

147 FERC ¶ 61,042
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Transcontinental Gas Pipe Line Company, LLC

Docket No. CP13-523-000

ORDER ISSUING CERTIFICATE

(Issued April 17, 2014)

1. On July 18, 2013, Transcontinental Gas Pipe Line Company, LLC (Transco) filed an application under section 7(c) of the Natural Gas Act (NGA)¹ and Part 157, Subpart A of the Commission's regulations² requesting authorization to construct and operate pipeline and compression facilities in Alabama to provide 225,000 dekatherms (Dth) per day of incremental southbound firm transportation service on its Mobile Bay Lateral (Mobile Bay South III Expansion Project). As discussed below, the Commission will grant Transco's requested authorization, subject to conditions.

I. Background and Proposal

2. Transco is a natural gas company, as defined by section 2(6) of the NGA, that transports natural gas in interstate commerce. Transco's transmission system extends from Texas, Louisiana, and the offshore Gulf of Mexico area, through Mississippi, Alabama, Georgia, South Carolina, North Carolina, Virginia, Maryland, Pennsylvania, and New Jersey, to its termini in the New York City metropolitan area.

3. The Mobile Bay Lateral is a 123.4-mile, 30-inch diameter pipeline designed to provide firm transportation service for a maximum of 1,149,058 Dth per day northbound and 633,500 Dth per day southbound. The northbound transportation path extends from the tailgate of the W&T Offshore Yellowhammer gas treatment plant located near Coden in Mobile County, Alabama to the interconnection of the Mobile Bay Lateral and Transco's mainline in Choctaw County, Alabama. As further described in the Onshore Mobile Bay Pipeline Construction and Ownership Agreement, dated March 13, 1992, as amended, between Transco and Florida Gas Transmission Company LLC, (Florida Gas),

¹ 15 U.S.C. § 717f(c) (2012).

² 18 C.F.R. pt. 157, Subpart A (2013).

Transco owns 829,640 Dth per day of the northbound service capability, and Florida Gas owns 319,418 Dth per day.³

4. Transco owns all the Mobile Bay Lateral's southbound transportation service capability, which originates at the interconnection of the Mobile Bay Lateral and Transco's main line and extends to the interconnection with Gulfstream Natural Gas System, L.L.C. in Coden, Alabama. Transco would also own the proposed project's 225,000 Dth per day of incremental southbound transportation service capability, which would extend from the Station 85 receipt points to the interconnections with Florida Gas and Bay Gas Storage in Mobile County, Alabama.

5. Transco proposes to construct and operate pipeline and compression facilities in order to provide 225,000 Dth per day of incremental firm transportation service on its Mobile Bay Lateral from supply interconnections at its Compressor Station 85 Zone 4A Pool and the adjacent interconnections with Gulf South Pipeline Company, LP (Gulf South) and Midcontinent Express Pipeline, LLC (Midcontinent Express) (Station 85 receipt points) to interconnections with Florida Gas near Citronelle, Alabama and Bay Gas Storage Company, Ltd (Bay Gas Storage) in Mobile County, Alabama. Specifically, Transco proposes to:

- add a new, natural gas-fired, 20,500 horsepower (hp) Solar Titan 130 turbine compression unit, compressor building, gas cooling, yard pipeline, and related auxiliary equipment to Compressor Station 85 in Choctaw County, Alabama;⁴
- install 30-inch diameter piping to connect the existing Gulf South Scott Mountain meter station to the suction header of the new unit and existing units at Compressor Station 85, using pressure regulation to supply a higher suction pressure, which will allow for additional station flexibility and fuel optimization;
- modify existing compressor units 1, 2, and 3 at Compressor Station 85 to allow for operation at the higher suction and discharge pressures;

³ The Mobile Bay Lateral also includes a 72 mile offshore extension, which is wholly owned by Transco and will support 362,250 Dth per day of northbound transportation service on a firm basis.

⁴ Transco states that it has considered the waste heat recovery potential at Compressor Stations 83 and 85 as discussed in the Interstate Natural Gas Association of America White Paper, "Waste Energy Opportunities for Interstate Natural Gas Pipelines" (February 2008), and the proposed Station 83 and 85 additions meet the specified horsepower threshold, but not the specified 60% load factor threshold. Transco must continue to monitor those stations' operations, and if they meet the specified load factor threshold, Transco must post such information on its Electronic Bulletin Board.

