

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southern Natural Gas Company

Docket No. CP04-340-000

ORDER APPROVING ABANDONMENT AND ISSUING CERTIFICATE

(Issued January 25, 2005)

1. On May 18, 2004, Southern Natural Gas Company (Southern) filed an abbreviated application pursuant to section 7 of the Natural Gas Act requesting an order approving the abandonment by sale to Atlanta Gas Light Company (Atlanta) of certain pipeline and appurtenant facilities, and for a certificate of public convenience and necessity authorizing construction, installation, and operation of certain facilities.¹ In conjunction with negotiations for the sale of the facilities, Southern and Atlanta also negotiated the extension of the terms of Atlanta's FT, FT-NN and CSS transportation service agreements with Southern. This order serves the public convenience and necessity by providing benefits to both involved systems and their customers, allowing the reduction of Southern's system costs, while reducing the potential for capacity turnback on Southern's system.

Proposal

2. Southern requests authority to abandon by sale to Atlanta, for approximately \$32 million, several segments of pipeline facilities, meter stations and regulator stations listed in its application (the Triangle Facilities). Southern states that it currently serves the local distribution system of Atlanta through the Triangle Facilities. Southern also provides firm transportation and interruptible transportation services to various other shippers through the Triangle Facilities, but Southern will retain other facilities in the

¹Southern is a natural gas company engaged in the operation of an interstate pipeline system for the transportation of natural gas in the states of Texas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, Tennessee, and Florida.

same corridor in order to maintain its interstate service to other shippers. Southern states that the proposed abandonment of the Triangle Facilities will not result in termination of interruptible or firm service to any other customer. Southern will construct additional facilities in order to maintain current levels of service, including delivery points and a bi-directional meter station to provide service at the points of interconnection between Southern's system and the Triangle Facilities.

3. Southern proposes to sell about 253.6 miles of various pipeline segments located between Southern Natural's south main lines and north main lines which serve the metropolitan area of Atlanta, Georgia. These segments are in 13 different lengths and sizes and make up an inverted "Y" that runs north from Southern's southern main line to the Atlanta metropolitan area. The pipeline segments vary from 4 to 30-inches diameter pipe, with most being of 10, 12, 14 and 16 –inches pipe. Southern will also sell to Atlanta 12 meter/regulation stations along those segments. Southern will then construct new facilities to consolidate and reconfigure its deliveries to Atlanta to four meter/regulation stations. Southern states that it does not need the pipeline facilities to be sold in order to meet its transportation service obligations.

4. Southern states that Atlanta will fully integrate the Triangle facilities as part of its local distribution system which is regulated by the Georgia Public Service Commission (Georgia PSC).² Southern says that the proposed acquisition of the Triangle Facilities by Atlanta will enable Atlanta to better manage gas loads on its distribution system and will enhance the segmentation opportunities for shippers on Southern's system. Atlanta and Southern will isolate the Triangle Facilities from Southern's remaining facilities so that they are connected only at the four delivery points to be constructed.³ Currently, the Triangle Facilities and the facilities that Southern is retaining in the corridor serve two functions. First, Southern effectively distributes gas to various points along the corridor by delivering it to Atlanta at 12 meter stations. Second, Southern uses the lines to move gas between its north main system and its south main system to serve Atlanta and other customers on the north main line or south main line as required. After abandonment of the Triangle Facilities, Southern will continue to move gas between its north and south main systems using the additional facilities it proposes to construct.

²Southern requested that the Commission consider as part of this application the final orders to be issued by the Georgia PSC in Docket Nos. 18437-U (Atlanta's Capacity Supply Plan) and 8516-U (Pipe Replacement Program). Those orders, discussed below, were issued November 2, 2004.

³ Southern states that Atlanta will be served at four large delivery points, two at the base of the Triangle on its South Main Lines, one in the heart of the Atlanta metropolitan area and one on the north main line. Application at 7.

5. Southern says that the purchase of the Triangle Facilities by Atlanta will enable Atlanta to operate its local distribution system more efficiently, by removing bottlenecks around existing LNG peak-shaving facilities and creating a more flexible distribution system. In addition, the purchase of facilities will allow Atlanta to complete its distribution loop that encircles the city of Atlanta. Accordingly, as part of the Commission's authorization of the abandonment and sale, Southern requests the Commission's approval for Atlanta to use the Triangle Facilities as an integrated part of Atlanta's Georgia PSC-regulated distribution system.

6. Southern requests authorization to construct, install and operate approximately 6.36 miles of 30-inch pipeline to close the gap between two segments of its system in Spalding County, Georgia. Southern says this will enable it to continue to provide firm service to its existing customers and to maintain a continuous transmission pipeline between its north main line and south main line upon sale of the Triangle Facilities. Southern also proposes to uprate about 11 miles of its 16-inch pipeline in Jefferson and Richmond Counties, Georgia, in order to continue meeting its existing firm obligations downstream. Southern estimates the total cost of the facilities proposed to be constructed to be \$19,280,289.

7. Construction of the proposed facilities will begin promptly after the issuance of the certificate of public convenience and necessity that Southern requests. Subject to receipt of regulatory approvals, Southern and Atlanta propose to close on the sale of the Triangle Facilities no later than April 1, 2005. In the event the abandonment authorization is received, but not all the work on the facilities is completed by April 1, 2005, then Southern and Atlanta have agreed to close on the purchase and sale transaction but to allow Southern to operate the Triangle Facilities in their current configuration until the construction is complete.

8. Southern states that upon completion of construction, the new facilities will be an integral part of Southern's system, physically and operationally integrated with Southern's existing facilities, and may be used for the benefit of all shippers on Southern's system. Southern states it did not hold an open season for capacity on these new facilities, since no additional capacity is being created. However, Southern says that all shippers may take advantage of the segmentation opportunities arising out of the construction of the two new delivery points on Southern's south main lines. Also Southern says that the pressure upgrade will improve service for all shippers on its south main line, and the addition of the 30-inch loop line will ensure that Southern remains able to serve north main and south main customers from either direction and to address varying operating conditions on the systems. Southern says that maintaining such continuous pipeline will ensure that gas supplies from all the receipt points on Southern's

system, as well as gas supplies from the Southern LNG Company’s Elba Island terminal, can get to either the north main or south main system.

9. Further, Southern says that the proposal will provide a financial benefit to the Southern system. Southern requests a presumption from the Commission to include the costs and revenues attributable to the new facilities in its cost of service on a rolled-in basis in future rate proceedings.

10. In conjunction with the negotiations leading to the sale of the Triangle Facilities to Atlanta, Southern and Atlanta also negotiated the extension of the term of Atlanta's FT, FT-NN and CSS service agreements with Southern. The existing terms of such service agreements were slated to expire primarily in 2005 and 2006. Atlanta agreed to extend the term of the contracts on a staggered basis to between 2008 and 2015.

11. The staggered contract extensions keep Atlanta on as Southern’s customer for its full volume of 926,535 Mcf per day through August 31, 2008. Atlanta Gas has a sequence of future contract package expiration dates of August 31 of 2009, 2010, 2011, 2012 and 2015. Atlanta will continue to have the right of first refusal to extend these packages of volumes again upon notice of either 18 or 24 months. Shown below is a chart which lists the staggered sequence of future contract package expiration dates (with the volumes rounded-off to simplify the illustration).

