

141 FERC ¶ 61,119
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Panhandle Eastern Pipe Line Company, LP

Docket No. CP11-546-000

ORDER APPROVING ABANDONMENT

(Issued November 15, 2012)

1. On September 16, 2011, Panhandle Eastern Pipe Line Company, LP (Panhandle) filed an application under section 7(b) of the Natural Gas Act (NGA)¹ for authority to abandon its Adams Compressor Station in Texas County, Oklahoma. As discussed below, the Commission will approve the requested abandonment.

I. Background and Proposal

2. Panhandle is a natural gas company, as defined by section 2(6) of the NGA,² engaged in the transportation and storage of natural gas in interstate commerce. It is a limited partnership organized and existing under the laws of Delaware. Panhandle's transmission system extends from its supply areas in Texas, Kansas, and Oklahoma through Missouri, Illinois, Indiana, Ohio, and Michigan to the International Boundary between the United States and Canada.

3. The Adams Compressor Station is located on the Adams Lateral, approximately three miles south of Adams, in Texas County, Oklahoma.³ The Adams Compressor Station was certificated and constructed in the 1950s, and expanded in the 1970s, to provide compression for the Adams Gathering System which feeds into the compressor station. At one time, the Adams Compressor Station comprised nine compressor units

¹ 15 U.S.C. § 717f (2006).

² 15 U.S.C. § 717a (6) (2006).

³ The Adams Lateral extends from the Adams Compressor Station to Panhandle's main line and is approximately one mile long.

totaling 5,272 horsepower but, due to a decline in deliveries from the attached gathering system, Panhandle received authority in 1997 to abandon by removal six of the nine units and related appurtenant facilities.⁴ The remaining units produce 1,740 horsepower of compression.

4. The Adams Compressor Station site consists of a north and a south yard.⁵ Each yard is fenced and the yards are separated by a county road. The Adams Meter Station is located in the north yard. Panhandle shares the north yard with DCP Midstream, LP (DCP), which owns and operates a liquids terminal and above-ground storage tanks on the north yard, as well as the upstream Adams Gathering System. The three remaining compressor units – units U-145, U-146, and U-165, each with a rating of 580 horsepower – are located in the south yard, as is the Adams Lateral.

5. Panhandle proposes to abandon all its remaining above- and below-ground facilities at the Adams Compressor Station site, except for the Adams Meter Station and the Adams Lateral. Specifically, Panhandle proposes to abandon and remove the following facilities and equipment:

(1) North Yard: An auxiliary office building, a pipeline condensate sump, two pipeline condensate tanks, a water well⁶ and water well building, a gas scrubber, an electrical panel, and an emergency shutdown stand;⁷

(2) South Yard: Three compressor units (U-145, U-146, and U-165), one engine building,⁸ a used-oil sump, an ambitrol sump,⁹ a gas scrubber, two lube oil tanks, two air compressor tanks, an air compressor, an emergency shutdown stand, fuel measurement and metering building, a dehydration contactor (triethylene glycol), and a dehydration regenerator unit (triethylene glycol).

⁴ *Panhandle Eastern Pipe Line Co.*, 80 FERC ¶ 62,163 (1997).

⁵ The north yard is 3.7 acres in size. The south yard is two acres in size.

⁶ The water well supplies non-potable water for operation of the compressor station. It would be sealed in compliance with state and county regulations.

⁷ DCP's facilities in the north yard would not be affected by the abandonment.

⁸ The engine building is used to store tools, parts, supplies, and other materials.

⁹ Ambitol is an industrial coolant containing ethylene glycol.

6. Panhandle states that it will leave existing foundations and pads in place until the termination of the property leases for the north and south yards¹⁰ and then restore the yards to their pre-existing conditions by dismantling and removing the remaining facilities, foundations, pads, crushed stone, and security fencing. Panhandle asserts that piping at depths greater than 18 inches will be cleaned, filled with water, and capped. Panhandle states that all equipment and building removal activities will be conducted within the security fence of the compressor station property on the north and south yards and that abandonment activities will take three to four months to complete.

