

171 FERC ¶ 61,233  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Richard Glick, Bernard L. McNamee,  
and James P. Danly.

ANR Pipeline Company

Docket No. CP20-8-000

ORDER ISSUING CERTIFICATE  
AND APPROVING ABANDONMENT

(Issued June 18, 2020)

1. On October 28, 2019, ANR Pipeline Company (ANR) filed an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA)<sup>1</sup> and Part 157 of the Commission's regulations<sup>2</sup> for authorization to modify two existing compressor stations, construct and operate a new greenfield compressor station, increase delivery capability at a meter station, abandon an existing compressor unit, and install various appurtenant and auxiliary facilities, located in Acadia, Jefferson Davis, and Cameron Parishes, Louisiana (Grand Chenier XPress Project). The project will enable ANR to provide 400,000 dekatherms per day (Dth/d) of firm transportation service for one customer.
2. For the reasons discussed in this order, the Commission grants the requested authorizations, subject to certain conditions.

**I. Background and Proposal**

3. ANR, a Delaware corporation,<sup>3</sup> is a natural gas company, as defined by section 2(6) of the NGA,<sup>4</sup> engaged in the business of transporting and storing natural

---

<sup>1</sup> 15 U.S.C. §§ 717f(b), (c) (2018).

<sup>2</sup> 18 C.F.R. pt. 157 (2019).

<sup>3</sup> ANR is a wholly owned indirect subsidiary of TransCanada PipeLine USA Ltd.

<sup>4</sup> 15 U.S.C. § 717a(6) (2018).

gas in interstate commerce. ANR operates approximately 9,400 miles of interstate pipeline facilities extending from Texas and Oklahoma to Michigan and Wisconsin.

4. In addition to requesting NGA section 7(c) case-specific certificate authority for the proposed expansion, ANR plans to rely on the automatic authorization provided by section 2.55(b) of the Commission's regulations to replace an old compressor unit at the Eunice Compressor Station in Acadia Parish, Louisiana.<sup>5</sup> Currently, the Eunice Compressor Station consists of two 12,000 horsepower (hp) gas-fired, reciprocating compressor units, Unit 101A and Unit 101B.<sup>6</sup> ANR explains that it will replace Unit 101A, pursuant to section 2.55(b), with a Mars 100 gas-fired, turbine compressor unit that will be de-rated to 12,000 hp. Once the 2.55(b) replacement is complete, Unit 101A will serve as a standby unit; compression supporting existing transportation services at the Eunice Compressor Station will be provided by the new Mars Unit (12,000 hp) and Unit 101B (12,000 hp). ANR states that this replacement is necessary to increase reliability for existing services.

5. As part of the Grand Chenier XPress Project, ANR proposes to modify and expand its existing pipeline system to provide 400,000 Dth/d of incremental firm transportation service from ANR's Southeast Headstation<sup>7</sup> in Acadia Parish, Louisiana, to the Mermentau River GCX Meter Station in Cameron Parish, Louisiana,<sup>8</sup> on a north-to-south basis. Specifically, ANR proposes to:

- modify the existing Eunice Compressor Station to increase the total certificated horsepower from 24,000 hp to 39,370 hp, by installing a new 23,470 hp Solar Turbine Titan 130 gas-fired, turbine compressor unit; uprating the new Mars 100 gas-fired, turbine compressor unit from

---

<sup>5</sup> 18 C.F.R. § 2.55(b) (2019). Section 2.55(b) of the Commission's regulations provides authorization for pipeline companies to replace obsolete facilities with new facilities, if those new facilities will have substantially equivalent design capacity and all construction activities will be confined to the existing right-of-way and use only the temporary work space used to construct the original facilities.

<sup>6</sup> ANR's February 27, 2020 Supplemental Information.

<sup>7</sup> ANR's Headstation is a pooling point where ANR gas is aggregated from many receipt points.

<sup>8</sup> The Mermentau River GCX Meter Station interconnects with the TransCameron Pipeline, which is currently under construction. *See TransCameron Pipeline, LLC*, 166 FERC ¶ 61,144 (2019).

