

110 FERC ¶ 61,115  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeen G. Kelly.

Transcontinental Gas Pipe Line Corporation                      Docket No. CP04-396-000

ORDER ISSUING CERTIFICATE

(Issued February 10, 2005)

1. On August 11, 2004, Transcontinental Gas Pipe Line Corporation (Transco) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) seeking authorization to construct and operate Transco's Central New Jersey Expansion Project. The project will provide significant public benefit by adding firm transportation capacity to serve increased market demand. For the reasons stated, this order finds that the requested authorization is required by the public convenience and necessity and grants the requested certificate.

**I. Proposal**

2. Transco held an open season from January 14 through February 13, 2004, during which it received written requests from potential shippers desiring new incremental firm transportation service to be made available through the project. As a result of the open season, Transco executed a binding precedent agreement with South Jersey Gas Company (South Jersey) for 105,000 dekatherms per day (Dth/d). The precedent agreement requires South Jersey and Transco to execute a firm transportation service agreement with a twenty-year primary term for the full project capacity upon Transco's receipt and acceptance of the authorizations requested in its application. Transco also conducted a reverse open season from July 7, 2004 to July 21, 2004, but did not receive offers from existing customers to permanently relinquish any firm transportation capacity.

3. Transco proposes to construct and operate 3.77 miles of new 36-inch diameter pipeline looping facilities, from Mile Post 15.55 to Mile Post 19.32 on Transco's existing Trenton Woodbury Line in Burlington County, New Jersey. The added capacity will enable Transco to provide an additional 105,000 Dth/d of firm transportation capacity to serve increased market demand on South Jersey's gas distribution system.

4. Transco further states that without this project, its existing facilities would not have sufficient capacity to maintain pressure commitments to Transco's existing customers while transmitting the additional 105,000 Dth/d requested by South Jersey to serve new weather-sensitive demand. Thus, Transco states that its project serves increased market demand on South Jersey's system and benefits overall system integrity, safety, and reliability for both new and existing customers.

5. Transco states that the new firm transportation service will be rendered pursuant to Rate Schedule FT of Transco's FERC Gas Tariff and Transco's blanket certificate under Part 284(G) of the Commission's regulations. The applicable rate will be Transco's Zone 6 to Zone 6 system rate. Transco has requested authority to roll the project's costs into its system-wide cost-of-service in Transco's first NGA section 4 rate case that becomes effective following the in-service date of the project. Transco estimates the cost of the project to be \$12,411,161. South Jersey will pay the maximum system rate and system fuel charges under Transco's Rate Schedule FT for Zone 6 to Zone 6 transportation service, as well as the applicable electric power rate, ACA charge, and any other applicable charges under Rate Schedule FT. Transco's revenue study estimates a first year cost-of-service of \$2,411,161 and projects revenues of \$3,652,373. Accordingly, Transco states that a roll-in will lower system rates for existing customers because the estimated incremental annual cost-of-service over the life of the contract is less than the anticipated annual revenues.

6. South Jersey has requested a new delivery point in connection with the firm transportation service under the project. The delivery point will be located adjacent to the Trenton Woodbury Line in Gloucester County, New Jersey. Transco proposes to construct and operate the delivery point under the automatic authorization provisions set forth in section 157.211(a) of the Commission's regulations and Transco's blanket construction certificate issued in Docket No. CP82-426-000.<sup>1</sup>

## **II. Interventions**

7. Notice of Transco's application was published in the *Federal Register* on August 26, 2004 (69 *Fed. Reg.* 59,500). Timely unopposed motions to intervene were filed by the parties listed in Appendix A. No protests were filed.

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<sup>1</sup> *Transcontinental Gas Pipe Line Corp.*, 20 FERC ¶ 62,420 (1982).

### **III. Discussion**

8. Transco is a natural gas company as defined under the NGA, engaged in the business of transporting natural gas in interstate commerce, under authorizations granted by and subject to the jurisdiction of the Commission. Transco's natural gas pipeline transmission system extends from Texas to its terminus in the New York City metropolitan area.

