

168 FERC ¶ 61,037
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, Richard Glick,
and Bernard L. McNamee.

Texas Eastern Transmission, LP
Transcontinental Gas Pipe Line Company, LLC

Docket Nos. CP18-485-000

Texas Eastern Transmission, LP
Transcontinental Gas Pipe Line Company, LLC
Northern Natural Gas Company

CP18-486-000

Texas Eastern Transmission, LP

CP18-505-000

ORDER GRANTING ABANDONMENT

(Issued July 18, 2019)

1. On May 17, 2018, in Docket No. CP18-485-000, Texas Eastern Transmission, LP (Texas Eastern) and Transcontinental Gas Pipe Line Company, LLC (Transco) jointly filed an application under section 7(b) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations² for approval to abandon Line 41-A-5-B and related facilities, located in the Gulf of Mexico, offshore of Louisiana.
2. On May 18, 2018, in Docket No. CP18-486-000, Texas Eastern, Transco, and Northern Natural Gas Company (Northern) jointly filed an application under NGA section 7(b) and Part 157 of the Commission's regulations to abandon Line 41-A-8 and related facilities, located in the Gulf of Mexico, offshore of Louisiana.
3. On June 18, 2018, in Docket No. CP18-505-000, Texas Eastern filed an application under NGA section 7(b) and Part 157 of the Commission's regulations to abandon certain onshore and offshore facilities comprising the Cameron System in Louisiana and offshore in the Gulf of Mexico.

¹ 15 U.S.C. § 717f(b) (2012).

² 18 C.F.R. pt. 157, subpt. A (2018).

4. As discussed below, this order grants the requested authorizations, subject to certain conditions.

I. Background

5. Texas Eastern, a Delaware limited partnership with its principal place of business in Houston, Texas, is a natural gas company, as defined by section 2(6) of the NGA,³ engaged in the transportation of natural gas in interstate commerce. Texas Eastern is an indirect, wholly-owned subsidiary of Spectra Energy Partners, L.P, which is an indirect subsidiary of Enbridge, Inc. Texas Eastern's transmission system extends from the offshore Gulf of Mexico area, through Texas, Louisiana, Mississippi, Arkansas, Missouri, Tennessee, Illinois, Indiana, Kentucky, Ohio, Pennsylvania, and New Jersey, to its principal terminus in the New York City metropolitan area.

6. Transco, a Delaware limited liability company with its principal place of business in Houston, Texas, is a natural gas company, as defined by section 2(6) of the NGA, engaged in the transportation of natural gas in interstate commerce. Transco's transmission system extends from the offshore Gulf of Mexico area, through Texas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, North Carolina, Virginia, Maryland, Pennsylvania, and New Jersey, to its termini in the New York City metropolitan area.

7. Northern, a Delaware corporation with a principal place of business in Omaha, Nebraska, is a natural gas company, as defined by section 2(6) of the NGA, engaged in the transportation of natural gas in interstate commerce. Northern is authorized to do business in Delaware, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin.

8. According to the Applicants, the Cameron System was certificated and primarily constructed in the late 1960s and early to mid-1970s, when offshore production areas produced high volumes of natural gas. In 1969, Texas Eastern was authorized to construct 108 miles of 30-inch-diameter pipeline, designated as Line 41, extending from a Texas Eastern compressor station in Louisiana to a Texas Eastern platform in the West Cameron offshore area, and to construct 29 miles of 24-inch-diameter pipeline, designated Line 41-A, extending from that platform seaward to a second Texas Eastern platform in East Cameron, Block 245.⁴ As relevant to this abandonment proposal, several supply laterals were also constructed throughout the 1970s, connecting Line 41

³ 15 U.S.C. § 717a(6) (2012).

⁴ *Texas Eastern Transmission Corp.*, 41 FPC 479 (1969) (authorizing Line 41, 41-A, and other facilities in the East Cameron, West Cameron, and Vermilion areas).

and Line 41-A to platforms in the West Cameron, East Cameron, and Vermilion offshore areas: Line 41-A-EXT, Line 41-A-2, Line 41-A-4, Line 41-A-5, Line 41-A-6, and Line 41-E.⁵

9. In 1976, the Commission authorized Texas Eastern, Transco, and Northern (jointly) to construct Line 41-A-8, an 11.9-mile-long, 16-inch-diameter pipeline.⁶

10. In 1982, the Commission authorized Texas Eastern, Transco, and Natural Gas Pipeline Company of America (Natural) to construct Line 41-A-5-B, a 20.5-mile-long, 12-inch-diameter pipeline extending from a producer-owned platform in the Vermilion offshore area to a subsea tie-in with Texas Eastern's Line 41-A-5 in the East Cameron offshore area.⁷

11. Applicants state that Texas Eastern has been abandoning portions of the Cameron System during the last few years, and that these applications, which propose to abandon

⁵ Line 41-A-EXT (extension of Line 41-A), Line 41-A-2, and Line 41-A-4 were authorized in 1972, *Tennessee Gas Pipeline Co.*, 47 F.P.C. 1417 (1972) and *Texas Eastern Transmission Corp.*, 47 F.P.C. 81 (1972); Lines 41-A-5 and 41-A-6 were authorized in 1974, *Texas Eastern Transmission Co.*, 52 F.P.C. 446 (1974); Line 41-E was authorized in 1978, *Texas Eastern Transmission Corp.*, 2 FERC ¶ 61,273 (1978); and an extension of Line 41-A-6 was authorized in 1984, *Texas Eastern Transmission Corp.*, 28 FERC ¶ 61,171 (1984). Texas Eastern has previously abandoned portions of its Lines 41-A-EXT and 41-A-4 pursuant to its blanket certificate authorization. Application, Docket No. CP18-505-000 at 6-7, notes 10 and 11. Three sections of Line 41-A-6 have also been previously abandoned (*see infra* notes 8 and 12); Texas Eastern proposes to abandon the remainder of Line 41-A-6 in this proceeding. Application, Docket No. CP18-505-000 at 7 and note 14.

⁶ *Texas Eastern Transmission Corp.*, 56 FPC 1346 (1976). Texas Eastern, Transco, and Northern together own 100 percent of the interest in this pipeline and are referred to in this order as "Applicants." Application, Docket No. CP18-486-000 at 1 and note 3.

