

156 FERC ¶ 61,212
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

ANR Pipeline Company

Docket No. CP16-64-000

ORDER ISSUING CERTIFICATE

(Issued September 22, 2016)

1. On January 20, 2016, ANR Pipeline Company (ANR) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations² for a certificate of public convenience and necessity authorizing it to construct and operate a new compressor station and modify an existing meter station in Tennessee (Collierville Expansion Project). As discussed below, the Commission will grant the requested authorization.

I. Background and Proposal

2. ANR, a corporation organized under the laws of Delaware,³ is a natural gas company as defined by NGA section 2(6).⁴ ANR owns and operates a 9,400-mile-long pipeline system extending from Texas and Oklahoma to points in Wisconsin and Michigan, and includes producing areas in the Gulf of Mexico. ANR's existing

¹ 15 U.S.C. § 717f(c) (2012).

² 18 C.F.R. pt. 157 (2016).

³ ANR is an indirect, wholly-owned subsidiary of TransCanada America Investments Ltd.

⁴ 15 U.S.C. § 717a(6) (2012).

Collierville Meter Station is located on its 30-inch-diameter Southeast Mainline aparallel 30- and 36-inch-diameter looping pipelines near Memphis in southwestern Tennessee.⁵

3. The Tennessee Valley Authority (TVA) is constructing a 1,070 megawatt combined cycle gas-fired power plant in Memphis (Allen CC Project). The Allen CC Project will enable TVA to meet a portion of its current and future electric demands.⁶

4. ANR proposes to construct and operate a new 4,700 horsepower compressor station consisting of one gas-fired turbine compressor unit and appurtenant facilities close to the existing Collierville Meter Station near Memphis, in Shelby County, Tennessee. ANR also proposes to modify the Collierville Meter Station to install a 12-inch ultrasonic meter run on an existing spare meter header, as well as other related facilities. The Collierville Expansion Project will increase the delivery capability of the Collierville Meter Station by 200,000 dekatherms (Dth) per day to 300,000 Dth per day, enabling ANR to transport 200,000 Dth per day on a firm basis from its Southeast Head Station in Louisiana to Memphis Light, Gas and Water's (Memphis Light) high-pressure local distribution system. In turn, Memphis Light will transport the gas to TVA for delivery to the Allen CC Project.

5. Prior to holding an open season, ANR and TVA executed a binding precedent agreement for a 20-year term for all of the service associated with the project.⁷ ANR subsequently held an open season from October 14 through October 21, 2015, to solicit interest for additional service. TVA was the sole bidder in ANR's open season.

6. ANR estimates the cost of the project to be \$36,765,000. ANR proposes to use its currently effective rates under Rate Schedule FTS-3 as the initial recourse rate for project service. ANR also proposes to charge its generally applicable transporter's use

⁵ These pipelines traverse Tennessee and continue into Kentucky to the northeast and Mississippi to the southwest.

⁶ TVA states that the Allen CC Project is designed to comply with an agreement between it and the U.S. Environmental Protection Agency, as well as a separate judicial decree with three other parties, to reduce emissions sourced from coal-fired generators and retire some coal facilities. *See* TVA, January 29, 2016 Motion to Intervene at 2.

⁷ ANR states that the proposed Collierville Expansion Project will not change the certificated capacity of its Southeast Mainline. Pursuant to its tariff, on August 5, 2015, ANR reserved 200,000 Dth per day of unsubscribed transportation capacity on its Southeast Mainline for the contemplated expansion project. *See* ANR Tariffs, Tariff, Third Revised Volume No. 1, 1.0.0, 6.3 - GT&C, Facilities Policy, 1.0.0.

percentage as a fuel charge for natural gas used at the proposed compressor station.⁸ ANR requests a predetermination that it can roll the costs associated with the proposed facilities into its existing rates in its next NGA section 4 rate proceeding. TVA has elected to pay a negotiated rate for its service.

