

134 FERC ¶ 61,196
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Columbia Gas Transmission, LLC

Docket No. CP10-492-000

ORDER ISSUING CERTIFICATE AND APPROVING ABANDONMENT

(Issued March 17, 2011)

1. On August 26, 2010, Columbia Gas Transmission, LLC (Columbia) filed an application under sections 7(b)¹ and 7(c)² of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations for a certificate of public convenience and necessity authorizing it to construct and operate replacement natural gas facilities and for approval to abandon the deteriorated facilities being replaced. The facilities to be replaced and abandoned are in Pike County, Pennsylvania, and Orange County, New York. Columbia also requests that it be allowed to roll its project facility costs into existing rates in its next general rate proceeding. The Commission will grant the requested authorizations.

I. Background and Proposal

2. Columbia is a natural gas company, as defined by the NGA, engaged in the business of transporting natural gas in interstate commerce. Columbia owns and operates approximately 12,000 miles of pipeline extending from West Virginia to New York.

3. Line 1278 is one of Columbia's main bidirectional transmission lines, constructed beginning in the late 1940s. Columbia describes Line 1278 as originating in Kentucky and extending through West Virginia, Virginia, Maryland, and Pennsylvania to the New York state line where it becomes Line K. Line K extends to an interconnection at the Wagoner Measuring Station in Orange County, New York with the interstate pipeline facilities of Millennium Pipeline Company, LLC (Millennium).

¹ 15 U.S.C. § 717f(b) (2006).

² 15 U.S.C. § 717f(c) (2006).

4. Columbia states that in November 2008, the portion of Line 1278 located south of Columbia's Milford Compressor Station in Pike County, Pennsylvania, ruptured during pressure testing. Columbia states that following the rupture, it reduced the operating pressure of Line 1278 to 800 psig, pursuant to an agreement with the United States Department of Transportation. Thereafter, in January 2009, Columbia installed its Sparrowbush Compressor Station to provide temporary compression near the Wagoner interconnect with Millennium in order to compensate for the pressure differences between the pipelines and facilitate deliveries into Millennium.³

5. Columbia states that the replacements proposed in its instant application are required due to the age and condition of the existing pipeline facilities. Columbia states that this project, which involves the abandonment and replacement of 14-inch diameter pipeline with 20-inch diameter pipeline, is a continuation of the upgrade of Line 1278 that the Commission authorized Columbia to begin in 2005.⁴ As a result of the proposals herein, Columbia states that virtually all of Line 1278 from Maryland through Pennsylvania into New York will consist of 20-inch line.

6. In its instant application, Columbia proposes: (1) to construct and operate approximately 11.20 miles of 20-inch replacement pipeline on Line 1278, between the Weber Road Regulator Station⁵ and the Delaware River in Pike County, Pennsylvania,⁶ and approximately 4.66 miles of 20-inch replacement pipeline on Line K, between the Delaware River and Columbia's Wagoner Measuring Station in Orange County, New York; (2) to install and remove appurtenant facilities at various locations along both

³ The temporary compression was installed pursuant to section 157.209 of the Commission's regulations, which permits the certificate holder to install, operate, and remove temporary facilities provided that the temporary compressor facilities are not used to increase the volume or service above that rendered by the existing permanent compressor units. 18 C.F.R. § 157.209 (2010).

⁴ *Columbia Gas Transmission Corp.*, 111 FERC ¶ 61,431 (2005) (replacement of 43 miles of 14-inch diameter pipeline on Line 1278 with 20-inch diameter pipeline in northeastern Pennsylvania).

⁵ The Weber Road Regulator Station is south of the Milford Compressor Station and is the terminus of the replacement project authorized in 2005.

⁶ Columbia anticipates that it will install the new pipeline in the original ditch in the existing right-of-way.

segments of the pipeline;⁷ and (3) to replace approximately 0.22 mile of existing 14-inch pipeline on Line 1278 with two parallel 10-inch diameter pipelines at the existing West River Block Gates.⁸

7. In conjunction with the above replacements, Columbia also proposes to abandon in place approximately .08 mile of its existing 4-inch diameter Line U within a ditch immediately adjacent to the Operations Center at Sparrowbush, New York.⁹ Columbia will replace the abandoned facilities with a 4-inch diameter coated steel pipe in a new right-of-way within the fenced boundary of its Operations Center lot at Sparrowbush.

