UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Discovery Gas Transmission LLC	Docket Nos. CP03-342-000 CP03-342-001
Discovery Producer Services LLC	Docket Nos. CP03-343-000 CP03 -343-001
Texas Eastern Transmission, LP	Docket No. CP04-50-000

ORDER APPROVING ABANDONMENT
AND ISSUING CERTIFICATES

(Issued May 6, 2004)

1. On July 23, 2003, as amended on December 30, 2003, Discovery Gas Transmission LLC (Discovery) filed an application under section 7(c) of the Natural Gas Act, (NGA) and Part 157 of the Commission's regulations for a certificate of public convenience and necessity to acquire, lease or construct, and own and operate certain new delivery point, pipeline, metering, and appurtenant facilities and compression services to enable Discovery to deliver, on a firm basis on its existing pipeline system, up to 150,000 dekatherms (Dth) per day of natural gas produced offshore to new markets in southern Louisiana. In addition, Discovery Producer Services LLC (Discovery Producer) filed an abbreviated application for a limited jurisdiction certificate authorizing Discovery Producer to provide compression services to Discovery. On January 6, 2004, Texas Eastern Transmission, LP (Texas Eastern) filed an abbreviated application under NGA sections 7(b) and (c) for approval to lease pipeline capacity to Discovery.[1] Texas

[1] Capacity lease arrangements are construed as an abandonment by the lessor and an acquisition by the lessee. See e.g., Midwestern Gas Transmission Corporation and Trunkline Gas Company, 73 FERC ¶ 61,210 (1995).

Eastern also seeks a determination that the leased capacity may revert back to Texas Eastern at the termination of the lease agreement without additional certificate authorization.

2. We find that approval of the proposals, with conditions, is in the public interest because they will enable Discovery's shippers to deliver gas to four additional pipelines and thus provide greater access to markets. Further, the Commission's staff has prepared an environmental assessment (EA) for Discovery's proposal that finds that, with appropriate mitigation, Discovery's proposed expansion is environmentally acceptable. Therefore, we will grant the requested certificate authorizations, as modified and conditioned in this order.

BACKGROUND AND PROPOSALS

3. Discovery is a natural gas company that operates an approximately 105-mile, 30-inch diameter natural gas transmission system originating in Federal offshore waters and running through Louisiana State waters onshore in LaFourche Parish, Louisiana to a natural gas processing plant near Larose, Louisiana. From there, Discovery's system consists of approximately 4.4 miles of 20-inch diameter pipeline running to an interconnection point with Texas Eastern and approximately 0.5 miles of 30-inch diameter pipeline running to an interconnection point with Bridgeline Gas Distribution LLC (Bridgeline). Discovery's system has an existing throughput capacity of approximately 600,000 Dth per day. Gas transported through the Discovery system is delivered to Texas Eastern and Bridgeline.

4. Discovery Producer is Discovery's corporate parent and operates gathering, processing, treating, and compression services in Louisiana. Discovery Producer's facilities and services are not subject to the jurisdiction of the Commission.

5. Texas Eastern is a natural gas company that owns and operates an open access pipeline system extending from south Texas and offshore Gulf of Mexico to the Mid-Atlantic and northeastern United States.

Discovery's Application

6. Discovery states that several existing and potential shippers have indicated a desire for Discovery to enhance its system to transport gas to additional delivery points

and associated markets.[2] Discovery held a non-binding open season from April 10, 2003 to May 2, 2003. Discovery states that it has executed or is in the process of negotiating binding precedent agreements for a total of 112,000 Dth per day to be provided by the proposed facilities.

7. Discovery proposes to acquire, construct and lease market expansion facilities and compression services to deliver gas to new interconnections with Columbia Gulf Transmission Company (Columbia Gulf), Gulf South Pipeline Company, LP (Gulf South), Tennessee Gas Pipeline Company (Tennessee), and Transcontinental Gas Pipe Line Corporation (Transco) in LaFourche and Terrebone Parishes, Louisiana. The project will permit Discovery to deliver up to 150,000 Mcf per day on a firm basis to the various pipeline interconnects and, depending on the level of available compression services from Discovery Producer, up to an additional 50,000 Mcf per day on an interruptible basis.

8. Discovery proposes to acquire: (1) Line 40E, 31.48 miles of 20-inch diameter pipeline in LaFourche and Terrebone Parishes, from DPH, Inc.[3] and (2) approximately 0.43 miles of 16-inch diameter pipeline in LaFourche Parish near Larose, Louisiana from Discovery Producer. Discovery proposes to construct: (1) a 0.4-mile, 20-inch diameter pipeline to connect the newly acquired lines; (2) 1.8 miles of 12-inch diameter pipeline from Point Au Chien on Line 40E to the proposed interconnection with Columbia Gulf; (3) approximately 735 feet of 20-inch diameter pipeline from Line 40E to the proposed interconnection with Tennessee; and (4) metering, pressure regulation and appurtenant facilities at the proposed Columbia Gulf and Transco delivery points and upstream of the proposed Tennessee delivery point. Discovery estimates that the proposed acquisition and construction will cost approximately $10,803,000.

9. Discovery proposes to purchase up to 150,000 Dth per day of as-available compression services from Discovery Producer for approximately two cents per Dth per

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[2]The subject application proposes what, in effect, are extensions to Discovery's existing system, in order to provide four additional pipeline interconnects. Since the project is not an expansion in the traditional sense, Discovery did not seek turn back capacity through a reverse open season.

[3]DPH, Inc. is a corporation engaged in the business of sour gas processing and sulfur recovery. DPH, Inc. acquired Line 40E from Texas Eastern in 1995. See Texas Eastern Transmission, LP, 73 FERC ¶ 62,067 (1995).

day. Discovery states that at certain times Discovery Producer will have compression available beyond its own requirements to provide sufficient compression service to Discovery to enable Discovery to transport up to a total of 200,000 Mcf per day to the various pipeline interconnects. When such circumstances occur, Discovery plans to make available any capacity above the firm level of 150,000 (and any firm capacity not being used by firm shippers) on an interruptible basis. Discovery asserts that revenues from any such interruptible service will aid in the full recovery of its cost of service.

