

191 FERC ¶ 61,004  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Mark C. Christie, Chairman;  
Willie L. Phillips, David Rosner,  
Lindsay S. See, and Judy W. Chang.

East Tennessee Natural Gas, LLC

Docket Nos. CP23-516-000  
CP23-516-001

ORDER ISSUING CERTIFICATE

(Issued April 2, 2025)

1. On July 18, 2023,<sup>1</sup> as amended on December 19, 2023, East Tennessee Natural Gas, LLC (East Tennessee) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA)<sup>2</sup> and Part 157 of the Commission's regulations<sup>3</sup> for authorization to construct and operate new pipeline and compression facilities in Tennessee (Ridgeline Expansion Project). The project is designed to provide up to 300,000 dekatherms per day (Dth/d) of incremental firm transportation service and 95,000 Dth of Customized Delivery Service for Tennessee Valley Authority (TVA). As discussed below, we grant the requested authorization, subject to certain conditions.

**I. Background and Proposal**

2. East Tennessee,<sup>4</sup> a Tennessee limited liability company, is a natural gas company as defined by NGA section 2(6),<sup>5</sup> engaged in the transportation of natural gas in interstate

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<sup>1</sup> The application was refiled on August 23, 2023, to remove certain non-public information that was inadvertently included in the public version of the application.

<sup>2</sup> 15 U.S.C. § 717f(c).

<sup>3</sup> 18 C.F.R. pt. 157 (2024).

<sup>4</sup> East Tennessee is an indirect, wholly owned subsidiary of Enbridge Incorporated. East Tennessee August 23, 2023 Application at 5 (Application).

<sup>5</sup> 15 U.S.C. § 717a(6).

commerce. East Tennessee operates natural gas transportation facilities that extend from central Tennessee, through Virginia and North Carolina, to Georgia.<sup>6</sup>

3. The Ridgeline Expansion Project will provide up to 300,000 Dth/d of firm transportation service and 95,000 Dth of Customized Delivery Service for TVA to support a new natural-gas-fired power plant in Morgan County, Tennessee (Kingston Plant).<sup>7</sup> TVA plans to retire nine coal-fired units at the Kingston Plant site beginning in 2026 and construct and operate a new 1,500-megawatt (MW) natural-gas-fired combined cycle power plant, in addition to a solar array facility and battery storage system.<sup>8</sup> The proposed project will allow TVA to access supplies from Texas Eastern Transmission, LP; Midwestern Gas Transmission Company; and Columbia Gulf Transmission, LLC to meet incremental demand.<sup>9</sup>

4. Specifically, East Tennessee proposes to construct the following facilities:

- an approximately 110-mile-long, 30-inch-diameter mainline pipeline and an approximately 4-mile-long, 30-inch-diameter header pipeline in Trousdale, Smith, Jackson, Putnam, Overton, Fentress, and Morgan Counties, Tennessee (together, Mainline);
- an approximately 8-mile-long, 30-inch-diameter lateral pipeline in Morgan and Roane Counties, Tennessee;<sup>10</sup>
- three new crossovers from the new Mainline to East Tennessee's existing Line 3100-1 in Jackson, Fentress, and Morgan Counties, Tennessee;
- a new compressor station in Trousdale County, Tennessee, with two centrifugal compressor packages driven by electric motor drives rated at 7,300 horsepower

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<sup>6</sup> Application at 5.

<sup>7</sup> *Id.* at 2-3.

<sup>8</sup> *Id.* at 3, 6; 89 Fed. Reg. 24,557 (Apr. 8, 2024). TVA plans to retire three coal-fired units by the end of 2026 and six units by the end of 2027. Application at 7. To maintain its operating reserves, the new natural-gas-fired unit must be placed into service prior to retiring the coal-fired units. *Id.* at 6-7.

<sup>9</sup> *Id.* at 6.

<sup>10</sup> On December 19, 2023, East Tennessee amended its application to increase the pipeline diameter of the proposed 8-mile-long lateral pipeline from 24 to 30 inches.

each (for a total of 14,600 ISO-rated horsepower), and each coupled with natural gas turbine drivers and related appurtenances (Hartsville Compressor Station);

- an 8 MW alternating current solar array in Trousdale County, Tennessee, to partially power the Hartsville Compressor Station;
- a new meter and regulating station to receive gas from Columbia Gulf Transmission, LLC in Trousdale County, Tennessee;
- modifications to two existing meter and regulating stations to receive gas from Texas Eastern Transmission, LP and Midwestern Gas Transmission Company in Trousdale County, Tennessee;
- a new delivery meter station to measure gas delivered to the Kingston Plant in Morgan County, Tennessee; and
- related appurtenances.<sup>11</sup>

5. East Tennessee estimates that the project will cost approximately \$1,105,000,000.<sup>12</sup> East Tennessee executed a precedent agreement with TVA for 100% of the project's capacity under East Tennessee's Rate Schedule FT-A.<sup>13</sup> After executing the precedent agreement, East Tennessee held an open season and reverse open season from May 20, 2022, to June 17, 2022, and received no additional requests for capacity or offers to relinquish capacity.<sup>14</sup>

6. East Tennessee requests authorization to implement a new Customized Delivery Service feature in Rate Schedule FT-A and a new balancing service to support the Customized Delivery Service under Rate Schedule LMS-MA-2.<sup>15</sup> The proposed Customized Delivery Service is a no-notice service that will enable TVA to flexibly access an additional 95,000 Dth of capacity on East Tennessee's system. This service will enable TVA to access enhanced deliveries of natural gas quantities on an hourly and daily

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<sup>11</sup> Application at 14-15; East Tennessee December 19, 2023 Application Amendment at 5.

<sup>12</sup> East Tennessee December 19, 2023 Application Amendment at Ex. K.

<sup>13</sup> Application at 3.

<sup>14</sup> *Id.* at 8-9.

<sup>15</sup> *Id.* at 24.

basis, allowing TVA to quickly ramp up generation to meet demand.<sup>16</sup> East Tennessee requests authorization to charge initial incremental recourse reservation and usage rates under Rate Schedule FT-A (Ridgeline).<sup>17</sup> To the extent that TVA is not utilizing its firm service, East Tennessee proposes to make this capacity available on a secondary basis to firm system shippers and on an interruptible basis under its existing Rate Schedule IT.<sup>18</sup> East Tennessee also requests authorization to charge an initial incremental fuel and loss retention percentage, and an initial incremental electric power charge for service on the project.<sup>19</sup>

## II. Procedural Matters

### A. Notices, Interventions, Protests, and Comments

7. Notice of East Tennessee's application was published in the *Federal Register* on August 4, 2023.<sup>20</sup> The notice established August 18, 2023, as the deadline for filing interventions, comments, and protests. Notice of East Tennessee's amendment to the application was published in the *Federal Register* on January 10, 2024,<sup>21</sup> and established January 25, 2024, as the deadline for filing interventions, comments, and protests. Several individuals and entities filed timely, unopposed motions to intervene, protests, and comments.<sup>22</sup>

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<sup>16</sup> *Id.* at 24-25.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 3.

<sup>19</sup> *Id.* at 25.

<sup>20</sup> 88 Fed. Reg. 51807 (Aug. 4, 2023).

<sup>21</sup> 89 Fed. Reg. 1570 (Jan. 25, 2024).

<sup>22</sup> Motions to intervene were filed by American Gas Association; Appalachian Voices; Atmos Energy Corporation; Chattanooga Gas Company; Keith R. Cline; Duke Energy Carolinas, LLC; Duke Energy Progress, LLC; Theresa L. Foster; Keith B. Havens; Susan P. Havens; Michael J. Hawkins; Junius Hunter; Justin Hunter; Gwendolyn Kissinger; Erica Little; Erin Little; Piedmont Natural Gas Company; Public Citizen; Dean H. Rivkin; Sierra Club; Scott Source et al.; Southern Alliance for Clean Energy (SACE); TVA; Tennessee Valley Public Power Association, Inc.; Dennis Vaughan; Diane Vaughan; Marion Williams; and M. E. Williams. 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(c) (2024). Timely motions to intervene also include those filed dealing with

8. On September 5, 2023, East Tennessee filed a motion for leave to answer and answer to an August 18, 2023 protest filed by Sierra Club and Appalachian Voices. On February 12 and 14, 2024, East Tennessee and TVA, respectively, filed motions for leave to answer and answers to a January 25, 2024 protest filed by Sierra Club and Appalachian Voices. Additionally, Sierra Club and Appalachian Voices and East Tennessee filed motions for leave to answer and answers to answers.<sup>23</sup> Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits answers to protests or answers unless otherwise ordered by the decisional authority;<sup>24</sup> however, we accept all the answers because they informed our decision-making process.

9. We received comments both in support of and in opposition to the project. Commenters in support of the project state that it will facilitate TVA's replacement of coal-fired generation and provide low-cost, reliable, and less-polluting energy to TVA's power system, as well as the flexibility for TVA to reliably integrate 10,000 MW of solar power onto the system by 2035.<sup>25</sup> Commenters opposing the project question the need for the Ridgeline Expansion Project and TVA's choice of natural-gas-fired generation rather than alternatives with lower or zero emissions. They also raise concerns regarding eminent domain and environmental impacts. These concerns are addressed in the final environmental impact statement (EIS) issued for the project and, as appropriate, below.

#### **B. Request for Hearing**

10. Sierra Club and Appalachian Voices request that the Commission hold a formal hearing on East Tennessee's application, alleging a lack of substantial evidence of market

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environmental issues during the comment period for the draft Environmental Impact Statement (EIS). *See* 18 C.F.R. § 380.10(a)(1)(i) (2024).

<sup>23</sup> Sierra Club and Appalachian Voices October 5, 2023 Motion for Leave to Answer and Answer; East Tennessee October 20, 2023 Motion for Leave to Answer and Answer; Sierra Club and Appalachian Voices March 12, 2024 Motion for Leave to Answer and Answer; East Tennessee March 29, 2024 Motion for Leave to Answer and Answer.

<sup>24</sup> 18 C.F.R. § 385.213(a)(2) (2024).

<sup>25</sup> TVA August 3, 2023 Comments at 2-3; Tennessee Valley Public Power Association, Inc. August 7, 2023 Comments at 5-6; TVA January 18, 2023 Comments at 3-4; Upper Cumberland Development District February 20, 2024 Comments; Gary Keirse June 6, 2024 Comments.

need for the project.<sup>26</sup> Although our regulations provide for a hearing,<sup>27</sup> neither NGA section 7 nor our regulations require that such a hearing be a trial-type evidentiary hearing. When the written record provides a sufficient basis for resolving the relevant issues, it is our practice to provide for a paper hearing.<sup>28</sup> That is the case here. We have reviewed the request for a hearing and conclude that all issues of material fact relating to East Tennessee's proposal, including on the issue of need, are capable of being resolved on the basis of the written record, which contains substantial evidence on this issue. Accordingly, we deny Sierra Club's and Appalachian Voices' request.

11. Sierra Club and Appalachian Voices assert that if the Commission decides against a trial-type, evidentiary hearing, it must allow them and other intervenors to view and respond to evidence throughout the course of the proceeding.<sup>29</sup> Based on their participation in this proceeding, we find that Sierra Club and Appalachian Voices have had such an opportunity.