12,000 hp to 15,900 hp;<sup>9</sup> placing the existing 12,000 hp reciprocating compressor Unit 101B on standby;<sup>10</sup> abandoning in place the existing reciprocating compressor Unit 101A;<sup>11</sup> and installing 810 feet of new piping (440 feet aboveground and 370 feet belowground);

- construct a new Mermentau Compressor Station in Jefferson Davis Parish, Louisiana, consisting of one 23,470 hp Solar Turbine Titan 130 gas-fired, turbine compressor unit; filter/separators; a fuel gas heater; gas cooling bays; 3,506 feet of associated piping (1,406 feet aboveground and 2,100 feet belowground); and related appurtenant facilities;
- restage the existing 10,800 hp Dresser-Rand gas-fired, turbine compressor unit,<sup>12</sup> install 42 feet of aboveground piping, and install a new filter separator at the Grand Chenier Compressor Station in Cameron Parish, Louisiana; and
- modify the Mermentau River GCX Meter Station at the Grand Chenier Compressor Station in Cameron Parish, Louisiana, with the installation of an additional meter run and related appurtenant facilities in order to

---

<sup>9</sup> ANR October 28, 2019 Application at 6, note 6 (Application).

<sup>10</sup> ANR states that standby compression enables it to maintain its certificated level of horsepower in the event of an outage, which will mitigate the risk of customer interruptions during such outages. *Id.* at note 7.

<sup>11</sup> As noted above, Unit 101A will be placed on standby following the 2.55(b) replacement. ANR states that Unit 101A was installed in 1972 under Docket No. CP73-114-000, and that this compressor unit will no longer be needed once the new 23,470 hp Solar Turbine Titan 130 gas-fired, turbine compressor unit is installed and Unit 101B is placed on standby. *Id.* at 6-7.

<sup>12</sup> ANR increased its certificated ISO rated horsepower from 9,700 to 10,800 at the Grand Chenier Compressor Station pursuant to its blanket certificate. ANR March 11, 2020 Application, Docket No. CP20-87-000 at 4.

increase the delivery capability of the station from 700,000 Dth/d to 1,100,000 Dth/d.<sup>13</sup>

ANR estimates that the total project will cost \$173 million.

6. On December 21, 2018, ANR executed a precedent agreement with Venture Global Calcasieu Pass, LLC (Venture Global)<sup>14</sup> for a 20-year term, at a negotiated rate.<sup>15</sup> ANR conducted a binding open season for the Grand Chenier XPress Project from January 8 through January 14, 2019. Venture Global was the only interested shipper and contracted for 100 percent of the project's capacity. ANR explains that the Grand Chenier XPress Project will provide feed gas for Venture Global's Calcasieu Pass liquefied natural gas (LNG) export facility, which is currently under construction at the Calcasieu Ship Channel in Cameron Parish, Louisiana.<sup>16</sup>

7. ANR proposes an incremental recourse rate for the firm transportation service to be provided using the expansion capacity, under proposed Rate Schedule FTS-1 (GCXP). Venture Global has elected to pay negotiated rates for the firm transportation service.

## **II. Notice, Interventions, and Comments**

8. Notice of ANR's application was published in the *Federal Register* on November 13, 2019.<sup>17</sup> Northern States Power Company - Minnesota and Northern States Power Company - Wisconsin; Northern Illinois Gas Company d/b/a Nicor Gas Company

---

<sup>13</sup> ANR states that the Mermentau River GCX Meter Station will be constructed in 2020 and placed into service by April 1, 2021, pursuant to the automatic provisions of ANR's blanket certificate. Application at 7, note 8.

<sup>14</sup> Venture Global is a subsidiary of Venture Global LNG, Inc.

<sup>15</sup> This is an amended precedent agreement from a 2016 open season. ANR states that it held an open season from September 1 through September 8, 2016, for 700,000 Dth/d of existing capacity from the Southeast Headstation to the proposed Mermentau River GCX Meter Station. ANR executed a binding precedent agreement with Venture Global for 100 percent of the September 2016 open season capacity, also for a 20-year primary term.

<sup>16</sup> On February 21, 2019, the Commission authorized Venture Global, under section 3 of the NGA, to site, construct, and operate a new LNG export terminal and associated facilities along the Calcasieu Ship Channel in Cameron Parish, Louisiana. *Venture Global Calcasieu Pass, LLC*, 166 FERC ¶ 61,144 (2019).

<sup>17</sup> 84 Fed. Reg. 61,613 (Nov. 19, 2019).

in Illinois; NJR Energy Services Company; Venture Global; Duke Energy Ohio, Inc. and Duke Energy Kentucky, Inc.; Duke Energy Indiana, LLC; and Atmos Energy Corporation filed timely, unopposed motions to intervene.<sup>18</sup> No comments or protests were filed.

### **III. Discussion**

9. ANR's proposal to abandon, construct, and operate facilities to transport natural gas in interstate commerce subject to the jurisdiction of the Commission is subject to the requirements of subsections (b), (c), and (e) of section 7 of the NGA.<sup>19</sup>

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

10. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new pipeline construction.<sup>20</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. The Certificate Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities the Commission balances the public benefits against the potential adverse consequences. The Commission's goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

11. Under this policy, the threshold requirement for applicants 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 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

---

<sup>18</sup> Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedures. *See* 18 C.F.R. § 385.214(c) (2019).