8. Columbia also proposes to modify the station piping, valves, and regulation equipment at its existing Milford Compressor Station. The proposed modifications include reconfiguring the header to enable Line 1278 to return to its existing certificated Maximum Allowable Operating Pressure (MAOP) of 1,200 psig. Columbia proposes no increase in horsepower for the Milford Compressor Station. Columbia also proposes to abandon a .07-mile, 8-inch diameter deteriorated section of Line 1842 between the Milford Compressor Station and Line 1278. Following the abandonment, it appears Columbia would be able to rely on its existing Line 10361 to transport gas from the compressor station to Line 1278.

9. Following the replacements on Lines 1278 and K described above, Columbia states that it will operate Lines 1278 and K at the certificated MAOP of 1,200 psig. Columbia states that operating Lines 1278 and K at this pressure will obviate the need for the existing Sparrowbush Compressor Station. Therefore, once its facilities have been pressure tested to ensure that they can be operated at the higher pressure, Columbia proposes to abandon by removal the existing temporary Sparrowbush Compressor Station and its associated equipment. Columbia states that the abandonment of that compressor station will not affect its ability to meet its service obligations.

⁷ Columbia states that it will replace 2 existing 10-inch valves with new 10-inch receivers, and install a new 20-inch launcher at its existing Hook Road site.

⁸ Columbia states that the proposed parallel section of 10-inch diameter pipelines will be an extension of two existing 10-inch diameter pipelines that comprise the Line 1278 crossing of the Delaware River at the West River Block Gates.

⁹ Line U is a short pipeline that connects Line K to an existing delivery point with Orange and Rockland Utilities, Inc. (Orange and Rockland).

10. Columbia estimates the cost of its proposed abandonment and replacement project will be approximately \$56.76 million. Columbia asserts that the project is designed to improve service to its existing customers and provide additional reliability and flexibility. Columbia acknowledges that the project will result in a capacity increase on a localized basis. Thus, Columbia asks the Commission to permit it to roll in its estimated \$56.76 million project costs in its next general rate proceeding.

II. Notice and Interventions

11. Notice of Columbia's application in Docket No. CP10-492-000 was published in the *Federal Register* on September 17, 2010 (75 Fed. Reg. 57,012). ProLiance Energy, LLC,¹⁰ National Fuel Gas Distribution Corporation, Orange and Rockland, NJR Energy Services Company, New Jersey Natural Gas Company, Piedmont Natural Gas Company, Inc., National Grid Gas Delivery Companies, PSEG Energy Resources and Trade LLC, Washington Gas Light Company, and Statoil Natural Gas LLC filed timely, unopposed motions to intervene.¹¹

12. Baltimore Gas and Electric Company (BG&E), and the Cities of Charlottesville and Richmond, Virginia (Cities) filed timely motions to intervene with comments raising concerns regarding Columbia's allocation and recovery of project costs in a future rate proceeding. Columbia filed answers to BG&E and Cities. In addition, comments were filed by several landowners. The issues raised by BG&E, Cities, and the landowners are discussed below.

III. Discussion

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

¹⁰ ProLiance Energy, LLC filed comments but subsequently withdrew them.

¹¹ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214 (2010).

A. Certificate Policy Statement

14. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating major new construction.¹² 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.

15. 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.

16. We find that Columbia's proposals will restore operational safety, reliability, and flexibility on Lines 1278 and K by replacing deteriorated and obsolete facilities. The proposals will also enable Columbia to operate Lines 1278 and K at their historic design operating pressure of 1,200 psig. Further, the creation of a high-pressure transmission system with a common diameter from northern Chester County, Pennsylvania to the interconnect with Millennium, with the exceptions of a 0.25 mile segment under the Green Lake Reservoir and the dual 10-inch lines adjacent to and under the Delaware River, will allow for more efficient pigging, increase Columbia's ability to use modern inspection tools, and eliminate the inefficiencies inherent in maintaining a system with

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).

non-standard sized pipe. The Certificate Policy Statement provides that it is not a subsidy for existing customers to pay for projects designed to replace existing capacity or improve the reliability or flexibility of existing service.¹³ Thus, we find that the threshold no subsidy requirement of the Certificate Policy Statement has been met.

