

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.

Sonora Pipeline, LLC

Docket Nos. CP07-74-000
CP07-75-000
CP07-76-000
CP07-77-000

ORDER ISSUING PRESIDENTIAL PERMIT AND
NGA SECTIONS 3 AND 7 AUTHORIZATIONS

(Issued July 10, 2007)

1. On January 31, 2007, Sonora Pipeline, LLC (Sonora) filed applications requesting authority to site, construct, operate and maintain the United States portion of a pipeline system consisting of approximately 29 miles of 30-inch diameter pipeline and appurtenant facilities that will extend into Mexico via two border crossings, all to be located in Hidalgo County, Texas. The project, known as the Burgos Hub Export/Import Project, will provide up to 1,000,000 dekatherms (Dth) per day of new bi-directional transportation service.

2. Specifically, Sonora filed an application in Docket No. CP07-75-000, pursuant to section 3 of the NGA, for a Presidential Permit to site, construct, operate and maintain two bi-directional border crossing facilities at the international boundary between the United States and Mexico. The Mission Line crossing consists of 85 feet of 30-inch diameter pipeline and the Progreso Line crossing consists of 135 feet of 30-inch diameter pipeline. Sonora also filed applications pursuant to section 7(c) of the NGA: (1) in Docket No. CP07-74-000, to construct and operate 20.2 miles of 30-inch pipeline, the Mission Line, and 8.7 miles of 30-inch pipeline, the Progreso Line, which will extend from the two proposed border crossing facilities; (2) in Docket No. CP07-76-000, for a blanket construction certificate under Part 157, Subpart F of the Commission's regulations; and (3) in Docket No. CP07-77-000, for a blanket transportation certificate under Part 284, Subpart G of the Commission's regulations.

3. For the reasons discussed below we will issue Sonora a Presidential Permit and the NGA sections 3 and 7 authorizations to site, construct, operate and maintain its proposed pipeline facilities.

Background

4. Sonora is a limited liability company formed under the laws of the State of Texas and a wholly-owned subsidiary of Tidelands Oil and Gas Corporation (Tidelands). Terranova Energia, S. de R. L. de C. V. (Terranova), also wholly-owned by Tidelands, is developing both the Campo Brazil Underground Storage Facility in the Burgos Hub area of Mexico and a planned Mexican offshore LNG facility, as well as pipeline facilities extending from the Burgos Hub area in Mexico to interconnect with Sonora's proposed facilities.¹ Sonora states that Mexican authorities have not yet approved the underground storage facility and the offshore LNG facility, but that Terranova received approval from Mexican authorities for its pipeline facilities on May 23, 2006.

5. Sonora states that, initially, its facilities will function as export facilities to serve demand in northeastern Mexico. However, Sonora states that upon their completion, Terranova's underground storage facilities in Mexico have the potential to provide storage service for regasified LNG sourced from LNG projects being constructed in the United States and eventually from Terranova's planned Mexican offshore LNG project. Thus, Sonora's facilities may ultimately be used to import natural gas supplies.

Proposal

6. Sonora's project will have a design capacity of approximately 1,000,000 Dth of natural gas per day. The entire United States/Mexico project is roughly shaped like a "V," with its two legs beginning in the United States and ultimately joining each other to complete the "V" in Mexico. The two legs will each have a capacity of 500,000 Dth per day. The estimated cost of Sonora's proposed facilities is \$64.6 million.

7. Sonora's western leg, known as the Mission Line, will consist of approximately 20.2 miles of 30-inch diameter pipeline. The Mission Line would begin at the Gilmore

¹ Although Sonora and Terranova are both affiliates of Tidelands, and are coordinating the development of their systems, they are two distinct entities for all other purposes. As such, Sonora is a separate corporate entity, owned and operated by Tidelands.

Plant² in Hidalgo County, Texas, and extend southward to the international boundary in the Rio Grande River near the City of Mission, also in Hidalgo County, Texas. At that point, Sonora's Mission Line would interconnect with pipeline facilities to be constructed by Terranova.

8. Sonora's eastern leg, known as the Progreso Line, will consist of approximately 8.7 miles of 30-inch diameter pipeline. The Progreso Line would start at the Alamo Station³ in Hidalgo County, Texas, and extend southward to the international boundary in the Rio Grande River near the City of Progreso, Texas, also in Hidalgo County, Texas. At that point, Sonora's Progreso Line will interconnect with pipeline facilities to be constructed in Mexico by Terranova.

Notice and Interventions

9. Notice of Sonora's application was published in the *Federal Register* on February 15, 2007 (72 Fed. Reg. 8369). A timely motion to intervene was filed by MGI Supply Ltd. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214(c) (2006)). There were no protests.

10. Tennessee filed a motion to intervene out-of-time. The Commission finds that granting Tennessee's late-filed motion to intervene will not delay, disrupt, or otherwise prejudice this proceeding, or place an additional burden on existing parties. Therefore, for good cause shown, we will grant the late-filed motion to intervene (18 C.F.R. § 385.314(d) (2006)).

Discussion

11. Because the proposed Sonora pipeline will be used to export and import natural gas, the transportation and border crossing facilities are subject to our jurisdiction and the

² At the Gilmore Plant, which is owned by the Houston Pipeline Company, Sonora will be capable of interconnecting with Tennessee Gas Pipeline Company (Tennessee), Texas Eastern Transmission Company (Texas Eastern) and Enterprise Services.

³ At the Alamo Station, which is owned by Tennessee, Sonora will be able to interconnect with Texas Eastern.

requirements of NGA section 3. Further, because the proposed facilities will be used to transport gas in interstate commerce, they are subject to the jurisdiction of the Commission and the requirements of NGA sections 7(c) and (e).

