

DPS Staff Comments (excluding Public Involvement Program) on TGE
Preliminary Scoping Statement, with TransGas Energy Responses

Staff recognizes that the pre-application process for this project has just begun, but Staff has identified some general concerns at this stage. One such concern is the compatibility of the proposed project with land uses and land use plans in the surrounding community. As discussed further in our attached comments, impacts should be assessed considering actual existing and proposed uses, in addition to existing zoned uses.

TGE Response:

Existing uses and approved proposed uses, consistent with 16 NYCRR Part 1001.3 (b)(1)(i) will be assessed in the land use study. Further details are provided in responses to comments. We are prepared to discuss the scope of this study with DPS.

In addition, we are concerned by the size of the proposed project; will a 1000 MW plant actually fit on the site, and, even if it might, would a smaller project alleviate the community compatibility concerns?

TGE Response:

As stated in responses to comments below, TGE will assess, in the Application, alternative sizes for the Project, and the Application will discuss their relative merits and drawbacks.

Our comments on the applicant's public involvement program (PIP) are also enclosed. Staff requests that the applicant respond in writing within ten days of receipt of these comments and arrange to meet with Staff as soon as possible to discuss the PIP requirements for this project. Enclosed is a copy of a summary developed by Staff in response to requests for additional information regarding the PIP requirement of the Article X certification process.

TGE Response:

We will arrange to meet with Staff as soon as possible.

Department of Public Service Staff has reviewed the Preliminary Scoping Statement (PSS) for TransGas Energy Facility Project. Based on our review, we identified the following points that should be addressed in the application. Our

comments are organized by environmental discipline and refer to page numbers and sections in the PSS.

Staff's initial comments on the proposed stipulations contained in the PSS follow the comments on the PSS.

Section 3 – Alternatives

The discussion of alternatives should be expanded to consider alternative scale facilities. A smaller facility with smaller scale structures would be an appropriate alternative for analysis in the application. Reduction in proposed facility scale would enable the incorporation of other compatible waterfront uses, including open space and recreational corridor development, while reducing potential adverse impacts including noise, visual and community character.

TGE Response:

TGE will include an analysis of alternative scale facilities. As suggested by DPS Staff, the analysis will include noise, visual and community character issues. It will include an assessment of whether additional potential waterfront amenities could be provided with a reduced scale plant.

The PSS states in 3.3 and 3.4 that qualitative assessments will be performed. The nature and extent of the various studies will be determined in the stipulation negotiation process. The analysis of peaking capability discussed in 3.6 should also include noise impacts.

TGE Response:

TGE will discuss with interested parties which qualitative assessments they wish to be performed. Noise impacts will be included in the peaking capability analysis.

Section 5 – Fuel Supply and Delivery

It is unclear from the discussion in 5.1.3 how much oil the project would use, compared to the delivery rates discussed. The application should provide this information.

TGE Response:

The Application will include oil consumption rates as well as delivery rates. This has already been proposed by TGE in Stipulation 4, Clause 2(a).

Section 6 – Electric Transmission and Steam Sendout

Proposed steam sendout is discussed in 6.2. If the delivery of steam to the Con Edison steam system is to be considered a viable aspect of this project and considered by the Siting Board in reaching its decision in the case, then specific information demonstrating the likelihood of such cogeneration must be presented in the application.

TGE Response:

The Application will develop evidence that the Project, without cogeneration, should be approved under Article X. TGE also intends to develop evidence as to the additional impacts and benefits that would accrue with cogeneration, thereby supporting Siting Board Certification of that option as well. The Application will also present evidence concerning the likelihood of cogeneration.

Section 9 – Land Use

Open Space and Recreation

The discussion of open space and recreation needs to include a summary of the overall facility impacts on recreation resources, uses and users. Separating noise, visual, and emissions discussions will not provide the record with an adequate basis for addressing the findings on recreational resources as required by the Article X statute. The analysis of land use and recreational impacts should consider the overall effects of the specific topic studies.

TGE Response:

As dictated by good land use planning practice, the Application will indeed integrate the various topic studies to present an overall impact on open space and recreation resources, uses and users.

Open Space

The proposed Open Space study parameters should be modified. Since the site has a waterfront location, any proposed radius will include an area of nearly 50% surface water (East River and inlet), which should not be included in the study. Areas north of the inlet area will effectively be outside of the area reachable by construction personnel.

The applicant should propose an open space study protocol and parameters which addresses this topic in a meaningful way. Direct and indirect impacts should be studied.

TGE Response:

The specific purpose of open space studies under the methodology presented in the CEQR Technical Manual is to assess whether personnel associated with a development will utilize existing open space resources. The radius that is recommended is based on typical walking distance. Task Force comments recommend increasing the radius, which TGE is willing to do.