⁷ *Texas Eastern Transmission Corp.*, 19 FERC ¶ 61,243 (1982). Texas Eastern and Transco own an approximately 86 percent interest in Line 41-A-5-B. In 2001, the Commission granted Natural's request to abandon by sale its 14 percent interest in Line 41-A-5-B to a non-jurisdictional gathering company, Green Canyon Pipeline, L.L.C. *Natural Gas Pipeline Company of America*, 94 FERC ¶ 61,186 (2001) (NGPL Order).

the remainder of the Cameron System and associated jointly-owned lateral lines, are part of that process.⁸

12. According to the Applicants, because gas production in the offshore areas has been declining, currently only *de minimis* quantities of casinghead gas⁹ flow on the remaining portions of the Cameron System.¹⁰ According to Texas Eastern, the proposed abandonments will eliminate the need for future operating and maintenance expenditures on facilities in which average daily flows equal less than 0.80 percent of the 756,000 thousand cubic feet per day (Mcf/d) certificated design capacity of the system. Due to the low utilization of the Cameron System, Texas Eastern is unable to use conventional techniques (e.g., cleaning pigs with corrosion inhibitor) to maintain the facilities.¹¹ Further, Texas Eastern states that no point on the Cameron System is a primary receipt or delivery point under a firm service agreement.

II. Proposals

A. CP18-485-000 – Abandonment of Line 41-A-5-B

13. Texas Eastern and Transco seek approval to abandon: (1) in place, Line 41-A-5-B; (2) by removal, metering and regulating station number 72135; (3) by removal, electronic gas measurement and appurtenant facilities from the producer-owned metering and regulating stations 73646 and 73702; and (4) by removal, all related appurtenant facilities, including a riser, a pig launcher, and associated piping.

⁸ Texas Eastern has previously abandoned parts of the Cameron System, including all or portions of Lines 41-A-7, 41-A-6, 41-A-9, 41-A-11, 41-B, 41-B-1, 41-B-1-A, 53, 51-A, and 41-G. See Application, Docket No. CP18-485-000 at 6, note 8; Application, Docket No. CP18-486-000 at 6, note 8; and Application, Docket No. CP18-505-000 at 5, note 5.

⁹ “Casinghead gas” is natural gas produced along with crude oil from oil wells.

¹⁰ Texas Eastern states that the only gas flowing on the Cameron System is incidental to crude oil production in the Gulf of Mexico, and not from actual gas well production. Application, Docket No. CP18-505-000 at 8.

¹¹ Application, Docket No. CP18-485-000 at 6-7; Application, Docket No. CP18-486-000 at 6-7; and Application, Docket No. CP18-505-000 at 5, 8-11.

B. CP18-486-000 – Abandonment of Line 41-A-8

14. Applicants seek approval to abandon: (1) in place, Line 41-A-8; and (2) by removal, producer-owned receipt meter station numbers 73674 and 71710 and all related appurtenant facilities.

C. CP18-505-000 – Abandonment of Cameron System

15. Texas Eastern proposes to abandon the remainder of the Cameron System, extending from Texas Eastern's Grand Chenier compressor station, located onshore in Cameron Parish, Louisiana, to state and federal waters in the Gulf of Mexico. Specifically, Texas Eastern proposes to abandon in place and by removal approximately 62 miles of its 108-mile-long, 30-inch-diameter Line 41 (approximately 5.2 miles onshore in Cameron Parish, Louisiana, and 57 miles offshore in Louisiana state waters), and associated facilities, including a tap, electronic gas measurement equipment, and mainline valves. Additionally, Texas Eastern proposes to abandon in place the following supply laterals located offshore in Louisiana state waters: (1) 41-A-EXT and 41-A – approximately 45 miles of 24-inch-diameter pipeline; (2) 41-A-2 – approximately 32 miles of 20-inch-diameter pipeline; (3) 41-A-4 – approximately 7 miles of 24-inch-diameter pipeline; (4) 41-A-5 – approximately 11 miles of 16-inch-diameter pipeline; (5) 41-A-6 – approximately 29 miles of 20-inch-diameter pipeline;¹² and (6) 41-E – approximately 26 miles of 30-inch-diameter pipeline.

16. Texas Eastern also proposes to abandon by removal all metering and regulating facilities within the Cameron System¹³ and to abandon, by removal and in place, the East Cameron Block 245 and West Cameron Block 272 platforms, which are located in Louisiana state waters.¹⁴

¹² On March 2, 2011, Texas Eastern submitted a prior notice of its intent to abandon in place approximately 4.5 miles of Line 41-A-6 under its blanket certificate in Docket No. CP11-118-000. The remaining portion of Line 41-A-6 is proposed for abandonment here. *See* Environmental Assessment Report, Docket No. CP11-118-000 (issued April 29, 2011).

¹³ Texas Eastern states that it will also remove the receipt points from the master point index in its Rate Schedule for transportation aggregation balancing services (TABS-1). Application, Docket No. CP18-505-000 at 18.

¹⁴ Texas Eastern proposes to remove the platform piping, heliport, equipment, and deck of the platforms. The platform structure will be cut approximately 15 feet below the

III. Procedural Issues

A. Notices, Interventions, and Protests

1. Docket Nos. CP18-485-000 and CP18-486-000

17. Notice of the applications in Docket Nos. CP18-485-000 and CP18-486-000 was issued on May 24, 2018, and published in the *Federal Register* on May 31, 2018,¹⁵ with motions for intervention, protests, and comments due on June 14, 2018. NJR Energy Services Company; New Jersey Natural Gas Company; National Grid Gas Delivery Companies; Atlanta Gas Light Company; Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas; Pivotal Holdings, Inc. d/b/a Elkton Gas; Virginia Natural Gas, Inc.; Philadelphia Gas Works; Duke Energy Indiana, LLC; Duke Energy Carolinas, LLC; Duke Energy Progress, LLC; and Piedmont Natural Gas Company, Inc. filed timely, unopposed motions to intervene in both dockets. Northern Illinois Gas Company d/b/a Nicor Gas Company intervened in Docket No. CP18-486-000 only. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.¹⁶

18. In Docket No. CP18-485-000, Arena Energy, LP (Arena), Fieldwood Energy, LLC (Fieldwood), Peregrine Oil & Gas II, LLC (Peregrine), Renaissance Offshore, LLC (Renaissance), and Tana Exploration Company, LLC (Tana Exploration) ("Line 41-A-5-B Producers"), jointly filed a timely, unopposed motion to intervene and protest on June 14, 2018. On June 29, 2018, Texas Eastern filed a motion for leave to answer and answer to the Line 41-A-5-B Producers' protest. In response, on July 16, 2018, the Line 41-A-5-B Producers and Peregrine individually filed answers to Texas Eastern's June 29 answer and Texas Eastern again answered on July 27, 2018. Subsequently, on July 31, 2018, the Line 41-A-5-B Producers filed a motion to hold the proceeding in abeyance and an answer to Texas Eastern's July 27 filing. Texas Eastern objected to the Line 41-A-5-B Producers' motion on August 15, 2018. The Line 41-A-5-B Producers filed three additional answers in response to Texas Eastern's August 15 filing on August 24, September 14, and October 25, 2018. On March 12, 2019, Peregrine filed a motion to submit additional information regarding Peregrine's request for firm

mudline and the upper portion will be removed. The remainder of the structure will be abandoned in place. Application, Docket No. CP18-505-000 at 18-19.

