed to cause the gas deliveries at the receipt point to meet this minimum pressure in order to avoid the additional cost of compression and to assure the most economical design of the Pascagoula Expansion Project facilities. Transco contends that this minimum receipt pressure provision will not affect the character of service to be received by Angola LNG under Rate Schedule FT, nor will the provision present any risk of undue discrimination because it will apply to all of the Transco-owned capacity on the Pascagoula Expansion Project. Thus, Transco requests a finding that the non-conforming provision constitutes a permissible deviation from Transco's pro forma service agreement.

29. The Commission will accept Transco's proposed non-conforming service agreement since it will avoid additional compressor costs and does not result in any customer receiving a different quality of service on the Pascagoula Expansion Project facilities. Nevertheless, once the non-confirming service agreement with Angola LNG has been executed and prior to the commencement of service, Transco must file the contract at least 30 days, and not more than 60 days prior to placing the facilities in service in accordance with section 154.112(b) of the Commission's regulations, clearly identifying the non-conforming provisions for review and approval. Further, Transco has executed a negotiated rate agreement with Angola LNG. The Commission will require Transco, prior to commencing service, to file in conjunction with the non-conforming agreement the negotiated rate agreement or numbered tariff sheet.

2. Florida Gas

a. Proposed Rates

30. Florida Gas proposes to charge its existing Rate Schedule FTS-WD rate as its recourse rate for service on the Mobile Bay Lateral Extension Project and service on its share of the Pascagoula Expansion Project. Florida Gas requests a predetermination supporting rolled-in rate treatment for associated costs in any future section 4 rate proceeding.

31. Florida Gas executed a precedent agreement with Angola LNG for 100 percent of its capacity on the Pascagoula Expansion Project (342,610 Dth per day) and 100 percent of the capacity on the Mobile Bay Lateral Extension Project (342,610 Dth per day). According to the precedent agreement, Florida Gas will provide firm transportation service to Angola LNG at a negotiated rate, plus any applicable surcharges or other charges, for a minimum term of 20 years under Rate Schedule FTS-WD.

32. Florida Gas states that it will use Commission-approved fuel and loss retention percentages and that the proposed service will be treated the same as all other transportation service in the Western Division.¹⁰ Fuel percentage, however, will not be applicable to the primary delivery points in the Rate Schedule FTS-WD firm transportation service agreement because Florida Gas asserts that no compression is utilized to make those deliveries and gas flows through no compressor stations. Florida Gas states that it maintains records for each of its shippers. As a result, Florida Gas will maintain separate and identifiable accounts for volumes transported, billing determinates, rate components, surcharges, and revenues to ensure that costs associated with the proposed service will only be borne by Rate Schedule FTS-WD shippers.

33. Florida Gas contends that it will bear all responsibility for cost overruns associated with its capacity on the Pascagoula Expansion and the Mobile Lateral Extension Projects. Florida Gas, however, also contends that its precedent agreement with Angola LNG provides that if the Commission authorizes a routing of the expansion facilities that differs from the route proposed in the application, changes the construction and pipe laying procedures, and/or causes the estimated construction costs to increase more than 15 percent, the shipper has the option to select a transportation rate adjustment, or pay a Contribution in Aid of Construction (CIAC), equal to the increase in the estimated construction costs. Florida Gas' precedent agreement with Angola LNG also provides a clause for route deviations and associated cost overruns. Consequently, the Commission finds that Florida Gas adequately addresses the Certificate Policy Statement concerning who will bear the risk of cost overruns.¹¹

34. While not opposing the proposal herein, Seminole is concerned about Florida Gas' rolled-in rate proposal and the potential for expansion costs to increase rates for Florida Gas' Market Area shippers. Seminole requests that the Commission condition any predetermination of rolled-in rate treatment so that changed circumstances, particularly

¹⁰ Florida Gas states that fuel and loss retention are tracked pursuant to section 27 of the General Terms and Conditions of its FERC Gas Tariff.

¹¹ Certificate Policy Statement, 88 FERC ¶ 61,227 at 61,747.

an overrun of the expansion project's costs, may negate the predetermination of rolled-in pricing in future rate proceedings. In its answer, Florida Gas states that Seminole's concerns are speculative in nature and do not alter the fact that Florida Gas has met the requirements of the Certificate Policy Statement for rolling in the costs of the projects.