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

9. On September 15, 1999, the Commission issued a Policy Statement to provide guidance as to how we will evaluate proposals for certificating new construction.<sup>2</sup> The 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 Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. Our 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.

10. The Commission's Policy Statement directs that 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 the 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. The Commission also considers potential impacts of the proposed project on other pipelines in the market and those existing pipelines' captive customers, or landowners and communities affected by the route of the new pipeline.<sup>3</sup>

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<sup>2</sup>*Certification of New Interstate Natural Gas Pipeline Facilities (Policy Statement)*, 88 FERC & 61,227 (1999), *order clarifying statement of policy*, 90 FERC & 61,128 (2000), *order further clarifying statement of policy*, 92 FERC & 61,094 (2000) .

<sup>3</sup> *Policy Statement* at 61,745.

11. 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 residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission then proceed to complete the environmental analysis where other interests are considered.

### **1. Subsidization**

12. Transco proposes to charge currently effective Rate Schedule FT rates for service rendered over the project facilities. The project meets the threshold requirement in the Policy Statement that it can proceed without subsidies from Transco's existing customers. The project will not cause their rates to increase and will result in general system improvement, rather than any degradation of service. Transco estimates first year annual costs of \$2,411,161 and revenues of \$3,652,373. Thus, rolling-in the costs of the project will result in lower system rates for Transco's existing customers because the incremental cost of service will be less than the incremental annual revenues Transco expects to collect from South Jersey. Further, the interests of Transco's existing customers will not be adversely affected because the project will actually result in general system improvement. Because the proposal will not be subsidized by Transco's existing shippers, consistent with the Policy Statement, and a roll-in will lower system rates, Transco may roll in the costs of the proposal in its next rate case, absent a significant change in circumstances.

### **2. Adverse Impacts**

13. The project will not adversely impact other existing pipelines and their captive customers. South Jersey will use the increased capacity to serve the incremental growth requirements of its markets, not to displace existing service providers, which may transport gas on other pipelines. The new service to South Jersey has not previously been supplied by any other pipeline, nor is the project designed to replace existing service to customers of any other pipeline. None of the existing competitor pipeline systems is presently capable of transporting the required volumes to the target delivery point.

14. The Commission has recognized that every pipeline construction project will cause some short-term impacts to landowners.<sup>4</sup> However, as described in the Environmental Assessment (EA), the proposed facilities were designed to utilize, to

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<sup>4</sup> *Policy Statement*, 88 FERC at 61,747-48.

the maximum extent practicable, existing rights-of-way and areas adjacent to existing rights-of-way. Nearly all of the project loop will be installed either entirely within or parallel to existing pipeline and utility rights-of-way. Transco has worked cooperatively with landowners and has negotiated mutually agreeable settlements with all affected landowners.

15. Based on the above considerations, the Commission concludes that Transco's project can proceed without subsidies, will not adversely affect or degrade service to its existing customers, and will not harm existing pipelines or their captive customers. Transco has demonstrated a need for the project, having submitted a binding precedent agreement for all the capacity for an initial term of 20 years. The Commission finds, therefore, that the benefits of the proposed project outweigh the potential adverse effects on economic interests, as contemplated by the Policy Statement.

16. As in the Commission's practice, the certificate issued herein is conditioned on Transco's executing contracts for the level of service and the terms of service represented in the precedent agreement before commencing construction of the project.

### **B. Engineering**

17. The additional natural gas required by South Jersey will originate from Transco's Station 210 pooling point (from Princeton Junction) in Mercer County, New Jersey, and will be delivered to a new meter station in Gloucester County, New Jersey via Transco's Trenton Woodbury Line. Between these two points, there is a 3.65-mile-long segment of 16-inch-diameter pipeline, between the J697 and J662 valve settings, that is a bottleneck to Transco's system. Transco's existing facilities do not have the capacity to transmit the project volumes while maintaining the pressure commitments to its existing customers.

18. We analyzed the flow diagrams indicating the effect of the proposed facilities on the existing operational capabilities and conditions of Transco's system. Our analyses demonstrate that there will be no adverse impact on service provided to Transco's existing customers as a result of the project. Completion of the short segment of pipeline loop will actually enhance overall system integrity, safety, and reliability by eliminating a bottleneck on Transco's Trenton-Woodbury Line.