- up-rate the existing 15,000 hp Solar Mars 100 compressor to 16,000 hp at Compressor Station 83 in Mobile County, Alabama;
- install inlet air cooling at Compressor Station 83; and
- rewheel the existing compressor at Compressor Station 83.

6. Transco estimates that the proposed facilities will cost approximately \$49.4 million.⁵ Transco states that it will initially finance the project through short-term loans and funds on hand and that it will permanently finance the project as part of its overall, long-term financing program.

7. Transco held an open season from July 24 through August 23, 2012, and executed binding precedent agreements with two shippers for 100 percent of the incremental firm transportation service to be provided by the project for 15 years. The two shippers are Southern Company Services, Inc. (Southern) (200,000 Dth per day) and PowerSouth Energy Cooperative (PowerSouth) (25,000 Dth per day).⁶

8. Transco proposes to charge a newly developed incremental recourse rate for the proposed service under its existing Rate Schedule FT. The precedent agreements filed in Transco's application state that the shippers may choose either the incremental recourse rate or a negotiated rate when they execute actual service agreements. In addition, Transco proposes to charge its generally applicable Zone 4A system fuel retention and electric power rates under its Rate Schedule FT.

II. Notice, Interventions, Comments, and Answers

9. Notice of Transco's application was published in the *Federal Register* on August 7, 2013 (78 Fed. Reg. 48,154). The parties listed in Appendix A filed timely, unopposed motions to intervene.⁷

10. Rebecca L. Smith, an affected landowner, filed a late motion to intervene, comments and a protest. This movant has demonstrated an interest in this proceeding. The untimely motion to intervene will not delay, disrupt, or unfairly prejudice any parties

⁵ See Application at Exhibit K.

⁶ Transco submitted copies of the precedent agreements in Exhibit I and requested that they be treated as privileged information pursuant to section 388.112 of the Commission's regulations. See 18 C.F.R. § 388.112 (2013).

⁷ 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 (2013).

to this proceeding. Thus, we will grant the untimely motion to intervene pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure.

11. PowerSouth filed a comment supporting the project. Nancy and Slim Whatley filed a comment regarding noise impacts, Johnny Morgan filed a protest regarding the engineering design of the project and environmental impacts, and the Choctaw Nation of Oklahoma filed a comment regarding cultural and historic impacts. The comments and protest are addressed below or in the environmental assessment (EA).

III. Discussion

12. Transco proposes to construct and operate facilities used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, therefore the proposals are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.⁸

A. Application of the Certificate Policy Statement

13. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.⁹ 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 natural gas facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

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 subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the construction. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the

⁸ 15 U.S.C. §§ 717f(c) and 717f(e) (2012).

⁹ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

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

15. As discussed above, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. The Commission has determined, in general, that where a pipeline proposes to charge incremental rates for new construction, the pipeline satisfies the threshold requirement that the project will not be subsidized by existing shippers.¹⁰ Because Transco proposes to charge an incremental rate for service on the project facilities that is designed to recover the full cost of the expansion and which exceeds the existing system rate for service, existing shippers will not subsidize the expansion. Accordingly, we find that the threshold no-subsidy requirement under the Certificate Policy Statement has been met.

16. We also find that the proposal will not degrade service to Transco's existing customers. The project will allow Transco to provide additional transportation services while continuing to meet existing firm obligations. In addition, there will be no adverse impact on existing pipelines in the region or their captive customers because the proposal is not intended to replace existing customers' service on other existing pipelines. Further, the project will make additional supply options available for shippers connected to Transco's system. Also, no pipeline company has protested Transco's application.

17. As discussed in greater detail below and in the EA, Transco states that all clearing, grading, and land disturbances will occur within Transco's Compressor Station 85 property line, existing rights-of-way (including the Scott Mountain meter station), and Compressor Station 83 property line. Accordingly, we find that Transco has designed the project to minimize any adverse impacts on landowners and surrounding communities.

18. Based on the benefits the project will provide to the project shippers, the lack of adverse effects on existing customers, other pipelines and their captive customers, and landowners and surrounding communities, we find that, consistent with the criteria discussed in the Certificate Policy Statement and subject to the environmental discussion below, Transco's Mobile Bay South III Expansion Project is required by the public convenience and necessity, as conditioned in this order.