17. We further find that the proposed project will have no negative impact on Columbia's existing customers. No customers will lose service as a result of the abandonment and replacement. Since the project does not include new service and affects only Columbia's system, there will be no adverse impact on other pipelines or their customers. The proposed project has been designed to minimize impacts on landowners and the environment, since a great majority of work will take place within previously-disturbed existing rights-of-way where the 14-inch pipeline is now located. Columbia will vary the route of the replacement facilities only where engineering and environmental concerns require it to do so.

18. Based on the benefits the project will provide and the lack of any identifiable adverse impacts on existing customers, other pipelines and their customers, and minimal impacts on landowners and communities, we find, consistent with the Certificate Policy Statement and section 7(c) of the NGA, that Columbia's proposals to construct and operate facilities are required by the public convenience and necessity. Further, we also find that the public convenience and necessity permit Columbia's abandonment of the proposed facilities under section 7(b) of the NGA because the facilities are deteriorated, inefficient, and at the end of their useful life.

B. Rate Issues

19. Columbia requests a predetermination that it may roll its project costs into its existing rates in its next general rate proceeding, on the basis that its existing shippers will benefit from the proposed project.

20. Cities request that the Commission not prejudge the allocation of the costs of the replacement facilities either among Columbia's customers or between Columbia and Millennium, a Columbia affiliate, which uses some of the facilities to be replaced pursuant to a lease agreement, because these allocation issues would be appropriate for an NGA section 4 rate proceeding. In its answer, Columbia asserts that Cities will be free to present whatever arguments it chooses when Columbia seeks to roll in its project costs in its next general rate proceeding.

¹³ 88 FERC ¶ 61,227 (1999) n. 12. *See also Northwest Pipeline Corp.*, 104 FERC ¶ 61,176, at P 23 (2003).

21. BG&E asserts that Columbia's application is intended to expand capacity for the benefit of shippers on Millennium and that Columbia should be on notice that it is at risk for its project costs in its next general rate proceeding. In its answer, Columbia asserts that the proposed project is required now for the benefit of its existing customers and only indirectly benefits Millennium. Columbia explains that it will post on its electronic bulletin board (EBB) any additional locally available capacity that results from the project.

22. We find that Columbia has adequately demonstrated that the primary goal of its project is to restore and maintain existing services, not to increase the capacity of Line 1278. The record supports a conclusion that the larger diameter pipeline used in the expansion will result in only a small amount of locally available additional capacity, which Columbia states that it will post on its EBB. Columbia has fully supported the benefits that will accrue to existing customers from replacing the remaining smaller diameter segments of Line 1278 with larger, uniform diameter pipeline. Thus, we disagree with BG&E's description of the proposal as a capacity expansion project, and we will not place Columbia at risk for the costs associated with the limited amount of additional capacity created by using 20-inch diameter pipeline in the replacement project.¹⁴

23. Accordingly, we will grant Columbia a predetermination of rolled-in rate treatment for the costs associated with its proposed replacement project in its next general rate proceeding, absent any material change in circumstances. We have reached similar preliminary determinations in prior cases where, as here, the costs incurred are attributable to the maintenance of safety and reliability for the benefit of existing customers.¹⁵ However, our determination regarding rolled-in rates does not presume any decision with regard to the appropriate allocation of project costs, and the parties will be free to fully argue their positions, including any allocation of costs from the replacement project to Millennium's lease of capacity on Columbia, when Columbia files a section 4 rate case to roll its facility costs into its current system rates.

¹⁴ See, also, *Columbia Gas Transmission Corp.*, 111 FERC ¶ 61,431 (2005) and 64 FERC ¶61,028 (1993).

¹⁵ See, e.g., *Northwest Pipeline Corp.*, 104 FERC ¶ 61,176 at P 23, *reh'g denied*, 105 FERC ¶ 61,109 (2003).

C. Engineering

24. We conclude that the proposals are properly designed to restore operating pressures on Columbia's Lines 1278 and K, obviating the need for the continued use of the temporary Sparrowbush Compressor Station. We also believe that the increase in localized capacity resulting from the increase in diameter of the replacement pipe should provide Columbia with increased operational flexibility by allowing Columbia to use an increase in line pack to maintain higher system operating pressures during periods of high demand.