<sup>19</sup> 15 U.S.C. §§ 717f(b), (c) and (e) (2018).

<sup>20</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *corrected*, 89 FERC ¶ 61,040 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

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.

12. ANR's proposal satisfies the threshold requirement that it can financially support the project without relying on subsidization from its existing customers. ANR proposes to allocate the costs of the Grand Chenier XPress Project between those associated with the replacement of the existing compressor unit at the Eunice Compressor Station (replacement costs) and those incurred to create the incremental capacity (expansion costs).<sup>21</sup> Because ANR proposes to charge incremental rates that are higher than the pipeline's existing system rates to recover the expansion costs, existing shippers will not subsidize that aspect of the project.<sup>22</sup> With respect to the replacement costs, as discussed below, the Certificate Policy Statement provides that it is not a subsidy for existing customers to pay the costs of a project designed to replace existing capacity or to improve the reliability or flexibility of existing service.<sup>23</sup> Here, ANR proposes to replace an old compressor unit with a newer unit to maintain existing service and increase reliability. Accordingly, we find that the project has met the threshold no-subsidy requirement of the Certificate Policy Statement.

13. ANR's proposal will not degrade service to existing customers because the project is designed to provide incremental firm transportation service while meeting ANR's existing contractual obligations. We also find that there will be no adverse impact on other pipelines in the region or their captive customers, and no other pipelines or their captive customers filed adverse comments regarding ANR's proposal.

14. We find that ANR has designed the proposed project to have minimal adverse impacts on landowners and communities. Construction of the project will impact 70.7 acres of land, with 41.9 acres temporarily impacted for construction of the new Mermentau Compressor Station. The Mermentau Compressor Station will permanently impact 16.5 acres of land; the other project activities will be constructed within existing facilities. ANR's proposed facility modifications and additions will be located entirely on property owned by ANR, within ANR easements, or on temporary leased space.<sup>24</sup>

---

<sup>21</sup> Application at 11 and Exhibit K.

<sup>22</sup> See, e.g., *Transcontinental Gas Pipe Line Co., LLC*, 158 FERC ¶ 61,125, at P 22 (2017).

<sup>23</sup> Certificate Policy Statement, 88 FERC ¶ 61,227 at 61,746.

<sup>24</sup> Application at 7.

Thus, we find ANR's proposal is designed to minimize adverse impacts on landowners and surrounding communities.

15. The Grand Chenier XPress Project will enable ANR to provide up to 400,000 Dth/d of firm transportation service to Venture Global. We find that ANR has demonstrated a need for the project and that the project's benefits will outweigh any adverse economic effects on existing shippers, other pipelines and their captive customers, and 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>25</sup>

### **B. Abandonment**

16. Section 7(b) of the NGA allows an interstate pipeline company to abandon jurisdictional facilities or services only if the abandonment is permitted by the present or future public convenience or necessity.<sup>26</sup> The applicant has the burden of providing evidence to show that the abandonment is permitted under this standard.<sup>27</sup> The continuity and stability of existing service are the primary considerations in assessing whether the public convenience or necessity permit the abandonment.<sup>28</sup> If the Commission finds that an applicant's proposed abandonment will not jeopardize continuity of existing gas transportation services, it will defer to the applicant's business judgment.<sup>29</sup>

17. ANR requests authority to abandon in place an existing reciprocating compressor unit (Unit 101A) at the Eunice Compressor Station. As discussed above, ANR will be placing Unit 101A on standby in 2020 as part of a 2.55(b) replacement project. Because the function of the aging reciprocating compressor unit will be replaced by the addition of two new compressor units at the Eunice Compressor Station<sup>30</sup> and its abandonment will

---

<sup>25</sup> See Certificate Policy Statement, 88 FERC ¶ 61,227 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>26</sup> 15 U.S.C. § 717f(b).

<sup>27</sup> *Columbia Gas Transmission, LLC*, 156 FERC ¶ 61,125, at P 10 (2016).

<sup>28</sup> *El Paso Natural Gas Co., LLC*, 148 FERC ¶ 61,226, at P 12 (2014).

<sup>29</sup> See, e.g., *id.*; *Transwestern Pipeline Co., LLC*, 140 FERC ¶ 61,147, at P 13 (2012) (citing *Trunkline Gas Co.*, 94 FERC ¶ 61,381, at 62,420 (2001)).