¹⁰ *E.g., Transcontinental Gas Pipe Line Corp.*, 98 FERC ¶ 61,155 (2002).

B. Rates**1. Initial Recourse Rates**

19. Transco proposes an initial incremental daily recourse reservation rate of \$0.14055 per Dth, which is higher than Transco's existing applicable system rate.¹¹ This reservation rate was calculated by dividing the annual incremental cost of service of \$11,542,883 by an annual transportation quantity of 82,125,000 Dth (225,000 Dth per day multiplied by 365 days). The annual cost of service was derived from the total estimated cost of facilities of \$49,420,911. Transco used a pre-tax return of 15.34 percent, which Transco states is the pre-tax return underlying the design of its settlement rates in Docket No. RP01-245-000. Transco states that its projected operation and maintenance expenses are based on estimates for similar facilities on its system. Transco states that it used currently-effective depreciation rates from the settlement in Docket No. RP06-569-000 which consists of: (1) a rate of 4.25 percent for solar turbines; and (2) a rate of 2.79 percent for onshore transmission depreciation rate (including negative salvage).¹²

20. Transco's proposal to charge an incremental rate for the expansion project is consistent with the Commission's policies that an expansion project should be priced incrementally if such a rate would exceed the existing applicable system rate. The Commission has reviewed the projected cost of service and the proposed incremental recourse rate and finds that they are reasonable with the exception of the depreciation rates. On December 6, 2013, in Docket No. RP12-993-000, the Commission approved a Settlement which revised certain depreciation rates.¹³ Accordingly, when it files actual tariff records reflecting its initial recourse rates prior to putting the project into service, Transco is directed to recalculate its proposed maximum incremental recourse rate to reflect the depreciation and negative salvage rates approved in the Commission's order on the Settlement.¹⁴ Additionally, the Commission directs Transco to charge its current

¹¹ Transco's currently effective daily reservation rate for transportation service from Zone 4A to Zone 4A is \$0.09900 per Dth.

¹² *Transcontinental Gas Pipe Line Corp.*, 122 FERC ¶ 61,213 (2008) (Order Approving Settlement filed on November 28, 2007). Appendix A to the November 28, 2007 Settlement specifies the depreciation rates.

¹³ See Appendix A to August 27, 2013 Stipulation and Agreement (Settlement) filed in Docket No. RP12-993-000, as approved in *Transcontinental Gas Pipe Line Co., LLC*, 145 FERC ¶ 61,205 (2013).

¹⁴ The rate changes resulting from the required changes to depreciation and negative salvage rates do not affect our finding that incremental rates are appropriate for the service to be provided by the proposed project.

system interruptible transportation service rate for any interruptible service rendered on additional capacity made available as a result of the project.

21. Consistent with the Certificate Policy Statement, the Commission directs Transco to keep separate books and accounting of costs attributable to the project. The books should be maintained with applicable cross-references, as required by section 154.309 of the Commission's regulations. This information must be in sufficient detail so that the data can be identified in Statements G, I, and J in any future NGA section 4 or 5 rate case and the information must be provided consistent with Order No. 710.¹⁵ Such measures will ensure existing customers can be protected 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.

2. Negotiated Rates

22. Under the terms of the precedent agreements, Southern and PowerSouth may elect to pay negotiated rates for all of the expansion capacity. If this option is selected, Transco must file all negotiated rate agreements, or a tariff record describing the negotiated rate agreements associated with the expansion, in accordance with our treatment of negotiated rates¹⁶ and our Alternative Rate Policy Statement.¹⁷

3. Fuel Retention and Electric Power Changes

23. Transco proposes to charge its generally applicable system fuel retention and electric power rates for transportation on the project.¹⁸ In support of its proposal to

¹⁵ *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, *FERC Stats. & Regs.* ¶ 31,267, at P 23 (2008).

¹⁶ *Natural Gas Pipelines Negotiated Rate Policies and Practices; Modification of Negotiated Rate Policy*, 104 FERC ¶ 61,134 (2003), *order on reh'g*, 114 FERC ¶ 61,042 (2006), *reh'g dismissed and clarification denied*, 114 FERC ¶ 61,304 (2006). *See, e.g., Texas Eastern Transmission, LP*, 133 FERC ¶ 61,220 (2010).