¹⁵ 83 Fed. Reg. 24,985 and 24,983, respectively (2018).

¹⁶ 18 C.F.R. § 385.214(c)(1) (2018).

transportation service. On March 26, 2019, Texas Eastern answered; on April 8, 2019, Peregrine replied; and on April 24, 2019, Texas Eastern filed a response.

2. Docket No. CP18-505-000

19. Notice of the application in Docket No. CP18-505-000 was issued on June 29, 2018, and published in the *Federal Register* on July 9, 2018,¹⁷ with motions to intervene, protests, and comments due on July 20, 2018. Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas; National Grid Gas Delivery Companies; NJR Energy Services Company; New Jersey Natural Gas Company; Philadelphia Gas Works; and Piedmont Natural Gas Company, Inc. filed timely, unopposed motions to intervene. Arena, CSL Exploration, LP (CSL Exploration), Fieldwood, Peregrine, Renaissance, Talos Production LLC (Talos Production), and Tana Exploration, jointly, (together “Producer Coalition”)¹⁸ filed a timely, unopposed motion to intervene. As stated above, timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission’s Rules of Practice and Procedure.¹⁹ W&T Offshore, Inc. (W&T Offshore) filed an untimely motion to intervene on July 31, 2018, stating its delay was due to “the press of other business and certain key personnel travel schedules.”²⁰ The motion was denied on January 8, 2019, as the stated explanation did not demonstrate good cause for failing to file on time.

20. The Producer Coalition’s July 20, 2018 intervention included a protest and a request that the Commission hold the proceeding in abeyance and consolidate Docket Nos. CP18-485-000 and CP18-505-000. On August 6, 2018, Texas Eastern filed a motion for leave to answer and answer to the July 20 Producer Coalition’s protest. The Producer Coalition responded on August 15, 2018, renewing its request to hold the proceeding in abeyance and answering Texas Eastern’s August 6 answer. Peregrine

¹⁷ 83 Fed. Reg. 31,749 (2018).

¹⁸ When addressing issues raised only by producers in Docket No. CP18-485-000, this order refers to the “Line 41-A-5-B Producers;” when addressing issues raised only by producers in Docket No. CP18-505-000, this order refers to them as the “Producer Coalition.”

¹⁹ 18 C.F.R. § 385.214(c)(1) (2018).

²⁰ W&T Offshore’s Motion to Intervene Out of Time at 2.

individually filed an answer to Texas Eastern's August 6 answer on August 17, and Texas Eastern responded on August 31, 2018.²¹

21. Rule 213(a) of the Commission's Rules of Practice and Procedure does not permit answers to protests or answers to answers unless otherwise ordered by the decisional authority.²² However, our rules provide that we may, for good cause, waive this provision.²³ We find good cause to do so in this instance because the answers clarify the concerns raised by the protestors and provide information that will assist in our decision making. The arguments raised in the pleadings are addressed below.

B. Request to Hold Proceeding in Abeyance

22. The Line 41-A-5-B Producers and the Producer Coalition request the Commission hold the abandonment applications in abeyance until the Commission issues a final order in a pending tariff proceeding addressing a complaint filed by Peregrine.²⁴ Texas Eastern

²¹ Peregrine and Texas Eastern also filed their March 12, March 26, April 8, and April 24, 2019 answers in Docket No. CP18-505-000.

²² 18 C.F.R. § 385.213(a)(2) (2018).

²³ *Id.* at 385.101(e).

²⁴ Specifically, the Line 41-A-5-B Producers and the Producer Coalition request that the Commission hold Docket Nos. CP18-485-000 and CP18-505-000 in abeyance pending a Commission order in Docket Nos. RP17-811-000, RP17-811-002, and RP18-271-000. In Docket No. RP17-811-000, Peregrine alleges that Texas Eastern violated its service obligations under its tariff and violated NGA sections 4 and 5 by failing to exercise due diligence to remedy a service outage on its Cameron System. The outage was precipitated by a flange clamp failure on September 8, 2016, and extended until November 25, 2016 (2016 Outage). Peregrine claims its production was shut-in for several days and requests monetary damages for its alleged harm from the outages. The Commission rejected Peregrine's argument that the 2016 Outage constituted an unauthorized abandonment under NGA section 7(b) and set all other issues for hearing. In Docket No. RP18-271-000, Peregrine filed an amended and restated complaint raising allegations of another outage that started with a barge anchor strike on November 17, 2014, and extended until February 10, 2015. On April 2, 2018, the Commission consolidated Docket Nos. RP17-811-000 and RP18-271-000. The April 2 Order held that the temporary outages did not amount to an abandonment under the NGA and set all other issues for hearing under section 5 of the NGA. *Peregrine Oil & Gas II, LLC v. Texas Eastern Transmission, LP*, 163 FERC ¶ 61,001 (2018). A hearing was held October 31 through November 8, 2018. On April 8, 2019, Administrative Law Judge Hurt issued an initial decision finding that Texas Eastern did not violate its tariff, NGA

objects to holding the abandonment applications in abeyance because the tariff proceeding will not address whether the present or future public convenience or necessity permit the proposed abandonment of the remaining portions of the Cameron System.²⁵

23. We deny the request to hold the abandonment applications in abeyance because the issues raised in the tariff proceeding are separate from the issues in these abandonment proceedings. In particular, how Texas Eastern classified and operated its Cameron System facilities at the time of the outages, and whether we find in this proceeding that certain Cameron System facilities and services may be prospectively abandoned, are separate issues that can be independently resolved.

C. Request to Consolidate Proceedings

24. The Producer Coalition requests that the Commission consolidate Docket Nos. CP18-485-000 and CP18-505-000. Texas Eastern argues consolidation of the two dockets is not necessary because neither abandonment application requires an evidentiary hearing.²⁶

25. The Commission consolidates matters only if a hearing is required to resolve common issues of law and fact, which ultimately results in greater administrative efficiency.²⁷ We do not believe administrative efficiency will be served by consolidating the two separate abandonment proceedings because the issues raised in the motion to consolidate are addressed in this order without need for an evidentiary hearing. Therefore, we deny the request to consolidate the proceedings.