<sup>30</sup> See *supra* PP 4-5.

not negatively impact the provision of any existing service, we find the proposed abandonment is permitted by the public convenience or necessity.

### C. Rates

#### 1. Incremental Recourse Rate

18. ANR estimates that the cost of constructing the project is \$173,006,539, of which \$65,912,973 is allocated to the Eunice Compressor Station replacement<sup>31</sup> and \$107,093,566 is related to expansion costs.<sup>32</sup> ANR proposes an incremental recourse rate under Rate Schedule FTS-1 (GCXP) for the expansion service, consisting of a monthly firm recourse reservation charge of \$4.2466 per Dth and an applicable usage charge of \$0.0032 per Dth, based on a 75 percent load factor. ANR derived its proposed rates based on an incremental first-year cost of service of \$20,734,105 and a design capacity of 400,000 Dth/d. ANR's proposed incremental charges reflect cost-of-service factors approved by the Commission including (1) a depreciation rate of 2.18 percent and a terminal negative salvage rate of 0.17 percent, as established in ANR's last rate case settlement in Docket No. RP16-440-000,<sup>33</sup> and (2) a return and income tax allowance based upon ANR's last approved pre-tax rate of return of 15.60 percent as established in Docket No. RP94-43-000.<sup>34</sup> In addition, because the settlement establishing ANR's pre-tax return was "black-box," ANR is unable to update its pre-tax rate of return to account for current tax rates. Therefore, consistent with Commission precedent,<sup>35</sup> ANR's proposed accumulated deferred income tax balance reflects the previously-effective 35 percent federal income tax rate.

19. We have reviewed ANR's proposed incremental charges and cost of service and find that they reasonably reflect 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 maximum

---

<sup>31</sup> ANR notes that this represents the estimated cost to replace one existing reciprocating compressor unit with a Mars 100 compressor unit, sized to have like functionality, in order to maintain existing service. *See supra* P 4.

<sup>32</sup> ANR notes that this reflects the total cost of the project, less the Eunice Compressor Station replacement cost (i.e., the estimated cost to provide incremental firm transportation).

<sup>33</sup> *ANR Pipeline Co.*, 157 FERC ¶ 61,205 (2016).

<sup>34</sup> *ANR Pipeline Co.*, 82 FERC ¶ 61,145 (1998).

<sup>35</sup> *Columbia Gas Transmission, LLC*, 164 FERC ¶ 61,137, at P 8 (2018).



system recourse rate.<sup>36</sup> ANR's proposed incremental charges are higher than its applicable system reservation and usage charges of \$2.3590 per Dth and \$0.0027 per Dth, respectively.<sup>37</sup> Therefore, we approve ANR's proposed incremental rates for the project and direct ANR to file actual tariff records setting forth its recourse rates for the project no earlier than 60 days and no later than 30 days, prior to commencement of interstate service consistent with part 154 of the Commission's regulations.

## **2. Recovery of Eunice Compressor Station Replacement Costs**

20. ANR states that it anticipates recovery of the Eunice Compressor Station replacement costs from existing shippers at the time of its next general NGA section 4 rate proceeding.<sup>38</sup> ANR states in its March 13 Response that the replacement is needed because the existing 12,000 hp reciprocating compressor unit was installed in 1972, and ANR has had issues maintaining service to existing shippers due to the unit's unreliable operations. Additionally, ANR states that, due to the age of the unit, parts are difficult to obtain and/or manufacture when maintenance and repair are required, which leads to extended unit and service restrictions at the station.

21. To support a request for a predetermination that a pipeline may roll the costs of a project into its system-wide rates in a future NGA section 4 rate proceeding, a pipeline must demonstrate that rolling in the costs associated with the construction and operation of new facilities will not result in existing customers subsidizing the expansion. The Certificate Policy Statement specifically states that increasing the rates of existing customers to pay for projects designed to replace existing capacity or improve the reliability or flexibility of a pipeline's existing services is not a subsidy, and that the costs of such a project may be rolled into system rates in a future rate case.<sup>39</sup> Accordingly, we grant ANR a predetermination that rolled-in rate treatment for the replacement costs of the Eunice Compressor Station Replacement in a future NGA section 4 rate case will be appropriate, absent a significant change in circumstances.

---

<sup>36</sup> Certificate Policy Statement, 88 FERC ¶ 61,227 at 61,744.

<sup>37</sup> ANR Pipeline Company, FERC NGA Gas Tariff, ANR Tariffs, 4.3 - Statement of Rates, Rate Schedules FTS-1, FTS-4 & FTS-4L, 1.1.0.

<sup>38</sup> ANR's March 13, 2020 Response to Staff's March 4, 2020 Data Request (March 13 Response).