### C. Environmental

19. On May 24, 2004, the Director of the Office of Energy Projects (Director of OEP) approved Transco's request to use the Commission's Pre-Filing Process for this project, and established Docket No. PF04-12. The purpose of using the Pre-Filing Process is to involve interested stakeholders early in the project planning and to identify and resolve issues prior to filing the certificate application.

20. On June 4, 2004, the Commission issued its *Notice of Intent to Prepare an Environmental Assessment for the Proposed Central New Jersey Expansion Project, Request for Comments on Environmental Issues, and Notice of Scoping Meeting* (NOI). In addition, staff conducted a Public Site Visit on the same day as the Public Scoping Meeting (June 29, 2004). Ten comments were received, including comments made at the public scoping meeting and the filed written comments, during the scoping period. Comments were received from four federal agencies (Department of Health and Human Services, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, and the U.S. Army Corps of Engineers) and two state agencies, the New Jersey Department of Environment Protection (NJDEP), and the New Jersey Turnpike Authority (NJTA). Burlington County Open Space Program, Bordentown Township Council (Bordentown), and the Mansfield Township Engineering Office also submitted comments. The complete record of the pre-filing Docket No. PF04-12 has been received into and integrated with the record of this Docket No. CP04-396-000.

21. On November 22, 2004, the Commission issued its project EA, with comments due on December 23, 2004. The EA addresses nonjurisdictional facilities, geology, soils, water resources (including ground and surface waters), vegetation, wildlife, wetlands, federally listed species, land use, cultural resources, air and noise quality, reliability and safety, and alternatives to the proposal. The EA also addresses all substantive comments received in response to the NOI. Applying the four-factor procedure for determining the need to include nonjurisdictional facilities in the Commission's environmental review, the EA determines that South Jersey's planned 5 mile, 24-inch-diameter lateral and associated valve sites are not subject to our review.

22. The USGS Office of Environmental Affairs reviewed the EA and indicated that it had no comment. The Commission also received comments on the EA from an unidentified individual, the NJDEP, and from Transco. In addition, the NJTA filed, as a courtesy correspondence to the Secretary, two separate letters addressed to Transco representatives regarding Transco's expansion in Mansfield Township.

23. The unidentified commenter expressed concern that the company had not afforded thorough consideration to alternative routes in Bordentown Township. The commenter also expressed concerns about pipeline safety and locating the pipeline in close proximity to the Turnpike.

24. Several route variations that were identified during the Pre-Filing Process were weighed and considered in the EA. An exhaustive search of feasible route variations was triggered by the many construction and feasibility constraints, including the location of the New Jersey Turnpike and its related entrance/exit ramps. Several of these variations were eliminated (see section C, Alternatives, in the EA) due to their proximity to residences, businesses, and lands that are preserved under the New Jersey Green Acres Program, and through Burlington County's Open Space and Farmland Preservation Program.

25. The proposed route was selected because it follows existing transmission rights-of-way for most of its length, while minimizing impacts on residential and business tracts, and lands that are managed under the Green Acres Program. The Commission disagrees with the unidentified commenter's concern regarding the adequacy of Transco's route considerations, and believe that Transco did ultimately select the best route through Bordentown Township. The Pre-Filing process successfully resolved the issues that were raised during the project's scoping period. Further, public safety was adequately addressed in section 8 of the EA.

26. In its comments, the NJDEP states that representatives of the Green Acres Program have had informal discussions with officials of Bordentown Township and Burlington County concerning the project, and that they are aware that a State House Commission application must be submitted by Bordentown Township with assistance from Transco. The NJDEP also states that, for cultural resources, "At this time, pending receipt of a final report, it appears very likely that a Section 106 finding of **No Historic Properties Affected** will be appropriate for this proposed undertaking." We concur.