IV. Discussion

26. Because Applicants seek to abandon facilities and services put in place pursuant to NGA section 7(c) certificate authorizations, the proposed abandonment is subject to the requirements of NGA section 7(b).

sections 4 or 5, or the Commission's regulations. *Peregrine Oil & Gas II, LLC v. Texas Eastern Transmission, LP*, 167 FERC ¶ 63,007 (2019). Commission action on the initial decision is pending.

²⁵ Texas Eastern's Motion to Leave to Answer and Answer, Docket No. CP18-485-000, at 14 (June 29, 2018).

²⁶ Texas Eastern's Motion to Answer and Answer, Docket No. CP18-505-000, at 3 (August 31, 2018).

²⁷ *Transcontinental Gas Pipe Line Co.*, 158 FERC ¶ 61,125, at P 17 (2017).

A. Docket No. CP18-485-000 – Line 41-A-5-B Abandonment and Docket No. CP18-505-000 – Cameron System Abandonment

1. Texas Eastern’s and Transco’s Arguments in Support of Abandonment

27. Texas Eastern and Transco allege abandonment of Line 41-A-5-B is appropriate because the Commission has previously found in NGPL Order²⁸ that Line 41-A-5-B and the related facilities perform a non-jurisdictional gathering function.²⁹ They further argue that the Commission cannot withhold approval for abandonment of a facility that has been found to perform a non-jurisdictional function.³⁰

28. Texas Eastern and Transco also maintain that abandonment of Line 41-A-5-B is consistent with Texas Eastern’s overall process of abandoning the Cameron System, which has been ongoing for many years.³¹ They assert that due to low flows on the pipeline and remaining Cameron System, Texas Eastern cannot use conventional maintenance techniques, such as the use of cleaning pigs or corrosion prevention. They also state that the public convenience and necessity permit abandonment because there are no shippers with firm service agreements designating primary receipt or delivery points on the subject facilities.³² And, according to Texas Eastern and Transco, the entities that are currently flowing limited quantities of casinghead gas have readily available alternatives.

2. Protests

29. The Line 41-A-5-B Producers disagree with Texas Eastern’s and Transco’s interpretation of the NGPL Order and its relevance to the instant request to abandon the

²⁸ 94 FERC ¶ 61,186.

²⁹ Section 1(b) of the NGA provides that “[t]he provisions of this Act . . . shall not apply . . . to the . . . gathering of natural gas.” 15 U.S.C. § 717(b) (2012).

³⁰ Application, Docket No. CP18-485-000 at 1.

³¹ *See supra* note 8.

³² Texas Eastern and Transco state that any remaining volumes of gas flowing on Line 41-A-5-B or the Cameron System are under no-fee TABS-1 agreements. Application, Docket No. CP18-485-000 at 6.

certificate authority related to Line 41-A-5-B.³³ The Line 41-A-5-B Producers argue that the findings in the NGPL Order regarding the primary function of the jointly-owned facility were limited to the interests in the facilities being abandoned by Natural, and do not cover Texas Eastern's and Transco's interests.³⁴ Therefore, the Line 41-A-5-B Producers contend the Commission must evaluate whether the public convenience and necessity allows abandonment of the certificate in effect for the facility.

30. The Line 41-A-5-B Producers assert that the abandonment of the pipeline is not permitted by the public convenience or necessity for several reasons. First, the Line 41-A-5-B Producers and Producer Coalition argue that although the Commission has generally approved the abandonment of a pipeline with low utilization when there are no firm shippers,³⁵ Peregrine has requested firm service, but Texas Eastern has failed to establish a rate schedule applicable to firm service.³⁶ Peregrine states that it is committed to entering into a firm transportation service agreement and willing to bear the costs properly allocated to such service. Moreover, the Line 41-A-5-B Producers argue other producers have been financially supporting the operation and maintenance of the line through reimbursement agreements and un-tariffed charges.³⁷ The Line 41-A-5-B

³³ Line 41-A-5-B Producers June 14, 2018 Intervention, Docket CP18-485-000.

³⁴ The Line 41-A-5-B Producers point to language in the NGPL Order requiring the other joint interest owners of the system to address the proper functionalization of the facilities in their next rate proceeding. *See* Line 41-A-5-B Producers' July 12, 2018 Answer, Docket No. CP18-485-000.

³⁵ The Line 41-A-5-B Producers and Producer Coalition question the extent to which the underutilization of the pipeline is the cause of Texas Eastern's alleged maintenance issues. The Line 41-A-5-B Producers state that the complaint proceeding raises issues related to Texas Eastern's operation and maintenance of the line, and therefore, the Commission should not act on the abandonment requests prior to the outcome of the complaint proceeding. Line 41-A-5-B Producers' June 14, 2018 Intervention, Docket No. CP18-485-000 at 13. As discussed above, the issues being addressed in the complaint proceeding are separate and independent from our analysis in determining whether abandonment is permitted by the public convenience and necessity.

³⁶ Line 41-A-5-B Producers' June 14, 2018 Intervention, Docket No. CP18-485-000 at 9-10.

³⁷ According to the Line 41-A-5-B Producers, Arena and Renaissance have entered into a Reimbursement Agreement to cover the costs associated with repairing a leak in 2016. Line 41-A-5-B Producers' June 14, 2018 Intervention, Docket No. CP18-

Producers also argue that maintenance issues were not caused by underutilization or corrosion.³⁸

31. Further, even absent a firm service request, the Line 41-A-5-B Producers and Producer Coalition argue that Texas Eastern and Transco have not shown that the public convenience or necessity permit abandonment. They disagree with Texas Eastern's and Transco's assertion that there are readily available transportation alternatives. The Line 41-A-5-B Producers state that Arena, Peregrine, Renaissance, and Tana produce oil at platforms near the Line 41-A system, and without access to Line 41-A-5-B, those producers will have no way to continue crude oil production because there would be no transportation outlet for the associated natural gas. The Producer Coalition claims that the nearest pipeline system that they could potentially utilize is owned by Stingray Pipeline Company (Stingray) and they state that construction of a new tie-in would be time-consuming and costly.³⁹ Citing *Northern Natural Gas Company*, the protesters insist the Commission must deny abandonment when there are "no readily-accessible transportation alternatives to the affected shippers."⁴⁰

32. If the Commission decides to grant Texas Eastern abandonment authority, the Line 41-A-5-B Producers request the Commission condition the abandonment on Texas Eastern's agreeing to sell Line 41-A-5-B to the producers.⁴¹ The Line 41-A-5-B Producers believe they have communicated their desire to find alternatives to abandonment, and that the Commission should consider this when addressing the abandonment of Line 41-A-5-B.

