

117 FERC ¶ 61,018
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.

Vector Pipeline LP

Docket Nos. CP98-131-006
and CP06- 29-000

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

(Issued October 4, 2006)

1. On November 30, 2005, Vector Pipeline L.P. (Vector) filed an application in Docket No. CP06-29-000 under section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations. Vector requests a certificate of public convenience and necessity under Part 157, Subpart A of the Commission's regulations authorizing the construction and operation of two new mainline compressor stations (Compression Expansion Project). The project will increase Vector's mainline long-haul gas flow capacity between its United States connections and its Canadian border connection.¹ Vector also seeks a preliminary determination that the costs may be rolled in with its existing facility costs in Vector's next NGA section 4 rate case. Concomitantly, Vector filed an application in Docket No. CP98-131-006 to amend the NGA Section 3 authority and Presidential Permit issued to Vector² to increase the maximum capacity³ permitted to flow through its existing border facilities from 1,330 MMcf per day (MMcf/d) to 2,300 MMcf/d.

¹ The additional compression will increase Vector's mainline long-haul gas delivery capacity to the international boundary to 1,170.6 MMcf/d in the summer and to 1,533.1 MMcf/d in the winter.

² *Vector Pipeline LP*, 103 FERC ¶ 61,146 (2003).

³ Flows attainable under certain conditions on a temporary and unsustainable basis.

2. We find that Vector's proposal is in the public interest to meet increasing shipper demand for the transportation of natural gas to markets in Michigan and Canada. We further find that the proposed project is environmentally acceptable, subject to this order's mitigation conditions. Therefore, we will grant Vector's requested authorizations.

Background and Proposal

3. Vector's pipeline facilities are located in Illinois, Indiana and Michigan. Its system commences and receives gas at the Joliet hub near Joliet, Illinois, where it interconnects with Alliance Pipeline L.P., Northern Border Pipeline Company and Guardian Pipeline L.L.C. Vector's system also interconnects downstream with ANR Pipeline Company near St. Clair, Michigan. Vector's facilities terminate at the United States-Canadian border at an interconnection where Vector delivers gas to its Canadian affiliate, Vector Pipeline Limited Partnership.

4. Vector proposes to construct two new compressor stations adjacent to its 42-inch mainline transmission facilities. The Joliet Compressor Station in Will County, Illinois will have a single 15,000 horsepower (hp) gas driven turbine compressor. The Romeo Compressor Station in Macomb County, Michigan will have two 15,000 hp gas driven turbine compressors. The Romeo Compressor will have cooling equipment in order to meet temperature delivery specifications of interconnected pipelines.

5. Vector's proposal is designed to respond to market demands for long-haul service beyond that which Vector can currently achieve. The proposed facilities have a projected in-service date of November 1, 2007, and projected costs of \$70.4 million (including Allowance for Funds Used During Construction and line pack), which will be project financed.

6. Vector would use the proposed new capacity to provide service under its existing, generally applicable rate schedules. Nine shippers have signed precedent agreements for firm long-haul transportation service. While the proposed new capacity will exceed the commitments reflected in firm these service agreements, Vector states that the information in its application demonstrate that revenues from the project will exceed the project's costs, and that rolling in the costs of the project therefore would result in a rate decrease for Vector's existing customers. Vector requests that the Commission make a predetermination that the costs of the proposed project may be rolled into Vector's existing rates in its next NGA section 4 rate proceeding.

Notice and Interventions

7. Notice of Vector's applications was published in the *Federal Register* on December 16, 2005 (70 *Fed. Reg.* 74795). Timely, unopposed motions to intervene were filed by Peoples Energy Wholesale Marketing, L.L.C., NJR Energy Services Company, Michigan Consolidated Gas Company, BP Canada Energy Marketing Corporation, and Northern Indiana Public Service Company.⁴ NJR Energy Services Company and BP Canada Energy Marketing Corporation filed comments supporting Vector's proposal.

Discussion

8. Since Vector's proposed facilities will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, Vector's proposal is subject to the requirements of subsections (c) and (e) of section 7 of the NGA.

A. Application of the Certificate Policy Statement

9. The Commission's September 15, 1999 Certificate Policy Statement provides guidance as to how the Commission will evaluate proposals for certificating major new construction.⁵ The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. Our 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.

10. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on

⁴ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 CFR § 385.214 (2006).

⁵ *Certification of New Interstate Natural Gas Pipeline Facilities* (Certificate Policy Statement), 88 FERC ¶ 61,277 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000); *order on clarification*, 92 FERC ¶ 61,094 (2000).

subsidization from 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.

11. The Commission also considers potential impacts of the proposed project on other pipelines in the market and on those existing pipelines' captive customers, or landowners and communities affected by the route of the new pipeline. 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.

12. Vector's proposal satisfies the threshold requirement that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Review of Vector's application demonstrates that projected revenues will exceed projected costs; thus, there will be no subsidization by existing customers. Approval of Vector's proposed project also is consistent with the other considerations addressed by the Certificate Policy Statement. There will be no adverse effect on the applicant's existing services.