II. Notices, Interventions, Protests and Answers

7. Notice of Panhandle's application was published in the *Federal Register* on October 5, 2011 (76 Fed. Reg. 61,682). DCP, Michigan Consolidated Gas Company, and ProLiance Energy, LLC filed timely, unopposed motions to intervene.¹¹ Anadarko Petroleum Corporation (APC)¹² and Anadarko Energy Services Company (AESC)¹³ (collectively, Anadarko) filed a timely, joint motion to intervene.

8. On October 19, 2011, DCP and Anadarko filed a joint protest to Panhandle's application. Panhandle filed an answer to the protest, DCP and Anadarko filed a joint reply to Panhandle's answer, and Panhandle filed a limited answer to the reply.¹⁴ Rule 213(a) of the Commission's Rules of Practice and Procedure does not permit answers to protests or answers to answers.¹⁵ However, the Commission finds good cause to waive Rule 213(a), as the pleadings will not cause undue delay and they may assist the

¹⁰ The Adams Compressor Station is located on leased private property.

¹¹ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. *See* 18 C.F.R. § 385.214 (2012).

¹² APC is a producer and operates 18 natural gas wells upstream of the Adams Compressor Station. These wells produce about 450 Mcf of gas per day, which flows into DCP's gathering system.

¹³ AESC buys 450 Mcf of gas per day from APC and 420 Mcf of gas per day from other producers in the area, and sells the gas to DCP, which delivers it to the Adams Compressor Station.

¹⁴ The pleadings were filed on November 2 and 28, and December 5, 2011, respectively.

¹⁵ 18 C.F.R. § 385.213 (2012).

Commission in its decision making process.¹⁶ The Commission will address the comments, protests, and answers below.

III. Discussion

9. Since the facilities Panhandle proposes to abandon are used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, the proposal is subject to the requirements of section 7(b) of the NGA.¹⁷

Procedural Arguments

10. Panhandle asserts that DCP and Anadarko lack “standing” to challenge the proposed abandonment because they do not hold contracts for firm capacity on its system. Rule 211 of the Commission’s Rules of Practice and Procedure provides that “[a]ny person may file a protest to object to any application” and that the “protestant must intervene under Rule 214 to become a party.” Rule 214 provides that a movant must demonstrate a right to participate that is expressly conferred, an interest that may be directly affected by the proceeding’s outcome, or that participation is in the public interest. DCP operates the Adams Gathering System that connects to the Adams Compressor Station. AESC purchases gas from APC and other area producers, and sells it to DCP, which delivers the gas to Panhandle at the Adams Compressor Station. APC has gas wells upstream of the Adams Compressor Station and delivers gas into DCP’s system for delivery to Panhandle. Also, DCP and AESC have no-fee interruptible pooling agreements with Panhandle. The Commission finds that even though DCP and Anadarko do not have firm transportation contracts with Panhandle, they have interests that may be directly affected by the outcome of the proceeding. Thus, we conclude DCP and Anadarko have standing to protest the application.¹⁸

Abandonment Proposal

11. Section 7(b) allows an interstate pipeline company to abandon jurisdictional facilities or services only if the abandonment is permitted by the “present or future public convenience or necessity.”¹⁹ The Commission examines abandonment applications on a

¹⁶ 18 C.F.R. § 385.213(a)(2) (2012).

¹⁷ 15 U.S.C. § 717f(b) (2006).

¹⁸ *E.g.*, *ANR Pipeline Co.*, 139 FERC ¶ 61,238 (2012) and *Northern Natural Gas Co.*, 135 FERC ¶ 61,048 (2011) (interruptible customers intervened to protest the proposed abandonment of facilities).