¹⁷ *Alternative to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076, *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996), *reh'g denied*, 75 FERC ¶ 61,066 (1996), *petition for review denied sub nom., Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998) (Alternative Rate Policy Statement).

¹⁸ Transco's currently effective system fuel retention percentage is 0.17 percent and its daily electric power rate is \$0.00033 per Dth for transportation within Zone 4A.

charge its generally applicable system fuel rate, Transco prepared a study showing the expansion's impact on fuel use.¹⁹ Transco's study shows a reduction of 15.16 percent in the overall Zone 4A fuel consumption for existing shippers on the Mobile Bay Lateral. In addition, Transco provided supplemental information showing that the project will result in a reduction in its currently effective electric power rates, based on a 78 percent reduction in the usage of gas coolers at Transco's Station 85 caused by the increased throughput created by the project.²⁰ Based on the overall reductions in fuel and electric power usage, the Commission approves Transco's proposal to charge its generally applicable system fuel retention and electric power rates.

C. Engineering

24. Mr. Morgan claims that Transco's proposal to add 20,500 hp of compression at its Compressor Station 85 is more than is necessary for the proposed 225,000 Dth per day service increase. He compares the proposal to previous Mobile Bay Lateral Expansion Projects I and II: in the first, Transco proposed adding 9,470 hp at Compressor Station 85 for an increase of 253,500 Dth per day²¹ and in the second, Transco proposed adding 8,180 hp²² at Compressor Station 85 for an increase of 380,000 Dth per day.²³ Based on the ratios of requested capacity increase to Compressor Station 85 horsepower increase, Mr. Morgan concludes that the currently proposed expansion is over-designed.

25. Mr. Morgan's analysis assumes that only Compressor Station 85 is used to create additional capacity along the entire length of the Mobile Bay system. In Mobile Bay Expansion Project I, Transco added compression at Compressor Station 85 to add southbound capabilities to the Mobile Bay Lateral. In each of Transco's subsequent Mobile Bay Expansion Projects (I and the instant II), however, the design requires using part of the existing horsepower of compression at Compressor Stations 82 and 83 to

¹⁹ The study comprises 12 monthly load profiles on the Mobile Bay Lateral generated from actual system operating conditions for the 2012 calendar year. See Exhibit Z-1 of Transco's application.

²⁰ See Transco's December 9, 2013 Response to Staff's December 4, 2013 Data Request.

²¹ *Transcontinental Gas Pipe Line Corp.*, 127 FERC ¶ 61,122 (2009) (*Transco 127*).

²² Mr. Morgan's comments incorrectly stated the increase in horsepower at Compressor Station 85 in the second expansion project as 9,500 hp.

²³ *Transcontinental Gas Pipe Line Corp.*, 132 FERC ¶ 61,071 (2010) (*Transco 132*).

maintain downstream delivery pressures on the lateral. Without the compression that is available at these two compressor stations, the compression added at Compressor Station 85 in Mobile Bay Expansion Projects II and III could not produce capacity increases sufficient to maintain a gas stream pressure high enough to deliver gas into downstream pipeline interconnects near the lateral's terminus.

26. The Commission's engineering and hydraulic analyses of the Mobile Bay Expansion Projects I and II proposals included an analysis of the entire Mobile Bay Lateral and each of the compressor stations, all operating as a system.²⁴ Our similar analyses of that entire system in this proceeding shows Transco has properly designed the proposed Mobile Bay South III Expansion Project to increase Transco's capacity by 225,000 Dth/d from the Station 85 receipt points to the interconnection with Bay Gas Storage. Therefore, we conclude that Transco's proposed project is not over-designed for its stated purpose. Further, providing firm transportation service to the project shippers will not adversely affect Transco's ability to maintain its contractual obligations to existing shippers.

D. Environment

27. On August 30, 2013, the Commission issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Mobile Bay South III Expansion 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 all affected property owners as defined in the Commission's regulations (i.e., landowners within 0.5 mile of Compressor Stations 83 and 85).

