

153 FERC ¶ 61,042
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Columbia Gas Transmission, LLC
KO Transmission Company

Docket No. CP15-160-000

ORDER ISSUING CERTIFICATE AND APPROVING ABANDONMENT

(Issued October 15, 2015)

1. On April 7, 2015, Columbia Gas Transmission, LLC (Columbia) and KO Transmission Company (KOT) filed a joint application under sections 7(b) and (c) of the Natural Gas Act (NGA)¹ and Part 157 of the Commission's regulations² for a certificate of public convenience and necessity authorizing the replacement of approximately 23 miles of pipeline and associated facilities in Kentucky and for approval to abandon in place the deteriorated facilities being replaced (E System Project). Columbia and KOT also request that they be allowed to roll project facility costs into existing rates in their respective next general rate proceedings. The Commission will grant the requested authorizations.

¹ 15 U.S.C. § 717f(b), (c) (2012).

² 18 C.F.R. pt. 157, Subpart A (2015).

I. Background

2. Columbia,³ a Delaware limited liability company with its principal place of business in Houston, Texas, is a natural gas company⁴ engaged in the transportation of natural gas through approximately 12,000 miles of pipeline facilities extending from West Virginia to New York. KOT,⁵ a Kentucky corporation, is also a natural gas company,⁶ engaged in the transportation of natural gas through approximately 90 miles of pipeline in interstate commerce in Kentucky and Ohio.

3. Columbia has undertaken a long-term, comprehensive program to identify and prioritize high risk, vulnerable portions of its system that require upgrades in order to meet safety regulations⁷ and to improve service reliability. Columbia states that the E System Project has been identified as part of this effort.

4. The E System, co-owned by Columbia and KOT and operated by Columbia, crosses Menifee, Montgomery, Bath, Nicholas, Robertson, and Bracken Counties, Kentucky.⁸ The E System originates at the South Means Meter Station in Menifee County, Kentucky, where gas is received from the Columbia Gulf pipeline system, and terminates at the Foster Meter Station in Bracken County, Kentucky. From that point, gas is delivered to the Cincinnati, Ohio, and northern Kentucky markets via a KOT-owned line which extends from the Foster Meter Station to the city gates of Duke Energy Ohio and Duke Energy Kentucky.

³ Columbia is a wholly owned subsidiary of the Columbia Energy Group, which, in turn, is a wholly owned subsidiary of NiSource Inc.

⁴ 15 U.S.C. § 717a(6) (2012).

⁵ KOT is a wholly owned subsidiary of Duke Energy Ohio, Inc.

⁶ *KO Transmission Co.*, 74 FERC ¶ 61,101, at 61,307 (1996).

⁷ For example, Federal safety regulations require new and replacement pipelines to be constructed to accommodate internal pipeline inspection devices. 49 C.F.R. § 192.917 (2015).

⁸ Columbia owns 51.23 percent and KOT owns 48.77 percent of the E System. The Commission approved the acquisition, construction, and operation of the E System in Docket No. G-9689. *Central Kentucky Natural Gas Co.*, 16 F.P.C. 437 (1956), 1956 WL 4225.

II. Proposal

5. The E System comprises three existing pipelines: the Line EM2/E Loop,⁹ Line EKY,¹⁰ and Line EM7.¹¹ With respect to the Line EM2/E Loop, the applicants propose to replace approximately 22.1 miles of high pressure, uncoated, bare steel, 20-inch-diameter pipeline along the E Loop, between the North Fork of the Licking River and the Foster Meter Station, with new, 20-inch-diameter, coated and wrapped steel pipeline. In addition, the applicants propose to replace the existing 16-inch-diameter pipeline river crossing at the Licking River between Robertson and Nicholas Counties with approximately 1,900 feet of new 20-inch-diameter pipeline. The pipeline replacement segments will be offset approximately 25 feet from the existing pipeline and will tie into the existing E Loop pipeline at the Moorefield Site, the Carlisle Meter Station, the North Fork Licking River Site, and the Foster Meter Station. The applicants also propose to construct two bi-directional launcher/receiver assemblies, to be located on Line EM2 at the South Means Meter Station and the Foster Meter Station, as well as eight associated mainline valve installations.