7. On January 29, 2016, ANR filed a NGA general section 4 rate proceeding in Docket No. RP16-440-000. The Commission accepted and suspended ANR's proposed rates and set them for hearing.⁹ Following several settlement conferences, ANR filed a motion asserting that the parties had reached a settlement in principle and sought suspension of the procedural rules to facilitate a formal settlement to be filed with the Commission.¹⁰ ANR has not yet filed a settlement with the Commission.

II. Notice, Interventions, and Comments

8. Public notice of ANR's filing was published in the *Federal Register* on February 3, 2016.¹¹ 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.¹²

9. Bridgeline Holdings, L.P.; EnLink Gas Marketing, LP; EnLink LIG, LLC; Memphis Light; Nicor Gas; and Sabine Pipe Line LLC filed untimely motions to intervene. As has been the practice in natural gas certificate cases, we will grant the untimely motions to intervene.

10. TVA's and Memphis Light's motions to intervene included comments in support of the proposed Collierville Expansion Project. The joint motions to intervene of Wisconsin Electric Power Company, Wisconsin Gas LLC, Wisconsin Public Service Corporation, The Peoples Gas Light and Coke Company, North Shore Gas Company, and Michigan Gas Utilities Corporation (collectively, the WEC Companies) and Anadarko Energy Services Company, Apache Corporation, ConocoPhillips Company, ExxonMobil

⁸ The transporter's use percentage includes the fuel use percentage and the lost and unaccounted-for gas percentage.

⁹ The Commission ordered ANR's tariff records to be effective August 1, 2016. *ANR Pipeline Co.*, 154 FERC ¶ 61,146 (2016).

¹⁰ ANR August 3, 2016 Motion, Docket No. RP16-440-000 at 2.

¹¹ 81 Fed. Reg. 6850 (2016).

¹² 18 C.F.R. § 385.214(c) (2016).

Gas & Power Marketing Company, Occidental Energy Marketing, Inc., and Shell Energy North America (US), L.P. (collectively, the Indicated Shippers) included comments identifying issues with ANR's proposed rate treatment and reporting requirements for the project. We will address these comments below.

III. Discussion

11. Because the proposed facilities will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.¹³

A. Certificate Policy Statement

12. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.¹⁴ The Certificate Policy Statement establishes criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explains that in deciding whether to authorize the construction of major new 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.

13. Under this policy, the threshold requirement for applicants proposing new projects is that the applicant 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 construction of the new natural gas facilities. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the

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

¹⁴ *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).

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.

14. The threshold requirement for applicants proposing new projects is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. ANR proposes to use its currently effective rates under Rate Schedule FTS-3 as the initial recourse rate for project service. While we will approve that proposal, as discussed below, the Commission is denying ANR's request for a predetermination that it may roll the Collierville Expansion Project's costs into its system rates in a future NGA section 4 rate proceeding. This step is sufficient to ensure existing customers will not subsidize the expansion. Accordingly, we find that the threshold no-subsidy requirement has been met.

15. ANR's proposal will not adversely affect its existing customers because the project will not degrade any existing service. Also, the project will not replace firm transportation service on any other pipeline. Further, no pipelines or their captive customers have protested ANR's proposal. Consequently, we find that there will be no adverse impacts on other pipelines or their captive customers.

16. ANR proposes to construct the Collierville Expansion Project within its existing right-of-way on ANR-owned or acquired land. ANR states that one landowner will be directly impacted by the proposed expansion and that the landowner expressed a preference for the proposed location over other possible locations on their parcel.¹⁵ Thus, we find that ANR's proposal has been designed to minimize impacts on landowners and surrounding communities.

17. ANR's proposed Collierville Expansion Project will enable it to deliver 200,000 Dth per day of natural gas to Memphis Light for ultimate delivery to TVA's Allen CC Project. Based on the benefits the project will provide, the lack of adverse effects on existing customers and other pipelines and their captive customers, and the minimal adverse effects on landowners and surrounding communities, we find that, consistent with the criteria discussed in the Certificate Policy Statement and section 7 of the NGA, the public convenience and necessity requires approval of ANR's proposal, as conditioned in this order.