12. Year(s)	Atlanta Gas Contract Expiration Rights (MMcf/d)	Atlanta Gas Contract Volume Remaining (MMcf/d)
2004-08	--	926
2008-09	49	877
2009-10	169	708
2010-11	149	559
2011-12	95	464
2012-13	245	220
2013-14	--	220
2014-15	--	220
2015-16	220	- 0 -

13. Southern states that no turnback of capacity associated with the proposed contract term extensions will occur. At the closing of the purchase and sale, Atlanta and Southern will sign revised exhibits to the existing firm transportation service agreements with the amended terms. Because the August 31, 2004 contract termination/extension “evergreen” date in these various service agreements will have expired without notice given by Atlanta, Southern seeks a waiver of its tariff to allow the negotiated contract

extensions to be executed at the April 1, 2005 closing to be substituted for the August 31, 2004 notice.⁴

14. In addition, Southern says that it has not treated the construction of the four new delivery points, and the related revisions in the exhibits of its service agreements with Atlanta, as delivery point shifts as set forth in Section 6.4 of the General Terms and Conditions. If these four new delivery points were so treated, Southern states it would be required to have an open season under its tariff. However, since the new delivery points are the result of the overall restructuring transaction involving the sale of the Triangle Facilities, Southern requests the Commission to approve such changes to the service agreements as part of the overall proposal.

15. Southern says that the present and future public convenience and necessity require the approval of the abandonment. Atlanta will be able to acquire the facilities (1) to enhance the operations on its distribution system and prevent it from having to replace large segments of pipelines on its system in conjunction with its bare steel pipeline replacement program, and (2) to make more efficient use of its LNG peakshaving supplies. Finally, the project will allow Southern shippers more segmentation opportunities to the Atlanta Area.

16. Southern states that the new construction part of the overall project is consistent with the Commission's guidelines set forth in its Statement of Policy on the construction and certification of new interstate natural gas pipeline facilities. Southern says that the benefits of building the new facilities far outweigh the minimal adverse impacts of such construction and operation. The cost of service of the proposed facilities will be approximately \$3.3 million for the first year of operation. However, Southern estimates the reduction in its cost of service resulting from the sale of the facilities will exceed the estimated cost of service for the facilities to be constructed by approximately \$1.1 million per year over the first three years of operation. In addition, Southern states it will realize future savings in major repairs and replacement costs by abandoning the facilities. Southern also says that the construction of the new facilities will have only a minimal impact on the interests identified in the Statement of Policy. Finally, Southern says that

⁴ Southern states that, if the overall transaction falls through and the sale of the Triangle Facilities is not consummated, then the fall back agreement that Southern wants contingently approved would allow modification of contract(s) notice date to give Atlanta one month's time to evaluate its options with respect to the termination or extension of service agreements that would then expire on August 31, 2005. The Commission will grant the waiver, in accordance our approval of Southern's application as discussed below.

the abandonment of Triangle Facilities also will not result in degradation in service to Southern's existing customers.

17. Further, Southern states that in addition to the reduction in cost of service, its entire system will also benefit from an essential part of this transaction, Atlanta's agreement to extend the term of its existing firm transportation, no-notice and storage contracts. Southern says that the expected revenues of \$125.7 million from reservation charges to be generated by Atlanta's contract extensions will produce an even more extensive system benefit, as well as reduce the risk of capacity turnback with attendant reallocation of associated costs.

18. Southern proposes to include the cost and revenues attributable to the facilities in its cost of service and revenues on a rolled-in basis in future rate proceedings. Southern maintains that such an approach is appropriate, given that the proposed constructed facilities will function as a physically and operationally integrated portion of its mainline system, and may be used for the benefit of all shippers on Southern's system. Southern contends that operational benefits include 1) all shippers may take advantage of the segmentation opportunities arising out of the construction of the two new delivery points; 2) the pressure upgrade will improve service for all shippers on Southern's south main line; and 3) the addition of the 30-inch loop line will ensure that Southern retains its ability to serve north and south main customers from each direction and to address the varying operating conditions on the systems. For these reasons, Southern requests the Commission to approve a pre-determination of rolled-in rate treatment for the proposed new facilities in Southern's next rate proceeding.

Notice and Interventions

19. Notice of the Southern application was issued on May 28, 2004 and published in the *Federal Register* on June 8, 2004 (69 *Fed. Reg.* 31984). Interventions were due on or before June 18, 2004. A number of timely, unopposed interventions were filed.⁵ 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(a)(3) (2004)).

21. Atmos Energy Corporation, the Georgia Public Service Commission, Marathon Oil Company and ProLiance Energy, LLC all filed late motions to intervene. The Commission finds that granting these late-filed motions to intervene at this early date will not delay, disrupt, or otherwise prejudice this proceeding, or place an additional burden

⁵ Appendix A of this Order lists the Motions to Intervene.

on existing parties. Therefore, for good cause shown, we will grant the late-filed motions to intervene.⁶

22. Atlanta, Chattanooga Gas Company, Georgia Natural Gas Corporation, Coweta-Fayette EMC Natural Gas, and Walton EMC Natural Gas filed comments in support of the proposal. Two protests, as discussed below, were filed, by SCANA Energy Marketing, Inc. (Scana) and the Alabama Municipal Distributors Group, The Austell Gas System, The Municipal Gas Authority of Georgia, and the Southeast Alabama Gas District (the Municipals). Scana also requests an evidentiary hearing addressing specified questions discussed below.

Scana's Protest

23. Scana argues that Southern's application should be rejected because it would frustrate the State of Georgia's retail unbundling effort. Scana states that under Georgia's Natural Gas Competition and Deregulation Act of 1997, 1) Atlanta is no longer a retail seller of gas, and 2) Atlanta can seek under Georgia law to provide deregulated peaking services to marketers from certain of its facilities, including specifically the Macon LNG Plant. Scana argues that the application raises two impediments to Georgia's state retail effort: 1) it locks the Georgia market into contract extensions up until 2015, with the potential for \$125 million in stranded costs if the extended contracts are not used, and 2) the revised Southern/Atlanta systems would not provide marketers with no-notice flexibility.

24. Scana claims the contract extensions are anti-competitive, subsidize a potentially unregulated enterprise by Atlanta, and contradict open-access policies. Reading the Commission's order in Docket No. RP04-92-000, *Georgia Public Service Commission* (Declaratory Order proceeding), as establishing unlimited marketers' rights to acquire interstate pipeline capacity,⁷ Scana characterizes the proposed contract extensions as creating a \$125 million stranded cost barrier to the benefits of a competitive gas market. Scana states that marketers will be compelled to pay \$125 million in demand charges whether or not they wish to use this capacity, while Atlanta is economically indifferent to whether the contract extensions are the best solution for the Georgia marketplace.

⁶18 C.F.R. § 385.214(d) (2004)).

⁷ 107 FERC ¶ 61,024, *rehearing pending*, at P 45 (2004) ("Georgia marketers should be free to acquire interstate pipeline capacity on their own outside of the capacity available in the relevant Georgia capacity pool.").

25. Scana states that the application also contradicts the Commission's open-access policies because: 1) open access interstate lines will become state-regulated lines not subject to open access; 2) no-notice rights must be made available to replacement shippers; 3) the availability of necessary capacity at the interconnection between the Southern and Transcontinental systems at Jonesboro meter station, sufficient to allow open access markets to function, has not been explained; and 4) segmented access to Elba Island does not require construction.

26. Scana states that the environmental aspects of this this project, which involves construction by both Southern and Atlanta, should be considered as a whole. As to Southern's construction, the project involves: 1.5 miles of new right-of-way; 6.38 miles of new 30-inch pipe to fill the Thomaston-Atlanta gap; and construction or modification of 30 meter stations. Scana states that, because the application involves construction on a new right-of-way, a full environmental impact statement is required.⁸

Answers of Southern and Atlanta

27. On July 1, 2004, Southern filed a motion for leave to file its answer to the protests filed in this proceeding. On July 6, 2004, Atlanta filed a similar request. Both Southern and Atlanta oppose as unsupported Scana's request for an evidentiary hearing. In accordance with our practice of allowing answers to protests to be filed where the Commission is assisted in its deliberations by the availability of a more accurate and complete record, the motions will be granted and answers accepted.⁹

28. Southern states that Scana's arguments are a collateral attack on the Georgia PSC order issued August 6, 2003, in Docket No. 16682-U. There, the Georgia PSC considered two plans, one of which was submitted by Scana, for the assignment of interstate pipeline capacity held by Atlanta to certificated Georgia marketers. The Georgia PSC did not select Scana's plan, which involved permanent release, and selected a Joint Plan sponsored by Atlanta and marketers not including Scana, which plan involved temporary assignment.