6. With respect to Line EKY, the applicants propose to replace the existing dual 12-inch-diameter pipeline river crossing at the Licking River between Robertson and Nicholas Counties with approximately 2,000 feet of new 14-inch-diameter pipeline, and to replace the existing dual 12-inch-diameter pipeline river crossing at the Licking River between Bracken and Robertson Counties with approximately 1,500 feet of new 14-inch-diameter pipeline. The applicants also propose to construct two bi-directional launcher/receiver assemblies, to be located at the South Means Meter Station and the Foster Meter Station, as well as nine associated mainline valve installations.

⁹ EM2/E Loop is a 20-inch-diameter pipeline that runs for 66.8 miles from the South Means Meter Station in Menifee County, Kentucky to the Foster Station in Bracken County, Kentucky. The pipeline is denoted EM2 at the South Means Meter Station, but changes designation to E Loop at the North Means Station and continues as E Loop to the Foster Station.

¹⁰ Line EKY is a 14-inch-diameter pipeline that runs for 66.5 miles from the South Means Meter Station in Menifee County, Kentucky, to the Foster Station in Bracken County, Kentucky.

¹¹ Line EM7 is a 30-inch-diameter pipeline that consists of two distinct, non-connected sections. The southern section runs for 24.5 miles from the South Means Meter Station in Menifee County, Kentucky, to north of Kentucky Route 57 near Moorefield, Kentucky. The northern section runs for 19 miles from Carlisle, Kentucky, to just south of the North Fork of the Licking River.

7. Finally, with respect to Line EM7, the applicants propose to construct four bi-directional launcher/receiver assemblies, to be located at the South Means Meter Station, the Moorefield Site, the Carlisle Meter Station, and the North Fork Licking River Site. The applicants also propose to construct three associated mainline valve installations.

8. Columbia states that it identified the need to replace segments of bare steel pipe along the E Loop and to modify the Line EM2, Line EKY, and Line EM7 pipelines due to their age and condition. The proposed modifications will make it possible to use “smart pigs” and “cleaning pigs” to maintain the integrity of the E System. The applicants further assert that the proposed modifications to the E System will protect the pipelines from accelerated corrosion and provide advanced monitoring capabilities to allow it continue to provide safe transportation service to the greater Cincinnati, Ohio, region.

9. The applicants acknowledge that their proposal will affect some local consumers currently receiving gas through the existing E System. The affected consumers are customers of Columbia Gas of Kentucky, a local distribution company, who currently receive gas via mainline “farm” taps that would be removed from the E System as a consequence of the project. The applicants state that they will provide these consumers with propane as an alternative energy supply or will reconnect them to another natural gas pipeline.

10. The applicants estimate the total cost of the E System Project will be approximately \$119.5 million, of which Columbia and KOT would be responsible for \$61.4 million and \$58.1 million, respectively, pursuant to their operating agreement. The applicants seek rolled-in rate treatment for their respective shares of project costs, asserting that the project is designed to maintain and improve service to existing customers, as well as to enhance the reliability and safety of the E System. The project is not intended to increase system capacity or enable the provision of any new service.

III. Notice and Interventions

11. Notice of the application was published in the *Federal Register* on April 27, 2015.¹² The notice established May 11, 2015, as the deadline for filing motions to intervene and comments. The parties listed in Appendix A of this order filed timely, unopposed motions to intervene.¹³

¹² 80 Fed. Reg. 23,264.

¹³ Timely, unopposed motions to intervene are granted by operation of Rule 214(c) of the Commission’s Rules of Practice and Procedure. 18 C.F.R. § 385.214(c) (2015).

12. Anadarko Energy Services Company and ConocoPhillips Company filed untimely motions to intervene. We will grant their late motions to intervene as they have demonstrated an interest in this proceeding and granting intervention at this stage will not cause undue delay or undue burden for existing parties.¹⁴

IV. Discussion

13. Since the project facilities will be used to transport natural gas in interstate commerce subject to the Commission's jurisdiction, the proposed abandonment, construction, and operation of replacement facilities are subject to the requirements of subsections (b), (c), and (e) of section 7 of the NGA.¹⁵

A. Certificate Policy Statement

14. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new pipeline construction.¹⁶ The Certificate Policy Statement established 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 explained 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.

15. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from 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, or landowners and communities affected by the route of the new pipeline. 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

¹⁴ 18 C.F.R. § 385.214(d) (2015).

¹⁵ 15 U.S.C. § 717f (2012).

¹⁶ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128 (2000), *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.

16. As stated, the threshold requirement is that the applicant must be prepared to financially support the project without relying on subsidization from existing customers. The Certificate Policy Statement provides that it is not a subsidy for existing customers to pay for projects designed to replace existing capacity or improve the reliability or flexibility of existing service.¹⁷ We find the proposed E System Project will replace existing pipeline facilities that are deteriorated due to age and is intended to enable the applicants to maintain existing levels of service and/or enhance the reliability of existing services. The project will also eliminate inefficiencies inherent in maintaining a system with non-standard-sized pipe and enable the applicants to meet emerging safety regulations by increasing their ability to pig their lines and to use modern inspection tools. Under these circumstances, we find there will be no subsidization of the project by existing customers.

17. Columbia and KOT will continue to provide service using the existing facilities until the replacement facilities become operational. The applicants will provide propane or arrange for alternative pipeline supply for customers of Columbia Gas of Kentucky who will be negatively affected by removal of the mainline “farm” taps presently attached to the E System. No pipelines, or their captive customers, including the farm tap customers, have filed adverse comments regarding the applicants’ proposal. Thus, we find that the project will not adversely affect the applicants’ existing customers or other pipelines and their customers.

18. We further find that the applicants have taken steps to minimize any adverse impacts on landowners and communities that might be affected by the project. To limit environmental impacts, the proposed construction on Lines EM2, EKY, and EM7 will occur at 12 sites within or adjacent to applicants’ right of way located along approximately 66 miles of existing pipeline. Columbia proposes to reroute the pipeline away from its existing right-of-way only where existing encroachments would limit construction workspace and preclude widening the existing ROW.

19. The project will allow the applicants to address identified issues related to their aging infrastructure which could ultimately impact service to their customers. The project will also enable the applicants to comply with federal safety regulations which require new and replacement pipelines to be constructed to accommodate the passage of internal pipeline inspection devices. Based on the benefits the project will provide, the

¹⁷ *Certificate Policy Statement*, 88 FERC ¶ 61,227 at n.12.

minimal adverse impacts on the applicants' existing customers, other pipelines and their captive customers, and landowners and surrounding communities, we find that the applicants' project is consistent with the Certificate Policy Statement and required by the public convenience and necessity, as conditioned in this order. Further, we find that the public convenience and necessity permit the applicants' abandonment of the existing facilities under section 7(b) of the NGA, because the facilities are deteriorated and inefficient, nearing the end of their useful life.

B. Rolled-in Rate Determination

20. The applicants request a predetermination that their respective shares of unrecovered project costs may be rolled into their system rates in their next general rate proceedings. As described above, the primary purpose of this project is to replace existing pipeline due to its age and condition. The Certificate Policy Statement recognizes the appropriateness of rolled-in rate treatment for projects constructed to improve the reliability of service to existing customers or to improve service by replacing existing capacity, rather than to increase levels of service.¹⁸ Accordingly, we will grant the applicants' request for a predetermination of rolled-in treatment for the project in their next respective general rate proceeding, absent any material change in circumstances. We have reached similar preliminary determinations in prior cases where, as here, the costs incurred are attributable to the maintenance of safety and reliability for the benefit of existing customers.¹⁹

21. We note that Columbia has developed a comprehensive, multi-year modernization program to address its aging infrastructure and that the Commission approved a settlement in Docket No. RP12-1021-000 that establishes the initial basis for recovering the modernization costs pursuant to the settlement.²⁰ Columbia initially plans to recover

¹⁸ *Certificate Policy Statement*, 88 FERC ¶ 61,227, *clarified*, 90 FERC at 61,393-4, *further clarified*, 92 FERC ¶ 61,094.

¹⁹ *Columbia Gas Transmission, LLC*, 134 FERC ¶ 61,196 (2011); *Columbia Gas Transmission Corp.*, 111 FERC ¶ 61,431 (2005); *Northwest Pipeline Corp.*, 104 FERC ¶ 61,176, at P 23, *reh'g denied*, 105 FERC ¶ 61,109 (2003).