Land Use Study

The proposed study of the major land use types should be supplemented with detailed studies of the specific (not just major) land uses in the neighborhood surrounding the facility site. Specific criteria for assessing neighborhood land uses should be presented in revised draft stipulations for discussion.

TGE Response:

Both specific and major land uses will be assessed. We will revise the stipulations accordingly.

Neighborhood Character

Specific criteria for assessing neighborhood character should be presented in revised draft stipulations for discussion.

TGE Response:

Criteria for assessing neighborhood character can be found in the CEQR Technical Manual. Additional language will be added to the stipulations making clear this point, and spelling out what these criteria are.

Zoning and Land Use Compatibility

Zoning and land use compatibility discussion needs to address zoning amendments for Brooklyn Loft Conversions (Residential Conversion of Existing Non-Residential Buildings). A major component of the Williamsburg-Greenpoint M3-1 district along Kent Avenue and including areas on 12th Street near the proposed site are included in the area where residential loft conversions will be allowed uses. An area on Franklin and Quay Streets near the facility is also identified for this zoning use change. The application will need to address the potential for noise, visual, traffic and other construction and operational effects on the residential uses in this area.

TGE Response:

The proposed residential loft conversions will be analyzed.

Relevant figures in the application should depict the residential use areas within the manufacturing zone. References to re-zoning (see PSS section 9.2.4, et.al.) need to include additional areas as indicated above. (While the re-zoned parcels do not specifically about the project site, they include locations one block from the site.) Documentation of consultation with City Planning should be included in application supporting materials.

TGE Response:

Figures showing individual residential land uses will be provided in the Application. Documentation of consultation with the Department of City Planning will be included in the Application.

The application should include an aerial ortho-photograph of the project area reflecting current conditions of the site and the surrounding study area, at a scale suitable for discerning land use details.

TGE Response:

Such an ortho-photograph will be provided as part of the Application.

Local Laws Applicability

Staff encourages the applicant to make early consultations with the City of New York regarding the applicability of local laws, permitting, design standards, relevant code provisions and administrative responsibilities. Full reporting on the applicability and coordination of Article X and local permitting should be included in the application. Staff will provide additional recommendations as discussions on study design and stipulation terms advance.

TGE Response:

TGE looks forward to discussing these issues both with the City of New York and DPS Staff.

Decommissioning and Restoration

These topics should be presented in a separate chapter of the application, rather than as a component of the Land Use chapter.

TGE Response:

Decommissioning and restoration will be addressed in a separate chapter. However, unless other parties object, TGE would prefer to keep these topics under the land use stipulation.

Section 10 – Urban Design and Visual Resources

In addition to the inventory of resources listed in 10.3.2, the application should fully address local community viewpoints which may be affected by the proposed facility. Renderings of project appearance from important local vantage points will be necessary to address community impacts and assess effects on community character.

TGE Response:

All these analyses will be undertaken. Additional stipulation language will be prepared.

Lighting and marking: facility stacks will likely require aviation hazard lighting or marking. Visibility and impact analysis should assess the hazard marking or lighting requirements of the Federal Aviation Administration. Alternatives analysis is appropriate, including use of dual lighting systems to minimize night-time impacts of intense white lighting on residential communities. Further, an alternative analysis of a smaller facility on the need for any hazard marking or lighting should be made, since this would minimize any adverse impact.

TGE Response:

All these analyses will be undertaken. Additional stipulation language will be prepared.

Analysis of visibility and visual impact should provide the results of the proposed experimentation with combinations of flues, disguise of dual-flue structures, as well as shorter stack flues or smaller diameter flues. Again, the influence of stack marking or lighting requirements should be factored into this analysis.

TGE Response:

All these analyses will be undertaken. Additional stipulation language will be prepared.

The proposed facility design appears to be evolving: comparison of the facility depicted in the PSS at Figure 2-2 with the “current design” as depicted on the *Future Site* rendition on the TransGas Energy website (www.transgasenergy.com/PresPrelimFuture, updated Oct. 16, 2001) indicates that the facility cooling structure and stacks are being scaled to lower top elevations than as depicted in the PSS. (If, on the other hand, the PSS Figure 2-2 depiction is more current than the *Future Site* depiction on the website, then the website has not been kept current.)

Regardless of which depiction is more current, Staff encourages the applicant to pursue design alternatives which result in a smaller height and footprint and which could provide

waterfront access along the northerly site boundary, and which could potentially provide visual access to the waterfront.

TGE Response:

The recommendations are noted. Figure 2-2 is, in fact, more current than the website noted, and the website will be amended to reflect this update. In any case, TGE is investigating alternative designs to lower stack height and reduce the footprint.

Section 11 – Noise

It is unclear from the discussion in 11.2.2 whether measurement locations will be proposed at existing residential locations or at zoned residential locations. Measurement should be taken at the nearest existing and proposed sensitive receptors.