29. Southern also states that Scana raised the same issue in the Commission's Declaratory Order proceeding,¹⁰ where the Commission found that, if the Georgia PSC adopted a plan that provided for the permanent assignment of the interstate capacity

⁸ Citing 18 C.F.R. § 380.6(a)(3).

⁹ *Transwestern Pipeline Company, et al.*, 75 FERC ¶ 61,107 at 61,351 (1996); *Tennessee Gas Pipeline Company*, 55 FERC ¶ 61,437 at 62,306 n. 7 (1991).

¹⁰ 107 FERC ¶ 61,024 (2004).

assets currently held by Atlanta to certificated natural gas marketers and placed conditions upon that assignment, the Commission would preempt the Georgia PSC. Southern states that Scana is trying to advance its plan for permanent assignment of Atlanta's capacity rights to Scana in this proceeding.

30. Southern states that the record shows that the abandonment will result in a reduction of its capital spending and operation and maintenance costs. Further, Southern states that its system will benefit from the contract extensions because they will provide revenue to cover the cost of the project capital expenditures and avoid turnback costs, thus protecting Southern ratepayers. Further, Southern states that Atlanta's ratepayers will save approximately \$30 million, and that Scana has not shown how it and the Georgia consumer will be harmed. Indeed, states Southern, Scana suggests that if it were negotiating itself to acquire and extend the contracts, it would not have extended the contracts as long as Atlanta has, thereby providing Southern ratepayers with less certainty and benefit.

31. Southern states that cost allocation issues raised by Scana, including the costs paid by Atlanta to purchase Southern's facilities, regulatory asset treatment of the Facilities, service at the Macon LNG Plant and the abandonment of the Atlanta Colonial Line, are all properly evaluated by the Georgia PSC, as is the question of how no-notice service on Atlanta's system will work. Southern states that it is not required to retain a section of its lines (the Ocmulgee-Griffin portion) on the chance that someone might request service bypassing Atlanta. Southern states also that there is no reason for concern about capacity through the Jonesboro Interconnection between Southern's system and that of Transcontinental Gas Pipe Line Corporation (Transco), as that interconnection has only been used in May-July of the past year, months of low usage on Southern's system.

32. As to the enhanced segmentation on Southern's south system, Southern is unsure of Scana's objection. Other marketers have stated support for these increased opportunities. Without the two new delivery points paid for by Atlanta on the south main lines, the Macon-Atlanta lines form a lateral, causing an overlap of gas coming from the Gulf of Mexico and gas coming from Elba to the Atlanta area. Absent a change in the Commission's prohibition of overlapping segmentation, changes in Southern's tariff will not solve the overlap problem.

33. Atlanta's basic argument is that Scana's protest should be rejected because "the Commission has recognized that only the [Georgia PSC] has the authority to regulate choices pertaining to [Atlanta's] interstate capacity holdings."¹¹ Atlanta cites language

¹¹ Answer of Atlanta at 9.

from the Commission's Declaratory Order describing the Georgia PSC's authority "to mandate how much interstate pipeline capacity Atlanta or a Georgia marketer should hold."¹² Atlanta disputes Scana's suggestion that Atlanta has used its control over interstate capacity to negotiate contract extensions "in exchange for benefits to the Macon LNG Plant, which can become unregulated."¹³ Scana's protest, states Atlanta, should be rejected because of the Commission's stated recognition that the Georgia PSC alone has authority to "regulate choices" pertaining to Atlanta's interstate capacity holdings, which the Georgia PSC "continues to exercise."¹⁴

34. Atlanta states also that Scana's request for an evidentiary hearing has no merit since Scana fails to offer an adequate proffer supporting the allegation that material facts are disputed and not subject to resolution on the basis of the record. All the issues Scana raises, states Atlanta, involve either typical certificate-proceeding policy questions or a collateral attack on Atlanta's Georgia PSC-approved regulatory unbundling model.

Other Proceedings

35. On December 7, 2004, Atlanta submitted copies of the Georgia PSC's orders approving as modified the proposals of Atlanta to include the contract extensions in its Capacity Supply Plan and to seek recovery of costs incurred in the purchase of the Southern pipeline facilities. On November 2, 2004, the Georgia PSC affirmed in its entirety the October 27, 2004 Amended Final Order (November 2 Order) issued in two combined proceedings, Atlanta's Capacity Supply Plan¹⁵ and Atlanta's Pipe Replacement Program.¹⁶

36. The Capacity Supply plan "designates the array of available interstate capacity assets . . . available on its system for firm distribution service to retail customer."¹⁷ Atlanta's proposed capacity plan included a Joint Stipulation signed by Atlanta and seven natural gas marketers (not including Scana). In relevant part, the Joint Stipulation

¹² 107 FERC ¶ 61,024 at P 42 (2004).

¹³ Answer of Atlanta at 8.

¹⁴ *Id.* at 9.

¹⁵ Georgia PSC Docket No. 18437-U.

¹⁶ Georgia PSC Docket No. 8516-U.

¹⁷ November 2 Order at 2. As discussed below, the Commission has recognized that "the GPSC has authority to mandate how much interstate pipeline capacity Atlanta or a Georgia marketer should hold." 107 FERC ¶61,024 at P 42 (2004).

provided for: 1) Atlanta's acquisition of the Southern facilities to be abandoned in the instant Docket No. CP04-340-000 proceeding; and 2) the extension of the seven existing transportation contracts with Southern (*i.e.*, those included by Southern in its application here for abandonment) with expiration dates ranging from 2008 to 2015. The Georgia PSC approved both aspects of the Joint Stipulation, subject to further review by the Georgia PSC.¹⁸

37. The Georgia PSC found that Atlanta's purchase of the 250 miles of Southern's "pipeline and its plan to tie in that pipeline with its system are prudent, but that only 60 miles of [Southern's] pipeline replaces the Old Colonial line as intended by the PRP Stipulation" and will qualify for cost recovery under a special cost recovery mechanism. The "costs of the remaining 190 miles comprising the [Southern] pipeline purchase are new capital investment and not pipe replacement within the meaning of the PRP Stipulation."¹⁹ The appropriate method of cost recovery for these expenditures is through Atlanta's rate base "and such costs shall be given appropriate treatment in the rate case." *Id.*²⁰

Denial of Evidentiary Hearing

38. Scana requests a formal evidentiary hearing concerning the following questions: 1) whether the public interest is better served by Southern negotiating contracts with individual marketers, 2) whether the Transco interconnection and Southern's own north and south systems will be properly sized and configured, 3) whether open-access policies are better enhanced by denial of the application, 4) whether the application will benefit shippers, 5) whether other means are available to access Elba Island supplies, 6) whether the application requires subsidies from existing customers, 7) whether the application can proceed without the anticompetitive contract extensions, 8) what impacts the application will have on the interstate market, and 9) whether Atlanta's throughput needs could be accommodated by abandonment of the old Colonial lines in lieu of replacement. On January 14, 2005, Scana filed a "Renewed Request for Hearing and Proffer" stating a number of "facts" it tends to show at such a hearing, in specific support of a single stated argument: "The application does not show that the proposed interstate facility transfer and contract extension serves the public interest. Quite the reverse: the Georgia gas consumers will be harmed."

