

135 FERC ¶ 61,047  
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.

Florida Gas Transmission Company, LLC

Docket No. CP11-16-000

ORDER ISSUING CERTIFICATE

(Issued April 21, 2011)

1. On October 28, 2010, Florida Gas Transmission Company, LLC (Florida Gas) filed an application under section 7(c) of the Natural Gas Act (NGA)<sup>1</sup> and Part 157 of the Commission's regulations<sup>2</sup> seeking authorization to construct and operate the Miami Mainline Loop Project consisting of approximately 2.98 miles of 24-inch diameter natural gas loop pipeline, a pig receiver at Compressor Station No. 22, and appurtenant facilities in Miami-Dade County, Florida. As discussed below, we approve Florida Gas's proposal subject to the conditions of this order.

**I. Background and Proposal**

2. Florida Gas is a limited liability company formed under Delaware law. Florida Gas is a natural gas company within the meaning of NGA section 2(6),<sup>3</sup> and is engaged in the business of transporting natural gas from Texas, Louisiana, Mississippi, Alabama, Florida, and the Gulf of Mexico for consumption or further transportation.

3. Pursuant to a directive from the Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation (PHMSA), the Pipeline Safety Improvement Act of 2002, and as part of Florida Gas's pipeline integrity management program, Florida Gas is required to conduct hydrostatic testing of its existing single-barreled 18-inch diameter mainline between Mainline Line Valve 20-8 and

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<sup>1</sup> 15 U.S.C. § 717f(c) (2006).

<sup>2</sup> 18 C.F.R. Part 157 (2010).

<sup>3</sup> 15 U.S.C. § 717a(7) (2006).

Compressor Station No. 22 in Miami-Dade County by April of 2012, and every three years thereafter, to ensure the continued safe operation of this portion of its system. To ensure that gas service is not interrupted for Florida Gas's residential, commercial, industrial, and electrical power plant generation customers in the south Florida region, Florida Gas determined that it needed an alternate means of maintaining gas supply to south Florida during the hydrostatic testing.

4. Florida Gas asserts that it evaluated alternative options such as trucking gas (either compressed natural gas or liquefied natural gas), and the installation of a pipeline to deliver gas to points south of Compressor Station No. 22.<sup>4</sup> Florida Gas explains that it eliminated the trucking option because it would require more than 100 trucks to be strategically located at various distribution points and regularly exchanged or cycled in congested areas. Florida Gas further explains that it also considered and rejected three major pipeline route alternatives. These three alternatives were rejected because each lacked adequate work space to conduct horizontal directional drilling.

5. In order to maintain uninterrupted deliveries of natural gas to its customers south of Compressor Station No. 22 during the upcoming hydrostatic testing, and future testing intervals required by PHMSA, Florida Gas proposes to construct and operate approximately 2.98 miles of new 24-inch diameter natural gas loop pipeline. The loop will be installed from Mainline Line Valve 20-8, immediately east of State Highway 826, to Compressor Station No. 22 at approximately NW 70<sup>th</sup> Avenue and NW 65<sup>th</sup> Street in Miami-Dade County. The new 24-inch pipe will be installed alongside the existing 18-inch diameter pipe that needs to be hydrostatically tested.

6. Florida Gas states that it will also install a pig receiver at Compressor Station No. 22 to accommodate the testing of the proposed 24-inch diameter mainline. Florida Gas asserts that the construction and operation of the proposed Miami Mainline Loop Project is consistent with its long-term pipeline operations and will allow it to continue to meet its pipeline integrity obligations. Once the proposed facilities have been constructed and placed in-service, Florida Gas states that it will be able to take the existing 18-inch diameter pipe out of service while it is being hydrostatically tested.