485-000 at 10. Also, Arena and Peregrine pay un-tariffed charges for operation and maintenance of certain facilities in connection with service on Line 41-A-5-B. *Id.*

³⁸ Line 41-A-5-B Producers' June 14, 2018 Intervention, Docket No. CP18-485-000 at 12.

³⁹ *Id.* at 11.

⁴⁰ *Id.* (citing *Northern Natural Gas Co.*, 135 FERC ¶ 61,048 (2011) (MOPS Order), *reh'g denied*, 137 FERC ¶ 61,091 (2011)). The Commission denied Northern Natural's request to abandon certain offshore and onshore facilities known as the Matagorda Offshore Pipeline System (MOPS), and certain services provided on those facilities finding that the public convenience and necessity did not permit abandonment.

⁴¹ *Id.* at 14 and note 23.

3. Texas Eastern's Answers

33. In response to the Line 41-A-5-B Producers' protest,⁴² Texas Eastern argues that the primary function findings in the NGPL Order were not limited to Natural's interest; rather, the Commission's finding that the primary function of Line 41-A-5-B is gathering applied to all "fractional interest owners in the same pipeline facilities."⁴³ And although Texas Eastern argues that the NGA section 7(b) standard is not applicable in light of the jurisdictional determination made in the NGPL Order, it reaffirms its and Transco's argument that the public convenience or necessity permits abandonment due to the low flows on the system resulting in maintenance issues, the fact that there are no firm shippers,⁴⁴ and the identification of readily available alternatives for currently flowing gas.⁴⁵ Texas Eastern claims that it is unfair to require its firm shippers to cover the costs of facilities they do not use.⁴⁶

⁴² Texas Eastern emphasizes that although the Line 41-A-5-B Producers jointly filed the protest, Fieldwood does not deliver gas into Line 41-A-5-B and Peregrine and Tana flow casinghead gas into Line 41-A-5-B via a pipeline owned by Arena. Texas Eastern's June 29, 2018 Answer, Docket No. CP18-485-000 at 1-2.

⁴³ *Id.* at 5. Contrary to the Line 41-A-5-B Producers' interpretation, Texas Eastern maintains that Commission precedent supports the conclusion that "co-owners of the same facility must be performing the same function." Texas Eastern's July 27, 2018 Answer, Docket No. CP18-485-000 at 3.

⁴⁴ Texas Eastern contests the Line 41-A-5-B Producers' claim that its members are financially supporting the operation and maintenance of the line, since the Line 41-A-5-B Producers have not entered into agreements for transportation service on its system. Texas Eastern states that all production flowing on the line is sold upstream of Texas Eastern and that the TABS-1 agreements under which the gas is transported to the Zone WLA TABS aggregation point is a no-fee service. Texas Eastern's June 29, 2018 Answer, Docket No. CP18-485-000 at 10.

⁴⁵ Exhibit Z-1 shows Renaissance is within three miles of Stingray's 20-inch-diameter pipeline and Arena is within nine miles of Stingray's 16-inch-diameter pipeline or within 10 miles of Stingray's 22-inch-diameter pipeline.

⁴⁶ Texas Eastern's June 29, 2018 Answer, Docket No. CP18-485-000 at 11-12. The Line 41-A-5-B Producers respond that this argument is baseless since Texas Eastern is not proposing to reduce its tariff rates upon abandonment of the facilities. Line 41-A-5-B Producers' July 12, 2018 Answer at 7.

34. Texas Eastern states that, contrary to the Line 41-A-5-B Producers' argument, the Commission's decision to deny the requested abandonment in the MOPS proceeding does not require the Commission to deny the abandonment requested here.⁴⁷ According to Texas Eastern, the case is inapposite because: (a) the quantity of gas flowing on MOPS was a greater percentage of the design capacity of the MOPS system than is the quantity of gas flowing on Line 41-A-5-B;⁴⁸ (b) opponents in the MOPS proceeding had credible claims that natural gas discoveries in the area could lead to increased flows; and (c) there was no assertion that the low flows on MOPS compromised the owners ability to maintain the MOPS system.⁴⁹ Texas Eastern relies instead on *Panhandle Eastern Pipe Line Company, LP*⁵⁰ to demonstrate that Commission precedent supports granting abandonment when the abandonment is not protested by firm or interruptible shippers. Also, Texas Eastern objects to the Line 41-A-5-B Producers' arguments that there are no transportation alternatives because implementing the alternatives would be time-consuming or costly. Texas Eastern maintains that the Commission found in *Panhandle* that an abandonment does not result in the shut-in of production where alternatives exist, even if producers must decide whether it is economically feasible to pursue such alternatives.⁵¹

35. Regarding Peregrine's claim that it has requested firm service, Texas Eastern maintains that the April 20, 2018 request was not submitted in accordance with the

⁴⁷ Texas Eastern June 29, 2018 Answer, Docket No. CP18-485-000 at 7.

⁴⁸ The MOPS system was utilized at approximately 7.3 percent of its design capacity. Texas Eastern's June 29, 2018 Answer at 8 and note 16. Texas Eastern states that the Commission has authorized abandonment of a pipeline when gas flows equal less than one percent of the pipeline's design capacity, as is the case with Line 41-A-5-B. *Id.* at 11 (citing *Kinetica Deepwater Express, LLC*, 156 FERC ¶ 61,208, at P 24 (2016)).

⁴⁹ Texas Eastern's June 29, 2018 Answer at 7-9.

⁵⁰ 141 FERC ¶ 61,119 (2012) (*Panhandle*).

⁵¹ Texas Eastern's June 29, 2018 Answer at 11 (citing *Panhandle*, 141 FERC ¶ 61,119 at P 22).

procedures prescribed in its Commission-approved tariff,⁵² and speculates that Peregrine's request was a tactic to prevent abandonment.⁵³

36. Lastly, Texas Eastern objects to the Line 41-A-5-B Producers' request to condition any abandonment authorization on Texas Eastern agreeing to sell the facilities to the Line 41-A-5-B Producers.⁵⁴ Texas Eastern responds that this request is outside the Commission's authority to review in the context of its abandonment application.

4. Commission Determination

Primary Function of Line 41-A-5-B

37. As noted in Texas Eastern's application, we applied our primary function test⁵⁵ to Line 41-A-5-B in the 2001 NGPL Order and concluded "that the facility interests that Natural proposes to abandon primarily have the characteristics of gathering exempt from Commission NGA jurisdiction."⁵⁶ Although only one of the facility's co-owners was

⁵² Peregrine emphasizes that it did not submit its request in accordance with Texas Eastern's tariff because the tariff did not clearly state whether the firm transportation service it requested was available under Texas Eastern's Rate Schedule FT. Peregrine's July 16, 2018 Answer, Docket CP18-485-000, at 3.