A. Presidential Permit and Section 3 Authorization

12. Draft Presidential Permits were sent to the Secretary of State and to the Secretary of Defense for their recommendations. Replies on behalf of the Secretary of State, dated May 14, 2007, and on behalf of the Secretary of Defense, dated May 15, 2007, indicate no objection to the issuance of a Presidential Permit.⁴ The Secretary of State, however, requests that language be placed in the permit to note that plans for work must be presented to the International Boundary and Water Commission (IBWC) for review and approval, and we have done so.⁵ Additionally, the Secretary of Defense notes that if a facility will be sited, constructed, expanded or operated on land or interest in land owned or controlled by a military department, including Army civil works activities, then an appropriate real estate use agreement must be obtained as a separate action with the applicable departments. We note that Sonora's facilities are not proposed to be located on land currently owned or controlled by a military department.

13. Sonora's siting, construction, operation and maintenance of the proposed pipeline facilities at the international border of the United States and Mexico for the purpose of importing and exporting natural gas are subject to the Commission's jurisdiction under section 3 of the NGA. Section 3 states that border crossing facilities may be approved unless there is a finding that they will not be inconsistent with the public interest.

14. Based on our review of the record, and the absence of any objection to the Sonora application from the Secretaries of State and Defense, we find that the proposed project will facilitate trade between the United States and Mexico thereby promoting the

⁴ Executive Order No. 10,485 requires that the Commission obtain the favorable recommendation of the Secretaries of State and Defense before issuing a Presidential Permit. 18 Fed. Reg. 5397, as amended by Executive Order 12,038, 43 Fed. Reg. 4957 (February 7, 1978).

⁵ The Environmental Assessment (EA) that was issued in this proceeding on May 15, 2007, notes that the IBWC filed comments informing the Commission of its jurisdiction and authority, contact information, and permitting procedures for a Border Crossing Permit. EA for the Burgos Hub Export/Import Project at pp. 2, 12.

objectives of the Energy Policy Act of 1992⁶ and is not inconsistent with the public interest. Accordingly, we will grant Sonora's request for NGA section 3 authorization and a Presidential Permit.⁷

B. Section 7 Authorizations

1. The Certificate Policy Statement

15. On September 15, 1999, the Commission issued a Policy Statement⁸ providing guidance as to how proposals for certificating new construction will be evaluated. Specifically, the Policy Statement explains that the Commission, in deciding whether to authorize the construction of new pipeline facilities, 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.

16. Under this policy the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its 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, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of a 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 then proceed to complete the environmental analysis where other interests are considered.

⁶ See 15 U.S.C. § 717b (2001).

⁷ See Appendix C to this order.

⁸ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999); *order clarifying policy*, 90 FERC ¶ 61,128 (2000); *order clarifying policy*, 92 FERC ¶ 61,094 (2000) (Policy Statement).

17. Because Sonora is a new entity, it meets the Policy Statement's threshold requirement of no subsidization by existing customers. Next, we find no adverse impact on existing pipelines and their captive customers since, at the outset, Sonora primarily will be serving new markets in Mexico that are not being serviced by other United States interstate pipelines. Ultimately, Sonora's facilities may be used to import natural gas and Sonora's relatively short pipeline system would deliver such imported volumes to other pipelines in the United States for further transportation to markets, thereby benefiting existing United States pipelines and their customers. The project will require 176 acres of permanent easement; however, we note that most of the proposed pipeline is located on rural farmland and will be located parallel to existing pipeline routes. Further, no landowner filed adverse comments in response to this application. Thus, with the mitigation measures that are being required by this certificate, the effects on landowners and surrounding communities should be minimized.

18. The new bi-directional pipelines will serve the public interest initially by serving large industrial gas consumers and power producers in northern Mexico and, perhaps later, by providing domestic consumers with new sources of natural gas from Mexico.⁹ Based on the benefits of the project and the minimal adverse impacts, we find that approval of Sonora's Burgos Hub Export/Import Project is required by the public convenience and necessity.

2. Rates

19. Sonora proposes to offer cost-based firm (Rate Schedule FTS-1) and interruptible (Rate Schedule ITS-1) open-access transportation services on a non-discriminatory basis under Part 284 of the Commission's regulations.¹⁰ Sonora proposes negotiated rates as

⁹ While Sonora has not yet contracted for any of its capacity, Sonora states that demand for natural gas in Mexico is growing at an average rate of 8.1 percent while supply will grow at only 6.3 percent, and identifies approximately 800,000 Dth per day of increased demand by specified industrial end users in northeastern Mexico. *See North Baja Pipeline, LLC*, 95 FERC ¶ 61,259 at 61,914-915 (2001) (The public interest requires approval of pipeline that will serve the energy needs of United States and Mexico but all of a pipeline's upstream and downstream arrangements need not be in place before a construction project is authorized), *order issuing certificates*, 98 FERC ¶ 61,020 (2002).

¹⁰ *See* Sonora's proposed FERC Gas Tariff, Original Volume No. 1. Although Sonora designates the cover page of its proposed tariff as being "pro forma" it failed to mark the actual proposed tariff sheets as such.

an option pursuant to Sections 3.5 and 3.4 of its FTS-1 and ITS-1 rate schedules, respectively, and Section 22 of the General Terms and Conditions (GT&C) of its pro forma tariff. It also states that the proposed cost-based rates reflect a straight-fixed variable (SFV) rate design and an annual straight line depreciation accrual rate of 3.33 percent for the pipeline facilities and 10 percent (10-year life) for general plant. Sonora's proposed FTS-1 rates are derived using \$16,683,098 annual cost of service¹¹ and annual FTS-1 reservation billing determinants of 9,600,000 Dth (800,000 Dth per day times 12). Sonora states that these reservation billing determinants represent an 80 percent load factor usage of system capacity of 1,000,000 Dth per day. Sonora's computed maximum cost-based FTS-1 reservation rate is \$1.7378 per Dth. Sonora states that it currently has no variable costs, so the proposed FTS-1 usage rate is \$0 per Dth.