10. Discovery also proposes to lease 100,000 Dth per day of currently unused capacity on approximately 35 miles of Texas Eastern's system in LaFourche Parish, from Discovery's existing interconnection with Texas Eastern near Larose, Louisiana to the proposed interconnection with Transco's mainline near Thibodaux, Louisiana. The monthly lease charge under the lease agreement is $63,875.

11. Transportation service provided through the market expansion facilities will be performed under Discovery's Part 284 blanket transportation certificate. Discovery proposes to charge an incremental rate for service utilizing the market expansion facilities. Consistent with the rate structure under its existing primary FT-2 firm rate schedule for firm transportation service, Discovery proposes to charge only a volumetric rate. In return for committing quantities of gas for the life of specified leases to firm service on Discovery, shippers are not charged a reservation fee, but instead pay only a usage fee under Rate Schedule FT-2.[4]

12. Specifically, Discovery proposes a rate under Rate Schedule FT-2 (Market Expansion) of $0.0795/Dth. For interruptible transportation service (IT), Discovery proposes a maximum rate of $0.1590 per Dth under Rate Schedule IT (Market Expansion), which, as explained below, is based on a 50 percent load factor derivation of the firm rate.

13. Discovery's proposed rates are based on the same methodology and cost factors used in the design of its approved initial rates.[5] The cost of service is levelized over a period of 15 years with the first year of operations estimated at $4,399,287 and the 15th year at $4,388,368. Plant investment is estimated at a cost of $10,802,605. The overall

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[4]Discovery states that during the Open Season no shipper requested service under its more traditionally structured Rate Schedule FT-1(a one-part rate).

[5]Discovery was issued a certificate on February 27, 1997, in Docket No. CP96-711-000. See 78 FERC ¶ 61,205 (1997). Discovery's existing rates are initial rates.

rate of return is 9.8 percent, based on a capital structure of 70 percent debt with a cost of 8 percent, and 30% equity with a cost of 14 percent. The proposed levelized depreciation rate (6.67 percent) is based on an economic life of 15 years. Discovery's initial rate is based on a straight fixed-variable (SFV) rate design and reflects billing determinants of 150,000 Dth per day with no costs allocated to interruptible transportation service. Discovery requests authority to revise its initial rates for service through the market expansion facilities to reflect its actual cost of debt, debt to equity ratio and market expansion when Discovery files tariff sheets to place its initial rates into effect prior to the start of service through the market expansion facilities.

14. Discovery also states that, in order to perform the necessary hydrostatic test to measure the actual capacity of Line 40E, the line connecting it to the Tennessee platform must be in place. Accordingly, Discovery states that it may have to construct the interconnecting line under its blanket certificate and requests that the Commission waive its rules and regulations to allow Discovery to include the cost of the interconnecting line in its rates for service through the market expansion facilities.

15. As mentioned above, Discovery's IT (Market Expansion) rate of $0.1590 per Dth is based on a 50 percent load factor derivation of the firm rate. Discovery acknowledges that the Commission has rejected requests for IT rates based on other than 100 percent load factor derivations of a pipeline's firm transportation rates. Discovery states, however, that such requests were made in situations where the pipeline's interruptible service competed with release of firm transportation service for which the pipeline charged reservation fees. Discovery suggests that this policy does not apply to the instant situation because, due to the usage fee-only rate design, no capacity will be released on Discovery's system.

16. Discovery states that it will remain completely at risk to recover all of the costs of the market expansion facilities because its firm shippers have no obligation to pay any reservation fees and can request that Discovery deliver their gas to Discovery's existing delivery points at Texas Eastern or Bridgeline instead of using the market expansion facilities. Discovery suggests that it does not possess market power to be able to "extract economic rents" for firm service.[6] Therefore, it asserts its proposed 50 percent load factor

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[6]Discovery states that, in order to meet competitive forces, it has agreed with the market expansion shippers to negotiated rates below the proposed maximum Rate Schedule FT-2 recourse rate, and that it is likely to have to offer additional discounts below its maximum rates to attract additional firm and interruptible service through the market expansion facilities.

IT rate is appropriate to allow it to charge higher interruptible rates where possible in order to recover its cost of service.

Discovery Producer's Application

17. Discovery Producer, a non-jurisdictional gathering and processing company that is the corporate parent of Discovery, leases and operates four small compressors, each rated at approximately 1,500 horsepower, at the Larose Processing Plant. The compressors are currently used by Discovery Producer to boost the pressure of gathered gas on an as-needed basis in conjunction with processing operations at the plant. The units are not used on a continuous basis.

18. In order to provide sufficient capacity to deliver the contemplated additional volumes on its system to the proposed new interconnects, Discovery has entered into a compression services agreement with Discovery Producer. Under the five-year agreement (which can be extended for two additional five-year terms at Discovery's election), Discovery will have the option of using any two or three of Discovery Producer's four small leased units to compress gas on Discovery's system for further delivery downstream to its various interconnects. As discussed above, Discovery Producer will compress up to 150,000 Dth per day (the incremental firm service level proposed by Discovery), for which it will charge approximately two cents per Dth plus fuel costs. If compression is available, Discovery Producer will also compress quantities in excess of 150,000 Dth per day at no charge except fuel costs. Since the compression services will involve interstate gas, Discovery Producer requests a limited jurisdiction certificate covering any services rendered for Discovery.