¹⁵ ANR January 20, 2016 Application, Exhibit F-1 at 1-10.

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

18. The Collierville Expansion Project will enable ANR to provide service to TVA using existing unsubscribed capacity on its Southeast Mainline. ANR and TVA entered into a precedent agreement dated October 5, 2015, wherein TVA agreed to contract for 200,000 Dth/d of FTS-3 transportation service for a term of twenty years at a negotiated rate. Consequently, ANR proposes to use its currently effective rates under Rate Schedule FTS-3 as the recourse rate for service on the Collierville Expansion Project, including all other applicable charges and surcharges.¹⁶

19. As previously noted, ANR reserved 200,000 Dth per day of unsubscribed transportation capacity on its Southeast Mainline for the project. While the proposed new compressor and modification of the Collierville Meter station will enable ANR to deliver an additional 200,000 Dth per day of natural gas to Memphis Light, the project will not add incremental transportation capacity to ANR's system nor will it change ANR's certificated capacity mainline capacity. Therefore, it is appropriate to use and we approve ANR's proposal to use its currently effective recourse rates for transportation service to be performed using the previously unsubscribed capacity that will be subscribed by TVA.

20. The WEC Companies ask that we provide direction regarding the appropriate treatment, in ANR's ongoing general NGA section 4 rate case, of the discounted rate in the negotiated rate agreement between ANR and TVA for project service.¹⁷ ANR responds that a determination on how the service agreement should be treated in a rate case is beyond the scope of this proceeding.¹⁸ Moreover, ANR states that service to TVA under the agreement is not scheduled to commence until November 1, 2017, which is after the July 31, 2016 end of the test period in the rate case. We agree that an NGA general section 4 rate proceeding is the appropriate forum for any specific determinations regarding treatment of the negotiated rate agreement between ANR and TVA. In certificate proceedings, we establish initial recourse rates for new services made possible

¹⁶ ANR will recover any compressor fuel and any lost and unaccounted for volumes through its system-wide Transporter's Use percentage which includes the fuel use percentage and lost and unaccounted for gas percentage.

¹⁷ WEC Companies February 17, 2016 Intervention and Comment at 4-5.

¹⁸ ANR March 1, 2016 Answer at 3.

by the construction of new facilities, but do not make determinations regarding specific negotiated rates for services.¹⁹

21. The WEC Companies also raise concerns with several items ANR uses in determining its cost of service. The WEC Companies assert that ANR failed to support its long-term debt cost of 9.44 percent and that ANR did not include a negative salvage rate in its calculation for rolled-in rates but included a negative salvage rate in its current NGA section 4 rate proceeding.²⁰ As noted above, we are approving ANR's proposal to use its existing system rates for the service associated with this expansion. We used the cost of service presented by ANR solely for purposes of considering its request for a predetermination that it would be appropriate to roll the costs of the project into its system rates in a future section 4 rate proceeding, which is being denied. Therefore, we will not address the merits of the WEC Companies' arguments with regard to the cost of service.

2. Predetermination of Rolled-in Rate Treatment

22. ANR requests a preliminary determination that it may roll the project costs into its existing rates under Rate Schedule FTS-3 in its next NGA section 4 rate proceeding. In its March 24, 2016 data response, ANR provided a revised rolled-in rate analysis showing that the revenues for each of the first three years of the project's service are less than the project's annual cost of service.²¹ ANR bases its analysis on the projected revenue from TVA's contract for the 200,000 Dth per day of existing capacity that is currently unsubscribed on ANR's Southeast Mainline.²²

23. To receive a predetermination favoring rolled-in rate treatment, a pipeline must demonstrate that rolling in the costs associated with the construction and operation of new facilities will not result in existing customers subsidizing the expansion. In general, this means that a pipeline must show that the revenues to be generated by an expansion

¹⁹ *Millennium Pipeline Co., LLC*, 140 FERC ¶ 61,045, at P 18 (2012).

