

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

San Diego Gas & Electric Company

Docket No. CP93-117-004

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

(Issued September 15, 2006)

1. On September 23, 2005, San Diego Gas & Electric Company (SDG&E), a Hinshaw pipeline, filed an application for an order amending its Presidential Permit and authorization under section 3 of the Natural Gas Act (NGA) for the siting, construction, and operation of pipeline and metering facilities in Otay Mesa, San Diego County, California, to import and export natural gas at the International Boundary between the United States and Mexico. SDG&E seeks amended authorizations to increase the capacity of its import/export Mexican border crossing facilities from 350 MMcf of gas per day to 800 MMcf of gas per day to allow it to receive the recently approved increase in capacity to 800 MMcf per day granted by Mexico to Transportadora de Gas Natural de Baja California (TGN), an affiliated Mexican pipeline.

2. This order grants SDG&E the requested amended authorizations based on the Commission's finding that the proposal is in the public interest since it will allow an increased volume of natural gas to be exchanged between SDG&E and its Mexican affiliate, TGN, for operational balancing purposes.

I. Background and Proposal

3. SDG&E provides local distribution service in San Diego County, California and operates as a Hinshaw pipeline exempt from the Commission's jurisdiction under section 1(c) of the NGA. SDG&E is regulated by the California Public Utilities Commission (California PUC).

4. On August 6, 1993, the Commission issued an order granting SDG&E a Presidential Permit and NGA section 3 authorization to site, construct, and operate border

crossing facilities to export natural gas to Mexico.¹ Due to changing market conditions and significant development on both sides of the border at the original export point, the Commission granted SDG&E amended authorizations in 1998 to relocate its border crossing facilities to their current location in San Diego, California.² On October 8, 2004, the Commission issued an order amending SDG&E's Presidential Permit and authorization to allow bidirectional flow at the border crossing facilities.³

5. SDG&E's existing border crossing facilities include a meter station within a 100-foot by 120-foot fenced area and approximately 400 feet of 30-inch pipeline from the meter station to the International Boundary. The pipeline is designed to operate at 800 psig with a maximum daily capacity of 350 MMcf. Although the facilities are operational and authorized for use in importing and exporting natural gas from and to Mexico, SDG&E states that, to date, it has only used the facilities to receive emergency gas pursuant to a Mutual Assistance and Operational Balancing Agreement with its affiliate, TGN, under which either party would supply gas from its system to support the reliability of the other party's system during periods of operational constraint.

6. In order for SDG&E to use the existing border crossing facilities to receive and deliver up to 800 MMcf per day of natural gas, SDG&E seeks authorization to modify the border crossing facilities by increasing the capacity of the odorant injection system and the filter/separators. The proposed modifications will be located within the fence currently surrounding the meter station and will cost approximately \$1 million.

II. Public Notice and Intervention

7. Notice of SDG&E's application in Docket No. CP93-117-004 was published in the *Federal Register* on September 23, 2005 (70 Fed. Reg. 57,584). The California PUC filed a timely notice of intervention.⁴

¹ *San Diego Gas & Electric Company*, 64 FERC ¶ 61,221, *reh'g denied*, 65 FERC ¶ 61,299 (1993).

² *San Diego Gas & Electric Co.*, 85 FERC ¶ 61,081 (1998).

³ *San Diego Gas & Electric Co.*, 109 FERC ¶ 61,046 (2004).

⁴ By filing a timely notice of intervention, the California PUC is a party by operation of Rule 214(a)(2) of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(a)(2) (2005).

II. Consultation with Secretaries of State and Defense

8. On October 25, 2005, as required by Executive Order 10485, the Commission sent letters to the Secretaries of State and Defense seeking their recommendations on a proposed amendment to SDG&E's Presidential Permit. By letters dated January 4, 2006 and August 15, 2006, the Secretaries of State and Defense, respectively, indicated that they have no objections to SDG&E's requested amendments to its Presidential Permit and authorization under section 3 of the NGA.⁵

IV. Discussion

9. Since the proposed modifications to SDG&E's facilities will enable the facilities to be used to import as well as export an increased volume of gas from a foreign country, the proposal requires approval of the Commission under section 3 of the NGA. The Commission's authority over construction and operation of facilities under section 3 includes the authority to apply terms and conditions as necessary or appropriate to ensure that the proposed construction and siting is in the public interest. Section 3 provides that the Commission shall issue such order on application "unless it finds that the proposal will not be consistent with the public interest."⁶

10. The record in this case shows that approval of SDG&E's proposal is consistent with the public interest because it will provide SDG&E with the capability to import more gas and will improve access to natural gas supplies and the dependability of international energy trade during periods of emergency. Further, as stated above, the Secretaries of State and Defense have indicated that they have no objections to SDG&E's proposal.

11. SDG&E states that it will, in accordance with section 153.6 of the Commission's regulations, file a statement that it will obtain any required import and export authorizations from the Office of Fossil Energy of the Department of Energy.