28. Three landowners, the Alabama Department of Environmental Management, and the Choctaw Nation of Oklahoma filed comments in response to the NOI. The primary issues raised concerned general noise and vibration impacts on residences in the vicinity of Compressor Station 85; safety concerns related to blowdown events at Station 85; impacts on wildlife, endangered species, property values, and cultural resources; and a recommended alternative of replacing the existing and proposed gas-fired compressors at Stations 83 and 85 with electric-driven compressor units.

29. To satisfy the requirements of the National Environmental Policy Act, our staff prepared an EA for Transco's proposal. The EA addresses geological resources; soils; water resources; wetlands; vegetation; land use and property value impacts; fisheries; wildlife; threatened, endangered, and special status species; cultural resources; air quality; noise and vibration; reliability and safety; cumulative impacts; and alternatives,

²⁴ *Transco 127*, 127 FERC ¶ 61,122 at P 1; and *Transco 132*, 132 FERC ¶ 61,071 at P 1.

including electric-driven compressor unit alternatives. The EA addressed all substantive comments received in response to the NOI, including those mentioned above, as well as all comments on environmental issues received in response to the notice of Transco's application.

30. The EA was issued for a 30-day comment period and placed in the public record on January 24, 2014. The Commission received comments from Transco, the U.S. Environmental Protection Agency (EPA), the Alabama Department of Conservation and Natural Resources Wildlife and Freshwater Fisheries Division (DCNR), one landowner, and one individual who commented in general support for the project.

31. In accordance with the EA's recommendation, Transco provided an air quality analysis for Compressor Station 85 to demonstrate the project's compliance with the National Ambient Air Quality Standards (NAAQS) using the EPA's AERSCREEN air dispersion modeling screening tool. Transco will construct a fence on its property at a minimum distance of 748.6 feet from the new exhaust stack location,²⁵ which, it states, will prevent public access, thereby increasing the area on Transco's property that may be considered non-ambient air, consistent with EPA guidance.²⁶ Accordingly, the EA's environmental recommendation 12 is no longer necessary and is not included as a condition in this order.

32. With the addition of the fence, we analyzed the project's associated environmental impacts. In a letter dated January 31, 2014, the Alabama Historical Commission determined that the fence installation will not adversely affect cultural resources eligible to be listed or currently listed on the National Register of Historic Places. We agree. We also note that Transco will implement the applicable measures in its Construction Best Management Practices Plan during fence construction, which adequately minimizes impacts on waterbodies and wetlands.

33. In a letter to Transco dated February 21, 2014, the U.S. Fish and Wildlife Service (FWS) recommended that Transco place the lowest strand of barbed wire on the fence no less than 8 inches above ground level to allow federally-listed threatened gopher tortoises to disperse and forage on surrounding habitat.²⁷ Transco will implement this recommendation. With the implementation of the EA's mitigation measures, the project *is not likely to adversely affect* the gopher tortoise. The Alabama DCNR recommended

²⁵ The new fence is depicted on an alignment sheet Transco filed on February 24, 2014.

²⁶ Per January 21, 1986 EPA memo "Receptor Locations in Ambient Air." <http://www.epa.gov/scram001/guidance/mch/ama4.txt>

²⁷ Per letter filed by Transco on March 3, 2014.

that Transco contact them and coordinate with the FWS if gopher tortoise and/or eastern coachwhip are encountered in the project area, and Transco agreed to do so.²⁸

34. Approximately 2.5 acres of forest will be cleared as a result of fence construction. Tree clearing could contribute to forest fragmentation, which could affect wildlife, including migratory birds. The EA discusses habitat fragmentation related to the Scott Mountain Interconnect at Compressor Station 85²⁹ and concludes that impacts would be minor, given the short length of the pipeline (0.4 mile long) and the fact that project area woodlands have already been fragmented by managed timber operations and utility corridors (including one right next to Compressor Station 85). We agree. The proposed fence construction corridor is only 20 feet wide, much less than the project's pipeline right-of-way 75-foot width (plus extra workspaces). The fence would not significantly impede movement of smaller wildlife and birds (including migratory birds). Although the fenced-off land might be unavailable as habitat for larger wildlife, like deer, it would only be a small percentage of the overall upland forest in the general project area and is already affected by various utility rights-of-way and roads. Fence construction during the nesting season, however, could destroy active nests. The FWS recommended that Transco clear trees outside of the migratory bird nesting season. Accordingly, we are including Environmental Condition 12, which requires Transco to consult with the FWS if it cannot avoid clearing trees between April 1 and August 31.