²⁰ WEC Companies Intervention and Comment at 4-5.

²¹ March 24, 2016 Data Response, Attachment A-1.

²² In *Florida Gas Transmission Co., LLC*, the Commission found it was inappropriate to include revenues associated with service being provided from existing capacity in a rolled-in rate analysis. 154 FERC ¶ 61,256, at P 23 (2016). Here, however, the construction proposed by ANR is integral to enabling the existing capacity to be used to serve to TVA.

project will exceed the costs of the project. For purposes of making a determination in a certificate proceeding as to whether it would be appropriate to roll the costs of a project into the pipeline's system rates in a future NGA section 4 proceeding, we compare the cost of the project to the revenues generated using actual contract volumes and either the maximum recourse rate or, if the negotiated rate is lower than the recourse rate, the actual negotiated rate.²³

24. As stated above, ANR's projected revenues for each of the first three years of the project are less than the project's costs. Thus, the Commission denies ANR's request for a predetermination of rolled-in rate treatment for the costs associated with the Collierville Expansion Project. This denial is without prejudice to ANR filing for and fully supporting rolled-in rate treatment for the costs associated with Collierville Expansion Project facilities in a future NGA general section 4 rate proceeding.

25. ANR also requests a predetermination for rolled-in rate treatment for compressor fuel and lost and unaccounted for volumes.

26. We will grant a predetermination for rolled-in rate treatment for compressor fuel and lost and unaccounted for volumes. In its March 24, 2016 data response, ANR's analysis shows that when the Collierville Expansion Project's fuel and throughput is rolled in, ANR's transporter's use percentage decreases.²⁴ Thus, the Commission will grant ANR's request for a predetermination of rolled-in rate treatment for compressor fuel and lost and unaccounted for volumes, absent a significant change in circumstances.

3. Reporting Incremental Costs

27. Indicated Shippers request that the Commission require ANR to separately account for construction and operating costs and revenues associated with the proposed project, consistent with section 154.309 of the Commission's regulations.²⁵ In order to provide more clarity and transparency in a future rate proceeding on whether the project's revenues exceed costs, the Commission directs ANR to separately account for the project's construction and operating costs and revenues. This information must be in sufficient detail so that the data can be identified in Statements G, I, and J in any

²³ See *Natural Gas Pipeline Co. of America, LLC*, 154 FERC ¶ 61,220, at P 25 (2016).

²⁴ ANR March 24, 2016 Data Response, Attachment B at 2.

²⁵ 18 C.F.R. § 154.309 (2016).

future NGA section 4 or 5 rate case, and the information must be provided consistent with Order No. 710.²⁶

4. Negotiated Rate

28. TVA has agreed to pay a negotiated rate for its firm transportation service. ANR represents that consistent with Commission policy and section 6.27 of its GT&C, it will file either TVA's negotiated rate service agreement or a tariff record setting forth the essential terms of the service agreement no later than the first business day on or after service commences.

29. The Commission also requires pipelines to file any service agreement containing non-conforming provisions and to disclose and identify any transportation term or agreement in a precedent agreement that survives the execution of the service agreement.²⁷ Any non-conforming filing must be made at least 30 days, and not more than 60 days, before the proposed effective date of such rates.

C. Environmental Analysis

30. On May 6, 2015, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI) for the proposed Collierville Expansion Project. The NOI was published in the *Federal Register*²⁸ and mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners. No comments were filed in response to the NOI.

31. To satisfy the requirements of the National Environmental Policy Act of 1969,²⁹ Commission staff prepared an environmental assessment (EA) for the proposed Collierville Expansion Project. The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives. The EA was placed into the public record on July 29, 2016.

²⁶ *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, FERC Stats. & Regs. ¶ 31,267, at P 23 (2008).

²⁷ 18 C.F.R. § 154.112(b) (2016).

²⁸ 81 Fed. Reg. 11,206 (2016).

²⁹ 42 U.S.C. §§ 4321 *et. seq.* (2012).