D. Environmental

25. We approved Columbia's request to use the Pre-Filing Review Process for the proposed project on February 3, 2010, in Docket No. PF10-6. As part of our Pre-Filing review, on March 23, 2010, staff issued a *Notice of Intent to Prepare an Environmental Assessment for the Planned Line 1278 – Line K Expansion Project and Request for Comments on Environmental Issues* (NOI). The NOI was noticed in the Federal Register on March 30, 2010¹⁶ and mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners.

26. We received comments in response to the NOI from the United States Fish and Wildlife Service (FWS), United States National Park Service (NPS), Pennsylvania Department of Conservation and Natural Resources (PADCNR), New York State Department of Environmental Conservation (NYSDEC), and four affected landowners. The primary issues raised by the resource agencies concerned potential project impacts on water supplies, federally and state listed species, visual impacts on the Delaware River, erosion, sediment control measures, revegetation, and cultural resources. The primary issues raised by landowners were pipeline routing, impacts on future development and commercial properties, property surveys, pipeline easements, and project alternatives.

27. To satisfy the requirements of the National Environmental Policy Act, our staff prepared an environmental assessment (EA) for Columbia's replacement project. The EA was prepared with the cooperation of the United States Army Corps of Engineers. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, socioeconomics, cumulative

¹⁶ 75 Fed. Reg. 15,705

impacts, and alternatives. The substantive environmental comments received in response to the NOI are addressed in the applicable sections of the EA.

28. In response to the NOI, the FWS filed general scoping comments requesting additional information on federally listed and proposed, endangered and threatened species within the area affected by the proposed project. As stated in the EA, Columbia performed all necessary surveys. Of the five federally listed species potentially affected, the EA determined that only the Indiana bat was likely to be affected in New York. The EA discusses mitigation to lessen the impacts on the Indiana bat, and the FWS Pennsylvania Field Office concluded that project related tree-clearing would not be likely to adversely affect the Indiana bat.

29. The NPS provided recommendations to mitigate the project's effects on the Middle Delaware National Scenic and Recreational River and tributaries. The recommendations related to erosion and sedimentation controls, invasive plant species, visual screening of the East River Block Gates located within the river's view shed, and the former Hudson and Delaware Canal (i.e., Bolton's Basin). During construction, Columbia would implement the Commission's *Upland Erosion Control, Revegetation and Maintenance Plan* and *Wetland and Waterbody Construction and Mitigation Procedures*, incorporated without modifications, into Columbia's Environmental Construction Standards.¹⁷ We believe these plans address the majority of the concerns expressed by the NPS. Further, Columbia would utilize a native seed mix recommended by the Delaware State Forest, which is designed specifically for the local area and will assist in controlling invasive species.¹⁸ In addition, on January 3, 2011, Columbia filed additional mitigation procedures to reduce visual impacts to the river by screening the East River Block Gates with stone veneer and privacy slats. Because of the NPS's concerns, EA recommendation 13 provides that construction activities would not begin until staff completes consultation with the NPS on these matters. On February 17, 2011, the NPS stated that they had reviewed Columbia's October 26, 2010 response to their initial project concerns, and that, at this time, NPS does not have additional comments. This adequately concludes staff's consultation with the NPS. Therefore, there is no need to adopt EA recommendation 13, regarding consultation with the NPS, as a condition in this order.

30. The PADCNR provided scoping comments requesting surveys for species and communities of concern potentially encountered in the project area. The EA notes that

¹⁷ Section A.7

¹⁸ Sections A.7 and B.5.b.

survey results determined that the project area is within range of a number of state threatened and endangered species and species of special concern.¹⁹ However, as noted in the EA, the bald eagle and the timber rattlesnake were the only species potentially affected in the project area. The EA concludes that the project may affect, but is not likely to adversely affect the bald eagle, and that while several timber rattlesnakes were observed during surveys, no gestation areas or den locations are present in the project area.