7. Florida Gas explains that it chose to construct a loop with 24-inch diameter pipeline rather than an 18-inch diameter loop line because its 18-inch diameter mainline north of Mainline Line Valve 20-8 is already looped with 24-inch diameter pipeline. Florida Gas states that constructing the currently-proposed 2.98-mile loop with 24-inch

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<sup>4</sup> In its December 23, 2010, response to staff's December 13, 2010, data request, Florida Gas provided additional information describing the various trucking and piping options it explored to continue gas service south of Compressor Station No. 22.

diameter pipeline will create a continuous 24-inch diameter pipeline that can be effectively pigged without additional 18-inch pigging facilities. However, Florida Gas maintains that its pipeline facilities upstream of Mainline Line Valve 20-8 are fully subscribed, and there are no additional upstream facilities being installed as part of this project. Thus, the proposed 2.98 miles of 24-inch loop would not create any additional capacity that would enable Florida Gas to provide additional service. Further, Florida Gas states that although it anticipates a slight increase in suction pressure at Compressor Station No. 22, any such increase in suction also will not create any additional capacity. Thus, the proposed 24-inch pipe will be installed solely to create a parallel redundant loop to allow the 18-inch diameter pipeline to be removed from service while it is being hydrostatically tested.

8. As discussed further herein, Florida Gas proposes to install much of the proposed 24-inch diameter loop pipeline using horizontal directional drilling. This proposal reflects the fact that the proposed project is in a highly-developed, urbanized region of Miami-Dade County.

9. Florida Gas estimates that the project will cost approximately \$35.4 million and will be financed with internally-generated funds. Florida Gas states that it will propose in a future section 4 rate filing to recover the actual cost of the Miami Mainline Loop Project in its cost of service for firm transportation services under its Rate Schedule FTS-1.

## **II. Notice, Interventions, Protests, and Motions**

10. Notice of Florida Gas's application was published in the *Federal Register* on November 18, 2010.<sup>5</sup> Florida Municipal Natural Gas Association (Municipal Association), on behalf of itself and its members severally;<sup>6</sup> Florida Power and Light Company; Peoples Gas System, a division of Tampa Electric Company (Peoples Gas); and Seminole Electric Cooperative, Inc., filed timely motions to intervene.<sup>7</sup> Motions to intervene out of time were filed by Tropicana Manufacturing Company, Inc. (Tropicana), and Associated Gas Distributors of Florida, Inc. (Gas Distributors), on behalf of itself and

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<sup>5</sup> 75 Fed. Reg. 70,728 (Nov. 18, 2010).

<sup>6</sup> Municipal Association's members include: City of Chattahoochee; City of Clearwater Gas System; Clarke-Mobile Counties Gas District; Crescent City Natural Gas; City of DeFuniak Springs; City of Florida; Geneva County Gas District; Lake Apopka Natural Gas District; City of Leesburg; City of Live Oak; City of Madison; Okaloosa Gas District; Palatka Gas Authority; Southeast Alabama Gas District; and City of Sunrise.

<sup>7</sup> 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).

its members severally.<sup>8</sup> Because Tropicana and Gas Distributors have demonstrated an interest in this proceeding and their late interventions will not delay or otherwise prejudice this proceeding, we will grant the motions to intervene out of time for good cause shown.<sup>9</sup>

11. Municipal Association, Peoples Gas, Tropicana, and Gas Distributors filed comments questioning whether the proposed project is the most cost-effective option and the future rate treatment of the project. Their comments are addressed below.

### **III. Discussion**

12. Since the applications pertain to facilities used for the transportation of natural gas in interstate commerce, the proposals are subject to the Commission's jurisdiction and the requirements of NGA sections 7(c) and (e).<sup>10</sup>

#### **A. Certificate Policy Statement**

13. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for certificating major new construction.<sup>11</sup> 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 impacts. 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.

14. 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

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<sup>8</sup> Gas Distributors' members include: Chesapeake Utilities Corporation; Florida Public Utilities Corporation; Indiantown Gas Company; Florida City Gas; Sebring Gas System, Inc.; and St. Joe Natural Gas Company, Inc.

<sup>9</sup> 18 C.F.R. § 385.214(d) (2010).

<sup>10</sup> 15 U.S.C. §§ 717f(c), (e) (2006).