20. The ITS-1 rate is derived at a 100 percent load factor of the FTS-1 rate. Sonora has not identified any usage determinants associated with its proposed ITS-1 service. Sonora does not propose to allocate costs to the ITS-1 service. The proposed maximum ITS-1 rate is \$0.0571 per Dth. Sonora states in its April 17 data response that it will propose a retainage factor for lost and unaccounted for gas of 0.25 percent for its firm and interruptible services when it files its final system rates.

21. The Commission has reviewed the proposed cost of service and proposed initial rates, and generally finds them reasonable for a new pipeline entity, such as Sonora, subject to the modifications and conditions imposed below. Our discussion incorporates information provided by Sonora in April 17 and May 3, 2007 replies to staff data requests.

a. Firm Transportation Billing Determinants

22. The Commission's general policy is to design initial rates assuming billing determinants equal to the annualized capacity of the system to guard against possible cost

¹¹ Sonora's proposed year 1 cost of service consists of \$2,966,568 of operation and maintenance expenses, \$1,905,527 of administrative and general expenses, \$2,204,941 of depreciation expenses, \$6,877,520 of return allowance (at 14.5 percent rate of return on equity based on a capital structure of 60 percent debt and 40 percent equity, and 8.50 percent cost of debt), \$2,235,848 of federal and state income taxes (a consolidated federal and state income tax rate of 37.93 percent, calculated at a tax rate of 35 percent for federal taxes and 4.5 percent for Texas state tax), and \$492,695 of taxes other than income taxes for a total cost of service of \$16,683,098.

over-recovery resulting from over-sized facilities.¹² However, Sonora has proposed to design its initial rates using lower billing determinants based on an estimated 80 percent load factor usage of system capacity. Sonora states in its April 17 response to a staff data request that several recent Commission orders support its request.¹³

23. The billing determinants used to calculate Sonora's initial rates should be based on the total system capacity. While the Commission has departed from this policy in the past, it was because specific operational constraints would have prevented the pipeline a reasonable opportunity to recover its cost of service.¹⁴ Those circumstances do not exist here. Therefore, Sonora is ordered to recalculate its firm transportation rates utilizing billing determinants based on its total system capacity of 1,000,000 Dth per day.

b. Capital Structure and Return on Equity

24. Sonora proposes to use an assumed capital structure for the project of 60 percent debt and 40 percent equity. Sonora states that it expects to raise the capital required for the project through its corporate parent, Tidelands. Sonora claims that Tidelands' capital structure for 2004 and 2005 was 56 percent debt and 44 percent equity and that its best estimate of what Tidelands' capital structure will be when it finances the project is 60 percent debt and 40 percent equity.

¹² See, e.g., *Portland Natural Gas Transmission System*, 76 FERC ¶ 61,123 (1996); *Pacific Gas Transmission Co.*, 70 FERC ¶ 61,016 at p. 61,045, *aff'd*, 71 FERC ¶ 61,268 (1995).

¹³ Citing *Cheniere Creole Trail Pipeline, L.P.*, 118 FERC ¶ 61,125 (2007); and *Weaver's Cove Energy, LLC*, 114 FERC 61,058 (2006).

¹⁴ See, e.g., *East Tennessee Natural Gas, LLC*, 114 FERC ¶ 61,122 (2006) (allowing rate to be designed using lower capacity due to an operating constraint on an upstream gathering facility limiting the amount of gas that could be transported); and *Weaver's Cove Energy, LLC*, 114 FERC 61,058 (2006) (allowing rate to be designed at lower capacity due to a downstream constraint on Algonquin limiting take-away capacity from the LNG terminal). See also *Cheniere Creole Trail*, 118 FERC ¶ 61,125 (Commission approved the use of annual usage determinants at 65 load factor in order to design the firm usage rate, not the firm reservation rate, for the new pipeline).

25. Sonora proposes a 14.5 percent rate of return on equity (ROE) and an overall after-tax rate of return of 10.90 percent. Sonora states that its 14.5 percent ROE reflects its management's judgments about the risks associated with this project. Sonora states that it is a start-up pipeline bearing all of the risks associated with developing a market for its services and that its equity return is in line with similar applicants' claimed returns on equity.

26. The Commission prefers to use the capital structure of the entity that obtains financing for the pipeline, the pipeline itself or a company associated with the pipeline, such as its parent. Sonora states that its management expects to raise the capital required for the project through its corporate parent, Tidelands. Therefore, the Commission will adopt Sonora's estimate of Tideland's capital structure of 60 percent debt and 40 percent equity. In the past the Commission has approved an ROE of 14 percent for new greenfield pipeline projects.¹⁵ Since Sonora has not provided the Commission with compelling evidence to justify a 14.5 percent ROE, the Commission will require Sonora to recalculate its rates based on a 14 percent ROE, consistent with our ROE determinations for recently approved greenfield pipelines projects.¹⁶

c. Interruptible Services Revenue Crediting

27. The Commission's policy regarding new interruptible services requires either a 100 percent credit of the interruptible revenues, net of variable costs, to firm and interruptible customers or an allocation of costs and volumes to these services.¹⁷ Sonora states that it does not foresee any interruptible revenue during the initial years of operations; therefore, it has not projected any revenue other than from its proposed firm transportation service. Sonora further states that should it receive any interruptible service and revenue, it will credit that revenue to its firm shippers; provided that its firm service revenue meets Sonora's revenue requirements underlying its initial rates.

¹⁵ See, e.g., *Port Arthur LNG, L.P.*, 115 FERC ¶ 61,344 (2006); *Greenbrier Pipeline Company, LLC*, 101 FERC ¶ 61,122 (2002).

¹⁶ See, e.g., *Kinder Morgan Louisiana Pipeline LLC*, 118 FERC ¶ 61,211 (2007); *Cameron Interstate Pipeline, LLC*, 115 FERC ¶ 61,229 (2006);

¹⁷ See, e.g., *Creole Trail LNG, L.P. and Cheniere Creole Trail Pipeline, L.P.*, 115 FERC ¶ 61,331 at P 27 (2006); *Entrega Gas Pipeline Inc.*, 112 FERC ¶ 61,177 at P 51 (2005).