TGE Response:

Measurement locations will be proposed at existing and proposed sensitive receptors, as well as at the nearest residential zoning lot lines.

Section 13 – Traffic and Transportation

Parking and laydown areas will need to be more specifically identified in the application, rather than “described generically”, as proposed in 13.3.

TGE Response:

The statement should have been more precise. Alternative parking/laydown areas will be specifically identified. Several potential laydown scenarios may be assessed. If, however, a single, practical laydown area is identified, then we propose not to evaluate additional laydown areas in great detail. Consistent with the Staff position in the Astoria Article X Recommended Decision (Case 99-F-1191, p. 44), we also would like to explore a certificate condition that permits an applicant to identify construction support areas in the compliance filing.

Section 14 – Soils, Geology and Seismology

Section 14.2.2 states that “a further geotechnical investigation will be conducted as necessary ... and may be reported upon in the Application”. All the information listed in 14.2.2 must be provided in the application. Since the PSS provides no citation to previously conducted geotechnical investigations, it appears that a new investigation will need to be conducted.

TGE Response:

All information listed in 14.2.2 will be provided.

If the delivery of steam to the Con Edison steam system is to be considered a viable aspect of this project, then more information than that in available literature and a conceptual work plan, as proposed in 14.3.1, will be required.

TGE Response:

TGE would like further clarification of this comment and will contact DPS.

Section 15 – Water Resources

The proposal for using the Brooklyn Queens Aquifer should be discussed in the following context: Unless TransGas is proposing to either construct an on-site well or purchase and reopen an idled well from the City of New York, the use of the Brooklyn Queens Aquifer should be considered part of the public water supply discussion and not as a separate water supply option. As such, any commitment of resources by TransGas to reopen a municipal well should be presented as a mitigation measure. A full assessment of the impacts on the entire public water supply system will still be required.

TGE Response:

TGE agrees with the characterization of the analysis. The potential use of Brooklyn Queens Aquifer water will be presented as a public water supply issue. However, TGE may still differentiate between the sources of that water supply (surface water reservoir vs. groundwater). To clarify the potential option to be studied – TGE does not propose to construct and purchase a well. However, it may be able to provide a use for wells presently idled and not considered to be presently capable of producing potable water.

Section 16 – Cumulative Impacts

The appropriate stipulations should be revised to reflect the proposed cumulative impact studies discussed in this section.

TGE Response:

TGE proposes that either the language regarding cumulative impacts should be in each stipulation, as applicable, or it should be in Stipulation 12, but not both. Our preference is that it be in Stipulation 12.

Initial Comments On Draft Stipulations

Stipulation 2: Cultural Resources

Clause 1 should include consultation with DPS staff regarding the proposed studies of archeological resources. Documentation of prior disturbance may require additional documentation and resource evaluation.

TGE Response:

DPS Staff will be included in the consultations. Additional stipulation language will be prepared accordingly.

Off-site interconnections need to be addressed in study parameters, as well as the facility site.

TGE Response:

Interconnections will be included. Additional stipulation language will be prepared accordingly.

Clause 4(c) should be interpreted to require photographs of views from the identified historic resources in the study area to the facility Project site.

TGE Response:

Stipulation language will be changed to specify views from historic resources toward the Project site.

An identification of analysis of mitigation needs for potential visual effects of facility construction or operation on historic resources should be included as an addition stipulation term.

TGE Response:

Stipulation language will be modified accordingly.

The stipulation should specify that a summary statement addressing the potential impact on historic resources will be included.

TGE Response:

Stipulation language will be modified accordingly.

Stipulation No. 3: Electric Transmission Facilities

Note: The following stipulation should replace the stipulation contained in the PSS **without changes.**

[Text omitted here; instead it will appear in revised Stipulation 3, without changes.]

Stipulation 4: Project Alternatives

Clause 7 should specify that alternative scale facilities will be analyzed and compared for identifying the facility which minimizes impacts on resources and the local community. Alternative arrangements, and a smaller facility which also incorporates waterfront recreational access along the northern site boundary should be included.

Clause 7 should specify that alternative exhaust stack arrangements and heights will be analyzed, as discussed in the visual commentary of the PSS.

TGE Response:

A new paragraph will be inserted into Clause 7 that addresses downsizing, and whether waterfront recreational access along the northern site boundary could be included because of it.

Clause 6 stipulation should read:

Reliability

The application will contain an assessment, with supporting details, of the reliability and feasibility of Applicant's preferred generation equipment. As part of the supporting details, reliability data for the major generation components including the gas turbine, heat recovery steam generator, and steam turbine, and collectively for the entire power block will be provided. Data is to be unit specific to the Applicant's facility and not averaged with other makes and models of equipment. The reliability data to be included is as follows: capacity factor; availability; equivalent availability; forced outage rate; equivalent forced outage rate; and starting reliability, if available. Data for the last five years, year-by-year and cumulative, will be provided. If the equipment does not have an operating history, estimates of operating reliability with the rationale including back-up information from tests and experience with individual equipment components will be provided.