Texas Eastern's Applicaion

19. Texas Eastern owns a 172-mile, 36-inch diameter pipeline extending from the Venice Gas Processing plant near Venice, Louisiana to an interconnection with Texas Eastern's 30-inch diameter mainline near Pointe Coupee Parish, Louisiana. This lateral currently has approximately 137,000 Dth per day of unsubscribed capacity along a portion of the lateral from Venice, Louisiana, to New Roads, Louisiana. From September 12, 2003, to October 3, 2003, Texas Eastern held an open season for available capacity along that portion of the lateral. Based on a net present value evaluation of the bids received during the open season, the winning bid was awarded to Discovery. As a result, Texas Eastern and Discovery entered into a capacity lease agreement that provides that Texas Eastern will lease to Discovery 100,000 Dth per day of capacity on the lateral on a firm basis. This may be increased up to 150,000 Dth per day at Discovery's option. The lease agreement provides for a primary term of ten years, after which Discovery may

elect to extend the term by increments of five years, up to a maximum term of twenty-five years.

20. The Lease Capacity extends approximately 32 miles on Texas Eastern's lateral, from a receipt point at the existing point of interconnection between Texas Eastern and Discovery near the Larose Compressor Station in Lafourche Parish to the proposed interconnection between Texas Eastern and Transco in Lafourche Parish near Thibodeaux, Louisiana. Under the terms of the Lease Agreement, Discovery may exercise an option to add a second primary delivery point at a proposed interconnection with Florida Gas Transmission Company (Florida Gas) in West Baton Rouge, Louisiana. The addition of this new delivery point would not change the monthly lease payments, but is subject to an adjustment for fuel use.[7] To the extent Discovery is not using the Lease Capacity, Texas Eastern will continue to use the Lease Capacity on a secondary or interruptible basis pursuant to its open access tariff.[8] The Lease Agreement provides that the Lease Capacity will revert back to Texas Eastern at the termination of the Lease Agreement without additional certificate authorization.

21. Texas Eastern states that the monthly lease charge of $63,875 under the Lease Agreement fully compensates Texas Eastern for the capacity leased to Discovery without subsidization by existing Texas Eastern customers. The fixed monthly lease payment is equivalent to $0.63875 per Dth, which is below Texas Eastern's maximum Rate Schedule FT-1 Zone ELA to Zone ELA Reservation Charge of $2.1620 per Dth. For the quantity of fuel, including lost and unaccounted for gas, required for delivery to the initial Primary Point of Delivery, Discovery shall be charged 0.35 percent of all gas quantities delivered by Discovery at that delivery point.[9] Texas Eastern states that the lease will enable Discovery to meet market demands while minimizing environmental and landowner impacts.

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[7] The option of adding a new Primary Delivery Point is subject to Texas Eastern's capacity allocation procedures, the availability of point capacity, and Texas Eastern's and Discovery's obtaining any necessary Commission authorizations.

[8] The Commission has approved this kind of arrangement previously. See Dominion Gas Transmission Company and Texas Eastern Transmission , LP, 104 FERC ¶ 61,267 (2003).

[9] Texas Eastern states that it will track the fuel usage over the course of each annual period and adjust the fuel percentage annual to reflect actual usage.

INTERVENTIONS, COMMENTS, PROTESTS, AND RESPONSE

22. Notices of Discovery's and Discovery Producer's applications and amendments were published in the Federal Register on August 8, 2003 (68 Fed. Reg. 47,303) and January 16, 2004 (68 Fed. Reg. 2,585). Notice of Texas Eastern's application was published in the Federal Register on January 26, 2004 (69 Fed. Reg. 3,571). Timely, unopposed motions to intervene were filed by Columbia Gulf, Tennessee Gas Pipeline Co., Murphy Exploration & Production Co. USA , Exxon Mobil Gas & Power Marketing Company, Venice Energy Services Company (Venice Energy), BP America Production Company and BP Energy Company, and Chevron Texaco Natural Gas in the Discovery dockets and by Discovery, the New England Local Distribution Companies, the KeySpan Delivery Companies, the East Ohio Gas Company and the Peoples Natural Gas Company, Atmos Energy Corporation, Piedmont Natural Gas Company, Inc., the Municipal Defense Group, and Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc. and Philadelphia Gas Works (Con Ed, Orange and Rockland and Philadelphia) in the Texas Eastern docket.[10]

23. Columbia Gulf and Indicated Shippers[11] filed protests, Venice Energy filed comments, and Discovery filed a reply in the Discovery docket and the Municipal Defense Group and Con Ed, Orange and Rockland and Philadelphia filed comments in the Texas Eastern docket. Our procedural rules generally do not permit replies to comments or protests.[12] Accepting Discovery's reply, however, will not delay the proceeding or prejudice any party. Further, Discovery's reply has aided in our decision-making. Accordingly, we find good cause to accept the reply.

24. Columbia Gulf and Venice Energy are concerned that Discovery's proposed interconnection with Columbia Gulf's Venice Lateral will diminish service to customers using its Venice Lateral. Venice Energy states that Discovery's proposal could create a bottleneck that could impinge on Venice Energy's ability to deliver gas from its processing plant into the Venice Lateral. Columbia Gulf states that Discovery fails to

[10]Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 CFR § 385.214.

[11]Indicted Shippers are BP Energy Company, BP America Production Company and Chevron Texaco Natural Gas.

[12]18 CFR § 385.213(a)(2) (2004).

meet two of the five conditions required to obtain an interconnection with the Venice Lateral.

25. Columbia Gulf states that, for Discovery's gas to flow into the Venice Lateral, Discovery's facilities would have to operate at a pressure slightly higher than the Venice Lateral's operating pressure at the proposed interconnection point. Columbia Gulf explains that if the pressure of gas from Discovery's facilities is too much higher than the pressure in the Venice Lateral immediately upstream of the Discovery interconnect, the Discovery gas will hinder and likely prevent the flow of gas from Columbia Gulf's existing customers into the Venice Lateral. To counter the proposed Discovery pressure, Columbia Gulf states that the pressure in the Venice Lateral must be at least 1,150 psig. Columbia Gulf states, however, that its existing shippers have an expectation that their gas will flow based on the pressure historically maintained on the Venice Lateral, which ranges from 801 to 907 psig, compared to the 1,052 maximum allowable operating pressure (MAOP) proposed for Discovery's market expansion project at the proposed interconnection point.

