

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 29, 2008

In Reply Refer To:

New Mexico Gas Company, Inc.
Public Service Company of New
Mexico
Docket No. CP09-25-000

Presidential Permit

The Honorable Condoleezza Rice
Secretary of State
Washington, DC 20520

Dear Madam Secretary:

Pursuant to the provisions of Executive Order Nos. 10485 and 12038 of September 1, 1953, and February 3, 1978, respectively, and the Secretary of Energy's Delegation Order No. 00-004.00A, effective May 16, 2006, enclosed herewith for your information and consideration is a copy of the joint application filed jointly by New Mexico Gas Company, Inc. (New Mexico Gas) and Public Service Company of New Mexico (PNM) (collectively applicants) with the Federal Energy Regulatory Commission (Commission) on November 21, 2008, in Docket No. CP09-25-000.

In the November 21, 2008 filing the applicants seek to amend the authorization the Commission granted to PNM on August 6, 1993.¹ That order granted PNM authorization pursuant to Natural Gas Act (NGA) section 3 and the Presidential Permit to site, construct, operate, and maintain facilities for the exportation of natural gas at the international boundary between Santa Teresa, Dona Ana County, New Mexico, and San Jeronimo, Chihuahua, Mexico.

¹ *Gas Company of New Mexico, a Division of Public Service Company of New Mexico*, 64 FERC ¶ 61,226 (1993).

The applicants request that the authorization under NGA section 3 and the Presidential Permit held by PNM be transferred to New Mexico Gas to recognize that New Mexico Gas will own the border-crossing facilities. Under the applicant's proposals, the NGA section 3 authorization and Presidential Permit will be held by New Mexico Gas. The transfer of the authorization to maintain and own the facilities will not affect the use of the facilities or the proposed services that would be provided to customers on the facilities.

In addition, New Mexico Gas seeks authorization to construct and operate boarder facilities to import natural gas. The proposed border facilities will consist of a meter station near Santa Teresa, Dona Ana County, New Mexico; approximately 150 feet of 8-inch diameter pipeline in a 50-foot right-of-way; and a delivery point at the international boundary between Dona Ana County, New Mexico, and the State of Chihuahua, Mexico. New Mexico Gas' proposed facilities will interconnect with natural gas facilities expected to be built by Compañía de Autoabastecedores de Gas Natural de San Jerónimo S.A. de C.V. in San Jeronimo, Chihuahua, Mexico.

New Mexico Gas is a corporation organized under the laws of the State of Delaware with its principal place of business at P.O. Box 1025, Albuquerque, New Mexico 87103. PNM is a New Mexico corporation with its principal place of business at Alvarado Square, Albuquerque, New Mexico 87158. Neither New Mexico Gas nor PNM and their facilities are owned or subsidized, either directly or indirectly, by any foreign government.

Also enclosed for your consideration is a draft copy of the Permit to be issued to New Mexico Gas, which incorporates terms and conditions you and the Secretary of Defense have heretofore required in similar cases

A similar letter, together with a copy of the application is being sent to the Secretary of Defense. If the Secretary of Defense should make an unfavorable recommendation or propose any material change in the draft of the Permit, the Commission will immediately advise you.

The Commission would appreciate receiving your views regarding issuance of the proposed amended permit at an early date. Please do not hesitate to contact me at (202) 502-8400 or Katherine Zengion at (202) 502-6491, if you need any further information.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

cc: The Honorable Robert M. Gates

Attachments:

Application of New Mexico Gas Company, Inc. and Public Service Company of New Mexico

Draft of Presidential Permit

**DRAFT PRESIDENTIAL PERMIT
AUTHORIZING NEW MEXICO GAS COMPANY, INC.
TO CONSTRUCT, OPERATE, AND MAINTAIN FACILITIES
FOR THE IMPORT AND EXPORT OF NATURAL GAS
AT THE INTERNATIONAL BOUNDARY BETWEEN
THE UNITED STATES AND MEXICO
NEAR SANTA TERESA, DONA ANA COUNTY, NEW MEXICO**

**FEDERAL ENERGY REGULATORY COMMISSION
DOCKET NO. CP09-25-000**

(Issued , 2009)

New Mexico Gas Company, Inc. (New Mexico Gas--Permittee) and Public Service Company of New Mexico (PNM) filed on November 21, 2008, in Docket No. CP09-25-000, an application pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00A, requesting that the Commission issue an order under section 3 of the Natural Gas Act (NGA) and a Presidential Permit which transfers authority to construct and operate certain pipeline and related facilities and to operate and maintain such facilities, as described in Article 2 below, for the exportation and importation of natural gas to and from the United States and Mexico from PNM to New Mexico Gas.

By letter dated , 2009, the Secretary of State, and by letter dated , 2009, the Secretary of Defense, favorably recommended that the Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of a Permit is appropriate and consistent with the public interest.

