

155 FERC ¶ 61,265
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Impulsora Pipeline, LLC

Docket No. CP16-70-000

ORDER AMENDING PRESIDENTIAL PERMIT AND AUTHORIZATION UNDER
SECTION 3 OF THE NATURAL GAS ACT

(Issued June 16, 2016)

1. On February 4, 2016, Impulsora Pipeline, LLC (“Impulsora”) filed an application requesting an amendment to its authorization under Section 3 of the Natural Gas Act (NGA)¹ and Presidential Permit under Part 153 of the Commission’s regulations² as it no longer plans to construct one of the previously-authorized parallel pipelines (border-crossing facilities) in Texas at the international boundary between the United States and Mexico. For the reasons discussed below, the Commission will amend Impulsora’s authorizations, as requested.³

I. Background and Proposal

2. Impulsora is wholly owned by Nueva Era Pipeline, LLC, which is a limited liability company owned through intermediate entities equally by affiliates of Howard Midstream EnergyPartners, LLC and Grupo Clisa.

¹ 15 U.S.C. § 717b(a) (2012).

² 18 C.F.R. Part 153 (2015).

³ Impulsora’s existing NGA section 3 authorization and Presidential Permit were issued on May 14, 2015, in Docket No. CP14-513-000. *Impulsora Pipeline, LLC*, 151 FERC ¶ 61,117 (2015) (*Impulsora*). In an order on rehearing in Docket No. CP14-513-001, the Commission amended Impulsora’s NGA section 3 authorization and Presidential Permit to clarify that only 1,400 feet of each of the authorized parallel border-crossing pipelines would be located on the United States side of the international boundary. *Impulsora Pipeline, LLC*, 153 FERC ¶ 61,204, at P 35 (2015).

3. On May 14, 2015, the Commission issued an order granting Impulsora authorization under Section 3 of the NGA and a Presidential Permit to construct and operate pipeline facilities in Webb County, Texas, at the international border with Mexico. The authorized border-crossing facilities include parallel 36-inch- and 12-inch-diameter pipelines to transport natural gas export and import volumes between the United States and Mexico as authorized by the Secretary of Energy.⁴

4. Impulsora states it has a service agreement with the Comisión Federal de Electricidad (CFE), the state-owned electric utility of Mexico, to transport up to 504,000 million British thermal units per day (MMBtu/day) of natural gas to the international border where a Mexican pipeline, Midstream de Mexico, S. de R.L. de C.V., will receive and deliver the gas in Mexico for the CFE. Impulsora has determined that it will only need the 36-inch-diameter pipeline in order to provide service and therefore does not intend to construct the 12-inch-diameter pipeline. Impulsora requests that the Commission amend its NGA Section 3 authorization and Presidential Permit accordingly.⁵

⁴ Authorization under section 3 of the NGA is necessary for the siting, construction, or operation of facilities to import or export natural gas. In addition, pursuant to Executive Order No. 10485, dated September 3, 1953 (18 Fed. Reg. 5397), as amended by Executive Order No. 12038, dated February 3, 1978 (43 Fed. Reg. 4957), a Presidential Permit also must be obtained for the portion of an import or export facility crossing one of the United States international borders. In Delegation Order No. 00-004.00A, effective May 16, 2006, the Secretary of the U.S. Department of Energy (DOE) renewed the delegation of authority to the Commission to grant or deny authorization under section 3 of the NGA and, if applicable, a Presidential Permit for the construction, operation, maintenance, or connection of import and export facilities. The Commission has no authority to approve or disapprove applications to import or export natural gas. The Secretary of Energy has delegated such authority to DOE's Assistant Secretary for Fossil Energy.

⁵ Impulsora filed a separate request on February 4, 2016, in Docket No. CP14-513-000 requesting an extension of time to construct the 36-inch-diameter pipeline. Impulsora explained the extension of time was needed due to the time it had been in engaged in negotiations with the CFE. On March 3, 2016, the Commission's Office of Energy Projects issued a delegated letter order in Docket No. CP14-513-000 granting Impulsora's request for an extension of time until June 1, 2017, to complete construction of the 36-inch-diameter pipeline.

II. Public Notice and Intervention

5. On February 26, 2016, the Commission issued notice of Impulsora's application.⁶ No protests, comments, or motions to intervene were filed.

III. Consultation with Secretaries of State and Defense

6. On March 17, 2016 pursuant to Executive Order 10485, the Commission sent letters to the Secretaries of State and Defense seeking their recommendations on the applicant's request for amendment of its Presidential Permit to reflect Impulsora's determination that it will only need to construct the 36-inch-diameter pipeline that was authorized by the Commission's May 14, 2015 order. By letters dated March 30, 2016, and April 11, 2016, the Secretaries of Defense and State, respectively, indicated that they have no objections to Impulsora's requested amendment of its Presidential Permit.⁷

IV. Discussion

A. Public Interest

7. Pursuant to Department of Energy Delegation Order No. 00-004.00A, effective May 16, 2006, the Commission has delegated authority to grant Presidential Permits and issue NGA section 3 authorizations for import and export facilities. Section 3 provides for the Commission's approval of an application under that section "unless it finds that the proposal will not be consistent with the public interest."⁸ The Commission may also apply terms and conditions as it deems necessary to ensure a project is not inconsistent with the public interest.⁹

8. As discussed above, Impulsora states that it will only need the previously-authorized 36-inch-diameter pipeline to provide service, and no comments have been filed in opposition to Impulsora's request for amendment of its NGA Section 3 authorization and Presidential Permit to eliminate the authorization for the parallel

⁶ *Federal Register*, 81 Fed. Reg. 9845, (2016).

