

137 FERC ¶ 61,140
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Texas Eastern Transmission, LP

Docket Nos. CP11-67-000
CP11-67-001

ORDER APPROVING ABANDONMENT AND ISSUING CERTIFICATE

(Issued November 17, 2011)

1. On January 25, 2011, Texas Eastern Transmission, LP (Texas Eastern) filed an application, as amended,¹ under sections 7(b) and 7(c) of the Natural Gas Act (NGA) seeking authorization to abandon, construct, and operate certain facilities on its mainline in Pennsylvania (TEAM 2012 Project). The Commission will grant the requested authorizations, subject to conditions, as discussed below.

I. Background and Proposal

2. Texas Eastern is a natural gas company that transports gas in interstate commerce subject to the Commission's jurisdiction. Texas Eastern's system extends from Texas, Louisiana, and the offshore Gulf of Mexico area, through Mississippi, Arkansas, Missouri, Tennessee, Illinois, Indiana, Kentucky, Ohio, Pennsylvania, and New Jersey, to its principal terminus in the New York City metropolitan area.

Facilities

3. Texas Eastern proposes to make pipeline looping and facility modifications on various segments of its mainline system between the Holbrook and Marietta Compressor Stations in Greene and Lancaster Counties, Pennsylvania, respectively. The proposals will provide Texas Eastern with the capacity to transport an additional 200,000 dekatherms (Dth) per day of natural gas from receipt points on Texas Eastern's system in eastern Ohio and western Pennsylvania to delivery points in Texas Eastern's market area,

¹ Texas Eastern filed the amendment on June 13, 2011.

including to the head of the Marietta Extension in York County, Pennsylvania² and to the interconnection between Texas Eastern and Eastern Shore Natural Gas Company in Lancaster County, Pennsylvania.³

4. Specifically, Texas Eastern proposes to: (1) construct and operate approximately 1.8 miles of 36-inch diameter pipeline loop in Greene County, Pennsylvania; (2) construct and operate approximately 3.23 miles of 36-inch diameter pipeline loop in Fayette County, Pennsylvania (Holbrook East Loop); (3) relocate a proposed pig receiver from approximate milepost (MP) 4.7 to approximate MP 3.23 in order to accommodate the Holbrook East Loop; (4) abandon by removal approximately 7.3 miles of existing 24-inch diameter Line 1 in Franklin County, Pennsylvania and replace the line in the same right-of-way with 36-inch diameter pipeline; (5) abandon by removal approximately 4.0 miles of existing 24-inch diameter Line 1 in Adams County, Pennsylvania and replace the line in the same right-of-way with 36-inch diameter pipeline; and (6) construct or replace other associated appurtenances, as described more fully in Exhibit F-1 of the application.

5. In addition, at the Bedford Compressor Station in Bedford County, Pennsylvania, Texas Eastern proposes to (1) install one 26,000 horsepower (HP) electric compressor unit and ancillary facilities, including a new station gas cooling facility; (2) uprate two existing 11,000 HP electric compressor units to 14,300 HP each; (3) abandon in place nine existing gas-fired reciprocating compressor units with a total of 11,880 HP; and (4) make certain modifications to ancillary facilities. The proposed modifications to the Bedford Compressor Station will result in a net increase of 20,720 HP, raising the station's total certificated horsepower from 33,880 to 54,600 HP.

6. Texas Eastern also proposes to increase the design pressure on its mainline between the Bedford and Chambersburg Compressor Stations pursuant to the Special Permit it received from the Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA).⁴ To allow it to operate at the increased pressure, Texas Eastern states that it intends to replace two segments of pipeline between the Bedford and Chambersburg Compressor Stations and continue its ongoing anomaly investigation and remediation activities to allow it to operate its mainline at the 1,112 pounds per square inch gauge (psig) pressure allowed by the Special Permit.

² The Commission authorized the Marietta Extension in *Texas Eastern Transmission, LP*, 129 FERC ¶ 61,151 (2009), *order granting and denying reh'g*, 131 FERC ¶ 61,164 (2010).

³ *Eastern Shore Natural Gas Co.*, 132 FERC ¶ 61,204 (2010).

⁴ Special Permit, PHMSA Docket No. PHMSA-2008-0257 (October 28, 2010).