TGE Response:

Stipulation language will be modified accordingly.

The following should be added to the Alternatives stipulation:

Alternatives

The application will explain the basis for the selection of the power block.

TGE Response:

Stipulation language will be modified accordingly.

Choice of emission control system

The application will include an explanation of the basis for the chosen emission control systems and alternatives.

TGE Response:

Stipulation language will be modified accordingly.

Choice of cooling system

The application will include an evaluation and assessment of alternative cooling systems and will provide sufficient information about the reasonableness of the preferred cooling system and why other options are not considered reasonable alternatives. Additionally, the application will provide an analysis to evaluate qualitatively the preferred system with respect to noise, operations/economics and aesthetic impact

TGE Response:

Stipulation language will be modified accordingly.

Stipulation 5: Land Uses and Local Laws

Clause 1 needs to be updated as appropriate to include recent and pending revisions to zoning codes and planning documents. The applicant should confer with the New York City Department of City Planning to identify any other planning documents and policies relevant for consideration in the proposed studies.

TGE Response:

Stipulation language will be modified accordingly.

Clause 1 also needs to be expanded to address all relevant code provisions of the New York City Administrative Code, and the Rules and Regulations.

TGE Response:

Stipulation language will be modified accordingly.

Clause 2(a)(ii) should be changed to address properties within the zone to be studied for the open space study. An appropriate study design and distance should be devised based on the waterfront location of the property, the resources within the project vicinity, and relevant considerations such as streetscape visibility, street alignment, pedestrian and traffic patterns, and related factors influencing study area context. Detailed land use impact discussions should focus on the potential for facility impacts on the properties and uses within this zone.

TGE Response:

TGE will identify such areas and include them in a revised stipulation.

Amend the list of figures to include an aerial ortho-photograph of the project area reflecting current conditions of the site and the surrounding study area.

TGE Response:

Stipulation language will be modified accordingly.

The application should provide a discussion of real property interests, information about site access, the need for easements for interconnections, and related information. The following clauses are recommended for inclusion in the Land Use and Local Laws stipulations:

Real Property

The Application shall include:

(a) A demonstration that the Applicant has obtained title to the Project site (including street access) or is under binding contract or option to obtain title to the Project site (including street access).

TGE Response:

Stipulation language will be modified accordingly.

(b) A demonstration that the Applicant has obtained, or can obtain, such deeds, easements, leases, licenses or other real property interests as are necessary for all interconnections for the Project, except no such demonstration shall be required regarding any transmission interconnection subject to Article VII.

TGE Response:

Stipulation language will be modified accordingly.

(c) An identification of any improvement district extensions necessary for the Project and a demonstration that the Applicant has obtained, or can obtain, such improvement district extensions.

TGE Response:

Stipulation language will be modified accordingly.

Stipulation 6: Noise

A Noise Impact Assessment Protocol, as noted in the proposed stipulation, must be prepared as part of the noise stipulation. The applicant could use the Orion Astoria Repowering (01-F-1522) final stipulations (<http://www.orion.ene.com/>) as guidance in drafting the protocol.

TGE Response:

A Noise Impact Assessment Protocol will be prepared.

Clause 8 needs to be revised, to eliminate reference to “D” and to separate compliance with local laws into another clause.

TGE Response:

With respect to local law compliance, stipulation language will be modified accordingly. With respect to a reference to “D”, TGE does not believe it would be detrimental to the record in the case and would object to eliminating the reference.

Stipulation 9: Traffic and Transportation

Revise clause 2 (e) by deleting “mid-day” and “(unless traffic counts ... weekday peaks)”.

TGE Response:

Stipulation language will be modified accordingly.

Stipulation 10: Aesthetics and Visual Resources

Clause 2 (d) and (e) need to address any exhaust stack lighting or marking requirements as determined by FAA; results of FAA review should be modeled in visibility assessment and impact determination.

TGE Response:

Stipulation language will be modified accordingly.

Stipulation 11: Water Resources

The water stipulation proposed by TransGas should be revised to incorporate the most recent final and draft stipulations from other Article X cases. Please use the Orion Astoria Repowering (01-F-1522) final stipulations (<http://www.orion.ene.com/>) as well as the proposed Kings Park Energy Project (Case 01-F-1356) and Besicorp stipulations (see <http://www.dps.state.ny.us/kingspark.htm> and <http://www.besicorp.com/> respectively) as guidance. In addition, TransGas should propose stipulations regarding the use of Newtown Creek WPCP effluent.

TGE will review the subject stipulations to address this comment. Our understanding, however, is that none of the aforementioned plants use air cooling. (One is simple cycle, the other two use evaporative cooling.)