26. Columbia Gulf states that it has no means to increase the Venice Lateral's pressure in order to move gas for Columbia Gulf's existing shippers. Pressure on the Venice Lateral is provided solely by the Venice Plant and the Grand Isle Plant, which are owned and operated by third parties who are not obligated to maintain pressure levels on the Venice Lateral or subject to pressure commitments requiring them to deliver gas to Columbia Gulf. Columbia Gulf states that the pressures provided by the Venice and Grand Isle plants have never come close to reaching levels high enough to exceed the MAOP proposed by Discovery at the proposed interconnect. Columbia Gulf also asserts that existing interconnecting customers with gas supplies flowing into the Venice Lateral may be required to install and pay for additional compression to deliver their gas into the Venice Lateral. Columbia Gulf states that Discovery's application should be denied.

27. Discovery disputes Columbia Gulf's contentions, stating that it is willing to pay for the costs of interconnecting with the Venice Lateral and that deliveries of gas from Discovery to the Venice Lateral will not adversely affect Columbia Gulf's existing shippers. Discovery asserts that the historical low operating pressures on the Venice Lateral indicate that it is underutilized. Discovery states that its proposed interconnect will give Discovery's shippers access to markets on and downstream of the Venice Lateral and to additional sources of supply, thereby increasing throughput on the Venice Lateral.

28. Discovery asserts that shippers have no right to rely on historical low operating pressures, noting that Columbia Gulf's Tariff at section 13 of the General Terms and Conditions states that each shipper must have its gas delivered to Columbia Gulf at a

pressure that meets the operating pressure at the receipt point as such pressure shall vary from time to time. Discovery adds that it will not be continuously delivering high pressure gas into the Venice Lateral and that its MAOP of 1,052 psig is significantly lower than the 1,238 psig MAOP of the 24-inch diameter line that constitutes the part of the Venice Lateral where the proposed interconnect will be located and the 1,037 MAOP of the 30-inch diameter line downstream of the proposed interconnection point.

29. Columbia Gulf objects to Discovery's proposed "hot tap" between the 20-inch diameter Line 40E and the currently operating 24-inch diameter Venice Lateral, noting that industry standards limit "hot tap" construction to pipes whose diameter is no more that 50 percent of the diameter of the operating pipe line. In response, Discovery states that its proposed 12-inch diameter tap line meets this standard.

30. Indicated Shippers object to Discovery's proposed IT rate being based on a 50 percent load factor of the firm rate. Indicated Shippers state the IT rate cannot be higher than the rate for firm service because interruptible service is inferior to firm service and has the lowest scheduling priority and curtailment priority of any service. Indicated Shippers also state that IT rates should maximize throughput when capacity is available to schedule interruptible service, especially since firm shippers have acquired 112,000 Dth per day of expansion capacity, while total available capacity can go up to 200,000 Dth per day. Indicated Shippers state that the IT rate should be set at a reasonable level so there is no unfair rate constraint on the ability of shippers to use interruptible service, noting that all of the shippers are either producers or marketers, which, Indicated Shippers assert, are the shippers that rely the most on interruptible service.

31. Indicated Shippers state that an excessive IT rate would give Discovery's marketing affiliates an unfair advantage in competing for interruptible service and could distort price signals by giving a shipper a strong incentive to acquire firm capacity even if the shipper does not need firm capacity, which would remove firm capacity from the market and could make it difficult for shippers needing firm capacity to get this capacity. They state that an excessive IT rate will also harm the overall gas market because it would cause distortions of production and development decisions as excessive transportation rates are absorbed, in whole or in part, by producers in the form of reduced netbacks. They note that offshore production is a major portion of overall domestic production and involves higher risks and costs than onshore production. Consequently, they state that excessive transportation rates for offshore production would pose a big risk of choking off production.

32. Indicated Shippers emphasize that Commission policy requires a pipeline to make a comprehensive showing that it lacks market power to support a request to charge market-based rates. Indicated Shippers state that Discovery has not even attempted to

make the comprehensive showing that would be required to support its argument for a 50 percent load factor rate, which, it views, in effect, as a request to charge market-based rates.

33. Indicated Shippers further state that Discovery fails to explain why it cannot allocate costs to interruptible service. They state that Commission policy requires Discovery to allocate a reasonable level of costs to interruptible service, but that if it cannot reliably predict the level of interruptible service, it must credit 90 percent of its revenue from interruptible service and overrun to firm service to avoid over-recovery of its cost of service.[13]

34. In addition to reiterating the statements made in its application, Discovery states that it has never transported and has no intention to transport any gas for its marketing affiliates. Discovery states that its Rate Schedule FT-2 shippers have to commit production for the life of their gas leases for delivery by Discovery in exchange for the lower FT-2 usage rate. Discovery states that, where firm shippers receive discounts under long-term contracts, it is not unusual for interruptible shippers to pay higher rates during shorter periods of time where market conditions allow the pipeline to charge such higher rates. Discovery states that, although the Commission has generally permitted only 100 percent load factor IT rates, it has not said that it would never approve maximum IT rates higher than a 100 percent load factor derivation of the firm rates. Discovery suggests that the Commission can require Discovery to file a report after three years of service that would set forth the level of revenue collected. Alternatively, Discovery states that it would be willing to credit back to its shippers 90 percent of the revenue collected in excess of its cost of service.

35. Since the fixed monthly lease payment is well below Texas Eastern's maximum rate for service in that zone, the Municipal Defense Group requests that the Commission find that Texas Eastern is precluded in any future proceeding from attempting to collect any of the differential between the applicable maximum FT-1 rate and Discovery's lease rate from Texas Eastern's other customers. Con Ed, Orange and Rockland and Philadelphia are concerned that existing customers will subsidize fuel. They state that avoiding subsidization is not ensured in the absence of on-going information as to the fuel use of and fuel reimbursement by such projects, and request that Texas Eastern be

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[13]Indicated Shippers cite Questar Southern Trails Pipeline Co., 89 FERC ¶ 61,148 (1999), order on reh'g and issuing certificates, 92 FERC ¶ 61,110 (2000); Maritimes & Northeast Pipeline, 85 FERC ¶ 61,120 (1998); Young Storage Co., 67 FERC ¶ 61,375 (1993).

required to include in its annual fuel filings data reflecting the fuel use of, and fuel reimbursement received from, the Discovery lease.