¹⁸ November 2 Order at 12.

¹⁹ *Id.* at 25, Ordering Paragraph T.

²⁰ Atlanta states that "on October 15, 2004, [it] filed a rate case at the [Georgia PSC] in Docket No. 18638." Letter of Atlanta, filed December 7, 2004.

39. Scana's request for a formal evidentiary hearing will be denied. Where the party seeking an evidentiary hearing submits "allegations or speculations without an adequate proffer to support them, the Commission may properly disregard them."²¹ The Commission need not use more extensive hearing procedures than those involved with a paper hearing unless there is some showing that a formal hearing is required. Scana has not submitted any such showing. The discussion below resolves Scana's questions as part of our normal analysis of proposed construction/abandonment applications.

Discussion

Abandonment

40. Since Southern's application pertains to facilities for the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, the proposals are subject to the requirements of subsections (b) and (c) of section 7 of the NGA. One of the purposes of the Natural Gas Act is to assure an adequate and reliable supply of natural gas.²² The Commission has held that section 7(b) was not "designed to bind the customer to any source of supply."²³ Analysis under section 7(b) allows the Commission to "evaluate how such a proposed abandonment affects the availability and flow of gas sold in interstate commerce."²⁴ Here, the proposed abandonment provides both benefits to Southern's system and more broadly to the operations of the interstate market itself.

41. The record shows that granting the application will protect Southern's interests and those of its customers. There is currently a risk that Atlanta will turn back capacity to Southern at the expiration of its transportation contracts, with all the adverse impacts that may imply for Southern's other customers. In partial exchange for Atlanta's agreement to extend the terms of its existing contracts for capacity on Southern, Southern proposes to abandon by sale to Atlanta approximately 250 miles of interstate pipeline facilities. Southern asserts without rebuttal that such abandonment of facilities will not render it unable to perform services in accord with its existing Part 284 blanket certificate. To the contrary, Southern shows system benefits, including capital spending reduction, lower operation and maintenance costs, and the protection of Southern's

²¹ *General Motors Corp. v. FERC*, 656 F. 2d 791, 798 (D.C. Cir. Cir. 1981).

²² *California v. Southland Royalty Co.*, 436 U.S. 519, 523 (1978); *Sunray-Mid Continent Oil Co. v. FPC*, 364 U.S. 137, 147,151-54 (1960).

²³ *Alabama-Tennessee Natural Gas Co. v. FPC*, 417 F.2d 511 at 515 (5th Cir. 1969), *cert. denied*, 397 U.S. 917 (1970).

²⁴ *Coastal Oil & Gas Corporation v. FERC*, 782 F.2d 1249 at 1252 (5th Cir. 1986).

customers from potential turn-back costs resulting from Atlanta's extension of contracts for Southern's capacity.

42. Scana's arguments that the application should be rejected as anticompetitive are unpersuasive. Scana complains that marketers have not yet been allowed to compete on their management of the interstate transportation and storage capacity because the marketers are making decisions using capacity contracts that Atlanta has negotiated in the past and is releasing to marketers. In order to complete the transition to competition envisioned by the Georgia legislation, Scana argues the marketers must be able to assume control of their interstate contracting decisions. Scana states that the Commission's order in the Declaratory Order proceeding found that marketers have the right to acquire their own interstate pipeline capacity.²⁵ However, Scana states, the Georgia marketers must pay \$125 million in demand charges for Atlanta's interstate capacity under Atlanta's extended contracts whether or not they use this capacity. Scana argues that, since the \$125 million stranded costs that result from their extended contracts create a barrier to the marketers' exercising their right to acquire their own interstate capacity, the Commission should not approve Atlanta's proposal to extend its contracts.

43. The Commission will deny SCANA's request for a ruling that would prohibit Southern and Atlanta from extending their existing contracts. To do so would require us to void the contract between Southern and Atlanta dated April 14, 2004 which recites the parties' intent to extend the terms of their FT agreements covering discreet volumetric packages, describes the prior notice required for either party to terminate an extended contract and for Atlanta to exercise its ROFR rights, and details Southern's sale of facilities to Atlanta. Except for the terms for which we will grant waiver as requested by Southern, there is nothing in the April 14, 2004 contract that is inconsistent with Part 284 of our regulations, or with Southern's tariff. Thus, we do not believe that the contract will have an anti-competitive or unduly discriminatory effect on that portion of the national pipeline grid subject to our jurisdiction. Further, we note that the Georgia PSC approved the contract extensions finding that they complied with the Georgia PSC's criteria for distribution companies within its jurisdiction entering into contracts for interstate capacity.²⁶ Finally, Scana's concerns with respect to stranded costs in connection with the contract extensions are beyond our purview since Atlanta's passthrough of these costs is solely within the Georgia PSC's jurisdiction.

²⁵ 107 FERC ¶ 61,024, *rehearing pending*, at P 45 (2004).

²⁶ See attachments to the December 7, 2004 letter filed by Atlanta in this proceeding, which included copies of the Georgia PSC's October 19 and November 2, 2004 orders approving Atlanta's capacity supply plan.

44. Scana's main complaint concerns Atlanta's continued holding of interstate capacity on Southern. As is well documented in these pleadings and in the Commission's Declaratory Order,²⁷ Scana prefers a different plan for the release of interstate capacity held by Atlanta than the one adopted by the GPSC. However, the Commission has found that:

The GPSC has authority to mandate how much interstate pipeline capacity Atlanta or a Georgia marketer should hold. Thus, for example, it can order Atlanta to obtain more capacity if needed, or to relinquish unneeded capacity so that the Georgia consumers do not have to pay for such unneeded capacity.²⁸

45. Further, Scana's fundamental argument, that the application should be rejected because it raises impediments to Georgia's state retail unbundling effort by locking the Georgia market into contract extensions, has been rejected, as discussed above, by the Georgia PSC.²⁹

46. Scana argues also that the application violates open-access policies because interstate facilities become state-regulated distribution lines. While it is true that a portion of Southern's facilities will become local distribution facilities, Southern has shown that this abandonment will not diminish its ability to provide open access transportation services. The realignment of delivery points and the construction of new facilities will allow Southern to continue to meet its service obligations to provide open access transportation services.³⁰

47. Scana requests that approval of the application be conditioned on the implementation of no-notice rights at the four new city gates. Scana states that Order No. 637-A allows replacement shippers to receive all rights of the releasing shippers, including the no-notice flexibility when no-notice transportation is released. Scana explains that while Southern allows replacement shippers to use their Southern no-notice

²⁷ 107 FERC ¶61,024 (2004).

²⁸ *Id.* at P 42.

²⁹ *See* the November 2, 2004, Order of the Georgia PSC discussed above. Scana's arguments in this proceeding, filed in June 2004, have been in large measure overtaken by such events.

³⁰ Indeed, Scana acknowledges that Atlanta and Southern have entered into "what is apparently a mutually advantageous" agreement regarding facility sales and service contract extension. Protest and request for hearing of SCANA at 21.

rights, Atlanta to date has refused to modify its computer and accounting systems to implement no-notice rights.

48. We disagree with Scana's contention that the Order No. 637-A supports our requiring Atlanta to release its no-notice rights on Southern's system. In Order No. 637-A, we stated:

. . . There should be no operational reason why the pipeline should limit the release of no-notice service or place restrictions on the released service that do not apply to the releasing shipper. Since the shipper releasing the no-notice capacity is not able to use it, the pipeline will not be providing any more no-notice service than it contracted to provide.³¹

49. This language does not stand for the proposition that shippers can be required to release no-notice capacity rights, as Scana contends. Rather, it clarified the finding in Order No. 637 that pipelines must permit releasing shippers, if they so choose, to release no-notice rights along with firm capacity. Further, the Commission recognizes that no-notice rights are severable from the firm capacity which a shipper utilizes under a no-notice rate schedule, so that a shipper also has the option of releasing only firm capacity without releasing any associated no-notice rights.³² The bottom line is that a shipper, such as Atlanta, cannot be compelled to release that which it does not wish to release. Further, Scana notes that the issue of no-notice service is being considered by the Georgia PSC.³³ To the extent Scana seeks expanded access to released no-notice service, its request goes beyond the scope of this proceeding.

