

111 FERC ¶ 61,446  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Florida Gas Transmission Company

Docket No. CP05-64-000

ORDER ISSUING CERTIFICATE AND GRANTING ABANDONMENT  
AUTHORITY

(Issued June 20, 2005)

1. On February 1, 2005, Florida Gas Transmission Company (FGT) filed an application under sections 7(b) and 7(c) of the Natural Gas Act (NGA) for permission and approval to abandon pipeline facilities and to construct and operate various pipeline and compression facilities in Miami-Dade County, Florida (Turkey Point Project) to serve Florida Power & Light Company (FPL). The proposal will permit FGT to deliver additional natural gas for use as fuel at FPL's existing Turkey Point Power Plant (Plant), without increasing contract demand, to generate approximately 1,150 megawatts of electricity to serve the equivalent of 230,000 homes and businesses in southern Florida. The proposed facilities will also provide backup compression capacity on FGT's pipeline to support FPL customers' need for electric system reliability. For these reasons, we find that it is in the public interest to grant FGT's requested certificate and abandonment authorizations.

**I. Proposal**

2. FGT currently supplies natural gas to FPL at delivery points located in Northern Florida and transports natural gas for fuel use at FPL's Plant in Miami-Dade County. FPL plans on expanding its electric generating capacity at its Plant. In order to provide increased quantities of natural gas at required pressure levels, FGT will construct a new compressor station and will reallocate current contract demand to FPL's new delivery point and meter located on its property at the Plant.

3. FGT proposes to construct, own, and operate new Compressor Station No. 22 consisting of two 8,500 horsepower electric-powered compressor units within the Plant

yard. FGT will also construct approximately 1,600 feet of 18-inch diameter mainline extension connecting Compressor Station No. 22 at Milepost 907.7 to FGT's existing 18-inch diameter mainline. FGT proposes to abandon and remove in the vicinity of Milepost 907.7 approximately 50 feet of pipeline on the existing 18-inch diameter mainline in order to install tie-ins for the proposed 18-inch diameter pipeline extension.

4. FGT proposes to construct and operate a new 24-inch diameter tee and side valve at Milepost 20.6 on its existing 24-inch diameter Turkey Point Lateral. FGT's tee and side valve will interconnect with FPL's planned 24-inch diameter, 525-foot long non-jurisdictional lateral. FPL's new lateral will connect to a new meter station that FPL proposes to construct within its Plant yard.

5. FGT proposes to reallocate a larger quantity of FPL's existing contract demand to the Plant without any overall increase in contract demand. Specifically, FGT's contract with FPL will require delivery at the Plant of an additional 5,000 MMBtu/hr at 480 psig in April and an additional 4,300 MMBtu/hr at 480 psig during the summer season. FGT asserts that this reallocation of FPL's gas deliveries will not result in degradation of service to any FGT shippers.

6. Upon the project's completion, FPL will reimburse FGT for the construction cost (estimated to be \$29,614,270), and will reimburse FGT on a monthly basis for the project's operation and maintenance expenses during the life of the project.<sup>1</sup> FGT will provide FPL with transportation services under Part 284 (Subpart G) of the Commission's regulations commencing on December 1, 2006. FGT asserts that the project will not result in additional transportation revenues to FGT. In order to enable FPL to test the facilities, FPL requests phased in-service dates of June 1, 2006 for FGT's proposed tee and side valve; October 1, 2006 for operation of one of FGT's proposed project compressor units; and December 1, 2006 for operation of FGT's other proposed compressor unit.

## **II. Interventions**

7. Public notice of FGT's application was published in the *Federal Register* on February 15, 2005, 70 Fed. Reg. 7,724 (2005), with motions to intervene and protests due

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<sup>1</sup> Agreement between FPL and FGT (dated August 20, 2004) (Application Exhibit M).

on or before March 15, 2005. Florida Cities,<sup>2</sup> FPL, Florida Power Corporation, Industrial Gas Users of Florida and Florida Industrial Gas Users, jointly, and Peoples Gas System, a Division of Tampa Electric Company, filed timely motions to intervene.<sup>3</sup> No protests or comments in opposition to the application were filed.