DISCUSSION

36. Since the applications pertain to facilities used for the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, Discovery's, Discovery Producer's and Texas Eastern's proposals are subject to the requirements of section 7 of the NGA.

Application of the Certificate Policy Statement

37. On September 15, 1999, the Commission issued a statement of policy on the certification of new interstate natural gas pipeline facilities (Policy Statement on New Facilities) to provide guidance as to how we will evaluate proposals for certificating new construction. In this Policy Statement on New Facilities we established a criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances public benefits against potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions to the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

38. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers. The next step it to determine whether the applicant has made efforts to eliminate any adverse effects the project might have on the applicant's existing customers.

39. The Commission also considers potential impacts of the proposed project on other pipelines in the market, those existing pipeline's captive customers, and landowners and communities affected by the route of the new pipeline. If residual adverse effects on those 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 of the proposal outweigh the adverse effects on other economic interests will the Commission proceed to complete the environmental analysis where other interests are considered.

40. The Commission finds that Discovery's proposed market expansion project, including the proposed provision of compression services by Discovery Producer and the proposed lease of capacity from Texas Eastern, is required by the public convenience and necessity consistent with the Commission's policy statement. The Discovery market expansion project will provide new sources of supply[14] to the customers of the pipelines with which Discovery will interconnect, and the project will also provide open access to new markets for Discovery's shippers. Also, the market expansion project will substantially increase the supply of natural gas committed to Discovery and thus made available to the shippers. The market expansion will result in the delivery of new gas supplies to the markets on Columbia Gulf, Gulf South, Tennessee and Transco at the new delivery points, and should enhance the stability of gas pricing in these markets to the benefit of natural gas consumers. Discovery's existing and new shippers will have increased access to new markets at and downstream of the new delivery points.[15] Moreover, Discovery's existing shippers will not bear any of the costs of the market expansion project. Since Discovery's rate schedule obligates the shippers to pay only to the extent that they use the facilities, Discovery is at risk for recovery of all costs of its expansion facilities. Thus, the project will not rely on subsidies from existing customers.

41. The Commission finds that there will be no adverse impacts on other pipelines in the market or their captive customers, including, as discussed below, Columbia Gulf and Texas Eastern. The project will have minimal landowner impact. Discovery has structured the project to avoid land disturbance and environmental impacts by relying almost exclusively on existing facilities to provide the proposed expanded services. In particular, Discovery's lease of 100,000 Dth of capacity from Texas Eastern, its acquisition of nearly 32 miles of pipe from Discovery Producer and DPH, Inc. and its purchase of compression services from Discovery Producer avoid duplicative facilities and significantly reduce the need to acquire right-of-way and compressor sites. New construction is limited to less than 2.5 miles of new pipeline and associated metering and

[14]Discovery has executed or anticipates executing precedent agreements for approximately 112,000 Dth per day of firm service through the market expansion facilities with shippers who have committed approximately 488 Bcf of incremental supplies to be delivered through Discovery's system. In addition, two other shippers have expressed a desire to receive service for up to 100,000 Dth per day, which Discovery expects to deliver on an interruptible basis under its IT Rate Schedule.

[15]As an additional operational benefit, they will also have potential access to the processing facilities on Tennessee as back up in the event that the Larose processing plant is unavailable due to maintenance and operational concerns.

regulating facilities. Cumulatively, the project facilities would affect only about 13.6 acres of land on a permanent basis. Discovery anticipates that it will be able to acquire all necessary easements without resorting to the use of eminent domain. Since most of the pipeline and compression facilities are already in place and will be acquired or leased by Discovery, the burden on the public and, as discussed below, the impact on the environment, is minimal.

Impact on Columbia Gulf and its Shippers

42. The Commission finds that Discovery's proposal will not have an adverse impact on Columbia Gulf and its customers. Columbia Gulf and Discovery both note that, in Panhandle Eastern Pipe Line Co., 91 FERC & 61,037 (2000), the Commission articulated its current interconnection policy. Under that policy, a party desiring access to a pipeline to obtain interconnections must satisfy five conditions:

- the party seeking the interconnection must be willing to bear the costs of the construction;
- the proposed interconnection must not adversely affect the pipeline's operations;
- the proposed interconnection and any resulting transportation must not diminish service to the pipeline's exiting customers;
- the proposed interconnection must not cause the pipeline to be in violation of any applicable environmental or safety laws or regulations; and
- the proposed interconnection must not cause the pipeline to be in violation of its right-of-way agreements or any other contractual obligations with respect to the interconnection facilities.

43. As mentioned above, Columbia Gulf and Venice Energy expressed concerns regarding two of the five conditions. We note that Discovery states that it is willing to pay for all costs of an interconnection with the Venice Lateral that are reasonable, necessary and consistent with industry standards. Further, the operating data in the record of this proceeding contains no indication that deliveries of gas from Discovery into the Venice Lateral would adversely affect Columbia Gulf's use of its Venice Lateral or diminish service to its existing shippers should such interconnection occur.