⁷ Prior to issuing Impulsora's Presidential Permit in Docket No. CP14-513-000, the Commission sought the recommendations of the Secretaries of State and Defense and received their responses indicating no objection to issuance of the requested Presidential Permit. *Impulsora*, 151 FERC ¶ 61,117 at P 11.

⁸ 15 U.S.C. § 717b(a) (2012).

⁹ *Id.*

12-inch-diameter pipeline. Further, construction has not commenced on either of the previously-authorized facilities. For these reasons, we find that Impulsora's requested amendments of its NGA Section 3 authorization and Presidential Permit are consistent with the public interest.

B. Environment

9. To satisfy the requirements of the National Environmental Policy Act, Commission staff reviewed Impulsora's proposal and prepared an environmental assessment report which was placed in the public record on February 4, 2016. The report concluded that Impulsora's decision not to construct the authorized 1,400 feet of parallel 12-inch-diameter pipeline does not raise any new environmental issues and should result in a reduction in potential environmental impacts previously identified and addressed in the Commission's February 13, 2015 environmental assessment (EA) in Docket CP14-513-000.¹⁰

10. At a hearing held on June 16, 2016, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, and all comments, and upon consideration of the record,

¹⁰ As discussed in the May 14, 2015 order in Docket CP14-513-000 that granted Impulsora's existing NGA Section 3 authorization and Presidential Permit, the Commission prepared an EA for Impulsora's proposal to construct and operate 1,400 feet of 36-inch-diameter pipeline and 1,400 feet of parallel 12-inch-diameter pipeline in Webb County, Texas, to transport gas between the United States and Mexico. The EA addressed geology, soils, water resources, wetlands, vegetation, fisheries, wildlife, threatened and endangered species, land use, recreation, visual resources, cultural resources, air quality, noise, safety, and alternatives. The EA also addressed comments that had been received in response to staff's Notice of Intent to prepare an EA. *Impulsora*, 151 FERC ¶ 61,117 at P 17 *et seq.* The May 14, 2015 order addressed comments that were filed following issuance of the EA, and the Commission concluded that if constructed in accordance with Impulsora's application and that order's environmental conditions, its approval of Impulsora's proposed project would not constitute a major federal action significantly affecting the quality of the human environment. *Id.* P 24.

The Commission orders:

(A) The NGA section 3 authorization granted to Impulsora to site, construct, operate, and maintain facilities at the international boundary in Webb County, Texas, for the transportation of natural gas between the United States and Mexico is amended as discussed herein.

(B) An amended Presidential Permit, set forth in the Appendix to this order, is issued to Impulsora to construct, operate, and maintain facilities for the transportation of natural gas between the United States and Mexico.

(C) Impulsora shall sign and return the testimony and acceptance of all provisions, conditions, and requirements of the amended Presidential Permit to the Secretary of the Commission (Secretary) within 30 days of the issuance of this order.

(D) All other requirements and conditions of the Commission's prior orders authorizing its construction and operation of facilities remain in effect.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

**PERMIT AUTHORIZING IMPULSORA PIPELINE, LLC
TO SITE, CONSTRUCT, AND OPERATE NATURAL GAS FACILITIES
AT THE INTERNATIONAL BOUNDARY
BETWEEN THE UNITED STATES AND MEXICO**

**FEDERAL ENERGY REGULATORY COMMISSION
Docket No. CP16-70-000**

(Issued June 16, 2016)

Impulsora Pipeline, LLC (Impulsora), a limited liability company organized under the laws of the State of Delaware, filed on July 1, 2014, in Docket No. CP16-70-000, 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 amend Impulsora's existing Presidential Permit and authorization under section 3 of the Natural Gas Act (NGA) issued in Docket No. CP14-513-000 (*Impulsora Pipeline, LLC*, 151 FERC ¶ 61,117 (2015), *amended*, 153 FERC ¶ 61,204 (2015)) to authorize the siting, construction, and operation of new border crossing pipeline facilities at the international boundary for the transportation of natural gas between the United States and Mexico.

By letter filed March 30, 2016, the Secretary of Defense, and by letter filed April 11, 2016, the Secretary of State, favorably recommend that an amended Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of this amended Permit to Impulsora for the siting, construction, and operation of border-crossing facilities to transport natural gas between the United States and Mexico is appropriate and consistent with the public interest.

Pursuant to the provisions of Executive Order Nos. 10485 and 12038, dated September 1, 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 Impulsora (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:

Approximately 1,400 feet of 36-inch-diameter pipeline in Webb County, Texas, to the international boundary between the United States and Mexico in the vicinity of Colombia, State of Nuevo León, 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 between the United States and Mexico only in the amount, at the rate, and in the manner authorized under section 3 of the NGA.

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 Defense 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 Defense, to remove or alter the same so as to render navigation through such water 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 therefore. The Permittee shall do everything reasonable within its 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 exported, imported, 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 Permittee 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 replacement.

Article 9. Upon the termination, revocation, or surrender of this Permit, the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place. The facilities authorized shall be removed within such time as the Commission may specify, and at the Permittee's expense. Upon failure of the Permittee to comply with the Commission's direction to remove any authorized facilities, or any portion thereof, 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 its 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.