### **III. Discussion**

12. Because East Tennessee's proposed facilities will be used to transport natural gas in interstate commerce subject to the Commission's jurisdiction, the proposal is subject to the requirements of NGA section 7, subsections (c) and (e).<sup>30</sup>

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<sup>26</sup> Sierra Club and Appalachian Voices August 18, 2023 Motion to Intervene at 1, 22; Sierra Club and Appalachian Voices October 5, 2023 Motion for Leave to Answer and Answer at 2, 13; Sierra Club and Appalachian Voices January 25, 2023 Motion to Intervene at 2, 23; Sierra Club and Appalachian Voices March 12, 2024 Motion for Leave to Answer and Answer at 2, 5-6.

<sup>27</sup> 18 C.F.R. § 385.502(a) (2024).

<sup>28</sup> See, e.g., *Moreau v. FERC*, 982 F.2d 556, 568 (D.C. Cir. 1993) (“[the Commission] need not conduct such [an evidentiary] hearing if [the issues at hand] may be adequately resolved on the written record.”); *Tenn. Gas Pipeline Co.*, 158 FERC ¶ 61,110, at P 11 (2017).

<sup>29</sup> Sierra Club and Appalachian Voices October 5, 2023 Answer at 13 (citing *PennEast Pipeline Co., LLC*, 164 FERC ¶ 61,098 at P 12 (2018); *Transcon. Gas Pipe Line Co., LLC*, 182 FERC ¶ 61,148 at P 20 (2023) (denying request for evidentiary hearing citing parties’ “opportunity to submit their own evidence” and “respond to other record evidence.”)).

<sup>30</sup> 15 U.S.C. §§ 717f(c), (e).

**A. Certificate Policy Statement**

13. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.<sup>31</sup> The Certificate Policy Statement establishes criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. It explains that, in deciding whether and under what terms to authorize the construction of new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to appropriately consider the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

14. Under this policy, the threshold requirement for an applicant proposing new projects is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, and landowners and communities affected by the route of the new pipeline facilities. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission proceed to complete the environmental analysis, where other interests are considered.

**1. No Subsidy Requirement**

15. As discussed above, the threshold requirement for pipelines proposing new projects is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. We have determined that generally where a pipeline proposes to charge incremental rates for new construction that are higher than the pipeline's existing maximum system recourse rates for comparable

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<sup>31</sup> *Certification of New Interstate Nat. Gas Pipeline Facilities*, 88 FERC ¶ 61,227, corrected, 89 FERC ¶ 61,040 (1999), clarified, 90 FERC ¶ 61,128, further clarified, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement). On March 24, 2022, the Commission issued an order converting the policy statements issued in February 2022 to draft policy statements. *Certification of New Interstate Nat. Gas Facilities Consideration of Greenhouse Gas Emissions in Nat. Gas Infrastructure Project Reviews*, 178 FERC ¶ 61,197 (2022) (Order on Draft Policy Statements).

service, the pipeline satisfies the threshold requirement that the project will not be subsidized by existing shippers.<sup>32</sup> As discussed below, that is the case here. Accordingly, we find that the threshold no-subsidy requirement under the Certificate Policy Statement has been met.

16. Sierra Club and Appalachian Voices argue that the Commission must examine the extent to which TVA may be subsidizing East Tennessee's current customers because any unused project capacity will be offered to other firm customers on a secondary basis and interruptible customers on an interruptible basis.<sup>33</sup> The groups misapprehend the Certificate Policy Statement. The Commission's policy against subsidization is directed at avoiding subsidies from the applicant's existing customers, i.e., current shippers on the Commission-jurisdictional interstate pipeline system.<sup>34</sup> The Certificate Policy Statement considers whether "the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the existing customers of the pipeline proposing the project, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline."<sup>35</sup> It does not require the Commission to look at whether the project shipper would be providing a benefit to existing customers.

17. Moreover, in order to maximize utilization of the interstate pipeline grid, the Commission's open access policies require that any jurisdictional pipeline provide a capacity releasing mechanism through which shippers can voluntarily reallocate all or part of their firm transportation capacity rights<sup>36</sup> and offer unused capacity to other potential shippers.<sup>37</sup> Given the interconnected nature of pipeline systems, any addition to

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<sup>32</sup> See, e.g., *Transcon. Gas Pipe Line Corp.*, 98 FERC ¶ 61,155 (2002).

<sup>33</sup> Sierra Club and Appalachian Voices January 25, 2024 Motion to Intervene at 17-18 (citing East Tennessee September 5, 2023 Motion for Leave to Answer and Answer at 11).

<sup>34</sup> Certificate Policy Statement, 88 FERC at 61,745.

<sup>35</sup> *Id.*

<sup>36</sup> 18 C.F.R. § 284.8 (2024); *Pipeline Serv. Obligations & Revisions to Reguls. Governing Self-Implementing Transp. Under Part 284 of the Comm'n's Reguls.*, Order No. 636, FERC Stats. & Regs. ¶ 61,272 (1992) (cross-referenced at 59 FERC ¶ 61,030) ("Capacity reallocation will promote efficient load management by the pipeline and its customers and, therefore, efficient use of pipeline capacity on a firm basis throughout the year.").

<sup>37</sup> 18 C.F.R. § 284.9(a)(1) (2024); *Regul. of Nat. Gas Pipelines After Partial Wellhead Decontrol*, Order No. 436, FERC Stats. & Regs. ¶ 30,665 (1985) (cross-



a system will have the potential to provide some benefit to other shippers on the existing system. Similarly, service to shippers on new system additions relies in part on the underlying, existing system.<sup>38</sup> Thus, there is no subsidization involved when an existing or other shipper may be able to utilize unused project capacity on a secondary or interruptible basis. We further note that generally revenue from interruptible service is credited to firm shippers, who have supported the pipeline's fixed costs through payment of reservation charges. In East Tennessee's case, it is obligated under its tariff to credit 90% of all net interruptible revenues back to the firm shippers whose capacity was unused.<sup>39</sup>

## 2. Project Need

18. The project will provide up to 300,000 Dth/d of firm natural gas transportation service and 95,000 Dth of Customized Delivery Service for TVA, a non-affiliated shipper. As described above, TVA intends to use the transportation service to provide fuel to a new natural-gas-fired power plant, which will partially replace nine coal-fired units at the Kingston Plant site.

19. Commenters argue that the Commission must evaluate the need for TVA's new natural-gas-fired generation.<sup>40</sup> They contend that TVA's decision to replace coal-fired generation at the Kingston Plant in part with natural-gas-fired generation is incompatible with federal climate policy and that the Commission should consider renewable energy alternatives.<sup>41</sup> Sierra Club and Appalachian Voices provide market reports which they

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referenced at 33 FERC ¶ 42,408) ("Although this interruptible service is inferior to and less valuable than firm service, its offering seeks to maximize utilization of idle pipeline capacity and therefore is in the public interest and must be encouraged by ratemaking. Any pipeline capacity not in use at any given time may be used for interruptible transportation, for example.").

<sup>38</sup> See, e.g., *Nw. Pipeline GP*, 127 FERC ¶ 61,009, at P 26 (2009) (explaining that existing shippers will benefit from a mainline expansion project because they will gain access to more supply points); *Kern River Gas Transmission Co.*, 99 FERC ¶ 61,085, 61,369 (2002) (explaining that other shippers may benefit from a lateral expansion project because they could subscribe to excess capacity and potentially reach new buyers).

<sup>39</sup> East Tennessee Natural Gas, LLC, East Tennessee Database 1, FERC NGA Gas Tariff, pt. 5, § 5 (IT Interruptible Transportation Service) (1.0.0).

<sup>40</sup> See, e.g., Conservation Groups July 15, 2024 Comments at 4-5.

<sup>41</sup> Sierra Club and Appalachian Voices August 18, 2023 Motion to Intervene at 2-4; Breanna R. Ortner August 18, 2023 Comments; Erin Little August 18, 2023 Comments;

allege contradict TVA's conclusions regarding need for the new natural-gas-fired plant.<sup>42</sup> A number of environmental organizations also question the validity of TVA's analysis and approval of the new natural-gas-fired generation.<sup>43</sup> Conservation Groups argue that the Commission should not authorize the project on the basis of the precedent agreement with TVA, noting that the precedent agreement was entered into prior to TVA's completion of its environmental review.<sup>44</sup> Other commenters argue that the proposed project will result in additional costs to electric ratepayers and customers.<sup>45</sup>

20. Issues related to TVA's plan to replace coal-fired generation with natural-gas-fired generation, including issues regarding the need for the new natural-gas-fired generation and the timing of TVA's decision to subscribe to firm transportation service to support such generation, are outside the scope of this proceeding. Sierra Club cites to comments and studies submitted in TVA's proceedings to demonstrate that TVA's analyses and conclusions were incorrect.<sup>46</sup> Aside from nonfederal hydroelectric projects, the

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Safe Affordable Good Energy for Tennessee August 18, 2023 Comments; Holley E. Roberts October 10, 2023 Comments; Wendy J. Warren October 12, 2023 Comments; Sierra Club on Behalf of Eric Robinson, Jean Zeller, Mary Charles Lasater, and Sonja Hunter October 18, 2023 Comments at 5-6, 8, 10; Sierra Club and Appalachian Voices January 25, 2024 Motion to Intervene at 3-4; Luna Arnett February 12, 2024 Comments; *cf.* Erica Little August 18, 2023 Comments (asserting that natural gas as a limited resource should be conserved for future generations).

<sup>42</sup> Sierra Club and Appalachian Voices August 18, 2023 Motion to Intervene at 15-16, 18; Sierra Club and Appalachian Voices October 5, 2023 Motion for Leave to Answer and Answer at 10-11.

<sup>43</sup> Sierra Club and Appalachian Voices August 18, 2023 Motion to Intervene at 15-19; Sierra Club and Appalachian Voices October 5, 2023 Motion for Leave to Answer and Answer at 7-12; Sierra Club and Appalachian Voices January 25, 2024 Motion to Intervene at 15-16; Southern Environmental Law Center, Appalachian Mountain Advocates, Appalachian Voices, Center for Biological Diversity, Energy Alabama, Sierra Club, and SACE April 17, 2024 Comments at 2 (arguing TVA's evaluation of the Kingston Gas Plant does not include the impacts of developments that increase the cost of natural gas and decrease the cost of renewables).

<sup>44</sup> Conservation Groups July 15, 2024 Comments at 5.

<sup>45</sup> *See, e.g.*, Jonathan Neal-Thompson July 11, 2024 Comments; Noah Potts July 12, 2024 Comments.

<sup>46</sup> *See, e.g.*, Sierra Club and Appalachian Voices August 18, 2023 Motion to Intervene at 15-19.

Commission does not have jurisdiction over facilities used for the generation of electricity<sup>47</sup> or over decisions made by TVA.<sup>48</sup> Under the Tennessee Valley Authority Act (TVA Act),<sup>49</sup> the TVA Board has the exclusive authority to evaluate the need for generation facilities within TVA's service territory.<sup>50</sup>

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<sup>47</sup> 16 U.S.C. § 824(b)(1) ("The Commission ... shall not have jurisdiction, except as specifically provided in this subchapter and subchapter III of this chapter, over facilities used for the generation of electric energy . . ."); *see also Transmission Access Pol'y Study Grp. v. FERC*, 225 F.3d 667, 718 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002) ("petitioners correctly point out that section 201(b) of the FPA denies FERC jurisdiction over 'facilities used for the generation of electric energy'"); *Fla. Se. Connection, LLC* 162 FERC ¶ 61,233, at P 57 (2018) ("The Commission lacks jurisdiction to impose mitigation measures on downstream end-use consumers, be they power plants, manufacturers, or others.").

<sup>48</sup> *Cf. Citizens Action Coal. v. FERC*, 125 F.4th 229, 238-39 (D.C. Cir. 2025) (finding the Commission has no jurisdiction over a state's chosen mix of energy generation resources).