44. The Commission's review of the pipeline system models submitted by both Discovery and Columbia Gulf in this proceeding indicates that additional volumes of

natural gas, ranging from 50,000 Dth per day to 150,000 Dth per day, will not increase operating pressures on the Venice Lateral above the historical maximums of about 1,079 psig at Venice Energy's Venice plant[16] and 1,053 psig at ExxonMobil's Grand Isle plant.[17] Discovery's proposed market expansion is designed to allow shippers the flexibility to deliver gas supplies of up to 150,000 Dth per day to one or up to four different pipeline systems: Gulf South, Tennessee, Transco and Columbia Gulf. Review of the data submitted supports Discovery's assertion that, even if all of Discovery's shippers were to nominate Columbia Gulf as their delivery point for the entire Market Expansion capacity of 150,000 Dth per day, pressures on the Venice Lateral would not exceed the historical pressures.[18] Even if the compression facilities at the Larose Plant were to discharge at Discovery's MAOP of 1,052, the pressures at Discovery's interconnect would be lower than 1,052 psig.[19]

45. In any event, Discovery states that it will not normally be delivering high pressure gas into the Venice Lateral. Discovery estimates that the normal operating pressure of gas delivered to the interconnection point will range from about 850 psig to 942 psig.[20] Since there is no evidence that the operating pressures on the Venice Lateral would exceed either its historical or maximum allowable operating pressures after installation of the proposed Discovery interconnect, we are not persuaded that Discovery's proposed market expansion project will adversely impact Columbia Gulf's existing shippers using the Venice Lateral.

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[16] See Venice Energy's October 30,2003 data response.

[17] See ExxonMobil's October 27, 2003 data response.

[18] See Appendix A to Discovery's November 24 reply; Columbia Gulf data responses Nos. 1 and 3; ExxonMobil data response No. 1; and Venice Energy's data response.

[19] We note that Discovery's MAOP of 1,052 psig is significantly lower than the 1,238 psig MAOP on Columbia Gulf's system at the proposed Discovery interconnection and not significantly higher than the 1,037 psig MOAP downstream of the proposed interconnection.

[20] Appendix A to Discovery's November 24 reply to data responses filed by Columbia Gulf, ExxonMobil and Venice Energy.

46. As to Columbia Gulf's objection to Discovery's installation of a hot tap on its system, Discovery points out that the "hot tap" on the Venice Lateral will be made, not with a 20-inch diameter line, as suggested by Columbia Gulf in its protest, but with a 12-inch diameter line that will connect the 20-inch diameter Line 40E to be acquired from DPH, Inc. with the 24-inch diameter Venice Lateral. As noted in Columbia Gulf's protest, industry standards limit the application of hot taps to 50 percent of the diameter of the existing pipeline. Discovery's proposal to install a 12-inch diameter line connecting with the 24-inch diameter Venice Lateral is within industry standards.

47. Finally, we note that Columbia Gulf's Venice Lateral has available capacity that could be utilized to transport additional gas from Discovery.[21] These additional sources of supply on Discovery could generate more competition among gas sellers with supplies available on the Venice Lateral. This increased competition among gas sellers, as well as the increased utilization of the Venice Lateral, should ultimately mean lower costs for Columbia Gulf's shippers if Discovery and Columbia Gulf were interconnected.

Compression Services Agreement

48. We will authorize the limited-jurisdiction certificate requested by Discovery Producer. The compression service for Discovery will be strictly ancillary to Discovery Producer's primary business of operating gathering, processing, treating, and compression services in the state of Louisiana. The proposed service will permit it to achieve greater and more efficient utilization of its leased compressors and revenues received from Discovery will help defray the fixed leased costs attributable to the compressors. The compression service also provides significant economic and environmental advantages for Discovery. By arranging to utilize existing compression facilities at relatively modest cost, Discovery has avoided the time, expense, and potential environmental impact associated with obtaining and preparing a site and ordering and installing its own compressor equipment. As a result, Discovery has been able to market a project that is more competitive with less environmental impact. Recognizing the synergies created by the compression service, we find that the arrangement and the underlying compression services agreement are in the public interest.

49. In other orders granting limited jurisdiction certificates to otherwise non-jurisdictional companies engaged in comparatively minor jurisdictional activities, the Commission did not subject the company to all the regulatory requirements applicable to

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[21] See Columbia Gulf's September 25, 2003 data response No. 3.

conventional natural gas companies.[22] The public interest would not be served by subjecting Discovery Producer to all the filing and accounting requirements applicable to interstate pipeline companies. Accordingly, those requirements are waived.

Capacity Lease Agreement

50. The Commission will grant approval of Texas Eastern's abandonment by lease of firm capacity to Discovery and issue a certificate to Discovery authorizing the acquisition of firm capacity by lease on Texas Eastern. As discussed above, Texas Eastern states that it currently has 137,000 Dth per day of unsubscribed capacity along a portion of a lateral that extends from Venice, Louisiana, to New Roads, Louisiana. In September 2003, Texas Eastern held an open season for available firm capacity along a portion this lateral. The bid was awarded to Discovery. As a result, Discovery and Texas Eastern entered into a capacity lease agreement that provides that Texas Eastern will lease to Discovery 100,000 Dth per day of existing capacity on Texas Eastern's lateral on a firm basis.

51. Texas Eastern's lease of capacity will enable Discovery to serve new markets in southern Louisiana without the construction of duplicative facilities and will minimize environmental and economic costs in the process. The Discovery lease uses available unsubscribed capacity and does not result in a change in rate for Texas Eastern's existing shippers. Therefore, as discussed below, the project will not result in adverse economic or operational impacts on Texas Eastern's existing shippers. Texas Eastern's Discovery lease project will also not affect existing third party pipelines or their customers. No existing third party pipeline provides a similar service that Discovery proposes, nor is it contemplated that any will provide such service. Accordingly, Discovery's lease of the Texas Eastern capacity will have no significant adverse impacts on Texas Eastern's existing customers, other pipelines in the market area, or their captive customers.

52. The Commission's test for approving lease arrangements is whether the lease payments are less than, or equal to, the lessor's firm transportation rates for comparable service over the terms of the lease on a net present value basis.[23] Discovery's lease

[22] See e.g., Columbia Gas Transmission Corporation, 90 FERC ¶ 61,211 (2000); Continental Natural Gas Company, 83 FERC ¶ 61,065 (1998) and Lawrenceburg Gas Company, 74 FERC ¶ 61, 306 (1996).