35. The Commission finds that based upon Florida Gas' current Commission approved cost of service determinates, which were used to derive the cost of service and the proposed recourse rate,¹² revenues for Florida Gas' Mobile Bay Lateral Extension Project and Florida Gas' share of the Pascagoula Expansion Project will exceed the cost of service in each of the first ten years of operation, resulting in a rate reduction for existing customers if the rates are rolled-in to existing rates. Total project revenues are estimated to be \$121 million for the first 10 years and the cost of service is estimated to be \$92.48 million. Based upon these projections, the Commission finds that revenues will exceed the cost of service for Florida Gas' Mobile Bay Lateral Extension Project and Florida Gas' share of the Pascagoula Expansion Project by \$28.52 million. With these projections in mind, the Commission finds that Seminole's concerns are unfounded. Thus, the Commission will grant Florida Gas' request for a predetermination that it may roll the costs of both of the expansion projects into its existing rates in a future general section 4 rate case, absent any material change in circumstances.

36. Florida Gas has executed a negotiated rate agreement with Angola LNG. Therefore, prior to commencing service, the Commission will require Florida Gas to file the negotiated rate agreement or numbered tariff sheet at least 30 days, and not more than 60 days, prior to placing the facilities in service.

C. Accounting

37. Florida Gas estimates a capitalized Allowance for Funds Used During Construction (AFUDC) for the Mobile Bay Lateral Extension Project and its portion of the Pascagoula Expansion Project as approximately \$1.4 million and \$1.9 million,

¹² In analyzing whether to make a predetermination favoring rolled-in rate treatment, the Commission uses the approved cost of service determinates, which include capital structure and rate of return. Florida Gas' most recently approved section 4 rate case approved a pre-tax rate of return of 14.93 percent, instead of Florida Gas' proposed weighted rate of return of 10.34 percent. Utilizing Florida Gas' 14.93 percent pre-tax rate of return and its approved depreciation rate of 2.13 percent results in a first year cost of service of \$11,053,566, and a 10 year cost of service of \$92.48 million. *See Florida Gas Transmission Co.*, 109 FERC ¶ 61,320, at P 10 (2004).

respectively.¹³ Florida Gas proposes to commence the accrual of AFUDC for both projects beginning in August 2009, the month it filed its certificate applications, and to continue such accrual through August 2011.¹⁴

38. Transco estimates a capitalized AFUDC of approximately \$1.4 million and proposes to commence the accrual of AFUDC beginning in September 2007, or 23 months prior to filing its certificate application for the Pascagoula Expansion Project, and to continue such accrual through September 2011.¹⁵

39. Florida Gas over-accrued AFUDC because it took a full month's AFUDC on current-month's construction expenditures.¹⁶ Since current month's construction expenditures occur throughout the month, only one-half month's AFUDC should be accrued on current-month's construction expenditures to reflect the fact that, on average, these expenditures are outstanding for only half the month.¹⁷ In order to assure that the construction cost is not overstated, the Commission will require Florida Gas to revise its procedures for calculating AFUDC and take only one-half month's AFUDC on current-month's construction expenditures.

40. Consistent with the Commission's revised policy on the commencement of accruing AFUDC for natural gas pipelines,¹⁸ the Commission will allow Florida Gas,¹⁹

¹³ See Exhibit K to the applications.

¹⁴ See Applicants' December 17, 2009 Responses to Data Request.

¹⁵ See Applicants' December 17, 2009 Responses to Data Request.

¹⁶ *Id.*

¹⁷ See *Kern River Gas Transmission Co.*, 98 FERC ¶ 61,205 (2002); *Rockies Express Pipeline LLC*, 128 FERC ¶ 61,036 (2009).

¹⁸ See *Florida Gas Transmission Company LLC*, 130 FERC ¶ 61,194 (2010); *Southern Natural Gas Company*, 130 FERC ¶ 61,193 (2010). The revised policy conditions in these orders allow natural gas pipelines to begin accruing AFUDC on construction projects when the following conditions are met: (1) capital expenditures for the project have been incurred and (2) activities that are necessary to get the construction project ready for its intended use are in progress.