### **III. Discussion**

8. Because FGT seeks to abandon and construct facilities to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to subsections (b), (c), and (e) of section 7 of the NGA.

#### **A. Compliance with Certificate Policy Statement**

9. On September 15, 1999, the Commission issued a Policy Statement providing guidance as to how it will evaluate proposals for certificating new construction.<sup>4</sup> The Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposal 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. 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.

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<sup>2</sup> The Florida Cities consist of JEA; the Orlando Utilities Commission; Lakeland Electric; the City of Tallahassee, Florida; the City of Gainesville, Florida, d/b/a Gainesville Regional Utilities, and Florida Gas Utility, a Florida inter-local agency whose membership currently consists of more than 20 municipally-owned electric and/or gas utilities.

<sup>3</sup> Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. §385.214 (2004).

<sup>4</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 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) (Policy Statement).

10. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified, after efforts have been made to minimize them, the Commission evaluates 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.

11. FGT's proposal meets the Policy Statement's threshold requirement of not relying on subsidies from existing customers. As noted, FPL will reimburse FGT for the entire \$29,614,270 construction cost for the Turkey Point Project facilities, as well as reimbursing FGT on a monthly basis for the project's operation and maintenance costs. Therefore, we find no risk of subsidization by FGT's existing shippers.

12. We find that FGT also has satisfied the second element of the Policy Statement, which is to mitigate adverse effects on existing customers. FGT's proposal will not adversely affect its existing customers, because those existing customers not participating in this project will not experience higher rates or lesser service and all of the Turkey Point incremental compression capacity to be created by FGT's project is fully subscribed under its current contract with FPL.

13. We also find that the Turkey Point Project minimizes the impact on landowners and the surrounding environment and thus satisfies the Policy Statement's test in this regard. The proposed compressor station construction will occur in an industrial area on property owned by FPL and adjacent to an existing FPL substation. FGT's proposed use of existing or previously disturbed rights-of-way reduces the amount of new right-of-way needed, thereby avoiding any adverse impact on landowners and communities. FGT does not anticipate having to use eminent domain to acquire any easement required for the proposed Turkey Point project facilities.

14. Finally, FGT's proposal -- new compressor station within the Plant yard, approximately 1,600 feet of mainline expansion, abandonment and removal of 50-feet of pipeline to install tie-ins with FPL's 525-foot long lateral in its Plant yard -- will avoid adverse economic, competitive, environmental, or other effects on the relevant interests. The need for FGT's proposal to serve firm load growth in FPL's southern Florida electric

markets is demonstrated by the fact that all of the project's capacity is subscribed under FPL's long-term contract. FGT's Turkey Point Project will enable FPL to receive natural gas volumes to generate electricity with four new natural gas-fired combined cycle generating units that will meet the need for increased electric generation in southern Florida. Without the expansion of capacity on FGT's pipeline system to deliver additional gas for use as fuel at FPL's electric plant, FPL's customers could face severe curtailments in electric service.

### **B. Rate and Tariff Issues**

15. FGT does not propose any revisions to its existing FERC Tariff and will perform transportation services for FPL under existing Part 284 rate schedules and Part 284 rates. The proposed Turkey Point Project system design will allow a larger quantity of FPL's existing contractual volumes to be transported further south on FGT's transmission system to a new FPL delivery point. However, FGT's total natural gas deliveries (and rates) to FPL will remain the same

16. In addition to paying FGT's firm applicable transportation rates, FPL will reimburse FGT for the project's construction costs and, on a monthly basis, for the project's O&M costs. We approve this reimbursement mechanism as consistent with GT&C section 21D (Construction of Facilities) of FGT's tariff, and direct FGT to account separately for all costs and revenues associated with this project over the life of the facilities authorized herein.