¹⁹ *Id.*

case-by-case basis. In deciding whether a proposed abandonment is warranted, the Commission considers all relevant factors, but the criteria vary as the circumstances of the abandonment proposal vary.

12. Panhandle states that deliveries from the upstream Adams Gathering System continue to decline due to the age of the fields attached to the gathering system and that production is not expected to increase. Specifically, Panhandle asserts that between January 2000 and August 2011, average throughput at the Adams Compressor Station declined from 3,100 to 1,500 Mcf per day. Due to this decline, Panhandle asserts that although it has three remaining compressors at the Adams Compressor Station, it needs to operate only one of the three units at any given time to compress the gas received from the gathering system, and that unit is operated at less than 80 percent of its rated horsepower. Panhandle also asserts that the compressors are inefficient and improperly sized for the current transportation volumes.

13. Panhandle contends that no firm transportation contracts are associated with the facilities to be abandoned and that abandonment will not require termination of any firm services, nor will it affect service provided to its existing firm transportation customers. Panhandle points out that no firm shipper has protested its proposal. Further, Panhandle asserts that no interruptible shippers on its system will be affected by the abandonment, since no interruptible shipper has designated the Adams Meter Station as a receipt point. Panhandle contends, accordingly, that the Adams Compressor Station is no longer needed for interstate transmission service and moreover, that gas supplies on its system are more than adequate to meet the requirements of its downstream shippers.

14. Panhandle explains that the supplies attached to the Adams Compressor Station are currently moved at no fee to pooling points downstream where the gas is aggregated with gas from other supply sources and made available for downstream shippers. Panhandle contends DCP and Anadarko do not pay for compression service at the Adams Compressor Station facilities, but that the service is subsidized by Panhandle's firm customers.

15. Panhandle contends that if the proposed abandonment is approved, producers and supply aggregators can add compression upstream of the Adams Meter Station at their own cost to deliver the gas at pipeline pressure to Panhandle's Adams meter station for transportation through the Adams Lateral to the mainline²⁰ or they can re-route their gas through other DCP gathering lines, or another gathering system, to other existing receipt points on Panhandle's system.

²⁰ The Adams Lateral has 5,800 Mcf per day of transportation capacity to Panhandle's mainline.

16. Panhandle contends that the proposed abandonment will eliminate operation and maintenance (O&M) costs related to the compressor station facilities and costs related to the retrofitting, testing, and monitoring required to comply with the U.S. Environmental Protection Agency's (EPA) air pollution abatement standards.²¹ Panhandle states that it is uneconomical to retrofit or replace the compressor units. Panhandle estimates the total cost of abandonment will be approximately \$210,000.²²

Continuity of Service

17. When a pipeline company proposes to abandon facilities, the continuity and stability of existing services are the primary considerations in assessing whether the public convenience or necessity permit the abandonment.²³ If the Commission finds that a pipeline's proposed abandonment of particular facilities will not jeopardize continuity of existing natural gas transportation services, it will defer to the pipeline's business judgment.²⁴

18. DCP and Anadarko contend that compression as provided by the Adams Compressor Station is necessary to deliver their gas into Panhandle's system. Specifically, they assert that pressure at the custody transfer meter upstream of the Adams Compressor Station is five to six pounds per square inch gauge (psig) and pressure downstream of the compressor station is 525 psig. If the proposed abandonment is approved, DCP and Anadarko contend that they will be unable to deliver their gas to Panhandle or, in the alternative, they will need to construct expensive compressor upgrades on their systems.

19. In addition, DCP and Anadarko assert that the current average 12-month throughput at the Adams Compressor Station is 1,650 Mcf per day and that throughput should remain in the 1,650 to 3,000 Mcf per day range for the indefinite future. DCP and Anadarko maintain that Panhandle has not met its burden of showing that production has declined to the point where continuation of service is not warranted.