50. Scana also claims that the capacity at the interconnection between the Southern and Transco systems at the Jonesboro meter station is insufficient to allow open-access markets to function. The record, however, shows the sufficiency of such capacity.³⁴

³¹ Order No. 637-A, FERC Stats. & Regs. [Reg. Preambles 1996-2000] ¶ 31,099 at 31,588 (2000).

³² See, e.g., *Questar Pipeline Company*, 62 FERC ¶ 61,192 at 62,298 (1993).

³³ Protest and Request for Hearing at 18.

³⁴ We note that historical usage figures from Southern's Annual Flow Diagrams (Form 567) on file with the Commission since 1996 show that Southern's deliveries to Transco at Jonesboro have averaged about 0.8 MMcf/d. The non-coincidental maximum volumes delivered by Southern into Transco's system at Jonesboro since 1996 was 61.6 MMcf/d on October 14, 2002. As shown in it Form 567, the current meter capacity at Jonesboro is 81.9 MMcf/d. Historical data shows the current meter capacity adequate to maintain historical levels.

Scana also questions whether segmented access to Elba Island can be accomplished through tariff changes rather than construction, contending that by selling the portion of the system involved in the overlap to the Atlanta Pool, Atlanta can use its contracts simultaneously for both Elba Island and Gulf Coast gas without an extra charge, assuming that Southern's rates will remain the same in the future. However, Scana contends there is no guarantee that this will provide the Georgia marketers access to Elba Island supplies without additional costs after Southern's next rate case. Nor has the application demonstrated that the same result could not be achieved through a change in Southern's tariff, without new delivery point construction.

51. In response, Southern points out that other marketers, namely Southstar Energy Services LLC d/b/a Georgia Natural Gas, Cowetta-Fayette EMC and Walton EMC Natural Gas support the enhanced segmentation opportunities which would be created by the transaction. Further, Southern states that contrary to Scana's assumptions, Atlanta is actually paying the cost of the two new meter stations on Southern's south main lines, so the cost of the new delivery point construction is not included in the estimated \$19.3 million cited by Scana and set forth in Exhibit K to the Application.

52. Southern also explains why shippers currently cannot segment up the Macon-Atlanta lines from Elba. Southern contends that without the new delivery points on the south main lines, the Macon-Atlanta lines form a lateral which would result in an overlap of gas coming from the Gulf of Mexico and gas coming from Elba to get the gas to the Atlanta area. Accordingly, Southern argues that a mere change in Southern's tariff will not solve the overlap problem inherent in the current configuration of delivery points along the Macon-Atlanta lines. We find that Southern has shown the relevant benefits of the application, and find no merit in Scana's objections.

53. We agree with Southern that the changes in delivery points agreed to in the contract extension agreement with Atlanta do not require further posting or open season as might otherwise be required by section 2.1(b)(iii) of Southern's Tariff GT&C because no new services are being created, no new capacity is created and the change in delivery points is only the result of the rearrangement in deliveries occasioned by the abandonment of the previous delivery points in the pipeline segments sold to Atlanta.

54. Atlanta's purchase of the Triangle Facilities from Southern and construction of its own new link to its Macon LNG peaking facility will allow a more direct and seamless connection between the Macon LNG plant and Atlanta's main system in Atlanta. Scana claims that this will be a detriment to gas marketers because this new configuration of Atlanta's system may "force" shippers to use Atlanta's peaking supply resources, such as the Macon LNG Plant, to serve their peaks in demand, rather than having access to independent peaking supplies. Scana states that under earlier GPSC decisions Atlanta

would be able to spin off the Macon LNG plant as a separate deregulated gas supply entity as part of the Georgia unbundling process. Currently, Scana states, Atlanta includes the Macon LNG plant in its LDC rate base. Scana submits that Commission approval of the proposed abandonment would be anticompetitive because it will insulate the Macon LNG Plant from the economic consequences of Atlanta's building the facilities necessary to connect it to the Atlanta area.

55. Atlanta denies that Southern's application is in any way designed to benefit itself at the expense of Georgia customers. Further, Atlanta states that the Georgia PSC would not approve Atlanta's part of the project if it were anti-competitive. We conclude that Scana's complaint about potential decisions of the Georgia PSC under Georgia law about appropriate use by Atlanta of its peaking supplies and facilities is far too speculative to merit any response in this proceeding. The Georgia PSC has approved the purchase of Southern's pipeline facilities by Atlanta and the GPSC is the appropriate regulatory body to consider how Atlanta uses and operates its system.

56. Municipals and Alabama Gas protest the proposed abandonment unless the Commission conditions any abandonment authorization upon a requirement that the Atlanta contract demands that are the subjects of the Atlanta agreement to extend its Southern contracts will not be reduced in any manner. If they are, Municipals argue that Southern, and not its customers, bear the risk of any such reductions.³⁵ If Southern's other customers are not shielded from the potential effects of capacity turnback, then Municipals argue that the abandonment application should not be approved because several aspects of the proposal increase the potential for capacity turnback by Atlanta.³⁶

57. Municipals argue that the Contract Extension Agreement executed by Southern and Atlanta, submitted as Exhibit I of the application, anticipates the Georgia PSC directing Atlanta to reduce or terminate the contract demands under the extended

³⁵ Municipals point out (Request for Critical Condition at 4) that Paragraph 9 of the Extension Agreement states that Atlanta may reduce the contract demands before the end of the extension periods to which it has agreed.

³⁶ Municipals argue that opportunities for bypass of Southern's system result from the proposed sale: 1) through the direct access afforded to Atlanta's Macon LNG facility; 2) through the direct interconnection to Transcontinental Pipe Line Corporation, which interconnection exists on the facilities to be sold to Atlanta; and 3) through the direct receipt of gas by Atlanta from Southern off Southern's mainline, causing enhanced segmentation and the incentive to reduce contract demand.

contracts and limits Atlanta's liability in the event such reduction occurs.³⁷ Municipals also contend that there is confusion about whether the terms of section 39, General Terms and Conditions, of Southern's tariff would apply to such reductions by Atlanta.³⁸ Southern states that under the new tariff provisions, Atlanta "could not reduce or terminate under the terms of the tariff because there would be no Section 39 rights for the extended contracts during the primary term."³⁹

58. Southern's answer indicates that Atlanta's contract extensions do not give Atlanta section 39 rights. Accordingly, we believe that adequately addresses Municipal's concern.

Certificate

59. On September 15, 1999, we issued a policy statement to provide guidance on how we would evaluate proposals for new gas facilities.⁴⁰ In this policy statement, we establish criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. We explain that in deciding whether to authorize the construction of major new pipeline facilities, we balance public benefits against 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 to the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

³⁷ Request for Critical Condition Or, Alternatively Protest, Of [Municipals] at 3, *citing* Exhibit I, Contract Extension Agreement, at Paragraph 9. *See also* Paragraphs 8-10, and 13 of the Contract Extension Agreement.

³⁸ Section 39 of Southern's tariff, recently approved by letter order in Docket No. RP04-261 (May 19, 2004), provides that the right to reduce certain contract demands will not apply to service agreements executed or extended as part of a transaction where facilities on Southern's system are to be constructed, modified, or sold after May 20, 2004.