27. Finally, the NJDEP raises opposition to wet-cut stream crossings, and suggests that stream crossing alternatives and/or time windows be authorized to mitigate induced sediment in downstream flows. In addition, the NJDEP indicates that the three stream crossings affected by construction on this project flow into Crystal Lake, which is an important foraging habitat for the federally listed bald eagle.

28. Section 2 of the EA adequately addresses construction through waterbodies. Transco has adopted the Commission staff's "Wetland and Waterbody Construction and Mitigation Procedures" (Procedures) to construct the project. The Commission

believes that the mitigation measures, construction time windows and stream crossing alternatives, which are outlined in the Procedures, adequately mitigate for induced sediment and turbidity at waterbody crossings and downstream receptors such as Crystal Lake. Even so, the NJDEP may stipulate additional measures with regards to stream crossing methods in its state permitting authority under the Clean Water Act, sections 401 and 402.

29. Also, we note that our EA concludes that no bald eagle individuals, nests or foraging habitat would be directly disturbed by the construction and operation of the project. Further, Transco and the Commission have concluded the informal consultation requirements for this project with the U.S. Fish and Wildlife Service pursuant to section 7 of the Endangered Species Act, as discussed in the EA.

30. In its comments on the EA, Transco provided a revised alignment sheet and a description of an alternative/revised access alignment of Access Road 4, which is identified in the EA and was included in Transco's filed Environmental Report. After additional investigation of the feasibility of using the road, Transco decided to realign the access road to reduce overall work space needs and to reduce the impacts on wetland and forest clearing. Transco indicates that the use of this revised Access Road 4 would reduce wetland impacts from about 0.19 acre (along the original access road) to about 0.03 acre. Because a portion of the revised access road crosses a wetland, Transco states that a variance to our staff's Procedures is warranted, and asks that it be allowed to incorporate this change into its proposed project design.

31. Based on a review of the filed alignment and documentation, we find that the revised access road falls within the previously surveyed corridor for cultural resources. The revision also further reduces environmental impacts to the wetland. Therefore, we approve this request.

32. EA Condition Number 12 recommends that Transco be required to file its soil/groundwater sample results at a gasoline station near milepost (MP) 17.7, and states that Transco should not construct until the need for a contamination soil/groundwater contingency plan is determined by FERC staff and the NJDEP. In its comments on the EA, Transco filed its sampling report, which summarizes field sampling activities near the gasoline station near MP 17.7, and concludes that subsurface contamination was not encountered along the pipeline route between Highway 206 and Old York Road East (Route 68). Transco requests confirmation that it has satisfied EA Condition Number 12, since this case is not active with the NJDEP, and the sampling results indicate that no contamination will be encountered

during construction. Given the results of the testing, we concur that Transco has addressed the concerns that led to the recommendation in EA Condition Number 12, which we will not include in our order.

33. In its comments on the EA, Transco also filed new information in response to a previous correspondence it received from Bordentown Township. The Township was concerned about public health impacts from pesticide laden soils along the proposed right-of-way, and asked about Transco's soil sampling activities to identify contaminated soils. Transco completed additional research on the issue by contacting various agencies in New Jersey to determine the extent and potential health risks of pesticide contaminated soils in Burlington County, and more specifically, in Bordentown Township.

34. Transco was referred to the Historic Pesticide Contamination Task Force, which was created by the NJDEP to address the potential impacts of exposure to historically applied pesticides in agricultural land that is converted to residential uses. The Task Force issued a final report in 1999. Transco indicates that based on the final report, when compared to ongoing agricultural practices, pipeline construction would not contribute to the general public's exposure to pesticide contaminated soils. The primary means of potential exposure would be inhalation of fugitive dust from areas of contaminated soils. Because access to the right-of-way would be limited, direct exposure to contaminated soils by the general public would be minimal. Transco has committed to instituting dust suppression methods (*e.g.*, applications of water on the right-of-way) to control fugitive dust and improve overall air quality during construction. Transco would take further measures to reduce risk to construction workers by augmenting health and safety training.

35. We believe that the mitigation measures Transco has adopted in our Upland Erosion Control, Revegetation and Maintenance Plan and in our Procedures, would adequately reduce any contaminated soil impacts encountered. In addition, Transco has constructed two expansions (Docket Nos. CP98-540-001 and CP02-204-000) over the course of the last four years in Burlington County, and it has not encountered any contaminated soils (of which we are aware) during trenching and construction activities.