Open Season

7. Texas Eastern held a non-binding open season from August 1 through August 29, 2008, and a binding open season from November 17 through December 1, 2009. Texas Eastern held a reverse open season from December 10 through December 31, 2009, which did not result in any turnback of capacity from existing firm shippers. As a result of the open seasons, Texas Eastern executed precedent agreements with Range Resources-Appalachia, LLC (Range), for 150,000 Dth per day of firm transportation services, and Chesapeake Utilities Corporation (Chesapeake), for 40,000 Dth per day of firm transportation services, with primary terms of 16 years and 15 years, respectively.⁵

8. Following the filing of its January 25, 2011 application, Texas Eastern states that 20,000 Dth per day of mainline capacity became available due to the expiration of existing firm service agreements. This turnback capacity was posted on Texas Eastern's LINK system website and, on February 7, 2011, Texas Eastern posted a notice reserving the capacity for the TEAM 2012 Project. As a result, in its amended application, Texas Eastern proposes to use the turnback capacity to reduce the scope of the pipeline looping east of its Holbrook Compressor Station⁶ and to offer an additional 10,000 Dth per day of incremental firm transportation capacity, increasing the project's capacity to 200,000 Dth per day. Texas Eastern entered into amended precedent agreements, increasing Chesapeake's firm transportation entitlement from 40,000 to 50,000 Dth per day, commencing one year from the in-service date of the project.⁷

Rates

9. Texas Eastern estimates that the TEAM 2012 Project will cost approximately \$196,998,000. Texas Eastern proposes a \$17.4980 per month per Dth incremental firm maximum daily reservation recourse rate under its Rate Schedule FT-1 and a \$0.000 per Dth usage charge. Texas Eastern does not seek approval to roll the costs of the project into its existing zone rates but reserves the right to do so in the future as part of a general rate case.

10. Texas Eastern does not propose to track interruptible service separately on its existing and proposed facilities. Accordingly, Texas Eastern proposes to charge its

⁵ Chesapeake owns and operates two local distribution companies in Delaware and Maryland. Texas Eastern has two precedent agreements with Chesapeake.

⁶ Texas Eastern's January 25, 2011 application proposed that the Holbrook East Loop would be 4.7 miles long. Due to the turnback, Texas Eastern now proposes 3.23 miles of loop, as indicated above in the description of the proposed facilities.

⁷ There were no other changes to Range's or Chesapeake's precedent agreements.

system interruptible transportation rates for all interruptible throughput on the project facilities.

11. Texas Eastern proposes to recover incremental fuel use and lost and unaccounted-for fuel (LAUF), as well as incremental electric power costs associated with providing firm service on the project facilities, through incremental Applicable Shrinkage Adjustment (ASA) percentages and incremental Electric Power Cost (EPC) rates. Texas Eastern asserts that it will track changes in fuel and electric power costs for these incremental services on an incremental basis as set forth in its tariff.

II. Notice, Interventions, and Comments

12. Notices of Texas Eastern's application in Docket No. CP11-67-000 and amended application in Docket No. CP11-67-001 were published in the *Federal Register* on February 11, 2011 (76 Fed. Reg. 7833) and June 30, 2011 (76 Fed. Reg. 38,381), respectively. The parties listed in Appendix A filed timely, unopposed motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.⁸

13. The Municipal Defense Group⁹ filed a motion to intervene out-of-time. The Municipal Defense Group has demonstrated an interest in this proceeding and shown that its participation will not delay, disrupt, or otherwise prejudice these proceedings.¹⁰ The Commission will grant the late motion to intervene.

III. Discussion

14. Because Texas Eastern seeks to abandon, construct, and operate facilities used for the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, the proposal is subject to the requirements of subsections (b), (c), and (e) of section 7 of the NGA.

⁸ 18 C.F.R. § 385.214(c) (2011).

⁹ The Municipal Defense Group consists of the following distributor-customers of Texas Eastern: Borough of Chambersburg, Pennsylvania; Batesville, Indiana; Cairo Public Utility Company; Gloster, Mississippi; Harrisburg, Arkansas; Horton Highway Utility District, Tennessee; Lawrenceburg, Tennessee; Loretto, Tennessee; Middleborough, Massachusetts Municipal Gas and Electric Department; Norwich, Connecticut; Department of Public Utilities, Smyrna, Tennessee; and Utica, Mississippi.

¹⁰ 18 C.F.R. § 385.214(d) (2011).

A. Certificate Policy Statement

15. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.¹¹ The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explained that in deciding whether to authorize the construction of major new pipeline facilities, we balance the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding and of 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.