<sup>39</sup> Certificate Policy Statement, 88 FERC ¶ 61,227 at 61,746.

### 3. Fuel

22. ANR proposes a new incremental Transporters' Use (%) of company-use gas quantities for the project of 0.74 percent, which is based on estimated fuel usage of 1,519 Dth/d and a Lost and Unaccounted for Factor of 0.23 percent. ANR states that it has evaluated the potential effect of the project on the overall system fuel consumption and has determined that an incremental Transporter's Use rate is needed, which will prevent existing shippers from subsidizing fuel costs attributable to the project. ANR included a fuel study as part of its application, the results of which yielded an estimated incremental fuel percentage that is greater than the existing rate on ANR. ANR asserts that this supports its request for an incremental Transporter's Use (%) for the project. We approve ANR's request to establish an incremental fuel rate for the project as proposed.

### 4. Reporting Incremental Costs

23. Section 154.309 of the Commission's regulations<sup>40</sup> includes bookkeeping and accounting requirements applicable to all expansions for which incremental rates are approved to ensure that costs are properly allocated between pipelines' existing shippers and incremental expansion shippers. Therefore, ANR must keep separate books and accounting of costs and revenues attributable to the project capacity and incremental services using that capacity as required by section 154.309. The books should be maintained with applicable cross-references as required by section 154.309. This information must be in sufficient detail, so 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>41</sup>

### 5. Negotiated Rates

24. ANR proposes to provide service to Venture Global under a negotiated rate service agreement. ANR must file either the negotiated rate agreement or a tariff record setting forth the essential elements of the agreement in accordance with the Alternative

---

<sup>40</sup> 18 C.F.R. § 154.309 (2019).

<sup>41</sup> *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Order No. 710, 122 FERC ¶ 61,262, at P 23 (2008).

Rate Policy Statement<sup>42</sup> and the Commission's negotiated rate policies.<sup>43</sup> ANR must file the negotiated rate agreement or a tariff record reflecting the essential elements of the agreement at least 30 days, but no more than 60 days, before the proposed effective date for such a rate.<sup>44</sup>

#### **D. Environmental Analysis**

25. On December 5, 2019, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Grand Chenier XPress Project and Request for Comments on Environmental Issues* (NOI). The NOI was published in the *Federal Register*<sup>45</sup> 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 affected property owners. We received one comment letter in response to the NOI, from the Choctaw Nation of Oklahoma, acknowledging that the proposed project is within their area of interest and requesting a copy of the project Environmental Assessment (EA), cultural resource surveys, and geographic information system (GIS) shapefiles. In response, ANR provided the requested cultural resource survey reports and associated GIS data to the Choctaw Nation.<sup>46</sup>

---

<sup>42</sup> *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076, *order granting clarification*, 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>43</sup> *Natural Gas Pipelines Negotiated Rate Policies and Practices; Modification of Negotiated Rate Policy*, 104 FERC ¶ 61,134 (2003), *order on reh'g and clarification*, 114 FERC ¶ 61,042, *dismissing reh'g and denying clarification*, 114 FERC ¶ 61,304 (2006).

<sup>44</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, e.g. Texas Eastern Transmission, LP*, 149 FERC ¶ 61,198, at P 33 (2014). 18 C.F.R. § 154.112(b) (2019).

<sup>45</sup> 84 Fed. Reg. 67,738 (Dec. 11, 2019).

<sup>46</sup> ANR's February 25, 2020 letter regarding correspondence with Choctaw Nation.

26. To satisfy the requirements of the National Environmental Policy Act of 1969, our staff prepared an EA for ANR's proposal. The analysis in the EA addresses geology and soils; groundwater, surface water, and wetlands; fisheries, vegetation, wildlife, and special status species; socioeconomics; cultural resources; land use and visual resources; air quality and noise; reliability and safety; and cumulative impacts. The EA also assesses the project alternatives. The EA was issued and placed into the public record on March 27, 2020. Commission staff provided the Choctaw Nation with a link to the EA. On April 20, 2020, ANR filed comments with the Commission on the EA, which are addressed below.

### **Applicant's Comments on the EA**

27. In its comments on the EA, ANR provides minor clarifications to sections of the EA that discussed the proposed facilities (installation of a new filter separator at the existing Grand Chenier Compressor Station), land requirements, status of permits, approvals and regulatory consultation, soil compaction potential, and water-well screen depths at the Mermentau Compressor Station. We acknowledge ANR's clarifications and conclude that they do not change staff's conclusions in the EA.