28. Because Sonora does not propose to allocate any costs or volumes to interruptible services, Sonora is directed to credit 100 percent of the interruptible revenues to its customers. Sonora must revise its tariff to reflect an interruptible revenue crediting mechanism. In addition, the Commission will not allow Sonora to wait to credit its interruptible revenues until after it recovers its revenue requirements underlying its firm service rates. Sonora is at-risk for its firm service volumes and has not allocated any costs to its interruptible service. If Sonora believes that it is not able to meet its firm service revenue requirements it has the option to file a section 4 rate case to address that issue.

d. Three-Year Filing Requirement

29. If Sonora desires to make any other changes to its proposed rates not specifically authorized by this order prior to placing its facilities into service, it will need to file an application under NGA section 7(c) to amend its certificate authorization. In that filing, Sonora will need to provide cost data and the required exhibits supporting any revised rates. After the facilities are constructed and placed in service, Sonora must make an NGA section 4 filing in order to change its rates to reflect revised construction and operating costs.

30. Consistent with Commission precedent, the Commission will require Sonora to file a cost and revenue study at the end of its first three years of actual operation to justify its existing cost-based firm and interruptible recourse rates.¹⁸ In its filing, the projected units of service should be no lower than those upon which Sonora's approved initial rates are based. The filing must include a cost and revenue study in the form specified in section 154.313 of the regulations to update cost-of-service data. After reviewing the data, we will determine whether to exercise our authority under NGA section 5 to establish just and reasonable rates. In the alternative, in lieu of that future filing, Sonora may make an NGA section 4 filing to propose alternative rates to be effective no later than three years after the in-service date for its proposed facilities.

3. Pro Forma Tariff Issues

31. Sonora proposes to offer firm and interruptible transportation services on an open-access basis under the terms and conditions set forth in the pro forma tariff attached as Exhibit P-1 to the application. We find Sonora's proposed tariff generally complies with

¹⁸ See, e.g., *Empire State Pipeline and Empire Pipeline, Inc.*, 116 FERC ¶ 61,074 at P 133 (2006); *Entrega Gas Pipeline Inc.*, 112 FERC ¶ 61,177 at P 52 (2005).

Part 284 of the Commission's regulations,¹⁹ with the exceptions discussed below. The Commission will require Sonora to file actual tariff sheets consistent with the directives in this order at least 30 days and no more than 60 days prior to the commencement of service. In addition, Sonora must file a redline-strikeout version of the revised tariff sheets to identify the changes made to comply with this order.

a. **Creditworthiness, Suspension or Termination of Services**

32. Section 11 of the GT&C provides that Sonora is not required to perform or to continue service for shippers who fail to comply with Sonora's creditworthiness standards. In addition, this section provides that if a shipper ceases to meet credit requirements during the period of service the shipper must, within five (5) business days, pay for one month of service in advance to continue service. The shipper must then, within thirty (30) days, provide an acceptable guarantee or either a cash security deposit or letter of credit, consistent with Sonora's applicable creditworthiness standards.

33. Sonora states that the shipper may still receive interruptible service for a maximum period of up to three months, or firm service as a capacity release for a maximum period of up to three months, if it provides to Sonora one of the following: (i) a guarantee of financial performance in a form satisfactory to Sonora, (ii) cash payment sufficient to cover the value of three (3) months' worth of transportation charges (iii) a letter of credit to cover the value of three (3) months' worth of transportation charges; or (iv) a guarantee that is satisfactory to Sonora.

34. The tariff does not state when Sonora will communicate to a potential shipper the results of its creditworthiness determination under section 11.1, nor does it provide when Sonora will communicate to the shipper the justification for determining that the shipper is not creditworthy. In *Natural*, we held that if a service provider finds a shipper not to be creditworthy it must communicate that finding in writing, and state the reasons for its finding. We also required that the communication that a shipper has been determined to be noncreditworthy be made within 10 days of the pipeline's determination, and that the shipper be provided recourse to challenge the finding.²⁰ Sonora is directed to revise its tariff accordingly.

¹⁹ 18 C.F.R. Part 284 (2006).

²⁰ *Natural Gas Pipeline Co. of America (Natural)*, 106 FERC ¶ 61,175 at P 80 (2004); *Tennessee Gas Pipeline Co.*, 103 FERC ¶ 61,175 at P 45 (2003).

35. In addition, several of Sonora's creditworthiness requirements appear to be in conflict with the North American Energy Standards Board (NAESB) creditworthiness standards adopted by the Commission in Order No. 587-S.²¹ In its compliance filing Sonora is ordered to provide a matrix clearly identifying the language in its tariff that complies with the NAESB creditworthiness standards adopted in Order No. 587-S.

b. NAESB Standards

36. Sonora states in its April 17 response that Version 1.7 of the NAESB Standards is incorporated by reference into its tariff in section 38 of its GT&C. However, Sonora's section 38 and numerous other tariff sheets reference NAESB Version 1.5. On May 9, 2005, the Commission issued Order No. 587-S amending its regulations, which, among other things, adopted Version 1.7 of the NAESB standards.²² Therefore, when Sonora files actual tariff sheets in this proceeding, Sonora is directed to revise its tariff to be compliant with Order No. 587-S, as modified by any future NAESB requirements in effect at the time of the filing.

37. The revised filing should provide a cross-reference matrix showing Sonora's compliance with NAESB Version 1.7 and all other related NAESB requirements approved by the Commission. The cross reference should show each standard number, identify the section and the tariff sheet it is located in, and state whether the standard is incorporated verbatim or by reference. Sonora may incorporate into this matrix any information it believes is relevant in compliance with the NAESB standards that will assist the Commission staff in the analysis of its application. Further modifications related to the NAESB standards and other tariff provisions in the pro forma tariff are discussed in Appendix A to this order.