31. The NYSDEC requested that the EA address certain resource areas. The EA discusses all of the resource areas mentioned by the NYSDEC: state threatened and endangered species including the bald eagle and the timber rattlesnake;²⁰ impacts on the Delaware River;²¹ the Stormwater Pollution Prevention Plan;²² visual impacts;²³ and construction workspace, techniques, and access.²⁴

32. Four affected landowners expressed concern regarding pipeline routing, impacts on future development and commercial properties, property surveys, pipeline easements, and alternative pipeline routing for the greenfield portion of the proposed route in New York.²⁵ The EA addresses the project's potential impacts on these environmental resources²⁶ and evaluates three landowner-suggested route variations to determine whether they were environmentally preferable to Columbia's proposed alignment.²⁷ The EA determined that none of the route variations offered clear environmental advantages over Columbia's proposed pipeline routing.

¹⁹ Section B.4.

²⁰ *Id.*

²¹ Section B.2.

²² Section B.2.a.

²³ Section B.5.c.

²⁴ Section A.7.

²⁵ Due to commercial and residential encroachments along the existing Line K, Columbia proposed the greenfield portion of the right-of-way in New York to avoid structures located in close proximity to the existing pipeline.

²⁶ Sections B.5.a and C.6.

²⁷ Section C.6.

33. On January 7, 2011, the EA was issued for a 30-day comment period and placed into the public record. Timely comments on the EA were filed by Columbia, NYSDEC, the Pennsylvania Game Commission (PGC), FWS, NPS, and Mr. Kenneth Muller, an affected landowner. The NYSDEC indicated that Columbia has adequately consulted with it regarding the timber rattlesnake and the bald eagle. The NYSDEC also commented that the Water Quality Certification, which Columbia would be required to obtain in accordance with section 401 of the Clean Water Act, may require various conditions regarding site-specific plans for the City of Port Jervis's watershed, erosion control, dry crossing techniques, material disposal, pollution prevention, spoil placement, seeding and mulching requirements, and construction corridor limits. The EA recognizes that NYSDEC may require additional mitigation in its permits.²⁸ Accordingly, Environmental Condition 8 requires that Columbia provide documentation of its receipt of those permits prior to construction. Mr. Muller filed general comments about compensation, communications with Columbia, and routing.

34. The PGC stated that Columbia should perform additional surveys in rocky habitat for the Pennsylvania-listed threatened bat species—the eastern small-footed myotis. The PGC also requested that Columbia provide a list of items to be included in the survey report. Further, the PGC suggested seasonal restrictions for tree clearing for the northern myotis, a state species of special concern. To address these concerns, Environmental Condition 13 requires Columbia to conclude consultation with the PGC prior to construction.

35. On February 10, 2011, Mr. Muller filed an additional letter reiterating previous comments and suggesting an alternative route on his property. On March 4, 2011, Columbia filed a response to Mr. Muller's comments. We are aware that the Commission's Dispute Resolution Service has been working with Mr. Muller and Columbia as the parties discuss routing and compensation issues. We note that Environmental Condition 12 requires that Columbia, prior to commencing construction in New York, file evidence of landowner concurrence on the final route alignment on properties owned by the Mullers, the Sauschucks, and Rednal Realty in Sparrowbush, New York, or a summary of its attempts to come to an agreement with the landowners, including a description of remaining unresolved issues, if an agreement cannot be reached. To the extent routing changes are agreed upon, Columbia may implement them upon approval by the Director of OEP, pursuant to the provisions of Environmental Condition 5.

²⁸ Section B.2.a.

36. The EA determined that Columbia's proposed mitigation measures would adequately address the FWS concerns regarding federally listed species in Pennsylvania.²⁹ However, to ensure that the Commission's responsibilities under section 7 of the Endangered Species Act (ESA) were met, EA recommendation 11 states that no construction would begin in New York until consultation with the FWS New York Field Office was complete. On January 20, 2011, the FWS New York Field Office filed documentation concurring with the EA's findings that the project may affect, but is not likely to adversely affect, the federally listed Indiana bat and that suitable habitat for the bog turtle and dwarf wedge mussel would not be directly or indirectly impacted by the project. This concludes consultation with the FWS under section 7 of the ESA. Therefore, there is no need to adopt EA recommendation 11, regarding consultation with the FWS, as a condition in this order.