<sup>49</sup> 16 U.S.C. §§ 831 *et seq.*

<sup>50</sup> *See id.* § 831m-1 (TVA is required to conduct a least-cost planning program when evaluating and selecting new energy resources); *id.* § 831c (TVA Board has the authority to purchase "real and personal property as it deems necessary or convenient in the transaction of its business . . . and the power to acquire or construct power houses . . ."); *id.* § 831i ("the Board is authorized and directed to make studies, experiments, and determinations to promote the wider and better use of electric power for agricultural and domestic use, or for small or local industries, and it may cooperate with State governments, or their subdivisions or agencies, with educational or research institutions, and with cooperatives or other organizations, in the application of electric power to the fuller and better balanced development of the resources of the region"); *see also McCarthy v. Middle Tenn. Elec. Membership Corp.*, 466 F.3d 399, 414 (6th Cir. 2006) (stating that "TVA is authorized to enter into contracts for the purpose of 'promot[ing] the wider and better use of electric power for agricultural and domestic use, or for small or local industries,'" and that because "TVA's primary concern is to provide services, and concerns about competition would conflict with the fulfillment of TVA's purpose. . . . it is entitled to antitrust immunity . . ."). Sierra Club and Appalachian Voices also assert that the Commission's decision on the analogous Cumberland Project contained several significant flaws over which they sought rehearing. Sierra Club and Appalachian Voices March 12, 2024 Motion for Leave to Answer and Answer at 3-4. The Commission has since issued an order on rehearing in that proceeding addressing

21. Sierra Club and Appalachian Voices aver that the Commission must look beyond East Tennessee's precedent agreement and examine the need for the proposed power plant because TVA "operates within an essentially captive market, with little oversight or accountability."<sup>51</sup> Sierra Club and Appalachian Voices cite to *Environmental Defense Fund v. FERC (Environmental Defense Fund)*<sup>52</sup> to assert that the precedent agreement is not a reliable indicator of market need or public benefits given TVA's unique market position and lack of oversight.<sup>53</sup>

22. We disagree. State commission oversight of shippers is not a prerequisite for Commission approval under NGA section 7. Regardless, Congress has oversight power over federal agencies, including TVA, and we find this sufficiently analogous to state commission oversight. We also find that Sierra Club and Appalachian Voices' reliance on *Environmental Defense Fund* is misplaced. *Environmental Defense Fund* involved a precedent agreement with an affiliated entity and plausible record evidence of self-dealing.<sup>54</sup> Here, East Tennessee entered into a binding precedent agreement with TVA, an unaffiliated entity, for the project's full capacity and the record contains no evidence of self-dealing. Therefore, we conclude that the precedent agreement is significant evidence of need for the proposed project.<sup>55</sup>

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these arguments. *Tenn. Gas Pipeline Co., LLC*, 187 FERC ¶ 61,136 (2024), *appeal pending sub nom.*, *Sierra Club v. FERC*, Nos. 24-1099, 24-1198 (D.C. Cir. filed Dec. 30, 2024).

<sup>51</sup> Sierra Club and Appalachian Voices August 18, 2023 Motion to Intervene at 2; *see also* Sierra Club and Appalachian Voices October 5, 2023 Motion for Leave to Answer and Answer at 2-7; Sierra Club and Appalachian Voices January 25, 2024 Motion to Intervene at 13-14, 18; Sierra Club and Appalachian Voices March 12, 2024 Motion for Leave to Answer and Answer at 2-4; Conservation Groups July 15, 2024 Comments at 6.

<sup>52</sup> 2 F.4th 953, 973 (D.C. Cir. 2021).

<sup>53</sup> Sierra Club and Appalachian Voices August 18, 2023 Motion to Intervene at 11; Sierra Club and Appalachian Voices October 5, 2023 Motion for Leave to Answer and Answer at 3-7; Sierra Club and Appalachian Voices January 25, 2024 Motion to Intervene at 10, 14; Sierra Club and Appalachian Voices March 12, 2024 Motion for Leave to Answer and Answer.

<sup>54</sup> *Env'tl. Def. Fund v. FERC*, 2 F.4th 953, 973, 975 (D.C. Cir. 2021).

<sup>55</sup> *See, e.g., Transcon. Gas Pipe Line Co., LLC*, 190 FERC ¶ 61,048 (2025); *City of Oberlin, Ohio v. FERC*, 937 F.3d 599, 605–06 (finding the Commission's conclusion reasonable that precedent agreements were the best evidence of project need

### **3. Impacts on Existing Customers, Existing Pipelines and Their Customers, and Landowners and Surrounding Communities**

23. The proposed project will not adversely affect service to East Tennessee's existing customers because the facilities are designed to provide incremental service to meet the needs of the project shipper without degradation of service to East Tennessee's existing customers. We also find that there will be no adverse impact on other pipelines in the region or their captive customers. The project's capacity will be used to serve TVA's proposed Kingston Plant, not to displace existing service providers.<sup>56</sup> Finally, no pipelines or their captive customers have protested East Tennessee's proposal.<sup>57</sup>

24. We are further satisfied that East Tennessee has taken sufficient steps to minimize adverse impacts on landowners and surrounding communities. East Tennessee states that the project was selected to maximize co-location with existing utility rights-of-way and transmission corridors such that 111.4 miles, or approximately 91%, of the pipeline would be co-located.<sup>58</sup> East Tennessee also expects to obtain voluntary easements from landowners whose land the project will cross.<sup>59</sup> In addition, East Tennessee participated in the Commission's pre-filing process and states that it worked to include landowners and the community in the development of the project and will continue to actively engage stakeholders throughout the course of the project.<sup>60</sup> Therefore, we find that the project will have limited adverse impacts to landowners and communities.

### **4. Certificate Policy Statement Conclusion**

25. The proposed project will provide up to 300,000 Dth/d of incremental firm transportation capacity and 95,000 Dth of Customized Delivery Service for TVA to

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and upholding the Commission's policy of not looking behind precedent agreements); *Myersville Citizens for a Rural Cmty., Inc. v. FERC*, 783 F.3d 1301, 1311 (same).

<sup>56</sup> Application at 18-19.

<sup>57</sup> East Tennessee Group (ETG), an association of customers of East Tennessee engaged in the retail distribution of natural gas, filed comments concerning East Tennessee's contracting practices, which are addressed below. ETG states, however, that it does not oppose the project. ETG August 8, 2023 Comments at 1-2.

<sup>58</sup> Application at 20; Commission Staff December 20, 2024 Final EIS at 3-2 (Final EIS).

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at 19.

provide fuel for a new natural-gas-fired power plant that will partially replace existing coal-fired generation. TVA has issued a record of decision adopting the demolition of its nine-unit, coal-fired Kingston Plant and construction of the new natural-gas-fired combined cycle plant, in addition to a solar array facility and battery storage system, which was the action identified as the Preferred Alternative in its Kingston Fossil Plant Retirement final EIS.<sup>61</sup> TVA explains that this decision is consistent with its 2019 Integrated Resource Plan, which identified the various energy resource options for TVA to pursue “to meet the energy needs of the Tennessee Valley region over a 20-year planning period,”<sup>62</sup> and TVA has entered into a precedent agreement with East Tennessee for 100% of the project’s capacity. Accordingly, we find that East Tennessee has demonstrated a need for the project. Further, the project will not have adverse impacts on existing shippers or other pipelines and their existing customers and will have minimal economic impacts on the interests of landowners and surrounding communities. Therefore, we conclude that the project is consistent with the criteria set forth in the Certificate Policy Statement and analyze the environmental impacts of the project below.<sup>63</sup>

## **B. Jurisdiction Over the Solar Array**

26. East Tennessee states it will construct a new, non-jurisdictional 8-MW alternating current solar array in Trousdale County, Tennessee, to partially power the project’s Hartsville Compressor Station and decrease project emissions.<sup>64</sup> The solar array will be located adjacent to the compressor station on an approximately 200-acre parcel that East Tennessee has an option to purchase and on which East Tennessee holds an easement for existing above-ground and pipeline facilities.<sup>65</sup> East Tennessee will also purchase electricity from a local electric provider, Tri-County Electric Membership Corporation, to power the compressor station and, in the event of a service interruption, use the proposed natural-gas-fired turbine drivers for back-up power generation.<sup>66</sup> In

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<sup>61</sup> 89 Fed. Reg. at 24557-58. TVA’s Preferred Alternative also includes a 3- to 4-MW solar array facility and a 100-MW battery storage system.

<sup>62</sup> *Id.* at 24,558.

<sup>63</sup> See Certificate Policy Statement, 88 FERC at 61,745-46 (explaining that only when the project benefits outweigh the adverse effects on the economic interests will the Commission then complete the environmental analysis).

<sup>64</sup> Application at 15.

<sup>65</sup> East Tennessee October 4, 2023 Data Response at 4.

<sup>66</sup> *Id.* at 7-8.

response to staff data requests, East Tennessee clarified that it will not install battery storage with the solar array<sup>67</sup> and, while it anticipates that 100% of the daily power generated by the solar array will be consumed by the compressor station, any excess power may be sold back to Tri-County Electric Membership Corporation.<sup>68</sup>

27. NGA section 7(c) states that “[n]o natural-gas company . . . shall engage in the transportation . . . of natural gas, subject to the jurisdiction of the Commission, or undertake the construction or extension of any facilities therefore, unless there is in force with respect to such natural-gas company a certificate of public convenience and necessity issued by the Commission authorizing such acts or operations.”<sup>69</sup> The Commission has exercised its jurisdiction over facilities for back-up generation at compressor stations<sup>70</sup> as well as generation to power liquified natural gas terminals under NGA section 3.<sup>71</sup> As stated above, the proposed solar array will be used to partially power the project’s Hartsville Compressor Station and East Tennessee anticipates that the station will consume 100% of the daily power generated. Accordingly, consistent with NGA section 7(c) and our precedent, we find the solar array to be a part of East Tennessee’s proposed Ridgeline Expansion Project and subject to the Commission’s jurisdiction.

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<sup>67</sup> *Id.* at 6.

<sup>68</sup> East Tennessee December 7, 2023 Data Response at 5.

<sup>69</sup> 15 U.S.C. 717f(c)(1)(A).

<sup>70</sup> *See, e.g., Alliance Pipeline L.P.*, 140 FERC ¶ 61,212 (2012) (issuing a certificate for the Tioga Lateral Project, including backup generator Auxiliary Power Units at the compressor and pressure regulating stations); *Fla. Gas Transmission Co., LLC*, 137 FERC ¶ 61,015 (2011) (issuing a certificate for the Cape Canaveral Project, including a back-up generator at the new compressor station CS 32); *Golden Triangle Storage, Inc.*, 121 FERC ¶ 61,313 (2007) (issuing a certificate for the Golden Triangle Storage Project, including an auxiliary generator for back-up power generation at the new compressor station). Indeed, the Commission in this order exercises its jurisdiction over the proposed natural-gas-fired turbine drivers for back-up power generation at the Hartsville Compressor Station.

<sup>71</sup> *Pac. Connector Gas Pipeline, LP*, 129 FERC ¶ 61,234 (2009) (authorizing the Jordan Cove liquified natural gas terminal, including a 37-megawatt natural-gas-fired, simple cycle combustion turbine power plant to provide electric power for the terminal), *vacated on other grounds*, 139 FERC ¶ 61,040 (2012).