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

17. As stated, the threshold requirement is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. Here, Texas Eastern proposes to charge incremental recourse rates for the proposed service. Since, as discussed below, we find such rates to be appropriate, we find the proposal will not result in subsidization by Texas Eastern's existing customers. If Texas Eastern seeks to roll the costs associated with the project into its rates in the future, it must demonstrate that rolling the costs into its rates will not result in any subsidization by existing customers.

18. Texas Eastern will construct the proposed pipeline facilities on existing rights-of-way and previously disturbed property. Mr. William Wayne Smith, a landowner near the Bedford Compressor Station, intervened, stating that his property is already polluted from

¹¹ *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).

the storage fields and pipelines that are located on it. However, all of the modifications at the Bedford Compressor Station will take place within the fence line of the station and there is no indication that Mr. Smith's property is located any less than 1,500 feet from the Bedford Compressor Station. Thus, Texas Eastern's proposals will not affect Mr. Smith's property. Since Texas Eastern will construct the proposed facilities using existing rights-of-way and previously disturbed property, we find that Texas Eastern has taken appropriate steps to minimize impacts on landowners and surrounding communities.

19. The TEAM 2012 Project will allow Texas Eastern to transport an additional 200,000 Dth per day of gas through its system. Based on the benefits the project will provide and the lack of any identifiable adverse impacts on Texas Eastern's existing customers, other pipelines and their captive customers, and landowners and surrounding communities, we find that, consistent with the Certificate Policy Statement and section 7(c) of the Natural Gas Act, the public convenience and necessity requires approval of Texas Eastern's proposal, subject to the conditions set forth herein.

20. Texas Eastern proposes to abandon approximately 11.3 miles of 24-inch diameter pipeline and replace it with approximately 11.3 miles of 36-inch diameter line. Texas Eastern also proposes to abandon nine gas-fired compressor units at the Bedford Compressor Station and replace them by installing one electric compressor unit and upgrading two existing electric units. Since the replacement of 24-inch diameter line with 36-inch diameter line and the replacement of the nine gas-fired compressor units with new and upgraded electric compressor units are integral components of the TEAM 2012 Project we are finding to be in the public convenience and necessity, we also find that the public convenience or necessity permit Texas Eastern's abandonment of the 24-inch diameter line and the existing gas-fired units.¹²

¹² On September 21, 2011, Texas Eastern submitted additional information about the abandonment of the gas-fired units at the Bedford Compressor Station. Texas Eastern states that First Energy, Inc. (First Energy), the electricity provider in the Bedford area, is experiencing difficulties acquiring easements needed for First Energy to upgrade its electric grid. The upgrades are required for Texas Eastern to operate all of its existing and proposed electric compressor units at the Bedford Compressor Station at the same time. Texas Eastern states that until First Energy completes its upgrades, it will need to operate the gas-fired compressor units proposed to be abandoned to meet its contractual obligations. First Energy has advised Texas Eastern that the upgrade of the electric grid may not occur until the fourth quarter of 2013. Texas Eastern states that at no time will it exceed the proposed certificated level of compression, 54,600 HP, at the Bedford Compressor Station.

B. Initial Recourse Rates

21. Texas Eastern proposes a \$17.498 per month per Dth incremental firm maximum reservation recourse rate under Rate Schedule FT-1 and a \$0.000 per Dth usage charge. Texas Eastern based its rates on a straight fixed-variable rate design and billing determinants reflecting the full 200,000 Dth per day of the expansion. Texas Eastern derived the proposed rates using the rate of return and other factors from its most recent cost of service settlement.¹³ Consistent with the rate design approved for other incremental services, Texas Eastern proposes to charge its existing system interruptible rates for all interruptible throughput.

22. Texas Eastern derived a 1.93 percent incremental fuel rate and a \$3,628,693 annual incremental electric power cost based on the difference between the average fuel and electric power required on a winter peak day for existing and proposed facilities and system operations, adjusted for the 20,000 Dth per day of turnback capacity.

23. We find that Texas Eastern's proposed incremental recourse rates are cost-based rates that fully recover the costs of the proposed construction. Texas Eastern's proposed recourse rate is higher than its existing \$9.107 per Dth Zone M2-M3 rate. Thus, we will approve Texas Eastern's proposed initial firm incremental recourse rate and its incremental fuel rate.