²⁰ *See Columbia Gas Transmission, LLC*, 142 FERC ¶ 61,062 (2013). The settlement included a provision requiring an annual tariff demand surcharge filing (Capital Cost Recovery Mechanism) for the recovery of capital investments made to modernize Columbia's system during an initial 5-year period from February 1, 2014, until the effective date of Columbia's next general rate proceeding or January 31, 2019. The parties may extend the Capital Cost Recovery Mechanism with Commission approval. (Settlement, Article VII)

its project costs through the settlement's Capital Cost Recovery Mechanism (CCRM).²¹ Any determination on the eligibility for recovery of project costs through the CCRM will be made in the CCRM proceeding. However, since the CCRM will expire under the terms of the settlement on January 31, 2019, absent a negotiated extension Columbia states it will seek to recover its unrecovered project costs through its base rates by filing an NGA general section 4 rate case. Consequently, Columbia seeks a preliminary determination here that it may roll its share of unrecovered project costs into its system base rates in its next general rate proceeding. As discussed above, we are granting that request.

C. Environmental Analysis

22. On June 27, 2014, the Commission staff began its environmental review after granting Columbia's request to use the Commission's pre-filing process for the project.²² As part of the pre-filing review, staff participated in open houses sponsored by Columbia on July 16-17, 2014, to explain our environmental review process to interested stakeholders. On August 27, 2014, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed E Systems Project and Request for Comments on Environmental Issues* (NOI). The NOI was published in the Federal Register and mailed to interested parties, including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners.

23. In response to the NOI, we received a comment letter from landowner Michael Bach, who expressed concern that the proposed pipeline construction would interfere with his plans to construct a retirement residence on his property. We also received a consultation letter from the Kentucky Heritage Council, which recommended that the project area be surveyed by a professional archaeologist, and that subsequent reports of findings be submitted to the Council's office for review and comment.

24. To satisfy the requirements of the National Environmental Policy Act, our staff prepared an environmental assessment (EA) for the proposal. The EA was prepared with the cooperation of the U.S. Fish and Wildlife Service. The EA's analysis addresses geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and

²¹ Data response, filed June 18, 2015.

²² Docket No. PF14-15-000 is Columbia's pre-filing docket. Staff's EA inadvertently omitted reference to KOT, co-owner and joint applicant with Columbia of the project facilities. While Exhibit M states that Columbia will construct and operate the project facilities, the order's environmental conditions apply to both Columbia and KOT as joint owners of the project facilities.

endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, cumulative impacts, and alternatives. The EA was placed in the public record on August 21, 2015. No subsequent comments were filed.

25. The project's environmental impacts, with the environmental conditions this order imposes, are expected to be minor and are acceptable. Landowner impacts will be minimized because the replacement pipeline follows the existing ROW to the greatest extent practicable.²³ As indicated in the EA, Columbia and Mr. Bach executed an easement agreement that accepted the proposed location of project facilities on Mr. Bach's land and that compensated the landowner for potential loss of use of a portion of his land.²⁴ We believe this agreement indicates that the landowner's concerns raised during scoping were acceptably addressed.

26. Based on the analysis in the EA, we conclude that if the project is constructed and facilities are abandoned in accordance with Columbia's application and supplements, and in compliance with the environmental conditions in the Appendix B to this order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

27. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or abandonment of facilities approved by this Commission.²⁵

D. Conclusion

28. At a hearing held on October 15, 2015, the Commission on its own motion received and made part of the record in this proceeding all evidence, including the application, and exhibits thereto, and all comments submitted, and upon consideration of the record,

²³ EA at 62.

²⁴ EA at 38.

²⁵ *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990), *order on reh'g*, 59 FERC ¶ 61,094 (1992).

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Columbia and KOT to construct and operate the E System Project, as described more fully in this order and in the application.

(B) The certificate authorized in Ordering Paragraph (A) above is conditioned on:

(1) Columbia's and KOT's completing authorized construction of the proposed facilities and making them available for service within one year of the date of this order pursuant to section 157.20(b) of the Commission's regulations;

(2) Columbia's and KOT's compliance with all applicable Commission regulations including paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and

(3) Columbia's and KOT's compliance with the environmental conditions listed in Appendix B of this order.

(C) Columbia and KOT are granted permission and approval under section 7(b) of the NGA to abandon the facilities described in this order and as more fully described in the application.