⁵³ Texas Eastern's June 29, 2018 Answer at 12-14. Texas Eastern and Peregrine disagree on whether Peregrine's April 20, 2018 request for firm service was made in good faith.

⁵⁴ *Id.* at 14-15.

⁵⁵ To determine the primary function of a facility, the Commission applies the criteria articulated in *Farmland Industries, Inc.*, 23 FERC ¶ 61,063 (1983), which specify several physical and geographic factors to be considered. In addition, the Commission may also consider the purpose, location, and operation of the facility, the general business activity of the owner of the facility, and whether the jurisdictional determination is consistent with the objectives of the NGA and Natural Gas Policy Act. No single factor is deemed to be determinative and not all factors apply in all situations. The Commission has modified the primary function test for facilities located offshore. *See Amerada Hess Corporation*, 52 FERC ¶ 61,268 (1990) and *Sea Robin Pipeline Company*, 71 FERC ¶ 61,351 (1995), *order on reh'g*, 75 FERC ¶ 61,332 (1996), *remanded sub nom. Sea Robin v. FERC*, 127 F.3d 365 (5th Cir. 1997), *reh'g denied* (February 2, 1998), *order on remand*, 87 FERC ¶ 61,384 (1999), *order denying reh'g*, 92 FERC ¶ 61,072 (2000), *order denying stay*, 92 FERC ¶ 61,217 (2000).

⁵⁶ NGPL Order, 94 FERC at 61,653-54.

before the Commission at the time, the Commission's primary function determination applied to the entire facility.⁵⁷ Thus, "the co-owning interstate pipelines that currently functionalize their interests in the subject jointly-owned facilities as transmission" – which included Texas Eastern and Transco – were directed to "address the proper functionalization of these facilities in their next rate cases."⁵⁸

38. There has been no suggestion that we erred in our 2001 assessment or that there has been an alteration in Line 41-A-5-B's physical factors or function. Accordingly, we affirm our prior determination that Line 41-A-5-B is functioning primarily as a gathering facility.

Abandonment of Line 41-A-5-B

39. Although the NGPL Order's primary function determination applied to all interests in the facility, it granted abandonment authority only to the co-owner seeking it, Natural. However, the order "put[] Natural's jurisdictional co-owners on notice that should such co-owners seek in the future to sell their interests in these certificated jointly-owned facilities, each respective owner must apply for prior Commission authorization under NGA section 7(b)."⁵⁹ Thus, until Texas Eastern and Transco obtain the abandonment approval they seek in this proceeding, they remain obliged to continue to operate and maintain Line 41-A-5-B as needed to be able to provide the services specified in the underlying certificates.⁶⁰

40. As the Commission has previously stated, if the primary function of facilities is found to be gathering, the Commission has no discretion to withhold abandonment

⁵⁷ See *Southern Natural Gas Company*, 79 FERC ¶ 61,076 at 61,379 (1997) ("[T]he same facilities cannot simultaneously serve a jurisdictional transmission function for one owner, and a non-jurisdictional gathering function for another owner.").

⁵⁸ NGPL Order, 94 FERC at 61,654; see *id.* at ordering para. (D).

⁵⁹ *Id.*

⁶⁰ We note that pursuant to NGA section 4 (15 U.S.C. 717c(a)), the Commission also has authority to regulate rates charged for transportation on a pipeline's own gathering facilities performed *in connection with* jurisdictional interstate transportation. See *Northern Natural Gas Co. v. F.E.R.C.*, 929 F.2d 1261, 1263 (8th Cir.), *cert. denied*, 502 U.S. 856 (1991).

authorization.⁶¹ Because we have found that the primary function of Line 41-A-5-B is currently gathering, the public convenience and necessity permit abandonment of the certificate issued in relation to it.⁶² Moreover, even if Line 41-A-5-B was performing a transmission function, we would find the extremely low flows on the line, the fact that there are no firm shippers, and the existence of feasible alternatives for moving the currently flowing gas to market sufficient to support a finding that the public convenience and necessity permit the abandonment of the certificate authority issued for Line 41-A-5-B for the same reasons discussed below with reference to the Cameron System.

Abandonment of the Cameron System

41. Pursuant to NGA section 7(b), abandonment approval is appropriate when the Commission finds that the supply of natural gas that can be accessed has decreased to the extent that continuing certificated service on the subject facilities is unwarranted, or that other considerations support a finding that the abandonment of the facilities is permitted by the present or future public convenience or necessity, or that the facilities are functioning primarily to produce or gather gas.⁶³ The applicant has the burden of providing evidence to overcome a presumption in favor of continued certificated service.⁶⁴ The Commission considers all relevant factors in determining whether an abandonment is warranted, which will vary with the circumstances of the proposal. In making our determination, we weigh the claimed benefits of the abandonment against any detriments. Although we are sensitive to the economic realities faced by pipelines, there is a presumption in favor of continued certificated service. Hence, continuity and stability of existing service are the primary considerations in assessing an application for abandonment approval.⁶⁵

⁶¹ See *Transcontinental Gas Pipe Line Corporation and Williams Gas Processing – Gulf Coast Company, L.P.*, 96 FERC ¶ 61,115, at 61,435 (2001).

⁶² See *Conoco v FERC*, 90 F.3d 536, 552-553 (D.C. Cir. 1996) (“Because the Commission concluded that the facilities to be transferred by NorAm Gas were exempt under § 1(b) as gathering facilities . . . the Commission cannot simply assert authority over the facilities . . . by invoking other sections of the Act.”).

⁶³ See 15 U.S.C. § 717f(b) (2012).

⁶⁴ See, e.g., MOPS Order, 137 FERC ¶ 61,091 at PP 17-18.

⁶⁵ *National Fuel Gas Supply Corp.*, 160 FERC ¶ 61,050, at P 17 (2017) (citing *El Paso Natural Gas Co., L.L.C.*, 148 FERC ¶ 61,226, at P 12 (2014)).

42. As the Commission has previously explained, natural gas companies and their investors do not construct pipeline facilities to provide service solely on an interruptible (or as here, no-fee) basis.⁶⁶ In the open-access transportation era, pipelines rely on firm shippers' willingness to pay monthly reservation charges, whether they use all of their reserved capacity or not, to assure recovery of most of the companies' fixed costs. Thus, firm service agreements with reservation charge obligations for specified volumes provide more compelling evidence that facilities are needed to satisfy market demand and consumer needs. In this case, no current firm, or even interruptible, shippers on the Cameron System oppose abandonment.