[23] See Columbia Gas Transmission Corporation, 79 FERC ¶ 61,160, at pp. 61,755-59 (1997); Midwestern Gas Transmission Co., 73 FERC ¶ 61,320, at p. 61,888 (1995); and Mobile Bay Pipeline Projects, 55 FERC ¶ 61,358, at p. 62,078 (1991).

payment is $63,875.00 per month, which is equal to the product of $0.63875 per Dth per month multiplied by the maximum lease quantity of 100,000 Dth. Texas Eastern's Zone ELA to Zone ELA reservation charge for FT-1 service is $2.1620 per Dth.[24] We will approve the lease rate because it is less than Texas Eastern's firm transportation rate.

53. The Municipal Defense Group requests that the Commission preclude Texas Eastern from attempting to collect the difference between the maximum FT-1 rate and the lease rate from Texas Eastern's existing customers in future rate proceedings. Texas Eastern states that the monthly lease charge fully compensates Texas Eastern for capacity leased to Discovery. Moreover, Texas Eastern states that it will maintain the costs of the lease in a separate incremental plant sub-account in the same manner as costs related to incremental projects. The Commission affirms that Texas Eastern must maintain the records associated with the Discovery lease in accordance with section 154.309 of the Commission's regulations.[25] This information will permit the parties to review incremental revenue credits with incremental costs and their allocation to existing customers and ensure that subsidization is not occurring.

54. In addition, Texas Eastern's customers will not subsidize Discovery's capacity lease with respect to fuel or electric costs. Texas Eastern states that it will track actual fuel usage for the lease capacity and will adjust the fuel percentage for which Discovery is responsible on an annual basis. Since Discovery will be responsible for the fuel associated with its capacity lease, Texas Eastern's existing customers will not subsidize the Discovery capacity lease with respect to fuel costs. Moreover, Texas Eastern states that its existing customers will not subsidize the Discovery lease with respect to electric costs since the two compressor stations on the lateral are gas-fired and that there are no incremental electric power costs associated with the project. To ensure that Texas Eastern's existing customers do not subsidize fuel for the Discovery lease, however, the Commission will require Texas Eastern to separately track and report actual fuel used to operate the compressors on the lateral when it files its annual tracker filings.

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[24] See Texas Eastern Transmission, LP, FERC Gas Tariff, Seventh Revised Volume No. 1, Ninth Revised Sheet No. 30.

[25] We also note that Texas Eastern must record revenues received from the lease payments in Account No. 489.2, Revenues from Transportation of Gas of Others Through Transmission Facilities, and Discovery must record expenses associated with the lease payments in Account No. 858, Transmission and Compression of Gas by Others.

55. Texas Eastern requests pre-granted approval to abandon its lease upon termination of the lease agreement. The Commission, however, cannot make a public interest determination at this time because it has no way of knowing future facts and circumstances regarding operation of the subject facilities over the term of the lease. The Commission will need to review the use of the pipeline facilities at a time when it can determine if the public interest would permit abandonment; it cannot now predict the impact of an abandonment on customers that may or may not be relying on the facilities 10 to 25 years from now.[26] Accordingly, we will require that Texas Eastern seek abandonment approval upon termination of the lease agreement.

Rate Treatment

56. The Commission will accept Discovery's proposed firm rates. The levelization method, capital structure and cost of equity used in developing Discovery's proposed rates is consistent with methodology and cost factors underlying the rates approved by the Commission in the order issuing Discovery's current certificate.[27] We note that Discovery has included in its rate base $478,863 of costs attributable to constructing, under its blanket certificate, the line connecting Line 40E to the Tennessee platform. Based on Discovery's assertion that construction of these interconnecting facilities will be completed prior to the in service date of the proposed market expansion facilities at issue in this proceeding, the Commission will allow Discovery to include these costs in its rate base. We will require Discovery to revise its proposed initial rates, however, not only to reflect its actual capital structure and capital costs, but also to remove from its rate base costs associated with any facilities that are not in service at the time the rates go into effect.

57. The Commission, however, will reject Discovery's proposed IT rate, which is inconsistent with Commission policy. The Commission finds that Discovery has not justified the use of a 50 percent load factor. Discovery asserts that, because there is no capacity release on its system, the new interruptible service will not compete with released firm capacity. Discovery's proposal to charge a higher rate for a lesser-quality interruptible service than it would charge for a higher-quality firm service is flawed. Interruptible service has the lowest scheduling priority and curtailment priority of any service. Accordingly, Commission policy requires the use of a 100 percent load factor

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[26] See Northwest Pipeline Corporation, 106 FERC ¶ 61,174 (2004).

[27] See Discovery Gas Transmission LLC, 71 FERC ¶ 61,194 (1997).

rate for interruptible service unless there are extenuating circumstances that would require an exception. Discovery has not justified such an exception.

58. Discovery states that without the ability to charge its proposed IT rate, it will be completely at risk to recover all of the market expansion facilities and thus its allowable return. Discovery argues that it may need to use a higher rate for interruptible service than it does for firm service for the market expansion facilities in order to ration capacity at the Gulf South and Transco delivery points, at which the delivery capacity is less than the capacity of the market expansion facilities. While this scenario may be accurate, we note that there is excess capacity on Discovery's system. In a data response, Discovery states that during July 2003, it received for delivery an average of 285,676 Dth per day, well below the designed capacity of 600,000 Dth per day (response to Data Request No. 13). Further, Discovery states that the new capacity of 150,000 Dth per day as a result of the compression being made available by Discovery Producer can be delivered using a combination of the four new delivery points (response to Data Request No. 17). The Commission will reject Discovery's proposed IT rate and require it to file a re-calculated IT rate based on the 100 percent load factor equivalent of the firm rate. If Discovery finds that it not able to recover all of the costs of its market expansion facilities, it can file a section 4 rate case.

59. Finally, we note that Discovery does not propose to allocate costs to interruptible service. The Commission's policy regarding new interruptible service requires either a crediting of IT revenues, net of variable costs, to firm and interruptible customers or an allocation of costs to this service.[28] Because this is a new service without actual experience upon which to allocate costs, the Commission will require Discovery to reflect a mechanism in its tariff to credit 100 percent of IT revenues, net of variable cost, to firm and interruptible customers.