36. Transco asks for clarification of the recommendations in EA Condition Numbers 8 and 11. It asks whether it should file bi-weekly or weekly construction status reports, since it will be required to file a list of landowner complaints during construction on a weekly basis. We clarify that Transco should file construction status reports on a **weekly** basis. Environmental Condition Numbers 8 and 11 in Appendix B hereto have been revised to reflect this revision.

37. The two letters from the NJTA to representatives of Transco, filed with the Commission by NJTA on December 23, 2004, indicate that the project falls within the limits of the Turnpike's anticipated widening project. On January 6, 2005, Transco filed clarifying comments in response to the two NJTA letters. According to Transco, about a one mile-long segment of the new 36-inch-diameter pipeline loop (located between mileposts 18.30 and 19.32) in Mansfield Township is of concern to the NJTA. Transco's filed map exhibits and the EA demonstrate that the proposed 36-inch pipeline, in this one mile segment, would be laid next to Transco's existing 16-inch pipeline, offset by 25 feet. Transco indicates that the NJTA is interested in creating a larger offset in the segment, specifically suggesting that Transco realign the new 36-inch pipeline route to increase the offset from its existing 16-inch pipeline from 25 feet to 50 feet. Transco indicates that it is not opposed to the realignment suggested by the NJTA.

38. Environmental Condition Numbers 1, 4, and 5 in Appendix B of this Order have provisions that allow Transco to modify its route alignment before construction. Specifically, Environmental Condition Numbers 1, 4 and 5 allow Transco to request written modifications of the conditions of this Order and/or site-specific clearances. All three conditions have provisions for the written approval from the Director of OEP, prior to construction, to submit changes to this Order or its conditions. In addition, Environmental Condition Number 5 has a provision that allows certain minor field alignments per landowner needs and requirements, without the Director of OEP's approval. See Appendix B of this Order. If Transco requests an alignment change prior to construction, the Commission staff will review and consider any realignment under these provisions.

39. Based on the discussions in the EA, we conclude that if constructed and operated in accordance with Transco's application and filed supplements, approval of this proposal, including the realignment of Access Road 4, would not constitute a major federal action significantly affecting the quality of the human environment.

40. 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.<sup>5</sup> Transco shall notify the Commission's environmental staff by telephone 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 within 24 hours.

41. At a hearing held on February 9, 2005, the Commission, on its own motion, received and made a part of the record all evidence, including the application and exhibits thereto, submitted in this proceeding, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Transco to construct and operate the facilities, as described more fully in the application and in the body of this order.

(B) Transco shall comply with all applicable Commission regulations, particularly the conditions set forth in paragraphs (a), (c), (e) and (f) of section 157.20 the regulations.

(C) Construction of the proposed facilities will be completed and made available for service within one year from the date of this order in accordance with section 157.20(b) of the Commission's Regulations.

(D) The authority issued in Paragraph (A) above is conditioned on Transco's compliance with the environmental conditions set forth in Appendix B of this order.

(E) Transco shall notify the Commission's environmental staff by telephone 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 within 24 hours.

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<sup>5</sup>See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(F) Transco must execute firm contracts equal to the level of service and the terms of service represented in its precedent agreement prior to commencement of construction.

(G) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order pursuant to 18 CFR § 385.713.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

**APPENDIX A**

INTERVENTIONS

PECO Energy Company  
Consolidated Edison Company of New York, Inc.  
Keyspan Delivery Companies  
North Carolina Utilities Commission  
Philadelphia Gas Works  
PSEG Energy resources & Trade, LLC  
South Jersey Gas Company  
UGI Utilities, Inc.

## APPENDIX B

This certificate granted herein includes the following condition(s):

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 this Order. Transco must:
  - a. request any modifications 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 delegation authority to take whatever steps are necessary to insure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
  - a. the modification of conditions of this Order; and
  - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to construction**, Transco shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel would be informed of the environmental inspectors' authority and have been or would 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 survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for the facility approved by this Order. All requests for modifications of environmental conditions of this Order or site-specific

clearances must be written and must reference locations designated on these alignment maps/sheets.