¹⁹ The approval of Florida Gas' proposed AFUDC is subject to Florida Gas revising its proposed AFUDC to reflect only one-half month's AFUDC on its initial month's construction expenditures.

and Transco's proposed AFUDC accruals, subject to Florida Gas and Transco filing a representation that the proposed AFUDC accruals comply with the revised policy conditions. Further, if Florida Gas or Transco determine that their proposed AFUDC accruals should be revised in light of the revised policy conditions, they must revise all cost-of-service items dependent upon Gas Plant in Service such as income taxes, depreciation expense, return, and interest expense. Florida Gas and Transco must file their revised rates and work papers in sufficient time for the Commission to act on the revised rates prior to filing the tariff sheets to implement those rates.

D. Environmental Analysis

41. Our staff began its review of the Mobile Bay Lateral Extension Project and the Pascagoula Expansion Project on September 24, 2008, when the Director of the Office of Energy Projects (OEP) issued a letter approving Florida Gas' and Transco's request to use the Commission's pre-filing procedures in Docket Nos. PF08-31-000 and PF08-32-000. On December 18, 2008, the Commission issued a Notice of Intent to Prepare an Environmental Assessment (NOI). The NOI was published in the Federal Register²⁰ and mailed to approximately 589 interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners.

42. In response to the NOI, the Commission received comments from the U.S. Fish and Wildlife Service, Alabama and Mississippi Field Offices (USFWS); the Mississippi Department of Wildlife, Fisheries, and Parks (MDWF); the Department of the Army, U.S. Army Corps of Engineers, Mobile District (USCOE); the Alabama Historical Commission (AHC); and several affected landowners. The comments raised concerns about threatened and endangered species, the proposed horizontal directional drill (HDD) of the Escatawpa River, the spread of invasive Cogongrass, impacts on the Grand Bay National Wildlife Refuge, and alternatives for the Pascagoula Lateral along Highway 90 and Interstate 10.

43. An environmental assessment (EA) for Florida Gas' and Transco's proposals was prepared with the cooperation of the USFWS, the MDWF, and the USCOE. The analysis in the EA addresses geology, soils, water resources, fisheries, wetlands, vegetation, wildlife, threatened and endangered species, land use, recreation and special interest areas, visual resources, cultural resources, air quality, noise, reliability and safety, cumulative impacts, and alternatives. The EA addressed all substantive scoping comments.

²⁰ 73 Fed. Reg. 79,464 (December 29, 2008).

44. The USFWS and the MDWF provided scoping comments on threatened and endangered species, specifically identifying the federally listed gopher tortoise. Section B.3.4 of the EA evaluated threatened and endangered species and concluded that construction of the projects would not adversely affect federal or state listed species. However, since consultation has not been completed regarding the gopher tortoise, Environmental Conditions 12 and 18 require that Transco and Florida Gas not begin construction until staff completes formal consultation with the USFWS and Transco and Florida Gas each receive written notification from the Director of OEP that construction or use of mitigation may begin.

45. The MDWF and the USFWS commented about the crossing of Franklin Creek (at milepost 8.65) on the Pascagoula Lateral, which feeds into the Escatawpa River. The MDWF recommended that best management practices be implemented that would prevent suspended silt and contaminants from leaving the right-of-way in storm water runoff, as this may negatively affect water quality and habitat conditions within nearby streams and water bodies, including the Escatawpa River. The USFWS recommended that the HDD method be considered for crossing Franklin Creek in Jackson County, as well as the extensive forested wetlands tract that cross the Mississippi/Alabama border.

46. The EA indicated that both Franklin Creek (milepost 8.65) and the wetland (MP 10.87 to 11.12) will be crossed using the HDD method to minimize impacts. Further, the EA stated that the Pascagoula Lateral will be constructed in accordance with Transco's Soil and Erosion Control Plan (Transco's Plan), which staff concludes will adequately mitigate erosion and protect water quality.²¹ To further address wetland impacts, Environmental Condition 17 requires Transco to file either site-specific plans to remove, reduce, or realign construction workspace in certain wetlands including workspace for wetland W1AJK010, or provide additional justification for the need for such modifications, prior to construction. The Commission believes that Transco's use of the HDD method and Transco's Plan, together with Environmental Condition 7, will minimize impacts on Franklin Creek and associated tributaries and wetlands that feed into the Escatawpa River.