²¹ *Standards for Business Practices of Interstate Natural Gas Pipelines*, 111 FERC ¶ 61,203 (2005).

²² *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587-S, 111 FERC ¶ 61,203 (2005) (amending the regulations to incorporate by reference the most recent version of the standards: Version 1.7 of the consensus standards promulgated December 31, 2003 by the Wholesale Gas Quadrant (WGQ) of the NAESB; the standards ratified by NAESB on June 25, 2004 to implement Order 2004; the standards ratified by NAESB on May 3, 2005 to implement the Order 2004-A; and the standards implementing gas quality requirements ratified by NAESB on October 20, 2004).

c. Lost and Unaccounted For Gas

38. Sonora's proposed pro forma tariff sheets do not have any provisions related to lost and unaccounted for gas. In its April 17 response to a staff data request, Sonora proposed a retainage factor for lost and unaccounted for gas of 0.25 percent for its firm and interruptible service. While Sonora's number is an estimate, it is comparable to the lost and unaccounted for gas factors on other similar short pipeline systems.²³ The Commission will accept Sonora's proposed lost and unaccounted for retainage factor.

d. Force Majeure

39. A discussion of force majeure events in a tariff is intended to demonstrate that a pipeline and its customers will share the economic risks of a force majeure event, generally through a crediting of reservation charges back to shippers whose service is interrupted.²⁴ The Commission has approved two approaches to reservation charge crediting.²⁵ The pipeline may either offer full reservation charge crediting beginning 10 days after the event, or partial reservation charge crediting beginning on the first day of the event.²⁶ Sonora must revise its tariff to state that it will award reservation credits to shippers affected by force majeure situations, either through partial or full reservation charge credits, or through some other methodology that the Commission finds reasonable.

4. Open Season

40. The Commission's policy is that all new interstate pipeline construction be preceded by a non-discriminatory open-season process through which potential shippers

²³ Sonora's May 3 supplemental response cites *Central New York Oil and Gas Company, LLC*, 116 FERC ¶ 61,277 (2006) (0.25 percent) and *Port Arthur LNG, L.P.*, 115 FERC ¶ 61,344 (2006) (0.2 percent).

²⁴ *Tennessee Gas Pipeline Co.*, 80 FERC ¶ 61,070 (1997) (Opinion No. 406-A).

²⁵ *Tennessee Gas Pipeline Co.*, 76 FERC ¶ 61,022 at 61,089 (1996) (Opinion No. 406), *order on reh'g*, 80 FERC ¶ 61,070 (1997) (Opinion No. 406-A). For two rejected approaches, see *Natural Gas Pipeline Company of America*, 106 FERC ¶ 61,310 at P 24 (2004), and *North Baja*, 111 FERC ¶ 61,101 (2005).

²⁶ *Id.*, *North Baja*, P 5.

may seek and obtain firm capacity rights.²⁷ Sonora states that it does not presently plan to conduct any open seasons prior to the construction of its proposed pipelines. While the Commission is aware that the initial market for capacity on Sonora may consist of customers in Mexico, the Commission's policy as stated above is that all new interstate pipeline construction be preceded by a non-discriminatory open-season process in order to ensure that all shippers have the opportunity to obtain pipeline capacity. Therefore, the Commission will require Sonora to conduct an open season before beginning construction of its pipeline.

5. Accounting

41. Sonora did not estimate the amount of Allowance of Funds Used During Construction (AFUDC) that will be capitalized for the project on Exhibit K, Cost of Facilities. Sonora stated that as a new pipeline it did not have the prior-year data to calculate an AFUDC according to the Commission's formula for computing AFUDC. Sonora also stated that it believes it has adequately provided for AFUDC in its construction-cost contingencies included in Exhibit K.

42. Sonora is required to provide a detailed estimate of the total capital cost of its proposed facilities including AFUDC, on Exhibit K.²⁸ Sonora should have included an estimate for AFUDC using its proposed debt and equity capital structure. This approach is consistent with the accounting guidance we have given other newly created companies.²⁹ Sonora is reminded that it must include an estimate for AFUDC on Exhibit K in future applications.

43. Consistent with Commission precedent, we will require Sonora to capitalize the actual costs of borrowed and other funds for construction purposes not to exceed the amount of debt and equity AFUDC that would be capitalized based on the overall rate of return approved.

²⁷ *Regulations Governing the Conduct of Open Seasons for Alaska Natural Gas Transportation Projects*, Order No. 2005, 110 FERC ¶ 61,095 (2005), *order on reh'g*, Order No. 2005-A, 111 FERC ¶ 61,332 (2005).

²⁸ 18 C.F.R. § 157.14(a)(13) (2006).

²⁹ *See, e.g., Cheniere Creole Trail Pipeline, L.P.*, 115 FERC ¶ 61,331 (2006); *Port Arthur Pipeline, L.P.*, 115 FERC ¶ 61,344 (2006); and *Golden Pass Pipeline, L.P.*, 112 FERC ¶ 61,041 (2005).

6. Blanket Certificate Requests

44. Sonora has applied in Docket No. CP07-76-000 and Docket No. CP07-77-000, respectively for Part 157, Subpart F and Part 284, Subpart G blanket certificates which are generally applicable to all interstate pipelines.

45. A Part 157, Subpart F blanket certificate accords a natural gas pipeline certain automatic NGA section 7 facility and service authorizations and allows it to make several simplified prior notice requests for certain minimal section 7 facility and service authorizations. The Commission will grant Sonora's request for a Part 157, Subpart F blanket certificate.

46. A Part 284, Subpart G blanket certificate gives a natural gas pipeline certain automatic NGA section 7 transportation authorizations for individual customers under the terms of its contract and tariff. Since Sonora has filed a Part 284 tariff, the Commission will grant its request for a Part 284, Subpart G blanket certificate.