43. In *Delfin LNG LLC*,⁶⁷ High Island Offshore System, LLC (HIOS) sought NGA section 7(b) authority to abandon certain facilities in the Gulf of Mexico, in anticipation of repurposing the abandoned facilities to deliver domestic gas to Delfin LNG's planned liquefied natural gas deepwater port export facility. Several interruptible shippers protested.

44. In response to the shippers' protests, HIOS maintained that the facilities it proposed to abandon were significantly underused because of declining production in the area of the Gulf of Mexico served by its offshore system. Interruptible shippers urged the Commission to reject HIOS's requested abandonment based on diminished throughput and, instead, direct HIOS to file an NGA section 4 rate case as an initial step so that the diminished throughput could be reflected in rates.⁶⁸ HIOS asserted that given its dwindling throughput, it would need to regularly file NGA section 4 rate cases to have any opportunity to recover its increasing operational costs.⁶⁹

45. The Commission stated in *Delfin LNG* that "[r]eliance on [the MOPS Order was] unavailing,"⁷⁰ and concluded that:

While we recognize there may be some impacts to interruptible shippers' services and/or rates, such potential impacts are not germane to our decision in this proceeding. These shippers could have entered into firm service agreements with

⁶⁶ *High Island Offshore System, LLC*, 163 FERC 61,040, at P 12 (2018).

⁶⁷ 160 FERC ¶ 61,130 (2017), *reh'g denied* 163 FERC ¶ 61,040 (2018) (*Delfin LNG*).

⁶⁸ *Delfin LNG*, 160 FERC ¶ 61,130 at P 63.

⁶⁹ *Id.* P 66.

⁷⁰ *Id.* P 75.

HIOS, but chose not to. HIOS has no obligation to ensure continuity of service to these protesting interruptible shippers, nor is it Commission policy to require a pipeline to retain a system for those who do not place a sufficient value on the service to contract for it on a firm basis.⁷¹

46. In this case, it is uncontested that throughput on the Cameron System facilities is extremely low; Texas Eastern reports average daily flows equal to less than 0.80 percent of the certificated design capacity of the system. Further, it is uncontested that no firm or interruptible shippers have opposed the abandonment.⁷² While Peregrine states that on April 20, 2018 (less than a month before Texas Eastern filed its abandonment application in CP18-485-000), it informed Texas Eastern of “its interest” in entering into a firm transportation service agreement over the Line 41-A System, the Producer Coalition frankly states that “where, as here, the pipeline company has ample available capacity, it would serve little purpose for the producers to subscribe for firm service.”⁷³ Further, Peregrine does not suggest that it intends to subscribe to a level of firm transportation service substantially higher than the volumes it is currently flowing. There is no evidence in the record to support a reasonable expectation that utilization of the facilities proposed for abandonment will improve. As a general matter, concerns voiced by parties that are not paying rates for service using capacity proposed for abandonment are afforded little weight.⁷⁴ In view of this, although we have considered the concerns expressed by Peregrine and the other producers regarding the potential detrimental effects of the proposed abandonment, we do not find them sufficient to prevent concluding that the abandonment is permitted by the public convenience or necessity.

47. We further concur with Texas Eastern’s and Transco’s assertion that abandonment will not necessarily deprive offshore producers of a means to transport associated gas to shore. Although there may be significant costs associated with implementation of

⁷¹ *Id.* P 78 (quotations removed).

⁷² Peregrine has had a service agreement under TABS-1 since November 2, 2016.

⁷³ Producer Coalition’s August 15, 2018 Motion to Hold in Abeyance and Motion for Leave to Answer and Answer at 7.

⁷⁴ *See Panhandle*, 141 FERC ¶ 61,119 at P 23. Although we will not fault or second guess the producers’ business decisions to avail themselves of the no-fee TABS-1 service as opposed to pursuing a firm transportation service with attendant reservation charges, we also will not protect them from the risks, including the risk of potential abandonment, which their decisions entailed.

alternative transportation paths,⁷⁵ to the extent that the remaining reserves support the expense of constructing new laterals and/or acquiring the abandoned facilities, implementation of such alternatives would enable producers to continue operations. While we recognize the desirability of offshore producers extracting gas in conjunction with oil being able to transport that gas to shore, we note that although the producers have been aware that the Applicants were contemplating abandonment since at least the first outage in 2014, none sought to either subscribe for firm service or acquire the facilities until Peregrine's tepid inquiry in 2018. Thus, consistent with our decision in *Panhandle*,⁷⁶ we find the proposed abandonment does not conflict with the public interest.

48. The determination of whether abandonment is permitted is a case specific inquiry that weighs varying criteria depending upon the particular circumstances of each specific abandonment proposal.⁷⁷ Through our analysis, we find that the circumstances underlying the MOPS Order differ from those at issue here. Significantly, here the average daily throughput on the Cameron System is approximately 0.78 percent of the certificated design capacity, whereas on the MOPS system utilization was approximately 7.30 percent. Further, here the producers have not presented evidence of plans for further exploration and production, whereas there was a reasonable expectation that new gas reserves would be attached to MOPS.

49. Accordingly, we find that Texas Eastern's and Transco's request to abandon Cameron System facilities is permitted by the public convenience or necessity.

B. CP18-486-000 – Line 41-A-8 Abandonment

50. Applicants propose to abandon Line 41-A-8 and related facilities due to low utilization and a current lack of any gas flowing on Line 41-A-8. According to the Applicants, the low flow limits Texas Eastern's ability to maintain the line by use of

⁷⁵ See, e.g., Application, Docket No. CP18-505-000, Exhibit Z-2. Texas Eastern comments that producer Renaissance is three miles from a 20-inch-diameter Stingray pipeline; Peregrine, Arena, and Tana Exploration, are nine miles from a 16-inch-diameter and ten miles from a 22-inch-diameter Stingray pipeline; Fieldwood's production pipeline crosses two Kinetica Deepwater Express, LLC (Kinetica Deepwater) pipelines prior to entering the Cameron system; and Fieldwood, W&T Offshore, CSL, and Talos Production are between five miles and six and a half miles from two Kinetica Deepwater pipelines. *Id.* at 8, note 21.

⁷⁶ 141 FERC ¶ 61,119 at P 22.

⁷⁷ See, e.g., *Kinetica Deepwater Express, LLC*, 160 FERC ¶ 61,129 (2017).

conventional maintenance techniques, such as pigging, and argues abandonment would eliminate the need for future operating and maintenance expenditures on these facilities. The Applicants state there will be no adverse impact on existing firm or interruptible service and the abandonment will have no impact on the daily design capacity of, or the operating conditions on, their mainline systems. The Applicants also state that the public convenience and necessity permit abandonment because there are no shippers with primary receipt or delivery points under a firm service agreement.