13. Vector states that there will be no impacts on landowners because the new facilities will be built on land already owned by Vector. Additionally, Vector states that it has designed the compressor stations to reduce the visual impact and to incorporate appropriate sound and air quality mitigation measures. As discussed below, the Commission has performed an environmental review and concluded that Vector's proposal can be approved without unacceptable environmental impacts.

14. The proposed new facilities will benefit shippers by improving the deliverability, flexibility and reliability of the system, in addition to meeting expanded market demand and facilitating the transportation of gas between the United States and Canada. Based on the benefits Vector's proposal will provide to the market and the lack of adverse effects on existing customers, other pipelines, landowners, or communities, the Commission finds, consistent with the Certificate Policy Statement and section 7 of the NGA, that the public convenience and necessity require approval of Vector's proposal, subject to this order's environmental conditions.

B. Rolled-in Rate Treatment

15. The Certificate Policy Statement provides that rolled-in pricing is appropriate in the following circumstances: (1) the pipeline improves service to existing customers by replacing existing facilities, improving reliability, or providing additional flexibility; (2) the pipeline combines an expansion with improvements in service to existing customers; or (3) the inexpensive expansion of facilities is made possible because of prior construction and rolled-in pricing would result in lower rates for existing customers. Further, under the Certificate Policy Statement, the threshold requirement in establishing the public convenience and necessity for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers.

16. In this case, Vector's proposed compression facilities will permit a relatively inexpensive expansion of capacity made possible because of Vector's prior construction of its existing facilities and rolled-in pricing will result in lower rates for existing customers. Exhibit N to Vector's application shows that estimated annual revenues from the expansion capacity will exceed the estimated project costs and costs of providing the expansion services. Specifically, Vector estimates a total of \$47.58 million from the firm shipper commitments in its existing precedent agreements for the expansion capacity over the first three years of operation and a total three-year cost of service of about \$42.9 million, resulting in excess revenue of \$4.6 million over the first three years of operation. Vector satisfies the policy statement's threshold requirement that current customers should not subsidize the costs of new construction. Thus, rolling in the costs of the proposed project would decrease existing customers' current rates. Therefore, in accordance with the Certificate Policy Statement, we make a predetermination that, absent a material change in circumstances, Vector's costs for this project should receive rolled-in rate treatment in Vector's next rate case.

Presidential Permit and NGA Section 3 Authorizations

17. Vector's proposal will increase its mainline long-haul gas delivery capacity to the international boundary. As a result of these changes, studies show that maximum flows up to 2,300 MMcf/d could be attained intermittently. Accordingly, Vector also requests amendment of its Presidential Permit and its authority under section 3 of the NGA to authorize a corresponding increase in its border facilities' maximum throughput.

18. Section 3 of the NGA 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." Executive Order No. 10484 requires that the Commission obtain the favorable recommendations of the Secretaries of State and Defense prior to issuing a Presidential

Permit. Therefore, a draft Presidential Permit, amended to reflect Vector's proposed increase in maximum authorized throughput, was sent to the Secretary of State and to the Secretary of Defense for their recommendations.

19. We have considered Vector's facilities and based on our engineering analysis and review of the record, we conclude that Vector's request to increase the maximum authorized throughput of its border-crossing facilities promotes the objectives of the Energy Policy Act of 1992⁶ and is not inconsistent with the public interest. Further, by letter dated March 14, 2006, the Secretary of State indicated no objection to issuance of the Amended Presidential Permit. In addition, by letter dated August 15, 2006, the Secretary of Defense indicated no objection to issuance of the Amended Presidential Permit, pending approval and validation of any associated Army Corps of Engineers permit process. On letter dated August 28, 2006, Vector advised the Commission that, because its proposed increase in its border facilities' authorized throughput does not involve any change to the existing and previously approved facilities at the international border, it was not required to apply for or obtain any Army Corps of Engineers permits with respect to the proposed amendment to the Presidential Permit.

20. In view of the above considerations, we will grant Vector's requested amendments to its Presidential Permit and NGA section 3 authorization.

Environment

21. On December 22, 2005, we issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Vector Compression Expansion Project and Request for Comments on Environmental Issues (NOI). 71 Fed. Reg. 113 (Jan. 3, 2006). We received three responses to the NOI. The Illinois Department of Natural Resources filed comments indicating that adverse impacts to the Schweitzer West Geological Area from construction or operation of the proposed Joliet Compressor Station "do not appear likely." The State of Michigan, Department of Agriculture (MDA), indicated, after consultation with its Farmland Preservation staff, that "records indicate that no acres of enrolled land would potentially be affected by [the] project." With respect to "the potential impact it would have on any established intra- and inter-county drains," the MDA indicated that "[g]iven the limited amount of information provided at this time, it does not appear that the project will impact any established drains." Also, the MDA indicated that it has no additional concerns regarding potential project impacts as they relate to the functions of the MDA. The U.S. Environmental Protection Agency,

⁶See 15 USC § 717b (2006).

Region V, Chicago, Illinois, filed a letter stating that it “opted to wait for the next level of documentation on this project before deciding whether or not to comment.”