<sup>11</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order of clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse impacts 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 impacts 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 impacts. This is essentially an economic test. Only when the benefits outweigh the adverse impacts on economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

15. 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.<sup>12</sup> As described above, because Florida Gas's facilities upstream of Mainline Line Valve 20-8 are fully subscribed, the addition of the proposed loop will not create any capacity that Florida Gas might be able to use to provide additional service. Thus, while some of Florida Gas's customers raise concerns regarding how the project's costs will be allocated among existing customers, as discussed below, there is no potential here for incremental service to be provided using the new capacity that could be subsidized by services using existing capacity.<sup>13</sup> Further, Florida Gas is required to conduct hydrostatic testing every three years, pursuant to PHMSA directives, to ensure the continued safe operation of its pipeline. Without the proposed facilities, Florida Gas would not be able to maintain service for residential, commercial, industrial, and electrical power plant generation customers south of Compressor Station No. 22 during such tests. In view of these considerations, we find that Florida Gas's Miami Mainline Loop Project meets the Certificate Policy Statement's no subsidy requirement because the project is required to maintain safety, reliability, and continuation of service for the benefit of existing customers.

16. We further find that the proposed project will not negatively impact the services being received by Florida Gas's existing customers. None of Florida Gas's customers will lose service as a result of the proposed project. Indeed, the project will ensure that no services are interrupted while the existing 18-inch-diameter pipeline is temporarily taken out of service for safety testing. Likewise, since the project does not include new service and affects only Florida Gas's system, there will be no adverse impact on other

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<sup>12</sup> Certificate Policy Statement, 88 FERC at 61,746 n.12.

<sup>13</sup> Should Florida Gas add facilities in the future which would enable it to utilize the facilities being approved herein to provide additional increments of service, the appropriate manner for recovering costs related to such service will be determined at that time.

pipelines or their customers. The proposed project has been designed to minimize impacts on landowners and the environment since a majority of work, approximately 77 percent of the 2.98 miles of pipeline, will be constructed using horizontal directional drilling. Florida Gas states that any adverse impact will be minor and of limited duration, occurring mainly during construction of the proposed facilities.

17. Based on the benefits the project will provide and the lack of 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 Florida Gas's proposal to construct and operate the Miami Mainline Loop Project is required by the public convenience and necessity to maintain service to Florida Gas's customers while ensuring the safety of Florida Gas's system.

### **B. Rate Issues**

18. As noted above, Florida Gas states that in a future section 4 rate filing it will propose to recover the actual cost of the Miami Mainline Loop Project in its cost of service for firm service under its Rate Schedule FTS-1. Although some of the commenters question the overall cost of this project, they do not oppose the roll-in of the project costs; rather, they are concerned about how these costs will be shared by existing customers.

19. Peoples Gas and Tropicana request that the Commission refrain from making any finding that would prejudice the issue of the proper assignment or allocation of the ultimate costs associated with the project among Florida Gas's existing services and customers in a future rate case. Peoples Gas states that approval of any cost allocation to services under current rate schedules in this certificate proceeding would be unnecessary and premature, and could unduly prejudice Peoples Gas and other parties in a future rate case. In addition, Peoples Gas states that it does not appear that Florida Gas has asked the Commission to make any finding in this proceeding regarding the rate treatment for this project's costs in a future rate proceeding.

20. Peoples Gas also states that the application raises several issues that will be important to any determination of the future rate treatment for the project's costs, including whether, in view of the already existing 24-inch diameter upstream pipe, the 2.98 miles of 24-inch diameter pipeline proposed in this proceeding will lead to an increased system capacity that Florida Gas can use to provide additional service. Further, in response to Florida Gas's stated intention to make a section 4 filing in the future to propose revised rates that would recover 100 percent of this project's costs from its FTS-1 customers, Peoples Gas asserts it is not clear that the new facilities are needed only for Florida Gas's FTS-1 firm services. Finally, Peoples Gas states that Florida Gas has recently submitted a rate settlement to the Commission for approval and, if the settlement is approved before this project is approved, the Commission should direct

Florida Gas to apply the various rate components associated with the settlement (e.g. depreciation rates) to this project.