7. Environmental Analysis

47. On June 29, 2005, the FERC issued a Notice of Intent to Prepare an Environmental Assessment for the proposed Burgos Hub Export/Import Project, Request for Comments on Environmental Issues and Notice of Site Visit (NOI). FERC issued a letter April 24, 2006, subsequent to the June 29 NOI, detailing route changes proposed by Sonora. The NOI and the April 24 letter were sent to affected landowners and abutters; federal, state, and local government agencies; elected officials, Native American tribes; environmental and public interest groups; and local libraries and newspapers. Four comments were received during the scoping period.

48. On May 15, 2007, the Commission issued the environmental assessment (EA) for Sonora's proposed project, with comments due on June 14, 2007. The EA addressed geology and soils, water resources, wetlands, vegetation and wildlife, threatened and endangered species, land use, cultural resources, socioeconomics, air quality and noise, safety and reliability, and alternatives. The EA also addressed all substantive comments received in response to the NOI.

49. In its comments on the EA, Tennessee requested that the Commission require Sonora to obtain Tennessee's approval to utilize Tennessee's existing right-of-way for construction.

50. Environmental condition 13 recommended by the EA and set forth in Appendix B to this order requires Sonora to develop a plan in consultation with Tennessee for

working over Tennessee's right-of-way and file the plan with the Secretary for written approval of the Director of the Office of Energy Projects (OEP). As part of this plan, we expect Sonora to include comments from Tennessee concerning Sonora's proposal as an indication that consultation occurred.

51. Based on the discussion in the EA, we conclude that if constructed in accordance with Sonora's application and supplements and the conditions imposed herein, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

52. 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.³⁰

53. Sonora 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 Sonora. Sonora shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

Conclusion

54. For the reasons discussed above, and with the conditions imposed by this order, the Commission concludes that the certificate authorizations requested by Sonora are required by the public convenience and necessity.

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

³⁰See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Comm'n*, 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).

The Commission orders:

(A) In Docket No. CP07-75-000, Sonora is issued a Presidential Permit and authorization under NGA section 3 to site, construct, operate and maintain natural gas facilities at the international boundary between the United States and Mexico, as described and conditioned herein, and as more fully described in the application.

(B) In Docket No. CP07-74-000, Sonora is issued a certificate of public convenience and necessity under NGA section 7(c) to construct, own, operate and maintain natural gas facilities, as described and conditioned herein, and as more fully described in the application.

(C) In Docket No. CP07-76-000, Sonora is issued a blanket construction and abandonment certificate under Subpart F of Part 157 of the Commission's regulations.

(D) In Docket No. CP07-77-000, Sonora is issued a blanket transportation certificate under Subpart G of Part 284 of the Commission's regulations.

(E) The authorizations in the paragraphs above are conditioned upon Sonora:

(1) completing the authorized construction and making the facilities available for service within one year of this order in accordance with section 157.20(b) of the Commission's regulations;

(2) complying with paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations;

(3) revising its recourse rates in accordance with the discussion in the body of this order and filing the rates and work papers supporting the revised recourse rates in conjunction with the revised pro forma tariff required in Ordering Paragraph E (4);

(4) submitting revised pro forma tariff sheets that comply with the requirements contained in the body of this order, and in Appendix A to this order, no less than 30 days or more than 60 days prior to the commencement of interstate service;

(5) conducting an open season for pipeline capacity before beginning construction of its pipeline;

(6) adhering to the accounting requirements discussed in the body of the order; and

(7) complying with the environmental conditions listed in Appendix B to this order.

(F) Within three years after this project's in-service date, as discussed herein, Sonora must make a filing to justify its existing cost-based firm and interruptible recourse rates. In its filing, the projected units of service should be no lower than those upon which Sonora's approved initial rates are based. The cost and revenue study must be in the form specified in section 154.313 of the regulations to update cost-of-service data. In the alternative, in lieu of such filing, Sonora may make an NGA section 4 filing to propose alternative rates to be effective no later than three years after the in-service date for its proposed facilities.

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

(H) Sonora 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 thirty (30) days of the issuance of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix A

Sonora Pipeline, LLC FERC Gas Tariff Pro Forma Original Volume No. 1

Sonora must make the following tariff revisions when it files the actual tariff sheets in addition to what is required in the body of this order:

RATE AND GENERAL TERMS AND CONDITIONS RELATED CORRECTIONS

The ITS-1 rate should be \$0.0571 on Original Sheet No. 4.

In Section 3, Rates, FERC is spelled FERRO on Original Sheet No. 10.

There are references to Section 19 on Original Sheet Nos. 12, 13 and 103. The correct Section number should be 17. Also, on Original Sheet No. 13 in Section 4 there is a reference to Paragraph 13 which should be 12. In addition, Original Sheet No. 103 in Section 1.22 references Paragraph 14 instead of 13 the same sheet has a misspelled section number L24 which should be 1.24.

Sonora's Original Sheet No. 20 in Section 2 has a typographical error. MDQ is spelled as NDQ.

Sonora's Original Sheet No. 22 in Section 4 references Paragraph 13. This reference should be to 12.

Original Sheet No. 100 has two misspelled words in Sections 19 and 21. They are "CURTAILPIENTS" (this misspelling repeated on Original Sheet No. 175) and "NAJEURE." In addition, GT&C repeated at the bottom of the page on Original Sheet No. 102.

Section 1.2B should be 1.28 on Original Sheet No. 104.

Sonora's Original Sheet No. 117 in Sections 8.2 and 8.3 references wrong Paragraph numbers. The references should be to 11.1 and to the Open Season section which is missing, respectively.

Sonora's should correct a reference error to Section 9.8 in Section 9.4 on Original Sheet No. 121. There is no 9.8 section in the proposed tariff.

Sonora should add open parenthesis before 30 in Section 11.1 on Original Sheet 125.

The wrong section number (12.1) is used on Original Sheet No. 126.