47. Although the USFWS stated that the proposed alignment may cross portions of the Grand Bay National Wildlife Refuge (GBNWR), Transco's proposed route does not cross the GBNWR property. The EA, however, evaluated six major route alternatives, some of which would cross parcels that are part of the GBNWR. The EA concluded that the

²¹ According to the construction and operation agreement, Transco is responsible for construction of the Pascagoula Expansion Project.

major alternative routes are not preferable to the proposed route. Thus, the alternatives are not recommended and the GBNWR will not be crossed by the pipeline.

48. The MDWF and the USFWS recommended that Transco develop and implement a management plan to control and minimize the spread of the invasive Cogongrass along the new pipeline corridor. Section B.3.2 of the EA stated that Transco will implement its Cogongrass Management Plan to aid in the control of Cogongrass along the right-of-way. The EA stated that Transco's Cogongrass Management Plan is acceptable for this project and indicates that the USFWS has also approved the plan.

49. The AHC filed scoping comments indicating that no known cultural resources are located within the project area. Section B.4 of the EA concluded that the proposed project would have no effect on significant archaeological sites or other historic properties.

50. The USCOE provided scoping comments and recommended that the EA include a detailed analysis of project purpose; alternatives, including impact avoidance and minimization; mitigation of wetlands impacts; and cumulative impacts. The EA described the project purpose in section A.2, analyzed alternatives in section C.4, analyzed wetland impacts and mitigation in section B.2.3, and analyzed cumulative impacts in section B.9.

51. Two landowners suggested further evaluation of alternative routes in Mississippi to place Transco's pipeline along existing corridors in the area. Section C.3 of the EA evaluated alternative routes for the Pascagoula Lateral along Highway 90 and Interstate Highway 10, including routes north of Highway 90. The EA concluded that the alternative routes, when compared to the corresponding segment of the proposed pipeline, were not environmentally preferable.

52. Another landowner, Bobby Crawley, filed a protest about the need to cut trees and the potential for Florida Gas' pipeline to limit future plans for his property and reduce his property value. As discussed in section B.5 of the EA, the damage for loss of trees and property value, including loss of any future plans for the property, should be addressed in the easement agreement between Florida Gas and Mr. Crawley. In reviewing Florida Gas' filed alignment sheets for the route through Mr. Crawley's property, the EA found that the proposed route is located adjacent to a Transco pipeline for its entire length. As indicated in the EA, following existing utility or infrastructure corridors is generally preferred because it has engineering and environmental advantages. In addition, Environmental Condition 14 requires Florida Gas to use a 75-foot-wide construction right-of-way for its construction, unless it provides site-specific justification, by milepost, where Florida Gas believes it requires additional clearing. By limiting Florida Gas's total construction right-of-way to 75 feet in width, the EA determined that there will be a reduction of impacts on forest and tree cutting.

53. The Commission issued the EA for a 30-day comment period on April 9, 2010 and received no comments. Based on the analysis in the EA, the Commission concludes that if constructed and operated in accordance with Florida Gas' and Transco's applications and supplements, and in compliance with the environmental conditions in Appendix B, approval of these proposals would not constitute a major federal action significantly affecting the quality of the human environment.

54. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.²²

55. At a hearing held on July 15, 2010, the Commission, on its own motion, received and made a part of the record in this proceeding all evidence, including the applications, amendments, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) Certificates of public convenience and necessity are issued to Florida Gas and Transco authorizing them to construct and operate the Mobile Bay Lateral Extension Project and the Pascagoula Expansion Project, as described and conditioned herein, and as more fully described in the applications.

(B) The certificates issued in Ordering Paragraph (A) are conditioned on:

- (1) Florida Gas' and Transco's completing the authorized constructions within two years of the date of this order;
- (2) Florida Gas' and Transco's compliance with paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and
- (3) Florida Gas' and Transco's compliance with the environmental conditions listed in Appendix B of this order.

²²See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

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

(D) Florida Gas and Transco must execute firm contracts equal to the levels of service represented to be contracted under precedent agreements and in accordance with the terms of service represented in their precedent agreements prior to the commencements of construction.

(E) Transco's request for approval of its proposed incremental recourse rates, commodity charges, and pro forma tariff, including its non-conforming minimum receipt point pressure requirement, is granted.

(F) Transco must file tariff sheets at least 30 days, and not more than 60 days, prior to placing the proposed facilities into service, reflecting the incremental service for the Pascagoula Expansion Project, as discussed in the body of this order.