³⁹ Motion for Leave to File Answer and Answer of Southern (July 1, 2004) at 9-10.

⁴⁰ Certification of New Interstate Natural Gas Pipeline Facilities, 88 FERC **&61,227** (1999), *orders clarifying statement of policy*, 90 FERC **&61,128** and 92 FERC **&61,094** (2000), *order further clarifying statement of policy*, 92 FERC **&61,094** (2000).

60. Under our policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared financially to support the project without relying on subsidization from the existing customers.⁴¹ 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. We also consider potential impacts of the proposed project on other pipelines in the market, on those existing pipelines' captive customers, and on landowners and communities affected by the location of the new facility. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we 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 we then proceed to complete the environmental analysis where other interests are considered.

Subsidies

61. Scana protests the proposal based on the fact that Southern is seeking to collect all the costs of the new facilities from ratepayers. Scana contends that such a subsidy is prohibited by the Commission's certification policy statement, which makes the show of no subsidies a threshold requirement to identify the public convenience and necessity.

62. Viewing the project, including abandonment and construction, as a whole, Southern's Exhibit N projects that the reduction in Southern's cost of service resulting from the sale of the facilities will exceed the estimated cost of service for the facilities to be constructed by approximately \$1,100,000. Further, the revenues of \$125.7 million from reservation charges generated from the contract extensions will produce an even more extensive system benefit by reducing the risk of capacity turnback and the potential of increased cost resulting from the reallocation of costs associated with said turnback. Thus, Southern has demonstrated that existing customers will not subsidize the proposed project and will benefit from the reduction in the risk of turn back capacity.⁴²

63. Southern disputes Scana's argument that Southern has not done a thorough job of demonstrating how the abandonment will benefit the Southern system. Southern claims the abandonment will result in a reduction in capital spending and operation and maintenance costs and the system will benefit from the contract extensions by covering the cost of the capital expenditures and avoiding turnback costs. Consequently, it argues that Southern ratepayers will be benefited, not harmed.

⁴¹See 88 FERC ¶61,227 at 61,746 (1999).

⁴² See *Statement of Policy*, 88 FERC ¶ 61,227, at 61,746.

64. We find that the cost savings and additional revenue from the extended contracts will exceed the cost of the new facilities. Therefore, on the record before us, we conclude that this project can go forward without subsidies from existing customers, consistent with the Policy Statement.

Adverse Impacts

65. Southern states that no adverse impacts result regarding other pipelines, their customers, and landowners. Other pipelines submitted no protests regarding their interests or the interests of their customers. No landowner has protested the application. The record shows the benefits discussed above to be obtained by Southern and its customers, and supports the finding that the proposed construction is in accord with the Commission's Policy Statement.

Engineering

66. BP America Production Company and BP Energy Company request clarification as to any impacts on supply inputs from the uprating to be done on the 16-inch south main line (*i.e.*, effects on line pressures upstream of this segment).

67. Our analysis also examined Southern's proposed uprate of about 11 miles of its 16-inch south main line in Jefferson and Richmond Counties, Georgia, from a MAOP of 1,100 psig to 1,200 psig. Southern's currently operates two 16-inch diameter pipelines, with different MAOPs, that provide gas volumes to markets in eastern Georgia and South Carolina. As a result of the different MAOPs, Southern's peak day design operations require that the Wrens Compressor Station discharge gas volumes at two different pressures resulting in a bifurcation of its system downstream of the Wrens Compressor.

68. With the uprate in MAOP, our analysis shows that Southern will be able to more efficiently use the available horsepower of compression at the Wrens Compressor Station by maintaining the same discharge pressure for both of Southern's 16-inch diameter south main lines. This change in system operations will allow Southern to maintain higher delivery pressures and line pack which will enable Southern to increase operational flexibility to meet temperature sensitive loads requirements in downstream markets. Further, our analysis shows that the increase in MAOP will not impact the operating pressures upstream of the Wrens Compressor Station on Southern's system. Therefore, we conclude that the increase in MAOP of Southern's south main line is in the public convenience and necessity.

Rate and Tariff Issues

Rolled-in Rate Treatment

69. Southern requests that the Commission approve a presumption of rolled-in rate treatment for the new facilities in Southern's next rate proceeding. Southern asserts that its proposal meets the threshold requirement for rolled-in rate treatment under the Policy Statement because it is viable on its own without reliance from other shippers and it provides operational benefits to all shippers as a result of the system improvements resulting from the construction. As noted above, Southern shows the estimated reduction in Southern's cost of service from the sale of the facilities will exceed the estimated cost of service for the facilities to be constructed by approximately \$1.1 million per year over the first three years of operation.

70. In addition, Southern shows that the entire system will benefit from an essential part of this transaction, namely Atlanta Gas's agreement to extend the terms of its existing firm transportation, no notice and storage contracts. Southern contends that these extensions will generate revenues of \$125 million annually from reservation charges and will produce an even more extensive system benefit resulting from the abandonment and construction of facilities, as well as reduce the risk of capacity turnback and the increased cost resulting from the reallocation of cost associated with the turnback. Southern states such benefits clearly support a finding that the existing customers will be advantaged from approval of the transaction.

71. In addition to the financial benefits, Southern cites the project's operational benefits including enhanced segmentation opportunities for all shippers resulting from the construction of the two new delivery points on Southern's south main lines. As discussed above, we have found that Southern's proposal will not result in an impermissible subsidy from existing customers. Accordingly, barring changed circumstances, we approve Southern's request to roll-in the subject costs in a future section 4 rate proceeding. However, if there are changed circumstances, Scana may challenge the roll-in of these costs in Southern's next rate case.

Enhancement to Segmentation

72. Alabama Gas notes that, in paragraph 6 of the Letter Agreement, Southern agrees to file changes to its tariff provision on segmentation to permit intrazone segmenting in the production zone without limiting the segmentation based on whether the gas is received into the south or north mainline. According to Alabama Gas, this is an acknowledgement that Southern can provide greater segmentation rights than are currently provided in Southern's tariff and therefore the limitation on intrazone

segmentation should be removed now without regard to the consummation of the sale of the Triangle Facilities to Atlanta.

73. By order issued on December 22, 2004, the Commission approved Southern's proposal, filed November 1, 2004, in Docket No. RP00-476-000, to permit intrazone segmenting in the production zone whether the gas is received into the south or north mainline, effective on January 1, 2005.⁴³ Therefore, Alabama Gas's concern is now moot.

Timing of Cost Reductions and Treatment of Gain from Sale

74. Alabama Gas questions when, if ever, the projected cost savings of over \$1 million per year will be recognized in lower rates. They state that because Southern expects to have the new facilities in service and transfer the Triangle facilities to Atlanta on April 1, 2005, or later, the test period for Southern's rate case will include the O&M costs associated with the facilities that Southern is abandoning. Alabama Gas asserts that the Commission should require Southern to reflect the forecasted reduction in costs, depreciation, taxes and other costs in the costs of service filed as part of the new rate case. Further, Alabama Gas and BP Energy question whether the Commission should consider, under the circumstances of this case, if Southern should share the gain on the sale of the Triangle Facilities with the ratepayers who have paid for these facilities as long as they have been in service.

75. These issues should be raised in a Southern rate case proceeding.⁴⁴

Accounting

76. The Commission has reviewed Southern's proposed accounting treatment for the sale of the Triangle Facilities to Atlanta. The Commission finds that Southern's proposed treatment is in accordance with the Commission's Uniform System of Accounts, except with respect to the treatment of the current income tax liability. Southern's proposed accounting indicates that the current income tax liability associated with its sale will be charged to Account 409.1, *Income Taxes, Utility Operating Income*. However, the income tax liability associated with the sale will not relate to utility operating income. Therefore, Southern should charge the current income tax liability to Account 409.2,

⁴³ *Southern Natural Gas Company*, 109 FERC ¶ 61,347 (2004).