Pursuant to the provisions of Executive Order Nos. 10485 and 12038, dated September 3, 1953, and February 3, 1978, respectively, the Secretary of Energy's Delegation Order No. 00-004.00A, effective May 16, 2006, and the Commission's Regulations, permission is granted to Permittee to operate and maintain the natural gas facilities described in Article 2 below, upon the terms and conditions of the Permit.

Article 1. It is expressly agreed by the Permittee that the facilities herein described shall be subject to all provisions and requirements of this Permit. This Permit may be modified or revoked by the President of the United States or the Federal Energy Regulatory Commission and may be amended by the Federal Energy Regulatory Commission upon proper application therefore.

Article 2. The following facilities are subject to this Permit:

A meter station near Santa Teresa, Dona Ana County, New Mexico, approximately 150 feet of 8-inch diameter pipeline that will extend from Santa Teresa, New Mexico, to the international boundary between the United States and Mexico, and a delivery point at the crossing of the international boundary between the United States and Mexico.

Article 3. The natural gas facilities subject to this Permit, or which may subsequently be included herein by modification or amendment, may be utilized for the transportation of natural gas imported and exported to and from the United States and Mexico only in the amount, at the rate, and in the manner authorized under section 3 of the Natural Gas Act.

Article 4. The operation and maintenance of the aforesaid facilities shall be subject to the inspection and approval of representatives of the United States. The Permittee shall allow officers and employees of the United States, showing proper credentials, free and unrestricted access to the land occupied by the facilities in the performance of their official duties.

Article 5. If in the future it should appear to the Secretary of the Army that any facilities or operations permitted hereunder cause unreasonable obstruction to the free navigation of any of the navigable waters of the United States, the Permittee may be required, upon notice from the Secretary of the Army, to remove or alter the same so as to render navigation through such waters free and unobstructed.

Article 6. The Permittee shall be liable for all damages occasioned to the property of others by the operation or maintenance of the facilities, and in no event shall the United States be liable therefor. The Permittee shall do everything reasonable within their power to prevent or suppress fires on or near land occupied under this Permit.

Article 7. The Permittee agrees to file with the Commission, under oath and in such detail as the Commission may require, such statements or reports with respect to the natural gas imported or exported, or the facilities described herein, as the Commission may, from time to time, request. Such information may be made available to any federal, state, or local agency requesting such information.

Article 8. Neither this Permit nor the facilities, nor any part thereof, covered by this Permit shall be voluntarily transferred in any manner, but the Permit shall continue in effect temporarily for a reasonable time in the event of the involuntary transfer of the

facilities by operation of law (including transfer to receivers, trustees, or purchasers under foreclosure or judicial sale) pending the making of an application for a permanent Permit and decision thereon, provided notice is promptly given in writing to the Commission accompanied by a statement that the facilities authorized by this Permit remain substantially the same as before the involuntary transfer. The Permittee shall maintain the facilities in a condition of repair for the efficient transportation of natural gas and shall make all necessary renewals and replacements.

Article 9. At such time that this Permit is surrendered, revoked, or otherwise terminated, the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place. The Commission will specify the time within which any authorized facilities shall be removed, and the Permittee shall remove those facilities within such time and at the Permittee's expense. Upon failure of the Permittee to comply with the Commission's direction to remove any authorized facilities, the Commission may direct that possession of the same be taken and the facilities be removed at the Permittee's expense, and the Permittee shall have no claim for damages by reason of such possession or removal.

Article 10. The Permittee agrees that when, in the opinion of the President of the United States, evidenced by a written order addressed to it as holder of this Permit, the safety of the United States demands it, the United States shall have the right to enter upon and take possession of any of the facilities, or parts thereof, maintained or operated under this Permit, and all contracts covering the transportation or sale of natural gas by means of said facilities, to retain possession, management, and control thereof for such length of time as may appear to the President to be necessary to accomplish said purposes, and then to restore possession and control to the Permittee; and in the event that the United States shall exercise such right it shall pay the Permittee just and fair compensation for the use of said facilities upon the basis of a reasonable profit in time of peace, and the cost of restoring said facilities to as good condition as existed at the time of taking over thereof, less the reasonable value of any improvements that may be made thereto by the United States and which are valuable and serviceable to the Permittee.

Article 11. This Permit is subject to any action which the Government of the United States may in the future deem expedient or necessary to take in case any part of the aforesaid facilities comes into the control of any foreign government.

Article 12. The Government of the United States shall be entitled to the same or similar privileges as may by law, regulation, agreement, or otherwise, be granted by the Permittee to any foreign government.

By direction of the Commission.

Secretary

IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of _____ has caused its name to be signed by _____, pursuant to a resolution of its Board of Directors duly adopted on the __ day of _____, _____, a certified copy of the record of which is attached hereto.

New Mexico Gas Company, Inc.

By _____

(Attest)

Executed in triplicate