(G) Transco and Florida Gas must file their negotiated rate agreements or numbered tariff sheets at least 30 days, and not more than 60 days, prior to placing the proposed facilities into service.

(H) Florida Gas' request for a predetermination approving rolled-in rate treatment in a future NGA section 4 rate proceeding for the costs of the construction and operation of its portion of the Pascagoula Expansion Project and its Mobile Bay Lateral Extension Project is granted, absent a significant change in material circumstances.

(I) Transco must maintain separate and identifiable accounts for volumes transported, billing determinants, rate components, surcharges, and revenues associated with their incremental service for Angola LNG in sufficient detail, so that they can be identified in Statements G, I, J, K and other Statements in any future NGA section 4 or 5 rate cases.

(J) Florida Gas must revise its AFUDC procedures, as discussed in the body of this order.

(K) Florida Gas and Transco shall file a representation that their proposed AFUDC accruals for the projects comply with the revised policy conditions. In the alternative, if Florida Gas or Transco determine that their proposed AFUDC accruals should be revised in light of the revised policy conditions, they shall revise all cost-of-service items dependent upon Gas Plant in Service such as income taxes, depreciation expense, return, and interest expense, and file their revised rates and work papers in

sufficient time for the Commission to act on the revised rates prior to filing the tariff sheets to implement those rates.

(L) Florida Gas, Transco, and any representations they made with respect to AFUDC accruals are subject to audit to determine whether they are in compliance with the revised policy and related Commission rules and regulations.

By the Commission. Commissioner LaFleur voting present.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix A

Intervenors in Docket No. CP09-455-000

Florida Power Corporation, d/b/a Progress Energy Florida Inc.
Carolina Power & Light Company, d/b/a Progress Energy Carolinas, Inc.
Florida Power & Light Company
Chevron U.S.A., Inc.
National Grid Gas Delivery Companies
ExxonMobil Gas & Power Marketing Company, a division of Exxon Mobil Corporation
Florida Cities
Angola LNG Supply Services LLC
Seminole Electric Cooperative, Inc.
Peoples Gas System, a division of Tampa Electric Company, and Tampa Electric Company (jointly)

Intervenors in Docket No. CP09-456-000

Florida Power Corporation, d/b/a Progress Energy Florida Inc.
Carolina Power & Light Company, d/b/a Progress Energy Carolinas, Inc.
Florida Power & Light Company
Chevron U.S.A., Inc.
National Grid Gas Delivery Companies
ExxonMobil Gas & Power Marketing Company, a division of Exxon Mobil Corporation
Florida Cities
Angola LNG Supply Services LLC
Seminole Electric Cooperative, Inc.
Peoples Gas System, a division of Tampa Electric Company, and Tampa Electric Company (jointly)
Piedmont Natural Gas Company, Inc.
Public Service Company of North Carolina, Inc.
Singleton A. McInnis, III and Woodland Properties, LLC
New Jersey Natural Gas Company
Consolidated Edison Company of New York, Inc. and Philadelphia Gas Works (jointly)
PECO Energy Company
Municipal Gas Authority of Georgia²³ and the Transco Municipal Group²⁴ (jointly)

²³ Municipal Gas Authority of Georgia comprises Bowman, Buford, Commerce, Covington, Elberton, Hartwell, Lawrenceville, Madison, Monroe, Royston, Social Circle, Sugar Hill, Toccoa, Winder, Georgia; Tri-County Natural Gas Company, consisting of

(continued ...)

Atlanta Gas Light Company, Florida City Gas, Elkon Gas, Elizabethtown Gas, and Virginia Natural Gas, Inc. (jointly)

Crawfordville, Greensboro, and Union Point, Georgia; the East Central Alabama Gas District; Wadley, and Rockford, Alabama; the Utilities Board of the City of Roanoke, Alabama; Wedowee Water, Sewer & Gas Board, Wedowee, Alabama; and the Maplesville Waterworks and Gas Board, Maplesville, Alabama.

²⁴ Transco Municipal Group comprises Alexander City and Sylacauga, Alabama; the Commissions of Public Works of Greenwood, Greer, and Laurens, South Carolina; Union, South Carolina; and Bessemer City, Greenville, Kings Mountain, Lexington, Monroe, and Shelby, North Carolina.