51. As stated above, the Commission considers all relevant factors in determining whether an abandonment is warranted, which will vary with the circumstances of the proposal. But continuity and stability of existing service are the primary considerations in assessing an application for abandonment approval. If we find that the proposed abandonment will not jeopardize the continuity or stability of existing firm services, we generally defer to a company's business judgment and permit abandonment.⁷⁸

52. No shippers have made any claims that the facilities are needed to continue firm transportation service. We accept the Applicants' assertion that throughput on the subject facilities has declined significantly. Given this, we find the abandonment of Line 41-A-8 permitted by the public convenience and necessity.

V. Environmental Analysis

53. With respect to the facilities at issue in Docket Nos. CP18-485-000 and CP18-486-000, we find the proposed abandonment activities will be entirely within federal offshore waters or at existing offshore platforms, and will therefore qualify for a categorical exclusion from the requirement to prepare an environmental assessment or environmental impact statement pursuant to sections 380.4(a)(33)-(34) of the Commission's regulations upon approval by the Department of the Interior's Bureau of Safety and Environmental Enforcement (BSEE) and the U.S. Army Corps of Engineers.

54. With respect to Texas Eastern's proposed abandonment in Docket No. CP18-505-000, our staff prepared an Environmental Assessment (EA) to satisfy the requirements of the National Environmental Policy Act of 1969 (NEPA).⁷⁹ The analysis in the EA addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives.

⁷⁸ See, e.g., *Tennessee Gas Pipeline Company, L.L.C.*, 160 FERC ¶ 61,144, at P 22 (2017).

⁷⁹ 42 U.S.C. §§ 4321-4370h (2012).

55. The EA was placed into the public record on October 25, 2018. We received no comments on the EA. Based on the analysis in the EA, we conclude that if abandoned in accordance with the application in Docket No. CP18-505-000, as supplemented, and in compliance with the environmental conditions in the Appendix A to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

56. The EA recommends that Texas Eastern not begin abandonment activities until Texas Eastern files BSEE's and any State Historic Preservation Office (SHPO) comments regarding the need for a survey of the off-shore facilities at issue. On August 29, 2018, Texas Eastern filed correspondence from BSEE, in which BSEE indicated a survey would be necessary and provided survey guidelines. Texas Eastern has not yet provided a survey report. Therefore, we have revised the EA recommendation which is included as Environmental Condition 12 in the appendix to this order.

57. Compliance with the environmental conditions appended to our orders is integral to ensuring that the environmental impacts of approved activities are consistent with those anticipated by our environmental analyses. Thus, Commission staff carefully reviews all information submitted. When the Commission is satisfied that the applicant has complied with all applicable conditions, it will issue a notice to proceed with the activity, pursuant to the relevant conditions. We also note that the Commission has the authority to take whatever steps are necessary to ensure the protection of environmental resources during abandonment 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 abandonment.

58. At a hearing held on July 18, 2019, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications, and exhibits thereto, and all comments, and upon consideration of the record,

The Commission orders:

(A) The Texas Eastern, Transco, and Northern requests to abandon the facilities, as described in this order and in the applications, are granted, subject to the conditions described herein.

(B) The abandonment approval in Ordering Paragraph (A) is conditioned on: (1) Texas Eastern's compliance with the environmental conditions listed in Appendix A to this order; and (2) the co-owners of the jointly owned facilities obtaining the abandonment approval of the Department of the Interior's Bureau of Safety and Environmental Enforcement and the U.S. Army Corps of Engineers.

(C) Texas Eastern, Transco, and Northern shall notify the Commission within 10 days of the date of the abandonment of the facilities, as authorized by this order.

(D) Texas Eastern, Transco, and Northern shall notify the Commission's environmental staff by telephone, e-mail, and/or facsimile of any environmental non-compliance identified by other federal, state, or local agencies on the same day that such agency notifies Texas Eastern, Transco, and Northern. Texas Eastern, Transco, and Northern shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(E) The motion to hold this proceeding in abeyance and the motion to consolidate the separate dockets are denied.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A

As recommended in the Environmental Assessment (EA) associated with Texas Eastern's proposal in CP18-505-000, this abandonment approval includes the following conditions:

1. Texas Eastern shall follow the abandonment 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. Texas Eastern must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP, 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 activities associated with abandonment 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 abandonment activities.
3. **Prior to any construction or abandonment activities**, Texas Eastern 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 abandonment activities 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**, Texas Eastern 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.

5. Texas Eastern shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all 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 **before construction in or near that area.**

Examples of alterations requiring approval include workspace 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 Order and before abandonment activities begin,** Texas Eastern shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Texas Eastern must file revisions to the plan as schedules change. The plan shall identify:
 - a. how Texas Eastern 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 Texas Eastern 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, 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 Texas Eastern will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
 - f. the company personnel (if known) and specific portion of Texas Eastern's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) Texas Eastern 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. Texas Eastern 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, Texas Eastern 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 Texas Eastern'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 Texas Eastern from other federal, state, or local permitting agencies concerning instances of noncompliance, and Texas Eastern's response.
9. Texas Eastern must receive written authorization from the Director of OEP **before commencing Project abandonment**. To obtain such authorization, Texas Eastern must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. **Within 30 days of completing the abandonment**, Texas Eastern shall file an affirmative statement with the Secretary, certified by a senior company official:
- a. that the facilities have been abandoned 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 Texas Eastern 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.
11. Texas Eastern shall **not begin construction or abandonment activities** until:
- a. FERC staff completes Section 7 Endangered Species Act consultation with the National Marine Fisheries Service; and

- b. Texas Eastern has received written notification from the Director of the OEP that construction or use of mitigation may begin.
12. Texas Eastern shall **not begin abandonment activities and use of staging areas or temporary work areas and to-be-improved access roads** until:
- a. Texas Eastern files with the Secretary:
 - (1) the survey report for the off-shore components of the Project identified by the Bureau of Safety and Environmental Enforcement (BSEE); and
 - (2) BSEE's and any State Historic Preservation Office (SHPO) comments on the report.
 - b. The Advisory Council on Historic Preservation is afforded an opportunity to comment if historic properties would be adversely affected; and
 - c. FERC staff reviews and the Director of OEP approves any off-shore survey report, and notifies Texas Eastern in writing that construction may proceed.

All materials filed with the Commission containing location, character, and ownership information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: "CUI//PRIV – DO NOT RELEASE."

13. Texas Eastern shall **not begin construction or abandonment** of the Project until it files with the Secretary a copy of the determination of consistency with the Coastal Zone Management Plan issued by the Louisiana Department of Natural Resources Office of Coastal Management.