32. The EA identifies the Allen CC Project as one project that may, when its impacts are added to those of the proposed action, result in cumulative environmental impacts.³⁰ Consistent with Council on Environmental Quality (CEQ) guidance,³¹ the EA assessed the potential cumulative effects issues associated with the proposed action and established the geographic scope for analysis.³² Specifically, the EA found that the geographic scope of impacts of the Collierville Expansion Project on geology, soils, groundwater, wetlands, vegetation, habitat, wildlife, and cultural resources would not overlap with any impacts associated with the Allen CC Project; therefore, significant cumulative impacts on these environmental resources are not expected. However, the EA determined that the Allen CC Project was within the Collierville Expansion Project's geographic scope of impacts on air quality and greenhouse gas emissions/climate change; thus, the proposed projects could cause cumulative impacts on those resources. Here, the EA's air quality and greenhouse gas emissions/climate change analysis relied on TVA's EA examining the impacts of the Allen CC Project.

33. As noted above, TVA conducted a regulatory review of the Allen CC Project, culminating in an EA. TVA's EA determined that the project site was suitable, that the project could be constructed and operated in compliance with all applicable environmental regulations, and set forth environmental requirements regarding all affected resources.³³ TVA's EA concluded, among other things, that if constructed and operated in accordance with the EA's conditions, the Allen CC Project would have minimal impacts on surface water quality, aquatic ecology, vegetation, wildlife, and noise; would have no significant impacts on wetlands; noted no impacts on rare, threatened, and endangered species; would have no impact on historic properties; and would have beneficial effects on air quality.³⁴

34. With respect to air quality, TVA's EA found the Allen CC Project would not cause any significant adverse impacts on air quality. Instead, it stated that the project would contribute to regional improvement in air quality and would not adversely affect

³⁰ See EA at 4.

³¹ CEQ, *Considering Cumulative Effects Under the National Environmental Policy Act* at 11 (January 1997).

³² *Id.* at 36-38.

³³ Allen Fossil Plant Emission Control Project Final Environmental Assessment (Project Number 2013-33, August 2014).

³⁴ *Id.* at 30.

the attainment of National Ambient Air Quality Standards. As TVA explained, the Allen CC Project would improve regional air quality because that project is designed to reduce emissions sourced from coal-fired generators and facilitate the retirement of some coal facilities.³⁵ Moreover, the Commission's EA incorporates TVA's analysis of the Allen CC Project's impacts regarding the amount of greenhouse gas emissions resulting from that project.³⁶

35. Based on TVA's environmental analysis of the Allen CC Project, we agree that the construction and operation of the power plant will not result in additional environmental impacts that alter our conclusions here.

36. We have reviewed the information and analysis contained in the EA and agree with its conclusions. We find that if the Collierville Expansion Project is constructed and operated in accordance with ANR's application, as supplemented, and in compliance with the environmental conditions in Appendix B to this order, our approval of this project would not constitute a major federal action significantly affecting the quality of the human environment.

37. 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 or operation of facilities approved by this Commission.³⁷

38. At a hearing held on September 22, 2016, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the

³⁵ See TVA, January 29, 2016 Motion to Intervene at 2.

³⁶ EA at 40.

³⁷ See 15 U.S.C. § 717r(d) (2012) (state or federal agency's failure to act on a permit considered to be inconsistent with Federal law); see also *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293, 310 (1988) (state regulation that interferes with FERC's regulatory authority over the transportation of natural gas is preempted) and *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 245 (D.C. Cir. 2013) (noting that state and local regulation is preempted by the NGA to the extent it conflicts with federal regulation, or would delay the construction and operation of facilities approved by the Commission).

application, as supplemented, and exhibits thereto, and all comments submitted herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to ANR authorizing it to construct and operate the Collierville Expansion Project, as described and conditioned herein, and as more fully described in the application.