There are two incorrect references to Section 18.3 in Section 11.2 (a) and (b). The correct referenced section should be 17.3.

In Section 11.5 on Original Sheet No. 131 the word 'services' has a spacing error.

In Section 13.1 on Original Sheet No. 136 the referenced Paragraph 35 should be 34, in Section 14 on Original Sheet No. 143 the referenced paragraph 13.5 should be 12.5 and the GT&C is spelled out at the bottom of this page, in Section 15.1(a) on Original Sheet No. 145 references to Paragraph 17 should be 16 and Paragraph 18.5 should be 16.5, in Section 15.1 (b) (iii) on Original Sheet No. 146 the references to Paragraph 17 should be 16 and Paragraph 17.5 should be 16.5, in Section 15.1 (c) the references to Paragraph 37 should be 36, Paragraph 17 should be 16 and Paragraph 17.5 should be 16.5.

On Original Sheet No. 165, the section number 19.7 should be 17.7. On Original Sheet No. 166 the present value formula is missing the division line in Section 17.7. In Section 17.10 on Original Sheet No. 171 reference to 19.3(o) should be 17.3(n) and on Original Sheet No. 173 Section 19.12 should be 17.12 and reference to Paragraph 12 should be 11 in Section 17.12(f).

In Section 32.2 the number 48 is spelled (4B) on Original Sheet No. 186. A similar error is made in Section 35 on Original Sheet No. 188; Account No. 92B should be Account No. 928. The reference to Paragraph 21 should be 20 in Section 37.3(a) on Original Sheet No. 190. In Section 38 on Original Sheet No. 191 NBP should be changed to Sonora. In Section 1.1 on Original Sheet No. 200 2B4 should be changed to 284. In Section 2.3 on Original Sheet Nos. 201 and 208 Paragraph 13 should be changed to 12.

On Original Sheet No. 171, in Section 17.11 NAESB Standard 5.3.B should be 5.3.8.

NAESB RELATED CORRECTIONS

On Original Sheet Nos. 101, 112, 114, 115, 116, 136, 137, 140, 141, 142, 157, 171, 174 the wrong NAESB Version 1.5 or 1.6 is referenced.

On Original Sheet No. 115 in Section 7.1 the NAESB 3.3.17, on Original Sheet No. 137 in Section 13.2 the NAESB 1.3.2, on Original Sheet No. 165 in Section 17.8 the NAESB 5.3.3 are not verbatim.

Sonora's proposed filing does not contain the following NAESB standards:

Nomination Related

1.2.1-1.2.6 and 1.2.8-1.2.12, 1.3.11, 1.3.19, 1.3.63

Flowing Gas Related

2.2.1, 2.2.4 and 2.2.5, 2.3.29 and 2.3.30

Invoicing Related

3.2.1, 3.3.17-3.3.19

EDM Related

4.2.1-4.2.19, 4.3.6, 4.3.19, 4.3.21

Capacity Release Related

5.2.1-5.2.3, 5.3.3, 5.3.13-5.3.15, and 5.3.55, 5.4.18-5.4.22

Appendix B
Sonora Pipeline, LLC

Environmental Conditions

1. Sonora shall follow the construction procedures and mitigation measures described in its applications and supplements (including responses to staff data requests) and as identified in the EA, unless modified by the Order. Sonora 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 delegation authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of the 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.

3. **Prior to any construction**, Sonora shall file an affirmative statement with the Secretary, certified by a senior company official, 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.

4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, Sonora shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for

all facilities approved by the Order. All requests for modifications of environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

Sonora's exercise of eminent domain authority granted under NGA section 7(h) in any condemnation proceedings related to the Order must be consistent with these authorized facilities and locations. Sonora's right of eminent domain granted under the NGA section 7(h) does not authorize them to increase the size of their natural gas pipelines to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Sonora shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, and documentation of landowner approval, whether any cultural resources or federally-listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area.**

This requirement does not apply to extra workspace allowed by Sonora's Erosion and Sedimentation Control Plan, minor field realignments per landowner needs, and requirements that do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. Sonora shall develop and implement an environmental complaint resolution procedure. The procedure shall provide landowners with clear and simple

directions for identifying and resolving their environmental mitigation problems/concerns during construction of the project and restoration of the right-of-way. **Prior to construction**, Sonora shall mail the complaint procedures to each landowner whose property would be crossed by the project.

- a. In their letters to affected landowners, Sonora shall:
 - (1) provide a local contact that the landowners should call first with their concerns; the letters should indicate how soon a landowner should expect a response;
 - (2) provide Sonora's Hotline phone number and instruct the landowners that, if they are not satisfied with the response, they should call Sonora's Hotline; the letter should indicate how soon to expect a response; and
 - (3) instruct the landowners that, if they are still not satisfied with the response from Sonora's Hotline, they should contact the Commission's Enforcement Hotline at (888) 889-8030 or at hotline@ferc.gov.

- b. In addition, Sonora shall include in their weekly status reports a copy of a table that contains the following information for each problem/concern:
 - (1) the date of the call;
 - (2) the identification number from the certificated alignment sheets of the affected property;
 - (3) the description of the problem/concern; and
 - (4) an explanation of how and when the problem was resolved, will be resolved, or why it has not been resolved.