**C. System Alignment Program Project (CP23-131-000)**

28. Commenters assert that East Tennessee fails to discuss the relationship between the Ridgeline Expansion Project and East Tennessee's System Alignment Project.<sup>72</sup> ETG asks the Commission to investigate the extent to which East Tennessee's contracting practices are contributing to or the cause of the displacement concerns identified by East Tennessee to justify the System Alignment Program Project.<sup>73</sup> Sierra Club and Appalachian Voices suggest that the crossovers created by the project and East Tennessee's plans to offer any unused project capacity to firm customers on a secondary basis create a connection to the System Alignment Program Project because they could facilitate the movement and sale of gas to customers other than TVA.<sup>74</sup>

29. The System Alignment Project and Ridgeline Expansion Project are unrelated. According to East Tennessee, its system generally comprises four major segments: Line 3100, Line 3200, Line 3300, and Line 3600.<sup>75</sup> East Tennessee states that its Line 3100 segment is designed to transport gas from west to east delivering gas to city gates, municipalities, and end use customers located along Line 3100 and into both Line 3200 and Line 3300 segments.<sup>76</sup> The System Alignment Project involves the replacement of pipeline and construction of new pipeline looping and compression on East Tennessee's existing Line 3300-1 to improve the reliability and flexibility of East Tennessee's Line 3300 and Line 3600 segments, whereas the proposed Ridgeline Expansion Project will parallel, and operate independently from, East Tennessee's existing Line 3100-1 to deliver gas to TVA's Kingston Plant.<sup>77</sup> The Kingston Plant is located upstream of Line 3100's interconnection with Lines 3200 and Line 3300; thus, the System Alignment Project and the Ridgeline Expansion Project are geographically and hydraulically distinct. Therefore, the project will not facilitate the movement and sale of gas on the Line 3300 segment of East Tennessee's system.

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<sup>72</sup> The Commission issued an order authorizing the System Alignment Project on March 21, 2024. *E. Tenn. Nat. Gas, LLC*, 186 FERC ¶ 61,210 (2024).

<sup>73</sup> ETG August 8, 2023 Comments.

<sup>74</sup> Sierra Club and Appalachian Voices January 25, 2024 Motion to Intervene at 17-18.

<sup>75</sup> East Tennessee, Answer, Docket No. CP23-121-000, at 3 (filed Sept. 14, 2023).

<sup>76</sup> *Id.*

<sup>77</sup> East Tennessee August 16, 2023 Answer at 2-3.



#### **D. Eminent Domain**

30. We received comments from landowners and others concerned with the use of eminent domain for the project and the compensation for land needed for the project.<sup>78</sup> Ms. Kessinger also questions if East Tennessee is proposing to take more land than is needed for the project.<sup>79</sup>

31. The Commission has long held that legal disputes regarding property rights, including issues regarding compensation,<sup>80</sup> are not within the Commission's jurisdiction, but instead a matters to be resolved in federal district or state court.<sup>81</sup> Additionally, the

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<sup>78</sup> See, e.g., Dean Rivkin January 16, 2024 Motion to Intervene; Sierra Club and Appalachian Voices January 25, 2024 Motion to Intervene at 10; Commission Staff July 2, 2024 Transcript of June 12, 2024 Public Meeting at 7; Gwendolyn Kessinger August 18, 2023 Comments (stating that East Tennessee refuses to address what constitutes fair compensation); Michael Hawkins January 24, 2024 Comments (stating that he expects fair compensation over and above the basic property tax appraisal value); Amy B. Sexton July 15, 2024 Comments (expressing concerns, among others, that the project will "severely devalue our property").

<sup>79</sup> Gwendolyn Kessinger August 18, 2023 Comments.

<sup>80</sup> See, e.g., *All. Pipeline, L.P.*, 184 FERC ¶ 61,024, at P 16 (2023) ("[T]he Commission has no authority to oversee the process of acquiring land rights via eminent domain, including issues of just compensation and timing.") (citing *PennEast Pipeline*, 174 FERC ¶ 61,056, at P 10 (2021); *Atl. Coast Pipeline, LLC*, 164 FERC ¶ 61,100, at P 88 (2018); *Mountain Valley Pipeline, LLC*, 163 FERC ¶ 61,197, at P 76 (2018)); *Midwestern Gas Transmission Co.*, 116 FERC ¶ 61,182, at P 65 (2006) ("In an eminent domain proceeding, the court will require the pipeline to compensate the landowner for the economic value of the right-of-way, as well as for any damages incurred during construction. The level of compensation paid in a condemnation proceeding would be determined by the court.").

<sup>81</sup> *Sacramento Mun. Util. Dist.*, 178 FERC ¶ 61,112, at P 15 (2022) (citing *Halecrest Co.*, 60 FERC ¶ 61,121, at 61,413 (1992) (finding that the Federal Power Act does not confer the Commission with any jurisdiction or authority to resolve disputes between the licensee and third parties that concern interests in real property)); see also *Columbia Gas Transmission, LLC*, 158 FERC ¶ 61,046, at P 28 n. 35 (2017) (explaining that the Commission takes no role in negotiating property rights); *Californians for Renewable Energy, Inc. v. Williams Nw. Pipeline*, 135 FERC ¶ 61,158, at P 17 (2011) ("interpretation of the language of easement is a matter for a court of appropriate jurisdiction, not the Commission, which possesses no jurisdiction over, or expertise in, such matters."); *Columbia Gas Transmission Corp.*, 128 FERC ¶ 61,050, at P 47 (2009) (explaining that

Commission considered potential impacts on landowners in its public interest assessment, finding that East Tennessee has taken sufficient steps to minimize adverse impacts on landowners.<sup>82</sup> NGA section 7 provides that once a certificate of public convenience and necessity is granted, the holder of the certificate may exercise the right of eminent domain in either U.S. district court or an appropriate state court to acquire “the necessary right-of-way to construct, operate, and maintain [facilities] for the transportation of natural gas, and the necessary land or property . . . necessary to the proper operation of such pipeline.”<sup>83</sup> Thus, our approval of this proposal allows for East Tennessee to access easements necessary for the purposes of operating and maintaining the project. As the courts have held, nothing in the statute gives the Commission “authority to deny or restrict a certificate holder’s exercise of the statutory right of eminent domain with respect to a certificate issued pursuant to the procedures laid out in” the NGA.<sup>84</sup>

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compensation for property and mineral rights is a private contractual matter over which the Commission does not have jurisdiction); *Arlington Storage Co., LLC*, 125 FERC ¶ 61,306, at PP 41, 43 (2008) (explaining that the Commission has no jurisdiction over landowners’ real property or damages claims nor over landowner valuation claims).

<sup>82</sup> See *supra* P 24.

<sup>83</sup> 15 U.S.C. § 717f(h).

<sup>84</sup> *Midcoast Interstate Transmission, Inc. v. FERC*, 198 F.3d 960, 973 (D.C. Cir. 2000) (“The Commission does not have the discretion to deny a certificate holder the power of eminent domain.” (internal citation omitted)); *Twp. of Bordentown, N.J. v. FERC*, 903 F.3d 234, 265 (3d Cir. 2018) (stating that NGA section 7(h) “contains no condition precedent” to the right of eminent domain, other than issuance of the certificate, when a certificate holder is unable to acquire a right-of-way by contract); *Berkley v. Mountain Valley Pipeline, LLC*, 896 F.3d 624, 628 (4th Cir. 2018) (“Issuing such a Certificate conveys and automatically transfers the power of eminent domain to the Certificate holder . . . . Thus, FERC does not have discretion to withhold eminent domain . . . once it grants a Certificate.” (internal citation omitted)); see also *PennEast Pipeline Co., LLC*, 174 FERC ¶ 61,056 at P 10 (once the Commission has issued a certificate order, it has no authority to limit a pipeline company’s use of eminent domain).

## **E. Rates**

### **1. Incremental Recourse Rates**

32. East Tennessee proposes an incremental recourse rate under Rate Schedule FT-A (Ridgeline) for the recovery of the costs attributable to the project.<sup>85</sup> East Tennessee proposes a monthly incremental reservation charge of \$49.586 per Dth based on an estimated first-year fixed cost of service of \$178,508,558 and an annual design capacity equivalent to the annual contract quantity of 3,600,000 Dth.<sup>86</sup> East Tennessee also proposes an incremental usage charge of \$0.0043 per Dth based on its estimated first-year variable costs of \$332,000 and design determinants of 76,650,000 Dth.<sup>87</sup> East Tennessee's proposed incremental charges are based on cost-of-service factors approved by the Commission in Docket No. RP20-980-000, including its current system transmission depreciation rate of 2.00%, a negative salvage rate of 0.27%, and a 12.50% return on equity.<sup>88</sup>

33. We have reviewed East Tennessee's proposed cost of service and initial incremental rates and find that they are consistent with current Commission policy. Under the Commission's Certificate Policy Statement, there is a presumption that incremental rates should be charged for proposed expansion capacity if the incremental rate exceeds the applicable maximum system recourse rate.<sup>89</sup> East Tennessee's proposed incremental monthly reservation charge of \$49.586 per Dth plus the proposed usage charge of \$0.0043 per Dth for the project are higher than East Tennessee's current Rate Schedule FT-A system maximum monthly reservation charge of \$8.350 per Dth plus the system maximum usage charge of \$0.0080 per Dth.<sup>90</sup> Therefore, we will approve the proposed incremental charges for the project. We also approve East Tennessee's

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<sup>85</sup> Application at 25.

<sup>86</sup> *Id.* at Ex. P, Sched. 2.

<sup>87</sup> *Id.* at Ex. P, Scheds. 1-2. East Tennessee states that the usage design determinants reflect a 70% utilization. *See id.*

<sup>88</sup> *See id.* at Ex. P, Sched. 1 (citing *E. Tenn. Nat. Gas, LLC*, 176 FERC ¶ 61,158 (2021)).

<sup>89</sup> Certificate Policy Statement, 88 FERC at 61,745.

<sup>90</sup> East Tennessee, East Tennessee Database 1, FERC NGA Gas Tariff, pt. 4, § 1 (Notice of Rates and Other Tariff Rate Changes) (17.0.0).

proposal to charge its applicable system interruptible transportation rate for any interruptible services rendered on the capacity made by the project.<sup>91</sup>

## **2. Fuel Retention and Electric Power Costs Rates**

34. East Tennessee proposes an incremental fuel and loss retention percentage (FLRP) of 0.65% under Rate Schedule FT-A (Ridgeline) and an initial estimated electric power cost (EPC) rate of \$1.343 per Dth.<sup>92</sup> East Tennessee states that its proposed Hartsville Compressor Station will be primarily driven by electric motor drives using electric power but will also have natural gas turbines as backup to the electric motor drives.<sup>93</sup> To support this proposal, East Tennessee submitted a fuel study that modeled the impact of the project on system compressor fuel and electric power consumption for the path of the project. The fuel study compared the compression requirements between the existing base system and proposed system and the difference in fuel and electric power represents the estimated incremental requirement for the project.<sup>94</sup> We approve East Tennessee's proposed incremental FLRP of 0.65% and the initial EPC rate of \$1.343 per Dth for transportation service on the project.

35. East Tennessee states that it will seek to recover the EPC associated with the proposed new electric compressor units and related appurtenances to be installed at the proposed Hartsville Compressor Station through a tracker mechanism to be established in a future NGA limited section 4 filing.<sup>95</sup> We agree with East Tennessee that a future NGA limited section 4 filing is the appropriate forum to address matters related to electric power costs.

## **3. Tariff**

### **A. Customized Delivery Service**

36. East Tennessee proposes to provide firm transportation service to TVA with a new Customized Delivery Service feature added to the proposed Rate Schedule FT-A

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<sup>91</sup> Application at 25-26.