²¹ Panhandle estimates the costs for engineering, materials, installation, and catalyst materials to comply with the EPA's air emissions requirements for the three compressor engines would exceed \$400,000.

²² Exhibit Y to Panhandle's application shows the proposed accounting entries and treatment that reflect the proposed abandonment.

²³ See, e.g., *El Paso Natural Gas Co.*, 136 FERC ¶ 61,180, at P 22 (2011).

²⁴ See, e.g., *Trunkline Gas Co.*, 94 FERC ¶ 61,381, at 62,420 (2001).

20. Panhandle counters that the proposed abandonment will not cause gas to be shut in because it stands ready to continue to receive gas at the Adams Meter Station if the gas is delivered at pipeline pressure. Panhandle further contends that it is not a normal transmission function for an interstate pipeline to receive gas at five psig.

21. It is uncontested that there are no firm transportation contracts on Panhandle's system using the Adams Compressor Station facilities and thus, the proposed abandonment of the facilities will not result in termination of any firm services. Also, no customers holding interruptible transportation contracts with Panhandle designated the Adams Compressor Station as a point of receipt in their contracts.

22. It is also the case that Panhandle's proposed abandonment will not in and of itself result in the shut in of production upstream of the facilities to be abandoned because there exist alternative means for that gas to reach the interstate grid. Rather, the producers and other interests upstream will need to make business judgments as to whether it is economically feasible for them to pursue the alternatives. The facilities to be abandoned are located in an active, albeit declining production area with extensive existing infrastructure. As noted above, gas can continue to be delivered to the Adams Meter Station for transportation on the Adams Lateral if facilities are constructed upstream that would enable the gas to be delivered at pipeline pressures. In the alternative, the gas can be re-routed to other existing DCP facilities that are currently delivering gas to other receipt points on Panhandle's system. Panhandle has filed a map²⁵ illustrating that Timberland Gathering and Processing Company, Inc., as well as other DCP gathering lines in the area, could be used to deliver gas to other receipt points on Panhandle's system.²⁶ Furthermore, ANR Pipeline Company and Northern Natural Gas Company also have interstate pipelines facilities in the area.

23. The present-day Adams Compressor Station is something of a historical anomaly, first constructed as it was in the 1950's to support Panhandle's role as a merchant, as opposed to a transporter, of natural gas. Notwithstanding the fact that Panhandle has continued to operate the facility, albeit at a third of its one time size, to facilitate the receipt of dwindling levels of production, Section 12.4 of the General Terms and Conditions (GT&C) of Panhandle's tariff provides that deliveries of gas at the point of receipt shall be at a pressure sufficient to enter Panhandle's pipeline system at such point. Sections 12.5, 12.6, and 12.7 of the GT&C provide that the shipper is responsible for delivering its quantity of gas at the scheduled receipt point on Panhandle's system on any

²⁵ Panhandle's February 2, 2012 Data Response No. 2.

²⁶ Panhandle's receipt points available, upstream and downstream of the Adams meter station, are Optima-Pan American, Seaboard Farms Depuy M&R Station, Mires M&R Station, Baker-CTM M&R Station, and DCP Sherhan.

given day, and that Panhandle is not obligated to receive or deliver gas if the shipper fails to meet its requirements. Moreover, the costs associated with the Adams Compressor Station are being borne not by the protestors, but by the firm and interruptible shippers transporting gas downstream of the pooling point. Based on the absence of protests from any shippers bearing the costs of operating and maintaining the facilities proposed to be abandoned, it appears that downstream shippers do not place a high value on the service being provided by those facilities (i.e., assuring ready access to the production upstream of the facilities). Under these circumstances, the Commission finds that the public convenience or necessity permit the proposed abandonment.