(D) Columbia and KOT shall notify the Commission of the date of the abandonment within 10 days thereof.

(E) Columbia's and KOT's requests for a pre-determination of rolled-in rate treatment of project costs are granted, as discussed in the body of this order.

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

(G) Late motions to intervene filed by Anadarko Energy Services Company and ConocoPhillips Company are granted pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix A

Timely Intervenors

Piedmont Natural Gas Company

New York State Electric & Gas Company

Public Service Company of North Carolina

NJR Energy Services Company

New Jersey Natural Gas Company

Public Service Electric and Gas Company

National Grid Gas Delivery Companies

National Fuel Gas Distribution Corporation

Pivotal Utility Holdings, Inc., d/b/a Elizabethtown Gas Company, et al.

Exelon Corporation

Direct Energy Business Marketing, LLC

Atmos Energy Marketing, LLC

Orange and Rockland Utilities, Inc.

Range Resources-Appalachia, LLC

Appendix B

Environmental Conditions

This authorization is subject to the following environmental conditions:

1. Columbia and KOT shall follow the construction, abandonment, 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. Columbia and KOT must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and abandonment of the E Systems Project (Project). This authority shall allow:
 - a. the modification of conditions of the Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from Project construction and abandonment.
3. **Prior to any construction**, Columbia and KOT 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 design sheets. As soon as they are available, and before the start of construction, Columbia and KOT shall file with the Secretary any revised detailed survey maps/sheets at a scale not smaller than 1:6,000 with station positions for

the 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.

Columbia's and KOT's exercise of eminent domain authority granted under Natural Gas Act section 7(h) in any condemnation proceedings related to the Order must be consistent with these authorized facilities and locations.

Columbia's and KOT's right of eminent domain granted under Natural Gas Act section 7(h) does not authorize it to increase the size of its natural gas facilities to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

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

This requirement does not apply to extra workspaces allowed by the Commission's 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 resource mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individuals landowners that affect other landowners or could affect sensitive environmental areas.
6. **Within 60 days of the acceptance of this authorization and before construction begins**, Columbia and KOT shall file an Implementation Plan with the Secretary for review and written approval by the Director of the OEP.

Columbia and KOT must file revisions to the plan as schedules change. The plan shall identify:

- a. how Columbia and KOT would implement the construction, abandonment 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 Columbia and KOT would 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 would ensure that sufficient personnel are available to implement the environmental mitigation;
- d. company personnel, including EIs and contractors, who would receive copies of the appropriate material;
- e. the location and dates of the environmental compliance training and instruction Columbia and KOT would 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 Columbia's and KOT's organization having responsibility for compliance;
- g. the procedures (including use of contract penalties) Columbia and KOT would follow if noncompliance occurs; and
- h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - i. the completion of all required surveys and reports;
 - ii. the environmental compliance training of onsite personnel;
 - iii. the start of construction; and
 - iv. the start and completion of restoration.

7. Beginning with the filing of its Implementation Plan, Columbia and KOT shall file updated status reports with the Secretary **on a biweekly basis** until all construction and restoration activities are complete. On request, these status reports would also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:

- a. an update on Columbia's and KOT'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 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, and their cost;
 - 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 Columbia and KOT from other federal, state, or local permitting agencies concerning instances of noncompliance, and Columbia's response.
8. **Prior to receiving written authorization from the Director of the OEP to commence construction and abandonment of any Project facilities**, Columbia and KOT shall file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
9. **Columbia and KOT must receive written authorization from the Director of OEP before placing the Project into service.** Such authorization would only be granted following a determination that rehabilitation and restoration of the areas affected by the Project are proceeding satisfactorily.
10. **Within 30 days of placing the authorized facilities in service**, Columbia and KOT 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 would be consistent with all applicable conditions; or
 - b. identifying which of the Certificate conditions Columbia and KOT have 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. Columbia and KOT shall not begin construction of the Project until:
 - a. Columbia and KOT file with the Secretary the results of mussel surveys from the Licking River;

- b. FERC staff completes any necessary Section 7 consultation with the U.S. Fish and Wildlife Service; and
- c. Columbia and KOT receive written notification from the Director of the OEP that construction and/or use of mitigation (including implementation of conservation measures) may begin.