

## FERC

### (Federal Energy Regulatory Commission) (the Commission)

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426  
202-502-8400

### Resource Reports

Williams/Transco prepared **Resource Reports** and Studies through contracted groups and with consultation from Federal & State agencies. There are 12 Resource Reports (listed below). These were presented by Williams/Transco on November 22, 2016 with updates in their Application on March 27, 2017. Subsequent updates by Williams/Transco were provided in 2017 and 2018.

- |                                |                                      |
|--------------------------------|--------------------------------------|
| 1. General Project Description | 7. Soils                             |
| 2. Water Use & Quality         | 8. Land Use, Recreation & Aesthetics |
| 3. Fish, Wildlife & Vegetation | 9. Air Quality & Noise               |
| 4. Cultural Resources          | 10. Alternatives                     |
| 5. Socioeconomics              | 11. Reliability & Safety             |
| 6. Geological Resources        | 12. PCB Contamination                |

*See Resources for links to these documents.*

*Look for comments that have been submitted on the FERC website under Documents & Filing > eLibrary > Docket Search > CP17-101.*

### Environmental Impact Statements

Environmental Impact Statements should account for all possible negative impacts of the Project (NESE) and show how Williams/Transco will avoid or minimize (mitigate) these impacts. Impacts from NESE along with those from any other projects in the areas should be considered in determining the overall environmental impact.

According to the National Environmental Policy Act's (NEPA) regulations (Title 40, Chapter V, Section 1502.1) An environmental impact statement "shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment."

FERC used the Resource Reports + supplemental filings, and asked for more data from Williams/Transco. Then, FERC prepared a **Draft Environmental Impact Statement (DEIS)**, which was released on March 23, 2018.

**NOTE: See separate documents with concerns about the DEIS on the ACTIONS TO TAKE page.**

FERC anticipates that they will publish their **Final Environmental Impact Statement (FEIS)** in mid-September 2018.

## Things that do not matter to FERC:

- **Source of the gas (fracked gas from Marcellus Shale in PA)** – It's not their jurisdiction, and Williams/Transco says that gas from varied sources is mixed.
- **End Use of the transported gas** – If the company has an agreement with another company who will distribute the gas, that's enough for FERC. It does not matter to FERC if the gas will later be exported.
- **Local Ordinances & Regulations** - Local ordinances have no weight in this decision-making process since Federal regulations "trump" them. FERC needs to make sure that the plan shows compliance with specific laws like the Clean Water Act & the Clean Air Act.
- FERC decided that there was no reason to complete a **health impact assessment** by the proposed Compressor Station 206 as part of their permitting process.
- FERC decided that, as long as Williams/Transco does what they say they will do, they will not weigh-in on **safety** concerns. Rather, the Department of Transportation's Pipeline & Hazardous Material Safety Administration (PHMSA) has jurisdiction. However, this only happens once a pipeline project is operational.
- **Greenhouse Gases** from the source to the end use of the gas – Though a court case declared that FERC needs to either quantify and consider the project's downstream carbon emissions or explain in more detail why it cannot do so, recent FERC decisions have either not addressed this issue thoroughly or claimed that the lack of agreed-upon methods precludes them from following this court order.

## FERC's Conditional Order: "Certificate of Public Convenience and Necessity"

**Williams wanted this by late June 2018 so that they could start construction in the Fall. However, the earliest that FERC might issue or deny this certificate would be mid-December 2018.**

According to FERC's Certificate Policy Statement [*Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000)], 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.

Under this policy, the threshold requirement for applicants proposing new projects is:

- The applicant must be prepared to financially support the project without relying on subsidization from its existing customers.
- The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new facilities.
- If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by 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.

In determining whether a project is required by the public convenience and necessity, the Commission balances the evidence of public benefits to be achieved against potential adverse effects.

**NOTE:**  
**FERC has only rejected two pipeline projects in the past 40 years,  
and this was because the Company did not have enough  
customer commitment for the gas.**

Sample Certificate of Public Convenience and Necessity statement (from the approved Atlantic Sunrise Project) is similar in wording found in other FERC-approved pipeline projects:

*Based on the benefits that Transco's proposal will provide, the absence of adverse effects on existing customers and other pipelines and their captive customers, and the minimal adverse effects on landowners or surrounding communities, we find, consistent with the Certificate Policy Statement and NGA section 7(c), that the public convenience and necessity requires approval of Transco's proposal, subject to the conditions discussed below.*

*We have reviewed the information and analysis contained in the final EIS regarding the potential environmental effects of the Atlantic Sunrise Project. Based on our consideration of this information and the discussion above, we agree with the conclusions presented in the final EIS and find that the project, if constructed and operated as described in the application and the final EIS, is an environmentally acceptable action. We are accepting all but one of the environmental recommendations in the final EIS and are including them as conditions in Appendix C to this order.*

Note: NGA refers to the Natural Gas Act.

**There are many flaws with this reasoning and process,  
but we need to focus on what will have an impact.**

### **State Permits for Air & Water Quality**

Williams/Transco needs certificates and permits from the environmental protection agencies in NJ, NY & PA before they can proceed with any construction.

#### **New Jersey**

Williams/Transco received their **Air Pollution Control Preconstruction Permit and Certificate to Operate** from the New Jersey Department of Environmental Protection (NJDEP) on **September 7, 2017** for the proposed Compressor Station 206.

Since then, the NJDEP has changed the thresholds for toxic emissions to be more protective of health. If Williams/Transco has applied for this Air permit when these new levels were in effect, they should not have received their permit.

Williams/Transco withdrew their applications to the NJEP for **water quality permits** on June 14, 2018, and then they **submitted new applications with a letter dated June 19, 2018**. These permit applications are for:

Land Use Regulation Program:

- Waterfront Development Individual Permit
- Water Quality Certificate under Section 401 of the Clean Water Act
- Flood Hazard Area Individual Permit and Verification
- Freshwater Wetlands Individual Permit and accompanying Transition Area Waiver

Coastal Use Management Program:

- Concurrence with Applicant's Coastal Zone Management Act (CZMA) Consistency Assessment

## New York

**On April 20, 2018, New York State Department of Environmental Conservation (NYSDEC) denied issuance of a Water Quality Certificate for the NESE Project** for reasons that included missing information as well as the possibility that additional changes may be made to the NESE Project. The NYSDEC listed “items of deficiency” that formed the basis for considering the applications to be incomplete, and these pertained to:

- *Handling of Class C Sediments (Areas of High Contamination Acute Toxicity to Aquatic Life):* handling of sediments in areas of high contamination that are expected to be highly toxic to aquatic biota,
- *Total Suspended Solids (TSS) and Side casting / Wet-Storage of Sediment:* final determination regarding total suspended solids, sidelaying /wet-storage (wet-dumping) of sediment in areas of high hard clam density in deeper waters at the channel crossing areas,
- *Backfilling:* information about impacts from backfilling in jet trencher installation areas,
- *Hydrostatic Testing:* the need for an application for a State Pollutant Discharge Elimination System (SPDES) permit from NY State for discharge of hydrostatic test water,
- *Benthic Resources Impacts and Mitigation Plan:* a full assessment and mitigation plan (measures & performance measures to ensure success) about impacts to benthic resources, including shellfish, and
- *Impacts to Fisheries Resources:* information to determine if construction activities would adversely impact Atlantic sturgeon and winter flounder, resulting in an incidental take, & activities that detail how impact to them will be avoided. (Accession No. 20180420-5191)

**Then, Williams/Transco submitted new applications on May 17, 2018.**