Environmental Assessment

60. Our staff prepared an environmental assessment (EA) for Discovery's proposal. The EA addresses geology, mineral resources, soils, water resources, vegetation, wildlife, federally listed threatened and endangered species, land use, cultural resources, air quality, noise quality, and alternatives.

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[28] See Nornew Energy Supply, Inc. and Norse Pipeline, L.L.C., 98 FERC ¶ 61,018 (2002).

61. Based on the discussion in the EA, we conclude that, if constructed in accordance with Discovery's application, supplemental filings, and the environmental mitigation measures in Appendix A, approval of this proposal would not constitute a major Federal action significantly affecting the quality of the human environment.

62. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction of facilities approved by this Commission.[29] Discovery shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Discovery. Discovery shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

Conclusion

63. At a hearing held on May 5, 2004, the Commission on its own motion, received and made a part of the record all evidence, including the applications and exhibits thereto, as amended and supplemented, submitted in this proceeding and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Discovery authorizing it to construct, acquire, lease, own, operate and maintain natural gas facilities and services, as described and conditioned herein, and as more fully described in the application and amendment.

(B) Any certificate authority issued in Ordering Paragraph (A) is conditioned as discussed in this order, and on the following:

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

- Discovery completing the authorized construction, acquisition and leasing within one year of this order;

- Discovery complying with paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and

- Discovery's compliance with the environmental conditions listed in the appendix to this order.

(C) A limited jurisdiction certificate of public convenience and necessity is issued to Discovery Producer authorizing it to provide compression services to Discovery as described and conditioned herein and as more fully described in the application and amendment, which authorization will not otherwise affect the non-jurisdictional status of any other operation in which Discovery Producer is currently engaged.

(D) Discovery Producer's request for waiver of the Commission's filing and accounting requirements is granted.

(E) Approval of Texas Eastern's abandonment by lease of firm capacity to Discovery as described herein and in Texas Eastern's application is granted.

(F) A certificate of public convenience and necessity is issued to Discovery authorizing the acquisition of firm capacity by lease on Texas Eastern as described herein and in Texas Eastern's application, subject to the conditions and modifications required by this order.

(G) The authorizations granted in Ordering Paragraphs (D) and (E) are subject to the following conditions:

- Discovery and Texas Eastern are required to advise the Commission of the date of commencement of the lease;

- Discovery must comply with all applicable Commission regulations, particularly Part 154 and sections 157.20(a), (d) and (e) of Part 157;

- The operating conditions and standards provided by the lease operating agreement shall not result in any impairment of Texas Eastern's customers rights under Texas Eastern's tariff;

- Texas Eastern must separately track and report actual fuel used to operate the compressors on the lease facilities when it files its annual tracker filings; and

- Texas Eastern is required to include in its annual fuel filings data reflecting the fuel use of, and fuel reimbursement received from, the Discovery lease.

(H) Texas Eastern's request for pre-granted abandonment of the lease is denied.

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

(J) Discovery's proposed initial rate under Rate Schedule FT-2 (Market Expansion) is accepted as discussed in the body of this order, subject to the following conditions:

- Discovery must file revised rates, not less than 30 nor more than 60 days prior to implementing the market expansion project, to:

    (1) recalculate the IT rate under Rate Schedule IT (Market Expansion) based on the 100 percent load factor derivative of the firm rate;

    (2) include a revenue crediting mechanism in its tariff for 100 percent of all IT and overrun revenue received, which will be credited to firm and interruptible shippers; and

    (3) update its capital structure and capital costs to reflect the actual cost of financing the market expansion project; and

- Discovery must remove from its rate base the cost of any facilities that are not in service at the time the rates become effective and file revised rates within 30 days of such effective date.

(K) Discovery's reply is accepted.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

APPENDIX A

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

1. Discovery shall follow the construction procedures and mitigation measures described in its application and supplements and as identified in the EA, unless modified by this order. Discovery must:

   a. request any modifications to these procedures, measures, or conditions in a filing with the Secretary;
   b. justify each modification relative to site-specific conditions;
   c. explain how that modification provides an equal or greater level of environmental protection that the original measure; and
   d. receive approval in writing from the Director of the OEP before using that modification.

2. The Director of OEP has delegation authority to take whatever steps are necessary to insure the protection of all environmental resources during construction and operation of the project. This authority shall allow:

   a. the modification of conditions of this order; and
   b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.

3. Prior to construction, Discovery shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.

4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. As soon as they are available, and before the start of construction, Discovery shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for the facility approved by this order. All requests for modifications of

environmental conditions of this order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

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

This requirement does not apply to minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

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

a. implementation of cultural resources mitigation measures;
b. implementation of endangered, threatened, or special concern species mitigation measures;
c. recommendations by state regulatory authorities, and
d. agreements with individual landowners that affect other landowners or could adversely affect sensitive environmental areas.

Discovery shall file updated status reports prepared by the environmental inspector with the secretary on a weekly 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. the current construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector(s) during the reporting period

(both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);

c. corrective actions implemented in response to all instances of noncompliance, and their cost;

d. the effectiveness of all corrective actions implemented;

e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this order, and the measures taken to satisfy their concerns; and

f. copies of any correspondence received by Discovery from other federal, state or local permitting agencies concerning instances of noncompliance, and Discovery's response.

6. Within 60 days of the acceptance of this certificate and before construction begins, Discovery shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how Discovery will implement the mitigation measures required by this order. Discovery must file revisions to the plan as schedules change.

7. Discovery must receive written authorization from the Director of OEP before commencing service from the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the ROW is proceeding satisfactorily.

8. Discovery shall not construct its Point Au Chien to Columbia Gulf pipeline segment until it has received a determination from the Louisiana Department of Natural Resources, Coastal Management Division, that the project is consistent with the state's Coastal Zone Management Program and Discovery has filed a copy of the coastal zone consistency determination with the Commission.