<sup>92</sup> See *id.* at Ex P, Notice of Rates and Other Tariff Rate Changes at 1.

<sup>93</sup> *Id.* at 9.

<sup>94</sup> *Id.* at Ex. Z-2.

<sup>95</sup> *Id.* at 26.

(Ridgeline)<sup>96</sup> and notes that it has designed the project facilities to accommodate this feature.<sup>97</sup> East Tennessee states that the Customized Delivery Service will enable TVA to access enhanced deliveries of natural gas quantities on an hourly and daily basis and to deliver up to 95,000 Dth to the Kingston Plant to meet its generation needs.<sup>98</sup> East Tennessee also proposes the new Rate Schedule LMS-MA-2 to track and manage the additional delivery fluctuations the Customized Delivery Service accommodates.<sup>99</sup> It states that as a facility-based delivery solution, the Customized Delivery Service cannot be released on a temporary basis but may be released on a permanent basis by TVA, subject to the conditions in Rate Schedule FT-A (Ridgeline).<sup>100</sup>

37. The Commission has allowed pipelines to offer specialized services “necessary to reflect the unique circumstances involved with constructing new infrastructure and to provide the needed security to ensure the viability of a project.”<sup>101</sup> Therefore, we approve East Tennessee’s proposal to add Customized Delivery Service to Rate Schedule FT-A (Ridgeline), as well as hourly and daily tracking of the new service under new Rate Schedule LMS-MA-2, as a means to provide additional flexibility to TVA to access enhanced deliveries. East Tennessee should file actual tariff records at least 30 days before service begins.

#### **4. Reporting Requirements**

38. Section 154.309 of the Commission’s regulations includes bookkeeping and accounting requirements applicable to all expansions for which incremental rates are charged. The requirements ensure that costs are properly allocated between pipelines’ existing shippers and incremental expansion shippers.<sup>102</sup> Therefore, we will require East Tennessee to keep separate books and accounting of costs and revenues attributable to the incremental capacity created by the project as required by section 154.309 of the

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<sup>96</sup> *Id.* at 24-25; *see infra* P 6 for a description of the Customized Delivery Service.

<sup>97</sup> *Id.* at 25.

<sup>98</sup> *Id.* at 24-25.

<sup>99</sup> *Id.* at 24.

<sup>100</sup> *Id.* at 24.

<sup>101</sup> *Tex. E. Transmission, LP*, 139 FERC ¶ 61,138, at P 56 (2012) (citing *Midcontinent Express Pipeline LLC*, 124 FERC ¶ 61,089 (2008); *Rockies Express Pipeline LLC*, 116 FERC ¶ 61,272, at P 78 (2006)).

<sup>102</sup> 18 C.F.R. § 154.309 (2024).

Commission's regulations.<sup>103</sup> The books should be maintained with applicable cross-reference and the information must be in sufficient detail so that the data can be identified in Statements G, I, and J in any future NGA section 4 or 5 rate case, and the information must be provided consistent with Order No. 710.<sup>104</sup>

## 5. Negotiated Rates

39. East Tennessee proposes to provide firm transportation service to TVA under a negotiated rate agreement.<sup>105</sup> East Tennessee must file either the negotiated rate agreement or tariff records setting forth the essential terms of the agreement in accordance with the Alternative Rate Policy Statement<sup>106</sup> and the Commission's negotiated rate policies.<sup>107</sup> East Tennessee must file the negotiated rate agreement or tariff records before the proposed effective date for such rates.<sup>108</sup>

## F. Environmental Analysis

40. On May 20, 2022, Commission staff began its environmental review of the Ridgeline Expansion Project by granting East Tennessee's request to use the pre-filing

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<sup>103</sup> *Id.*

<sup>104</sup> See *Revisions to Forms, Statements, & Reporting Requirements for Nat. Gas Pipelines*, Order No. 710, 122 FERC ¶ 61,262, at P 23 (2008).

<sup>105</sup> Application at 26.

<sup>106</sup> *Alternatives to Traditional Cost-of-Serv. Ratemaking for Nat. Gas Pipelines; Regul. of Negotiated Transp. Servs. of Natural Gas Pipelines*, 74 FERC ¶ 61,076, clarification granted, 74 FERC ¶ 61,194, order on reh'g and clarification, 75 FERC ¶ 61,024, reh'g denied, 75 FERC ¶ 61,066, reh'g dismissed, 75 FERC ¶ 61,291 (1996), petition denied sub nom. *Burlington Res. Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998) (Alternative Rate Policy Statement).

<sup>107</sup> *Nat. Gas Pipelines Negotiated Rate Policies & Practices; Modification of Negotiated Rate Pol'y*, 104 FERC ¶ 61,134 (2003), order on reh'g and clarification, 114 FERC ¶ 61,042, reh'g dismissed and clarification denied, 114 FERC ¶ 61,304 (2006).

<sup>108</sup> Pipelines are required to file any service agreement containing non-conforming provisions and to disclose and identify any transportation term or agreement in a precedent agreement that survives the execution of the service agreement. See 18 C.F.R. § 154.112(b) (2024); see also, e.g., *Tex. E. Transmission, LP*, 149 FERC ¶ 61,198, at P 33 (2014).

process, assigning Docket No. PF22-7-000.<sup>109</sup> The Commission's pre-filing process is designed to encourage early involvement by the public and government agencies in the development of proposed natural gas transmission projects, prior to the filing of a formal application.<sup>110</sup> East Tennessee conducted four in-person open houses in the project area in June 2022 and made available an online open house on the project website.<sup>111</sup> Commission staff participated in the open houses to explain the Commission's environmental review process to interested stakeholders.

41. As part of the pre-filing process, on July 22, 2022, the Commission issued a Notice of Scoping Period Requesting Comments on Environmental Issues for the Planned Ridgeline Expansion Project.<sup>112</sup> On September 9, 2022, FERC issued a Notice of Public Scoping Sessions for the Planned Ridgeline Expansion Project, which announced three scoping sessions conducted by Commission staff in the project area.<sup>113</sup> The notices were published in the Federal Register and mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American Tribes; local libraries and newspapers; and potentially affected property owners. We received written comments from the U.S. Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (FWS), Tennessee Department of Environment and Conservation (Tennessee DEC), Tennessee State Historic Preservation Officer (SHPO), Tennessee Wildlife Federation, Tennessee Tech University, National Parks Conservation Association, Teamsters National Pipeline Labor Management Cooperation Trust, Pipeliners Local 798, Cherokee Nation, Choctaw Nation of Oklahoma, Eastern Shawnee, Quapaw Nation, Center for Biological Diversity, Appalachian Mountain Advocates, Appalachian Voices, Sierra Club, SACE, Southern Environmental Law Center, and over 20 individuals.<sup>114</sup>

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<sup>109</sup> Commission Staff, Letter, Docket No. PF22-7-000 (issued May 20, 2022); *see also* 18 C.F.R. § 157.21(b) (2024).

<sup>110</sup> *Reguls. Implementing Energy Pol'y Act of 2005; Pre-Filing Procs. for Review of LNG Terminals & Other Natural Gas Facilities*, Order No. 665, 113 FERC ¶ 61,015, at P 3 (2005).

<sup>111</sup> Application at 1-41.

<sup>112</sup> 87 Fed. Reg. 45312 (July 28, 2022).

<sup>113</sup> 87 Fed. Reg. 56648 (Sept. 15, 2022).

<sup>114</sup> Some organizations submitted multiple comments and/or joint comments with other organizations, such as Appalachian Voices, Sierra Club, and the Southern Environmental Law Center.

42. On September 18, 2023, the Commission issued a Notice of Intent to Prepare an Environmental Impact Statement (EIS) for the Proposed Ridgeline Expansion Project, Request for Comments on Environmental Issues, and Schedule for Environmental Review. The notice was published in the Federal Register on September 22, 2023,<sup>115</sup> and mailed to the project stakeholders. In response to the July 28, 2023 Notice of Application<sup>116</sup> and this notice, the Commission received an additional 25 comments from individuals and environmental and public interest groups and two comments from federal agencies (EPA and the National Park Service (NPS)).

43. On December 19, 2023, East Tennessee filed an amendment to its application to increase the pipeline diameter of the proposed 8-mile-long lateral pipeline from 24 to 30 inches. The Commission issued a Notice of Amendment of Authorization on January 4, 2024.<sup>117</sup> On January 25, 2024, the Commission issued a *Supplemental Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Ridgeline Expansion Project Amendment, Request for Comments on Environmental Issues, and Notice of Revised Schedule for Environmental Review*, which was published in the *Federal Register* on January 31, 2024, and opened a 30-day scoping period that ended on February 26, 2024.<sup>118</sup> In response to the notices, the Commission received 25 comments from individuals and environmental and public interest groups and four comments from agencies and Tribes (two from EPA and one each from the FWS and the Mississippi Band of Choctaw Indians).

44. Pursuant to the National Environmental Policy Act of 1969 (NEPA),<sup>119</sup> Commission staff prepared a draft EIS for East Tennessee's proposal, which was issued

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<sup>115</sup> 88 Fed. Reg. 65383 (Sep. 22, 2023).

<sup>116</sup> 88 Fed. Reg. 51807 (Aug. 4, 2023).

<sup>117</sup> 89 Fed. Reg. 1570 (Jan. 10, 2024).

<sup>118</sup> 89 Fed. Reg. 6108 (Jan. 31, 2024).

<sup>119</sup> 42 U.S.C. §§ 4321 *et seq.*; *see also* 18 C.F.R. pt. 380 (2024) (Commission's regulations implementing NEPA). On February 19, 2025, the Council on Environmental Quality (CEQ) issued an interim final rule rescinding its NEPA regulations and a memorandum directing agencies to "continue to follow their existing practices and procedures" while considering revising or establishing their own NEPA implementing procedures. 90 Fed. Reg. 10610 (Feb. 25, 2025); *Memorandum for Heads of Departments and Agencies: Implementation of the National Environmental Policy Act*, CEQ (Feb. 19, 2025), <https://ceq.doe.gov/docs/ceq-regulations-and-guidance/CEQ-Memo-Implementation-of-NEPA-02.19.2025.pdf> (accessed Feb. 24, 2025). Additionally, the Commission is aware of the recent court decisions regarding CEQ's rulemaking authority. *Marin Audubon Soc'y v. Fed. Aviation Admin.*, 121 F.4th 902 (D.C. Cir. 2024) (holding that CEQ's regulations implementing NEPA are not judicially enforceable or



on May 24, 2024. The U.S. Army Corps of Engineers (Corps), EPA, FWS, and NPS participated as cooperating agencies in the preparation of the EIS. The analysis in the draft EIS addressed project alternatives; geology; mineral resources; soils; water resources (including groundwater, surface water, and wetlands); vegetation; fisheries and wildlife; special status species; land use, recreation, special interest areas, and visual resources; socioeconomics; environmental justice; cultural resources; air quality and noise; greenhouse gas (GHG) emissions and climate change; reliability and safety; and cumulative impacts. The draft EIS addressed all substantive environmental comments received prior to its issuance.

45. The draft EIS was issued on May 24, 2024, and notice of the draft EIS was published in the *Federal Register* on May 31, 2024,<sup>120</sup> establishing a 45-day comment period that ended on July 15, 2024. The draft EIS was filed with the EPA, and the Commission mailed a *Notice of Availability of the Draft Environmental Impact Statement for the Proposed Ridgeline Expansion Project* to the project stakeholders.