C. Reporting Incremental Rates

24. To assure that costs are properly allocated between Texas Eastern's existing shippers and the incremental services proposed in this proceeding, we will require Texas Eastern to keep separate books and accounting of costs attributable to the proposed incremental services. The books should be maintained with applicable cross-references, as required by section 154.309 of the Commission regulations. This information must be in sufficient detail so that the data can be identified in Statements G, I, and J in any future NGA section 4 or 5 rate case and the information must be provided consistent with Order No. 710. Such measures protect existing customers from cost overruns and from subsidization that might result from under-collection of the project's incremental cost of service, as well as help the Commission and parties to the rate proceedings determine the costs of the project.¹⁴

D. Negotiated Rates

25. Texas Eastern proposes to enter into negotiated rate agreements with its shippers. In certificate proceedings, we establish initial recourse rates, but do not make

¹³ *Texas Eastern Transmission Corp.*, 84 FERC ¶ 61,200 (1998).

¹⁴ 18 C.F.R. § 154.309 (2011).

determinations regarding specific negotiated rates for proposed services.¹⁵ In order to comply with the Alternative Rate Policy Statement¹⁶ and the Commission's decision in *NorAm Gas Transmission Co.*,¹⁷ we will direct Texas Eastern to file either the negotiated rate agreements or a tariff sheet describing the negotiated rate agreements. If a negotiated rate agreement contains material deviations from Texas Eastern's form of service agreement, Texas Eastern must file and clearly delineate the differences between the negotiated rate agreement and its form of service agreement in redline and strikeout. If a negotiated rate agreement does not contain any material deviations from the form of service agreement, Texas Eastern may elect to file a tariff sheet reflecting the terms of the agreement together with a statement that the agreement conforms in all material respects with its form of service agreement.

26. For each shipper paying a negotiated rate, the tariff sheets must state the following: (1) the exact legal name of the shipper; (2) the total charges (the negotiated rate and all applicable charges); (3) the receipt and delivery points; (4) the volumes of gas to be transported; (5) the applicable rate schedule for the service; (6) any formula upon which the negotiated rate is designed; and (7) a statement affirming that the negotiated rate contract does not deviate in any material aspect from the form of service agreements in its tariff. We direct Texas Eastern to file either its negotiated rate agreements or a tariff sheet fully describing the transactions no earlier than 60 days, and no later than 30 days, before service commences. Further, Texas Eastern shall abide by the terms and reporting requirements of the Alternative Rate Policy Statement, as it may be modified from time to time.

27. Texas Eastern must also disclose all considerations linked to the agreements. In addition, Texas Eastern shall maintain separate and identifiable accounts for any volumes transported, billing determinants, rate components, surcharges, and revenues associated with its negotiated rates for the project in sufficient detail so that they can be identified in Statements G, I, and J in any future NGA section 4 or 5 rate proceedings. When Texas

¹⁵ *CenterPoint Energy—Mississippi River Transmission Corp.*, 109 FERC ¶ 61,007, at P 19 (2004); *ANR Pipeline Co.*, 108 FERC ¶ 61,028, at P 21 (2004).

¹⁶ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines* (Alternative Rate Policy Statement), 74 FERC ¶ 61,076 (1996), *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996), *reh'g denied*, 75 FERC ¶ 61,066 (1996), *aff'd sub nom.*, *Burlington Resources Oil & Gas Co. v. FERC*, 172 F. 3d (D.C. Cir. 1998); *Modification of Negotiated Rate Policy*, 104 FERC ¶ 61,134 (2003), *order on reh'g and clarification*, 114 FERC ¶ 61,042 (2006).

¹⁷ 77 FERC ¶ 61,011 (1996).

Eastern files negotiated rate tariff sheets under section 4 of the NGA, interested parties may protest if they believe the rates are discriminatory.

E. Environmental Analysis

28. On August 19, 2010, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI). The NOI was mailed to federal, state, and local government representatives and agencies; elected officials; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding.

29. The U.S. Army Corps of Engineers – Pittsburgh District (COE), the Pennsylvania Department of Environmental Protection (PADEP), and Alpha Natural Resources, Inc. (Alpha) filed comments in response to the NOI. The primary issues raised concerned potential impacts on waterbodies and wetlands, compressor station operations, contaminated soils, and existing and planned coal extraction operations.

30. To satisfy the requirements of the National Environmental Policy Act of 1969, the Commission staff prepared an environmental assessment (EA) for Texas Eastern's proposal. The EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, visual resources, cultural resources, air quality, noise, safety, and alternatives. The EA addresses all substantive comments received in response to the NOI.

31. The COE outlined its responsibilities and concerns as they pertain to waterbodies and wetlands. The EA examines these concerns and concludes that construction and operation of the project will not significantly impact waterbodies and wetlands.