Section 7 vs. Section 4 Proceeding

24. DCP and Anadarko contend that Panhandle's proposal is an attempt to use a section 7(b) application to reduce the O&M costs embedded in its just and reasonable rates without making an NGA section 4 filing. DCP and Anadarko cite *Northern Natural Gas Co. (MOPS)*²⁷ in support of their position that a section 4 rate case is the appropriate means to deal with a pipeline's economic issues. DCP and Anadarko also contend that the reduced costs from the proposed abandonment will not pass through to Panhandle's shippers until Panhandle files an NGA section 4 general rate case.

25. Panhandle asserts that it is not circumventing the requirements of section 4 of the NGA and that the Commission has approved the abandonment of facilities in section 7 cases where the abandonment increased the operational and economic efficiency of the interstate pipeline system. Panhandle contends that its shippers will benefit from lower costs resulting from the elimination of uneconomic operations, allowing the pipeline to avoid rate increases to recover such costs.²⁸

26. First, we note that while costs can be reallocated in a section 4 proceeding, a pipeline can only receive authorization to abandon facilities by filing an application under section 7(b). In support of the proposed abandonment in *MOPS*, the applicants alleged that the facilities they sought to abandon by removing from service were "underutilized and uneconomic to operate." In reviewing the *MOPS* proposal, the Commission found that a not insignificant amount of gas was still flowing on the MOPS system, that there was continuing well development activity in the vicinity of the facilities, that the existing MOPS shippers had no readily-available alternatives to transporting their gas on MOPS, and that the facilities proposed to be abandoned were otherwise capable of continuing to provide service. Thus, while indicating that it was sensitive to the economic realities faced by pipelines, the Commission reaffirmed that "continuity and stability of existing

²⁷ 135 FERC ¶ 61,048 (2011).

²⁸ Panhandle's December 5, 2011 Data Response No. 5.

service are the primary considerations in assessing the public convenience or necessity of a permanent cessation of service under section 7(b) of the NGA,”²⁹ and found that the evidence presented by the applicants did not support a finding that the public convenience or necessity permitted the removal of the MOPS facilities from service. The Commission also stated that “[i]n the absence of Applicants and their shippers agreeing to negotiated rates, the appropriate forum for determining what rates are necessary to provide the Applicants an opportunity to recover their costs in providing services using the MOPS facilities is a section 4 rate case.”³⁰

27. The *MOPS* case does not stand for the proposition that it is inappropriate for a company to seek to abandon facilities in order to reduce its costs. As in *MOPS*, Panhandle is proposing to remove its facilities from service. In *MOPS*, however, the Commission found that there was no transportation alternative for a significant proportion of the gas on the system. Here, there is evidence that the production behind the facilities to be abandoned can either be re-routed to another delivery point on Panhandle’s system or field compression can be added in order to deliver gas into the Adams Lateral at pipeline pressure.³¹ It is also worth noting that the *MOPS* abandonment was protested by shippers paying rates, albeit for interruptible service, which included costs associated with the facilities to be abandoned. None of the protestors here pay any rates associated with the facilities that are being abandoned.

28. DCP and Anadarko assert that existing Panhandle shippers will not enjoy the benefits of reduced costs until Panhandle files a new section 4 rate case. They are correct that a pipeline’s existing rates cannot be modified to remove or add any costs in a section 7 abandonment authorization.³² However, receipt of abandonment authorization is essentially a prerequisite for the removal of costs from rates. In addition, the Commission finds it significant that no protests or objections were filed by any shippers on Panhandle’s system that pay for the compression. We take this lack of protest as an indication that such shippers believe that they will be unharmed or will benefit from the proposed abandonment, notwithstanding the fact that Panhandle will not reflect the reduced costs in its rates until its next section 4 rate case.

²⁹ *Id.* P 35 (citing *Southern Natural Gas Co.*, 126 FERC ¶ 61,246 (2009)).

³⁰ *Id.* P 43.

³¹ We also note that the *MOPS* proceeding involved facilities located offshore, where it is considerably more difficult and expensive to construct alternate facilities than it is onshore.