(B) The certificate issued in ordering paragraph (A) is conditioned on:

(1) ANR's completion of 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) ANR's compliance with all applicable Commission regulations, particularly the general terms and conditions set forth in Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;

(3) ANR's compliance with the environmental conditions in Appendix B of this order; and

(4) ANR's execution of firm contracts for volumes and service terms equivalent to those in its precedent agreements, prior to the commencement of construction.

(C) ANR's request for a predetermination that it may roll the costs associated with its Collierville Expansion Project into its system rates is denied, as discussed in the body of this order.

(D) ANR must file its negotiated rate agreements consistent with the discussion in the body of this order.

(E) ANR shall keep separate books and accounting of costs, as discussed herein.

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

Docket No. CP16-64-000

- 13 -

(G) The untimely joint motion to intervene filed by Bridgeline Holdings, L.P.; EnLink Gas Marketing, LP; EnLink LIG, LLC; Memphis Light; Nicor Gas; and Sabine Pipe Line LLC is granted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix A

Collierville Expansion Project

Timely, Unopposed Interventions

Anadarko Energy Services
Antero Resources Corporation
Apache Corporation
Atmos Energy Corporation
ConocoPhillips Company
Consumers Energy Company
ExxonMobil Gas & Power Marketing Company
NJR Energy Services Company
Occidental Energy Marketing, Inc.
Shell Energy North America (US) L.P.
Tennessee Valley Authority
Vectren Companies³⁸
WEC Companies³⁹

³⁸ Vectren Companies includes: Southern Indiana Gas and Electric Company d/b/a Vectren Energy Delivery of Indiana, Inc., Indiana Gas Company, Inc. d/b/a Vectren Energy Delivery of Indiana, Inc. and Vectren Energy Delivery of Ohio, Inc.

³⁹ WEC Companies includes: Wisconsin Electric Power Company, Wisconsin Gas LLC, Wisconsin Public Service Corporation, The Peoples Gas Light and Coke Company, North Shore Gas Company, and Michigan Gas Utilities Corporation.

Appendix B

Environmental Conditions

As recommended in the environmental assessment (EA), this authorization includes the following conditions:

1. ANR Pipeline Company (ANR) 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. ANR 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 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**, ANR 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 location 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**, ANR shall file with the Secretary any revised detailed survey

alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by the Order. All requests for modifications of environmental conditions of the Order or site specific clearances must be written and must reference locations designated on these alignment maps/sheets.

5. ANR shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area.**

This requirement does not apply to extra workspace allowed by our *Upland Erosion Control, Revegetation, and Maintenance Plan* and/or minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

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

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of the authorization and before construction begins**, ANR shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. ANR must file revisions to the plan as schedules change. The plan shall identify:
 - a. how ANR 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 ANR 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 ANR will give to all personnel involved with construction and restoration (initial and the refresher training as the project progresses and personnel change);
 - f. the company personnel (if known) and specific portion of ANR's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) ANR 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. ANR shall employ at least one EI for the project. The EI shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the Order and other grants, permits, certificates, or other authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
 - d. a full-time position, separate from all other activity inspectors;
 - e. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - f. responsible for maintaining status reports.
8. Beginning with the filing of its Implementation Plan, ANR 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 ANR'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 ANR from other federal, state, or local permitting agencies concerning instances of noncompliance, and ANR's response.
9. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, ANR shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
 10. ANR 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**, ANR 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 conditions in the Order ANR 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. ANR shall file a noise survey with the Secretary **no later than 60 days** after placing the Collierville Compressor Station and modified Collierville Meter Station in service. If a full load condition noise survey is not possible, ANR shall provide an interim survey at the maximum possible horsepower load and provide the full load survey **within six months**. If the noise attributable to the operation of all of the equipment at the Collierville Compressor Station and Collierville Meter Station under interim or full horsepower load conditions exceeds a day-night sound level of 55 decibels on the A-weighted scale at any nearby noise sensitive areas, ANR shall file a report on what changes are needed and shall install the additional noise controls to meet the level **within one year** of the in-service date. ANR shall 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.

Document Content(s)

CP16-64-000.DOCX.....1-19