32. The PADEP submitted scoping comments concerning compressor station operations, contaminated soils and groundwater, and potential impacts on waterbodies and wetlands. The EA describes Texas Eastern's commitment to operate the Bedford Compressor Station facilities in accordance with the requirements of the U.S. Department of Transportation and concludes that construction and operation of the Bedford Compressor Station facilities would not significantly impact the environment. The EA found no contaminated soils or groundwater on or underlying lands potentially impacted by the project. Texas Eastern's Waste Management Plan, included in its application, outlines measures to address unknown contamination.

33. Alpha submitted scoping comments concerning potential impacts on the pipeline due to existing and planned coal operations. The EA found no ongoing or planned coal mining activities that interact with the proposed facilities. The EA also discusses the historical coexistence of natural gas transmission facilities and mineral resource extraction activities in the area and concludes that construction and operation of the

proposed facilities would not significantly impact, or be significantly impacted by, mineral resource extraction.

34. The EA was issued for a 30-day comment period and placed into the public record on August 26, 2011. The Commission did not receive any substantive comments.

35. On August 24, 2011, Texas Eastern submitted additional information regarding cultural resources that satisfies its cultural resource consultation obligations. Accordingly, environmental recommendation 13 of the EA has been omitted from the environmental conditions included in Appendix B to this Order.

36. First Energy, the electric provider for the Bedford Compressor Station, is experiencing difficulties in upgrading its electric service. Texas Eastern states that until First Energy completes the upgrades, it will need to operate the nine gas-fired compressor units that it proposes to abandon to meet firm demand. Texas Eastern asserts that, after consultation with the PADEP regarding air emissions, delaying abandonment of the reciprocating units for up to 18 months following the commencement of construction will not cause undue harm to the quality of the human environment.

37. Based on the analysis in the EA, we conclude that if constructed and operated in accordance with Texas Eastern's application, as amended and supplemented, and in compliance with the environmental conditions in Appendix B, our approval would not constitute a major federal action significantly affecting the quality of the human environment.

38. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. 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, may prohibit or unreasonably delay the construction/installation or operation of facilities approved by this Commission.¹⁸

39. At a meeting held on November 17, 2011, the Commission received and made part of the record in this proceeding all evidence, including the application, as amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

¹⁸See, 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), *order on reh'g* 59 FERC ¶ 61,094 (1992).

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Texas Eastern to construct and operate the TEAM 2012 Project facilities, as described and conditioned herein, and as more fully described in the applications in Docket Nos. CP11-67-000 and CP11-67-001.

(B) Texas Eastern is granted permission and approval to abandon the compressor units at the Bedford Compressor Station and certain pipeline segments, as more fully described in this order and the applications. The compressor units shall be abandoned within two years of the date of this order. Texas Eastern shall notify the Commission of the date of the abandonment of facilities within 10 days.

(C) The certificate authority issued in Ordering Paragraph (A) is conditioned on the following:

- (1) Texas Eastern's completing the authorized construction of the proposed facilities and making them available for service within two years of the date of this order pursuant to section 157.20(b) of the Commission's regulations;
- (2) Texas Eastern's compliance with all applicable Commission regulations, including paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;
- (3) Texas Eastern's compliance with the environmental conditions listed in Appendix B to this Order.

(D) Prior to the commencement of construction, Texas Eastern shall execute firm transportation agreements equal to the levels and terms of service reflected in the precedent agreements submitted in support of its proposal.

(E) Texas Eastern's request for authority to charge incremental rates for services on the TEAM 2012 Project is approved.

(F) Texas Eastern shall file actual tariff records with the incremental rates no earlier than 90 days, and no later than 60 days, prior to the date the facilities go into service.

(G) Texas Eastern shall not utilize, at any time, more than 54,600 HP of compression at the Bedford Compressor Station.