37. The EA states that Columbia completed its cultural resource surveys, but notes that consultation with Native American Tribes and New York SHPO is not yet complete. To ensure that the Commission's responsibilities under section 106 of the National Historic Preservation Act (NHPA) are met, EA recommendation 15 states that no construction should begin until consultation is complete. On February 7, 2011, Columbia filed documentation of consultation with the Delaware Nation, concurring with the findings in the survey report, and correspondence from the New York SHPO, indicating that no additional investigations were necessary for the portions of the former Delaware and Hudson Canal that would be impacted by the proposed project. This adequately concludes consultation with the Native American Tribes and SHPO under section 106 of the NHPA. Therefore, there is no need to adopt EA recommendation 15, regarding consultation with the Native American Tribes and SHPO, as a condition in this order.

38. Based on the analysis in the EA, we conclude that if constructed and operated in accordance with Columbia's application and supplements, and in compliance with the environmental conditions in the Appendix to this Order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

39. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of these certificates. We encourage cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws,

²⁹ Section B.4.a.

may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.³⁰

40. At a hearing held on March 17, 2011, 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, submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) Upon the terms and conditions of this order, a certificate of public convenience and necessity is issued under section 7(c) of the NGA authorizing Columbia to construct and operate the facilities, as more fully described above and in the application.

(B) Columbia shall comply with all applicable Commission regulations under the NGA and particularly the general terms and conditions set forth in paragraphs (a), (c), (e) and (f) of section 157.20 and Parts 154 and 284 of the Commission's regulations.

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

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

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

(F) Columbia shall notify the Commission of the date of the abandonment within 10 days thereof.

³⁰ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P. et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(G) Columbia shall comply with the environmental conditions listed in the Appendix to this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

This authorization includes the following environmental conditions:

1. Columbia shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA, unless modified by the Order. Columbia must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary;
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) before using that modification.
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction, operation, and activities associated with abandonment of the project. This authority shall allow:
 - a. the modification of conditions of the 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, operation, and activities associated with abandonment.
3. **Prior to any construction**, Columbia shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), and contractor personnel will be informed of the EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets, and shall include all of the staff's recommended facility locations identified in the EA. **As soon as they are available, and before the start of construction**, Columbia shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by the Order. All requests for modifications of

environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

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

5. Columbia shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, 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 our Upland Erosion Control, Revegetation, and Maintenance Plan, Columbia's Environmental Construction Standards, and/or minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

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

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of the Certificate and before construction or abandonment by removal begins,** Columbia shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP.

Columbia must file revisions to the plan as schedules change. The plan shall identify:

- a. how Columbia will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;
 - b. how Columbia will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - c. the number of EIs assigned, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instructions Columbia will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change),
 - f. the company personnel and specific portion of Columbia's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Columbia will follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - 1) the completion of all required surveys and reports;
 - 2) the environmental compliance training of onsite personnel;
 - 3) the start of construction; and
 - 4) the start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, Columbia shall file updated status reports with the Secretary on a biweekly basis until all construction and restoration activities are complete. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:

- a. an update on Columbia efforts to obtain the necessary federal authorizations;
 - b. the 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 EIs during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
 - d. a description of the corrective actions implemented in response to all instances of noncompliance, 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 Columbia from other federal, state, or local permitting agencies concerning instances of noncompliance, and Columbia's response.
8. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, Columbia shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
9. Columbia must receive written authorization from the Director of OEP **before placing the project into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
10. **Within 30 days of placing the authorized facilities in service**, Columbia shall file an affirmative statement with the Secretary, certified by a senior company official:
- a. that the facilities have been constructed/abandoned/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 Columbia has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented,

if not previously identified in filed status reports, and the reason for noncompliance.

11. **Within 30 days of placing the facilities in service**, Columbia shall file a report with the Secretary discussing whether any complaints were received concerning water well yield or quality and how each complaint was resolved.
12. **Prior to construction in New York**, Columbia shall file detailed alignment sheets showing any finalized minor pipeline reroutes for properties owned by Muller, Sauschuck, and Rednal Realty in Sparrowbush, New York. Columbia shall include evidence of the landowners' concurrence on the final route alignment or a summary of Columbia's attempts to come to an agreement with the landowners, including a description of remaining unresolved issues, if an agreement cannot be reached.
13. **Prior to construction in Pennsylvania**, Columbia shall consult with the PGC regarding the eastern small-footed myotis and northern myotis and file results of this consultation with the Secretary, including any agency-recommended mitigation measures.