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

5. 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, and documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director OEP **before construction** in or near that area.

This requirement does not apply to 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 adversely affect sensitive environmental areas.
6. **At least 60 days before the anticipated start of construction,** Transco shall file an initial Implementation Plan with the Secretary for review and written

approval by the Director of OEP describing how Transco would implement the mitigation measures required by this Order. Transco must file revisions to the plan as schedules change. The plan should identify:

- a. how Transco would 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;
  - b. the number of environmental inspectors assigned per spread, and how the company would ensure that sufficient personnel are available to implement the environmental mitigation;
  - c. company personnel, including environmental inspectors and contractors, who would receive copies of appropriate material;
  - d. what training and instructions Transco would give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
  - e. the company personnel (if known) and specific portion of Transco's organization having responsibility for compliance;
  - f. the procedures (including use of contract penalties) Transco would follow if noncompliance occurs; and
  - g. 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 mitigation training of onsite personnel
    - iii. the start of construction; and
    - iv. the start of completion of restoration.
7. Transco shall employ at least one environmental inspector per construction spread. The environmental inspector shall be:
- a. responsible for monitoring and ensuring compliance with all mitigative measures required by this 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 number 6 above) and any other authorizing document;
  - c. empowered to order correction of acts that violate the environmental conditions of this 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 this 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. Transco shall file updated status reports prepared by the head environmental inspector with the Secretary on a **weekly basis** until all construction-related activities, including restoration and initial permanent seeding, are complete. On request, these status reports would also be provided to other federal and state agencies with permitting responsibilities. Status reports should include:
- a. the current construction status of each spread, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
  - b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspectors 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);
  - c. corrective actions implemented in response to all instances of noncompliance, and its cost;
  - d. the effectiveness of all corrective actions implemented;
  - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this Order, and the measures taken to satisfy its concerns; and
  - f. copies of any correspondence received by Transco from other federal, state, or local permitting agencies concerning instances of noncompliance, and Transco's response.
9. Transco must receive written authorization from the Director of OEP **before commencing service** from the project. Such authorization would only be granted following a determination that rehabilitation and restoration of the right-of-way is proceeding satisfactorily.
10. Within 30 days of placing the certificated facilities in service, Transco should file an affirmative statement with the Secretary, certified by a senior company official:

- a. that the facilities have been constructed and installed in compliance with all applicable conditions, and that continuing activities would be consistent with all applicable conditions; or
  - b. identifying which of the certificate conditions Transco has complied with or would comply with. This statement should also identify any areas along the right-of-way where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. Transco shall develop and implement an environmental complaint resolution procedure. The procedure shall provide landowners with clear and simple directions for identifying and resolving their environmental mitigation problems/concerns during construction of the project and restoration of the ROW. **Prior to construction**, Transco shall mail the complaint procedures to each landowner whose property would be crossed by the project.
  - a. In its letter to affected landowners, Transco shall:
    - i. provide a local contact that the landowners should call first with their concerns; the letter should indicate how soon a landowner should expect a response;
    - ii. instruct the landowners that, if they are not satisfied with the response, they should call Transco's Hotline; the letter should indicate how soon to expect a response; and
    - iii. instruct the landowners that, if they are still not satisfied with the response from Transco's Hotline, they should contact the Commission's Enforcement Hotline at (888) 889-8030.
  - b. In addition, Transco shall include in its weekly status report a copy of a table that contains the following information for each problem/concern:
    - i. the date of the call;
    - ii. the identification number from the certificated alignment sheets of the affected property;
    - iii. the description of the problem/concern; and
    - iv. an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.

12. Transco shall defer construction and use of facilities and staging, storage, and temporary work areas and new or to-be-improved access roads **until**:
  - a. Transco files with the Secretary the New Jersey State Historic Preservation Office's comments on the Phase I cultural resources survey report; and
  - b. the Director of OEP notifies Transco in writing that it may proceed.