35. The DCNR recommended that Transco (1) mitigate the loss or degradation of stream or wetland habitat in accordance with Section 10 and Section 404 regulations administered by the U.S. Army Corps of Engineers, (2) coordinate with the Alabama State Lands Division regarding impacts on state-owned water bottoms, and (3) notify DCNR if Transco does any instream blasting. As the EA states, the project would not directly affect any waterbodies.³⁰ One wetland is in the Compressor Station 85 project area, but it will be avoided in accordance with Environmental Condition 11.

36. The DCNR also recommended that Transco segregate and replace topsoil from wetland and upland areas after construction and consult the U.S. Department of Agriculture's Natural Resources Conservation Service regarding proper erosion control techniques. The DCNR further recommended that Transco follow proper erosion control and revegetation procedures. As described above, the project will not affect wetlands. As the EA states, Transco will implement appropriate erosion control measures.

²⁸ Per letter filed by Transco on March 3, 2014.

²⁹ EA at 23.

³⁰ EA at 19.

37. The EPA recommended that Transco implement diesel emission reduction strategies by using low-sulfur diesel fuels, late-model or retrofitted construction equipment with emission reduction technologies, and reduced equipment idling by operator training and/or contracting policies, and offered to help with future development or implementation of these recommendations. Transco will comply with the EPA's mobile source emission regulations, in 40 CFR Part 85, for all construction equipment and will use diesel fuel having no more than 15 parts per million by weight sulfur content in accordance with the EPA's Highway Diesel Rule. The EPA also recommended that Transco advise sensitive populations and other residents near the project of the planned duration of the construction activities to allow them to avoid prolonged exposure to construction-related air emissions (which may contain elevated levels of Clean Air Act-defined criteria and toxic pollutants), as well as noise. Regarding human health impacts related to Compressor Stations 83 and 85, the EA states that Transco will use best management practices, including its Fugitive Dust Control Plan, to minimize air quality impacts during construction at each station.³¹

38. The DCNR also recommended that the noise level from compressor stations "not exceed 55 dBA [decibels on the A-weighted scale]" to minimize noise impacts on wild animals and humans. As the EA states, Transco's analysis predicts that noise from the modified Compressor Stations 83 and 85 will not exceed a day-night noise level of 55 dBA at any nearby noise-sensitive areas (NSA) as defined by the Commission's regulations. As required by Environmental Condition 13, Transco will file a noise survey for each of the modified Compressor Stations 83 and 85 to determine compliance with this noise level requirement.

39. Rebecca Smith, a landowner who lives west of Compressor Station 85 farther than the three closest NSAs identified in the EA's acoustic noise assessment,³² says she has continuing concerns about Transco's ability to keep noise within acceptable levels at her home. To address her concerns, Environmental Condition 13 requires Transco to include her home in its post-construction noise survey for Compressor Station 85.

40. Ms. Smith is also concerned about noise from Transco's Hillabee Expansion Project, which is still in the early stages of review in the Commission's pre-filing process in Docket No. PF14-6-000 and is part of the larger Florida Southeast Market Pipelines Project. As part of the Hillabee Expansion project, Transco plans to construct a new 32,000-horsepower compressor station in Choctaw County, Alabama approximately 2 miles west-southwest of Compressor Station 85. Since Transco has not yet provided its final project design or estimated noise impacts, we cannot address potential cumulative impacts at this time. If and when Transco files an application for the project, the

³¹ EA at 46.

³² EA at 51.

environmental impact statement for the Florida Southeast Market Pipelines Project will address cumulative noise impacts.

41. The DCNR requested an opportunity to review and comment on any mitigation plan developed for the project. Environmental Condition 6 requires Transco to file an implementation plan that describes how it will comply with the Commission's order, which the DCNR may review.

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

43. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.³³

44. At a hearing held on April 17, 2014, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application(s), as supplemented, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Transco pursuant to section 7(c) of the NGA and Part 157 of the Commission's regulations to construct, modify, and operate the project facilities, as described and conditioned herein, and as more fully described in the application.