21. Municipal Association and Gas Distributors have concerns with the overall costs of the project and who should bear those costs. Similar to Peoples Gas's arguments, Municipal Association and Gas Distributors assert that Florida Gas's stated intention to seek recovery of all of the project's costs in the rates paid by Rate Schedule FTS-1 customers assumes that only Rate Schedule FTS-1 customers will benefit from the project.

22. As previously discussed, the Certificate Policy Statement provides that increasing the rates of existing customers to pay for projects designed solely to improve reliability or flexibility in providing a pipeline's existing services for its customers is not a subsidy, and that the costs of the project may be rolled in.<sup>14</sup> Here, Florida Gas's proposed project is designed to ensure continuous service for its existing customers when the existing 18-inch diameter pipeline is being hydrostatically tested; no additional increment of service will be provided as a result of this project. Therefore, we will grant Florida Gas a predetermination of rolled-in rate treatment for the Miami Mainline Loop Project in its next general rate proceeding, absent any significant change in circumstances.<sup>15</sup> We have reached similar preliminary determinations in prior cases where costs incurred are attributable to the maintenance of safety and reliability for the benefit of existing customers.<sup>16</sup> However, when Florida Gas files to recover its costs in its next general rate proceeding, if any party believes that Florida Gas failed to prudently manage or accurately account for its costs, the party may allege a significant change in circumstances and argue that it warrants a reevaluation of the predetermination supporting rolled-in rate treatment in this proceeding.

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<sup>14</sup> *Id.*

<sup>15</sup> In response to Peoples Gas's assertion that it is unnecessary for the Commission to make any rate-related determinations in this proceeding, we note that it is longstanding Commission policy to determine in the certificate proceeding authorizing the facilities' construction the appropriate pricing for the facilities. However, as noted, our determination regarding the appropriate rate treatment for the costs of the facilities approved herein is subject to reexamination should there be a significant change in circumstances.

<sup>16</sup> *See, e.g., Columbia Gas Transmission, LLC*, 134 FERC ¶ 61,196, at P 23 (2011); *Northern Natural Gas Co.*, 112 FERC ¶ 61,042, at P 12 (2005); *Northwest Pipeline Corp.*, 104 FERC ¶ 61,176, at P 23 (2003).

23. Moreover, the Commission's approval of rolled-in rate treatment for this project's costs does not prejudice any decision with regard to the appropriate allocation of these costs among Florida Gas's existing customers and services under its various rate schedules. Parties will be free to fully argue their positions in Florida Gas's next general rate proceeding.

24. Finally, Peoples Gas requests the Commission "direct [Florida Gas] to apply the various rate components that are associated with the settlement (e.g., depreciation rates) to the project prior to the effectiveness of the rates that [Florida Gas] proposes in its next rate case."<sup>17</sup> The uncontested settlement of Florida Gas's section 4 rate case in Docket No. RP10-21-000 was approved on February 24, 2011.<sup>18</sup> Thus, those cost components underlie Florida Gas's currently-effective rates and are therefore applicable to the facilities authorized herein.

### C. Engineering

25. We conclude that the requested looping facilities are properly designed to maintain existing contractual delivery obligations downstream of Compressor Station No. 22 whenever the exiting 18-inch diameter mainline is taken out of service for testing and maintenance. We also find that no additional capacity will be available for service as a result of looping this segment of mainline because Florida Gas's upstream facilities are fully subscribed, and no capacity is being created upstream of the proposed project.

### D. Environmental

26. On December 3, 2010, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Miami Mainline Loop Project and Request for Comments on Environmental Issues* (NOI). The NOI was 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. We received no environmental comments in response to the NOI.

27. To satisfy the requirements of the National Environmental Policy Act,<sup>19</sup> staff prepared an environmental assessment (EA) for Florida Gas's proposal. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife,

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<sup>17</sup> Peoples Gas December 1, 2010 Comments at 5, 6.