Appendix B

The conditions below that reference Florida Gas apply to the Mobile Bay Lateral Extension Project and the conditions that reference Transco apply to the Pascagoula Expansion Project.

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

The Following Conditions Apply to Both Transco and Florida Gas

1. Transco and Florida Gas shall follow the construction procedures and mitigation measures described in their applications and supplements (including responses to staff data requests) and as identified in the EA unless modified by this Order. They must:
 - a. request any modification to these procedures, measures, or conditions in a filing;
 - 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 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 Projects. The 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 avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Transco and Florida Gas shall each file with the Secretary an affirmative statement certified by a senior company official, that all company personnel, environmental inspectors (EIs), and contractor personnel will be informed of the EIs' authority and have been or will be trained on the implementation of 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, Transco and Florida Gas shall each 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.

Transco's and Florida Gas' 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. Transco's and Florida Gas' right of eminent domain granted under NGA section 7(h) do not authorize them to increase the size of their natural gas pipelines to accommodate future needs or to acquire a right-of-way for a pipelines to transport a commodity other than natural gas.

5. Transco and Florida Gas shall each 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 will be used or disturbed and have not been previously identified in filings. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas must 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 Transco's Soil and Erosion Control Plan and Florida Gas' Upland Erosion Control Revegetation and Maintenance Plan and Florida Gas' Wetland and Waterbody Construction and Mitigation Procedures, minor field realignments per landowner needs and 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;
- (c) mitigation measures;
- (d) recommendations by state regulatory authorities; and

- (e) agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.

6. **Within 60 days of the acceptance of the Certificate and before construction begins,** Transco and Florida Gas shall each file with the Secretary an Implementation Plan for review and written approval by the Director of OEP. The companies must file revisions to their plans as schedules change. The respective plans shall identify:

- a. how Transco and Florida Gas will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by this Order;
- b. how Transco and Florida Gas would incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
- c. the number of EIs each company will assign per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
- d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
- e. the training and instructions Transco/Florida Gas would give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
- f. the company personnel (if known) and specific portion of Transco's/ Florida Gas' organization having responsibility for compliance;
- g. the procedures (including use of contract penalties) Transco/Florida Gas will follow if noncompliance occurs; and
- h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (i) the completion of all required surveys and reports;
 - (ii) the mitigation training of onsite personnel;
 - (iii) the start of construction; and
 - (iv) the start and completion of restoration.

7. Beginning with the filing of their respective Implementation Plans, Transco and Florida Gas shall each file with the Secretary updated status reports prepared by the EI on a weekly basis until all construction and restoration activities are complete. On request, these status reports would also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:

- a. an update on Transco's/Florida Gas' efforts to obtain the necessary federal authorizations;
 - b. 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 environmentally sensitive areas;
 - c. a listing of all problems encountered and each instance of noncompliance observed by the EI(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
 - d. corrective actions implemented in response to all instances of noncompliance, and their cost;
 - e. the effectiveness of all corrective actions implemented;
 - f. a description of any landowner/resident complaints which may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and
 - g. copies of any correspondence received by Transco/Florida Gas from other federal, state or local permitting agencies concerning instances of noncompliance, and Transco's/Florida Gas' response.
8. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities in each state**, Transco and Florida Gas shall each file with the Secretary documentation that they have received all authorizations required under federal law (or evidence of waiver thereof) in each respective state.
9. Transco and Florida Gas must receive written authorization from the Director of the OEP **before commencing service** on the project. Such authorization would only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
10. **Within 30 days of placing the certificated facilities in service**, Transco and Florida Gas shall each file with the Secretary an affirmative statement, 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; and
 - b. identifying which of the certificate conditions Transco and Florida Gas have complied with or would comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.

11. **Prior to construction**, Transco and Florida Gas shall each continue to consult with USFWS to develop Migratory Bird Conservation Plans and provide the plans to the USFWS for review. Florida Gas and Transco shall file with the Secretary their respective plans along with documentation of their consultation.

The Following Conditions Apply to Florida Gas

12. **Florida Gas shall not begin construction activities until:**
 - a. the staff receives comments from the USFWS regarding the proposed action;
 - b. the staff completes formal consultation with the USFWS, if required; and
 - c. Florida Gas has received written notification from the Director of OEP that construction or use of mitigation may begin.