28. ANR also submitted updated information regarding the Coastal Consistency Determination. Because the Grand Chenier Compressor Station is within Cameron Parish, it is subject to Louisiana's Coastal Zone Consistency Review. Therefore, environmental recommendation 12 in the EA required ANR to file a determination from the Louisiana Department of Natural Resources – Office of Coastal Management demonstrating consistency with the state's Coast Zone Management Plan.<sup>47</sup> On March 2, 2020, the Louisiana Department of Natural Resources, Office of Coastal Management issued this consistency determination.<sup>48</sup> Therefore, environmental recommendation 12 from the EA is no longer necessary and is not included in the environmental conditions of this order.

### **Updated Greenhouse Gas Analysis**

29. The EA estimates the maximum potential greenhouse gas (GHG) emissions from operation of the project to be 242,137 metric tons per year of carbon dioxide equivalent

---

<sup>47</sup> EA at 36.

<sup>48</sup> ANR April 20, 2020 Comments on the EA.

(CO<sub>2</sub>e).<sup>49</sup> To provide context to the EA's GHG estimate, 5.743 billion metric tons of CO<sub>2</sub>e were emitted at a national level in 2017 (inclusive of CO<sub>2</sub>e sources and sinks).<sup>50</sup> The operational emissions of the project could potentially increase CO<sub>2</sub>e emissions based on the 2017 levels by 0.004 percent at the national level.<sup>51</sup> Currently, there are no national targets to use as a benchmark for comparison.<sup>52</sup>

30. GHG emissions, such as those emitted from the operation of the project, will contribute incrementally to climate change, and we have previously disclosed various effects of climate change on the Southeast region of the United States.<sup>53</sup> However, as the Commission has previously concluded, it cannot determine a project's incremental physical impacts on the environment caused by GHG emissions.<sup>54</sup> We have also

---

<sup>49</sup> EA at 53-4 (Table 16 & 17). This information includes facility-wide operational emissions from the Eunice Compressor Station (i.e., emissions related to both existing/replacement and expansion facilities) and the operational emissions from the Mermentau Compressor Station. The GHG emissions in the EA are listed in short tons rather than the metric tons that are listed within this order.

<sup>50</sup> U.S. Environmental Protection Agency, *Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990-2017*, at ES6-8 (Table ES-2) (2019), <https://www.epa.gov/sites/production/files/2019-04/documents/us-ghg-inventory-2019-main-text.pdf> (accessed November 2019).

<sup>51</sup> This calculation does not include the total estimated construction-related emissions of 11,756 metric tons per year of CO<sub>2</sub>e, as such emissions are temporary and would occur only during construction of the project. See EA at 52-3 (Table 15).

<sup>52</sup> The national emissions reduction targets expressed in the EPA's Clean Power Plan were repealed, *Greenhouse Gas Emissions from Existing Electric Utility Generating Units*; Revisions to Emissions Guidelines Implementing Regulations, 84 Fed. Reg. 32,520, 32,522-32 (July 8, 2019), and the targets in the Paris Climate Accord are pending withdrawal.

<sup>53</sup> See, e.g., *Eagle LNG Partners Jacksonville, LLC*, Final Environmental Impact Statement for Jacksonville Project, Docket No. CP17-41-000, at 4-195 (April 2019) (detailing the environmental impacts attributed to climate change in the Southeast region from U.S. Global Change Research Program's 2017 and 2018 Climate Science Special Report: Fourth National Climate Assessment).

<sup>54</sup> *Dominion Transmission, Inc.*, 163 FERC ¶ 61,128, at PP 67-70 (2018) (LaFleur, Comm'r, *dissenting in part*; Glick, Comm'r, *dissenting in part*).

previously concluded the Commission cannot determine whether an individual project's contribution to climate change would be significant.<sup>55</sup> That situation has not changed.

31. Based on the analysis in the EA, we conclude that if abandoned, constructed, and operated in accordance with ANR's application and supplements, and in compliance with the environmental conditions in the appendix to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

#### **E. Conclusion**

32. Based on our Certificate Policy Statement determination and our environmental analysis, we find under section 7 of the NGA that the public convenience and necessity requires approval of ANR's Grand Chenier XPress Project, subject to the conditions in this order.

33. 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 analyses. Thus, Commission staff carefully reviews all information submitted. Only when satisfied that the applicant has complied with all applicable conditions will a notice to proceed with the activity to which the conditions 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.