22. Our staff prepared an EA for Vector's proposal. The EA addresses geology and soils, land use, wildlife and vegetation, threatened and endangered species, cultural resources, air quality, noise, reliability and safety, and alternatives. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with Vector's application and supplement filed January 27, 2006, and the conditions set forth in Appendix A to this order, approval of the proposal would not constitute a major federal action significantly affecting the quality of the human environment.

23. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.⁷ Vector shall notify the Commission's environmental staff by telephone, e-mail or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Vector. Vector shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

24. The Commission, on its own motion, received and made a part of the record, all evidence, including the application and exhibits thereto, submitted in this proceeding, upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Vector in Docket No. CP06-29-000 authorizing it to construct, own, operate, and maintain natural gas facilities, as described and conditioned herein, and as more fully described in the application.

(B) The certificate authority issued in Ordering Paragraph (A) is conditioned as discussed in this order and on the following:

⁷See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

- (1) Vector completing the authorized construction within one year of this order;
- (2) Vector complying with paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and
- (3) Vector's compliance with the environmental conditions listed in Appendix A to this order.

(C) Vector shall notify the Commission's environmental staff by telephone, e-mail and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Vector. Vector shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(D) Vector must execute firm contracts equal to the level of service and in accordance with the terms of service represented in its precedent agreements prior to commencement of construction.

(E) Vector may roll-in the costs of the facilities proposed in its application and approved by this order into its system-wide cost of service in its next NGA section 4 rate proceeding, unless there has been a significant change from the present facts and circumstances.

(F) In Docket No. CP98-131-005, Vector's existing Presidential Permit, issued on May 7, 2003, is amended as discussed herein and in the application.

(G) Vector must sign and return the Testimony of Acceptance of all provisions, conditions, and requirements of the Presidential Permit to the Secretary of the Commission within fifteen days of the issuance of this order.

(H) Vector's existing NGA section 3 authority is revised to reflect an increase in its border-crossing facilities' maximum authorized throughput to 2,300 MMcf/d, as discussed herein.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

APPENDIX A

Environmental Conditions

As recommended in the EA, this authorization includes the following conditions:

1. Vector shall follow the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests) and as identified in the environmental assessment (EA), unless modified by this Order. Vector must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and,
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**

2. The Director of OEP has delegated authority to take whatever steps necessary to ensure the protection of all environment resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of this Order; and,
 - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation of the project.

3. **Prior to any construction,** Vector shall file an affirmative statement with the Secretary, certified by senior company officials, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.

APPENDIX B

**AMENDED PRESIDENTIAL PERMIT
AUTHORIZING VECTOR PIPELINE L.P.
TO OPERATE, MAINTAIN, AND CONNECT NATURAL GAS FACILITIES
AT THE INTERNATIONAL BOUNDARY BETWEEN
THE UNITED STATES AND CANADA**

**FEDERAL ENERGY REGULATORY COMMISSION
DOCKET NO. CP98-131-006**

(Issued October 4, 2006)

Vector Pipeline L.P. (Permittee), a limited partnership organized and existing under the laws of the State of Delaware, and licensed in the States of Illinois, Indiana Michigan, and Wisconsin filed an application in Docket No. CP98-131-006 on November 30, 2005, seeking to modify the operation of facilities authorized under the Presidential Permit issued on May 27, 1999, 87 FERC ¶ 61,225 (1999), as amended on June 13, 2001, 95 FERC ¶ 61,393 (2001) and May 7, 2003, 103 FERC ¶ 61,146 (2003). Proposed expansions to Vector's United States mainline system will increase delivery capability at its border facilities. The increased system deliverability will not require any changes to the existing border facilities. Permittee avers that updated engineering analyses show that the post-expansion actual peak day capacity of its border-crossing facilities, under certain specified conditions and for certain limited period of time, is greater than the 1,330 million cubic feet per day (MMcf/d) reflected in the existing Permit. Therefore, Permittee requests authorization to amend its Permit to increase its authorized maximum peak day flow capability to 2,300 MMcf/d at the border facilities.

A draft of the Amended Presidential Permit was submitted to the Secretary of State and the Secretary and the Secretary and Defense. By letter dated March 14, 2006, the Secretary of State, and by letter dated August 15, 2006, the Secretary of Defense, provided favorable recommendations. The Federal Energy Regulatory Commission finds that issuance of an amended 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. 00-004.00, effective December 6, 2001, and the Commission's Regulations, permission is granted to 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 therefor.

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

Approximately 3,000 feet of 42-inch diameter pipeline, with a maximum capacity of 2,300 MMcf per day of natural gas, extending under the riverbed of the St. Clair River at the United States/Canada border between Macomb County, Michigan and Ontario, Canada. All border crossing facilities will be located in Macomb County, Michigan.

Article 3. The natural gas facilities authorized herein, or which may subsequently be included herein by modification or amendment, may be utilized for the transportation of natural gas in the amount, at the rate, 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. 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 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 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.

TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this ____ day of _____, 2005, has caused its name to be signed by _____, pursuant to a resolution of its Board of Directors duly adopted on the ____ day of _____, 2005, a certified copy of the record of which is attached hereto.

Vector Pipeline L.P.

By _____

(Attest)

Executed in triplicate.