46. In response to the draft EIS, the Commission received written comments from the EPA, NPS, U.S. House of Representative John Rose, Tennessee DEC, seven members of the Tennessee House of Representatives, three state senators, seven county and local representatives, ten organizations,<sup>121</sup> and approximately 70 individuals.<sup>122</sup> East Tennessee also filed comments on the draft EIS. Commission staff conducted three public comment sessions in Kingston, Cookeville, and Hartsville, Tennessee, on June 11, 12, and 13, 2024, respectively. Seventeen individuals provided oral comments during the three meetings, which were transcribed and placed into the record.<sup>123</sup> Comments concerned alternatives,

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binding), *reh'g denied en banc*, No. 23-1067, 2025 WL 374897 (D.C. Cir. Jan. 31, 2025); *Iowa v. CEQ*, No. 1:24-cv-00089 (D.N.D. Feb. 3, 2025) (vacating CEQ's 2024 regulations). We are continuing to review the recent changes in the law and may take such further action as is appropriate.

<sup>120</sup> 89 Fed. Reg. 47177 (May 31, 2024).

<sup>121</sup> Sierra Club filed joint comments opposing the project on behalf of 52 public interest organizations. Sierra Club July 16, 2024 Comments.

<sup>122</sup> Sierra Club filed a letter opposing the project signed by 1,039 individuals on behalf of members and supporters, including 277 personalized messages, and Appalachian Voices filed a letter opposing the project signed by 5,082 individuals, including 253 Tennessee residents and 576 personalized messages. Sierra Club July 16, 2024 Comments; Appalachian Voices July 16, 2024 Comments.

<sup>123</sup> See Commission Staff July 2, 2024 Transcripts.

climate change, air quality, noise, water resources, protected species, environmental justice, safety, public health, and impacts on residential properties.

47. Commission staff issued the final EIS on December 20, 2024. The *Notice of Availability of the Final Environmental Impact Statement for the Proposed Ridgeline Expansion Project* was published in the *Federal Register* on December 30, 2024,<sup>124</sup> and mailed to the project stakeholders. The final EIS addressed project alternatives; geology; mineral resources; soils; water resources (including groundwater, surface water, and wetlands); vegetation; fisheries and wildlife; special status species; land use, recreation, special interest areas, and visual resources; socioeconomics; environmental justice; cultural resources; air quality and noise; GHG emissions and climate change; reliability and safety; and cumulative impacts. The final EIS addressed all substantive environmental comments received on the draft EIS prior to December 20, 2024.

48. The final EIS concluded that project construction and operation would result in limited adverse environmental impacts.<sup>125</sup> Most adverse environmental impacts would be temporary or short-term during construction, but some long-term and permanent environmental impacts would occur on some forested lands, including forested wetlands.<sup>126</sup> With the exception of potential impacts on climate change, the final EIS concluded that impacts, including cumulative impacts, would be reduced to less than significant levels through implementation of East Tennessee's proposed avoidance, minimization, and mitigation measures and Commission staff recommendations, which we have adopted and modified herein as conditions in the appendix of this order.<sup>127</sup>

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<sup>124</sup> 89 Fed. Reg. 106472 (Dec. 30, 2024).

<sup>125</sup> Final EIS at 5-1.

<sup>126</sup> *Id.*

<sup>127</sup> *See id.* Commission staff did not determine whether the impacts from GHG emissions attributable to the project would be significant or insignificant. *Id.* at 4-152. We note that NEPA does not require that the Commission formally label project-related GHG emissions as significant or insignificant. *See Citizens Action Coal. of Ind., Inc. v. FERC*, 125 F.4th at 241–242 (holding that “the absence of a ‘significance’ label does not violate NEPA, CEQ guidance, or FERC regulations”) (citing *Food & Water Watch v. FERC*, 104 F.4th 336, 346 (D.C. Cir. 2024)). The final EIS disclosed that the estimated GHG emissions associated with construction of the project are about 309,300 metric tons of carbon dioxide equivalents (CO<sub>2</sub>e) and estimated operational GHG emissions as a result of the project would be 29,799.5 metric tons per year (tpy) of CO<sub>2</sub>e. Final EIS at 4-151 – 4-153. The future natural-gas-fired generation at the Kingston plant will have

A summary of staff's analysis of project activities that would result in environmental impacts on local communities is provided below.

49. In addition, the Commission received comments on the final EIS from the EPA and Russel W. Treat.<sup>128</sup> The NPS also filed its Wild and Scenic Rivers Act Section 7(a) Determination for the project.<sup>129</sup> The comments and NPS's determination are addressed below.

**1. Summary of Environmental Impacts to Affected Local Communities**

50. The final EIS finds that Ridgeline Expansion Project activities that would affect communities include the construction and operation of portions of the pipeline, the Hartsville Compressor Station and associated solar array, the Columbia Gulf Receipt M&R Station, the Midwestern Gas and Texas Eastern M&R Stations, the Kingston Delivery Meter Station, contractor yards, and access roads. These activities would result in temporary and/or permanent land use, traffic, air, noise, and visual impacts.

**A. Land Use**

51. Existing land use in the Ridgeline Expansion Project area is predominantly agricultural, industrial/commercial, forested, and open land with some areas of residential, open water, and wetlands.<sup>130</sup> Approximately 92% of the proposed pipeline right-of-way is adjacent, parallel, or overlapping with East Tennessee's existing 3100 Line or powerline right-of-way,<sup>131</sup> and East Tennessee plans to restore and return construction workspaces to preconstruction uses.<sup>132</sup>

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estimated GHG emissions of 1,683,886 metric tons CO<sub>2</sub>e per year, which is less than half of the existing plant's average GHG emissions of 3,403,333 metric tons CO<sub>2</sub>e per year. *Id.* at 4-152.

<sup>128</sup> EPA February 5, 2025 Comments at 3; Russel W. Treat January 2, 2025 Comments (quoting SACE November 26, 2024 Comments at 3). Mr. Treat's comments regarding statements in a podcast in which he participated are not germane to this proceeding and do not require a response.

<sup>129</sup> NPS January 16, 2025 Section 7(a) Determination.

<sup>130</sup> Final EIS at ES-7 – ES-8, 4-87 – 4-101.

<sup>131</sup> *Id.* at 4-87.

<sup>132</sup> *Id.* at 4-87, 4-90.

52. With respect to impacts on residential areas, East Tennessee has prepared site-specific residential construction plans for the 123 residences within 25 feet of construction workspaces.<sup>133</sup> The final EIS recommends, and we require in environmental condition 5 of the appendix to this order, that East Tennessee file final site-specific plans and the results of negotiations with landowners for the removal or relocation of structures within the workspaces prior to construction.<sup>134</sup> The final EIS also recommends, and we require in environmental condition 19, that East Tennessee provide evidence of landowner concurrence if the construction work area and/or fencing would be located within 10 feet of a residence unless the construction work area is part of the existing maintained right-of-way.<sup>135</sup> The final EIS concludes there would be no significant Impacts on land use, and we agree.<sup>136</sup>

### **B. Traffic**

53. The final EIS estimates project construction would result in minor, short-term effects on the transportation system due to road crossings, equipment and material deliveries, and construction workers commuting to the project workspace.<sup>137</sup> However, these effects would be limited to periods of active construction in various locations and times over the course of a 17-month construction period.<sup>138</sup> East Tennessee proposed, and we require here through ordering paragraph (A), a Traffic Management Plan,<sup>139</sup> which would minimize impacts on the transportation system from construction of the project. Therefore, the final EIS concludes traffic impacts would be temporary and less than significant.<sup>140</sup> We agree.

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<sup>133</sup> *Id.*

<sup>134</sup> *Id.* at ES-7 – ES-8.

<sup>135</sup> *Id.* at ES-8.

<sup>136</sup> *Id.* at 4-93.

<sup>137</sup> *Id.* at 4-71, 4-83 – 4-84.

<sup>138</sup> *Id.* at 4-83 – 4-84.

<sup>139</sup> *Id.* at 4-71.

<sup>140</sup> *Id.*

### C. Air Quality

54. The final EIS explains that the Ridgeline Expansion Project would result in air quality impacts associated with construction, including emissions from construction equipment, fugitive dust, and open burning.<sup>141</sup> East Tennessee states that it would implement mitigation measures, required herein by ordering paragraph (A), to reduce construction-related air quality impacts.<sup>142</sup> Based on the temporary nature of construction activities and the measures proposed by East Tennessee, the final EIS concludes that construction of the project would not result in significant impacts on air quality.<sup>143</sup> We agree.

55. The final EIS also describes how the project would result in ongoing air quality impacts associated with operation of the Hartsville Compressor Station, Columbia Gulf Receipt M&R Station, Texas Eastern and Midwestern Gas M&R Stations, and the Kingston Delivery Meter Station.<sup>144</sup> The final EIS explains that air quality impacts from operation of the project would be minimized using equipment, emissions controls, and operating practices that meet or exceed best management practices.<sup>145</sup> Additionally, air dispersion modeling analysis for the Hartsville Compressor Station demonstrated that operation would not cause or contribute to an exceedance of the Tennessee Ambient Air Quality Standards or the National Ambient Air Quality Standards, which are established to be protective of human health.<sup>146</sup> Operational emissions associated with the project would not exceed the Title V major source thresholds, so a Title V operating permit is not required.<sup>147</sup> Additionally, the project would not trigger any requirements under the Prevention of Significant Deterioration air permit program and does not require a General Conformity Determination.<sup>148</sup> Given East Tennessee's minimization and mitigation measures, operational and maintenance controls, and results of the air

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<sup>141</sup> *Id.* at ES-9, 4-108 – 4-123.

<sup>142</sup> *Id.* at ES-9, 4-116.

<sup>143</sup> *Id.* at ES-9, 4-116 – 4-117.

<sup>144</sup> *Id.* at ES-9 – ES-10.

<sup>145</sup> *Id.* at ES-9 – ES-10, 4-119 – 4-120.

<sup>146</sup> *Id.* at ES-10, 4-122.

<sup>147</sup> *Id.* at ES-10, 4-110.

<sup>148</sup> *Id.*

dispersion modelling, the final EIS concludes that operational emissions would not have a significant impact on air quality.<sup>149</sup> We agree.

**D. Noise**

56. The final EIS states that project construction would result in increases to the existing ambient sound levels and may result in noise impacts at nearby noise-sensitive areas (NSA).<sup>150</sup> Noise impacts due to pipeline construction are expected to have minimal effect at any one location due to the nature of pipeline construction continuously moving down the pipeline right-of-way.<sup>151</sup> Mitigated sound levels at the proposed horizontal direction drilling locations are not anticipated to exceed 55 dBA day-night sound level ( $L_{dn}$ ), which is a noise threshold that protects the public from indoor and outdoor activity interference.<sup>152</sup> Based on the mitigation measures proposed, the final EIS concludes that construction noise impacts would be temporary and less than significant.<sup>153</sup> We agree.

57. Once pipeline construction is complete and the areas are returned to preconstruction conditions, noise levels would return to ambient conditions except at the noise-emitting aboveground facilities (Hartsville Compressor Station, solar array, the two new and two modified M&R stations).<sup>154</sup> Noise modeling of the aboveground facilities indicate that sound levels from the Ridgeline Expansion Project's facility operation would remain below the 55 dBA  $L_{dn}$  threshold at all NSAs.<sup>155</sup> To ensure sound levels are in compliance with applicable noise requirements, the final EIS recommends, and we require in environmental conditions 24 and 25 of the appendix to this order, that East Tennessee provide the Commission with operational noise surveys after the facilities are in-service, and that East Tennessee install additional noise controls if sound levels are exceeded.

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<sup>149</sup> *Id.* at ES-10, 4-123.