7. **Within 60 days of the acceptance of the certificate and before construction begins**, Sonora shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how Sonora will implement the mitigation measures required by the Order. Sonora must file revisions to the plan as schedules change. The plan shall identify:

- a. how Sonora will incorporate these requirements into contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
- b. the number of environmental inspectors assigned per project area, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;

- c. the company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;
 - d. what training and instruction Sonora will give to all personnel involved with the construction and restoration (initial and refresher training as the project progresses and personnel change), with the opportunity for OEP staff to participate in the training session(s);
 - e. the company personnel (if known) and specific portion of Sonora's organization having responsibility for compliance;
 - f. the procedures (including the use of contract penalties) Sonora will follow if noncompliance occurs; and
 - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (1) the completion of all required surveys and reports;
 - (2) the mitigation training of onsite personnel;
 - (3) the start of construction; and
 - (4) the start and completion of restoration.
8. Sonora shall employ at least one environmental inspector per construction spread. The environmental inspector shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the Order and other grants, permits, certificates, or other authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of the Order, and any other authorizing document;
 - d. a full-time position, separate from all other activity inspections;
 - e. responsible for documenting compliance with the environmental conditions of the Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
 - f. responsible for maintaining status reports.
9. Sonora shall file updated status reports prepared by the environmental inspector with the Secretary on a weekly basis until all construction and restoration activities are complete. On request, these status reports will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:

- a. the current construction status of each spread, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
 - b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
 - c. corrective actions implemented in response to all instances of noncompliance, and their cost;
 - d. the effectiveness of all corrective actions implemented;
 - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of the Order, and the measures taken to satisfy their concerns; and
 - f. copies of any correspondence received by Sonora from other federal, state or local permitting agencies concerning instances of noncompliance, and Sonora's responses.
10. Sonora must receive written authorization from the Director of OEP before commencing service on its project. Such authorization will only be granted following a determination that rehabilitation and restoration of the sites are proceeding satisfactorily.
11. Within 30 days of placing the certificated facilities in service, Sonora shall file an affirmative statement with the Secretary, certified by a senior company official:
- a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the certificate conditions Sonora has complied with or will comply with. This statement shall also identify any areas along the right-of-way where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
12. Sonora shall revise section 5.0 of its Erosion and Sedimentation Control Plan and sections 3.1 and 6.0 of its Wetland and Waterbody Construction Plan to state the following:

For each wetland crossed, install a trench breaker at the base of slopes near the boundary between the wetland and adjacent upland areas. Install a

permanent slope breaker across the construction right-of-way at the base of slopes greater than 5 percent where the base of the slope is less than 50 feet from the wetland, or as needed to prevent sediment transport into the wetland. In addition, install sediment barriers along the edge of wetlands adjacent to and downslope of the construction work area, as necessary to prevent sediment flow into the wetland. In some areas, with the approval of the environmental inspector, an earthen berm may be suitable as a sediment barrier adjacent to the wetland.

13. Prior to construction, Sonora shall develop and file with the Secretary, for the review and written approval of the Director of OEP, a construction plan for working over Tennessee Gas Pipeline Company's (Tennessee) and Valero Energy Corporation's (Valero) existing pipelines. This plan shall provide cross sectional diagrams showing where Sonora proposes to place topsoil and spoil and shall be developed in consultation with Tennessee and Valero.
14. Sonora shall defer construction and use of facilities and staging, storage, and temporary work areas and new or to-be-improved access roads for the Burgos Hub Export/Import Project until:
 - a. Sonora files, with the Secretary, the final draft survey report for the Progresso Pipeline and the Texas State Historic Preservation Office's (SHPO) comments on the report;
 - b. Sonora explores the feasibility of boring/drilling beneath the six canals that may be open cut, associated with the Louisiana-Rio Grande Canal Company Irrigation System National Register of Historic Places District (canal district), clarifies the crossing method for the canals to be crossed, files the results (as part of the final draft survey report, if appropriate) and the SHPO's comments on the results with the Secretary;
 - c. Sonora files any required mitigation/treatment plans and the SHPO's comments on any plans; and
 - d. the Director of OEP reviews and approves all reports and plans and notifies Sonora in writing that it may proceed.

All material filed with the Commission containing location, character, and ownership information about cultural resources shall have the cover and any relevant pages therein clearly labeled in bold lettering: "CONTAINS PRIVILEGED INFORMATION – DO NOT RELEASE."

APPENDIX C

**PRESIDENTIAL PERMIT
AUTHORIZING SONORA PIPELINE, LLC
TO SITE, CONSTRUCT, OPERATE, AND MAINTAIN FACILITIES
FOR EXPORTATION AND IMPORTATION OF NATURAL GAS
AT THE INTERNATIONAL BOUNDARY BETWEEN
THE UNITED STATES AND MEXICO
IN HIDALGO COUNTY, TEXAS**

**FEDERAL ENERGY REGULATORY COMMISSION
DOCKET NO. CP07-75-000**

(Issued July 10, 2007)

Sonora Pipeline, LLC (Sonora or Permittee), a limited liability company organized and existing under the laws of the State of Texas, filed on January 31, 2007, in Docket No. CP07-75-000, 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 NGA and a Presidential Permit authorizing Permittee to site, construct, operate, and maintain certain pipeline and related facilities and the place of entry and exit for importing and exporting natural gas as described in Article 2 below at the International Boundary between the United States and Mexico in Hidalgo County, Texas.

By letter dated May 14, 2007, the Secretary of State, and by letter dated May 15, 2007, 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 construct, operate, install, and maintain 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 therefore.

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

Approximately 85 feet of 30-inch bidirectional diameter pipeline, with a maximum capacity of 500,000 Dth per day, extending from the Permittee's Mission Line and ending at the International Boundary between the United States and Mexico beneath the Rio Grande River near the City of Mission in Hidalgo County, Texas

Approximately 135 feet of 30-inch bidirectional diameter pipeline, with a maximum capacity of 500,000 Dth per day, extending from the Permittee's Progresso Line and ending at the International Boundary between the United States and Mexico beneath the Rio Grande River near the City of Progresso in Hidalgo County, Texas.

Article 3. The natural gas facilities authorized herein, or which may subsequently be included herein by modification or amendment, may be utilized for importation or exportation 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 Natural Gas Act. Plans for work must be presented to the International Boundary and Water Commission (IBWC) for review and approval.

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 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 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.

IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of _____ has caused its named 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.

Sonora Pipeline, LLC

By _____

(Attest)

Executed in triplicate