³² *Trunkline Gas Co.*, 94 FERC ¶ 61,381, at 62,422 (2001); *Northern Natural Gas Co.*, 74 FERC ¶ 61,100, at 61,305 (1996).

Rate Stacking

29. DCP and Anadarko also contend that Panhandle's proposals will result in rate stacking because the total rates paid by the shippers would increase, since they would have to seek replacement compression to transport gas on Panhandle's system. DCP and Anadarko cite three cases to support their position.

30. Panhandle responds that the protestors do not currently pay for service through the Adams Compressor Station and that requiring a shipper to "[p]ay a separate rate (separate from the mainline long-haul transportation rate) for a separate service (compression needed to receive mainline long-haul transportation) does not constitute rate stacking."

31. The Commission has expressed concern in prior orders where a proposed transfer of facilities may result in the imposition of additional costs for the performance of the same services, i.e., rate stacking. Under Panhandle's tariff, DCP and Anadarko do not pay a rate for the compression at the Adams Compressor Station. Rather, shippers on Panhandle downstream of the pooling point absorb these costs. To the extent such shippers do not access gas from upstream of the compressor, they subsidize the compression activities. Under Panhandle's proposals, DCP and Anadarko would now have to bear the costs associated with delivering their gas at pipeline pressure into Panhandle. The Commission does not view such a change in responsibility for costs as rate stacking.

32. The *Transcontinental Gas Pipe Line Corporation* cases cited by DCP and Anadarko involved two proposals to abandon by sale the same facilities in Texas (the South Texas Pipeline Facilities).³³ The Commission denied the proposals on the basis that, among other things, the proposed abandonments would result in higher, stacked rates. Transco's South Texas Pipeline Facilities (part of Transco's IT Feeder System) function primarily to move gas from production areas to Transco's Station 30 for subsequent transportation on Transco's downstream mainline. Transco charges a separate IT Feeder rate for service on its IT Feeder System, which included service on the South Texas Pipeline Facilities and service through Station 30. In both cases, Transco was proposing to abandon only a portion of its IT Feeder System; as proposed, Transco would have retained both Station 30, located at the downstream end of the facilities to be abandoned, and a lateral, which is located upstream of the South Texas Pipeline Facilities. In *Transco II*, the Commission found that in order to access Transco's system downstream of Station 30 after abandonment, shippers would have had to pay two separate rates, the acquiring pipeline's transportation rate and Transco's IT Feeder rate, both of which were designed to recover

³³ *Transcontinental Gas Pipe Line Corp.*, 102 FERC ¶ 61,074 (2003), *order on reh'g* 103 FERC ¶ 61,118 (2003) (*Transco I*); *Transcontinental Gas Pipe Line Corp.*, 110 FERC ¶ 61,337, at P 44 (2005) (*Transco II*).

costs associated with the South Texas Pipeline Facilities. Similarly, in *Transco I*, shippers on the upstream lateral would have had to pay the acquiring pipeline's Natural Gas Policy Act of 1978's section 311 rate and Transco's IT Feeder rate to reach Station 30, both of which would presumably have included South Texas Pipeline Facilities' costs.

33. DCP and Anadarko also cite a Southern Natural Gas Company (Southern) case in support of their position. In *Southern Natural Gas Company*, Southern proposed to abandon its West of Bienville System between Texas and Louisiana.³⁴ The Commission denied the abandonment because, among other things, shippers on the West of Bienville System could currently deliver gas to certain points under Southern's Zone 0 rate. Under the proposal, shippers on the West of Bienville System would have to pay the acquiring pipeline's intrastate transportation rate and perhaps a gathering rate, as well as Southern's Zone 0 rate, for the same service.

34. The proposals in this proceeding are not like the proposals in *Transco I*, *Transco II*, and *Southern*. Here, shippers on Panhandle will continue to pay Panhandle's existing rate for transportation service. The producers, should they elect to continue delivering gas to Panhandle, will be responsible, as they are not now, for the costs associated with making those deliveries at pipeline pressure. Unlike in the *Transco* and the *Southern* cases, this is not a situation where the protestors will be paying twice for the same service.