⁴⁴ Parties may seek to justify an out-of-period adjustment in Southern's current rate case in Docket No. RP04-523-000. See Southern's answer at 10, n. 16.

Income Taxes, Other Income and Deductions, since the tax liability will be associated with income other than utility operating income.

Environmental Review

77. On August 10, 2004, we issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Triangle Project and Request for Comments on Environmental Issues (NOI). We received a response to the NOI from Scana Energy Marketing, Inc., and our staff addressed all substantive comments in the environmental assessment (EA).

78. Scana cites 18 C.F.R. § 380.6 (a) (3) and states that the Commission's rules require an EIS "normally" be prepared when a new right-of-way is involved. Section 380.6 (a) begins "Except as provided in paragraph B, an environmental impact statement will normally be prepared first for the following projects . . . 3) Major pipeline construction projects under section 7 of the Natural Gas Act using right-of-way in which there is no existing natural gas pipeline . . ." Section 380.6 (b) states that if the Commission "believes that a proposed action identified in paragraph (a) of this section may not be a major Federal action significantly affecting the quality of the human environment," an environmental assessment will be prepared first. Depending on the outcome of the environmental assessment, an environmental impact statement may or may not be required.

79. Here, on the basis of the EA and in accord with our regulations and practice,⁴⁵ we conclude that an EIS is not required. Southern will construct the pipeline loop directly adjacent to and within existing rights-of-way for its entire length. For most of the project, no additional permanent right-of-way would be necessary, and the temporary workspace used during construction would be allowed to revert to pre-existing conditions. No landowner protest has been received. Nor does the construction constitute a major pipeline construction project.

80. We have also applied our four-factor procedure, as discussed in the EA, for determining the need to include nonjurisdictional facilities in our environmental review.⁴⁶ We have determined that Atlanta's facilities are not subject to our review.

81. As noted, our staff prepared an EA for Southern's proposal. The EA addresses water resources, threatened and endangered species, cultural resources, soils, land use,

⁴⁵ See, e.g., *Wyoming Interstate Company, Ltd.*, 88 FERC ¶ 61,108 (1999).

⁴⁶ *Algonquin Gas Transmission Company*, 59 FERC ¶ 61,255 (1992).

and alternatives. Based on the discussion in the EA, we conclude that if constructed in accordance with Southern's application and supplements filed August 23, September 3, November 1, 9, and 30, and December 6, 17, and 22, 2004, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment. As recommended in the EA, the authorization provided in this order is conditioned upon the terms and conditions provided in Appendix B to this order.

82. Scana submits that, under the National Environmental Policy Act (NEPA), the Commission must consider alternatives to the proposed action, including a no action alternative, when conducting its environmental review.⁴⁷ Scana requests that a series of questions be sent to Atlanta to assist in the Commission's review.⁴⁸ Scana argues that a no action alternative is appropriate because: 1) segmentation allows sufficient Atlanta load growth without the proposed sale of facilities by Southern to Atlanta, 2) Atlanta's Old Colonial Line could be abandoned rather than replaced by Southern facilities, 3) Macon LNG peak shaving supplies can be moved without approval of the application.

83. Scana also submits that a second alternative involving minimal construction, the one-pipe option involving the sale of a single 14-inch line from Ocmulgee to Atlanta loop, as purportedly argued by the staff of the Georgia PSC in proceedings before the Georgia PSC,⁴⁹ would cause less environmental disruption. Finally, Scana argues that the Commission must determine whether the proposed facility transfer is part of a larger plan for Atlanta to transport gas in interstate commerce through its new bi-directional meter. Scana submits that Southern and Atlanta cannot evade comprehensive environmental review of the entire plan by dividing such plan into segments. Scana states that there must be more to Atlanta's plans than what is presented, because purchase of a single 14-inch line would be responsive to its stated needs.

Answer of Atlanta

84. Atlanta states that Scana's filing is an abuse of the Commission's environmental review process, aimed only at obtaining in this proceeding the relief it has been denied by the Georgia PSC (*i. e.*, the adoption of Scana's plan for permanent assignment of Atlanta's interstate capacity rights to marketers). Atlanta states that none of the questions

⁴⁷ Citing 42 U.S.C. § 4332 (2) (E); *Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1228 (9th Cir. 1988).

⁴⁸ See Appendix A to Environmental Scoping Comments of Scana.

⁴⁹ Environmental Scoping Comments of Scana at 10.

Scana proposes be sent to Atlanta are even remotely related to the environmental impacts of Southern's application.

85. Atlanta argues that the law does not support Scana's request that the Commission's EA consider a no action alternative. Atlanta notes specifically that regulations issued by the Council on Environmental Quality, as construed by the Commission, make clear that consideration and comparison of project alternatives is only required in an Environmental Impact Statement, not in an Environmental Assessment.⁵⁰ The CEQ regulations setting forth the purpose of EA do not expressly require, states Atlanta, consideration of the no action alternative.⁵¹ Atlanta states that Scana's no action alternative does not shed light on whether Southern's proposal will or will not have a significant effect on the human environment, the primary analysis to be conducted by an EA.⁵² Finally, Atlanta argues that none of the alternatives suggested for review by Scana are feasible and thus should not be considered. Such infeasible alternatives include abandonment of the Old Colonial Line, use of segmentation to accomplish application objectives, connection of the Macon LNG Plant to the Atlanta Pool, and the One Pipe Alternative.

86. We have recognized that NEPA requires analysis of the "environmental consequences of alternatives that are feasible, practical and effective."⁵³ No such alternatives are before us. Above, we analyzed the alternatives proposed by Scana as part of the merits review of the two-part proposal submitted by Southern (abandonment and certificate authority). As to the proposed no-action alternative, our analysis showed that Scana's alternatives are not feasible, practical, or effective. Capacity segmentation along the Macon-Atlanta lines from Elba would remain problematic because of overlap problems, absent the new delivery points on the south main lines to be established. The Georgia PSC has approved as prudent the replacement by Atlanta of its Old Colonial Line with Southern's facilities (in lieu of abandonment) and the construction by Atlanta of facilities providing LNG peak shaving service.⁵⁴ These latter two proposals would also reduce substantially the facilities to be obtained by Atlanta under the project and thereby alter substantially the nature of the benefits to be available to Southern, Atlanta,

⁵⁰ Citing 40 C.F.R. § 1508.9(a)(1); *Colorado Interstate Gas Co.*, 59 FERC ¶ 61,364 at 62,387 (1992)

⁵¹ Citing 40 C.F.R. § 1508.9; *Empire State Pipeline*, 61 FERC ¶ 61,091 at 61,376 (1992); *Tennessee Gas Pipeline Co.*, 55 FERC ¶ 61,484 at 62,644 (1991).

⁵² Citing 40 C.F.R. § 1508.13.

⁵³ *Florida Gas Transmission Co.*, 100 FERC ¶ 61,282 at P 26 (2002).

⁵⁴ November 2 Order of the Georgia PSC at Ordering Paragraphs T and V.

and their respective customers, under the proposal submitted. Thus, contrary to Scana's arguments, we did review the no-action alternative and found it to be unacceptable.

87. Scana's final proposed alternative, a "one pipe" option involving the sale of a single 14-inch line from Ocmulgee to Atlanta Loop, is merely stated without explanation of how it might meet the needs of Southern and Atlanta. Indeed, none of Scana's proposed alternatives are consistent with the purposes and objectives of the proposal, which includes certain quantities of facilities and levels of contract extensions valued by Southern and Atlanta as supporting their agreement. Scana's alternatives would reduce substantially the facilities to be obtained by Atlanta and no longer allow attainment of the proposal's goals.