13. Florida Gas shall develop and implement an environmental complaint resolution procedure. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the project and restoration of the right-of-way. **Prior to construction**, the complaint procedures shall be mailed to each landowner whose property will be crossed by the project.
 - a. The letter to affected landowners shall:
 - (1) provide a local contact that the landowners should call first with their concerns; the letter shall indicate how soon a landowner should expect a response;
 - (2) instruct the landowners that, if they are not satisfied with the response, they should call respective company's Hotline; the letter should indicate how soon to expect a response; and
 - (3) instruct the landowners that, if they are still not satisfied with the response from Florida Gas' Hotline, they should contact the Commission's Dispute Resolution Service Helpline at 887-337-2237.
 - b. In addition, Florida Gas shall include in its weekly status report a copy of a table that contains the following information for each problem/concern:
 - (1) the date of the call;
 - (2) the identification number from the certificated alignment sheet(s) of the affected property;
 - (3) the description of the problem/concern; and
 - (4) an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.

14. Florida Gas shall use a 75-foot-wide construction right-of-way for the Mobile Bay Lateral Extension Project, including the area that will be overlapped on existing permanent right-of-way, unless it provides site-specific justification, by milepost, where Florida Gas believes it requires additional workspace. Requests for additional workspace shall be filed for the review and written approval from the Director of OEP before use.
15. **Prior to construction**, Florida Gas shall file with the Secretary for review and written approval by the Director of OEP, an HDD noise mitigation plan identifying what measures Florida Gas will commit to implement at the Wetland 0011 HDD site.
16. Florida Gas shall file with the Secretary a noise survey **no later than 60 days** after placing the new equipment at the existing Compressor Station 44 in service. If the noise attributable to the operation of the station at full load exceeds a day-night equivalent sound level (L_{dn}) of 55 decibels on the A-weighted scale (dBA) at any nearby noise sensitive areas, Florida Gas shall install additional noise controls to meet that level **within one year** of the in-service date. Florida Gas shall confirm compliance with the L_{dn} of 55 dBA requirement by filing a second noise survey **no later than 60 days** after it installs the additional noise controls.

The Following Conditions Apply to Transco

17. **Prior to construction**, Transco shall file with the Secretary for the review and written approval of the Director of OEP either: site-specific plans to remove, reduce, or realign the following extra work areas (EWAs) in wetlands; or additional site-specific justifications for the EWAs at the following locations:
 - a. wetland W1AJK003 between milepost (MP) 1.1 and 1.3;
 - b. wetland W1AJK007A between MPs 4.7 and 4.8;
 - c. the 20-foot by 75-foot and 25-foot by 100-foot EWAs in wetland W1AJK004 between MPs 2.2 and 2.3;
 - d. the HDD exit area in wetland W1AJK010 between MPs 11.1 and 11.18;
 - e. wetland W1AJK006 at MP 3.8;
 - f. wetland W1AMB003 at MP 13.55; and
 - g. wetland W1AMB001 at MP 15.25.
18. Transco shall **not begin construction activities until**:
 - a. the staff receives comments from the USFWS regarding the proposed action;
 - b. the staff completes formal consultation with the USFWS, if required; and

- c. Transco has received written notification from the Director of OEP that construction or use of mitigation may begin.
19. **Prior to construction** on any property where the construction work area is within 10 feet of the residence, Transco shall file with the Secretary evidence that the landowner is in concurrence with a site-specific construction plan that includes:
 - a. description of construction techniques to be used on the property;
 - b. a dimensioned site plan that shows:
 - (1) the location of the residence in relation to the new pipeline and, where appropriate, the existing pipelines;
 - (2) the edge of the construction work area;
 - (3) the edge of the new permanent right-of-way;
 - (4) mature trees and landscaping within the edge of the construction work area; and
 - (5) other nearby residences, structures, and roads; and
 - c. a description of how Transco will ensure the trench is not excavated until the pipe is ready for installation and the trench is backfilled immediately after pipe installation.
20. **Prior to construction**, Transco shall file with the Secretary for review and written approval by the Director of OEP, an HDD noise mitigation plan identifying all measures Transco commits to implement at each of its HDD sites and the resulting noise reductions from the mitigation measures. Transco shall also provide all detailed supporting calculations and references.