<sup>150</sup> *Id.* at ES-10, 4-123 – 4-131.

<sup>151</sup> *Id.* at ES-10, 4-124.

<sup>152</sup> *Id.* at ES-10, 4-127.

<sup>153</sup> *Id.* at ES-10, 4-126.

<sup>154</sup> *Id.* at 4-127 – 4-130.

<sup>155</sup> *Id.* at ES-10, 4-127 – 4-130.

The final EIS concludes that operation of the project would not result in significant noise impacts on nearby NSAs and the surrounding communities.<sup>156</sup> We agree.

**E. Visual**

58. As discussed in the final EIS, visual impacts on residents of, visitors to, and motorists along roadways in the project area would be the greatest during project construction due to views of the cleared right-of-way needed for construction, the displaced soil, and the presence of personnel, equipment, and vehicles.<sup>157</sup> After construction, temporary workspaces would be restored and returned to preconstruction uses. Areas where trees would be cleared could result in more noticeable viewshed changes and could take several decades or more to regrow to preconstruction conditions.<sup>158</sup> During pipeline operation, permanent visual impacts may occur along the pipeline from removal of forested vegetation and periodic vegetation clearing to allow for visual pipeline inspection.<sup>159</sup> Given the co-located nature of about 92% of the pipeline, the final EIS concludes that the overall impacts on the viewshed from clearing in forested land for the project pipeline would be minor, yet long-term to permanent.<sup>160</sup> We agree that these impacts would not be significant.

59. Regarding the associated aboveground facilities, construction and operation of the Hartsville Compressor Station is not expected to have a significant effect on visual resources due to the presence of existing vegetation screening between the compressor facilities as well as the topography of the site.<sup>161</sup> The final EIS recommends, and we require in environmental condition 20 of the appendix to this order, that East Tennessee provide a visual screening plan to minimize visual impacts of the Hartsville Compressor Station on nearby residences. For the Columbia Gulf Receipt M&R Station, the final EIS finds that there does not appear to be any existing intervening vegetation between the proposed station and new Freedom Estate Development residences.<sup>162</sup> To ensure visual impacts are minimized, the final EIS recommends, and we require in environmental

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<sup>156</sup> *Id.* at ES-10, 4-130.

<sup>157</sup> *Id.* at ES-8, 4-99 – 4-101.

<sup>158</sup> *Id.* at ES-8, 4-99.

<sup>159</sup> *Id.* at 4-81.

<sup>160</sup> *Id.* at 4-99.

<sup>161</sup> *Id.* at ES-8, 4-82, 4-99 – 4-100.

<sup>162</sup> *Id.* at ES-8, 4-100.

condition 21, that East Tennessee provide a visual screening plan to minimize visual impacts of the Columbia Gulf Receipt M&R Station on the Freedom Estates Development residences to the north of this station.<sup>163</sup> For these reasons, we agree with the final EIS's conclusion that there would be no significant effect on visual resources.

## **2. Response to Comments on the Final EIS**

### **A. Adequacy of Public Outreach**

60. In its February 5, 2025 comments on the final EIS, the EPA requested that public communications containing East Tennessee's mitigation measures and the Commission's conditions be translated to the "primary languages spoken by the households that will be directly impacted by the project construction and operation."<sup>164</sup> We are not providing translations in this proceeding because we find that public outreach for the Ridgeline Expansion Project has been adequate, notwithstanding the fact that the final EIS identified populations in the geographic scope for the project that contain Limited English-speaking households in four counties.<sup>165</sup>

61. As detailed above, the project was the subject of a number of stakeholder engagement activities over the course of its development. After initiating its pre-filing process on May 20, 2022, East Tennessee hosted four in-person meetings where representatives from the Commission were also present to answer questions about community participation and made available an online open house on the project website. In July 2024, Commission staff hosted three in-person comment sessions in the project area for receiving comments on the draft EIS, in which 17 individuals provided oral comments, which were transcribed and placed into the record. In addition to providing notice in the *Federal Register* of the application and draft EIS, we also mailed the notices to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American Tribes; local libraries and newspapers; and potentially affected property owners. In response, we received approximately 120 unique comment letters, all of which have been addressed during the environmental review process or herein. Given the thorough public outreach conducted for this project, we are satisfied that our engagement was adequate and additional outreach with translated material is not required.

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<sup>163</sup> *Id.*

<sup>164</sup> EPA Feb. 5, 2025 Comments at 3.

<sup>165</sup> Final EIS at 4-80.



## **B. Wild and Scenic Rivers Act**

62. Section 7 of the Wild and Scenic Rivers Act requires the Commission to consult with the NPS to protect the free-flowing condition, water quality, and outstanding remarkable values of designated wild and scenic rivers.<sup>166</sup> The final EIS contained a recommendation (No. 16) that East Tennessee not begin construction activities at the Obed WSR tributary crossings until Commission staff receives a signed affirmative Section 7(a) Determination from the NPS and East Tennessee consults with NPS on the Section 7(d) Determination's "Required Measures," identifies the measures it commits to implement, and receives written notification from the Commission's Director of the Office of Energy Projects, or the Director's designee, that construction may begin.<sup>167</sup> On January 16, 2025, NPS filed its Wild And Scenic Rivers Act Section 7(a) Determination for the project, including required measures associated with project compliance, project coordination, third-party environmental inspectors, and mussel mitigation.<sup>168</sup> The Section 7(a) Determination concluded that "the Project would not invade or unreasonably diminish the scenic, recreational, and fish and wildlife values of the Obed Wild and Scenic River provided that the Project is constructed consistent with East Tennessee's application to FERC and FERC's evaluation in the [final EIS], and that the required measures attached are fully and properly fulfilled for the duration of the project in the Obed WSR watershed."<sup>169</sup> The NPS Section 7(a) Determination concluded the Wild and Scenic Rivers Act section 7 consultation for the project. Because the Commission has satisfied its requirements under section 7 of the Wild and Scenic Rivers Act, we do not include the recommendation in the final EIS requiring a Section 7(a) Determination or consultation with NPS, but still include the other requirements in the appendix to this order as environmental condition 16.

## **C. Air Quality**

63. In its February 5, 2025 comments on the final EIS, the EPA requested a correction to the statement in the final EIS that reads "[Tennessee DEC] has primary jurisdiction over air emissions produced by stationary sources associated with the Project and is delegated by the EPA to implement federal air quality programs."<sup>170</sup> The EPA clarified that state provisions are sent to the EPA for approval and inclusion in the relevant State

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<sup>166</sup> 16 U.S.C. § 1278(a).

<sup>167</sup> Final EIS at 5-6.

<sup>168</sup> NPS January 16, 2025 Section 7(a) Determination at 11-14.

<sup>169</sup> *Id.* at 10.

<sup>170</sup> EPA February 5, 2023 Comments at 3 (quoting Final EIS at 4-110).

Implementation Plan and Clean Air Act requirements are only “delegated” to state or local agencies in limited cases.<sup>171</sup> The Commission therefore concludes that Tennessee DEC has primary jurisdiction over air emissions produced by stationary sources associated with the Project.

### **3. Environmental Analysis Conclusion**

64. We have reviewed the information and analysis contained in the final EIS, as well as the other information in the record, regarding potential environmental effects of the project. We accept the environmental recommendations in the final EIS, as modified above, and we are including them as conditions in an appendix to this order. Based on the analysis in the final EIS, as supplemented or clarified herein,<sup>172</sup> we conclude that notwithstanding the project’s adverse impacts, as identified in the final EIS and herein, the proposed project is an environmentally acceptable action and, as explained below, that the identified environmental harms do not outweigh the project’s benefits.

### **IV. Conclusion**

65. Here, we find on balance that the record before us supports a determination that the benefits of the proposed Ridgeline Expansion Project outweigh its adverse effects. We find that East Tennessee has demonstrated a need for the proposed project, which will provide up to 300,000 Dth/d of incremental firm transportation capacity and 95,000 Dth of Customized Delivery Service for TVA. Further, the project will not have adverse impacts on East Tennessee’s existing shippers or other pipelines and their existing customers, and the project’s benefits will outweigh any adverse economic effects on the interests of landowners and surrounding communities. The Commission recognizes that the proposed project would impact the environment and individuals living in the vicinity of the project facilities, however, as noted above, we find that, as conditioned, the project is an environmentally acceptable action. Based on the discussion above, we conclude that, under NGA section 7, the public convenience and necessity requires approval of East Tennessee’s Ridgeline Expansion Project, subject to the conditions in this order.

66. Compliance with the environmental conditions appended to our orders is integral to ensuring that the environmental impacts of approved projects are consistent with those anticipated by our environmental analysis. Thus, Commission staff carefully reviews all information submitted. Only when staff is satisfied that the applicant has complied with all applicable conditions will a notice to proceed with the activity to which the conditions

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<sup>171</sup> *Id.*

<sup>172</sup> Although the analysis in the final EIS provides substantial evidence for our conclusions in this order, it is the order itself that serves as our record of decision. The order supersedes any inconsistent discussion, analysis, or finding in the EIS.

are relevant be issued. We also note that the Commission has the authority to take whatever steps are necessary to ensure the protection of environmental resources during abandonment, construction, and operation of the project, including authority to impose any additional measures deemed necessary to ensure continued compliance with the intent of the conditions of the order, as well as the avoidance or mitigation of unforeseen adverse environmental impacts resulting from project construction and operation.

67. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>173</sup>

68. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, as supplemented, and exhibits thereto, and all comments, and upon consideration of the record.

The Commission orders:

(A) A certificate of public convenience and necessity is issued to East Tennessee, authorizing it to construct and operate the proposed Ridgeline Expansion Project, as described and conditioned herein, and as more fully described in the application and subsequent filings by the applicant, including any commitments made therein.

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

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

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<sup>173</sup> See 15 U.S.C. § 717r(d) (state or federal agency's failure to act on a permit considered to be inconsistent with Federal law); see also *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293, 310 (1988) (state regulation that interferes with FERC's regulatory authority over the transportation of natural gas is preempted); *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 245 (D.C. Cir. 2013) (noting that state and local regulation is preempted by the NGA to the extent it conflicts with federal regulation, or would delay the construction and operation of facilities approved by the Commission).

- (2) compliance with all applicable Commission regulations under the NGA including, but not limited to, Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and
- (3) compliance with the environmental conditions listed in the appendix of this order.

(C) East Tennessee shall file a written statement affirming that it has executed firm contracts for the capacity levels and terms of service represented in its signed precedent agreements, prior to commencing construction.

(D) East Tennessee's proposed initial incremental firm recourse reservation charge and usage charge under Rate Schedule FT-A (Ridgeline) are approved for the project. East Tennessee's proposal to charge the applicable system interruptible rate for the project is approved.

(E) East Tennessee's proposal to charge a new incremental FLRP and the initial EPC rate for the project are approved.

(F) East Tennessee's proposal to provide firm transportation service to TVA with a new Customized Delivery Service feature added to Rate Schedule FT-A and the hourly and daily tracking of this new service under new Rate Schedule LMS-MA-2 is approved.

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

By the Commission.

( S E A L )

Carlos D. Clay,  
Deputy Secretary.