### **C. Environmental**

17. On March 8, 2005, we issued a Notice of Intent to Prepare an Environmental Assessment (EA). Eagle/WHTV, Ltd., a landowner, filed comments concerning noise and traffic impacts during construction and operation of the Compressor Station.<sup>5</sup> In our EA, we discuss that impacts from both operational and construction noise would not significantly affect the local noise environment. Operational noise impacts to the Eagle/WHTV site are predicted to be less than 55 dBA. Traffic impacts during construction would have a minor effect on local business; but, this would be temporary, and there would be no appreciable increase in road traffic due to the operation of the Compressor Station. Additionally, the EA addresses water resources, soils, fisheries, wildlife, vegetation, threatened and endangered species, cultural resources, land use, recreation, visual resources, agriculture, air quality and noise, cumulative impacts, and

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<sup>5</sup> Currently, Eagle/WHTV, Ltd. has extended leasehold rights to Eagle Global Logistics, L.P., a commercial freight company.

alternatives. Based on the discussion in the EA, we conclude that if constructed in accordance with FGT's application and supplements filed March 3, 2005 and April 1, 2005, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment. This finding is a result of the environmental analysis, implementation of the mitigation measures identified in FGT's application, and the environmental conditions in the Appendix to this order.

18. 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/replacement or operation) of facilities approved by this Commission.<sup>6</sup> FGT shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies FGT. FGT shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

#### **D. Conclusion**

19. For all the above reasons, the Commission finds that FGT's proposed project is required by the public convenience and necessity and that a certificate authorizing the construction and operation of the proposed facilities, as well as the granting of permission and approval for the proposed abandonment, will be issued, subject to the conditions discussed herein.

20. At a hearing held on June 15, 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,

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<sup>6</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).

**The Commission orders:**

(A) A certificate of public convenience and necessity is issued authorizing FGT to construct and operate facilities as described more fully in the body of this order and in FGT's application, subject to the environmental mitigation conditions contained in the Appendix of this order.

(B) The authorization granted in ordering paragraph (A) above is conditioned upon FGT's compliance with section 157.20(a), (c), (e), and (f) of the Commission's regulations.

(C) Permission and approval pursuant to section 7(b) of the NGA are granted to FGT to abandon by removal the pipeline facilities being replaced, as described herein and in FGT's application.

(D) FGT shall notify the Commission of the effective date of the abandonment authorized in paragraph (C) above within 10 days thereof.

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

(F) The facilities authorized in this order shall be completed and placed into operation within 18 months of the date of issuance of this order in compliance with section 157.20(b) of the Commission's regulations.

(G) FGT shall maintain a separate accounting for all costs and revenues attributable to the facilities authorized in this order over the life of the facilities.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.

## Appendix Environmental Conditions

As recommended in the EA, this authorization is subject to the following environmental conditions:

1. FGT shall follow the construction procedures and mitigation measures described in its application and supplements and as identified in the EA, unless modified by this order. FGT must:
  - a. request any modifications to these procedures, measures, or conditions in a filing with the Secretary;
  - b. justify each modification relative to site-specific conditions;
  - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
  - d. receive approval in writing from the Director of the OEP before using that modification.**
  
2. The Director of OEP has delegated authority to take whatever steps are necessary to insure the protection of all environmental resources during construction and operation of the project. This authority would 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**, FGT 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 inspector's 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**, FGT 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.

5. FGT 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 agreements with individual landowners that affect other landowners or could adversely affect sensitive environmental areas.
6. Within 60 days of the acceptance of this certificate and before **construction begins**, FGT shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how FGT would implement the mitigation measures required by this order. FGT must file revisions to the plan as schedules change.

7. 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 ROW is proceeding satisfactorily.
8. FGT shall file a noise survey with the Secretary no later than 60 days after placing Compressor Station 22 in service. If the noise attributable to the operation of the facility at full load exceeds an Ldn of 55 dBA at any nearby NSAs, FGT should install additional noise controls to meet that level within 1 year of the in-service date. FGT should confirm compliance with the Ldn of 55 dBA requirement by filing a second noise survey with the Secretary no later than 60 days after it installs the additional noise controls.