88. Finally, Scana suggests that the Commission should determine whether the proposed purchase by Atlanta of Southern's facilities is part of a larger Atlanta plan to construct further facilities. Scana cites the fact that a bi-directional meter may be installed allowing deliveries on Atlanta both from and to Southern, and other pieces of testimony filed as part of the Georgia PSC proceeding. As discussed above, the EA applied our four-factor procedure to determine that the associated non-jurisdictional facilities under the jurisdiction of the Georgia PSC are not subject to our review. We see nothing supporting current concern that environmental analysis is required to address other aspects of a plan the existence of which is not reasonably suggested by the record. Put differently, there is no reason to believe on the record before us that Atlanta is segmenting its proposed action into small component parts to evade environmental review.⁵⁵

89. The questions that Scana suggests we send to Atlanta were filed before the Georgia PSC completed its deliberations regarding the prudence of Atlanta's purchase costs for Southern's facilities. Such issues and the probative value of their resolution, as stated by Atlanta, were raised in that forum. The Georgia PSC has now completed its deliberations regarding the prudence of Atlanta's decision to purchase Southern's facilities, as proposed, and as discussed above has found such commitment to be prudent.

90. NEPA is far more reasonably construed in these circumstances as not requiring the Commission to entertain remote or speculative alternatives.⁵⁶ No further inquiry here is necessary.

⁵⁵ 40 C.F.R. § 1508.27(b)(7).

⁵⁶ See, e.g., *Natural resources Defense Council, Inc. v. Morton*, 458 F.2d 827, 837-38 (D.C. Cir. 1972).

91. 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 of facilities approved by this Commission.⁵⁷ Southern 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 Southern. Southern shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

The Commission orders:

(A) Permission for and approval of the abandonment and sale of facilities is granted and a certificate of public convenience and necessity is issued to Southern to construct and operate facilities, as described more fully in the application and in the body of this order.

(B) Southern 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) Southern shall notify the Commission of the date of abandonment and sale within 10 days thereof.

(E) The authority issued in Paragraph (A) above is conditioned on Southern's compliance with the environmental conditions set forth in the Appendix.

(F) Southern 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 Southern. Southern shall file

⁵⁷See, 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).

written confirmation of such notification with the Secretary of the Commission within 24 hours.

(G) Southern shall charge the current income tax liability associated with its abandonment and sale approved in Paragraph (A) above in Account 409.2, Income Taxes, Other Income and Deductions, rather than the proposed Account 409.1, in accordance with the requirements of the Commission's Uniform System of Accounts.

(H) The costs and revenues attributable to the facilities approved to be constructed in Paragraph (A) above shall have a presumption that they may be treated on a rolled-in basis in future rate proceedings filed by Southern.

(I) The changes to the delivery points in the service agreements between Southern and Atlanta Gas agreed to in the April 14, 2004, Contract Extension Agreement, as described more fully in the application and in the body of this order, are approved as part of this order.

(J) If the abandonment and sale of facilities granted in Paragraph (A) above is not completed, then Southern may waive the contract termination notice date(s) of the service agreements between Southern and Atlanta Gas as described more fully in the application and in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

Appendix A
Southern Natural Gas Company
List of Motions to Intervene

PCS Nitrogen Fertilizer, L.P.

Atlanta Gas Light Company

Chattanooga Gas Company

Board of Water, Light and Sinking Fund Commissioners of Dalton, Georgia

ExxonMobil Gas & Power Marketing Company,
a division of Exxon Mobil Corporation

Chevron U.S.A. Inc.

Southern Company Services, Inc.

Georgia Industrial Group

BP America Production Company
and BP Energy Company

Walton EMC Natural Gas

Calhoun Power Company I, LLC

Coral Energy Resources, L.P.

Alabama Gas Corporation

SouthStar Energy Services LLC

Peoples Gas System,
a Division of Tampa Electric Company

Austell Gas System

Southeast Alabama Gas District
Georgia Natural Gas and

Coweta-Fayette EMC Natural Gas

East Tennessee Group ⁵⁸

Municipal Gas Authority of Georgia ⁵⁹

Alabama Municipal Distributors Group ⁶⁰

Atmos Energy Corporation **(late)**

Georgia Public Service Commission **(late)**

⁵⁸ The East Tennessee Group is an association of East Tennessee Natural Gas Co.'s LDC customers in Tennessee. The members are: the Utilities Boards of Athens, Harriman, Knoxville, Lenoir City, and Sweetwater; the Utility Districts of Citizens Gas, Elk River Hawkins County Gas, Jefferson-Cocke County, Middle Tennessee Natural Gas, Oak Ridge, Powell Clinch, Sevier County, and Unicoi County Gas; the Gas Systems of Fayetteville, Gainsboro, Gallatin Natural, Jamestown, Madisonville, Marion Natural, and Mt. Pleasant; the Gas Departments of Cookeville, Etowah, Lewisburg, Livingston, and Loudon; and Rockwood Water & Gas.

⁵⁹ There are 48 members of the Municipal Gas Authority of Georgia who receive transportation service from Southern Natural Gas Company. These are Adairsville, Adel, Americus, Ashburn, Bainbridge, Blakely, Cairo, Claxton, Camilla, Cochran, Dawson, DeKalb-Cherokee Counties Gas District, Doerun, Donalsonville, Douglas, Eatonton, Edison, Fitzgerald, Fort Valley, Grantville, Havana, Hogansville, Jasper, LaFayette, Louisville, Lumpkin, Manchester, Millen, Monticello, Moultrie, Nashville, Pelham, Perry, Quincy, Quitman, Sparta, Statesboro, Summerville, Sylvania, Sylvester, Thomasville, Thomson, Tifton, Trion, Vienna, Warner, Robins, Waynesboro, and West Point. All are Georgia municipalities except Havana, Jasper, and Quincy, which are Florida municipalities, and DeKalb-Cherokee Counties Gas District, which is an Alabama gas district.

⁶⁰ The members of Alabama Municipal Distributors Group include Boaz, Brookside, Childersburg, Cordova, Cullman-Jefferson Counties Gas District, DeKalb-Cherokee Counties Gas District, Dora, Fultondale, Gordo, Graysville, Huntsville Utilities, Jacksonville, Marshall County Gas District, Northwest Alabama Gas District, Oneonta, Pickens County Natural Gas District, Piedmont, Scottsboro, The Southeast Alabama Gas District, Sumiton, Sylacauga, Trussville, West Jefferson, and Wilcox County Gas District, Alabama.

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Marathon Oil Company **(late)**

ProLiance Energy **(late)**

Appendix B

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

1. Southern shall follow the construction procedures and mitigation measures described in its application and supplements and as identified in the environmental assessment (EA), unless modified by this Order. Southern must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegation 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 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 impacts resulting from project construction and operation.
3. **Prior to any construction**, Southern shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector'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. Southern 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 of OEP **before construction in or near that area.**

This requirement does not apply to extra workspace allowed by the Upland Erosion Control, Revegetation, and Maintenance Plan, 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; implementation of endangered, threatened, or special concern species mitigation measures;
 - b. recommendations by state regulatory authorities; and
 - c. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
5. Southern shall incorporate and adopt into Wetland and Waterbody Construction and Mitigation Procedures the following language; “attempt to use no more than two layers of timber riprap to support equipment on the construction right-of-way in wetlands.”
 6. Southern shall defer use of the extra workspace at mileposts 36.08 to 36.13 until it files with the Secretary a cultural resources survey report and the Georgia State Historic Preservation Office’s comments on the report, and the Director of OEP notifies Southern in writing that it may proceed. All material filed with the Commission containing **location, character, and ownership information** about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: "**CONTAINS PRIVILEGED INFORMATION--DO NOT RELEASE.**"