**Appendix**  
**Environmental Conditions**

As recommended in the final Environmental Impact Statement (EIS), and modified herein, this authorization includes the following conditions:

1. East Tennessee Natural Gas, LLC (East Tennessee) shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EIS, unless modified by the Order. East Tennessee 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), or the Director's designee, **before using that modification.**
2. The Director of OEP, or the Director's designee, has delegated authority to address any requests for approvals or authorizations necessary to carry out the conditions of the Order, and take whatever steps are necessary to ensure the protection of environmental resources during construction and operation of the Project. This authority shall allow:
  - a. the modification of conditions of the Order;
  - b. stop-work authority; and
  - c. the imposition of any additional measures deemed necessary to ensure continued compliance with the intent of the conditions of the Order as well as the avoidance or mitigation of unforeseen adverse environmental impact resulting from Project construction and operation.
3. **Prior to any construction**, East Tennessee shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EIS, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, East Tennessee shall file with the Secretary any revised detailed

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

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

5. East Tennessee 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 will be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP, or the Director's designee, **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 and/or minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

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

- a. implementation of cultural resources mitigation measures;
  - b. implementation of endangered, threatened, or special concern species mitigation measures;
  - c. recommendations by state regulatory authorities; and
  - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of the authorization and before construction begins,** East Tennessee shall file an Implementation Plan with the Secretary for

review and written approval by the Director of OEP, or the Director's designee. East Tennessee must file revisions to the plan as schedules change. The plan shall identify:

- a. how East Tennessee will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EIS, and required by the Order;
  - b. how East Tennessee will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to on-site construction and inspection personnel;
  - c. the number of EIs assigned, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
  - d. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
  - e. the location and dates of the environmental compliance training and instructions East Tennessee will give to all personnel involved with construction and restoration (initial and refresher training as the Project progresses and personnel change), with the opportunity for OEP staff to participate in the training session(s);
  - f. the company personnel (if known) and specific portion of East Tennessee's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) East Tennessee will follow if noncompliance occurs; and
  - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram) and dates for:
    - i. the completion of all required surveys and reports;
    - ii. the environmental compliance training of on-site personnel;
    - iii. the start of construction; and
    - iv. the start and completion of restoration.
7. East Tennessee shall employ at least one EI per construction spread. The EI shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the Order and other grants, permits, certificates, or other authorizing documents;

- b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
  - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
  - d. a full-time position, separate from all other activity inspectors;
  - e. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions; permit requirements imposed by other federal, state, or local agencies; and
  - f. responsible for maintaining status reports.
8. Beginning with the filing of its Implementation Plan, East Tennessee shall file updated status reports with the Secretary on a **biweekly** basis until all construction and restoration activities are complete. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on East Tennessee's efforts to obtain the necessary federal authorizations;
  - b. the construction status of each spread, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
  - c. a listing of all problems encountered and each instance of noncompliance observed by the EI during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies;
  - d. a description of the corrective actions implemented in response to all instances of noncompliance;
  - e. the effectiveness of all corrective actions implemented;
  - f. a description of any landowner/resident complaints which may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and
  - g. copies of any correspondence received by East Tennessee from other federal, state, or local permitting agencies concerning instances of noncompliance, and East Tennessee's response.
9. East Tennessee shall develop and implement an environmental complaint resolution procedure, and file such procedure with the Secretary, for review and approval by the Director of OEP, or the Director's designee. The procedure shall provide landowners with clear and simple directions for identifying and resolving



their environmental mitigation problems/concerns during construction of the Project and restoration of the right-of-way. **Prior to construction**, East Tennessee shall mail the complaint procedures to each landowner whose property will be crossed by the Project.

- a. In its letter to affected landowners, East Tennessee shall:
    - i. provide a local contact that the landowners should call first with their concerns; the letter should indicate how soon a landowner should expect a response;
    - ii. instruct the landowners that if they are not satisfied with the response, they should call East Tennessee's Hotline; the letter should indicate how soon to expect a response; and
    - iii. instruct the landowners that if they are still not satisfied with the response from (Applicant)'s Hotline, they should contact the Commission's Landowner Helpline at 877-337-2237 or at LandownerHelp@ferc.gov.
  - b. In addition, East Tennessee shall include in its **biweekly** status report a copy of a table that contains the following information for each problem/concern:
    - i. the identity of the caller and date of the call;
    - ii. the location by milepost and identification number from the authorized alignment sheet(s) of the affected property;
    - iii. a description of the problem/concern; and
    - iv. an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.
10. East Tennessee must receive written authorization of the Director of OEP, or the Director's designee, **before commencing construction of any Project facilities**. To obtain such authorization, East Tennessee must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
11. East Tennessee must receive written authorization from the Director of OEP, or the Director's designee, **before placing the Project into service**. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the Project are proceeding satisfactorily.

12. **Within 30 days of placing the authorized facilities in service**, East Tennessee shall file an affirmative statement with the Secretary, certified by a senior company official:
- a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
  - b. identifying which of the conditions in the Order East Tennessee has complied with or will comply with. This statement shall also identify any areas affected by the Project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
13. **Prior to construction of the Cumberland River horizontal directional drill (HDD)**, East Tennessee shall file with the Secretary additional geotechnical and/or geophysical investigations along the proposed Cumberland River HDD alignment to further characterize bedrock conditions and topography of the bedrock surface. If the results of these investigations lead to changes in the drill path or HDD entry/exit locations, East Tennessee shall file with the Secretary, for review and written approval by the Director of OEP, or the Director's designee, the modifications to the Cumberland River HDD.
14. **Prior to construction**, East Tennessee shall file with the Secretary, for review and written approval by the Director of OEP, or the Director's designee, the results of geophysical surveys and aquifer risk assessment in Project areas underlain by carbonate bedrock as recommended in East Tennessee's Phase II – Geohazard Assessment Report.
15. **Prior to construction**, East Tennessee shall file with the Secretary, for review and written approval by the Director of OEP, or the Director's designee, a final Blasting Plan that incorporates site-specific mitigation measures East Tennessee would implement to reduce impacts during blasting activities at high project risk stream crossings.
16. East Tennessee shall **not begin** construction activities at the Obed WSR tributary crossings **until**:
- a. East Tennessee identifies the Section 7(d) Determination's 'Required Measures' it commits to implement; and
  - b. East Tennessee has received written notification from the Director of OEP, or the Director's designee, that construction may begin.
17. **Within 5 days of receipt of a water quality certification issued by Tennessee Department of Environment and Conservation**, East Tennessee shall file the complete certification, including all conditions. All conditions attached to the

water quality certification constitute mandatory conditions of the Certificate Order. **Prior to construction**, East Tennessee shall file, for review and written approval of the Director of OEP, or the Director's designee, any revisions to its Project design necessary to comply with the water quality certification conditions.

18. **Prior to construction**, East Tennessee shall file with the Secretary, for review and written approval by the Director of OEP, or the Director's designee, final site-specific residential construction plans and the results of negotiations with landowners for the removal or relocation of structures within the workspaces. Site plans must include whether each structure would be removed or replaced, including the structures at mileposts 38.0, 41.7, 60.0, 102.4, 107.3, and 107.8. Site plans must show the edge of the permanent right-of-way, site specific conditions (e.g., not to remove certain trees, whether removed structures would be replaced after construction, time-of-day construction would occur, exclusion and silt fence installation), and residential features such as specimen trees to be preserved during construction.

19. **Prior to construction**, East Tennessee shall file with the Secretary:

- a. evidence of landowner concurrence if the construction work area and/or fencing will be located within 10 feet of a residence unless the construction work area is part of the existing maintained right-of-way. If East Tennessee is unable to obtain concurrence, East Tennessee shall file revised site-specific construction plans for review and written approval by the Director of OEP, or the Director's designee, that maintain a 10-foot buffer between the residence and the Project workspace;
- b. a summary of communication with adjacent landowners James Hewett and Ms. Jenkins that provides evidence their property would not be negatively affected by stormwater runoff; and
- c. the results of coordination with the landowner of parcel TN-PT-468 to modify workspaces and/or an updated site-specific plan depicting a restrictive barrier to reduce the number of trees removed along the driveway on the property.

20. **Prior to construction of the Hartsville Compressor Station**, East Tennessee shall file with the Secretary, for review and written approval by the Director of OEP, or the Director's designee, a visual screening plan to minimize visual impacts of the Hartsville Compressor Station on nearby residences. At a minimum, the plan should include a photoalignment of the Hartsville Compressor Station that provides the location of perimeter fencing, buildings, and the driveway; vegetative plantings to provide a visual buffer; and visual simulations from the residences.

21. **Prior to construction of the Columbia Gulf Receipt Meter and Regulating (M&R) Station**, East Tennessee shall file with the Secretary, for review and written approval by the Director of OEP or the Director's designee, a visual screening plan to minimize visual impacts of the Columbia Gulf Receipt M&R Station on the Freedom Estates Development residences to the north of the station. At a minimum, the plan should include a photoalignment of the Columbia Gulf Receipt M&R Station that provides the location of perimeter fencing, buildings, and the driveway; vegetative plantings to provide a visual buffer; and visual simulations from the residences.
22. East Tennessee shall **not begin construction** of Project facilities and/or use of staging, storage, or temporary work areas and new or to-be-improved access roads **until**:
- East Tennessee files with the Secretary remaining cultural resources survey report(s); site evaluation report(s), as required; and avoidance/treatment plan(s), as required; and comments on the cultural resources report(s) and plans from the State Historic Preservation Officer, U.S. Army Corps of Engineers, and Tennessee Valley Authority, as appropriate;
  - the Advisory Council on Historic Preservation is afforded an opportunity to comment if historic properties would be adversely affected; and
  - FERC staff review and the Director of OEP, or the Director's designee, approves the cultural resources reports and plans, and notifies East Tennessee in writing that treatment plans/mitigation measures (including archaeological data recovery) may be implemented and/or construction may proceed.

All materials 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: "**CUI/PRIV – DO NOT RELEASE.**"

23. **During nighttime HDD operations**, East Tennessee shall monitor noise levels, document the noise levels in the biweekly status reports, and restrict the noise attributable to nighttime construction or drilling operations to no more than a nighttime equivalent sound level ( $L_{eq}$ ) of 48.6 decibels on the A-weighted scale (dBA) at noise sensitive areas (NSA).
24. East Tennessee shall file with the Secretary noise surveys for the Hartsville Compressor Station, Columbia Gulf Receipt M&R Station, Harriman Crossover, Jackson County Crossover, Clarkrange Crossover, and Kingston Delivery Meter Station **no later than 60 days** after placing each station into service. If full power load condition noise surveys are not possible, East Tennessee shall file an interim survey at the maximum power load **within 60 days** of placing the stations into

service and file the full power load survey **within 6 months**. If the noise attributable to operation of all equipment at any station under interim or full power load conditions exceeds a day-night sound level ( $L_{dn}$ ) of 55 dBA at a nearby NSA, East Tennessee shall:

- a. file a report with the Secretary, for review and written approval by the Director of the OEP, or the Director's designee, on whatever changes are needed;
- b. install additional noise controls to meet the level **within 1 year** of the in-service date; and
- c. confirm compliance with this requirement by filing a second full power load noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.

25. East Tennessee shall file with the Secretary noise surveys for the modified Midwestern Gas and Texas Eastern M&R Stations **no later than 60 days** after placing the modified station into service. If all facilities cannot be at a full power load condition, East Tennessee shall file an interim survey at the maximum possible power load **within 60 days** of placing the modified stations and Hartsville Compressor Station into service and file the full power load survey **within 6 months**. If the noise attributable to operation of all equipment at the stations under interim or full power load conditions exceeds an  $L_{dn}$  of 55 dBA at any nearby NSA, East Tennessee shall:

- a. file a report with the secretary, for review and written approval by the Director of OEP, or the Director's designee, on what changes are needed;
- b. install additional noise controls to meet that level **within 1 year** of the in-service date; and
- c. confirm compliance with this requirement by filing a second full power load noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.

Document Content(s)

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