34. 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

---

<sup>55</sup> *Id.* See generally *Transcontinental Gas Pipe Line Co., LLC*, 171 FERC ¶ 61,032 (2020) (McNamee, Comm'r, concurring at PP 63-74) (explaining that the Commission has no standard for determining whether GHG emissions significantly affect the environment, elaborating on why the Social Cost of Carbon is not a useful tool for determining whether GHG emissions are significant, and explaining that the Commission has no authority or reasoned basis to establish its own framework).

local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>56</sup>

35. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, 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 ANR, authorizing it to construct and operate the Grand Chenier XPress 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) ANR is granted permission and approval to abandon in place the reciprocating compressor unit to be placed on standby at the Eunice Compressor Station, as more fully described in this order and in the application. ANR shall notify the Commission of the date of the abandonment of facilities within 10 days.

(C) The certificate authority issued in Ordering Paragraph (A) is conditioned on ANR's:

- (1) completion of construction of the proposed facilities and making them available for service within two years of the date of this order pursuant to section 157.20(b) of the Commission's regulations;
- (2) compliance with all applicable regulations under the NGA, including paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;
- (3) compliance with the environmental conditions listed in the appendix to this order; and

---

<sup>56</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) and *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).

(4) making a filing affirming that the parties have executed firm service agreements for volumes and service terms equivalent to those in the precedent agreement before commencing construction.

(D) ANR's proposed incremental recourse reservation charge, usage charge, and daily overrun rate for transportation on the project are approved.

(E) ANR's proposal to charge a new incremental fuel rate to recover fuel costs associated with the project is approved.

(F) ANR shall file actual tariff records setting forth the initial rates for service no earlier than 60 days and no later than 30 days prior to the date the proposed facilities go into service.

(G) A predetermination is granted for ANR to roll-in the Eunice Compressor Station Replacement costs allocated to system shippers in its next NGA section 4 rate case, absent a significant change in circumstances.

(H) ANR 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 ANR. ANR shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission. Commissioner Glick is dissenting in part with a separate statement attached.

( S E A L )

Kimberly D. Bose,  
Secretary.



**Appendix**  
**Environmental Conditions**

As recommended in the Environmental Assessment (EA), this authorization includes the following conditions:

1. ANR shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the EA, unless modified by the order. ANR 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 activities.
  
3. **Prior to any construction**, ANR shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), 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 EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, ANR 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.

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

5. ANR shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, 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 Commission's *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 Certificate and before construction begins**, ANR shall file an Implementation Plan with the Secretary for review and

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

- a. how ANR will implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the order;
  - b. how ANR 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 onsite construction and inspection personnel;
  - c. the number of EIs assigned per spread, 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 ANR will give to all personnel involved with construction and restoration;
  - f. the company personnel (if known) and specific portion of ANR's organization having responsibility for compliance;
  - g. the procedures (including use of contract penalties) ANR will follow if noncompliance occurs; and
  - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - (1) the completion of all required surveys and reports;
    - (2) the environmental compliance training of onsite personnel;
    - (3) the start of construction; and
    - (4) the start and completion of restoration.
7. ANR shall employ at least one EI for the project. 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. 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

- e. responsible for maintaining status reports.
8. Beginning with the filing of its Implementation Plan, ANR shall file updated status reports with the Secretary on a **monthly** 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 ANR's efforts to obtain the necessary federal authorizations;
    - b. the 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;
    - c. a listing of all problems encountered, and each instance of noncompliance observed by the EI(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);
    - 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 ANR from other federal, state, or local permitting agencies concerning instances of noncompliance, and ANR's response.
  9. ANR must receive written authorization from the Director of OEP, or the Director's designee, **before commencing construction of any project facilities**. To obtain such authorization, ANR must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
  10. ANR 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.
  11. **Within 30 days of placing the authorized facilities in service**, ANR 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 ANR 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.
- 12. ANR shall file a noise survey with the Secretary **no later than 60 days** after placing the Mermentau Compressor Station and the modified Grand Chenier Compressor Station into service. If a full power load condition noise survey is not possible, ANR shall file an interim survey at the maximum possible power load **within 60 days** of placing the facilities in service and file the full load survey **within 6 months**. If the noise attributable to the operation of the facilities at full or interim power load conditions exceeds a day-night noise level of 55 decibels on the A-weighted scale at any nearby noise sensitive areas, ANR shall file a report on what changes are needed and shall install the additional noise controls to meet the level **within 1 year** of the in-service date. ANR shall confirm compliance with the above requirement by filing a second full power noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

ANR Pipeline Company

Docket No. CP20-8-000

(Issued June 18, 2020)

GLICK, Commissioner, *dissenting in part*:

1. I dissent in part from today's order because it violates both the Natural Gas Act<sup>1</sup> (NGA) and the National Environmental Policy Act<sup>2</sup> (NEPA). The Commission once again refuses to consider the consequences its actions have for climate change. Although neither the NGA nor NEPA permit the Commission to ignore the climate change implications of constructing and operating this project, that is precisely what the Commission is doing here.