35. For the reasons discussed above, the Commission finds that the public convenience or necessity permit the abandonment of Panhandle's Adams Compressor Station. Specifically, there are no firm or interruptible transportation contracts associated with the facilities to be abandoned and the abandonment will not affect service to existing transportation customers. In addition, no Panhandle customer paying rates recovering the costs of the Adams Compressor Station has protested the proposal. The Commission finds that there will not be any continuity of service issues associated with the abandonment as the producers upstream of the facility to be abandoned have reasonable alternatives available for continued access to the interstate grid. In addition, the Commission finds the proposed abandonment will not result in the type of rate stacking the Commission has previously found to be unacceptable. Accordingly, the Commission will grant Panhandle's request for abandonment authorization.

³⁴ 126 FERC ¶ 61,246 (2009).

IV. Environment

36. To satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA),³⁵ the Commission's staff prepared an environmental assessment (EA) for the proposed abandonment. The EA was published on December 28, 2011. It addressed geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, visual resources, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives. The EA recommended that various environmental conditions be imposed if abandonment authority were granted.

37. Based on the analysis in the EA, the Commission concludes that if the facilities are abandoned in accordance with Panhandle's application and supplements, and in compliance with the environmental conditions included in the appendix to this order, approval of the proposed abandonment would not constitute a major federal action significantly affecting the quality of the human environment.

38. At a hearing held on November 15, 2012, the Commission, on its own motion, received and made part of the record all evidence, including the application, as supplemented, and exhibits thereto, submitted in this proceeding and upon consideration of the record,

The Commission orders:

(A) Permission for and approval of the abandonment by Panhandle of the facilities as more fully described above in this order and in Panhandle's application, as supplemented, is granted.

(B) Panhandle shall notify the Commission of the abandonment of the facilities within 10 days of such abandonment. Panhandle shall complete the authorized abandonment within one year from the date of this order.

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

³⁵ 42. U.S.C. §§ 4321-4370f (2006).

(D) Panhandle shall comply with the environmental conditions set forth in the appendix to this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

APPENDIX

Environmental Conditions

1. Panhandle shall follow the abandonment by removal 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. Panhandle 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 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 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 activities associated with abandonment of the project.
3. **Prior to any activities associated with abandonment of the project**, Panhandle 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 EIs' 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. **Within 60 days of the acceptance of this certificate and before abandonment by removal**, Panhandle shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Panhandle must file revisions to the plan as schedules change. The plan shall identify and provide:
 - a. how Panhandle will implement the abandonment procedures and mitigation described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;

- b. how Panhandle 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; and
 - c. the number of EIs assigned, and how Panhandle 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 Panhandle will give to all personnel involved with abandonment and restoration activities (initial and refresher training as the project progresses and personnel change);
 - f. the company personnel (if known) and specific portion of Panhandle's organization having responsibility for compliance; and
 - g. the procedures (including use of contract penalties) Panhandle will follow if noncompliance occurs.
5. **Prior to receiving written authorization from the Director of OEP to commence project activities**, Panhandle shall file with the Secretary documentation that they have received all authorizations required under federal law (or evidence of waiver thereof).
6. **Within 30 days of abandoning the authorized facilities**, Panhandle shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been abandoned 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 Panhandle 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.
7. Beginning with the filing of its Implementation Plan, Panhandle shall file updated status reports with the Secretary on a biweekly basis until all abandonment 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 Panhandle's efforts to obtain the necessary federal authorizations;

- b. the status of the project, work planned for the following reporting period, and any schedule changes;
- 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
- g. copies of any correspondence received by Panhandle from other federal, state, or local permitting agencies concerning instances of noncompliance, and Panhandle's response.