(H) Texas Eastern 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 Texas Eastern. Texas Eastern shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

By the Commission. Commissioner Spitzer is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix A

Interveners in Docket No. CP11-67-000

Anadarko Energy Services Company
Atmos Energy Corporation
Atmos Energy Marketing LLC
Calpine Energy Services, L.P.
Carolina Power & Light Company, d/b/a Progress Energy Carolinas, Inc.
Chesapeake Utilities Corporation
Columbia Gas of Pennsylvania, Inc.
Consolidated Edison Company of New York, Inc, Orange and Rockland Utilities, Inc.,
and Philadelphia Gas Works (jointly)
Independent Oil & Gas Association of West Virginia, Inc.
National Fuel Gas Distribution Corporation
National Grid Gas Delivery Companies
The New England Local Distribution Companies
New Jersey Natural Gas Company
NJR Energy Services Company
PECO Energy Company
The Pennsylvania Office of Consumer Advocate
ProLiance Energy, LLC
PSEG Energy Resources & Trade LLC
Statoil Natural Gas LLC
UGI Distribution Companies
Mr. William Wayne Smith

Intervener in Docket No. CP11-67-001

Consolidated Edison Company of New York, Inc, Orange and Rockland Utilities, Inc.,
and Philadelphia Gas Works (jointly)

Appendix B

Environmental Conditions

1. Texas Eastern shall follow the construction procedures and mitigation measures described in its application, amendment and supplemental filings (including responses to staff environmental information requests) and as identified in the environmental assessment (EA), unless modified by this Order. Texas Eastern 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 and operation of the project. This authority shall allow:
 - a. the modification of conditions of this Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Texas Eastern shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), 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**, Texas Eastern shall file with the Secretary any revised detailed survey alignment maps or 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.

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

5. Texas Eastern shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, and documentation of landowner approval, whether any cultural resources or federally-listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps, sheets, or 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 route variations required herein or extra workspace allowed by Texas Eastern's Erosion & Sediment Control Plan or 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 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,** Texas Eastern shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Texas Eastern must file revisions to the plan as schedules change. The plan shall identify:

- a. how Texas Eastern will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff environmental information requests), identified in the EA, and required by this Order;
 - b. how Texas Eastern 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 per spread, and how Texas Eastern 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 Texas Eastern will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change), with the opportunity for OEP staff to participate in the training session(s);
 - f. the company personnel (if known) and specific portion of Texas Eastern's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Texas Eastern 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 environmental compliance training of onsite personnel;
 - (iii) the start of construction; and
 - (iv) the start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, Texas Eastern 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 Texas Eastern's efforts to obtain the necessary federal authorizations;
 - b. the current construction status of each spread, work planned for the following reporting period, and any scheduling 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 or 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 that may relate to compliance with the requirements of this Order, and the measures taken to satisfy their concerns; and
 - g. copies of any correspondence received by Texas Eastern from other federal, state or local permitting agencies concerning instances of noncompliance and Texas Eastern's responses.
8. Texas Eastern 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 rights-of-way. **Prior to construction**, Texas Eastern shall mail the complaint procedures to each landowner whose property would be crossed by the project.
- a. In its letter to affected landowners, Texas Eastern shall:
 - (1) provide a local contact that the landowners should call first with their concerns and 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 Texas Eastern's Hotline and indicate how soon a landowner should expect a response; and
 - (3) instruct the landowners that, if they are still not satisfied with the response from Texas Eastern's Hotline, they should contact the Commission's Dispute Resolution Service Helpline at (877) 337-2237 or at ferc.adr@ferc.gov.
 - b. In addition, Texas Eastern shall include in its biweekly status report a copy of a table that contains the following information for each problem or concern:
 - (1) the identity of the caller and the date of the call;
 - (2) the location by milepost and identification number from the authorized alignment sheet(s) of the affected property;
 - (3) a description of the problem or concern; and
 - (4) an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.

9. **Prior to receiving written authorization for the Director of OEP to commence construction of any project facilities**, Texas Eastern shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. Texas Eastern 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.
11. **Within 30 days of placing the authorized facilities in service**, Texas Eastern shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed or 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 Texas Eastern 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.
12. Texas Eastern **shall not clear trees** within the workspace boundaries of the Heidlersburg Discharge Pick-up and Relay outside of the window of November 16 and March 31 **until**:
 - a. staff completes any necessary consultation with the U.S. Fish and Wildlife Service; and
 - b. Texas Eastern has received written notification from the Director of the OEP that construction or use of mitigation may begin.
13. Texas Eastern shall file a noise survey with the Secretary **no later than 60 days** after placing the authorized units at the Bedford Compressor Station in service. If the noise attributable to the operation of the new and modified equipment at the compressor station at full load exceeds a day-night sound level of 55 decibels at the nearby noise sensitive areas, Texas Eastern should install additional noise controls to meet that level within one **year** of the in-service date. Texas Eastern should confirm compliance with the above requirement by filing a second noise survey with the Secretary no later than **60 days** after it installs the additional noise controls.