⁵ The Department of Defense (DoD) letter states that it has no objection to the issuance of the requested Presidential Permit to SDG&E pending approval and validation of any associated Army Corps of Engineers (COE) permit process. Since there is no COE permit required for SDG&E's proposal, DoD's condition has been met.

⁶ 18 C.F.R. § 153.9 (2005).

12. Consistent with current Commission policy,⁷ SDG&E's amended Presidential Permit provides, in Article 9 thereof, that upon the termination of the Presidential Permit the Commission shall determine which of the authorized facilities shall be removed and which shall be abandoned in place.

13. The Commission staff prepared an Environmental Assessment (EA) for the original installation of the meter station on August 24, 1998, in Docket No. CP93-117-002.⁸ The EA found that no significant environmental resources would be affected in the project area. The land use has not changed since the existing border facilities were installed. The land in the vicinity of the pipeline is uninhabited on the United States side and is mixed industrial/residential on the Mexico side. The proposed modifications will be made entirely within the existing fenced area, and SDG&E does not plan to construct any significant non-jurisdictional facilities in association with this project.

14. Based on these considerations, the Commission finds that approval of SDG&E's proposal does not constitute a major federal action significantly affecting the quality of the human environment when the facilities are installed as described in the application.

15. On September 15, 2006, the Commission on its own motion received and made part of the record in this proceeding all evidence, including the application and exhibits thereto submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) SDG&E's existing Presidential Permit and NGA section 3 authorization are amended as discussed in the application and in the body of this order.

⁷ See, e.g., *Calpine Corp.*, 106 FERC ¶ 61,075 at 13 (2004); *Reef International*, 99 FERC ¶ 61,221 at 21 (2002).

⁸ *San Diego Gas & Electric Co.*, 85 FERC at 61,286.

(B) SDG&E must sign and return the Testimony of Acceptance of all the provisions of the amended Presidential Permit to the Secretary of the Commission prior to construction.

By the Commission

(S E A L)

Magalie R. Salas,
Secretary.

APPENDIX

**AMENDED PERMIT AUTHORIZING SAN DIEGO GAS & ELECTRIC COMPANY
TO CONSTRUCT, OPERATE, AND MAINTAIN MODIFIED NATURAL GAS
FACILITIES AT THE INTERNATIONAL BOUNDARY BETWEEN THE UNITED
STATES AND MEXICO**

**FEDERAL ENERGY REGULATORY COMMISSION
DOCKET NO. CP93-117-004**

(Issued September 15, 2006)

San Diego Gas & Electric Company (SDG&E), Permittee, a corporation organized and existing under the laws of the State of California, filed in Docket No. CP93-117-004 on September 13, 2005, an application pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00, for authorization to modify the facilities authorized under its Presidential Permit issued on August 6, 1993 in Docket No. CP93-117-000, 64 FERC ¶ 61,221 (1993), as amended on October 19, 1998 in Docket No. CP93-117-002, 85 FERC ¶ 61,081 (1998), and as further amended on October 8, 2004, in Docket No. CP93-117-003, 109 FERC ¶ 61,046 (2004). Permittee states that the modifications are minor and are needed to enable it to modify the natural gas transmission facilities described in Article 2 below at the international border between the United States and Mexico to enable the facilities to import and export up to 800 MMcf per day of natural gas in order to accommodate a similar increase in authorization by Mexico to Transportation de Gas Natural de Baja California (TGN), a Mexican utility that is an affiliate of SDG&E.

By letter dated January 4, 2006, the Secretary of State, and by letter dated August 15, 2006, the Secretary of Defense favorably recommend 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 General Rules and Regulations, permission is granted to the Permittee to construct, operate, maintain, and connect the natural gas transmission 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.

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

A meter station and 400 feet of bi-directional 30-inch pipeline, with a maximum capacity of 350 MMcf of gas per day, connecting to facilities constructed by the Permittee under the California Public Utilities Code and extending to the International Boundary at Otay Mesa, San Diego County, California. These facilities will be modified to increase the maximum capacity to 800 MMcf of natural gas per day by increasing the capacity of the existing odorant injection system and increasing the capacity of the filter/separators.

Article 3. The natural gas facilities authorized herein, or which may subsequently be included herein by modification or amendment, may be utilized for the importation or exportation of natural gas and in the manner authorized under section 3 of the Natural Gas Act.

Article 4. The construction, operation, maintenance, and connection of the aforesaid facilities shall be subject to the inspection and approval of representatives of the United States for such purposes. 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 aforesaid facilities and connections, 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 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 and connections, 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 and connections used hereunder 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 and connections authorized by this Permit remain substantially the same as before the involuntary transfer. The Permittee shall maintain the facilities and connection, and every part thereof, in a condition of repair for the efficient operation of said facilities and connections in the transportation of natural gas and shall make all necessary renewals and replacement.

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.

IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of _____, 2006 has caused its name to be signed by _____, pursuant to a resolution of its Board of Directors duly adopted on the _____ day of _____, 2006, a certified copy of the record of which is attached hereto.

San Diego Gas & Electric Company

By _____