2. In today's order authorizing ANR Pipeline Company's (ANR) Grand Chenier Xpress Project (Project), the Commission continues to treat greenhouse gas (GHG) emissions and climate change differently than all other environmental impacts.<sup>3</sup> The Commission again refuses to consider whether the Project's contribution to climate change from GHG emissions would be significant,<sup>4</sup> even though it quantifies the direct GHG emissions from the Project's construction and operation.<sup>5</sup> That failure forms an integral part of the Commission's decisionmaking: The refusal to assess the significance of the Project's contribution to the harm caused by climate change is what allows the Commission to state that approval of the Project "would not constitute a major federal action significantly affecting the quality of the human environment"<sup>6</sup> and, as a result, conclude that the Project is in the public interest and required by the public convenience

---

<sup>1</sup> 15 U.S.C. § 717f (2018).

<sup>2</sup> National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 *et seq.*

<sup>3</sup> *ANR Pipeline Co.*, 171 FERC ¶ 61,233 (2020) (Certificate Order).

<sup>4</sup> Certificate Order, 171 FERC ¶ 61,233 at P 30.

<sup>5</sup> *Id.* P 29 (estimating that the Project will result in an additional 242,137 CO<sub>2</sub>e tons per year of GHG emissions following Project completion); Grand Chenier Xpress Project Environmental Assessment at Tables 15, 16, & 17 (EA).

<sup>6</sup> Certificate Order, 171 FERC ¶ 61,233 at P 31; *see also* EA at 76.

and necessity.<sup>7</sup> Claiming that a project has no significant environmental impacts while at the same time refusing to assess the significance of the project's impact on the most important environmental issue of our time is not reasoned decisionmaking.<sup>8</sup>

3. The Commission's failure to meaningfully consider climate change forces me into dissenting from certificate orders that I might otherwise support. Prior to issuing a section 7 certificate, the Commission must find both that the proposed project is needed, and that, on balance, its potential benefits outweigh its potential adverse impacts.<sup>9</sup> Although need for the Project is an important consideration, and demonstrated in today's order,<sup>10</sup> need alone is not sufficient to find that the Project is consistent with the public interest. Instead, the Commission must also determine that the Project's benefits outweigh its adverse impacts, including its GHG emissions, which the Commission cannot do without meaningfully evaluating the impacts of those emissions. I cannot join an order that countenances such an incomplete assessment of a project's adverse impacts, regardless of what I might otherwise think of that project.

---

<sup>7</sup> Certificate Order, 171 FERC ¶ 61,233 at P 32.

<sup>8</sup> Commissioner McNamee argues that the Commission can consider a project's direct GHG emissions under NEPA and in its public convenience and necessity determination without actually determining whether the GHG emissions are significant. Certificate Order, 171 FERC ¶ 61,233 (McNamee, Comm'r, concurring at P 3). This defies both logic and reason. If you refuse to consider how the project's greenhouse gas emissions will impact the environment you aren't actually examining those emissions for purposes of NEPA and the NGA. The argument is particularly problematic in this proceeding given the conclusion that the Project will not have any significant impact on the environment. Certificate Order, 171 FERC ¶ 61,233 at P 31. How the Commission can rationally conclude that a project has no significant impacts, refuse to assess the significance of what might be the project's most significant impact, and then claim to have adequately considered that impact is beyond me.

<sup>9</sup> See *Sabal Trail*, 867 F.3d at 1373 (explaining that section 7 of the NGA requires the Commission to balance "the public benefits [of a proposed pipeline] against the adverse effects of the project,' including adverse environmental effects" (quoting *Myersville Citizens for a Rural Cmty. v. FERC*, 783 F.3d 1301, 1309 (D.C. Cir. 2015))).

<sup>10</sup> Certificate Order, 171 FERC ¶ 61,233 at P 15.

4. For all these reasons, and those articulated previously,<sup>11</sup> I respectfully dissent in part.

---

Richard Glick  
Commissioner

---

<sup>11</sup> See, e.g., *Transcontinental Gas Pipe Line Co. LLC*, 171 FERC ¶ 61,032 (2020) (Glick, Comm'r, dissenting in part); *Transcontinental Gas Pipe Line Co. LLC*, 171 FERC ¶ 61,031 (2020) (Glick, Comm'r, dissenting in part); *Columbia Gas Transmission, LLC*, 170 FERC ¶ 61,045 (2020) (Glick, Comm'r, dissenting in part).