<sup>18</sup> *Florida Gas Transmission Co., LLC*, 134 FERC ¶ 61,136 (2011) (letter order approving uncontested settlement).

<sup>19</sup> 42 U.S.C. § 4332 (2006).

threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, and alternatives. The EA was placed into the public record on March 18, 2011.

28. As identified in the EA, Florida Gas proposes to use specialized techniques to minimize environmental impacts. Florida Gas proposes to use the horizontal directional drilling (HDD) method to reduce the impacts on surface resources by drilling beneath them. Four HDDs would be used to drill approximately 2.3 miles (77 percent) of the pipeline route, minimizing the impacts on landowners, sensitive species and cultural resources. Florida Gas has also routed the pipeline adjacent to an existing electric transmission line for 90 percent of its length.

29. Through consultation with the U.S. Fish and Wildlife Service, suitable habitats for two endangered species protected by the Endangered Species Act<sup>20</sup> were identified within the project area. These species are the wood stork and West Indian manatee, which find habitat in wetlands and waterbodies, respectively. The EA concludes that Florida Gas's use of the proposed HDDs would ensure that the project does not impact these species.

30. In accordance with section 106 of the National Historic Preservation Act,<sup>21</sup> one cultural resource site, the Miami C-6 Canal, was identified along the proposed route through consultation with the Florida State Historic Preservation Office. As stated in the EA, Florida Gas would avoid impacts on this cultural resource by using the HDD method to install the pipeline beneath the canal.

31. We have reviewed the information and analysis contained in the record, including the EA regarding the potential environmental impact of the project. Based on our consideration of this information, we agree with the conclusions presented in the EA and find that if constructed and operated in accordance with Florida Gas's application, as amended and supplemented, and the conditions imposed herein, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

32. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of these certificates. 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

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<sup>20</sup> 16 U.S.C. §§ 1531-1544 (2006).

<sup>21</sup> 16 U.S.C. § 470 (2006).

local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>22</sup>

#### **IV. Conclusion**

33. For all of the reasons discussed above, the Commission concludes that the Miami Mainline Loop Project is required by the public convenience and necessity and authorizes Florida Gas to undertake the construction and operation of the project facilities, subject to the discussion herein, environmental conditions set forth in the Appendix, and the ordering paragraphs to this order.

34. At a hearing held on April 21, 2011, the Commission on its own motion, received and made a part of the record all evidence, including the applications, amendments, and exhibits thereto, submitted in this proceeding, and upon consideration of the record,

#### **The Commission orders:**

(A) A certificate of public convenience and necessity is issued to Florida Gas under section 7(c) of the Natural Gas Act authorizing Florida Gas to construct and operate facilities as described above and in the application.

(B) Florida Gas 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) Florida Gas 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. Florida Gas shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(D) 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 157.20(b) of the Commission's regulations.

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<sup>22</sup> See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Comm'n*, 894 F.2d 571 (2d Cir. 1990); *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990), *order on reh'g*, 59 FERC ¶ 61,094 (1992).

(E) Florida Gas 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

### Environmental Conditions

As recommended in the Environmental Assessment (EA) and otherwise amended herein, this authorization includes the following conditions:

1. Florida Gas shall follow the construction procedures and mitigation measures described in its application and supplements, (including responses to staff data requests), and as identified in the environmental assessment (EA), unless modified by the Order. Florida Gas must:
  - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
  - b. justify each modification relative to site-specific conditions;
  - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
  - d. receive approval in writing from the Director of 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 and operation 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 and operation.
3. **Prior to any construction**, Florida Gas 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. **As soon as they are available, and before the start of construction**, Florida Gas 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.

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

5. Florida Gas 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* 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 begins**, Florida Gas shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Florida Gas must file revisions to the plan as schedules change. The plan shall identify:
    - a. how 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 the Order;
    - b. how Florida Gas 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 Florida Gas 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 (if known) and specific portion of Florida Gas's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) 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:
    - (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, Florida Gas 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 Florida Gas's 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 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. 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