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned on Transco's:

(1) completion of construction of the proposed facilities and making them available for service within eighteen months of the date of this order pursuant to section 157.20(b) of the Commission's regulations;

³³ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Pub. Serv. Comm'n*, 894 F.2d 571 (2d Cir.1990); and *Iroquois Gas Transmission Sys., L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(2) compliance with all applicable Commission regulations including, but not limited to, Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;

(3) compliance with the environmental conditions in Appendix C to this order;

(C) Transco's proposal to charge an incremental recourse rate for transportation on the Mobile Bay South III Expansion Project is accepted with revisions, as more fully discussed above.

(D) Transco shall keep separate books and accounting costs attributable to the proposed incremental services, as more fully described above.

(E) No earlier than 60 days, and no later than 30 days prior to commencing expansion service, Transco must file actual tariff records setting forth its incremental recourse rates.

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

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A
Timely Motions to Intervene

Piedmont Natural Gas Company, Inc.

South Carolina Electric & Gas Company and Public Service Company of North Carolina

New Jersey Natural Gas Company

NJR Energy Services Company

Exelon Corporation

National Fuel Gas Distribution Corporation

National Grid Gas Delivery Companies

Southern Company Services, Inc.

Florida Gas Transmission Company, LLC

Calpine Energy Services, L. P.

PowerSouth Electric Cooperative

Atlanta Gas Light Company, Virginia Natural Gas, Inc., Elkton Gas, and Elizabethtown Gas

Consolidated Edison Company of New York, Inc. and Philadelphia Gas Works

Transco Municipal Group and Municipal Gas Authority of Georgia

Seminole Electric Cooperative, Inc.

Appendix B Environmental Conditions

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

1. Transco shall follow the construction procedures and mitigation measures described in its application and supplements, including responses to staff data requests and as identified in the EA, unless modified by the Order. Transco 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**, Transco 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**, Transco shall file with the Secretary any revised detailed facility maps/plot plans at a scale not smaller than 1:6,000 for the 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 maps/plans.

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

5. Transco 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 Transco's Construction Best Management Practices Plan (which incorporates the FERC's 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**, Transco shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Transco must file revisions to the plan as schedules change. The plan shall identify:

- a. how Transco 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 Transco 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 Transco 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 Transco's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Transco 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, Transco shall file updated status reports with the Secretary **on a monthly 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 Transco'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
 - g. copies of any correspondence received by Transco from other federal, state, or local permitting agencies concerning instances of noncompliance, and Transco's response.
8. **Prior to receiving written authorization from the Director of OEP to commence construction and operation of any project facilities**, Transco shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
 9. Transco must receive written authorization from the Director of OEP **before placing each modified compressor station into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
 10. **Within 30 days of placing the authorized facilities in service**, Transco shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the Certificate conditions Transco has complied with or will comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
 11. **Prior to construction**, Transco shall file revised construction alignment sheets demonstrating that it will avoid the emergent wetland in the northwest corner of the Compressor Station 85 workspace.
 12. **If Transco anticipates clearing trees related to fence construction during the migratory bird nesting season (April 1 – August 31)**, Transco shall consult with the U.S. Fish and Wildlife Service regarding project-specific conservation measures and best management practices to protect migratory birds and their habitats and to avoid or minimize take. Transco shall file with the Secretary documentation of this consultation **prior to fence-related tree clearing**.

13. Transco shall make all reasonable efforts to ensure its predicted noise levels from Compressor Stations 83 and 85 are not exceeded at nearby noise-sensitive areas, and shall file noise surveys showing this with the Secretary **no later than 60 days** after placing the modified Compressor Stations 83 and 85 in service. Transco's noise survey for Compressor Station 85 shall include Rebecca Smith's residence as one of the noise-sensitive areas. If full load condition noise surveys are not possible, Transco shall provide interim surveys at the maximum possible horsepower load **within 60 days** of placing the modified Compressor Stations 83 and 85 in service and provide the full load surveys **within 6 months**. However, if the noise attributable to the operation of all of the equipment at either of the modified stations under full or interim horsepower load conditions exceeds a day-night noise level of 55 decibels on the A-weighted scale at any nearby noise-sensitive areas, Transco shall file a report on what changes are needed and shall install the additional noise controls to meet the level **within 1 year** of the in-service date. Transco shall confirm compliance with the above requirement by filing a second full load noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.